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Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

# SENATE—*Wednesday, September 29, 1976*

*(Legislative day of Friday, September 24, 1976)*

The Senate met at 8:15 a.m., on the expiration of the recess, and was called to order by Hon. Quentin N. Burdick, a Senator from the State of North Dakota.

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our life, through all the circling years, we lift our daily prayer to Thee in simple trust. We thank Thee for all who have served the Nation from generation to generation in this place. As this Chamber is soon to be silent and empty, while the people's will is expressed, we remember with thanksgiving those now here who will no longer respond to gavel and rollcall in the years to come. We thank Thee for friendships which abide the years, for service which endures, and work which will be remembered, for moments of joy and of sadness, for glowing hours of success and lessons learned in failure. But above all else we are thankful for Thy perpetual presence, guiding, guarding, and judging us. Give health and joy and peace to those who move to new scenes and fresh endeavors.

"God of the coming years, through paths unknown
We follow Thee
When we are strong, Lord, leave us not alone;
Our refuge be.
Be Thou for us in life our daily bread,
Our heart's true Home when all our years have sped."
—Hugh T. Kerr, 1916.

Amen.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
*Washington, D.C., September 29, 1976.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. Quentin N. Burdick, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

James O. Eastland,
*President pro tempore.*

Mr. BURDICK thereupon took the chair as Acting President pro tempore.

### THE JOURNAL

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, September 28, 1976, be approved.

Mr. ALLEN. Mr. President, reserving the right to object, inasmuch as we are still in the legislative day of last Friday, and since the call for the reading of the Journal will not on today cause the Journal to be read, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

### ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader seek recognition?

Mr. GRIFFIN. Mr. President, in the interest of shortening what may be another long day, I yield back the time allocated.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. Domenici) is recognized for not to exceed 15 minutes.

### SPACE SHUTTLE PROGRAMS

Mr. DOMENICI. Mr. President, Governor Carter's running mate and our colleague here in the Senate, Senator Walter Mondale, has repeatedly attacked NASA's Space Shuttle program. He has termed it a "make work" project for the aerospace industry—one designed to maintain jobs and bureaucracies after the Moon landing program ended.

As a member of the Aeronautical and Space Sciences Committee and a firm supporter of our Nation's space program, including the Space Shuttle, I feel compelled to respond to these charges. In my opinion, they represent hasty and ill-informed judgments on the direction our space program is taking.

The value of benefits from our space program are indisputable. Benefits from past space efforts have already worked their way into daily life, to a far greater extent than most people realize. We apply what we learn in space to improve the quality of life on Earth. Advances in medicine, environmental monitoring and control, meteorology, the studies of oceans and Earth resources, communications, education, products and materials, and international peace are taken for granted. These benefits, together with the acknowledged impetus given to our technical leadership in the world, supply overwhelming evidence of value received.

And this is just the beginning. The versatility and flexibility of the Space Shuttle will open up new opportunities for more and larger investigations. The substantial cost savings from utilizing reusable launch components will extend space utilization to a wide range of workaday projects of tremendous potential. The realistic possibility of 40 to 60 flights per year, each with payloads of 65,000 pounds, gives us the capability to transport inexpensively a wide variety of useful payloads into orbit.

For the first time it will be possible to repair malfunctioning satellites in orbit instead of building and launching new ones. The reduced cost of orbiting new satellites through use of the Space Shuttle will enable the launching of whole families of weather, Earth resources, communications, and navigational units now on the drawing board.

According to NASA, beginning in the early 1980's, the Space Shuttle will be used to place almost all of our satellites in orbit. The Shuttle will also be capable of carrying upper rocket stages which can propel interplanetary probes and satellites into outer space.

The Space Shuttle will also permit the orbiting of completely equipped scientific laboratories manned by scientists and technicians who can work in shirt-sleeved comfort under zero gravity conditions. Space telescopes and facilities for deployment and retrieval of passive arrays to study the effects of exposure to space over relatively long periods of time are also planned.

Future possibilities for effective use of this ingenious system are limited only by our imagination.

In testimony before the Aeronautical and Space Sciences Committee several years ago, David Keller, general manager for advanced space programs at the General Electric Co., described opportunities afforded by the Space Shuttle for development of a commercial processing industry in space. Products with an annual market value of well over $2 billion were identified as potential candidates for production or manufacture in space and for which a demand exists. Such processes include purification of vaccines, production of computer memory devices, and growth of large crystals for the rectification and regulation of D.C. electrical current, to name only a few. This $2 billion payoff is in addition to the positive influence on this Nation's balance of trade caused by expanded exports of high-technology products to other countries. In subsequent testimony earlier this year, Mr. Keller described more recent successful experimentation in the zero-gravity environment of space which serves to reinforce these earlier optimistic forecasts.

It is, therefore, clear that the Space Shuttle can be justified on a commercial basis alone.

The Space Shuttle is uniquely American; there is nothing else like it in the world. Yet its value is well recognized by other countries. Ten member nations of the European Space Agency have joined together to commit almost $500 million to design and deliver a space laboratory, the Spacelab, that is compatible with the Space Shuttle. The Spacelab will permit extensive experimentation under the zero-gravity conditions of space.

It is also worthy of note, Mr. President, that the Space Shuttle program is both on schedule and, allowing for the impact of inflation, on target as far as cost. These are impressive achievements in today's world.

This progress and these achievements are the direct result of the dedicated efforts of over 50,000 talented scientists, administrators, and technicians involved in the Space Shuttle project. To so offhandedly belittle these efforts, as its detractors do by calling the Space Shuttle a make work project, is to insult each of these very capable men and women, and is an unfair and inaccurate charge and it frequently saps the vitality of the program by introducing unwarranted doubt about its future.

And these 50,000 Space Shuttle employees represent only the personnel directly employed in the program. Threatened cancellation of the entire project, as suggested in repeated comments by our colleague from Minnesota, puts many additional jobs in jeopardy. In all, 60,000 positions are affected directly by any such action, and over 100,000 additional jobs are indirectly related to the Space Shuttle program.

Many States and localities would be hard hit by cuts in this program.

The following are the principal States with Space Shuttle employment: And many others would be hard hit along with them.

California, 29,400; Arizona, 2,500; Alabama, 1,900; Florida, 4,450; Louisiana, 2,700; Texas, 4,400; Utah, 1,000; and New York, 1,950.

These are the direct ones.

Finally, let me point out the inconsistency in the positions taken by Senator MONDALE and other detractors of the Space Shuttle, who, on one hand, suggest obliterating technologically created research jobs, while, at the same time, advocating creating thousands of Federal truly make-work jobs costing billions of dollars. To my way of thinking, this is not a sound or prudent means of addressing our twin problems of inflation and unemployment when we have an established program for the amount of money involved, which addresses those problems more efficiently, while yielding a product of undeniable long term value to the Nation and the world.

The Space Shuttle program is vitally alive and is moving dynamically ahead toward future successes, many of which are now only barely imaginable. This is not the time to impede its progress by casting doubt and uncertainty among its dedicated employees and creating false impressions with the American people.

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## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, Senators CLARK, ABOUREZK, CRANSTON, and KENNEDY are now recognized for a colloquy of not to exceed 30 minutes.

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## HUMAN RIGHTS AND FOREIGN POLICY

Mr. CLARK. Mr. President, at times, it seems almost as though the conduct of foreign policy has become solely the realm of the technocrats. In the Foreign Relations Committee we spend hours discussing the technical merits of Maverick missiles or the performance of F-16 jet airplanes. We are asked to judge the wisdom of a water conservation program for the Sahel. We amend the currency exchange regulations of the Bretton Woods Agreement. We are asked to put our signature to international agreements on stockpiling tin and covenants to protect North Pacific seals and polar bears.

Far too seldom do we deal with the human impact of our policymaking. Far too seldom do we focus on a concern for those human rights which are so central to our own democratic concern. Eye witnesses tell of cruel tortures in Argentina, and still our military aid program continues. Amnesty International reports that since the imposition of martial law in the Philippines some 50,000 persons have been arrested, and that in mid-1975 at least 5,000 remained in prison. And still the United States opens talks on base agreements. An increasingly oppressive martial law is clamped over India, and still there is no U.S. protest. In countries throughout the world, we hear of political oppression, restrictions on personal freedom, of illegal imprisonment, and, often, grotesque tortures. And in many cases, these are nations to which we have close ties.

I believe that America has developed a uniquely American idea, a set of values, with a concern for human rights at its very core, and I think that—particularly in a Presidential election campaign—this is an ideal opportunity to explore whether the policies of this administration have effectively invoked these central values in the conduct of our foreign policy.

For that reason, I was particularly pleased to note how Governor Carter, in a speech at the St. John's Community Center this week, expressed the conviction that the Ford administration had not met the moral standards in foreign policy of previous Democratic administrations.

Carter pointed out:

> Under those administrations we felt that our foreign policy was moral, it was right, it was fair, it was concerned about human rights, it represented that character of the American people.

Mr. Carter emphasized:

> That changed.

I think it is fair to say that the current administration has shown precious little concern for taking human rights issues into consideration in the formulation of our policy. Instead, it has been the Democratic-controlled Congress in which efforts—however inadequate—have been undertaken.

In the International Development and Food Assistance Act of 1975 we have put in section 116, known as the Harkin amendment, which provides that no economic assistance shall be provided to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the "right of life, liberty, and the security of the person," unless it is demonstrated that such assistance will directly benefit the needy people of such country. This provision has also been tacked on to authorization bills for the Inter-American and Asian Development Banks by directing the United States to vote against loans to countries not in conformity with the amendment.

Furthermore, in section 301 of the International Security Assistance and Arms Export Control Act of 1976, we declared that it is U.S. policy that no security assistance be provided to a country that engages in a consistent pattern of gross violations of human rights, and required individual country reports on the status of human rights in the 80 or so countries that receive security assistance These reports would accompany the fiscal year 1978 legislation. We established a new position of coordinator for human rights at the State Department, to be confirmed by the Senate, with the objective of giving our concern for human rights a high priority. Finally, the legislation established a procedure whereby the committee can request a human rights report from the State Department on any individual country. The Congress, by joint resolution, can reduce, terminate, or restrict security assistance to that country after triggering this request for the individual report.

Unfortunately, to date, the Congress has not acted as vigorously as I might have hoped in cutting off aid on the grounds of violations of human rights. There are only three examples:

Chile—In the 1976 Arms Export Control Act, all military assistance, credits, cash, and commercial sales—except for pipeline deliveries—were prohibited for Chile. Additionally, a ceiling of $27.5 million in economic assistance was set for Chile, with an additional $27.5 million "permitted" if the President certified that human rights conditions in Chile improved. This was a real step forward.

Uruguay—In the fiscal year 1977 foreign aid appropriations bill, Uruguay was barred from receiving any military assistance, credits, or training, despite the fact that the requested amounts for Uruguay had been authorized. That was real progress.

Korea—In the fiscal year 1975 security assistance legislation, a ceiling of $145 million in FMS credits was imposed for Korea, with an additional $20 million if the President certified that the Korean human rights situation was improving. Attempts to place these ceilings in later years have unfortunately failed.

Finally, Mr. President, there have been several unsuccessful efforts within the past 3 years in the House International Relations Committee to reduce or terminate security assistance to the Philippines, Indonesia, and Brazil. Except for Chile, I regret that there have been no similar initiatives in the Senate.

A major reason the Congress has not been more aggressive in cutting off aid in these cases is that the State Department has vigorously opposed "cutoff" amendments on human rights grounds, claiming that arbitrary cuts are "counter-productive." State always makes the case that human rights representations should be made through private channels, and that they need "flexibility" in dealing with this issue because of the sensitivities involved.

I submit that the Department of State's record in pressing for alleviation of violations of human rights no longer justifies the restraint so often practiced by the Congress.

Interestingly, Secretary Kissinger himself has in hand strong evidence that the American people strongly favor enhancing the role of human rights in the formulation of our policy. In his efforts to achieve a broad, bipartisan public consensus, Kissinger began a series of "town meetings" in a number of widely scattered cities, in which various high level officials of the Department met with interested private groups.

Five such sessions have been held—in Pittsburgh, Portland, San Francisco, Minneapolis, and Milwaukee. After each of these sessions, the Department of State participants wrote a memorandum report to the Secretary, recording not only the mood at the meetings, but the results of a phone-in television broadcast and of a telephone poll of 300 area residents as well.

Mr. President, what struck me from these reports is the consistent expression of concern over the lack of application of basic U.S. human rights values to our foreign policy.

As the report from Portland put it:

> The yearning that policymakers adhere to traditional American ideals, perceptible in all of the sessions, was particularly evident here. The burden was placed on the policymaker to demonstrate that policy decisions are based on more than calculations of immediate benefit.

The tenor of the session, the report went on, could best be conveyed by the closing statement of one participant who said:

> People seem to be saying, we know what kind of people we are, but does the government know?

The rapporteur from the San Francisco session was even more blunt. The report noted:

> We were struck by the extent to which the participants, whatever their specific views on particular problems, felt that they and the Department (of State) responded to the beat of different drummers . . . of a strong feeling among the participants that the basic values animating the American public in its responses to world problems were not those that motivated the Government in its policy decisions . . .

One man, the report noted:

> Asked bluntly if the Department followed a code of ethics.

The writers went on:

> In our previous report we spoke of encountering a deep-seated yearning that the moral aspect of foreign policy issues should be a significant factor in policy decisions. In San Francisco, this yearning expressed itself in repeated calls for the United States to take the lead in working toward a world order based on international law and right behavior.

I think it is worth noting, Mr. President, that the concern reflected was consistently mature, reflective, and alert to the consequences. The report continues:

> Specifically there was much concern regarding the disparity in the degree of importance accorded human rights in this country as compared to many other countries. If extending human rights in other countries is accepted as being in this country's long-term interest, how can this value be promoted effectively without harming more immediate American interests?
>
> Needless to say, there was no definitive answer to such a profoundly complex question. But, it is noteworthy that a good many participants framed the issue in intellectually sophisticated terms—and expect their Government's policymakers to address this problem with sincere concern and a modicum of effectiveness.

In Minneapolis participants heard much the same:

> It is our perception that many citizens are . . . (B) distressed at what they perceive as the failure to uphold American ideals as an integral part of this country's foreign policy. Specifically, we heard the same desire expressed in all of the sessions—efforts to foster human rights throughout the world should be a more pronounced concern of American foreign policy.

And in Milwaukee, it was the same thing. The report noted:

> The discussion in this session brought home the extent to which the public's support of foreign policy rests upon the motives it imputes to its policymakers. Reviewing various American policies, from arms sales to covert operations, the participants in Milwaukee felt they represented exercises of power that violated basic American ideals. Whatever the effect of these policies on situations abroad, a significant domestic consequence, it appears, has been to tarnish the self-image many Americans hold of this country as exercising moral leadership in promoting human dignity and extending human rights.

This is precisely my concern, Mr. President. Here we have America speaking—voices from widely differing regions of our country. And the appeal is for a reemphasis, a renewal, a reawakening of those basic moral guidelines which center on the term "human rights." Many Americans, as the reporters indicate, feel deep inside that the "self-image many Americans hold of this country" has been tarnished.

And that, I submit, is directly the result of conducting foreign policy without sufficient stress on human rights.

We will regain the respect of the rest of the world, the sense of rightness of our own actions, and a sense of direction for our Nation, only when and if we are agreed as a Nation, to hold firmly in the conduct of our foreign policy, in our relations to other countries, to those goals which made this Nation special.

I would suggest that we should all subscribe to what Governor Carter said in Chicago:

> Our policies should be as open . . . and honest . . . and decent . . . and compassionate, as the American people.

That, I submit, is the sort of foundation on which our foreign policy must be constructed.

Mr. KENNEDY. Mr. President, for the past 8 years, the administration has conducted a foreign policy devoid of concern for basic human rights in nations around the world. Time and again, the administration has placed the United States on the side of the oppressors, on the side of the dictators, on the side of the torturers.

When it was a pariah of Western Europe condemned for its torture and repression, the Greece of the junta still found comfort in the uncritical embrace of the Nixon administration.

When the dead were piled atop one another in Bangladesh, the administration stood silent.

And when the stadiums of Chile were filled with spectators of death, the administration applauded and defended the junta.

Whether in Chile, in Southern Africa, or in Korea, we must heed the voices of the victims and instill in them the renewed hope that America will once more respond to its own heritage and its own ideals.

We must stand with the democrats, not the dictators.

We must stand with the oppressed, not the oppressors.

We must stand with the defenders of human rights, not with those who defile them.

The denial of fundamental human rights must bring an end to military aid, an end to most economic support and the rethinking of our bilateral relationship.

When the Declaration of Independence was written, its authors said they acted not only for themselves but out of "a decent respect for the opinion of mankind."

From that date forward, in much of our history, we responded to that calling. We kept faith through the past 200 years by a commitment to democratic principles, by the defense of human rights, and by the determination to adhere to principles of law.

There were those who died on the fields of war. There were those who died in fields of the South. There were those who died on the doorsteps of our factories in the North. There were those who died amid the grape harvests of the West.

By their deaths and by their sacrifices, as a people and as a nation, we have managed to preserve the democratic values of our birth, to protect human rights and to promote freedom.

That is how we view ourselves, and for many years, that is how we were viewed by others across the globe. The pull of freedom was felt in every corner of the globe, drawing the victims from Europe, from Asia, from Africa, and from Latin America, drawing them to a new life.

Today, across this land, there is a growing doubt, a growing suspicion and distrust in our recent foreign policy and more important a growing lack of faith in the integrity of our foreign policy objectives.

It should not be surprising that when aides to the Secretary of State traveled across the breadth of this country, they found a solid rejection of the administration's past neglect of human rights.

In this Nation, when the people have no confidence in the foundation of our foreign policies, then those policies will fail.

They have failed, because they conflict with our own view of who we are and what we stand for as a Nation.

They conflict as well with the "respect for the opinion of mankind."

And so we have begun to be viewed in a different way by other nations, our voice diminishing in international councils and in the court of world opinion.

We are powerful militarily. We have enormous untapped economic potential. But those attributes are not enough if they are not linked to our purposes and our ideals.

The United States must regain its role as the spokesman of the oppressed, as the defender of the rights of the minority, as a nation that stands with those who protect human rights and promote democratic principles.

Under the current administration, the reverse has been true.

Chile perhaps is the most brutal example of the administration's distorted view of our interests and our ideals.

Although Argentina and Uruguay have matched its repressive nature, in Chile the violation of human rights now has continued for more than 3 years.

Throughout that period—until Congress intervened—the junta in Chile was the special favorite of the Nixon-Ford administration.

It received 85 percent of food for peace in 1975. It received more military equipment in 1975 than countries 10 times its size. It had its economy shored up by lavish administration-influenced private loans.

Yet its character and its actions were condemned around the world.

Did the administration respond to the evidence of murders and tortures, to the abolition of political parties and the destruction of democratic institutions? It did not.

The record is clear. If Congress had not restricted the level of military and economic support to the junta, the administration would still have a wide-open flow of arms and assistance to the junta.

Even during recent months, the cynical neglect of human rights is evidenced by the actions of the highest officials in this administration.

On June 8, at the OAS General Assembly, Secretary of State Kissinger issued a strong statement in defense of human rights. On Chile, he was more restrained, saying the OAS Human Rights Commission report was "a matter of bilateral as well as international attention" and "concern is widespread in the executive branch, in the press, and in the Congress."

That was on June 8. But the reality of the level of concern within the executive branch for human rights was shown within the week when the State Department lobbyists scurried through the corridors in opposition to my amendment to halt all military aid and sales to Chile.

They were unsuccessful. On June 14, the Senate adopted the amendment.

On June 16, the conference committee retained my amendment, declaring a congressional view that the violation of human rights in Chile was so profound as to justify halting all military support to the regime.

But what did the administration do? How did it show its profound concern for human rights?

On June 22, 6 days after the conference committee had acted, 14 days after the Secretary's speech in Santiago, and disregarding the objections of Senators and Congressmen, Secretary Kissinger and President Ford approved a new $9.2 million arms deal for the junta.

More weapons to prop up a regime that bears the responsibility for the disappearance and death of some 1500 individuals, for the torture of countless political prisoners and for the destruction of the democratic heritage of Chile.

No more compelling example of the attitude and policy of this administration can be found than its active support of the brutal regime in Chile.

The administration attitude toward human rights is clear: it is "human rights be damned."

And that is not an acceptable attitude for the foreign policy of the United States of America.

Mr. President, I join the Senator from Iowa (Mr. CLARK), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from California (Mr. CRANSTON) in what I consider to be an extremely important statement of concern as to the lack of underpinning an American foreign policy in recent times.

A great deal is constantly stated about the United States interferring in the domestic affairs of other countries. I do not know how many times the Senator has heard that response to inquiries, about what we are doing to try to protect human rights and human liberties, whether it is in Chile, Argentina, Uruguay, Korea, the old regime in Greece, or many other parts of the world.

On the one hand, it is interference when we act to defend human rights. Yet, on the other hand, when we talk about giving military aid and assistance and pump hundreds of millions of dollars of food which is sold to bring additional revenue to a dictatorial regime, that is not considered interference. I just wonder if the Senator is not troubled by that dual logic or that convoluted logic that we have heard time and time again from the administration.

We cannot interfere in Chile because interference in terms of human rights is interfering in domestic affairs. But just give them hundreds of millions of dollars in military aid, and that is OK, and provide them with the bulk of the food program, in spite of the fact that there are a number of countries, as the Senator knows, in terms of the U.N. "most seriously affected" list that are not getting that food at all.

The issue of human rights is the basic ideal and expression of American foreign policy. I often recall the wonderful words of Justice Douglas when he was asked what the most important contribution of America has been to the world, and he said it was the first amendment. That represents, I think, the fundamental commitment of Americans. Yet, we find that it is not being reflected in American foreign policy.

Mr. ABOUREZK. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. ABOUREZK. That is probably the best way to analyze what the administration has done on human rights with respect to foreign policy; that when they have desired to have what they call a stable government, which means a right wing dictatorship, in power, then "interference" is not the word, that is "assistance." For example, in South Vietnam, when we put in so much of our national resources into that country, if that was not interference in somebody's internal affairs, I do not know what you would call it.

I first became deeply interested in this subject of human rights in 1973, the first year that I came to the Senate. I was visited by a Brazilian member of Parliament. To this day, I cannot remember his name, because he was so secretive about it. He was afraid of being killed upon his return for coming to speak to an American. He said that even if nobody in the United States can do anything about the torture and the imprisonment of political prisoners, not for crimes but for political beliefs, if they could simply make a statement and let people in prison down there know that there is somebody up here not supporting what they see as an American policy of oppressing those people in the Latin American countries, he said that would give them tremendous hope.

Rather than interfere in the internal affairs of these countries, if we merely make the statement by saying that we are not going to furnish American taxpayers' money to any country that consistently violates the human rights of their people, such as in Chile and Brazil and, now, in Uruguay and the other countries the Senator mentioned—if we can make that statement, it is not an interference in their internal affairs, but a real symbolic act on our part and an actual act that will prevent them from continuing the abuses of their own people with the use of American money.

I think the Senator makes a great distinction in outlining what is an interference in someone else's affairs and what not.

Mr. CLARK. If I may, if the Senator from Massachusetts will yield for just a bit, in answer to his question. I think the examples the Senator used on food and military assistance are perhaps the most striking. When you think, for example, what happened in the period after the Rome Food Conference, which was November of 1974. I remember there were a lot of investigations here in Congress. A lot of people became interested in that issue. We found that in that fiscal year, over 50 percent of all the food aid that we gave under Public Law 480 was going to South Vietnam and, as the Senator says, sold on the open market under title I. Instead of a food for peace program, it had really become a food for war program. In fact, it was Congress that finally then passed an amendment, one month later, December of 1974, saying that 70 percent of all the food aid has to go to those most severely affected countries in the United Nations. We had administration opposition right down the line, right on through the conference at every step, saying, "No, we need more flexibility than that."

Senator HATFIELD, along with Senator HUMPHREY and Senator KENNEDY and several others, led an effort to increase that to 80 percent last year. We were successful at that.

But again, at every stage, we had opposition from the administration; they do not want that kind of guidelines from Congress.

Meantime, our food assistance program under this administration has gone down. In 1966, just to pick 10 years ago, our food aid was 18 million tons a year. This year it is 5 million tons. We have gone from 18 to 5 million in that 1 decade. Meantime, in arms transfers, in 1970, we had $945 million, less than $1 billion. We have gone already, in 1975, to $10 billion. This year, we were at $8.6 billion by September 1.

So you see the statistics support what the Senator has said in terms of relationship of military to food aid.

Last, I think there are a lot of things that it seems to me Secretary Kissinger, as Secretary of State, has accomplished. I think some of his African initiatives very recently are to be praised. But this area of human rights is one in which he has shown enormous weakness. He has displayed very little sensitivity, it seems to me, as Secretary of State, in directing American foreign policy when it comes to human rights issues.

I thank the Senator from Massachusetts for yielding.

Mr. KENNEDY. I thank the Senator for his comments. In spite of the findings, for example, by the Organization of American States of violations of human rights in Chile, we cannot find one clear, unequivocal statement of one significant American official—the Secretary or Assistant Secretary or Under Secretary—that I know about, which has condemned the violations of human rights by the junta in Chile and then an appropriate action based on that statement.

Instead, we see a hypocrisy or soft statement followed by actions which tell a totally different story and which carry a different message to the junta. The last minute sale of arms told the junta that this administration stood with them.

Mr. President, I am very hopeful that after January of next year, we can place this issue of fundamental human rights as a top priority in American foreign policy. We say that we care a great deal about individuals and human beings. One of the great tragedies, the classic tragedy, in recent times was in Vietnam, where our refugee committee spent a great deal of time reviewing the various refugee programs—the homeless, destitute, poverty-stricken children and women, who were being shuttled around all over South Vietnam. We found in instance after instance that they were the lowest priority so far as our foreign policy was concerned.

Our record of concern for human beings in that beleaguered country was bleak. There was no problem at all in delivering missiles and bombs into the north; but just try to provide a field hospital or to provide prosthetic devices for children who had lost arms and legs inside Saigon—inside Saigon—at the cost of maybe $200,000 to $300,000 and suddenly our facilities were inadequate. We were finding that children were waiting anywhere from 6 to 8 years for prosthetic devices.

That is just an example. Concern for the people, the really needy, desperate people, in so many parts of the world, has not been given the order of priority I believe the American people want.

I believe that after January of next year we can bring a restoration of these fundamental commitments to human rights and human values. I think this is an additional reason why I am very hopeful that Mr. Carter will be elected.

I withhold the remainder of my time.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. GRIFFIN. I hesitate to interject myself, but I find it difficult not to.

I seem to recall that the sending of troops to Vietnam by the late President Kennedy and the escalation of the war in Vietnam under President Johnson were precisely for the purpose—perhaps mistakenly but precisely for the purpose—of trying to protect human rights. That is what they thought they were doing in Vietnam, protecting human rights, protecting those in South Vietnam from being taken over by the Communists and having their human rights trampled upon.

Now, maybe the policies of the various administrations do not always accomplish that purpose. But to suggest that there is no interest in protecting human rights, it seems to me, is misplaced. Certainly in the United Nations there is a constant effort by the United States to provide leadership in this field.

Mr. KENNEDY. Can the Senator give me a single instance where the Secretary of State or any official has spoken up about the violation of human rights in Chile and then acted to reflect that concern? Can the Senator give me one instance of where they have spoken out about the violation of human rights in any country of the world in the period of the last 2 years and taken appropriate steps?

Mr. GRIFFIN. I can tell the Senator from Massachusetts I have responded to his request to various Senators for cosponsorship of a resolution concerning the assassination of the former Chilean ambassador. So I, for one, am speaking up.

There is no question, of course, that the United States has shown concern, and to say that we are without concern overstates the case. Perhaps criticism in particular situations is justified, but a blanket indictment certainly is not justified.

Mr. CRANSTON. Mr. President, I am using my own time, and I would like to, if I may, say in regard to Vietnam, which the Senator from Michigan brought up, there certainly were errors by a series of Presidents; Republicans, Democrats, and Republicans again, in regard to our policy in Vietnam.

The shape of the policy that developed in Vietnam probably began in the Eisenhower administration, when Richard Nixon was Vice President, and certainly carried on by Presidents Kennedy and Johnson, compounded particularly in the regime of President Johnson, when we got so deep in Vietnam, and carried on in the Nixon presidency until Congress and the people forced a halt to that war.

But in regard to human rights in Vietnam I think the trouble is that we were allied there with one dictatorship against another dictatorship. We were trying to fight a Communist form of repression, but we were protecting what amounted to a fascist form of repression.

Given that choice—and that was the only choice we had there—it seems to me we were doing nothing really to defend fundamental human rights of the sort that we, in this country, seek to protect, and which we should be seeking to strengthen where the opportunity for us to do so exists elsewhere in the world, and that is exactly the trouble with our policy in Korea.

We are allied with a dictatorship that represses its people, that violates their rights in countless ways, imprisons them without trial, does not have a free press, condones no criticism. That is just one form of dictatorship we are actually protecting against another form of dictatorship, the Communist dictatorship from the north.

We are not bringing any pressure to bear through the State Department or through the White House, that this Senator is aware of, to try to persuade the dictatorship in South Korea to take steps to recognize the human rights needs of their people in ways that might strengthen democracy and strengthen the commitment of the people of South Korea to oppose Communism.

## MILITARY AID TO DICTATORS

**Mr. CRANSTON.** I am very concerned, Mr. President, on another point. We enacted a provision into law designed to strengthen the role of the United States in disassociating itself from and condemning dictatorships in other countries. The administration fought that language every inch of the way.

The administration vetoed one bill that had stronger language to, in effect, provide an opportunity to cut off aid, military aid, to dictatorships.

I am very concerned now that if the same administration wins this election and has 4 more years in the White House and control of the State Department we will see that law sabotaged and not fully implemented.

The present custodians of the State Department seem to have no recognition of the importance of human rights and, rather plainly, they are out of step with the people.

There has been a poll that was conducted by Mr. Kissinger's aides of the people of the United States in regard to their attitudes toward our foreign policy, and some of the findings they reported back are very much in keeping with what Senators KENNEDY, ABOUREZK, and CLARK and I are discussing this morning. The reports stated:

> In sum, we found distrust of this Government's effectiveness in carrying out policies intended to express the public's humanitarian concern.

It also—the people making the survey also—found that Mr. Kissinger's diplomacy is criticized for "being insufficiently concerned with the protection of human rights."

Governor Carter, in his campaign, has stated very clearly the need for "a foreign policy that reflects the decency and generosity and commonsense of our own people." He is offering an alternative that is in keeping with the fundamental principles of democracy that inspired the creation of this country and the survival of our Constitution and of our institutions for these 200 years.

The first test will come next January or February when the new administration comes up with foreign aid recommendations in its budget proposals for fiscal 1978.

Just as we cannot solve every domestic problem merely by throwing more money at it, so we cannot find national security in constantly throwing money at any foreign government, no matter how corrupt or repressive, that claims to be anti-Communist.

Let me reiterate that I am deeply concerned that the State Department may try to undercut a new law it opposed that would crack down on military aid to dictators if President Ford is reelected.

Ford and his State Department fought us every step of the way for 2 years before we finally got the law through. President Ford himself vetoed a tougher version of the measure that Congress passed earlier.

I am referring to a human rights amendment to the Foreign Military Assitance Act (Public Law 94–329) enacted last June 30 which bans foreign military aid to any government that "engages in a consistent pattern of gross violations of internationally recognized human rights." An exception could be made under "extraordinary circumstances" if the President claims, and Congress agrees, that such aid is justified because of U.S. national security.

The same people who fought this provision would probably still be running the State Department if President Ford is reelected. Only a new administration—with fresh new thinking and bold new policies—can assure us that the act will be vigorously and conscientiously carried out.

America's national interests are linked to world peace and individual freedom, not to maintain the status quo and defending authoritarian governments that do not have the support of their own people.

Dictators are not only unsavory allies, they are undependable. The subjects of a repressive government have little reason to believe in the justness of their country's cause.

But over the years, hundreds of millions of dollars in tax money from workers and businesses in the United States—a free society—have helped finance the suppression of democracy in various parts of the so-called non-Communist or free world.

I call this a perversion of American wealth and good will.

U.S. military aid was originally intended to help these countries defend themselves against aggression. But many of these governments have used American money and American-supplied weapons to terrorize and subjugate their own people. Besides unwittingly subverting the aspirations of the very people in those foreign lands, we have been mindlessly undermining our own economy.

The fight against inflation and unbalanced budgets at home must include a halt to our endlessly financing dictatorships abroad.

There are many wrongs in the world and the United States cannot right all the world's inhumanity. But American attitudes do make a difference. We cannot forcibly remove totalitarian regimes. But we can help their victims by refusing to allow security assistance to those countries who use the weapons and training to put their own people under the dictatorial boot.

## ORDER OF BUSINESS

The **ACTING PRESIDENT** pro tempore. Pursuant to a previous order, the Chair states there will now be a period for not to exceed more than 2 hours for tributes to the Senator from Nebraska (Mr. HRUSKA) and the Senator from Pennsylvania (Mr. HUGH SCOTT) equally divided and controlled by the majority and minority leaders or their designees.

## TRIBUTES TO SENATOR HUGH SCOTT

**Mr. GRIFFIN.** Mr. President, HUGH SCOTT is, and has been, one of the giants of the Senate. To recount his remarkable record of public service would not begin to describe the qualities that have made HUGH SCOTT the leader he is.

In tributes here today, I am sure we will be reminded of his role in many legislative fields: his leadership, for example, in the fight for civil rights, to reform campaign laws, to strengthen the antitrust laws, to enact the War Powers Act, veterans legislation, to mention only a few.

But, as brilliant and as important as his legislative record is, it does not begin to portray this uncommon man. For HUGH SCOTT is more than a public man and more than a public leader—he is a Renaissance man—a man for all seasons.

That HUGH has distinguished himself in so many different ways throughout his long career—as a teacher, statesman, master politician, and Senate leader—should perhaps not astonish us when we consider his roots. For, after all, HUGH SCOTT is a product of Virginia and Pennsylvania, States that produced two of America's greatest Renaissance men, Thomas Jefferson and Benjamin Franklin.

I could not say anything about HUGH SCOTT without adding a very personal expression of appreciation, gratitude, and respect. During the past 7 years that I have been privileged to serve as his assistant leader, I consider myself singularly fortunate to have had the steady, gracious, innovative, and inspiring guidance and companionship of HUGH SCOTT.

I can say without qualification that the opportunity to have worked so closely with him, and to have learned from him has been one of the most important aspects of my tenure as Republican whip. I sincerely thank him for this experience, and I thank my Republican colleagues for the opportunity.

It is said that a man's own words often return to haunt him. I think it is altogether appropriate, as we pay tribute to this witty, urbane man from Pennsylvania who is so well known for his great facility with language, that we turn his words on him.

Although HUGH spoke these words in describing President Ford, I believe all of HUGH's colleagues would unhesitatingly embrace them as their own to describe him:

> He is a decent man who has the essential appeal to the American heart through a combination of affirmative action and a sense of caring.
>
> He is not a teller of his actions, but a willing listener to the opinions of others.
>
> If he has made mistakes, the mistakes have been of the heart, creditable to mistakes of compassion.
>
> I believe he is a leader of good motivation, a man who is doing his best, a man whom I am proud to have ask for my help and who has my pledge to help him whenever and wherever I can.

Will Rogers said that you judge a man's greatness by how much he will be missed. I want to say to HUGH that, using this standard, he can retire in the certain knowledge that his legacy of greatness will very soon be established and secured in the Senate. We shall all miss him very, very much.

I wish him and his wonderful wife Marian much happiness, pleasure and contentment in their richly deserved retirement years.

Mr. GRIFFIN subsequently said: Mr. President, on behalf of the Vice President, I ask unanimous consent that a statement he has prepared concerning the retirement of Senator Hugh Scott be printed in the Record immediately following the remarks I made with reference to Senator Scott.

The PRESIDING OFFICER. Without objection, it is so ordered.

### Statement of the Vice President on the Retirement of Senator Hugh Scott

I feel privileged to have served as Presiding Officer of the United States Senate during the time of one of the Chamber's giants. I feel doubly privileged to count this man among my closest and most valued friends.

Three times, the Commonwealth of Pennsylvania sent Hugh Scott to the Senate, this man of intellectual brilliance, this man of powerful and moving eloquence, this man of charm and quick wit, this man of profound scholarship, a man who could have staked his fame on his mastery of history and the art of ancient China—let alone his statesmanship.

Four times the Republican Party chose him as its leader in the U.S. Senate and chose him as its National Chairman as well. As Hugh Scott closes his extraordinary Senate career, he leaves a legacy measured not only in laws enacted, in votes cast and in brave stands taken. His record must be measured in humanity as well—in what his remarkable career has meant to the people of his state and his nation—and, yes, of the world.

Millions of Americans now—and for future generations—will enjoy true equality of opportunity, because Hugh Scott battled for civil rights—long before it became fashionable. Millions of Americans—now and for future generations—will know better health, greater educational opportunity and a more secure old age, because Senator Hugh Scott has made their human needs his personal crusade.

Of millions it can be said that they lived as good Americans. But, of a select few, it can be said that they created a finer America. In that select and shining company stands Senator Hugh Scott.

Mr. PERCY. Mr. President, Pennsylvania has been blessed with great men throughout our history. It is the fortune of our Nation that some of those men have been sent to serve in the U.S. Senate. It is the fortune of the Members of the Senate that one such person was chosen to serve in a leadership capacity in this body. It is my personal fortune that I have had the opportunity to know and work with that man in the Senate and it is the misfortune of all that he now retires.

Senator Scott's brilliant career is well known. What makes his career worth recounting, however, is the special quality his life has added to his country. It is these properties on which I will briefly focus.

Many leaders use their wit and charm to assert their positions. Senator Scott has used these attributes to make his leadership more flavorful.

Some leaders view diversity of thought as a threat to their leadership. Senator Scott has always drawn from diversity alternative approaches to the resolution of problems.

Some who are chosen to lead try to lead with the torch whose fire has been extinguished. True leaders pass the torch on while the light it provides still gives direction. Although I disagree, Senator Scott has determined that the time to pass the torch has come.

The Nation will miss Senator Scott, but his constituents will feel a deeper loss. The Senate will lament his departure.

It has been said that work is the meat of life while retirement provides the dessert. I wish for Senator Scott and his wonderful family the graces that he has so generously shared with all of us here in the Senate and continuing happiness and prosperity as he moves to his next course in life.

Mr. President, I first wish to compliment my distinguished colleague, the Republican whip, for his comments. I know he has stood side by side with our distinguished minority leader for a number of years. They have worked as a great team.

I also wish to express appreciation to Senator Curtis for his courtesy in allowing me to proceed even though he is on the floor ahead of me.

I think back to my friendship with Hugh Scott, and the times that I have leaned and turned to him for advice, counsel, and help.

In 1960 as a businessman I was given the responsibility by President Eisenhower to be the Republican platform chairman. My knowledge of parliamentary procedures was very slight and the President saw fit to ask Hugh Scott to work with me as parliamentarian and counsel and advisor.

I found him a steady rock of support all the way through. I learned then of that professional competence, that being a politician in the very best sense of that term and being a statesman, but also being a friend; I learned what it meant in public life; and Hugh Scott has been all of those things.

We looked up to him as a scholar. He is a student in certain areas, in Chinese art and culture that is now world reknowned, and he has shared his knowledge with all of us.

He has carried that knowledge into the political area of East Asia and has, I think, helped bridge the gap between our two cultures, helped bring the human race into closer accord with the American public and people, and to point out our interdependence with the Peoples Republic of China area that we have been cut off from for several decades.

Certainly, as I have traveled through Pennsylvania—and know the State quite well—I have learned through the years not only the love that Hugh Scott has for Pennsylvania and the fact that he, together with the great Governor, Governor Scranton, has made Pennsylvania people prouder to be Pennsylvanians, but I know the pride that he has for his own State.

We all love our States. But there is not anyone who loves Pennsylvania more than Hugh Scott. He has devoted his life to Pennsylvania, but never confined his thoughts to its territories, feeling that Pennsylvania's greatness is the greatness of America, that Pennsylvanians have contributed so much to this country. He thought it was his job as a U.S. Senator to take the national point of view, just as he thought it was his duty and right and obligation to take the international point of view, looking always for the interests of his own constituents in the State confines, in the national context, and their international role as leaders of the Free World.

He has been a great inspiration to young people. He has always spent a great deal of time with young people.

I think the marriage he has had with Marian, his partner all through life, has been an inspiration to all of us. They make a great team. They make a great partnership.

We do not say au revoir in any sense, other than we continue the affection and friendship and devotion that we have to Hugh Scott for many years to come. He will always continue to be an inspiration.

I know that regardless of who is running the executive branch of Government, they are going to be turning to Hugh Scott for counsel and advice, just as we will always value his friendship, counsel, and advice right here as his colleagues in the U.S. Senate.

I want to thank him for all he has meant to Loraine and myself, and for all he has meant to American politics through the years. He has dignified the profession, he has given it grace, and he has given it of himself, everything that he could give through the whole course of his lifetime, for which his Nation and its citizens are deeply grateful.

Mr. CURTIS. Mr. President, I rise to join with other colleagues in paying tribute to the splendid record of our distinguished minority leader, Mr. Hugh Scott.

My acquaintance with him, my friendship for him, and the period of our work together extends over many years.

Hugh Scott was a Member of the House of Representatives during my time there. Later on he was elected to the Senate. Incidentally, he is not only a good Senator but a great campaigner who has won some elections when it was not time for him to win. But he went ahead and won anyway.

I recall his days as chairman of the Republican National Committee, the dedication and work he applied there.

We serve our country through political parties. It is through political parties that the American people have a choice to select a President, their Senators, and Members of the House of Representatives. Hugh Scott has given his time and talent to building one of the major political parties in this country. I hope the time is rapidly approaching when all citizens hold in higher esteem political parties. The slogan that parties are not important but it is the man who is important is most erroneous. Parties declare for principles and it is through a political party that men and women can join hands with others and make a success of this job of self-government.

Whenever I hear anyone deride the idea of problems with political parties, my reaction is they are disregarding principles because political parties enunciate and advance principles. They tend to take a view of the entire picture. This is what our distinguished minority leader has done.

I am not going to enumerate here his legislative accomplishments in the various fields of civil rights, important matters before the Judiciary Committee, general legislation. Many scholarly jobs will be done with that.

At this time, however, I do want to mention a few things which will always stand out in my mind when I think of HUGH SCOTT, one of the great scholars of all times who has occupied a place in this Senate.

I marvel, I appreciate, I highly respect his command of the English language. HUGH can come up with a word, a phrase, or a sentence that drives home a point. HUGH SCOTT'S words are put together oftentimes to remind you of a good cartoon. They say that a cartoonist can make a point with one scene, with one picture, with few words. That is very true.

Not many people can do that without pictures but just with words. His command of the English language, his wit, his scholarship, are things which are most unusual.

He has not retained all of this to himself. He has written rather extensively, and I hope he will write more, on matters of concern to our citizens with reference to domestic problems, cultural matters, political thoughts. We honor him for his great contributions in that regard.

He has been a collector of Chinese art, which adds much to the culture of our country.

When this very unusual and distinguished man leaves the Senate, I am sure he is not going to go into retirement. Whatever he does, Mildred joins me in extending the very best wishes to HUGH and Marian Scott. Marian, his devoted wife of all of these years, rightly should share and does share in all the accolades that come to him. That is as it should be. They are two splendid people. We hope he will be called upon to serve in a public capacity in many ways in the days that lie ahead.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Alabama.

Mr. ALLEN. Mr. President, the Senate, down through the years, has been the home of many men whose genius extended beyond the realm of politics and legislation. But I know of few Members of this body, past or present, whose interests and abilities are as wide-ranging as those of the distinguished minority leader, Senator HUGH SCOTT. He is a legislator, politician, statesman, teacher, naval officer, lawyer, author, and renowned expert on oriental arts.

Senator HUGH SCOTT will soon take his seat on the center aisle for the last time.

When he departs from this Chamber and these legislative halls, he will leave a great void here in the Senate, a void that is going to be extremely difficult to fill.

He is retiring from public life after a career that has spanned the better part of four decades. He served 16 years in the House of Representatives before coming to the Senate in 1958. He has also ably served his party as chairman of its national committee.

He has emphasized the necessity to bridge the "justice gap" that exists in our society. A member of the Senate Judiciary Committee, Senator SCOTT is recognized for his expertise in the field of criminal justice. In the 90th Congress, Senator SCOTT cosponsored and helped to draft the Omnibus Crime Control and Safe Streets Act which was signed into law on June 19, 1968. During the 91st Congress, he vigorously worked for the adoption of the Omnibus Crime Control Act of 1970 which produced a law that ranges all the way from protecting the President and Members of Congress to providing the death penalty for those convicted of fatal terrorist bombings.

Our illustrious colleague firmly believes that for our system of criminal justice to work effectively we must insure that those citizens charged with crimes are afforded a fair and prompt trial, that the guilty are convicted, and that the process for making this determination is one which begins and ends within a reasonable time frame.

Senator SCOTT has conducted himself with distinction in the demanding job of minority leader since 1969. His tenure has been in the finest tradition of this great body.

I have observed with interest and, I might even say amazement, the many, many times that policies enunciated here in the Chamber are policies of the joint leadership, not just the Democratic leadership but the joint leadership. This ability on the part of Senator SCOTT to compromise, to reach an understanding with the majority party, and to present a united front on much important legislation is certainly indicative of the great character of Senator SCOTT as he seeks to serve here in the Senate, to serve the people of his State and Nation in a most effective and patriotic manner. In company with our distinguished majority leader, he has preserved the comity of the Senate for seven of the most trying years in our Nation's history.

HUGH SCOTT, senior Senator from the Keystone State, has himself been one of the keystones of the Senate. I am sure I speak for all my colleagues when I say that he will be greatly missed in this Chamber and the quality of character and excellence of effort he brought to this body will be irreplaceable.

I would certainly say, on a personal note, that I have admired this fine public servant. My admiration, respect, and affection for him have increased with each passing day here in the U.S. Senate, so I have great admiration and respect for our distinguished minority leader.

My wife, Maryon and I extend our best wishes to Senator SCOTT and his wife as he embarks on a new phase of his life, which we know will be filled with success and happiness, and certainly we wish for both of them many long and happy years in their retirement. We know that they will continue to be active, inasmuch as they have many interests that will keep their time and thoughts occupied. We are hopeful that they will have the opportunity and the time now to do the many things that they have not been able to do because of Senator SCOTT'S devotion and dedication to his duties here in the Senate. Certainly, in my judgment, the Senate, which is a great body, will be less of a great body with the passing from its halls of this distinguished statesman.

Mr. McCLURE. Mr. President, it is always difficult, in circumstances such as we face today, to say, not farewell or goodby, but a temporary adieu to a friend with whom we have served in the Congress of the United States. It is difficult to know what might be said at this time that has not been said a dozen times over already. Since Senator SCOTT'S pending retirement was announced, there have been innumerable features published about his service to the country, and dozens of articles and comments. Those who have served with him in the halls of Congress much longer than I have at great length set forth his legislative accomplishments and his services, within the Congress of the United States as well as outside, over the many years that he has been of service to the people of the United States.

But for myself, I would like to add just two footnotes to the voluminous record that has already been made. I would note, first, the redeeming wit which he has brought to many tense moments in this body. At times when tempers were strained, when the sensibilities of people were offended by actions taken by others, or there was presumed slight in what may have been said or implied, Senator SCOTT was able to redeem the situation by that perfect touch of wit that is his special gift, which he has shared with us.

Second, I would note the warmth of personality which he has displayed toward all people on all sides of issues. He has been a strong partisan, a constant, assiduous fighter for the things that he believes—and sometimes a very tough fighter—but always fair and totally courteous.

One of the first impressions that I had in my associations with Senator SCOTT was of his concern for those who were newly arrived in the Senate of the United States. That goes back to the days when I was first running for the Senate, before I had been elected. His personal concern for what I was doing, for my understanding, for my position, which I know has been reflected in the relationships that he has had with dozens of other men and women throughout the years of his service, have helped to make him a very unique individual, who has served with outstanding success and with great distinction not only for himself but for this body.

I think the best tribute that could be made to anyone when he changes jobs—and I am sure that is what you will be doing, not leaving his vocation but changing vocations, not going into inactive retirement but going into a retirement from this job to other services to humanity—is that he will be missed. This body has been better for his service here. This republic is more secure because of his service to it.

We look forward to a continued association for many years to come, albeit a different one than we have enjoyed for the last several years.

Mr. YOUNG. Mr. President, our mutual good friend, the minority leader of the Senate for the past 7 years, and the senior Senator from Pennsylvania, Hugh Scott, has a long and most commendable record as a public servant.

He has been honored by the people of Pennsylvania as few, if any, ever have. He has served in many capacities of public trust in his own community and State long before his election to Congress. He has served 34 years in Congress—16 years in the House and 18 in the Senate.

While serving in the House of Representatives, Hugh Scott was elected to serve as national chairman of the Republican Party. In this capacity, and in every other capacity as a public official, he served effectively and won the admiration and respect not only of his own party, but his adversaries as well.

Hugh Scott has always been considered one of the very best lawyers to serve in the U.S. Senate. Had he chosen to follow this profession, he would also have attained national prominence. As long as I can remember, a lawyer who was very talented and outstanding was often referred to as a "Philadelphia lawyer." I am not a lawyer, but I always understood a Philadelphia lawyer was among the very best. Hugh Scott is one of them.

Hugh Scott has a wide educational background and experience. He is a noted historian and an expert on China.

As a U.S. Senator, Hugh Scott is one that other Members always listen to respectfully and attentively, regardless of party affiliation. He has a unique command of the English language, which makes his speeches effective and interesting. Hugh Scott will always be remembered as one of the best brains in the Senate during his time.

Patricia and I wish Hugh Scott and his wonderful wife, Marian, a very happy future in their years of retirement.

Mr. THURMOND. Mr. President, it is with a great deal of pleasure that I rise to pay tribute to my good friend, Hugh Scott. At the same time I am saddened by this occasion because I realize that when the Senate reconvenes in January, one of its most able and dedicated Members will have retired.

When Senator Scott retires at the conclusion of this session of Congress, he will have completed a combined service in Congress of 34 years, including eight terms in the House and three terms in the Senate. He has also served very ably as the Minority Leader since 1969. Prior to that he served as assistant minority leader from 1964 to 1969.

During his 12-year period of leadership, Hugh Scott has constantly urged his fellow Republicans to present "the constructive alternative" to programs backed by the Democratic majority in Congress. His leadership emphasizes the concept of sharing leadership. He has constantly invited others to work with him, rather than insisting that they conform to his wishes.

Senator Scott has gained the respect of all Republicans and Democrats as well, through his strong independent leadership. He has been superb in rallying his diverse Republican senatorial constituency and many Democrats to provide the winning margin on many close votes and to uphold Presidential vetoes.

Although we have not always agreed on legislative matters, I have admired him for his sense of fairness and his natural capacity for leadership.

Hugh Scott is an outstanding member of the Senate Judiciary Committee, where I have enjoyed serving with him. He has a keen legal mind, and his intellect and personality have served as an inspiration to the other members of the committee. He is recognized as a legal scholar, and in 1931 he authored The Law of Bailments.

Mr. President, Senator Scott is a prolific writer, and has authored five books and numerous articles in national magazines.

One of his most cherished accomplishments is his work toward a better understanding of the Orient. His understanding of the Chinese people, and in particular Chinese art, has helped bring about a greater sense of goodwill between the American and Chinese people.

When Hugh Scott retires, the Senate will lose one of its most scholarly Members. He is a man of uncommon wisdom, who is always willing to work with his colleagues in the national interest.

I salute Hugh Scott for the outstanding job he has done as a representative of the people of Pennsylvania, as a Senator with a national constituency, and as minority leader of the Senate. Whoever takes his place will have large shoes to fill.

Mr. President, Mrs. Thurmond joins me in wishing Hugh and his lovely wife, Marian, a pleasant and happy retirement with his family and many friends.

Mr. FONG. Mr. President, today I pay tribute to the highly esteemed Senate minority leader, the distinguished senior Senator from Pennsylvania (Mr. Hugh Scott), who is retiring from the Senate when his present term expires. It was my privilege and pleasure to have met Hugh Scott in 1959, when I arrived as one of Hawaii's two statehood Senators, he having been elected to the Senate for the first time only the year before. I was a freshman Senator, while Hugh Scott was a veteran in Congress, having served 16 years in the U.S. House of Representatives prior to his election to the Senate. We have been good friends since.

Of course, Hugh Scott had already made his name on the national as well as Pennsylvania State political scene. In addition to serving eight terms as the U.S. Representative from Pennsylvania's Sixth Congressional District, he was Republican national chairman in 1948–49 and, prior to that, had gained a reputation as a dedicated and capable member of the National Crime Commission, representing the district attorney of Philadelphia.

This earlier experience certainly stood the fine Senator in good stead as he worked vigorously to bridge what he, himself, called the "justice gap" in America. A longtime member of the Senate Judiciary Committee, he is known for his expertise in criminal justice. He was cosponsor and a key supporter of such laws in this field as the Omnibus Crime Control and Safe Streets Act of 1968 and the Omnibus Crime Control Act of 1970.

Hugh Scott also has been a leader in such fields as curbing drug abuse, juvenile justice, protecting the right of every citizen to be provided with legal assistance in matters before Federal agencies, bail reform and, very importantly, a cosponsor of a bill to compensate innocent victims of crimes.

In addition, Hugh Scott has been a member of the important and prestigious Committee on Foreign Relations and the Committee on Rules and Administration.

As the Senate minority leader, Hugh Scott has met regularly with the President and has provided a bridge between the White House and the Senate which is essential for any measurable degree of cooperation between the two branches of Government. He was reelected to his fourth term as Senate Republican leader in January, 1975.

To be Senator from the great State of Pennsylvania, one of our Nation's most populous States, requires tremendous ability and heroic efforts, both of which Hugh Scott has demonstrated over and over again. His services to the people of Pennsylvania have been legion, and they have recognized this by electing and reelecting him to Congress.

To be minority leader of the Senate also requires great ability and hard work, and Hugh Scott has fulfilled these duties with distinction and ease.

As a fellow Republican, I pay special tribute to my good friend, Hugh Scott, for his outstanding leadership and for his unfailing fairness. He has always been courteous, understanding, and patient. Time and again, he has demonstrated his knowledge of national and international issues and his skill in the legislative process.

I am especially grateful to him for his assistance to me, who came here as a green, freshman Senator. I value his counsel and his friendship.

May I also say, despite his busy schedule and his heavy responsibilities, Hugh Scott has always displayed a sharp wit and a marvelous sense of humor which reveal a keen intellect and a broad field of knowledge and experience.

Soon after President Nixon's historic trip in February 1972 to mainland China, Hugh Scott and the majority leader of the Senate, Senator Mike Mansfield, led a congressional delegation on a visit to the People's Republic of China in April of that same year. I can think of no one who would have been more suited for that congressional mission than Hugh Scott. It is a measure of the man, who, on top of his many other accomplishments, is an avid collector of and authority on oriental art and is the author of "The Golden Age of Chinese Art," a highly acclaimed book in that field.

Mr. President, as I have announced earlier, I also will be retiring at the end of my current term.

At this time I would like to say that one of my greatest privileges during my more than 17 years in the U.S. Senate was the opportunity to meet and to work with men of stature such as Hugh Scott.

I wish him and his gracious wife, Marian, many years of abundant good health and happiness.

To both I say: Aloha!

Mr. EASTLAND. Mr. President, on February 2, 1962, by order of the Senate, my good republican friend Norris Cotton of New Hampshire, who had served as a member of the Committee on the Judiciary for the previous 2 years, was excused from further service on the committee so that he might become a member of the Committee on Appropriations, and his place on the Judiciary Committee was taken by Senator Hugh Scott of Pennsylvania.

Senator Scott has served with me on the Judiciary Committee continuously during the 14 years since then, and I know something of the ability and energy and sound judgment which he has brought to every aspect of his work as a Senator.

Immediately upon becoming a member of the Committee on the Judiciary, he became a member of five busy subcommittees of that period, the former Subcommittee on Revision and Codification under the chairmanship of Senator Sam Ervin; the former Subcommittee on the Trading with the Enemy Act under the chairmanship of Senator Olin Johnson; the Subcommittee on Patents, Trademarks, and Copyrights, then as now under the chairmanship of Senator John McClellan; the Subcommittee on National Penitentiaries, then under the chairmanship of Senator Edward Long of Missouri; and the Internal Security Subcommittee under my chairmanship.

Over the years the subcommittees of the Committee on the Judiciary have been reorganized and restructured to accomplish the work assigned to the committee and, whatever the changes, Senator Scott has always carried his full share of that work—no less so after he became minority leader of the Senate in 1969 with all the additional responsibilities which that post has imposed upon him—and in the present session of Congress he has served as a member of seven of the subcommittees of the Judiciary Committee, including those with such heavy work loads as the Subcommittee on Criminal Laws and Procedures, the Subcommittee on Improvements in Judicial Machinery, and the Subcommittee on Constitutional Rights.

As diligent as Senator Scott has been in carrying out his subcommittee responsibilities, this has never been the limit of his work on the Judiciary Committee. In the present session of Congress, for example, although he is not a member of the Subcommittee on Antitrust and Monopoly, he has joined with the chairman of that subcommittee, Senator Philip Hart, in sponsoring this year's Hart-Scott antitrust bill.

It is never easy to say goodbye to old friends and colleagues in the Senate, and it is especially difficult in regard to those with whom one has worked long and closely.

Senator Scott and I have differed on many public issues, just as we have agreed on many public issues, but throughout his long career he has been a major figure in his party and in the Senate, and he has been my warm and close friend.

He was first elected to the House of Representatives in the election of 1940 and served as a Member of the House for 16 years. He came to the Senate in 1958 and is now completing his third term in the Senate.

His public career in Washington has covered roughly the same period of history as my own, and I will miss him.

Mr. TALMADGE. Mr. President, no Pennsylvanian before Hugh Scott has ever served three terms in the Senate of the United States, and that is a very good indication of the high esteem in which he is held by his party and by the people of his State.

On his retirement, at the end of this session of Congress, Senator Scott will have served four terms as minority leader and I join the Senate, on both sides of the aisle, in commending Senator Scott for his distinguished service and legislative leadership.

Senator Scott leaves Congress after combined service of 34 years, which includes 8 terms in the House of Representatives. He has distinguished himself with credit in many legislative areas, and he has been a forceful and effective worker and spokesman for his political party. He has earned for himself a position of respect in the Senate and in history during some of the most crucial and turbulent times ever experienced by our Nation.

I extend to Senator Scott my congratulations for the distinguished service he has rendered Pennsylvania and the Nation and my best wishes for every happiness and success in all his future endeavors.

Mr. WILLIAM L. SCOTT. Mr. President, I would like to join my colleagues on both sides of the aisle in paying tribute to our distinguished minority leader, the distinguished senior Senator from Pennsylvania (Mr. Hugh Scott). Since being elected to the Senate, I have found Hugh Scott to be fair and cooperative, even though we often have disagreed philosophically on various issues confronting us. Hugh Scott, a native Virginian, has deep ties with the Old Dominion; and in a recent meeting of our Judiciary Committee, I recall his facetiously referring to himself as the third Senator from Virginia.

It is my understanding he was born in Fredericksburg, Va., and attended public schools in the area before entering the Army. He is a graduate of the Randolph-Macon College in Ashland, Va., which has awarded him an honorary LL.D. degree—one of 29 honorary degrees I understand he has received. In addition, Hugh was graduated from the University of Virginia Law School before taking up private practice of law in Philadelphia. I might add that Senator Scott continues to serve on the Board of Visitors of the University of Virginia.

Mr. President, Hugh Scott's achievements are legion and well-known among his colleagues. His varied public service ranges from several years as an assistant district attorney in Philadelphia through some 34 years of service in the Congress, the past 18 years as a U.S. Senator. Hugh Scott served in the Navy during World War II and the Korean war. He has long been active in political affairs, having served not only as delegate to various Republican national conventions but also as chairman of the Republican National Committee and as a top official of President Eisenhower's first campaign. He is completing his fourth term as minority leader of the Senate, and, of course, will also be remembered for his leadership on the Judiciary, Foreign Relations, and Rules and Administration Committees. We also recall that Senator Scott, along with our retiring majority leader, the distinguished Senator from Montana (Mr. Mansfield) became the first Senators to visit the People's Republic of China a few years ago.

We are all aware of Hugh Scott's interest in Chinese art and in his collection of stamps and briar pipes, and hope retirement from his long public service will afford Senator Scott and his wife, Marian, some well-deserved rest and relaxation together with further opportunity to pursue their hobbies and other interests.

Mr. CRANSTON. Mr. President, it is more dramatic, more appealing to the party faithful, and—to some politicians—more rewarding to be an ideologue in politics than it is to be a pragmatist. The politician whose obsession with some carefully delineated version of a theoretic principle carries him constantly down to defeat is often more inspiring and almost always more enjoyable to listen to than is the compromiser. But the truth is that only through the process of compromise do we solve our problems. And since problem solving is the job we have assigned to politicians, oftentimes our very best and most skilled practitioners of American political democracy go without much credit while the verbose, moralizing and generally ineffective articulators of the myriad variations of American political ideology are thought of as the best—or worst, depending on your point of view—in American politics.

I pay tribute to Senator Hugh Scott of Pennsylvania because, as a problem solver, he has demonstrated with superb skill the highest calling of American politics.

And astonishingly, he has done it as the minority leader. One might expect the leader of a minority outnumbered two to one to be in minority most of the time.

Not so Hugh Scott.

He has worked, argued, thought—brought to our Senate proceedings all of the best problem-solving qualities. And the result is that he has played a major role in shaping the consensus of the Senate on most of our current problems.

Others today have recounted Senator Scott's substantial legislative accomplishments. I will not try to repeat them. But I would like to point out to my colleagues one aspect of his record which I find most impressive. Senator Scott constantly is seeking new and better ways to solve our problems, even where he has played a major role in developing earlier solutions.

This quality of continuous reassessment of plans and programs came to my attention in the broad area of election reform where I have had the opportunity to work with Senator Scott on the major electoral changes we have made during the past few years. Some of those changes are not working too well. They will need rethinking and redoing—or undoing—in the next Congress. I know that if Hugh Scott were with us in the 95th Congress, he would be in the forefront of that process—and that we would achieve better answers because of his participation.

Senator Scott has taught us that there are no resting places—only milestones—on the road of progress.

By my standards there is no greater attribute for a politician than to be an effective problem solver. That is what Hugh Scott is. He will be sorely missed in these halls.

Mr. WILLIAMS. Mr. President, when this august body convenes at the opening of the 95th Congress in January of 1977, a familar face will be missing.

This distinguished minority leader, the senior Senator from Pennsylvania, will no longer grace this Chamber. Hugh Scott's decision to retire from his onerous duties of leading his minority colleagues in the paths of political verisimilitude undoubtedly was not taken lightly. But when a man has served his State and his country for 18 years, through some of the greatest crises in this Nation's history, the rest, the peace, and the contentment that we wish for the minority leader has been well earned.

Though Hugh Scott is not of my party, or of my political persuasion, I have always found him to be a man of graciousness, who has cooperated with the majority when he conscientiously could, and who was invariably courteous even when he conscientiously could not.

I appreciate Hugh Scott as a friend and as a neighbor, and my wife and I wish him a contented and productive retirement when he lays down the burdens of office.

Mr. McCLELLAN. Mr. President, I wish to join my colleagues on both sides of the aisle in paying tribute today to our distinguished minority leader, Senator Hugh Scott of Pennsylvania.

It is a measure of the esteem and affection with which Senator Scott is held by the entire Senate that tributes today feature remarks by both Democrats and Republicans.

For 18 years, Senator Scott has served the people of Pennsylvania and the United States ably and well. For 7 years, he has led the members of his party in this Chamber with wisdom, skill and distinction.

In this country, politics like our judicial system is based on an adversary relationship. The cut and thrust of partisanship is basic to our system.

But partisans need not be enemies—as Hugh Scott has demonstrated so well in the years that he has led the minority. He has not opposed the majority merely to offer unreasoning resistance. Instead, he has been the leader of a loyal opposition anxious to do what is best for the American people.

Eloquent, able and witty, Senator Scott has epitomized the traditions of courtliness and gentility which have long been the hallmark of the Senate, while, at the same time, providing the minority with highly effective leadership.

I do not know who his party's choice will be to succeed him, but that person will have to reach a high standard of excellence to match the courtesy, courage and legislative skill of Hugh Scott.

Mrs. McClellan and I wish Marian and Hugh a happy, long and pleasant retirement.

Mr. RIBICOFF. Mr. President, I join my colleagues in paying tribute to the retiring minority leader, the distinguished senior Senator from Pennsylvania, Mr. Scott.

Senator Scott is completing 34 years of service in the Congress.

After 16 years in the House of Representatives, Senator Scott was given the unprecedented honor of being the first person from the Commonwealth of Pennsylvania to serve three terms as a U.S. Senator. Presently in his fourth term as minority leader, he is the first Pennsylvanian to hold a leadership position in the Senate. He has also served as national chairman of the Republican party.

Senator Scott is a scholarly and thoughtful man. We are all familiar with his mastery of language, his knowledge of the Far East, especially China, and his outstanding service on the Senate Foreign Relations Committee.

Yet, Hugh Scott is also a practical man, and a skilled debater and legislator. He has been most active in the important legislative areas of antitrust enforcement, civil righs, veterans benefits, and Federal election law reform.

Finally, Senator Scott has the respect and friendship of the Democratic leadership, and of his colleagues on this side of the aisle. He has worked with Senator Mansfield and Senator Byrd to make the Senate a better institution, and one which is more responsive to the needs of the Nation.

I wish Senator Scott well in his retirement.

Mr. PEARSON. Mr. President, it is in the deepest gratitude that I rise today in a tribute to my colleague, and longtime friend, Hugh Scott. The venerable Pennsylvania Senator has pursued a life of integrity and self-reliance. This Chamber will be a lonelier place without his wit and endless charm.

For the last 34 years he has been a Member of Congress, the last 18 of which were spent with the business of this Chamber. This gentleman has been the eye through which the reason and truth of the day are more easily seen. His leadership par excellence will be deeply missed as the business of the 94th Congress ends and he departs for other adventures.

He is an intellectually vigorous man. To look back on his 34 years in Congress there naturally comes to light many landmark legislative initiatives that bear his mark. But, for myself, his philosophy of governing and his regard for mankind stand foremost.

Senator Scott is a scholar of the Greek teachings as well as many other philosophies. And like the Greeks he thinks of man as the embodiment of individual parts. Man is not a farmer, a doctor, newspaperman or philosopher, but he is all. Senator Scott takes exception to the current banality of "doing your own thing" if that entails a disregard for society.

If in his 34 years in Congress he did not leave us answers to these timeless questions, he made us think. That is his greatest strength and the true distinction of a scholar and statesman.

Senator Scott is refreshing much like a good book. He is cheerful, but more commonly witty. He is able to guide and enthuse his colleagues. He is confident and does not defer to the popular cry for the sake of popularity.

Mr. President, the uncommonness of this man's intellect and vigor will make his absence all the more noticeable. He is a thinking man that will never be replaced but set aside in the part of our memories reserved for but a few.

Life has been a true adventure for Senator Scott and his wife, Marian, and with God's blessing it will remain so.

Mr. STEVENS. Mr. President, it is most difficult to find the right words to adequately describe the pride, respect, and admiration that I and the other Members of this body have for the retiring senior Senator from Pennsylvania, Hugh Scott. We all are aware of his accomplishments for they are legendary. In legislation, his passionate and effective leadership in obtaining the passage of civil rights acts, his efforts on behalf of election reform, and his initiation of the "shared leadership" concept of the Republican leadership in the Senate have established his mark on this body. By the way, this latter concept, as my friends on this side of the aisle well know, strengthened considerably the role of the Republican Party in the Senate.

In addition to his outstanding leadership and legislative accomplishments in the Senate, Hugh is known worldwide as a scholar on Chinese art. His fluency in six languages is also well-known. The high respect he is held in is reflected in receipt of numerous awards, certificates, and honorary degrees from major colleges, universities, and organizations.

For us who will be returning next year it will not be the same, for we will miss the personal qualities possessed in great abundance by Hugh Scott. We will miss his evenheaded leadership and wise counsel, his penchant for uttering the sometimes obscure, but oh so correct, word or phrase which often sent us, and the media, scampering for a dictionary.

We will miss his frequent puns which often lighten our debate and put the whole question under discussion in proper perspective. We will miss his highly effective stewardship on the minority side. Indeed, we will miss all of these qualities. But, Mr. President, more than anything else, I will miss his close and warm friendship and that of his wife of 52 years, Marian. Ann and I join with Hugh Scott's many friends throughout the world in wishing Marian and Hugh continued success in whatever endeavor they choose to pursue.

Mr. President, before I close I ask unanimous consent to have printed at the conclusion of my remarks a list of honorary degrees awarded to Senator Hugh Scott by various colleges and universities. I know my colleagues will be impressed, as I was, with this long and prestigious list. These awards indeed are a tribute to our great colleague. In addition to exemplifying the high regard these institutions of higher learning have for Hugh Scott, they emphasize the meaning of a phrase used in his most recent election campaign which is so apropos: "I believe in Hugh Scott." I know we all agree with that phrase.

There being no objection, the list was ordered to be printed in the Record, as follows:

### Honorary Degrees Awarded to Senator Hugh Scott

Randolph-Macon College, 1955, LL.D.
La Salle College, 1955, L.H.D.
Dickinson College, 1959, LL.D.
Temple University, 1959, LL.D.
Suffolk University, 1959, D.Pub.Adm.
Ursinus College, 1960, LL.D.
Philadelphia Textile Institute, 1960, LL.D.
Philadelphia College of Osteopathy, 1960, Litt.D.
Washington and Jefferson College, 1961, LL.D.
Lebanon Valley College, 1962, LL.D.
Delaware Valley College, 1963, Sc.D.
Lincoln University, 1963, LL.D.
Westminister College, 1964, LL.D.
University of Pennsylvania, 1966, LL.D.
Waynesburg College, 1966, LL.D.
Susquehanna University, 1966, D.C.L.
Franklin and Marshall College, 1966, LL.D.
Union College, 1967, D.C.L.
Lehigh University, 1968, LL.D.
Albright College, 1969, LL.D.
Hanover College, 1969, LL.D.
Hahnemann Medical College and Hospital, 1969, LL.D.
Thomas Jefferson University, 1970, L.H.D.
Gettysburg College, 1970, LL.D.
Drexel University, 1970, LL.D.
Lafayette University, 1971, LL.D.
Dropsie University, 1971, LL.D.
York College of Pennsylvania, 1972, LL.D.
Hebrew Union College, 1973, L.H.D.

Mr. BAKER. Mr. President, I am pleased to join with my colleagues today in paying tribute to Senator Hugh Scott, our distinguished minority leader. While I regret the fact that he has decided to retire this year, that retirement is clearly well-deserved. Senator Scott has devoted 29 years to serving the people of the Commonwealth of Pennslyvania, first in the House of Representatives, and then in the Senate of the United States. His wisdom and experienced guidance have proven invaluable to many of us who came to the Senate in recent years.

During my tenure in the Senate, I have had the privilege of serving with Senator Scott on the Committees on Commerce, Judiciary, and Foreign Relations. He is a recognized authority on oriental history and art; and his departure from the Senate will be sorely felt, particularly in the field of foreign affairs. I am hopeful, therefore, that Hugh Scott's retirement from the Senate will not constitute a retirement from public life as well.

While Hugh Scott is a valuable ally, and I am proud to serve on the same side of the aisle with him, having twice opposed him for election to the minority leadership, I can also attest to the fact that he is a formidable opponent. I believe, however, that he has fully justified the trust placed in him by his Republican colleagues, and that he has provided the Senate minority with capable and dignified leadership through trying and difficult times, as well as good ones.

In my view, the Senate as an institution and the Republican Party have benefited immensely from Hugh Scott's long service as legislator and leader. We shall miss his eloquent oratory and his wise counsel. I salute him and wish him health and happiness in his retirement.

Mr. HRUSKA. Mr. President, it is with great sadness that we say farewell today to my good friend, Hugh Scott.

As the leader of the Republican Party in the Senate, Hugh Scott has compiled an outstanding record. Because of his steady leadership our party, the minority party, has enjoyed many remarkable successes. He always has been fair to every Senator in his party; favoring no one, and giving equal treatment to all.

Through his skill and leadership and his ability to work with the majority party, the Republicans in this body have been able to contribute much more to the legislative process. Our impact and input on many important pieces of legislation have been greater because of Senator Scott's influence and assistance.

As a fellow member of the Committee on the Judiciary, I have the highest respect for Senator Scott's interest and capability in and commitment to the law. His contributions through the years to many important bills originating in this committee are greatly appreciated by his colleagues and those most familiar with our judicial system.

Although, as minority leader, he has had the responsibility for guiding the activities of the members of his party in the Senate, he has never forgotten the people he was elected to represent—the people of Pennsylvania. Since 1940, when he was elected to the House of Representatives, Pennsylvanians have realized the importance of having Hugh Scott in the Congress. They sent him to the House for 16 years. In 1958 he was elected to this body and was reelected in 1964 and 1970. The people of Pennsylvania—and the entire Nation—will miss Hugh Scott.

Mrs. Hruska joins me in the wish that both Marian and Hugh Scott will long enjoy a happy, healthy, and rewarding retirement.

Mr. FANNIN. Mr. President, with great pride I salute my colleague, our distinguished minority leader, Hugh Scott, on the eve of his retirement. Hugh Scott is the Senate's modern-day version of the Renaissance man. He is a very effective leader, a wit, a scholar, an author, an eloquent speaker, and an art collector, to name only a few of his accomplishments. A man of depth, a man of many dimensions, his view is expansive rather than narrow or parochial. He injects the culture of many continents, of many centuries, into the political arena.

He was the first U.S. Senator to visit the People's Republic of China. This was appropriate because of Hugh Scott's expertise in Chinese history, culture, and politics. Somehow, this busy, active man so deeply enmeshed in the service of his country has found the time to develop his keen interest in Eastern art to the level of real erudition. He is, in fact, the author of a scholarly work on Chinese art, called the "Golden Age of Chinese Art."

Mr. President, Hugh Scott has distinguished himself not only as minority leader, but as a productive member of the Judiciary Committee, the Foreign Relations Committee, the Rules Committee and the Administration Committee of the Senate. During this period, he has become an expert in the subtle art of compromise, which is, after all, the art of politics. He has, in this case, too, developed his political expertise into readable literature. He has several books on politics to his credit, including one that has special significance for us all, "How to Run for Public Office."

Mr. President, it is fortunate for the people of Pennsylvania that a talented man like Hugh Scott heeded the call to public service rather than to ivy-covered cloisters of learning where he could also have distinguished himself. It has been the good fortune of his colleagues in the U.S. Senate to have him as a great leader.

Mr. GRIFFIN. Mr. President, since Senator McGee is necessarily absent and unable to be here in person to participate in paying tribute to our distinguished colleague Hugh Scott he has asked me to insert his statement in the Record on his behalf.

I ask unanimous consent that Senator McGee's tribute be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

### Statement of Senator McGee

A mark of an exceptional leader is not only the esteem with which he is held within his own party, but also the respect and esteem with which he is held by members of the opposing parties.

Hugh Scott has been one of those exceptional leaders, serving as minority leader of Senate Republicans since 1969. Therefore, I am confident I can speak for my colleagues on both sides of the aisle in expressing regret over Hugh's retirement when this session of Congress adjourns.

Hugh Scott is the epitome of the public servant who places national concerns and issues above partisan politics. Civil rights and the issue of the rights of all disadvantaged in this country have been a priority concern of his dating back as far the 77th Congress when he was first elected to the U.S. House of Representatives. Although at first a lonely voice addressing issues such as these, which were not known for their popularity, his persistence paid off. Among the legislative accomplishments resulting from his leadership in this area has been passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Fair Employment Practices Act, and the Fair Housing Act.

He has led his party in the Senate during some very difficult times. He has been the leader of his party in the Senate during some very difficult times in this nation. Yet, he has always borne this responsibility with dignity, courage and a steadying hand. His relationship with the majority party has always been one of cooperation, but cooperation in such a manner that the interest of his own party were always protected and those views always eloquently projected for our consideration.

His wit and use of the English language has become a legend in this body. He brought a refreshing quality to the conduct of the Senate's business.

I have also thoroughly enjoyed our association as members of the Senate Foreign Relations Committee where he was an eloquent and effective defender of his party's position on vital international issues. Yet, when he defended the positions of Republican Administrations in the Committee, he was always thorough and thoughtful in his presentations.

Hugh Scott will leave many friends on both sides of the aisle when he retires. This in itself is a tribute to a man who conducted the business of his party with honor and dignity. Loraine and I wish Hugh and his wife Marian only the very best as they return to the Commonwealth of Pennsylvania for which they gave so much of themselves.

### HUGH SCOTT—GENTLEMAN AND SCHOLAR

Mr. SYMINGTON. Mr. President, from the standpoint of the country it is with deep regret I note my long-time and good friend Hugh Scott is leaving the U.S. Senate.

For many years Hugh and his delightful wife Marian were neighbors as well as friends; and I very much appreciate the many courtesies which, as minority leader, he invariably has shown me on the floor over these many years.

Not only does Hugh leave a record as an able and astute statesman, but also he is universally respected for his unusual cultural background, one which few Americans possess.

Hugh Scott is truly a "gentleman and a scholar." He will be sorely missed in the Senate. I join his host of admirers in wishing him and Marian the best of everything in the years of his retirement.

Mr. HATFIELD. Mr. President, the retirement of my very good friend Hugh Scott creates a great vacuum in the leadership of the Senate and a large void in the stewardship of our country.

Throughout his career, Hugh Scott has been promoted to positions in the forefront of public life because his constituents and his colleagues recognize that he is a figure of deep intellectual abilities and genuine humanitarian instincts.

The Senate today is a more productive place to serve because Hugh Scott has been counted among its membership. We will remember the high caliber of his work here and hope that he will often provide us with the benefit of his critical and intelligent mind.

During the time we have served in this body, I have come to trust in Hugh Scott's perceptions of public issues and to rely upon the wisdom with which he conducts the Senate's business. As Hugh's colleague of 10 years standing, I will miss his leadership and the example of public service which he has set.

Mr. HELMS. Mr. President, I am especially pleased to add my voice to those of other Senators in tribute to our retiring and most distinguished minority leader, Senator Hugh Scott of Pennsylvania. I say "especially pleased" not just because Senator Scott is a man of outstanding and varied accomplishments—lawyer, author, collector of oriental art, retired captain in the U.S. Naval Reserve, and the only Senator in the history of the Commonwealth of Pennsylvania to have served three terms in the U.S. Senate—but more especially because these achievements, as might well be expected, were accomplished by a native of the South.

Mr. President, Senator Scott knows of my deep affection for him, and it is with the deepest regret that I view his retirement—and not just because he is a fellow southerner by birth. His service as our minority leader has gone a long way to making my service in the Senate a most pleasant experience. His policy of evenhanded and shared leadership has set an outstanding precedent for all future leaders in this body, and proves the old adage that "you can catch more flies with honey than with vinegar." His quick wit, eloquence, and keen sense of humor have made things lively and interesting in this Chamber, and they will be sorely missed.

Finally, Mr. President, while Senator Scott and I have disagreed on various issues, I do want to express to him my appreciation for the fairness and consideration he has given me in facilitating the opportunity for me to advocate and express my viewpoint. I wish him and his lovely wife of 52 years good health and happiness in the golden years of their lives.

Mr. WEICKER. Mr. President, never the blind partisan, always the seeker of the fair and mainstream course, Hugh Scott, having fought the good fight for more than 36 years in Congress, will retire at the end of this session. He has been Senator from Pennsylvania, the Republican leader, and my friend.

Hugh Scott came to Congress in another era that ours is a new one is in no small part his doing. He joined Congress in an era of differences; he helped to build an era of equality under the law. He came in years of war; he leaves as a builder of good feeling among nations. He came, as we all do, one of many; he leaves a leader.

This Senator will miss the swirl from a smoking pipe, the chats full of learning and good humor, the support for ideas too new or daring for timid hearts. Years of experience, truths gleaned from a life of action, a helping hand, all these will be missed, when America's future loses this thoughtful, competent ally.

Hugh Scott retires this year, leaving behind friends who will never forget his kindness, warmth and direction.

Mr. MATHIAS. Mr President, we have now had almost a year to absorb the fact that Senator Hugh Scott, leader of the Pennsylvania delegation and for the past 7 years minority leader of the Senate, will retire at the end of this session of Congress. He has been a distinguished lawyer, a naval officer, a Representative, Republican national chairman and Republican whip of the Senate. As for the day for his retirement approaches, our regret is no less sharp for having had advance warning of our loss.

Hugh Scott is a consummate legislator, a meticulous craftsman, and a tenacious advocate of what he believes to be right. He has been a skillful and effective minority leader, but, of far more significance he has been a resourceful and persuasive partner in critical bipartisan causes. Hugh Scott's pivotal role in the area of civil rights legislation alone assures him an honorable and enduring place on the rolls of American lawmakers. His successful advocacy of political campaign reform laws and his concern for consumer protection enhance his stature the more. I have felt privileged to be able to fight these battles at his side.

These accomplishments alone would make Hugh Scott a valued colleague, but they comprise only one dimension of Senator Scott's multidimensional character. Senator Scott is also a scholar, an art historian, a talented wordsmith, a linguist, and above all, a man of compassion and of deep human understanding.

It is these added dimensions that describe the man and that give him the unique perspective of history that has infused his work in the Senate with wisdom and concern for humanity. It is these qualities that will be so sorely missed when Senator Scott retires but there are many of us here who will see that they are not soon forgotten.

Mr. BURDICK. Mr. President, I welcome the opportunity to pay tribute to the distinguished minority leader, Senator Hugh Scott of Pennsylvania. His career in the political arena has spanned a third of a century, including 18 years in the "Halls of the Mighty," the U.S. Senate. His rhetorical style and his clear thinking have truly been an asset during the deliberations in this Chamber. His long and distinguished public career will serve as a standard to which all others engaged in government can aspire. I wish my distinguished colleague from Pennsylvania happiness in the years ahead.

Mr. BAYH. Mr. President, in the 13 years it has been my privilege to represent the people of Indiana in the Senate, the Nation has gone through the traumatic national events of an unexpected change of executive administrations, has anguished through struggles over civil rights and the Vietnam war, and has seen economic fluctuations that create double-digit inflation and higher unemployment. Through this turbulent period, the leadership in the Senate has been exemplary.

It has been my pleasure to know and to work with Hugh Scott, the Senator from Pennsylvania and the Republican minority leader. Unfortunately, Hugh Scott has decided to retire at the end of his present term. His leadership and friendship will be missed by all who remain in the Senate.

Since 1958 Hugh Scott has represented the people of the State of Pennsylvania in the Senate. I have personally had the pleasure of serving with him since I was sent to Washington by the people of the State of Indiana in 1962. His ability and political acumen were evident to those around him; in 1969, the Republicans selected him as their Senate minority leader. He has ably served in that post and been easily reelected to it every Congress since that time. In my dealings with the Republican leadership since 1969 I have found Hugh Scott easy to work with, and true to his word.

Not only have I grown to know Hugh as an individual but I have had the pleasure of working with him as a fellow member of the Judiciary Committee. I have been impressed by his knowledge of the law and his astute analysis of proposals before the committee.

During his 18 years of Senate service he has performed yeoman service on the important Judiciary, Foreign Relations, and Rules and Administration Committees. In his dealings on these committees he has been fair and well informed on the subjects before them.

Hugh Scott's background has all the factors which lead constituents and Senate colleagues to respect and admire a leader in Congress. Born in Virginia, he was educated at Randolph-Macon College and the University of Virginia Law School. Not content with the life in private law practice, Hugh Scott instead chose the life of public service.

Recognizing his talents and desire to serve the public, the people of the Fourth District of Pennsylvania elected Hugh seven times to the House of Representatives.

The Senator exhibits admirable personal qualities and an extraordinary variety of interests in addition to his political perceptiveness. Not only had he found time to write books on the political process, "Come to the Party," "How To Run for Public Office and Win," and "How To Go Into Politics," but his authoritative knowledge concerning the art of the Orient led him to write "The Golden Age of Chinese Art." Long before the general public interest in Vietnam, China, and the Orient in general became widespread, Senator Scott had studied and accumulated vast personal knowledge on this subject. His travel to China in 1972 was a good example of his interest and wisdom of that important part of the world.

Recently, on September 8. Hugh Scott joined Senators Mansfield, Allen, Tunney, and myself to set a noteworthy precedent in the Senate. We sponsored Senate Resolution 534 providing for equal employment opportunities in the Senate. The Senate had never before been on record as an equal opportunity employer, even though it has compelled much of the rest of the country to be fair in its hiring practices. Hugh Scott has always been a leader in the civil rights field. His record on civil rights is so commendable that in January of 1975 he was honored by a "national black salute" which established a scholarship fund for deserving black students in political science. Hugh is most deserving of this recognition since he has supported every item of civil rights legislation since he has been in Congress.

Finally, I wish to give my personal best wishes and farewell to a friend and fellow Senator who will be missed across the aisle and on the Judiciary Committee.

I am sure that, whatever Hugh's future endeavors are, they can only lead to success. When the next session of Congress convenes in January, Hugh Scott's leadership will be sorely missed.

Mr. JAVITS. Mr. President, I wish to join in the expressions of tribute paid today to the gentleman from Pennsylvania, the distinguished minority leader Mr. Scott.

I have been fortunate enough to work with Hugh Scott since he came to the Senate in January of 1959. Over the years my initial high expectations of Senator Scott have been more than justified. Those expectations were high in the first instance because he came here with a record of distinguished public service already written large in the political annals. Hugh Scott has been a fighter for his party—its national chairman, and an articulate holder of public office. But if he had done nothing more than operate at the center of that group of Americans who persuaded Dwight Eisehower to run for the Presidency, Hugh Scott would have earned more than the reward of his country. The fact is, Mr. President, that Senator Scott has done much more. He has brought to his duties as minority leader both strength of conviction and sensitivity to the rights and obligations of the other members of his party's caucus. Hugh Scott's soft-spoken wit, his sophisticated grasp of political reality, and his wide ranging understanding of his country's place in the world, have melded into a leadership capacity rarely matched in our time. He has been enabled by his native talents, and by his devotion to the Senate, to bridge the gap between right and left, between progressive and conservative, between liberty and responsibility. It can be said, and well said, that with Hugh Scott, in the chair of the minority leadership, the center has held. He will be missed—but more important—he will be vividly remembered in our history.

Mrs. Javits and I bespeak for Hugh Scott and his Marian a lifetime of happiness and fruitful living.

Mr. ROBERT C. BYRD. Mr. President, since September 1969, Senator Hugh Scott has served admirably as the minority leader of the Senate. It has been our privilege to benefit from his polished style and inherent diplomacy. After over half a century of service to his Nation, State, and local community, Hugh Scott will be retiring at the end of this session of Congress.

Senator Scott was born a son of the State of Virginia, but after completing his education at Randolph-Macon College and the University of Virginia, he established himself in Philadelpha and rose to become one of its leading citizens. From 1926 to 1941, he was the assistant district attorney for Philadelphia County. In 1940, he was elected to the U.S. House of Representatives and served in the 77th, 78th, and 80th through 85th Congresses in that body.

During World War II and the Korean war, Hugh Scott saw active duty in the Naval Reserves and presently holds the rank of captain, U.S. Naval Reserve, retired.

After 16 cumulative years in the House of Representatives, he was elected to the Senate in 1958 and has been reelected twice since then. After being chosen by his colleagues to act as minority whip, Senator Scott was elected to succeed the late Senator Dirksen in the leadership position.

Hugh Scott has maintained a record of balanced and enlightened voting in his years in the Senate. He has worked for measures to aid the elderly, to control crime more effectively, to give the consumer added leverage in the marketplace, and to advance space technology.

In foreign policy, Senator Scott has been a leader in seeking to normalize American relations with the People's Republic of China, believing that closer ties with the most populated nation in the world would be to the advantage of this Nation.

It has been a pleasure to serve in the Senate with Hugh Scott, and I offer him my warmest regards as he enters retirement to reflect on a long and distinguished career of public service.

Mr. KENNEDY. Mr. President, Hugh Scott's retirement from the Senate is a sad occasion for the Members of this body on both sides of the aisle. His departure is a great loss to the people of Pennsylvania and to the Senate and the Nation. Few other Members of the Senate have achieved such a distinguished record of accomplishment in this body, and his career is all the more outstanding because it was compiled during a long period in which his party was the minority party in the Senate.

Two of Hugh Scott's finest and most lasting achievements are in the areas of civil rights and election reform. It is not too much to say that, without the leadership of Hugh Scott, the Senate would not have succeeded in breaking the filibusters and enacting some of the great Civil Rights Acts of the past two decades. Along with Senator Phil Hart, Senator Hugh Scott made the difference between success and failure on these historic bills of such great importance to the future of our country. The struggle for equal rights and equal opportunity for all Americans has been one of the great causes of our lifetime. We have made important and far-reaching progress in Congress in recent years, and we shall miss Hugh Scott at the ramparts as we carry on the work.

It is also fair to say that without Hugh Scott, we would not have succeeded in breaking the filibuster and enacting the landmark campaign financing reform legislation of 1974, which has done so much to take elections off the auction block and limit the power of large private contributions and wealthy special interest groups.

In fact, two of the most important provisions of the election reform legislation owe their existence to Hugh Scott. His strong leadership in support of public financing of elections was largely responsible for our success in enacting that fundamental reform as Presidential general elections and Presidential primaries. The 1976 election campaign is a historic election in many respects, but one of the most significant is that it is the first Presidential election to be financed with public funds instead of special interest money. Hugh Scott and many others in the Senate who worked to achieve this reform believe that public financing of elections is the wisest possible investment of the taxpayer's dollars, because it helps to guarantee that those elected to the Nation's highest office will be responsive to all the people, not just their big campaign contributors or special interest groups.

A second major reform in the 1974 act is also on the statute books in large measure because Hugh Scott worked for it. He is the father of the Federal Election Commission, the strong and independent enforcement agency established by the act to police the requirements of the law and to investigate abuses. Because of HUGH SCOTT's leadership, the Commission survived a number of early legislative and judicial challenges. It is now firmly established and performing as it should, a lasting tribute to HUGH SCOTT's important Senate work in this critical area of reform.

In many other ways, HUGH SCOTT has also been an important leader in the Senate and has earned the respect of his colleagues.

As minority leader, he has helped to guide the Senate with a light and witty touch, minimizing the inevitable partisan friction across the aisles and helping to make the Senate a productive and effective institution. As a colleague, scholar, and friend, he has generously shared his extraordinary knowledge and ability in the wide range of classical and contemporary subjects in his large storehouse of study and experience.

Even as we regret HUGH SCOTT's loss in the Senate, we wish him well in his retirement and hope that there may yet be new horizons in public service to draw on his high abilities. As Justice Oliver Wendell Holmes said on his 90th birthday:

> The riders in a race do not stop short when they reach the goal. There is a little finishing canter before coming to a standstill. The race is over but the work never is done while the power to work remains.

HUGH SCOTT deserves his reputation as a giant in the Senate. We shall miss him even as we honor his career and recall his friendship and his warm wit on the Senate floor.

Mr. GARN. Mr. President, leadership is something that is expected of any one who holds a public office. But to be a leader among leaders is something that requires a special ability and competence. Few are blessed with that skill, but I believe that one such is our distinguished leader, Senator HUGH SCOTT, of Pennsylvania. Senator SCOTT's long and illustrious career is familiar to us all, but I believe that it bears repeating in the context of this tribute to his service.

Senator SCOTT first came to the Congress in 1940, when he was elected to represent the Sixth Congressional District of Pennsylvania in the House of Representatives. He was a Member of the 77th, 78th, and 80th through 85th Congresses. In 1958 he was elected to the U.S. Senate, and has represented Pennsylvania in the Senate since that time, being reelected in 1964 and 1970. Earlier this year he announced his decision not to seek reelection.

Among other things during his years in Congress, Senator SCOTT has distinguished himself in the areas of criminal justice legislation. His Judiciary Committee assignment in the Senate has given him an excellent forum to present and pursue his reform measures in criminal code and law enforcement programs, including convict rehabilitation, narcotics rehabilitation, consolidation of the Federal corrections system, and programs for the compensation of the victims of crimes, to name only a few.

Apart from his legislative activities, Senator SCOTT has provided leadership to the Republican Party in the Senate. On January 3, 1969, he was elected Republican whip. Following the death of Senator Everett Dirksen, Senator SCOTT was elected minority leader in September of 1969, a position he has held to the present time. In his leadership role, I believe Senator SCOTT has demonstrated the finer qualities of leadership. My experience has shown me that he has consistently made efforts to include those of us who are newer Members of this body in the mainstream of Senate activity. He has always recognized the individuality of each Senator and has not been autocratic in his leadership. He has been helpful, fair and consistent, and has made no commitments that he was not able to fulfill. I have appreciated his frankness with me and his guidance, and have found his judgment to be sound. Senator SCOTT has carried heavy responsibility within the Republican Party as well. He was national chairman of the Republican Party in 1948 and 1949, and has been an active voice in the Republican Party throughout his career. His is the kind of leadership that is an example to us all, and will be difficult to duplicate.

As the Senate moves further toward reform and modernization of its own procedures, Senator SCOTT's influence will continue to be felt. He has advocated and initiated steps to bring improved management techniques to the Senate and improved information-processing capabilities, both as minority leader and as a member of the Senate Rules Committee. His attention has also been given to the reform and modernization of the Nation's election laws and election procedures. Much remains to be done in these areas, and we owe a debt of gratitude to Senator SCOTT for helping to make a strong beginning.

Finally, a tribute to this man would be incomplete without reference to his deep personal interest in history and the antiquities, and especially his personal study of the culture and history of China. There is perhaps no person in government that is better informed about the Eastern culture, which has in many respects been a mystery to many of us. He has embodied the need for mutual understanding as a basis for differing cultures to live together in this world in his study of Eastern culture and his personal efforts to stimulate communications between East and West. While we all may not agree on the means and the terms of opening these communications, none can dispute Senator SCOTT's commitment that it be done, and the special expertise he has developed in this field.

Senator SCOTT is the complete man; the consummate statesman, and leader. It has been a privilege to have served with him in the 94th Congress, and I join my colleagues in wishing him the best as he leaves the Senate and turns his attention to his personal pursuits.

Mr. HOLLINGS. Mr. President, I would like to join with my colleagues today in honoring the minority leader, Mr. HUGH SCOTT of Pennsylvania, on his impending retirement from public life.

As a Democrat, I have often differed with Senator SCOTT on the issues facing this country, but I learned long ago that I could never differ with him on his concern for America or for its legislative and judicial processes. I can think of no finer example of unselfish dedication to the principles that have made our country great than his performance during one of our darkest hours. He did not hesitate to put his principle above party, and this Nation is in his debt.

I wish Senator SCOTT every success in the future and thank him for his contributions to the U.S. Senate.

Mr. BELLMON. Mr. President, the distinguished minority leader, HUGH SCOTT, has served in that capacity during most of the years I have been in the Senate. I consider it to have been both a high honor and a great opportunity to have served under HUGH SCOTT's leadership and to have been the beneficiary both of his wisdom and of the fair treatment which he has meted out to all minority Members.

These have been years when monumental problems have faced the country and when historic decisions have been required of the Senate. Throughout this process, HUGH SCOTT has guided the Senate minority with equanimity and forbearance. He has made it possible for minority views and influences to be felt in the most effective way. The result of his work has been legislation of a far higher caliber than would have been possible otherwise.

In spite of his leadership responsibilities, Senator SCOTT has remained faithful in meeting the many needs of his constituency. He has avoided the temptation to jettison his "home folks" after he became a national leader. He has successfully balanced his national leadership duties with his responsibility to his constituency with considerable benefit to both.

It has been both an honor and a pleasure to be associated with HUGH SCOTT during the 8 years I have been in the Senate. I am confident that many more high achievements will come from the hand and mind of HUGH SCOTT as he continues his career of service in the years ahead.

Mr. PACKWOOD. Mr. President, I rise to join my colleagues in a salute to our distinguished minority leader, HUGH SCOTT. It is not easy to highlight 34 years of service to the Nation. I personally admire the senior Senator from Pennsylvania for his qualities as a legislator and as a statesman.

Senator SCOTT has worked extremely well with the distinguished majority leader, Senator MANSFIELD. Without this splendid cooperation and trust between the leaders of the two parties, Congress could not operate as efficiently. Their special relationship created an atmosphere in which the Senate could focus its energies on the issues rather than on party squabbles.

I have admired HUGH SCOTT as a legislator. He has worked long and hard on issues of importance to his State and to the Nation. He has served in Congress for 34 years, has been a Senator for 18 years, and minority leader for 7 of those years. He counts among his proudest achievements his leadership in civil rights legislation, beginning back during his days in the House. We have him to thank for the enactment of the Civil Rights Act of 1964, the Voting Rights Act of 1965, as well as employment and housing acts which guarantee the rights of minorities.

Another issue which immediately comes to mind in discussing Senator Scott as a legislator is election and campaign reform. He was instrumental in the passage of public financing of elections as well as the establishment of the Federal Election Commission. Our Government is now more open because of the efforts of Senator Scott.

Perhaps most of all, I have admired Hugh Scott as a statesman. One can be a leader and a legislator without being a statesman. There are no real tangible signs of a statesman; it is rather a certain quality of character, a certain demeanor which includes such nebulous terms as courtesy, dignity, and a creative intellect. Senator Scott has at all times behaved as a true gentleman. As an author/expert on Chinese art of the T'ang Dynasty, in addition to his rank as minority leader, Senator Scott was an excellent choice to be the first U.S. Senator to visit the People's Republic of China. There, he represented us excellently, with all his qualities of statesmanship. Scholar, author, diplomat, gentleman, these are the attributes of a statesman.

Mr. President, it is not easy to highlight 34 years of service to the Nation. It is even more difficult to portray a friendship. But, I can only hope that both the service to the Nation and the friendship will continue for many, many years. Senator Scott, we salute you.

Mr. SCHWEIKER. Mr. President, Pennsylvania, the Senate, the Republican Party, and the Nation will lose a diligent and dedicated servant with the retirement of my senior colleague, Senator Hugh Scott.

Few in public life can boast of a career as long and diverse as Senator Scott's. To touch on just the highlights: He has served as U.S. Representative, Republican National Chairman, U.S. Senator, and minority leader of the Senate. His three terms as Senator from Pennsylvania are unprecedented.

Hugh Scott the public man is revered for his tireless leadership in the field of civil rights and in the struggle for peace in the Middle East. The private man is an accomplished author and scholar, and collector of ancient Chinese art. In 1972, he and Senator Mansfield were the first two Members of Congress to tour the People's Republic of China, and he returned there earlier this year at the request of President Ford.

Mr. President, I believe that Senator Scott and I have as good a working relationship as any two Senators from the same State. When Pennsylvania's interests have been at stake, as with the tragedy of tropical storm Agnes, he has been an effective and hard-working partner. And as Republican leader he has respected Senators' independence by asking, not demanding, support for administration programs and policies.

Because of his many outside interests, I am certain Senator Scott will enjoy many more productive years. To him and his wife Marian, Claire and I wish continued happiness and good health.

Mr. BARTLETT. Mr. President, I am happy to join with my colleagues in paying tribute to Senator Hugh Scott.

Senator Hugh Scott has truly been a distinguished leader of the minority during my years in the Senate. There have been some exceptionally difficult periods of governmental crisis during the period in which I have had occasion to observe Hugh Scott's performance. Through them all, he has displayed remarkable qualities of leadership. His calm, deliberate approach to important and controversial national problems has been an example to all of us.

Particularly in the field of foreign affairs, Hugh Scott has brought an extra dimension to the deliberations of this body. His familiarity with an interest in Far Eastern affairs have been of assistance to all of us in developing policy pertaining to that part of the world.

In all my dealings with Hugh Scott, I have been treated with the utmost courtesy and fairness. I know that this treatment is one that has been accorded every member of this body.

The State of Pennsylvania has been ably represented by Senator Hugh Scott for 18 years. His contributions to the welfare of this country are substantial. His leadership of and service to the Senate have been outstanding. His presence will be sorely missed.

I join with my colleagues in wishing for Hugh a productive and happy retirement.

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## TRIBUTES TO SENATOR ROMAN L. HRUSKA

Mr. CURTIS. Mr. President, as this session of Congress draws to a close, I want to take time to pay tribute to one fine Senator who will not be returning to his well-worn desk here in Washington next January. After serving 24 years in the Congress he has decided that it is now time to retire to his native State of Nebraska to live and work directly with those people he has represented so well. I am referring, of course, to my dear colleague, the best corn-hruska of them all, Senator Roman L. Hruska.

I first met Mr. Hruska in the early 1930's in front of the courthouse in my hometown of Minden, Nebr. I was then the prosecuting attorney and Roman was a sharp young lawyer from Omaha. I was very impressed with him. He seemed smart, sincere, friendly, and enthusiastic. After that meeting I had the distinct impression that this man was headed for important places.

And now over 40 years later I have the great pleasure of recounting here before the U.S. Senate some highlights of his outstanding career—a career which has magnificently fulfilled my early prediction.

Roman Hruska was elected to the Senate in 1954 after having served a term in the U.S. House of Representatives. The 7 years before that he was chairman of the Board of County Commissioners for Douglas County, Nebraska's largest.

Of the many important contributions Roman has made during his Senate career, he values most highly his historic work on the Judiciary Committee. During his 19 years on the committee, Senator Hruska has participated in the confirmation of every presently active justice of the U.S. Supreme Court. This is a distinction only he, Senator Eastland, and Senator McClellan share. In all, Senator Hruska has had a part in the confirmation of over 500 Federal judges.

Early in his Senate career, even before he became a member of the Judiciary Committee, Senator Hruska showed a keen interest in improving our Federal courts. His first legislative contribution in the Senate was a bill which changed the structure of the U.S. District Court for the District of Nebraska.

Senator Hruska has sustained this interest and has served as the ranking minority member of the Subcommittee on Improvements in Judicial Machinery for many years, helping to bring about such improvements as the reorganization of the D.C. court system.

In 1971, he cosponsored the legislation which authorized the National Commission on Revision of the Federal Court Appellate System. He was then named to the Commission and elected chairman. The Commission first revised the boundaries of the judicial circuits. Then a complex study was conducted to thoroughly examine the structure and internal procedures of the Federal courts of appeal system, and to make recommendations as to how it might be improved. The Commission completed its work in June of 1975. Its final report was so highly considered that President Ford met with the Commissioners to review their findings.

The fact that destitute defendents in criminal cases brought before Federal courts are entitled to legal counsel results from Senator Hruska's bill which became the Criminal Justice Act of 1964.

His interest in the Federal courts has been complemented by a deep concern for law enforcement.

He helped to formulate the Omnibus Crime Control and Safe Streets Act of 1968. This important bill established the Law Enforcement Assistance Administration which today distributes approximately $1 billion a year to State and local governments to support their law enforcement efforts. Senator Hruska helped see to it that the legislation gave the State and local governments—rather than the Federal Government—the power to determine where the money could best be used. He was also responsible for the provision which gives financial aid to students in law enforcement.

Having worked long and hard in the area of criminal law, Senator Hruska knew that the attempt to tackle organized crime would require particularly imaginative laws—laws which could more effectively net syndicated crooks. He therefore cosponsored the Organized Crime Control Act of 1969, which included amendments to the antitrust laws and provisions for civil remedies on top of criminal penalties.

I believe that in the years to come, he

will be able to see many more fruits of his labor come into being. Some of these laws take a long time to ripen—but Roman has done his planting well.

I am thinking of the 4 years of comprehensive hearings and studies in which he was involved as a member of the National Commission on Reform of Federal Criminal Laws. Three bills have been introduced as a result of this Commission's fine work and recommendations. The basic intent of all the bills is to codify the criminal law, to bring together under one title all the criminal provisions which are now scattered throughout the entire United States Code. This reform will require thorough congressional scrutiny before it can be enacted. But when that day comes, Senator Hruska will be able to take pride in a reform he helped to initiate.

The impressive lawyer from Omaha has made every effort in his Senate career to help groom and place promising young lawyers in responsible positions. Today one of his former staff members is a Member of the U.S. House of Representatives, another is an associate counsel to the President, another counsels the Attorney General, another is Assistant Attorney General, another is a U.S. attorney, another is the Administrator of the Law Enforcement Assistance Agency, and another is a State legislator. In this way, too, Senator Hruska has made a far-reaching contribution to his country.

It is always a good feeling to have called a winner. The combination of intelligence and kindness which I noted in Roman Hruska 40 years ago led me to predict for him a great career. I was right.

Mr. President, equal praise can rightly be extended to Roman Hruska for his work in the field of agriculture. He is one of the stalwarts on the Committee on Appropriations. Throughout the years those appropriations bills dealing with agriculture have had not only his special attention but also his ardent devotion, his willingness to work hard, and his thoroughness.

Senator Hruska will stand out as a public official who never forgot the people whom he represented. All of this is not only a tribute to his character and integrity, but also it portrays a big heart in a great man.

Down through the years men were accused of crime in Federal court, and there was nothing but a feeling of desperation of the accused and their families because they were unable to defend themselves. This would still be true had it not been for the legislation sponsored and put through Congress by Senator Hruska. For many years most States had a procedure whereby a defense was provided at public expense for those accused of crime. This was not so in the Federal courts. It was Senator Hruska whose sense of justice, fairness, and devotion to our system of equality before the law, who brought that legislation about.

Nebraska is one of the great agriculture producers of the country, and its production has been greatly enhanced through recent decades because of the expansion of irrigation. This has changed the picture for many of our fine farm families, where year after year they saw the drought come, crops fail, and the financial worries that followed because they did not have very much to market. Now those same people have water spread on their land. Much of it is from projects and irrigation districts that Senator Hruska helped bring into being and for which he helped secure the appropriations.

Livestock is very important, not only to Nebraska but also to the whole country. These days we hear much about malnutrition at home and abroad and that there is a great need for protein. Who can supply it? Those very successful and expert people in the field of livestock.

Senator Hruska has made a contribution not only to the economic well-being of Nebraska and surrounding States but also to mankind because his contribution has resulted in more efficient production of food.

There is established a research center at Clay Center in Nebraska, the U.S. Department of Agriculture Meat Animal Research Station. It is a combination of a number of small endeavors that prior thereto had operated in many places in the United States. It is all placed under one head. It was not easy; it took a lot of time. It called for conferences with departmental officials of other agencies, and then someone had to see that the funds were provided.

Mr. President, I will return to this floor another day with a short bill. I predict its passage will be unanimous, and the U.S. Department of Agriculture Meat Animal Research Station at Clay Center hereafter shall be known as the Roman L. Hruska National Meat Animal Research Center, and it will serve not only the agricultural interests of our great country but also all the people and all humanity because we feed a hungry world not by making speeches, passing resolutions, and pursuing misguided emotional binges on feeding the world, but by producing the food and making it available. And in this he has made a contribution that is not for a day, a year, or a decade but for the ages down through time.

I wish the very best for him in the years to come and offer Senator Hruska my sincere thanks on behalf of his fellow Senators, his fellow Nebraskans, and his fellow Americans.

I could not close, Mr. President, without paying tribute to that wonderful lady, Mrs. Victoria Hruska, who has been his helpmate, inspiration, guide, and I am sure severest critic, and I know that she has been his best friend.

To both of them we hope that no one will let them rest, that they will keep busy because their community, our State, and the country needs them.

Mr. CURTIS subsequently said: I ask unanimous consent that following my remarks the statements of our three Congressmen, Representative Charles Thone, Representative Virginia Smith, and Representative John McCollister, be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

### STATEMENT BY REPRESENTATIVE CHARLES THONE

One of the kindest, most cooperative and hardworking individuals I have ever known is the Honorable Roman Lee Hruska, the senior Senator from Nebraska.

For four of the years he has served in the United States Senate, I had the great privilege of working as his Administrative Assistant. Such a position gives an insight into both the public and private life of a Senator. No Senator could be more exemplary in character than he. He has no false facade for the public. He is straightforward and honorable in all his dealings. He's the hardest worker by far that I have ever been associated with.

He was a great teacher for me as I learned from him how to dissect issues and problems. Day by day, I still find myself applying the "Hruska" method as I seek answers to public and private questions.

Justice has been advanced by the service of Roman L. Hruska on the Senate Judiciary Committee. To a great extent, he is responsible for legislation that ensures that those accused of federal crimes are adequately defended. Senator Hruska has contributed to improvements in the federal penal and parole systems. No one had a larger influence than Senator Hruska in creation of the Law Enforcement Assistance Administration. Without heavy-handed federal interference in local matters, this agency has done much to elevate state and local law enforcement, administration of courts, penal systems and the parole process.

Senator Hruska has decided to step down at the end of this Congress, after two years service in the House of Representatives and 22 years in the Senate. In his future activities, I wish the very best to him and to his wife, Victoria, who certainly is one of the best helpmates a public servant ever had.

Senator Hruska's talents and vast experience will be missed. They will be missed by Nebraskans. They will be missed by his colleagues in the Senate. They will be missed by the nation.

On behalf of my House colleagues, I sincerely thank Senator Roman Hruska for 24 years of devoted, dedicated and effective service in Congress.

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### STATEMENT BY REPRESENTATIVE VIRGINIA SMITH

There have been few men elected to the United States Senate to draw the praise and respect from constituents and fellow Senators alike, as has Nebraska Senator Roman Hruska.

During his 24 years of service to Nebraska in the U.S. Congress, he has always been a firm believer in the old-fashioned virtues of thrift, self-reliance, and honesty. Senator Hruska recently said of himself "I have always believed that a politician first must represent the people of his State or he won't represent them very long. The hopes and aspirations of the people of Nebraska through the years have happily coincided with mine".

Senator Hruska has given credit to his father, Joseph, for encouraging his interest in politics. Joseph Hruska and his family of 11 children moved to Omaha from Abie, Nebraska, to enable the children to obtain a good education as well as an opportunity to make their own way in the world.

He worked his way into law school by being the bookkeeper for the Fairmont Creamery. He has not lost his dedication to work hard and long to enable the legislative branch of our Government to function.

The list of Senator Hruska's contributions to the cause of justice in America is long. He has been particularly concerned about upgrading the Federal judiciary. He has also been a leader in the effort to improve the criminal justice system in America.

Not only has Senator Hruska been a loyal, effective, and faithful representative of Nebraska, but he has also been an effective spokesman for the basic industry in Nebraska . . . agriculture.

Senator Hruska has frequently used words originally attributed to William Jennings Bryan "In the first place speak up whether you are talking sense or nonsense; speak up so that the man at the rear of the hall can hear you."

Not only has he spoken up so he could be heard at the rear of the hall while being a spokesman for Nebraska, but he has earned a national reputation of intelligence and integrity.

I certainly wish Senator and Mrs. Hruska a long and happy retirement and I'm sure the good Lord will watch over them for many years to come.

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### Statement by John Y. McCollister

It is a sad fact of these times that rewards for public service aren't what they used to be. As I have heard my Colleagues in the House of Representatives observe, "It's not fun anymore."

I suppose even that comment is not well understood by the American electorate. The definition of "fun" in most people's terms is not what I know Members of Congress are talking about.

My Colleagues refer to the great difficulty in finding the right answer to complicated questions of national policy. They lament that all of us are lumped together with a very small percentage of our group accused of misdeeds.

But one whose 24 year long career in the Congress is marked with such respect by all who have worked and served with him, should have no reservations about his contributions to the Nation and to the State of Nebraska. He is Nebraska's Senior United States Senator, Roman L. Hruska.

Roman Hruska's heritage is "of the people." His Czech parents trained him well in the duties of citizenship. His childhood years, his education in the law, his many contributions to his community of Omaha and private and public service, all conditioned his public service in the United States Congress.

No Senator has a greater love of the law and understanding of the judicial system than he. His efforts to improve and perfect our system of justice is without equal.

While Senator Hruska has earned that national reputation, at the same time, he has earned the respect of his Nebraska constitutents for his steadfast efforts for the farmer and rancher. He is a fiscal conservative, as are his people. He understands the urgency for a strong national defense.

Though too often on the losing side to please him, Senator Hruska has been a constant opponent of the growth of the Federal Government and its resultant pattern of a hard, rigid legislative mold ruling all our lives.

As he contemplates the conclusion of a long and distinguished career of public service, Senator Hruska should be proud of his many contributions to our precious heritage of limited Constitutional government. He has served his State and Nation proudly and well deserves our thanks and praise.

Mr. PERCY. Mr. President, on the occasion of the retirement of Senator Roman Hruska, the Senate is losing one of its finest lawyers who has served with distinction on the Judiciary Committee and whose contributions to national commissions on criminal law, violence, and the appellate court system are well known.

His work for the Republican Party and his diligence in drafting national Republican platforms are among his most noteworthy achievements in American political life. After serving in the House for one term, he was elected to four consecutive terms in the Senate, a testimony to the high regard in which Nebraskans hold him.

Roman Hruska is a man of common courtesy and remarkable eloquence whose presence in the Senate will be very much missed.

Mr. President, most U.S. Senators have one State that has a claim on them. I think that in this I am honored indeed to follow my distinguished colleague from Nebraska, Senator Hruska, because the State of Illinois always has held Roman Hruska in the highest regard. It has done so for a number of reasons, but I suppose primarily because of his close friendship with and great mutual affection for Everett Dirksen.

If Everett Dirksen were here with us on Earth today, he certainly would have followed Senator Curtis in paying tribute to Senator Hruska. His own devotion to Senator Hruska was great. It gave him a sense of friendship and a meaning in life that only could have been contributed by one person, one colleague. This symbolized what friendship can really mean between colleagues in the Senate as we work together—work together on the floor, work together in committee, and work together philosophically and pragmatically for what they feel to be in the best interests of the citizens of the country that they both love so much.

Patriotism was high in the mind of Everett Dirksen. He loved this country very much. Patriotism is what we think of in terms of Roman Hruska. He is devoted to this country and its principles. He probably is one of the most profound students of our Constitution that we have had in this body and that is to be found in the legal profession. He has studied carefully what makes the fiber of this Nation as an institution and the fiber of Americans and what makes us a great people. He symbolizes everything that we believe in to be America.

We have devotion, we have affection, but we also have knowledge; and if any place power comes through knowledge, it comes in the U.S. Senate.

When Roman Hruska takes the floor, I think we recognize that he speaks because he is devoted to the subject, has knowledge of it, and speaks from a sense of conviction that is second to none. That sense of conviction he has carried all through his life in his devotion to the Senate and its institutions and his devotion to the law.

Many times we, as colleagues, have appeared before him as he has presided over hearings in the judicial elective process. We have seen his sense of fairness, his sense of courtesy to all of us who have appeared before him, the probing of the nominees who appear before him, and his nonpartisanship in seeking, as we all try to do, the very finest in the selection process.

We know the impact that a Federal judge can have on the lives of many individuals and the corporate lives of many of our great institutions is tremendous. This is just one area in which Roman Hruska has done an oustanding job. Excellence is what he has sought, and excellence is generally what he has achieved.

I should like to express my deep appreciation, because of my affection and the affection all of us have for Everett Dirksen, for what he meant to Everett Dirksen. However, we also express appreciation for what he has done for this institution, to dignify it, to add to its glory, to add to its lasting works. I know that I express that on behalf of all our fellow Americans.

His wife, Vicki, has been his partner throughout a great deal of his life. All of us who have shared the pleasure of parliamentary trips with them, who have seen the way they have operated as a team, are inspired by this partnership, which truly is one of the great assets that Roman Hruska has had through life.

When we really get down to it and count our blessings, we have our family, we have our friends, and we have our work. In these respects, Roman Hruska has been greatly endowed. All of us who have known him have benefited and have been endowed because of that friendship and affection, which I know will carry on for many years to come.

Mr. HUGH SCOTT. Mr. President, it is rather coincidence that legislation pending before us on the calendar is Calendar No. 1200, the Unemployment Compensation Act. I have been thinking that the unemployment which Senator Hruska has voluntarily sought—as well as I have—has some very genuine compensations. They are the compensations of friendship, the compensations of memory, the compensations that cannot be lost or devalued.

They also are different from the bill before us in that he retires not in unemployment but toward new employment, that he retires not at all in the sense of inactivity but is simply not running for public office again. That is a great difference, because one who stops suddenly in mid-stride must either falter and rest or must change direction. With Roman Hruska's vigor, his capacity, his constantly replenished talent for work and innovation, what lies ahead of him will be an even busier life.

It is indeed a pleasure to join his many other friends in this Chamber to salute Senator Roman Hruska for a job well done.

A strong work ethic, an abiding commitment to improving the judicial and criminal justice systems of our Nation, a record of indefatigable service to the people of his beloved State of Nebraska—all these are qualities of Roman Hruska. He can take great pride in these as he retires from the U.S. Senate after 22 years of service; we certainly are proud of his many good works.

Senator Hruska has always held the personal conviction that any job which must be done must be done thoroughly. This is an admirable philosophy and a testament to his superb Senate career. He is a good man, a fair man, and a Senator who has always acted forthrightly in the best interest of his constituents and the Nation.

It has been my privilege to have served with him on the Senate Judiciary Committee, of which he has been ranking minority member since 1969. His work with this committee has always been diligent and he has never wavered from carrying out his many weighty responsibilities.

Senator HRUSKA's efforts in the cause of justice in America are laudatory.

He has directed considerable energy toward upgrading of the Federal judiciary. He also has served as chairman of a special commission to study the appellate system of the Federal courts. And, he has been a leader in many legislative measures to improve our criminal justice system—among them the establishment of the Law Enforcement Assistance Administration, the Criminal Justice Act of 1964, and the Organized Crime Control Act of 1969.

As the Nebraskans who so wisely elected him will attest, Senator HRUSKA has always kept faith with them through his steadfast support of legislation affecting them—particularly agriculture and livestock measures.

In truth, the people of Nebraska know that ROMAN HRUSKA, their senior Senator, loves the State from which his roots come—its expansive farmlands, its devotion to good soil, to the good earth.

It was to Nebraska exactly a century ago that his father emigrated from Czechoslovakia. So, this Bicentennial Year has special meaning for Senator HRUSKA in his personal celebration of heritage.

The Senate will miss ROMAN HRUSKA. He has been a fine legislator who possesses an astute knowledge of the law.

It is my understanding that ROMAN and his wife Victoria will be returning to their home on the Platte after this Congress adjourns. In their retirement from these efforts and their intention to pursue other very challenging responsibilities, Marian and I wish for them the wish of Carl Sandburg, who also loved the wide country: "The peace of the prairies be for you."

Mr. YOUNG. Mr. President, I can add very little to the beautiful and well-chosen words spoken about my good friend, ROMAN HRUSKA. I feel inadequate to express my own views.

Mr. President, very soon another great Senator will be leaving the U.S. Senate. ROMAN HRUSKA has spent nearly half his life, 32 years, in public service.

ROMAN HRUSKA has many truly great qualities. He has an excellent legal mind and has been an effective debater in Congress. ROMAN is a man of many talents, and has a unique way of being effective on the Senate floor. His many talents, coupled with his great personality and sense of humor, are tremendously valuable and are among the reasons why he has become such an effective Senator. The Senate will always have fond memories of this very able, decent, and friendly person.

Mr. President, no Member of the Senate will miss ROMAN HRUSKA more than I. We have been seat-mates in the Senate for many years, as well as seat-mates in the Senate Appropriations Committee and two of his most important subcommittees. I shall miss him not only as a friend but one who has made my life in the Senate more enjoyable and worthwhile. It is unfortunate, not only for the Senate but for this Nation, that an able and effective Senator like ROMAN HRUSKA will be retiring at the peak of his effectiveness in this body.

My wife, Patricia, and I express the fond hope that ROMAN and his wonderful wife, Vicki, will enjoy their retirement from this busy life and will always remember us as their friends.

Mr. ALLEN. Mr. President, I rise to pay tribute to my friend, our friend, our colleague, ROMAN HRUSKA, senior Senator from the State of Nebraska.

Senator HRUSKA springs from the heartland of America, the Cornhusker State, which has given us men like Senator George W. Norris and Senator CARL CURTIS and a great writer, Willa Cather. It has given us some great football teams at the University of Nebraska, frequently vying with the University of Alabama for No. 1 ranking in the Nation; all too often, edging out the University Alabama. Certainly, Senator HRUSKA and Senator CURTIS have been the No. 1 supporters of the Cornhusker team and certainly, their strongest supporters throughout the country. Sometimes, it gets just a little bit monotonous, inasmuch as I am so strong for the University of Alabama, to see anybody edging out the University of Alabama so often.

These and other famous Nebraskans shared a unique energy, clarify of vision, and firmness of principle. Senator HRUSKA is a man cast in the same mold.

Senator HRUSKA's public career has been an example of these private virtues translated into public action. In 1944 he was appointed to the Douglas County Board of County Commissioners. A few months later he became board chairman. Seven straight reductions in the county tax levy were achieved during his 7 years as chairman.

That was an experience that cast a shadow into his actions here, in the U.S. Senate, where he stood for fiscal responsibility, where he stood for as light a taxload on our people as is commensurate with the needs of the Government.

He was elected to the U.S. Senate in 1954 to complete an unexpired term, was elected to a full 6-year term in 1958 and was reelected in 1964 and 1970. Certainly, had he chosen to run for the Senate again, he would have been reelected in 1976. Throughout his career, Senator HRUSKA has enjoyed the reputation of a hard worker, and has consistently played a vital role in the affairs of this body.

The Democrats, of course, occupy all of the chairmanships in the Senate committee system, but Senator HRUSKA is the only member of the Republican Party who has a subcommittee chairmanship, serving on a subcommittee of the Committee on the Judiciary, the Subcommittee on Charters, Holidays, and Celebrations.

I remember appearing before his subcommittee in behalf of a bill that would cause Veterans Day to be celebrated on the traditional November 11 date, rather than the last Thursday or the fourth Thursday, or whatever, in October. I appreciated the stand that he took for that important and traditional effort. This is just one occasion of the high regard that the Members of the Senate have for Senator HRUSKA.

I know of no Member of the Senate who does not respect and admire the distinguished senior Senator from Nebraska (Mr. HRUSKA). He does not have an ill-wisher in the entire Senate. Every Member of the Senate honors and respects him.

During his years of service in the Senate, he has been a tireless battler in behalf of a responsible Federal Government, improved crime control, a strong national defense, a vigorous foreign policy and a fair shake for the American farmer.

I might say that I have enjoyed very much indeed my service with Senator HRUSKA. I have known him only since January 3, 1969, when I first came to the Senate. But before I came to the Senate, as a private citizen in the State of Alabama but a close observer of proceedings here in the Senate and of the individuals and personalities here in the Senate, I was a great admirer from afar of Senator HRUSKA for his sound views, for his dedication to duty, for his stand for a strong national defense, for his stand for fiscal responsibility in Government.

I would say, Mr. President, that possibly the greatest compliment I could give to Senator HRUSKA would be to say on the issues that are pending before Congress and the Nation you know where he stands. I believe I would rather have that accolade applied to me than any other accolade that might be given. I would hope that I would deserve that accolade.

But Senator HRUSKA, as much or more than any other Member of the Senate, deserves that accolade, that you know where he stands. He stands for what is fine, what is noble, what is great about this country.

I have had the pleasure of working under his leadership on many of the issues before the Senate, and I certainly found him to be a tireless worker, a great leader, a great champion for the principles for which he stands.

My admiration for Senator HRUSKA has grown since I first met him almost 8 years ago, has grown in a manner of geometric progression, has grown by leaps and bounds, during the time I have known him.

I hate to see him leave the Senate. I am sorry he made this decision, but it was a decision for him and Mrs. Hruska to make. They did decide he would lay down his burdens here in the Senate and go back to Nebraska.

I hate to see him leave, and the cause of good Government in the Senate and in the Nation is going to be the loser when Senator HRUSKA leaves the Senate.

I too, have been impressed with the wonderful friendship and spirit of cooperation that exist between Nebraska's two great U.S. Senators. They are wont to say of the other, they are each wont to say of the other, that he has the best colleague in the U.S. Senate. I believe both of them are right because these two great Senators have amassed a great record here in the Senate in the cause of good government, in the cause of patriotism, in the cause of defending our Nation, in the cause of having a fiscally sound government and sound fiscal policy.

Senator HRUSKA has never fallen for the idea that the Federal Government has exclusive wisdom about what kind of society is best, yet he has rejected the doctrine that the Federal Government has nothing to offer. He listens to all sides and explores every proposal, but he never forgets where his roots are or that he represents the people of the great State of Nebraska.

In military affairs, Senator HRUSKA contends that a strong defense posture is essential to peace. He has never subscribed to the notion that our enemies will continue to respect our freedom if we cut our military strength beyond the requirements of a strong defense.

Possibly, the greatest accomplishment of the distinguished Senator from Nebraska (Mr. HRUSKA) has not been in the field of legislation, in the field of courts, but has been in the field of courtship when he was able to woo and win his lovely wife Vicki, who has been such a wonderful asset to him, a wonderful companion, a wonderful help and support to him. I suspect it may have been her influence in the matter of the decision to retire from the Senate that Senator HRUSKA made some while ago.

I hate to see them leave. Senator HRUSKA is the type of Senator who has helped earn for the U.S. Senate the title of being the greatest deliberative body in the world. His words of wisdom, his wise counsel, his stand for principles here in the Senate will be things that I will long remember. It will be an inspiration to me in the years ahead, as I serve here in the U.S. Senate, the great example this great Senator has set for all to follow.

Senator HRUSKA has decided to leave the Senate. He leaves the Senate with the admiration and respect of his colleagues, with the good wishes of all of his colleagues, and the Senate will miss the foresight, the wisdom, and the steadfastness of the dedicated Senator from Nebraska.

So my wife Maryon and I wish for Senator HRUSKA and his lovely wife Vicki wonderful days and long years of happiness, contentment and further service to their God and their fellow man in the days ahead.

Mr. GRIFFIN. Mr. President, MIKE MANSFIELD described ROMAN HRUSKA very well the other day managing to capture in one cogent phrase, as he so often does, the thoughts and feelings of so many of us. Very simply, MIKE said it all: "ROMAN HRUSKA has been one of the great Senators."

During the 22 years he has served in the Senate, ROMAN has left his imprint on legislation and events in a broad range of endeavors. As a member of the Judiciary Committee and now the ranking minority member, he has participated in the confirmation of every justice now sitting on the Supreme Court—not to mention more than half of all the judges presently serving in the Federal court system.

In addition, ROMAN has brought his formidable legal mind to bear upon inequities in our criminal justice system. His efforts helped bring to fruition the Law Enforcement Assistance Administration. He helped write the Criminal Justice Act of 1964, which devised a method by which Federal judges could appoint competent counsel for indigent defendants. He coauthored the Organized Crime Control Act of 1969. His most recent work in this area has been the prodigious undertaking of revising and codifying our country's Federal criminal laws, which I know ROMAN deeply hopes will be a big step toward achieving a balance between the vital interests of preserving individual liberties and maintaining an orderly, secure society.

This work, however, represents only a sampling of ROMAN HRUSKA's labors on the Judiciary Committee. As all of his colleagues know, ROMAN is recognized as one of the Senate's most respected constitutional and antitrust lawyers.

Many men would be satisfied with a record like ROMAN's, which has cut such a broad swath in as large and complex an area as the law. But ROMAN has worked long and hard to master intricate details in fields as diverse as defense, public works, and agriculture. Indeed, ROMAN has been a highly effective and articulate advocate for the agricultural and livestock interests of his Nebraska constituents.

In spite of all the acclaim and admiration ROMAN has earned over his years of service in Washington, he has never lost sight of where he came from—he has not succumbed to "Potomac fever." ROMAN will retire to his beloved Nebraska, where he will enjoy the peace and tranquility of the Platte River with his lovely wife Vicki.

We certainly wish him and Vicki all the pleasures and contentment of a retirement richly deserved. But we in the Senate shall miss ROMAN—his courtly manner, and the spirit of good will and cooperation with which he approached his work and fellow Senators. When ROMAN leaves, he will take with him an important piece of the Senate's history.

Mr. FONG. Mr. President, today I pay tribute to a man who has served ably and conscientiously in this august body for 22 years, ROMAN LEE HRUSKA, the senior Senator from the great State of Nebraska.

Though the gentleman from the Cornhusker State will be leaving our Nation's Capitol, the record of his accomplishments in the U.S. Congress, first as a Representative in 1953 and then as a Senator from 1954, will remain.

Before citing his outstanding record on Capitol Hill, however, I think special congratulations are due the Hruska family. During the year, we in Washington and in our respective 50 States have been celebrating the Bicentennial of this great Nation of ours. For the Hruska family of Nebraska, however, 1976 is a year with twofold significance, for not only is it America's 200th anniversary, it is also the centennial for this family in the Cornhusker State. The Senator's father, Joseph Hruska, arrived in America as an infant 100 years ago.

The first Hruska family home was a two-room cabin with a lean-to attached. Joseph and Caroline Hruska were blessed with 11 children, and though life may have been hard, they taught their children, as the Senator himself has said, "right from wrong and how to work." And work, ROMAN certainly did, from his early childhood through high school, the University of Nebraska, then the University of Chicago Law School and the Creighton University College of Law.

Today, the senior Senator from Nebraska, his brothers and sisters, his children, and their offspring remain as living memorials to the sound teachings and all around basic virtues of Joseph and Caroline Hruska. They, and people like them, are the foundation of America's goodness and strength.

Although ROMAN HRUSKA won election to our Nation's highest legislative body, he has never forgotten his humble origins and the ethic of hard work, which characterized his parents lives and his own life.

That these attributes stood him very well is attested to by the fact that, after a distinguished career in practicing law in Omaha, ROMAN HRUSKA was elected to the U.S. House of Representatives in 1952, elected to the U.S. Senate in 1954, and reelected to the Senate for three full terms after that.

There is no question but that ROMAN HRUSKA served the people of his State faithfully and well over the past 24 years in the Congress. For the acid test comes at election time, and each time ROMAN was chosen by the people of his State.

I have been privileged to work closely with ROMAN HRUSKA, as we both are members of the Committee on the Judiciary where he is ranking minority member, and the Committee on Appropriations. The workload in both these committees is exceptionally heavy.

On both committees, ROMAN has distinguished himself as a very knowledgeable Senator, able, conscientious, patriotic, steadfast, tenacious, and hardworking. He has been a tower of strength, for he has never wavered from his high principles and sound values.

He is a man of impeccable integrity and has won the respect of all his colleagues, as well as of his fellow countrymen.

In Congress, ROMAN has authored or coauthored many proposals concerning criminal justice and the improvement of our legal system. Quite properly he lists—and I am sure many of my colleagues will agree—the Criminal Justice Act of 1964 as among the most significant pieces of legislation he helped write.

Before that, of course, he brought about pioneering legislation in the form of the Sentencing Act of 1958 which provided for institutes and joint councils on sentencing. He also cosponsored Senate Joint Resolution 122 to create a Commission on Revision of the Federal Court Appellate System of the United States. He later served as Chairman of the Commission, where he performed yeoman service. Is was my privilege to work with him on that Commission.

Because of these and other measures pushed to enactment by ROMAN HRUSKA, he is known as a true authority on our Nation's legal system, criminal justice, and judicial reform.

He has been a champion of improvements in the court system so that justice can better prevail throughout our land, and he has been in the forefront of those legislators endeavoring to find ways to combat crime in America. The American people owe him a great debt of gratitude.

ROMAN and his gracious wife, Vicki, will be leaving Washington when the Senator's terms ends next January and returning to "Hruska's Hideaway" in Sokol Camp outside of Omaha. Peace and quiet prevail in the woods there, and fish populate the streams.

Though the Senator and his wife will be returning to their special hideaway for very well deserved rest and relaxation, I was very happy to learn that his retirement does not mean that he will be disappearing from the political scene.

He has promised to help when asked, and certainly many, not only in Nebraska but nationally, will welcome his aid.

For me personally, serving with the senior Senator from Nebraska has been an honor, an education, and a privilege. His booming voice, his wit, his humor, and his charm will remain among my fondest memories.

My wife and I also will be returning to our home in Honolulu with the end of the 94th Congress.

As we part, my wife, Ellyn, joins me in our warmest best wishes and aloha to ROMAN, Vicki, their children, and their families.

Mr. EASTLAND. Mr. President, the end of this Congress marks the departure from the Senate of one of our most esteemed colleagues. With the retirement of ROMAN L. HRUSKA the State of Nebraska loses a great Senator, the country loses a fine public servant, and I personally will lose the daily contact of one of my closest friends and the benefit of his wise counsel.

I have known ROMAN well for some 22 years and have worked especially closely with him since he joined the Judiciary Committee in 1957. In these years we have seen him come to national prominence. A lawyer by training, he has worked hard for legislation to improve this profession which he loves.

Because of his legal abilities, ROMAN has been in the center of debate concerning the great constitutional issues which have faced this country in the past two decades. A man with the bearing of a superb courtroom counsel and the mind of a legal scholar, he has combined these qualities with diligent work to become one of the most effective Senators in this Chamber in recent years. His imprint can be found on most of the major legislation pertaining to judicial and law enforcement reforms which have been enacted during his tenure.

ROMAN's accomplishments in this field are legion. Although I wish to speak more as to the nature of the man a passing mention of a few of them is in order.

Together with JOHN MCCLELLAN and me, ROMAN has participated in the confirmation of every presently active justice of the Supreme Court of the United States.

Together the three of us have formed the panel which conducted the confirmation hearings on almost 300 appointees to the Federal bench—more than half of the sitting article III judges.

ROMAN has played a major role in such landmark legislation as the omnibus crime control bill, the legislation establishing a National Court of Appeals, recodification of the Federal Criminal Codes, and a long list of other measures designed to improve the criminal justice system and the quality of justice in America.

ROMAN is such a stalwart and is so highly regarded by his colleagues of both parties that we have rewarded him with the only subcommittee chairmanship held by a Republican in the Congress. He is the head of the Subcommittee on Federal Charters, Holidays, and Celebrations. And all are most respectful to him in that role and address him as Mr. Chairman.

While busily shaping the national issues which have affected the Department of Justice, the Federal courts, and even the Presidency, ROMAN's most important concern in the Senate has always been the people of his beloved Nebraska. With his roots firmly implanted in the good Nebraska soil, ROMAN to this day remains one of the Senate experts in agricultural matters.

Being from a State which also relies heavily upon agriculture, I am constantly amazed how this man with his scholarly knowledge of the provisions of the U.S. Constitution and the Federal Code is equally able to quote current livestock market prices and discuss fully the problems affecting farmers.

He is a man whose capacity for hard work and long, late hours is well known in the Senate. As my colleagues know, ROMAN also gets up with the chickens. He can frequently be found at his office in those hours fielding telephone calls himself from early rising constituents.

Because of his fine work habits he has been able to master scores of complicated pieces of legislation which have been reported from the Judiciary.

His attention to detail has earned him the respect of his colleagues. On a great number of occasions I have witnessed during debate on the floor that when an inquiry is made to ROMAN about a measure which he is managing, his answer is accepted without question. But there is much more behind the acceptance of ROMAN's word than his reputation for detail. He is known to all as a fair and decent man. He is willing to listen to all sides of an argument and to proceed in an evenhanded manner. This is a true measure of the man.

Although always busy with legislative matters, ROMAN is never too occupied to offer his friendship to his colleagues and the staff which serves the Senate.

Many are the times when burdened with his own duties he would somehow find time to help out another individual. It is this unselfish and generous side to ROMAN which has also attracted so many of us to him.

I feel fortunate to have been able to work so closely with ROMAN on committee business. In this close context one gets to know a man. On a personal basis he is an entertaining and delightful companion. I can say, as many of you are already aware, that ROMAN wears well. He is a straightforward man without pretense. He does not seek credit or glory. He believes in what is right and has the courage to speak for his convictions.

Over the years one gets a sense of the man. ROMAN HRUSKA is not just a fine legislator. He is a fine human being, family man, and friend.

We will miss him greatly; the Senate will not be the same without him.

Mr. BAKER. Mr. President, I am both glad and sorrowful to rise today to pay tribute to my good friend and associate, ROMAN HRUSKA. It is difficult to pay tribute to a retiring colleague without the vocabulary often lapsing into platitudes and truisms. Although I am sure everything I say about ROMAN HRUSKA today will have been said before, and perhaps more eloquently by someone else, I want to say them anyway, because I feel them.

When I first came to the Senate 10 years ago, one of the first people my father-in-law, Senator Dirksen, introduced me to was his close colleague, Senator HRUSKA. I am sure I was to become Ev's son-in-law in his mind for some time, but he was much more to me than Senator Dirksen's friend.

As I began to watch ROMAN, as he told me I was uncomfortably to call him, I saw many of the traits that I not only wanted to emulate, but knew I would have to adopt in order to survive here. Particularly impressive were his attributes of patience and persistence which guided him in everything that he did. I soon came to realize that this patience and persistence were not only the characteristics of an imaginative worker, but also of a skilled craftsman and talented thinker. It became even more obvious that all of his efforts were directed toward serving the constituents who elected him time and again.

His devotion and dedication to the people of Nebraska will be forever his living monument in that State. Even more important in this day of cynicism and doubt, however, is the fact that not in a single instance has the character and integrity of Senator HRUSKA ever been questioned. His unimpeachable record of responding to numerous needs on the basis of merit alone will be a source of strength to many for years to come.

So, to ROMAN and Vicki today, I say thank you for the personal friends you have been to three generations of my family. Thank you for the strength and stability you have provided in the Republican Party. Thank you for the model of integrity and trust you have been to your colleagues in the Senate. I appreciate the image you have projected which has been an encouragement to so many. Our best wishes are with you as you enter a new stage of your very productive life.

Mr. FANNIN. Mr. President, ROMAN HRUSKA has spent 22 years in the Senate during which time he has earned a national reputation for hard work, intelligence, and integrity. He is the son of Czech pioneers who came to Nebraska to improve their lot and who served as an example for him of thrift and self-reliance.

This Senate and this country have been fortunate to have had the sharp legal mind of Roman Hruska hard at work in its service. On the Judiciary Committee of which he is ranking Republican and on the Appropriations Committee on which he is second ranking minority member he has displayed the legal knowledge and acumen of an outstanding constitutional lawyer.

Mr. President, Senator Hruska has infused his oratorical talents, his persuasive skill, and that memorable, mellifluous voice into the proceedings of the Senate time and time again. From his participation, his colleagues have gained a deeper, more precise understanding of his convictions, and the Senate debates have been richer for it.

Since assuming his present position as the ranking minority member of the Judiciary Committee in 1969, he has been a member of the special panel which conducted hearings on the nominations of nearly 300 appointees to the Federal bench, more than half of the current article III judges. He has presided over or otherwise participated in most all of these hearings.

His efforts to insure responsible antitrust legislation as ranking minority member of the Subcommittee on Antitrust and Monopoly, have earned him an enviable reputation as an expert in the field of antitrust.

Mr. President, Roman Hruska has above all devoted himself to the furtherance of the ideals of self-reliance and individual liberty as opposed to the paternalism of big and ever encroaching government. In his quest for this ideal, he has always remained tolerant of opposing points of view. He may hotly oppose you in the heat of debate but he can be counted on to treat you with utmost courtesy.

It has been a great privilege for me to have benefited by his counseling and guidance and I shall forever be thankful to this outstanding public servant.

Mr. PEARSON. Mr. President, when I think of the Senate's most diligent, hardworking Members, one name inevitably comes to mind: Roman Hruska, the senior Senator from Nebraska. And so as Senator Hruska prepares to retire from a career in Washington that began with a seat in the House of Representatives in 1953, it is fitting that we reflect for a moment upon his contributions to the Senate as a lawmaker and as a man.

Through the strength of his character, of which the cardinal elements are self-reliance and unquestioned honesty, Senator Hruska set an example for us all to follow. Through his industriousness and dedication to his work, he inspired us all to do our jobs more thoroughly and thereby make the Senate a more effective and representative forum.

Senator Hruska's 22 years of service have been particularly distinguished on the Judiciary Committee, where he consistently sought to improve the quality of our Nation's system of criminal justice. As one of the Senate's most knowledgeable members on judicial reform, he authored and coauthored many proposals to further the cause of equal justice for all. Indeed, he was the principal architect of the Omnibus Crime and Safe Streets Act of 1968.

We have often observed and admired Senator Hruska's performance as a leader on the Appropriations Committee, where he ably demonstrated his expertise in the areas of public works, defense, and agriculture. Certainly, we shall miss his conservative zeal for an economical and efficient Government.

It has been a continuing privilege to serve with Senator Hruska, and I wish him good health and happiness as he leaves us for his Nebraska homeland.

Mr. TALMADGE. Mr. President, I join the Senate in offering this salute to Senator Roman Hruska on his retirement. After 23 years of outstanding service and leadership in Congress, Senator Hruska plans to return to his beloved State of Nebraska.

Senator Hruska served 2 years in the House before coming to the Senate in 1954. He won reelection three times.

Having served 12 years on the Douglas County, Nebr., Board of County Commissioners and as president of the Nebraska Association of County Officials, he came to the U.S. Senate from grassroots politics and service to the people at the local level of government.

I think Senator Hruska would agree that this is the best kind of government and that it is unfortunate that we have seen our country drift so far away from this principle in recent years.

In the Senate, Senator Hruska has never lost touch with the people and he is certainly to be commended for his long and dedicated service. I hope that he will find every happiness in his retirement.

Mr. HUMPHREY. Mr. President, our distinguished colleague, Roman Hruska, will not be with us when the 95th Congress convenes. He has decided not to seek reelection to this body.

Roman was elected to serve in the Congress in 1952. After one term in the House, he began, in 1954, what was to become a long and distinguished period of service in the Senate. Over the 22 years of service, he has distinguished himself as an articulate and effective spokesman for his party and for the minority in the Senate.

He came to the National Legislature after having served in a number of posts at the county and State levels.

As a member of both the prestigious Committees on Appropriations and the Judiciary, he has devoted a great deal of time and effort to improvement of the criminal justice system in America. He is ranking minority member of the Subcommittee on State, Justice, Commerce and the Judiciary of the Appropriations Committee, and he also is ranking member of the Subcommittees on Antitrust and Monopoly, Criminal Laws and Procedures, FBI Oversight, Improvements in Judicial Machinery of the Judiciary Committee and is chairman of the Subcommittee on Federal Charters, Holidays, and Celebrations.

In these posts, he has had great impact on our judicial system and brought his expertise to bear in service as a member of the National Commission on Reform of Federal Criminal Laws and the National Commission on the Causes and Prevention of Violence, and as Chairman of the National Commission on Revision of the Federal Court Appellate System.

Roman Hruska has been a tireless and effective spokesman for his party both within and outside the Congress. His has been a long and distinguished career in public service, and he will be missed. Mrs. Humphrey joins me in wishing Roman and Victoria a long, bountiful and happy future.

Mr. WILLIAM L. SCOTT. Mr. President, with the retirement of the distinguished senior Senator from Nebraska (Mr. Hruska) the Senate is truly losing an individual who has distinguished himself as a lawyer and public servant over the years. Roman Hruska epitomizes, in my opinion, one who may truly be singled out as a Senator's Senator. Roman is a friend, and colleague with whom I have high personal regard. As a member of the Senate Judiciary Committee, I have had an opportunity to work closely with our ranking Republican and without exception have found him to be of immense assistance to the committee in its deliberations. I might add that Senator Hruska has the honor of being the only Republican to serve as chairman of a Senate subcommittee. As you know, the majority has permitted the distinguished Senator from Nebraska to chair the Judiciary Subcommittee on Federal Charters, Holidays, and Celebrations; and it should be noted he has done a commendable job, in my opinion.

Roman Hruska began his career in public service more than 30 years ago while practicing law in Omaha. After 8 years as a county commissioner, including most of the time as chairman of the board of commissioners, Senator Hruska completed a term in the House of Representatives before beginning his 22 years in the U.S. Senate. The senior Senator from Nebraska will of course leave an enduring legacy for his legislative efforts relating to the law and economy in government and for service to the people of Nebraska and the Nation.

Roman Hruska stands for fiscal responsibility and restraint in Government spending and his voting record shows this. As the second-ranking Republican on the Appropriations Committee, Senator Hruska has spent considerable time reviewing legislation and trying to reduce unnecessary and wasteful Federal spending. I noted in one of the background papers about Roman that "seven straight reductions in the county tax levy were achieved during his 7 years as chairman" of the county board of commissioners. He has consistently fought increases in Federal spending and undue intervention by Government in the private sector of our economy, seeking to protect the basic principles of limited government and individual reliance spelled out by our Founding Fathers.

Some have suggested, however, that Roman Hruska's most notable achievements probably lie in his work on the Judiciary Committee. I look upon Roman as an individual who exercises a rule of reason with regard to various matters before our committee. He is the author or a principal sponsor of many proposals that have provided for improvements in our legal system. He was active on several national commissions relating to law enforcement and the judiciary generally and served, I believe, as chairman of the National Commission on Revision of the Federal Court Appellate System which has since made a number of worthy recommendations for reform to the Congress. He has also been deeply involved over the years in seeking to make a comprehensive revision in the Federal criminal code, and I of course commend him for his leadership in this effort. He has played a major role in upgrading the qualifications of the Nation's judges, reviewing many nominations for Federal judgeships and other judicial officials for consideration by the full Judiciary Committee.

ROMAN HRUSKA, I am confident, would have made a very fine member of the official Republican leadership. Today, as the No. 2 Republican in the Senate in terms of seniority, he looks toward a deserving rest. The Omaha World-Herald, in its Magazine of the Midlands, dated Aug. 31, 1975, and headlined "There Is Time Ahead for Reflection," leads the article off this way:

> Whenever Sen. Roman Hruska and his wife Victoria sit on the back porch of their "home-on-the-Platte," their gazes center on a large block of salt that rests on the other side of the stream.
>
> Hruska carried the salt there during the drought last summer, when it was possible to walk across the Platte because so much water had been diverted to thirsty corn fields.
>
> "I put it there," said Nebraska's senior United States senator in that clear and distinct Czech accent for which he is known, "because in the years ahead, Vick and I want to watch the deer. So far the salt hasn't attracted many deer but then there is time ahead."
>
> The "time ahead" is Sen. Hruska's self-announced retirement from a career in Washington that began with a seat in the House of Representatives in 1953 and will end when the new Senate convenes early in 1977.

We will of course miss ROMAN HRUSKA. I congratulate him on his enviable record and sincerely wish him and his wife a long and happy retirement.

Mr. THURMOND. Mr. President, as this session of the Senate draws to a close, I rise to pay tribute to the distinguished senior Senator from Nebraska, ROMAN HRUSKA.

My friend of over 20 years, he is a man counted as a friend by all Senators in this body. Senator HRUSKA is known and respected for his wisdom and strength in debate. His many accomplishments during his long tenure in the Senate mark him as one of the truly great Senators of our time.

He was born in David City, Nebr. His parents of Czechoslovakian parentage taught him well the basic values of hard work and right from wrong. A man of his environment, his ties to his State of Nebraska have remained firm and strong throughout his many years in the Senate. ROMAN HRUSKA has never forgotten those who placed their trust in him as their Senator and has never let them down.

Those of us who know him well have seen the many fine qualities interwoven into the character of this man. He is a conservative. His zeal for economy and efficiency in government is well known. ROMAN HRUSKA is a fighter for those causes in which he believes.

A man of integrity, his word is his bond. We know him, too, as a compassionate man. A prodigious worker, his accomplishments attest to the many years he has given to his constituents and to his country. An unselfish man, ROMAN HRUSKA always finds time to listen and lend a helping hand when it is needed.

As the ranking Republican member of the Committee on the Judiciary, his reputation as a lawyer and legislator is known over our great country. I will mention only a few of his many accomplishments. In the criminal law field, his work in sentencing, judicial improvements, and reform of the Federal criminal law, will serve as a solid foundation for many years to come. His continuing legislative battle against the czars of organized crime has been relentless and effective. Senator HRUSKA's interest and expertise in antitrust law is known and respected by those possessing familiarity with antitrust matters. Recognizing a strong need for a major review of our antitrust laws, he has actively worked to establish an Antitrust Review and Revision Commission to accomplish that task.

It has been my privilege to have known this giant of the U.S. Senate, ROMAN HRUSKA. Our friendship, great legislative battles we have fought together, and his wise leadership as the ranking minority member of the Committee on the Judiciary are memories of him that I shall treasure throughout my life.

As we come closer to the end of the 94th Congress, I feel already a keen sense of loss knowing that ROMAN HRUSKA will be absent from the Senate when the 95th Congress convenes. Although he passes from the Senate, the good he has done here will remain long after he is gone.

My good wishes for many happy years in retirement will go with ROMAN and Victoria Hruska to Nebraska.

Mrs. Thurmond joins me in extending to them good health and happiness in all their future undertakings.

Mr. McCLELLAN. Mr. President, in January, ROMAN HRUSKA, the distinguished senior Senator from Nebraska and my very good friend, will retire from the Senate after 22 years of service in this body to his State and the Nation. With his retirement, the Senate will lose one of its truly outstanding members. His absence will surely be felt by us all—Democrats and Republicans alike.

It has been my good fortune to have known ROMAN since he first came to the Senate in 1954. Our close relationship began with his being assigned to membership on the Judiciary Committee in January 1957, and was enhanced by the mutuality of interests and responsibilities shared by us when he became a member of the Appropriations Committee in January 1959. During all of the intervening years, we have continued to serve together on these two major committees and on a number of subcommittees thereof.

In my friendship and working relationship with him, I have long since come to know ROMAN to be one of the most conscientious, hardworking, and dedicated of the 370 Senators with whom I have served during the past 34 years. He is unswerving in his loyalties and is totally committed to the principles of sound and responsible government.

Perhaps in no area have his outstanding qualities and abilities been more evident than in his efforts as a member of the Judiciary Committee to improve all aspects of our country's system of justice. His contributions toward this goal can only be described as legion. But I think it appropriate to single out a few as particularly significant.

From 1967 to 1971, ROMAN served as a member of the National Commission on Reform of Federal Criminal Laws, which had as its goal the reform and modernization of our Federal criminal laws into a uniform and coherent system that would better render justice to all the citizens of this country. That Commission's final report—shaped in no small measure by his efforts—later formed the basis for the legislative efforts that have since been made to give our country its first true criminal code. If that laudable goal is ever achieved in the years ahead, great credit and thanks will be due to the senior Senator from Nebraska.

Long in the forefront of efforts to improve the state of our often overworked and hard pressed Federal judiciary, for 3 years ROMAN served as Chairman of the Commission on Revision of the Federal Court Appellate System, the "Hruska Commission." After years of extensive hearings and analysis under his leadership, that Commission has recommended major reforms both in the structure and procedures of our Federal appellate courts designed to improve the ability of these courts to expedite their programs in the disposition of judicial issues. One of its most noteworthy recommendations is the creation of a new National Court of Appeals to ease the ever-growing burden on the Supreme Court, and ROMAN has already introduced legislation to accomplish that objective.

Senator HRUSKA was also one of the prime movers behind the establishment of the Law Enforcement Assistance Administration which has done so much to improve the quality of justice at the State and local levels. As a direct result of the LEAA program, great strides have been made by our States, cities, and towns in improving every aspect of their criminal justice programs—police, courts, and corrections.

I could go on and on. It is no exaggeration to say that his list of accomplishments as a member of the Judiciary Committee could run for pages.

The same spirit of conscientiousness, hard work, and dedication that has characterized his efforts to improve our system of justice is equally applicable to his tenure on the Appropriations Committee. There he will long be remembered for his contributions to fiscal integrity and his endeavors to hold expenditures within limits appropriate to the needs and ability of our Government.

But more important than all of these things are the qualities of the man himself. Roman is a strong individual—of estimable character and high moral standards. He stands tall among his peers in the U.S. Senate as an able legislator and statesman. He has added stature to the Congress by his years of service and has well represented, and contributed to the welfare of, his State and the Nation. I am proud of my friendship with him and to have served these many years with him, and I wish to join all our colleagues in paying to him well-deserved tributes of respect and admiration.

Mrs. McClellan joins me in all of these sentiments and in most affectionate regards to both Roman and Miss Vicki. Our good will and good wishes will be with them always.

Mr. GRIFFIN. Mr. President, since Senator McGee is necessarily absent and unable to be here in person to participate in paying tribute to our colleague Roman Hruska, he has asked me to insert his statement in the Record in his behalf.

I ask unanimous consent that Senator McGee's tribute be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR MCGEE

The adjournment of this session of Congress will bring to a close the long and distinguished Senate career of the Senior Senator from Nebraska (Mr. Hruska). Having announced his decision to retire at the end of his present term, his days in the Senate with us are numbered.

During the 22 years Senator Hruska has served in the Senate, he has distinguished himself in many areas. Being an attorney by profession, it is only natural that one of his primary interests was work on the Judiciary Committee, where he was most active and effective. He presently serves as the Ranking Minority Member of that Committee. He has also served on various national commissions dealing with crime, violence and the Federal court system.

While he has served with great distinction on the Judiciary Committee, I have been more closely associated with him in agricultural and appropriations matters, in which we have had many common interests. Ever since I came to the Senate in 1959 I have found him to be a most willing and able ally, particularly on problems facing the agricultural producers of Nebraska and Wyoming. And I may say there have been many such common problems.

He and I were members of the National Food Marketing Commission which conducted an indepth study of the food marketing structure in the United States. We coauthored the 1964 Meat Import Act, under which our livestock producers received some protection from meat imports. We two fought a lonely battle in support of the Animal Import Center at Fleming Key, Florida, a facility needed so badly by the domestic cattle industry.

When I assumed the Chairmanship of the Agriculture Appropriations Subcommittee several years ago, he was the Ranking Minority Member of that Subcommittee. He has always stood ready to give to the Subcommittee and its chairman any assistance possible, and I can assure you that his experience and his willingness to cooperate were of tremendous help to all of us.

Mr. President, Roman Hruska has been a valued friend. I am grateful for the opportunity to have known and worked with him and will surely miss him. My family joins me in wishing him and his wife, the former Victoria M. Kuncl, all the best in the years ahead.

Mr. CRANSTON. Mr. President, the passing of the 94th Congress this week also marks the close of a distinguished 32-year career in public service of our colleague from Nebraska, Roman Hruska.

As an influential and able member of the Committees on Appropriations and Judiciary, the Senator has left his mark on virtually all the major issues of the past two decades. In 22 years in this body he has been an effective legislator. He has worked exceptionally hard to shape legislation in committee. He has been a formidable advocate of his positions before the full Senate.

The Senator's contributions have been felt most strongly on the structure and maintenance of U.S. laws and the Federal judiciary. He long ago recognized the need to update and codify the vast body of U.S. criminal law. He served with distinction on the Brown Commission studying reform of the Federal criminal statutes. When the problems associated with the revised criminal code are worked out—as I trust they will be—much of the bedrock reform in that legislation will be enacted to the credit of Roman Hruska.

He chaired the blue ribbon Commission on Revision of the Federal Court Appellate System and has long championed reforms to allow appeals of Federal criminal sentences. The Senator correctly notes that ours is unique among the advanced systems of jurisprudence in the world in not providing for review of possibly unreasonable sentences. When this long-overdue reform becomes reality, again much of the credit will redound to the career of Roman Hruska.

Senator Hruska has ably represented the people of Nebraska. He embodies the principles of hard work and self-reliance that typify the people of the Great Plains.

Again and again in his Senate career he fought hard for his point of view. But he never engaged in the tactics of rule or ruin. At the critical moment in the passage of the Civil Rights Act of 1964, he helped shape the final compromise that made that historic legislation possible. Roman Hruska has never been a wrecker, but always a man of the Senate.

As he completes his long career in elective office, the Senator will return to Nebraska where he will busy himself with the continued practice of law, with writing and with reflection. His colleagues congratulate Senator Hruska on his career and retirement, and wish him good health and activity in the years ahead.

Mr. MATHIAS. Mr. President, I have had the privilege of serving with Roman Hruska on the Senate Judiciary Committee where he has been the ranking minority member since 1969. Those of my colleagues who have not had the opportunity to watch Senator Hruska at work in the Judiciary Committee have missed the rare opportunity of seeing a matchless mating of man and material.

Senator Hruska's scrupulous attention to detail, the breadth and depth of his learning in law, the scholarship that animates his legal pronouncements all have added a dimension to the work of the Judiciary Committee that will be sorely missed when he retires at the end of this session of Congress.

I, personally, shall always be grateful for the great kindness Senator Hruska showed me when I joined the Judiciary Committee and for his unfailing concern to protect every committee member's rights. I shall miss his watchful attention to the work of the committee and his stewardship of the rules that guarantee the equality of all members.

I wish him and Mrs. Hruska many happy and fulfilling years ahead.

Mr. BAYH. Mr. President, after 24 years in the Congress, 22 of them here in the Senate, Senator Roman Hruska is retiring with the conclusion of the 94th Congress to return to his native Nebraska.

His years of service have brought Senator Hruska to the position of 12th in Senate seniority and second in seniority among Senate Republicans. But more important than the seniority which has accrued to Senator Hruska by virtue of his popularity in Nebraska, is the lasting respect and admiration he has earned among his colleagues and countrymen for his long and faithful service.

One need only be in the Senate briefly to understand the significant impact Senator Hruska has had on this body and national policy. As the second senior Republican on the Appropriations Committee and the ranking minority member of the Judiciary Committee, Senator Hruska has been an effective and vocal spokesman for his views.

By coincidence I have served on both those committees and thus have had special insight into the personality and policies of Senator Hruska. And while I have to confess that cannot always agree with his policies, I have always found his personality to be pleasing. Not only is Senator Hruska the kind of opponent that one respects for his basic decency and fairness, he is a formidable opponent as well.

This is why, while we often found ourselves on opposite sides of issues before our committees and before the Senate, I am proud to say: Roman Hruska is not merely my colleague, he is my friend.

Over the years I have worked closely with Senator Hruska on a variety of issues, seeking to forge compromises out of strongly held, differing views. More often than not we were able to make progress neither of us totally satisfied and both of us maintaining our respect for the other.

One such issue on which we worked together was juvenile justice. As chairman of the Judiciary Subcommittee on Juvenile Delinquency I developed several years ago a proposal to revamp Federal juvenile programs. From that proposal emerged the Juvenile Justice and Delinquency Prevention Act, now 2 years old. I remember well when, during the spring and summer of 1974, I spent long hours negotiating with Senator HRUSKA on the specific provisions of that law. We agreed on the pressing need to help young people in trouble, and to fight crime by fighting it at its source—among the youth who commit one-half of the serious crimes in this country. But Senator HRUSKA and I had real differences on how to achieve our objectives.

After prolonged and, I have to say out of respect for my colleague, determined negotiations we reached a compromise which paved the way for this important legislation. It is an important reflection on the strength of character of ROMAN HRUSKA that once we had reached our compromise he helped secure final approval of the legislation, and since that time has been extremely helpful—even to the point of taking on the administration of his own party—in helping to see that the Juvenile Justice Act is funded adequately.

It is a mark of respect for any Senator to say that his word is his bond, and that is certainly true of Senator HRUSKA. But even beyond his gentlemanly behavior, Senator HRUSKA is willing to do battle to see that hard fought compromises become reality.

I will miss ROMAN HRUSKA. I will miss his stern voice, his uncommon wit, and even his gentle chiding. While I will miss him, it must be said that Senator HRUSKA's retirement is well earned and we all wish him many years of happy retirement with his family in his beloved Nebraska.

Mr. HELMS. Mr. President, when this body convenes next year without the distinguished Senator from Nebraska, we will find ourselves without one of the stoutest champions of free enterprise and the American ideals of liberty and freedom ever to serve in the Senate. ROMAN HRUSKA has been one of the hardest working Senators in this body, using his role on the Judiciary Committee to scrutinize carefully the legislative proposals passing through that committee.

The laws affecting the judiciary and the legal structure of our Nation have a long lasting and ultimately unforeseen effect. It takes a keen legal mind to understand the consequences of even slight phrases, not to speak of long-range legal concepts, some of which are intended to change the very structure of our society. ROMAN HRUSKA has demonstrated time and time again his mastery of the line-by-line analysis, and his understanding of the precise word and the apparently innocuous clause.

We have just now completed the Senate's work on the antitrust legislation, and I say to this body that had it not been for the prodigious work of the distinguished Senator from Nebraska, his complete mastery of the text and implications of the bill, and his leadership in opposing the many pernicious proposals in that legislation, that we would have had a far more radical bill undermining the very strength of our free enterprise system.

In the many weeks that we spent on that bill, the distinguished Senator was always ready with advice, encouragement, and exhortation for those of us who were struggling with its provisions. His work on this bill is a fitting capstone to a distinguished Senate career.

But indeed, on every issue, ROMAN HRUSKA's instincts have been sound. Whenever a rating of his work has been made by organizations dedicated to constitutional principles and the preservation of freedom, the Senator from Nebraska has always been in the top ranks.

For example, in the rating by the American Conservative Union on 30 weighted key Senate votes in 1975, ROMAN HRUSKA scored 100 percent.

In the rating of the Americans for Constitutional Action for 1975, ROMAN HRUSKA scored 88 percent—among the top 10 in the Senate.

In the rating of the Committee for a Survival of a Free Congress, ROMAN HRUSKA scored 77 percent—still in the top 10.

No matter how one looks at it, Senator HRUSKA has always been among those who have been most faithful in promoting and preserving the principles of liberty and in adhering to a Senator's duty to uphold the U.S. Constitution. It is with deep affection and profound respect that the Senator from North Carolina salutes his colleague and bids him farewell from this body. He will be missed.

### ROMAN HRUSKA—OUTSTANDING SENATOR

Mr. SYMINGTON. Mr. President, since 1954 ROMAN HRUSKA and I have been colleagues in this Senate.

During all that time, although we may have differed on some issues, I have respected his invariable courtesy and consideration, as well as his dedicated integrity to those policies of this Nation which he felt would give it maximum security and prosperity.

In working with him on military and astronautic matters in the Appropriations Committee, I have been increasingly impressed over the years by his desire to get all facts before rendering any judgment.

ROMAN HRUSKA's leaving will deprive the Senate of one of its outstanding constitutional lawyers. For that reason alone he will be sorely missed.

I know we all wish him and his gracious wife Victoria all health and happiness in the years to come.

Mr. BURDICK. Mr. President, I am appreciative of the opportunity to say a few words about my colleague ROMAN L. HRUSKA, who will not return to this body in the next Congress. It was with special regret that I received his announcement that he would not seek reelection to the Senate, for he has shared with me for the past 6 years the responsibility of the work of the Subcommittee on Improvements in Judiciary Machinery. As the ranking minority member of that subcommittee, ROMAN HRUSKA has demonstrated a dedication to the cause of judicial improvement. He has had an unequaled record of faithful attendance at, and participation in, the many days of hearings held by the subcommittee over the past 6 years. These hearings usually achieved a blending of both our legislative and our oversight functions. During this time we searched and probed into the day-to-day work of our Federal judicial system from top to bottom, in an effort to improve the structure, the methods and the jurisdiction of our Federal courts. In addition to this effort, ROMAN HRUSKA spent a great deal of time serving as Chairman of the Commission on Revision of the Federal Court Appellate System, a body which made an exhaustive study of the workload of the Courts of Appeals and of the Supreme Court of the United States. Under his leadership that Commission held public hearings throughout the United States and ROMAN HRUSKA presided at each of the public hearings as well as at the numerous meetings of the Commission members. It is no wonder that that body was commonly referred to as the "Hruska Commission."

The late Arthur Vanderbilt, chief justice of New Jersey, once said that the cause of judicial reform is not for the short-winded. Mr. President, our colleague ROMAN HRUSKA throughout his career in the Senate has exhibited, by his hard work and selfless devotion, that he is one of those rare individuals who has the "wind" for the never-ending cause of judicial improvement. I extend to him my personal thanks, and on behalf of the Senate, our appreciation of his great effort to help the cause of justice.

Mr. BARTLETT. Mr. President, when the Senate convenes in January, several Senators of great stature will have retired. Among those whose leadership will be missed the most is the distinguished senior Senator from Nebraska, ROMAN L. HRUSKA.

During my 4 years in this body, I have come to look on ROMAN HRUSKA's performance with great admiration. In his capacity as the ranking minority member of the Judiciary Committee, he has done much to improve our legal system in general. Of particular importance have been his efforts to reform the Federal criminal law by developing it into a genuine criminal code. His work on developing sound sentencing procedures in criminal cases, and on various civil rights bills over the years, are additional examples of the outstanding contributions he has made to the legislative process over the years.

Better than most, ROMAN HRUSKA has understood the importance of strengthening and maintaining our Federal system. So many times, his remarks on this floor and elsewhere have wisely reminded us of the limitations on what a national government reasonably can or should do. He has been a consistent and vigorous fighter for fiscal sanity in our national economic affairs and for a strong posture in national defense and foreign affairs.

Mr. President, a mere recitation of the causes for which ROMAN HRUSKA has worked does not fully describe the importance of his contributions to this body. His personal qualities—his wisdom, his honesty, his courtesy in dealing with other Members—his willingness to help me at any time—all these are factors which mark him as a truly great Senator.

The Senate and the United States certainly owe a debt of gratitude to ROMAN HRUSKA for his 22 years of dedicated service in this body. I am pleased to join with my colleagues in wishing for ROMAN HRUSKA a long, happy, and productive retirement.

Mr. BELLMON. Mr. President, the Senate is greatly enriched by the varied backgrounds and experiences of its members. During the 8 years I have been here, the senior Senator from Nebraska, ROMAN HRUSKA, has significantly added to both the deliberative process and the social intercourse of the Senate. His immense understanding of legal and judicial matters has made him a fountain of knowledge for those of us without experience in this field. His concern for a wise fiscal policy blended with his desire to adequately fund essential government services has made him an invaluable member of the Appropriations Committee where I also serve.

The many accomplishments he has made during his 22-year career in the U.S. Senate marks ROMAN HRUSKA as one of the real giants of this body. His dedication to his work and to the State he represents has been complete.

Senator HRUSKA can look back with pride upon the many significant advances his work in the Senate and the Congress has made possible. His record of service will stand as a model for others to follow. I join with his many other friends and admirers in wishing he and his wife, Vicki, much happiness and fulfillment as they return to their home in Nebraska.

Mr. GARN. Mr. President, it is appropriate for us to pause today and pay tribute to a man who has given so many years of dedicated service to the U.S. Senate.

Senator ROMAN HRUSKA has distinguished himself by being a leading advocate of important legislation stemming from the Judiciary Committee of which he is the ranking minority member. Changes and reforms in the criminal and judicial processes and the machinery of trial and review have marked his efforts and earned him a respected reputation for fairness.

He has demonstrated his overriding concern for economy and efficiency in Government by his activities on the Joint Committee on Reduction of Federal Expenditures and the Senate Appropriations Committee.

Senator HRUSKA has served vigorously as a leader in the Republican Party, and as a catalyst in developing national Republican policy. He has been a forthright, forward-looking advocate of civil rights and significantly acknowledged as a major power in creating the compromise that produced the Civil Rights Act of 1964.

It is impossible, of course, to list the many important achievements and contributions that Senator HRUSKA has made during his very impressive career. I cite these few examples in paying tribute to this man of great strength and principle who has served as a true example of leadership and dedication. I extend my best wishes for a productive and well-earned retirement.

Mr. ROBERT C. BYRD. Mr. President, this Nation was built by men and women of clear conscience, high principles, and strong discipline. Coming from many nations, these people established the firm foundation on which our economy rests and the thousands of sound and pleasant communities across this country that give American life its stability and energy. Senator ROMAN L. HRUSKA of Nebraska comes from that background, and he has represented the interests of his constituents and millions of hardworking citizens like them through his many years in this body. His voice and his good commonsense will truly be missed on his retirement.

Senator HRUSKA was born of Czech parentage in Nebraska and received most of his education in that State. Elected to the House of Representatives in 1952, he was subsequently elected to the Senate in 1954 and has been confirmed in his position by the voters of Nebraska three times since. He has been a champion of those values that made this Nation great and which flourish across the wide reaches of the Midwest.

ROMAN HRUSKA has believed that the ordinary citizens of this country have a rare wisdom that often transcends the wisdom even of the most notable experts in and out of the Government. His basic trust in the instincts of our people has not often been mistaken.

Senator HRUSKA has consistently supported programs to further education in this country. Moreover, he has had a compassionate and forward-looking attitude toward civil rights for all of our people. He has coupled these concerns with a strong support for crime prevention measures and a defense posture that will allow this Nation to continue to be an international leader around the world.

Senator HRUSKA has earned the respect of all of his colleagues in this body, and I appreciate the special quality that he has brought to our deliberations and actions during the long years of our service together in the Senate. May God bless him in the future as he leaves us for his well-earned retirement.

Mr. JAVITS. Mr. President, the Senator from Nebraska represents those virtues with which we associate with the American heartland. He is open and he is experienced and of very considered judgment. He is forthright and vigorous in expression; and he has exemplified in the U.S. Senate the heart of the commitment to values that have sustained this country since its inception. To Senator HRUSKA the obligation to work hard, to stand fast on one's beliefs, and to pursue the implementation of one's principles, are the most important reasons for sitting in the U.S. Senate. There have been many, many times that the distinguished Senator from Nebraska and the senior Senator from New York have engaged in debate; that we have perhaps disagreed on some of the more specific issues of the day; but I have found, always, as have his other colleagues, that the rigors of debate and the intensity of conviction are laid aside after the yeas and nays have been recorded. Political opposition is one thing but ROMAN HRUSKA's warmth and the quality of his friendship are quite another. The Senate will miss him and on future days and in future debates, I will miss him.

Mrs. Javits and I extend our best wishes for happiness and tranquillity for Senator and Mrs. Hruska in the days ahead.

Mr. KENNEDY. Mr. President, in his 14 years in the U.S. Senate, ROMAN HRUSKA has served Nebraska and the Nation with diligence and vigor. His retirement from this body, and especially from the Committee on the Judiciary, where he has been the ranking minority member for the past 6 years, marks the end of a distinguished Senate career in which he has earned the respect of all of us, majority and minority alike.

The senior Senator from Nebraska has been a member of the Judiciary Committee since 1957, and I have had the pleasure of serving with him and working with him on that committee since I came to the Senate 14 years ago. He has been extremely active in all aspects of our committee work. The care with which he examines each issue before the committee virtually guarantees that any bill emerging with his support will meet with relatively easy passage on the floor, but any bill on which he dissents is in for difficult and long, but always constructive, debate and controversy.

Senator HRUSKA has shown special dedication to improving the efficiency and quality of justice in the Federal judicial system. He has been the senior Republican member of the Subcommittee on Improvements in Judicial Machinery, and he has also served as chairman of the National Commission on Revision of the Federal Court Appellate System. The reports of that Commission and the bills he has introduced or sponsored have provided many strong proposals for basic changes in our Federal judicial system, and have helped to make our courts more effective and efficient.

I believe that Senator HRUSKA is one of the few members of the Judiciary Committee who has participated in hearings on all nine of the sitting Justices of the U.S. Supreme Court. He provided the floor leadership for a number of nominees in recent years.

Less visible, perhaps, but equally important, has been the Senator from Nebraska's involvement in the confirmation of hundreds of lower court Federal judges. Many an early morning has found Senator HRUSKA presiding alone in a near empty hearing room to take testimony regarding nominations of district judges—not only from his State, and not only from his party. I know that he is held in highest esteem by the Nation's judiciary. The Senate owes him a special debt of gratitude for this continuing commitment to improving and strengthening the Nation's courts.

Senator HRUSKA has also served as ranking minority member of the Subcommittee on Criminal Laws and Procedures, where he has combined his Senate activities with related service on two of the most important Federal commissions of recent years, the National Commission on Reform of the Federal Criminal Laws and the National Commission on the Causes and Prevention of Violence. He has played a central role in enactment of every major recent Federal criminal statute, and he has been one of the Senate's most outspoken proponents of a revised Federal criminal code. To his great credit, Senator HRUSKA has shown extraordinary ability in this area over the past year in our bipartisan efforts to reach agreement on the basic issues involved in the enactment of a new Criminal Code. Our work together has brought major progress in the development of code reform legislation during this Congress, and has given important new momentum to reach our goal in the next session.

Mr. President, ROMAN HRUSKA's outstanding Senate career has earned him the respect of those whom he has opposed as well as those whom he has supported. We shall miss him in the Judiciary Committee and on the Senate floor. We wish him well in his retirement, and we hope that his able talents in the area of judicial improvement and reform will find new fields to conquer in the future.

Mr. HOLLINGS. Mr. President, I join my colleagues on both sides of the aisle today in saying farewell to Senator ROMAN HRUSKA of Nebraska, who is retiring after 22 years as a Member of this body.

Senator HRUSKA and I, as Members of opposing parties, often differed on the issues over the years, but we debated out of the same concern for our country and from the same desire for honest public service. ROMAN HRUSKA is a man of integrity. He has served his country well. He has represented his native State effectively and with dedication. As a member of the National Commission on Reform of Federal Criminal Laws and as chairman of the National Commission on Revision of Federal Court Appellate System, Senator HRUSKA has had a major impact on the judicial system in America.

I know my colleagues join with me in wishing Senator HRUSKA best wishes and good luck in the future.

Mr. PACKWOOD. Mr. President, ROMAN HRUSKA has been a U.S. Senator since 1954 when he was elected to complete an unexpired term. Since that time he has risen in seniority to become ranking Republican on the Senate Judiciary Committee and second ranking Republican on the Senate Appropriations Committee. The Senate has appreciated his restraining influence on both committees. Senator HRUSKA has been a solid link between the Congress and the White House and has done much to insure that the lines of communication remain open. For this, we in the Senate, along with the people of Nebraska, thank him and wish him well.

Mr. LONG. Mr. President, for the past 2½ decades ROMAN HRUSKA has served with distinction in both Houses of Congress and we are most fortunate that most of this service has been in the Senate. The good people of Nebraska have recognized his unwavering dedication to the principles upon which this Nation was founded.

His record is one truly to be admired. As the ranking Republican member of the Senate Judiciary Committee he has authored much legislation to curb crime and prevent miscarraige of justice. His proposals to improve our legal system are always drafted with the purpose of keeping our laws consistent with the fundamental concepts of fairness and due process.

ROMAN HRUSKA is a conservative in the best sense of the word. As a member of the Joint Senate-House Committee on Reduction of Federal Expenditures he has emphasized economy and efficiency in Government, considering each proposal carefully to eliminate waste, while still providing adequate funding for those projects which benefit society.

ROMAN HRUSKA's reputation in the law enforcement community is as one of the most knowledgeable Senators on crime control and judicial reform. He was the principal architect of the Omnibus Crime and Safe Streets Act of 1968 which provides for court-supervised electronic surveillance, use of voluntary confessions in court and the creation of the Law Enforcement Assistance Administration. He also helped to shape the Organized Crime Control Act and the Criminal Activities Profits Act of 1969. That reputation is certainly well earned.

But there is another side to this man. ROMAN HRUSKA is the man who carried a large block of salt to the side of a stream near his home in Nebraska, where it can be seen from his back porch. He said at the time:

> I put it there because in the years ahead Vicki and I want to watch the deer.

ROMAN HRUSKA is a gentle man who enjoys the peace of nature and the quiet of the woods. He has earned his return to the State he loves so much.

Mr. PELL. Mr. President, I am honored to join today with my colleagues in recognizing the service of a man who has been in this body since 1954, the Honorable ROMAN HRUSKA. During his distinguished years of service to the people of Nebraska and the Nation, Senator HRUSKA has comported himself nobly and earned the respect of all Members of the U.S. Senate.

As the ranking minority member of the Judiciary Committee and the second ranking minority member of the Appropriations Committee, ROMAN HRUSKA has been in a powerful position in the Senate. He has used that power judiciously and wisely. We have all benefited from his counsel.

Although Senator HRUSKA has shown an interest in many legislative areas, it is in the field of the Judiciary where he has left his most impressive and long-lasting mark. At the present time he serves as chairman or ranking minority member of five subcommittees of the Judiciary Committee: Antitrust and Monopoly; Criminal Laws and Procedures; FBI Oversight; Federal Charters, Holidays and Celebrations; and Improvements in Judicial Machinery. In such a position Senator HRUSKA has been able to have significant impact on the direction taken by the legal profession and our Nation's criminal laws, and has placed his stamp on so much of the legislation debated over the past two decades.

In addition, Senator HRUSKA has been fortunate enough to vote in the Judiciary Committee on the nominations of every current member of the U.S. Supreme Court, a point in which he deservedly takes great pride.

Senator HRUSKA's impact on the legislative and judicial process has not been limited to his work in the Senate. From 1967 through 1971 he served as a member of the National Commission on Reform of the Federal Criminal Laws and was a member of the National Commission on the Causes and Prevention of Violence in 1971. A year later he served as Chairman of the National Commission on Revision of the Federal Court Appellate System, whose recommendations are now before the Judiciary Committee of both Houses of Congress, and which, if enacted, will have an enormous effect on the judiciary of the future.

ROMAN HRUSKA and I have another bond, an affection for Czechoslovakia. His parents hail from that country, now silent and sad under the Communist yoke, and I have lived in and often visited there. Senator HRUSKA has done a great deal to help Czechoslovakia through the years.

As the ranking minority member of the Appropriations Committee's Subcommittee on State, Justice and Commerce for the past few years, Senator HRUSKA has worked effectively with my senior colleague, Senator PASTORE, in funding the many important programs in the executive and judicial branches of Government. We will truly miss ROMAN HRUSKA. I wish him a wonderful retirement and envy the fulfillment he must have because of the fine record he has written in this body.

Mr. STEVENS. Mr. President, when the Senate adjourns sine die, we will no longer be able to count on the advice of a number of distinguished Members of this body, including the senior Senator from Nebraska, ROMAN HRUSKA.

Senator ROMAN HRUSKA has been an outstanding Member of this body since 1954. During that time ROMAN, long an advocate of improvements in our judiciary system, sought to correct one of the injustices existing in our Federal criminal process: the lack of authority and machinery to review unreasonable sentences. His efforts in urging us to better the judiciary system has benefited us all.

ROMAN HRUSKA has left a significant and distinguishable mark on all major legislation emanating from the Senate Judiciary Committee where he served as ranking minority member. Such legislation as the Criminal Justice Act of 1965, the Organized Crime Control Act of 1969, and the Omnibus Organized Crime Act of 1970 are just a few of the many major pieces of legislation which have come into law and which bear the mark of this distinguished lawyer from the Platte. I know the members of the Senate Judiciary Committee will greatly miss him as we all will. Missed, too, will be his charming wife, Victoria. I hope ROMAN and Vicki will return to Washington often for they have many friends here who will welcome the opportunity to visit with them.

Mr. President, I ask unanimous consent to have printed in the RECORD an article which appeared in the Omaha World-Herald. It is an excellent article on our good friend from Nebraska.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Omaha World-Herald, Aug. 31, 1975]

### SENATOR ROMAN HRUSKA—THERE IS TIME AHEAD FOR REFLECTION

(By James Denney)

Whenever Sen. Roman Hruska and his wife Victoria sit on the back porch of their "home-on-the-Platte," their gazes center on a large block of salt that rests on the other side of the stream.

Hruska carried the salt there during the drought last summer, when it was possible to walk across the Platte because so much water had been diverted to thirsty corn fields.

"I put it there," said Nebraska's senior United States senator in that clear and distinct Czech accent for which he is known, "because in the years ahead, Vicki and I want to watch the deer. So far the salt hasn't attracted many deer but then there is time ahead."

The "time ahead" is Sen. Hruska's self-announced retirement from a career in Washington that began with a seat in the House of Representatives in 1953 and will end when the new Senate convenes early in 1977.

It was a warm evening at the "Hruska hideaway," an attractive yellow frame structure that is part of Sokol Camp—a getaway for Omahans of Czech heritage established in the late 1920's just north of the unincorporated village of Venice, Neb.

The Hruskas find peace and quiet in these woods. A chance to fish and reflect on the past. Or an opportunity to point out a new pear tree and its tiny fruit—a reminder that Hruska means "pear" in Czech.

Those who predicted that he could never leave Washington "really don't know me very well," he said. He likes to tell this story to illustrate why he is leaving. Early in his Washington career, he and the late Sen. Hugh Butler were about to drive away from the Capitol.

"Walking near us was a former senator—a man who had wielded considerable power. Butler looked at me and then looked at this poor chap with his drooping shoulders and said: 'Roman if you lose or choose not to run again, don't stay in Washington. You always end up with drooping shoulders.'

"The history of mankind, and particularly of the Indians, shows that when a man's roaming days are over, he returns to where he was raised. This was my choice."

His first venture will be to concentrate on file cabinets full of Congressional correspondence—including letters from Presidents and foreign leaders—so that they can be put in order as a gift to the Nebraska State Historical Society.

He will offer some "footnotes of my own about the particular events and why they were decided the way they were."

If Hruska wants a reminder of his career and how it centers around his family, he needs only glance at the attractive marble fireplace in the living room of the river home.

It once was used by the late Joseph Hruska, the senator's father, when the latter was superintendent of schools at David City, where Roman was born August 16, 1904.

The senator points out that next year will be special to him for two reasons: "It is our nation's Bicentennial, and it marks the centennial of my father's arrival in the United States from the Old Country."

One who enjoys cooking over the outdoor grill, the senator proved to be an outstanding chef as he prepared broiled chicken for the evening. His wife, busy in the kitchen, added the trimmings.

After dinner, he sat on the porch and looked across the wide expanse of the river as the sun slowly slipped behind the cottonwood trees.

He asked rhetorically: "Why would anyone prefer Washington to this?"

His conversation would last till past midnight as he talked about growing up in David City, Linwood and Able as part of a family of 11 children, and of his political career.

Most of the Hruska's neighbors were Democrats, but Joseph Hruska was a staunch supporter of the GOP and Teddy Roosevelt.

"My father was repelled by William Jennings Bryan and free silver," he said. "And I would have to say Dad's influence played a major role in my political choice."

The senator said the best thing the family ever did was his father's decision to move to Omaha. "It meant that each of us received a good education as well as an opportunity to work through our selected occupations to make our way in the world."

The Hruskas lived near Eleventh and Jackson Streets. The Senator attended old Farnam Grade School and later was graduated from the former Commerce High School, where he was captain of the debate team.

Perhaps his most distinct memory of the political climate was during the campaign of 1920. "In our neighborhood, not many supporters could be found for Harding," said Hruska. "But I was for Harding and I remember the feeling of jubilation in seeing those black headlines of the old Omaha Bee: 'Harding Wins!' "

Hruska worked two years as a bookkeeper for the Fairmont Creamery before entering law school. Income from the job helped pay tuition for a pre-law course at the University of Omaha.

The late Jerome Pospisil, a long-time friend of the family, was instrumental in convincing the senator-to-be to pursue a law course. Hruska later attended Creighton and the University of Chicago before receiving a Creighton law degree.

His law practice generally centered on corporations, especially the insurance business, and he helped establish the Western Fraternal Bohemian Association's insurance enterprise.

In those early years, Hruska accepted any political assignment that came his way—an election counter, election judge and finally a state GOP convention delegate.

He was appointed to the Douglas County board during World War II when Ed Jelen went into the service, and is frank to admit that election as president of the Nebraska County Officials Association served as a springboard for his later political career.

"As president of the county officials, I could walk into any courthouse in Nebraska and be known to a cadre of people who in turn could introduce me around a community," he recalled.

The senator also served in 1948 as treasurer of the Arthur Vandenburg (a late GOP senator from Michigan) for President Club. It was his first bout with the FBI.

Shortly after the campaign, he recalled, "there was a knock on my law office door. My secretary said that the FBI wanted to see my books. We had spent $18,000 in the campaign. They found no errors or wrong doing."

When the late Howard Buffett chose not to run for Second District congressman, he—by a "gentleman's agreement"—first informed Hruska of his decision. The senator was easily elected during the Eisenhower landslide of 1952.

He won a post on the House Appropriations Committee—previously an almost unheard of selection for a freshman. Another freshman chosen was Melvin Laird, a native Omahan from Wisconsin who later would become President Nixon's Secretary of Defense.

During his one term in the House, Hruska watched Nebraska's seats in the United States Senate change like a game of musical chairs as the result of the deaths of Senators Butler and Dwight Griswold, which were filled by the appointment of Sam Reynolds of Omaha and Mrs. Arthur Bowring of Merriman.

Hruska became the "senior senator" as a result of those appointments and a quirk in the Nebraska election laws at the time. (They since have been changed.)

Both he and Sen. Carl Curtis were elected in November of 1954. Curtis normally would have become the state's senior senator because he had been a member of Congress since 1939.

However, some Statehouse political observers discovered before the filing deadline that Nebraska law permitted a candidate to seek a "short-short" term for office (between the November election and January swearing in).

Republican Mrs. Hazel Abel of Lincoln was thus elected. She replaced Mrs. Bowring, preventing Curtis from taking his seat until January, 1955. However, no one sought the "short-short" term for the seat held by appointee Reynolds. Thus, Hruska was sworn in November 8, 1954. He won reelection three times.

What does Hruska consider the basis of success in retaining his job?

"I have always believed that a politician first must represent the people of his state or he won't represent them very long," he replied. "The hopes and aspirations of the people of Nebraska through the years have happily coincided with mine."

How come Republicans have not lost a United States Senate election in Nebraska since 1936 but have had difficulty holding on to the governorship?

"I would say it is a matter of personalities. As far as governors are concened, it is difficult—especially with a non-partisan Legislature—to hold the job," said Hruska. "Furthermore, I feel that (Democrat) Ralph Brooks's victory in 1958 was significant. Voters discovered they could continue to vote for a governor of either party without upsetting their conservative views on the national scene."

Who have been key individuals in Hruska's elections?

The senator: "Certainly near the top are the late Ted Maenner (former GOP National Committeeman); Omaha attorney W. C. Fraser ("Had it not been for him I would have had a tough time ever being elected to Congress"); former County Clerk Robert Smith; Robert Van Pelt, when he was a Lincoln attorney; former Governors Robert Crosby and Dwight Griswold; Mrs. Griswold and Congressman Charles Thone."

What has been the most significant legislation he helped write?

"The Criminal Justice Act of 1964 would certainly be near the top," he replied. "It helped devise a method whereby federal judges could appoint defense counsel who could be adequately paid." It was the county public defender system adapted to the federal courts.

His biggest disappointment?

"Not winning the position as assistant Republican leader of the Senate that later would have led to the leadership," he continued. "I came within three votes, which I considered a very creditable showing.

"On the evening of that vote, I went to the late Sen. Everett Dirksen's office (Illinois' Dirksen was the GOP leader). He met me at the door with tears in his eyes and said: 'Roman, what do you do when people don't vote the way they talk?'

"I replied: 'Senator, I don't know, but let us sit down and visit. The world has not come to an end.' "

Hruska, age 71 himself, would not change the seniority system because, paraphrasing Winston Churchill: "It is a very bad system except when you compare it with the alternatives."

He feels there is no need for an age limit for senators or congressmen because: "The voters of every state and congressional district will determine the age at the polls."

The senator said he has been treated fairly by the press "in most instances." However, one exception that still sticks in his craw is the Hruska statement regarding mediocrity on the United States Supreme Court.

"That remark was made at a press conference after I had spent many hours on the floor in behalf of the nomination of G. Harold Carswell to be a Supreme Court Justice.

"I went up to the press gallery and said at the outset, 'Look, fellows'—and I realize now that I should have said for their benefit, 'I'm speaking facetiously'—'suppose we grant that he (Carswell) is mediocre, people of mediocrity are entitled to some consideration and some representation . . .' "

Hruska feels the remark "was taken completely out of context," and compared himself with the late Defense Secretary Charles Wilson who once was quoted as saying, "What is good for General Motors is good for America."

The senator said, "Does anyone really believe that Charlie Wilson felt this way? Obviously not, but in the heat of questioning, the remark came out. My statement about Judge Carswell was similar. He is an outstanding man but organized labor was determined to destroy him and it did."

Hruska has no intention of disappearing from the political scene. He will help where asked—this includes the re-election of President Ford or the Senate election campaign of Congressman John McCollister.

"I am thinking about running for delegate to the next Republican National Convention," he said. "I would go pledged for the re-election of President Ford."

Long known for his distinctive Czech accent, Hruska says that when he is speaking, he attempts to envision "what the man in the jury box or in the ZCBJ lodge room wants to hear so that I can speak to him personally."

He added: "There's an adage that William Jennings Bryan is supposed to have said; 'In the first place speak up whether you are talking sense or nonsense; speak up so that the man at the rear of the hall can hear you.' "

It was now dark in the yard and a bright moon reflected on the tide of the Platte. It is here in the years ahead that Roman Hruska will be able to recall what was and what could have been, with echoes of what was heard by the man at the rear of the hall.

## RESPONSE BY SENATOR HRUSKA TO TRIBUTES IN HIS BEHALF

Mr. **HRUSKA**. Mr. President, it is with a full heart and sincere appreciation that I acknowledge the gracious remarks of my colleagues. I wish I could venture into individual comments about certain of them, but to start out on such a procedure would involve the necessity and the diplomatic requirement that I mention them all.

That would be an intolerable exercise, not from the substance of it, but from the consumption of time.

But there is one of my colleagues to whom I do owe the obligation and the responsibility, it seems to me, to express gratitude and appreciation in full measure, and that is to the one and only colleague I have had in my 24 years of service in the Senate, the Honorable CARL CURTIS.

In that respect, I like to rate myself as the most favored of all the Members of this body because I had the best, the most loyal and the most conscientious colleague of them all. I take advantage of this occasion to express my respect, my admiration and unbounded affection.

Mr. President, whatever modest attainments I may have reached during my service in this remarkable body have been because of the patience, tolerance and fair-minded give and take of my fellow Senators.

Certainly it is not for me, any more than it is for any other Member, to judge the extent of one's accomplishments, nor the worthwhileness of his service. That will have to come from others and principally, I suppose, after the passage of some time.

But as I leave the Senate, I am comforted by the thought that my continuing effort has been to represent my State and my Nation the very best I could and with all the honesty and integrity I possess, in whatever measure I may possess.

I know that this has been the objective of my colleagues, as well, and it is with a great deal of satisfaction that I recall the constant display of the aspiration in that direction by people who are serving in this body or have served in this body.

Mr. President, it should not be expected, that upon my retirement, I will join in what I describe as a regrettable trend in the developing practice of criticizing the Congress as an institution.

We are aware that in public estimate the Congress, as an institution, has fallen into an unfortunate state of repair. But I want to say this, Mr. President, it has been and it remains and will always remain as an instrumentality for good government.

It was conceived by our Founding Fathers who asked—and I am persuaded, received—divine guidance in their labors to devise this type of body. It has served us well.

When we consider the idea of engaging in a blast at Congress and some of its practices, Mr. President, I am reminded of what Winston Churchill once wrote.

It was Winston Churchill who said:

> Many forms of government have been tried and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all wise. Indeed, it has been said that democracy is the worst form of government—except all those other forms which have been tried from time to time.

So often in talking to college groups and school groups and study groups, I asked the question, and I do not mean it to be rhetorical at all, but when there are criticisms or questions directed at some of the doings of Congress and demands are made for this and that, or perhaps for its abolition, there never has been an answer to the question, "And if that happens, what will you put in its place?"

That is the message that Churchill gave us, and it is a message worthwhile remembering.

There is nothing wrong, Mr. President, with the Congress as an institution. If it has had shortcomings and occasional failures, it is because of its individual Members, temporarily holding positions of membership in one of the Houses, or the other.

I am reminded of the situation at the U.S. Military Academy at West Point and the controversy regarding its honor code. There are those who suggest the honor code should be modified or even abolished. I was struck by the commentary of an editorial writer to the effect that there is nothing wrong with the honor code; men and women should be bound by honor.

If there is any fault at all, it lies with those who are unable or who are unwilling to live by it, and who consciously violate it.

Cannot that same thinking be applied to the Congress? I believe it can be. None of us should be tolerant of abuses in the Congress, of a very few Members of the Congress. But we must recognize that these abuses are by individual men and women who are temporarily occupying a seat in those bodies.

Mr. President, in the almost quarter of a century that I have served in the Congress, I have served with over 1,300 individuals in the House and in the Senate. The Library of Congress puts the number at 1,334 during the pendency of my tenure.

My observation has been that the membership, by a great preponderance, has been made up of very able men and women, with an extraordinarily high degree of integrity and faith in their Government and a determination to justify that faith.

Much of the success in making Congress effective depends in the final analysis, however, upon the electorate. It depends on how well the voters of America apply their own thinking and attention to the choosing of their representatives. It depends on how much significance the voters attach to the honesty and integrity of the candidates as well as the philosophy and principles these candidates profess to espouse.

Mr. President, in leaving this body I want to say that I remain optimistic for the Republic, not only for the short run but for the decades and decades ahead. In fact, at this point, when we have celebrated our past 200 years, we can make a good, sound, and wholesome forecast for the next 2 centuries as well.

Victoria and I will always be grateful for the many courtesies and kindnesses extended by our colleagues and their ladies. Our years in Washington have been literally the best years of our lives, and we thank you all.

## TRIBUTE TO SENATOR HIRAM L. FONG

Mr. **CURTIS**. Now, Mr. President, I seek recognition in respect to our distinguished colleague, Senator FONG.

It will be with a note of sadness that we see so many fine Senators retire this year. I do not think they are going to retire, they are merely leaving public office. I hope that is the case because they can and will make a great contribution, and they will have more enjoyment from an active life.

Around here, in Washington, we are going to miss HIRAM FONG. He is not only a great Senator who has rendered an outstanding service to our Republic, but HIRAM FONG is a great man.

Each Senator here represents a State. I have the most profound respect for Senators who represent their States well.

After all, our Republic is made up of 50 States and if each of the 50 States does well economically and is governed by wise and just laws, our Nation will do well and will be governed by wise and just laws.

Hiram Fong had the distinction of serving in the U.S. Senate from the very time that his State entered the Union. They could not have had a better man.

He has brought many Hawaiians into the Federal Government. He has promoted actively for Hawaii. On the part of the Federal Government, it has been beneficial.

He has been a leader in those things which contribute to the economic well-being of his State.

We congratulate him on his long record. We wish him a life of full activity and health and happiness. All these good wishes and congratulations go to that very gracious lady who has been at his side all through the years, his wife, Ellyn Fong.

May every good thing come to them both.

The lives of few men in public service depict the Horatio Alger story more impressively than the career of Senator Hiram L. Fong.

The "rags to riches" saga of the once-poor boy from Hawaii was related in 1970 when the senior Senator from the 50th State was named winner of the Horatio Alger Award for outstanding success in law, business, and public service despite humble beginnings.

In being so honored, he joined previous recipients of the award such as Dwight D. Eisenhower, Herbert Hoover, Dr. Ralph Bunche, Bernard Baruch, Bob Hope, and Arthur Goldberg.

So that others may share in the inspiring story of Hiram Fong's career, I ask unanimous consent to have printed in the Record an article which appeared in the Honolulu Star-Bulletin and Advertiser on April 19, 1970, entitled, "New First for Fong—Horatio Alger Award."

There being no objection, the material was ordered to be printed in the Record, as follows:

### New First for Fong—Horatio Alger Award

(By Gene Hunter)

(Note.—Alger, Horatio Jr. (1834–1899). Massachusetts-born Unitarian minister who wrote some 100 novels chronicling the adventures of poverty-stricken and underprivileged boys who gained fame and fortune through hard work, honesty and thrift. Typical of the Alger novel titles was "Luck and Pluck.")

Hawaii's Hiram L. Fong, onetime barefoot boy from Kalihi who became the first United States Senator of Oriental ancestry, has been named a 1970 winner of the Horatio Alger Award.

On May 6, at New York's Waldorf Astoria Hotel, Fong will become the first person from Hawaii to be presented the award. He will be one of 10 Americans selected for the honor on the basis of ballots from 500 colleges throughout the United States.

Fong joins such notables as Dwight D. Eisenhower, Herbert Hoover, Dr. Ralph Bunche, Bernard Baruch, Bob Hope and Arthur Goldberg, who are among those who have been given the award during the past 24 years by the Horatio Alger Committee of the American Schools and Colleges Association.

Said the 62-year-old Fong of the honor: "The Horatio Alger Award is a wonderful way of reminding Americans that opportunities for success are still open to anyone who is willing to work hard for it."

"Luck and Pluck" have figured in the Fong success story—along with a shrewd instinct for politics. Except for the time when he lost his seat in the Territorial House of Representatives when the Republicans fell from power in the mid-1950s, Fong has been a consistent winner at the polls.

When Yau Leong Fong—the Down East "Hiram" wasn't added until much later—was born Oct. 1 1907, the seventh child and fifth son of Chinese immigrants Lum and Chai Ha Fong, no one could have predicted that he would become a millionaire and a political power.

Lum Fong came to Hawaii from Kwangtung Province in 1872, at the age of 15, as an indentured laborer in the sugar plantations, earning $12 a month. His wife, also from Kwangtung, arrived at the age of 10 as a maid.

After a stint on the plantations Lum Fong went to work in a guano fertilizer factory in Kalihi. His famous son recalls:

"His job was to bag fertilizer, very dirty and dusty work. It was so dusty he had to tie pieces of cloth over his mouth and nose. Six days a week, 10 hours a day, he toiled at this job. On Sundays he worked as a watchman at the same plant. All the other 100 or so laborers at the fertilizer plant were Japanese immigrants. Only my family was Chinese, so I grew up among the Japanese."

All the Fong sons worked to help support the family, and as every voter who ever attended a rally for Lum Fong's politician son has heard now, at the age of 4 he was picking algarroba beans for sale as cattle feed. He earned 10 cents for each 30-pound bag, and the experience provided him with one of his favorite campaign anecdotes.

Horatio Alger Jr. probably never heard of poi, which Yau Leong Fong delivered door-to-door, but his boy heroes frequently shined shoes and sold newspapers. So did the young Fong.

"I took almost any job that came along." Fong says. "None of them brought in much money, but it all helped to keep the family going. It was a hard life, but no harder than that for many others of my generation."

Other boyhood jobs included catching and selling crabs and fish and caddying at Moanalua Golf Course—25 cents for nine holes. Sometimes, on a good Sunday, Fong earned as much as $1.25. He got so tired of walking on a golf course that in later life he never took up the game.

As a youngster, Fong joined a Congregationalist church in Kalihi. He was so impressed with the story of the Rev. Hiram Bingham, a member of the First Company of missionaries who began Christianizing Hawaii in 1820, that as a youth he dropped his Chinese first name and became "Hiram L. Fong."

Fong skipped the second and fourth grades at Kalihi-Waena Elementary School, and then entered McKinley High School and graduated with the "miracle class" of '24. Among other members of that class were financier Chinn Ho, Associate Justice Masaji Marumoto, businessman Hung Wo Ching and educator Stephen Kanda. Ho still recalls that Fong was barefoot when he came to McKinley.

Fong saw little hope of going to college. Lum Fong could not earn enough at the fertilizer factory to feed his family, which eventually totaled 13 children. Hiram Fong's older brothers were married and had families of their own to care for. The widow and three children of his eldest brother also had to be supported.

After high school, Fong went to work as a supply clerk at Pearl Harbor. The pay was adequate for that era and promotion soon came. Fong might have remained a career Federal employee—except for a burning desire for more education.

When he was 19 his father died, leaving him the chief breadwinner for the family. But his mother finally told him that if he could put himself through college and still contribute something to the family, he had her permission to attend the University of Hawaii. Fong dried tears of gratitude and began working out a financial plan.

He had vacation time coming from his Pearl Harbor job, which he converted into cash. With the money he bought a Model T and used it in his work as a part-time bill collector for Aloha Motors.

The University registrar's office gave Fong part-time work. He wrote campus news and articles about the Chinese community for The Honolulu Advertiser at 10 cents a column inch. And he became a tour guide, escorting visitors through Chinese temples.

It was at the University that he got his first taste of politics. He campaigned successfully for the editorship of Ka Leo o Hawaii, the campus newspaper, then an elective post.

As a freshman member of the University of Hawaii debating team he was asked to speak in political campaigns involving Sheriff Pat Gleason and Mayor Fred Wright, Republicans who helped form Fong's political views.

In spite of holding down four paying jobs and several unpaid ones, Fong managed to finish the four-year University of Hawaii course in three years. He made up his mind he would attend Harvard Law School.

But although Horatio Alger Jr. had been a Harvard graduate, the university wasn't impressed with Fong's background of poverty, hard work and dedication to education. It seems the University of Hawaii wasn't an accredited institution. It took the urging of Arthur G. Smith—a University of Hawaii regent, a Territorial attorney general and a Harvard alumnus—to convince members of the Harvard admissions board that they should change their minds. Fong became the first University of Hawaii graduate admitted to Harvard.

But he still needed $2,000 for his first year's tuition and he took time out to go back to work. His mentor, Mayor Fred Wright, hired him as chief clerk of the old suburban water system at $225 a month. But this was the Depression and soon his salary was cut back to $175. But still he managed to save the necessary $2,000 in two years.

At Harvard an old friend—Alan R. Hawkins, now a Circuit Court judge—found him a $13-a-month room containing a narrow bed, a small desk, a bureau and one chair. Fong borrowed money for room and board from friends. For his second and third years at Harvard he received a tuition loan from the university.

In his final year his old McKinley classmate, Chinn Ho, loaned him $1,000. As security Fong took out a $2,500 life insurance policy, telling Ho: "If anything should happen to me, take out what I owe you and give the rest to my mother."

Fong graduated from Harvard in 1935 and arrived back in Honolulu with a dime in his pocket and $5,000 in debts. Mayor Wright again gave him a job, this time as a deputy City attorney under Wilfred Tsukiyama, later to become Hawaii's chief justice.

In 1938, at the age of 31, Fong married his high school sweetheart, Ellyn Lo, who had waited nine years for him to finish his schooling, pay off his debts and become established in his profession.

That same year Fong first ran for office, winning a seat in the Territorial House of Representatives.

When World War II began Fong resigned from the Legislature and reported for duty with the Army Air Corps, serving as a judge advocate and leaving the service with the rank of major. He ran successfully for his old seat in the House and won handily. He was Vice Speaker of the House from 1944 to

1948 and Speaker from 1948 to 1954, when he lost his only race.

In interviews years later, Fong recalled the 1954 Republican defeat in which he lost his seat by 32 votes.

"Everybody was against me—labor, government employes, my own Republican party," he said. "After 14 years, I was defeated. I was kicked out, but it was kick upstairs.

Now Fong turned all his attention to business. Two years before his political defeat he and some associates had raised $200,000 with which to establish what now is Finance Factors Ltd., an industrial loan company that is the nucleus of a family of financial enterprises with assets of more than $80 million.

Once before, in 1938, Fong had attempted to become a businessman when he helped found a firm called Quality Milk Co. He soon went broke. "It taught me a very good lesson," Fong said years later. "You've got to watch a business."

In 1954 Fong organized a law firm. There are those who think he might have been considering future political campaigns, since he carefully touched all the major ethnic bases in founding Fong, Miho, Choy & Robinson; he was of Chinese ancestry, one partner was of Japanese ancestry, one was of Korean ancestry and one was Hawaiian-Caucasian.

Fong is tall, dark and husky and during his career as a territorial legislator many persons assumed from his appearance that he was Chinese-Hawaiian. Fong never fought that belief; after all, it undoubtedly was good for some votes from Papakolea and Waimanalo.

But during his first U.S. Senate campaign a reporter asked him about his ancestry. Fong stressed then that he was pure Chinese, with both parents born in China. "I just look Hawaiian," he explained.

That was in 1959, the year President Eisenhower signed the bill that made Hawaii a state. Some publicity man—possibly the late Vance Fawcett—coined the term "Man of the Pacific" to describe Fong during that campaign. The label frequently is heard today.

Fong easily beat his Democratic opponent, Frank F. Fasi—now Mayor of Honolulu—and on Aug. 24, 1959, was given the oath of office as a U.S. Senator by Richard M. Nixon, then the Vice President.

In 1882, when Lum Fong was a 25-year-old plantation worker in the Kingdom of Hawaii, the U.S. Senate had passed the Chinese Exclusion Act, prohibiting the immigration of Chinese. Now Lum Fong's No. 5 son had become the first Oriental to serve in that Senate.

Fong won reelection to a full six-year term in 1964, beating Democrat Thomas P. Gill, now Lieutenant Governor of Hawaii. It is considered likely that Fong will run for reelection this year, and so far there is no opposition on the horizon.

In 1964, at the Republican National Convention in San Francisco, Fong became the first Oriental—and the first Islander—to have his name placed in nomination for the Presidency of the United States. It was a "favorite son" nomination, not a serious attempt to run him for that office. But it was an honor nonetheless, and one that was repeated by the Republicans in Miami in 1968.

Many younger politicians seem deliberately to try to lose their Island accents and as a result sometimes are accused of "putting on airs." But Fong's forceful oratory still marks him as a onetime Kalihi boy.

A newspaperman who is fastidious about the language said of Fong's speech when he first ran for the Senate in 1959:

"There is the inverted word order and the lack of a smooth tie between subject and verb and a lack of freshly minted phrases. Yet there is no question that he is effective as a speaker—blunt, crude, effective."

Today, Fong's accent still shows that he was an Island boy who grew up the hard way. But after 11 years in the Senate his syntax and his delivery have been considerably polished.

Generally, Fong has supported the policies of his old friend, President Nixon. In return for Fong's loyalty Nixon has appointed several Island Republicans to important Administration posts.

But Fong has opposed Nixon on specific issues. He voted against the nomination of Judge G. Harrold Carswell to the U.S. Supreme Court, although he once told Carswell he considered him "worthy of confirmation." Fong also led a battle to override the President's veto of funds for health and education.

Most often, Fong has voted the way most other Islanders seem to feel about issues. He has opposed that portion of the Internal Security Act which would allow Federal officials to "detain" without proof persons they think might be disloyal in time of war—as West Coast Americans of Japanese ancestry were put into camps during World War II.

Fong has consistently backed liberalization of the immigration laws and has become a sponsor and a strong supporter of ocean research and anti-pollution measures. He also has called for closer economic ties with Red China and that country's eventual admission into the United Nations.

After 11 years in the Senate Fong has gained considerable Republican seniority and serves on four committees—Appropriations, Judiciary, Post Office and Civil Service—as well as on the Special Committee on Aging.

While Fong works in Washington, one of his four children—attorney Hiram L. Fong Jr., 30—is spending his first session as a member of the Hawaii House of Representatives, where his father once was Speaker.

Across the way, on the House's Democratic majority side, sits Stuart Ho, attorney son to Chinn Ho, who once loaned the senior Fong $1,000 with which to further his education.

So far, Hiram Fong Jr. hasn't challenged a fellow legislator to a fist fight on the House floor, as his father did in an earlier era.

## ORDER TO PLACE S. 3667 ON THE CALENDAR

Mr. ABOUREZK. Mr. President, I ask unanimous consent that S. 3667 be placed on the calendar immediately.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR—H.R. 10210

Mr. THURMOND. Mr. President, I ask unanimous consent that Gene Lawrimore, of my staff, be granted the privileges of the floor during the consideration on H.R. 10210, the unemployment compensation bill.

The PRESIDING OFFICER (Mr. SPARKMAN). Without objection, it is so ordered.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House insists upon its amendments to the bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROONEY, Mr. ADAMS, Mr. METCALFE, Mr. SANTINI, Mr. SKUBITZ, and Mr. MADIGAN were appointed managers of the conference on the part of the House.

## ENROLLED BILLS SIGNED

The Speaker has signed the following enrolled bills:

S. 3734. An act to approve the sale of certain naval vessels, and for other purposes.

S. 3843. An act to name the Visitors' Center at the Sleeping Bear Dunes National Lakeshore the "Philip A. Hart Visitors' Center".

The enrolled bills were subsequently signed by the President pro tempore.

## INDIAN CONTROLLED POSTSECONDARY EDUCATIONAL INSTITUTION ACT

Mr. ABOUREZK. Mr. President, I ask unanimous consent that I be allowed to introduce a bill on Indian community colleges, and make a statement regarding it.

Mr. DURKIN. Reserving the right to object, is there anything else in there?

Mr. ABOUREZK. That is all.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I am introducing a bill to provide grants to certain Indian controlled postsecondary educational institutions and for other purposes.

This measure is a revised version of S. 2634, which I introduced on November 6, 1975. The Subcommittee on Indian Affairs, of which I am chairman, held hearings on the original version and numerous deficiencies were brought out in that process. I spent several months reworking the bill and am introducing this revised version so that the Indian community, Indian educators, and others interested in this subject matter may have an opportunity to react to it between now and the 95th Congress. Should this process point out the need for further changes, I shall consider them before introducing it in the 95th Congress, when I shall move quickly to seek to have it enacted.

Mr. President, I ask unanimous consent to have printed in the RECORD the Indian Controlled Postsecondary Educational Institution Assistance Act, and a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 3850

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Indian Self-Determination and Education Assistance Act of January 4, 1975 (88 Stat. 2203) is amended by adding the following new title at the end thereof:

### "TITLE III—THE INDIAN-CONTROLLED POSTSECONDARY EDUCATIONAL INSTITUTION ASSISTANCE ACT"

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Indian-Controlled Postsecondary Educational Institution Assistance Act'.

### "PURPOSES

"SEC. 302. It is the purpose of this title to provide grants for the development, operation, and improvement of Indian-controlled postsecondary educational institutions to insure continued and expanded educational opportunities for Indian students.

### "GRANTS AUTHORIZED

"SEC. 303. (a) The Secretary of the Interior is authorized to make grants pursuant to this title to Indian-controlled educational institutions to aid in the postsecondary education of Indian students.

"(b) Grants made pursuant to this section may be used for the planning and development of educational programs and activities, basic operational costs, employment of instructional and administrative personnel, curriculum development, student services, and community service programs of Indian controlled postsecondary educational institutions. Funds provided pursuant to this title shall not be used in connection with religious worship or instruction.

### "ELIGIBLE GRANT RECIPIENTS

"SEC. 304. (a) To be eligible for assistance under this title an Indian controlled postsecondary educational institution must be one which—

"(1) is formally endorsed by the governing body of an Indian tribe, or by a governmental subdivision or authorized education agency of an Indian tribe, or by an American Indian or Alaska Native community; and

"(2) has been in operation for not less than 6 months;

"(3) is governed by a Board of Directors or Board of Trustees which is composed entirely of American Indians;

"(4) has demonstrated adherence to stated goals, a philosophy, or a plan of operation which primarily serves American Indians;

"(5) has a majority of students who are American Indians; and

"(6) is either accredited by a nationally recognized accrediting agency or, is an institution—

"(A) with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standard of such an agency within a reasonable time, or

"(B) whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transfer from an institution so accredited.

"(b) For the purpose of making grants for furnishing technical assistance only, any American Indian higher education organization shall be eligible for grants under this title in such amounts as the Secretary may determine.

### "PREPARATION AND REVIEW OF GRANT APPLICATIONS

"SEC. 305. (a) The Secretary is authorized, upon the request of any American Indian tribe or community to assist (directly or through grants made pursuant to section 304(b) of this title) in their planning and development of feasibility studies to determine whether there is justification to start and maintain an Indian-controlled postsecondary educational institution and to prepare grant applications and related budgets which will provide services needed to insure successful operation of such institution.

"(b) Grants (except those referred to in section 304(b)) shall be made under this title only in response to applications by Indian-controlled postsecondary educational institutions. Such applications shall be submitted at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c) In making grants pursuant to this title, the Secretary shall consult with American Indian higher education organizations.

### "GRANT FORMULA AND PAYMENTS

"SEC. 306. (a) Each fiscal year the Secretary shall grant to each Indian-controlled postsecondary educational institution having an application approved by him, the aggregate of $250,000 plus an additional amount of $2,500 for each full-time equivalent student in attendance at such institution up to 100 full-time equivalent students except that such grants for any such institution having more than 100 full-time equivalent students shall be in the amount of $100,000 plus an additional amount of $3,500 for each full-time equivalent student in attendance.

"(b) With respect to grants made after the first full fiscal year following enactment of this Act, the Secretary may increase the per student amounts specified in subsection (a) of this section to reflect increases in costs beyond the control of the Indian-controlled post-secondary educational institutions and in determining such increases the Secretary shall (among other things) consider increases in the cost (including but not limited to increased costs of staff) of operating comparable Bureau of Indian Affairs educational institutions.

"(c) The Secretary may make payments pursuant to grants under this title in installments (in advance or by way of reimbursement) based on anticipated or actual numbers of full-time equivalent students or such other factors as determined by the Secretary, and with such adjustments for previous overpayments or under-payments, as the Secretary may determine.

### "EFFECT ON OTHER PROGRAMS

"SEC. 307. Eligibility for assistance under this title shall not supplant eligibility to receive Federal financial assistance under any program authorized under the Higher Educational Act of 1965 (86 Stat. 236), as amended, or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions. Assistance under any program authorized by such Higher Education Act of 1965 or any other program for which the Commissioner of Education, Department of Health, Education and Welfare, has responsibility for administration, either by statute or by delegation shall be considered as supplemental to the assistance authorized under this title.

### "REPORT ON FACILITIES

"SEC. 308. The Secretary shall, not later than 90 days after the date of enactment of this Act, prepare and submit a report to the Congress containing a survey of existing and planned physical facilities of Indian-controlled postsecondary educational institutions together with his recommendations concerning meeting the needs of such institutions for improved and additional facilities.

### "APPROPRIATIONS AUTHORIZED

"SEC. 309. (a) There is authorized to be appropriated $21,000,000 in each of the first two full fiscal years following enactment of this title and $22,000,000 in the third fiscal year following enactment. The amount of such authorizations for fiscal years following the first full fiscal year after enactment of this title shall be increased by the amount of any portions of the authorization available for the prior fiscal year for which funds were not appropriated. There is authorized to be appropriated in the fourth fiscal year following enactment any unappropriated portion of the authorization available for the third such fiscal year.

"(b) Appropriations aggregating $3,200,000 are hereby authorized for the provision of technical assistance grants pursuant to section 304(b) of this title.

"(c) Unless otherwise provided in appropriations acts, funds appropriated pursuant to this section shall remain available until expended.

### "GRANT ADJUSTMENTS

"SEC. 310. (a) If the sums appropriated for any fiscal year for grants under this title are not sufficient to pay in full the total amounts which all approved grant applicants are eligible to receive under this title for that fiscal year, the maximum amounts which all such applicants are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year, during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(b) In the case of any fiscal year in which the maximum amounts for which grant recipients are eligible have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Secretary shall fix dates prior to which each grant recipient shall report to him on the amount of grant funds available to it, which it estimates, in accordance with regulations of the Secretary, that it will expend. The amounts so available to any grant recipient, or any amount which would be available to any other Indian-controlled post-secondary educational institution if it were to submit an approvable application therefor, which the Secretary determines will not be used for the period of its availability, shall be available for allocation, in the manner provided in the second sentence of such subsection (a), to those recipients and applicants which the Secretary determines will need additional funds to carry out approved applications: *Provided*, That no grant recipient shall receive more than the amount provided for under section 306 of this title.

### "RULES AND REGULATIONS

"SEC. 311. Within six months of enactment of this title, the Secretary shall formulate such rules and regulations as are necessary for its implementation. Copies of such rules and regulations (and amendments thereto) shall be submitted to the Congress prior to publication in the Federal Register."

## Section-by-Section Summary of Proposed Substitute Language for S. 2634

The proposed substitute would amend P.L. 93–638, the Indian Self-Determination and Education Assistance Act by adding a new Title III as follows:

Section 301 provides for the short title—"Indian-Controlled Postsecondary Educational Institution Assistance Act".

Section 302 states the title's purpose as providing grants for the development, operation, and improvement of Indian-controlled educational institutions to insure continued and expanded postsecondary educational opportunities for Indian students.

Section 303 authorizes grants by the Secretary of the Interior to Indian-controlled postsecondary educational institutions. Such grants may be used for planning and development of educational programs and activities, basic operational costs, employment of instructional and administrative personnel, curriculum development, student services, and community service programs of Indian community colleges. The funds authorized under the title are not to be used in connection with religious worship or instruction.

Section 304 states the eligibility criteria for grant recipients. To receive a grant, an Indian-controlled postsecondary educational institution must be one which—

(1) is formally endorsed by a governing

body, governmental subdivision, or authorized education agency of an Indian tribe;

(2) has been operating for at least 6 months;

(3) is governed by an all Indian Board;

(4) has demonstrated that it primarily serves Indians;

(5) has a majority of students who are Indians; and

(6) is either accredited by a nationally recognized accrediting agency, or is an institution—

(A) for which the Secretary of the Interior has determined that there is satisfactory assurance that the institution will meet such an accreditation standard within a reasonable time, or

(B) whose credits are accepted by at least 3 accredited institutions for credit on the same basis as from accredited institutions.

Section 304(b) authorizes grants to American Indian higher education organizations only for the furnishing of technical assistance.

Section 305 authorizes the Secretary of the Interior to assist (directly or thru grants authorized by section 304(a)) Indian tribes or communities (1) in planning and development studies to determine the feasibility of starting and maintaining an Indian-controlled postsecondary educational institution and (2) to prepare grant applications and related budgets which will provide services needed to insure successful operation of such a college. Except for technical assistance grants to American Indian higher education organizations, grants may only be made in response to applications from Indian-controlled postsecondary educational institutions. Such applications shall be submitted when and with such information as the Secretary may reasonably require. In making the grants, the Secretary is to consult with American Indian higher education organizations.

Section 306 sets the amount of annual grants to each institution with an approved application at the aggregate of (1) $250,000 case of institutions with 100 full-time equivalent students plus $2,500 for each full-time equivalent student, or (2) in the case of institutions with more than 100 such students, $100,000 plus $3,500. Beginning with the second fiscal year after enactment, the Secretary of the Interior is authorized to increase the per student grant figures to reflect cost increases beyond the control of the institutions. Grant payments may be made in installments (in advance or for reimbursement) based on the number of students and other factors as determined by the Secretary.

Section 307 provides that assistance under the title shall not supplant eligibility for assistance under any program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions or any other program administered by the Commissioner of Education, Department of Health, Education, and Welfare. It also provides that any such HEW assistance shall be considered as supplemental to assistance under this title.

Section 308 directs the Secretary of the Interior to prepare and submit (within 90 days of enactment) to Congress a survey of existing and planned physical facilities of Indian-controlled postsecondary institutions together with his recommendations for meeting the needs of such institutions for improved and additional facilities.

Section 309 authorizes the appropriation of $21 million for each of the first two full fiscal years following enactment and $22 million in the third year. The unappropriated amount of such authorizations available in each such year is authorized to be appropriated in the following year. Appropriations aggregating $3,200,000 are authorized for technical assistance grants pursuant to section 304(b). Unless otherwise provided in appropriations acts, funds appropriated pursuant to this section shall remain available until expended.

Section 310 provides for prorata adjustment of the grant amounts determined pursuant to section 306 when the aggregate amount of the approved applications exceed the amount appropriated. In the event additional funds become available, the reduced grants are to be increased on the same basis as they were reduced. Further, where reduced grants have been made, provision is made for reallocating funds among the grant recipients any funds which a recipient does not need or is not entitled to due to lower than anticipated enrollment, etc. No grant recipient is to receive more than provided for under section 306.

Section 311 provides for the Secretary to formulate within six months of enactment the rules and regulations to implement this title. Copies of such rules and regulations (and amendments thereto) are to be submitted to the Congress prior to publication in the Federal Register.

The following provisions of the Indian Self-Determination and Education Assistance Act (P.L. 93-638) would be applicable to the new title III of that Act.

1. The definitions of the following terms in section 4:

Indian;
Indian tribe; and
Secretary.

2. The Section 5 reporting and auditing provisions.

3. The Section 6 penalties for misuse of funds.

4. The Section 7 wage rates, labor standards, and Indian preference provisions.

## UNEMPLOYMENT COMPENSATION ACT AMENDMENTS OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 10210, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that during consideration of the unemployment compensation bill, the following staff members be permitted on the floor.

From the Committee on Finance: Michael Stern, Don Moorehead, Joe Humphries, Bill Galvin, Jay Constantine, Jim Mongan, George Pritts, and Vashti Brandenberg.

From the Library of Congress: Frank Crowley and Margaret Malone.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, the bill H.R. 10210, as reported by the Committee on Finance, would make a number of important changes in this country's unemployment compensation programs and would also modify some aspects of the supplemental security income program for the aged, blind, and disabled.

The high rates of unemployment which this country has experienced over the past few years have placed a very heavy drain on our unemployment compensation programs. H.R. 10210 would help restore the financial soundness of these programs by providing an increase in the Federal tax rate and in the amount of annual wages subject to State and Federal unemployment taxes. Starting January 1 of next year the bill would increase the Federal tax rate by 0.2 percent and this higher rate will remain in effect until the loans which have been made from general revenues to meet Federal unemployment benefit obligations have been repaid. The second concurrent resolution on the budget assumes the enactment of this provision which will increase Federal revenues by $0.4 billion in fiscal year 1977. The amount of earnings subject to taxation will be increased starting January 1978, from $4,200 to $6,000. This increase will help restore the soundness of the Federal accounts and will also assist the States in meeting their obligations.

The bill also requires the extension of unemployment compensation protection to the largest group of individuals who are not now covered—State and local government employees. In addition, the bill modifies the provision for triggering into effect the Federal-State extended benefit program which provides compensation from the 27th to the 39th weeks of unemployment. This program is in effect when unemployment rates are high nationally or in individual States. The State trigger modifications in the bill should make this program operate much more effectively than it has in the past.

A number of other important changes in the unemployment compensation program are included in this bill, including a provision for the establishment of a national study commission to thoroughly review existing programs and other possible improvements.

The Finance Committee has also added to the bill certain provisions related to the SSI program. These provisions are similar to parts of a bill which was recently passed by the House of Representatives. Because this bill came over from the House so late in the year, and because it involves a number of very significant changes in the SSI program, the Finance Committee has not had the opportunity to hold hearings on the bill and fully consider all of its provisions. However, the committee has included as amendments to the present unemployment bill some of the more clearly significant and meritorious features of that legislation.

I ask unanimous consent that there be printed at this point a more detailed summary of the provisions of H.R. 10210.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

## SUMMARY OF H.R. 10210 UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

### A. COVERAGE

*Employees of State and local governments*

H.R. 10210 would require the States to provide unemployment compensation coverage to all employees of State and local governments except

(1) Elected officials;

(2) Major non-tenured policymaking or advisory positions;

(3) Policymaking and advisory positions requiring not more than one day's employment per week;

(4) Judges;

(5) Members of a legislative body;

(6) Members of the State National Guard or Air National Guard;

(7) Emergency employees hired in case of disaster; and

(8) Inmates of custodial or penal institutions.

State unemployment compensation laws would be required to contain a provision prohibiting the payment of benefits to teachers and other professional employees of schools during vacation periods who have reasonable assurance of employment in the post-vacation term, and each State would be allowed to provide a similar prohibition for nonprofessional employees of schools.

Each State would determine for itself how to finance the benefits which would be payable; an employing agency could be required to make periodic payments similar to the taxes paid by private employers or it could pay the actual cost of the benefits paid to its former employees. The Federal unemployment tax, though, would not be levied.

The States would not be required to provide unemployment compensation for employment prior to January 1978. However, if a State should provide the new benefits on the basis of earlier service, the cost of the resulting benefits (after January 1, 1978), would be paid with Federal funds from general revenues.

*Employees of nonprofit elementary and secondary schools*

The bill would require the States to extend the coverage of their unemployment compensation programs to employees of nonprofit elementary and secondary schools (present law requires coverage for employees of institutions of higher education).

The States would not be required to provide the new coverage until January 1, 1978.

*Virgin Islands*

The bill would extend the Federal unemployment compensation laws to the Virgin Islands as soon as various requirements of membership in the Federal-State system could be met.

### B. FINANCING PROVISIONS

*Tax base*

The bill would increase the Federal unemployment taxable wage base to $6,000. This change would require, in effect, that the States tax for unemployment compensation purposes the first $6,000 (rather than $4,200) in wages paid by an employer to an employee. The provision would be effective January 1, 1978.

*Tax rate*

The net Federal unemployment compensation tax would be increased from 0.5 percent to 0.7 percent starting January 1, 1977, and ending with the end of the year in which all of the general revenue advances to the extended unemployment compensation account have been repaid. The Committee estimates that this provision will result in $0.4 billion in additional revenues for fiscal year 1977.

*Advances to States*

Under present law, whenever a State finds that it will not have funds available to pay unemployment compensation for any 1 month it may borrow the necessary funds from the Federal Unemployment Trust Fund. Each request for a loan can be for 1 month only. The bill would permit a single loan request to cover a 3-month period.

### C. OTHER PROVISIONS RELATING TO UNEMPLOYMENT COMPENSATION

*Triggers*

The bill would modify the triggers which determine when extended unemployment compensation benefits are payable in a State.

The national trigger would be a seasonally adjusted national insured unemployment rate of 4.5 percent based on the most recent 13-week period (rather than 3 consecutive months).

The bill would keep the provisions of present law which put the extended benefits program into effect in a State when the State's insured unemployment rate (not seasonally adjusted) averages at least 4 percent for a 13-week period and is 120 percent of the corresponding periods in the preceding years. Individual States, however, could opt under the bill to put the program into effect whenever the insured unemployment rate in the State averages at least 6 percent for a 13-week period even though the rate is not 120 percent of the rate for the corresponding periods in the preceding 2 years.

*Disqualification for receipt of a pension*

The bill adds a new provision under which States would be required to prohibit the payment of unemployment compensation benefits to individuals who receive any public or private pension or annuity (including social security retirement benefits and railroad retirement annuities). The new provision would be effective for years after 1977.

*Disqualification for pregnancy*

The bill would prevent the States from disqualifying a woman for unemployment compensation solely because she is, or recently has been, pregnant.

The new provision would be effective for years after 1977.

*Professional athletes and illegal aliens*

The bill would require the States to include in their unemployment compensation laws a provision specifically precluding the payment of unemployment compensation:

(1) To a professional athlete between two playing seasons if he has reasonable assurance of reemployment in the following season; and

(2) To an alien who was not lawfully admitted to the United States.

The new requirements would be effective for years after 1977.

*Commission on unemployment compensation*

The bill would establish a commission to study the unemployment compensation program and to issue a report not later than January 1, 1979. The members of the Commission would be appointed by the President (7 members, including the chairman), the President pro tempore of the Senate (3 Members) and the Speaker of the House of Representatives (3 Members).

The bill would authorize appropriations from general revenues to meet the cost of the Commission.

### D. PROVISIONS RELATING TO SUPPLEMENTAL SECURITY INCOME

*Disabled children*

Although the Supplemental Security Income program has been in effect since January 1, 1974, the Department of Health, Education and Welfare has not yet issued detailed guidelines for determining who is disabled under the disability definition provided in the law as it applies to children. The bill would require the Secretary of HEW to issue guidelines within 120 days after the enactment of the provision.

The bill also would require the Social Security Administration to refer blind and disabled children under age 16 who are receiving SSI benefits to the crippled children's or other appropriate State agency. This agency would be responsible for administering a State plan which would have to include provision for counseling of disabled children and their families; the establishment of individual service plans for children under 16; monitoring to assure adherence to the plans; and provision of services to children under age 7, and to children who have never been in school and require preparation to take advantage of public educational services.

A total of $30 million would be provided for the operation of State plans for each of three fiscal years, beginning with fiscal year 1977; there would be no non-Federal matching requirements. The amount would be allocated to the States on the basis of the number of children age 6 and under in each State. Up to 10 percent of the State's funds could be used for counseling, referral and monitoring provided under the State plan for children up to age 16. The remainder of the funding would be available for services to disabled children under age 7 and those who have never been in school. The bill would require that the funds authorized under the provision could not be used to replace State and local funds now being used for these purposes. The funds could be used in the case of any program or service only to pay that portion of the cost which is related to the additional requirements of serving disabled children over and above what would be required to serve nondisabled children.

*Change in SSI savings clause*

The Supplemental Security Income (SSI) program provides Federal income maintenance benefits to needy aged, blind and disabled persons. These benefits in many States are augmented by State-funded supplemental payments. When Federal benefits increase, States can continue to provide the same level of State supplementation at no increase in State costs thus passing through the net impact of the Federal benefit increase to the recipient. Three States, however, do incur a State cost if they elect to pass through the Federal increase in this way because part of the Federal increase automatically results in a reduction in payments to these States under a 1972 savings clause provision. This provision now affects only Hawaii, Massachusetts and Wisconsin. The Committee bill contains a provision under which payments under that savings clause to those States will no longer be reduced when Federal SSI benefits rise. This will enable those States to pass through the Federal increases without added State costs.

*Institutionalization of a spouse*

The Committee bill would amend present law to provide that if a spouse is institutionalized, the two persons involved would be treated as individuals rather than as a couple for purposes of applying their separate incomes in computing any required reduction of the SSI benefit amount.

*Protection of medicaid eligibility*

Under present law, there are some cases in which a cost-of-living increase in social security benefits may result in the loss of SSI eligibility. Although the amount of SSI cash benefits in such cases is very small, the denial of Medicaid benefits represents a serious loss to the individual affected. The Committee bill would provide that no recipient of SSI would lose eligibility for Medicaid as the result of the operation of the cost-of-living benefit increase provision under title II of the Social Security Act. The bill would protect the individual only against the loss of Medicaid, and would be effective only in the case of future social security benefit increases.

*SSI payment to persons in institutions*

The Committee bill would exclude publicly operated community residences, which serve no more than 16 residents from being deemed public institutions in which individuals are ineligible for Supplemental Security Income benefits. The provision would also provide that State or local government subsidies to a home, public or private, would not result in SSI benefits being reduced, and would require States to establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes or group living arrangements in which a significant number of SSI recipients reside.

*Social Security Act assistance programs in the Northern Marianas Commonwealth*

The recently approved covenant establishing a Commonwealth of the Northern Mariana Islands contained general provisions making Federal assistance programs applicable there in the same way that they apply to other territories. However, the covenant also specifically extended to that jurisdiction two programs under the Social Security Act which Congress has, up to the present found appropriate to limit in applicability to the 50 States and the District of Columbia: Supplemental Security Income (SSI) and special social security benefits for the uninsured. The Committee bill specifically extends to the new Northern Marianas Commonwealth the Social Security Act programs of aid to the aged, blind and disabled, aid to families with dependent children, and medical assistance under the same conditions as these programs apply to Guam, Puerto Rico and the Virgin Islands. The bill also deletes the authorization to extend the SSI program and the programs of special social security benefits for the uninsured to the Northern Marianas.

Several Senators addressed the Chair.

Mr. JAVITS. Does the Senator wish me to yield to him?

Mr. STENNIS. Mr. President, I would like to ask a question of the Senator from Louisiana. I have handed an amendment to his valued staff member, and he has had a chance to look at it. As I understand, it is something that, perhaps, the manager could accept. I just wanted to put in my appearance now.

Mr. LONG. Mr. President, the Senator's amendment would extend social security coverage to policemen and firemen in Mississippi, as I understand it.

Mr. STENNIS. Yes, for a few towns in Mississippi that are not covered now.

Mr. LONG. Mr. President, I have no objection to the amendment, and if the Senate would permit us to accept the amendment, I would ask unanimous consent that we accept the amendment.

The PRESIDING OFFICER. Is the Senator going to act on the committee amendments today?

Mr. LONG. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as so amended be regarded as original text for purposes of further amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to en bloc, as follows:

On page 2, beginning with line 4, strike out through page 9, line 25;

On page 10, line 1, strike "115." and insert "101.";

On page 10, beginning with line 17, strike out through page 11, line 7, and insert in lieu thereof:

"(3) in the employ of a governmental entity referred to in paragraph (7) of section 3306(c), if such service is performed by an individual in the exercise of his duties—

"(A) as an elected official;

"(B) as a member of a legislative body, or a member of the judiciary, of a State or political subdivision thereof;

"(C) as a member of the State National Guard or Air National Guard;

"(D) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

"(E) in a position which, under or pursuant to the State law, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week;".

On page 12, line 17, strike "and" and insert:

(D) by striking out "when the contract provides" and inserting in lieu thereof "when an agreement provides";

(E) by striking out "who has a contract to" and inserting in lieu thereof "if there is a reasonable assurance that such individual will"; and

On page 12, line 24, strike "(D)" and insert "(F)";

On page 13, line 5, strike "which begins before January 1, 1980, and";

On page 15, line 1, strike "116."" and insert "102.";

On page 21, beginning with line 4, strike out through line 12;

On page 21, line 13, strike "(B)" and insert "(2) which";

On page 22, line 11, strike "if" and insert "to the extent that";

On page 22, line 13, strike "Assistance" and insert "assistance";

On page 26, line 22, strike "211." and insert "201.";

On page 27, beginning with line 11, strike out through line 22 and insert in lieu thereof:

"(1) 3.4 percent, in the case of a calendar year beginning before the first calendar year after 1976, as of January 1 of which there is not a balance of repayable advances made to the extended unemployed compensation account (established by section 905(a) of the Social Security Act); or

"(2) 3.2 percent, in the case of such first calendar year and each calendar year thereafter;

On page 29, beginning with line 18, strike through page 31, line 19;

On page 31, line 20, strike "213." and insert "202.";

On page 32, beginning with line 8, strike through line 11 and insert in lieu thereof:

(b) APPLICATIONS.—Paragraph (2) of such section 1201(a) is amended—

(1) by striking out "any month" each place it appears and inserting in lieu thereof "any 3-month period", and

(2) by striking out "such month" each place it appears and inserting in lieu thereof "each month of such 3-month period".

(c) Section 1201(b) of such Act is amended—

(1) by inserting "in monthly installments" immediately after "transfer" where it first appears therein, and

(2) by adding at the end thereof the following new sentence: "The amount of any monthly installment so transferred shall not exceed the amount estimated by the State to be required for the payment of compensation for the month with respect to which such installment is made.".

On page 33, line 4, strike "(c)" and insert "(d)";

On page 33, line 7, strike "214," and insert "203.";

On page 34,, beginning with line 8, strike through page 36, line 5;

On page 36, line 7, strike "311." and insert "301.";

On page 37, beginning with line 10, strike through line 19, and insert in lieu thereof:

"(e) For purposes of this section—

"(1) There is a State 'on' indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—

"(A) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

"(B) equaled or exceeded 4 per centum.

"(2) There is a State, 'off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) is not satisfied.

Effective with respect to compensation for weeks of unemployment beginning after March 30, 1977 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'on' or 'off' indicator beginning or ending any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, and (ii) the figure '4' contained in subparagraph (B) thereof were '6'; except that, notwithstanding any such provision of State law, any week for which there would otherwise be a State 'on' indicator shall continue to be such a week and shall not be determined to be a week for which there is a State 'off' indicator.".

On page 39, line 3, after "by" insert "subsection (a) of";

On page 39, line 5, after "1976" insert a comma followed by "and the amendments made by subsection (b) of this section shall apply to weeks beginning after March 30, 1977";

On page 39, line 8, strike "312." and insert "302.";

On page 40, beginning with line 7, strike through line 13;

On page 40, line 14, strike "314." and insert "303.";

On page 40, line 15, strike "ATHLETES AND ILLEGAL ALIENS" and insert "ATHLETES, ILLEGAL ALIENS, AND RECIPIENTS OF RETIREMENT BENEFITS";

On page 40, line 22, strike "(15)" and insert "(16)";

On page 41, beginning with line 13, insert the following:

"(15) no compensation shall be payable to any individual for any week of unemployment which begins in a period with respect to which such individual is receiving a governmental or other person, retirement or retired pay, annuity, or any similar periodic payment which is based on the previous employment or self-employment of such individual;".

On page 41, line 21, after "years" insert a comma followed by "or for 1979 and subsequent years in the case of States the legislatures of which do not meet in a regular session which closes in the calendar year 1977";

On page 48, beginning with line 9, insert the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. REFERRAL OF BLIND AND DISABLED INDIVIDUALS UNDER AGE 16, WHO ARE RECEIVING BENEFITS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM, FOR APPROPRIATE REHABILITATION SERVICES.'

(a) IN GENERAL.—Section 1615 of the Social Security Act is amended to read as follows:

### "REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"SEC. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

"(b)(1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

"(A) assuring appropriate counseling for disabled children referred pursuant to subsection (a) and their families,

"(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

"(C) monitoring to assure adherence to such service plans, and

"(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require educational services, of medical, social, preparation to take advantage of public educational services, of medical, of social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(2) Such criteria shall include—

"(A) administration—

"(i) by the agency administering the State plan for crippled children's services under title V of this Act, or

"(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

"(B) coordination with other agencies serving disabled children; and

"(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

"(c) Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act or under subsection (b) of this section; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which he is referred under subsection (a).

"(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act the costs incurred under such plan in the provision of rehabilitation services to individuals referred for such services pursuant to subsection (a).

"(e)(1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (b) of this section, the costs incurred each fiscal year which begins afer September 30, 1976, and ends prior to October 1, 1979, in carrying out the State plan approved pursuant to such subsection (b).

"(2)(A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 per centum thereof shall be paid with respect to costs incurred with respect to activities described in subsection (b)(1)(A), (B), and (C).

"(B) Whenever there are provided pursuant to this section to any child services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded, for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

"(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of such type for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

"(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to $30,000,000 as the under age 7 population of such State (and for purposes of this section the District of Columbia shall be regarded as a State) bears to the under age 7 population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitaion applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year.

(b) PUBLICATION OF CRITERIA.—The Secretary shall, within 120 days after the enactment of this subsection, pubilsh criteria to be employed to determine disability (as defined in section 1614(a)(3) of the Social Security Act) in the case of persons who have not attained the age of 18.

### SEC. 502. INCOME OF EACH MEMBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN INSTITUTION.

Section 1611(e)(1)(B)(ii) of the Social Security Act is amended to read as follows:

"(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month, at a rate not in excess of the sum of—

"(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

"(II) the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and".

### SEC. 503. PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO BE ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS.

In addition to other requirements imposed by law as a condition for the approval of any State plan under title XIX of the Social Security Act, there is hereby imposed the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual, for any month after June 1977 for which such individual is entitled to a monthly insurance benefit under title II of such Act but is not eligible for benefits under title XVI of such Act, in like manner and subject to the same terms and conditions as are applicable under such State plan in the case of individuals who are eligible for and receiving benefits under such title XVI for such month, if for such month such individual would be (or could become) eligible for benefits under such title XVI except for amounts of income received by such individual and his spouse (if any) which are attributable to increases in the level of monthly insurance benefits payable under title II of such Act which have occurred pursuant to section 215(i) of such Act, in the case of such individual, since the last month after April 1977 for which such individual was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II, and, in the case of such individual's spouse (if any), since the last such month for which such spouse was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II. Solely for purposes of this section, payments of the type described in section 1616(a) of the Social Security Act or of the type described in section 212(a) of Public Law 93-66 shall be deemed to be benefits under title XVI of the Social Security Act.

### SEC. 504. STATE SUPPLEMENTATION OF BENEFITS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) LIMITATION ON STATE COSTS.—Section 401(a)(2) of the Social Security Amendments of 1972 is amended—

(1) by inserting "(subject to the second sentence of this paragraph)" immediately after "Act" where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: "In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977.".

(b) EFFECTIVE DATE.— The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

### SEC. 505. ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act is amended by striking out "subparagraph (B)" in subparagraph (A) and inserting in lieu thereof "subparagraph (B) and (C)"; and by adding at the end thereof the following new subparagraph:

"(C) As used in subparagraph (A), the term 'public institution' does not include a publicly operated community residence which serves no more than 16 residents.".

(b) CONFORMING AMENDMENT.—Section 1612(b)(6) of such Act is amended by striking out "assistance described in section 1616(a) which" and inserting in lieu thereof "assistance, furnished to or on behalf of such individual (and spouse), which".

(c) REPEAL OF LIMITATION ON PAYMENT.—Section 1616(e) of such Act is repealed.

(d) STATES TO ESTABLISH STANDARDS.—Effective October 1, 1977, section 1616(e) of such Act is amended to read as follows:

"(e)(1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

"(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 2004 of this Act, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

"(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection.

"(4) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution of the type described in paragraph (1) to such individual as a resident or an inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities.".

(e) EFFECTIVE DATE.—The amendments and repeals made by this section, unless otherwise specified therein, shall take effect on October 1, 1976.

### SEC. 506. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) Section 3(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) is amended, in paragraphs (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(b)(1) Section 403(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) is amended, in paragraphs (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(2) Section 423 of the Social Security Act is amended, in subsections (a) and (b), by striking out "and Guam" each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands".

(c) Section 1003(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) is amended, in paragraphs (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(d) Section 1403(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) is amended, in paragraphs (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(e) Section 1603(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) is amended, in paragraph (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(f) Section 1905(b) of the Social Security Act is amended by striking out "and Guam" and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands".

(g)(1) Section 1101(a) of the Social Security Act is amended—

(A) in the first sentence thereof, by striking out "and Guam" and inserting in lieu thereof ", Guam, and the Commonwealth of the Northern Mariana Islands", and

(B) in the third sentence thereof, by striking out "and Guam" each place it appears therein and inserting in lieu thereof "Guam and the Commonwealth of the Northern Mariana Islands".

(2) Section 1101(a)(8) of the Social Security Act is amended, in subparagraphs (A) and (B), by striking out "and Guam" each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands".

(h)(1) Section 1108(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following new paragraph:

"(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $190,000 with respect to any fiscal year.".

(2) Section 1108(b) of such Act is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new paragraph:

"(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $15,000.".

(3) Section 1108(c) of such Act is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new paragraph:

"(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $160,000.".

(4) Section 1108(d) of such Act is amended by inserting "the Commonwealth of the Northern Mariana Islands," immediately after "Samoa,".

(i) Section 248 of Public Law 90-248 is amended—

(1) in subsection (b), by striking out "and Guam" and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands",

(2)(A) in the first sentence of subsection (c), by striking out "or Guam" and inserting in lieu thereof "Guam, or the Commonwealth of the Northern Mariana Islands",

(B) in the second sentence of subsection (c), by striking out "and Guam" and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands", and

(3) in subsection (d), by striking out "or Guam" and inserting in lieu thereof "Guam, or the Commonwealth of the Northern Mariana Islands".

(j)(1) The provisions of titles I, X, XIV, and XVI of the Social Security Act (as applicable on the effective date of this section to Puerto Rico, the Virgin Islands, and Guam) shall be applicable to and in effect with respect to the Commonwealth of the Northern Mariana Islands.

(2) Section 7(b) of Public Law 93-647 is amended by striking out "or Guam" and inserting in lieu thereof "Guam, or the Commonwealth of the Northern Mariana Islands".

(k) The effective date of this section shall be the date determined under section 1003(b) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved by Public Law 94-241); and the amendments made by the preceding provisions of this section shall take effect on such date; except that the provisions of subsections (f), (g), and (h) of section 403 of the Social Security Act shall not be applicable to the Commonwealth of the Northern Mariana Islands for any fiscal year which commences prior to the expiration of the first full fiscal year for which such Commonwealth has an approved plan under part A of title IV of such Act.

(l) Section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (approved by Public Law 94-341) shall be construed as if the clause "Section 228 of title II and title XVI of the Social Security Act as it applies to the several States" did not appear therein and, notwithstanding any provision of such section, no provision of the Soical Security Act shall be or become applicable to the Northern Mariana Islands or any resident thereof by reason of the provisions of such section 502.

### UP AMENDMENT NO. 499

Mr. LONG. Mr. President, the Senator from Mississippi has shown me his amendment, and on behalf of the Senator from Mississippi I offer an amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), for Mr. Stennis and Mr. Eastland, proposes unprinted amendment No. 499: At the end of the bill, add the following new section:

### SEC. SOCIAL SECURITY COVERAGE FOR POLICEMEN AND FIREMEN IN MISSISSIPPI.

Section 218(p)(1) of the Social Security Act is amended by inserting "Mississippi," immediately after "Maryland,".

Mr. JAVITS addressed the Chair.

Mr. LONG. Is there any objection to that amendment? If not, I think we ought to agree to it.

The PRESIDING OFFICER. Is there a motion on that amendment?

Mr. STENNIS. Mr. President, I move the adoption of that amendment.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi.

Mr. JAVITS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, we, on this side, know nothing about this amendment. I want the Members handling it for the minority to have a look at it. I am sure Senator STENNIS would agree.

Mr. STENNIS. Mr. President, that is

a very reasonable request. This is a matter here that affects just a few towns that have otherwise been cared for. As I understanding it, it is automatic, and they are entitled to this, but I am glad the Senator raised the point. The Senator wishes to have someone take a look at it?

Mr. JAVITS. That is all. I am sure it will be all right, if the Senator will just ask unanimous consent to temporarily lay it aside.

Mr. STENNIS. All right. Mr. President, I think that is a very good request, and I ask unanimous consent that it be temporarily laid aside for the moment and then to call it back up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, we shall have a number of amendments to the unemployment insurance aspects of this bill, and they will be offered by Senator NELSON and myself. So far as I know those are the primary amendments, but there may be other Members who are also interested. So at this time I will make just a brief general statement respecting the bill, very much paralleling what Senator LONG has already done.

Mr. President, in the first place, I wish to express my appreciation to Senator LONG and to the leadership for bringing up the bill. We are in a period of serious unemployment. It does not seem to be getting better, it is getting worse, and this morning's reports simply disquiet us further on that subject. Therefore, a very considered approach to what we are doing is critical. Especially is this true, Mr. President, as the Senate should know that this bill is not a reform of the unemployment insurance system. We wish it were, but it is not.

The value of the UI system to individuals and to the economy during the past 40 years has been immense. It still constitutes the Nation's first line of defense against downturns in the business cycle and resulting high rates of unemployment. As such, we must assure that it is structured so as to provide a prompt response to the kind of sharp and sudden economic slump we experienced 2 years ago and so as to provide adequate income replacement to meet the basic needs of those who have lost their jobs through no fault of their own until they have had a fair opportunity to gain reemployment. All should understand that the UI system provides compensation only to unemployed workers who have had considerable attachment to the labor force.

With the nationwide rate of unemployment once again on the rise, 7.9 percent as of the latest official report and well above any level we should consider tolerable, a review of the UI system is critically needed and long overdue. The major deficiencies of the unemployment compensation system became readily apparent as we entered the current recession. At the end of the 93d Congress, the awesome dimensions of this recession confronted all of us, and the past failure to remedy the UI system demanded prompt and decisive legislative action. It was obvious then, as it is today, that the permanent system is wholly insufficient to meet the income security requirements of our unemployed workers and their families.

This crisis was met then only by the enactment of two emergency unemployment compensation programs, both of which expire within the next 6 months. These temporary laws extended Federal coverage to the approximately 12 million American workers denied protection under the permanent program, and extended the duration of benefits for millions of the very long-term unemployed. Action is needed now to improve H.R. 10210 in light of continuing evidence that unemployment rates are not likely to diminish in the near future. In fact, some economic projections, such as the recent forecast by Chase Econometrics, predict another recession in 1978 with unemployment rising to 10 percent in early 1979. Permanent changes, at least with respect to the most pressing issues, therefore, cannot be permitted still further delay.

The bill before us might have offered us the opportunity to enact comprehensive reform of the UI system, to strengthen its protection of involuntarily unemployed workers against recessions and to assure efficient and equitable treatment of its intended beneficiaries at all times. Regrettably, this bill leaves many pressing problems to yet another study commission which will not even report its finding to the Congress until 1979. Nevertheless, some issues simply cannot be put off that long. Accordingly, I have introduced six amendments to H.R. 10210 concerning several immediate issues. Before turning to these, however, I would like briefly to point out some of the issues that have been put off once again.

The financial structure of the unemployment insurance system, which is seriously threatened by the deficits caused by the high number of claims during the current recession, is both inadequate and inequitable. Yet H.R. 10210 makes only a modest adjustment in the taxable wage base and in the rate of the Federal unemployment tax. The Social Security Act UI provisions originally established no limit on the wage base. In 1939 it was set at $3,000, then covering 93 percent of total wages. It has only been increased once, to $4,200 in 1969, and today covers less than one-half of total wages. This severely distorts the application of experience rating, effectively penalizing low-wage employers, and keeps the system's financing in a perpetually weak condition so that State legislatures are reluctant to improve benefits. Moreover, the bill creates no minimum trust fund reserve requirement on the States, permitting States to maintain dangerously low balances even in periods of low unemployment.

Adequate replacement of wage loss due to unemployment and sustaining purchasing power in the economy are key elements of the UI system. But, benefit levels have simply not kept up with increasing wage levels. Arbitrary weekly benefit ceilings keep a substantial proportion of unemployed workers from receiving even 50 percent of their former wages in unemployment benefits. An adequate benefit standard has been recommended by every President since 1954, yet H.R. 10210 ignores these recommendations and those of many others who have studied the issue. It is not the purpose of unemployment insurance to require workers to deplete their savings, move out of their homes and sell their possessions in order to survive the ordeal of unemployment. That will continue to be the case until Federal action is taken. One of my amendments will require the study commission established by the bill at least to address this matter specifically, and to make a recommendation by March 1978, on whether a Federal standard should, or should not, be developed.

Another major defect in the permanent UI system is its failure to cover the entire work force. This was remedied on a temporary basis in December 1974, by the creation of the special unemployment assistance—SUA—program, which provides Federal benefits to the nearly 15 percent of the work force denied coverage under the Federal-State system. These are mainly public employees, farm workers and domestic workers. The House-passed version of H.R. 10210 commendably brings these groups under permanent coverage, although only about one-half of agricultural workers and about one-quarter of the domestic workers would come within its provisions. The experience since early last year under the SUA program indicates that it can no longer be argued that universal UI coverage is unsound or administratively infeasible. The SUA program has worked and worked well, and testimony to this effect from the Department of Labor was received just this week by the Labor and Public Welfare Committee. The Finance Committee's reported bill inexplicably deletes farm worker and domestic coverage, and I hope that the final bill will extend coverage as much as possible to all workers.

These issues, along with many others such as benefit durations, disqualification procedures, and the handling of interstate claims, should have been given greater attention in H.R. 10210. Action on these matters is important not only in the interest of a fair and efficient UI system, but to keep individual States from competing with each other to lower employer costs at the expense of unemployed workers and their families. Given these glaring omissions in the legislation, it becomes far more important that the study commission thoroughly address the key issues and that the Congress be ready to act promptly when it receives them.

I would like to acquaint the Senate with the order in which we propose to offer these amendments so that Members may have an idea as to just how we will proceed.

We intend to offer first a 1-year extension of the special unemployment assistance program. The purpose of that amendment will be to carry that part of the system over until permanent unemployment compensation amendments can cover those employees now denied full coverage. But, in the meantime, they would not be covered unless we covered them by the amendment which we will propose.

Second, we intend to offer an amendment dealing with the disqualification of claimants receiving retirement income. That disqualification is contained in the Finance Committee's version of this bill. It was not in the House version. We believe that it is a highly prejudicial provision which will be very harmful to many claimants who have small amounts of retirement income.

Third, we wish to commit the proposed National Commission on Unemployment Compensation included in this bill the problem—and it is a very serious problem—of Federal benefit standards, in view of the fact that in many States the levels of unemployment compensation are extremely low and inadequate.

Fourth, we shall submit an amendment respecting unemployment benefits for school employees whose status during the summer vacation and recess is sometimes—and, indeed, often—is doubtful as to whether at the end they will or will not be employed at the end of the vacation period.

It is one thing to deny them unemployment compensation for that period if they are reemployed at the end of it. But it is another thing to deny it to them if at the end they are unemployed.

Fifth, we will propose a new supplemental extended benefits program, to supplement the present extended benefits program.

Sixth, we believe the repeal of the 120 percent State trigger in the extended benefits program is essential. It is restored by the Finance Committee's bill, notwithstanding that it has been suspended for 4 years because it is impractical. Suddenly, here it is revived by the Finance Committee. We do not think that is wise or desirable in terms of public policy.

I also note that the special unemployment assistance program has been generally under the jurisdiction of the Labor Committee. The Labor Committee reported out the bill this morning, and the only way it can be made effective is if it is brought up as an amendment to this bill.

To sum up, Mr. President, we shall do our utmost to patch up what is before us by amendment here in the Chamber, with what we consider to be essential provisions. Then we should hope also to add somewhat to the number of things being considered by the Commission, hoping that the basic reform which I have outlined will be addressed by the Commission, and that the Commission's report will then be addressed by the Congress.

Mr. President, I ask unanimous consent that during the debate on this measure the following may have the privilege of the floor——

Mr. GOLDWATER. Mr. President, reserving the right to object, I have just announced to the other side that I am going to object to all unanimous-consent requests from now on. The reason is a simple one: We have a nomination pending to the ninth circuit court being objected to without any reason. So Senator FANNIN and I will object to all unanimous-consent requests. I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. CURTIS. Will the Senator yield?

Mr. JAVITS. No, not at this point.

Mr. President, I intend to propose the absence of a quorum at the appropriate time in order to give us an opportunity to prepare for the submission of these amendments.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CURTIS. Mr. President, as the ranking minority member of the Committee on Finance, I wish to supplement the remarks of our distinguished chairman with respect to this bill.

A principal feature of this bill is its financing provisions, which are designed to restore, over a period of time, solvency to our unemployment compensation fund. As reported by the Finance Committee, the bill would increase both the Federal unemployment taxable wage base and the rate of the Federal unemployment compensation tax. The wage base would be increased from $4,200 to $6,000. This provision, which would be effective on January 1, 1978, would require, in effect, that States tax for unemployment compensation purposes the first $6,000 in wages paid by an employer to an employee. The net Federal unemployment compensation tax would be increased from 0.5 to 0.7 percent starting January 1, 1977. This tax rate increase will continue in effect until all general revenue fund advances to the extended unemployment compensation account have been repaid.

Changes such as those proposed by the committee bill are necessary if we are to restore financial integrity to the unemployment compensation system. I personally would have favored making the increased wage base optional with the States except for purposes of the Federal tax. However, the committee rejected this "unlinking" proposal. Given the present financial status of the funds, I will somewhat reluctantly support the financing provisions of the committee bill.

As our chairman has explained, the committee bill also makes some important changes in categories of persons required to be covered by unemployment compensation. Several of the coverage provisions of the House bill were deleted by the committee. One of these deleted provisions would have extended benefits to farm workers. The committee concluded that the House provision on farm workers had substantial problems. However, given the time pressures under which this bill was necessarily considered, the committee was unable to develop a completely satisfactory solution and we have deferred consideration of this problem until next year.

There are several other features of the committee bill to which I want to make specific reference. First, the committee bill deals with the payment of unemployment compensation to teachers. Under the bill, teachers will not receive benefits in the summer if they have reasonable assurance that they will be employed again when the schools open in the fall. The committee bill applies a similar rule to professional athletes to prevent them from receiving benefits during the period between regular seasons. Second, the committee bill prohibits the payment of benefits to individuals receiving retirement pensions or annuities. Third, the bill modifies the so-called "triggers" which determine when extended unemployment compensation benefits are payable in a particular State.

Mr. LONG. Will the Senator yield at this point?

Mr. CURTIS. I am happy to yield.

Mr. LONG. Is it not generally the view of the majority of the committee, if not almost a unanimous view of the committee, that anybody who has earned the right to be regarded as part of the work force by working as much as 20 weeks, which is 5 months, finding himself out of work and unable to find adequate or suitable employment, should be entitled to benefits under the unemployment insurance program?

Mr. CURTIS. That is correct.

Mr. LONG. But we do not want to see the working people of this country and the taxpayers of this country ripped off by people taking unfair advantage of this program. In other words, we do not want to see able-bodied people who have employment available to them, who could get a job if they wanted it, or if they would make a genuine effort, just living on unemployment insurance indefinitely at the expense of their neighbors who have to pay this tax to support them.

Mr. CURTIS. The chairman has stated the situation exactly. The members of the committee are concerned about the individual, particularly if he is the principal breadwinner in the family, seeking work, being willing to work, anxious to work, and finding it impossible to get a job. We want him taken care of. There are other categories where, from time to time, we have to look at them. For instance, I am told that in some situations executives of a company will be the beneficiaries of a rather sizable retirement amount. The company has a mandatory retirement age. So they have the party at the company office, give the gifts, give the check and maybe a bonus, and then he is directed where to go to apply for the unemployment compensation.

Many have turned it down. Some have said, "Well, if it is there and nobody else is taking it, I'll take it." But the workers, the consumers, our economy, should not have to carry a burden like that.

Mr. LONG. Perhaps the Senator saw the program "60 Minutes" recently when they showed people down in Florida, most of whom hailed from other States of the Union, who were enjoying the Florida climate in the wintertime. Some of them were drawing unemployment insurance and holding a job somewhere else which they were not reporting. Others who were drawing the unemployment insurance although they had adequate employment opportunities available to them.

Is it not true that with this kind of situation there can be hundreds of millions of dollars, perhaps even billions of dollars of which the taxpayers are being ripped off under this program that at this moment we are powerless to control?

Mr. CURTIS. That is true, and it is something that needs attention. Not only does it jeopardize the unemployment compensation funds for the States and the Federal Government, but each one of those violations becomes a statistic, and counted among the unemployed. Even at times when there is no election pending, it is very important that Congress and the Executive have accurate figures of how many people are really unemployed. Certainly if an employed person is drawing unemployment compensation, his drawing of that should never add to the number of unemployed, because it is wrongfully being drawn.

Mr. LONG. I thank the distinguished Senator. I am sure he shares my view, that we agree as to the purpose of the program, that we strongly support the benefits insofar as the great majority of the beneficiaries are concerned, but that we are concerned about the future of the program. We are concerned about violations of the law that are going on right at this moment, and about some people who, within the law, are able to take unfair advantage of the program; and we are hopeful of being able to find ways to confine the program to those people who should have it, and not have it abused by those for whom it is not intended.

Mr. CURTIS. I thank the Senator from Louisiana.

Under the committee bill, there would be a new national trigger, which would be a reasonably adjusted national uninsured employment rate of 4½ percent, based on the most recent 13-week period. The committee did not agree to the House changes in the State triggers, but instead decided to substantially retain the present law provision. Thus, even if the national trigger was not on, extended benefits would be payable in a State when that State's insured unemployment averages at least 4 percent for a 13-week period and is 120 percent of the rate for the corresponding periods in preceding years. However, even if 120 percent test is not met, extended benefits could be paid in a State if the unemployment rate in that State averages at least 6 percent for a 13-week period.

On balance, the unemployment compensation amendments contained in the committee bill merit support. The bill does not answer all of the problems that now beset the system, but it is, I believe, the best bill that can be developed and passed given the time constraints under which we are now operating.

The committee bill also contains several nongermane provisions dealing with the supplemental security income program. I must report to my colleagues, Mr. President, that the administration is particularly troubled by one of these SSI provisions; namely, the provision which changes the SSI savings clause. In many States, Federal SSI benefits are augmented by State Federal supplemental payments. When Federal benefits are increased, States can continue to provide the same level of supplementation at no increase in State costs.

However, in three States, there is a State cost if Federal benefits are passed through to recipients. This is because part of the Federal increase automatically results in a reduction in payments to these States under a 1972 savings clause provision. This provision now affects only Hawaii, Massachusetts, and Wisconsin. The committee bill contains a provision under which payments under that savings clause to those States will no longer be reduced when Federal SSI benefits rise. This will enable those three States to pass through the Federal increases without added State costs.

The administration objects to this provision in part because it applies only to three States, it makes permanent what was designed as a transitional rule, and because it alters the basic nature of the SSI program. As my colleagues consider the provision, Mr. President, I wanted them to be aware of the administration position on this particular provision.

Mr. President, I shall vote for this bill and I urge my colleagues.

### QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 56 Leg.]

Abourezk
Allen
Baker
Byrd, Robert C.
Church
Culver
Curtis
Durkin
Fannin
Goldwater
Griffin
Javits
Long
Magnuson
Pastore
Sparkman
Talmadge

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Hathaway), the Senator from Massachusetts (Mr. Kennedy), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from California (Mr. Tunney), and the Senator from Florida (Mr. Chiles) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Mansfield), the Senator from Hawaii (Mr. Inouye), and the Senator from Ohio (Mr. Glenn) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from Wyoming (Mr. Hansen), the Senator from Nebraska (Mr. Hruska), the Senator from Maryland (Mr. Mathias), the Senator from Vermont (Mr. Stafford), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I also announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

The result was announced—yeas 69, nays 4, as follows:

[Rollcall Vote No. 669 Leg.]

YEAS—69

Abourezk
Baker
Bartlett
Bayh
Beall
Bellmon
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
McClure
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Tower
Williams
Young

NAYS—4

Allen
Biden
Goldwater
Weicker

NOT VOTING—27

Bentsen
Buckley
Cannon
Chiles
Dole
Fong
Glenn
Hansen
Hart, Philip A.
Hartke
Hathaway
Hruska
Inouye
Kennedy
Mansfield
Mathias
McClellan
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Scott, William L.
Stafford
Thurmond
Tunney

So the motion was agreed to.

The PRESIDING OFFICER (Mr. Biden). A quorum is present.

Mr. LONG. Mr. President, I can see the prospect——

Mr. NELSON. Mr. President, may we have order so the Senator may be heard?

The PRESIDING OFFICER. The Senators will please take their conversations to the cloakroom. The Senate will be in order.

Mr. LONG. Mr. President, I can see the prospect that this bill, the unemployment compensation bill, is in danger of becoming a Christmas tree bill, and, in some respects, I suppose we on the committee might have made the first mistake in adding amendments to the bill that were not germane to the bill itself.

I can see now, already, that if we go beyond the purpose of this bill, which relates to the unemployment compensation program, and which came to us from the House without extraneous matter, this bill will itself become a prime candidate for being the Christmas tree bill of 1976. We on the committee did not have this bill in mind as a Christmas tree.

I am not against Christmas trees. I kind of have a fondness for them. I am responsible for putting together the landmark, the famous original Christmas tree bill. But this bill should not be the Christmas tree bill of this Congress. Therefore, Mr. President, we need to limit this bill to unemployment insurance.

There are some meritorious amendments that are completely germane to the bill, offered by Mr. Javits, Mr. Nelson, Mr. Kennedy, Mr. Humphrey, and others, some of which we can accept and some of which we shall have to resist. But to go beyond the purposes of this bill, which is to amend the unemployment compensation program, is to threaten the passage of this bill and to risk bogging it down in an extended debate, and to wind up with a bill being recommitted without instructions, just to send it back to the committee and let it die.

I want to assure Senators, Mr. President, that we have other revenue bills here at the desk to which all their amendments can be attached if the Senate will let them do it. I shall do everything I can to see that every one of those bills has its opportunity to see the light of day on the Senate floor and let Senators vote however they want to on any amendments offered to it. But to see that this essential bill does pass, Mr. President, I now move that this bill, H.R. 10210, be recommitted to the Committee on Finance, with instructions to report forthwith only with amendments germane to the House bill.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. Ford). The Senator will state it.

Mr. JAVITS. Is that motion debatable?

The PRESIDING OFFICER. The motion is debatable.

Mr. JAVITS. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I would like to ask the Senator a question, if I may.

Mr. LONG. Mr. President——

Mr. JAVITS. Has the Senator not yielded the floor?

Mr. LONG. I ask for the yeas and nays on the motion, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I ask the chairman of the Committee on Finance this question: We often show a sense of real discipline around here. I have an amendment to the SSI. I am perfectly willing to withhold it. I understand that there are one or two things in the bill regarding the SSI program that are very desirable, a provision for disabled children, for example.

The question: If we agree informally—there is no way of agreeing formally—that we shall withhold our amendments so that the SSI provisions that are in the bill can just ride through, assuming no one is worried about those, would that change the Senator's view?

Mr. LONG. Mr. President, I know I would deem it unreasonable for those of us on the Committee on Finance to offer SSI amendments on this bill and ask other Senators not to offer their SSI amendments. I think that would be an unreasonable thing to ask, and I would not ask it of anyone.

Furthermore, the distinguished Senator from Arizona (Mr. Goldwater) notified us that he is going to object to any unanimous-consent request at this point and I assume, therefore, it would not be agreed to if it were asked. So under the circumstances, I would be happy to accommodate the Senator on some of these other bills. We are trying to get a dozen of them considered by the Senate. The Senator knows how these things work in the closing days of a session. What tends to happen is that Senators just have to agree to accommodate one another to the extent that they will.

As far as I am concerned, I am willing to vote on all these SSI matters. But if we add them on this bill, I can see the prospect that the bill will not become law.

I hope that we can pass those energy tax provisions that we have passed one time already. I want to pass that measure and go back to the House with that, with an amendment to pay for it. If those meritorious things would succeed in the House and both Houses voted on them, they would have the opportunity to become law. If the Senate will let us do it, we are going to do that.

All I am concerned about is getting a bill which everybody agrees is very essential to the hopes of a lot of people in this country who are without jobs. That is a very serious matter for all of us, and we do not want to have those poor people victimized by the fact that we cannot get together on something that involves other matters not relevant to the bill.

There are amendments that will be offered on this bill, if we permit it, but otherwise, on other measures—to take care of some of the small business problems, which are meritorious and certainly ought to be taken care of, if we can.

All I know is that when you get the package too big, what happens is that the whole thing goes under.

I would be happy to accommodate the Senators with regard to all their proposals and, as far as I am concerned, I am not asking any commitment on others of the revenue bills. Let us call them up, and I will do everything I can to see that they are considered. We definitely ought to vote at some point on these SSI amendments here.

But if we permit ourselves to become bogged down in some very meritorious amendments that are definitely deserving of the consideration of the Senate, we will continue to wander astray until we run into an amendment that is really going to be a snag. Then you will find a lot of opposition as well as a lot of support for that amendment, and then, in due course, someone is going to move to lay this bill aside, and the bill will not become law.

Mr. JAVITS. Mr. President, will the Senator yield further?

Mr. LONG. Yes.

Mr. JAVITS. Of course, any Member can propose amendments even if the Senator's motion is agreed to.

Mr. LONG. Yes, but if the Senate agrees and strikes the committee amendments which it had previously agreed to accept by unanimous consent, that will indicate support for a motion to table nongermane amendments.

Mr. JAVITS. The same would be true, may I say to the Senator, if he left the bill as it is.

Mr. LONG. If we have to do it, we could ask for a cloture motion on the bill, and then we would be limited entirely to unemployment insurance amendments. So that if the Senate will not go along with us, we can find a way to limit ourselves to germaneness.

But I honestly think the Senate would recognize the whole purpose of striking the committee's own amendments that are not germane, and the Senate would want to go along in that spirit and limit ourselves to germane amendments if it does that.

Mr. JAVITS. Mr. President, if the Senator would yield further, I really am speaking in terms of coming to a reasonable agreement.

Mr. LONG. Yes.

Mr. JAVITS. I am not opposing it because I understand what the Senator is trying to do. I am inclined to agree that we ought to leave the bill as it is.

I am concerned about the fact that with the time limitation, with or without cloture, it is going to be impossible to do anything beyond what is brought up and dealt with today in this bill.

Mr. LONG. I do not think so.

Mr. JAVITS. Therefore, in a really humanitarian spirit I hope we can at least save such SSI amendments as are already in the bill. I made the first offer to withhold my own amendment and not offer it, and that really is the purpose of my pressing it.

Mr. LONG. But I do not see how you can bind others. I think about the only thing to do is simply limit ourselves to germaneness. The House has sent us—a bill that was on SSI that went far beyond what is in this bill here, and it cost a great deal more money, too. It would eventually cost up to $800 million.

Senators can offer all of the provisions of that bill as amendments to another bill if they want it, and if the Senate wants to pass it, I would assume the House would seek to agree to it because the House voted it in the first instance. A lot of it I would like to vote for myself. But there are other provisions of that bill I would have to oppose, and other Senators would have to oppose, and by the time we got through fighting about the SSI provisions, this bill could well go down the drain.

Now as everyone knows, the Senate can discharge the committee—if it wants to, right now—from further consideration of the House-passed SSI bill that, in full operation, would cost up to $800 million. I might vote to do it myself, if the Senate wants to do it. But I can see what is in prospect with it becoming a "Christmas tree" bill.

Mr. JAVITS. Mr. President, will the Senator yield for another question?

Mr. LONG. Yes.

Mr. JAVITS. Is there any vehicle coming out of the Finance Committee that the Senator intends to call up which we could use to deal with this SSI problem?

Mr. LONG. We have some bills we are trying to call up here that we have already reported what the House sent us, and all we have is a simple, a modest, Senate Committee amendment to a House-passed bill.

Mr. JAVITS. What bill number is that, may I ask the Senator?

Mr. LONG. There are a number of them, as well as several bills at the desk we are trying to gain consent to report the way it is now, with the committee reports ready to be printed once the extended debate over the civil rights measure can be resolved. But just to name a few we have Calendar No. 938, H.R. 9401; Calendar No. 1106, H.R. 8656; Calendar No. 1108, H.R. 12254; Calendar No. 1114, H.R. 6860; Calendar No. 1115, H.R. 8283; Calendar No. 1201, H.R. 7929; and Calendar No. 1232, H.R. 4047.

We also have some others out there we want to report if they will just let us. So there are plenty of bills to which amendments of this sort can be offered. It is just a matter of the leadership's scheduling them.

Mr. JAVITS. I understand there are three must bills the administration wants. If those could be brought up, I can see the feasibility of this plan. Otherwise, I do not, with all frankness, because any Member can offer any amendment anyhow. The committee has already reported out the SSI amendments, and I think you can get pledges from enough of us who have or might have amendments to the SSI program that we are not going to touch that part of the bill so that at least as much of it as is already accomplished in the committee bill could be done this year. Otherwise, I think, you know, we lose that opportunity if we do not act here and now. That is why I address this point to the Senator.

Mr. HUMPHREY. Excuse me.

Mr. LONG. Might I ask a question of the distinguished Senator from Minnesota who has in mind an amendment that is certainly deserving of the Senate's consideration involving the SSI program? Would the Senator be willing to withhold amendments with regard to SSI on this bill if we do that? Otherwise I feel we should just limit ourselves to germaneness on this bill.

Mr. HUMPHREY. May I say on germaneness on the bill, H.R. 10210 has section 504 which relates to suplemental security.

Mr. LONG. That is why I am proposing to recommit and report back without it.

Mr. HUMPHREY. Why strike it? It was passed in the House. Why strike something that has already cleared one of the major hurdles and cleared it by a vote of 317 to 52?

Mr. LONG. What page is the Senator looking at?

Mr. HUMPHREY. Page 55.

Mr. LONG. That is a committee amendment.

Mr. HUMPHREY. But the Fraser-O'Neill——

Mr. LONG. That is something that passed the House, but not on this bill. It passed on a different bill. You will notice by the style of print that that is committee language.

Mr. HUMPHREY. That is correct.

I am merely saying the SSI pass-through provision has passed the House by 317 to 52.

Mr. LONG. It is on an SSI bill, may I say to the Senator.

Mr. HUMPHREY. Right. But there is an SSI section in this bill which makes this——

Mr. LONG. That is ours.

Mr. HUMPHREY. I know that is ours.

Mr. LONG. That is what I am proposing to strike.

Mr. HUMPHREY. Why strike it?

It is already out of the committee this way, why strike it?

Mr. LONG. For a very simple reason. There will be other amendments offered that deal with SSI, and I have discovered that once we start making this bill the prospect for a Christmas tree, other amendments begin to come in.

For example, there are other Senators who have tax amendments they would like to offer on the bill. Some of those amendments have already received the support of the Senate and been agreed to as amendments to the tax reform bill, although the House was unwilling to go the whole route with us and agree to it in whole when it was before the House.

Mr. HUMPHREY. May I ask the Senator to restate the Javits proposal?

Mr. LONG. Here is Senator JAVITS' proposition. He suggests that rather than recommiting and reporting back without the Senate committee amendments, that we simply leave the Senate committee amendments on SSI with the understanding we will not have further SSI amendments to the bill, and that the other amendments will be germane to the unemployment insurance parts of the bill.

Mr. HUMPHREY. Yes, and then where——

Mr. LONG. And Senator JAVITS said he personally is willing to do that, and he would hope other Senators would do the same.

Mr. HUMPHREY. Provided what?

Mr. LONG. Provided that we do not strike the committee SSI provisions.

Mr. HUMPHREY. All right, but provided, when do we get a chance to bring up the amendments we have on that?

Mr. LONG. We would seek to offer that on one of the other bills on the calendar. I have listed some of them.

Mr. HUMPHREY. I heard those, but which ones will the administration sign, and which ones through the House?

Mr. LONG. We have some of those amendments, some of them that are on the calendar, and some which we reported. We are trying, once the fight over the lawyers' fee bill is settled, to get them before the Senate. They have already been reported by the committee.

What we would do would be, simply, to say that anyone who would offer an amendment on a measure of that sort could simply offer his amendment, and, in some cases, he would be offering amendments that have already passed the House as House bills. If he wanted to do that, he could.

Mr. HUMPHREY. What happened to H.R. 8911? Is this H.R. 8911 still in committee?

Mr. LONG. That bill is still in the committee. There are some things in that bill that I, for one, favor and others I do not agree with. But that bill is in the committee.

But there is nothing to keep anyone who wants to do so from offering anything in that bill, as an amendment to these other bills.

I do not want to offer them on this bill because I think we are going to have about all we can handle taking care of the unemployment insurance on this bill. I can see that right now. But I would be happy to accommodate the Senator by saying that we will bring up one of these other bills and he can offer his amendment on that.

Mr. HUMPHREY. All right.

The three bills I mention involve H.R. 1142, H.R. 10902, H.R. 8046, they are what we would call must bills, is that correct?

Mr LONG. Two of those are on the calendar, if we can get them up. There is another one where we have the report ready to file, if we can get consent to file it.

Mr. HUMPHREY. The Senator says "If we can get them up." Can we get any assurance we can get one of these bills up?

This provision, as the Senator knows, in my State is a vital issue. I am deeply involved in it, as was my colleague, Senator MONDALE.

Mr. LONG. I do not think there is any problem about getting these other bills up. We might be able to get consent to bring it up. If not, then once we get the fight over the lawyer fee bill behind us, there will be no problem to motion it up, if the Democratic policy committee will go along with it, or the acting leader will simply move the bill before the Senate.

Mr. HUMPHREY. May I ask the Senator from New York a question?

Mr. JAVITS. Yes.

Mr. HUMPHREY. Does the Senator from New York (Mr. JAVITS) feel comfortable with these assurances and the understanding that has been outlined here by the chairman of the Finance Committee?

Mr. JAVITS. I feel it is a good package, if we could have an agreement that one of those must bills was going to be reported and that would be the one called up—the Senator has read the list—because that is one bill the President wants to sign.

I am perfectly satisfied with the arrangement by which we do not put any further amendments on the SSI part of the pending bill, and if a bill is going to be brought, that is, Senator LONG will use his best efforts to bring up one of those must bills that the Senator has set forth.

I think that will do the best for both sides.

Mr. HUMPHREY. May I ask, will we be running into a problem on germaneness?

Mr. JAVITS. No, we will not, unless there is a unanimous-consent agreement respecting debate. Other than that, we can, even if Senator LONG's motion is successful, put any amendment we want on this bill the moment after he reports it. So there is nothing to stop us from offering amendments. But he feels it will ruin the mood and the very temper of the Senate.

I am hoping it will not be necessary to bring this issue to a vote. So long as he knows those of us deeply involved will withhold on SSI amendments, he will go ahead with the bill as it is, we will offer the amendments dealing with unemployment compensation.

I cannot guarantee the Senator that we will get this chance. There are only a few days left in the session. But everything is not black and white, it is gray.

All our SSI amendments may go down the drain simply because of a lapse of time. But I still think these amendments the committee has are desirable, at least we will save them.

Mr. LONG. What the Senator from New York is proposing is to say that we leave on the bill such portion of the SSI program as the Senate committee recommended and then have an understanding we will not put any more SSI amendments on the unemployment bill. Then we will call up another bill and the Senator offer other SSI amendments on the other bill.

Frankly, it does not make any difference to me whether it is an administration-supported bill or one the Senate has already passed.

Mr. NELSON. Will the Senator yield?

Mr. LONG. If the Senators want to do business, I suppose I can accommodate.

Mr. JAVITS. I yield.

Mr. NELSON. I just want to make one point to the Senator from Minnesota.

I brought up the Fraser-O'Neill amendment in the Finance Committee.

Mr. HUMPHREY. I understand that.

Mr. NELSON. It was my understanding, because of the size and dimension, and some problems that some saw in the more comprehensive bill as it came from the House, that it was likely we would not act on the comprehensive SSI reform bill until next year.

I offered the Fraser-O'Neill amendment in the Finance Committee because I though it was important.

Unfortunately, we were in a situation in which we needed an unemployment compensation bill reported out of the Finance Committee without delay. We did not have enough members present to adopt the entire Fraser-O'Neill amendment. The Fraser part of the amendment was objected to and I did not prevail.

The only part saved was the O'Neill part, although I tried to get the whole Fraser-O'Neill amendment adopted. So that, of course, I happen to agree with the Fraser part which we did not get adopted in the Finance Committee, and I will vote for it if the Senator from Minnesota asks for a vote on it.

I agree with the Senator from New York, however, that those aspects of the SSI that were adopted in the Finance Committee, if we can get them passed now, since they have already passed the House we should at least be able to get the SSI amendments in the reported bill accepted.

I am happy to support the Senator from Minnesota in any effort to add the Fraser passthrough amendment on any bill that it may be offered to.

Mr. HUMPHREY. I have been around here a long time and I do not much enjoy what I call these academic exercises. What I am interested in is results.

I want to be sure if we pass something here on the floor, called the passthrough for SSI benefits, that it actually appears and is not just something I can go home and say, "Well, we did it here in the Senate," and it goes down the tube. Because the real truth is that States that have been getting these SSI benefits have not all been paying them through to the people that deserve them.

The amendment that I have to offer, which is a part of the Fraser-O'Neill amendment, simply says that beginning on July 1 of next year those States which supplement the SSI programs would be required to pass along the Federal cost-of-living increases which are intended for the recipients of this assistance.

It is so simple. It is so obvious. We pass a bill here and say we are going to help the blind or we are going to help the deaf, and so on. We ought to be able to get the benefits passed on through.

Mr. NELSON. Will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. NELSON. What happened is this: Because we did not have a passthrough requirement, we have not assured that the intent of the cost-of-living benefits would be passed in to the recipients.

Mr. HUMPHREY. Which the Senator from Louisiana managed.

Mr. NELSON. That is correct, and that was everybody's thought. We did not anticipate that the States would simply reduce their contribution for taking care of the blind and the aged as Federal money came in. Our objective was as costs went up, the Federal money would go on top of what the States were doing. What happened is that a number of States have turned this program into another general revenue sharing program, and we had no intent of making it a general revenue sharing program. We had the intent of helping the blind, the aged, and disabled. I think the amendment proposed by the Senator from Minnesota is absolutely sound and should be supported. I will support it when it comes to a vote in the Senate.

Mr. HUMPHREY. My point is, can I get some assurance from this master of the legislative process, the able, distinguished, gifted, talented, and persuasive Senator from Louisiana? Can I get some assurance from him that we will get a bill on which we can get this passthrough amendment attached and that it will pass through not just pass by? We have both been here about the same length of time and we have seen them come and go. The Senator has just learned more than I have, that is all. I was interrupted by being Vice President. I was in limbo for a while.

Mr. LONG. Mr. President, the amendment of the Senator from Minnesota raises some problems. It has pluses and minuses to it. Like any bill, it has a little controversy to it. Once Senators hear from their welfare directors back home, there will be a considerable amount of opposition to the bill.

Mr. HUMPHREY. Then we had better pass it in a hurry.

Mr. LONG. As far as the Senator from Louisiana is concerned, I am perfectly happy to let the Senate work its will on it. We can do it in connection with one of these other bills. But if we are going to put that on this bill, it would be unjust to any Senator who if he knew what it was would be in here opposing it, to let this slide through without alerting the Senators to what the full impact is and what the arguments pro and con are. A lot of them would oppose it, knowing that to be the case.

If someone feels very strongly about opposing it, he has the same kind of right the Senator from Alabama has demonstrated so effectively. I say that for the benefit of anyone who has not had any opportunity to observe the ability of a Senator to oppose something with which he disagreed. At this late stage of the game, I do not have the slightest doubt that anyone who finds that his conscience requires him to strongly oppose this, or his people expect him to oppose it to the utmost, will be in a position to defeat the whole thing.

Mr. HUMPHREY. How can anybody oppose it?

Mr. LONG. The problem that is in this amendment is that States were led to believe—and perhaps they just wanted to think it, but they could make a pretty good case that they were led to believe—that when we passed the SSI program we were not going to require them to make any further contributions; that we would expect them to continue to put up what they were putting up at that time to ease the burden on the Federal budget, and, in time, they would be in a position to gradually drop out of this program for the aged or the SSI and the Federal Government would take it over. Some of them have been moving in that direction. They have been taking advantage of the savings additional Federal funds have made possible.

Mr. HUMPHREY. And leave the folks who are needy with less than they ought to have.

Mr. LONG. They have been quietly folding up their tents like the Arabs and silently slipping away.

Mr. HUMPHREY. Like the Arabs with the oil when they slip away.

Mr. LONG. The amendment would impose a burden on the States which some of them at least are not willing to assume. Of course, as the Senator well knows, we have been moving to provide more help at the Federal end. What the States contend is, "That is just great. Take the whole thing over."

The only reason, frankly, that we did

not take all the States out of it, or at least 80 percent of all the States, is that the Federal Government felt that it would be too big a burden on the Federal budget at this time to assume his entire burden for what we would like to see done for the aged people. Rather than take the States out completely we gave them some relief and led them to believe that in time they were going to be able to gradually get out of this program which is, to a great extent, a Federal program now.

It is fine with me for States to add something to it. I suggest they do that. I think we should provide the cost of living increases which we have provided, with active support of the Senator from Minnesota and the Senator from Wisconsin. I have been happy to support that type of thing, and we should do more of it. But not all States have been willing to maintain their effort and add something to it.

Mr. HUMPHREY. Will the Senator yield at that point?

Mr. LONG. Incidentally, I do not think any of them would object to something where the Federal Government would pay the whole cost.

Mr. HUMPHREY. Absolutely not. My amendment, as the Senator knows, would not require any State to increase its supplementary aid to any SSI recipient. It would only require that the States not reduce their level of support.

We did that in revenue sharing. In revenue sharing we required that State governments are required to maintain their intergovernmental transfers to all units of local government at fiscal 1972 levels.

Mr. LONG. In one way or another, time and again we have done things such as the Senator is suggesting. I would be the last to say that there is not a tremendous amount of merit to the Senator's amendment. All I say is that there are a lot of people who feel that as the Federal Government moves forward in this area it should permit the States to gradually move themselves out of it. Many States take the view that the Federal Government has moved in, has taken the responsibility, set the guidelines, set the standards, and assumed the responsibility. They now contend it should be a Federal responsibility and they should be let out.

Mr. HUMPHREY. They should know we are in sympathy with that goal.

Mr. LONG. Every time we provide more help for the aged people by providing an increase in their SSI payments, those States look for the chance to reduce the State contribution.

Mr. JAVITS. Mr. President, I have the floor and I yield to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. HUMPHREY. Will the Senator yield?

Mr. LONG. I yield.

Mr. HUMPHREY. I understand the situation very, very well here. I want us to make the improvements that are in this bill, H.R. 10210. I think this bill is very necessary legislation. I hope it will be passed as it came from the committee.

I will be content to propose the amendment to one of the other bills which will come up, if I am given the opportunity for a good, honest debate and an up and down vote on the situation. I do not want to jeopardize anything we have here in hand. I recognize the lateness of the hour in the session, getting ready to complete our business and adjourn.

I shall be working with the distinguished Senator from Wisconsin, who is as valiant and vigilant in this effort as any Member of this body.

I felt an obligation here, not only because of my deep concern over the SSI recipients, but because my esteemed colleague, who is out doing his work for the common good—I do not want any response from the other side of the aisle on that—was a sponsor of this amendment as well, as Senators know. So I will cooperate with the Senator from Louisiana.

Mr. LONG. Mr. President, if we can have that understanding, I will not move to recommit, with the understanding that we will seek to limit ourselves to unemployment insurance amendments.

I will be glad to cooperate in seeing to it that there will be some other bill before the Senate to which SSI amendments can be offered.

Mr. HUMPHREY. That is good enough for me. If the Senator from Louisiana says that, I feel we have better than a 50-50 chance.

Mr. LONG. Then, Mr. President, I ask unanimous consent that the order for the yeas and nays be vacated.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, I move to table my motion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that Terry Kay, of my staff, be granted the privilege of the floor during the consideration of this bill and all votes thereon.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, if the Senator from Louisiana will yield, I would like to thank him for his cooperation. I appreciate it very much.

Mr. NELSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. There is an amendment pending of the Senator from Mississippi. It would require unanimous consent to do that. The question is on agreeing to the amendment of the Senator from Mississippi.

Mr. JAVITS. Mr. President, on that particular amendment, I asked that it be held up awaiting the advice of someone respecting this particular matter. I would respectfully suggest to the chairman that we pass it, but not move to reconsider it, so that if anyone has any objection, it can be looked at. Is that agreeable to the Senator?

Mr. LONG. Mr. President, is this the amendment on special unemployment insurance? I had indicated to Mr. JAVITS and to others that there were parts of this amendment that we could support—at least I could and I believe others would—but we objected to any retroactive application of the amendment, and I believe it was agreed that the amendment would be so modified.

Mr. JAVITS. Mr. President, if the Senator will yield, we are not talking about NELSON's amendment, we are talking about STENNIS' amendment.

Mr. LONG. The Stennis amendment?

Mr. JAVITS. Yes; I am suggesting that we act on it, but not move to reconsider the vote.

Mr. LONG. Well, the Stennis amendment does deal with social security.

Mr. JAVITS. That is correct.

Mr. LONG. I have no objection if we can do business by unanimous consent with regard to that, but I do not believe we will have unanimous consent, so we will just have to put the amendment on something else.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Mississippi.

Mr. LONG. Mr. President, I offered the amendment on behalf of the Senator at a time when we were going to consider amendments that are not germane to the bill; but under the circumstances, having offered the amendment, I feel constrained to withdraw it.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its clerks, announced that:

The House has passed the following Senate bills with amendments in which it requests the concurrence of the Senate:

S. 190. An act for the relief of John Oakason and H. F. Mulholland;

S. 1786. An act for the relief of Kam Lin Cheung;

S. 1026. An act to designate certain lands as wilderness; and

S. 2398. An act to authorize the establishment of the Eugene O'Neill National Historic Site, and for other purposes.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2503. An act for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos;

H.R. 5655. An act for the relief of Mark Charles Mieir and Liane Miria Mieir;

H.R. 6817. An act for the relief of Fidel Grosso-Padilla;

H.R. 7881. An act for the relief of Marcial Caceres Ortiz;

H.R. 8118. An act for the relief of Chin-Ho An;

H.R. 9185. An act for the relief of Marina Tingalon Baguyos;

H.R. 10778. An act for the relief of Rogelio M. Encomienda;

H.R. 11283. An act for the relief of Ernest L. Green;

H.R. 13417. An act for the relief of Dae Ho Park and Maria Park;

H.R. 14075. An act for the relief of Tulsedei Zalim; and

H.R. 14470. An act for the relief of of Raul Eduardo Ringle.

## HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 2503. An act for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos; to the Committee on the Judiciary.

H.R. 5655. An act for the relief of Mark Charles Mieir and Liane Miria Mieir; to the Committee on the Judiciary.

H.R. 6817. An act for the relief of Fidel Grosso-Padilla; to the Committee on the Judiciary.

H.R. 7881. An act for the relief of Marcial Caceres Ortiz; to the Committee on the Judiciary.

H.R. 8118. An act for the relief of Chin-Ho An; to the Committee on the Judiciary.

H.R. 9185. An act for the relief of Marina Tingalon Baguyos; to the Committee on the Judiciary.

H.R. 10778. An act for the relief of Rogelio M. Encomienda; to the Committee on the Judiciary.

H.R. 11283. An act for the relief of Ernest L. Green; to the Committee on the Judiciary.

H.R. 14075. An act for the relief of Tulsedei Zalim; to the Committee on the Judiciary.

H.R. 14470. An act for the relief of Raul Eduardo Ringle; to the Committee on the Judiciary.

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## UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

### UP AMENDMENT NO. 500

Mr. NELSON. Mr. President, in behalf of myself, Mr. JAVITS, Mr. WILLIAMS, Mr. CRANSTON, Mr. HUMPHREY, Mr. KENNEDY, Mr. TAFT, Mr. WEICKER, and Mr. BROOKE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself and others, proposes an unprinted amendment numbered 500.

The amendment is as follows:

At the end thereof add the following:

### TITLE VI—SPECIAL UNEMPLOYMENT ASSISTANCE AMENDMENTS

### EXTENSION OF SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM

SEC. 601. (a) Section 208 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended to read as follows:

### TERMINATION DATE

"SEC. 208. Notwithstanding any other provision of this part, no payment of assistance under this part shall be made to any individual with respect to any week of unemployment ending after June 30, 1978; and no individual shall be entitled to any assistance under this part with respect to any initial claim for assistance or waiting period credit which is effective in a week beginning after December 31, 1977.".

### ELIMINATION OF SPECIAL BASE PERIOD FOR PAYMENTS OF SPECIAL UNEMPLOYMENT ASSISTANCE

SEC. 602. (a) Paragraph (1) section 203(a) of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by striking out "*Provided*, That" and all that follows down through "; and" at the end thereof and inserting in lieu thereof the following: "*Provided*, That the individual meets the qualifying employment and wage requirements of the applicable State unemployment compensation law in the base period; and, for purposes of this proviso, employment and wages which are not covered by the State law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages; and".

(b) Subsection (a) of section 205 of such Act is amended by striking out "law: *Provided*, That" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "law. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.".

(c) Subsection (a) of section 206 of such Act is amended by striking out "section 205: *Provided*, That" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "section 205. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.".

(d) Subsection (a) of section 210 of such Act is amended—

(1) by striking out "and" at the end of paragraph (5); and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) 'special unemployment assistance benefit year' means the benefit year as defined by the applicable State unemployment compensation law; and

"(7) 'base period' means the base period as determined under the applicable State unemployment compensation law.".

(e) The amendments made by this section shall apply with respect to benefit years beginning after December 31, 1976. In the case of any benefit year of an individual which begins after December 31, 1976, for purposes of sections 203(a)(1), 205(a), and 206(a) of the Emergency Jobs and Unemployment Assistance Act of 1974, there shall not be taken into account any employment and wages to the extent that such individual was entitled on the basis of such employment and wages to assistance under such Act during a benefit year beginning before January 1, 1977.

### DENIAL OF SPECIAL UNEMPLOYMENT ASSISTANCE TO NONPROFESSIONAL EMPLOYEES OF EDUCATIONAL INSTITUTIONS DURING PERIODS BETWEEN ACADEMIC TERMS

SEC. 603. (a) Section 203 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new subsections:

"(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years (or for a similar period between two regular but not successive terms) if—

"(1) such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

"(2) there is notification of reasonable assurance from an educational institution or agency that such individual will perform services for such educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) for the later of such academic years or terms.

"(d) An individual to whom subsection (b) or subsection (c) is applied, in connection with a claim filed between the academic years or terms involved, and who is in fact not offered reemployment beginning with the later academic year or term in an applicable capacity by the educational institution or agency with which the individual had a contract or from which the individual had received notification of reasonable assurance of reemployment, as the case may be, shall upon application therefor be furnished a redetermination of entitlement to special unemployment assistance for all weeks of unemployment (except for the waiting period, if applicable, which begin between the academic years or terms involved, and with respect to which the individual was available for work and otherwise was entitled to such assistance (disregarding subsections (b) and (c)), and the individual shall be paid a lump sum in the amount to which the individual is so determined to be entitled for all such weeks. The Secretary shall prescribe by regulation reasonable means to facilitate the filing and receipt of applications under this subsection, including a time limit on applications, and reasonable conditions on entitlement applicable in the circumstances so as to effectuate the purposes of this subsection.".

(b) The amendments made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

### NEW PART C ADDED TO SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM

SEC. 604. (a) Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof (after part B as added by the Emergency Jobs Programs Extension Act of 1976) the following new part:

### "PART C—REIMBURSEMENT FOR UNEMPLOYMENT BENEFITS PAID TO PUBLIC EMPLOYEES COVERED BY REGULAR UNEMPLOYMENT COMPENSATION

### "PAYMENTS TO STATES

"SEC. 230. (a) Each State shall be paid by the United States with respect to each individual—

"(1) who receives compensation under the State unemployment compensation law approved pursuant to section 3304 of the Internal Revenue Code of 1954, or the unemployment compensation law of the Virgin Islands in the case of that State, and

"(2) whose base period wages for such benefit year include public employee wages, an amount which bears the same ratio to the total amount of compensation paid to such individual with respect to such benefit year for weeks of unemployment which begin on or after January 1, 1977, as the amount of the public employee wages included in the individual's base period wages bears to the total amount of the individual's base period wages. The payment to which a State is entitled under this subsection, with respect to each individual, shall not exceed thirty-nine times the individual's average weekly benefit amount, or the amount of compensation paid to the individual, whichever is less.

"(b) Each State shall be paid, by way of reimbursement, as soon as practicable after the first day of each calendar quarter, the sum that the Secretary determines is payable to the State under this part for the most recent calendar quarter prior to such date. Reimbursements shall be determined on the basis of reports made by the State to the Secretary as prescribed by the Secretary.

"(c) The Secretary shall certify to the Secretary of the Treasury the sum payable to each State under this part. The Secretary of the Treasury, prior to audit and settlement by the General Accounting Office, shall pay the State in accordance with the certification from funds for carrying out the purposes of this part.

"(d) Money paid to a State under this part shall be credited to the State's unemployment compensation fund and shall be used solely for the purpose of paying compensation.

"(e) In the case of any political subdivision of a State which has in effect an unemployment compensation program which provides for the payment of compensation on the basis of services performed in its employ, such political subdivision shall be entitled to payments under this part in the same manner and to the same extent and on the same conditions as if such political subdivision were a State.

### "STATE LAW PROVISIONS

"SEC. 231. (a) The unemployment compensation law of any State may provide that any public employer which elects to make payments (in lieu of contributions) into the State unemployment compensation fund—

"(1) shall not be liable to make such payments after the date of the enactment of this section with respect to any compensation to the extent that such State is entitled to payments with respect to such compensation under this part; and

"(2) shall receive credit against payments required to be made after such date of enactment for any such payments made on or before such date of enactment to the extent that such payments were made with respect to compensation for which the State is entitled to receive payments under this part.

"(b) The unemployment compensation law of any State may, without being deemed to violate the standards set forth in section 3303(a) of the Internal Revenue Code of 1954, provide for appropriate adjustments, as may be determined by the Secretary, in the account of any employer who has paid public employee wages to reflect the payments to which such State is entitled under this part with respect to compensation attributable to such wages.

### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 232. There are hereby authorized to be appropriated for purposes of this part such sums as may be necessary.

### "DEFINITIONS

"SEC. 233. As used in this part, the term—

"(1) 'State' means the States of the United States, the District of Columbia, Puerto Rico, and the Virgin Islands;

"(2) 'compensation' means cash benefits payable to individuals with respect to their unemployment, and includes regular compensation, extended compensation, and additional compensation, as defined in subsections (2), (3), and (4), respectively, of section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, but shall not include special unemployment assistance payable under part A of this title;

"(3) 'public employee wages' means remuneration for services performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions, and any services performed in the employ of any instrumentality of one or more States or political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 3301 of the Internal Revenue Code of 1954; but does not include remuneration for services performed in a public service job to the extent that such remuneration is paid with funds provided under the Comprehensive Employment and Training Act of 1973, or remuneration for services performed in employment covered by the State unemployment compensation law by reason of the provisions of section 3304(a)(6)(A) of the Internal Revenue Code of 1954;

"(4) 'benefit year' means the benefit year as defined by the applicable State unemployment compensation law;

"(5) 'base period' means the base period as defined by the applicable State unemployment compensation law for the benefit year; and

"(6) 'Secretary' means the Secretary of Labor.

### "TERMINATION DATE

"SEC. 234. No payment under this part shall be made to any State or political subdivision with respect to compensation paid to any individual for any week of unemployment beginning after the last week that begins before June 30, 1978.

(b) The amendments made by this section shall take effect January 1, 1977.

### MODIFICATION OF AGREEMENTS

SEC. 605. The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 202 of the Emergency Jobs and Unemployment Assistance Act of 1974 a modification of such agreement designed to provide for the payment of special unemployment assistance under such Act in accordance with the amendments made by sections 601, 602, and 603 of this title. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before the last day of such three-week period.

Mr. TAFT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. NELSON. I yield to the Senator from Ohio, without relinquishing my right to the floor.

Mr. TAFT. Mr. President, I ask unanimous consent that Steve Entin of my staff and Robin Utterback of Senator HRUSKA's staff have the privilege of the floor.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NELSON. Mr. President, the amendment I have sent to the desk was introduced for printing as amendment No. 2363 on Wednesday, September 22, but has been modified to include changes which were suggested since it was introduced.

The fully federally funded special unemployment assistance program provides unemployment benefits to unemployed persons not covered by any other State or Federal unemployment compensation law. The administration originally requested the enactment of the special unemployment assistance—SUA—program in 1974. It was enacted as title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93-567). The administration supports this 1 year extension of the SUA program.

On September 14 of this year, the House Ways and Means Committee, which has jurisdiction over the SUA program in the House, reported out a bill (H.R. 14970) to extend the special unemployment assistance program for 1 year—House Report No. 94-1536. That legislation presently is pending on the House Calendar, and the House is expected to consider it today.

The Senate Labor and Public Welfare Committee, which has jurisdiction over the special unemployment assistance program in the Senate, considered the pending House legislation and another bill—S. 3262—introduced by Senators JAVITS and WILLIAMS in a public hearing on September 21, 1976, before the Subcommittee on Employment, Poverty, and Migratory Labor. The Labor and Public Welfare Committee ordered the special unemployment assistance amendments reported to the Senate this morning. We are offering that reported bill in the form of this amendment to H.R. 10210.

In view of the fact that the House Ways and Means Committee has jurisdiction over both the permanent State/Federal unemployment compensation legislation and the SUA program, we believe that the SUA legislation can best be considered both on the Senate floor and in conference as a part of the Unemployment Compensation Amendments of 1976 (H.R. 10210).

The special unemployment assistance amendment we offer today makes several improvements in the current law.

In addition to extending the special unemployment assistance program providing unemployment benefits for unemployed persons not covered by regular unemployment compensation laws, the amendment adds a provision to the special unemployment assistance program to provide reimbursement to States which cover State and local employees under their regular unemployment compensation law and therefore whose State and local employees have been ineligible to receive benefits under the provisions of the SUA program.

The amendment extends the current law's prohibition against payment of special unemployment assistance benefits to employees of educational systems during the summer—which now applies to teachers and other professional employees who have contracts to return in the fall term—to cover also nonprofessional employees who have reasonable assurance of returning to similar employment with the school system in the fall term.

This amendment also would remove the Federal definitions for "base year" and "benefit year" under the SUA law after December 31, 1976, and would replace them with the definitions provided in each State's unemployment compensation law. This change was recommended by the administration and is included in the House version of the special unemployment assistance extension.

### SUA LEGISLATIVE HISTORY

In December 1974, when unemployment was increasing rapidly, Congress established the special unemployment assistance program for 1 year (Public Law 93-567). The purpose of the program was to provide financial security for unemployed workers who were not eligible for unemployment compensation—UC—under any other State or Federal general revenues. As originally enacted, SUA provided a maximum of 26 weeks of benefits to eligible unemployed workers when the rate of total unemployment was 6 percent or higher nationally, or 6.5 percent or higher in local prime sponsorship areas.

In order to receive SUA benefits, an individual had to be ineligible for UC under any other State or Federal program and also meet the State's qualifying employment and wage requirements within the 52-week period preceding his first claim for assistance.

In June 1975, Congress extended the SUA program for 1 year, through December 31, 1976, and increased from 26 to 39 the maximum number of weeks an individual could receive SUA benefits (Public Law 94-45).

At that time, it was generally thought that an unemployment compensation bill would be enacted late in the first session of the 94th Congress and be effective by 1977. It was anticipated then, in June 1975, that the unemployment compensation bill would extend coverage under the permanent Federal/State program to substantially all wage and salary earners, and thereby eliminate the need for the SUA program. Due to a number of factors that scenario has not worked out.

The House of Representatives did not pass an unemployment compensation bill until July 20, 1976, because of delays created by the budget process, tax legislation, and other emergency bills; and the Senate Finance Committee was able to report a bill out of committee only this month. Coverage for farmworkers and domestics under the permanent UC program was not included in the Finance Committee bill. And the effective date for the revisions in the UC program would not take effect until January 1978, in any case. That means that the SUA program is needed to continue to cover the gaps in the UC program through calendar year 1977, and perhaps beyond that if coverage under the permanent UC program does not cover substantially all wage and salary earners.

About 11 million workers are not covered by a State or Federal UC law currently and, therefore, are potentially eligible to receive SUA benefits. Farmworkers, household workers, State and local government employees, and workers employed by small farms and small businesses are the major groups affected. The Congressional Budget Office, in their cost analysis on H.R. 14970 to the House Ways and Means Committee, estimated that the average caseload for the SUA program for fiscal year 1977 would be 237,000 per month.

### FEDERAL REIMBURSEMENT TO STATE COVERING STATE/LOCAL EMPLOYEES UNDER PERMANENT UC LAW

The SUA program covers all unemployed workers who are not eligible for unemployment compensation under any other State or Federal program. Right now, many State UC laws cover a portion or all of their State and local employees under their permanent program. This means, therefore, that by definition these employee groups in these States which cover them in their permanent UC law are ineligible for federally funded SUA benefits.

H.R. 10210, as passed by the House and as approved by the Finance Committee, mandates coverage of State and local employees in all States beginning in 1978. In the meantime, however, it would be inequitable to have taxpayers in some States pay two taxes on State and local employees: a State tax to cover periods of unemployment for their own State and local employees, and also a Federal tax on State and local employees to be distributed only to States which do not cover their State and local employees under their permanent UC law.

Section 604 of this amendment requires reimbursement to those States which have covered some or part of their State and local employees for unemployment benefits paid on or after January 1, 1977. In all, 42 States would receive payments under this provision. And by doing this, all States would be put on the some footing insofar as federally funded payments to State and local employees are concerned.

The Department of Labor has studied this provision, and has provided the Labor and Public Welfare Committee with a table which details the estimated costs to States which cover a portion of all of their State and local employees during periods of unemployment for calendar year 1977. As the table shows, under this amendment 42 States will receive some reimbursement from the Federal Government because their State UC law covers at least a part of their State and local employees.

As drafted, section 604 would require reimbursement payments to States on a quarterly basis effective as of January 1, 1977. This means that on or after April 1, 1977, States would be paid for their expenditures for covering unemployment of State and local employees during the 3-month period from January 1, 1977, to March 31, 1977. On July 1, 1977, October 1, 1977 and January 1, 1978, States would be reimbursed for their expenditures for the three preceding months.

This reimbursement provision will remain in effect until the cost of mandated coverage for State and local employees as provided in the Finance Committee bill on unemployment compensation is financed by the States.

### PROFESSIONAL AND NONPROFESSIONAL SCHOOL EMPLOYEES

This past August, the SUA program reached an all-time high of about 740,000 beneficiaries compared to the yearly average rate of about half that amount. In 1975, a similar phenomenon occurred. During the summer months, the number of SUA beneficiaries increased significantly. For example, the number of SUA beneficiaries in June 1975 was 278,000, in July 501,000, in August 663,000, in September 410,000, and 284,000 in October. This increase over the summer months in the SUA rolls has caused a great deal of concern by the public and in Congress about whether this temporary unemployment insurance program is truly serving those it was intended to serve.

In response to this concern, the House Ways and Means Committee included a provision in H.R. 14970 to prohibit payment of SUA benefits during recess periods to nonprofessional school employees who have reasonable assurance of returning to their previous jobs at the end of the recess period. A provision already incorporated in the present law prohibits payment of SUA benefits during school recess periods to professional school employees—teachers, administrators, and researchers—who have contracts covering the school terms or years before and after the recess period. The word "contract" in this context has been interpreted by the Secretary of Labor in regulations as an agreement which is either verbal, written, or implied.

Section 603 of this amendment changes the present law in two important ways to deal with this problem. First, as in the House Ways and Means Committee bill, the Senate provision would not permit a nonprofessional school employee to receive SUA benefits if he or she has notification of reasonable assurance from an educational agency of returning to work in the new academic year or term.

Second, the Senate provision would require, subject to regulations by the Secretary of Labor, lump sum payments of SUA benefits to nonprofessional school employees who are given reasonable assurances from an educational institution or agency of returning to work or to professional employees who are determined to have a contract for the upcoming academic term, and who therefore are determined not eligible for SUA benefits, but who in fact should have been eligible for such benefits because of their actual loss of work when that turns out to be the case.

In other words, school employees who have a contract or who are given reasonable assurances of future employment by educational institutions or agencies, but who do not actually become employed at the promised future time will be entitled to the SUA payments they would have received had their employment status been correctly perceived at the earlier time.

Together, these two provisions will encourage local school districts to accurately inform all their employees—professional and nonprofessional—of their employment status as soon as is feasibly possible. These provisions will prevent unjustified payments to school employees during recesses in the academic year if these employees will be returning to work. And these provisions will protect school employees if their employment status was inaccurately determined because of a contract that does not take effect or because of a reasonable assurance of employment that turns out not to yield a job.

### DEFINITIONS OF "BASE YEAR" AND "BENEFIT YEAR" CHANGED

Section 602 of this amendment, which also is incorporated in H.R. 14970, also will change the SUA program as it now operates. Under existing law, SUA eligibility and benefit payments in all States are determined on the 52-week period immediately preceding the date the initial claim is made and the benefit year for SUA claims is the 52-week period beginning in the first week for which an individual files a valid claim. Section 602 of this amendment would remove these Federal "base year" and "benefit year" definitions after December 31, 1976, and replace them with the definitions provided under each State's UC law in which the claims are made. The administration recommended this amendment.

The base period is the specified time period prior to an individual's filing for UC benefits during which the claimant must have sufficient employment, in terms of weeks of work or wages earned, in order to qualify for benefits. The amount and duration of benefits paid to an eligible claimant are also determined on the basis of employment experience during the base period.

In 35 States, the base period is the first 4 of the last 5 quarters prior to the application for UC benefits. In other words, two-thirds of the States measure employment experience during a base period that excludes work done in the 3 to 6 months just prior to the time a claim is first filed. As a result, the claimant's most recent employment—work done in the 3 to 6 months just prior to filing for UC benefits—is not included in the determination of eligibility or benefit amount. The reason for this type of a base period is that it allows the States in making determinations of eligibility and benefit payments to use the records of quarterly and annual earnings that are supplied by employers when they submit their UI tax payments and related reports.

The special base period for SUA claimants provided under the current law has created administrative problems in those States with a base period that excludes the most recent 3 to 6 months of employment.

The special base period also has made it possible for a substantial number of individuals in these States to qualify for SUA benefits rather than regular State UC benefits even though they had been working in covered employment. They qualified for SUA because their work experience was during the most recent 3 to 6 months before filing for UC. These individuals had sufficient employment, or wages earned, to qualify for regular State UC benefits, and they had been working in covered employment. However, they had earned these wages during the 3 to 6 months just before they applied for UC or during the period that is excluded by the State base period in determining eligibility for regular State UC benefits. As a result, they could not qualify for regular UC benefits. However, because of the most recent 52-week base period under SUA, they did qualify for and receive SUA benefits. Section 602 closes any possibility these individuals will receive SUA benefits in the future.

The benefit year is the period during which a qualified claimant may receive the UC benefits to which he or she is entitled. Under current law, the benefit year for SUA claims must be the 52-week period beginning with the first week for which an individual files a valid claim. This is similar to the benefit year used in the regular State UC programs in all but a few States. As a result, the provisions in this section requiring that the benefit year for SUA claims filed after December 31, 1976, be the same as the benefit year in State law will have little impact on the payment of SUA benefits.

The net effect of these changes will eliminate administrative problems created by the variations between the State UC law and the SUA base period and benefit year. Elimination of the special base period will also restrict the payment of SUA benefits to unemployed workers who have been working in employment not covered under permanent Federal or State UC law. These changes will not only improve the SUA program, but they also pave the way for the States to pick up those individuals now covered under SUA under the permanent UC law beginning in 1978.

Mr. President, the SUA program has been of great importance to those individuals who are not covered by a Federal or State UC and who would have had to go on the welfare rolls during their periods of unemployment but for this program.

The Subcommittee on Employment, Poverty, and Migratory Labor has reviewed the SUA program over the past 2 years. The various provisions we offer today will improve the current program and insure its continued effectiveness in serving those individuals it was intended to serve. The administration supports this 1-year extension and the Department of Labor has worked closely with the committee and its staff in drafting the various changes in the current law. I urge the Senate to adopt this legislation.

The purpose is to be sure that for next calendar year those States that are already paying unemployment compensation covering public employees, State and local, are not discriminated against as contrasted with those who have no coverage at all for such employees.

Mr. President, I wonder if I may have the attention of the Senator from Louisiana?

Mr. LONG. Yes.

Mr. NELSON. Mr. President, I have offered the amendment with which the Senator is familiar.

Mr. President, I ask unanimous consent that a chart entitled table 1 listing the 42 States that are benefited by this proposal and another chart entitled table 2 be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NELSON. Mr. President, it is not necessary that it all be printed in the RECORD in any event.

The PRESIDING OFFICER. The Chair will inform the Senator from Wisconsin that his statement was not objected to. It is the charts.

Mr. GOLDWATER. It would have been objected to, but I was talking to someone else.

Mr. NELSON. I did not understand.

Did the Senator from Arizona desire for me to read this eloquent statement in toto?

Mr. GOLDWATER. I repeat again what I said earlier under reserving the right to object, and I will object.

Mr. NELSON. I cannot hear the Senator.

Mr. GOLDWATER. I said earlier that I am going to object to every unanimous-consent request that is made on this floor, and unfortunately most of them have been on the Republican side, merely asking for their aides to be on the floor, until attention is given to Calendar No. 359, which is a nomination of Richard Bilby to be a circuit court judge in the 9th Circuit. So I am going to use the only weapon I have, and I will object from here to Doomsday if I have to.

Mr. NELSON. I understand.

The PRESIDING OFFICER. Will the Senator from Wisconsin suspend a moment? The Senator from Arizona did not object to the remainder of his statement being printed in the RECORD. It was the objection to the charts.

So the statement will be in the RECORD.

Mr. NELSON. All right.

We will send the charts over to the Senator from Arizona.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER (Mr. HATHAWAY). The Senator from New York is recognized.

Mr. JAVITS. I wish to support the amendment of Senator NELSON, who offered it for me and other Senators. As he has already stated, this morning in the Committee on Labor and Public Welfare, which has the jurisdiction over this particular kind of unemployment compensation, we reported a comparable bill, and this is our opportunity to get it considered both here and in the other body.

It relates to a highly deserving group of employees, those excluded from the permanent VI systems, principally government employees, agricultural workers, and domestics.

Mr. President, this is really the only chance in this particular session to get this program carried on because it terminates on December 31, 1977.

We have dealt with the retroactivity question. That is no longer a problem. It is projected forward until, under the bill, these workers are covered under the permanent program on July 1, 1978.

I hope very much the manager of the bill may see fit to accept it.

Mr. LONG. Mr. President, I discussed this matter with the sponsors of the amendment. The amendment relates to an area of courage that the committee had already acted on, but involves payments for an interim period. I really favor the amendment, except that I was compelled to object to what would have been retroactive features.

Now, as I understand it, the amendment has been modified so that it does not contain the retroactive features. It is entirely prospective.

I ask the Senator: Is that correct?

Mr. JAVITS. That is correct.

Mr. LONG. Under those conditions, Mr. President, I am pleased to support the amendment.

Mr. WILLIAMS. Mr. President, I am pleased to join with other Senators and cosponsors in support of the amendment offered by the Senator from Wisconsin (Mr. NELSON) which, among other things, would extend for 1 year the special unemployment assistance program.

This extension has become a matter of urgency and necessity, and I hope that the Senate will consider it in that light and approve it promptly.

This program—known as SUA—provides protection against the financial hardships of joblessness for a special group of American workers—those who are not eligible for unemployment compensation under the regular unemployment insurance programs of the States.

Estimates of the number of workers in this "uncovered" group range between 10 million and 12 million persons, of which approximately 7.7 million are State and local government employees. Two other large components of the group are agricultural workers and domestic workers.

Nearly 2 years ago, as the Nation was entering the most bitter recession in 40 years, Congress recognized that millions of these "uncovered" workers would suffer personal havoc if some form of unemployment assistance were not available to them, as it was to some 75 million persons whose jobs were covered by unemployment insurance.

The SUA program was designed to provide them with the protection they did not otherwise have, and it worked well for that purpose. In its first year of operation, 1.1-million workers qualified for SUA benefits because they lost their jobs in the recession and could find no other immediately available work.

The program also proved to be of special importance to workers who are traditionally at a disadvantage in the work force. In 1975, fully two-thirds of the SUA recipients were women, and 20 percent were nonwhite; these two groups—women and members of racial minorities—are all too frequently the last hired and the first fired when economic conditions worsen and employers are forced to tighten their belts. In that first year of the SUA program, nearly 40 percent of the claims were filed by employees of State and local governments, which were similarly forced to take austerity measures as economic activity shrank and tax revenues followed suit.

But the SUA program was not intended solely as an antirecessionary measure, Mr. President. It was also regarded by many Members of Congress as a first step toward bringing under the umbrella of unemployment insurance coverage the majority of those workers who are not now covered.

Progress toward that goal had been far too slow over the years. Only eight States provided regular coverage for substantially all public employees. Twenty-one States provided coverage for State employees, and 21 have given local governments the option of providing coverage for their employees, but 13 States provide neither mandatory nor voluntary coverage for local public employees. For agricultural workers, three States and the District of Columbia provide regular coverage; the same is true for domestic workers.

One reason for the reluctance of the States to extend regular coverage to these groups was the complexity of the administrative problems that were anticipated. The SUA program provided an opportunity to dispel this concern, according to testimony received last week by our Subcommittee on Employment, Poverty, and Migratory Labor.

Deputy Assistant Secretary of Labor Ben Burdetsky told the subcommittee:

> . . . the employment security system throughout the country has been able very effectively to adapt to this new (SUA) coverage and to bring (these groups) within the purview of their operations.
>
> From an operational point of view or administrative point of view, there have been no insurmountable problems. It's working fairly effectively.

In the same hearing, Mr. Lawrence Weatherford, Administrator of the Unemployment Insurance Service of the Department of Labor, noted that extending coverage to new groups always involves administrative difficulties arising from new employers dealing with the system and its reporting requirements. He said:

> At the beginning of this (SUA) program, we did experience some difficulties, with farm employers, basically, but those were resolved.
>
> Our judgment is now that we have a program—the SUA program—in hand with no substantial difficulties in terms of administration.

Clearly, Mr. President, the SUA program paved the way administratively for all the States to accept the responsibility of providing regular coverage for the vast majority of previously uncovered workers. This amendment, and the bill to which it would be attached, bring us to the crossroads of decision on these matters.

H.R. 10210, as passed by the House of Representatives, provides for regular UI coverage for all State and local government employees and for certain agricultural and domestic workers. This extended coverage would be required in all States by January 1, 1978. A 1-year extension of the SUA program is necessary to prevent interruption not only of unemployment assistance for these workers, but of the administrative machinery that all of the States have established for delivering these benefits.

Mr. President, the Senator from New York (Mr. JAVITS) and I introduced last April 6 the bill S. 3262 which provided for a 1-year extension of the SUA program.

Our bill was referred to the Committee on Finance for consideration of provisions dealing with the regular UI program and to the Committee on Labor and Public Welfare. As chairman of the committee, I referred the measure to the Subcommittee on Employment, Poverty, and Migratory Labor, under the chairmanship of the Senator from Wisconsin (Mr. NELSON).

The subcommittee held hearings on the proposed SUA amendments, and a subcommittee draft bill was developed at the staff level for consideration. Since time is of the essence, the Senator from Wisconsin took it upon himself to assume a leadership role in refining the staff draft and bringing it before the Senate as an amendment to H.R. 10210.

The Senate owes a debt of gratitude to Senator NELSON, for his efforts to expedite consideration of this urgent legislation; to Senator JAVITS, the ranking minority member of the committee, for his unstinting efforts in the development of this legislation; and to the Senator from California (Mr. CRANSTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Ohio (Mr. TAFT) who have joined us in cosponsoring this amendment.

Mr. President, in addition simply to extending the SUA program for an additional year, our amendment provides for several improvements and refinements of current law.

First, it provides an important transitionary step toward bringing several million workers under the regular coverage of the unemployment insurance system of all of the States. It would do this by eliminating the difference between SUA and regular UI with respect to the "base period" and the "benefit year" in each State. Under current law, every claimant's SUA benefits, in all States, are computed on the basis of his or her earnings during the most recent 52-week period. This policy is sound, in that it provides a basis for benefits that takes into account the claimant's more recent work experience and earnings. However, the majority of the States—35, in fact—base their benefit computations on earnings in the first four of the last five calendar quarters. As a result, earnings in the most recent 3- to 6-month period are disregarded, to the disadvantage of recent labor-market entrants particularly.

The States justify the quarterly formula as strengthening administration and enforcement of UI eligibility standards, since it allows them to more fully utilize information obtained from employers' quarterly UI and social security reports. I would much prefer that the States move to the base period of the most recent 52 weeks, and I believe that can be done with the help of modern computer technology, as a number of States have demonstrated.

However, since a discrepancy does exist, and will continue to exist for several years, it is reasonable to require that the SUA base period conform in each State to its base period for the regular UI program. Our amendment requires this conformance, and we provide similar treatment prospectively for the SUA benefit year, which differs somewhat from the regular UI benefit year in a few States. For the transition period, our amendment would provide that the State law would prevail in these respects.

Second, the amendment provides for equalizing financial assistance to those States that provide UI coverage under their regular program for employees of State and local governments. In eight States, substantially all public employees are covered under the regular program, and their benefits, when they are laid off, are paid from a State trust fund supported by employer taxes or contributions. In 34 other States, some portion of State and local government employees are afforded this regular coverage. But the vast majority of such workers, for the past 21 months, have been covered by SUA, which is financed by the general revenues of the Federal Treasury. Thus, the States that were in the vanguard in providing unemployment compensation to their public employees have borne a financial burden that other States have not had to bear these last 21 months. Our amendment provides for the States to be reimbursed for benefits that will be paid to public employees out of State trust funds, beginning with January 1, 1977, and continuing until January 1, 1978, when public employees in all States would be provided regular UI coverage under the provisions of H.R. 10210 as reported by the Finance Committee.

The third major provision of our amendment, Mr. President, arises out of a storm of public protest against the payment of unemployment benefits to employees of educational institutions and agencies during the summer months. Last year, Congress voted to deny SUA benefits in the summer to persons who had been employed in an "instructional, research, or principal administrative capacity" by a school, if he or she had a contract to return to work later in the year. No similar restriction was placed upon nonprofessional employees who, while not under contract, have a regular pattern of work that involves a fixed summer recess and a return to the same or similar work when classes are resumed.

The House Ways and Means Committee has recommended adoption of a provision that denies benefits in the summer to such nonprofessional school employees, if they have a "reasonable assurance" of returning to their jobs in the fall. Since most of these workers do not work under a contract, the "reasonable assurance" test was recommended as an equivalent measure.

Mr. President, without some such provisions as those enacted last year with respect to professional school employees and those devised this year for the nonprofessionals, there is admittedly greater potential for abuse and administrative uncertainty. As is often the case, however, the remedy swung too far in the opposite direction, in my view, and creates the potential for new inequities and arbitrary denial of benefits to those who are clearly eligible.

Our amendment, therefore, provides that, when a school employee is denied unemployment compensation under either the "contract" rule for professional employees or the "reasonable assurance" rule for nonprofessionals, and if, in fact, his or her job fails to materialize in the fall, then a lump sum of benefits would be paid back to the date of the original claim that was denied. The retroactive benefits would be paid only if the claimant filed application for a redetermination of eligibility and was able to demonstrate that he or she was available for work during the summer and otherwise eligible for the benefits.

This proposal, by no means, is a Federal giveaway, but a realistic effort to provide fair and equitable treatment to individuals who have had the misfortune of losing their job in June, but not discovering it until September. We believe the cost of this provision to be negligible, and we have been so advised by the Department of Labor.

It is my hope that this approach to a difficult problem will be adopted by the Senate, not only with respect to the SUA program under this amendment, but also with respect to the permanent provisions of law that would result from the enactment of H.R. 10210, extending regular UI coverage to all school employees after January 1, 1978.

Mr. President, with these perfections, the 1-year extension of the SUA program should be adopted by the Senate expeditiously and enacted by Congress before final adjournment this year. Otherwise, the SUA program will terminate on December 31 of this year, obliterating the opportunity for a smooth transition to the expanded coverage provided under H.R. 10210 for new groups of workers.

I urge adoption of our amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

### UP AMENDMENT NO. 501

Mr. NELSON. Mr. President, I send to the desk an amendment on behalf of myself, Mr. Javits, Mr. Williams, Mr. Case, Mr. Humphrey, Mr. Kennedy, Mr. Weicker, and Mr. Brooke, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. Nelson) for himself and Mr. Javits, Mr. Williams, Mr. Case, Mr. Humphrey, Mr. Kennedy, Mr. Weicker, and Mr. Brooke proposes unprinted amendment numbered 501.

The amendment is as follows:

Our page 41, strike lines 13 through 18.

On page 40, lines 16 and 17, strike the comma before "ILLEGAL" and insert in lieu thereof "AND", and strike ", AND RECIPIENTS OF RETIREMENT BENEFITS".

On page 40, line 22, strike "(16)" and insert in lieu thereof "(15)".

On page 44, line 21, strike "and".

On page 44, line 24, strike the period after "statistics" and insert in lieu thereof "; and".

On page 44, after line 24, insert the following new subsection:

"(12) evaluation of the feasibility and desirability of restricting the eligibility for receipt of unemployment compensation to persons eligible to receive a pension or other retirement or retired pay, annuity, or any similar periodic payments.

On page 47, between line 21 and line 22, insert the following:

"(f) Interim Report.—The Commission shall transmit to the President and the Congress not later than March 31, 1978, an interim report containing a detailed statement of the findings and conclusions of the Commission regarding subsection (b) (12) of this section, together with such recommendations as it deems advisable.".

On pages 47 and 48, redesignate subsections "(f)", "(g)", and "(h)" as subsections "(g)", "(h)", and "(i)", respectively.

Mr. NELSON. Mr. President, I rise to offer this amendment on behalf of myself and Senators Javits, Williams, Humphrey, Case, Kennedy, Weicker, and Brooke to modify the portion of section 303 of the Senate's version of H.R. 10210 that prohibits payments of unemployment compensation to individuals who receive any retirement income from private or governmental sources. The amendment I am sending to the desk was introduced for printing as amendment No. 2366 on Wednesday, September 22, but has been modified to include changes of a technical and clarifying nature which were suggested since it was introduced.

The Senate Finance Committee reported the unemployment compensation amendments, H.R. 10210, on September 20, 1976. That legislation included a provision in section 303 which would prevent retirees—those individuals receiving any form of compensation from a pension, retirement pay, or annuity from a governmental or private source—from receiving any unemployment compensation benefits at all effective January 1, 1978.

This amendment would strike the language of the Finance Committee provision in section 303 of the bill that excludes all retirees from the unemployment compensation system after January 1, 1978 The amendment would require the Unemployment Commission established under section 411 of the committee bill to study this problem and report to the President and the Congress by March 31, 1978.

When the Finance Committee considered section 303, the situation was considered in which a civilian or Federal retiree would receive a large retirement pension but then also apply and become eligible for unemployment compensation benefits because he or she was covered under a State's unemployment compensation law, was laid off, and continued to be available for work.

Mr. President, the Record should be clear that it is unconscionable and an aberation of our unemployment compensation laws that some retirees with large annuities or pensions also are permitted to receive unemployment compensation benefits. The public perceives this as a rip-off of Government funds, and justifiably so.

Under section 303 of the Finance Committee bill, however, retirees with a de minimus amount of income, who are in genuine need of unemployment compensation because they are out of work and are available to work and who are eligible to receive unemployment compensation benefits would be excluded from receiving benefits from the State/Federal unemployment compensation program after January 1, 1978.

It does not make good sense or good public policy to completely cut off from the unemployment compensation system a retiree who receives $5 a month from a private or governmental pension or annuity. That is not what members of the Finance Committee had in mind when it approved the prohibition of payments under section 303. Nor was it the intention of the Senator from Oklahoma (Mr. BARTLETT) in testimony before the Finance Committee and through the two bills (S. 3216 and S. 3529) he has introduced on this matter to cut off benefits for individuals with any retirement income—no matter how small.

What the committee bill does in section 303 is to recognize a problem and arrive at a cure that is worse than the disease itself.

Mr. President, some States already have addressed the problem to which the committee's amendment is directed. For example, in Wisconsin retirement income from any source is taken into account when the calculation is made for entitlement to State unemployment compensation. According to the Department of Labor, 11 other States have a similar provision in their unemployment compensation laws. Twenty-three States reduce unemployment benefits when retirement income is derived from an employer for whom the claimant worked in the last year or so. And 17 States do not attempt to address the retirement income question at all. These statistics include all 50 States, the District of Columbia, and Puerto Rico.

Under existing authority, States can insure that retirees do not abuse the permanent State/Federal unemployment compensation program by limiting the amount of unemployment compensation benefits payable to individuals with retirement income. Wisconsin is just one of those States that has addressed the problem through its State law.

Mr. President, it would be wrong to exclude all retirees—especially those receiving low pension benefits—from receiving unemployment compensation to which they otherwise would be entitled except for the prohibition in section 303 of the Finance Committee bill.

The amendment would do two things. It would delete the portion of the Finance Committee provision in section 303 of the bill that excludes all retirees from the unemployment compensation system after January 1, 1978. In recognition of the problem Senator BARTLETT and others have brought to the Congress attention, this amendment would require the Unemployment Compensation Commission, established under section 411 of the committee bill, to study this particular problem and report to the President and the Congress by March 31, 1978.

Mr. President, States can and should do a better job of insuring that individuals who have high retirement benefits do not take advantage of the unemployment compensation system—only those people who are in need of unemployment compensation benefits actually should receive them. Recognizing that many States are not taking a firm legislative stand on this matter, the Unemployment Compensation Commission should carefully consider all available alternatives and suggest what appropriate action should be taken at the State and Federal levels.

Mr. President, I ask unanimous consent that the remainder of my statement be printed in the RECORD as though read.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin still has the floor.

Does the Senator from Wisconsin still desire the floor?

Mr. LONG. I do not think the Senator is speaking. I wish to be recognized.

The PRESIDING OFFICER. Will the Senator from Wisconsin yield the floor?

Mr. NELSON. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

### UP AMENDMENT NO. 502

Mr. LONG. Mr. President, I send to the desk an amendment to the amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes unprinted amendment numbered 502 to the Nelson amendment.

The amendment is as follows:

"(15) no compensation shall be payable to any individual for any week of unemployment which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any similar periodic payment which is based on the previous employment or self-employment of such individual. A State unemployment compensation law shall not be found to have failed to comply with the requirements of this paragraph if such law provides for the payment of compensation for any week which is reduced by an amount equivalent to the amount of any pension or other payment prescribed in the preceding sentence which is reasonably attributable to such week;"

Mr. LONG. Mr. President, basically what my amendment seeks to do is to meet the problem as I think it should be met. I agree with the Senator's argument that the committee amendment goes too far but, on the other hand, there is merit to what the committee is seeking to do. This would, I think, better carry out that intent.

I hope that the Senator from Wisconsin will hear what I am getting ready to say because I hope he can accept this substitute for the amendment.

Here is what this amendment seeks to do.

Let us take the situation where one has a pension check from previous employment so that pension income that the man is getting actually exceeds what his unemployment insurance payment would be.

It is not quite right that he would get unemployment benefits in addition to the pension check, especially if the pension is supposed to be something he gets if he is not working. If he gets the pension check and then also draws an unemployment insurance check, he would be better off than when he was working. We do not want that result. If a man has pension income from other sources, the unemployment insurance benefit should be reduced by the amount he is receiving from the other sources. That usually would be a pension that he is entitled to draw as a result of prior employment for some other employer.

I do think that where a person is drawing pension income from a prior employer, he should not be drawing both the full pension and the full unemployment insurance. One or the other should be reduced.

This would simply say that his benefit would be reduced dollar-for-dollar by the amount of the pension or the amount of other income he had from other sources.

Mr. NELSON. The Senator from Wisconsin agrees with that. There is no intention to permit people to draw unemployment compensation on top of big retirement benefits.

The problem we sought to tackle, or the inequity which I think the Senator will agree inadvertently was created by the bill from the Committee on Finance, is that one may have worked some place else and have a retirement of $10 a month or $20 a month. Now that individual is 60 years of age, working on some other job, and he has to work full time. He has $20 of retirement income from some other source, and now he is laid off and is barred from any unemployment compensation at all. Obviously, he cannot live on $20 a month, and obviously our objective was not to bar him from receiving any unemployment compensation in that circumstance.

Mr. LONG. If the Senator will so modify his amendment, Mr. President, I think we can agree to his amendment.

Mr. NELSON. Has the language been sent to the desk?

Mr. LONG. I have sent to the desk an amendment to the amendment. If the Senator will so amend his amendment, we can agree to his amendment, I am sure.

Mr. NELSON. I modify my amendment pursuant to the language in the substitute sent to the desk by the Senator from Louisiana.

Does the Senator from New York agree with that?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. NELSON. Mr. President, I withhold the modification. The Senator from New York is a cosponsor of the amendment I offered, and I did not mean to accept a modification so quickly.

Mr. JAVITS. Mr. President, I call to Senator LONG's attention the fact that there are pension plans and then there are pension plans. Some of them are contributory by the beneficiary. I believe that is an item of consideration.

I realize that we cannot work out this situation on the floor of the Senate, so I should like to raise a few of the points which should be considered in conference, in view of the fact that this matter will be in conference with the House.

I agree with the fact that the retiree situation should be considered. As a matter of fact, the amendment also calls for a study by the Commission, which I think is right.

I also agree with the fact that it was not considered in the House, and therefore the only way to raise it is by raising it by some kind of amendment.

So I am perfectly satisfied to go ahead with the modification, whatever it may be. It does not worry me at all. But I do think that these caveats should be written into our debate, so that they are in the conference.

The amendment would have required the States to deny unemployment insurance benefits to unemployed workers receiving any pension or other retirement income. This drastic action by the committee, in my judgment, is both unwarranted and discriminatory.

It should be well known by now that pension plans are inadequate for millions of American workers. Congress recognized this fact only 2 years ago when it enacted pension plan reform in the Employee Retirement Income Security Act of 1974. But even ERISA does not guarantee a sufficient retirement income to provide for a retired worker's basic needs. Many older Americans, despite their receipt of some pension benefits, have no realistic alternative other than to search for gainful employment. It should also be well known that older unemployed workers experience greater difficulty in finding new jobs than younger workers, and are often the first to be laid off when business declines.

The amendment still does not distinguish between workers receiving pension benefits from a pension fund based upon their own contributions—which may be either voluntary or mandatory—and those who receive benefits from plans which are financed entirely or in large part from employer contributions. Indeed, the amendment would exclude from UI payments dollar-for-dollar benefits under plans for the self-employed or individual retirement accounts for workers whose employers offer no pension plan at all. This is tantamount to penalizing an individual who is drawing on his own life savings.

Where an employee has contributed a significant amount toward his own pension, the receipt of such retirement income should not reduce receipt of UI payments. ERISA and many of our tax laws have been enacted to encourage workers to participate in contributory retirement plans. ERISA provides increased tax incentives for individual plans for self-employed workers, and added a new Individual Retirement Account provision to encourage retirement savings by employees whose employers do not offer pension plans. Now this amendment proposes to reduce UI payments to these same workers.

It should also be noted that the amendment will have an adverse effect on employers who are taxed on an experience-rated basis. First, if an employer who enjoys a low experience rating must reduce his work force, the amendment will encourage him to layoff first any older worker who may be eligible for pension benefits. The employer would then preserve his low experience-rated tax because the laid off worker will be barred from collecting UI or will collect a reduced amount. The propensity of employers to discriminate in employment against older workers has already been recognized and disapproved by Congress in enacting the Age Discrimination in Employment Act of 1967. In the face of this congressional policy, I find this encouragement to lay off the older worker in the committee's amendment to be repugnant.

In addition, the amendment is inequitable with regard to the employer who has a high experience rating. Such an employer is forced to pay the maximum amount of UI tax, which cannot be increased because of his action in laying off additional workers. Yet, when he lays off an older worker who is eligible for retirement pay, and ineligible for UI, or eligible only for a reduced amount, the employer is denied the advantage given the low experience-rated employer under the same circumstances.

If a fair and effective Federal rule should be adopted to deal with possible abuses by workers simultaneously collecting UI and retirement benefits, it will first require the kind of detailed study and careful analysis which is expected of the new National Commission on Unemployment Insurance to be established under this bill.

I am perfectly satisfied to modify the amendment so that the matter may be in conference. I think that Senator Long, in this case, is just as sympathetic as we are to being sure that no injustice is done. I have raised a couple of the points which could cause an injustice.

**Mr. LONG.** Mr. President, the Senator from New York and the Senator from Wisconsin are right, that the committee, in seeking to meet a problem, went too far in one direction. I fear that in seeking to overcome an error made in good faith in the committee, the Senators might have gone too far in the other direction.

I simply try to do what is right, all things considered. The points made by the Senator from New York definitely are points we should consider in conference. We have the technicians from the Labor Committee—and I would be happy to have their advice on it—as well as those from the Finance Committee. I should like to consider those points in conference.

**Mr. BARTLETT.** Mr. President, I congratulate Senator Nelson for introducing his amendment as modified by Senator Long to reduce the cost of unemployment by eliminating the "double dip." This amendment was previously introduced by me as S. 3216, on March 26, 1976, which amended chapter 85 of title 5 of the United States Code to provide that unemployment compensation for all Federal retirees, both uniformed and civilian, would be reduced by the amount of benefits payable under any Federal pension system. The net result of this amendment will be that the retiree will only be eligible to receive the amount by which the unemployment might exceed the retiree's pension or annuity. The amendment does not affect the amount that the retiree received from the pension or annuity, and would in most cases, eliminate the overlapping payments of unemployment compensation to the Federal retiree.

The need for this legislation is clear. In an analysis prepared by Evans Witt of the Associated Press, it was estimated that over 90,000 Federal retirees receive unemployment compensation. The total expenditures in 1974 were estimated to be $115.9 million. In addition, there is a wide discrepancy from State to State, and I will ask unanimous consent to insert a copy of the analysis prepared by Mr. Witt which elucidates the situation which exists from State to State.

The question of mandatory termination from employment under unemployment laws is provided on the basis that retirement is mandatory because the employee reaches a certain age set by his or her employer. The retiree then may apply for unemployment compensation and receive it. Although the retiree must seek a job, usually a statement to that effect is satisfactory to fulfill the statutory requirements. Besides this perfunctory statement, it is virtually impossible for a State employment security commission to locate a job for a retiree, in that this person is at the peak of his income but declining in productivity.

A hypothetical example cited by Evans Witt may be useful to illustrate the possibilities. An individual who retired from a job at 65 and began drawing a pension of $1,000 per month could, in many States, also draw unemployment compensation up to as much as $416 per month for 64 weeks. This $416 is in addition to the pension received and social security.

Certainly we have established the need to provide for those individuals who are temporarily out of work, and who actively seek to rejoin the labor force. However, providing the funds to retirees is contrary to the purpose of unemployment compensation and is of even greater concern because of the drain that has been placed on these funds during the recession of the past several years.

The purpose of unemployment compensation has been outlined by the Department of Health, Education, and Welfare in their publication on January 1973, entitled "Social Security Programs in the United States." On page 55, HEW stated:

> Unemployment insurance programs are designed to provide cash benefits to regularly employed members of the labor force who become involuntarily unemployed and who are able and willing to accept suitable jobs.

The original report to the President by the Committee on Economic Security, published in 1935, stated on page 4 that:

> Unemployment compensation, as we conceive it, is a front line of defense especially valuable for those who are ordinarily steadily employed . . .

These descriptions clearly do not apply to the retiree who has ceased his employment, left the labor force, and is receiving a retirement pension. The intention of the Unemployment Compensation Act is concisely summed up in the first sentence of a book written by Merrill G. Murray, staff member of the Committee on Economic Security. Mr. Murray published a book entitled, "Unemployment Insurance in the American Economy," and in the opening sentence of chapter 2, "The Objectives of Unemployment Insurance," he stated:

> The primary objective of unemployment insurance is to alleviate the hardship that results from the loss of income during unemployment. Other objectives are secondary.

The abuses of the unemployment compensation program have reached a level that cannot be tolerated. In Oklahoma alone, some $2 million is unnecessarily being paid to Federal civil service and military retirees. This amendment does not totally disqualify the Federal retiree from unemployment compensation, but it does provide that they may only draw unemployment compensation which exceeds the amount of their entitlement from a Federal retirement program. In most cases, this amendment would eliminate the necessity of these payments entirely.

The second bill which I introduced, S. 3529, on June 8, 1976, is also covered by Senator NELSON's modified amendment. This amendment provides that a private sector retiree would have his or her unemployment compensation reduced by the amount received from any annuity or pension.

Obviously, this places the private sector retiree on the same footing as the Federal retiree.

The same analysis prepared by Evans Witt of the Associated Press estimated that over 71,000 retirees from the private sector were receiving unemployment compensation. The expenditures in this area for 1974 were estimated at a minimum of $71.1 million.

Mr. Witt's State-by-State analysis also demonstrates the discrepancies in the private sector, and I will ask unanimous consent that this analysis be inserted.

I will not repeat the explanation which I previously provided on how a retiree becomes eligible and retains his eligibility. It suffices to say that the same situation exists for the private sector retiree as the Federal retiree.

The previously cited example by Mr. Witt is equally applicable in this situation and serves to amplify the need for this amendment. The individual who has retired from a job at 65 and is drawing a pension of $1,000 per month could, in many States also draw unemployment compensation up to as much as $416 per month for 64 weeks. This $416 is in addition to the pension received and social security.

Mr. President, I believe that much of what I have previously said applies to this portion of the amendment, and I will not further belabor the point. It suffices to say that this part of the "double dip" should be halted, and thereby leave nearly $100 million of additional funds for use by those who are temporarily unemployed, and who were intended to receive unemployment compensation as a means of easing the stress during periods in which they were unable to find employment.

I ask unanimous consent that the analysis and a letter from Mr. W. Allen Sanders, Assistant General Counsel, Legislative Division of the U.S. Postal Service be inserted in the RECORD. Mr. Sanders' letter was forwarded to the Finance Committee and supports the enactment of this amendment.

There is strong support throughout the Nation for reform of our unemployment compensation system. Unemployment compensation and pensions perform two entirely different functions, and Senator NELSON's modified amendment will halt an unnecessary drain of unemployment compensation funds, reserving them for those who are in the greatest need, and to whom the program was directed. I congratulate the Senate for this action and effort in putting a part of the unemployment compensation system on sound footing.

There being no objection, the analysis and the letter were ordered to be printed in the RECORD, as follows:

### ANALYSIS

"In 16 States, including many of those with the most unemployed, both private and Government pensioners can draw full unemployment benefits. The States are: Alaska, Arizona, California, Georgia, Hawaii, Kansas, Kentucky, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Rhode Island, South Carolina, Texas, and Vermont.

In 15 other States, many retirees from the military can draw full benefits, while most non-Government pensioners can not. These are: Arakansas, Connecticut, Florida, Idaho, Iowa, Louisiana, Maine, Massachusetts, Missouri, Nebraska, New Hampshire, Ohio, Oklahoma, South Dakota, and Tennessee.

In eight of the above States, Federal civilian pensioners can receive more jobless pay than most other pensioners; despite Federal law saying ex-Federal employes shall receive the same benefits as other jobless persons.

In Louisiana and South Dakota, all those drawing Government pensions also can draw full unemployment benefits, while retirees from private business face reduced jobless benefits because of their pensions.

In Massachusetts and Oklahoma, Federal pensions—military and civilian—can draw full jobless pay. In those States, jobless benefits for other retirees can be reduced or eliminated because of their pensions.

In Ohio, all Federal pensioners and all other retirees who contributed to their own pension plans can draw full unemployment checks. Others face a reduction in benefits.

In Missouri, Nebraska, and Connecticut, Federal civilian pensioners and some private pensioners can draw full benefits—at least initially—while other pensioners face reduced jobless pay. Delaware also treats Federal pensioners in this manner, but reduces jobless benefits going to military pensioners.

In the other 19 States and the District of Columbia, unemployment benefits may be reduced if the applicant draws a pension. The amount of the reduction varies and can mean the pensioner gets no jobless check."

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LAW DEPARTMENT,  
*Washington, D.C.*

DEAR MR. CHAIRMAN: This is in regard to S. 3216, "To amend chapter 85 of title 5, United States Code, so as to provide that unemployment compensation . . . payable to a Federal employee for any week shall be reduced (but not below zero) by the benefits payable to him with respect to such week under a Federal pension system"; and S. 3529, "To amend the Emergency Unemployment Compensation Act of 1974 . . ., and to amend the Federal-State Extended Unemployment Act of 1970. . . ." Although we have not received a formal request to furnish our comments on these bills, we believe it is appropriate to furnish you our views concerning their impact on the Postal Service.

These bills would reduce some unemployment compensation by the amount by which recipients are entitled to certain pension benefits. To the extent that former postal employees also receive pensions covered under the bills, the Postal Service would be able to reduce its payments for unemployment compensation. Accordingly, the Postal Service supports their enactment.

S. 3216 would reduce unemployment compensation payable to a Federal employee (defined in U.S.C. § 8503(3) as anyone who has performed Federal service) by the amount to which the employee is entitled to a Federal pension (including a military pension). The bill would override State laws which allow some retiring Federal employees, including Postal Service employees, to collect unemployment while retiring on Federal pensions. The bill contains a "grandfather clause," § 1(f)(2) of the bill, which prevents the bill from affecting employees who are already receiving unemployment compensation when the legislation takes effect.

If S. 3216 were passed, S. 3529 would provide little additional benefit to the Postal Service. S. 3529 would reduce certain unemployment benefits of any employee, public or private, receiving a pension from any source. Since almost all postal employees on pensions are receiving Federal pensions which are covered in S. 3216, the number of additional employees covered under S. 3529 would be small. However, if S. 3529 were passed without S. 3216, it would provide some savings for the Postal Service. S. 3529 applies only to Federal payments under the Federal-State Extended Unemployment Compensation Act of 1970 (27th through 39th weeks of unemployment) and the Emergency Unemployment Compensation Act of 1974 (40th through 52d weeks). The bill would reduce payments under these Acts, but would not reduce either the 50% share paid by the States under the 1970 Act, or any payments under regular unemployment compensation (1st through 26th weeks) or the Special Unemployment Assistance Program (53d through 65th weeks). Since the Postal Service is ultimately responsible for all unemployment payments made to its former employees, it would continue to be liable to the States for payments made under programs not covered by S. 3529.

We have noted two technical defects in S. 3529. On p. 1, line 3 of the bill, it is stated that "section 102(d)(1) of the Emergency Unemployment Compensation Act of 1974 is amended. . . ." This should read "section 102(d) of the Emergency Unemployment Compensation Act of 1974 is amended . . ." since the bill amends both paragraphs (1) and (2) of 102(d). Beginning on p. 1, line 5, the bill would strike out "shall be equal" and replace it with "shall (except as is otherwise provided in subsection (h)). . . ." The words "be equal" were apparently omitted from the end of the substitute language, which should read "shall (except as is otherwise provided in subsection (h)) be equal. . . ."

The Postal Service supports enactment of S. 3216 and S. 3529 because we know of no reason why the Postal Service as an employer should be required to pay unemployment compensation to former employees who are also receiving a Federal pension.

Sincerely,

W. ALLEN SANDERS,  
*Assistant General Counsel Legislative Division.*

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Mr. NELSON. Mr. President, I modify my amendment in accordance with the language sent to the desk by the Senator from Louisiana.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

In lieu of the language proposed to be stricken on line 1, insert the following:

"(15) no compensation shall be payable to any individual for any week of unemployment which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any similar periodic payment which is based on the previous employment or self-employment of such individual. A State unemployment compensation law shall not be found to have failed to comply with the requirements of this paragraph if such law provides for the payment of compensation for any week which is reduced by an amount equivalent to the amount of any pension or other payment described in the preceding sentence which is reasonably attributable to such week;"

And strike the balance of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

AMENDMENT NO. 2369, AS MODIFIED

Mr. JAVITS. Mr. President, I send to the desk an amendment on behalf of myself and Senators WILLIAMS, KENNEDY, HUMPHREY, WEICKER, BROOKE, and CASE.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), on behalf of himself and others, proposes amendment No. 2369, as modified:

On page 44, line 22, strike "; and" and insert in lieu thereof ",";

On page 44, line 24, strike "statistics." and insert in lieu thereof "statistics, and".

On page 44, after line 24, insert the following:

"(12) examination of the feasibility and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance program.

On page 47, between lines 21 and 22, insert the following:

"(f) INTERIM REPORT.—The Commission shall transmit to the Congress not later than March 31, 1978, an interim report containing a detailed statement of the findings and conclusions of the Commission regarding subsection (b)(12) of this section, together with such recommendations as it deems advisable.".

On page 47, redesignate subsections "(f)", "(g)" and "(h)" as subsections "(g)", "(h)" and "(i)".

Mr. JAVITS. Mr. President, the purpose of this amendment is to commit to the Commission which is provided for by the bill, with a requirement for an interim report, not sooner than the Commission would report generally on all its matters, in order to determine—and I wish to emphasize this one point—whether to have or not to have—those are the specific words of my amendment—in other words, I do not seek to prejudge the case—whether to have or not to have a Federal benefit standard.

I believe this is a very critical element if we are to have real unemployment insurance reform.

It has been recognized over the 40-year life of the Federal-State unemployment insurance system that it should restore at least 50 percent of lost wages attributable to unemployment. This system's main purpose, after all, is to assure adequate benefits to the workers it covers and to give the economy protection against reduced consumer purchasing power caused by unemployment.

Virtually all of the State unemployment insurance laws subscribe to the principle of restoring 50 percent of an individual's gross weekly wage. But as usual there is a catch—in this case a big one. In every State the wage loss guarantee is subject to a benefit ceiling, a maximum benefit amount that has rendered the principle largely ineffective. These arbitrary weekly benefit ceilings lag far behind increased wage levels over the past several years. Although these ceilings were intended originally to affect only high wage workers, they now operate to the economic detriment of most unemployment insurance beneficiaries during their period of unemployment.

An adequate benefit standard has been recommended by every President since 1954. A frequently proposed standard is that a State's ceiling on weekly benefits should be set at two-thirds of the statewide average weekly wage in employment covered under the State's unemployment compensation law. Others, including the AFL–CIO have recommended a ceiling of 75 percent of the State average weekly wage. If a standard were set at the two-thirds level, about four out of five unemployed workers would be insured of 50-percent wage replacement in all States.

Today, only 15 States meet the two-thirds recommended level. These States account for 20.9 percent of nationwide covered employment. Twenty-five States, with 67.5 percent of the Nation's covered employment, have benefit ceilings below 60 percent of the statewide average weekly wage in covered employment. More than one-quarter of the Nation's covered work force is in States where the ceiling is less than 50 percent of the statewide average weekly wage.

Mr. President, I ask unanimous consent that a table showing each State's maximum weekly benefit amount, and the amount that would be required to yield a ceiling of two-thirds of the statewide weekly wage be printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I deeply regret that H.R. 10210 does not take even an initial step toward the establishment of a Federal benefit standard, despite the many recommendations that have been made over a period of many years. Until this is done the States will continue to compete among themselves to depress unemployment benefits at the expense of workers who comprise our basic economic strength and who should be entitled to the promise of the unemployment insurance system established over 40 years ago. Until Federal action is taken, unemployed workers will still all too often be forced to sell their possessions, move from their homes, use up their savings, and seek welfare assistance.

I am hopeful that action in this regard will be seriously considered in the next Congress. For this reason, the amendment I have proposed will require that the National Commission on Unemployment Compensation specifically study this issue and report to the Congress on its findings, conclusions and recommendations not later than March 31, 1978, rather than the 1979 date otherwise established in H.R. 10210 for the Commission's final report.

I urge the support of my colleagues for this amendment as a means of determining, without still another decade of delay, whether a Federal Standard on benefit adequacy should be enacted:

The table follows:

MAXIMUM WEEKLY BENEFIT AMOUNT (MWBA) PAYABLE JULY 5, 1976, AND AMOUNT REQUIRED TO YIELD 66⅔ PERCENT OF STATEWIDE AVERAGE WEEKLY WAGE (AWW)

| | Average weekly wage (AWW) [2] | MWBA as percent of AWW | MWBA, July 5, 1976 [3] | Amount required to yield 66⅔ percent of State AWW |
|---|---|---|---|---|
| Part I—Flexible maximum States: [1] | | | | |
| Arkansas | $149.13 | 66⅔ | $100 | $100 |
| Colorado [4] | 190.65 | 60 | 114 | 128 |
| Connecticut [4,5] | 187.96 | 60 | 110–165 | 126 |
| Delaware | 208.33 | 60 | 125 | 139 |
| District of Columbia [4] | 207.59 | 66⅔ | 139 | 139 |
| Hawaii [4] | 166.76 | 66⅔ | 112 | 112 |
| Idaho | 165.35 | 60 | 99 | 110 |
| Illinois | 210.17 | 50 | 106–135 | 140 |
| Iowa | 173.50 | 66⅔ | 116 | 116 |
| Kansas | 168.99 | 60 | 101 | 113 |
| Kentucky | 173.33 | 50 | 87 | 116 |
| Maine | 151.84 | 52 | 79 | 101 |
| Massachusetts [4,5] | 174.78 | 57½ | 101–152 | 117 |
| Minnesota | 182.93 | 62 | 113 | 122 |
| Montana | 161.98 | 60 | 97 | 108 |
| Nevada | 186.45 | 50 | 94 | 125 |
| New Jersey | 192.00 | 50 | 96 | 129 |
| New Mexico [4] | $154.14 | 50 | $78 | $103 |
| North Carolina | 146.15 | 66⅔ | 97 | 97 |
| North Dakota | 158.37 | 67 | 107 | 106 |
| Ohio | 191.41 | 50–78 | 95–150 | 128 |
| Oklahoma | 169.03 | 55 | 93 | 113 |
| Oregon | 186.29 | 55 | 102 | 124 |
| Pennsylvania | 186.30 | 66⅔ | 125–133 | 125 |
| Puerto Rico | 118.16 | [6] 50 | 60 | 79 |
| Rhode Island | 165.02 | 60 | 100–120 | 111 |
| South Carolina | 153.72 | 66⅔ | 103 | 103 |
| South Dakota | 142.30 | 62 | 89 | 95 |
| Utah | 168.77 | 65 | 110 | 113 |
| Vermont | 158.65 | 60 | 96 | 106 |
| Washington | 203.13 | 50 | 102 | 135 |
| West Virginia | 191.00 | 66⅔ | 128 | 128 |
| Wisconsin [4] | 182.45 | 66⅔ | 122 | 122 |
| Wyoming | 188.50 | 50 | 95 | 126 |

| | Average weekly wage (AWW) [2] | MWBA as percent of AWW | MWBA, July 5, 1976 [3] | Amount required to yield 66⅔ percent of State AWW |
|---|---|---|---|---|
| Part II—Fixed maximum States: | | | | |
| Alabama | $166.27 | 54 | $90 | $110 |
| Alaska | 405.89 | 22–30 | 90–120 | 271 |
| Arizona | 177.69 | 48 | 85 | 118 |
| California | 202.58 | 51 | 104 | 136 |
| Florida | 171.38 | 48 | 82 | 114 |
| Georgia | 171.10 | 53 | 90 | 114 |
| Indiana | 193.07 | 36–60 | 69–115 | 129 |
| Louisiana [5] | 177.09 | [5] 51 | [5] 90 | 119 |
| Maryland | 172.76 | 52 | 89 | 116 |
| Michigan | $219.04 | 44–62 | $97–136 | $146 |
| Mississippi | 147.35 | 54 | 80 | 98 |
| Missouri | 182.13 | 47 | 85 | 121 |
| Nebraska | 160.53 | 50 | 80 | 107 |
| New Hampshire | 160.75 | 59 | 95 | 107 |
| New York | 214.99 | 44 | 95 | 143 |
| Tennessee | 164.07 | 52 | 85 | 109 |
| Texas | 178.92 | 35 | 63 | 119 |
| Virginia | 168.86 | 61 | 103 | 113 |

[1] In flexible maximum States, the MWBA is determined periodically at a specified percent of the AWW in covered employment: Colorado, in selected industries; and Connecticut, based on AWW of production and related workers. MWBA may not be increased by more than $6 in any year in Connecticut.

[2] For the "flexible maximum" States, the AWW shown is for the 12-mo period specified in the State law for determining the MWBA. Not more than 1 6-mo lag exists between the end of the period and the effective date of the MWBA in any flexible maximum State except New Jersey where there is a 12-mo lag. For "fixed dollar amount maximum" States, AWW shown is for 12-mo period ending Dec. 31, 1975. AWW shown on p. 2 preliminary.

[3] For States providing dependents' allowances as part of the WBA, 2 entries are shown: the lower figure is the basic MWBA payable to a worker without dependents; the higher figure, the MWBA with the maximum allowance for dependents. Illinois, Indiana, Michigan, and Ohio vary the MWBA according to "dependency class," as well as wages. In the remaining 7 States with dependents' allowance provisions, fixed amounts for each dependent up to a statutory ceiling are specified. These States are Alaska, Connecticut, District of Columbia, Maryland, Massachusetts, Pennsylvania, and Rhode Island. District of Columbia and Maryland maximums are the same with or without dependents.

In these States the State law specifies that the AWW used in determining the MWBA is for a 12-mo period other than a calendar year.

[5] State legislative enactments will make the following changes in present MWBA's effective on the dates indicated: Delaware, 63 percent, July 1, 1977 and 66⅔ percent, July 1, 1978; Louisiana, 66⅔ percent and $120, Sept. 1, 1976; Massachusetts, 57½ percent and $108–$162, Oct. 5, 1976; and Connecticut, 60 percent and $116–$174, Oct. 5, 1976.

[6] MWBA limited by administrative order to $60 in Puerto Rico although procedure specifies MWBA is 60 percent of State AWW.

Mr. JAVITS. Mr. President, it seems to me that this urgently needs looking into but, knowing that we should not prejudge the case, I would like to read specifically the language so that Members may see that I have done what I said I would do. It adds an item to the work of the commission, reading as follows:

> Examination of the feasibility and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance programs.

I hope very much, Mr. President, in view of the fact that I am seeking only an objective appraisal, that the manager of the bill will be able to accept the amendment.

Mr. LONG. Mr. President, I have no objection to that amendment. The House bill, as sent to us, added something similar to this and this would extend the area of study by the Commission. I do not object to the amendment.

Mr. BELLMON. Mr. President, before we agree to this, are we talking about a study that has no costs associated with it?

Mr. JAVITS. I do not think there is any question of costs here. This will not add to the cost.

Mr. BELLMON. It does not increase the costs of the benefits?

Mr. JAVITS. Not at all.

Mr. BELLMON. I thank the Senator.

Mr. JAVITS Are we ready to vote?

The PRESIDING OFFICER The question is on agreeing to the amendment.

The amendment, as modified, was agreed to.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## APPROVAL OF BILLS

A message from the President of the United States announced that on September 28, 1976, he approved and signed the following bills:

S. 327. An act to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes.

S. 3283. An act to authorize various Federal reclamation projects and programs, and for other purposes.

## WORLD WEATHER PROGRAM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

*To the Congress of the United States:*

Weather and climate are at once familiar and sources of deep concern. Through technology, we have minimized the harmful effects of weather and have adapted our civilization to a wide range of climatic conditions. Yet, we now know how fragile is the balance between our activities and the enrivonment. Understanding that balance is the key to the successful management of energy, food, and water resources and the beneficial application of technology. Our national goals in improving weather predictions and warnings and coping with the vagaries of climate cannot be accomplished except in the context of a worldwide endeavor. All nations play roles; the United States can be truly proud of our contributions.

The World Weather Program is the U.S. commitment to an effort that will affect every one of us. I am pleased to report significant and continuing progress in furthering the goals of the World Weather Program. The following accomplishments are representative of the progress being made:

- —There has been a smooth transition into the operational use of geostationary meteorological satellites. The Western Hemisphere, much of the Atlantic, and part of the Pacific are now observed continuously. A nationwide network of Satellite Field Service Stations has been implemented by NOAA to capitalize on these new data. Hurricane and typhoon forecasting has been aided, for example, as has the observation, tracking, and warning of severe weather over the United States.
- —The data processing system at the World Meteorological Center, Suitland, Maryland, has been expanded through the operational use of a third, fourth-generation computer. This system is essential to handle the improved forecast models and the increased volume of data being received from the World Weather Watch.
- —Augmented environmental monitoring and climatic programs have been initiated at the South Pole, American Samoa, and Barrow, Alaska.
- —Engineering tests have been completed on large meteorological and oceanographic buoys. The first prototype operational system was moored 240 miles off the Oregon coast. Others are scheduled for operation this summer.
- —The initial data-processing phase for the Global Atmospheric Research Program's (GARP) Atlantic Tropical Experiment has been completed and scientific analysis is well underway.
- —A series of Data Systems Tests have been completed as a dress rehearsal for the First GARP Global Experiment which starts in 1978.
- —The Global Experiment received major impetus when over 40 nations met in February 1976 and agreed to commit ships, buoys, balloon systems, satellites, and other critical facilities for the observational period planned for 1977–1979.

It is with pleasure that I transmit this annual report describing current planned Federal activities contributing to the World Weather Program. The report details how the United States is following the intent of Senate Concurrent Resolution 67 of the 90th Congress to participate in this international program.

GERALD R. FORD.

THE WHITE HOUSE, *September 28, 1976.*

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## REPORT ON COOLEY'S ANEMIA PROGRAMS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Labor and Public Welfare:

*To the Congress of the United States:*

I am pleased to send to the Congress the Fourth Annual Report on the Administration of the Cooley's Anemia Programs in accordance with the requirements of Section 1115 of the Public Health Service Act before it was amended by P.L. 94–278.

The Report describes the activities of the Health Services Administration (HSA), the Center for Disease Control (CDC), and the National Institutes of Health (NIH) in implementing the Public Health Service Act, as amended by the National Cooley's Anemia Control Act. Screening, counseling, and education activities are underway to provide such services to the public through ongoing genetic blood diseases programs. Efforts are continuing to improve laboratory methods for the detection of Cooley's anemia and expanded training programs for health personnel are improving the capability for such detection. Research in the diagnosis, treatment and prevention of Cooley's anemia is progressing with continued high priority being given to the development and evaluation of more effective ways to reduce the iron load in the bodies of patients that has resulted from repeated blood transfusions required to maintain life.

GERALD R. FORD.

THE WHITE HOUSE, *September 28, 1976.*

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## UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

### AMENDMENT NO. 2370, AS MODIFIED

Mr. JAVITS. Mr. President, I send another amendment to the desk on behalf of the same sponsor. It is numbered 2370, with certain modifications, which I send to the desk. I shall explain them. The committee has a copy.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New York (Mr. JAVITS) for himself and others, proposes amendment No. 2370, as modified:
>
> Beginning on page 12, line 18, strike all through page 13, line 13, and insert in lieu thereof the following:
>
> "(D) by inserting before ', and' at the end thereof the following: ', and (ii) with respect to service in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such service may be denied to any individual for any week which begins before January 1, 1980, and which commences during a period between two successive academic years (or for a similar period between two regular but not successive terms) if such individual performed such service in the first such academic year or terms and there is notification of reasonable assurance from such an educational institution that such individual will be reemployed to perform such services in the later of such academic years or term, but any individual to whom a provision conforming with subparagraph (A)(i) or subparagraph (A)(ii) is applied, and who is in fact not offered reemployment beginning with the later academic year or term in an applicable capacity by the educational institution with which the individual had a contract or from which the individual had received notification of reasonable assurance of reemployment, as the case may be, shall upon application therefor be furnished a redetermination of entitlement to compensation for all weeks of unemployment which begin between the academic years or term involved, and with respect to which the individual was available for work and otherwise was entitled to compensation (disregarding the provisions corresponding with subparagraphs (A)(i) and (A)(ii)), and the individual shall be paid a lump sum in the amount to which the individual is so determined to be entitled for all such weeks, subject to regulations promulgated by the Secretary which shall prescribe reasonable means to facilitate the filing and receipt of such applications, a time limit on such applications, and reasonable conditions on entitlement applicable in the circumstances so as to effectuate the purposes of this provision'.".

Mr. JAVITS. Mr. President, this raises a question—not the biggest question in the world, and we shall come to that shortly—but it does raise a serious question. It relates to employees who, under the bill, may be denied unemployment compensation, who are professional or nonprofessional school employees. It seeks to determine their situation during summer vacation periods, as to whether they are unemployed or just on vacation, if they have, quoting from the bill "a reasonable assurance of employment for the next school term." Under present law, which requires States to provide unemployment insurance coverage for employees of their own higher educational institutions, teachers and other professional employees in such higher educational institutions are not entitled to compensation during vacation periods if they have contracts for the following terms. As passed by the House, the bill before us would require the States to deny compensation during summer vacation periods to all professional employees of all schools—that is, elementary, secondary, and post-secondary—who have contracts for the next term.

With respect to nonprofessional school employees, the House-passed bill permits the States to deny benefits during summer vacation periods if they have reasonable assurance of employment in the succeeding year.

So the House makes a difference. Professional employees—teachers, et cetera—have to have a contract. Otherwise, they get unemployment compensation. For nonprofessional employees, they have to have reasonable assurance of employment in the succeeding term, in which case, they, too, are denied unemployment compensation.

This provision in the Ways and Means bill from the other body expires on December 31, 1978, the House report says—

> in order to permit a reexamination by Congress on the basis of State experience.

The Committee on Finance made these two provisions even more restrictive by applying the reasonable assurance of reemployment which, in the House bill, applies only to the nonprofessional school employees, to both professional and nonprofessional employees, despite the fact that virtually all teachers and many other administrative school personnel—that is, in the professional class—either have year round contracts or have contracts for the next school term before the vacation period begins.

Moreover, the Committee on Finance changed the 2-year experimental authority in the House bill concerning nonprofessional employees to a permanent provision.

I am sympathetic to the intent of these restrictions on the payment of unemployment benefits to school employees during summer vacation periods. Certainly, many such employees expect to have little or no employment during such periods and intend to return to their school at the end of the summer. Others, of course, must depend on summer employment to provide adequately for themselves and their families. More importantly, many school employees—teachers, clerks, custodians, cafeteria workers, and others—have, during this recession, experienced layoffs in significant numbers for the first time in their career. Their rights to unemployment insurance benefits have therefore become much more important to them.

On the other hand, in the consideration of this amendment, we should very carefully examine the full implications of any restrictive provisions such as this before we establish a mandatory Federal requirement and apply it to one class of covered employees engaged in seasonal employment.

It must be understood that public employers—in this case, employed by school agencies—will typically be providing coverage for their employees on the basis of dollar-for-dollar reimbursement of benefits paid to former employees, rather than using the taxing provisions applicable, as we know them, to private sector employers. The reimbursement approach has been followed by most jurisdictions for public employees' coverage under present Federal-State unemployment insurance laws, and, therefore, is likely to follow the same reimbursement method.

What we have proposed in the way of an amendment to deal with these problems is to neutralize the economic incentive for abuse. The amendment provides that if, at the beginning of the term following the vacation period, the employee, whether professional or nonprofessional, is in fact not offered reemployment by the educational agency that gave him the reasonable assurance in the first place, he will be entitled to a redetermination of benefits applicable to the period for which he has been denied his entitlement to compensation. In short, if this restrictive provision has worked unfairly to the detriment of an actually unemployed school employee, he or she will be entitled to a lump sum payment for the denial period.

This will in no way operate as a paid vacation. A claim for benefits must have been initially filed with the State employment security agency and that person must have been available for work and otherwise qualify to be entitled to compensation under the applicable Federal and State laws.

But if, as a matter of fact, by qualifying—that is, he has filed for his benefits under unemployment and he has complied with all the laws and requirements in that regard—if, at the end of that vacation period, he actually finds that he had no reasonable assurance of employment by the school agency, and indeed, is not employed, then retroactively, he may have his benefits redetermined. He does not get them until that determination is made.

If we do it otherwise, Mr. President, I think we are really penalizing, especially in these days of considerable layoffs, a school employee who is really unemployed but, because of the terms of the law, may never collect unemployment compensation because he may be charged with having reasonable assurance that he will be employed at the end of the year, even though he is not. It seems to us that, in the way that I have described, we can deal with the abuses and, at the same time, not deprive a public employee of the legitimate unemployment compensation to which he is entitled.

Now, Mr. President, I would like to quote from a hearing on this particular matter by witnesses representing the administration. The representative of the National School Boards Association was a witness in the course of that hearing, and I thought he explained it very well. He said as follows:

> I might add, sir, that Senator Javits asked the question about reasonable assurance. I would indicate that we would have no problem with respect to retroactivity if that were placed in the law. In other words, if, for example, in a tenure state a notification was given to an employee in April, which is the usual period of time, offering reemployment that following year, even without a contract, and something should take place during the summer months to prevent that from occurring, we contend that person was legitimately unemployed and should be eligible for unemployment compensation for those months.

That is the essence of what this amendment seeks to accomplish.

Mr. President, I would also like to read into the RECORD—I do not like to bore the Senator from Arizona, but I want to honor my colleague, Senator GOLDWATER—a statement from the American Federation of Teachers signed by Albert Shanker, president, a letter dated September 23, 1976, addressed to me, which reads as follows:

> It is my understanding that you intend to offer an amendment to this bill that will allow for a retroactive payment of benefits in cases where they are wrongfully denied.

And that is the intent of this amendment.

> The American Federation of Teachers, AFL-CIO, strongly supports your amendment as a method of assuring if justice is delayed it will at least not be denied. We hope when this bill goes into conference the conferees will review the facts of this situation and restore payment of benefits for teachers consistent with the House-passed provision.

So, Mr. President, I present that to the Senate and hope very much that we may hear from Senator LONG as to his views on this particular matter.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, the distinguished Senator from New York has raised some questions about the language adopted by the Committee on Finance with respect to teachers. I believe he is unduly alarmed over our change with respect to the requirement of contracts.

The House would provide that they would not get the unemployment compensation if they had a contract for the coming year. Upon examination we find that that is a little too farreaching. I think it is overly legalistic. You could have countless cases where a teacher's services would be continued on, yet for many reasons the contract might not have been entered into.

It would hinge too much upon the execution of a contract when there is no intention of either body to interrupt the employment through the regular school year.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. CURTIS. Yes.

Mr. LONG. If we agree to the Senator's amendment we would have this type of situation: under most of these teacher tenure laws the law requires you to hire that teacher come the fall, so he knows that his job is there. Thanks to the good work of the teacher organizations, they have undertaken and achieved pay schedules which take into account the fact that that is a 9-month school year, so either by paying them more during the 9 months or otherwise they pay a salary which is adequate to pay that teacher for a year even though he worked for the school board for 9 months.

A schoolteacher does not have to have employment during those 3 months because almost every State has a pay arrangement in such a fashion if they are not paid during those 3 months the pay during the other 9 months is adequate to provide for their needs during the 12 months.

So a schoolteacher is really not unemployed during the summer recess. He can take other employment if he wants to, but he has a pay schedule, in most States, and I think that is true in Louisiana as well as Nebraska, that, assuming he wants to take a vacation during the summer, he still has adequate income to provide for him on an annual basis.

Now, if we say he is regarded as unemployed unless he has a contract to hire him again in the fall, let us say in September, then that would set the stage for a ripoff for the teachers who say, "Look, we do not want a contract. We will come back next year. We know the law requires you to hire us when we do come back, but we do not want a contract because we want to draw unemployment insurance in addition to school teachers' pay even though we are being paid a salary for which our people campaigned and obtained adequate adjustment to provide for an annual salary, adequate to provide for our needs."

Now under those circustances, we would then set the stage for a ripoff, and there are too many ripoffs in this program where it is now, where the people are not unemployed, where they have a salary that is adjusted to take care of their annual needs. Here one could choose to regard himself as unemployed simply by not having a contract although he knows he has a job.

Mr. CURTIS. The distinguished chairman is so correct.

It is not unreasonable to anticipate that in these days where some schools find is difficult to secure teachers they would wink at this and they would say, "Well, you do not want a contract, go ahead. We won't interfere in what you are trying to get for yourself this summer, just so you are back here when school starts." That could very well happen. We know that some people administering unemployment compensation, and some employers, actually submit some things they know are not right because they are timid about speaking out and taking another course.

Here is another situation: Many States have a teacher tenure law. The teacher's job goes on unless the board takes affirmative action and notifies them to terminate it. Well, if they are going to go on they are not unemployed. Why should we link it then to an actual contract? It could cause all sorts of trouble in reference to that.

I would like to also call attention to the fact that in small communities, in communities of small population, they do not have too much of an office force for the school board. School board members serve without compensation. They are busy, successful people, and they have their businesses to look after. But they serve, and they serve very well, as members of the school board, but they do not have secretarial help or help that is full time, and so sometimes actual formal contracts are delayed or not executed. That would make the teacher eligible for unemployment compensation for the summer.

I believe the language of the Finance Committee is fair to all the parties. I think it was well thought out. I believe the proposal of the distinguished Senator from New York is overly legalistic, that it will lead to some ripoffs, that it will cause applications to be filed for unemployment compensation where clearly the individual is not unemployed.

I believe it should not be agreed to.

Mr. BARTLETT. Mr. President, the distinguished Senators from Louisiana and Nebraska have been talking about ripoffs. I think they could have mentioned loopholes. I would like to compliment the distinguished chairman on closing one, so far as this bill is concerned, a few minutes ago.

I also wish to say that in my short time in the Senate I have often wondered how valuable it is to prepare for a hearing on a broad subject such as unemployment compensation and present that thinking even in the form of amendments to the committee, wondering whether any action might be taken.

I found, much to my pleasant surprise, that section 15 of the bill before us on page 41 capsulized the two amendments we did have, which would do away with the double dip provision of permitting people who retire either on Federal or private retirement programs to immediately qualify for unemployment compensation to the full extent of the law.

We introduced both of these provisions as bills, but, unfortunately, they did not get anywhere, though they did attract the attention of a member of the Associated Press, Mr. Witt, who probably has done the most intensive study of the question to point out that there are some $200 million plus being spent on unemployment compensation to retirees of either private or Government retirement programs.

I want to thank the distinguished Senator from Wisconsin for accepting the modifying amendment of the distinguished chairman to provide for section 15, a dollar-per-dollar reduction, so that someone who does have a retirement program less than the unemployment compensation would be entitled to the difference, which was a provision in my amendment.

I want to thank the chairman and the gentleman from Wisconsin. I also want to advise my colleagues that I do have a detailed statement that I will put in the Record as soon as I can to explain the value of this amendment that has been adopted.

Mr. President, I yield the floor.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER (Mr. Bumpers). The Senator from New York.

Mr. JAVITS. Mr. President, I have heard the arguments made against the amendment which I have proposed, and with all respect I do not consider them valid.

The Finance Committee's argument really boils down to this, that reasonable assurance is a more precise standard than contract for the professional employee, which is the standard of the House committee.

I just do not believe that is so. On the contrary, the House standard is far more precise and, in addition, the tenure argument does not really enter in here because if there is a contract, it is a contract whether the teacher has tenure or not.

That is a standard of the House and that is the right standard.

Also, Mr. President, my amendment is very strong on the question of retroactivity. In other words, there cannot be any ripoffs because the claimant collects nothing until such time as the event actually happens. To wit, only if whatever reasonable assurance the claimant might have had proves to be no assurance whatever because the claimant is not reemployed. Under the standard which is set in the Senate bill, we could have a situation in which there is true unemployment, where the claimant is really not employed at the end of the summer period and, nonetheless, because at the beginning of that period some subjective determination is made, that he had "reasonable assurance," then he is denied compensation for that period of time.

I think there is no possibility of a ripoff through the retroactivity proposed, and that the contract provision in the House bill is an infinitely more precise standard than the reasonable assurance provision of the Senate bill.

For those reasons, I believe that the amendment is properly to be adopted and the professional employees, such as teachers, should not be prejudiced in the way they are prejudiced by the Finance Committee's bill.

### QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FANNIN. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 57 Leg.]

Allen
Bartlett
Bellmon
Brooke
Bumpers
Curtis
Durkin
Eastland
Fannin
Hatfield
Helms
Jackson
Javits
Kennedy
Long
McClure
McIntyre
Morgan
Randolph
Ribicoff
Sparkman
Symington
Talmadge

The PRESIDING OFFICER. A quorum is not present.

Mr. JAVITS. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pell), the Senator from California (Mr. Tunney), and the Senator from Florida (Mr. Chiles) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Hawaii (Mr. Inouye), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Wyoming (Mr. Hansen), and the Senator from Vermont (Mr. Stafford) are necessarily absent.

I also announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

The result was announced—yeas 77, nays 2, as follows:

[Rollcall Vote No. 670 Leg.]

YEAS—77

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—2

Goldwater
Weicker

NOT VOTING—21

Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Dole
Glenn
Hansen
Hart, Philip A.
Inouye
Mansfield
McGee
McGovern
Metcalf
Mondale
Montoya
Pell
Scott,
  William L.
Stafford
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. JAVITS. Mr. President, there is a pending amendment.

The PRESIDING OFFICER (Mr. Bartlett). The Senator from California is behind the Senator from New York. The Senator from California is walking up on the Senator's blind side.

Mr. JAVITS. Mr. President, there is a pending amendment, is there not?

The PRESIDING OFFICER. The Senator is correct, amendment No. 2370, as modified.

Mr. JAVITS. Mr. President, in order to give the Senator from California an opportunity I withdraw the pending amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from California is recognized.

### UP AMENDMENT NO. 503

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes unprinted amendment No. 503.

On page 41, strike lines 10, 11 and 12 and insert in lieu thereof the following:

"(14) (A) compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a) (7) or section 212(d) (5) of the Immigration and Nationality Act),

(B) any data or information required of individuals applying for compensation to determine whether compensation is not payable to them because of their alien status shall be uniformly required from all applicants for compensation.

(C) in the case of an individual whose application for compensation would otherwise be approved, no determination by the State agency that compensation to such individual is not payable because of his alien status shall be made except upon a preponderance of the evidence;"

Mr. CRANSTON. Mr. President, I thank the Senator from New York for his generosity and helpfulness. I shall speak very briefly to this amendment, which I think is not in any way controversial.

The purpose of the amendment is to provide standards for the administration of section 303 of the bill in order that innocent citizens and lawful permanent resident aliens will not be inadvertently denied or delayed payment of unemployment compensation benefits to which they otherwise are entitled.

The purpose of the amendment is as follows:

First, to define more precisely those individuals who shall not be paid unemployment compensation as aliens not lawfully admitted for permanent residence in the United States;

Second, to establish a principle of nondiscrimination in administration of the provision by requiring that data shall be uniformly required of all applicants; and

Third, to provide that no individual shall be denied unemployment compensation under this provision except upon a preponderance of the evidence.

The Immigration and Naturalization Act as interpreted by courts and agencies is a very complex body of law. It is administered by U.S. consuls abroad and by experts in the Immigration and Naturalization Service and the Department of Labor at home. Even these trained experts have difficulty in determining the status of individuals.

The problems for unemployment claims workers will be especially severe with respect to persons who claim citizenship but have no ready proof of citizenship. For example, there are many individuals who have neither birth certificates nor naturalization papers, but who are citizens under 8 U.S.C. 1401.

It is not fair to ask untrained unemployment claims workers to attempt to interpret the Immigration and Naturalization Act. The amendment, therefore, proposes that all applicants be asked basic questions about citizenship or status as an alien. This information, together with other claims information, is verified by the employer in the normal claims process.

Unless a preponderance of the evidence is developed indicating that the individual is not lawfully admitted for permanent residence in the Unted States, the claim will be paid. These administrative provisions are consistent with the intent of the bill to deny unemployment compensation to aliens not lawfully admitted to the United States without unintentionally penalizing persons who are eligible as citizens or as aliens lawfully admitted for permanent residence.

Mr. President, I thank the staff of the Committee on Finance, Michael Stern, and others, who actually worked out this very sensible solution to a problem that has been creating a great deal of unnecessary difficulty.

Mr. HASKELL. Mr. President, H.R. 10210, the Unemployment Compensation Amendments of 1976, contains a prohibition against payment of compensation to aliens "not lawfully admitted to the United States."

This prohibition was added to the bill on the floor of the House of Representatives, and was retained in the bill as reported to the Senate by the Committee on Finance.

Obviously we do not want to pay unemployment compensation to illegal aliens. On the other hand the administration of this prohibition must not have the unintended effect of discriminating against American citizens and persons legally residing in this country and eligible for work, simply because of their ethnic, racial, or linguistic characteristics.

I am specifically concerned that many of my own constituents in Colorado may be harassed simply because they speak Spanish, and the potential for abuse of this provision obviously affects other parts of the country and other minorities.

I fear unemployment office administrators and interviewers, in order to enforce this provision, will simply presume all Spanish-speaking people guilty until the individuals themselves can shoulder the burden of providing documentary proof to the contrary. Thus, benefits could be denied to people lawfully entitled to receive them—including lifelong American citizens.

I believe that the amendment offered by the distinguished Senator from California, Mr. CRANSTON, goes a long way toward remedying this problem. I congratulate him for the concern and leadership he has shown on this issue.

Mr. LONG. Mr. President, the committee tried to deal with this problem, but in the brief time available to us we simply were not able to do it justice and, therefore, did not propose a solution to it.

I believe the Senator from California has come up with a good answer, and he is to be congratulated for working this matter out.

I am pleased to support the amendment.

Mr. CRANSTON. I thank the Senator very, very much.

Mr. FANNIN. Mr. President, the minority concurs with the chairman of the committee and supports the amendment.

Mr. JACKSON. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. I thank the Senators very much.

The PRESIDING OFFICER. The Senator from New York is recognized.

### UP AMENDMENT NO. 504

Mr. JAVITS. Mr. President, I send an amendment to the desk, No. 2370, modified, and I shall explain the modification.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes unprinted amendment No. 504 to amendment No. 2370, as modified.

The amendment is as follows:

Beginning on page 12, line 18, strike all through page 13, line 13, and insert in lieu thereof the following:

"(F) by inserting before ', and' at the end thereof the following: ', and (ii) with respect to service in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a) (1) applies, compensation payable on the basis of such service may be denied to any individual for any week which commences during a period between two successive academic years (or for a similar period between two regular but not successive terms) if such individual performed such service in the first such academic year or terms and there is notification of reasonable assurance from such an educational institution that such individual will be reemployed to perform such services in the later of such academic years or term, but any individual to whom a provision conforming with subparagraph (A) (i) or subparagraph (A) (ii) is applied, and who is in fact not offered reemployment beginning with the later academic year or term in an applicable capacity by the educational institution with which the individual had a contract or from which the individual had received notification of reasonable assurance of reemployment, as the case may be, shall upon application therefor be furnished a redetermination of entitlement to compensation for all weeks of unemployment which begin between the academic years or terms involved, and with respect to which the individual filed a timely claim for compensation and reported in accordance with the State law, was available for work, and otherwise was entitled to compensation (disregarding the provisions corresponding with subparagraphs (A) (i) and (A) (ii)), and the individual shall be paid a lump sum in the amount to which the individual is so determined to be entitled for all such weeks, subject to regulations promulgated by the Secretary which shall prescribe reasonable means to facilitate the filing and receipt of applications for reconsideration, a time limit on such applications, and reasonable conditions on entitlement applicable in the circumstances so as to effectuate the purposes of this provision'.".

Mr. JAVITS. Mr. President, some Members who are here will remember that we were discussing the problems of a teacher or a nonprofessional employee in a school who during the summer vacation period may or may not be entitled to unemployment compensation depending on whether at the end of that time he actually gets his job. There were different definitions adopted by the House of Representatives and the Senate.

The Senate definition said he has "reasonable assurance" of a job. The House definition as to a professional employee says he has a "contract."

Senator Long did not feel that he wished to change the Senate position and would rather deal with it in conference. But he did indicate he would be willing to accept a provision which would make for retroactivity for that employee if in fact at the end of the summer he had no job and, therefore, was actually unemployed even though it were a vacation period, provided that the claim had been filed in time, to wit, at the beginning of the summer, and the employee complied with all the rules and regulations respecting unemployment compensation, including reporting to the State agency. If he did that, and if at the end of the summer it proved that he had no job, he might submit a claim for it retroactively. We have modified the amendment that way, and we hope it is satisfactory to Senator Long.

Mr. LONG. Mr. President, I do not know precisely how this amendment will work out, but I say that it is far more acceptable than the first one, and perhaps we might be able to work it out in conference.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The modified amendment was agreed to.

### AMENDMENT NO. 2367, AS MODIFIED

Mr. JAVITS. Mr. President, I send an amendment to the desk numbered 2367, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. Javits) proposes an amendment numbered 2367, as modified.

The modified amendment is as follows:

Beginning on page 36, line 7, section 301, is amended to read as follows:

Sec. 301. The Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"Sec. 201. This title may be cited as the 'Federal-State Extended Unemployment Compensation Act of 1976.'

"Sec. 202. (a) (1) For purposes of section 3304(a) (11) of the Internal Revenue Code of 1954, a State law shall provide that payment of extended compensation shall be made for any week of unemployment which begins in the individual's eligibility period, to individuals who have exhausted all rights to regular compensation under the State law and who have no rights to regular compensation with respect to such week under such law or any other State unemployment compensation law or to compensation under any other Federal law and are not receiving compensation with respect to such week under the unemployment compensation law of the Virgin Islands or Canada. For purposes of the preceding sentence, an individual shall have exhausted his rights to regular compensation under a State law (A) when no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period, or (B) when his rights to regular compensation have terminated by reason of the expiration of the benefit year with respect to which such rights existed.

"(2) For purposes of section 3304(a) (11) of the Internal Revenue Code of 1954, a State law shall provide that payment of supplemental extended compensation shall be made, for any week of unemployment which begins in the individual's supplemental eligibility period, to individuals who have exhausted all rights to regular compensation and extended compensation under the State law and who have no rights to regular compensation or extended compensation with respect to such week under such law or any other State unemployment compensation law or to compensation under any other Federal law and are not receiving compensation with respect to such week under the unemployment compensation law of the Virgin Islands or Canada. For purposes of the preceding sentence, an individual shall have exhausted all rights to regular and extended compensation under a State law (A) when no payments of regular or extended compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period and has received all of the extended compensation payable to him, or (B) when his rights to regular compensation have terminated by reason of the expiration of the benefit year with respect to which such rights existed.

"(3) Except where inconsistent with the provisions of this title, the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for extended compensation and supplemental extended compensation and to the payment thereof.

"(b) (1) The State law shall provide that the State will establish, for each eligible individual who files an application therefor—

"(A) an extended compensation account with respect to such individual's benefit year, or

"(B) a supplemental extended compensation account.

The amount established in each such account shall be not less than whichever of the following is the least:

"(i) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him during such benefit year under such law,

"(ii) thirteen times his average weekly benefit amount, or

"(iii) thirty-nine times his average weekly benefit amount, reduced by the regular compensation paid (or deemed paid) to him during such benefit year under such law;

except that the amount so determined shall (if the State law so provides) be reduced, in the case of extended compensation, by the aggregate amount of additional compensation paid (or deemed paid) to him under such law for prior weeks of unemployment in such benefit year which did not begin in an extended benefit period.

"(2) For purposes of paragraph (1), an individual's weekly benefit amount for a week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

"Sec. 203. (a) For purposes of this title, in the case of any State—

"(1) an extended benefit period—

"(A) shall begin with the third week after whichever of the following weeks first occurs:

"(i) a week for which there is a national 'on' indicator, or

"(ii) a week for which there is a State 'on' indicator; and

"(B) shall end with the third week after the first week for which there is both a national 'off' indicator and a State 'off' indicator;

"(2) a supplemental extended benefit period—

"(A) shall begin with the third week after whichever of the following weeks first occurs:

"(i) a week for which there is a national supplemental 'on' indicator, or

"(ii) a week for which there is a State supplemental 'on' indicator; and

"(B) shall end with the third week after the first week for which there is both a national supplemental 'off' indicator and a State supplemental 'off' indicator;

"(b) (1) In the case of any State—

"(A) no extended benefit period or supplemental extended benefit period shall last for a period of less than thirteen consecutive weeks, and

"(B) no extended benefit period may begin by reason of a State 'on' indicator before the fourteenth week after the close of a prior extended benefit period or supplemental extended benefit period with respect to such State.

"(2) When a determination has been made that an extended benefit period or a supplemental extended benefit period is beginning or ending with respect to a State (or all the States), the Secretary shall cause notice of such determination to be published in the Federal Register.

"(c) (1) For purposes of this title, an individual's eligibility period under the State law shall consist of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period.

"(2) For purposes of this title, an individual's supplemental eligibility period under the State law shall consist of the weeks which begin in an extended benefit period and any weeks thereafter which begin in supplemental extended benefit period.

"(d) For purposes of this section—

"(1) There is a national 'on' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployed (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

"(2) There is a national 'off' indicator for a week if, for the period consisting of such work and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).".

"(e) For purposes of this section—

"(1) There is a State 'on' indicator for a week if the rate of insured unemployment (seasonally adjusted) under the State law for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 4 per centum.

"(2) There is a State 'off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, paragraph (1) was not satisfied.

For purposes of this subsection, the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.".

"(f) For purposes of this section—

"(1) There is a national 'supplemental on' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States equalled or exceeded 5.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

"(2) There is a national 'supplemental off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 5.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period.

"(g) For purposes of this section—

"(1) There is a State 'supplemental on' indicator for a week if the rate of insured unemployment (seasonally adjusted) under the State law for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 5 per centum.

"(2) There is a State 'supplemental off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, paragraph (1) was not satisfied.

For purposes of this subsection, the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.

### "Rate of Insured Unemployment; Covered Employment

"(h)(1) For purposes of subsections (d), (e), (f), and (g), the term 'rate of insured unemployment' means the percentage arrived at by dividing—

"(A) the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period, as determined on the basis of the reports made by all State agencies (or, in the case of subsections (e) and (g), by the State agency) to the Secretary, by

"(B) the average monthly covered employment for the specified period.

"(2) 'Determinations under subsections (d) and (f) shall be made by the Secretary in accordance with regulations prescribed by him.

"(3) Determinations under subsections (e) and (g) shall be made by the State agency in accordance with regulations prescribed by the Secretary.

### "AMOUNT PAYABLE

"Sec. 204. (a)(1) There shall be paid to each State an amount equal to one-half of the sum of—

"(A) the sharable extended compensation, and

"(B) the sharable regular compensation, paid to individuals under the State law.

"(2) No payment shall be made to any State under this subsection in respect of compensation for which the State is entitled to reimbursement under the provisions of any Federal law other than this Act.

"(b)(1) There shall be paid to each State an amount equal to the sum of supplemental extended compensation paid to individuals under this title.

"(2) No payment shall be made to any State under this subsection in respect of compensation for which the State is entitled to reimbursement under the provisions of any Federal law other than this Act.

### "Sharable Extended Compensation

"For purposes of subsection (a)(1)(A), extended compensation paid to an individual for weeks of unemployment in such individual's eligibility period is sharable extended compensation to the extent that the aggregate extended compensation paid to such individual with respect to any benefit year does not exceed the smallest of the amounts referred to in subparagraphs (A), (B), and (C) of section 202(b)(1).

### "Sharable Regular Compensation

"For purposes of subsection (a)(1)(B), regular compensation paid to an individual for a week of unemployment is sharable regular compensation—

"(1) if such week is in such individual's eligibility period (determined under section 203(c)), and

"(2) to the extent that the sum of such compensation, plus the regular compensation paid (or deemed paid) to him with respect to prior weeks of unemployment in the benefit year, exceeds twenty-six times (and does not exceed thirty-nine times) the average weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to such individual under the State law in such benefit year.

### "Payment on Calendar Month Basis

"There shall be paid to each State either in advance or by way of reimbursement, as may be determined by the Secretary, such sum as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or in creased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency.

### "Certification

"The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, by transfers from the extended unemployment compensation account to the account of such State in the Unemployment Trust Fund.

### "DEFINITIONS

"Sec. 205. For purposes of this title—

"(1) The term 'compensation' means cash benefits payable to individuals with respect to their unemployment.

"(2) The term 'regular compensation' means compensation payable to an individual under any State unemployeemnt compensation law (including compensation payable pursuant to 5 U.S.C. chapter 85), other than extended compensation and additional compensation.

"(3) The term 'extended compensation' means compensation (including additional compensation and compensation payable pursuant to 5 U.S.C. chapter 85) payable for weeks of unemployment beginning in an extended benefit period to an individual under those provisions of the State law which satisfy the requirements of this title with respect to the payment of extended compensation.

"(4) The term 'supplemental extended compensation' means compensation payable for weeks of unemployment beginning in a supplemental extended benefit period to an individual under those provisions of the State law which satisfy the requirements of this title with respect to the payment of supplemental extended compensation.

"(5) The term 'additional compensation' means compensation payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

"(6) The term 'benefit year' means the benefit year as defined in the applicable State law.

"(7) The term 'base period' means the base period as determined under applicable State law for the benefit year.

"(8) The term 'Secretary' means the Secretary of Labor of the United States.

"(9) The term 'State' includes the District of Columbia and the Commonwealth of Puerto Rico.

"(10) The term 'State agency' means the agency of the State which administers its State law.

"(11) The term 'State law' means the unemployment compensation law of the State, approved by the Secretary under section 3304 of the Internal Revenue Code of 1954.

"(12) The term 'week' means a week as defined in the applicable State law.

### "APPROVAL OF STATE LAWS

"Sec. 206. Section 3304(a) of the Internal Revenue Code of 1954 is amended by inserting after paragraph (10) (added by section 121(a) of this Act) the following new paragraph:

"'(11) extended compensation and supplemental extended compensation shall be payable as provided by the Federal-State Extended Unemployment Compensation Act of 1970;".

Sec. . (a) No supplemental extended benefit period may begin with a week beginning before April 1, 1977.

(b) For purposes of Section 3304(a)(11) of the Internal Revenue Code of 1954, the amendments made by this section shall not be a requirement for the State law of any State with respect to any week of unemployment which begins prior to October 1, 1977.

Mr. JAVITS. Mr. President, in my judgment, this is the first really significant amendment in terms of the substantive question which the Senate should decide; and I believe that it would be appropriate on this one, if it comes to issue, that we have a rollcall vote.

Right now, we are operating, because of the exigencies of the unemployment situation, under two programs. We are operating, first, under a Federal-State unemployment compensation system; and that provides a maximum benefit duration, generally, of 26 weeks. We are operating, second, under an extension of that program, called the Federal-State extended benefits program.

This program is a key component of the permanent Federal-State system of unemployment insurance protection. It was originally enacted in 1970, and is designed to provide an extended duration of UI benefits during periods of high unemployment. The EB program provides up to 13 weeks of unemployment compensation, at the same rate as the applicable regular State UI program provides, for workers who have exhausted their rights to regular UI payments.

As originally enacted, the program is triggered "on" in all States when the national insured unemployment rate—the IUR—equals or exceeds 4.5 percent for 3 consecutive months. The program triggers "off" nationally when the IUR drops below 4.5 percent for 3 consecutive months.

When the national trigger is not "on," States suffering high unemployment may trigger on independently if the State trigger requirements are met. As originally adopted, the State trigger required that the statewide IUR equal or exceed 4 percent and also that the IUR in the State be 120 percent of the average of such rates for the corresponding month of each of the previous 2 years. Similarly, the EB program would be triggered "off" if the statewide IUR fell below either 120 percent of the average rates for the corresponding month during each of the previous 2 years or fell below 4 percent.

It should be noted that the IUR traditionally runs, and is currently running, about 2 percent below the total unemployment rate, with which most of us are familiar as the rate reported monthly by the Bureau of Labor Statistics. Last month, the total civilian unemployment rate was 7.9 percent, and the corresponding insured rate was 5.6 percent.

The EB program was adopted to provide the additional income security necessary for the large number of workers who suffer long-term unemployment during periods of high unemployment. Unfortunately, the current permanent Federal-State UI system, providing up to 26 weeks of compensation under regular State law and up to an additional 13 weeks of benefits under the Federal-State extended benefits program, has proved insufficient to provide for the needs of the unemployed during prolonged periods of high unemployment. This fact has been made clear by the deep recession and record high unemployment rates during the last 2 years.

Only swift action by the Congress in December 1974, in enacting two emergency unemployment compensation programs, kept economic disaster from befalling millions of unemployed workers and their families and prevented the permanent UI system from failing altogether. These are the special unemployment assistance—SUA—program which provides up to 39 weeks of unemployment benefits for workers not covered by the permanent UI system, including public employees, farm workers, and domestic workers; and the Federal supplemental benefits—FSB—program which provides up to 26 additional weeks of unemployment compensation for workers who have exhausted all of their entitlements under the regular State unemployment insurance laws and the extended benefits program.

Today, although we have a few signs of halting economic recovery, 7.5 million American workers continue to suffer unemployment. In many of our urban areas, particularly in central city ghettos, unemployment reaches well into the double-digit range. But, whether or not our economy improves over the next 1 or 2 years, we can draw no comfort from the lessons of the current recession. At best, even with modest economic recovery over the next year or two, we know that we are still subject to sharp swings in the business cycle. At worst, there will be no near-term abatement in high unemployment, with millions out of work for very extended periods, and there could even be a substantial deterioration. I note in this connection that a study recently released by Chase Econometrics predicts another recession in 1978 and an increase in the unemployment rate to a peak level of 10 percent in 1979.

Either way we should act now to remedy the permanent UI system's capacity to respond to prolonged periods of high unemployment. H.R. 10210 provides the opportunity to bring about this long overdue reform of the UI system and thereby strengthen our capability to protect workers against future recessions.

The reform of the permanent unemployment insurance program I propose is an amendment to expand the EB program, making it a more effective mechanism for income security protection during prolonged periods of high unemployment. This amendment will establish a second tier of extended benefits to be known as the supplemental extended benefits—SEB—program. SEB will provide up to an additional 13 weeks of unemployment compensation for workers who exhaust entitlements under the current extended benefits program.

Similar to the current EB program, SEB would be triggered "on" automatically on a national or statewide basis. Because this new program will provide benefits beyond those provided by the existing EB program and is intended to respond to deeper and longer term recessions, the trigger levels would be 1 percent higher than those in the current program. Thus, the national "on" trigger would be established at 5.5 percent insured unemployment rate nationwide. If the national trigger is not "on", workers in States suffering high unemployment could still be eligible to participate in the EB program by meeting the State trigger. The SEB program would trigger "on" in any State suffering an insured unemployment rate of 5 percent or higher.

If the program were in place, it would provide a potential duration of up to 52 weeks of unemployment compensation for workers who suffer long-term unemployment during severely depressed economic periods. This represents the minimum level of income security protection which I would consider acceptable during such times. The 5-percent statewide and 5.5-percent national trigger levels correspond to a total unemployment rate of approximately 7 percent and 7.5 percent respectively.

The experience under the temporary Federal supplemental benefits program over the last 2 years demonstrates the need to develop a permanent program such as SEB. In calendar year 1975, over 2¾ million unemployed workers received benefits under the FSB program. These unemployed workers received $2.2 billion in urgently needed income security payments. This money served the dual purpose of providing for the essential needs of unemployed workers and at the same time pumped funds directly into the economy to help slow the effects of the recession and speed economic recovery.

Just how soon this program will be needed will of course depend on the state of the economy next year and in ensuing years. Certainly we know that if it had been in place in 1974, the Congress would not have had to act so suddenly in response to the steep economic decline we experienced then. The Federal-State unemployment insurance system is far too important to be left to ad hoc temporary measures. Current and projected economic conditions, and the needs of the very long-term unemployed, demand that permanent reform be included in this bill now.

The amendment which I have proposed would provide for financing the SEB program entirely from the Federal Unemployment Trust Fund. In comparison, regular unemployment benefits, usually up to 26 weeks, are financed entirely from the State trust funds, and the current extended benefits program is financed on a 50-50 basis between the Federal and State trust funds. All benefits under the temporary FSB program are now financed from the Federal fund. I believe that it is appropriate to finance this new second tier of extended benefits from the Federal Unemployment Trust Fund, particularly in light of the precarious financial condition of many State trust funds, 21 of which are currently borrowing from the Federal trust fund in order to meet their current obligations.

In order to permit the States with sufficient time to enact the necessary changes in their unemployment insurance laws, and also to obviate any potential conflict with the ceilings established in the second budget resolution, this amendment is to take effect October 1, 1977.

The amount involved is variously estimated. We think the proper annual estimate is $300 million. The Budget Committee says that their estimate, which was included in the budget calculations, is $500 million. I cannot say exactly what it would be, but we believe that the estimate of $300 million annually is a proper one. However, it falls somewhere in that area.

Mr. President, this is a matter for very serious consideration by the Senate. We have 7.9-percent unemployment, which is a very serious number. We have approximately 7.5 million unemployed. We know that hundreds of thousands of people are having their benefits expire.

Mr. President, I yield briefly to Senator THURMOND.

Mr. THURMOND. Mr. President, I ask unanimous consent that a member of the staff of the Committee on the Judiciary, have the privilege of the floor during the consideration of this bill.

Mr. FANNIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, I have dealt with this matter here ever since this recession began. In voting these various unemployment compensation programs, we have adopted—not written in letters of fire, but we have adopted—a general philosophy that in this recession we will not let a person who is unemployed through no fault of his own go on welfare or relief. Therefore, we have sought, within reason, to continue the unemployment compensation program, rather than force that unemployed person off unemployment compensation.

It is on that basis, Mr. President, that I submit it to the Senate, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I do not believe this amendment is necessary. It seeks to establish a permanent program based on some of the experience that we have had with the temporary program in the current crisis. Two or three things are wrong with that type of assumption. One of them is that although one could argue that history repeats itself, because we do see certain parallel events, in fact, history never repeats itself in identically the same fashion. There is always a difference. Assuming a future crisis of a high degree of unemployment, the measures that we have adopted this time might not be the best way to meet the problem that might occur at a future date.

Furthermore, Mr. President, we get into the problem created by this bill: At what point should a worker lower his sights and take a job that is somewhat different than his training and experience? Let us assume that a man is accustomed to a white-collar job in a pleasant, air-conditioned situation, the type of thing that he had always hoped he would do, and he had that type of job over a period of time. He finds himself unemployed.

Here are any number of jobs he could hold, but he does not want to lower his sights to accept lesser pay and to work under conditions that are not as favorable as those which he had enjoyed before.

The whole theory of the unemployment insurance law is that, in normal times, he can draw unemployment insurance benefits while he looks for a similar job, with the same type compensation, for 26 weeks or for 6 months. But after 6 months, it is felt that he ought to lower his sights. He ought to be willing to settle for something less than that. He ought to take whatever job he can get. That is the theory of the program.

In times of higher unemployment, we provided a program to take him up to 39 weeks so he can go for 9 months without lowering his sights and accepting other employment that would be available to him.

Then we found that, because of continued distress in the economy, we went up to 65 weeks and let him go along for a whole, solid year and 3 months without reducing his sights and continue to draw the unemployment insurance benefits, rather than take some other job.

So a man can work for 20 weeks, a little less than 5 months, and then be able to draw unemployment insurance payments for 15 months—a year and 3 months. He can work for 5 months and then rest for a year and 3 months—15 months of employment insurance benefits for 5 months of work—rather than reduce his sights and take a job that he might ordinarily feel is something that does not quite meet what he believes to be fair.

Ronald Reagan has given an illustration of that type of fellow and shown some of the ridiculous extents to which we can go sometimes. He said if he were unemployed in his old hometown where he was born and reared, and if he were applying for unemployment insurance benefits, they would say, "Well, what kind of experience do you have?"

He would say, "Well, I have had some experience as a radio announcer." They would say, "That is too bad, we do not have a radio station in this little town; there is no job available as a radio announcer. What other experience do you have?"

He would say, "Well, I am a movie actor."

"Well, that is too bad. There are no jobs available around here for a movie actor; you have to go out to Hollywood to get a job out there. The law does not require you to go anywhere; but there are no jobs for movie actors in this little town of Iowa. What else do you do?"

"I have been Governor of a State."

"Well, that is too bad, we do have one job as Governor, but that job is taken. It will not be open for another 3 years."

Before we try to enact some kind of permanent program to provide another 3 months of extended benefits, we ought to have a great deal more study than we have had a chance to give this Javits amendment. We ought to review some of our experiences and perhaps consider some of the mistakes we have made in past programs.

Goodness knows, the program has fallen into disrepute in many ways, as we saw in the program "60 Minutes," made down in Florida. They showed the actual people going in and out of the offices, drawing unemployment benefits, some of whom had jobs and some of whom had plenty of employment opportunities, even for doing the kind of work they had done before, but managed to avoid taking the jobs and still drew the benefits all at the same time. Before we get into all that and try to draw up a permanent program of all these benefits for 1 year, we ought to know a lot more about it and judge by the experiences that we have had with this bill and previous bills we have had.

I hope, Mr. President, that the amendment will not be agreed to.

Mr. JAVITS. Mr. President, just to complete the argument on this, the policy which we have followed in respect of this recession has clearly been a very wise one and has had a lot to do with bringing us somewhat out of it. We are bringing down the coverage for unemployment compensation from 65 to 52 weeks. I respectfully submit that that is even not in proportion to the degree to which we have had a reduction in unemployment.

It has worked well from the point of view of the fundamental economy of the country and we should not now, because we are by no means out of the recession yet, with a 7.9-percent unemployment rate, precipitately cut it off from 65 to 39 weeks in one fell swoop.

For that reason, I hope the Senate will support this amendment.

Mr. FANNIN. Mr. President, the Members of the Senate, certainly the members of the Committee on Finance have great sympathy for the unemployed. I commend the distinguished Senator from New York for the tremendous amount of work he has done in this field. He is certainly well versed. But I think we must consider whether we have a permanent program or a temporary program. Certainly, from the hearings that were held by the Committee on Finance, it was determined that this would not be essential, it would not be wise to make a permanent program out of this particular 52-week period that is involved.

I do feel that we have problems that the chairman of the committee, the Senator from Louisiana, has explained. There is great abuse. We are, I think, inviting greater abuse if we just have a permanent program, a 52-week permanent program.

Mr. President, many illustrations can be given. As the chairman has stated, on the "60-Minute" program, they showed illustrations of what is happening, and it is shameful. At the same time, we cannot condemn a complete program on the basis of the abuses, because, after all, we have a responsibility to do away with those abuses to the greatest extent possible.

But I know, that in my own State of Arizona, we have examples where, in a little resort town, we have people applying for unemployment compensation and they are machinists. There is not a machinist job in the whole area. If a fellow wanted to be a cowboy, maybe he could get a job, or he could take many other jobs of menial service compared to being a machinist. Probably the pay would not be as much, but it would certainly be a living for him. Rather than that, he wants to live in this beautiful part of the country where the climate is nice and warm and he can enjoy it and all those privileges. At the same time, we have a responsibility to try to carry through on what is essential for the Nation as far as the cost is concerned, as far as being equitable and fair with the working people of this country.

Mr. President, I hope we would not agree to this amendment because, so far as the Senator from Arizona is concerned, it is not essential at this time, and certainly we will run out, there is no doubt about that.

At the same time, the Senate will have an opportunity next year to have hearings, further hearings, if necessary, to make these determinations. But, at the present time, it was felt from the standpoint of the Finance Committee, from the hearings involved, it would not be essential.

Mr. BELLMON. Mr. President, amendment No. 2367 was introduced and designed to increase the costs of the fiscal 1978 program and, on that basis, it would be subject to a point of order. I understand it has now been amended so it becomes effective in fiscal year 1977, so no point of order would lie.

The problem is the amendment now before the Senate has a price tag of $250 million, and the way the amendment is drawn that money would come out of the allocation to the Finance Committee.

If the Members will look at pages 48 and 49 of the latest scorekeeping report, which is on each desk, they will find the Finance Committee has totally used up its allocation, so there is no $250 million available to pay for the price of this program unless the Finance Committee is willing to give up some other program for which they have already allocated their funds.

So I think the question that has to be answered here is what program inside the Finance Committee jurisdiction would be canceled or cut back in order to provide the $250 million that the Javits amendment is going to cost.

I think there is very good reason to support the position the distinguished chairman of the Finance Committee and the ranking minority member have taken here that this amendment is not timely.

Mr. LONG. I did not hear the last part of the Senator's statement.

Mr. BELLMON. The question was since the Finance Committee has already used up all the funds available, if this program were passed, if this amendment were passed, what would the Finance Committee cut back in order to provide the $250 million for school costs?

Mr. LONG. We would have to then reduce the funds for some other program.

I do not see how we could cut the funds for social security, nor do I see how we could reduce the funds for the hospital insurance trust fund, nor social services, nor medicaid, nor aid for families with dependent children.

In this particular program we are dealing with here we are right on target. We used up everything the budget resolution assumptions allow us. So we are not above and not below; we are right on target.

If the Javits amendment is agreed to we will be beyond that target by an estimated $250 million, and I do not see why we need to do that. It seems to us the law we now have will take care of the situation adequately until the end of March next year. If, when we come back in here, regardless of who wins the election, regardless of whether you have President Ford in office the next time or whether you have a new President, Candidate Carter, in either event, either one of those two would be looking at the situation, and if we should have something more than we have now or than the bill would provide, I am sure those men, either one of them, would have recommendations to make in the area. The Budget Committee, I am sure, would like to consider the cost of it, just like the Finance Committee and the Senate would like to consider the cost of it.

But I submit what we have here now is all the President thinks we ought to do at this moment; it is all the House thinks we ought to do at this moment; it is all the Finance Committee thinks we ought to do at this time; it is all the Budget Committee thinks we ought to do at this time.

To adopt this amendment then puts the burden on us to go to try to find some *other place in the* budget to cut just because we went beyond what anybody else thought we ought to do, from the President on down, with respect to this program.

That, in my judgment, would be a bad mistake. We can come back next year, and if we decide we want a more liberal program we can vote for a more liberal program. If it is needed, I am sure, whether it is President Ford, who incidentally has not been remiss in making recommendations to extend this program, he would make a recommendation to extend and to do more; and I am sure President Carter would do no less if we need that next year.

Under those circumstances, Mr. President, I do believe that this is the type of thing we ought to consider next year if it is needed. Therefore, Mr. President, I move that the amendment be laid on the table.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Bartlett). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator just allow me to speak for 1 minute?

Mr. LONG. I think we can delay the vote for the Senator to take 1 minute.

The PRESIDING OFFICER. The motion is not debatable. The yeas and nays have been ordered. The question is on agreeing to the motion of the Senator from Louisiana. The clerk will call the roll.

Mr. JAVITS. The Senator can delay his motion for 1 minute.

The PRESIDING OFFICER. It will take unanimous consent.

Mr. JAVITS. All right. Let us vote.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), and the Senator from Florida (Mr. Chiles) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern), the Senator from Hawaii (Mr. Inouye), the Senator from Montana (Mr. Mansfield), and the Senator from Ohio (Mr. Glenn) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Wyoming (Mr. Hansen), and the Senator from Vermont (Mr. Stafford) are necessarily absent.

I further announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

The result was announced—yeas 53, nays 27, as follows:

[Rollcall Vote No. 671 Leg.]

YEAS—53

Abourezk
Allen
Baker
Bartlett
Bellmon
Biden
Bumpers
Burdick
Byrd, Robert C.
Church
Curtis
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
Leahy
Long
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Proxmire
Randolph
Ribicoff
Sparkman
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tower
Young

NAYS—27

Bayh
Brooke
Case
Clark
Cranston
Culver
Durkin
Griffin
Hartke
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mathias
Pastore
Pearson
Pell
Percy
Roth
Schweiker
Scott, Hugh
Stevens
Stone
Taft
Weicker
Williams

NOT VOTING—20

Beall
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Dole
Glenn
Hansen
Hart, Philip A.
Inouye
Mansfield
McGee
McGovern
Mondale
Montoya
Scott, William L.
Stafford
Tunney

So the motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I had planned to introduce another amendment concerning the 120-percent trigger requirement of the extended benefits program which is effective in each State. It adds to the requirement for the triggers now, which are 4½ percent national and 4 percent State, an additional requirement that the unemployment in that State must be 120 percent of the unemployment in the same month in each of the preceding 2 years.

The PRESIDING OFFICER (Mr. Bellmon). The Senate is not in order. The Senator is entitled to be heard. Senators will take their seats.

Mr. JAVITS. Shortly after enactment of the EB program, it became clear that to require a State's insured unemployment rate to exceed the rate for the corresponding month of the previous 2 years was unrealistic. In the words of the report of House Committee on Ways and Means on H.R. 10210:

> The intent of the trigger mechanism contained in the 1970 amendments was to establish an extended benefit program which would provide early response to adverse economic conditions . . . The triggers have been unsatisfactory, particularly during periods when high unemployment has continued over a protracted period.

Under the 120-percent requirement, a State which suffered a high level of unemployment for a period longer than 1 year would not be able to meet the State trigger requirement—regardless of whether statewide unemployment was 8 percent, 10 percent, or more—unless the rate continued to escalate. Once unemployment leveled off, or began a slow decline over a period of several months, the 120-percent requirement could well operate to trigger off the EB program prematurely.

We talk here of complicated and obscure numbers, but we must remember that an unemployment rate can be translated into real working American men and women who are ready, willing, and able to go to work, but who cannot find gainful employment. When unemployment is high, more workers are competing for too few jobs. How does it matter to those workers, especially in a weak labor market, what percentage of the historical unemployment rate the current rate represents?

In recognition of these factors, beginning in October 1972, Congress has acted 8 times in 4 years to suspend the 120-percent requirement. I ask unanimous consent that a table showing the actions by Congress with regard to the 120-percent requirement be printed at this point in my remarks.

There being no objection, the table was ordered printed as follows:

### TEMPORARY LEGISLATION SUSPENDING 120-PERCENT REQUIREMENT IN STATE EXTENDED TRIGGERS

DATE, LAW, AND ACTION

Oct. 27, 1972—Public Law 92-599. Suspended 120-percent "off" indicator through June 30, 1973.

July 1, 1973—Public Law 93-53. Suspended 120 percent for both "on" and "off" indicators through Dec. 31, 1973, with "tail-off" through Mar. 31, 1974.

Dec. 31, 1973—Public Law 93-233. Suspended 120 percent for both "on" and "off" indicators through Mar. 31, 1974.

Mar. 28, 1974—Public Law 93-256. Extended suspension of 120-percent indicators until July 1, 1974.

June 30, 1974—Public Law 93-329. Extended suspension of 120-percent indicators until Aug. 31, 1974.

Aug. 7, 1974—Public Law 93-368. Extended suspension of 120-percent indicators until Apr. 30, 1975.

Dec. 31, 1974. Public Law 93-572. The Emergency Unemployment Compensation Act of 1974 included a provision permitting States to waive 120-percent indicators until Dec. 31, 1976.

June 30, 1975—Public Law 94-45. Extended waiver provision of the Emergency Unemployment Compensation Act until Mar. 31, 1977.

Mr. JAVITS. In considering H.R. 10210, the House of Representatives recognized the infeasibility of the 120-percent requirement. The history of congressional actions in waiving or modifying the requirement clearly indicate the need for its permanent repeal. The Finance Committee, however, has rejected permanent repeal of the 120-percent requirement, despite the statement in its report on H.R. 10210, at page 19, that:

> The provisions of present law have not been adequate when unemployment in a State rises and remains unusually high for several years.

The committee has recommended that only when statewide insured unemployment equals or exceeds 6 percent, should the States be permitted voluntarily to waive the 120-percent requirement. This position is wholly unsatisfactory as compared to permanent repeal. A 6-percent insured unemployment rate is the equivalent of a total unemployment rate of 8 percent or more. In my judgment, we have an emergency unemployment situation at a much lower threshold, certainly no more than 6 percent, as has been recognized in previously enacted jobs and temporary unemployment assistance legislation.

Today, on a nationwide basis, we continue to reel under a nationwide total unemployment rate of 7.9 percent. Seven and one-half million Americans are looking for jobs and cannot find them. In comparison, the nationwide IUR is only 5.6 percent. Now this is the picture on a national level where the 120-percent requirement fortunately does not apply. If it did, the EB program would be currently triggered off because of this requirement. The 120-percent requirement has not and will not serve a useful purpose. If unemployment is high, the program should respond by triggering on quickly, and by staying on until unemployment levels recede.

Under the Finance Committee proposal, if the national trigger were not "on," following 17 States with insured unemployment rates in excess of 4 percent would be ineligible to implement the EB program solely because of the 120 percent requirement, as of July 31, 1976:

Alabama, Arizona, Arkansas, Delaware, Florida, Georgia, Idaho, Kentucky, Maryland, Missouri, Montana, New Mexico, Oklahoma, Oregon, South Carolina, Tennessee, and West Virginia.

Indeed, among all the States, including 5 with an insured unemployment rate over 7 percent and 10 with rates between 6 and 7 percent, only 4 States would meet the 120-percent requirement, and 2 of these would be ineligible to participate because their statewide IUR is not above 4 percent.

Mr. President, I said I had planned to propose an amendment to strike the Finance Committee's amendment restoring the 120 percent requirement. However, considering the vote on the last amendment I do not believe, in fairness to the workers—the unemployed workers who would suffer under this 120-percent trigger—and I should, rather, I should let the matter go to conference, as the House and Senate differ in this. Therefore, I will refrain from introducing the amendment.

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## MESSAGE FROM THE HOUSE

### ENROLLED BILLS SIGNED

A message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 3149. An act to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

H.R. 8119. An act for the relief of Fernando Alves Macos.

H.R. 11407. An act to amend title 14, United States Code, to authorize the admission to additional foreign nationals to the Coast Guard Academy.

The enrolled bills were subsequently signed by the President pro tempore.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 29, 1976, he presented to the President of the United States the following enrolled bills.

S. 3734. An act to approve the sale of certain naval vessels, and for other purposes.

S. 3843. An act to name the visitors' center at the Sleeping Bear Dunes National Lakeshore the "Philip A. Hart Visitors' Center."

S. 3149. An act to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

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## UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

### UP AMENDMENT NO. 505

Mr. HATHAWAY. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Maine (Mr. HATHAWAY) proposes an unprinted amendment No. 505.

The amendment is as follows:

> At the end of the bill, insert the following new section:
>
> "SEC. . Section 3309(a)(2) of the Federal Unemployment Tax Act is amended by striking out "(A)"."

Mr. HATHAWAY. Mr. President, this amendment corrects what I believe is an oversight in both the House and Senate language. It would permit State and local governments to pay compensation directly to their own workers, when such workers are unemployed, rather than paying contributions in lieu of taxes for all their employees.

This is a practice currently in effect in several States, and one which is designed to benefit governmental units with stable employment situations.

Mr. President, it is my belief that both the House and Senate committees intended that this option be made available to State and local governments. I call your attention to the explanatory materials appearing at page 38 of the Finance Committee staff "bluebook":

> Under the bill as passed by the House the state law would have to permit the employing entity (in this case, local governments) to pay for its coverage either through contributions equivalent to the state payroll or by reimbursing the fund for benefits paid to its former employees.

However, that statement is erroneous in its description of the effects of the bill. In fact, as the Department of Labor has pointed out, this option would only be available to private nonprofit institutions without the amendment I am proposing. For that reason, I hope this amendment is acceptable to the floor managers of the bill.

Local governments are a special class of employers and should have maximum flexibility in determining how to finance this new cost. In many cases, since the employment record of local government employers is overall stable, reimbursing the State unemployment insurance trust fund would be cost beneficial to those municipalities that do not lay off any of their employees. In those cases where local government employment is less stable, a locality would have the option to pay the State tax, and would not suddenly find itself burdened with additional costs that could only be financed by laying off more employees. City officials are in the best position to determine what is the most appropriate financing mechanism for their own locality.

In addition, changes in the Federal law will not prohibit those who have already extended coverage to local government employees from maintaining their existing plans. For example, in Michigan, State law permits localities to be self-insured so long as benefits are comparable to all other employees so insured in that State.

Since the Congress in this case is mandating an additional cost to local government without full knowledge of the fiscal impact on local government budgets, it is only reasonable that we allow these governments to address the financing questions on the basis of their own intimate knowledge of their fiscal conditions.

Furthermore, all we would be doing by my proposed amendment is extending to local governmental entities an option we have already extended to private, nonprofit organizations. It would in no way affect the extension of coverage to these newly covered employees.

I have discussed this matter with the manager of the bill, and I know of no objection to it.

Mr. JAVITS. Mr. President, does this apply only to governmental entities under the SUA?

Mr. HATHAWAY. The Senator is correct.

Mr. LONG. Mr. President, I believe the amendment has merit, and I know of no reason why it should not be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. LONG. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

### UP AMENDMENT NO. 506

Mr. TAFT. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes an unprinted amendment numbered 506:

On page 1, line 4, strike "act" and substitute "title".

On page 64, insert after line 10, the following:

"TITLE II—OCCUPATIONAL SAFETY AND HEALTH."

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 4, strike "Act" and substitute "title".

On page 64, insert after line 10, the following:

### TITLE II—OCCUPATIONAL SAFETY AND HEALTH

SEC. 201. Section 21 of the Occupational Safety and Health Act of 1970 is amended by adding at the end thereof the following new subsection:

"(d)(1) In order to further carry out his responsibilities under this section, the Secretary may visit the workplace of any employer for the purpose of affording consultation and advice to the employer. Such consultative visits may be conducted only upon a valid request by the employer for consultation and advice at the workplace concerning the obligations of the employer under section 5. In making consultative visits under this subsection, the Secretary shall give priority to small businesses and to hazardous workplaces. The Secretary shall make and transmit to the employer a written report, containing recommendations regarding the elimination of any hazards disclosed during any such consultative visit.

"(2) No consultative visit authorized by this subsection shall be regarded as an inspection or investigation under section 8 of the Act and no citations shall be issued nor shall any civil penalty be imposed by the Secretary upon such visit, except that: (A) where an employer fails to eliminate an imminent danger disclosed during a consultative visit, the Secretary shall take any appropriate action under section 13 to eliminate such condition; and (B) if there is substantial probability that death or serious physical harm to employees could result from conditions disclosed during a consultative visit, the Secretary shall immediately notify the employer of such conditions and afford the employer a reasonable time to eliminate such conditions. Where the Secretary is not satisfied through a further consultative visit, documentary evidence, or otherwise that such elimination has taken place, the Secretary may take any appropriate action under this Act.

"(3) Information regarding consultative visits shall not be transmitted to representatives of the Secretary engaged in enforcement activities except where necessary in order to carry out the provisions of paragraph (2).

"(4) Except as otherwise provided, nothing herein shall affect the duties and responsibilities of the Secretary under sections 8, 9, 10, and 13. Advice given during a consultative visit shall not be binding on the Secretary in the event of any inspection of the workplace. In the event of such inspection, a written report of the consultation visit may, with the consent of the employer, be considered by the Secretary for the purpose of determining the employer's good faith in proposing penalties.

"(5) In prescribing rules and regulations pursuant to this subsection, the Secretary shall provide for the separation of functions between officers, employees, or agents who conduct consultative visits pursuant to this subsection and officers, employees, or agents who conduct inspections or investigations under section 8.

"(6) In order to further carry out his responsibilities under this section, the Secretary shall establish programs for the education and training of employers and employees which, to the extent practicable, shall be conducted in local communities and shall deal with hazards in particular industries.".

SEC. 202. For the purpose of carrying out the amendment made by the first section of this Act, there is authorized to be appropriated the sum of $2,000,000 for the period beginning July 1, 1975, and ending September 30, 1976, $7,000,000 for the fiscal year ending September 30, 1977, and $8,000,000 for fiscal year ending September 30, 1978.

Mr. TAFT. Mr. President, as we all know, we are late in this congressional session. Despite all the clamor for change, there has been no substantive constructive OSHA proposals brought to the Senate floor. This is true despite my pleas to the Senate Labor Committee and the pleas of my colleagues on this floor. In all probability, this effort that we make today will be our last chance during this Congress to take a position of a constructive substantive OSHA reform proposal which can reduce much of the employer opposition to the act and induce greater compliance with it.

In bringing the amendment on this bill, I do recognize it is not exactly on the subject of the bill, nor is this even the committee which has the responsibility for handling OSHA matters. However, in all candor, I will say this is the only way, in my opinion, that this provision will get before the Senate in this session. For that reason, I am bringing it up at this point.

I did discuss bringing it up, and I had given notice that I would bring it up, on the revenue sharing proposal when that matter was before the Senate. After discussion with the chairman at that time, I agreed not to do so, because I felt it might in some way jeopardize the progress of the revenue sharing measure, which I thought was tremendously important. In making that statement, I in no way want to run down the importance of the bill before us or amendments to that bill, because I believe that it is extremely important and indeed vital that we pass this measure during the present session.

Let me say also that if anyone is of the opinion that we could wait for a bill coming out of the appropriate committee, the Committee on Labor and Public Welfare, on which I serve, they may be disabused of that idea, because no other bills will come out of that committee until this measure is disposed of. That has become abundantly clear, even, unfortunately, as to amendments to the railroad retirement bill, of which I am a cosponsor. It has been indicated that that bill will be reported only if it is understood that this OSHA amendment will not be offered to it. So that is the parliamentary situation before us.

The distinguished chairman may have some feeling or disagreement about putting this particular amendment on the pending bill, but I do want to point out a few things with regard to it, patricularly the point that it has passed the House of Representatives by an overwhelming vote in exactly the form in which this amendment is offered. It also has the backing of the administration, and I think that this provision has a very good chance of not only not hurting the eventual enactment of this legislation, but of helping it to become enacted.

The amendment which I have called up is identical in all respects with S. 3182, my OSHA on-site consultation bill, and with H.R. 8618, which was overwhelmingly passed in the House on November 17, 1975. It will be a shame for this Senate not to take corrective action this year on this proposal because another House bill on this subject will not likely be forthcoming in the foreseeable future. Change is needed now, not 2 or 3 years from now, and this is our chance to enact it.

The purpose of this amendment is to provide a much-needed program of Federal onsite consultation and education to encourage and assist employers to comply with safety and health standards promulgated under USHA and to furnish their employers with a place of employment which is safe and healthful.

The amendment will further the major objective of OSHA, which is to provide safe and healthful working conditions for the 65 million workers covered by the act, by establishing onsite consultation in every jurisdiction, and by providing for corrective procedures in cases where a consultant discovers an imminent or serious danger. This amendment does not seek to exempt anyone from OSHA's coverage, that is just not the proper approach, and we all know it.

Moreover, the amendment does not seek to dilute the full enforcement of the act, but merely to add a separate consultation service to which employers may refer to help them to comply with OSHA's complex standards.

Because OSHA prohibits Federal onsite consultation visits except as a part of an enforcement proceeding, employers are discouraged from asking for OSHA's advice on applicability of standards to their work sites.

I think this has been vividly demonstrated in the Labor Committee's oversight on OSHA and this has been testified to by a number of associations in behalf of their members. I am sure we have received letters from individual firms located within our States to the same effect.

This prohibition in the act has generated much misunderstanding about the act in the business community. The establishment of a free, voluntary, Federal onsite consultation program should reduce much of this opposition to the act.

Under section 18 of OSHA, any jurisdiction which does desire to assume responsibility for development and enforcement of occupational safety and health standards may submit a State plan for development of such standards and their enforcement. If the Secretary of Labor determines that the standards and enforcement of the State plan will be at least as effective as Federal OSHA standards, he will approve the plan and make available Federal funds to operate the State program under section 23(g). The Federal share for each State grant may not exceed 50 percent of the total cost to the State of such a program. Currently, 22 out of the 56 jurisdictions covered by OSHA operate their own section 18 State OSHA programs with 50 percent Federal funding. Of these jurisdictions, 20 offer onsite consultation services to employers.

In addition, the Congress established in the fiscal year 1975 Labor-HEW appropriations bill a program to operate onsite consultation under section 7(c)(1) in jurisdictions under Federal OSHA. A similar consultation services program was contained in fiscal year 1976 appropriations measure. Section 7(c)(1) authorizes the Secretary of Labor to use the services, facilities, and personnel of any consenting State to carry out his responsibilities under the act, and to reimburse the State for these services.

Largely because of financial constraints, there are 20 eligible jurisdictions which have not joined in section 7(c)(1) programs to provide job site consultation services. Employers in these States are therefore unable to obtain onsite consultation.

Mr. President, following the conclusion of my remarks I shall ask unanimous consent that a chart describing the current status of consultation plans by the States be printed in the RECORD.

Mr. President, I submit that this situation is inequitable. An employer covered by the act should be able to obtain consultative services in his workplace, regardless of its locale.

It is my intention that these services be available in every jurisdiction so as to assist all employers in complying with OSHA. Until the act is amended to include a provision for Federal onsite consultation separated from enforcement and staffed by personnel distinct from compliance officers, there will continue to be inequities in the availability of onsite consultation services.

This amendment will rectify the present discrepancy in the act by guaranteeing onsite consultation to employers in every jurisdiction. In fulfilling requests for consultation, the Department of Labor will give preferred consideration to those employers who would otherwise be unable to obtain onsite consultation from either a State OSHA consultation program under section 18 or through a contract program established under section 7(c)(1).

Mr. President, the issue is clear cut, and everyone knows what is at stake. Businessmen have cried out for remedial OSHA relief, and they feel that their cries have fallen on deaf ears. Well that may be true in some instances. But 38 of my colleagues from both sides of the aisle and from differing ideological persuasions have affirmatively responded by cosponsoring S. 3182, my OSHA onsite consultation bill which is identical in all respects to the amendment I am offering. This is our last chance to go on record as favoring a helpful and constructive OSHA proposal. I trust my colleagues will not allow this opportunity to go by the boards.

I might also say, with regard to the particular amendment, that the provisions of it, if there is an onsite consultation, do not result in any mandatory or any total protection of any code against the employer.

The effect on onsite consultation and recommendation would be merely to have that in the record as the consultation service which would be separate from the enforcement service and have it available for the employer if there is later enforcement action and the employer makes the decision that he wants to plead it in litigation of the offense that has been charged.

Mr. President, I also indicate to the Senate that on September 1, I wrote to the chairman of the Committee on Finance, as I indicated, that I was going to bring this up on the revenue-sharing bill. I also sent a letter to all Members of the Senate at that time, indicating I expected to bring it up on this bill or some later bill.

Mr. President, I ask unanimous consent to include the consultation status table by States at the conclusion of my remarks.

Mr. FANNIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TAFT. I also wish to read a number of cosponsors of this particular bill, who I think would be happy to see it come before the Senate today.

On our side, it includes myself, Senators BEALL, LAXALT, DOMENICI, FANNIN, YOUNG, PERCY, CURTIS, DOLE, HRUSKA, BAKER, GRIFFIN, HATFIELD, GARN, HUGH SCOTT, MCCLURE, BUCKLEY, THURMOND, and HANSEN.

On the Democratic side, it includes Senators ABOUREZK, NELSON, BUMPERS, EASTLAND, LEAHY, CHILES, ALLEN, BURDICK, SPARKMAN, CANNON, MORGAN, TALMADGE, GRAVEL, STONE, BENTSEN, JOHNSTON, MCINTYRE, NUNN, and GLENN.

Senator PEARSON has also indicated to me that he is interested in becoming a cosponsor if that could be done at this time which under the procedures we are operating under I cannot do it at this time but I will do it at the proper later time.

Mr. President. I wish to read into the RECORD a portion of a letter from the Office of Management and Budget. It is from Mr. Paul H. O'Neill. Acting Director. The last paragraph states:

> Nevertheless, in testimony last year, the Administration endorsed H.R. 8618 as an additional tool for assisting employers in complying with the law, by permitting Federal OSHA employees to give on-site consultation. The Administration's views on that measure apply equally to S. 3182, which, as you noted in your letter, is identical to H.R. 8618.

Mr. President, I might say that every effort, I believe, has been made to attempt to get the Committee on Labor and Public Welfare to act on this measure. On June 22 I wrote to the distinguished chairman of the subcommittee a letter, that was signed by Senators LAXALT and BEALL as well as myself, requested such a hearing, and pointed out the numerous key factors that I thought ought to be taken into consideration by the committee, particularly the very broad degree of support that existed in the Senate membership for the measure.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TAFT. I am glad to yield to the Senator from New York for a question.

Mr. JAVITS. Mr. President, this has been a matter of long standing. No one knows it better than I. I feel that it should have a hearing and consideration.

I am a bit embarrassed by the present situation, and it will affect my vote because we have tried to strip this bill of everything but unemployment compensation. There is no unanimous agreement or anything like that for it. But we told Senator LONG we would not bring anything up on SSI. I think that also impliedly meant anything else which could mean a conference where there would be differences of view. We know there is considerable labor opposition to this. I only say that by way of explanation.

I wish to say affirmatively, first, that if this should fail now, and it may, I will do my utmost—I wish to promise the Senator—to get a deliberative hearing very early in the year.

Second, I hope the Senator will carefully examine the amendment which I think could stand some attention in drafting.

Third, this is an enormous undertaking. There are some 7 million small businesses in the country, and we really could inundate the Department with it at the expense of enforcement and everything else. As the Senator knows, consultative services cannot be provided in 3 or 4 million places at once.

But I did wish to explain to the Senator my own situation respecting using this bill as the vehicle, in view of what we told Senator LONG in order to induce him to keep SSI material in the bill.

Mr. TAFT. I appreciate the remarks of the distinguished Senator from New York. However, I would have to say, as the Senator himself has pointed out, of course, there is no agreement of any kind.

Mr. JAVITS. That is right.

Mr. TAFT. And there was no agreement by myself of any kind. In fact, quite the contrary. I believe the people involved have known of the intention of the Senator from Ohio to bring up this measure on this bill if indeed it appeared impossible to bring it up on any other measure, and that to me seems likely under the present legislative situation.

So the Senate has a chance to vote on this now and will have no other chance, really, in this session.

As to the drafting, I think that the drafting has been very carefully worked out and studied for a long time by many people involved. There are many, many laws on the books under which the duty devolves upon the Secretary of a particular Department of the Government to perform a particular function, and I think there is no question at all but what he has the authority to delegate that responsibility if he wishes to do so.

Of course, as to the scope of the program, the Senator from New York has hit right upon one of the problems of the entire OSHA legislation.

The broad estimate that I have heard so far with regard to OSHA and its inspections is that at most it could inspect locations involving only 4 percent of the covered employees each year of its operation.

One reason we have to go to consultation I think to achieve the purposes of better health and better safety in working places is just because of that. With the current mandatory citing of any violation that is seen, even if advice is asked for on the most minor provisions, there is no way I think we are going to be able to achieve the goals involved.

We are going to have cooperation and education in this field and only by having a consultation service can this occur.

There may be some rough spots in the beginning. Actually, the estimate that has been given to us by the Budget Office as to what would be involved here the first 3 years in a reasonable start upon this program to at least see how it works would come to only $19 million.

So I do not think we are starting out to create some tremendous additional bureaucracy. We are putting it in an already established bureau.

I believe this proposal could do a great deal to help health and safety in the working places of the country.

Mr. President, I am ready to yield the floor.

Mr. WILLIAMS. Mr. President, Federal onsite consultation has been put forth this Congress as the panacea for OSHA's problems. It has been most emphatically advocated as a means of enabling small businessmen to understand and comply with the law.

Mr. President, I know the basic problem here with offering this amendment to this bill and the difficulty that will present itself if an amendment of this nature should be added to the bill will be described by the Senator from Louisiana.

But I would like to speak on the merits of the situation presented by this onsite consultation amendment.

Federal onsite consultation has been put forth this Congress as the panacea for OSHA's problems. It has been most emphatically advocated as a means of enabling small businessmen to understand and comply with the law.

Yet I do not know whether it is fully realized, and it should be realized that what this proposes is another layer of bureaucracy in an area where there is already a bureaucratic opportunity. I will tell the Senate what I mean.

We have authorized and then we have appropriated money. Federal money, to the States for exactly what the Senator from Ohio proposes to do, and that is onsite consultation.

It impresses me more and more each day that our business community is becoming increasingly frustrated with layers of Government overlay and bureaucratic attention to their business. This would just be another layer of bureaucracy in an area where, if consultation makes sense, the opportunity is right there at the State level. That is why we have encouraged the States to support onsite consultation and why we have appropriated Federal money to go to the States for this purpose.

Our Labor Subcommittee, mindful of the problems of administration of the program and the discontent that has been expressed, has conscientiously gone to the country with hearings on OSHA.

As recently as Monday of this week, the Senator from New Hampshire went to the State of Florida to hold OSHA hearings for the Committee on Labor and Public Welfare. One of the matters to be heard was the business community's attitude about the need for onsite consultation. I think the Senator from New Hampshire, very briefly, can describe how many witnesses offered themselves to request Federal onsite consultation.

I yield to the Senator from New Hampshire for a brief answer to that question.

Mr. DURKIN. I thank the Senator.

On Monday, we went to Jacksonville, at the request of the chairman and Senator CHILES. It seems to me that there were 25 or 26 witnesses; and, at the most, 2 or 3 came out concretely and asked specifically for onsite consultation.

Mr. WILLIAMS. Now I ask the Senator another question: That opportunity for onsite consultation runs to the State of Florida. They can seize that opportunity, and Federal money will come to them to support it. In other words, they can have onsite consultation.

Mr. DURKIN. The consensus was that the State of Florida runs a consultation program and does an excellent job.

I might point out that we have had 4 days of hearings already. We are scheduled to go to South Dakota next month and are scheduled to go to Oregon. Senator PELL has indicated that he wants a hearing in Rhode Island sometime before the end of the year.

I think everyone in the Chamber would admit that there have been problems with OSHA and problems with the administration and that there have been problems with the hasty adoption of some of the standards which were very confusing. Dr. Corn has made an effort to rectify some of these problems. That is beginning to surface in the hearings.

I think it may well be premature at this time, even though Senator TAFT'S idea may ultimately carry, in light of the fact that we still will have hearings across the country. So we get more than just testimony from those who make a living testifying in Washington before congressional hearings. We are going out in the field and getting testimony from people who have to live under the law, who have to live under the administration as it varies from State to State.

Mr. WILLIAMS. The Subcommittee on Labor, at my direction, has been holding legislative and oversight hearings which have focused on finding out what is really happening in small workplaces as a result of OSHA. We have gone to several States and interviewed dozens of small businessmen who have actually been inspected by OSHA.

We have held hearings in Washington where associations have come in to tell us what the businessman, large and small, thinks about OSHA.

The hearings have not been concluded yet, and therefore our findings are tentative. But there has not been any strong call for consultative services among the small businessmen themselves.

In New Hampshire, South Dakota, Florida, and Oregon, where we did our interviewing, only one State, South Dakota, did not have OSHA-oriented public on-site consultation available. Interestingly, in New Hampshire and

Florida, State staff who previously enforced State safety laws are providing State-funded on-site consultation to businessmen on compliance with OSHA regulations.

Prior to fiscal year 1975, on-site consultation was an option only under section 18(b) OSHA State plans. States without State plans did not have federally supported on-site consultation available to them.

In the fiscal 1975 Labor-HEW appropriations bill, Congress recognized the value of making onsite consultation available to all States by earmarking $5 million to be used under section 7(c)(1) for State-administered onsite consultation in those States which did not have State plans.

Today we have a total of 33 States which offer federally supported onsite consultation.

As some remaining States' reluctance to participate has been caused by the 50 percent match requirement which was administratively imposed by the Department of Labor on the 7(c)(1) program, the Appropriations Committee report for fiscal year 1977 instructs the Department of Labor "to change the match for State onsite consultation to such a level as will assure full State participation in this program" under 7(c)(1).

Further, the fiscal year 1977 appropriations contains $2.5 million for hiring private consultants to provide onsite consultation in those States which still are uninterested in running their own program.

Under the fiscal year 1977 appropriations bill $15.5 million has been authorized for onsite consultation. This will provide for a program of considerable size on a national basis.

Federal onsite consultation has been proposed as the answer to the needs of small businessmen who do not have and may not be able to afford expert staff to advise them about OSHA compliance. Onsite consultation has also been endorsed as a means to achieve a greater incidence of voluntary compliance.

A look at the experience of these State programs is instructive. In the States that have 7(c)(1) contracts, 34 percent of the consultation services have been requested by and provided to larger employers, who represent only 10 percent of the establishments covered by OSHA.

Another twist to the program that we have found in our visits to the States is that in many instances the preponderant use of the consultation services is by employers who have been inspected and cited and want assistance in finding methods of compliance.

While this may represent a real need, it does not warrant onsite consultation and is not going to increase the number of employers coming into voluntary compliance with OSHA.

Roger Wingate of Liberty Mutual testified before the Labor Committee in 1974 that when his company experimented in offering occupational safety and health consultation services to small businesses, they got very little response. Their experience was that the people who ask for consultation services when they are offered are the people that need it least.

It is particularly not clear whether the small businessmen themselves are interested in availing themselves of onsite consultation services provided by Federal OSHA. There is a great reluctance among many employers to call in the enforcement agency to consult.

Under this amendment, as under current regulations for the 7(c)(1) programs, serious hazards which are not corrected by the employer within a set time are reported by the consultant to OSHA.

It seems to me that what we are engaged in here with this amendment is legislative tokenism. OSHA has been caught up in the general antiregulation sentiment which has been fostered by the administration and the state of the economy. It is certainly not clear that Federal onsite consultation answers any legitimate problems with the existing legislation.

The Occupational Safety and Health Act has never had the benefit of operating in an administration that cared about workers or the effectiveness of the act. The range of attention given this program has ranged from intentional subversion to ineptness to the current procedural strangulation.

It would be a shame at this 11th hour before the election to make changes in this important law before a benevolent administration has had the opportunity to implement the law with the balance and efficiency envisioned when the act was passed.

Mr. President, for all all these reasons, I believe that a motion to table——

Mr. TAFT. Mr. President, will the Senator withhold that?

Mr. WILLIAMS. I am not making the motion. I believe the Senator from Louisiana will.

I yield the floor.

Mr. HRUSKA. Each of us has been inundated by letters from small businessmen complaining about surprise visits by Occupational Safety and Health Administration inspectors and the subsequent fines that invariably follow. Our constituents do not wish to break the law, nor do they wish to provide unsafe working conditions for their employees.

But the problem with OSHA's relationship with small business was summed up well by one of my constituents in a letter to me:

> Please give your support to the proposed bill granting to all of us the right to request consultation from OSHA to enable us to comply with regulations which are too voluminous for us to be fully familiar with, and in which the wording is such that it would take an engineer, lawyer and whatever else might be required to interpret these volumes.

The original intent of OSHA was to create safe working conditions for Americans. It is totally consistent with this goal to give employers a chance to correct violations or regulations before levying a fine. And this is what the onsite consultation bill will permit. For these reasons I support this amendment.

Mr. TAFT. Mr. President, in reply to the point that has been brought up, the measure has had very broad backing from business. It has broad backing in the business community, as represented by their national association. I will cite the names: the U.S. Chamber of Commerce, the National Federation of Independent Businesses, the National Association of Manufacturers, Printing Industries of America, Associated General Contractors, and Sheet Metal National Contractors Association. These are just a few.

As to the other point with regard to the State of Florida, I find it very interesting. I have not had an opportunity to review the hearings in Florida as yet, but it is interesting to note that both Senators from Florida are cosponsors of the bill. Apparently, they felt some necessity for some improvement.

As to building up another layer of bureaucracy, it does not do that. It uses the established bureau that has been set up to handle this within the Labor Department, which I think is the proper place for it. It does set up a separate division, which I think should be done and almost has to be done if we are going to keep it separate. The whole principle of getting voluntary compliance with consultation implies that there would be some degree of separation.

There is no new bureaucracy set up here. Indeed, if this works effectively, as I think it should, it will cut down on the level of bureaucracy that is going on now in the enforcement proceedings that I think are often really without much reason and result in immediate violation of the citation and sometimes a very large penalty imposed as a result of that, or threatened as a result of it, and sometimes then negotiated down to some figure, perhaps 5 or 10 percent of what the original penalty was. This is little other than legislative blackmail in this kind of situation. A great deal of resentment has been aroused because of this, and I think it would hurt the accomplishment of the overall purposes of OSHA.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, this amendment illustrates why the Senator from Louisiana felt it necessary to move to recommit the bill and strip off our own Finance Committee amendments on SSI earlier in this debate.

Everyone knows that this is a bill the President wants to sign, so that anyone who has a good amendment, even though it does not have anything to do with the jurisdiction of the Finance Committee and is totally irrelevant to our bill, is then tempted to offer an amendment on this bill. This bill could then become a Christmas tree bill. Then somebody could start filibustering against it because it is a Christmas tree bill. We would have a filibuster within a filibuster, with filibusters waiting in line, and they would not know which bill they want to filibuster—this bill or the other. All that finally could result would be that we would have to recommit and report back, which would put us right back where we are now. Why do we want to spend days of work, just to get back to where we are now?

The Senator from Ohio was not a party to the agreement, but most of us have a gentlemen's agreement that we are not going to offer irrelevant amendments to this bill.

I understand the Senator's problem. Perhaps we can deal with it on some other bill. What he is trying to do is completely futile. If we agreed to it here, it would go to the House; and the Ways and Means people would refuse to have anything to do with it, because their labor committee would inform the Ways and Means Committee that it is beyond the Ways and Means Committee's jurisdiction, and they would refuse to accept it. All they could do, if it were agreed to after we spent days on it, would be for it to go to the House and drop it, and then ask the Senate to take the bill we had to begin with. We have enough trouble fighting over the attorneys' fees bill, without getting extraneous matters involved here.

So, Mr. President, I say, regretfully, that it does not belong in this bill. All we are doing is making work and making it difficult to adjourn without looking after matters we might be able to take care of, including this, in connection with a proper vehicle.

So, Mr. President, I move that the amendment be laid on the table.

Mr. TAFT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana. On this question the yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), the Senator from Indiana (Mr. Hartke), the Senator from Colorado (Mr. Haskell), and the Senator from Florida (Mr. Chiles) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), and the Senator from Hawaii (Mr. Inouye) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Vermont (Mr. Stafford), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I also announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The result was announced—yeas 43, nays 35—as follows:

[Rollcall Vote No. 672 Leg.]

YEAS—43

Bayh
Bellmon
Biden
Brooke
Byrd, Robert C.
Case
Clark
Cranston
Culver
Curtis
Durkin
Eastland
Fannin
Fong
Ford
Hansen
Hart, Gary
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
McClellan
Metcalf
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Stennis
Stevenson
Symington
Talmadge
Weicker
Williams

NAYS—35

Abourezk
Allen
Baker
Bartlett
Bumpers
Burdick
Byrd, Harry F., Jr.
Church
Domenici
Eagleton
Garn
Gravel
Griffin
Hatfield
Helms
Hruska
Laxalt
Leahy
Mathias
McClure
McIntyre
Morgan
Nunn
Packwood
Pearson
Percy
Roth
Schweiker
Scott, Hugh
Sparkman
Stevens
Stone
Taft
Tower
Young

NOT VOTING—22

Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Dole
Glenn
Goldwater
Hart, Philip A.
Hartke
Haskell
Inouye
Mansfield
McGee
McGovern
Mondale
Montoya
Scott, William L.
Stafford
Thurmond
Tunney

So the motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 507

Mr. JOHNSTON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Louisiana (Mr. Johnston) proposes unprinted amendment No. 507:
>
> On page 42, after the word "Commission" in line 20 insert the following:
>
> The Commission shall consist of at least one representative of labor, industry, the Federal Government, State government, local government, and small business.

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. The Senator is entitled to be heard. Will Senators please take their seats?

Mr. JOHNSTON. Mr. President, as the clerk's reading in full of the amendment indicated, all this amendment does is to guarantee that the Commission set up to study unemployment compensation under this bill will have at least one representative each from labor, industry, the Federal Government, State governments, local governments, and small business.

The impetus for this amendment came from the small business people who were concerned that they might be frozen out. It is a little protection for them, and I ask for its favorable consideration.

Mr. LONG. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment of the amendments and the third reading of the bill.

Thet amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that——

Mr. FANNIN. I object.

Mr. PERCY. The Senator from Illinois would like to say that Senator Long has known all day and long before that that I have had an amendment. We have been working at a compromise on that amendment. We have the compromise worked out, and final language is now being put together and, as I understand it, can be accepted.

Mr. FANNIN addressed the Chair.

The PRESIDING OFFICER. The Chair will state that after third reading of the bill it will take unanimous consent.

Mr. FANNIN. The Senator from Illinois I know has made a reasonable request. The Senator from Arizona (Mr. Goldwater)—reserving the right to object, and I shall make a statement and discuss it further——

Mr. ABOUREZK. Mr. President, will the Senator use his microphone.

Mr. GRIFFIN. Could we have a quorum call? Could that be a possibility and then we can discuss it with Senator Goldwater?

Mr. FANNIN. That is all right.

Mr. GRIFFIN. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER (Mr. Hansen). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hansen). Is there objection?

Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask for reconsideration of third reading. I move that the third reading be reconsidered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois.

The motion was agreed to.

UP AMENDMENT NO 508

Mr. PERCY. Mr. President, I call up my amendment and ask that it be modified in the manner I send now to the desk.

**The PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 508:

At the end of Title III of the bill, add the following new section: Prompt payment of compensation when due.

The amendment is as follows:

At the end of title III of the bill, add the following new section:

SEC. . PROMPT PAYMENT OF COMPENSATION WHEN DUE.

(a) IN GENERAL.—Section 303(a) of the Social Security Act is amended in paragraph (3) thereof, by inserting immediately before the semicolon at the end thereof the following: ", or are not acted on with reasonable promptness". The Secretary of Labor shall issue regulations within 60 days of the enactment of this Act defining "reasonable promptness" under this paragraph.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to certification periods, with respect to which the Secretary of Labor is authorized to make certification of payment to States under title III of the Social Security Act, which begin after December 31, 1977.

On page 43, line 24, strike out "and".

On page 44, line 2, after "abuse" insert "and (c) problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems".

**Mr. PERCY.** Mr. President, the original purpose of this amendment was to set a Federal standard to require the expeditious payment of unemployment compensation checks to qualified jobless workers. Through personally visiting unemployment compensation offices, I have learned that sometimes bona fide applicants have had to wait as long as 3 to 6 months while bills for food, shelter, and fuel pile up.

Those who are now jobless or have been jobless know how important that unemployment compensation payment is to them and their families. When it is unduly delayed—which has too often been the case during the recent recession—it can cause undue hardship and suffering. Even with regular receipt of a biweekly paycheck, many families have had a difficult time making ends meet. When that paycheck terminates, it can create a crisis.

Even though many economists see improved economic conditions in the months ahead, unemployment remains high. In August 1976, the national unemployment rate was 7.9 percent, or 7.5 million jobless persons, compared with 7.8 percent unemployed in July 1976, or 7.4 million persons without jobs.

The number of persons applying for unemployment compensation also remains high, though not quite as bad as the crest of the 1974–75 recession. For the week ending September 4, 1976, 4.1 million Americans were receiving some type of unemployment compensation. This figure does not include 1.9 million who have exhausted all benefits. Many of these persons have gone on welfare to survive economically.

Six months ago, 5.8 million persons were drawing some form of unemployment compensation, so we do see an improvement.

Even though the number of new applicants for unemployment compensation has dropped by 85,000 from 6 months ago, the number of new applicants remains high. For the week ending September 11, 1976, 280,920 American workers initially applied for unemployment compensation, almost the same as September 1974, when the recession was just beginning to cast a chill on the economy.

Unemployment compensation, though, goes beyond mere statistics.

I would like to clear up two misconceptions about the program that frequently come up in conversations. First, that it is a bonanza for cheats. Last summer, the media focused attention on a handful of social parasites who cheat the unemployment compensation program through fraudulent claims. These cheaters should be punished to the fullest extent of the law for stealing public funds. Additionally, I support the amendment denying benefits to illegal aliens and professional athletes during the off season.

But despite the presence of cheaters, I have also learned that the overwhelming majority of unemployment compensation beneficiaries are hard-working breadwinners, who have been thrown out of work through no fault of their own. Virtually all of them, if given the choice, would prefer the paycheck that comes as a result of productive work over the unemployment check.

Second, there is a misconception that unemployment compensation is a welfare program. It is not. Unemployment compensation funds in 47 States come from a payroll tax levied on employers. In three States, employers and employees jointly contribute to the fund from which unemployment compensation benefits are paid. The Federal Government merely holds unemployment compensation funds in a fiduciary trust for the use of unemployed workers. In some ways it resembles a form of insurance.

Perhaps one reason that our society weathered last year's recession was because the unemployment compensation program constructed a financial cushion for the jobless. The program provided, and still provides, the jobless with sustenance when their income has been cut off and their bills continue to mount. The worker need not take to the streets to beg his Government to financially support him.

Still, the program is far from perfect and needs a host of reforms. During the worst of the recession, I personally visited an unemployment compensation office in Chicago that serves the depressed near South Side, and learned of some workers who were waiting 3 to 6 months for benefits. I was surprised to find out that the U.S. Labor Department, in the 37-year history of this program, never required the States to expeditiously process claims for unemployment compensation. States could delay payments without fearing any adverse reaction from the Labor Department.

I urged then-Labor Secretary John T. Dunlop to correct this situation, reminding him that in initiating the program, the 74th Congress stipulated that unemployment compensation should be made "when due."

Interpretation of that clause has been left solely to the Federal courts. They have ruled that the unemployed worker should receive his check within 2 weeks following the end of his first compensable week, which in most States is 28 days after he initially applies for benefits.

The leading case is *California Human Resources Department* v. *Java*, 402 U.S. 121 (1971). The U.S. Supreme Court ruled that the objective of Congress in passing the 1935 Unemployment Compensation law was to provide a substitute for wages lost during a period of unemployment. The court said that while no program could be devised to make insurance payments available precisely on the nearest payday following the termination, this must be regarded as the intent of Congress. The court noted that the report of the Committee on Economic Security, which laid the groundwork for the 1935 law, had estimated that the longest waiting period for unemployment compensation would be 4 weeks, with the "normal time" no longer than 2 weeks.

The "when due" clause of the 1935 act was further defined by *Phillips* v. *Dawson*, 393 F. Supp. 360 (W.D. Ky., 1975). A Louisville Federal court ordered employees of the Kentucky Department for Human Resources, Bureau for Social Insurance, to mail or personally deliver unemployment compensation payments to any qualified worker within 24 days of initial application.

Most recently, the Legal Assistance Foundation of Chicago successfully argued that the Illinois Bureau of Employment Security—IBES—was disobeying the intent of Congress by unduly delaying first-benefit payments to jobless beneficiaries. In *Burtton* v. *Johnson and Dunlop*, 75 C 982 (N.D. Ill., 1975) Federal court Judge Thomas McMillen ruled that the IBES must pay beneficiaries within 14 days of the first week they are eligible for benefits, or 28 days after they initially apply.

This past July, the Federal Government finally issued regulations requiring that 80 percent of all intrastate and 60 percent of all interstate first-benefit claims must be paid within 14 days after the recipient becomes eligible.

Unfortunately, the rules hardly help first-claim beneficiaries who live in States that comply with the new Federal guidelines. And, it hardly aids the unemployed worker, whose claim has been delayed, to tell his creditors that he resides in a State whose unemployment compensation machinery has officially been declared "efficient" by the Federal Government. The applicant should have some way to force the State to make payment of unemployment compensation that is due him.

Originally, the amendment clarified and defined in precise terms the amount of time the States were to be given to either approve or disapprove applications for unemployment compensation. The modified amendment strikes the specific language delineating "when due" but places forward a new opportunity for beneficiaries whose claims for jobless benefits are unduly delayed. It permtis beneficiaries to petition the State unemployment compensation agency for a fair hearing, to determine the reasons for the delay.

The standard in the revised amendment is that of "reasonable promptness" and the Secretary of Labor is given 60 days to promulgate regulations giving definition to that phrase.

The Secretary, hopefully, will follow my original amendment and define "reasonable promptness" to mean 28 days, as the courts have found, after which period an applicant can ask for a fair hearing to find out why his claim has not been processed.

Additionally, the revised amendment makes the issue of delayed payments an agenda item to be examined by the study commission on unemployment compensation. I support the examination in expectation that the commission will conclude, as I have concluded and the courts have concluded, that 28 days is more than sufficient time to process these unemployment compensation claims.

Even though the revised amendment does not spell out in specific terms the amount of time that the States are given to process unemployment compensation claims, the intention is supportive of these decisions of the courts that have established a 28-day guideline as sufficient time for the States to approve or disapprove an unemployment compensation application. It is anticipated that the Secretary of Labor will follow that guideline and specify the meaning of the "when due" provision of the act according to the intent of the amendment as originally submitted.

Mr. President, in order to expedite the consideration of this amendment, I have discussed it with the managers of the bill. I understand it is acceptable to them in the modified form in which I have presented it, and I hope it will be agreed to by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

UP AMENDMENT NO. 509

Mr. LEAHY. Mr. President, on behalf of myself and my colleague (Mr. STAFFORD), I send to the desk an unprinted amendment and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY), for himself and Mr. Stafford, proposes an unprinted amendment No. 509.

Mr. LEAHY. Mr. President, I ask unanimous consent to dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC.—. AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION.

(a) In General.—Section 407(b)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (B); and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

"(i) if and for so long as such child's father, unless exempt under section 402(a)(19)(A), is not registered pursuant to such section for the work incentive program established under part C of this title, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 432(a), is not registered with the public employment offices in the State, and

"(ii) with respect to any week for which such child's father qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and

"(D) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child's father receives under an unemployment compensation law of a State or of the United States.".

(b) CONFORMING PROVISION.—Section 407(d)(3) of such Act is amended by inserting ", for purposes of section 407(b)(1)(C)," before "be deemed".

(c) EFFECTIVE DATE.—The amendments made by the preceding provisions of this section shall be effective with respect to months after (and weeks beginning in months after) the date of the enactment of this Act.

(d) SIMPLIFICATION OF PROCEDURES.—Section 407 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

"(e) The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed fathers and other unemployed persons in such State in registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title and in registering with public employment offices (under this section and otherwise) or in connection with applications for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both the work incentive program and the applicable unemployment compensation laws.".

SEC. —. STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PROGRAMS.

(a) IN GENERAL.—Section 3(a) of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (29 U.S.C. 49b(a)), is amended by adding at the end thereof the following new sentence: "It shall be the further duty of the bureau to assure that such employment offices in each State, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is hereby authorized to) furnish to such agency making the request, from any data contained in the files of any such employment office, information with respect to any individual specified in the request as to: (A) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (B) the current (or most recent) home address of such individual (C) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and terms, conditions, and rate of pay therefor, and (D) such other matters as may be relevant to the discharge of such agency's duties insofar as such duties relate to such individual or any member of his family.

(b) PROVISIONS FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 403 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices pursuant to the third sentence of section 3(a) of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (29 U.S.C. 49(b)(a)), by a State or local agency administering the State plan approved under part A of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan; and for purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information so requested by a State or local agency charged with the duty of carrying out a State plan for child support approved under part D of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan.

Mr. LEAHY. Mr. President, the primary purpose of my amendment is to require unemployed fathers who apply for aid-to-families-with-dependent-children-unemployed fathers—AFDC-UF—to collect any unemployment compensation—UC—to which they are entitled before they can receive any AFDC-UF benefits for which they might qualify. In those cases where an individual collecting UC meets the State AFDC-UP eligibility requirements, the State would be required to supplement UC benefits up to AFDC-UP benefit levels. The 28 States that are participating in the AFDC-UF program would be affected by this legislation. These States are: California, Colorado, Connecticut, Delaware, the District of Columbia, Guam, Hawaii, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Washington, West Virginia, and Wisconsin.

Mr. President, this amendment is necessary because of the June 9, 1975 Supreme Court decision—Philbrook v. Glodgett—which held that an unemployed father of dependent children eligible for AFDC-UF, who is also entitled to UC benefits, must be given the option of receiving either UC or AFDC–UF.

Prior to this ruling, an unemployed father entitled to UC benefits was prohibited from receiving AFDC–UF, even if he met the AFDC–UF eligibility requirements and benefits under AFDC–UF were higher than his UC payments. The Supreme Court ruling allows individuals to draw AFDC–UF instead of UC benefits in those cases where the AFDC–UF benefits are higher. The result has been to increase AFDC–UF expenditures and decrease UF expenditures.

Prior to the Supreme Court's June 9, 1975 ruling an unemployed father eligible for UC benefits was prohibited from receiving AFDC-UF, even if he met the AFDC–UF eligibility requirements and AFDC–UF payments would be higher than his UC benefits.

The amendment would also reduce the number of locations or agencies to which recipients of AFDC–UF and recipients of both UC and AFDC–UF must go in order to register for employment. If the work incentive program—WIN—is accessible, an individual receiving just AFDC–UF would have to register only with WIN, rather than with both WIN and the Employment Service as under current law. If a WIN program is not accessible, the individual would have to register with the Employment Service. For those receiving both UC and AFDC–UF, the amendment directs the Secretary of Health, Education, and Welfare and the Secretary of Labor to work with the States in reducing the number of places these individuals must go to fulfill the employment registration requirements in both programs.

Mr. President, some States, particularly those that are State-supervised States, that is in which the counties administer the AFDC program pursuant to a State plan, have had serious difficulties in receiving information from unemployment insurance officers in the State. As a result, this lack of information as to the amount of unemployment insurance received causes large dollar errors in the AFDC program and erroneous payments.

The State of Michigan, for example, does not coordinate their unemployment insurance programs with the State AFDC program. This has resulted in overpayment errors of approximately $6 million in fiscal year 1976. There are a number of other States, including my State of Vermont, which are also having problems in the same area. In addition, there are some States which do not authorize either AFDC or child support agencies to check against unemployment insurance for any reason.

The problem is so serious that there have been a number of recent revelations in the media of large dollar errors in unemployment compensation and AFDC payments.

Therefore, Mr. President, my amendment would require cooperation between the two agencies for purposes of AFDC eligibility and child support. It also provides that the AFDC agency and the child support agency would bear the cost of receiving the information from the unemployment compensation agency.

Mr. President, Senator STAFFORD and I have discussed this amendment previously with the distinguished chairman of the Finance Committee, and it is our understanding that it is acceptable to him and the committee.

Mr. LONG. Will the Senator yield?

Mr. LEAHY. I yield.

Mr. LONG. Mr. President, under this amendment, if a person is entitled to unemployment insurance, he should apply for the unemployment insurance and take that rather than applying for welfare.

Mr. LEAHY. The distinguished chairman, as usual, has approached the matter in a most distinguished manner.

Mr. LONG. I am willing to accept the amendment, Mr. President.

Mr. LEAHY. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD, a statement by the distinguished Senator from Texas (Mr. BENTSEN).

The PRESIDING OFFICER. Without objection, it is so ordered.

### STATEMENT BY SENATOR BENTSEN

Title V of H.R. 10210, the Unemployment Compensation Amendments of 1976, now being considered by the Senate contains several provisions of vital importance to the aged and disabled of this country. These provisions amend the Supplemental Security Income Program which provides assistance to the aged, blind and disabled poor. The SSI program has been in operation for about 2 years now and we are beginning to hear about inequities in the law, about cases where the law acts to harm the very people that it was intending to help.

For example, under current law, when a husband or wife needs medical care in an institution, much of their joint SSI benefit goes toward payment of the institution's bills. This has led, in some cases, to the elderly being forced to file for a divorce so that the spouse remaining at home can have enough money to live on. Section 502 of H.R. 10210 would solve this problem by requiring that when one spouse is institutionalized, the SSI program provide benefits to the couple as if they were actually individuals. I sponsored this amendment to the SSI program in the Finance Committee because clearly the law did not intend to penalize the couple where one needed medical attention. This amendment has a negligible cost to the Treasury according to the Administration.

Another amendment to the SSI program which I sponsored in Committee would prevent a person from losing their Medicaid eligibility when their Social Security benefits rose due to the cost of living increases. What happens now is that people with low social security benefits and little other income are eligible to receive SSI benefits. Although these SSI benefits may amount to only a few dollars, they entitle the person to Medicaid health insurance coverage. However, as the law now stands, when social security benefits rise some 10,000 to 15,000 people lose their SSI benefit because the social security increase pushes them above the eligibility cut-off for SSI. Loss of a few dollars of SSI benefits is not what really hurts. The real problem is loss of the Medicaid benefits that are tied to SSI eligibility.

One case in Texas was reported to me in which a woman lost her SSI and Medicaid eligibility because her Social Security benefit was too high by 30 cents. Clearly, this kind of arbitrary cut-off does not draw the kind of distinctions that are necessary for a humane implementation of the laws. Section 501 of the bill we are considering today allow people to keep their Medicaid eligibility despite increases in Social Security benefits.

There are two more sections in Title V of the Unemployment Compensation bill which amend the Supplemental Security Income Program and which I co-sponsored in the Finance Committee.

Section 505 of the bill removes the prohibition in current law that prevents people living in small residential group homes from receiving SSI benefits. Although this prohibition in current law applies directly only to people residing in public facilities, its effect is to also prevent people in private group homes from receiving SSI. This situation must be corrected. We have spent much time in this Congress talking about the rising cost of health care . . . and here is a perfect example of why those costs are going up. An elderly or retarded person who is not in need of medical care but is in need of some aid in his or her daily chores like dressing and preparing food is forced, under current law either to forego his welfare benefit in order to get that help or go into a much more costly medical institution. It is time that we took some positive steps to assure that alternative care arrangements are in reality available to the elderly and retarded.

The amendment also requires that the States set up standards for these facilities and monitor them to assure that the standards for health and safety are met.

The Administration has pointed out that this amendment could cost as much as $12 million in the first year of operation with costs increasing in future years. However, this estimate is very misleading . . . for although SSI costs will increase, Medicaid costs will drop as a result of people being taken out of medical institutions in which they receive unnecessary care. In my State of Texas alone there will be an estimated reduction in Federal Medicaid costs of $1.6 million in fiscal year 1977 due to the enactment of this amendment.

Section 501 of today's bill requires H.E.W. to implement provisions of the SSI law that have essentially gone unnoticed since the law went into effect in January 1974. These provisions relate to the development of a definition of disability as it applies to children and the provision of rehabilitative services that are specifically geared to children. The current situation is that the only definition of disability applied for purposes of SSI eligibility relates to employability . . . a concept obviously irrelevant to children. Thus, different jurisdictions treat children with the same disability in different ways. Moreover, these children are referred to the State vocational rehabilitation agency which often does not offer services helpful to children.

Section 501 requires H.E.W. to issue a definition of disability as it relates to children, requiring that these children to be referred to a State Agency that has expertise in rehabilitation for children and sets a limit of $30 million a year for the next three years to provide these services to children.

The provisions which I have just discussed are crucial to a fair and rational implementation of the SSI program. They will rectify several problems that may appear to be minor but which mean the difference between desperation and security for many of our Nation's aged, blind and disabled. I urge my colleagues to give their full support to Title V of the Unemployment Compensation bill so that these measures can go into effect as soon as possible.

I would like to add that I have received assurances from Mr. Ullman and Mr. Corman, our distinguished colleagues on the House side, that the inclusion of the SSI measures in this bill will in no way impede the conference. These provisions have previously passed the House as Sections of H.R. 8911.

Mr. BAYH. Mr. President, we are considering today an extremely important piece of legislation. This legislation extends the coverage of the existing unemployment compensation programs to several categories of workers not previously covered; increases the amount of workers not previously covered; increases the amount of wages subject to Federal unemployment tax in order to bring in needed revenues; and makes several beneficial changes in the supplementary security income program, a program designed to aid disabled workers.

The legislation as reported from the Senate Finance Committee contains several beneficial provisions; however it does not go as far as the House passed bill. I intend to support various amendments which will be on the Senate floor which will seek to conform the Senate legislation to the more progressive House bill. Among those reforms I intend to support are first, the establishment of a supplemental extension benefits program to provide an additional 13 weeks of coverage; second, a repeal of the 120 percent requirement which has unduly prevented the triggering of State unemployment programs, and third, the deletion of the prohibition on compensation for those elderly workers who may be receiving any income from pension plans.

All of these reforms are contained in the House passed bill.

While the Finance Committee bill as reported does not go far enough in making needed reforms in existing unemployment compensation programs, it does contain several important features.

### 1. COVERAGE

Under this legislation, unemployment compensation coverage will be extended to all employees of State and local governments. However, under the Senate bill, coverage would not be extended to several categories such as elected officials, major nontenured policymaking or advisory positions, judges, emergency employees hired in the case of a disaster or inmates of custodial or penal institutions.

For the first time, under this legislation, unemployment coverage will be extended to employees of nonprofit elementary and secondary schools. This provision, covering 58,661 elementary and secondary school teachers in Indiana takes effect on January 1, 1978.

### 2. TAX BASE

This legislation increases the Federal unemployment taxable wage base to $6,000 from the current base of $4,200 to take effect on January 1, 1978. The Department of Labor estimates that provision will result in $2 billion of additional State taxes and $0.5 billion of additional Federal taxes for fiscal 1979.

Additionally, the committee bill increases the net Federal unemployment tax rate from 0.5 percent to 0.7 percent effective January 1, 1977, which will result in approximately $0.4 billion in additional revenues during fiscal 1977.

### 3. SUPPLEMENTAL SECURITY INCOME

The bill makes several significant changes in the supplemental security income program, a program to provide aid to disabled workers.

Of particular concern is the current status of children in this program. It has been 4 years since the Congress enacted the SSI program, and there are still no adequate guidelines which would enable State agencies to determine how to apply the program to children. Individual States, receiving no direction from the Federal Government, have been adopting their own widely varying guidelines. Therefore, the legislation before us today would require the Social Security Administration within 120 days of enactment to publish criteria to be used by State agencies in making child disability regulations.

In addition, the Senate Finance Committee, in studying the operation of SSI as it relates to disabled children found that there was no uniform practice of referring these children to State agencies which might offer them the proper medical and rehabilitative services. In order to correct this situation, the Senate bill requires referral by the Social Security Administration of children under 16 years of age to the State agency which administers crippled children's services or to another agency the Governor deems capable of handling these needs. The legislation provides for a funding formula under which the Federal Government would be required to pay for any administrative costs incurred by the State agency in carrying out the program for disabled children.

The legislation before us today makes several other important changes in the operation of SSI. One of these changes which I regard as significant relates to cost-of-living increases under social security and eligibility for SSI and medicaid payments. Currently, the law provides for annual cost-of-living increases in payments under Title II of the Social Security Act. Unfortunately, there have been instances where this cost-of-living adjustment under social security has had the effect of making an individual ineligible for SSI and medicaid. The committee bill would protect an individual by providing that no recipient of SSI benefits could lose eligibility for medicaid as a result of the operation of cost-of-living increases.

The committee bill contains one other noteworthy provision affecting women workers. In a number of States an individual whose unemployment is related to pregnancy has been barred from receiving any unemployment benefits. In 1975, the Supreme Court found such a provision under Utah State unemployment compensation laws to be unconstitutional. The committee bill would prohibit States from being able to enforce any such similar prohibition of benefits based solely on pregnancy.

Mr. President, I hope the Senate moves expeditiously on this needed legislation, and I hope that my colleagues will join me in supporting strengthening amendments which will bring the bill in line with the House-passed version.

Mr. HANSEN. Mr. President, the National Federation of Independent Business has a burning interest in the Unemployment Compensation Amendments of 1976 and have made some excellent points in regard to that legislation.

James D. "Mike" McKevitt, Washington counsel for the National Federation of Independent Business, testified before the Senate Finance Committee—on which I serve—when the bill, H.R. 10210, was before that unit for consideration.

Because, Mr. President, what Mr. McKevitt has to say is important—especially as it relates for the need for reform of our unemployment compensation system, I ask unanimous consent that his remarks be printed in the Record as we consider the measure.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### STATEMENT OF JAMES D. "MIKE" MCKEVITT

Mr. Chairman, NFIB, with an audited membership of 462,000 small and independent business firms, vigorously opposes H.R. 10210, the Unemployment Compensation Amendments of 1976. Our system of unemployment compensation needs thorough reform, not another "quick fix" with an even expanded number of workers covered.

NFIB members are distraught by the continuing abuses of the current unemployment compensation system which are both well-known and widely reported. CBS and Mike Wallace deserve special commendation for airing sample abuses to a wide spectrum of the public on the television program "60 Minutes." But "60 Minutes" added nothing to what small business people have known for years—abuse of unemployment compensation is rampant.

NFIB's files are filled with poignant examples.

An NFIB member in Seattle recently advised us of a young, single warehouseman who quit his job to attend the Olympics in Montreal. The young man draws Unemployment Compensation. Another employee of the same firm had a fight with her husband and went home to her parents "until her husband came to his senses". She, too, draws Unemployment Compensation. Case after case of similar abuses can be cited, but H.R. 10210 doesn't address this problem.

Simply put, America's small business community is sick and tired of providing paid vacations to these people who are violating the law in spirit, if not in practice. We have heard a great deal about welfare cheats, but little has been done. Will the same be true of Unemployment cheats?

NFIB members are also concerned over the staggering numbers of people drawing Unemployment benefits when small business has over 1½ million job openings. NFIB's *Quarterly Economic Report for Small Business*, July 1976, reveals 17 percent of the small firms surveyed responded positively to the question, "Do you have any job openings that you are not able to fill right now?" Since the posed question directed itself only to the number of firms with job openings, not the number of openings per firm, extrapolations from the survey sample to the entire small business population will provide a very conservative estimate. Nevertheless, NFIB's estimate of at least 1.6 million vacant jobs in the small business sector raises significant questions.

Why should this phenomenon exist? Why should so many be drawing Unemployment Compensation, yet so many jobs be available? Possibly, part can be attributed to the geographic distribution of job openings in contrast to the geographic distribution of unemployed. NFIB survey data reveals, however, that even in New England, the region where the fewest small firms reported job openings, 9 percent of the firms had vacancies. Possibly, part can be attributed to the substantially greater need for skilled labor than unskilled labor. NFIB survey data reveals, however, 5 percent of the firms needed unskilled labor.

But there is a stronger possibility that is not revealed in NFIB survey data. It is revealed by the experiences of our members. This possibility is the disincentive Unemployment Compensation currently provides against seeking productive employment.

A couple in a small Wisconsin community recently offered their experience:

"Since Spring we have advertised for employees but have found it extremely difficult to fill the positions we have open. Our starting wage is $3.50 to $3.75 per hour depending on experience. (Experience is not required for a position.)

"On many various occasions, when prospective employees call or come to our office, they laugh when they hear of our starting wage and say, 'I can earn more money by staying home and collecting unemployment compensation.' So, we keep trying to find people to work for us."

When does Unemployment Compensation cease being a stabilizing influence and begin to contribute to the problem? No one can determine precisely when that point has been reached. But, with the significant number of jobs available, it certainly appears the watershed has long been passed and Unemployment Compensation is no longer buoying the economic system, but sinking it.

NFIB members are further concerned because H.R. 10210 will compel millions of small firms to absorb tax increases despite excellent experience ratings. Why should that be? Why should firms that have not contributed to the insolvency of the fund in many states now be asked to help bail it out?

A small agri-business employer in the Mid-West, an NFIB member, has not experienced a single layoff in 44 years of operation. Yet, H.R. 10210 would raise his taxes. The man's business happens to be located in the same community as a subsidiary of a corporate giant, the subsidiary being subject to periodic, heavy layoffs. This small employer resents this indirect subsidy to his large corporate neighbor. Can you blame him?

NFIB appreciates the fact H.R. 10210 provides for a creation of a National Study Commission to consider various aspects of Unemployment Compensation. This is a laudable, though tardy action. But for the Commission to be successful, it must direct itself to the conceptual issues as well as the mechanical. It must begin with the question "What is unemployment?" and proceed to eliminate the inequities, the abuses, and the disincentives to gainful employment. Without thorough consideration of these aspects, the Commission will be nothing more than a bureaucratic sham—a basis for another "quick fix" rather than wholesale reform.

Small business employs over 50 percent of all workers in the private sector. NFIB, therefore, feels the Commission must include persons representing the small business sector.

NFIB does not oppose Unemployment Compensation per se; indeed, we feel the purpose of the program is commendable and essential to the social and economic goals of the United States. However, H.R. 10210 encourages institutionalization of the program's current distortions and we cannot support it.

NFIB appreciates the opportunity to express our views.

Mr. HASKELL. Mr. President, H.R. 10210, the Unemployment Compensation Amendments of 1976, contains a provision which I offered in the Committee on Finance with the cosponsorship of Senators BENTSEN and GRAVEL, and which the committee unanimously adopted. The amendment, affecting the eligibility of individuals in certain institutions for supplemental security income benefits, was offered in the House of Representatives by Representative KEYS of Kansas and Representative BRODHEAD of Michigan. The merits of the amendment were carefully examined by the Subcommittee on Public Assistance of the Committee on Ways and Means, and the bill of which it was a part passed the full House overwhelmingly.

I am hopeful that this amendment—which has the strong endorsement of such groups as the National Association for Retarded Citizens, the American Association of Retired Persons, United Cerebral Palsy, numerous State organizations, and the National Governors' Conference—will open the door to more creative, humane, and relevant ways of providing for our aged and disabled citizens.

The amendment encourages the development of small, residential "group-homes" for the aged and the disabled as alternatives to institutionalization in large, and often impersonal and inappropriate medical care facilities. Many aged, disabled, or mentally retarded individuals do not need full-time medical care. Many do need a sheltered residential setting which provides some types of care or assistance and a supportive environment which encourages maximum possible participation in the community at large. The law as written, however, actively discourages the development of such small nonmedical home-like residences.

Present law stipulates that individuals in nonmedical public institutions are not eligible for SSI benefits. The bill before the Senate would amend present law to provide that the prohibition against SSI payments to persons in public institutions would not be applicable in the case of publicly operated community residences for 16 or fewer residents. The law would further be changed to provide that SSI benefits to eligible individuals would not be reduced because of assistance provided to such residences by States and localities.

The tragedy of the present system is that all too often for our aged, disabled, or retarded citizens, no alternative exists to institutionalization in large medical facilities which tend to isolate them from the community and in all too many cases serve as mere custodians of an individual's remaining days. In a single blunt word many individuals are simply left to vegetate in institutions which may provide excellent medical care, and may meet high standards of sanitation and safety, but simply cannot provide the kinds of service the individual really needs. In contrast, group homes, as the National Association for Retarded Citizens has pointed out, provide living arrangements in residential settings with the opportunity to work competitively or in a sheltered workshop. Some residents receive vocational or rehabilitation therapy during the day, returning to the group home in the evening, where in almost all cases, a live-in staff, often a married couple, oversees the facility. In group homes the emphasis is on keeping the individual involved in the community and functioning independently to the maximum possible extent. The group-home concept clearly offers hope of a better quality of life for many aged, disabled, and retarded Americans.

Yet because of the existing disincentives in the medicaid and SSI programs only a relatively few group homes yet exist.

William Morrill, Assistant Secretary of Health, Education, and Welfare for Planning and Evaluation, in testimony before the Subcommittee on Public Assistance, described how present law discourages group homes:

> Since medicaid is an open-ended program for which the States receive Federal matching (funds), and it is easier to obtain reimbursement for a package of services in an institution, there has been a tendency in many States to institutionalize persons rather than to provide them services outside of an institution even where such institutional care, which is costly, may be unwarranted.

It is that tendency, Mr. President, which this amendment seeks to redress. In doing so, there is ample evidence to indicate that we will also be able to save the taxpayer a considerable amount of money.

The cost of operating medical care institutions is in the neighborhood of $12,000 per person per year. Under the medicaid program the Federal share of that cost is never less than 50 percent and often considerably higher.

In contrast, annual SSI payments to a single individual are in the neighborhood of $2,000 per person. Informed testimony before the Subcommittee on Public Assistance in the House indicates that the majority of people who will populate group homes are currently residing in institutions and thus supported in large part by medicaid dollars.

That same testimony, given by Dr. Patrice Schmitz, president of the National Association of Private Residential Facilities for the Mentally Retarded indicates that—

> Efforts are currently underway in each of the 50 states to decrease the population of large state institutions by placing people in more normalizing, less restrictive living situations like community-based group homes.

Thus, it seems clear that by removing legal obstacles to small group homes, the Congress will save taxpayers considerable money over the long term as well as lay the basis for a better life for many of our aged and disabled citizens.

Mr. BROOKE. Mr. President, last week I introduced S. 3805, a bill which would make individuals residing in small public community residence facilities eligible for SSI benefits. When the Finance Committee was marking up the unemployment compensation bill last week, Senators HASKELL and BENTSEN offered an amendment accomplishing the same purposes as S. 3805. I am indeed pleased that the committee accepted this amendment and that its provisions now seem assured of enactment.

I would like to take a few moments to discuss why this amendment is so important.

In my State of Massachusetts and across our Nation, there is a growing movement to develop group homes and other similar community residences for the disabled, the elderly, and other vulnerable people. These community residences are designed to provide a home for people who, because of advancing age, or disability, are unable to live totally independently. They offer such persons the opportunity to live a fairly normal life and to remain active participants in their communities, despite their handicaps. Group homes are an alternative to a nursing home or State institution—an alternative which is not only more humane, but also considerably less costly.

I believe that public policy should encourage the development of group homes and other alternatives to institutional care. But a patchwork of statutory provisions under the SSI program have exactly the opposite effect. This amendment would remedy this by making several changes in current SSI law. First, the amendment makes persons living in publicly operated community residences for 16 or fewer residents eligible for SSI benefits on the same basis as those living in private community residences of the same nature. Current law precludes SSI payments to any person living in a public institution. The second change permits State and local governments to subsidize room and board costs in a home when necessary, without penalizing the residents by reducing or eliminating their SSI benefits. Under current law, funds provided by nonprofit organizations to subsidize group homes and other community residences are not counted as income to the residents, but public funds for the same purposes are counted. Thus, if private funds are used, SSI payments are not reduced; but if any public funds are used, SSI payments are reduced.

The cost of this amendnment is modest and well within the congressional budget resolution. The administration estimates that the first year cost will fall between $8 and $16 million. Net Federal costs would be somewhat less than this, since any movement of SSI recipients into community residences from publicly financed institutional care will cause a decrease in Federal medicaid expenditures.

Introduced in the House by Congresswoman MARTHA KEYS of Kansas, the amendment was unanimously approved by the Ways and Means Committee as a committee amendment to H.R. 8911, the Supplemental Security Income Amendments of 1976, and was passed by the House as a whole by 374 to 3. The legislation also has broad support among consumer groups such as the National Association for Retarded Citizens, the American Association of Retired Persons, and a variety of other public-interest groups. I believe that the time has come to make good on our oft-repeated promises to encourage alternatives to institutional care as this legislation is designed to do. This the amendment before us does.

Mr. MUSKIE. Mr. President, I rise in support of H.R. 10210, a bill amending the unemployment insurance and supplemental security income programs.

This bill would raise approximately $400 million in additional revenues to the unemployment trust fund in fiscal 1977. These revenues are sorely needed to alleviate the fiscal strains which the recession of the last few years has imposed on the unemployment insurance system. The bill would also provide various other changes to the unemployment insurance system, none of which would have any budgetary impact in fiscal 1977. Also contained in H.R. 10210 are various amendments to the SSI program which would increase 1977 budget authority and outlays for that program by slightly less than $50 million.

I would like to speak, briefly, Mr. President, to the relationship of this bill to the second budget resolution for fiscal 1977, which Congress recently adopted. In developing the second budget resolution revenue floor and spending ceilings, the conferees assumed the enactment of legislation that would increase revenues—and thus budget authority—to the unemployment trust fund by $400 million in fiscal 1977. The second budget resolution spending ceilings also assumed legislation to increase expenditures from the trust fund by $112 million in fiscal 1977, as well as legislation to increase SSI costs by $77 million.

On September 24, the Finance Committee filed its report pursuant to section 302(b) of the Budget Act, subdividing its second budget resolution allocation among major programs. According to that report, the Finance Committee has decided to allow for $400 million in new revenues—and budget authority—to the unemployment trust fund, no new expenditures from the trust fund, and less that $50 million in new SSI legislation. In other words, H.R. 10210, the bill before us today, will bring the revenues and spending for the unemployment insurance and SSI programs to the allocations for those programs by the Finance Committee in its section 302(b) allocation report. All remaining funds within the Finance Committee's allocation have been assigned to other programs under the committee's jurisdiction.

I mention this to make one important point: That while the bill before us is consistent with the 1977 congressional budget, any floor amendments to reduce the revenues provided by this bill, or to increase spending significantly in the unemployment insurance or SSI programs, would violate the allocations to the Finance Committee under the second budget resolution.

Mr. President, I urge all my colleagues to respect the subdivision of its allocation that the Finance Committee has made. If we did otherwise, we would, in effect, be directing the Finance Committee to take funds from one program, such as medicaid or aid to families with dependent children, in order to finance increases in other programs. This could greatly heighten the risk of exceeding the ceilings of the congressional budget and adding to the deficit.

Therefore, I urge all my colleagues to support H.R. 10210 as reported by the Finance Committee, and to refrain from proposing any floor amendments that would violate that committee's recommendations in its section 302(b) allocation report.

Mr. DURKIN. Mr. President, the unemployment compensation bill as reported by the Finance Committee contains a provision which in effect requires States to extend unemployment insurance coverage to State and local employees including employees of nonprofit primary and secondary schools. I would like to note my objection to this portion of the bill. The burden imposed on localities will be costly. Homeowners are already pressed to meet their current financial obligations.

The inclusion of the additional employees covered by this bill will by necessity require towns and cities to increase taxes or cut back on much needed services.

It has been estimated that this section of the bill could cost local governments up to $2 billion. I have received letters from school districts in my State of New Hampshire indicating that the bill could cost them $100,000 to pay for the additional employee coverage required. The cost to the State of New Hampshire has been estimated at $3 million. A good portion of these funds will be raised through increases in property taxes.

Mr. President, it seems to me that this matter could be better decided by the States or localities or left to collective bargaining. The Federal Government has no business mandating a program to be paid for by the already financially hard-hit cities and towns of this country without appropriating the money to pay for it. Our New Hampshire property taxpayers have already been hit hard enough.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. TALMADGE), the Senator from Indiana (Mr. HARTKE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 71, nays 6, as follows:

[Rollcall Vote No. 673 Leg.]

YEAS—71

Allen
Baker
Bayh
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Weicker
Williams
Young

NAYS—6

Abourezk
Bartlett
Garn
Helms
Laxalt
Tower

NOT VOTING—23

Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Church
Dole
Glenn
Goldwater
Hart, Philip A.
Hartke
Inouye
Mansfield
McGee
McGovern
Mondale
Montoya
Scott,
  William L.
Stafford
Talmadge
Thurmond
Tunney

So the bill (H.R. 10210) was passed.

Mr. LONG. Mr. President, I wish the Chair to recognize me for a series of routine motions.

First, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to the bill and ask for a conference with the House and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. NELSON, Mr. HATHAWAY, Mr. CURTIS, Mr. FANNIN, and Mr. HANSEN conferees on the part of the Senate.

Mr. LONG. Mr. President, I move that the bill—H.R. 10210—be printed with the amendments of the Senate numbered, and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections.

The motion was agreed to.

## UNANIMOUS-CONSENT AGREEMENT—H.R. 13655

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 5 p.m. today there begin running 30 minutes for debate on the veto message on H.R. 13655, the Automotive Transport Research and Development Act of 1976, time equally divided between Mr. PERCY and Mr. MOSS, and that the vote occur at 5:30 p.m.

Mr. FANNIN. Mr. President, reserving the right to object, and I do not intend to object, but I wish to explain why the Senator from Arizona will not object to this particular request but has objected to others.

The Senator from Arizona, my colleague, Senator GOLDWATER, explained this morning, and this Senator from Arizona completely concurred with him, that there is an action that has been taken by a Member of the Senate regarding the consideration of an appointment. It is Executive Calendar No. 359, Richard M. Bilby, of Arizona, to be U.S. circuit judge for the ninth circuit.

Mr. President, on August 3 this nomination was submitted to the Senate. On August 24 hearings were held. On September 22 it was voted out and reported to the Senate on that day. So, both Senators from Arizona feel that this is a——

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. Will Senators please refrain from speaking.

The Senator from Arizona may proceed.

Mr. FANNIN. That is political.

What the Senator has requested at this time, regarding a veto message, would in the opinion of the Senator from Arizona also be a political action, so the Senator will not object.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOSS. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. For the benefit of both cloakrooms, Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is not a rollcall on override of the Presidential veto automatic?

The PRESIDING OFFICER. It is pursuant to the Constitution.

Mr. ROBERT C. BYRD. That will occur at 5:30 p.m. today.

The PRESIDING OFFICER. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. No.

### CONFERENCE REPORT—H.R. 11337

Mr. ROBERT C. BYRD. Mr. President, in accordance with the order that was entered yesterday, I ask unanimous consent now that Mr. Moss be recognized to call up the conference report on H.R. 11337.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized.

## MID-DECADE CENSUS OF POPULATION—CONFERENCE REPORT

Mr. MOSS. Mr. President, I submit a report of the committee of conference on H.R. 11337 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today.)

Mr. MOSS. Mr. President, the conference report on H.R. 11337, the mid-decade census bill, represents a satisfactory compromise which I believe protects the integrity of census statistics and should be confirmed by the Senate.

The differences between the Senate and the House of Representatives on this measure were not many, though they were significant. In the main, they centered on the question of penalties for refusal or neglect to cooperate with the censuses.

On this question, we did arrive at a compromise. The conference substitute provides that the present level of fines which can be assessed for failure to cooperate with the censuses will be retained, as was the Senate's position. We did agree, however, to the House position with respect to deleting most provisions of the present law providing for imprisonment of violators. In truth, no one has ever gone to jail for a census violation.

It was the Senate's position that penalties for noncompliance with census laws were imperative if census data were to continue to be reliable; if the censuses were not to become voluntary.

That is still the Senate's position, Mr. President. But the Census Bureau itself has stated that it believes potential fines of the magnitude now provided in law are sufficient to insure compliance. In general those penalties, as they affect individuals, include fines of not more than $100 for failure to answer questions and of not more than $500 for willfully giving false answers. In cases involving those responsible for census participation on the part of business firms, institutions, religious bodies or other organizations, the potential fines run to $500 for failure to answer questions and to $10,000 for willfully giving false answers.

The managers on the part of the Senate also receded in the case of a House amendment providing that a person may not be compelled to disclose information regarding his religious beliefs or membership in a religious body. Such questions already are prohibited under section 552a of title 5, United States Code, in any event.

Mr. President, I believe the Senate should approve the conference report. Although the initial mid-decade census will not occur until 1985, passage of this bill will permit the Census Bureau to undertake necessary planning, and insure as well that the upcoming 1980 Census of Population is designed in such a way as to take into account the mid-decade census to follow.

Mr. President, I move the adoption of the conference report.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MOSS. I am glad to yield to the Senator from Alabama.

Mr. ALLEN. Several House Members have contacted me somewhat displeased with the conference report. I understood the Senator to say that the report was unanimous. But the House position with respect to knocking out penalties and also criminal penalties, as well, was abandoned insofar as the civil penalties up to $10,000. Is that correct? That is still in the conference report.

Mr. MOSS. Yes. The civil penalties remain exactly as they are at the present time in the law. The criminal penalties were taken out at the insistence of the House conferees, and also the Senate conferees receded on the provision about making inquiry about religious affiliation, so that is written into the law now here that no inquiry may be made as to a person's religious affiliation.

So, the only place that there was any failure of the Senate conferees to recede to the House was this question.

Mr. ALLEN. On civil penalties up to $10,000?

Mr. MOSS. Yes, which they had attempted to bring down farther but after discussion, and it was very carefully discussed, Mr. ROUSSELOT and others were there, their suggestion really prevailed finally that that be the compromise basis.

Mr. ALLEN. Could a person who is interviewed by the census workers and who is asked a question that he feels invades his privacy and he refuses to answer be fined then up to $10,000?

Mr. MOSS. No. Any penalty on an individual is limited to $100. It is only with a business establishment or corporation that it could go as high as $10,000.

The argument there was that if it were a small business, of course, that would be a disproportionate penalty. But perhaps if they had some evasion by General Motors, which I think was used as an example, it might be necessary for the judge to impose a higher penalty to really have some leverage on a large corporation like that.

Mr. ALLEN. I wish to have an opportunity of conferring further with my colleagues in the House who do have violent objection to the conference report, and I wonder if we could postpone consideration of the report at this time and possibly bring it up again tomorrow.

Mr. MOSS. We have been in constant contact with the House and, of course, this same report is being brought before the House of Representatives itself and anyone who has objection in the House may raise it over there. If we adopt the report here, it must conform with what they do, and that is where the objection lies. I think it would be raised over there. I think we should proceed in the Senate.

Mr. ALLEN. I still wish to have the opportunity, if the Senator will not object, to confer further with the House Members. I hope the Senator will not insist in moving forward with the report at this time.

Mr. MOSS. Mr. President, I think that this is entirely in the agreement that we made with the House conferees who represented those in the House, who earlier wanted to discuss these measures. In compromise, we gave in to practically everything they wanted. There is just that one, tiny, slight difference, as was pointed out; and the House conferees are going back with the same report to the House. If anyone is still dissatisfied there, he might raise it.

I think that for us to fail to act now probably would just get us caught in the rush of the last 2 days, and we may not get a bill.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. I request again that the distinguished manager of the bill wait until tomorrow to insist on this, to give me an opportunity to confer with House colleagues who do object violently to consideration of the matter.

Mr. GRIFFIN. Mr. President, if I may be recognized, I should like to direct a question to Senator STONE, who has played an active role in the development of this legislation. He is familiar with the feeling of the Senator from New York (Mr. JAVITS).

Mr. STONE. Yes, I am familiar with it.

Mr. GRIFFIN. I am not familiar with the details of the conference report, but in his absence I ask whether or not the conference report preserves in all respects the understanding and arrangements that were worked out with Senator JAVITS.

Mr. STONE. Yes, it does.

Mr. GRIFFIN. I thank the Senator from Florida.

Mr. STONE. Mr. President, will the distinguished Senator from Utah yield?

Mr. MOSS. I yield.

Mr. STONE. The difficulty with simply conferring with some of the House Members who oppose this bill is that they intend to oppose the bill all the way, not because of the mid-decade census feature, not because of the annual population studies or the special population studies done by this bill, but strictly because of the so-called Ashbrook amendment.

Representative ASHBROOK wants it in its entirety. His amendment covered two eliminations: The elimination of criminal penalties from the census procedure, and that is not just to do with the mid-decade census but all the census work, and the elimination of all civil penalties. The Census Bureau and the administration feel very strongly that if they do not have civil penalties, this bill would have to be vetoed—or any such bill containing that.

There are some Representatives who feel very strongly that they do not want any penalties, civil or criminal, and are absolutely committed to debate and fight and vote against the bill because of that, even considering the fact that some of their States may lose a great deal of money that they are entitled to when they get accurate population estimates for their programs.

The conference went further than our bill did. The Senate bill, which was cleared all around, did not have any of this elimination of penalties in it—none at all. But we yielded to the House, to Representative ASHBROOK's approach on the criminal penalties. We left the civil penalties where they are.

I believe that the feeling of fear for civil penalties is unwarranted, because in the history of the census—in the history of the entire enforcement of the census process—only one civil fine has been levied, and the amount was $100. They just feel strongly that they need the standby powers on the books. However, there has been only one $100 civil fine levied. The reason why the Senate conferees were willing to take out the criminal penalties was that a criminal penalty never had been levied. So we did not think that the standby on that was that meaningful, and we went that far.

Furthermore, there was an amendment by Representative ROUSSELOT which prohibits the asking of religious questions, which we felt was fair, even though by implication if not specifically in the Privacy Act—the statute that is already on our books—you could not do it. But this makes it crystal clear that you cannot do it in this process, so we acceded to that.

The House position gained the Rousselot amendment and the criminal penalty end of the Ashbrook amendment, and we left the civil fines where they are.

If I thought that a day's delay or even 2 days' delay, bringing us to the last day, would change Representative ASHBROOK's and Representative ROUSSELOT's minds about how strongly they feel on the penalty end, I would wait. But I honestly feel, after checking yesterday and today with what they have been saying, that it would not change their minds.

I hope we can vote on this matter. If the Senator from Alabama feels that he would like to reflect the attitude and the position of some Representatives as I have outlined it, he could vote "no." We need this bill badly, and we have worked it out with the Senator from New York and the Senators from the other States in the Northeast, so that we have what I think is a very fair compromise bill.

Mr. ALLEN. I thank the distinguished Senator for his explanation. I call to his attention the fact that the Senator from Alabama has cooperated with the Senator from Florida in first getting this bill reported from the committee. Also, last evening, in the late evening, he interposed no objection when the bill was called up for passage and when conferees were appointed.

Mr. MOSS. The Senator is correct.

Mr. ALLEN. The Senator from Alabama cooperated all the way.

Mr. MOSS. The Senator is correct.

Mr. ALLEN. All the Senator from Alabama is asking at this time is that this matter be delayed until tomorrow.

The leadership has a blanket permission to call up this matter. I am just asking that it be delayed until tomorrow.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. STONE. Would the Senator accept a unanimous-consent request for a time certain to vote on tomorrow? We have already ordered the yeas and nays, at the Senator's request. If that is the case, I would not mind waiting an extra day. But if the Senator thinks there is going to be any change in the attitude of some of the Representatives, he is mistaken. He is not going to change their attitude.

Mr. ALLEN. I would like to consult further with them. I would not agree to a time certain at this time, because other matters are awaiting attention. I hope Senators will delay the matter until tomorrow.

Mr. MOSS. Unless we can have a specific time, I do not see any advantage. The bill is not long. It is relatively simple, and I think we have explained all its points. I do not know that there is anything to be gained by further debate on it. As the Senator from Florida pointed out, we accommodated everything that came from the House and made that one small compromise—which suggestion, by the way, was on that side of the conference table. So the conference finally was unanimous. Nobody was voting against it. To us, it seemed to be in full agreement. We thought it would be routine to get the two Houses to ratify the conference and that this small but very important bill would be disposed of.

### QUORUM CALL

Mr. ALLEN. I thank the Senators for their courtesy, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object at this time.

The PRESIDING OFFICER. The objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## ORDER TO ADD SENATOR JAVITS AS CONFEREE ON H.R. 10210

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and I make this request on behalf of Mr. Long, that Mr. Javits be added as a conferee on H.R. 10210.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## MESSAGE FROM THE HOUSE

The following message from the House of Representatives was communicated to the Senate by Mr. Berry, one of its clerks:

> The House of Representatives having proceeded to reconsider the bill (H.R. 13655) entitled "An Act to establish a five-year research and development program leading to advanced automobile propulsion system and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was
>
> *Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

## AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976, H.R. 13655—VETO MESSAGE

The PRESIDING OFFICER. The veto message of the President of the United States to the House of Representatives will be spread upon the Journal, and will be stated:

The assistant legislative clerk read as follows:

> *To the House of Representatives:*
>
> I am returning, without my approval, H.R. 13655, the "Automotive Transport Research and Development Act of 1976."
>
> This bill would establish a five-year research and development program within the Energy Research and Development Administration (ERDA) leading to the development of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles to promote the development of advanced alternatives to existing automobiles. The major objective of the program would be the development and construction of integrated test vehicles which would incorporate advanced automobile engines into complete vehicles conforming to Federal requirements for safety, emissions, damageability, and fuel economy. Such development would unnecessarily duplicate existing authorities and extend into areas private industry is best equipped to pursue.
>
> Both ERDA and the Department of Transportation (DOT) the two Federal agencies which would be most directly affected by this program, already have sufficient authority to accomplish the objectives of this bill. Under the authority of the Energy Reorganization Act of 1974 and the Federal Non-nuclear Energy Research and Development Act of 1974, ERDA's Highway Vehicle Systems Program is presently proceeding with the development of new automobile engine systems to the point where several prototype systems can be demonstrated in vehicles on the road. Under my fiscal year 1977 budget, ERDA will continue to emphasize the development of such advanced engines designed to meet higher levels of fuel economy and lower emissions.
>
> Ongoing DOT programs under the authority of the Department of Transportation Act, the National Traffic and Motor Vehicle Safety Act of 1966, and the Motor Vehicle Information and Cost Savings Act are currently sponsoring advanced automobile research that, except for advanced automobile engines, will achieve the purposes of this bill. Detailed design development for two versions of a Research Safety Vehicle should be completed before the end of this year. Under my fiscal year 1977 budget, DOT will have sufficient funds for its advanced automobile research and development activities.
>
> The Federal government, through ERDA and DOT, can play an important role in exploring the research areas that must be developed before advanced automobiles are produced which meet the Nation's conservation goals—especially in the critical area of new engine research. However, it must be recognized that private industry has substantial expertise and interest in the development and production of advanced automobiles. The appropriate Federal role in this area should be confined to research and development only, and not extend into borderline commercial areas which private industry is best able to perform.
>
> This highly complex technological program, moreover, would eventually require a massive spending program not reflected in the bill's $100 million start-up authorizations for the first two years of the program. This bill would unnecessarily expand research and development programs now underway, and would provide no commensurate benefits for the taxpayers who must pay for this program. I am therefore returning the bill without my approval.
>
> Gerald R. Ford.
>
> The White House, *September 24, 1976.*

The Senate proceeded to reconsider the bill (H.R. 13655) entitled "An Act to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes," returned by the President of the United States with his objections to the House of Representatives by the President on September 24, 1976, and passed by the House of Representatives, on reconsideration, on Septamber 29, 1976.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objection of the President of the United States to the contrary notwithstanding?

Under the previous order, the time is under control. Who yields time?

Mr. MOSS. Mr. President, I yield myseld 10 minutes at this time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. MOSS. Mr. President, today the Senate will attempt to override the President's veto of H.R. 13655, the Automobile Transport Research and Development Act. This legislation would greatly accelerate the pace of development of energy-efficient and virtually pollution-free automobile propulsion systems. It has been estimated that such vehicles, by the year 2000, could save this Nation more than 2 million barrels of oil per day. Furthermore, a recent study by the Jet Propulsion Laboratory of the California Institute of Technology has estimated that such advanced systems as Stirling cycle and turbine vehicles could save the consumer from $600 to $850 in lifecycle costs relative to conventional vehicles, while meeting all Federal automobile requirements.

The need for this legislation was established in more than 10 days of hearings in both the House and Senate during the 93d and 94th Congresses. Similar legislation has been overwhelmingly approved by the Senate on four separate occasions during this period. The conference report on H.R. 13655 was signed by every member of the conference committee, and was accepted by strong bipartisan majorities in both Houses—344 to 39 in the House; 58 to 19 in the Senate. The House has now overridden the President's veto of this legislation by a vote of 293 to 102.

The need for an aggressive program of automotive research and development has never been greater. Since the Arab oil embargo, this Nation has become even more dependent on foreign sources of oil. In 1973, this Nation imported 25 percent of its oil from foreign sources. Now we import more than 40 percent of our oil and more than 30 percent of this oil is imported from the Arab bloc nations.

The automobile plays a crucial role in our energy posture. The automobile is the single largest end-user of petroleum in this country, accounting for nearly 40 percent of present consumption. Despite these facts, our hearings have found that the major automobile companies are actually reducing their budgets to develop energy-efficient and nonpolluting alternative engine systems.

The President's veto message unfortunately misinterprets the purpose of H.R. 13655. It states the legislation would "unnecessarily * * * extend into areas industry is best equipped to pursue." The facts are that H.R. 13655 specifically requires that the ERDA Administrator "insure the research and development under this act supplements, but neither supplants nor duplicates the automotive research and developments efforts of private industry." Furthermore, this legislation would introduce a more coherent approach to the development of advance automotive technology. The Department of Transportation's efforts to develop a research safety vehicle have unfortunately not been integrated with ERDA's efforts to develop advanced automotive powerplants. It is clearly in the national interest to bring these activities together in an orderly and coordinated program.

The President's message also implies or states that adequate funds will be available to ERDA and DOT in fiscal year 1977 to accomplish the objectives of this bill. This view conflicts with the budget recommendations of several major public and private studies which have called for a major expansion of the Federal role in automotive research and development. For example, a November 1974 Federal Energy Administration study entitled "The Role of the Federal Government in Automotive R. & D." estimated that a national R. & D. investment on the order of $150 million per year will be required to achieve national energy and environmental goals. It also stated that:

> Private industry is (prior to the current economic squeeze) investing on the order of one-third of this amount, concentrated in the near-term aspects of development. Furthermore, the integration of the national objectives of energy efficiency, alternatives to petroleum, and a minimum environmental impact into a coherent long-term program in R&D requires perspectives, and responsibilities well beyond those of the private automobile companies, those objectives are rooted in the marketplace. Consequently, we perceive a major governmental role in automotive R&D . . .

Similar findings were contained in a study by the former Atomic Energy Commission in estimates by Dr. David Ragonne, the Chairman of the Advisory Committee on Alternative Automotive Power Systems. In the most recent study on this question, the Jet Propulsion Laboratory of the California Institute of Technology confirmed these estimates in a detailed analytical study and specifically stated that the necessary funding levels for an adequate national program are considerably above the levels currently anticipated to be spent by the Federal Government and private industry in the next few years.

It should be emphasized that this legislation is strictly a research and development program. The President has charged that this legislation would extend "into borderline commercial areas." The President apparently confuses this legislation with earlier legislation which required the development of production prototypes. This provision was striken from the legislation during the conference. Furthermore, this legislation specifically requires that the expertise of all Federal agencies be adequately utilized. While the Administrator of ERDA will have overall management responsibility for conducting the program, the role of other agencies is also carefully recognized.

For example, section 6(a) of this act requires the Administrator to utilize the expertise of the Department of Transportation to the maximum extent practicable in the areas of safety and damageability, and to use other agencies as well to the extent that he deems appropriate. Thus, the expertise of the Department of Transportation in safety and damageability, and especially their work with respect to the research safety vehicle program, will be utilized fully rather than detracting from the present authority of DOT to conduct research and development. Mr. President, this legislation has received widespread support. A letter of support for H.R. 13655 has been sent to the members of the Senate from the Sierra Club, Environmental Action, Friends of the Earth, and Public Citizen. The United Autoworkers and the AFL–CIO also support this legislation.

Last week, we overrode the President's veto of H.R. 8800 which established a research, development, and demonstration program for electric vehicles. The various environmental groups, in their letter to the Congress, have made an excellent point by stating:

> In developing alternatives to the internal combustion engine, it is important to investigate all promising research. Putting all the research eggs in the basket of electric cars is not acceptable to us. Other types of engines and cars must also be investigated at the same time.

I heartily agree. Electric vehicles offer great possibilities for energy conservation and pollution control, but they are only one of several exciting alternatives that are available. Only an aggressive research and development program such as is mandated in H.R. 13655 would assure that the best of these alternatives are rapidly developed.

Mr. President, I strongly urge my colleagues to once again support H.R. 13655 and override the President's veto.

Mr. President, I reserve the remainder of my time.

Mr. GRIFFIN addressed the Chair.

The PRESIDING OFFICER (Mr. HASKELL). The Senator from Michigan.

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Kansas, who is in control of the time, I yield myself 5 minutes.

Mr. President, this is a bill that calls for expenditures of $100 million. It is an unnecessary, ridiculous duplication of effort—effort that already is being undertaken by two agencies of the Federal Government and which already is being undertaken by private industry. I refer to the effort to develop and perfect better engines for automobiles.

To say that the automobile companies are doing nothing in this field is a statement that is completely out of touch with reality.

Congress has imposed very strict emission standards on the automobile companies; they have been working overtime and spending many extra millions of dollars in an effort to meet those standards.

The same thing is true with regard to fuel efficiency or fuel economy. Everyone who shops for a new automobile is familiar with these facts.

I thought I heard the Senator from Utah say that the private sector is spending less money on research in this field. I do not know where he is getting his figures, but my attention has been called to impressive evidence to the contrary.

I understand, for example, that General Motors in 1967 was spending $1.6 million. In 1968, the figures went to $4.7 million; 1969, $8.6 million; 1970, $11.3 million; 1971, $18.9 million; 1972, $20 million, and it keeps going up.

Figures for the other auto companies have been rising at a similar rate.

So, the auto companies certainly are spending considerably more money in their effort to do what this bill seeks to achieve.

I voted against similar research for an electric car. There, too, I think the private sector should develop such a car.

But I will admit that, perhaps, there was more justification for a government research program in the instance of an electric car. It can be argued, perhaps with some justification, that the automobile companies, with so much investment in gasoline-powered engines, may not have the incentive needed to develop electric-propelled automobiles.

But if there was some justification in that case, there is no justification in this case. How any Member of this body could go out to the American people and seriously say he is interested in saving money, in avoiding duplication of effort in the Government, and still vote for this bill, I cannot understand.

Over and over again, we read examples of how one part of the Government does not seem to know what the other parts of the Government are doing. This is a perfect example.

Perhaps the Senate will vote today to override the President's veto. I hope not, but if that occurs, he will certainly have a good political issue.

I urge that the President's veto be sustained.

The PRESIDING OFFICER (Mr. JOHNSTON). Who yields time?

Mr. TUNNEY addressed the Chair.

Mr. MOSS. Mr. President, I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mr. TUNNEY. Mr. President, I could not help but listen with interest to what the distinguished Senator from Michigan said about this bill. I heard him say it in committee.

However, I must tell the Senator that I strongly disagree with both the direct statements he has made and the implications of those statements.

One thing is very clear to me. We see

in newspaper stories time and time again that this country is extraordinarily vulnerable to a boycott of oil from Arab countries and from OPEC countries, which have foreign policy objectives which are substantially different from our own.

Yet it is clear that it is not in the financial interest of Detroit to build a car which has as a priority fuel efficiency.

I am sure that the leading automotive corporations are not trying to sabotage our national security interests. But it is certainly obvious that they do not place fuel efficiency at the highest level of priority.

If they did, we would have today a car that would get 40 or 50 miles to a gallon.

The major automotive companies, since the passage of the Clean Air Act and the establishment of clean air standards and emission standards, have spent hundreds of millions of dollars on research and development to build a catalytic converter. The reason that they chose the catalytic converter was because it protected their investment in the internal combustion engine.

There is nothing wrong with protecting an investment. But where the protection of that investment operates contrary to the national interest, it is then time for the Government to step in with its research and development dollars and to decide that we are going to get a car which represents a significant change in technology from what presently exists, we need a car which will meet the emission standards in every way and, hopefully, go far below the emission standards that have been established originally for 1976, now 1981, and at the same time produce the kind of fuel efficiency which is going to enable this country to regain some of the energy independence that we have lost in the past several years.

It ought to be clear to everyone after the many debates we have had on the Senate floor that 40 percent of the oil that is consumed in this country is consumed by the automobile in the form of gasoline. It is, in my mind, wrong to talk in terms of energy conservation without directing our attention to the automobile.

Unfortunately, it is not in the profit interest of Detroit to build a car that is energy efficient—and that is where the rub lies.

I chaired hours and hours of hearings over the past 4 years on this legislation and legislation that was similar to it.

We had one witness after another come in and tell our committee that the major automobile companies were not taking advantage of the new technologies that were available and were not spending their research and development dollars on those new technologies—the Stirling engine, the Rankine engine, and the Brayton engine. These all represent alternatives to the traditional combustion engine which could produce great efficiencies for fuel as well as meeting all the air quality standards which have been established.

It so happens that I represent a State in which a very substantial portion of our population is directly adversely affected by the pollutants which come out of the exhaust of an automobile.

The PRESIDING OFFICER. All time of the opponents has expired. Who yields time?

Mr. GRIFFIN. How much time is left on this side?

The PRESIDING OFFICER. The Senator from Michigan has 8 minutes.

Mr. GRIFFIN. I will yield some of the time to the Senator from California.

Mr. TUNNEY. Will the Senator yield me 2 minutes?

Mr. GRIFFIN. I yield.

Mr. TUNNEY. As a result of that adverse health impact, the people in my State are demanding that we break new ground. I know it is a cliche now to talk in terms of whether or not we can get to Mars. If we can develop the technology to send back pictures, to analyze the soil and the surface of Mars many tens of millions of miles away, we ought to be able to develop the technology for an energy-efficient, clean automobile engine. Although it may be a cliche, it also happens to be the truth. But the problem, of course, is that Detroit has not directed its research and development dollars in that direction. I can understand why, as far as the profit and loss statement of those companies is concerned, they have put their money into the add-on catalytic converter. But we have known what has happened with the catalytic converter.

In many instances it has produced more pollution or pollution of a different kind than what is being produced by the automobile without the catalytic converter.

I ask my colleagues to look at the record of the independent energy agencies, ERDA, the FEA; look at the report of the Jet Propulsion Laboratory. These public and private organizations have stated clearly that such energy efficiency and smog-free engines could be produced but it is going to cost a lot of money to do it. The AEC said it could cost up to $150 million. The Jet Propulsion Laboratory said it could cost up to $30 million a year for each type of propulsion technology and it would take 5 years to do it.

What our bill provides is $100 million of funding in the first 2 years, $25 million startup, $75 million in the second year, with a program after 5 years of being able to develop an engine that is going to achieve the kind of energy efficiency and smog-free conditions that will not only protect the health and welfare of the people of this country, but will also protect the national security of this country and help break the grip of the OPEC nations.

This bill in no way prevents the automotive industry from continuing or undertaking research and development efforts. It will not duplicate the work they are doing due to the fact that the bill states clearly that the Energy Research and Development Administration shall not duplicate the work that the automotive industry is carrying out. It provides for supplemental research and development dollars.

I would also point out that the bill has been modified. It does not provide, as the Senate bill originally did, for a production prototype. It provides for an integrated test vehicle. It will not be the Government that will produce these cars; it will be the private sector that will produce them.

We have used research and development dollars in the past in the aerospace industry, and we have used Federal dollars for defense. This is a perfect example of how we can strike a blow for economic and energy freedom by overriding this veto.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRIFFIN. I must say that an argument that there is no incentive for American automobile companies to produce a more fuel efficient car is surprising, to say the least. There is every incentive to do it.

The Senator from California apparently argues that consumers are not interested in how much gas is used in an automobile. With the price of gasoline going up, such an argument, on its face does not make sense. Those who shop and purchase new autos are very interested in how much mileage they are going to get.

I am told that the Volkswagen Rabbit now is out in front with the most miles per gallon; it is selling very well. The Senator from California, I guess, is taking the position or seems to be suggesting that the American companies do not care and are not trying to compete with such an automobile. This does not square with my experience or information.

It seems to me that the approach of this bill is the old, worn out idea that if someone has a problem and they are frustrated and do not know what else to do, they throw gobs of Federal money at it. Unfortunately, it is the taxpayers' money.

Proponents of the bill can say as many times as they want to that they are not duplicating effort, but that does not mean it is true.

Let me read a couple of sentences out of the President's veto message:

> Both ERDA and the Department of Transportation (DOT), the two Federal agencies which would be most directly affected by this program, already have sufficient authority to accomplish the objectives of this bill. Under the authority of the Energy Reorganization Act of 1974 and the Federal Non-nuclear Energy Research and Development Act of 1974, ERDA's Highway Vehicle Systems Program is presently proceeding with the development of new automobile engine systems to the point where several prototype systems can be demonstrated in vehicles on the road. Under my fiscal year 1977 budget, ERDA will continue to emphasize the development of such advanced engines designed to meet higher levels of fuel economy and lower emissions.
>
> Ongoing DOT programs under the authority of the Department of Transportation Act, the National Traffic and Motor Vehicle Safety Act of 1966, and the Motor Vehicle Information and Cost Savings Act are currently sponsoring advanced automobile research that, except for advanced automobile engines, will achieve the purposes of this bill. Detailed design development for two versions of a Research Safety Vehicle should be completed before the end of this year. Under my fiscal year 1977 budget, DOT will have sufficient funds for its advanced automobile research and development activities.

The President is right on the merits and he is certainly right politically in vetoing this wasteful bill. I urge the Senate to support him, and I yield back any remaining time.

Mr. MAGNUSON. Mr. President, I strongly urge my colleagues to vote to override the President's veto of H.R. 13655, the Automotive Transport Research and Development Act of 1976.

Automotive R. & D. legislation has been approved by the Senate four times during the 93d and 94th Congresses, most recently on June 14 by a vote of 63 to 27. Similar legislation was passed by the House on June 3 by a vote of 296 to 86, and the conference report was signed by all conferees and overwhelmingly supported by bipartisan majorities in both Houses within the past month.

The need for a strong Federal role in the development of advanced automotive technology, to complement efforts of the private sector, has been clearly identified by several major studies of this question. H.R. 13655 clearly does not intrude on the private sector, and, in fact, requires the ERDA Administrator to "insure the research and development under this Act supplements but neither supplants nor duplicates the automotive research and development efforts of private industry."

Enacting H.R. 13655 into law will complement the recent enactment of H.R. 8800, the Electric Vehicle Research, Development and Demonstration Act of 1976, and help to insure a comprehensive automotive R. & D. effort in this Nation. Such an effort is essential if we are to achieve our national goals with respect to energy conservation and clean air. The Nation is clearly looking for leadership in these two critical areas, and your vote this afternoon can help provide this leadership.

Mr. TUNNEY. Mr. President, I ask unanimous consent that Lynn Sutcliffe, Michael Brownlee, Alan Hoffman and Dan Jaffee of the Senate Commerce Committee staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Objection.

Mr. TUNNEY. Does the Senator object to members of the committee staff being on the floor?

Mr. FANNIN. To any unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. GRIFFIN. If a Senator wants to uphold the veto of the President, would he vote "nay"?

The PRESIDING OFFICER. The Senator is correct.

The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The yeas and nays are mandatory under the Constitution.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. McGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), the Senator from Hawaii (Mr. INOUYE), and the Senator from South Dakota (Mr. McGOVERN) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

On this vote, the Senator from Arizona (Mr. GOLDWATER) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from Arizona would vote "yea" and the Senator from South Carolina would vote "nay."

The yeas and nays resulted—yeas 41, nays 35, as follows:

[Rollcall Vote No. 674 Leg.]

YEAS—41

Abourezk
Bayh
Biden
Brooke
Burdick
Byrd, Robert C.
Clark
Cranston
Culver
Eagleton
Ford
Gravel
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Johnston
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Metcalf
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Proxmire
Ribicoff
Stevens
Stevenson
Stone
Symington
Tunney
Weicker
Williams

NAYS—35

Allen
Baker
Bartlett
Bellmon
Bumpers
Byrd, Harry F., Jr.
Case
Curtis
Domenici
Durkin
Fannin
Fong
Garn
Griffin
Hansen
Hart, Gary
Hatfield
Helms
Hruska
Javits
Laxalt
Long
McClellan
McClure
Morgan
Packwood
Percy
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Taft
Tower
Young

NOT VOTING—24

Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Church
Dole
Eastland
Glenn
Goldwater
Hart, Philip A.
Hartke
Inouye
Mansfield
McGee
McGovern
Mondale
Montoya
Randolph
Scott, William L.
Stafford
Talmadge
Thurmond

The PRESIDING OFFICER. On this vote, the yeas are 41 and the nays are 35. Two-thirds of the Senators present and voting not having voted in the affirmative, the bill, on reconsideration, fails of passage.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 12033) to continue until the close of June 30, 1979, the existing suspension of duties on manganese ore (including ferruginous ore) and related products.

The House has agreed to the concurrent resolution (H. Con. Res. 767) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 5546.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period.

The House agrees to the amendments of the Senate to the bill (H.R. 2735) to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The House has passed, without amendment, the following Senate bills:

S. 14. An act to provide cost-of-living adjustments in retirement pay of certain Federal judges; and

S. 1971. An act to designate the plaza area of the Federal Building, Portland, Oregon, the "Terry Schrunk Plaza".

### ENROLLED BILL SIGNED

The Speaker has signed the following enrolled bill:

H.R. 14260. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

## MID-DECADE CENSUS OF POPULATION—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that consideration of the mid-decade census conference report be temporarily delayed.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

The Senate resumed consideration of the bill.

Mr. ALLEN. Mr. President, I yield myself 2 minutes.

Mr. HANSEN. May we have order, Mr. President?

Mr. ALLEN. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats. The Senator from Alabama is entitled to be heard. The Senate is not in order.

The Senate is now in order, and the Senator may proceed.

Mr. ALLEN. Mr. President, this bill, S. 2278, the lawyers bill, hangs like the sword of Damocles over every piece of legislation pending in the Senate or that will come to the Senate from the House of Representatives between now and the adjustment date.

I do not believe the bill is all that important because, while it has been said that it is a civil rights bill, actually it is a lawyers bill.

I do not believe this bill providing for attorneys' fees for lawyers is so important that it should create a logjam here in the Senate which gives, in effect, every Senator a virtual veto over any legislation that might come before the Senate.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. ALLEN. I yield myself 2 additional minutes.

Two or three days ago, I stated that I was going to give the Senate the opportunity of laying this bill aside in order that we could get on with the important work of the Senate. In accordance with that commitment, I now move that S. 2278 be indefinitely postponed. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I yield myself 2 minutes.

The sword of Damocles referred to by the Senator from Alabama is in fact the motion to indefinitely postpone, not necessarily the civil rights lawyers' fee bill. I say that because what he is trying to do, in an effort to convince Senators to indefinitely postpone this matter, is to say that they can get all their matters through if they vote for his motion.

I assure the Members of the Senate, in the famous words of one of our Presidents, that we can see the light at the end of the tunnel. We are virtually nearing the end of this bill. We have gone through cloture. We have gone through late night sessions and early morning sessions, in an effort to finish this matter, and we are nearly at the end. It would be a crying shame if the Senate were to put it aside now, because we are virtually at the end.

I ask that the motion be defeated.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the motion on the table.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from West Virginia (Mr. Randolph), the Senator from Connecticut (Mr. Ribicoff), the Senator from Georgia (Mr. Talmadge), the Senator from Arkansas (Mr. Bumpers), the Senator from Kentucky (Mr. Huddleston), and the Senator from Missouri (Mr. Symington) are necessarily absent.

I also announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), the Senator from Hawaii (Mr. Inouye), the Senator from South Dakota (Mr. McGovern) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Nebraska (Mr. Hruska), the Senator from Vermont (Mr. Stafford), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The result was announced—yeas 53, nays 17, as follows:

[Rollcall Vote No. 675 Leg.]

YEAS—53

Abourezk
Baker
Bayh
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Clark
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Metcalf
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Roth
Schweiker
Scott, Hugh
Sparkman
Stevens
Stevenson
Stone
Taft
Tunney
Weicker
Williams

NAYS—17

Allen
Bartlett
Bellmon
Byrd, Harry F., Jr.
Curtis
Eastland
Fannin
Garn
Hansen
Helms
Laxalt
Long
McClellan
McClure
Morgan
Stennis
Young

NOT VOTING—30

Beall
Bentsen
Brock
Buckley
Bumpers
Cannon
Chiles
Church
Cranston
Dole
Glenn
Goldwater
Hart, Philip A.
Hartke
Hruska
Huddleston
Inouye
Mansfield
McGee
McGovern
Mondale
Montoya
Randolph
Ribicoff
Scott, William L.
Stafford
Symington
Talmadge
Thurmond
Tower

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I think there is a fairly good possibility that the Senate will complete action on this bill tonight. We may have to stay in late, but there will be some important votes, and I would anticipate that if the Senate passes this bill there will be another very important vote this evening. So I would hope Senators would schedule their dinners accordingly.

### AMENDMENT NO. 2419, AS MODIFIED

Mr. ALLEN. Mr. President, I call up my amendment No. 2419.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama (Mr. Allen) for himself, Mr. Helms, Mr. Thurmond, Mr. William L. Scott, and Mr. Stone proposes amendment No. 2419 (as modified).

Mr. PASTORE. Mr. President, may we have order if we are going to get out of here by 8 o'clock? I think we ought to get busy.

The legislative clerk continued to read as follows:

On page 1, Line 7, after "92-318," insert the following: "or in any civil action or proceeding, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code,"

Mr. ALLEN. Mr. President, I yield myself 3 minutes.

Mr. President, this amendment is not unfamiliar to the Senate. It is similar to the Goldwater amendment. It is similar to an amendment that the Senate registered 39 votes for in earlier proceedings with a reduced membership of the Senate.

What it does is to add to the civil rights attorneys' fees provision a provision that if the Internal Revenue Service or the U.S. Government brings a civil action against a taxpayer to enforce any provision of the Internal Revenue Code, and the Government does not prevail against the taxpayer, then the court, in its discretion, just as in the other cases, would be entitled to award the taxpayer reasonable attorneys' fees. That is all it does, and I hope the amendment will be agreed to.

I might say that this amendment is offered on behalf of the distinguished Senator from North Carolina (Mr. Helms), Mr. Thurmond, Mr. William L. Scott. If this amendment is adopted, the Senator from Alabama, Mr. Helms, Mr. Thurmond, and Mr. William L. Scott will call up no further amendment, will make no further statements with respect to the bill.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Does the amendment offered by the Senator from Alabama amend the Kennedy substitute?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. It does not amend the original bill?

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. I would like to say, speaking as manager of this bill, this amendment is acceptable to the committee, and we will be willing to accept it.

I understand the Senator from Alabama would like a rollcall vote on it, which we would be very happy to take part in.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I yield myself 1 minute. I am delighted to cosponsor this amendment with the distinguished Senator from Alabama. It will provide a measure of equity and fairness to the taxpayers of this country who, in many instances, are being harassed and intimidated by the Internal Revenue Service.

I am pleased that the able Senator from South Dakota and his associates are willing to accept it.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Florida, now presiding, be shown as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, as initial sponsor of S. 2278, I would like to make clear my understanding of the intent of this amendment, which I support.

Essentially, it would apply to a situation where a taxpayer is harassed by the IRS. In such a case, a court has discretion to award reasonable attorneys' fees to the defendant. The standard to be applied is the one the courts have adopted with respect to prevailing defendants, as decribed in the Senate report.

The purpose of this amendment is not to discourage meritorious lawsuits by the IRS, but to discourage frivolous or harassing lawsuits.

The amendment would not apply to a situation where the Government is plaintiff on appeal since the Government did not bring the action in the first instance.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from West Virginia (Mr. Randolph), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), the Senator from Hawaii (Mr. Inouye), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), and the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Vermont (Mr. Stafford), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The result was announced—yeas 72, nays 0, as follows:

[Rollcall Vote No. 676 Leg.]

YEAS—72

Abourezk
Allen
Baker
Bartlett
Bayh
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Clark
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—28

Beall
Bellmon
Bentsen
Brock
Buckley
Cannon
Chiles
Church
Cranston
Dole
Glenn
Goldwater
Hart, Philip A.
Hartke
Humphrey
Inouye
Mansfield
McGee
McGovern
Mondale
Montoya
Randolph
Ribicoff
Scott, William L.
Stafford
Talmadge
Thurmond
Tower

So the amendment, as modified, was agreed to.

## ORDER FOR THE SENATE TO CONVENE AT 8:30 TOMORROW MORNING

Mr. ROBERT C. BYRD. Mr. President, tomorrow morning tributes will occur to Mr. Symington and Mr. Philip A. Hart.

I ask unanimous consent that the Senate, when it convenes tomorrow morning, it convene at 8:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. KENNEDY. Mr. President, I understand the parliamentary situation now is that——

Mr. STENNIS. Mr. President, may we have it quiet, so the Senator can be heard?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY (continuing). That my amendment, is now the business before the Senate. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I yield myself 1 minute, Mr. President, to say that I welcome the Allen amendment. While the original purpose of this bill was to authorize awards of fees in court actions brought to enforce our civil rights laws, there is no question that there are numerous other situations where recoveries of such fees are justified.

One such situation is indeed where taxpayers suffer harassment from the Internal Revenue Service. As I understand the provisions of the Allen amendment, a court would be authorized to award attorneys' fees to a taxpayer who is a defendant in a civil action brought by the U.S. Government to enforce the provisions of the Internal Revenue Code. The usual standard applied in cases where fees are awarded to prevailing defendants would apply here as well—that is, awards are appropriate where the action initiated by the plaintiff, the Government, acted in a frivolous or vexatious manner or brought the suit for purposes of harassment.

All of us in Congress have heard, I am sure, of instances where taxpayers have been unjustifiably harassed by lawsuits which had little or no merit, but which forced them to expend enormous resources to defend themselves. Their victories are often illusory, however, as the law does not permit them to recover their legal fees in defending these suits, however unwarranted they may be. Adoption of this amendment would provide needed financial relief to such taxpayers.

Since the amendment is intended to apply solely to prevailing defendants in tax cases, the courts would be guided by well-settled judicial standards in the exercise of their discretionary authority to make fee awards to defendants. These standards are discussed in the Senate report on S. 2278. They are discussed with greater detail in the House report on its companion bill. In general, the taxpayer would have to show bad faith on the part of the Government in bringing suit against him in order for fees to be allowed.

The courts have articulated the policy reasons for utilizing a stricter test in awarding fees to prevailing defendants than to prevailing plaintiffs, and these apply equally in tax cases and in actions brought to enforce the civil rights laws. Awarding fees to prevailing defendants is intended to protect parties from being harassed by unjustifiable lawsuits. It is not, however, intended to deter plaintiffs from seeking to enforce the protections afforded by our civil rights laws, or in this instance to deter the Government from instituting legitimate tax cases by threatening it with the prospect of having to pay the defendant's counsel fees should it lose. Were Congress or the courts to provide otherwise, it would have a substantial chilling effect on the bringing of genuinely meritorious actions. I am sure that none of us would want to inhibit responsible lawsuits brought by the United States to enforce the tax laws of our country.

It should be clear, then, that a provision authorizing fee awards in tax cases has a fundamentally different purpose from one authorizing awards in lawsuits brought by private citizens to enforce the protections of our civil rights laws. In enacting the basic civil rights attorneys fees awards bill, Congress clearly intends to facilitate and to encourage the bringing of actions to enforce the protections of the civil rights laws. By authorizing awards of fees to prevailing defendants in cases brought under the Internal Revenue Code, however, Congress merely intends to protect citizens from becoming victims of frivolous or otherwise unwarranted lawsuits. Enactment of this amendment should in no way be understood as implying that Congress intends to discourage the Government from initiating legitimate lawsuits under the tax laws.

That Congress must act to provide means for citizens to enforce laws that are enacted for their protection can no longer be disputed. It has already included provisions for awards of attorneys fees in over 50 statutes. I was pleased to see that on Tuesday the Senate adopted the conference report on the Toxic Substances Act, which contains several attorneys' fees provisions. The debate on the Senate floor during the past week has underscored the importance of including attorneys' fees provisions in all of our civil rights laws. I think the adoption of Senator ALLEN's amendment complements the legislation we are now considering, and I would very much hope that we would move to its immediate passage.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. I believe that the yeas and nays have been ordered on the amendment. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. It seems to me that we have voted basically on this principle when we voted on the Allen amendment, and I would be glad to have a voice vote so we could get to passage of the measure, unless there will be objection.

I ask unanimous consent that the order for the yeas and nays be vitiated, so that we can go to third reading and passage.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the vote on passage be limited to 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator, in this instance, will not ask for a 10-minute rollcall. There are certain Senators who are attending a reception for PHIL HART, and I am afraid they would miss that vote.

Mr. ABOUREZK. I withdraw the request.

Mr. STENNIS. What was the announcement, Mr. President?

Mr. ABOUREZK. I withdraw my request for a 10-minute vote.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts, as amended.

The amendment, as amended, was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, will the Senator now accept my amendment designating this bill the Kennedy-Tunney-Abourezk lawyers relief bill?

Mr. ABOUREZK. Mr. President, may I be recognized on that?

The PRESIDING OFFICER. No.

[Laughter.]

Mr. ABOUREZK. What if I said please?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. ABOUREZK. If I said please, could I be recognized?

I just want to make a response to the question of Senator ALLEN as to whether we would accept a name change.

I think, in view of the fact that the Senate has accepted his amendment on it, it ought to be called the Kennedy-Tunney- Abourezk- Allen- Thurmond-Helms-Scott amendment.

[Laughter.]

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. TUNNEY. Mr. President, before we vote, I would like to say to my colleagues how deeply I appreciate the Senator from South Dakota's (Mr. ABORUEZK) floor management of the bill, which was my legislation, and also how much I appreciate the very hard work of the majority whip in making sure this legislation stays on track, and the work of Senator KENNEDY and the others who played a part. I, unfortunately, was not able to be present during the major part of the consideration of this legislation, but it was in extraordinarily good hands in the hands of Senator ABOUREZK. I thank him personally for having floor-managed the bill.

Mr. President, the Senate is nearing enactment of S. 2278—legislation that is vitally important to the enforcement of our Nation's civil rights laws.

As we all know, the last 7 days have been difficult—the bill's fate unclear during much of the time.

It is clear to me that without the determination and care shown by the junior Senator from South Dakota, and ample help from a bipartisan group of Senators and the Acting Majority Leader, this bill would have died.

Instead, it survived and we can be very hopeful that it will be enacted into law this session.

I am proud to have been its initial sponsor.

I see it as a cornerstone of legislation developed by the Subcommittee on Constitutional Rights, which I chair, on the subject of access to justice.

The problem of unequal access to the courts in order to vindicate congressional policies and enforce the law is not simply a problem for lawyers and courts. Encouraging adequate representation is essential if the laws of this Nation are to be enforced. Congress passes a great deal of lofty legislation promising equal rights to all.

Although some of these laws can be enforced by the Justice Department or other Federal agencies, most of the responsibility for enforcement has to rest upon private citizens, who must go to court to prove a violation of the law. This fact has been recognized in statutes specifically giving private citizens the right to go to court to redress grievances, and by court decisions which have broadly expanded the concepts of private causes of action and standing to sue. But without the availability of counsel fees, these rights exist only on paper. Private citizens must be given not only the rights to go to court, but also the legal resources. If the citizen does not have the resources, his day in court is denied him; the congressional policy which he seeks to assert and vindicate goes unvindicated; and the entire Nation, not just the individual citizen, suffers.

Unless effective ways are found to provide equal legal resources, the Nation must expect its most basic and fundamental laws to be objectively repealed by the economic fact of life that the people these laws are meant to benefit and protect cannot take advantage of them. Attorneys' fees have proved one extremely effective way to provide these equal legal resources, and are, in fact, an obvious and logical complement to citizen suit provisions.

When Congress calls upon citizens—either explicitly or by construction of its statutes—to go to court to vindicate its policies and benefit the entire Nation, Congress must also ensure that they have the means to go to court, and to be effective once they get there. No one expects a policeman, or an officeholder, to pay for the privilege of enforcing the law. It should be no different for a private citizen, as the first circuit realized in the 1972 case of Knight against Auciello:

> The violation of an important public policy may involve little by way of actual dam-

> ages, so far as a single individual is concerned, or little in comparison with the cost of vindication. . . . If a defendant may feel that the cost of litigation, and, particularly, that the financial circumstances of an injured party may mean that the chances of suit being brought, or continued in the face of opposition, will be small, there will be little brake upon deliberate wrongdoing.

We cannot hope for vigorous enforcement of our civil rights laws unless we, in the words of the Knight court, "remove the burden from the shoulders of the plaintiff seeking to vindicate the public right." That is what this bill does, and why it is so vital.

Mr. KENNEDY. Mr. President, I want to take a moment to address the charge, made by certain opponents of S. 2278, that this is a lawyers' relief bill. That could not be further from the truth.

The lawyer who undertakes to represent a client alleging a violation of the civil rights statutes covered by this bill faces significant uncertainty of payment, even where he has a strong case. For there is often important principles to be gained in such litigation, and rights to be conferred or enforced, but just as often no large promise of monetary recovery lies at the end of the tunnel. So civil rights cases—unlike tort or antitrust cases—do not provide the prevailing plaintiff with a large recovery from which he can pay his lawyer. That is why Congress has already decided in many recent civil rights laws to include provisions for recovery of attorneys' fees, in order to insure that the rights guaranteed by the laws are not lost through the inability of those who are supposed to benefit to obtain judicial enforcement of those rights.

Even with enactment of this bill, the lawyer who undertakes to represent a client will face more uncertainty of payment than one involved in a usual contingency fee case. His fee is contingent not only upon his success, but also upon the discretion of the judge before whom he appears.

Even if he wins his case, and the judge decides he has won a fee as well, his rate of compensation is fixed not by a grateful client, but by a distinterested judge. In the traditional contingency case, the lawyer is assured of a high percentage of a monetary award should he win. If the proponents of this bill were interested in creating a relief fund for lawyers, they would surely have gone about it in a different fashion.

No, this bill is not for the purpose of aiding lawyers. The purpose of this bill is to aid civil rights. Before the Alyeska case of last year, the Federal courts throughout the country were assuming that their traditional equity jurisdiction covered the granting of fees, and were awarding attorneys' fees under the statutes included in this bill. This practice was reviving the older civil rights statutes and increasing tremendously the enforcement of the rights involved. In Alyeska the Supreme Court said that, no matter how beneficial this practice might be in certain areas of the law, only Congress, and not the courts, had the power to decide which areas of the law deserved the additional inducement of attorneys' fees for enforcement. Civil rights is one of those areas.

The provisions covered by this bill are laws, since they protect the most basic civil rights. There are laws which we have learned, sadly, are prone to be violated, and which require the utmost vigilance by private enforcement if they are not to be rendered useless.

Mr. President, a short glance at a few cases under these laws may be instructive. These are all cases which were made possible by counsel fee awards before Alyeska, and which could probably not be brought today. They are but a few of the many examples of the need for this bill.

In one case, a veteran of the U.S. Army died, and his family was told he could not be buried in the local cemetery because his skin was black. *Terry* v. *Elmwood Cemetery*, 307 F. Supp. 369 (N.D. Ala. 1969). In other cases, black citizens had been systematically kept off the jury lists in many counties for years, thus denying justice. *Ford* v. *White*, 430 F.2d 951 (5th Cir. 1970). In one case, a musician was repeatedly followed by police, stopped, harassed and arrested—again because of his skin color. *Lyle* v. *Teresi*, 327 F. Supp. 683 (D. Minn. 1971). Then there was a case in which doctors who participated in a program of medical assistance to black citizens were denied any privileges in a local hospital. *Blumenthal* v. *Lee Memorial Hospital* (E.D. Ark. August 6, 1971). And a case where a highway was planned specifically to go through a black neighborhood and displace its residents, while carefully skirting around white neighborhoods. *La Raza Unida* v. *Volpe*, 57 F.R.D. 94 (N.D. Cal. 1973).

Then there was the case about the housing project which had separate rent scales, incredibly charging higher rents to those tenants who were on welfare. *Hammond* v. *Housing Authority*, 328 F. Supp. 586 (D. Ore. 1971). Another housing case involved a housing authority—unfortunately one of many—which operated separate projects which it kept rigidly segregated by race. *Taylor* v. *City of Millington*, 476 F.2d 599 (6th Cir. 1973). Another black citizen had to go to court against a housing development which actually sent out thousands of handbills advertising it was "white only." *Lee* v. *Southern Home Sites*, 444 F.2d 143 (5th Cir. 1971). In a case now pending, officials accepted Social Security Act funds for years for certain medical screening programs when in fact they had no such programs in most of the State. *Bond* v. *Stanton*, 528 F.2d 688 (7th Cir. 1976). Perhaps the saddest, most tragic case of all is the one in which mental patients, guilty of no crime or wrongdoing, were forced into involuntary, unpaid labor. *Downs* v. *Department of Public Welfare*, 65 F.R.D. 557 (E.D. Pa. 1974).

Mr. President, I could go on and on, with examples of conduct which this bill would help redress. Unfortunately, in each of these cases, the victim—or, as in some cases, like the deceased war veteran, the victim's family—had to go to court to enforce the rights promised by Congress or the Constitution. In the aftermath of Alyeska, violations like these will go unredressed without enactment of this bill.

I do not believe that those who oppose this bill really want our laws violated, but defeat of this measure would, until enactment in the next Congress, at least, rob our citizens of the ability to enforce their most basic civil rights. The net effect is to tell law violators that we will tolerate their lawlessness. We cannot do that, we should not do that. We must give our people the tools to avoid it.

This legislation is vitally necessary and proper to carry out not only the laws covered, but all the provisions of the Constitution, including the 13th and 14th amendments. I hope we can get on with the business of passing S. 2278 without more delay.

Mr. ABOUREZK. Mr. President, the Senate tonight, with the passage of S. 2278, the Civil Rights Attorneys' Fees Award Act of 1976, has acted in a true spirit of compromise. I want to thank the distinguished Senator from Alabama for his good judgment and support this evening. In passing this worthwhile measure, we have done a great service to the continuing struggle to eradicate discrimination in this country. We have assured that attorneys' fees will be available, in the discretion of the court, to successful litigants in suits brought under the reconstruction era civil rights laws, title VI of the 1964 Civil Rights Act, title IX of the education amendments of 1972, and certain Internal Revenue Code suits brought by the Government.

The many statutes covered by this bill are all major civil rights provisions, and the Senate report which my colleague from Alabama is so fond of quoting, said no differently. The report said that the major civil rights bills passed since 1964 included fee provisions. Five of the seven provisions covered by this bill were passed prior to 1964; two of the remaining three provisions covered by the bill are included in bills which contain at least one fee provision in other sections. These are major civil rights laws, and we have an obligation to guarantee their fullest enforcement.

All of these laws depend heavily upon private parties for enforcement. If Congress wants these laws enforced—and I assume we would not have passed them if we did not—then we must provide some mechanism for insuring their enforcement. The fee-shifting mechanism has proved a particularly equitable and efficient means of enforcing the law by enlisting private citizens as law enforcement officials. It is a mechanism which increases law enforcement without increasing the Federal budget or bureaucracy.

The Civil Rights Attorneys' Fees Awards Act authorizes Federal courts to award attorneys' fees to a prevailing party in suits presently pending in the Federal courts. The application of this Act to pending cases is in conformity with the unanimous decision of the Supreme Court in *Bradley* v. *School Board of City of Richmond*, 416 U.S. 696 (1974).

This application is necessary to fill the gap created by the Alyeska decision and thus avoid the inequitable situation of an award of attorneys' fees turning on the date the litigation was commenced, or the date legal services were rendered.

It will also result in a significant saving of judicial resources. At present, due to the Alyeska decision, a court must analyze a party's actions to determine bad faith in order to award attorneys' fees. This is a complex, time-consuming process often requiring an extensive evidentiary hearing. The enactment of this legislation will make such an evidentiary hearing unnecessary in the many civil rights cases presently pending in the Federal courts.

In enacting this legislation we are acting pursuant to section 2 of the 13th amendment and section 5 of the 14th amendment. See Fitzpatrick against Bitzer, 96 S. Ct. 2666 (June 28, 1976). This legislation is intended to cover cases based on both constitutional and statutory rights, including supremacy clause cases. See 42 U.S.C. § 1983.

In conclusion, I would like to say that I am proud of this body for taking this necessary step to insure that "equal protection under the law" is achieved.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. ABOUREZK. Mr. President, I yield myself 1 minute. I wish to express my thanks to Senator Robert C. Byrd for his assistance, to Senator Durkin for his help while this proceeding was going on, to the other members of the committee who helped, to the staff, and also to all the Members of the Senate for their patience in going through this entire filibuster procedure. It was very much appreciated by those of us working on the measure.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator very much.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, no debate is in order, but this is not the last rollcall today.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from West Virginia (Mr. Randolph), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), and the Senator from Hawaii (Mr. Inouye) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall) the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Vermont (Mr. Stafford), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The result was announced—yeas 57, nays 15, as follows:

[Rollcall Vote No. 677 Leg.]

YEAS—57

Abourezk
Baker
Bayh
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Clark
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Roth
Schweiker
Scott, Hugh
Sparkman
Stevens
Stevenson
Stone
Symington
Taft
Tunney
Weicker
Williams

NAYS—15

Allen
Bartlett
Curtis
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Laxalt
Long
McClellan
McClure
Stennis
Young

NOT VOTING—28

Beall
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Church
Cranston
Dole
Glenn
Goldwater
Hart, Philip A.
Hartke
Inouye
Mansfield
McGee
McGovern
Mondale
Montoya
Randolph
Ribicoff
Scott, William L.
Stafford
Talmadge
Thurmond
Tower

So the bill (S. 2278), as amended, was passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as "The Civil Rights Attorney's Fees Awards Act of 1976".

Sec. 2. That the Revised Statutes section 722 (42 U.S.C. 1988) is amended by adding the following: "In any action or proceeding to enforce a provision of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes, title IX of Public Law 92–318, or in any civil action or proceeding, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.".

Mr. ALLEN. Mr. President——

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I voted for the attorney's fees bill on final passage but only after a significant amendment was accepted by the Senate broadening it to cover attorney fees for prevailing defendants in actions brought against citizens by the Internal Revenue Service.

I was taught in law school that the awarding of attorney fees by the courts was against public policy, as such awards tend to "stir up" or "promote" litigation. Nevertheless, the Federal courts, and some State courts, have in recent years strayed far from this principle—sometimes with the authority of statutory laws and sometimes without any authority. This became a regular practice in the Fourth Circuit Court of Appeals.

Whether the public policy was correct or not, though in most cases I think it was, the question is now almost moot since so many exceptions have been made.

The proponents of the original bill had the votes to prevail as evidenced by the vote on many amendments. The compromise made by accepting the amendment concerning IRS fees makes the bill more palatable and represents the best the opponents could accomplish.

During consideration of this bill my colleague, Mr. Helms, offered an amendment which would have required the Federal Government to pay attorney fees to the prevailing defendants in all cases brought and lost by the Government. Because of the tendency of many agencies of Government to engage citizens and businesses in needless litigation it may be desirable to consider this issue again during the next Congress in order to discourage overzealous bureaucrats from hauling too many people into the courts.

Therefore, I have voted aye on the bill as a compromise—which after all most legislation is. I am fearful however, that the measure will be abused—so I hope that the Congress will monitor the results and review the entire field of law relating to the awarding of attorney fees.

## NUCLEAR FUEL ASSURANCE ACT

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, without doubt, the most important bill on the calendar is H.R. 8401, the Nuclear Fuel Assurance Act. At the conclusion of my remarks and at the conclusion of answering any questions Senators might ask, I will, on behalf of myself and my distinguished senior colleague, Mr. Sparkman, move to proceed to the consideration of H.R. 8401.

This is the ideal time to make this motion, because there is no pending business. For the first time in many days, we are not operating under cloture and there is no pending business and no unfinished business. Therefore, it is appropriate that a motion be made.

Mr. President, I am not acting in opposition to the leadership in this matter. I call attention to the fact that many days ago, the distinguished majority leader, Mr. Mansfield, asked unanimous consent for a time limit on this bill, showing that he felt that the bill should have consideration in the Senate Chamber. The House has passed it. It was approved by the Joint Committee on Atomic Energy, and it is now in the Senate. We do have ample time in which to pass this important bill.

When I said that I was not in opposition to the leadership, I informed the distinguished assistant majority leader of my plans to make this effort to have the Senate proceed to the consideration of this measure. The distinguished assistant majority leader was frank to tell me that in view of the situation of the calendar, he would have to move to table this motion. But, still, the motion must be made on account of the importance of this legislation: its importance to the Nation, its importance to the free world with respect to making progress toward solving the energy crisis in this country.

So, Mr. President, I do rise in support of H.R. 8401, and at the proper time I will move that the Senate proceed to the consideration of this important measure, the Nuclear Fuel Assurance Act, which would authorize the Energy Research and Development Administration, to enter into cooperative arrangements with private firms wishing to finance, build, own and operate uranium enrichment facilities subject to congressional review and approval of each cooperative arrangement by the Congress of the United States.

Each one of the arrangements mentioned can provide for temporary assurances and cooperation such as making Government-owned technology available and warranting that it will work—for which industry pays royalties to the Federal Treasury.

Mr. President, I believe there is general agreement that we must increase our domestic enrichment capacity. It is my opinion that the country will be well served by encouraging the development of a viable, competitive private enriching industry. The legislation to which we hope to move assumes that a little Government backup now will make it possible for private enrichers to get into business and thereby obviate the necessity of making an enormous investment of public, taxpayer, moneys that would be involved if Government must build the necessary new units of enriching capacity that will be needed to keep up with our growing demands. H.R. 8401 is the steppingstone to such a competitive industry. It projects that as soon as three or four private firms are in operation, a viable, competitive industry will exist and the need for the type of support envisioned in the legislation will be ended.

But why, one might ask, should the Government get involved in "backing-up" this new industry?

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ALLEN. For a question, yes.

Mr. PASTORE. If it is just for a question, I withdraw my request.

Mr. ALLEN. I thank the distinguished Senator.

Mr. PASTORE. I wanted to be helpful.

Mr. ALLEN. I state to the distinguished Senator that I am operating under an understanding that when I yield the floor a motion to table is going to be made. That is the problem I have.

Mr. PASTORE. I realize that; but, as a predicate to the question I shall ask, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. PASTORE. This matter has been under discussion for a long time. As a matter of fact, the original proposal by the administration, which came up in the form of S. 1439, was modified through a conference that was held by the members of the Senate Committee on Government Operations. We finally resolved it, and it went to the Joint Committee on Atomic Energy. It was not satisfactory to the House Members of that committee, and at that moment the whole matter stayed in limbo.

Then we went to the White House. In the conference at the White House were Mr. Ribicoff, myself, Mr. Glenn, Representative Price, and Representative Anderson. We discussed this whole matter. Originally, as the bill came out, it had to do with export of nuclear material and nuclear technology. The bill, we thought, was very, very strong, because it had in it the right of veto on the part of Congress, which I felt would never be acceptable to the President. That fact was made known to us. So, in the process, we did reach that compromise.

After the meeting at the White House, the President insisted that the Nuclear Assurance Act should go parallel with the export feature of the bill.

The reason I bring that up is that we must not lose sight of the fact that this is not alone the assurance act, and it has been modified, and I hope that Mr. Percy, who conducted those investigations, will be heard for the enlightenment of the Senate.

Mr. ALLEN. That will be very fine.

Mr. PASTORE. The fact remains that there are certain features here which have to do with the prevention of the proliferation of nuclear weapons, that have to do with processing that might lead to production of plutonium or nuclear material that can be used in weapons.

All of this will be discussed.

In other words, what I am trying to say is that the explanation that the Senator from Alabama is now giving is not the final version. The final version will have to be explained by Mr. Percy. I think that, when the Members of this Senate realize and appreciate all the changes that have been made and the agreement that has been reached, the attitudes will be somewhat different.

The only thing that I have to say is that, no matter what happens here, it is unfortunate that it is so late in the season.

Mr. DURKIN. Mr. President, a point of order. Is this a question or is this a statement?

Mr. PASTORE. This is going to be a question. It is a predicate to a question.

Therefore, does not the Senator from Alabama think that it is quite proper that, for the enlightenment of the Members of the Senate, including the Senator from New Hampshire, we have an explanation made by Mr. Percy before we get to the motion to lay on the table?

Mr. ALLEN. I would certainly welcome that, if that could be arranged. I would certainly welcome an explanation by the distinguished Senator from Illinois, because I know he has worked hard on this very issue. Certainly, I hope that he would be recognized before a motion to table is made.

At the present time, I do have the floor and I do hope I shall be allowed to continue with my remarks.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question only?

Mr. ALLEN. Yes, I yield.

Mr. ROBERT C. BYRD. Will the Senator make his motion now, with the understanding that he not lose his right to the floor, so that there will be something before the Senate?

Mr. ALLEN. Yes, sir.

Mr. ROBERT C. BYRD. With the understanding that he not lose his right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Chair has already announced the ruling, which is that the Senator from Alabama can make his motion to take up without losing his right to the floor. The motion to take up is debatable.

Mr. ROBERT C. BYRD. Otherwise, the Senator is speaking out of order, because there is nothing before the Senate.

Mr. ALLEN. Let us see.

The PRESIDING OFFICER. Does the Senator from Alabama make the motion?

Mr. ALLEN. Yes, I handed it to a page.

The PRESIDING OFFICER. The motion will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. Allen), for himself and Mr. Sparkman, moves that the Senate proceed to the consideration of H.R. 8401, an act to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, to provide a procedure for prior congressional review and approval of proposed arrangements, and for other purposes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. I thank the Chair. I did not mention—the distinguished Senator from Rhode Island mentioned the President in this connection. The distinguished majority leader told me that he had in his pocket, some days ago, prior to his leaving for China, a letter from the President of the United States urging him to bring up this bill, H.R. 8401, and showing his support of the measure. I welcome a discussion by the distinguished Senator from Rhode Island and the distinguished Senator from Illinois in this regard, because no one has more expertise in this area than do the Senator from Rhode Island and the Senator from Illinois. Certainly, we would like to hear from them on this issue.

H.R. 8401 projects that, as soon as three or four private firms are in operation, a viable, competitive industry will exist and the need for the type of support envisioned in the legislation will be ended.

But why, one might ask, should the Government get involved in "backing up" this new industry? There are impediments to the entry of private firms in the contemplated new industry which are not visible to the casual observer. The major impediment arises from the size of the risks involved, the unique characteristics of the enriching business, and the technological and industrial new ground which will be broken.

Establishing a new restaurant, or even building a new $700 million steel mill, is engaging in known quantities. The risks associated therewith are known, procedures are known, and rewards, or profits, are at least predictable. On the other hand, starting an enriching business is to break new ground in a far more costly environment, for which all of the rules have not been written, and perhaps, not even contemplated at this time. Thus far, only Government has entered into this area and at that, the Government did so to manufacture a specialized and classified military ingredient. Since that time, shortly after World War II, the enterprise of nuclear enrichment has shifted from defense needs to commercial needs. Energy production is our greatest national problem area. Our focus today must be on tomorrow, and the tomorrow of the next century.

It is obviously the Government's responsibility to provide for the national defense; it is also the Government's responsibility to provide, in the best way and the most economical way possible, a means of satisfying the aggregate demands of our society, and, make no mistake about it, the demands of our highly sophisticated society depend on energy and an adequate and dependable source of such energy. With congressional concurrence, we shall meet part of that responsibility by shifting the burden for the heavy financial needs of creating nuclear enrichment capacity to the private sector of the economy. We must take this step in order to make certain that our nationwide system of publicly and privately owned electric utilities get their nuclear fuel on time and in the quantity needed. Without forward looking by the Senate, the energy sector of the U.S. economy could become distressed and we all know that such distress will "ripple" through the rest of the economy.

For at least the remainder of this century, an increasing fraction of the country's total fuel supply must depend on nuclear fuel and coal. There are no viable, commerically feasible alternatives that we can say with any degree of certainty, will come on stream and be available when needed, in the next 10 to 15 years. For this reason it is imperative that we move in the direction of assuring our domestic energy needs by providing for the necessary enrichment capacity to fuel the nuclear plants, and we must do this as economically as possible. H.R. 8401 is a necessary step in the direction of providing the fuel for the future.

The question has been raised that the technology contemplated for implementation as a result of passage of H.R. 8401, is outmoded. Mr. President, I must point out that the technology envisioned for the Portsmouth add-on plant is a proven technology and proven manufacturing process, and if the Government considers such an addition to its current capacity as necessary, it is justifiable to say that the gaseous diffusion process that could be used as the first of the private enrichment ventures is as safe a risk as we can ask for.

Mr. President, it is imperative that I qualify that last statement by pointing out that it is possible for the Government to negotiate a contract with a private firm or group of firms using a process different from gaseous diffusion. It does seem likely, though, that the first such private plant to be built will be based on the process which has served the United States for 30 years successfully.

I have mentioned the negotiation of a contract and I should point out that under the Nuclear Fuel Assurance Act, the negotiated arrangements between the Government and private firms for selling and providing warranties on certain materials and equipment, available only from the Government, will be on a full-cost recovery basis. The arrangements will provide for purchase of enrichment services from private producers or selling such services to producers from the Government stockpile to accommodate plant startup and loading procedures.

The Nuclear Fuel Assurance Act provides for the assumption by the Government of domestic assets and project liabilities in the unlikely event a private project falters. Keep in mind that there will be a leadtime of 6 to 10 years for getting a new enriching plant into prouction. During these years, supply and demand for nuclear fuel may fluctuate radically. Such market forces could cause a private venture of the magnitude comtemplated to falter. The Nuclear Fuel Assurance Act recognizes this contingency and through procedures for the sale or exchange of Government and private nuclear fuel, the risks associated with such a failing are softer—even then, the Government is the beneficiary in that plant and equipment would become part of the Government's enriching capacity. The risks and impediments with which the legislation concerns itself are those which, once a competitive private industry is brought into being, are calculated to disappear or diminish to manageable size.

Mr. President, H.R. 8401 authorizes and directs the Energy Research and Development Administration to initiate construction planning and design, and construction and operation for expansion of an existing Government-owned gaseous diffusion, uranium enrichment facility; and authorizes the appropriation of $255 million to begin work on such a project. That is for expansion of the existing Government-owned plant. To reemphasize once again, the projected add-on plant for the Government facility at Portsmouth, Ohio, will use the gaseous diffusion process that has served the country for 30 years.

It has been suggested that the new capacity to enrich uranium for nuclear powerplants is not needed, or that there is enough such capacity now and for the foreseeable future. The answer to that suggestion is that all available capacity in the United States—Government-owned plants—including current expansion, has been fully committed for the life of the plants since July 1974.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. ALLEN. Yes; I would be delighted to yield for a question.

Mr. BARTLETT. I will say to the distinguished Senator from Alabama this is a very important bill, and I am aware of in our State, for example, of one company which has been negotiating with——

Mr. ABOUREZK. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. I yielded for a question.

Mr. ABOUREZK. The Senator yielded for a question. The Senator from Oklahoma is not asking a question. He is making a speech.

Mr. ALLEN. He has only spoken about one sentence.

Mr. BARTLETT. The Senator from Oklahoma will say——

Mr. ALLEN. I have yielded for a question.

The PRESIDING OFFICER. The Senator from Alabama may yield for a question only.

Mr. BARTLETT. As I was saying, one company in Oklahoma has had discussions with several other companies over a period of years over the private investment in uranium enrichment plants.

It raises a question: Should we proceed with the private investment or should we proceed with further investment of the Federal Government? It is my understanding there are three Federal Government enrichment plants at the present time. So my question is why not simply continue the present arrangements and build whatever needed Government facilities there are rather than set up a new private arrangement?

Mr. ALLEN. I am glad the Senator asked that question. There are logical answers.

There are several reasons for "going private" now—setting up a competitive industry—but the principal ones I might mention are:

First. The provision of uranium enrichment services is already, essentially, a commercial-industrial activity. It is not an activity that can be performed well only by the Federal Government.

Second. Private industry is willing and able to enter the uranium enrichment industry—and invest its money, not the taxpayer's money, in such ventures.

Third. As the Nation's reliance on nuclear power grows, maintaining a Federal monopoly in uranium enrichment could lead to an unprecedented degree of Federal control over the Nation's electrical energy supply.

Fourth. Private competition will provide incentives—over the long term—for lower costs, improved efficiencies, and technological advancement.

Mr. BARTLETT. Mr. President, will the Senator yield further for another question?

Mr. ALLEN. For a question, yes.

Mr. BARTLETT. I ask the distinguished Senator from Alabama what is the estimated cost of meeting the demands for future uranium enrichment capacity and why not assume that the Government will meet those costs?

Mr. ALLEN. Well, the cost necessarily is staggering. The information I have indicates that the cost of constructing the needed enrichment capacity, whether private or Government-owned, through the year 2000, could be up to $30 billion. Some industry sources have estimated that the figure could be in the range of $50 billion. Such demands should not, and need not, be competing with other demands on the Federal budget.

Surely, the Government could meet such costs, but at what cost to other worthwhile national programs and priorities?

Furthermore, private ventures into the nuclear enrichment industry will generate substantial revenues to the Treasury through payment of Federal income taxes and compensation for Government-owned discoveries and inventions used by industry. It has been estimated that revenues, to the Treasury, could be in the neighborhood of $90 to $100 million per year, per plant.

Mr. BARTLETT. Will the Senator yield further for two questions from the distinguished Senator from Florida (Mr. STONE) who is now presiding over the Senate?

Mr. ALLEN. Yes, I will yield for a question.

Mr. BARTLETT. The first question is: Why not build another Government plant now and bring private industry in for subsequent increments of capacity when the new gas centrifuge technology is ready for commercial use?

Mr. ALLEN. First, bringing the private sector into the enrichment field is fulfilling a long-term commitment to do just that. Several industrial firms have undertaken substantial effort to prepare for building, owning, and operating plants to enrich uranium. Such momentum would be lost if we allow Government policy to stagnate, or if the commitment toward moving to privatization were reversed by no decision.

Second, one venture has reached the stage where it has proposed construction of a plant and the taking of orders. It has lined up customers, and made detailed plans to proceed, including options on land and electrical power. This plant would use the proven gaseous diffusion process which we know works—and has for 30 years.

Other private firms are organized to come into the market using the centrifuge technology, but there we are talking about "demonstration" plants and not commercialization.

And, do not forget, the legislation provides for expansion of present U.S. Government-owned capacity using the proven technology.

Mr. BARTLETT. Will the Senator yield for another question from Mr. Stone that I will ask?

Mr. ALLEN. Yes.

Mr. BARTLETT. Could not the Congress simply authorize the construction of a bigger "add-on" at Portsmouth or at one of the other two Government-owned facilities, without going through the problems or questions of "privatization?"

Mr. ALLEN. The answer to that is, "of course, we could increase the $255 million authorization level" which is in the current bill, but in order to do so, and bring the additional capacity on stream in the mid-1980's, we would have to authorize an amount in the neighborhood of $3.5 billion, just to construct the additional capacity. And that would be just taking one more step in the direction of total federalization of the nuclear fuel enrichment process.

The thrust of the legislation is to bring on the additional capacity, within the time frame necessary to reopen the "order book" but without having to bust the fiscal year 1978, 1979, and 1980 Federal budgets, which I assume we would have to do in order to get construction started were the Federal Government to maintain its enrichment monopoly.

Mr. BARTLETT. I thank the distinguished Senator for very enlightening answers.

Mr. ALLEN. I thank the distinguished Senator for asking these questions.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. ALLEN. I yield to my distinguished colleague (Mr. SPARKMAN).

Mr. SPARKMAN. I would like to ask two or three questions, if I may.

Mr. ALLEN. Yes.

The PRESIDING OFFICER. Will the Senator use his microphone, please?

Mr. SPARKMAN. Mr. President, first, I would like to ask this question, does this legislation, H.R. 8401, approve contracts with private firms to begin construction of enrichment facilities?

Mr. ALLEN. I appreciate the Senator's asking that question because the answer, of course, is "no." The reason I am pleased the Senator asked the question is to lay to rest the false issue that has been raised against this bill, to wit: It is simply a guarantee of a nuclear enrichment plant for Dothan, Ala.

Passage of the legislation could, I repeat, could benefit Alabama and the Nation, because one of the groups of private enrichers has chosen Dothan as a site for such a plant.

I might say this, that many communities do all they can to see that nuclear plants do not come to their community. But we have a situation here where the leaders and the citizenry of Dothan do welcome this plant, if it should be built there in that vicinity.

Mr. SPARKMAN. And the whole area.

Mr. ALLEN. That is correct.

But the direct answer to the Senator's question is that the pending bill does not approve contracts with any private firm.

An issue has been raised as to the interest which Bechtel Corp.—one of the participants in Uranium Enrichment Associates—has in the Nuclear Fuel Assurance Act. UEA is only one of four groups seeking to build enriching plants. The others are Garrett, Centar, and Exxon. Each contract with any of these firms must be brought separately to Congress for specific review and approval or rejection thereof.

It is at that time when the terms of the contract are spelled out in detail that those objecting to any particular company or arrangements can get their objections aired here in the Senate about such a contract. No such contracts have been executed at this time, of course. This is precisely what is provided for in the bill.

As we know, several questions were raised about the proposed project for Alabama by the joint committee and, I might add, because of those questions and concerns, and because of the joint committee's insistence, H.R. 8401 is a better piece of legislation, because of the addition of the congressional-contract-approval step.

I should add, of course, that the citizens of Alabama would welcome the addition of a nuclear enrichment plant in the Dothan area.

Mr. SPARKMAN. In the Senator's remarks, he mentioned the other firms or consortia that have filed plans with the Energy Research and Development Administration. Are all of these firms proposing to build the same kind of enrichment plant?

Mr. ALLEN. The Senator knows, of course, we are not nuclear engineers. Some who are in political life are nuclear engineers. But the Senator and I are not, of course, and I do not have the technical expertise to discuss all the merits and considerations of the plans for construction that have been submitted to ERDA, but it is my understanding that only the UEA proposal is based on the gaseous diffusion process—the process the Government has used for 30 years—the other proposals use, or would propose to use, different technologies in the construction of nuclear enrichment facilities.

Mr. DURKIN addressed the Chair.

Mr. SPARKMAN. I have a series of questions, if the Senator from New Hampshire will let me proceed.

As a matter of curiosity, I wonder if the Senator can tell me which firms currently operate—under Government contract—the present, Government-owned nuclear enrichment facilities in the country?

Mr. ALLEN. I will be glad to.

The U.S. Government plant at Oak Ridge, Tenn., has been operated by the Union Carbide Co. since 1943. The U.S. Government nuclear enrichment plant at Paducah, Ky., has been operated by the same firm since 1954. The U.S. Government plant at Portsmouth, Ohio, has been operated by Goodyear Atomic, a subsidiary of Goodyear Tire and Rubber Co., since 1956.

Mr. SPARKMAN. Which firms make up the consortium which has entered into discussion with ERDA for a plant at Dothan, Ala.?

Mr. ALLEN. Uranium Enrichment Associates is a combination of the Bechtel Corp. of San Francisco, the Goodyear Co. of Akron, Ohio, and the Williams Co. of Tulsa, Okla.

Mr. SPARKMAN. It has been alleged that UEA—Uranium Enrichment Associates—is owned by foreign interests and, as such, those interests would have a foreign influence in the management of the affairs of the operation if it builds a plant in Alabama, or elsewhere.

Mr. ALLEN. The answer to the allegation is that, under present law and under the provisions of H.R. 8401, no foreign interest could control the management of a domestic nuclear enrichment facility. It is my understanding that UEA may seek foreign investment to help in the construction of its plant, if the contract is approved, and, at this time, the exact amount of foreign involvement, if any, is not precise—however, UEA has informed my office that at no time would any foreign investor or group of investors have voting strength of over 45 percent. Further, I have been informed that the Atomic Energy Act, as amended, would prohibit foreign ownership of a domestic enrichment facility, and the UEA bylaws prohibit offshore owners from exercising controlling interest in the proposed facility.

Furthermore, with regard to the outflow of the material to be processed by the proposed plant at Dothan, it is my understanding that the foreign drawdown of production would be in proportion to the amount of equity or ownership in the firm. Again, management and control of the operation is in the hands of the domestic firm.

UEA has advised us further that the Atomic Energy Act, as amended, prohibits the sale, transfer, or other exchange of technological data to foreign interests. While I have not looked up the specific citations, I have been informed that title 42 of the United States Code, section 2153, and other sections of the act, have a direct bearing on the question the Senator raised with regard to the foreign involvement in the proposed nuclear enrichment facility under discussion for the Dothan area as envisioned by Uranium Enrichment Associates.

I appreciate the Senator's bringing these points out. I believe it gives a much clearer understanding.

Mr. DURKIN. Will the Senator yield?

Mr. ALLEN. I am already committed to yield to the distinguished Senator from North Carolina and the distinguished Senator from Utah.

Mr. HELMS. I am interested in uranium enriching capacity. Is more uranium enriching capacity necessary?

Mr. ALLEN. I know the argument has been made that H.R. 8401 would result in a "glut" of enrichment capacity. I find the argument hard to swallow when the fact is that the Energy Research and Development Administration closed its order book in 1974. The fact is that no newly ordered nuclear plant can be serviced out of the existing Government capacity, and additional capacity is needed to fuel nuclear reactors scheduled to come into service after 1985. The capacity of the new Government add-on plant provided for in the bill will be unable to supply much nuclear fuel to new plants, because ERDA has stated that much of its output will be need to lower its requirements for new uranium from the mines and to more efficiently manage the Government's stockpile of enriched uranium.

Mr. HELMS. I thank the Senator.

Mr. GARN. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. GARN. Does this bill create a "risk free" bonanza for private firms as some critics have alleged? Further, will the act guarantee profits to the new enriching industry?

Mr. ALLEN. The assurances in the legislation do not relieve private enrichment manufacturers from the traditional risks of private enterprise. And, in answer to the second question, the provisions of H.R. 8401 definitely do not guarantee the owners of such a private venture any profit.

The assurances do not protect the equity of the shareholders from losses due to management's folly or ineptness. Private firms will risk loss of their entire principal investment. As in the case of other commercial ventures, their eventual profit will depend on how well the business is run and on management's ability to cope with its competitors in the marketplace, both here and abroad.

Mr. GARN. How does the Senator answer the criticism that this legislation is just another giveaway program?

Mr. ALLEN. It is difficult to answer a question that is not germane to the legislation at hand. I know the critics have labeled the bill as some type of raid on the Treasury, but my investigation indicates that the Treasury is the beneficiary.

For example, for use of Government technology, private firms will pay the Government a "royalty fee" of 4 percent of gross revenues for 17 years. The industry estimates that more than $7 billion in taxes and royalties could be paid into the Treasury by the year 2000. That figure may be on the high side, but in no event, is there an outflow of taxpayer dollars to private firms.

Before one of the opponents of the legislation jumps in here and asks about the guaranties, in the event a private plant is unable to make the grade commerically, let me point out that even in the eventuality that some part of the guaranties had to be paid, and the Government had to take over operation of a private plant, the Government also is a beneficiary of whatever work has been done to that date on the plant. Obviously, there is no way to cite figures for such an eventuality, but I believe it is safe to say that the Government would not be stuck with a white elephant in the event of a private failure.

Let me go a step further and say that, or remind our colleagues, the Congress of the United States will have an opportunity to reject any contract that ERDA may negotiate with any private enricher. I seriously doubt that this Congress, or any future Congress, would vote to approve something that does not have a very, very, good chance of successful commercial operation.

Mr. GARN. Is the Senator convinced that the backup assurances in H.R. 8401 are really necessary?

Mr. ALLEN. The answer is "yes." The private debt financing which these projects require would be unavailable without these assurances due to the unique circumstances surrounding the enrichment business. For example—the Government has the monopoly on the technology; there is the consideration of security classification; and of course, the size of the investment necessary—up to $3.5 billion for a plant.

The assurances are limited in amount and duration. They are contingent liabilities only. They do not involve construction loan guarantees as in the case of the Synfuels bill which was recently turned down by the House of Representatives. The purpose of the assurances is to facilitate the startup and growth of a viable, competitive, private enriching industry and thus eliminate the need for multibillion dollar taxpayer investments to expand enrichment capacity.

Mr. GARN. I thank the Senator from Alabama.

Mr. ALLEN. Commitments to new capacity are needed now so that fuel will be available in the mid-1980's for nuclear powerplants here and abroad. It has also been suggested that the authorization for the Portsmouth add-on plant will be sufficient to meet the long-term needs for enriched uranium. The response to that suggestion is that the capacity provided by an add-on plant would permit ERDA to reduce the drain on U.S. natural uranium supplies when meeting its enrichment service contracts, and contribute to the growth of the national stockpile of enriched material. Additional uranium enrichment capacity is needed to serve customers who are now, or will be seeking, to place orders for the enriched fuel. One add-on plant, of the size contemplated in the pending legislation, will not meet the needs of the future.

On the other hand, critics of H.R. 8401 have also questioned the necessity for privatization of the enrichment process because construction of privately-financed plants will result in excess capacity. The response to that is simply that the critics cannot have it both ways. More specifically, privately-financed plants will come into being only if there are sufficient firmly-committed customers for each plant to justify its construction. It appears obvious to me that no firm or group of firms is going to commit the enormous capital necessary for the building of plants of the size needed without knowing that its capital costs will be recovered and a profit is likely. The necessity for private firms to have firmly-committed contracts before risking their capital and other resources will, in my opinion, preclude the building of excess capacity. These same critics allege that the startup of private enrichment facilities will adversely affect the operation of the Government-owned plants. It seems to me that there will be sufficient demand—and far into the future—for the joint operation of the Government's plants and those of the private enrichment firms. Energy use is growing, not diminishing. Nuclear energy use is growing, not diminishing. To project a scenario where demand for nuclear fuel diminishes to such an extent that one additional increase of enrichment capacity at one Government-owned plant will suffice to fill the demand is to stretch one's imagination to the breaking point. In fact, we already know that the Government needs additional capacity just to meet current obligations. There is absolutely no reason to suggest or believe that, with competition from private industry, the Government-owned uranium enrichment plants would be put out of business or even seriously impacted.

It has been alleged, Mr. President, that enrichment services from private plants will be more costly than from Government-owned plants. The price of service from any new capacity is bound to be higher than from existing capacity, most of which was built many years ago. In fact, it is reasonable to assume that costs of producing enriched nuclear fuel from new Government-owned plants would be just as costly and possibly even more so than from newly constructed, privately financed capacity. There is no real economic check on the Government's investment of the taxpayer's dollar into increased capacity. On the other hand, private market competition that would be permitted and encouraged under the provisions of the Nuclear Fuel Assurance Act, should, in the long run, reduce future costs from the private enrichment plants. And, we are not talking about one or two plants for the future—we are concerned about making a commitment that will take our energy-hungry Nation into the 21st century.

It is estimated by the Energy Research and Development Administration and industry, that the United States will need additional nuclear enrichment capacity over and above the current total capacity of the three existing Government-owned plants over the next 15 to 20 years. If the Government were to sink the taxpayer's money into such capacity, the taxpayer would have to put up—according to industry sources—between $20 and $50 billion over the next decade or so. That amount of money could not be recaptured through sales of materials for years and years beyond the original expenditure of the public funds.

Uranium enrichment is the type of commercial-industrial process which can be performed by private industry—it already is in that private firms are now operating the Government-owned plants. There is no need for Government to do what can be done in the private sector, and particularly, when the private sector is ready, willing, and able to take on the task—and yes, with the profit motive behind the venture.

The private industry requests, and the Nuclear Fuel Assurance Act provides, for limited, temporary assurances and cooperation from the Government in order to get this new industry off the ground. There is no justification for the argument against privatization based on economic facts. We know that industry is prepared to make the investments required. What might be a truer question for the critics of this act, is if they believe the American taxpayer is willing to make an investment of its tax dollars to the tune of $20 to $50 billion.

There are many other facets to the legislation and many other questions that have been raised in relation thereto, Mr. President, and I shall touch on only a few of them briefly. I should like to point out that the Joint Committee on Atomic Energy, under the distinguished leadership of the Senator from Rhode Island (Mr. PASTORE) and the distinguished Senator from Tennessee (Mr. BAKER), has gone into all these questions, at length, and on May 14 of this year, reported the bill to the respective Houses of the Congress, by a vote of 15 to 0.

Government controls over technology will be maintained under the proposed legislation. No foreign access to technology is provided under the bill. In fact, under existing law and under the terms of the bill, H.R. 8401, nuclear fuel enrichment projects must remain under the control of U.S. citizens.

Maintaining our position as a leading and competitive supplier of nuclear fuel and equipment for peaceful purposes will permit the United States to require stringent safeguards, thus furthering our nonproliferation of nuclear technology objectives. Availability of reliable fuel supplies from the United States reduces the need for other nations to develop uranium enrichment technology and build plants. Furthermore, Government control of U.S. nuclear exports will not be affected by the passage of H.R. 8401. Firms that finance, build, own and operate plants under the provisions of the act and congressionally approved contracts will still be subject to export controls. And exports will be subject to stringent safeguard requirements provided for in the bilateral agreements for cooperation between the U.S. Government and governments of foreign customers, and, such agreements also require congressional approval.

Mr. President, I should like to turn once again to the risk factor to the Government from the negotiation of contracts with the private enrichment firms. It is assumed by critics of H.R. 8401 that private projects will assume no risk and be guaranteed a substantial profit if this legislation is enacted into law. Let me emphasize that private equity, representing hundreds of millions of dollars for each project, will be at substantial risk. The Government will not guarantee any profit.

The extent of private risk will be made clear for each project in contracts negotiation between ERDA and private firms. Under the provisions of the bill, such contracts cannot be implemented unless they are approved by the Congress, so there will be additional opportunity to evaluate the risks involved in the undertakings by the private nuclear fuel enrichment firms. That is, in effect, a check upon the negotiating ability of the Government. Certainly, the Government is not going to allow a contract to be negotiated that would increase any risk factor beyond that which is reasonable, and more certainly, I am sure the Congress would not approve of any such contract unless it fully protected the Government's interests and calculated the potential for failure which, at some point in time, could trigger the necessity for guaranteeing any or some portion of the domestic equity capital ventured in the enterprise by the private firms.

The Nuclear Fuel Assurance Act was presented to Congress by President Ford on June 26, 1975, for the purpose of providing a firm basis for the transfer of the uranium enrichment step in the nuclear fuel cycle from the U.S. Government to the private sector. The proposed legislation was the result of over 3 years of study by private industry, extensive hearings by the Joint Committee on Atomic Energy, and the development of the basic principles which must underlie the transition from a long-standing government monopoly to private enterprise. It is worth noting that the Atomic Energy Act of 1954 contemplated the transfer of the commercial aspects of nuclear energy to the private sector, a goal which has been met with the single exception of uranium enrichment.

The Nuclear Fuel Assurance Act served as the basis for extensive hearings by the Joint Committee in December 1975 and again in March and April of this year. Government agencies, private industry, power utilities, financial institutions, and other concerned parties were heard and questioned intensively. The Joint Committee favorably reported the bill after this process, and, after long and careful consideration of reports and discussions with other Government agencies, and, after amending the language to protect the interests of the Government and the public with respect to any contracts negotiated with private firms.

Mr. President, the bill was passed by the House of Representatives last month. Favorable action by the Senate would make the provisions law. Unfavorable action, or even worse, no action by the Senate, will perpetuate a situation in which the United States is unable to accept any orders for enriched uranium—a condition that has prevailed since mid-1974. The "closing of the enrichment order book" has caused a new atmosphere with respect to future enrichment plants by other nations.

Since 1974, the French have initiated construction of one large gaseous diffusion plant with financial assistance from Iran, Italy, and Belgium. The United Kingdom, the Netherlands, and West Germany are expanding their capacity. Brazil has contracted with West Germany for supply of enrichment technology based upon a new process. South Africa has announced a new technology upon which basis they are ready to begin the construction of enrichment capacity. And, unfortunately, our country's apparent hesitancy about the future of its worldwide role in providing enriched uranium has led to the introduction of the U.S.S.R. into the international marketplace. One cannot be sure of the impact of Soviet entrance into the world marketplace, but it would indeed be ironic if the Soviet Union were to begin to supply our allies with enriched uranium.

A further delay in determining a firm U.S. policy in this field will only amplify the trend away from reliance on the United States for enriched uranium. Not only will the United States lose the commercial value of foreign sales of the material, we will no longer be in a position to influence the nuclear policy of nations which have for 20 years, been dependent on the United States for enriched fuel.

The free world must plan for the construction of between 15 and 20 enrichment plants, each costing in the neighborhood of $3.5 to $4 billion—1976 dollars. The benefits to the Government and the taxpayer are obvious if this segment of the nuclear fuel cycle can be financed through the private sector.

To repeat in conclusion, the Nuclear Fuel Assurance Act also provides for the construction of an add-on plant to the U.S. Government-owned gaseous diffusion plant at Portsmouth, Ohio. This additional capacity will permit the U.S. Government to meet its current commitments on a far more economic basis to the utilities and their customers through a substantial reduction in demand for enriched uranium.

There are currently four U.S. consortia ready to enter the field of enriching uranium. Each has expended substantial funds—$15 to $20 million each in the case of two of the groups—and applied outstanding engineering, technical, management and financial talent to investigate the potential for private entry into the uranium enrichment business. This dedication of effort was stimulated by invitations of the Government for industry to assume the responsibility for meeting the growing demand, and at the same time, relieving the hard-pressed U.S. taxpayer of a burden which should be borne in the private sector. Over the past 4 years, the Congress of the United States has been fully informed of this activity through hearings by the Joint Committee.

The U.S. Government is the sole source of the technology and certain key materials and equipment which will be utilized by the private enrichment plants.

The legislation would provide for Government guarantees on the process and Government manufactured components. All other contractual obligations assumed by the Government will be fully reimbursed to the Government under the terms of negotiated and congressionally approved contracts.

By action of the Joint Committee and the House of Representatives, the concept of private entry into this new business has been accepted. The Senate should also support this course of action under which the best resources of the U.S. Government and the private sector can be applied to restore the United States to its long-standing position as a reliable and responsible supplier of enriched nuclear fuel.

Mr. BAKER. Will the Senator yield?

Mr. ALLEN. I yield.

Mr. BAKER. Mr. President, this bill is needed if we are to proceed efficiently and expeditiously with the nuclear power program. Nuclear power is already playing an important role by providing about 9 percent of the electrical energy requirements in this country. In several sections of the country, including the metropolitan Chicago area, nuclear power accounts for over a third of the electrical production. By 1985, nuclear power is expected to provide 25 percent of the Nation's electric requirements and by the turn of the century some 50 percent. ERDA predicts that by the year 2000, nuclear plants can save this country the equivalent of 7.5 billion barrels of oil annually—about three times the present level of oil importations.

It is obvious that if nuclear power is to achieve its full potential, we need to take steps now to assure that an adequate supply of enriched uranium is available when needed in the 1980's and beyond. I believe that S. 2035 provides the vehicle for making certain that the required additional capacity is in fact built.

This legislation, as amended by the Joint Committee, would not obligate the Government in any way or authorize ERDA to consummate any proposed private cooperative agreement. Thus, the precise terms of any such agreement and the Government obligations under the agreement are not known at this time. Nevertheless, from the testimony before the Joint Committee of a number of private concerns interested in entering the enrichment field, it is apparent that a certain amount of Government involvement will be necessary to establish a viable private uranium enrichment industry.

Specifically, the Government would be required to guarantee that the technology and essential components which the Government supplies for any private facility will work. This guarantee would, in all likelihood, be limited in time, and in any event, the guarantee would be solely for the protection of the domestic investment in the facility and would not extend to foreign investment. The financial institutions in this country which would provide the large amount of debt financing needed for these private facilities have indicated that this guarantee is necessary to their participation. In view of the fact that this technology has been or is being developed by the Government and that any use of this technology by private participants would be under the Government's supervision and inspection, the likelihood that the technology would not work and that the Government guarantee would be required is extremely low.

Nevertheless, the bill does include an authorization of $8 billion for the contingent liability which the Government could conceivably assume with regard to the domestic assets of up to four proposed private uranium enrichment projects. The components of the $8 billion include: The domestic share of one diffusion project—$1.4 billion; the domestic share of three centrifuge projects—$3 billion; and contingency for the four projects to cover uncertainties in estimates of the amount of foreign financial participation and inflation—$3.6 billion.

In any event, the legislation would give the Congress and the Joint Committee the right to carefully review any proposed agreement, including any Government commitments, and would require specific congressional approval before any such agreement could be consummated. In reviewing any proposed private arrangement, I can assure you that the Joint Committee will also insist that the arrangement provide for the following:

First. Protection against dissemination to foreign investors of classified information;

Second. Continued classification and protection of sensitive enrichment technology;

Third. Requirements that exports take place pursuant to appropriate international agreements for cooperation and be subjected to safeguards to prevent diversions;

Fourth. Preclusion of control or domination of a private enrichment venture by an alien, a foreign corporation, or a foreign government; and

Fifth. Effective domestic safeguards and physical security measures for the plants and their products.

Mr. President, I think that the Joint Committee has fashioned a workable piece of legislation—acceptable to the Congress and the administration. Accordingly, I join in support of this legislation.

### THE NEED FOR THIS CONGRESS TO ENACT THE NUCLEAR FUEL ASSURANCE ACT

Mr. President, there are some straightforward and fundamental reasons why the enactment of the Nuclear Fuel Assurance Act by this Congress is needed. These reasons might be lost sight of by those who believe that all of the additional uranium enrichment problems will be solved if the Government constructs an additional plant. Important as that plant will be, that action is only the first of the substantial additions to capacity which will be needed.

Government contracting for enriching services was cut off in mid-1974 when the planned capacity limit for the output of the Government plants was reached.

Enrichment facilities require long lead-times of 7 to 8 years to construct and reach operational capability; thus, a decision must be made now for additional enrichment capacity which will be needed in the 1980's.

For new capacity needs by the end of the century, the necessary investment will probably be in excess of $2 billion annually.

It is most probable that gaseous centrifuge technology will supply the vast majority of the new enrichment capacity which will be needed for the last decade and a half of this century.

Experience with gaseous centrifuge technology has thus far been limited to successful pilot plant operations. This experience nevertheless indicates that centrifuge technology has significant advantages over the diffusion process. Centrifuge plants require only one-tenth as much electricity as do diffusion plants. Plant output can be varied by modular construction. Thus, the capacity of a centrifuge plant can be increased as necessary in view of market demands.

In view of the significant potential for centrifuge, demonstration projects are needed as the next step to full commercial use.

Three organizations with experience in centrifuge research and development have submitted proposals for a demonstration plant to the Energy Research and Development Administration.

These organizations cannot be kept together indefinitely. Although certain Government assurances will be needed for these organizations to attract the needed capital, the risk to the Government is minimal and the cost of building these demonstration plants would be paid by private industry and not by the Federal Treasury.

The organizations now interested would also provide a competitive base for the uranium enrichment market.

All of the foregoing advantages would likely be lost if the Nuclear Fuel Assurance Act is not enacted now.

In addition, the added enrichment capacity provided by the fourth Government-owned plant and one or more commercial enrichment ventures could play an important role beyond filling new orders for future power reactors. That role could include:

First. Achieving the most effective use of available uranium feed resources by reducing the amount of uranium needed to produce a given amount of enriched fuel. This would permit maximum use of existing light water reactors and conservation of our valuable uranium ore resources.

Second. Providing a margin of enrichment capacity to accommodate, at least to some extent, the consequences of an increased demand for enriched uranium in the event that plutonium recycle is not permitted, or, even if it is permitted, to accommodate delays which may be experienced because of a lack of reprocessing capacity.

Third. Providing some alleviation of the possible consequences which will undoubtedly be experienced because of delays in the commercialization of the breeder reactor.

Fourth. Increasing the stockpile of enriched uranium. An increased stockpile could provide added assurances in the event unforeseen problems are encountered in providing needed additional capacity from the centrifuge plants.

Enriched uranium is the only known way to store vast amounts of energy in a form which can eventually be used to produce electricity. In view of the expected increases in the demand for electricity, and the enormous predicted increases in the demand for enriched capacity, a sizable stockpile of nuclear fuel would hardly be contrary to the best interests of this Nation.

All of these potential advantages would come from the prompt enactment of the Nuclear Fuel Assurance Act. For there to be any cooperative arrangement for private participation in uranium enrichment, there must first be congressional approval of the arrangement and congressional appropriation of the amount of the contingent liability on the part of the Government. Thus in addition to the many potential advantages offered by the Nuclear Fuel Assurance Act, the requirement that the Congress will have the final say on the details of any private participation should assure that the national interest is given preeminent consideration.

I know the Senator has made a great study of this issue and the so-called add-on facility in Portsmouth, Ohio. I would ask whether or not these two programs are compatible.

Mr. ALLEN. Will the Senator use his microphone?

Mr. BAKER. The question is whether or not, and I know he is familiar with the whole subject, in his view the requirements for UEA, the Uranium Enrichment Associates project, as dealt with in this legislation, and the so-called add-on facility at Portsmouth, Ohio, are not in fact parallel projects and are both indicated in the requirements for the foreseeable future.

Mr. ALLEN. The add-on facility would not be sufficient to take care of the tremendous demand.

Mr. BAKER. I agree with the Senator, and I wonder if he would not also agree that both facilities are required, and not just one or the other.

Mr. ALLEN. There is a great need for both, and this bill contemplates and makes provisions for the $255 million for the add-on at the Portsmouth plant. It makes provisions for the private plant providing the contract that ERDA might work out with the private investors would have to be approved by the Congress of the United States.

Mr. BAKER. I see the distinguished Senator from Ohio in the Chamber. I know he will have a comment on this.

Mr. TAFT. Will the Senator yield for a moment?

Mr. BAKER. The Senator from Alabama has the floor.

Mr. TAFT. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. TAFT. As I understand, the situation is that so far as timing is concerned, or the methods of production are concerned, if we are to meet the needs immediately of both the United States and elsewhere in the world it is absolutely essential that we go ahead with the add-on plant to be Government-financed at the Portsmouth site in addition to going ahead with private enterprise for the future needs as well.

Mr. ALLEN. Very definitely, both the add-on and Portsmouth will not be sufficient in this time.

Mr. TAFT. And am I correct that the add-on plant, as I understand, would probably go into production and be available before the newer methods being developed in the alternative?

Mr. ALLEN. That is correct. One point is that, in addition, it would be on stream somewhat earlier than the new plant. But when the new plant came on stream, the need would increase more and more.

Mr. TAFT. I thank the distinguished Senator.

Mr. BAKER. Mr. President, I have one more question, if the Senator will yield for that purpose.

Mr. ALLEN. Yes.

Mr. BAKER. The Senator is aware, I am sure, that the Joint Committee on Atomic Energy has given extensive consideration to this proposal and that the bill was reported from that committee to the Senate and the House of Representatives.

Is it not so, I would ask the Senator from Alabama, that this bill does not authorize a contract with private concerns, but, rather, authorizes the solicitation and production of proposals which would in turn be considered by the Joint Committee on Atomic Energy and Congress before they are actually put into effect?

Mr. ALLEN. The Senator is correct in his statement about the bill.

Mr. BAKER. And this was conducted, was it not, in close coordination with the majority and minority on the committees, and with the administration?

Mr. ALLEN. Yes. I think the Joint Committee and the authorizing committee acted with great wisdom in considering the interests of the taxpayers and the Treasury in this regard.

Mr. BAKER. I thank the Senator from Alabama, not only for yielding to me but for his good efforts.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. DURKIN. The distinguished Senator from Alabama mentioned in his statement that there was a nuclear energy engineer on the political scene. Does the Senator not think it would be better to table this measure now, and wait his advice?

Mr. ALLEN. No, I think it would be better to have it ready for him if and when he comes in.

Mr. ROBERT C. BYRD. Mr. President, shortly I shall move to lay on the table the motion offered by the distinguished junior Senator from Alabama (Mr. ALLEN). Does the Senator from South Dakota wish me to yield to him prior to making that motion?

Mr. ALLEN. The Senator from Illinois also wished to say something.

Mr. ROBERT C. BYRD. Yes; I will be glad to yield to him after the Senator from South Dakota.

Mr. ABOUREZK. Perhaps the Senator should yield first to him, and then to me.

Mr. ROBERT C. BYRD. I yield to the Senator from Illinois, with the understanding that I will be recognized by the Chair to make a motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. In view of the fact that the Senator from Rhode Island (Mr. PASTORE) has asked that I explain where we stand on our negotiations on the bill known as the Nuclear Explosive Proliferation Control Act of 1976, I offer this explanation:

In a meeting last week with the President, when several of us, as Senator PASTORE mentioned, met with him, the President made it very clear indeed that he was anxious to have a vote on H.R. 8401. However, he recognized that there was opposition to this bill, and that it is vitally important to pass a nonproliferation bill in this Congress, as three committees of this Congress, over a period of some time—2 years now—have been working on this legislation which is pending on the calendar—the Committee on Government Operations, the Committee on Foreign Relations, and the Joint Committee on Atomic Energy—and taking into account the dramatic change in the world situation, with an explosion in India, the potential for explosive capacity in Taiwan, and the requests of South Korea, Pakistan, Argentina, Brazil, and many other countries to have nuclear capability.

Taking into account the fact it may be difficult to obtain a vote on H.R. 8401 in the Senate, the President and the administration have agreed to a compromise package, which would presumably be offered by Senator PASTORE, at an appropriate time, combining important nonproliferation promises and a further report on the private uranium enrichment question. I have some reservations about the policy implications of H.R. 8401, and I'm sure my colleagues will agree that this section in the compromise would in no way prejudge the policy questions. I ask unanimous consent to have printed in the Record this compromise provision on private enrichment.

There being no objection, the provision was ordered to be printed in the Record, as follows:

Additional Uranium Enrichment Capacity

Sec. 19. (a) The Administrator of Energy Research and Development is hereby authorized and directed to initiate construction planning and design, construction, and operation activities for expansion of an existing uranium enrichment facility at the earliest possible date. There is hereby authorized to be appropriated $255,000,000 for this purpose. Nothing in this Act shall delay the implementation of this subsection.

(b) If, after further study, the President determines that it would be in the national interest to enter into cooperative arrangement to encourage the development of a competitive private uranium enrichment industry, he may propose to Congress a detailed plan, including a discussion of the specific terms of any such cooperative arrangement.

(c) Any such plan shall be referred to the Joint Committee on Atomic Energy for a period of sixty days (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days). At the expiration of that sixty-day period, the Joint Committee on Atomic Energy shall submit a report to the Congress of its views and recommendations respecting the President's proposal, accompanied by any legislation which it feels is necessary to implement those recommendations.

Mr. PERCY. The compromise is not quite ready for Senate consideration, as one point is still under discussion. But it is the hope of all of us who have been working on this for so long that we will be able to bring up for action a Nuclear Explosive Proliferation Control Act, and that we may be able to move forward in this area of getting a handle and control on nuclear capacities and capabilities, which are so endangering the world.

Fifty-three witnesses were heard this year alone, and their testimony would convince anyone who heard it that we should move ahead at this time, within a year if not immediately.

The President has made it clear that he would like to see a vote on the pending bill, H.R. 8401, and in the event that is not adopted, then the compromise proposal can be incorporated in the Nuclear Explosive Proliferation Control Act of 1976.

Mr. DURKIN. Mr. President, will the Senator yield for one brief question?

Mr. PERCY. Yes.

Mr. DURKIN. Why, if the President wants a strong antinuclear proliferation treaty, did he not sign the original provision? Why did he not cut that loose, if he truly wants a strong treaty and a strong bill, instead of trying to get justification for his debate on October 6?

Mr. PERCY. It is my hope and expectation that it will be a very strong bill, with a strong new policy, where criteria are established by Congress, where every single agreement we now have will be renegotiated, taking into account the danger the world actually recognizes we are now facing.

Mr. DURKIN. Why not propose the necessary additions to the original bill?

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I have the floor. I yield to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ALLEN. The bill the Senator refers to on uranium; that is a Senate bill, I believe.

Mr. PERCY. We are working from a Senate bill.

Mr. ALLEN. I would like to suggest to the Senator that this bill, having cleared both the Senate and the House of Representatives, would stand, from a practical point of view of passing both Houses, a better chance; why would it not be good strategy for the distinguished Senator to support the motion to proceed to the consideration of H.R. 8401, and then add his provision as an amendment?

Mr. PERCY. The answer to that is that in the negotiations that have been carried on intensively, the House has been fully taken into account. Representative John Anderson and Representative Mel Price have introduced legislation in the House. They are fully conversant with everything the Senate has been doing, and they have advised the Senator from Illinois that if the Senate acts, it would be their hope and intention, if it is as close as they think it will be to their own feeling, that they will introduce it, with the cooperation of the Speaker of the House, and adopt and pass in the House before they adjourn the same bill passed by the Senate, this obviating the need for any conference.

Mr. ALLEN. Let me point out to the Senator that they have already passed H.R. 8401, or it would not be before us. Why put them to the trouble of passing something else, when they have already passed H.R. 8401, which is now before us here in the Senate?

Mr. PERCY. The Senator from Illinois is working with the leadership of three committees. It is our combined judgment that the nonproliferation bill should stand on its own feet, just as I feel that this bill should stand on its own feet and be voted up or down tonight.

Mr. STEVENSON. Mr. President, will the Senator yield so that I may ask the senior Senator from Illinois a question?

Mr. ROBERT C. BYRD. Mr. President, I yield for that purpose.

Mr. STEVENSON. The Senator mentioned that he had been in contact with Representative Anderson and others on the House side, and that the House was prepared to act.

Is it not true that the House has already acted on this subject of nuclear nonproliferation by passing H.R. 15419, which was sponsored by Representative Findley of Illinois, Representative Zablocki, and others?

Mr. PERCY. It is my understanding that the House has not yet considered H.R. 15419, which is the Joint Committee's version of the nonproliferation bill. In fact, the compromise would be added to that bill. It is the expectation that the only chance to have a nonproliferation bill adopted by both the Senate and the House of Representatives and signed by the President is to adopt the compromise, which is in the final stage of being worked out.

Mr. STEVENSON. Let me ask the Senator another question. It is true, I believe, that the House of Representatives has already acted on this subject. By that I mean unilaterally to control U.S. exports of nuclear materials when it acted on a very strong, responsible bill; namely, H.R. 15419.

I ask the Senator, also, if it is not true that the Senate has also acted on this subject and on the multilateral aspects of it in an amendment to the Senate version of the Export Administration Act. That is true. The Senate has acted on the multilateral aspects of this problem and the House of Representatives has acted on the bilateral aspects.

To return to the question, which was asked of the Senator from Illinois by the Senator from Alabama, it would be possible to proceed to a consideration of this subject, and most expeditiously, by approving a motion to table the motion to proceed because if that motion to table is agreed to, it is the intention—in fact, it was an attempt by the Senator from Wisconsin (Mr. Proxmire) to obtain recognition so that conferees could be appointed and the differences between the Senate and the House bills on this subject reconciled. In fact, conferees have been meeting informally to conform these two bills and have done so, not by accepting one or the other, but by accepting both, in substantially the same forms in which they were approved by the House of Representatives and the Senate, to give the Senate not what the Senator from Illinois proposes but the only strong comprehensive measure that it is possible for this Congress to enact in this session on both the multilateral and the bilateral apects of this very critical question.

Mr. PERCY. If my distinguished colleague is asking a question, and before the Senator from Rhode Island leaves the floor, because Senator Pastore is extremely familiar with this legislation, I shall simply say it is the judgment of the Senator from Illinois that the House amendments and the amendments adopted by the Senate do not go nearly as far as the Pastore compromise and the new Pastore compromise that we will have available and ready tomorrow. This compromise deals with the bilateral aspect by actually establishing licensing principles to govern U.S. exports immediately, and with the multilateral aspect by proposing strict, detailed international controls. In addition, the compromise contains many important procedural provisions. This is a comprehensive plan for dealing with the whole problem and we can do so now, we think, with the cooperation and support of the executive branch of Government.

This legislation has been underway for some 2 years and really is a pickup of the work done years and years ago by the distinguished Senator from Rhode Island when he originally created the concept of a nuclear nonproliferation treaty. Now we know that that has not been fully implemented. What we are trying to do is plug whatever loopholes that were in that and carry forward with a total comprehensive package that for the first time will really show where the United States of America stands. The legislation gives Congress a chance, with the executive branch, to establish a whole new policy. I will provide for the Record the statements of policy and purpose from the compromise bill. I ask unanimous consent that it be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Statements

#### STATEMENT OF POLICY

Sec. 2. The Congress hereby finds and declares that the proliferation of nuclear explosive devices poses a grave threat to vital United States interests and continued international progress toward world peace and development. Recent events, including the explosion of a nuclear device by India and the announcement of the transfer of uranium enrichment and nuclear fuel reprocessing facilities to non-nuclear-weapon states, emphasize the urgency of this threat and the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards and controls on peaceful nuclear activities to prevent further proliferation of nuclear explosive devices. Accordingly, it is the policy of the United States to—

(a) actively pursue the establishment of effective international controls over the transfer and use of nuclear equipment, material, and sensitive nuclear technology for peaceful purposes which will prevent the further proliferation of nuclear explosive devices;

(b) ensure that the actions of the United States in international nuclear commerce in helping to assure adequate and reliable energy supplies to other nations are consistent with the Treaty on the Non-Proliferation of Nuclear Weapons ("the treaty"), the Statute of the International Atomic Energy Agency ("the statute"), and the need to establish effective controls on the proliferation of nuclear explosive devices through international arrangements and cooperative agreements; and

(c) encourage nations which have not ratified the treaty to do so at the earliest possible date.

#### STATEMENT OF PURPOSE

Sec. 3. It is the purpose of this Act to promote the policies set forth above by ensuring effective control by the United States over its exports of nuclear equipment, materials, and sensitive nuclear technology, by establishing a framework for international cooperation to ensure that the worldwide development of peaceful nuclear activities as well as the export by any nation of nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities do not contribute to the proliferation of nuclear explosive devices, and by providing incentives to the other nations of the world to join in such international cooperative efforts. Accordingly, this Act specifies—

(a) provisions to ensure the full and comprehensive assessment of the risks of proliferation of nuclear explosive devices in the negotiation and review of agreements for cooperation and subsequent arrangements under such agreements, and of policies affecting the proliferation of nuclear explosive devices;

(b) procedures under which the Congress will receive adequate information and opportunity to examine proposed agreements for cooperation and amendments thereto and to review the policies of the United States affecting the proliferation of nuclear explosive devices;

(c) licensing principles which would be applied immediately to all future exports by the United States of source material, special nuclear material, production facilities, utilization facilities, and sensitive nuclear technology intended for use in peaceful nuclear activities and which could be of significance for nuclear explosive purposes;

(d) preferential treatment in the provision of nuclear fuel services to nations which agree to adhere to policies designed to prevent the proliferation of nuclear explosive devices;

(e) mutual undertakings or other international arrangements which the United States shall seek to negotiate with other nations including the nuclear supplier nations to establish—

(1) effective international proliferation controls and supervision to assure that nuclear materials, equipment, and sensitive nuclear technology which are intended for use in peaceful nuclear activities do not contribute to the development of nuclear explosive devices;

(2) procedures to be followed in the event a nation violates any material obligation with respect to the peaceful use of nuclear materials, equipment or sensitive nuclear technology or the treaty; and

(3) procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials which could be of significance for nuclear explosive purposes; and

(f) increased support to be given the International Atomic Energy Agency ("the IAEA").

Mr. PERCY. Mr. President, so a piecemeal approach is simply not acceptable to the three committees that have now worked on this, and that is why we urge that we go forward tomorrow. But let us go forward with a vote on the pending motion at the earliest possible time. I am ready to vote now.

Mr. STEVENSON. Mr. President, if this motion to table is agreed to the Senate will have an opportunity, if conferees can be appointed, to act on S. 3084, act on a measure which deals with both multilateral and bilateral aspects of this critical problem that, as one of the Members who has been meeting informally with the Members of the other body, I am familiar with the provisions of the legislation that we would be permitted to act on and that legislation, compared with the proposal I believe that has been negotiated by the senior Senator from Illinois, is more comprehensive and it is a tougher approach than that which is proposed by the Senator.

Mr. ABOUREZK. Mr. President, will the Senator from West Virginia yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. ABOUREZK. Mr. President, the Senator from West Virginia will very shortly, as soon as I wind up in about 1½ minutes, make a motion to table Senator Allen's motion to proceed.

If I might have the attention of my colleagues over here, this is kind of an important message. It has to do with the sword of Damocles.

Mr. McINTYRE. The what?

Mr. ABOUREZK. The Nuclear Fuel Assurance Act. Senator Allen brought up the sword of Damocles. I am now reversing his own words.

Mr. ALLEN. I was not going to say that. That is what the Senator from South Dakota said.

Mr. ABOUREZK. What it will do, if we do not table this bill tonight, is then Senators who wish to bring up legislation before the end of the session are going to find there will not be an opportunity to do so because there are several colleagues, along with me, all of whom have learned their lessons very well from the Senator from Alabama on how to discuss things at length, who are prepared with thick books on nuclear engineering, and all other kinds of nuclear stuff, prepared to discuss this issue at length. So if Senators wish to bring in some of their other bills before we adjourn this week I would urge them to support the motion to table.

Mr. ROBERT C. BYRD. Mr. President, I will move to table within 30 seconds.

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## REQUEST FOR ADJOURNMENT TO 8:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 8:15 in the morning.

Mr. ABOUREZK. Reserving the right to object, Mr. President.

Mr. DURKIN. Hold it.

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## NUCLEAR FUEL ASSURANCE ACT

Mr. ROBERT C. BYRD. Mr. President, it is my intention after this vote to move to adjourn. Now, we may need some Senators around to help on that motion. I am not sure.

Mr. PASTORE. Will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. PASTORE. I do not know why our majority leader has to be rebuked in this way. If this is a business to tie up the Senate to make sure that nothing else is going to be discussed here until we adjourn sine die, that is one thing. But the one thing that is really bothering me is all this intrigue, all this cloak and dagger maneuvering that is going on here. If the Senator wants to adjourn so that we can start brand new and discuss other important bills, and that is the reason for it, and whether you do it by unanimous consent or you do it by a vote, we are going to do it anyway. I hope that we would not start embarrassing the leadership day in and day out, and that is all we have been doing.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield for 30 seconds.

Mr. ABOUREZK. I do not recall that I embarrassed the leadership by whispering something into his ear and if the Senator from Rhode Island would like me to whisper the same thing in his ear, I would be happy to do it.

Mr. PASTORE. You did not whisper; just going to make sure that nothing else comes up. You implied that very strongly, and I can understand English.

Mr. ABOUREZK. I wonder if I might then ask the Senator from Rhode Island, am I deprived of the right to do that?

Mr. PASTORE. No, you have the right.

Mr. ABOUREZK. Then there is no argument.

### ADDITIONAL STATEMENT

Mr. STEVENSON. Mr. President, the Nuclear Fuel Assurance Act would give the United States more enrichment capacity than it needs at the expense of the Nation's taxpayers and with greater risk to a world threatened by nuclear proliferation.

I urge my colleagues to table the motion to proceed to consideration of H.R. 8401, a bill that would provide for establishment of a private uranium enrichment industry.

Proponents of this bill stress the importance of our competitive free enterprise system. Then they ask us to provide up to $8 billion in Federal loan guarantees for private enrichment facilities for which there are no competitive bidders.

Proponents of the bill stress the importance of maintaining the United States as a reliable supplier of nuclear fuel. Our reputation has already been seriously damaged by administration efforts to hold needed expansion of public enrichment facilities hostage to its plan for establishing a private enrichment industry. I support expansion of Federal enrichment facilities. They can restore the Nation's reputation as a reliable supplier, as private industry cannot.

The projected growth rate for nuclear power has been revised downward some 40 percent. In fact, the administration's own figures provide one of the strongest arguments against consideration of the Nuclear Fuel Assurance Act.

Less than 2 years ago, the Atomic Energy Commission was forecasting the equivalent of 250 nuclear generating plants in the United States by 1985. The most recent ERDA estimates for 1985 are now down to 160. FEA projections place the figure closer to 140.

Yet, in estimating nuclear fuel enrichment needs for 1985, ERDA is still using a projected estimate of 208 plants—45 percent higher than FEA's current predictions and 30 percent higher than ERDA itself concedes will actually be online.

ERDA's assessment of foreign nuclear capacity by 1985 suffers from the same double standard. Based on information gathered from foreign governments, utilities and corporations, the Atomic Industrial Forum estimates that there will be the equivalent of 203 operating foreign nuclear plants in 1985. Yet, ERDA continues to plan on 290 plants for purposes of estimating future enrichment needs.

Using ERDA's own estimate for the number of domestic operating reactors by 1985, its projections that we will supply about one-third of all the new foreign capacity not already under contract to us, and leaving a generous allowance for building up a domestic stockpile of nuclear fuels, by 1985 the United States will need approximately 29 million increments of enrichment capacity, known in the industry as SWU—separative work units.

This compares to a 1982 ERDA enrichment capacity of 37 million SWU, including planned upgrading of existing facilities and an addition to the Government enrichment facility at Portsmouth, Ohio—already provided in the ERDA authorization bill for fiscal year 1977.

Enactment of the Nuclear Fuel Assurance Act, providing some $8 billion in Federal loan guarantees for private construction of another 18 million SWU of enrichment capacity, would give us a total capacity of 55 million SWU—or about 90 percent more than the anticipated 1985 requirement.

The scramble to use guarantees to subsidize the construction of so much unneeded capacity is hard to fathom in view of the technological and economic uncertainties which the nuclear industry now faces. Projections for new plant construction are down, and plants are being canceled or deferred because costs are up. Difficult questions involving the reprocessing and high-activity-waste storage phases of the nuclear fuel cycle remain unanswered. In fact, a recent court decision has temporarily halted any new licensing of nuclear powerplants.

ERDA itself has recognized that enriched uranium supplies will far exceed actual reactor demand, and last year declared an "open season" during which contract holders were permitted to renegotiate, delay or terminate their contracts without penalty. While there were some cancellations, most contracts were changed to delay delivery by an average of 2 years. FEA estimates that there have been 105 deferments and cancellations in the last 18 months.

Breakthroughs associated with new enrichment technologies are occurring so fast that experts are now in disagreement over the wisdom of building new energy-intensive gaseous diffusion plants. The gas centrifuge, nozzle, and laser beam separation technologies hold the promise within the next several years of providing more efficient enrichment processes.

Having said all that, I must add that the uncertainty is greatly compounded by evidence that the world is running out of uranium to enrich. Given this state of flux, I see little sense in using public credit to finance private facilities that may prove obsolete or superfluous before construction is even started. With construction of the 9 million SWU capacity gaseous diffusion addition to the Government's enrichment facility at Portsmouth, ERDA's plan to upgrade its existing public facilities, and the delay in contract requirements evidenced by last year's open season renegotiations, it is clear we are several years away from needing to make a decision on the next increment of U.S. enrichment capacity. By then we will have a much better idea of not only what should be built, but who should pay for it.

Even if it made sense to build a second gaseous diffusion plant like the one proposed by Uranium Enrichment Associates—financing such an undertaking with Government-loan guarantees for private industry is not in the public interest.

The GAO and the Congressional Budget Office estimated that additional Government-owned add-on facilities can be built for about 30 percent less than a new free standing private enrichment plant. This is based on a projected cost for Portsmouth of $2.7 billion compared to $3.5 billion for UEA's proposed new plant in Dothan, Ala.

"Privatization" of the nuclear enrichment industry, it is argued, will reduce the energy development drain on the Federal Treasury while opening the $150 billion-plus world enrichment market to the creative ingenuity and competitive spirit of our free enterprise system. But it is a strange kind of free market where only one applicant applies for a multibillion dollar Government subsidy for construction of an historically proven process.

Let us make no mistake about it. This legislation was crafted for Uranium Enrichment Associates. One of the agreements negotiated between ERDA and UEA calls for 25-year, take-or-pay, cost-passthrough contracts. It contemplates the possibility of Government acquisition of UEA assets, as well as completion and operation of the plant at taxpayers expense—while UEA risks only an equity interest of 15 percent of the total project cost. UEA has no competitors except the Federal Government—which in turn has a vested interest in keeping UEA in business. UEA is the beneficiary of a sweetheart deal to give a selected business consortium control over the pricing of nuclear fuel. The entire proposition has very little to do with free enterprise or the public interest.

Even the Anderson amendment, added at the last minute in the House in an attempt to limit the liability of the United States to a guarantee of Government supplied technology, has been called into serious question by GAO and others. In a letter to Senator Glenn on August 23, 1976, GAO states in reference to the Anderson amendment:

> In our opinion, it is not sufficiently clear that the working of the limitation would necessarily restrict the guarantees as intended.

GAO then goes on to describe several circumstances under which the Government might still find itself owing and operating the UEA plant, notwithstanding the Anderson limitation.

After recommending that the next increment of gaseous diffusion enrichment capacity be Government-owned as an add-on to an existing plant, GAO then suggests:

> Management of government enrichment facilities could be accomplished more effectively by a government corporation having a self-financing authority to borrow funds from the Treasury or the public. Such a corporation could operate on a business-like basis and would not be subject to possible conflicts and other programs in the agency for funds and management attention. Moreover, a self-financing proposal would free the corporation from the budgetary requirements to seek Congressional approval of appropriations, thereby achieving a major goal sought by the present legislation.

> ERDA should seek and encourage private industry to continue efforts in advanced technologies through explicit programs. Such programs may require government assistance and assurances; however, the government should seek an equitable sharing of risk by the private enrichers and the government.

I agree with the GAO.

A Government enrichment corporation, perhaps along Comsat lines, makes far more sense than a Federal loan guarantee program where the taxpayers bear all the risk and the private companies receive all the profit.

Development of the new technologies, mentioned by GAO, is already moving ahead with private industry investing large sums of money to develop the centrifuge process. By the end of the 95th Congress, we should be in a better position to make an informed decision on how best to proceed with regard to centrifuge and laser beam technologies. Assuming timely administration action on the Portsmouth facility, we will have more that adequate enrichment capacity in the interim.

More troublesome than requiring unneeded enrichment capacity as part of a bad deal for the American taxpayer, I believe the greatest danger presented by the Nuclear Fuel Assurance Act may be the long-range threat it poses to global nuclear security. With concern over proliferation of nuclear weapons growing daily, control over uranium enrichment should be in the hands of the Federal Government.

The UEA proposal contemplates that 60 percent of the $3.5 billion outlay for its new enrichment facility would come from foreign sources including Japan and Iran. While nothing in the act precludes foreign control of the venture, Secretary of State Kissinger has testified before the Joint Committee that the United States would "ask for an arrangement in which some of that 60 percent would be nonvoting stock."

Control, however, is not as crucial as access to information. H.R. 8014 explicitly authorizes ERDA to furnish "technical assistance, information, inventions and discoveries, enriching services, materials, and equipment to encourage * * * a private enrichment industry," that under the terms of the agreement already entered into between UEA and ERDA would be 60 percent foreign owned. The technology required to enrich uranium for purposes of fueling light water reactors is essentially the same technology required to enrich uranium for use in nuclear weapons.

Putting detailed information of that kind into the hands of a private, multinational corporation—owned in part by foreign governments—that in turn may put it into the hands of unknown customers throughout the world could prove catastrophic. Such concerns are only heightened by the current effort to secure agreement among supplier nations for improved export controls on all nuclear materials.

Before creating such a Frankenstein, we would do well to remember the difficulties of imposing controls on the multinational oil companies after they came to dominate the world's commerce in oil. Loss of control of a UEA-type consortium could have far more serious consequences than the temporary inability to get American oil companies to refuel American naval vessels in the Mediterranean.

Mr. President, I would suggest that there is simply too much at stake to put critical decisions concerning enriched uranium prices, supplies, contracts, and priorities among customers into the hands of multinational business interests.

The time has come to say no to these private interests and no to the administration, for U.S. reliability as a nuclear fuel supplier—as well as progress toward control of nuclear proliferation—have not been aided by the extended debate on this question.

There is little doubt that Brazil turned to West Germany in 1974 for purchase of reactors as well as enrichment, fuel fabrication, and fuel processing facilities after its negotiations for the purchase of several Westinghouse reactors collapsed because the U.S. Government announced it had no more enrichment capacity and could not guarantee fuel availability.

Likewise, there is little doubt that our lack of capacity can be traced to the administration's reluctance to rapidly upgrade existing facilities or undertake the Portsmouth add-on. At the time Brazil was informed of our lack of capacity, the administration was insistent that there would be no more Government-built enrichment facilities. Since then, OMB has repeatedly denied and delayed ERDA funding requests, while Presidents Nixon and Ford have consistently pressed for passage of some privatization scheme. By holding needed expansion of public enrichment facilities hostage to an ill-conceived private plan funded with public money, the administration has helped create the problem it set out to correct.

To slow down the dangerous race to sell enrichment technology, the United States must reestablish its reliability as a supplier and put an end to the controversy over private versus public ownership of enrichment plants.

The awesome task of making the world safe for the atom is a job for Government—not a private multinational corporation.

Let us get on with the construction of new enrichment capacity at the publicly owned Portsmouth facility.

Let us make a reasoned decision on the next increment of new enrichment capacity when it becomes necessary to do so—and when we are in a better position to assess the breakthroughs in developing enrichment technologies.

And let us get on with the business of the Senate by tabling the motion to proceed to consideration of this unneeded, costly, and dangerous bill.

Notwithstanding the administration's apparent determination to see this legislation become law, I would suggest that the Senate could make better use of its time in the closing days of this session.

The motion to proceed should be tabled.

Mr. ROBERT C. BYRD. I hope Senators will not leave immediately after this vote, those who can stay.

Mr. President, I move to lay the motion on the table.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to proceed. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from West Virginia (Mr. Randolph), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Ohio (Mr. Glenn), the Senator from Hawaii (Mr. Inouye), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Vermont (Mr. Stafford), the Senator from South Carolina (Mr. Thurmond), the Senator from Texas (Mr. Tower), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) would each vote "nay."

The result was announced—yeas 33, nays 30, as follows:

[Rollcall Vote No. 678 Leg.]

YEAS—33

Abourezk
Biden
Brooke
Bumpers
Byrd, Robert C.
Clark
Culver
Durkin
Eagleton
Ford
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Leahy
Magnuson
Mathias
McIntyre
Moss
Muskie
Nelson
Packwood
Proxmire
Schweiker
Stevenson
Williams

NAYS—30

Allen
Baker
Bartlett
Burdick
Case
Curtis
Domenici
Fannin
Fong
Garn
Griffin
Hansen
Helms
Hruska
Long
McClellan
McClure
Morgan
Nunn
Pastore
Pearson
Pell
Percy
Roth
Scott, Hugh
Sparkman
Stevens
Stone
Taft
Young

NOT VOTING—37

Bayh
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Church
Cranston
Dole
Eastland
Glenn
Goldwater
Hart, Philip A.
Hartke
Inouye
Kennedy
Laxalt
Mansfield
McGee
McGovern
Metcalf
Mondale
Montoya
Randolph
Ribicoff
Scott, William L.
Stafford
Stennis
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker

So the motion to table was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

Mr. ALLEN. I call for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The question is on the motion to lay on the table. The yeas and nays are called for. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider the vote by which the motion to lay on the table was agreed to. The yeas and nays have been called for. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, no debate is allowed, but there could possibly be another vote after this.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from California (Mr. Tunney), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from West Virginia (Mr. Randolph), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I also announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), the Senator from Hawaii (Mr. Inouye), the Senator from South Dakota (Mr. McGovern) are absent on official business.

On this vote, the Senator from West Virginia (Mr. Randolph) is paired with the Senator from Rhode Island (Mr. Pastore).

If present and voting, the Senator from West Virginia would vote "yea" and the Senator from Rhode Island would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Vermont (Mr. Stafford), the Senator from South Carolina (Mr. Thurmond), the Senator from Texas (Mr. Tower), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The result was announced—yeas 32, nays 27, as follows:

[Rollcall Vote No. 679 Leg.]

YEAS—32

Abourezk
Biden
Brooke
Byrd, Robert C.
Clark
Culver
Durkin
Eagleton
Ford
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Leahy
Long
Magnuson
Mathias
McIntyre
Moss
Muskie
Nelson
Packwood
Proxmire
Schweiker
Stevenson
Williams

NAYS—27

Allen
Baker
Bartlett
Burdick
Case
Curtis
Domenici
Fannin
Fong
Garn
Griffin
Hansen
Helms
Hruska
McClure
Morgan
Nunn
Pearson
Pell
Percy
Roth
Scott, Hugh
Sparkman
Stevens
Stone
Taft
Young

NOT VOTING—41

Bayh
Beall
Bellmon
Bentsen
Brock
Buckley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Church
Cranston
Dole
Eastland
Glenn
Goldwater
Hart, Philip A.
Hartke
Inouye
Johnston
Kennedy
Laxalt
Mansfield
McClellan
McGee
McGovern
Metcalf
Mondale
Montoya
Pastore
Randolph
Ribicoff
Scott, William L.
Stafford
Stennis
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker

So the motion to lay on the table was agreed to.

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has passed the bill (H.R. 15) to regulate lobbying and related activities, in which it requests the concurrence of the Senate.

The House agrees to the amendments of the Senate to the following bills:

H.R. 14451. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes and for other purposes;

H.R. 1244. An act to establish procedures and regulations for certain protective services provided by the United States Secret Service; and

H.R. 11347. An act to authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation.

The House has passed the bill (S. 2150) to amend the Solid Waste Disposal Act to authorize State program and implementation grants, to provide incentives for the recovery of resources from solid wastes, to control the disposal of hazardous wastes, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The House has passed, without amendment, the joint resolution (S.J. Res. 181) to authorize the erection of the American Legion's Freedom Bell on lands of the park system of the District of Columbia, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12566) authorizing appropriations to the National Science Foundation for fiscal year 1977.

The House agrees to the amendment of the Senate to the bill (H.R. 11455) to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes.

The House agrees to the amendment of the Senate to the bill (H.R. 11891) to authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

### ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The Speaker has signed the following enrolled bills and joint resolution:

S. 2228. An act to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a three-year period.

S. 2618. An act for the relief of Chea Hyo Suk.

S. 2942. An act for the relief of Kenrick Withington Brookes (also known as Kenrick Withington Clifton).

S. 3146. An act for the relief of Leo J. Conway.

S. 3757. An act for the relief of Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur.

S. 3790. An act for the relief of Camilla A. Hester.

H.R. 12168. An act to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes.

H.J. Res. 519. Joint resolution to provide for the appointment of George Washington to the grade of General of the Armies of the United States.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. BURDICK).

## HOUSE BILL REFERRED

The bill (H.R. 15) to regulate lobbying and related activities was read twice by its title and referred to the Committee on Government Operations.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

## ORDER TO HOLD BILLS AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 14470, H.R. 13417, H.R. 4345, H.R. 12707, and House Concurrent Resolution 767 be ordered held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 30 seconds.

The PRESIDING OFFICER. Is there objection?

There being no objection, at 8:41 p.m. on Wednesday, September 29, 1976, the Senate adjourned until 8:42 p.m., the same day.

## AFTER ADJOURNMENT

WEDNESDAY, SEPTEMBER 29, 1976

The Senate met at 8:42 p.m., pursuant to adjournment, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives——

## ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. The Chair withdraws his recognition, for the next order of business is required to be morning business.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The petitions and——

Mr. PROXMIRE. In the morning hour, I seek recognition.

The PRESIDING OFFICER. It is not in order. The Chair calls for the presentation of petitions and memorials.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Will the Chair recognize me for a unanimous-consent request?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—to get us out of that—I ask unanimous consent that there now be a period for the transaction of routine morning business.

Mr. ABOUREZK. I object.

Mr. CURTIS addressed the Chair.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum. Mr. President, I suggest the absence of a quorum.

Mr. PROXMIRE addressed the Chair.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The absence of a quorum is in order during morning business.

The Senator from Wisconsin.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. GRIFFIN. Regular order, Mr. President.

Mr. PROXMIRE. I have the floor.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair will rule in just about 1 second.

The Chair had withheld or withdrawn his recognition because under the rules the next order of business had to be morning business. Objection having been made to unanimous consent, the Chair is working through the morning business. Any Senator can suggest the absence of a quorum.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. But he must be recognized first in order to do that, and the Chair is now calling for reports of standing and select committees.

Mr. ABOUREZK. I seek recognition, Mr. President.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3084, a bill to extend the Export Administration Act of 1969, as amended.

Mr. HELMS. I object.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. PROXMIRE. It is a privileged matter, a conference report, and that message must be laid before the Senate under the rules.

Mr. CURTIS. Mr. President, I object.

Mr. PROXMIRE. Mr. President, there is no basis for objection.

The PRESIDING OFFICER. During morning business that motion is not in order. The next——

Mr. ABOUREZK. Mr. President, I seek recognition.

Several Senators addressed the Chair.

Mr. PROXMIRE. I have the floor. I recognize that motion is out of order.

Mr. ABOUREZK. I have been seeking recognition. I want to seek recognition.

Mr. PROXMIRE. I have not yielded to the other Senators, the Senator from South Dakota or the Senator from Nebraska. I have the floor.

The PRESIDING OFFICER. Debate is not in order. The Senator from Wisconsin did have the floor, but the Senator from Wisconsin cannot engage in debate.

Mr. ABOUREZK. Mr. President, a point of order.

The Senator from Wisconsin made a motion and thereby loses his right to the floor.

Mr. PROXMIRE. Then I got recognition again.

The PRESIDING OFFICER. The Senator from Wisconsin is in error, he did not gain recognition again the second time.

Mr. ABOUREZK. Mr. President, I seek recognition. I suggest the absence of a quorum.

Mr. PROXMIRE. I seek recognition.

The PRESIDING OFFICER. The absence of a quorum is in order to be suggested and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. Mr. President, I do not know what my friend is attempting to accomplish.

Mr. ABOUREZK. Mr. President, there is a point of order.

The PRESIDING OFFICER. Debate is not in order.

Mr. ROBERT C. BYRD. I understand, but I am simply saying that I do not know what he is trying to accomplish.

Mr. GRIFFIN. Regular order, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FANNIN. I object, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, it is so that Senators can go home.

Mr. President, I can stay here as long as anyone else can. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FANNIN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will proceed.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Next is the introduction of bills and joint resolutions.

If there be none, concurrent and other resolutions.

## PROBLEMS OF AFRICAN NATIONS

Mr. ALLEN. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

Mr. FANNIN. Mr. President, I object.

Mr. ALLEN. Let it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. Res. 570

Be it *Resolved* that it is the sense of the United States Senate that the Secretary of State of the United States shall not make any commitments involving actions by the United States or obligation of any funds from the Treasury of the United States in connection with a solution of problems of African Nations without first obtaining approval of such commitments from the Congress of the United States.

Mr. FANNIN. Mr. President, I object to the introduction of the resolution.

Mr. ROBERT C. BYRD. Mr President, are we through the morning business period?

Mr. ALLEN. No. I have a right to introduce that resolution under the call order.

The PRESIDING OFFICER. Objection is not in order.

Mr. ALLEN. Mr. President, I ask unanimous consent for the immediate consideration of the resolution.

Mr. ROBERT C. BYRD. Mr. President, have we completed morning business?

Mr. ALLEN. We have not.

(Disturbance in the galleries.)

Mr. ROBERT C. BYRD. Mr. President, I ask that the galleries stay in order.

Mr. ALLEN. Under the rule, the Senator from Alabama has a right to introduce a resolution under the call.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. FANNIN. I object.

The PRESIDING OFFICER. Objection is heard.

The resolution will go over under the rule.

Mr. ALLEN. Mr. President, I have another resolution.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment until tomorrow morning at 8:30.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I insist on my motion.

Mr. ALLEN. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I am going to say to the distinguished Senator from Alabama that he will not succeed in his objective to have any resolution come over under the rule. That is what he is seeking to do. He is able to delay whenever the leadership wants something to come over under the rule, and I can also run out the clock.

Mr. President, if the Senator is going to insist on a quorum, we are going to make it live. We will have a vote, and we will go out.

What is the convening time in the morning, under the order?

The PRESIDING OFFICER. 8:30 a.m.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. ALLEN. Why does the Senator object to the Senator from Alabma putting in a resolution?

Mr. ROBERT C. BYRD. Mr. President, I do not have to state why I object. The Senator got one resolution in. His purpose is to get other resolutions in so that, now we are adjourned, once we reach the conclusion of morning business on a subsequent day, if Senators do not know the rules—but some of them do—then those resolutions will come up automatically under the rule.

Mr. ALLEN. What is wrong with that?

Mr. ROBERT C. BYRD. Well, the Senator asks a very innocuous question, but I am not going to let it happen. He can force us into a vote now to adjourn if he wishes to, but we are going to go out.

Mr. ALLEN. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Moreover, this will not be forgotten next spring.

Several Senators. Hear! hear!

Mr. ROBERT C. BYRD. I have a feeling that most Senators are getting tired of too many Senators trying to take over the elected leadership. I have a duty to try to move things along, and I do my best. I often move things along that I do not particularly support, but I feel it is my responsibility to try. We have just too many Senators who are trying to take over the elected leadership. If they want to be elected to the leadership, let them run for the job.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. That is up to the Senate, as to who will be the elected leadership. As of now, I have that position. After January I may not have, but until then I shall fulfill the responsibility I hold. We are going to adjourn, and the Senator's resolution is not going on the calendar tonight.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum Call No. 58 Leg.]

Abourezk
Allen
Bartlett
Burdick
Byrd, Robert C.
Case
Clark
Durkin
Eagleton
Fannin
Fong
Ford
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Helms
Hollings
Huddleston
Humphrey
Jackson
Leahy
Magnuson
Mathias
McIntyre
Nelson
Nunn
Packwood
Pearson
Pell
Proxmire
Schweiker
Sparkman
Stevens
Stone
Taft

The PRESIDING OFFICER. A quorum is not present.

## ROUTINE MORNING BUSINESS

The following routine morning business was transacted today:

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

### Report of the National Aeronautics and Space Administration

A letter from the Administrator of the National Aeronautics and Space Administration transmitting a report concerning NASA's plan to report to the General Services Administration, as excess real property, 50 acres of land at Sandusky, Ohio (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

### Proposed Legislation by the Department of Agriculture

A letter from the Under Secretary of Agriculture transmitting a draft of proposed legislation to extend the final date for State compliance with regulations concerning the Food Stamp Program (with accompanying papers); to the Committee on Agriculture and Forestry.

### Report of the Secretary of Transportation

A letter from the Secretary of Transportation transmitting a progress report on the implementation of the statement of national transportation policy issued on September 17, 1976 (with an accompanying report); to the Committee on Commerce.

### Report of the Comptroller General

A letter from the Comptroller General transmitting a report entitled "Ways To Increase U.S. Shipbuilding Productivity" (with an accompanying report); to the Committee on Government Operations.

### Proposed Distribution Plan of Judgment Funds

A letter from the Under Secretary of the Interior transmitting a proposed plan for the disposition of the Six Nations award granted by the Indian Claims Commission in Dockets 84, 300-B, and 300 (with accompanying papers); to the Committee on Interior and Insular Affairs.

### Reports of the Immigration and Naturalization Service

A letter from the Commissioner of the Immigration and Naturalization Service transmitting 426 reports concerning visa petitions approved by the Service (with accompanying reports); to the Committee on the Judiciary.

### Federal Mine Safety and Health Act

A letter from the Assistant Secretary of the Interior presenting the Administration's views concerning S. 1302, to promote safety and health in the mining industry; to the Committee on Labor and Public Welfare.

### Review by the Comptroller General

A letter from the Comptroller General reviewing the proposed new rescission contained in the 20th special message of the President of the United States for the fiscal year 1976—R76-50—involving foreign military credit sales; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Foreign Relations, and ordered to be printed.

### International Agreements Other Than Treaties

A letter dated September 23, 1976, from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting copies of international agreements other than treaties entered into within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

### Report of the Comptroller General

A letter from the Comptroller General transmitting a report entitled "Industry Capability To Produce Rail and Crossties for Nationwide Railroad Track Rehabilitation" (with accompanying report); to the Committee on Government Operations.

### Report of the Federal Trade Commission

A letter from the Secretary of the Federal Trade Commission transmitting a report on seven new systems of records (with accompanying reports); to the Committee on Government Operations.

### Report of the Federal Aviation Administration

A letter from the Associate Administrator of the Federal Aviation Administration transmitting a report on two new systems of records (with accompanying reports); to the Committee on Government Operations.

### Report of the Veterans' Administration

A letter from the Administrator of Veterans' Affairs transmitting a report for fiscal year 1976 on nature and disposition of all cases in which institutions engaged in deceptive advertising (with accompanying report); to the Committee on Veterans' Affairs.

### Report of the General Accounting Office

A letter from the General Counsel of the General Accounting Office reporting on the release of budget authority included in the 15th special message of the President for fiscal year 1976; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Interior and Insular Affairs, and ordered to be printed.

### Report of the Federal Energy Administration

A letter from the Administrator of Federal Energy transmitting a report for the period of April through June 1976 concerning imports of crude oil and other fuels (with an accompanying report); to the Committee on Interior and Insular Affairs.

### Published Regulations of the Department of Health, Education, and Welfare

A letter from the Director, Office of Regulatory Review, of the Department of Health, Education, and Welfare transmitting a copy of published regulations relating to the basic skills educational program (with accompanying papers); to the Committee on Labor and Public Welfare.

### Report of the National Commission for Manpower Policy

A letter from the Chairman of the National Commission for Manpower Policy transmitting Special Report No. 10 entitled "Reexamining European Manpower Policies" (with an accompanying report); to the Committee on Labor and Public Welfare.

### Action Plan of the Ozarks Regional Commission

A letter from the Federal Cochairman of the Ozarks Regional Commission transmitting a copy of the new Ozarks Regional Commission Economic Development Action Plan (with accompanying report); to the Committee on Public Works.

### Supplemental Request to Pay Claims and Judgments

A letter from the President of the United States transmitting a request for supplemental appropriations for fiscal year 1977 in the amount of $5,147,398 to pay claims and judgments (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

### Approval of Loans by the REA

Three letters from the Administrator of the Rural Electrification Administration reporting on (1) a non-REA loan to United Power Association of Elk River, Minnesota; (2) a non-REA loan to Cooperative Power Association of Minneapolis, Minnesota; and (3) a loan guarantee to Associated Electric Cooperative, Inc., of Springfield, Missouri; to the Committee on Appropriations.

### Alaska Natural Gas Transportation Act

A letter from the Administrator of Federal Energy commenting on the proposed Alaska Natural Gas Transportation Act; to the Committee on Interior and Insular Affairs.

### Prospectus of the General Services Administration

A letter from the Administrator of General Services transmitting a prospectus for alterations at the Wheeling, West Virginia, Federal Building and Courthouse (with accompanying papers); to the Committee on Public Works.

### Report of the Attorney General

A letter from the Attorney General transmitting a report of the Attorney General on the enforcement of Title II of the Consumer Credit Protection Act of 1968.

### Report of the Secretary of Commerce

A letter from the Secretary of Commerce transmitting the annual report on Ocean Dumping Research (January through December 1975) (with an accompanying report); to the Committee on Commerce.

### Report of the National Railroad Passenger Corporation

A letter from the Vice President of the National Railroad Passenger Corporation transmitting a report on the operations of Amtrak for the month of June 1976 (with an accompanying report); to the Committee on Commerce.

### Report of the District of Columbia Auditor

A letter from the District of Columbia Auditor transmitting a report entitled "Financial Impact of Military Service Credits on the Police and Fire Retirement System" (with an accompanying report); to the Committee on the District of Columbia.

### Reports of the Comptroller General

Two letters from the Comptroller General transmitting two reports entitled as follows: "The Equal Employment Opportunity Commission Has Made Limited Progress in Eliminating Employment Discrimination" and "Training Educators for the Handicapped: A Need To Redirect Federal Programs" (with accompanying reports); to the Committee on Government Operations.

### Proceedings of the Judicial Conference

A letter from the Chief Justice of the United States transmitting the transcript of the proceedings of the meeting of the Judicial Conference of the United States in St. Paul, Minnesota, April 7, 1976 (with accompanying transcript); to the Committee on the Judiciary.

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## PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

A resolution adopted by the Council of the County of Maui, Wailuku, Hawaii, relating to the importation of foreign sugar; to the Committee on Finance.

A resolution adopted by the National Water Supply Improvement Association, Fountain Valley, California, relating to water resources development; to the Committee on Government Operations.

Assembly Concurrent Resolution No. 240 adopted by the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

### "Assembly Concurrent Resolution No. 240—Relative to Solar Energy

### "legislative counsel's digest

"ACR 240, Chimbole. Solar energy.

"Urges siting of a specified solar thermal pilot plant in California.

"Whereas, The Federal Energy Research and Development Administration will soon cause to be built the nation's first solar electric powerplant to be integrated into a utility network; and

"Whereas, Several states are competing for the site for this $100 million pilot plant; and

"Whereas, California has abundant solar resources, large electricity load centers, strong technical and industrial communities, and public and private sector leadership committed to the rapid development of solar energy across the state; and

"Whereas, The knowledge gained from this plant will help California to speed the incorporation of this form of electricity generation into the state's mix of energy sources; and

"Whereas, The State Energy Resources Conservation and Development Commission considers the development of solar energy to be one of its principal objectives; and

"Whereas, This agency is participating in a joint proposal with Southern California Edison Company and the Los Angeles Department of Water and Power to the Federal Energy Research and Development Administration to site this plant in Daggett, California; now, therefore, be it

*"Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the members hereby urge the siting of the 10MWe Central Receiver Solar Thermal Pilot Plant in California; and be it further

*"Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A concurrent Resolution adopted by the Legislature of the Territory of American Samoa; to the Committee on Interior and Insular Affairs:

### "Senate Concurrent Resolution

"A Senate concurrent resolution urging the U.S. Senate to take immediate action on H.R. 14291 in view of the overwhelming vote in favor of electing a local governor here in American Samoa

Whereas, on 31 August the qualified electors of American Samoa by an overwhelming greater than 2-to-1 vote indicated that they want to elect their own Governor and Lieutenant Governor; and

"Whereas, H.R. 14291 is now before the U.S. Senate and there is very little time left in the 2d Session of the 94th Congress.

"*Now, therefore, be it resolved by the Senate of the territory of American Samoa, the House of Representatives concurring:*

"That, the U.S. Senate is respectfully and urgently requested to deliberate, consider and pass H.R. 14291, the local governor bill for American Samoa, and indicate to the Territory just what it must do to set the qualifications for the 2 offices and hold an election within a year from the plebiscite; and

"*Be it further resolved*, that the Secretary of the Senate be directed to send copies of this resolution to: the Honorable Nelson A. Rockefeller, President of the Senate; the Honorable Henry M. Jackson, Chairman of the Senate Committee on Interior and Insular Affairs; to the Committee members; the Honorable Frank Church; the Honorable Lee Metcalf; the Honorable J. Bennett Johnston, Jr.; the Honorable James G. Abourezk; the Honorable John Glenn; the Honorable Richard (Dick) Stone; the Honorable Dale Bumpers; the Honorable Paul J. Fannin; the Honorable Clifford P. Hansen; the Honorable Mark O. Hatfield; the Honorable James A. McClure; the Honorable Dewey F. Bartlett; the Honorable Senator Inouye, Honorable Senator Fong; and to the Honorable Earl B. Ruth, Governor of American Samoa and to Chief A. P. Lutali, Delegate-at-Large."

A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on Finance:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION ELIMINATING THE REQUIREMENT THAT THE ELDERLY POOR HAVE THEIR PROPERTY ASSESSED AT 100 PERCENT OF MARKET VALUE

"Whereas, The Department of Health, Education, and Welfare has ruled that eligibility for assistance payments include a valuation of property owned by the elderly at 100 percent of market value, and

"Whereas, Said property is, under said ruling, to be considered an asset in determination of financial need, and

"Whereas, Thousands of elderly poor in Massachusetts face severe economic hardship if this ruling continues in effect, and

"Whereas, Many of the elderly poor will be forced either to sell their homes, or face a loss of federal assistance; therefore be it

"*Resolved*, That the Massachusetts Senate respectfully urges the Congress of the United States to enact legislation abolishing this requirement without delay; and be it further

"*Resolved*, That copies of these resolutions be sent by the Clerk of the Senate to the Congress of the United States."

Results of a referendum presented to the people of Guam relating to the political status of Guam; to the Committee on Interior and Insular Affairs.

A resolution adopted by the Council of Parma, Ohio, relating to the concept of neighborhood schools; to the Committee on Labor and Public Welfare.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Committee on the Judiciary without amendment:

S. 3667. A bill for the relief of Song Chan Ki (Rept. No. 94-1334).

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

S. 3853. An original bill to provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended (Rept. No. 94-1336).

By Mr. CLARK, from the Committee on Agriculture and Forestry without amendment:

S. 3520. A bill to extend the community fire protection program, and for other purposes (Rept. No. 94-1337).

By Mr. CANNON, from the Committee on Armed Services:

S. 3652. An original bill to authorize the disposal of certain materials from the national and supplemental stockpiles (Rept. No. 94-1338).

By Mr. MUSKIE, from the Committee on the Budget without amendment:

S. Res. 558. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of H.R. 9719 (Rept. No. 94-1339).

By Mr. MAGNUSON, from the Committee on Commerce without amendment:

H.R. 13326. An act to extend until November 1, 1983, the existing exemption of the steamboat *Delta Queen* from certain vessel laws (Rept. No. 94-1340).

By Mr. CANNON, from the Committee on Commerce with amendments:

H.R. 7017. An act to amend the Federal Aviation Act of 1958 relating to tariff changes (Rept. No. 94-1341).

By Mr. EAGLETON, from the Committee on the District of Columbia without amendment:

H.R. 15276. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the United States Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the United States Park Police force (Rept. No. 94-1342).

With an amendment:

H.R. 14971. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes (Rept. No. 94-1343).

Without amendment:

H.R. 10826. An act to amend the Act establishing a code of law for the District of Columbia to prohibit the unauthorized use of a motor vehicle obtained under a written rental or other agreement (Rept. No. 94-1344).

By Mr. LONG, from the Committee on Finance with an amendment:

H.R. 13500. An act to amend the Internal Revenue Code of 1954 with respect to influencing legislation by public charities (title amendment) (Rept. No. 94-1345).

Without amendment:

H.R. 10936. An act to provide for the income tax treatment of amounts received on the sale of property the cost of which was deducted as a business expense (Rept. No. 94-1346).

With amendments:

H.R. 3055. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes (Rept. No. 94-1347).

H.R. 2474. An act to amend the Internal Revenue Code of 1954 to provide refunds in the case of certain uses of tread rubber, and for other purposes (Rept. No. 94-1348).

With an amendment:

H.R. 2177. An act to exempt from duty certain aircraft components and materials installed in aircraft previously exported from the United State where the aircraft is returned without having been advanced in value or improved in condition while abroad (title amendment) (Rept. No. 94-1349).

H.R. 9889. An act to amend section 2044 (e) (3) of the Internal Revenue Code (title amendment) (Rept. No. 94-1350).

With amendments:

H.R. 2181. An act to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation (title amendment) (Rept. No. 94-1351).

H.R. 11605. An act to suspend for a temporary period the rate of duty on mattress blanks of rubber latex (title amendment) (Rept. No. 94-1352).

By Mr. JOHNSTON, from the Committee on Interior and Insular Affairs with an amendment:

H.R. 15563. An act to amend the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601-17(c)), and for other purposes (Rept. No. 94-1353).

By Mr. FANNIN, from the Committee on Interior and Insular Affairs without amendment:

H.R. 14227. An act to direct the Secretary of Agriculture to release a condition with respect to certain real property conveyed by the United States to the board of regents of the universities and State colleges of Arizona for the use of the University of Arizona (Rept. No. 94-1354).

By Mr. JACKSON (for Mr. JOHNSTON), from the Committee on Interior and Insular Affairs with an amendment:

S. 3501. A bill to amend the Act entitled "An act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211) (title amendment) (Rept. No. 94-1355).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs with an amendment:

S.J. Res. 155. A joint resolution establishing the Hawaiian Aboriginal Claims Settlement Study Commission, and for other purposes (title amendment) (Rept. No. 94-1356).

By Mr. ABOUREZK (for Mr. JOHNSTON), from the Committee on Interior and Insular Affairs with amendments:

H.R. 13160. An act to designate certain lands within units of the National Park System as wilderness; to revise the boundaries of certain of those units, and for other purposes (Rept. No. 94-1357).

By Mr. EASTLAND, from the Committee on the Judiciary without amendment:

S. 1870. A bill for the relief of Lieutenant Frederick R. Marlin, Jr., United States Navy (Rept. No. 94-1358).

S. Res. 484. A resolution to refer the bill (S. 3648) entitled "A bill for the relief of Harvey E. Ward" to the Chief Commissioner of the United States Court of Claims for a report thereon (Rept. No. 94-1359).

S. Res. 522. A resolution to refer S. 337 to the Chief Commissioner of the United States Court of Claims (Rept. No. 94-1360).

H.R. 8027. An act for the relief of Commissioner Stanley W. Birch, Jr. (Rept. No. 94-1361).

By Mr. HRUSKA, from the Committee on the Judiciary without amendment:

S.J. Res. 209. A joint resolution authorizing the President to proclaim the week of October 10 through 16, 1976, as "Native American Awareness Week" (Rept. No. 94-1362).

By Mr. NELSON, from the Committee on Labor and Public Welfare:

S. 3873. An original bill to extend the special unemployment assistance program for 1 year, and for other purposes (Rept. No. 94-1363).

By Mr. MORGAN, from the Committee on Public Works without amendment:

H.R. 14503. An act to name the new post office in Youngstown, Ohio, the "Michael J. Kirwan Post Office" (Rept. No. 94-1364).

By Mr. CANNON, from the Committee on

Rules and Administration without amendment:

S. Res. 548. A resolution authorizing additional expenditures by the Committee on Armed Services for routine purposes (Rept. No. 94-1365).

With amendments:

S. Res. 151. A resolution providing for the installation and use of electronic voting equipment in the Senate Chamber (title amendment) (Rept. No. 94-1366).

Without amendment:

S. Res. 567. A resolution relating to the purchase of calendars (an original resolution) (Rept. No. 94-1367).

S. Res. 562. A resolution authorizing the printing of the compilation entitled "U.S. and Soviet City Defense—Considerations for Congress" as a Senate document (Rept. No. 94-1368).

S. Con. Res. 208. A concurrent resolution authorizing the printing of additional copies of the Joint Economic Committee print entitled "Soviet Economy in a New Perspective" (Rept. No. 94-1369).

H. Con. Res. 96. A concurrent resolution authorizing a bust or statue of Martin Luther King, Jr., to be placed in the Capitol (Rept. No. 94-1370).

H.J. Res. 967. A joint resolution authorizing the acceptance of the Joint Committee on the Library on behalf of the Congress, from the U.S. Capitol Historical Society, of preliminary design sketches and funds for murals in the first floor corridors in the House Wing of the Capitol, and for other purposes (Rept. No. 94-1371).

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare with an amendment:

S. 3736. A bill to amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees shall be considered to be service employees for purposes of such Act, and for other purposes.

By Mr. HUMPHREY, from the Joint Economic Committee:

A special report entitled "1976 Midyear Review of the Economy" (Rept. No. 94-1372).

By Mr. BAYH, from the Committee on the Judiciary:

A special report entitled "Annual Report of the Subcommittee on Constitutional Amendments of the Committee on the Judiciary" (Rept. No. 94-1373).

By Mr. KENNEDY, from the Committee on the Judiciary:

A special report entitled "Annual Report of the Subcommittee on Administrative Practice and Procedure" (Rept. No. 94-1374).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs with an amendment:

S. 2144. A bill to establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior, and for other purposes (Rept. No. 94-1375).

## NATIONAL FOREST MANAGEMENT ACT OF 1976—CONFERENCE REPORT (REPT. NO. 94-1335)

Mr. HUMPHREY, from the Committee of Conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3091) to amend the Forest and Rangeland Renewable Planning Act of 1974, and for other purposes, which was ordered to be printed.

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

Margaret W. Kahliff, of Ohio, to be a member of the Board of Directors of the Export-Import Bank of the United States.

The following-named persons to be members of the Board of Directors of the National Center for Productivity and Quality of Working Life for a term coterminous with the term of the President (new positions):

Donald C. Burnham, of Pennsylvania.
R. Heath Larry, of Pennsylvania.
Edward E. Carlson, of Illinois.
I. W. Abel, of Pennsylvania.
C. L. Dennis, of Illinois.
Frank E. Fitzsimmons of Maryland.
James E. Holshouser, Jr., of North Carolina.
Daniel J. Evans, of Washington.
L. William Seidman, of Michigan.
Andrew E. Gibson, of New Jersey.
Bess Myerson, of New York.
Berkeley G. Burrell, of the District of Columbia.
Wayne L. Horvitz, of the District of Columbia.
Gaylord Freeman, of Illinois.
Herbert S. Richey, of Ohio.
Robert A. Georgine, of Maryland.
J. Lane Kirkland, of the District of Columbia.
John T. Dunlop, of Massachusetts.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

George F. Murphy, Jr., of Maryland, to be a member of the Nuclear Regulatory Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Edward Aquirre, of California, to be Commissioner of Education.

Harvey Allan Averch, of Virginia, to be an Assistant Director of the National Science Foundation.

Eloise E. Clark, of the District of Columbia, to be an Assistant Director of the National Science Foundation.

The following-named persons to be members of the National Science Board, National Science Foundation, for a term expiring May 10, 1982:

Raymond L. Bisplinghoff, of Missouri.
Lloyd Miller Cooke, of New York.
Herbert D. Doan, of Michigan.
John R. Hogness, of Washington.
William F. Hueg, Jr., of Minnesota.
Marian E. Koshland, of California.
Alexander Rich, of Massachusetts.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Jack B. Olson, of Wisconsin, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

Monteagle Stearns, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

Edward E. Masters, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Robert P. Smith, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

Wat T. Cluverius IV, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

William D. Rogers, of Virginia, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank, vice Charles W. Robinson, resigned.

Eugene N. S. Girard II, of Mississippi, to be an Assistant Administrator of the Agency for International Development.

Manuel R. Caldera, of California, to be a member of the Board of Directors of the Inter-American Foundation.

The following-named persons to be members of the Board of Directors of the Overseas Private Investment Corporation for terms expiring December 17, 1978:

Donley L. Brady, of California. (Reappointment.)

Allie C. Felder, Jr., of the District of Columbia, (Reappointment.)

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the 19th Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

### REPRESENTATIVES

John E. Reinhardt, of Maryland.
Robert B. Kamm, of Oklahoma.
William B. Jones, of California.
Sarah Goddard Power, of Michigan.
Clayton Kirkpatrick, of Illinois.

### ALTERNATE REPRESENTATIVES

Arthur K. Solomon, of Massachusetts.
Mae Sue Talley, of Arizona.
Russell C. Heater, of California.
Oscar Padilla, of California.
Dixon R. Harwin, of California.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

### POLITICAL CONTRIBUTIONS STATEMENT

### STATE PARTY CONTRIBUTIONS ONLY

*Political contributions*

JACK B. OLSON, Wisconsin Dells, Wis., Ambassadorial nominee.

Amount, Date, and Donee

$410.00—1972—Republican Party of Wisconsin.

$200.00—7-73—Republican Party of Wisconsin.

$200.00—8-73—Republican Party of Wisconsin.

$10.00—8-73—Republican Party of Wisconsin.

$100.00—5-74—Republican Party of Wisconsin.

$400.00—9-74—Republican Party of Wisconsin.

$20.00—10-74—Republican Party of Wisconsin.

$500.00—7-75—Republican Party of Wisconsin.

$250.00—11-75—Republican Party of Wisconsin.

$250.00—1-76—Republican Party of Wisconsin.

$100.00—5-76—Republican Party of Wisconsin.

Total, $2440.00.

Amount, Date, and Donee

Eleanor Olson (wife):

$25.00—7-73—Republican Party of Wisconsin.

$50.00—11-75—Republican Party of Wisconsin.

Total, $75.00.

Amount, Date, and Donee

Ben Olson (brother):

$100.00—1972—Republican Party of Wisconsin.

$200.00—2-73—Republican Party of Wisconsin.

$100.00—1-74—Republican Party of Wisconsin.

$100.00—1-74—Republican Party of Wisconsin.

$250.00—9-75—Republican Party of Wisconsin.

$10.00—6-76—Republican Party of Wisconsin.

Total, $760.00.

Amount, Date, and Donee

Shirley Olson (brother's wife):

$10.00—8-75—Republican Party of Wisconsin.

Amount, Date, and Donee

Grover Olson (deceased father):

$400.00—11-73—Republican Party of Wisconsin.

$100.00—5-74—Republican Party of Wisconsin.

$15.00—5-74—Republican Party of Wisconsin.

Total, $515.00.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

### NATIONAL POLITICAL CONTRIBUTIONS

Amount, Date, and Donee

Jack B. Olson:

$25.00—1-73—Republican National Committee.

$25.00—1-74—Miller for Congress Committee.

$30.00—10-74—Miller for Congress Committee.

$25.00—1-75—Republican National Committee.

$100.00—1-76—President Ford Committee.

$50.00—1-76—Republican National Committee.

$100.00—3-76—President Ford Committee.

$100.00—6-76—President Ford Committee.

Total, $455.00.

Amount, Date, and Donee

Ben Olson (brother):

$100.00—6-76—President Ford Committee.

### POLITICAL CONTRIBUTIONS STATEMENT

Affidavit Republic of Greece, Province of Attica, City of Athens, Embassy of the United States of America

Before me, Kevin F. Herbert, Vice Consul of the United States of America, in and for Athens, Greece, duly commissioned and qualified, personally appeared Monteagle Stearns, who being first duly sworn, according to Law, deposes and says as follows:

"I, Monteagle Stearns, nominee for the post of United States Ambassador to the Ivory Coast, do hereby provide the following information regarding federal political campaign contributions made by me and members of my immediate family since January, 1972:

Contributions, Amount, Date, and Donee

1. Self, None.
2. Antonia R. Stearns (Spouse), None.
3. Mrs. Alan Schlimme (nee Joanne M. Stearns) (Daughter) $10.00, 1972, Senator McGovern for President; $10.00, 1976, Tom Hayden for Congress from California.

Mr. Alan Schlimme (Spouse of daughter), None.

Miss Pamela C. Stearns (Daughter), None.

Christopher P. Stearns (Son), None.

Jonathan M. Stearns (Son), None.

David F. Stearns (Son), None.

Emily Stearns (Daughter), None.

4. Mr. and Mrs. William F. Stearns (Father and spouse), $100.00, 1972, Democratic National Committee; $100.00, 1976, Same.

Mrs. Robert Beckman (nee Gwendolyn Monteagle) (Mother), $25.00, 1972, Democratic National Committee; $25.00, 1976, Same.

The Honorable and Mrs. James W. Riddleberger (Parents of Spouse), $25.00, 1972, Republican Party of Virginia; $10.00, 1972, Robinson for Congress (Virginia).

5. Grandparents—not living.
6. Brothers and spouses—none.
7. Miss Mary Lou Stearns (Sister) none.

I have listed above the names of each member of my immediate family, including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Further deponent saith not.

### POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edward E. Masters.

Contributions, Amount, Date, and Donee
(If none, write none)

1. Self, None.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

### POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert P. Smith.

Post: Accra, Ghana.

Contributions, Amount, Date, and Donee
(If none, write none)

1. Self, None.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

### POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Wat T. Cluverius.

Post: Ambassador to Bahrain.

Contributions, Amount, Date, and Donee
(if None, Write None)

1. Self—$1.00, CY 1975 IRS designation; $1.00, CY 1974 IRS designation.
2. Spouse—$1.00, CY 1975 IRS designation; $1.00, CY 1974 IRS designation.
3. Children and spouses, names: Wat (age 13), none; Charlotte (age 7), none.
4. Parents names: Wat T. Cluverius, none; Mildren B. Cluverius, none.
5. Grandparents names: none living.
6. Brothers and spouses, names, none.
7. Sisters and spouses names, Mr. and Mrs. James D. Brown.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Mr. THURMOND. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Vice Adm. Kent L. Lee, U.S. Navy, for appointment to the grade of vice admiral on the retired list. I ask that this nomination be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. In addition, there are 146 in the Navy and Naval Reserve for temporary and permanent promotion to the grade of captain, list beginning with Frank R. Arko; and 142 in the Army for promotion to the grade of lieutenant colonel and below, list beginning with Gerald E. Galloway. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 10 and 15, 1976, at the end of the Senate proceedings.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

(On September 24, 1976)

By Mr. JACKSON (for Mr. METCALF, Mr. HANSEN, and Mr. STEVENS):

S. 3848. A bill to amend the Act of February 25, 1920. Considered and passed.

(On September 28, 1976)

By Mr. DOMENICI (for himself and Mr. BELLMON):

S. 3849. A bill to reorganize, simplify, deregulate and consolidate certain elementary and secondary education programs in order to provide improved State administration of the programs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

(On September 29, 1976)

By Mr. ABOUREZK:

S. 3850. A bill to provide for grants to certain Indian-controlled postsecondary educational institutions, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 3851. A bill to authorize the Secretary of the Navy to convey certain real property in the State of Hawaii to the present lessees of such real property. Referred to the Committee on Armed Services.

By Mr. CANNON, from the Committee on Armed Services:

S. 3852. An original bill to authorize the disposal of certain materials from the national and supplemental stockpiles. Placed on the Calendar.

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

S. 3853. An original bill to provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended. Placed on the Calendar.

By Mr. ABOUREZK:

S. 3854. A bill entitled "Separation of Powers Defense Act of 1976." Referred to the Committee on the Judiciary.

By Mr. STEVENSON (for himself and Mr. Percy):

S. 3855. A bill to change the name of the Indiana Dunes National Lakeshore to the Paul H. Douglas National Lakeshore. Referred to the Committee on Interior and Insular Affairs.

By Mr. PHILIP A. HART:

S. 3856. A bill to establish an equitable private retirement system. Referred to the Committee on Finance.

By Mr. RIBICOFF (for himself, Mr. Magnuson, Mr. Nunn, and Mr. Humphrey):

S. 3857. A bill to establish a Department of Education, and for other purposes. Referred to the Committee on Government Operations.

By Mr. PASTORE (for himself, Mr. Pearson, and Mr. Baker) (by request):

S. 3858. A bill to amend the Communications Act of 1934 to add a new section with respect to the dissemination of obscene or indecent material by means of radio communication or cable television, and to repeal section 1464 of title 18, United States Code. Referred to the Committee on Commerce.

By Mr. THURMOND:

S. 3859. A bill to amend the corporate name of AMVETS (American Veterans of World War II), and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BAYH (for Mr. Hartke):

S. 3860. A bill for the relief of Luella Hoffman, wife of Victor F. Hoffman. Referred to the Committee on Post Office and Civil Service.

By Mr. BROCK:

S. 3861. A bill for the relief of Mary Ian Connell. Referred to the Committee on the Judiciary.

S. 3862. A bill for the relief of Maria Lucia Pontes. Referred to the Committee on the Judiciary.

By Mr. BURDICK (for himself and Mr. Young):

S. 3863. A bill for the relief of Bharat M. Parekh. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 3864. A bill to provide third-class mailing privileges to Gold Star Wives of America, Inc. Referred to the Committee on Post Office and Civil Service.

By Mr. INOUYE (for himself and Mr. Huddleston):

S. 3865. A bill to amend the Federal Energy Administration Act of 1974, as amended, and for other purposes. Referred to the Committee on Government Operations.

By Mr. WEICKER:

S. 3866. A bill to establish a program to improve U.S. commercial fisheries. Referred to the Committee on Commerce.

By Mr. CURTIS (for himself and Mr. Hansen):

S. 3867. A bill to reinstate the provisions of the Sugar Act of 1948 beginning with calendar year 1977. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 3868. A bill to amend title VIII of the Act commonly called the Civil Rights Act of 1968 with respect to the awarding of attorney's fees and the authority of the Department of Housing and Urban Development to initiate a civil action to enforce the provisions of such title. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 3869. A bill to provide meaningful and productive work for the Nation's youths by establishing a Youth Community Service program; to provide comprehensive job counseling and placement services for youths by establishing a Youth Counseling and Employment Service; and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY:

S. 3870. A bill to authorize the Comptroller General of the United States to prescribe the monetary limitation for waiver of claim actions by the heads of agencies and Secretaries of Executive departments. Referred to the Committee on Government Operations.

By Mr. HRUSKA:

S. 3871. A bill to improve the judicial machinery in customs courts by amending the statutory provisions relating to judicial actions and administrative proceedings in customs matters, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. STEVENS:

S. 3872. A bill for the relief of Lawrence Fox. Referred to the Committee on the Judiciary.

By Mr. NELSON, from the Committee on Labor and Public Welfare:

S. 3873. An original bill to extend the special unemployment assistance program for one year, and for other purposes. Placed on the Calendar.

By Mr. ABOUREZK (for himself, Mr. Leahy, Mr. Javits, Mr. McGovern, Mr. Haskell, Mr. Tunney, and Mr. Gary Hart):

S.J. Res. 216. A joint resolution urging an investigation of the death of Orlando Letelier. Referred to the Committee on the Judiciary.

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By Mr. ABOUREZK:

S. 3854. A bill entitled "Separation of Powers Defense Act of 1976." Referred to the Committee on the Judiciary.

Mr. ABOUREZK. Mr. President, today I am introducing legislation which makes it clear that when the Justice Department appears in a case on behalf of "the United States," the Congress expects them to defend—and not to attack—the constitutionality of statutes enacted by Congress. This legislation is an outgrowth of provisions of S. 495, the Watergate reform bill and of research by the Subcommittee on Separation of Powers over the past year.

Increasingly, the executive branch and the Department have taken the position that they can pick and choose which acts of Congress they will defend against constitutional attack. The Department asserts the prerogative to attack the constitutionality of statutes in two circumstances. The Department states that it will not defend a statute in cases in which it believes that "upholding the statute would have the effect of limiting the President's constitutional powers or prerogatives." "Representation of Congress and Congressional Interests In Court," Subcommittee on Separation of Powers, at 5 (1976). It is, of course, not surprising that in this limited situation representatives of the executive branch may choose or take issue with the constitutionality of statutes which the executive branch believes have this effect. The Department has also asserted the power, however, to refuse to defend statutes which have nothing to do with Presidential power. In testimony before the Subcommittee on Separation of Powers this winter, the Assistant Attorney General for the Civil Division asserted that:

> The Department will not defend against a claim of unconstitutionality where the Attorney General believes, not only personally as a matter of conscience, but also in his official capacity as the chief legal officer of the United States, that a law is so patently unconstitutional that it cannot be defended. *Representation of Congress and Congressional Interests In Court*, at 6.

I find this assertion of the Attorney General's discretion not only surprising but reminiscent of the executive branch's assertion of unbridled discretion to withhold documents from the Congress, to impound funds, and to commit American troops to combat. In each of these instances the "conscience" of the executive branch undermines our constitutional structure of Government.

Not only has the executive branch asserted the right to pick and choose which statutes to defend, but it also asserts the prerogative to take such action in the name of "the United States." It is absolutely clear, however, that neither the executive branch nor the Department of Justice represents the interests of the "United States" when for whatever reason they refuse to defend or when they attack the constitutionality of a statute enacted by Congress. It is incredible enough that they assert unbridled discretion in which laws they will "faithfully execute," but to claim that in such action they represent the "United States" is a direct affront to the Congress.

I have particularly serious objection to the Department relying upon various procedural statutes enacted by Congress as authority for their entering court to further these constitutional challenges. If the executive branch or the Department wish to rely on the grants of constitutional power to the President and the executive branch in article II, section 3, of the Constitution as authority for these constitutional challenges, let them do so. But by cloaking themselves in the aura of "the United States" and by relying on procedural statutes enacted by Congress, the executive branch and the Department falsely imply that the Congress sanctions or encourages these constitutional challenges. I consider this practice to raise a question of high principle in which the Congress must not acquiesce.

The bill I propose today will prevent the Department of Justice from relying on various procedural statutes to bring or to intervene in cases in the name of the United States to challenge the constitutionality of acts of Congress. Section 102 amends section 1345 of title 28, which is the basic delegation of authority for the executive branch to bring suit in the name of the United States. This amendment bars use to this authority to bring constitutional challenges. The basic authority of the Department to institute all other court proceedings in the name of the United States remains unchanged. It is the unintended expansion of this authority which I seek to correct.

Section 103 amends section 2043 of title 28, which is the basic delegation of authority for the United States to intervene in cases which involve only private parties and which raise constitutional questions. This bill amends section 2403 to bar its use to support these constitutional challenges. Under my bill section 2403 could continue to be used by the Department to intervene to defend the constitutionality of a statute. With respect to sections 102 and 103 of the bill, let me emphasize that my purpose is not to prevent the executive branch from bringing actions or intervening in actions which challenge the constitutionality of acts of Congress, but rather to prevent the executive branch from asserting that it represents the United States when it does so.

The remaining three sections of the bill concern two related issues. Sections 101 and 104(b) enable Congress to intervene in cases where the executive branch has determined not to appeal a court decision holding an act of Congress unconstitutional. By failing to appeal these cases, the Department lets the statute fall, thereby frustrating congressional intent in enacting the law. Section 104(a) enables Congress to intervene in cases where the United States is the named defendant, but where the Department is not defending the constitutionality of a statute. In neither of these types of cases do these sections of the bill authorize Congress to assert that upon intervening it will represent the United States. Upon intervening Congress will represent itself and perform the function the Department has neglected.

### HISTORY OF EXECUTIVE BRANCH POSITION ON DEFENSE OF STATUTES

Unfortunately, the Justice Department's position with regard to its obligation to defend the constitutionality of acts of Congress has changed markedly over the years. This change has continually diluted the Department's sense of duty to the Congress and to the constitutional separation of powers.

As early as 1919 Attorney General Palmer stated in an opinion to the Secretary of the Treasury the following:

> Ordinarily, I would be content to say that it is not within the province of the Attorney General to declare an Act of Congress unconstitutional—at least, where it does not involve any conflict between the prerogatives of the legislative department and those of the executive department—and that when an act like this, of general application, is passed it is the duty of the executive department to administer it until it is declared unconstitutional by the courts. 31 OP.A.G. 475 (May 6, 1919).

In this opinion the Attorney General consented to review the constitutionality of the law with respect to which the Treasury Secretary had inquired only because opinions of the Attorney General prior to passage of the statute in question could be construed to conflict with a finding that the statute in question was constitutional. The Attorney General had no difficulty in concluding that the act was, in fact, constitutional.

In 1935 Attorney General Cummings elaborated on the duty of executive branch officers not to question the constitutionality of acts of Congress. He stated:

> Ordinarily, I think, it does not lie within the province of a ministerial officer to question the validity of a statute which, in so far as he is concerned, merely imposes upon him a proper duty and has no bearing upon his constitutional rights. As stated by the Supreme Court in *Aikins* v. *Kingsbury*, 247 U.S. 484, 489, "he who would successfully assail a law as unconstitutional must come showing that the feature of the act complained of operates to deprive him of some constitutional right." It is not sufficient that the statute may adversely affect the rights of others; and it can make no difference that others who claim to be injured are assailing its constitutionality.
>
> In *Smyth* v. *Titcomb*, 31 Maine 272, 285, 286, a tax collector who refused to collect taxes upon the ground that the statute which levied them was unconstitutional, was required by mandamus to perform the duty imposed upon him by the statute, without regard to whether or not it was constitutional. The court said:
>
> "It does not, however, lie with the respondent, as a ministerial officer, to make this objection. He is not authorized, or required to adjudicate the law. On a summary hearing on a petition for a *mandamus*, this court will not determine the question of the constitutionality of the law, involving the rights of third persons, but will leave that question to be settled, when properly presented by parties to an action. For this hearing, we assume that the act is constitutional. *The People* v. *Collins*, 7 Johns. 549.
>
> "We have thus noticed the principal objections but there are considerations which lie at the foundations of these proceedings, that may be properly suggested at this time. A public officer entrusted with the collection and disbursement of revenue, in any of the departments of the government, has no right to refuse to perform his ministerial duties, prescribed by law, because he may apprehend that others may be injuriously affected by it, or that the law may, possibly, be unconstitutional. He is not responsible for the law, or for the possible wrongs which may result from its execution. He cannot refuse to act, because others may question his right. The individuals to be affected, may not doubt the constitutionality of the law or they may waive their supposed rights or wrongs or may choose to contest the validity of the enactment, personally. Public policy, as well as public necessity and justice, require prompt and efficient action from such officers."
>
> The foregoing language was quoted with approval by the Supreme Court of Errors of Connecticut in *Levitt* v. *Attorney General*, 111 Conn. 634, 646, which denied the right of the Attorney General of the state to refuse to carry out a statutory enactment upon the ground that he had determined it to be unconstitutional, the court saying:
>
> "One administrative officer can not attack the constitutionality of a statute because it may violate the constitutional rights of other administrative officers in order to avoid his own performance of a mandatory duty imposed upon him by that statute." 38 OP.A.G. 252 (August 16, 1935).

He went on to state that:

> The constitution has vested in no court or officer the power to remove an enactment of the Congress from the statute books upon the ground of its invalidity. When the Supreme Court has finally declared a statute to be unconstitutional, its decision, because of the great faith which we have in that august tribunal, is accepted as final. 38 OP.A.G. 252.

He concluded that the officer should continue to execute the law "at least until the Supreme Court shall have acted or the Congress shall have made further provision." 38 Op. A.G. 252.

Two years later the same attorney general quoted this admonition that ministerial officers not question the validity of a statute. He stated further:

> Save in exceptional cases it has been the practice of Attorneys General to refrain from rendering opinions as to the constitutionality of enactments of the Congress after their approval or disapproval by the President. While the bill which became the Federal Home Loan Bank Act was awaiting executive action, my predecessor was asked to let the President know whether, in his judgment, there were any objections to its approval. Under the established practice my predecessor's report is not available to the public, but I think I may say, subject to your approval, that it suggested no constitutional or other objection to the bill—nor do I find any.
>
> I think I should take this occasion, however, to stress the soundness of the rule which I have mentioned and the grave objections to the rendition of opinions by the Attorney General upon requests from the heads of the Federal Departments and independent establishments concerning the constitutionality of laws they have been appointed to administer. There is no warrant for such requests as the presumption of validity is binding upon them and they must act accordingly. * * *
>
> The head of a department is under no duty to question or to inquire into the constitutional power of the Congress (36 Op. 21, 25). Such matters arise in the Congress, or with the President, and are not "questions of law arising in the administration of his department," within the contemplation of the statute under which the heads of the departments are authorized to require my opinion (U.S.C., title 5, sec. 304). This provision has long been construed as limiting the scope of opinions to specific cases, actually arising, in which the head of a department is authorized to make some determination, or to take some action, in connection with which some guidance is required.[1]
>
> The Attorneys General have at times had occasion to declare their inability under the statutes to render opinions for the guidance of the Congress. 36 Op. 532, and other opinions therein cited. (A comprehensive list of such opinions appears in the Congressional Record of March 26, 1936, v. 80, p. 4370). In 36 Op. 21, 25, my predecessor had occasion to point out that questions concerning the constitutionality of contemplated legislation do not arise in the department which would administer the statute, if enacted. In one instance the Congress, recognizing these statutory limitations, specifically "authorized and directed" the Attorney General to render to the Secretary of War an opinion involving the constitutional power of the Congress in connection with certain contemplated legislation, and required the Secretary of War to transmit the opinion in the Congress, 25 Op. 195.
>
> Assuming, therefore, that in the administrative branch of the Government only the President ordinarily can have proper interest in questioning the validity of a measure passed by the Congress, and that such interest ceases when he has expressed his approval or disapproval, it necessarily follows that there rarely can be proper occasion for the rendition of an opinion by the Attorney General upon its constitutionality after it has become law.
>
> Necessarily when the Attorney General, at the request of the President, is considering pending legislation, he must often point out doubts and uncertainties of varying degrees of merit and must deal with the matter in a practical and, at times, argumentative fashion. Since such opinions are merely for the assistance of the President and are ordinarily regarded as confidential,[2] the Attorney General may state his views fully and freely, with advantage to the President and without embarrassment to any one. To illustrate the manner of treatment sometimes required, I

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[1] 20 Op. 463, 464; 32 531, 636.

[2] A number of such opinions have been published, b Op. 254, 259; 10 Op. 426, 435; 12 Op. 337, 347; 18 Op. 18, 87; 36 Op. 194, 243, 248; 26 Op. 422; 27 Op. 330; 30 Op. 88; 37 Op. 403, 407.

> quote below from two unpublished opinions rendered during a former administration on proposed legislation, connected in no way with the legislation which has drawn forth this letter.
>
> (A) "The question is one which has been debated back and forth by lawyers, legislators and writers on constitutional law * * *. Substantial arguments have been adduced on both sides of the question. The strict constructionists take the view that Congress has not the power and those inclined to more liberal views reach the opposite conclusion * * *. It is one of those questions where a little statesmanship must be added to legal arguments to reach a sound conclusion. * * * Practical considerations lead to the conclusion that the liberal view, sustaining the power, should be adopted. * * * I do not believe the Congress would pay any attention to an opinion of an Attorney General to the effect that the power does not exist."
>
> (B) "In my judgment it would not be wise to base objection to this measure on constitutional grounds. * * * This measure falls into a class with innumerable others that have been enacted by Congress since the organization of the Government and which, if constitutional at all, would have to be sustained under the so-called general welfare clause because there is no specific authority elsewhere in the Constitution. The question as to the extent of authority of Congress under the general welfare clause has never been decided by the Supreme Court of the United States and is not likely to be.[3] An attack on this measure on the ground that it is not authorized by the Constitution would be met instantly with the argument that many measures open to the same objections have been approved during this and prior administrations; and to single out this one measure for constitutional criticism would result in inconsistency which could not be defended."
>
> The situation is fundamentally different when the Attorney General is asked to prounounce upon the constitutionality of a statute after it has been passed by the Congress and approved by the President. Both then have evidenced their determination that the measure is constitutional. What before remained in the sphere of debate has now been elevated to the domain of law. Should the Attorney General now vouchsafe his opinion holding the legislation unconstitutional, he would set himself up as a judge of the acts of the Congress and of the President. Moreover, should a practice of rendering opinions upon requests such as that submitted in this instance prevail, the occasion surely would arise when, entertaining doubts which he could not conscientiously put aside, he would be compelled to declare, with disturbing public effect, the invalidity of a statute, while in effect voicing only a personal view that might ultimately be rejected in the courts. Of course, if the Attorney General should regard a statute as clearly constitutional, an opinion to that effect might not be immediately harmful—aside from the fact that he might later be called upon to defend the statute in the courts under such tactical disadvantage as may flow from a prior public exposition of his position. Often, however, although the Attorney General should conclude in favor of the constitutionality of a measure, he could not deny the presence of doubt; and yet, as the Government's chief advocate in the courts, he would hesitate publicly to express misgivings which would only supply an issue that he must later meet in the performance of his official duties.
>
> Even assuming the existence of some doubts about the validity of enacted legislation, it should always be remembered that its constitutionality may never be drawn into question, or may be questioned only in a particular aspect in its application to a specific set of facts. Just as it is not the function or the practice of the courts to make moot determinations of the constitutionality of entire statutes, but to decide actual cases arising under specific factual situations to which the statutes may relate, so there would seem to be no rerason why the Attorney General should rule upon such broad, abstract questions—especially when, as I have stated, the constitutionality of the statute may never be challenged. . . .
>
> It is true that many opinions of the Attorneys General have dealt with constitutional questions arising in connection with enacted legislation. Some of them have interpreted general statutes in the light of the Constitution, applying the principle that ambiguous language is to be construed, if possible, so as to avoid imputing to the legislature an intention that would transcend prescribed restrictions or raise serious constitutional questions. Some opinions have examined Supreme Court decisions and stated, for administrative guidance, the apparent scope thereof and the resulting effect upon the statutes under consideration. Others come within the recognized exception concerning statutes presenting possible conflict with prerogatives of the executive department. Very few have discussed constitutional authority in sweeping terms. I shall not further attempt to distinguish or classify these prior opinions, but they are to be sharply distinguished from the one asked for in the present instance. The practice which has generally prevailed in the past is salutary and departures from it should be viewed with concern.

These same sentiments were reiterated by Attorney General Francis Biddle in 1942. 40 OP A.G. 158 (February 3, 1942).

Despite these Attorney General opinions, the Justice Department became involved in two lawsuits in which it determined for the first times not to defend the constitutionality of acts of Congress. Both cases were Court of Claims cases brought against the United States.

In the first case the executor of the will of William E. Humphrey brought a claims action against the United States for salary withheld from him when he refused to resign before the expiration of his 7-year term as a Commissioner of the Federal Trade Commission. President Roosevelt had demanded that Humphrey—a Hoover appointee—resign. When Humphrey refused to do so, the President "removed" him from office and withheld his pay. Humphrey never acquiesced in this action, but continued to insist until his death a year later, that he was still a member of the Commission.

The executor argued that the 7-year term of office for the Commissioners specified in the Federal Trade Commission Act did not unconstitutionally infringe upon the constitutional removal power of the President. In the name of "the United States" the executive branch argued first that the act should not be construed to limit the President's removal power, but argued that if it was so construed, it was unconstitutional. The court unanimously held that the statute did limit the President's removal power, but that such limitation was not unconstitutional. *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935).

In the second case, unlike in Humphrey's, both the plaintiff and the executive branch agreed that a statute was unconstitutional. The case arose when Congress included in the urgent Deficiency Appropriation Act of 1943 a section barring payment of salary to three named individuals, including Robert Lovett. 57 Stat. 431, 450 (1943). Lovett brought suit against the United States in the Court of Claims on December 1, 1943, for payment of the salary that had been withheld. He argued that the statute was an unconstitutional bill of attainder.

It was clear from the start that the Justice Department would not defend the constitutionality of the statute even though the President had signed the bill and even though his power was unaffected by it. As a result of the Department's position in a December 4 letter, Congressman John H. Kerr, chairman of the Special Subcommittee of the House Appropriations Committee concerned with the matter, wrote to the Attorney General, Francis Biddle, suggesting that Congress should be afforded an opportunity to be represented by its own counsel and to defend the statute. See House Report No. 1117, 78th Congress, 2d session, at page 3. See also Senate Report No. 724, 78th Congress, 2d session, at page 3. The Department responded in a letter to the Speaker on December 6 that:

> At the time that this bill was before the President for approval or veto the question of constitutionality was raised. It was his view as stated in his message that the provision was unconstitutional. He nevertheless approved the bill because of the urgency of the Government's need for the appropriations which would have been vetoed along with this provision.
>
> The Department of Justice proposes to file demurrers to the petitions. The vital questions involved are the constitutional questions, which, in my judgment, can appropriately be raised and disposed of by demurrer.
>
> It is my purpose to give the court the benefit of as candid an analysis as I can make. However, my position concurs with the President's. I think it the right position. It is at odds with the position of the Congress. In these circumstances I feel that the Congress should be afforded an opportunity to be represented by their own counsel. I shall be glad to suggest to the court that anyone you may select be given the right to file a brief and to argue on behalf of the position of the Congress. I shall also be glad to confer with whomever you name for the purpose of working out the best procedures finally to dispose of these cases.
>
> I regret that in these cases I find it impossible to advocate with conviction the views of the Congress.

See also House Report 1117, at 3; Senate Report 724, at 3.

On December 13, 1943, the House adopted House Resolution 386, which authorized the special subcommittee to appoint counsel "to represent the United States in the Court of Claims and in any appellate proceedings resulting therefrom" . . . 10882 (Dec. 13, 1943.). The adoption of this resolution led to negotiations between the Department and the Congress. Then in a letter of January 31,

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[3] Since that time the Supreme Court has had occasion, in *United States* v. *Butler*, 907 U.S. 1, 66, to approve the "Hamiltonian position" of the broad scope of the spending power under the general welfare clause—a view which I had ventured to rely upon in my opinion of August 26, 1966, 88 Op. 958, thus, apparently, ending one phase of the historic controversy regarding the interpretation of the general welfare clause.

1944, the Attorney General wrote to Congressman Kerr stating:

> As you know, we have had several conferences since I received your letter of January 19, 1944, in an attempt to make arrangements which would satisfy the Congress that the issues in these cases were presented in such a way as to raise the constitutionl claims of the Congress fairly and adequately. Under the statutes applicable *I cannot divest myself of the responsibility to defend the interests of the United States in these suits.* However, I think it in the interests of the United States that the pleadings should, in the judgment of your counsel, properly raise such issues as he deems relevant to the constitutional claims of the Congress and that the proof should comprehend such facts as he deems material in support of those claims. Also, of course, as I have said before he should have entire freedom in filing briefs and making oral arguments in support of the position of the Congress.
>
> I understand that your counsel feels that general traverses will fully satisfy these purposes as pleadings in the cases, and I am prepared to file such general traverses. I will also make appropriate arrangements so that he can put before the court the proof that he deems necessary and which is appropriate to support the congressional claims.
>
> I trust that this solution of the matter will be considered by your committee satisfactorily to meet what you deem are the rights of Congress in this situation. H. Rept. 117, at 4 (emphasis supplied). See also S. Rept. 724 at 4.

It was obvious that if the Department would not allow Congress to represent "the United States" and if it did not at least deny the allegations in Lovett's complaint, the lawsuit would terminate without any defense of the statute. This explains the Attorney General's proposal to enter "general traverses" to the complaint and allow the Congress to introduce evidence.

Congressman Kerr, however, was evidently not satisfied with the Attorney General's unwillingness to allow Congress to represent "the United States" in the Lovett case. On February 2, 1944, he introduced House Joint Resolution 230 which in part waived the application of certain statutes which restricted those persons who could represent "the United States" in a lawsuit. This joint resolution was favorably reported from committee in the reports cited above. During the House debate on this resolution, Congressman Kerr explained that the purpose of the resolution was to suspend certain statutes "which would embarrass any counsel and prohibit those who are employees of the Government from appearing in behalf of the United States" in the Lovett case—10 Congressional Record 1674, February 15, 1944. The precedent for this resolution cited by Congressman Kerr was Senate Joint Resolution 54, passed on February 8, 1924, to allow a special prosecutor to take charge of investigating the Teapot Dome Scandal. See 65 Congressional Record 1520–1538, January 28, 1924; 65 Congressional Record 1592–1607, January 29, 1924; 65 Congressional Record 1668–1694, January 30. 1924; 65 Congressional Record 1718–1729, January 31, 1924; 65 Congressional Record 1812–1813, February 1, 1924. The special prosecutor in that case was appointed by the President and confirmed by the Senate. See 90 Congressional Record 2543–2566, February 16, 1944, and 90 Congressional Record 2637–2641, February 18, 1944.

Despite the efforts of Congressman Kerr, when Counsel for the House did appear in Lovett, it did so only as "amicus curiae" and only on behalf of the House. As amicus, however, the House counsel was given permission:

> To file with the Court any pledgings, motions or other papers permitted by the Rules, to offer evidence, to produce witnesses and examine them, to cross-examine witnesses, to file proposed findings of fact, to file briefs, to present oral arguments to the Court upon the issues involved, and to do all things necessary and proper to present the issues of fact and law to the Court. Motion to John C. Gall to appear as Amicus Curiae reprinted in Representation of Congress and Congressional Interests in Court, at page 399.

It is extremely unusual that amicus counsel be given such rights, which illustrates that for all purposes the House was a party defendant and did represent the United States. Understandably, the Court of Claims noted in its opinion the somewhat confusing status of the House Counsel, pointing out that "the Special Counsels are designated variously in the record as representing the House, the Congress, the United States." 66 F. Supp. 142, 143 (Ct. Cl. 1945).

In the Supreme Court, the House Counsel again appeared as amicus curiae. He did so on behalf of the "Congress of the United States". The Solicitor General claimed to appear on behalf of "the United States" but sided with the plaintiff in arguing that the statute was unconstitutional. 328 U.S. 303, 306 (1946). The Supreme Court unanimously held that the statute was, in fact, an unconstitutional bill of attainder. See "United States v. Lovett: Litigating the Separation of Powers," 10 Harvard Civil Rights-Civil Liberties Law Review 1 (1975).

Since the Humphrey's and Lovett cases the Department has intervened in two private lawsuits to attack the constitutionality of acts of Congress; has provided a lackluster defense of the 18-year-old-voter statute; and has gone out of its way to attack the constitutionality of the Federal Election Campaign Act in a brief filed on behalf of the Attorney General, while at the same time the Department was supposedly representing other named defendants in the suit—the Clerk of the House and the Secretary of the Senate. These cases are *G. C. Simkins* v. *Moses H. Cone Memorial Hospital*, 323 F. 2d 959 (4th Cir. 1963); *Ramsey Clark* v. *Federal Election Commission*, Civil Action No. 76-1227 (D.D.C. 1976); *Oregon* v. *Mitchell*, 400 U.S. 112 (1970); and *Buckley* v. *Valeo*, ——— U.S. ——— (1976).

In both the Simkins and Ramsey Clark cases the Department has cited 28 U.S.C. 2403 as authority for its intervening as a plaintiff in a lawsuit involving only private parties to join in an attack on the constitutionality of an act of Congress. The Simkins case involved an attack on the constitutionality of provisions of the Hill-Burton Hospital Survey and Construction Act of 1946. In the Simkins case the Department's Intervention as a plaintiff was permitted despite strenuous opposition from the defendant that section 2403 did not authorize intervention for that purpose. See "Representation of Congress and Congressional Interests in Court," at pages 474–498. The Ramsey Clark case involves an attempt to invalidate the "legislative veto" provisions of the Federal Election Commission Act, 2 U.S.C. 438(c), 26 U.S.C. 900(c) and 26 U.S.C. 9039(c). The Secretary of the Senate and the Clerk of the House are named defendants. In Ramsey Clark the Department motion to intervene as a plaintiff on August 6, 1976, under section 2403 was vigorously opposed by the congressional defendants. The district court granted intervention but that action is under appeal.

Section 2403 provides that:

> In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

As will be discussed at length below, despite the Department's reliance on section 2403 as authority for its intervention in these two cases, the legislative history of section 2403 clearly limits its application to the Department's defense of the constitutionality of Acts of Congress.

In Oregon against Mitchell the Supreme Court reviewed the constitutionality of the Voting Rights Act Amendments of 1970. Among these amendments was a provision, title III, which lowered the minimum voting age to 18 in all national, State and local elections. The Justice Department's lackluster and unenthusiastic argument in defense of this title in the Supreme Court was, according to one critic, partially responsible for the Court's upholding title III only as to national elections. Greene, Richard S., "Congressional Power Over the Elective Franchise: The Unconstitutional Phases of *Oregon* v. *Mitchell*," 52 *Boston University Law Review* 505, 565–566 (1972).

The Solicitor General began his oral argument in the case as follows:

> The Voting Rights Amendment Act of 1970 originated in the House of Representatives simply as a proposal to extend the Voting Rights Act of 1965 which, by its terms, expired in 1970, and to add a provision making it, in effect, no longer as invidious as it had been, by extending the abolition of literacy requirements nationwide.
>
> In the House provisions with respect to residency were added and before it was passed by the House it went to the Senate. In the Senate amendments were proposed to provide for 18 year olds voting; there was extensive consideration and debate in the Senate as to whether this should be done by Act of Congress, or whether it should be done by a Constitutional Amendment.
>
> When it was pending before the Senate, officers of the Department of Justice ap-

> peared before the Congressional Committees. I may say, there are three volumes of hearings with respect to this bill and one, the House hearings, deals only with the literacy and residency and then there are two volumes of Senate hearings before different subcommittees in the summer of 1969 and in February of 1970, where these matters were extensively considered.
>
> Deputy Attorney General Kleindienst appeared before one of the Senate Committees and presented the view of the President that the change should be made but that it should be done by constitutional amendment. And this appears at pages 78 to 80 of the Senate Committee Hearings for February 17, 1970.
>
> And on March 10, 1970 Assistant Attorney General Rehnquist presented to the same committee a substantial statement against the constitutional validity of making the change by statute.
>
> Now, this appears beginning at page 23 of the hearings and the Court will, of course, want to give consideration to these views.
>
> Finally, when the legislation had been passed by Congress as a statutory provision and not a constitutional amendment and the President signed it on June 22, 1970, the President made a statement, of which I shall read the first two paragraphs. This is the President's statement:
>
> "On Wednesday, Congress completed action on a bill extending and amending the Voting Rights Act of 1965, and sent it to me for signature. As passed the bill contained a rider which I believe to be unconstitutional: a provision lowering the voting age to 18 in Federal, State and local elections. Although I strongly favor the 18-year-old vote I believe, along with most of the nation's leading constitutional scholars, that Congress has no power to enact it by simple statute but rather requires a constitutional amendment.
>
> "Despite my misgivings about the constitutionality of this one provision I have today signed the bill. I directed the Attorney General to cooperate fully in expediting a swift court test of the constitutionality of the 18-year-old provision."
>
> There is more in the statement, but that is the relevant portion. The Attorney General is the party defendant in the two cases now before the court. He signed the complaint for the United States in the two cases which are to follow, the Arizona and the Idaho cases. He has signed the briefs in all four cases. However, because of his relationship to the President, he felt that he should not present the argument in this case. So, I am here and I and my associates have endeavored to support the statutes as vigorously as we are able. "Representation of Congress and Congressional Interests in Court" at pages 350–352.

A more obvious lack of enthusiasm on the part of the Solicitor General for the constitutionality of the 18-year-old vote provision is hard to imagine. But even more significant was his failure to discuss two of the most plausible authorities for the constitutionality of title III, the time, place, and manner clause and the republican government clause. I have already described the predictable results in this case.

Finally, let me turn to the first Federal Election Commission case, Buckley against Valeo. The Buckley case was filed on January 1, 1975, against the Secretary of the Senate, Frank Valeo, and the Clerk of the House, Pat Jennings, who were then still administering the Federal Election Commission Act of 1971 pending appointment of the Commission under the 1974 amendments to that act. On April 16, 1975, the Department of Justice formally entered an appearance on behalf of Valeo and Jennings pursuant to a January 7, 1975, request under 2 U.S.C. 118. See "Representation of Congress," at 116. The Department never withdrew that notice of appearance or notified their congressional clients that they intended to withdraw as their counsel. "Representation of Congress," at 115.

However, the day after the Commission came into being, the Department filed a brief in the court of appeals on behalf of the Attorney General, who was also named defendant in the suit. At that time the Department was still serving as counsel for the Clerk, the Secretary, and the Commission. In this "Brief for the Defendant Attorney General" the Department argued that the appointment under which their clients, Valeo and Jennings, were appointed, violated the constitutional separation of powers. The Department was later to argue that its filing of this brief did not violate any ethical obligation to defend its congressional clients, the Clerk and the Secretary, inasmuch as it had asserted in a footnote of a separate "Brief for Defendants Attorney General and Federal Election Commission," which was filed simultaneously, that the Commission had superseded the Clerk and Secretary as defendants under rule 25(d) of the Federal Rules of Civil Procedure. "Representation of Congress," at 118.

That rule provides for a substitution of parties when a public officer "dies, resigns, or otherwise ceases to hold office"—none of which occurred in the case of the secretary and the clerk, who remained named defendants as ex officio members of the new Commission. Accordingly, the court of appeals opinion in the case later listed the clerk and the secretary as defendants and still entitled the case *"Buckley* v. *Valeo"* 519 F.2d 821 (D.C. Cir. 1975). Likewise the Supreme Court listed the clerk and secretary as defendants and retained the same title for the case. The Department's treatment of its congressional clients was the subject of extensive correspondence between myself and the Department "Representation of Congress," at 119–135.

When the *Buckley* case reached the Supreme Court the Department continued to represent the Commission and the clerk and secretary. Again, however, it filed two briefs, one in defense of the Commission, and a second brief entitled "Brief for the Attorney General as Appellee and for the United States as Amicus Curiae." It is in this second brief that the Department, in effect, filed a brief within a brief. At page 2 the "brief" makes the following statement of the "interest of the Attorney General and the United States":

> The Attorney General is named defendant in this action. The Attorney General as a party, however, joins only the separate portion of this brief that addresses the problem of the scope of the Federal Election Commission's powers, which apparently trench on authority reserved to the executive by article II of the Constitution. (The Federal Election Commission has retained special counsel to represent it on this question.) The Department of Justice represents the Federal Election Commission and its members, who are also parties.
>
> The United States recognizes that this case presents difficult questions close to the core of our system of Government. Whether these particular attempts to purify the electoral process can be reconciled with the first amendment is a matter of vital interest to the United States, which has the responsibility of vindicating both concerns in light of the dual commands to "preserve, protect, and defend the Constitution of the United States" and to "take care that the laws be faithfully executed." In these circumstances, the United States will set forth its views as amicus curiae in the true sense of that phrase with respect to the first amendment issues. We present and analyze the considerations and issues on all sides that we believe, will be crucial to this court's deliberations. Representation of Congress, at 139.

The first four sections of the "brief" present arguments on behalf of the Attorney General as amicus curiae, and present a more or less neutral analysis of the constitutional issues. The fifth section then presents the view of the Attorney General "as a party" and argue against the constitutionality of the act. A copy of the fifth section of the "Amicus Brief" appears as exhibit 19 in the appendix of "Representation of Congress," at pages 355 to 373. The entire brief is reprinted in "Special Report of the Joint Committee on Congressional Operations: Buckley against Valeo," January 30, 1976, at pages 412 to 549. The Attorney General and the Solicitor General signed both the amicus brief and the separate "Brief for the Attorney General and the Federal Election Commission." Id. at 550–644.

Out of this confusion, the Supreme Court unanimously held that the Commission appointment powers were unconstitutional. It did not rule on the legislative veto provisions of the act, thus, opening the way for the Ramsey Clark case.

In addition to these affirmative efforts to have acts of Congress declared unconstitutional, the Department has failed to appeal lower court decisions that hold laws unconstitutional. In the last 3 years the Department has failed to appeal five such cases. "Representation of Congress" at 85–86. Furthermore, the Department's practice is that "Congress is not consulted when the Department determines not to appeal a holding that a statute is unconstitutional under present practice." Id. at 86.

As yet the Department of Justice has never attempted to bring an action—rather than fail to defend or intervene—to challenge the constitutionality of an act of Congress. However, in attempting to intervene in the Ramsey Clark case the Department has argued that, first, Ramsey Clark has no standing; second, the Department does have standing; and third, if the Department becomes the sole remaining plaintiff—rather than just an intervenor—it has the authority to bring the case in the name of the United States under section 1345. Should this argument prevail, the Department will have challenged the constitutionality of an act as a plaintiff, as a defendant, and as an intervenor. The Department will then have utilized every available procedural option except appearance as amicus—to challenge the constitutionality of acts of Congress.

### THE PRESENT POLICY OF THE DEPARTMENT

At the hearings of the Subcommittee on Separation of Powers to which I have referred, the Department's present policies in this area were explored in depth. I have already quoted the Department's assertion that the Attorney General can determine to attack the constitutionality of a statute even where it does not affect Presidential power. I would like here to quote some of the dialog at the hearings on this point:

> QUESTION. Would you please cite for the record any authority from the Constitutional Convention or other such historical sources for your argument that the Attorney General can—on the basis of conscience alone—choose to challenge the constitutionality of a law rather than defend it?
>
> ANSWER. The Attorney General does not on the basis of conscience alone choose to "challenge the constitutionality of a law rather than defend it." However, he has on a single occasion in *United States* v. *Lovett*, decided on the basis not only of conscience but of legal judgment in his official capacity as the chief legal officer of the United States that a law is so patently unconstitutional that when challenged by some other party, it should not and cannot be defended.
>
> QUESTION. Is there any kind of guidelines which can be stated which will define this apparently unlimited capacity of the Attorney General to make that determination?
>
> ANSWER. As far as I know the only guideline is the one I have stated, and as you mention it is, by its nature, broad, vague, concomitantly so. I suppose, with the high responsibilities of the Office of Attorney General. Also, so far as I know, it has only been exercised on one occasion in *United States* v. *Lovett*. That case, from a number of standpoints, is unique and, of course, the Attorney General's judgment in that case—some 25 years ago—turned out to be correct.
>
> QUESTION. If the Attorney General can exercise this judgment, does that not allow the executive branch to in effect veto legislation enacted by Congress?
>
> ANSWER. In my view, our entire separation of powers construct requires a concomitant degree of restraint on the part of all three branches of government. I really advance this second basis for its theoretical existence and frankly I am pleased as an American citizen that the exercise of this kind of power, has occurred on only one occasion, so far as I know, in our constitutional history. But it ties back to what I feel to be the necessity on the part of all three branches to exercise a degree of restraint in exercising those powers that lie at the outer edges of their respective responsibilities.
>
> QUESTION. The question I was trying to ask is when it is exercised as a matter of judgment by the Attorney General—I am not questioning the honesty of that judgment or anything like that—I am asking whether the effect of that is not to give the executive branch a second way to veto legislation.
>
> ANSWER. Not really because it is a litigating judgment and the final decision will be made by the courts.
>
> QUESTION. You put it very strongly by describing it as a veto. Actually should it not be viewed in the light that we have three branches of government? Each is apt to make a mistake and every mistake, assuming one is made, is not fatal and if each branch is acting in good faith in accordance with the honest exercise of its duties and they do have a clash it is something that should be foreseen and should not be so alarming.
>
> This is not a question of abuse. There is only one instance in the history of the country in which it has occurred. Certainly it ought to be within the discretion of a chief legal officer of the United States not to present what in his judgment may be a frivolous case.
>
> QUESTION. Should there be an automatic procedure then to assure that at least amicus counsel from the Congress or some other counsel can appear to defend the statute? It happened in *Lovett* that Congress did appear as amicus, but there are other cases in which the Justice Department defense has been a little less than enthusiastic and Congress has not appeared. The courts rely on the adversarial processes. Should there be an automatic process for amicus appearance, at least, by Congress?
>
> ANSWER. You are talking about an opportunity for amicus appearance where you say the Department of Justice representation has been less than enthusiastic or perhaps inadequate. I cannot subscribe to that because if we were going to defend anything I cannot conceive that the best advocacy we could put forward would not be put forward. Where we do make a decision—and the only instance we have is the *Lovett* case—Congress was advised, obviously in ample time, so that other steps could be taken.
>
> If the suggestion is that we make a judgment and we are not wholly satisfied with it, or we make it for reasons that will not permit us to give the best advocacy we can, then I cannot accept the premise. I do not think we ever have so acted, not to my knowledge.
>
> QUESTION. Should there be a procedure by which Congress should be able in those limited number of cases to appear as amicus or alternatively the possibility that Congress or representatives of Congress could and should appear representing the United States in those cases?
>
> ANSWER. As amicus, maybe there should.
>
> ANSWER. Not representing the United States. (by second witness)
>
> ANSWER. Certainly not as the United States.
>
> QUESTION. Can Congress ever appear as "the United States" in a case?
>
> ANSWER. In regard to Congress ever appearing as "the United States in a case," the answer is no. The representation of the United States before the courts is an executive function. See e.g. *United States* v. *San Jacinto Tin Co.*, 125 U.S. 273, 278–280; *The Confiscation Cases*, 7 Wall, 454, 458–459; *Buckley* v. *Valeo*, No. 75–436, decided January 30, 1975, slip option, p. 133.
>
> QUESTION. When the Department made an appearance in the *Lovett* case, it appeared as "the United States" and proceeded to argue that the statute was not constitutional. In what sense did the Department represent "the United States" by arguing that the statute was unconstitutional?
>
> ANSWER. The Department represented the United States in the *Lovett* case due to its interests in correct application of the constitution and laws. Where there is a patent inconsistency between the Constitution and an act of Congress, the Department, representing the United States, must argue that the Constitution prevail.
>
> QUESTION. A question that I would like to ask here is whether there is any case that you can think of where you could describe it as frivolous to defend the constitutionality of a law passed by Congress, enacted by Congress, and signed by the President?
>
> ANSWER. The only one I would really describe as frivolous that I am aware of and that therefore the Attorney General was justified to not participate—we did not use the word frivolous in the statement; I really think it is a bit stronger than frivolous since we are dealing in constitutional areas—the only one I am aware of is *Lovett*. My guess is that the statute in that case was not signed by the President and that calls to my recollection that it was a matter of—
>
> QUESTION. We are talking about a case where it was signed by the President.
>
> ANSWER. The *Lovett* bill would have been signed—it was a rider to the appropriation bill.
>
> QUESTION.—It may be unfortunate the Department of Justice did not come into existence until after the Tenure of Office Act.
>
> ANSWER. Hopefully we would have had the courage to take the same position there.
>
> ANSWER. There may be some misunderstanding. We do defend positions that are tenable, whether or not we as individual lawyers think the legislation is wise, or whether we think the position asserted is wholly sound. We do represent Government agencies, Congressmen, in every area of litigation activity that we engage in. There are cases which we think are weak. There are cases in which we think our chances of success are poor. But when we talk about exercising litigative judgment we are not saying that we have to agree or that everything that is being done is wholly sound, or 100 percent defensible.
>
> As attorneys, especially for the executive branch, we do assert tenable arguments. If there is no tenable argument then we consider it to be abusing our duties, responsibilities and obligations as lawyers, to burden the courts with them. It is not a question of our disagreement necessarily. (by second witness)
>
> ANSWER. I want to finish my answer.
>
> I would have no objection to a procedure whereby in a circumstance where, for either of these reasons, we cannot uphold the constitutionality of statutes, then notice will be given. As a matter of fact, built into our system, the informal lines of communication are very effective in this regard. The two instances I am aware of where the constitutionality of statutes have not been argued by the Justice Department—*Lovett*—and the issue of the Commission's enforcement powers in *Buckley* v. *Valeo*—Congressmen certainly are aware——

I do not find the Department's responses to these questions reassuring, particularly, in light of the Department's action in the Ramsey Clark case. Certainly the Department's position has changed markedly since the 1919 Attorney General opinion.

### THE DUAL ROLE OF THE DEPARTMENT

Having described the evolution in the Department's interpretation of its duty to defend the constitutionality of acts of Congress, let me return to the point I have been making throughout this discussion. I do not doubt that there are rare cases where the President may move to attack the constitutionality of statutes which he believes impinge upon his constitutional power. As I have also emphasized, in these rare cases it is wholly improper for the President's lawyer—usually the Department—to cloak itself in the aura of "the United States."

In fact, in these rare cases the Department has chosen not to represent the interests of the United States but has chosen to represent the narrower interests of the President, the executive branch, or the Attorney General. It is not representing the interests of the other branches of Government and particularly not those of the legislative branch. It follows then that it is presumptuous and improper for the Department to assert otherwise by claiming that its actions defend the interests of the United States.

To be sure the Attorney General often acts as the President's lawyer. The Attorney General is required by law to render legal advice to the President and executive branch. 28 U.S.C. 511 expressly acknowledges that "the Attorney General shall give his advice and opinion on questions of law when required by the President." The origin of this provision dates to the Judiciary Act of 1789, I Stat. 93 September 24, 1789. Similarly, section 512 allows "the head of an executive department. to require the opinion of the Attorney General on questions of law arising in the administration of his department." This provision also dates from the Judiciary Act of 1789.

However, the Attorney General serves a dual role. In contrast to his representation of the executive branch, he and the Department are given the high responsibility of representing the interests of the United States in litigation. The Department is not the only lawyer in the executive branch or in the three branches of Government. The Department does not represent the United States because there is no one else to represent the United States. It does not represent the United States by constitutional right. It has been delegated this high responsibility by Congress. But in cases where there is a direct conflict between the executive and legislative branch, neither branch can claim to represent the United States.

I am not asserting that the Congress can claim to represent the United States in these cases. However, there is little doubt that Congress may bring lawsuits in its name under certain circumstances. I discussed this point in great detail in my statement in support of the Watergate Reform Act, S. 495. 122 Congressional Record 22792-22797 (July 20, 1976). See "Representation of Congress," at page 61, fn 1, and page 168 fn. 1. Indeed, Congress has occasionally asserted the right to represent "the United States" in litigation. See "Representation of Congress," at 83, 167, 232-246, 378-379, 380-381, and 382-399. Congress has given other agencies in the executive branch the authority to represent the United States. See "Representation of Congress," at page 145.

### SECTION 102—THE DEPARTMENT AS PLAINTIFF

Section 102 of this legislation will require the Department when it brings a case in the name of the United States to defend the constitutionality of a statute. This section accomplishes this purpose by amending 28 U.S.C. 1345 by adding the proviso that "this section shall not apply to the commencement of actions, suits, or proceedings which allege the unconstitutionality of an Act of Congress."

### SECTION 103.—THE DEPARTMENT AS INTERVENOR

Section 103 of this legislation merely confirms the legislative history of section 2403, as it was enacted in 1937. I wish to recount the original legislative history of section 2403 in some detail to emphasize the underlying principle of this legislation. This legislative history demonstrates that Congress intended that the Department would intervene in actions in the name of the United States under section 2403 only to defend the constitutionality of acts of Congress. Accordingly section 103 makes it clear that any arguments the Department makes upon intervention be "in favor of the constitutionality of such Act."

The legislative history of section 2403 makes it abundantly clear that both supporters and opponents of this law assumed and intended that the Attorney General rely on this provision only to defend the constitutionality of laws enacted by Congress.

The chairman of the House Judiciary Committee, Hatton Sumners, introduced a bill containing what became section 2403, H.R. 2260, on February 9, 1937. Chairman Sumners explained his personal interest in the bill as follows:

> I do not want to mention the case, but I call to mind that within the last 2 or 3 years the committee of which I am a member reported a very important bill. The constitutionality of that bill was drawn in issue in private litigation. The constitutionality of that act was poorly defended. I thought and I have always thought none too well considered in the Court. After the committee had gone to a great deal of effort to try to work that thing out and many private persons all over the country had come to depend upon the constitutionality of that act, that whole matter was determined in a private litigation, with the public interest dependent upon a private lawyer hired by a private person to try his case. Nobody anywhere in the whole proceedings undertook to speak for the Government, for the Congress, whose act was under attack for the many and varied interests of other people which were in fact being determined in that lawsuit. 81 Cong. Rec. 3255 (April 7, 1937)

It is not clear to which court case Chairman Sumners was referring, but during that period the Supreme Court had held an exceptionally large number of acts unconstitutional. In 1934 two acts of Congress were held unconstitutional by the Supreme Court. *Booth* v. *United States*, 291 U.S. 339 (1934) and *Lynch* v. *United States*, 292 U.S. 571 (1934). Then in 1935 alone seven acts of Congress were held unconstitutional. See *Panama Refining Co.* v. *Ryan*, 293 U.S. 388 (1935); *Perry* v. *United States*, 294 U.S. 330 (1935); *Railroad Retirement Board* v. *Alton R. Co.*, 295 U.S. 330 (1935); *Schechter Poultry Corp.* v. *United States*, 295 U.S. 495 (1935); *Louisville Bank* v. *Radford*, 295 U.S. 555 (1935); *United States* v. *Constantine*, 296 U.S. 287 (1935); and *Hopkins Savings Assn.* v. *Cleary*, 296 U.S. 315 (1935). Finally, in 1936, four more acts were struck down. See *United States* v. *Butler*, 297 U.S. 1 (1936); *Rickert Rice Mills* v. *Fontenot*, 297 U.S. 110 (1936); *Carter* v. *Carter Coal Co.*, 298 U.S. 238 (1936); and *Ashton* v. *Cameron County Dist.*, 298 U.S. 513 (1936).

Thus, in these 3 years, 13 acts were held unconstitutional, almost one-fourth of the acts that the Supreme Court had invalidated in the previous 150 years. "Acts of Congress Held Unconstitutional in Whole or In Part By the Supreme Court of the United States," The Constitution of the United States of America, Analysis and Interpretation, Congressional Research Service, Library of Congress, at 1597 (1973). Included among the acts invalidated were the National Industrial Recovery Act, the Home Owners' Loan Act, the Agriculture Adjustment Act, and the Railroad Retirement Act.

As introduced by Chairman Sumners on January 8, 1937, H.R. 2260 authorized the Attorney General to present "evidence and argument on behalf of the United States . . . relating to the validity of any statute" which is "drawn in question" in "any suit or proceeding to which the United States * * * is not a party." A second section of the bill provided that when a court decision is "against the validity of any statute of the United States," the Attorney General "shall have the same right of review of such decision in the proper appellate court * * * as if the United States were a party to the suit or proceeding."

When H.R. 2260 was favorably reported by the House Judiciary Committee on February 9, 1937, the only amendment was to substitute the word "constitutionality" wherever the word "validity" appeared. This change emphasized that the need for the bill arose from constitutional—and not other types of—challenges to Federal statutes.

The committee report emphasizes that the need for the bill arose when—

> In cases between private litigants in which the constitutionality of an act of Congress is attacked by one of the parties, no representative of the Government may now appear as a matter of right *to defend* the statute. H. Report 212, seventy-fifth Congress, first session, at 1 (emphasis supplied).

When such a constitutional issue arises in a case, the report states that:

> The people generally . . . are entitled to have *their* representative appear with the right to present whatever evidence and argument may be necessary fully to develop and adequately to present that issue to the court. Report at 2 (emphasis supplied).

Just prior to the Judiciary Committee's reporting H.R. 2260 to the full House, President Franklin Roosevelt submitted his so-called court-packing plan to Congress. Senator Ashurst introduced the plan as S. 1392 on February 8, 1937. The President had proposed "an increase in the number of judges * * * and for the appointment of additional judges in all Federal courts, without exception, where there are incumbent judges of retirement age who do not choose to retire or to resign." Message of the President to the 75th Congress, 1st session, "Regarding the Judicial Branch of the Government," at page 4 (February 5, 1937). The furor that was created by the court-packing plan is well known and I shall not go into it here. However, tucked into the same statement the President recommended that:

> No decision, injunction, judgment or decree on any constitutional question be promulgated by any federal court without previous and ample notice to the Attorney General and an opportunity for the United States to present evidence and be heard. This is to prevent court action on the constitutionality of Acts of the Congress in suits between private individuals, where the Government is not a party to the suit, without giving opportunity to the Government of the United States to defend the law of the land." Message, at 5 (emphasis supplied). The President earnestly recommended that "in cases in which any court of first instance determines a question of constitutionality, the Congress provide that there shall be a direct and immediate appeal to the Supreme Court, and that such cases take precedence over all other matters pending in that court. Such legislation will, I am convinced, go far to alleviate the inequality, uncertainty and delay in the disposition of vital questions of constitutionality arising under our fundamental law." Message at 5.

By this statement the President endorsed H.R. 2260 and began to coordinate this support with his efforts to secure passage of S. 1392. There was at the time widespread acceptance of the need to enable the Justice Department to intervene in these constitutional cases to defend the statutes. See New York Times, for February 7, 10, 11, 12, 19; April 8, 9; June 6; August 1, 3, 16 and 26, 1937. For this reason, Chairman Sumners delayed bringing H.R. 2260 up for consideration in the House at the President's request in order to maximize its impacts on the House's consideration of the court packing bill. See New York Times for February 11, 1937.

When H.R. 2260 finally came up for debate in the House in April 1937, Chairman Sumners' introductory statement on the bill described it as providing a means by which "the Attorney General may intervene to defend, solely, the question of constitutionality." 81 Congressional Record 3254 (April 7, 1937). Chairman Sumners previously had made the same statement regarding the purpose of the bill, when he had unsuccessfully attempted to bring up the bill under suspension of the rules. 81 Congressional Record 3153 (April 5, 1937). At that time he explained that it was not a "proper or rational arrangement to have the defense of the constitutionality of an act of Congress dependent entirely upon private persons engaged in private litigation." 81 Congressional Record 3153 (April 5, 1937). The committee bill "sought to remedy" situations in which "acts of Congress are . . . attacked with nobody in court whose business is to defend the acts of the Congress." 81 Congressional Record 3255 (April 7, 1937).

The assumption underlying the bill was stated by Chairman Sumners as follows:

> When Congress expresses its legislative judgment it thinks it is acting within constitutional limitations and passing a good law. 81 *Cong. Rec.* 3257 (April 7, 1937).

Congressman William McFarlane stated emphatically that:

> He was not willing as a Member of Congress to admit we have not given every consideration to the measures we have enacted into law. 81 Cong. Rec. 3267, April 7, 1937).

He said,

> Certainly every Member of this body ought to want to see the measures we enact into law, if possible, upheld as being valid." 81 Cong. Rec. 3267 (April 7, 1937).

Similarly Congressman Michener argued that:

> The Constitution places all duty upon the Congress to pass only such laws as the Congress believes to be constitutional. We must assume that the Congress never disregards this constitutional mandate. The Congress has taken an oath not to do otherwise. When the Congress has thus conscientiously passed a law, it seems to me that the Congress has a perfect right, as well as a duty, to see to it that the Congress' constitutional right to pass the law is properly presented to the Court. 81 Cong. Rec. 3268 (April 7, 1937).

In cases where the United States is not already a party, the Attorney General would appear "to represent this House of Congress" (81 Congressional Record 3254), "the Congress of the United States" (81 Congressional Record 3269) and "the rights of the average poor man under an act of Congress" (81 Congressional Record 3258). When asked directly to "reconcile * * * having an appointee of the executive department represent * * * the legislative department in a controversy in the courts," Chairman Sumners thought "that is the Attorney General's job. He appears day after day in the Supreme Court in matters in which this government is a party, to defend the constitutionality of the acts of Congress." 81 Congressional Record 3269 (April 7, 1937). Congressman Ditter stated that:

> It certainly seems to me that the Attorney General being a part of the executive department of the government would be most anxious to establish the constitutionality of the act. 81 Congressional Record 3265 (April 7, 1937).

At every point during the debate, it was made clear that everyone fully expected and assumed that the Attorney General would exercise the authority to be delegated to him under the act to defend the constitutionality of laws.

Congressman McFarlane explained that:

> As Members of Congress we have a very great interest in seeing our acts upheld, and this legislation will bring this about. . . . This bill will place all the force of the legal department of the Government *behind* the acts of Congress . . . that is what this legislation does. 81 Congressional Record, 3267 (April 7, 1937).

Congressman Healy understood the bill to afford an opportunity for the Attorney General "to argue for the constitutionality of the law." (81 Congressional Record, 3267 (April 7, 1937.)) Congressman Michener explained the purpose of the bill as an effort "to guarantee that where important constitutional questions are involved before the courts, there is a proper presentation on the part of the Government in an effort to sustain that which the Congress determined was a constitutional law." (81 Congressional Record, 3268 (April 7, 1937.)) In questions to the chairman, Congressman Lucas confirmed his understanding that "if this act becomes law, we seek to protect the acts we pass by having competent and reputable counsel." (81 Congressional Record, 3258 (April 7, 1937)).

During the debate, Congressman Cox inquired whether the precise terms of the act literally compelled the Attorney General "to defend the constitutionality of the act that has been attacked against his conviction that it is unconstitutional?" (81 Congressional Record, 3268 (April 7, 1937)). To this question Congressman Michener responded:

> No; there is no such compulsion whatever. The Attorney General is notified and then he will use his discretion in the matter.

Congressman Michener hastened to add that:

> My personal opinion is that when the Congress has exercised its constitutional duty and has enacted a law, under its oath, that it believes to be constitutional, it is almost the duty of the Attorney General of the United States to appear . . . and present all the arguments that he has at his command to sustain the Congress in the enactment of a law which the Congress believes constitutional. 81 Congressional Record, 3268 (April 7, 1937).

Even the opponents of the legislation fully expected and assumed that the Attorney General would always proceed under the statute to defend the acts of Congress whether explicitly compelled to do so or not. Congressman Ditter stated his conviction that:

> *Under no circumstances* would (the Attorney General) be inclined to question the constitutionality of the Act. 81 Cong. Rec. 3265–3266 (April 7, 1937) (emphasis added).

Indeed the reason for his opposition to the legislation was his conviction that the Attorney General "would have but one motive and that is to drive through to constitutionality the acts of the presen administration" (81 Congressional Record 8266, April 7, 1937). Congressman Ditter was particularly upset with the prospect of bringing "the prestige and power of the entire Department of Justice behind one litigant in order to establish constitutionality and to maintion constitutionality" (81 Congressional Record 3265, April 7, 1937). He suggested that:

> Congress should bring to the other man a lawyer, a battery of lawyers, paid for by the government to protect his position with the same fervor, and the same enthusiasm, and the same ability, as you give to his opponent to maintain the constitutionality of this particular act. 81 Cong. Rec. 3265 (April 7, 1937).

The Congress had great expectations also as to the vigor with which the Attorney General would defend its laws. Chairman Sumners stated that:

> The committee had the expectation that the great law offices of the United States ought to be the best prepared of anybody to defend an act of the United States Congress when it is challenged. 81 Cong. Rec. 3255 (April 7, 1937).

Indeed, Chairman Sumners stated that:

> It is the duty of the Court not to decide the constitutional question adversely until the Attorney General has been notified and given an opportunity to appear and defend. 81 Cong. Rec. 3260 (April 7, 1937).

As a procedural matter, when the Attorney General intervened he "would be limited to * * * the defense of the constitutionality of the Act." 81 Congressional Record 3259 (April 7 1937). Congressman Miller noted that:

> If a "court decides a statute (is) unconstitutional and the Attorney General has not intervened," on the appeal level "(h)e could protect the law just the same." 81 Cong. Rec. 3260 (April 7, 1937).

At the end of the debate on H.R. 2260, it was adopted by a vote of 122 to 14. 81 Congressional Record 3273 (April 7, 1937). After the House passage, H.R. 2260 was referred to the Senate Judiciary Committee, where it lay pending action on S. 1392, the court-packing bill.

On June 7, 1937, the Senate Judiciary Committee took action on S. 1392, reporting it with an adverse recommendation. Senate Report 711, 75th Congress, 1st Session. At this stage in the debate, S. 1392 did not contain the provisions of H.R. 2260. As the Senate debate on the bill began, however, the sponsor of the court-packing bill, Senator Ashurst, proposed an amendment in the nature of a substitute, in order to try to save the bill. 81 Congressional Record 6740 (July 2, 1937).

Title I of the substitute contained a modification of the court-packing plan and title II of the substitute contained the provisions of H.R. 2260, with a few technical modifications. Extensive debate, that is a filibuster, on the substitute followed. See 81 CONGRESSIONAL RECORD 6787–6813 (July 6, 1937); 81 CONGRESSIONAL RECORD 6873–6890 (July 7, 1937); 81 CONGRESSIONAL RECORD 6894–6922 July 8, 1937); 81 CONGRESSIONAL RECORD 6966–6982 (July 9, 1937); 81 CONGRESSIONAL RECORD 7018–7027 (July 10, 1937); 81 CONGRESSIONAL RECORD 7033–7055) (July 12, 1937); 81 CONGRESSIONAL RECORD 7091–7110 (July 13, 1937); and 81 CONGRESSIONAL RECORD 7375–7381 (July 22, 1937).

The only mention of title II during the debate was by an opponent of the court-packing plan, Senator O'Mahoney, who stated:

> I grant you there is some very good reason for notifying the Attorney General when the constitutionality of any statute of the United States is drawn in question in litigation, so that he may have an opportunity to come into court and defend it." 81 CONG. REC. 7045 (July 12, 1937).

When it became apparent that the filibuster could not be broken, Senator Logan moved that S. 1392 be rereferred to the Judiciary Committee with instructions to report a bill for the reform of the Judiciary within 10 days. That motion carried. 81 CONGRESSIONAL RECORD 7381 (July 22, 1937). On July 28, H.R. 2260, with amendments, was favorably reported by the Judiciary Committee "to carry out the instructions of the Senate of July 22, 1937, when S. 1392, and all amendments thereto, was recommitted to the Committee." Senate Report 963, 75th Congress, 1st session.

The close relationship of H.R. 2260 and S. 1392 make it clear that the two bills had a complementary purpose—that is defense of the constitutionality of the acts of Congress—and that the Senate preferred the provisions of H.R. 2260 to those in the original version of S. 1392.

In his introductory description of H.R. 2260, the chairman of the Senate Judiciary Committee Patrick MCarran, stated that:

> On its intervention the government, then represented by the Attorney General, shall become a party . . . for the purpose of defending and protecting the acts of Congress, or defending and protecting the policy involved in the acts of Congress. 81 CONG. REC. 8507 (August 7, 1937).

Senator McCarran later repeated this understanding. 81 CONGRESSIONAL RECORD 8508 (August 7, 1937). Senators Minton and Austin also stated their understanding that the purpose of the bill was to provide for the defense of the constitutionality of acts of Congress. 81 CONGRESSIONAL RECORD 8510 (August 7, 1937). The bill was adopted by the Senate, with only three votes in opposition. 81 CONGRESSIONAL RECORD 8515 (August 7, 1937).

The Senate adopted the conference report on August 10, 1937, without debate (81 CONGRESSIONAL RECORD 8609). The House adopted it on August 11, 1937. (81 CONGRESSIONAL RECORD 8701–8705). The President signed the bill on August 24, 1937. In his statement, the President described the bill as providing that:

> The Attorney General shall be given notice of constitutional questions involved in private litigation and accords the Government the right to defend the constitutionality of the law of the land. No longer must the Government stand idly by, a helpless spectator, while Acts of Congress are stricken down by the Courts. White House Press Release, August 25, 1937, at 2.

Thus, the legislative history of section 2403 ended where it began, with the President stating that the purpose of the bill was to enable the Department to defend the constitutionality of acts of Congress.

By adopting section 103 of the bill I introduce today Congress will confirm in unequivocal language the initial intent of the Congress when it enacted section 2403 in 1937.

I might note that an identical provision to section 103 was favorably reported by both the Government Operations and Judiciary Committees earlier this year as a part of the Watergate Reform Act of 1976. See section 214(e), S. 495. On my motion it was deleted from the bill during debate at the Department's request, in order to facilitate passage of the bill. See 122 CONGRESSIONAL RECORD 22798, July 20, 1976. At that time I stated:

> By deleting this language, Congress is not conceding that the Department may use Section 2403 to intervene to attack the constitutionality of a statute. *Id.*,

I determined then to introduce this bill, which deals comprehensively with the issue of the Department's practice and policy.

### SECTIONS 101 AND 104—INTERVENTION BY CONGRESS

Sections 101, 104(a), and 104(b) give Congress the capacity to intervene as a party in constitutional cases to protect its interests. The provisions of sections 101 and 104(b) have already been adopted by the Senate once as a part of the Watergate Reform Act on July 21, 1976. See sections 205(a)(1) and section 211, S. 495.

The constitutional power of the Congress to intervene in law suits is analogous to the power of Congress to bring law suits to enforce congressional subpenas. The Department has conceded that Congress may bring actions to enforce subpenas. "Representation of Congress" at 61 and 62. See *Senate Select Committee* v. *Nixon*, 370 F.Supp. 521, aff'd 498 F.2d 725 (1974). Despite the Department's acknowledgement that Congress has the constitutional power to bring a law suit to enforce a subpena, the Department has argued that Congress may not intervene in a law suit to defend the constitutionality of a law. Let me emphasize at this point that the Department believes that Congress may file an amicus brief in this type of case—*Representation of Congress* at page 82–83—and that Congress may both intervene and file an amicus brief in a case in which "the powers and responsibilities of Congress under article 1 of the Constitution of the United States are placed in issue." Therefore, the Department concedes that Congress may intervene in some cases, and disputes only whether intervening to defend the constitutionality of a statute in such a case.

In response to the Department's argument, I would agree that Congress cannot and should not assume for itself the function of defending in court the constitutionality of all of the laws it passes. But where the Department is not adequately defending the constitutionality of a statute, I believe Congress can and should intervene to make sure the law is defended. The constitutional standing of Congress is, therefore, created by the Department's failure to discharge its constitutional role.

### CONCLUSION

In conclusion, I believe this is important legislation. By its enactment Congress will insure that all laws are vigorously defended when they are challenged in the courts. It will end the Department's practice of holding itself out as the representative of the "United States" when it challenges the constitutionality of statutes which we toil to enact into law. This legislation will restore some of the vigor which has been lost from the constitutional separation of powers.

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By Mr. PHILIP A. HART:

S. 3856. A bill to establish an equitable private retirement system. Referred to the Committee on Finance.

### THE RETIREMENT BENEFIT FUND ACT

Mr. PHILIP A. HART. Mr. President, today I am introducing the Retirement Benefit Fund Act. This bill is identical to the one I introduced in the 93d Congress, S. 2235, and has been developed largely by Mr. Ralph Nader, attorney Karen W. Ferguson, director of the Washington, D.C., based Pension Rights Center, and Yale Legislative Services, a Yale Law School student organization. Naturally, I harbor no expectation that the bill will receive congressional consideration in the few remaining days of this session. My goal is merely to keep alive a proposal which I believe should receive careful congressional attention in the future. Certainly, nothing the Congress has done in the last 3 years has put to rest the need to reform the basic approach of most of today's pension programs. That discussion is yet to come, and, while The Retirement Benefit Fund Act is not a perfect piece of legislation, it is offered as a vehicle for future discussions on how best to move to a better pension system.

Mr. President, I ask unanimous consent that my remarks when introducing S. 2235 in 1973 be reprinted in the RECORD at this point, and that a column by Prof. Peter F. Drucker from the May 27, 1976, Wall Street Journal, which discusses the issue of pension funds, and the text of The Retirement Benefit Fund Act, as drafted in 1973, also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 3856

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) this Act may be cited as the "Retirement Benefit Fund Act".

(b) TABLE OF CONTENTS.—

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### FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that private pension plans in the United States are intrinsically woven into the working and retirement lives of American men and women; that such plans have become firmly rooted into our economic and social structure; that their operational scope and economic impact is interstate and increasingly affect more than thirty million worker paticipants through the United States; that private pension assets of approximately $150,000,000,000, accelerating at more than $10,000,000,000 annually, represent the largest fund of virtually unregulated assets in the United States; that the growth in size, scope, and numbers of private pension plans is continuing rapidly and substantially; that these rapidly growing pension funds are operated with little reference to the best interests of the participants whom the funds are supposed to benefit; that the Federal authority over the establishment, administration, and operations of these plans is ineffective to secure adequate protection of retirement benefits due to the workers covered and affected; that deficient and inadequate provisions contained in a number of such plans are directly responsible for hardships upon working men and women who are not realizing their expectations of pension benefits upon retirement; that there have been found to be serious consequences to such workers covered by these plans directly attributable to inadequate or nonexistent vesting provisions and lack of portabiltiy to permit the transfer of accumulated moneys by employees from one employment to another; that terminations of plans beyond the control of the employees, without necessary and adequate funding for benefit payments, have deprived employees and their dependents of earned benefits; that employee participants have not had sufficient information concerning their rights and responsibilities under the plans, resulting in loss of benefits without knowledge of same; that the lack of uniform minimum standards of conduct required by fiduciaries, administrators, and trustees has jeopardized the security of employee pension benefits; that investment of pension fund money is becoming increasingly concentrated; that the costs inherent in the operation of the current pension plan system function to inhibit extension of pension plan coverage to countless millions of employees; that the existing law provides no incentive for employees to make their own provisions for retirement or provisions for the financial security of their surviving dependents; and that it is therefore desirable that a new legal framework be created to fulfill and protect the retirement interests of working Americans.

(b) It is the policy of this Act—

(1) to protect interstate commerce, and the interests of American workers by permitting and encouraging the creation of retirement benefit funds, licensed by the Securities and Exchange Commission, for the purpose of receiving, investing, managing, and paying retirement benefits out of payments made to them by or on behalf of individual participants, such retirement benefit funds to provide for full vesting of all payments made on behalf of individual participants so that an employee may change employment without forfeiture of benefits; for management by directors elected by and responsible to fund participants, and for investment by each fund of all moneys with the sole aim of serving the best interests of fund participants; and

(2) to provide for insurance of all pension contributions and to assure adequate disclosure and reports to participants and beneficiaries of fund administration and operations, including financial information by the fund to the participant, as may be necessary for employees to have a comprehensive understanding of their rights and obligations to receive benefits from the funds in which they are participants;

(3) to provide incentives for employees to make their own provisions for retirement and provisions for the financial security of surviving dependents;

(4) to establish minimum standards of fiduciary conduct; and

(5) to provide for appropriate and adequate remedies, sanctions, and ready access to the courts for the aggrieved parties.

### DEFINITIONS

SEC. 3. As used in this Act—

(1) "retirement benefit fund" and "fund" mean a corporation not for profit organized under the laws of any State or the District of Columbia and licensed according to the provisions of this Act for the purpose of receiving, investing, managing, and paying retirement benefits;

(2) "Commission" means the Securities and Exchange Commission;

(3) "beneficiary" means any natural person who may be entitled to receive payments from any fund by virtue of the death of a participant;

(4) "employee" means any individual who receives remuneration for services who is not a self-employed person;

(5) "employer" means a person who gives one or more employees remuneration in exchange for services;

(6) "pre-existing pension plan" means an employee pension benefit plan, other than a profit-sharing retirement plan, established or maintained prior to the date of enactment of this Act by an employer or employee organization, or by both for the purpose of providing retirement benefits to participants or their beneficiaries;

(7) "participant" means any natural person on whose behalf contributions are made to any fund;

(8) "self-employed person" means a person who owns an entire interest in an unincorporated trade or business, or in the case of a partnership, means a partner who owns more than 10 per centum of either profits or capital interest in such partnership;

(9) "special allowance investment" means an investment in an enterprise the advancement of which the fund directors deem likely to be of particular social utility and of long-range value to the participants as retirees, including investments tending to reduce expenses typically incurred during retirement (such as housing, medical, and consumer expenses) which would not be justified solely in terms of their monetary return and the risk involved;

(10) "person" means an individual, partnership, corporation, mutual company, joint stock company, trust, unincorporated organization, association, or employee organization;

(11) "affiliated person" of another person means—

(A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person;

(B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person;

(C) any person directly or indirectly controlling, controlled by, or under common control with, such other person;

(D) any officer, director, partner, copartner, or employee of such other person;

(E) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof; and

(F) if such other person is an unincorporated investment company not having a board of directors, the depository thereof; and

(2) "consultant" means any person who advises or represents a fund.

## TITLE I—RETIREMENT BENEFIT FUNDS

### ORGANIZATION AND GENERAL PROVISIONS

SEC. 101. (a) The Securities and Exchange Commission shall prescribe rules and regulations necessary to carry out the provisions of this Act, including rules and regulations for the operation of retirement benefit funds.

(b) There is hereby established a Retirement Fund Division within the Securities and Exchange Commission, with the power and responsibility of supervising retirement benefit funds according to terms of this Act.

(c) The Commission is authorized to appoint and fix the compensation of such attorneys, actuarial consultants, hearing examiners, and other employees as may be necessary for carrying out the functions of the Retirement Fund Division under this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to Classification and General Schedule pay rates, and the Commission may, subject to such provisions, appoint and fix the compensation of such other officers and employees as are necessary in the execution of the Division's functions. The Commission may procure the temporary and intermittent services of individuals in carrying out the functions of the Division to the extent authorized by section 3109 of title 5, United States Code.

(d) There are hereby authorized to be appropriated such sums as may be necessary to enable the Retirement Fund Division to carry out its functions and duties.

(e) The Commission shall submit annually a report to the Congress covering its activities under this Act during the preceding fiscal year.

### LICENSING

SEC. 102. (a) Applications to be authorized to operate as a fund shall be filed with the Commission, in such form and containing such information and documents as the Commission shall by rules and regulations prescribe as necessary or appropriate for the protection of the interests of employees and the public. The information required by the Commission shall include—

(1) the name and address of each affiliated person of applicant and the name and principal address of every company, other than the applicant, of which each such person is an officer, director, or partner; a detailed statement of the business experience relevant to the application of each officer and director of the applicant;

(2) the name under which the proposed fund intends to operate, and the location of the fund's principal place of business;

(3) a recital of the investment policies of the applicant, and of other policies in respect of matters which the applicant deems matters of fundamental policy;

(4) a copy of corporation's charter, its bylaws, and such other documents relating to the organization and operation of the corporation as the Commission may require; and

(5) any other information deemed necessary by the Commission to effectuate the purposes of this Act.

(b) Upon receipt of such application, the Commission shall examine the condition of such applicant, paying particular attention to the financial condition and demonstrated expertise of the persons described in the application, and to the demand for fund services. If the Commission is satisfied that the interests of employees and the public would be served by permitting the applicant to operate a fund, it shall issue a license to the applicant to so operate, which license shall be for the term of twelve years and renewable. The Commission shall provide public notice of its intention to issue a license and shall entertain comments from any member of the public concerning the suitability of the proposed licensee for a period of thirty days from the provision of said notice.

(c) No fund shall be affiliated with any bank insurance company, or other financial institution.

(d) Application for license renewal shall be made at least six months prior to the expiration of the existing license. The Commission shall review all applications to determine whether renewal is appropriate.

(e)(1) On petition of fifty pension fund participants or if the Commission has grounds to believe that continued operation of a fund by a licensee is likely to jeopardize the actual and potential pension benefits of participants or is not in the public intrest, the Commission shall hold a hearing to determine if a license renewal shall be denied or a license revoked. Adequate public notice, not less than thirty days prior to such hearing, shall be provided.

(2) If after a full hearing on the record, with evidence presented from all interested parties and at which counsel for the challenged licensee is allowed to present and cross-examine witnesses, the Commission decides, based on the record, that further operation of the fund as constituted may jeopardize the pension benefits of participants or is not otherwise in the public interest, it shall revoke such a fund's license or deny it renewal. The hearing examiner shall in his discretion permit intervention in any hearing by such members of the public as may be necessary to represent interests otherwise unrepresented. Intervenors shall have all the rights of a party at any hearing.

(3) In cases where the Commission has reason to believe that emergency measures are necessary to protect fund participants, it may, with or without prior notice place a fund under the management of a Commission trustee who shall have full powers to operate the fund pending the outcome of a hearing under paragraph (2). If such an emergency trustee is appointed, the management is entitled to a hearing not more than ninety days after it so petitions and a final Commission decision not more than sixty days after such a hearing. If the Commission after a hearing held pursuant to this subsection decides not to revoke or deny renewal to a licensee, control over such fund shall promptly be restored to the licensee.

(4) If after a hearing under paragraph (2) the Commission decides to revoke or deny license renewal to a licensee and a trustee has not previously been appointed under paragraph (3), a trustee shall be appointed with full powers to operate such fund until it is terminated or returned to private management pursuant to this section. The trustee shall notify all fund participants of his appointment.

(5) Renewal or nonrevocation under this subsection may be conditioned on such alterations in the policies or personnel of the fund as the Commission may deem necessary to protect the interest of the public or of the participants.

(6) After revoking a license, the Commission shall entertain applications from persons desiring to become the licensee of said fund. The Commission may require, as conditions of granting a new license, such changes in investment policy or personnel of the fund as are necessary to insure the financial soundness of the fund.

(7) No fund and no person affiliated with any fund shall be eligible to become a licensee of any other fund held in trust under paragraph (3).

(8) When the right to manage a fund under the control of a trustee is granted to a new licensee, said licensee shall notify all fund participants and beneficiaries of the change in management and each participant and beneficiary shall be provided the opportunity to have all amounts accumulated to his account transferred to another fund.

(9) In the event that no suitable applicant shall apply for a license to manage a fund under the control of a trustee within such reasonable period of time following revocation or nonrenewal as the Commission shall prescribe, the trustee shall proceed to terminate the fund by notifying participants and beneficiaries that they must designate another fund to which all amounts accumulated to their accounts may be transferred. The trustee shall arrange with other funds for the continued payments of benefits to retired participants and beneficiaries, and shall pay to those funds amounts appropriate to cover the obligations assumed. Any fund licensed under this Act may be required by the Commission to assume a reasonable share of the obligations of a terminated fund.

(f)(1) The Commission shall establish procedures for the receipt and investigation of all complaints by any member of the public concerning the operations of an existing fund.

(2) Any petitioner or complainant may appeal from any Commission licensing decision to the United States District Court for the District of Columbia Circuit. The decision of the Commission shall be final unless contrary to law or not based on substantial evidence.

### DIRECTORS AND OFFICERS

SEC. 103. (a)(1) No fund shall have a board of directors more than 40 per centum of whose members are persons who are investment advisers of, affiliated persons of an investment adviser of, consultant to, or officers or employees of, such fund.

(2) No fund shall have a majority of its board of directors consisting of persons who are officers, directors, or employees of banks and insurance companies.

(3) The total number of persons on the board of directors who fit either of the following categories shall not total more than one-third of the directors—

(A) officers or directors of any employer or employer organization, or

(B) officers of any labor organization or its subdivisions.

(4) No fund shall invest in any company of which a director or officer of that fund is a director or officer.

(5) No person shall serve as officer or director of more than one fund at a time.

(b) No person who has been convicted under the law of the United States, or of any State (or of any political subdivision thereof), of robbery, bribery, extortion, embezzlement, grand larceny, burglary, perjury, or any crime described in section 9(a)(1) of the Investment Company Act of 1940 (Stat.  ; 15 U.S.C. 80a-9(a)(1)), or a violation of any provision of this Act, or a violation of section 302 of the Labor-Management Relations Act of 1947 (61 Stat. 157; 29 U.S.C. 186). or a violation of chapter 63 of title 18, United States Code. or a violation of section 874, 1001, 1027, 1503, 1506, 1510, 1951, or 1954 of title 18, United States Code, or a violation of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519; 29 U.S.C. 401), or a violation of the Welfare and Pension Plan Disclosure Act (U.S.C.  ; 29 U.S.C. 301). or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve—

(1) as a director, officer, consultant, counsel, agent, employee (other than as an employee performing exclusively clerical or janitorial duties) of, or in other fiduciary position of, any fund;

(2) as a consultant to any fund for five years after such conviction, unless prior to the end of such five-year period, in the case of a person so convicted—

(A) his citizenship rights, if revoked or suspended as a result of such conviction, have been fully restored, or

(B) the Commission determines that such person's service in any capacity referred to in paragraph (1) or this paragraph would not be contrary to the purposes of this Act.

(c) It shall be unlawful for any officer, director, or employee of a fund knowingly to permit any person to serve in any capacity referred to in subsection (b) in violation of that subsection.

(d) Any person who is convicted willfully violating this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

### ELECTION OF DIRECTORS

SEC. 104. (a)(1) The board of directors of a fund shall consist of not less than fifteen nor more than twenty members elected for terms of five years. The terms shall be so arranged that not less than three nor more than four expire each year.

(2) Not less than one-half of the seats on the board of directors shall be reserved for individuals who reasonably anticipate that the fund will represent the major nongovernmental portion of their future retirement income. Beginning one year after the organization of the fund, one or two of the seats becoming vacant each year shall be filled by fund participants or beneficiaries until not less than one-half of the total seats are so occupied.

(b)(1) Funds shall provide in their bylaws for nomination of directors in accordance with the following guidelines:

(A) The first board of directors shall be selected by the license applicant.

(B) Thereafter—

(i) the officers of the fund may nominate a candidate for each seat as the term of the incumbent expires, except, that for the seats reserved for participant and beneficiary board members, the officers of the fund shall have no power of nomination, and

(ii) additional nominations for the board may be made by petitions signed by not less than—

(I) five hundred of the fund's participants, or

(II) 2 per centum of the fund's participants, whichever is smaller.

(c) Campaigning for directorships shall consist only of a distribution of information at the expense of the fund, describing, in the language of the candidate, his qualifications and such positions on investment policy as he regards as important. In any matter distributed by a fund under the preceding sentence each candidate shall be afforded equal space with other candidates in which to make a presentation. The Commission may prescribe the amount of space to be provided each candidate, taking into account the necessity for nonincumbent candidates to make their views known to fund participants and the need to limit the financial burden on funds.

(d)(1) Election ballots shall be distributed and collected by mail, due care being taken by the fund to assure the integrity of the electoral process.

(2) Each participant shall have one vote for each seat to be filled, and may cast his votes cumulatively. The seats reserved for participants and beneficiaries and all other seats shall be separated for the purpose of voting, and cumulative voting is within each category.

(3) The candidates in each category will be ranked according to total votes received. The candidate in each category with the largest vote total shall be awarded a seat on the board of directors, then the candidate with the second highest vote total, and so on, until the number of vacant seats is filled.

(e)(1) Complaints of election irregularities shall be made to the board of directors, who shall establish a single committee within five days after the receipt of any complaint to investigate complaints relating to that election. Except as provided in paragraph (2), if the board determines that such irregularities existed, it shall void the election and order a new one. The directors elected in the challenged election shall not be considered a part of the board of directors for the purpose of ruling on the validity of the election, nor are they eligible for membership on the investigatory committee.

(2) If the board of directors rules that there were no irregularities, or that such irregularities as may have existed had no effect on the result of the election, a complainant may appeal to the Commission.

(3) Any fund participant or beneficiary and any candidate standing for election in the challenged election may file a complaint alleging election irregularities.

(4) Upon receipt of a complaint that has been rejected by a fund, the Commission shall conduct an investigation of the election. If irregularities are found, the Commission shall void the election and order a new election to be held under its supervision.

(5) A decision of the Commission under subsection (4) is reviewable by a United States district court. The decision of the Commission shall be final unless contrary to law or not based on substantial evidence.

(f) Any vacancy occurring on the board of directors other than by expiration of a term of office may be filled by vote of the remaining members of the board for the remaining term of the seat involved.

### INVESTMENT POLICY

SEC. 105. (a) No fund shall issue or underwrite any kind of securities, whether in the form of stocks or bonds. Funds shall not issue any debt securities.

(b)(1) The assets (or any portion thereof) of the fund may not be loaned to a company which is the employer of any of the participants, or to an affiliated person of an employer of any of the participants, or to a labor organization representing any of the participants, at a rate of return which is lower than the greater of—

(A) the rate at which the prospective debtor could borrow money for the intended use from commercial banks, or

(B) the gross return on investment experienced by the entire fund during the most recent fiscal year.

(2) The assets of the fund may under no circumstances be loaned to—

(A) any present or past director, officer, or employee of the fund, or

(B) any person or company affiliated with a present or past director, officer, or employee of the fund.

(3) With respect to all unsecured loans extended by the fund, due attention shall be paid to the credit worthiness of the prospective debtor, and loans shall be made only in accordance with sound financial principles.

(4) Prospective borrowers shall be informed, prior to the making of any loan, of the requirements of this section. Any loan made in violation of this section shall be voidable at the option of the fund. Any balance due on any such loan on the date on which it is voided shall be due and payable in full, with interest, not later than thirty days after that date.

(5) Any officer or director of a fund who is convicted of willfully causing a loan to be made in violation of this section or who is convicted of knowingly permitting such a loan to be made shall be fined not more than $50,000 or imprisoned for not more than five years, or both.

(c)(1) No licensee shall, unless authorized by a vote of a majority of the participants voting, deviate from its policy in respect to investments, specifically, in respect to concentration of investments in any particular industry or group of industries as recited in its original license application. The Commission shall promulgate such regulations as necessary to insure that the purposes of this section are carried out in a fair and equitable fashion.

(2) A license proposing to change its investment policy shall, before seeking participant approval, submit a detailed analysis of the proposed change, with reasons therefor, to the Commission. If the Commission decides that the proposed changed investment policy is within the guidelines established in this Act regarding concentration, and that it is not contrary to the best interests of fund participants and beneficiaries and will not unreasonably endanger the fund assets, it shall permit the licensee to seek participant authorization for the change.

(3) Proxies shall be valid only to the extent that they authorize a representative to vote for or against the proposed changed investment policy.

(d) No fund shall so concentrate its investments in a single company or industry that—

(1) the stability of the fund would be threatened in the event of a drastic reduction in the value of such concentrated investments, or

(2) the fund has effective control over any company in which it has investments.

(e) Each year a percentage of total fund assets as the Commission may by regulation prescribe shall be allocated for administrative expenses, which expenses shall include but not be limited to all forms of remuneration paid to officers, directors, and employees of a fund.

### FIDUCIARY STANDARDS

SEC. 106. (a) Every fund shall be deemed to be a trust and shall be held for the exclusive purpose of providing benefits to participants and beneficiaries.

(b) Any person who exercises any power of control, management, or disposition with respect to any moneys or other property of a fund is a fiduciary and occupies a position of trust with respect to such fund, and to its participants and beneficiaries.

(c) A fiduciary shall discharge his or her duties with respect to the fund—

(1) solely in the interests of the participants and beneficiaries,

(2) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and with a like concern for the income security of retirees would use in the conduct of an enterprise with similar aims, and

(3) in accordance with the documents and instruments governing the fund insofar as consistent with this Act.

(d) Nothing in this section shall be construed to prohibit any fiduciary from—

(1) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses incurred in the performance of his duties with the fund, but no fiduciary shall directly or indirectly accept or be the beneficiary of any fee, brokerage, commission, gift, or other consideration for or on account of any loan, deposit, purchase, sale, payment, or exchange made by or on behalf of the fund;

(2) receiving any benefit to which he may be entitled as a participant or beneficiary in the fund;

(3) purchasing on behalf of the fund any security which has been issued by an employer whose employees are participants in the fund;

(4) making special allowance investments with up to 10 per centum of the assets of the fund;

(5) voting shares held by the fund in accordance with voting preference questionnaires furnished to each participant or beneficiary pursuant to section 205(f).

(e)(1) Any fiduciary who breeches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Act shall be personally liable to reimburse such fund an amount equal to any losses experienced by the fund resulting from such breach and to restore to such fund any profits accrued by the fiduciary resulting from his breach of duty.

(2) No fiduciary shall be indemnified by the fund in connection with such a breach.

(3) Any exculpatory provisions in the agreement establishing a fund under this Act or any resolution or agreement by the parties thereto which purports to relieve any fiduciary with relation to any such fund from liabilities for breach of the responsibilities, obligations, or duties declared by this section shall be void as against public policy.

(f) Directors and officers are required to disclose their securities holdings to the Commission and the participants of the fund. To the extent that their holdings coincide with holdings of the fund, those holdings shall be sold or placed in a blind trust for the duration of the director's or officer's tenure.

(g) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or violations committed after he ceased to be a fiduciary.

## TITLE II—DISCLOSURE

### INAPPLICABILITY OF PRIOR LAW

SEC. 201. The Welfare and Pension Plans Disclosure Act is not applicable to retirement benefit funds established pursuant to this Act. This Commission shall have sole power to enforce the provisions of this title.

### INFORMATION DISCLOSED

SEC. 202. (a) The chief executive officer of each fund shall cause to be published (1) a description of the fund, and (2) an annual report. Such description and such report shall contain the information required by sections 203 and 204 of this title in such form and in such detail as the Commission shall by regulation prescribe and shall be executed, published, and filed in accordance with the provisions of this Act and regulations of the Commission.

(b) The chief executive officer of a fund shall furnish to each participant and beneficiary covered thereunder in accordance with subsections (c), (d), and (e) of section 205—

(1) a summary of the annual report,

(2) a year-end statement,

(3) an investment preference questionnaire, and

(4) where appropriate, a voting preference questionnaire.

### FUND DESCRIPTIONS

SEC. 203. (a) A description of any fund shall be published as required herein within ninety days after the establishment of such fund and shall be mailed to participants and beneficiaries in accordance with section 205 (c) (1).

(b) (1) The description of the fund shall be comprehensive and shall include—

(A) the name of the fund,

(B) the name and address of all directors and officers,

(C) a description of the operation of the fund, written in a manner calculated to be understood by the average participant,

(D) the fiscal year of the fund,

(E) a statement of how participants' benefits are to be calculated,

(F) a statement of investment policies,

(G) a copy of mortality tables used in determining benefits,

(H) the procedures to be followed in presenting claims for benefits under the fund and the remedies available for the review or appeal of claims which are denied in whole or part, and

(I) any other data or information which the Commission concludes is necessary if participants and beneficiaries are to have a clear understanding of the chief features of their fund.

(2) Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Commission.

### ANNUAL REPORTS

SEC. 204. (a) An annual report shall be published with respect to any fund established pursuant to this Act, as required under section 205, within one hundred and fifty days after the end of the fiscal year of the fund.

(b) The chief executive officer of a fund shall cause an audit to be made annually. Such audit shall be conducted in accordance with generally accepted accounting principles by an independent certified or licensed public accountant. The audit's opinion and comments with respect to the financial information shall be furnished in the annual report and shall form a part of such report. In addition the results of any special audits, including those that the Commission may by regulation prescribe, shall form a part of such report.

(C) A report under this section shall include—

(1) the aggregate amount contributed by the participants; the aggregate amount contributed by employers and the aggregate amount contributed by spouses; the amount of benefits paid to participants and beneficiaries; the number of participants; the number of beneficiaries; a statement of assets, liabilities, receipts, and disbursements of the fund; a detailed statement of the salaries, fees, commissions, and other administrative expenses charged to the fund, to whom paid, in what amount, and for what purposes; the name and address of each officer, director, consultant, and other fiduciary, his or her official position with respect to the fund, and any other office, position, or employment he or she holds;

(2) a schedule of all investments of the fund showing, as of the end of the fiscal year—

(A) the aggregate cost and aggregate value of each security, by issuer; and

(B) the aggregate cost and aggregate value, by type or category, of all other investments, and separately identifying (i) each investment which exceeds $100,000 or 3 per centum of the value of the fund, and (ii) each investment made pursuant to section 106(d) (4);

(3) a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions, and exchanges of securities made during the reporting period; a list of the issuers of such securities; and, in addition, a schedule showing, as to each separate transaction with respect to securities held or acquired pursuant to section 106(d) (4), the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, the date of purchase, and, in the case of a sale, redemption, or exchange, the gross net proceeds (including a description and the value of any consideration other than money), the dates of such sales, redemptions, or exchanges, and the net gain or loss;

(4) a schedule of purchase, sales, or exchanges during the year covered by the report of investment assets other than securities—

(A) by type or category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) on sales, and

(B) for each transaction involving investments made pursuant to section 106(d) (4) and for each transaction involving $100,000 or 3 per centum of the fund, an indication of each asset purchased, sold, or exchanged (and, in the case of fixed assets such as land, buildings, and leasehold, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase, sale, or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a sale, and his or her relationship to the fund;

(5) a schedule of all loans made from the fund during the reporting period or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting period, aggregated in each case by type of loan, and, in addition, a separate schedule with respect to all loans—

(A) made pursuant to section 106(d) (4),

(B) in default,

(C) written off during the year as uncollectible, and

(D) all other loans.

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obliger, a detailed description of the loan (include date of making and maturity, interest rate, the type and value of collateral, whether or not the loan is insured, and material terms), the amount of principal and interest overdue (if any), and, as to loans written off as uncollectible, an explanation thereof;

(6) in addition to reporting the information required by this subsection, the directors and officers may furnish other information as to investments or reinvestments of the fund as additional disclosures to the Commission.

(d) Any annual report made under this section shall include—

(1) the number of participants, both retired and nonretired, covered by the fund during the fiscal year to which the report relates;

(2) the number of participants and beneficiaries receiving benefits and the dollar amount of such benefits paid during that year;

(3) the amount of all accumulated net assets as of the close of that year;

(4) the value of all accrued liabilities for benefit payments as of the close of that year;

(5) the total earnings of the fund for the reporting year in dollar amount, and the percentage rate of return on total assets, shown in terms of measurements prescribed by the Commission;

(6) the amount of insurance premiums paid to the Federal Insurance Corporation during that year;

(7) all amounts returned to the fund from the Federal Pension Insurance Corporation during that year; and

(8) such other information as the Commission may by regulation prescribe.

### DISCLOSURE TO PARTICIPANTS

SEC. 205. (a) The Commission shall prepare forms for the fund descriptions, annual reports, annual statements, and investment and voter preference questionnaires required by the provisions of this Act and shall make such forms available to the directors and officers of such funds on request.

(b) The chief executive officer of all funds subject to this Act shall file with the Commission a copy of the fund description and each annual report and any other items the Commission may require. The Commission shall make copies of such descriptions and annual reports available for inspection, examination, and copying at the Commission.

(c) The chief executive officer of each fund shall publish plan descriptions and annual reports by—

(1) mailing copies of the fund description (including all amendments and additions thereto) and of annual reports to each participant or beneficiary upon request;

(2) making copies of the fund description (including all amendments and additions thereto) and the latest annual report available for public inspection in the principal office of the fund;

(3) furnishing to any person so requesting in writing a complete copy of the annual report, and charging the costs of copying and mailing the report to the requesting party; and

(4) furnishing to all fund participants and beneficiaries a summary of the latest annual report within sixty days after the end of the fiscal year, including, but not limited to, a schedule of all special allowance investments made during the preceding year and the return thereon during the preceding fiscal year.

(d) The chief executive officer shall mail within sixty days after the end of the fiscal year to each fund participant and beneficiary a yearend statement. The statement shall be written in a manner calculated to be understood by the average participant, and shall include the total contributions credited to his account for the reporting period, the source of the contributions, earnings on accrued contributions, the total amount credited to his account, a projection of yearly income at retirement produced by contributions paid in to date (exclusive of future payments), a projection of yearly income at retirement produced if contributions are made at the current rate to age sixty-five the assumptions used for any such projections, a statement of the manner in which pension benefits are reduced to provide for benefit payments to surviving beneficiaries, and such other information as the fund may deem appropriate or as the Commission may by regulation require.

(e) The chief executive officer shall furnish an investment preference questionnaire to each participant or beneficiary with his yearend statement. The questionnaire shall be in such form and contain such information as the Commission shall by regulation require and shall include but not be limited to requests for information regarding whether or not the fund should make special allowance investments (as defined in section 106(d) (4)), the percentage of fund assets to be so invested, and areas of special concern in which the fund should invest. The results of such questionnaires shall be furnished to all participants and beneficiaries in accordance with regulations promulgated by the Commission and such results shall be considered by, but shall not be binding upon, the directors, officers, or other fiduciaries of the fund.

(f) On the motion of one or more of the directors, there shall be furnished to each participant or beneficiary a voting preference questionnaire. Such voting preference questionnaire shall solicit information directly relating to the voting of shares held by the fund. The results of such voting preference questionnaires shall be furnished to all participants and beneficiaries in accordance with regulations promulgated by the Commission and must be considered by, but shall not be binding upon, the directors, officers, or other fiduciaries of the fund.

(g) The books of the fund shall be open for inspection by any participant or beneficiary on thirty days' written notice.

(h) Upon conviction of willful violation of the provisions of this title, the chief executive officer of any fund shall be punishable by a fine of not more than $1,000, imprisonment for not more than six months, or both.

## TITLE III—CONTRIBUTIONS; BENEFITS; INSURANCE

### CONTRIBUTIONS

Sec. 301. (a) All pension contributions shall be made to funds selected by participants. Contributions may be made on behalf of a participant by the participant or by his or her employer or spouse but no participant may contribute on his or her own behalf during any calendar year amounts totalling in excess of 25 per centum of the then current maximum taxable social security wage base, as determined under section 3121 of the Internal Revenue Code of 1954, reduced by all amounts contributed by the participant's employer and spouse. The Commission shall prescribe procedures designating the times and the manner in which contributions shall be made by employers, spouses, and participants to funds. Nothing in this section shall limit the right of employers, labor organizations, and participants to bargain as to the level of pension contributions to be provided by the employer.

(b) Each fund shall provide each participant with a passbook, indicating the amount of pension contributions paid to the fund on his or her behalf at the time of issue, and containing space for the inclusion of the annual yearend statements required to be furnished each participant under title II, section 205(d) of this Act. Upon submission by the participant of his or her passbook to the fund, the fund shall enter thereon a notation of all payments received plus all earnings accrued to date including, where appropriate, an indication of a participant's share of increments in the value of fund assets and of any amounts returned to the fund by the revolving fund of the Federal Pension Insurance Corporation established by section 305 of this title.

### TRANSFERABILITY

Sec. 302. (a) No person shall have pension moneys deposited with more than one fund at a time. Nothing in this section shall preclude a fund participant from acquiring rights as a beneficiary in moneys deposited in another fund pursuant to section 304(b) if at the time of, or prior to, the filing of a declaration of retirement pursuant to section 304(a) the participant or beneficiary requests one or more fund transfers for the purpose of consolidating in a single fund all moneys in which the participant or beneficiary has an interest.

(b) A participant or beneficiary may transfer all amounts accumulated in his or her account in one fund to another fund by filing a written transfer request with his or her fund. All funds shall honor transfer requests within twenty days of receipt, except that in no event shall amounts accumulated in the account of an individual participant or beneficiary be transferred more often than once per year, at times and under conditions to be prescribed by the Commission. The yearend statement furnished each participant and beneficiary under section 205 (d), shall specify his or her right to transfer pension moneys and the terms on which he or she may do so.

### SALES AND ADVERTISING

Sec. 303. (a) Except as provided in this section, no fund shall accept pension contributions from or on behalf of any participant without first furnishing such participant with a copy of its most recent solicitation prospectus and without receiving written notice from said participant that he or she has received and inspected the solicitation prospectus. A solicitation prospectus shall consist of a concise statement of information about a fund to assist a prospective participant in determining whether his or her pension contributions should be paid to that fund. Solicitation prospectuses shall include a fund's name, address, names of directors, officers, and consultants, statements of operating results, projected earnings, and investment policy, and any other information prescribed by the Commission. The Commission shall prescribe regulations with regard to the length and format of the solicitation prospectus, the need for information to assist prospective participants in choosing a fund, and the desirability of minimizing the administrative expenses of all funds so as to maximize the benefits to participants and beneficiaries. Every fund shall prepare a solicitation prospectus at times to be prescribed by the Commission.

(b) Notwithstanding the provisions of subsection (a), the Commission may provide during a period not to exceed two years following the effective date of this Act for alternate means by which prospective participants shall be informed about funds, if it appears unduly expensive and cumbersome to provide every prospective participant with a copy of the solicitation prospectus of every fund.

(c) The Commission shall promulgate rules to maximize the return to participants and beneficiaries, and it shall be the obligation of each fund to minimize costs incurred in advertising the nature and existence of said fund and in soliciting prospective participants. In any event, no fund shall employ any salesman, agent, or other representative on a commission or salary basis to solicit individuals or groups of employees to make pension contributions to said fund.

(d) It shall be unlawful for any fund or any representative thereof to make any materially false, falsely disparaging, or misleading oral or written statement or other representation of any kind with the intent to persuade any prospective participant to designate said fund as the depository of his or her pension contributions. The making of the following representations shall constitute prima facie evidence of a violation of this section:

(1) Any statement, suggestion, or intimation that a particular characteristic of a fund distinguishes it from other funds, when in fact such characteristic is common to many or most such funds.

(2) Any statement, suggestion, or intimation that a fund is an instrumentality of the United States Government.

(3) Any statement of past earnings performance of a fund unless it shall be followed immediately by the statement that "The preceding record of earnings represents past performance only. There can be no guarantee that the same performance will be repeated in the future.".

(c) Whoever is convicted of violating the provisions of this section shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

### BENEFITS AND PAYMENT

Sec. 304. (a) Pension benefits are payable to a participant or beneficiary as follows:

(1) At such time as each participant or beneficiary elects to retire, but only one time during his or her life, the participant or beneficiary shall file a "declaration of retirement" with his or her fund. Each fund shall make available declaration of retirement forms as prescribed by the Commission to all participants and beneficiaries. Upon receipt of a completed declaration of retirement form, such fund shall forward a copy to the Social Security Administration, where it shall be filed with the participant's or beneficiary's social security records. Upon filing a declaration of retirement with a fund a participant or beneficiary shall immediately become eligible to receive a lifetime pension benefit.

(2) A participant's lifetime pension benefit shall be an annuity, payable monthly, determined in accordance with nondiscriminatory actuarial standards and methods approved by the Commission and based on all amounts accumulated in the participant's account on the date the participant files a declaration of retirement.

(3) If participants married to each other and possessing separate accounts in the same fund file a joint declaration of retirement, they shall receive an annuity for their joint lives and for the life of the survivor based on the sum of all amounts accumulated in their respective accounts, determined in accordance with nondiscriminatory actuarial standards approved by the Commission.

(c) A beneficiary's lifetime pension benefit shall be determined as follows:

(1) If a married participant dies after filing a declaration of retirement and has not stated that he or she does not want his or her spouse to become a beneficiary, the surviving spouse shall immediately become eligible to receive the lifetime pension benefit previously received by the deceased participant.

(2) If a married participant dies before filing a declaration of retirement, the surviving spouse shall automatically be eligible to become a beneficiary at such time as he or she files a declaration of retirement. The surviving spouse's lifetime pension shall be an annuity payable monthly determined in accordance with nondiscriminatory actuarial standards and methods and shall be based on all amounts accumulated in the deceased participant's account on the date the beneficiary files the declaration of retirement.

(3) If a married participant dies before filing a declaration of retirement and the participant's surviving spouse also dies before filing a declaration of retirement, each of the participant's surviving dependent children shall become beneficiaries and shall be entitled to receive an equal share of the pension payment the surviving spouse would have received had he or she filed a declaration of retirement on the date of his or her death, until such time as the child becomes twenty-two years of age unless he is incapable of self-support. At such time as any surviving child becomes ineligible for benefits under this section, the amount to which other surviving children shall be entitled shall be recomputed based on the number of children then remaining eligible. Payments to eligible children may be made directly or to a legal guardian.

(d) Except as provided in (2) and (3) of subsection (c), if a participant dies before retirement, all amounts accumulated in the participant's account shall be paid by his or her fund into the revolving fund of the Federal Pension Insurance Corporation established under section 305 of this title.

(e) The lifetime pension benefits of a participant who has filed a declaration of retirement may be reduced in accordance with nondiscriminatory actuarial standards and methods in any case in which the participant's spouse may be entitled to receive the participant's pension benefit upon the death of the participant.

(f) In the event of any dispute between any person and any fund concerning an alleged right to receive a benefit or the amount of a benefit, such person may bring a civil action in the United States district court in the district where such person resides.

### INSURANCE

Sec. 305. (a) There is hereby established a corporation to be known as the Federal Pension Insurance Corporation (hereinafter referred to as the "Corporation"). The Corporation shall be under the direction and control of the Federal Deposit Insurance Corporation.

(b) The Corporation shall insure rights of participants and beneficiaries to the extent of (1) all payments made to the fund of any employer or any participant on behalf of the participant or (2) a participant or beneficiary has filed a declaration of retirement pursuant to section 304(a) the present value of his or her lifetime pension benefit. The Corporation shall insure funds against loss from special allowance investments made pursuant to section 106(d)(4) of this Act to the extent of the principal of such special allowance investments plus interest equal to one-third the average rate of return achieved from investment of the fund's portfolio (exclusive of special allowance investment) in the year in which the special allowance investment is made.

(c) Each fund shall pay an annual premium for insurance under the program to be established by the Corporation. Premium rates established under this section shall be determined by uniform standards for all funds. The premium rates may be changed from year to year by the Corporation, when the Corporation determines changes to be desirable or necessary to give effect to the purposes of this title. Premiums under this title shall be payable at times to be specified by the Corporation.

(d) In carrying out its duties under this title, the Corporation shall establish a revolving fund into which shall be paid all amounts paid to the Corporation as premiums, and all amounts accruing from preretirement death of participants as provided in sections 304(d) and 304(c)(2) of this title.

(e) The Corporation shall from time to time when it determines that the amount remaining in the revolving fund will be adequate to serve the purposes of this section remit to funds a portion of the amounts accumulated in the revolving fund in order to maximize the benefits received by participants and beneficiaries. Such amounts shall be remitted in proportion to the amount of assets deposited with each fund at the time such remittance is made, and shall be apportioned to participants' accounts in proportion to the size of their accounts.

(f) The Corporation is authorized to borrow from the United States Treasury such amounts as may be necessary for deposit into the revolving fund to meet the liabilities of the Corporation. Moneys borrowed from the Treasury shall bear a rate of interest determined by the Secretary of the Treasury to be equal to the average rate on outstanding marketable obligations of the United States as of the time such moneys are borrowed. Such moneys shall be repaid by the Corporation from premiums and pension moneys accruing from preretirement death of participants paid into the revolving fund.

(g) Moneys in the revolving fund not required for current operations shall be invested in obligations of, or guaranteed as to principal and interest by, the United States.

## TITLE IV—TRANSITION PERIOD

### RETIREMENT BENEFIT FUNDS

SEC. 401. Contributions to retirement benefit funds may be made by the following:

(a) Self-employed persons now making pension contributions pursuant to provisions of the Internal Revenue Code of 1954, may—

(1) continue to make such contributions but contribute to a fund any difference between the contributions they make to their preexisting plan and the maximum contribution authorized by section 301(a) of this Act, or

(2) transfer their accrued contributions to a fund.

(b)(1) Employed persons not covered by a preexisting plan shall be permitted to contribute to a fund each year an amount not in excess of the maximum contribution authorized by section 301(a) of this Act.

(2) Employed persons covered by a preexisting pension plan shall be permitted to contribute to a fund each year an amount—

(A) not greater than 25 per centum of the then current maximum taxable social security wage base;

(B) reduced by an amount equal to the employee's wage or salary multiplied by twice the ratio of the employer's annual pension cost to the employer's total annual payroll cost except that there shall be no such reduction in the event that an employer certifies to a fund selected by an employee that the employee's age or other circumstances beyond the employee's control will prevent the employee from receiving benefits from a preexisting plan; and

(C) reduced further by amounts contributed to the fund on the employee's behalf by an employer or spouse.

(c)(1) Employers, some or all of whose employees are not covered by a preexisting pension plan may make contributions on behalf of their noncovered employees if the amounts contributed are—

(A) the same amount for each employee not covered by a preexisting pension plan, or

(B) an amount equivalent to the same percentage of the wage or salary of each such employee, and if contributions are made on behalf of all noncovered employees over twenty-five years of age and on behalf of all noncovered employees under twenty-five years of age who have the equivalent of three or more years of service with the employer, whether such service is full time, part time, or seasonal.

(2) Employers whose employees are covered by a preexisting pension plan may decide pursuant to an affirmative vote of 70 per centum of the covered employees and retirees, and in accordance with the terms of the preexisting pension plan, to terminate such plan and distribute all plan assets to accounts for individual employees, retirees, and beneficiaries in retirement benefit funds selected by the employees, retirees, and beneficiaries.

(3) Employers whose employees are covered by a preexisting pension plan with assets sufficient to cover all accrued liabilities for vested benefits shall, upon receipt of a petition signed by 3 per centum of the covered employees and retirees conduct an election to determine whether the pension plan should be terminated and its assets distributed to accounts for individual employees, retirees, and beneficiaries in retirement benefit funds selected by the employees, retirees, and beneficiaries. If 80 per centum of the covered employees vote in favor of termination, the employer shall terminate the preexisting pension plan in accordance with the terms of the plan. For the purposes of this subsection "liabilities for vested benefits" means the present value (determined in accordance with the actuarial standards and methods approved by the Commission) of the immediate or deferred benefits available at regular retirement age for participants and beneficiaries which are nonforfeitable and for which all conditions of eligibility have been fulfilled.

(4) The Commission shall prescribe procedures for the conduct of elections pursuant to subsections 401 (2) and (3) and for the distribution of plan assets in the absence of plan termination schedules.

(d) A married person shall be permitted to make contributions on behalf of his or her spouse to a separate account in the spouse's own name in a fund selected by the spouse. Amounts contributed pursuant to this subsection each year shall not exceed 25 per centum of the then current maximum taxable social security wage base, reduced by all amounts contributed by the spouse's employer or the spouse on the spouse's behalf.

(e) All amounts contributed to the fund in excess of the limitations contained in section 401 of this Act and in section 301 (a) of this Act as well as all amounts contributed to a fund on behalf of a participant who has filed a declaration of retirement pursuant to section 304(a) of this Act shall be returned to the person who has made the contribution.

### PREEXISTING PENSION PLANS

SEC. 402. (a) To insure that participants in preexisting plans who have become and will become entitled to pension benefits under those plans will receive such benefits, all employers with preexisting pension plans shall adopt one of the following two transitional programs:

(1) Within thirty days of the effective date of this Act the employer shall file with the Commission a statement of intent to modify the preexisting pension plan in accordance with Commission approved guidelines at the expiration of any applicable collective bargaining agreement or within ninety days, whichever occurs later. These guidelines shall include but shall not be limited to provisions requiring—

(A) the adoption of a schedule calling for the gradual reduction of vesting requirements over a period no longer than thirty years so that at the end of thirty years, or before, the preexisting pension plan will provide that all employees over twenty-five years of age and all employees under twenty-five years of age with the equivalent of three years of service, whether full time, part time, or seasonal, will acquire either—

(i) immediate nonforfeitable rights to deferred defined pension benefits to be paid by the preexisting pension plan or

(ii) rights to defined contributions of equivalent value paid by the employer on behalf of plan participants to individual accounts in retirement benefit funds selected by the employees. The term "vesting requirements" as used in this subsection refer to provisions requiring that employees work for one or more employers for a specified number of years and until they reach a specified age before acquiring nonforfeitable legal claims to immediate or deferred pension benefits;

(B) the adoption of a schedule providing for the elimination over a thirty-year period of all unfunded liabilities accrued by the preexistiing pension plan at the time this legislation is enacted. The term "unfunded liabilities" as used in this subsection means the difference between the value of the accrued liability and the value of the assets of the pension plan as of the date of valuation of the plan. The accrued liability is the liability determined in accordance with actuarial standards and methods approved by the Commission;

(C) the adoption of a procedure whereby upon the written request of any employee with vested rights to a pension benefit, the administrators of the preexisting plan will transfer an amount of money equal to the discounted value of the employee's vested rights to a retirement benefit fund selected by the employee;

(D) the adoption of a plan provision to the effect that benefit levels provided by the preexisting pension plan will not be modified without express authorization by the Commission unless such benefit increases are financed entirely by increased employer contributions and by voluntary employee contributions and create no additional unfunded liabilities, as defined in subsection (B);

(E) the adoption of a plan provision to the effect that married participants' benefits will be automatically actuarially reduced (using the valuation standards and methods approved by the Commission) to provide benefits to surviving spouse unless a participant files a written statement with the plan administrator prior to retirement stating that he or she does not want to provide for a survivor;

(F) the adoption of a plan provision requiring the submission of individual statements to the Commission signed by each administrator of the preexisting pension plan and by any other person who exercises any power of control, management, or disposition with respect to the assets of the pension plan, acknowledging that he or she is a fiduciary with respect to such assets who has undertaken to act exclusively in the best interests of all plan participants and retirees and beneficiaries.

(b) Within thirty days after the effective date of this Act the employer shall file with the Commission a statement of intent to allocate pension contributions paid after the expiration of any applicable collective-bargaining agreement or after the close of the then current calendar (or if appropriate, fiscal) year, whichever occurs later, as follows:

(1) The employer shall allocate to an account established for each employee covered by the preexisting pension plan a portion of the total annual amount to be paid to fund pension plan obligations except that—

(A) the same annual amount for each employee or an annual amount equivalent to the same percentage of the annual wage or annual salary of every employee shall be allocated to each employee, and the entire annual amount to be used to fund pension obligations shall be allocated among the covered employees and that

(B) this subsection shall not apply to preexisting pension plans terminated pursuant to subsection (c)(2) and (3) of this section.

(2) The amount allocated to each employee employed on the effective date of this Act shall be contributed to the preexisting pension plan to fund its obligations.

(3) The amount allocated to each employee whose employment begins after the effective date of this Act and who is thirty-five years of age or more when his or her employment begins shall be contributed to an individual account in the employee's name in a retirement benefit fund selected by the employee.

(4) The amount allocated to each employee whose employment begins after the effective date of this Act and who is less than thirty-five years of age when his employment begins shall be contributed to the preexisting pension plan to help fund its obligations. When such new employee becomes thirty-five years of age, all future contributions allocated to the new employee shall go to an individual account in a retirement benefit fund selected by the employee.

(5) The transition period prescribed by this subsection shall be completed within thirty years.

(A) Ten years from the effective date of this Act, the age limit in subsection (b)(3) and (b)(4) shall be lowered to thirty years. Those employees who at the end of ten years come within the provisions of subsection (b)(4) and who are then between thirty and thirty-five years of age shall thereafter have all contributions allocated to them paid to individual accounts in retirement benefit funds of their choice.

(B) Twenty years from the effective date of this Act, the age limit in subsections (b)(3) and (b)(4) shall be lowered to twenty-five years. Those employees who at the end of twenty-five years come within the provisions of subsection (b)(4) and who are then between twenty-five and thirty years of age shall thereafter have all contributions allocated to them paid to individual accounts in retirement benefit funds of their choice.

(C) Thirty years from the effective date of this Act, all contributions for all employees shall be made to individual fund accounts in their names.

(D) At or before the conclusion of the thirty-year transition period any deficit in the funding of obligations under a preexisting plan shall be eliminated by employer contributions.

(3)(A) If a member of the Academy of Actuaries qualified in the evaluation of pension plans or an actuary determined by the Commission to have equivalent qualifications determines, before the end of the transition period, on petition of the employer, and the Commission subsequently certifies on the basis of his evaluation that a preexisting plan will be able to pay all promised benefits, the employer may cease making payments to the preexisting fund and begin making contributions for all employees to retirement benefit funds.

(B) If an employer is making contributions to a preexisting fund from amounts allocated to employees not eligible for benefits from such fund, on petition of 3 per centum of such nonbenefited employees the Academy of Actuaries shall determine whether the preexisting plan will be able to pay all promised benefits. If the academy determines that such a plan can pay all promised benefits any affected individual can request the Commission to order the employer to cease making contributions to such a preexisting fund.

(4)(A) Until a preexisting plan is terminated or certified by the Commission as able to pay all promised benefits, total employer contributions shall be at least as great a percentage of total employee remuneration as they were in the year during the three-year period immediately preceding the effective date of this Act in which the lowest percentage of total employee remuneration was contributed to a pension fund. If such a plan has been in existence less than three years, the above period shall date back only to the time of establishment of the plan.

(B) An employer shall make no change in pension benefit levels without express Commission approval until a preexisting plan is certified as able to pay all promised benefits or until twenty years after the passage of this Act, whichever comes first. Thereafter the level of pension benefits shall be freely determined by employer and employees.

(5)(A) Any employer subject to the provisions of subsection 402(b) of this Act may apply to the Commissioner for a hearing to determine a possible exemption from such provisions.

(B) The Commission may exempt an employer wholly or in part from the provisions of this subsection 402(b) if the employer establishes that his business operations will be substantially impaired by a full application of subsection 402(b) to his business. Employees of any employer making a request for exemption shall have a right to intervene in any such hearing as full parties.

(C) The employer or intervening employees may appeal any adverse decision rendered under this section to any Federal district court. The determination of the Commission shall be upheld unless it is shown to be contrary to law or not based on substantial evidence.

### FEDERAL, STATE, AND LOCAL PENSION FUNDS

SEC. 403. No pension funds operated by or for any governmental agency, whether Federal, State, or local shall be subject to any provision of this Act unless the governmental unit elects to establish or modify a pension plan in accord with the provisions of this Act and if it does so shall become subject to all provisions of this Act.

### RETIRED WORKERS INCOME SECURITY COMMISSION

SEC. 404. (a) There is hereby established a Retired Workers Income Security Commission which shall study the economic problems of presently and soon-to-be-retired workers whose retirement needs will not be met by this legislation. The Retired Workers Income Security Commission shall propose to Congress, within one year of the effective date of this Act, means by which such workers and their survivors may receive a fair retirement income commensurate with their past contributions to the economic well-being of the Nation. The Secretaries of Labor, Treasury, Commerce, and Health, Education, and Welfare, and the Chairman of the Securities and Exchange Commission shall each appoint one member of the Retired Workers Income Security Commission.

(b) There are authorized to be appropriated $100,000 for the fiscal year ending June 30, 1974, for the purposes of carrying out the provisions of this section.

## TITLE V—PENALTIES, ENFORCEMENT

### CIVIL LIABILITY

SEC. 501. Any person who violates any section of this Act, whether willfully or negligently, shall be civilly liable for damages resulting from such violation. Actions for violations of this Act may be brought by injured participants or beneficiaries.

### CRIMINAL LIABILITY FOR FALSE STATEMENTS

SEC. 502. Whoever in any document required by this Act to be submitted to the Commission, published, or kept as part of the records of any fund makes any false statement or representation of fact knowing it to be false or knowingly conceals, covers up, or fails to disclose any fact the disclosure of which is required by this Act shall upon conviction thereof be fined not more than $10,000 or imprisoned for not more than five years, or both.

### CRIMINAL LIABILITY FOR FRAUD AND CONVERSION

SEC. 503. Whoever—

(a) embezzles, steals, or unlawfully and willfully abstracts or converts to his own use or the use of another any of the assets of a fund; or

(b) by any scheme or device defrauds such fund or makes or submits a false statement of material fact to such fund or its officers, directors, agents, consultants, employees, or counsel with the intent to cause such fund to make a loan of any of its assets or disperse the proceeds of such loan or otherwise transfer any of its assets to any person; or

(c) having obtained such a loan willfully converts the proceeds thereof to a use not approved by the fund which either adversely affects the value of any security for such loan or which is in furtherance of any act, plan, or scheme in violation of the laws of the United States or the State in which the proceeds are used, shall upon conviction be fined not more than $10,000 or imprisoned for not more than five years, or both.

### INVESTIGATIONS

SEC. 504. (a) The Commission may, in its discretion, make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of this Act or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Commission is authorized in its discretion, to publish information concerning any such violations, and to investigate any such facts, conditions, practices, or matters which it may deem necessary or proper to aid in the enforcement of the provisions of this Act, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this Act relates.

(b) For the purpose of any such investigation, or any other proceeding under this Act, any member of the Commission or any officer designated by it is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, paper, correspondence, memorandums, or other records which the Commission deems relevant or material to the inquiry. Attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing.

(c) In case of contumacy by, or refusal to obey a subpena issued to any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. And such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question and any failure to obey such order of the court may be punished by such court as contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who shall, without just cause, fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memorandums, and other records, if in his power to do so, in obedience to the subpena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or both.

(d) Whenever it shall appear to the Commission that any person is engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this Act, or of any rule or regulation thereunder, it may in its discretion bring an action in the proper district court of the United States of the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. The Commission shall transmit such evidence as may be available concerning such acts or practices to the Attorney General, who may, in his discretion, institute the necessary criminal proceedings under this Act.

(e) Upon application of the Commission the district courts of the United States, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall also have juisdiction to compel any person to comply with the provisions of this Act or any order of the Commission made in pursuance thereof.

(f) The Commission may order testimony to be taken by deposition in any proceeding or investigation pending under said sections at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as provided herein.

(g) Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the case shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

### UNANNOUNCED AUDITS

Sec. 505. The Commissioner shall have the power to order unannounced audits of any fund when he deems it proper. Such audits shall be carried out by certified or licensed public accountants in accordance with generally accepted accounting principles.

### JURISDICTION

Sec. 506. An individual action brought by any single plaintiff to enforce any provision of this Act may be maintained in any State or Federal court of competent jurisdiction by any participant or beneficiary. A civil action in any State court arising under this Act may not be removed to any district court of the United States unless the removal is assented to by the plaintiff. Each and every United States district court has original jurisdiction over any litigation arising under this Act regardless of the amount in controversy or the citizenship of the parties.

### CLASS ACTIONS

Sec. 507. A class action may be maintained to enforce any provision of this Act by any participant or beneficiary in any United States district court and each United States court of a place subject to the jurisdiction of the United States. Such an action may be brought in any judicial district in the State in which the violation is alleged to have been committed, in the judicial district in which the fund's records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff is, or would have been a participant or beneficiary but for the violation alleged, but if the respondent is not found within any such district, such action may be brought within the judicial district in which the respondent has its principal office. For purposes of sections 506 through 511 of this title the judicial district in which the respondent has its principal office shall in all cases be considered a district in which the action might have been brought.

### CLASS ACTION NOTICE PROVISIONS

Sec. 508. (a) Actions brought under section 507 of this title shall be brought in accordance with rule 23 of the Federal Rules of Civil Procedure, except that notice shall be given the members of the class in accordance with the following provisions:

(1) At the time an action is instituted the court shall order a bifurcated trial on the substantive threshold issues, which shall take place after both parties have engaged in preliminary discovery.

(2) If the plaintiff prevails on the substantive threshold issues in the bifurcated trial then, and only then, shall the class be notified within the costs of notice borne by the plan.

(b) The court shall order that such notice be provided to the class in the plan's annual statement, investment preference questionnaire in cases when this will not produce undue delay, and no provision of rule 23 shall be interpreted by any court as requiring a specified number or percentage of the participants or beneficiaries of a plan to be named as plaintiffs before they can be deemed to adequately or fairly represent the members of a class.

### APPOINTMENT OF ATTORNEYS

Sec. 509. Upon application by a participant or beneficiary and in such circumstances as the court may deem just, the court may appoint an attorney for such a participant or beneficiary and may authorize the commencement of the action without payment of fees, costs, or security. Upon timely application the court may, in its discretion, permit the Commission to intervene in such civil action if it certifies that the case is of general public importance.

### ATTORNEYS FEES

Sec. 510. The court shall award attorneys fees, costs, and court fees to private plaintiffs who successfully bring actions under this Act.

### BONDING

Sec. 511. (a) Every administrator, officer, employee of a fund subject to this Act who handles money or other property of a fund shall be bonded as herein provided. The amount of such bond shall be fixed at the beginning of each calendar, policy, or other fiscal year, as the case may be which constitutes the reporting year of such plan. Such amount shall be not less than 10 per centum of the amount of the money or other property handled, determined as herein provided, except that any such bond shall be in at least the amount of $1,000 and no such bond shall be required in an amount in excess of $500,000. The Commission, after notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of $500,000, which in no event shall exceed 10 per centum of the amount of money or other property handled. For purposes of fixing the amount of such bond, the amounts handled shall be determined by the amounts handled by the person, group, or class to be covered by such bond and by their predecessor or predecessors, if any, during the preceding year, or if the fund was not in existence during the preceding year, the amount of funds to be handled during the current reporting year, by such person, group, or class, estimated as provided in Commission regulations. Such bond shall provide protection to the plan against loss by reason of acts of fraud or dishonesty on the part of such administrator, officer, or employee, directly or through connivance with others. Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury. Any bond shall be in a form or of a type approved by the Commission, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any administrator, officer, or employee to whom subsection (a) of this section applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the money or other property of any fund without being bonded as required by subsection (a) of this section and it shall be unlawful for any administrator, officer, or employee of such plan, or any other person having authority to direct the performance of such functions, to permit such function, or any of them, to be performed by any such person, with respect to whom the requirements of subsection (a) of this section have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) of this section from any surety or other company or through any agent or broker in whose business operations such fund or any party in interest in such plan has any significant control or financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person, required to be bonded as provided in subsection (c) of this section because he handles money or other property of a fund, to be bonded insofar as the handling by such person of the money or other property of such fund is concerned.

(e) The Commission shall from time to time issue such regulations as may be necessary to carry out the provisions of this section. When, in the opinion of the Commission a fund offers adequate evidence of the financial responsibility, or that other bonding arrangements would provide adequate protection of the participants and beneficiaries, it may exempt such fund from the requirements of this section.

(f) Any person who is convicted of willfully violating the provisions of subsections (b) and (c) of this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

## TITLE VI—EFFECTIVE DATE

Sec. 601. The effective date of this Act shall be one year after enactment of this Act.

## TITLE VII—AMENDMENTS TO THE INTERNAL REVENUE CODE

### RETIREMENT BENEFIT FUNDS

Sec. 701. (a) Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 (relating to deferred compensation, etc.) is amended by adding at the end thereof the following new section:

"Sec. 408. Retirement Benefit Funds.

"Notwithstanding any other provision of this title, a retirement benefit fund which is organized under, and licensed by the Securities and Exchange Commission as complying with, the Retirement Benefit Fund Act during any taxable year shall be held and considered to be a qualified trust under section 401(a)."

(b) The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 408. Retirement benefit funds."

### TRANSFERS

Sec. 702. Section 402(a) of the Internal Revenue Code of 1954 (relating to taxability of beneficiary of exempt trust) is amended by redesignating paragraphs (3) through (5) as (4) through (6), and by inserting after paragraph (2) the following new paragraph:

"(3) Certain transfers.—For purposes of this section, a transfer of any amount representing a participant's or beneficiary's interest in a participant's or beneficiary's account in a retirement benefit fund described in section 408 shall not be considered a distribution under paragraph (1) if the transfer is made by that fund to a participant's or beneficiary's account in another such retirement benefit fund."

### EMPLOYER CONTRIBUTIONS

Sec. 703. (a) Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125 and by inserting after section 123 the following new section:

"Sec. 124. Employer Contributions to Retirement Benefit Fund Employee Accounts.

"No amount paid by an employer during the taxable year into the account of an employee in a retirement benefit fund described in section 408 shall be included in the gross income of that employee during that taxable year. This section shall not apply to the extent that the provisions of section 402 may require the inclusion of such amounts in the gross income of the employee for that taxable year."

(b) The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Employer contributions to retirement benefit fund employee accounts.
"Sec. 125. Cross-references to other Acts.".

Sec. 704. (a) Part VII of subchapter B of chapter 1 (relating to additional itemized deuctions for individuals) is amended by redesignating section 219 as 220 and inserting after section 218 the following new section:

"Sec. 219. Retirement Savings.

"(a) In General.—In the case of an individual there shall be allowed as a deduction amounts paid by him during the taxable year to his spouse's account in a retirement benefit fund described in section 408.

"(b) Regulations.—The Secretary or his delegate is authorized to promulgate such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such part is amended by striking out the last item thereof and inserting in lieu thereof the following:

"Sec. 219. Retirement savings.
"Sec. 220. Cross references.".

Sec. 705. The amendments made by this title shall apply with respect to taxable years beginning after the effective date of the Retirement Benefit Fund Act.

### DELEGATION

Sec. 706. The Secretary of the Treasury or his delegate shall, as soon as is practicable but in any event not later than ninety days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this title.

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[From the Congressional Record, July 23, 1973]

### The Retirement Benefit Fund Act

Mr. Hart. Mr. President, I introduce the Retirement Benefit Fund Act.

A natural question would be, I think:

What in the world is a nonexpert in pension reform and a sponsor and strong supporter of S. 4, the pension bill introduced by Senator Williams and Senator Javits, doing offering pension legislation at this late point in the game?

My shorthand answer is that I view S. 4 and its offspring as developed by the Senate Finance Committee as really the early rather than the late innings of the effort to reform the Nation's pension systems.

That view does not detract from the importance of passing this year a pension bill setting vesting and funding requirements, fiduciary standards, and establishing portability and pension reinsurance programs.

Such provisions are needed now to protect those long-service employees covered by pension plans who will lose out, because their employer shuts the plant gates, or because the pension plan goes broke, or because of unduly restrictive qualification requirements.

Introduction of this bill should in no way slow congressional consideration of such reforms, reforms which will come about largely as a result of the considerable efforts and leadership given this effort by Senator Williams, chairman of the Labor and Public Welfare Committee, and Senator Javits, ranking minority member of the committee.

However, even a layman can understand that these changes will not reform the basic approach of most of today's pension programs which says that many are not served so a few can benefit.

Even a nonexpert can understand the figures which show that as many as three of five workers in the private nonfarm sector do not participate in pension programs because they work for employers who do not have retirement plans—and that the proposed reforms will do little to improve these figures.

Neither will the legislation likely to pass Congress this year provide full equity for the worker who changes jobs often and for good reasons, nor for all surviving spouses of pension programs participants.

The limitations of the reforms now being discussed in Congress are the limitations of a private system based on the premise that large numbers of persons must lose out if others are to benefit. The proposals under study seek to reduce the number of persons losing out by striking a balance between the interests of employees in more secure pensions and the cost to employers of providing such pensions.

We can argue whether the correct balance has been struck, but without challenging what some have called the "lottery" premise on which the present system rests, large number of people will continue to lose out.

Looking toward a future of an even more mobile work force and of an ever greater demand for adequate and secure retirement programs, even the layman begins to understand why we need a pension system based on including all rather than excluding many.

And we cannot get there unless we come up with a system that insures an employee that he will benefit from every pension contribution made on his behalf.

The Retirement Benefit Fund Act seeks to reach that goal while continuing a private pension system.

We could, of course, abandon entirely the idea of a private pension system supplementing social security by greatly expanding the social security system.

Leaving aside the question of whether the Nation is approaching the point of accepting such a proposal, the idea does raise serious economic concerns.

Private pension funds are now the country's largest single source of private investment capital, capital which is a critical factor in the Nation's economic growth.

Replacing the private pension system with an expanded social security program would mean that this source of capital—$166.5 billion at present—either would disappear from the private investment market or be invested by some type of Government or quasi-government agency.

Either way could lead to discomforting effects on a competitive market.

All of which brings me to still another basic concern about the proposals now before Congress.

My somewhat lengthy involvement with the subject of economic concentration leads me to question the effect new fiduciary standards and vesting and funding requirements will have on the accelerating trend toward dominance of the stock market by a few giant institutional investors.

It has been well reported that as these institutional investors grow, individual investors leave the market.

One result is that the big investors, for understandable reasons, favor a very small number of companies with their investments, and those firms on the "unfavored list" to find it hard to raise the money they need to remain competitive.

What has developed is something described as a two-tier stock market, with from 70 to 200 companies in the favored tier, and the remaining 90 percent of the companies left to scramble.

John C. Whitehead, chairman of the Securities Industry Association, is quoted as saying:

"If institutional dominance continues on its present course, we can look forward in another decade to complete dominance of our markets and of our corporations by a relatively small handful of institutions—the kind of industrial society that currently exists in Europe and Japan."

A magazine article reports that James M. Roche, former chief executive of General Motors, is fretting about the deplorable state of our capital markets at the precise time in our national history:

"When we face an extraordinary need for capital and for strong vigorous capital markets."

What may not have been as well reported is the large role pension funds play in this trend toward a market dominated by a few institutions.

Of the $166.5 billion in pension fund assets, $100 billion are administered by bank trust departments.

Of that $100 billion, four New York banks invest 43 percent or about $43 billion—and that money is invested in relatively few companies.

A special report on the June 2 edition of Business Week notes, for example, that a major New York bank recently invested 65 percent of a $1 billion pension fund in just seven stocks. And an examination of stocks held by any of the other bank trust departments reveals a similar phenomenon. Fifty-two pension funds administered by the First National City Bank of New York have 35 percent of their common stock investments in 10 companies.

The most frequently proposed solutions to the concentration problem deal with the imposition of size limitations, either on the size of the institutions or on the amount of investments they are allowed to make at any one time, and disclosure requirements. But even if implemented, these solutions will do little to restore the element of individual decisionmaking which is the hallmark of a vigorous economy.

There is another possible solution.

Company pension plans reportedly are the fastest growing sector of the institutional groups.

And this rate of growth can only increase when Congress passes a law establishing new vesting, funding, and fiduciary standards.

It makes sense then to seek to diversify the control over these pension funds.

This, too, is an important goal of the Retirement Benefit Fund Act.

Briefly the Nader proposal would work this way:

The Security and Exchange Commission would license a number of closely regulated competitive retirement funds.

The individual employee would select a fund in which an employer or the worker could deposit pension contributions.

Unions would be free to bargain over the level of employer contributions.

Pension contributions would be immediately vested and fully funded, and benefits would grow with each contribution regardless of how many times an individual changed jobs.

Pension contributions—including those made on behalf of spouses—would be tax deductible, but there would be a limit on the amount an individual could contribute.

Each employee would receive a passbook—similar to those supplied by savings accounts—showing the total amount credited to his account and projecting yearly pension payments the employee would receive at different retirement dates.

An employee could retire at any time, but only once. Pension payments, based on the amount of money in his account, projected earnings on that account and age at retirement, could begin immediately.

Fund members would have the right to vote for directors and to express views on the fund's investment policies. Funds would be able to make some investments in areas—such as senior citizen housing—of long-range value to retirees.

To protect the funds against domination by a few financial institutions, the bill sets stiff requirements on permitted affiliations of fund officers and directors.

Because contributions would be invested for a longer period than is often the case under the present system, because administrative costs of individual programs would be largely eliminated, and because the system is prospective, estimates indicate the proposed system would not cost most employers more to provide more people with the same average pension benefits.

And because the retirement funds will handle administrative costs, it will be possible for smaller firms which now cannot afford to start pension programs to make contributions on behalf of employees.

The bill provides a 30-year transition period during which employees would receive benefits they would have received under the present system.

Mr. Nader outlined this proposal in a speech which he delivered to the Conference on Employee Benefits on May 24, 1972, and which I inserted in the Record on June 15, 1972. Since that time the proposal has been put into bill form by the Yale Legislative Services, a Yale Law School student organization established to provide legislative drafting assistance, at the request of Representative Benjamin Rosenthal. Tax provisions were added and technical changes were made by the Senate Legislative Counsel's office.

This bill is offered not as a perfect piece of legislation but as a vehicle for discussion on how best to move to a better pension system.

There are controversial policy choices which need to be studied, the most important of which is whether the best route for the future lies toward a nationalized pension system rather than a private pension system.

It is my hope, then, that those who take the time to study this proposal will do so mindful of the two problems it seems to answer—better pension payments for more people and dispersal of market power exercised by institutional investors fueled by pension funds.

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[From the Wall Street Journal, May 27, 1976]

## AMERICAN BUSINESS'S NEW OWNERS

(By Peter F. Drucker)

(Note.—Mr. Drucker is Clarke Professor of Social Sciences at the Claremont Graduate School, and author of "The Unseen Revolution. How Pension Fund Socialism Came to America," published by Harper & Row.)

Employe pension funds now own more than one-third of the equity capital of America's publicly-owned companies—more than enough to give them voting control. Within 10 years this ownership will rise to 50 percent or more. And in the truly big businesses, the top 1,000 or so companies, employe pension funds already hold majority ownership of equity capital and voting stock in most cases.

Since General Motors in October, 1950, started the "pension fund explosion," America has effectively "socialized" its productive resources without "nationalizing" them. The U.S. is considered everywhere the citadel of capitalism. But our system is actually a non-governmental market socialism. I call it "pension fund socialism." The employes through their pension funds have become the new owners of American business.

Management knows that "institutional investors" have become the dominant source of capital and the largest shareholders. And they know that "institutional investor" is just another term for "employe pension fund." Most managements also know—or at least sense—that the pension funds of their own employes and those of other companies together already receive a larger share of corporate income than anyone else, a larger share even than the tax collector. Typically, the company's own pension funds get 30 cents or more of every dollar of income before pension fund charges and taxes. Corporation income taxes—federal, state and local—take half of what is left. Of the remainder, other companies' pension funds, the "institutional investors," get yet another 10 to 15 cents, for a total pension fund take of 40 to 45 cents on the dollar. And within 10 years this will rise to 60 cents or more, crowding out other beneficiaries of corporate income.

Yet almost no management has asked itself what the new ownership structure means for the governance of the corporation; for the structure, composition and function of its board of directors; for the accountability of management, and indeed for the legitimacy of management altogether.

### "NEW LOOK" BOARDS

Many American businesses, especially the large ones, have tried to give their boards, during the last five or eight years, a "new look," by bringing in representatives of all kinds of "minorities"—blacks, for instance, or women or consumers. But I know of no business that has yet thought through what the shift in ownership means for the traditional membership of the board—that is for membership that represents the owners—and for the traditional function of the board.

Yet unless managements establish a working relationship with the new owners of their companies—the nation's employes—they will have no constituency at all within a short period of time. "Ownership" and "control" will then be totally divorced. And predictably "control" is not going to survive long without accountability to anyone without a constitutency to support the autonomy of business and management against political, social and governmental pressures.

For the first time perhaps since the 1920s, when ownership and control first began to move apart, there is again a clear, a defined, a powerful and a highly concentrated ownership interest. For the first time altogether the "owners" of big business are a clear majority of the population. For the first time, also, business performance and business profits are directly tied in with a major economic interest of the majority, the interest of every employe in his own support in his own old age.

Yet management so far seems to see neither the need to reach the new owners nor the opportunity to mobilize this new constitutency and to gain its understanding and support, even though every company president every time he makes a speech deplores the lack of such a constituency and of its support.

The emergence of the employe pension fund as the new owner of American business also confronts the labor union with a new problem for which it is unprepared. The "exploited worker" whom the union defends against the "wicked bosses" is now himself the "owner" and the "fat cat capitalist." Indeed, this "exploited worker" is now the real "boss." The name "exorbitant profit" that the "bosses" steal out of the workers' pay envelopes is, alas, also "pitifully inadequate" to support a decent pension for the same workers.

In fact, as the number of people surviving into retirement age increases—and it is going up sharply—higher profits will become the first interest of a majority or near-majority of employes, those who have reached retirement age and those who have passed age 45 or 50. If the American labor union disregards the new ownership interest of the American worker and continues, as most labor leaders would clearly like to do, to represent "labor" against "capital," it risks the emergence of a parallel, rival organization that represents the worker in his capacity as the "new owner." But it would be equally dangerous for the American labor union to accept the reality of the "new ownership" on the part of employes, that is to defend the need for profit against union demands. And it would surely be totally incompatible with traditional union rhetoric and traditional union commitment.

The most difficult and perhaps most important problems, however, concern the pension funds themselves. They now have controlling ownership of American business and soon will have majority ownership. Yet they are trustees rather than real owners. The real owner is a contingent claimant to a future pension. However, if the pension funds do not exercise the control that is legally vested in them, there is no control at all. But are pension funds, as trustees, entitled to exercise voting power? Is it even compatible with their responsibility? Their job is to invest in the best financial interest of their clients—the participants in a company pension plan. This means that it is their job to sell the stock of a company in the management of which they have lost faith.

To keep the stock in order to exercise control and thereby to reform the company is clearly not a proper exercise of the trusteeship function. And for a pension fund manager to sit on a company board is probably incompatible both with his responsibility as a trustee for the pension fund's beneficiaries and with his responsibility as a company director.

### PENSION FUND PROBLEMS

Even more important and more difficult are the problems of pension fund structure and pension fund governance. The pension funds for the employes of the country's largest businesses—the top 1,000 companies or so—effectively own the American nonfarm economy. To whom are they accountable? And how do they establish a relationship with their constituency, the country's employees? Above all, how can they be structured so as to have an adequate defense against the ever-present danger of raids against pension fund assets by irresponsible, greedy or hard-pressed governments trying to "solve" a political problem, or at least to postpone tackling it "until after the election"?

That is by no means a hypothetical problem. In the last year the pension funds of New York City and New York State employes were "persuaded" to buy ever-increasing amounts of New York City's IOUs of rather dubious credit-worthiness. And it is scant comfort that trustees of the pension funds of private employers under present laws are forbidden from doing what the totally unregulated pension funds of public employes can apparently be forced to do. The same Congress that in the Pension Reform Act of 1974 has enjoined strict rules of responsibility and accountability on private pension fund trustees, can easily change the laws again. And already there is great pressure on it to do so.

The only defense against the pension funds becoming political prey is the support of their beneficiaries, the country's employes. But so far the employes do not realize the stake they have in the integrity of pension fund assets. Nor is there any legal or institutional mechanism which relates integrity of the pension fund and its governance to the interests of the pension fund's constituents.

The shift of controlling ownership of the country's productive resources to the "new owners," the employes or beneficiaries of their pension funds, was accomplished at a speed that is practically without parallel in social history. It was accomplished without conflict, and indeed practically without friction. It was accomplished without clear plan, without deliberate intention and without any ideology. But the shift is nonetheless a massive transformation of economic structure and a true "revolution."

It is an "unseen revolution," however, to which no one so far has paid much attention. But the basic problems of structure, of policy and of government which this shift has created may be the central structural and policy problems of the American economy and society for years to come. They surely represent both a major challenge and a major opportunity for management—and a challenge and an opportunity to which practically no management has yet addressed itself.

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By Mr. RIBICOFF (for himself, Mr. MAGNUSON, Mr. NUNN, and Mr. HUMPHREY):

S. 3857. A bill to establish a Department of Education, and for other purposes. Referred to the Committee on Government Operations.

Mr. RIBICOFF. Mr. President, I am pleased to, along with my colleagues Senators MAGNUSON, NUNN and HUMPHREY, to introduce a bill to establish a separate Department of Education. Although this session is coming to a close, the concept of a separate Department is becoming more and more necessary, and I hope to continue a strong initiative in this area during the early part of the next Congress.

The promise of quality education is crucial to the whole idea of American citizenship. Our Nation's schools are vital to the development of our national goals and priorities.

No fewer than 30 years ago, fewer than half of the American children finished high school. By 1974, the median school years completed was 12¼. Enrollments of blacks have increased by more than 200 percent in the past 8 years. The Office of Education expects women to receive almost half of college degrees received by 1978. The idea of lifelong education has spread rapidly. Today, well over 60 million persons are enrolled in public and private institutions of education from kindergarten through graduate school.

Henry Steele Commager, the historian, once remarked that:

> The schools can be a source of leadership and the resources of new values.

Commager realized that our schools are more than massive buildings, classrooms, and textbooks. They are the tools for social change and are a vital part of our American society and culture.

What is the present condition of education? Recently the Nation has been alarmed by reports that high school graduates cannot read and write well enough to fill out a job application and that educated adults cannot balance a checkbook or make wise everyday consumer decisions. Even more conventional testing indicates that students' performance has consistently fallen over the past several years. Funding of education has dropped to the point where classroom hours are being cut, and other traditional programs are being eliminated. The present Federal contribution to education is only 7 percent of total elementary and secondary school expenditures. School bond issues are being defeated in unprecedented numbers. When local governments decide to tighten their budgets and reduce spending, education is often the first victim.

Education is in need of new vitality. One of our first priorities should be the restoration of the public's confidence in the educational process. A recent survey conducted in 1975 by the National Opinion Research Center found that only 30 percent of the American public had a great deal of confidence in the people running our education institutions. Studies conducted by James Coleman at Harvard have contributed to the uncertainty about the basic purposes of our schools and a growing skepticism about the returns derived from money and research spent on education. However, even though there is this dissatisfaction with education, the public remains committed to its support for education, as most people continue to maintain we are spending too little on improving the education system.

Our whole system of education is dependent upon the leadership and the commitment that the Federal Government takes. The Federal Government must assume a greater responsibility for the education of its citizens. Only an increased Federal priority to education can increase the American people's confidence in our educational system and in the future of this valuable resource for our Nation.

Mr. President, the bill I am introducing today would establish a separate Department of Education. I have introduced such a concept in Congress as early as the 89th Congress. A Department of Education would provide us a source of national leadership in an area which has for too long been neglected. Education is a major function of Government and deserves to have priority attention equal to that given other functions, such as agriculture or business, which have long had Cabinet status. A Department of Education would provide a basis for consolidating and making more effective many educational activities currently operating under the authority of other agencies. A Department of Education is needed to better coordinate our education goals. Presently, more than 20 Federal agencies have a role in education. The Office of Education alone is responsible for approximately 120 programs. Such a Department will permit greater integration of related programs and thus improve the efficiency of the delivery of education services to those most in need.

A separate Department would direct a coherent and effective Federal education policy. At the present time, there is no clear perception as to what the Federal role in education should be. One task of the National Commission on Education established by the bill would be to assist the Secretary of Education in the formulation of policy with respect to the appropriate role of the Federal Government in the field of education.

A separate Department would lift education out of the maze of bureaucracy where most of its administration now exists. As a former Secretary of the Department of Health, Education, and Welfare, I have watched the budget of HEW grow to unmanageable proportions. That Department is presently our largest agency in the Federal Government, with the exception of Defense. Its budget is presently a staggering $38.1 billion a year. It administers about 300 separate programs, with expenditures estimated to total about $145 billion during fiscal year 1977. It has almost 150,000 employees. Considering the Education Division of HEW alone, its request for budget authority in fiscal year 1977 is $4.2 billion, more than that of the existing Departments of Commerce, Interior and State. Total Federal outlays for education for fiscal year 1977 are approximately $18.2 billion.

The bill includes a provision for an Office of Special Investigator to conduct audits and investigations relating to programs and operations of HEW, especially with respect to the detection of fraud and abuse.

Recent findings by the House Government Operations Committee on an investigation of HEW found that the Department is currently responsible for about 300 separate programs involving expenditures in excess of $118 billion annually—more than one-third of the entire Federal budget. It found that the magnitude and complexity of its activities caused, in many instances, a lack of direct control over its expenditures, including evidence of fraud and abuse.

Our institutions and their relationships to society are rapidly changing. Society is beginning to require new occupations that never before existed and, in turn, the development of new human skills. Education must play the key role in the changes we are seeing.

We must reexamine our commitment to education. The promise and opportunity of quality American education for all can still be achieved. Mr. Commager has noted,

> No other people ever demanded so much of education.

Education is a prime national resource. We must demand that it remain so.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

### S. 3857

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Department of Education Act of 1976".

### FINDINGS AND PURPOSES

Sec. 2. The Congress finds that—

(1) education is of fundamental importance to the nation and it is appropriate to reassess the condition of education in our Nation to insure that all Americans have an equal opportunity for quality education;

(2) existing federal programs in support of education are fragmented and often duplicative and should be better coordinated in order to promote quality education;

(3) the role and importance of education increases as our society becomes more complex and new technologies and advancements are developed to meet changing needs;

(4) public policy toward education is vital to the present and long-range interests of the United States;

(5) education must be broadly conceived in terms of all those forces, institutions, and agencies which function as educating influences in the United States;

(6) the public's confidence in education priorities, goals, and institutions should be enhanced, and

(7) it is essential therefore to establish a Department of Education to provide Federal leadership, to insure effective enforcement of equal opportunity legislation in education, to weigh and consider major educational policy issues confronting the Nation, and to facilitate a continuing renewal of the educating institutions and policies of the United States.

### DEPARTMENT OF EDUCATION ESTABLISHED

Sec. 3. There is established an executive department which shall be known as the Department of Education (hereinafter referred to as the "Department").

### OFFICERS

Sec. 4. (a) The Department shall be administered by a Secretary of Education (hereinafter referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for level I of the Federal Executive Salary Schedule under section 5312 of title 5, United States Code. The Department shall be administered under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary of Education who shall be appointed by the President by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall receive compensation at the rate prescribed for level III of the Federal Executive Salary Schedule established under section 5314 of title 5, United States Code.

(c) There shall be in the Department four Assistant Secretaries of Education and a General Counsel. Each of the Assistant Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability, or in the event of a vacancy in the office of the Secretary or of the Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe shall act as Secretary. The Assistant Secretaries and General Counsel shall receive compensation at the rate prescribed for level IV under section 5315 of title 5, United States Code.

### POWERS AND DUTIES OF THE SECRETARY

Sec. 5. (a) The Secretary shall be responsible for the exercise of all functions of the Department, and shall have authority to direct and supervise all personnel and activities thereof.

(b) (1) The Secretary is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions, as may be necessary to carry out the purposes and functions of this Act.

(2) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(c) The Secretary may promulgate such rules and regulations as may be necessary to carry out the functions vested in the Secretary or in the Department, and may delegate authority for the performance of any such function to any officer or employee under the Secretary's direction and supervision.

(d) The Secretary shall cause a seal of office to be made for the Department, of such design as the President shall approve, and judicial notice shall be taken thereof.

(e) The Secretary shall, as soon as practicable after the end of the fiscal year, prepare a report for the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Each such report shall also contain objective data changing trends in education, including enrollments, expenditures, numbers of teachers and other categories of professional and related personnel; special needs of critical concern such as the disadvantaged, rural, and urban education, and progress made toward the continuing renewal of education; the results and outcomes of education and schooling, including the overall results on generally recognized standard examinations for entrance to undergraduate and graduate institutions; budget projections for five years based on actual or anticipated appropriations for the fiscal year in which the annual report is issued, the advisory structure of the Department, including the names and composition of advisory committees and councils and the relationships the committees and councils bear to one another, and similar data.

### FUNCTIONS OF THE DEPARTMENT

Sec. 6. (a) It is the principal function of the Department to promote the cause and advancement of education throughout the United States.

(b) In addition to any other function of the Secretary under the provisions of this Act, the Secretary is authorized to—

(1) advise the President with respect to the progress of education, including the recommendation of long-range goals and priorities;

(2) develop and recommend to the President appropriate policies and programs to foster the orderly growth and development of the educational facilities and resources of the United States especially in the light of long-range requirements;

(3) exercise leadership at the direction of the President in coordinating Federal activities affecting education;

(4) conduct continuing comprehensive surveys, and to collect, analyze, and disseminate relevant information, data and statistics, concerning education in the United States;

(5) provide information and such other assistance as may be authorized by the Congress to aid in the maintenance of efficient school, college, and university or other education systems;

(6) encourage comprehensive planning by State and local governments, especially with respect to coordinating Federal, State, and community educational activities at the local level; and

(7) provide leadership by conducting studies, making recommendations, and administering discretionary programs to facilitate the continuing development of the American educational system.

### TRANSFER OF FUNCTIONS AND AGENCIES

Sec. 7. (a) There are transferred to the Secretary, all functions of the Secretary of Health, Education, and Welfare or the Commissioner of Education, as the case may be—

(1) with respect to and being administered by the Secretary through the Education Division of the Department of Health, Education, and Welfare;

(2) with respect to and being administered by the Secretary through the Office of Child Development of the Department of Health, Education, and Welfare regarding Headstart and research demonstration and evaluation programs;

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice to and making recommendations concerning education;

(4) with respect to all Federal laws concerning the relationship between Gallaudet College, Howard University, Freedmen's Hospital, and American Printing House for the Blind, and the Department of Health, Education, and Welfare;

(5) with respect to the operation of schools for dependents of members of the Armed Forces by the Secretary of Defense;

(6) under section 394 of the Communications Act of 1934; relating to Federal grants for the construction of television broadcasting facilities to be used for educational purposes;

(7) with respect to the operation of schools for Indian children being administered by the Secretary of the Interior through the Bureau of Indian Affairs;

(8) with respect to the National School Lunch Act and the operation of any graduate education program being administered by the Secretary of Agriculture;

(9) with respect to title IV of the Housing Act of 1950 relating to college housing, being administered by the Secretary of Housing and Urban Development; and

(10) with respect to the National Science Foundation which the Director of the Office of Management and Budget determines relate to instructional personnel development programs, instructional program development, and programs in computer innovations designed for use in education. (b) In any case where all of the functions of any agency or office are transferred pursuant to this Act, except any committee transferred under subsection (a) (3) of this section, such agency or office shall lapse.

(c) All officers, employees, assets, liabilities, contracts, records, property, leases, obligations, and commitments and unexpended balances of appropriations, allocations, and other funds which the Director of the Office of Management and Budget determines are to be employed, held, or used primarily in connection with any office, agency, bureau, foundation, or function transferred under the provisions of this Act, are hereby transferred to the Department.

### ADDITIONAL TRANSFERS

SEC. 8. The President is authorized to transfer to the Department of Education any other agency or instrumentality of the Federal Government which the President determines has functions relating to education and should be transferred to the Department of Education to promote efficiency in Government and to carry out the purposes of this Act. Such transfers shall incorporate, to the extent deemed desirable, the recommendations of the Federal Interagency Committee on Education as provided by section 12(c) and shall be completed within one hundred and eighty days after the date of enactment of this Act. A report describing such transfers shall be submitted to the Congress not later than thirty days thereafter.

### TRANSFERRED PERSONNEL

SEC. 9. Each officer or employee of the United States or any department or agency thereof who is transferred at any time to the Department of Education shall be deemed, effective as of the date of such transfer, to be an officer or employee of the Department. No reappointment of any such officer or employee shall be required because of his transfer to that Department. Except as otherwise specifically provided by this section, no such officer or employee shall be reduced in rank, grade, seniority, or rate of compensation because of any such transfer.

### PROVISIONS OF LAW APPLICABLE TO THE DEPARTMENT

SEC. 10. Except to the extent inconsistent with this Act, all provisions of law applicable to the Executive Departments generally shall apply to the Department.

### REDESIGNATION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 11. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Welfare, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Welfare.

(b) Any reference to the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare in any other law, rule, regulation, certificate, directive, instruction, license, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Welfare and the Secretary of Health and Welfare, respectively.

### FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 12. (a) There is hereby established a "Federal Interagency Committee on Education" (hereafter referred to as the "Committee").

(b) The Committee shall study and make such recommendations as may be necessary to assure effective coordination of Federal programs affecting education, including—

(1) development of Federal programs in accordance with the educational goals and policies of the Nation;

(2) consistent administration of policies and practices among Federal agencies in the conduct of similar programs;

(3) full and effective communication among Federal agencies to avoid unnecessary duplication of activities with respect to education;

(4) adequate procedures for the availability of information on educational matters requested by the Secretary; and

(5) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act.

(c) The Committee shall, within sixty days of the enactment of this Act or the appointment and qualification of all Committee members, whichever is earlier, recommend to the President the transfer of such additional responsibilities as may be appropriate.

(d) The Committee shall be composed of the Secretary, who shall be the Chairperson, and one appropriate representative of each of the following agencies: The Department of State, the Department of Defense, the Department of Agriculture, the Department of Labor, the Department of Health and Welfare (as redesignated by section 11 of this Act), the Department of Housing and Urban Development, the National Science Foundation, the National Aeronautics and Space Administration, the National Endowment for the Arts, and the National Endowment for the Humanities.

(e) The Chairperson may invite Federal agencies, in addition to the agencies which are represented on the Committee under the provisions of subsection (d) of this section, to designate representatives to participate in meetings of the Committee on matters of substantial interest to such agencies which are to be considered by the Committee.

(f) The Director of the Office of Management and Budget, the Chairperson of the Council of Economic Advisers, and the Executive Director of the Domestic Council may each designate a staff member to attend meetings of the Committee as observers.

(g) The Committee shall meet at least six times in each year and shall prepare an annual report to the Secretary concerning its recommendations.

(h) Each Federal agency which is represented on the Committee under the provisions of subsection (d) of this section, shall furnish necessary assistance to the Committee in accordance with section 214 of the Act of May 3, 1945 (31 U.S.C. 691).

### NATIONAL ADVISORY COMMISSION ON EDUCATION

SEC. 13. (a) There is established a National Advisory Commission on Education (hereinafter referred to as the "National Commission") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate from among individuals—

(1) who have a demonstrated commitment for the enhancement and development of the educational needs and goals of the Nation;

(2) who have competence in assessing the progress of educational agencies, institutions, and organizations in meeting those needs and achieving those goals; and

(3) who are experienced with the policies or administration of State and local educational agencies and of institutions of higher education.

Members shall be appointed for terms of three years, except that (A) in the case of initially appointed members, as designated by the President, five members shall be appointed for terms of one year, five members shall be appointed for terms of two years, and five members shall be appointed for terms of three years, and (B) any member appointed to fill a vacancy shall serve the remainder of the term for which the member's predecessor was appointed.

(b) The National Commission shall—

(1) assist the Secretary in the formulation of Federal policy with respect to the appropriate role of the Federal Government in each action;

(2) review the administration of, general regulations for, and operation of Federal education programs;

(3) advise the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the renewal of appropriate agencies, institutions, and organizations of the Nation in order to meet those needs and achieve those goals;

(4) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(5) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of Federal education programs;

(6) consult with Federal, State, and local and other education agencies, institutions, and organizations with respect to assessing education in the United States and the improvement of the quality of education, including—

(A) areas of unmet needs in education, national goals, and changing education priorities, and the means by which those areas may be met, developed, and achieved;

(B) specific means of improving the quality and effectiveness of teaching, curriculums, and educational media and of raising standards of scholarship and the levels of achievement;

(7) conduct national conferences on the assessment, improvement, and renewal of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other education-related organizations, institutions, and persons (including parents of children participating in Federal educational assistance programs) may exchange and disseminate information on the improvement of education;

(8) conduct, and report on, comparative studies and evaluations of education systems in foreign countries; and

(9) advise and assist in the coordination of all Federal educational advisory committees, councils, or commissions.

(c) The National Commission shall make an annual report, and such other reports as it deems appropriate, to the President and to the Congress, concerning its findings, recommendations, and activities.

(d) In carrying out its responsibilities under this section, the National Commission shall take, together with the Secretary, whatever action is necessary to carry out section 448 of the General Education Provisions Act, to devise a manageable and effective advisory structure for the Department. The National Commission shall advise the Secretary on the number of advisory bodies that are necessary and the manner in which such bodies relate to one another. The National Commission shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Education Professions Development, the National Council on Educational Research, and such other advisory councils and committees as may be appropriate to carry out its functions under this subsection. All Federal agencies are directed to cooperate with the National Commission in carrying out its functions under this subsection.

(e) The National Commission is authorized to procure such technical assistance as may be required to carry out its functions and the Secretary shall, in addition, make available to the National Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department as the National Commission may require to carry out its functions.

(f) Members of the National Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the National Commission or while otherwise engaged in the business of the National Commission, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for grade GS-18 under section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the National Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) The President shall nominate members to the National Commission not later than thirty days after the date of enactment of this Act.

### OFFICE OF THE INSPECTOR GENERAL

SEC. 14. (a) As used in this section—

(1) the term "Inspector General" means the Inspector General of the Department;

(2) the term "Deputy" means the Deputy Inspector General of the Department; and

(3) the term "Federal agency" means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

(b) There is hereby established in the Department an Office of Inspector General.

(c) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(d) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

(e) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(f) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

(g) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, or (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsection (l) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(h) In carrying out the responsibilities specified in subsection (g)(1), the Inspector General shall have authority to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the competence and independence of such auditors.

(i) In carrying out the duties and responsibilities provided by this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

(j) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(k) The Inspector General shall make reports on a quarterly basis to the Secretary and to the appropriate committees or subcommittees of the Congress identifying any significant problems, abuses, or deficiencies concerning which the Office has made a recommendation for corrective action and on which, in the judgment of the Inspector General, adequate progress is not being made.

(l) The Inspector General shall report immediately to the Secretary and to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(m) The Inspector General (A) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (B) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their injurisdiction, by any committee or subcommittee thereof.

(n) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsections (j) and (k) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(o) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this section.

(5) in the event that a budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent which the Inspector General deems seriously detrimental to the adequate performance of the functions mandated by this section, the Inspector General shall so inform the Congress without delay;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–18 of the General Schedule by section 5332 of title 5, United States Code;

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(p)(1) Upon request of the Inspector General for information or assistance under subsection (o)(2), the head of any Federal agency involved shall, insofar as is practicable, and not in contravention of any existing statutory restriction, or regulation of the Federal agency from which the information is requested, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (o)(1) or (o)(2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary and to the appropriate committees or subcommittees of the Congress without delay.

(3) In the event any record or other information requested by the Inspector General under subsection (o)(1) or (o)(2) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

(q) The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space at central and field office locations of the Department, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(r) (1) The Inspector General shall receive compensation at the rate provided for level IV of the Executive Schedule by section 5315 of title 5, United States Code.

(2) The Deputy shall receive compensation at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code.

(s) There are hereby transferred to the Office of Inspector General the functions, powers, and duties of—

(1) the agency of the Department of Health, Education, and Welfare referred to as the "HEW Audit Agency" which the Director of the Office of Management and Budget holds to be principally involved with educational matters;

(2) the office of the Department of Health, Education, and Welfare referred to as the "Office of Investigations" which the Director of the Office of Management and Budget holds to be principally involved with educational matters;

(3) such other offices or agencies, or functions, powers, or duties thereof, as the Director of the Office of Management and Budget may, with the consent of the Inspector General, determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this section except that there shall not be transferred to the Inspector General under clause (3) program operating responsibilities.

(t) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (s) are hereby transferred to the Office of Inspector General.

(u) Personnel transferred pursuant to subsection (t) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(v) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this section, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

### SAVINGS PROVISIONS

SEC. 14. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any agency or office or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Education by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department of Education. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary of Education, by a court of competent jurisdiction, or by operation of law.

(c) (1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in the officer's official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in the officer's official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department of Education as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If, before the date on which this Act takes effect, any agency or office, or officer thereof in the officer's official capacity, is a party to a suit, and under this Act—

(A) such agency or office, or any part thereof, is transferred to the Secretary of Education,

(B) any function of such agency, office, or part thereof; or officer is transferred to the Secretary of Education,

then such suit shall be continued by the Secretary of Education, (except in the case of a suit not involving functions transferred to the Secretary of Education in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this Act.

(d) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the department or officer in which such function is vested pursuant to this Act.

(e) Orders and actions of the Secretary of Education in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

(f) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and the Secretary's actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

(g) The Secretary, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred in this Act to the Secretary may delegate any of such functions to such officers and employees of the Department, as the Secretary may designate, may authorize such successive redelegations of such functions as the Secretary may deem appropriate and may make such rules and regulations as may be necessary to carry out functions of the Secretary.

### ADMINISTRATIVE PROVISIONS

SEC. 15. (a) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interest of economy and efficiency in the Department including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such fund shall be reimbursed in advance from available funds of agencies and offices in the Department or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses) considered above the amounts transferred or appropriated to establish and maintain such fund.

(b) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) motion picture equipment and film for recreation and training; and

(4) living and working quarters and facilities.

The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(c)(1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary.

(2) Upon the request of the Secretary the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any money contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(d) Nothing contained in this section is intended to amend, modify, or repeal any provisions of law administered by the Department of Health, Education, and Welfare which authorize the making of contracts for research.

### ANNUAL REPORT

SEC. 16. The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for the submission to the Congress on the activities of the Department during the preceding calendar year. Such report shall also contain objective data on enrollments, expenditures, numbers of teachers, administrative, supervisory, and auxiliary personnel, numbers of professionals who lack full qualifications, needs for classroom and other construction, special needs of critical areas such as urban and rural areas, and similar data.

### CONFORMING AMENDMENTS

SEC. 17. (a) Section 19(d)(1) of title 3, United States Code, is amended—

(1) by striking out "Secretary of Health, Education, and Welfare"; and

(2) by inserting before the period at the end thereof a comma and the following: "Secretary of Health and Welfare, Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended—

(1) by striking out "Health, Education, and Welfare." and inserting "Health and Welfare."; and

(2) by adding at the end thereof: "The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended—

(1) by striking out "(10) Secretary of Health, Education, and Welfare." and inserting in lieu thereof "(10) Secretary of Health and Welfare.";

(2) by striking out "(13)" and inserting in lieu thereof "(14)"; and

(3) by inserting immediately after "(12) Secretary of Transportation." the following:

"(13) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended—

(1) by striking out "(6) Under Secretary of Health, Education, and Welfare." and inserting in lieu thereof: "(6) Under Secretary of Health and Welfare."; and

(2) by adding at the end thereof the following:

"(62) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Assistant Secretaries of Health, Education, and Welfare (5)" and inserting in lieu thereof the following: "Assistant Secretaries of Health and Welfare (4)";

(2) by striking out "General Counsel of the Department of Health, Education, and Welfare." and inserting in lieu thereof the following: "General Counsel of the Department of Health and Welfare."; and

(3) by adding at the end thereof the following:

"(105) Assistant Secretaries of Education (4).

"(106) General Counsel, Department of Education.".

### EXPENDITURES AUTHORIZED

SEC. 18. The Secretary is authorized to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for lawbooks, books of reference and periodicals, and for printing and binding) as may be necessary to carry out the provisions of this Act, and as may be provided for by the Congress from time to time.

### APPROPRIATIONS AUTHORIZED

SEC. 19. There are authorized to be appropriated such sums as may be necessary to enable the Department to carry out the provisions of this Act and to perform any other duties which may be imposed upon it by law.

### EFFECTIVE DATE

SEC. 20. The provisions of this Act shall be effective on its date of enactment.

Mr. NUNN. Mr. President, today Senator RIBICOFF, Senator MAGNUSON and I are introducing a bill to create a Cabinet-level Department of Education that would oversee and be responsible for educational programs and policy in the Federal Government.

The establishment of a separate Department of Education has been a longtime project of mine. I have urged the reorganization of the educational functions of the Federal Government since I came to the Senate. I am pleased therefore to join today with the distinguished chairman of the Committee on Government Operations, Senator RIBICOFF, and of the Subcommittee on Education of the Committee on Appropriations, Senator MAGNUSON, and the other cosponsors in introducing this legislation.

Although it is late in the session and our expected time of adjournment sine die is rapidly approaching, I believe it is proper that we begin now to consider seriously reorganizing the administration and management of our education, health, and welfare programs.

The Presidential campaign now underway has stressed the need to reorganize and reform the bureaucracy. This theme has touched a responsive chord in the voters of both political parties.

One of the biggest challenges confronting the next President and the Congress will be to restructure the Department of Health, Education, and Welfare, which has simply grown too large and too unwieldy for effective and efficient administration.

The Department is responsible for a vast array of programs designed to provide for the health needs of our citizens, to provide assistance to the elderly, the handicapped, and the underprivileged, and to help the States provide quality education for every American.

Our task must be to make these programs work.

The legislation we have introduced is designed to serve as a talking point for a general reorganization of the Department. By placing education programs in a separate department, we not only would improve the management of these governmental functions, we also would give new prominence to our health and welfare programs.

At present the Secretary of HEW must split his attention among all our health, education, and welfare programs. Creating a Department of Education would enable the Secretary of Health and Welfare to devote his full time and efforts to meeting the pressing health needs of our citizens and to cleaning up the management of our welfare programs.

For their part, our education assistance programs have for too long failed to receive the undivided attention and status that their importance demands. The Office of Education, which has primary responsibility for most education programs, is buried in the sprawling bureaucracy of HEW. Yet, its budget for the current fiscal year is about $7.4 billion—an amount larger than the combined budgets of the Departments of Commerce, Interior, Justice, and State.

Education needs and deserves a single spokesman who can articulate educational priorities, plans and programs at the highest levels of Government. Our bill provides this.

It would further provide a more efficient and administratively manageable structure for education by removing the Office of Education from the existing Department of Health, Education, and Welfare and through transfers of education programs currently administered by other Departments to the Department of Education.

The bill also provides for an independent Office of Inspector General within the new department to prevent fraud and abuse in education programs. This is essential for efficient and effective administration. It makes little sense for new programs to be established if they are going to be riddled with inefficiency. For example, hearings of the Permanent Subcommittee on Investigations which I chaired last year disclosed massive abuses in the guaranteed student loan program.

The Office of Inspector General will save the Government money and, in doing so, will more than pay for itself. For example, estimates of losses in the guaranteed student loan program run as high as $2 billion out of a total of $8 billion in Federal loan guarantees. The money saved in this program alone would amply pay for the Office of Inspector General many times over.

Over the last decade education programs have multiplied rapidly. They have grown so rapidly, in fact, that Terrence Bell, the former Commissioner of Education, testified at the guaranteed student loan hearings that he was unsure of the exact number of programs within his office.

The Office of Education's huge budget is itself enough to warrant departmental status for the Office, thereby insuring the proper kind of fiscal accountability that visibility and centralized responsibility provides.

Unfortunately, education is not the responsibility solely of the Office of Education and the Department of Health, Education, and Welfare is not the only Department spending money on education.

Educational programs are scattered among various departments and agencies. As a result, responsibility and accountability are spread throughout the Federal bureaucracy. For example, the Department of Housing and Urban Development is in charge of college housing, the Department of Agriculture operates its own graduate school, and the Department of Defense has its own school system.

We need to consolidate most of these programs and activities to insure that duplication and needless waste of money is avoided.

Our educational goals are important ones. A single department administered by a single Secretary is the best way of reaching those goals and of guaranteeing that our educational dollars are efficiently and economically spent in the process.

Investment in education is investment in the future productivity of our country though the advancement of the skills of the workers of tomorrow.

The cost of not doing so is high. It has been estimated that the loss of a high school education for just one group in society, men between the ages of 25 and 34, leads to loss in taxes on lifetime earnings of $71 billion, and annual expenditures for welfare and crime attributable to inadequate education of $6 billion.

We cannot afford to take any chances. We need to give education the priority it requires. The establishment of a Department of Education would represent a giant step toward that end and toward general reform and improvement in the expenditure of billions of the taxpayers' dollars each year.

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By Mr. PASTORE (for himself, Mr. Pearson, and Mr. Baker) (by request):

S. 3858. A bill to amend the Communications Act of 1934 to add a new section with respect to the dissemination of obscene or indecent material by means of radio communication or cable television, and to repeal section 1464 of title 18, United States Code. Referred to the Committee on Commerce.

Mr. PASTORE. Mr. President, I introduce by request of the Federal Communications Commission, a bill to amend the Communications Act of 1934 to add a new section with respect to the dissemination of obscene or indecent material by means of radio communication or cable television, and to repeal section 1464 of title 18, United States Code. I ask unanimous consent that the letter of transmittal and explanation of the proposed amendments be printed in the Record together with the text of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

### S. 3858

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That:

Section 1. The Communications Act of 1934, as amended, 47 U.S.C. 151, *et seq.*, is amended by adding a new section 511 to read as follows:

"Sec. 511. Disseminating Obscene or Indecent Material by Means of Radio Communication or Cable Television.

(a) As used in this section—

(1) The term "obscene material" means a patently offensive representation or verbal description of an act of sexual intercourse, including genital-genital, anal-genital, or oral-genital intercourse, whether between human being or between human being and an animal; of masturbation; or lewd exhibition of a human genital or excretory organ; and which taken as a whole, appeals to the prurient interest of the average person applying contemporary community standards for radio communication or cable television and, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(2) The term "indecent material" means a representation or verbal description of a human sexual or excretory organ or function, which under contemporary community standards for radio communication or cable television is patently offensive.

(b) A person shall have violated this section if he disseminates obscene or indecent material by means of radio communication or cable television.

(c) It is an affirmative defense to an action brought pusuant to this section:

(1) for dissemination of obscene or indecent material, that dissemination was carried out subject to provisions of Federal law or rules and regulations promulgated by the Commission which prohibit the exercise of program content control: *Provided, however*, That this defense shall not be available to one who actually speaks or acts in an obscene or indecent manner.

(2) for dissemination of indecent material, that such material was disseminated for a per program charge or in any other manner as to minimize the risk of exposure to children under age twelve (12) or to persons who choose not to be exposed.

(d) It is a bar to an action against a cable television operator pursuant to this section that dissemination as carried out during cable television access programing as described in rules and regulations promulgated by the Commission.

(e) A person who violates the provisions of this section shall be punished by a fine of not more than $10,000 or by imprisonment for a term not exceeding one year, or both; except that any person, having been once convicted of an offense punishable under this section, who is subsequently convicted of violating this section, shall be punished by a fine of not more than $10,000 or by imprisonment for a term not exceeding two years, or both. The provisions of Section 501 of this Act shall not apply to violations of this section."

Sec. 2. Section 1464 of Title 18, United States Code, is hereby repealed.

### CONFORMING AMENDMENTS

Sec. 3. The Communications Act of 1934, as amended (47 U.S.C. 151 et seq.) is further amended as follows:

(a) subparagraph (D) of section 303(m)(1), as amended by deleting therefrom "profane or obscene words, language, or meaning," and inserting in lieu thereof "language or conduct proscribed by section 511."

(b) paragraph (6) of subsection 312(a), as amended, is amended by deleting the paragraph in its entirety and inserting in lieu thereof the following: "for violation of section 1304 or 1343 of title 18 of the United States Code, or Section 511 of this Act."

(c) subsection 312(b), as amended, is amended by deleting therefrom "or section 1304, 1343, or 1464" and inserting in lieu thereof the following: "or section 1304 or 1343"

(d) subparagraph (D) of subsection 503(b)(1) is amended by deleting the subparagraph in its entirety and inserting in lieu thereof the following: "violates section 317(c), section 509(a)(4) or section 511 of this Act, or"

(e) subparagraph (E) of subsection 503(b)(1) is amended by deleting therefrom ", or 1464" and by removing the comma between 1304 and 1343 and inserting in lieu thereof the word "or".

Sec. 4. If any person of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

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Federal Communications Commission,
*Washington, D.C., August 3, 1976.*

The Vice President,
*U.S. Senate,*
*Washington, D.C.*

Dear Mr. Vice President: The Federal Communications Commission has adopted as part of its Legislative Program for the 94th Congress a proposal to amend the Communications Act of 1934 to clarify and modify the present provisions dealing with the dissemination of obscene and indecent material by means of radio communication.

The proposal would repeal 18 U.S.C. 1464 which provides that: "Whoever utters any obscene, indecent, or profane language by means of radio communications shall be fined not more than $10,000 or imprisoned not more than two years, or both." In its place it would add a new section 511 to the Communications Act of 1934 (47 U.S.C. 511).

Section 511 would extend the prohibitions dealing with obscenity and indecency to material carried on cable television (present law limits it to "radio communication"); it would apply to conduct as well as language; and would apply to persons who disseminate such material in addition to those who act or speak in this manner. Because of the serious constitutional problems involved, we have recommended deletion of the "profanity" provision.

In recognition of the First Amendment problems in this area, the Commission has included a detailed legal analysis explaining the proposed amendment. This is an important proposal and, because of the complexity of these issues, the accompanying research should be read in its entirety.

Without attempting, therefore, to further summarize its provisions, I would note that we have attempted to track existing case law concerning obscenity, but have defined indecency in such a way as to take note of the uniqueness of the electronic media which enters the family living room with children comprising part of the audience. We have attempted, as have the courts, to retain any First Amendment rights while at the same time affording some protection to children and nonconsenting adults. We have provided for an affirmative defense where dissemination of indecent material has been in such a manner as to minimize the risk of exposure to children under age twelve. We have precluded criminal liability for cable system operators where material is put on access channels where they have no control over program content. In such cases, however, system operators may be subject to administrative sanctions if they have failed to act reasonably in enforcing the rules they are required to have prohibiting obscene and indecent programming.

The Commission's draft bill to accomplish the foregoing objectives was submitted to the Office of Management and Budget for its consideration. The Office of Management and Budget has informed us that it is not in a position at this time to advise us on the relationship of this legislation to the program of the President.

The consideration by the Senate of the proposed amendments to the Communications Act of 1934 would be greatly appreciated. The Commission would be pleased to furnish any additional information that may be desired by the Senate or by the Committee to which this proposal is referred.

Sincerely yours,

Richard E. Wiley,
*Chairman.*

Enclosures.

### EXPLANATION OF PROPOSED AMENDMENT

(Explanation of Proposed Amendment to the Communications Act of 1934 to Incorporate and Modify Provisions of 18 U.S.C. 1464 Prohibiting Uttering Obscene or Indecent Material by Means of Radio Communication: To Delete the Prohibition Against the Dissemination of Profane Material; To Adopt Provisions Concerning Cable Television; and to Repeal 18 U.S.C. 1464.)

The Commission has reviewed the scope of existing law with a view toward extending to cable television the present prohibitions against uttering obscene, indecent and profane language by means of radio communication. The attached proposed legislation would clarify and modify the present provisions dealing with obscene and indecent language, but for the reasons indicated, delete the prohibition against the dissemination of profane language. It would enact provisions covering cable television.

### HISTORY OF 18 U.S.C. 1464

18 U.S.C. 1464, *Broadcast of Obscene Language*, makes it a criminal offense punishable by a fine of not more than $10,000 or imprisonment for not more than two years or both for anyone who "utters any obscene, indecent, or profane language by means of radio communication. . . ." Section 1464 originated as section 29 of the Radio Act of 1927 [1] and later became a part of section 326 of the Communications Act of 1934.[2] It was incorporated into the criminal code in 1948 when the code was revised.[3] Under the rationale of *FCC* v. *ABC*,[4] the Commission has concurrent responsibility with the Department of Justice for enforcement of section 1464.[5]

In addition to the criminal penalties provided in section 1464, violations of the provisions of this section may result in administrative sanctions. Under 47 USC 503(b)(1)(E), Congress has authorized the Commission to impose forfeitures for conduct which violates section 1464.[6] The Commission may also revoke a station license [7] or issue a cease and desist order [8] for such conduct.

The Commission has received numerous complaints alleging violations of section 1464 by Commission licensees over the years. But, in the great majority of cases, the evidence developed has not been sufficient to warrant either administrative sanctions or criminal prosecution. Industry self-regulation has apparently minimized abuses in this area.[9] However, in recent years the Commission has received increasing numbers of complaints regarding the dissemination of offensive program material by broadcast licensees and cable systems.[10]

This heightened concern over the use of allegedly obscene, indecent, or profane material provoked this examination into the adequacy of existing statutes governing the subject. Because this is an "area fraught with legal and constitutional uncertainties," [11] considerable background information and analysis has been included.

### ADEQUACY OF 18 U.S.C. 1464

#### *A. Application to cable television*

As currently interpreted by the courts, the term "radio communication" employed in section 1464 includes both radio and television,[12] as well as citizens band, amateur radio, and other safety and special radio services [12a]; however, it is not construed to encompass communication by cable television. Thus, cable systems escape criminal liability under section 1464 and liability for forfeitures under 47 U.S.C. 503(b)(1)(E).

At present cable television performs two principal functions. It distributes broadcast programming in order to improve picture quality and increase program diversity, and it originates or provides public access to equipment for the production of programming in compliance with Commission rules.[13] In the former function, distribution of broadcast programming, cable systems have no control over program content because of Commission rules.[14] The Commission believes that it would be inequitable to subject cable operators performing this function to criminal or civil liability. The originating broadcaster is responsible under these circumstances and is the proper subject for punitive action. Accordingly, these cable operators are protected against actions brought under section 511 by an affirmative defense which arises when dissemination is carried out under provisions of the Commission's rules or federal law which bar the exercise of program content control.[15]

In performing the latter function, origination and access programming, cable systems produce or provide facilities for the production of programming. Where a cable system produces its own programming and distributes it, it should be criminally and civilly liable for the use of prohibited materials. Current Commission rules reflect the view that civil liability should attach.[16] The proposed legislation would impose criminal liability. However, on access channels, programming is produced by others and cable operators cannot be expected to exercise continuous program content control.

On these channels, criminal liability should fall only upon those persons who have direct control over program content—i.e., those who provide obscene or indecent material for dissemination or who speak or act in such a manner.[16a] The proposed legislation bars prosecution of a cable operator for obscene or indecent access programming. However, cable access operators would be held civilly liable to the Commission.[17] Within these limitations, we believe that section 511 should encompass cablecasting.

This legislation does not propose that the Commission be authorized to impose forfeitures against cable operators under section 503(b)(1)(E). The Commission has substituted separate legislation dealing with such forfeitures as a part of its legislative program for the 94th Congress.[18]

#### *B. Application to conduct as well as language*

As currently drafted, it is unclear whether section 1464 applies to morally offensive conduct as well as to language of this nature. The words "utter" [19] and "language" [20] employed in the statute when construed in accordance with their generally accepted meanings connote oral communiction, not pictorial representations, thus possibly placing the video portion of television broadcasts or cable programming outside the ambit of section 1464. We believe that proposed section 511 should bar morally offensive conduct as well as language and, therefore, propose the use of the phrase "disseminates obscene or indecent material" [21] in place of the words "utter" and "language".

#### *C. Application to one who disseminates as well as to one who utters*

It is also unclear whether section 1464 applies to broadcast licensees or cable franchise holders who authorize or merely permit their employees or guests to disseminate morally offensive language or conduct as well as those who actually utter the language or act in an objectionable manner. The Commission believes that the criminal proscriptions of proposed section 511 should be available under these circumstances since licensees and franchisees should be held accountable for the actions of employees or guests under their supervision.[22] Our objective here is to encourage licensees and franchisees to take whatever actions are necessary to assure adherence to the requirements of law. Our use of the words "person" and "disseminate" in place of the words "utter" and "language" is designed to serve this purpose. They are broad enough to encompass the act of broadcasting or distributing material by means of cable television as well as speech or conduct.

By weight of authority, the term "person" includes corporations and other forms of business organization.[23] Of course, a corporation could suffer only a monetary penalty, and could not be sentenced to imprisonment. The Commission contemplates that in cases of this nature, the appropriate sanction, if any, would be a criminal fine or an administrative forfeiture imposed against the corporation. The Commission could also recommend to the Department of Justice that criminal action be taken against the individual(s) who spoke or acted offensively. Such an action could result in a criminal fine and/or imprisonment.

As currently drafted, the proposed statute would establish a crime of general intent. Conviction under it would require only proof that the defendant intended to disseminate. Proof that he had knowledge that certain materials were obscene or indecent, and that he intended to disseminate them as such, would be unnecessary.

#### *D. Application to obscene material*

In order that this matter can be effectively considered by the Congress, and the amendatory language proposed by the Commission thoroughly discussed, a history of the relevant court decisions is set out below.

In its landmark opinion in *Roth* v. *U.S.*, [29] the Supreme Court held that obscene materials were not within the area of constitutionally protected free speech. The Court found that obscene utterances were no essential part of any exposition of ideas, and were of such slight social value that any benefit that might be derived from them was clearly outweighed by the societal interest in order and morality. Under *Roth*, the test for obscenity became: "Whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest".[30] Obscene materials were presumed to be utterly without social value.

*Roth* also held that use of the words "obscene" or "indecent" without further definition did not make the pertinent statutes void for vagueness,[31] reasoning that lack of precision is not itself offensive to the requirements of due process.[32]

*Jacobellis* v. *State of Ohio* [33] added to the *Roth* test that the prosecution make an affirmative showing that the objectionable material is "utterly without redeeming social importance" (a burden virtually impossible to discharge under our criminal standards of proof), and characterized the appropriate community standard as uniform and national.

Two years later, the Court in *A Book Named 'John Cleland's Memoirs of a Woman of Pleasure'* v. *Attorney General of the Commonwealth of Massachusetts*,[34] interpreted *Roth* to require the coalescence of three elements (the *Roth-Memoirs* test): (a) the dominant theme of the material taken as a whole must appeal to a prurient interest in sex; (b) the material is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matter; and (c) the material is utterly without redeeming social value.

In the same year, the Court also decided *Ginzburg* v. *U.S.*,[35] affirming a conviction for promoting material not in itself violative of the *Roth* test, because of the context in which it was produced, sold and publicized. In *Ginzburg*, the defendant had commercially exploited erotica for the sake of prurient appeal, and deliberately misrepresented his publication as erotically arousing. The Court concluded that evidence of pandering could be probative with respect to the nature of the material at issue and thereby satisfy the *Roth* test.

A 1968 case, *Ginsberg* v. *State of New*

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Footnotes at end of article.

*York*,[36] stands for the proposition that the power of a state to control the distribution of potentially offensive materials to children extends beyond its authority to control distribution to adults. It established a variable test for obscenity recognizing that nothing is inherently obscene, but only becomes so according to its distribution and audience. *Ginsberg* upheld a New York statute designed to protect persons under 17 from sexual materials that appealed to prurient interest, were patently offensive, and without social importance. The Court reasoned that parents were entitled to the support of the law in exercising their responsibilities toward their children.

The Supreme Court then considered whether consenting adults had a right of access to obscene material.[37] Initially, *Redrup* v. *State of California*,[38] reversed a conviction for unobtrusive sale of books and magazines to willing adults and alluded to a quasi-nuisance theory which would sanction obscenity convictions only when individual privacy was assaulted in a manner so obstrusive as to make it impossible for an unwilling individual to avoid exposure.[39] However, subsequent cases narrowed *Redrup* significantly. *Stanley* v. *Georgia*,[40] for instance, began with the premise that it might be criminal to buy or sell admittedly obscene materials, but allowed that it was not criminal to have them in one's personal possession, particularly if they were kept in the privacy of the home. The Court further limited *Redrup* in *U.S.* v. *Reidel*,[41] and *U.S.* v. *Thirty-Seven (37) Photographs*.[42]

In a related case, *Rowan* v. *U.S. Post Office Department*,[43] the Court held that the government may act in many instances to prohibit intrusions into the privacy of the home of offensive views and ideas which cannot be totally barred from public dialogue. The case involved a statute under which an individual could require a mailer to remove his name from its mailing lists. In overruling a challenge to the statute, the Court weighed the right to communicate against the right to be free from unwanted sights, sounds, and tangible matter and concluded that the mailer's right to communicate ended at the mailbox of the unwilling addressee. However, one year later the Court refused to extend *Rowan* to expressions uttered in public places in *Cohen* v. *California, supra*. In that case, the Court held protected the words "——— the Draft" written across the back of an individual's jacket. The individual was arrested in the hall outside a California city courtroom. The Court ruled that those persons viewing the above words had not had a substantial privacy interest invaded in an intolerable manner since they were not a captive audience and could easily have avoided seeing them but for an instant.[44]

In its most recent rulings on the subject, the Court significantly altered the *Roth-Memoirs* obscenity test. *Miller* v. *California*,[45] rejected the "utterly without redeeming social value" test set out in those cases since it had proven a very difficult burden to carry, and instead barred only material lacking "serious literary, artistic, political, or scientific value", a more realistic burden of proof. The Court then combined the remaining *Roth-Memoirs* tests (dominant theme as a whole appeals to prurient interests; and patent offensiveness to contemporary standards) into a single test—whether the average person, applying contemporary community standards would find that the work taken as a whole, appeals to the prurient interest.

The Court further altered *Roth-Memoirs* by defining the contemporary community standard in state and local terms. It rejected the national standard previously employed, branding it as an exercise in futility which failed to acknowledge the difference of views from state to state.

Furthermore, the Court added an additional element to the obscenity test—whether the material at issue depicts or describes in a patently offensive way, sexual conduct specifically defined by the applicable state law. The Court offered what it termed two examples of material which could be proscribed:

(a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.

(b) Patently offensive representations or descriptions of masturbation, excretory functions, or lewd exhibition of the genitals.

Thus the test under *Miller* is:

(a) whether the work depicts or describes in a patently offensive way, sexual conduct specifically defined by the applicable state law; and

(b) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; and

(c) whether the work, taken as a whole, lacks serious literary artistic, political or scientific value.

In essence, *Miller* expanded the range of material which could be found obscene but at the same time limited the definition of oscenity to hardcore sexual conduct specifically defined by the applicable law. Although *Miller* addressed a state issue, the test it established is applicable to federal cases under *U.S.* v. *12-200 ft. Reels of Super 8 mm Film*.[46]

A companion case to *Miller*, *Paris Adult Theater I* v. *Slaton*,[47] spoke to the right of access issue confronted earlier in *Redrup, Stanley, Reidel, et al., supra*. It held that there was no immunity from state obscenity laws because film performances were attended solely by consenting adults. The Court reasoned that the state could enforce such legislation against consenting adults in order to protect its interest in the quality of life and the total community environment.

The *Paris* case is also notable for its acceptance of the Hill-Link Minority Report of the Commission on Obscenity and Pornography which acknowledges that there is at least an arguable correlation between obscene materials and crime.[48]

In 1974, the Supreme Court further refined the *Miller* test by declaring that juries did not have unbridled discretion in determing what was "patently offensive."[48] The Court ruled, despite a unanimous jury to the contrary, that the movie "Carnal Knowledge" contained no material which could be found to depict sexual conduct in a patently offensive manner. Consequently, the *Miller* test had not been satisfied.

An analysis of the cases contained in this section and the recommendation of the Commission regarding their application to proposed section 511 follows the discussion of indecent and profane material below.

E. *Application to indecency and profanity*

The current legal status of the terms "indecent" and "profane" is uncertain. Each term has been subjected to constitutional attack on grounds that it lacks sufficient definiteness to conform to the requirements of the Due Process Clause. Defendants have argued that the terms lack the necessary clarity to put them on notice as to what conduct is proscribed, and that this improperly leaves these determinations to the judiciary. They argue that fundamental fairness requires that no person be held criminally liable for conduct which he could not have reasonably understood to be proscribed. Discussed here are cases dealing with section 1464, several non-broadcast decisions on indecency and profanity, the principal Supreme Court decisions on vagueness and overbreadth in general, and the Commission's decisions in this area. Unfortunately, there are no definitive rulings on the validity of the language in section 1464.

1. The Courts:

a. Section 1464 Cases—

The first notable case on the precision of the terms used in 18 U.S.C. section 1464 was *Duncan* v. *U.S.*,[49] which concerned the broadcast of allegedly obscene and indecent language over KVEP, Portland, Oregon.[50] The Court held that the language used was not obscene or indecent because it had no tendency to excite libidinous thoughts on the part of the hearers. Although neither party alleged that the language was profane, the court held that it was, and in the process inferentially approved several definitions of the term "profane" including:

"irreverence toward God or holy things";

"manifest or implied contempt of sacred things";

"any words importing an imprecation of divine vengeance or implying divine condemnation'; and

"to irreverently, disrespectfully, or contemptuously take the name of God in vain.[51]

*Gagliardo* v. *U.S.*,[52] ruled that the words "God damn it" uttered by means of citizen's band radio were not "indecent" for purposes of section 1464. The government did not argue that the words were "profane" and thus this issue was not addressed by the court. The district court conviction was reversed because that court gave improper instructions constituting reversible error. In the court of appeals, the government argued that the term "indecent" should be defined to include "the extremely vulgar, coarse and offensive use of sexual terminology in a manner far exceeding the bounds of common decency"; however, the court did not pass upon the validity of this definition because of the lower court's failure to give proper instructions.[53]

In *Tallman* v. *U.S.*,[54] petitioners alleged that section 1464 was unconstitutional for failure to require scienter and because the terms "indecent" and "profane" were unconstitutionally vague. The court disposed of the former argument by reading scienter into the statute, and favorably referenced usage of "indecent" and "profane" since they conveyed ". . . sufficiently definite warning of the proscribed conduct when measured by common understanding and practices."[55] The court noted that "profane" could be construed in a manner encompassing protected speech, but could also be interpreted "as denoting certain of those personally reviling epithets naturally tending to provoke violent resentment or denoting language which under contemporary community standards is so grossly offensive to members of the public who actually hear it as to amount to a nuisance."[56] The court elected to construe the term in the latter manner and thereby implied that it was constitutionally valid. However, this case turned on whether the terminology was obscene, and thus the precedential value of the court's pronouncements on indecency and profanity is significantly diminished.

b. Cases not involving section 1464—

The initial case of consequence is *Chaplinsky* v. *New Hampshire, supra*, which upheld a conviction under a state statute for the use of so-called "fighting words" in public ("words which have a direct tendency to cause acts of violence by the persons to whom, individually, the remark is addressed").[57] *Chaplinsky* included in this category profanity and obscenity and inferentially upheld their constitutionality against a vagueness challenge on grounds that the relevant statute was "narrowly drawn and limited to define and punish specific conduct."[58]

The courts then considered a series of cases[59] which appear to stand for the propo-

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sition that the term "indecent", absent a definition setting off a recognizable category of expression as unprotected, is probably unconstitutionally vague and overboard.

In *Williams* v. *District of Columbia,*[60] the D.C. Circuit refused to sustain a conviction under a statute which prohibited profane language, and indecent or obscene words from being used on public streets. The court reasoned that particular words *per se* could not be denied protection under the First Amendment, and emphasized that the context in which such words are used must be considered. In this instance, the court held that the language used was protected because in context it did not threaten a breach of the peace or create a substantial risk of provoking violence. The court also noted that the statute was so extraordinarily broad that "it would allow punishment of the hapless stonemason who, after crushing his toe, innocently utters a few relieving expletives within earshot of a public place." [61]

In a companion case to *Miller, U.S.* v. *12-200 ft. Reels of Super 8 mm Film,*[62] the Supreme Court questioned whether the term "indecent" had a meaning distinct from obscene as defined in *Miller.*[63] The Court indicated that where serious doubt was raised as to the constitutionality of the term and a construction was possible by which the question may be avoided, it was prepared to construe the term to mean "patently offensive representations or descriptions of specific 'hard-core' sexual conduct" as set out in *Miller.*[64] The court proceeded to apply this logic in *Hamling* v. *U S., supra.* At issue was 18 U.S.C. 1462 which prohibited the mailing of "obscene, lewd, lascivious, indecent, filthy or vile" material. Confronted with a vagueness challenge to these terms, the Court construed them as limited to the sort of hard core sexual conduct described in *Miller,* and thereby sustained the statute.

In *Illinois Citizens Committee for Broadcasting* v. *FCC,*[65] the D.C. Circuit Court of Appeals sustained a forfeiture imposed by the Commission in *Sonderling Broadcasting Corp.,*[66] for broadcast of offensive sexual material. In making this determination, the court employed the test established in *Ginzburg* which held that otherwise protected material could be obscene if presented in a pandering manner. However, the Commission's ruling was affirmed solely on the basis of its finding that the material in question was "obscene." The court did not reach the questions posed by the Commission's interpretation and application of the term "indecent." The importance of *Illinois Citizens* is further limited by the fact that the court narrowed the scope of its holding to "radio call-in shows which, during daytime hours when the audience may include children, broadcast explicit discussions of ultimate sexual acts in a titillating context." [67]

The case is perhaps more notable for its discussion of the effect of the presence of children in the broadcast audience than for its conclusion regarding the terminology employed in section 1464 since the court was clearly influenced by the fact that children could have been, and most probably were, among the audience because of the time of the broadcast.[68] *Illinois Citizens* is further notable for sanctioning Commission evaluation of broadcast programming based on a brief consideration of the offensive material without examining the broadcast as a whole when that programming is episodic in nature rather than an integrated presentation.

The most recent judicial pronouncement in this area came from the Supreme Court in *Erznoznik* v. *City of Jacksonville.*[68a] Although the validity of the terms "indecent" and "profane" was not specifically addressed, the case impacts upon this issue since it outlines some circumstances under which nonobscene expression may be prohibited.

At issue was the constitutionality of a Florida ordinance which prohibited drive-in movie theaters from showing films containing nudity on screens visible to the public. The State argued that the ordinance was necessary to protect nonconsenting Florida citizens from exposure to potentially offensive material. In striking down the ordinance, the Court relied heavily upon *Cohen,* concluding that there was no showing that a "substantial privacy interest had been invaded in an essentially intolerable manner." Speaking for the Court, Justice Powell stated that under sensitive First Amendment circumstances, the burden of avoiding exposure to such material normally falls upon the viewer. The Court concluded that the viewer could do so by averting his eyes.[68b]

Nonetheless, the Court was careful to note that selective restrictions upon potentially offensive expression are permissible when the speaker intrudes upon the privacy of the home or when the degree of captivity makes it impractical for the nonconsenting viewer to avoid exposure. In this connection, the Court acknowledged that children are much like members of a captive audience in that they do not possess full capacity for individual choice which is the presupposition of First Amendment guarantees.

c. Supreme Court Rulings on Vagueness and Overbreadth—

The cases above must be read in light of the pertinent decisions of the Supreme Court on vagueness and overbreadth. *Thornhill* v. *Alabama,*[69] was the Supreme Court's first notable effort to deal with imprecise statutory language in relationship to First Amendment rights. There the Court said that a statute which fails to aim specifically at evils within a permissible area of state control and thereby sweeps within its ambit activities protected by the First Amendment permits discriminatory enforcement, and acts as a "continuous and pervasive restraint on all freedom of expression." [70]

In *NAACP* v. *Button.*[71] the Court reaffirmed its insistence upon precise statutory language in this area. That decision called for strict interpretation of statutes "closely touching our most precious freedoms", and stated that it would view with suspicion "broad, prophylactic rules in the area of free expression." [72]

*Zwickla* v. *Koots,*[73] added to these concerns the fear that excessively broad statutory language affecting First Amendment rights would cause persons to steer far wider of the unlawful area than if the governing standard was clearly set out. The Court stated that it would look with disfavor upon statutory language "so imprecise that men of common intelligence differ as to its meaning and application." [74]

The Court consolidated and refined the above standards in *Grayned* v. *City of Rockford,*[75] and called for "flexible and reasonable breadth rather than meticulous specificity" in statutory language.[76] The case established three tests by which this language may be evaluated:

(1) it must give fair warning as to what is prohibited and thereby allow choice between lawful and unlawful conduct;

(2) it must not delegate excessive discretion for resolution on an *ad hoc* and subjective basis without leaving to the courts standards for review; and

(3) it must not cause persons to steer far wider of the unlawful zone than if the boundaries of the forbidden area were clearly marked.[76a]

The need for statutory specificity was also addressed in *Erznoznik, supra.* There the Supreme Court found an across-the-board prohibition against films containing nudity broader than permissible to protect children.[76b] The Court observed that such a prohibition would ban all films containing uncovered buttocks or breasts irrespective of content. It concluded that all nudity could not be deemed obscene even as to minors. However, the Court was careful to note that sexually explicit materials could be prohibited, at least in some precisely delineated areas.

2. The Commission:

a. Offensive Programming and Cease and Desist Orders—

The Commission's first action of consequence in the regulation of morally offensive materail came in 1960 when it noted the broadcast of offensive sound effects and disc jockey commentary by a licensee in *Mile High Stations, Inc.*[77] It passed along complaints received and ordered the licensee to show cause why his license should not be revoked, however, the Commission ultimately issued only a cease and desist order.

b. Offensive Programming and Licensing—

The Commission has also employed its licensing procedures to control offensive utterances.[77a] In 1955 it awarded a Memphis TV license to WREC Broadcasting Service over competitor WMPS, Inc., in part because of vulgar and suggestive song lyrics broadcast by the latter's radio outlet. The Commission concluded that these broadcasts represented a failure to exercise adequate program supervision which reflected adversely upon WMPS's qualifications to be a television licensee.

Several years later, the Commission employed the license renewal procedure to control indecent utterances.[78] It refused to renew the license of Palmetto Broadcasting Company's WDKD radio since the station had broadcast off-color humor and remarks. The Commission found this material to be inconsistent with the licensee's obligation to broadcast in the public interest set out in 47 U.S.C. 307(d), thus *Palmetto* did not rely on section 1464. The licensee was also cited for misrepresentations concerning listeners complaints during the renewal proceeding. The court of appeals affirmed on this ground alone, and did not reach the indecency question.[79]

A second illustration of the use of the renewal process for regulation of morally offensive language is *In re Applications of Pacifica Foundation for Renewal.*[80] The Commission received complaints regarding the broadcast of Edward Albee's *Zoo Story,* a discussion among homosexuals, and certain avant garde poetry of Robert Greeley and Lawrence Ferlinghetti over Pacifica's Station KPFA-FM, Los Angeles. The Commission noted that the licensee had exercised inadequate program supervision, but found that there was insufficient basis on which to deny the renewal applications of several other Pacifica stations. However, when KPFA itself came before the Commission in 1965, the Commission granted only a one year short-term renewal.[81]

A third such case is *Jack Straw Memorial Foundation* [82] in which the Commission initially granted KRAB-FM a short term renewal for broadcasting profanities, and for failure to screen programming prior to broadcast as set out in its own broadcast standards. Similar to *Pacifica, supra,* the *Jack Straw* action was not based on section 1464, but turned on whether the licensee had acted in the public interest in failing to exercise proper supervision over the content of his programming. Later, a Commission hearing examiner granted KRAB a full term renewal.[83]

The Commission has been criticized for employing the renewal process as a device to control programming.[84] Critics allege that this practice gives the Commission wide-ranging authority to regulate program content without reference to constitutional standards, and that the public interest standard used in the renewal process is so subjective as to cause broadcasters to shy away from innovative and provocative programming for fear of incurring the Commission's disfavor.[85] This is alleged to constitute prior restraint since it, in effect, places an arbi-

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trary limitation upon speech without judicial determination of whether the material is protected.[88] This reasoning finds support in *Bantam Books* v. *Sullivan*.[87] This procedure is alleged to be all the more objectionable since a reviewing court has no standard except reasonableness for evaluating a Commission licensing decision.

The Commission has dismissed this line of argument stating that it has been quite aware of the prohibitions against censorship contained in section 326 of the Communications Act in license renewal proceedings, and has made every effort to avoid the conduct section 326 proscribes. The Commission has repeatedly stated that it is not holding that sex per se is a forbidden subject on broadcast media, lest it should chill free speech.[89] In *Pacific, supra,* for instance, the Commission said:

"We are emphatically not saying that sex *per se* is a forbidden subject on the broadcast media. We are well aware that sex is a vital human relationship which has concerned humanity over the centuries, and that sex and obscenity are not the same thing. In this area, we recognize the licensee's right to present provocative or unpopular programming which may offend some listeners."[90]

The Commission has also urged that its standard for passing judgment upon such matters at license renewal time is section 1464, and that, therefore, all vagueness challenges must fail.

c. Offensive Programming and Forfeitures—

In 1970, the Commission focused on the problem of indecent language in *Eastern Educational Radio (WUHY–FM)*.[91] In that case, a non-commercial educational radio station broadcast a taped interview with a member of a contemporary musical group who interspersed his comments on society, ecology, and computers with the words "———" and "———".

The Commission initiated administrative forfeiture proceedings, pursuant to 47 U.S.C. 503(b), by issuing a Notice of Apparent Liability in the amount of $100 for violation of 18 U.S.C. 1464.[92] In the Notice, the Commission recognized the licensee's right, pursuant to 47 U.S.C. 504(a), to have its liability determined judicially in a trial *de novo*. However, the Commission's determination was not challenged and the penalty was paid.

More recently, in 1973, the Commission was faced with the problem of "topless" radio programs in which an announcer took calls from the audience and discussed sexual topics. In *Sonderling Broadcasting Corporation, supra,* particularly explicit discussions concerning oral sex experiences were broadcast.

The Commission issued a Notice of Apparent Liability finding the material involved to be obscene under then prevailing Supreme Court standards for obscenity and thus in violation of 18 U.S.C. 1464.[93] As an alternative ground, the material was held to be indecent under the *WUHY* precedent. The presence of children in the audience—the program was broadcast from 10 a.m. to 3 p.m.—in the Commission's opinion, made it imperative that action be taken. An apparent liability of $2,000 was assessed and the licensee was reminded of his right to have his liability determined judicially. He chose to pay the penalty and acquiesce in the Commission's decision. However, a citizens group and a civil liberties organization intervened and challenged the Commission's determination. The petition was denied and appeal was made to the United States Court of Appeals for the D.C. Circuit.

On November 20, 1974, the court, in *Illinois Citizens, supra,* upheld the Commission's ruling that the material broadcast was obscene and in violation of section 1464.

In a further attempt to resolve the issue, the Commission issued a declaratory ruling on February 12, 1975, regarding the broadcast of a recorded comedy monologue containing words such as "———", "———", "———", ———", ———", and '———", repeated over a period of 11 minutes, 45 seconds.[93a]

In its ruling, the Commission defined "indecent" within the meaning of section 1464 to include patently offensive language which amounts to a public nuisance. In emphasizing its reliance on the nuisance doctrine, the Commission said that it was more concerned with channeling behavior into appropriate forums than with prohibiting it. In this regard, the Commission showed special concern for the exposure of children to language that most responsible parents regard as inappropriate for them to hear. Indecent language was held to encompass those words which depict sexual or excretory activities and organs in a manner that is patently offensive by contemporary standards for the broadcast medium and are broadcast at times of the day when there is a reasonable risk that children my be in the audience. During times when children are not likely to be present, a different standard is employed. This standard would permit the broadcast of offensive material if it has serious literary, artistic, political or scientific value.

Applying this logic to WBAI, the Commission said that the broadcast in question was indecent particularly because of the fact that it was transmitted during the early afternoon when significant numbers of children were most probably among the audience. The Commission indicated that WBAI could have been subject to administrative sanctions for violation of section 1464, however the Commission imposed no sanctions since the proceeding was useful in clarifying its standards in this regard. Nevertheless, the Commission's order was associated with WBAI's license renewal file.[93b]

Most recently, the Commission assessed a $2,000 forfeiture against the trustees of the University of Pennsylvania, licensees of WXPN(FM), Philadelphia, Pennsylvania, for the broadcast of obscene and indecent language. See FCC 75–1333 (released December 4, 1975). At issue were several segments of a program entitled "The Vegetable Report" broadcast between the hours of 4:00 p.m. and 7:00 p.m. on January 26 and 27, 1975. The Commission found that at least four segments of these broadcasts appeared to be obscene under the threefold *Miller* test. It said that these segments appeared to present a pandering approach to the description of sexual acts. It cited to *Illinois Citizens* in support of its evaluation of segments of a program which is episodic in nature without taking into account the broadcast as a whole. The Commission expressed particular concern that the broadcasts had occurred at times when children might be expected to have heard them. Alternatively, the Commission stated that these broadcasts appeared to be indecent under the *Pacifica* and *WUHY* precedents. The trustees paid the $2,000 forfeiture.

*Analysis of the Usage of the Terms Obscene, Indecent and Profane: Conclusions and Recommendations*—

The Commission is persuaded that the numerous substantive differences between radio communication and cable television (hereinafter referred to as electronic media), and other forms of communication discussed below justify the imposition of a more stringent test for morally offensive material on these media. It is the Commission's conclusion that obscene material should be barred from the electronic media in accordance with *Miller*; that indecent material should be barred where children are reasonably likely to be exposed to it but permitted otherwise if appropriate warnings are given.

The following analysis is offered to provide legal justification for this course of action, and to support the specific language recommended.

*A. Uniqueness of the electronic media*

1. Scarce Resource:

In the landmark case, *Red Lion Broadcasting Co.* v. *FCC*,[94] the Supreme Court recognized that the electronic media pose unique problems not present in the ordinary free speech case.[95] The Court's conclusion rested upon its finding that broadcasting is a privilege, unlike other media, because of the scarcity of spectrum space, and that this unique feature justifies differences in the First Amendment standards applicable to it.[96] In that opinion, Justice White wrote:

"It is idle to posit an unabridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write, or publish".[97]

More recently, the Supreme Court reaffirmed this view in *Columbia Broadcasting System, Inc. (CBS)* v. *Democratic National Committee (DNC)*,[98] where it said that because the broadcast media utilize a limited public resource, there is present "an unusual order of First Amendment values".[99] Unlike newspapers and other forms of communication, said the Court, the electronic media must balance "what it would like to do as a private entrepeneur with what it is required to do as a public trustee".[100]

To date the Supreme Court has not ruled upon the applicability of this "unusual order of First Amendment values" to morally offensive programming.

2. Distinctively Federal Interest:

The federal interest in the electronic media is legitimately greater than in other forms of communication. Unlike other media, the electronic media are regulated by a federal agency charged by federal law with licensing (or in the case of CATV, granting certificates of compliance) in the public interest. This federal interest was recognized in *Red Lion* where the Court said that broadcast frequencies could be "regulated and rationalized only by the Government."[101] This regulation has become an elaborate statutory scheme governing virtually all aspects of the electronic media.

The *Miller* Court expressed the view that the federal interest in regulating morally offensive material was less urgent than in previous years, and that this responsibility should become the function of state and local governments. This reasoning however, must be read in light of the Supreme Court's recognition of the federal interest in electronic media in *CBS* v. *DNC*, *Red Lion* and *NBC* v. *U.S., supra,* which has not diminished in recent years. The Commission also believes that this incongruity is due to the fact that neither *Miller*, *Erznoznik* nor any other decision of the Court has specifically addressed the question of morally offensive programming on the electronic media. For this reason, and because of the clear federal interest in regulating these media, the Commission believes that a separate, more stringent standard governing morally offensive material than that set out in *Miller* is warranted.

3. Instrusive Nature:

Because these media come directly into the home and occupy such a large percentage of the time of so many persons, they play too important a role to be allowed to disseminate morally offensive material absent stringent safeguards designed to protect children and non-consenting adults from exposure.[102]

Reading a piece of literature requires a deliberate act(s) on the part of the reader, e.g., purchasing and reading. To view a motion picture, admission must be actively sought, and, in either case, at least some notice of content is likely. However, the electronic media disseminate generally to the

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public, and enter the home directly without the need for a comparable affirmative act(s) by the prospective listener or viewer. Frequently there is no advance or concurrent notice of its content.[103] In this connection, the Supreme Court noted in the *CBS* case that the electronic audience is captive since this form of communication is "in the air" and avoiding exposure requires an affirmative act.[104] The listener or viewer must change the station, turn off the receiver, or leave the room and even then, he has been subjected to some offensive material.[105] This reasoning is especially applicable to juvenile audiences since these persons often lack the ability to intelligently select appropriate programming. They are less likely to change the channel, or to leave the room in order to avoid exposure, and thus are more of a captive audience than adults.[106]

Furthermore, unlike other media, in electronic communication there is no means of selecting an audience. Although a program may be designed and intended for a particular audience, these media enter the home without regard to age, background, or degree of sophistication and thus there is no way to limit exposure to that audience. The result is that many unintended listeners may be reached.[107] Again the problem is particularly acute when children are exposed to programming designed for mature audiences.

In *Miller* [108], the Supreme Court recognized that the states have a legitimate interest in prohibiting dissemination or exhibition of obscene material when the mode of dissemination, as in this case, carries with it a significant danger of exposing children. The importance of considering the presence of children in a broadcast audience in determining what is objectionable was recently acknowledged in *Illinois Citizens, supra.*[109] The statute proposed by the Commission is based upon the rulings in these cases. It establishes a more stringent standard governing morally offensive programming when it is reasonably likely that children will be in the audience, and provides safeguards designed to put adults on notice as to program content.

The Commission recognizes that the captive audience notion and its relationship to children was narrowed by the Court in its recent *Erznoznik* decision (discussed *supra* at pp. 17, 19). Clearly *Erznoznik* casts some doubts upon the validity of this notion as employed here. However, that case dealt exclusively with an outdoor movie theater. The Court did not address the applicability of its reasoning to electronic media. Moreover, the decision acknowledges that selective restrictions upon speech may be upheld when the privacy of the home is invaded, or the degree of captivity makes it impractical for the unwilling viewer to avoid exposure. The Commission believes that these elements are present in the case of electronic media. For these reasons we do not feel that *Erznoznik* is controlling here.

### *B. Recommendation re: Obscenity*

From the above reasoning, the Commission concludes that obscene materials must be barred from all electronic media in accordance with the *Miller* decision.

In order to comply with the *Miller* requirement that "obscenity" be defined with specificity, the Commission has itemized what it terms patently offensive depictions or descriptions of sexual conduct.[110]. The Commission incorporates the *Miller* notion that obscene material may be redeemed if the average person applying contemporary community standards finds that the material taken as a whole does not appeal to prurient interest, or if the work, taken as a whole, has serious literary, artistic, political, or scientific value. However, to accomodate the distinctive qualities of these media, the contemporary standard established in that case is defined in terms of radio communication and cable television. It should be noted, however, that obscene material redeemed under this test may still be barred from electronic media if it is indecent as set out *infra.*

### *C. Recommendation re: Indecency and profanity*

The Commission's study of the terms "indecent" and "profane" was made no easier by the fact that there are no definitive rulings on the constitutionality of either term as employed in section 1464.[111] The most recent ruling of the Supreme Court on this issue was *12-200 ft. Reels* which some believe implied that indecent—and presumably profane—had no meaning distinct from obscene, construed in the sense of hard core pornagraphy.[112] However, the case did not specifically address the electronic media and therefore is not controlling.

The Commission acknowledges that this is an area of considerable legal uncertainty. However, it has a strong interest in controlling morally offensive material which is less than obscene and believes that it is compelled to act in this area despite these uncertainties. In order to achieve its objectives, while avoiding reversal in the courts, the Commission recommends that a moderate approach be taken—that proposed section 511 proscribe indecency, but carefully specify in that section the scope of the proscription.

As noted, the courts have recognized that protecting children from morally offensive material poses problems distinct from those connected with protection of others. On this basis, the courts have ruled that a state's interest in controlling the conduct of children extends beyond its authority over adults.[113] The Commission believes that this logic is applicable in the area of indecent as well as obscene material, and proposes to regulate the dissemination of this material to children and nonconsenting adults in accordance with it. The Commission believes that dissemination to juveniles poses a more serious threat than dissemination to nonconsenting adults and therefore recommends a variable standard for the regulation of indecency which reflects this difference.[114] This approach recognizes that disseminated material may become indecent according to its distribution and audience.[115] In drafting this variable standard, the Commission attempted to balance society's interest in protecting children from indecent material and the interest of adults in having access to the widest possible range of programming.[116] The resulting standard, although barring dissemination of indecent material when children are most probably present, preserves access for adults when children are not likely to be in the audience. In accordance with *Butler,* the adult population will not be reduced to viewing only what is fit for children.

In taking this action, the Commission recognizes the Supreme Court's decisions in *Erznoznik, Cohen* and *Redrup* which stand for the proposition that offensive material can be barred only when individual privacy is assaulted in a manner so obstrusive as to make it impossible for a nonconsenting individual to avoid exposure. The Commission believes, however, that this line of reasoning is inapplicable when children are present, because the captive audience notion alluded to above precludes them from avoiding exposure. Since they cannot avoid exposure, offensive materials can be banned during those hours when they are most likely to be present.

Since the Commission's proposal would not prohibit indecent material at other times, *Cohen-Redrup* problems are avoided during these periods. The Commission further believes that if a *Butler-Stanley* adult right of access does exist, it is first of all limited by *U.S.* v. *37 Photos, U.S.* v. *Reidel* and *Paris Adult Theatre I, supra.* These cases stand for the proposition that the adult right of access ends when it constitutes an intolerable invasion of the privacy of others.[117] *Paris* justifies this, reasoning that under these circumstances the interest of the state in the quality of life and the total community takes precedence over any right of access.

1. Indecent:

The material prohibited as indecent for children includes: "a representation or verbal description of a human sexual or excretory organ or function which under contemporary community standards for radio communication or cable television is patently offensive." [118] However, such materials would be permissible if the disseminator makes efforts which, in fact, minimize the risk of exposure to children under age 12.[119]

The Commission clearly contemplates that in order to minimize the risk of exposure to children under age 12, offensive material should be promoted only through non-sensational techniques,[120] and should be permitted only during the later evening hours (e.g., after 11 p.m.) and before early morning (e.g., before 7 a.m.).[121] In addition, when such materials are carried, significant efforts should be made to warn adults both before and during a program of its potentially offensive nature. These efforts should include advance notification to appropriate publications and in the case of television and cable, both aural and visual warnings.

The Commission believes that this approach (permittiing dissemination to consenting adults, and significantly reducing the number of persons likely to be offended by placing parents and unwilling adults on notice as to program content) avoids the First Amendment problems inherent in a standard which would totally suppress indecent material.

The Commission proposes that the patently offensive nature of this material be judged under the same contemporary community standard for radio communication and cable television as applicable to obscenity. This standard is based upon the premise that these media are distinctive and therefore that a number of factors should be considered in making these judgments: the means of communication employed, the nature and composition of the audience reached, the time of dissemination, and the length and frequency of the objectionable material. The proposed definition leaves to the Courts the question of whether this consideration should be based on a local or state, or national standard and how and by whom it should be applied.[122] Undoubtedly under section 503, the Commission will wish to test its authority to make administrative determinations under the contemporary standard. However, since the constitutionality of this procedure remains to be definitively tested in the courts, the Commission believes that this aspect of the standard is best left undefined.[123]

2. Profane:

The proposed legislation deletes the current prohibition against dissemination of profane language. The Commission has taken this action because of the infrequency with which modern courts have construed the term "profane", and the sparsity of decisions which have upheld it against constitutional attack. The Commission's rationale for the proposed deletion is discussed below.

The sole case which directly confronted and approved the prohibition against profane language in the context of radio communication was *Duncan, supra,* a 1931 decision of the Ninth Circuit. In that case, the court inferentially approved various definitions of the term. However, the precedential value of these definitions is questionable since *Duncan* predated the Supreme Court's decision in *Burstyn* v. *Wilson, supra.*[124] Furthermore, the definitions which it appears to sanction

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Footnotes at end of article.

are drawn from decisions dating back into the last century.[125]

Viewed in the context of modern decisions, these definitions are fraught with religious connotations which raise questions under the Free Exercise Clause of the First Amendment as well as questions of vagueness and overbreadth. Moreover, we note that since the 1931 *Duncan* decision, neither the courts nor the Commission have employed this prohibition in the context of radio communication. Instead, each has favored use of the prohibition against indecency. In *Gagliardo, supra,* for instance, the words "God damn it" uttered over citizens band radio were at issue. However, the Government argued that the words were indecent, not profane. The court employed the indecency standard without addressing the obvious profanity question but found the words constitutionally protected. Similarly, the Commission has avoided penalizing profane utterances through administrative sanctions pursuant to section 1464 and instead has employed its license renewal procedure.[126]

For these reasons, the Commission looked to non-broadcast decisions for guidance in this area.

*Chaplinsky, supra,* sanctions the prohibition against uttering words, including profanities, which have a "direct tendency to cause acts of violence by the persons to whom, individually, they are addressed." [127] However, the applicability of this reasoning to electronic media is questionable since *Chaplinsky* speaks in terms of physical confrontations which result from the use of offensive language. Because there is no physical contact between speaker and hearer in electronic communication, it is difficult to imagine how such a confrontation could occur.

The reasoning in *Chaplinsky* was echoed by the District of Columbia Circuit in *Williams, supra,* which held that in order to be proscribed, language must "threaten a breach of the peace." [128] However, the court broadened *Chaplinsky* by defining the circumstances under which a breach of the peace was threatened:

"[E]ither because the language creates a substantial risk of provoking violence, *or because it is under 'contemporary community standards' so grossly offensive to members of the public who actually overhear it as to amount to a nuisance."* [129] (emphasis supplied)

The court proceeded to construe the public nuisance portion of this definition to include verbal assaults which did not create a threat of violence but which were grossly offensive because of their profane character. *Von Sleichter, supra,* reaffirmed this notion by intimating that there was a state interest in protecting sensibilities which did not depend upon a showing of a tendency to result in violence. That interest, it said, was in protecting the freedom from present nuisance.[130]

However, in view of more recent judicial pronouncements, the Commission is skeptical about the viability of this expansion of the "fighting words" doctrine. The Supreme Court's decision in *Gooding, supra,* for instance, invalidated a statute as applied to spoken words because it was not limited to words likely to provoke violence. The *Gooding* Court held that a statute which "makes it a 'breach of the peace' merely to speak words offensive to some who hear them . . . sweeps too broadly." [131] The recent *Erznoznik* decision reaffirms the notion that mere offensiveness may not be proscribed absent a showing that a substantial privacy interest has been invaded in an intolerable manner, and thereby reinforces our belief that profanity as such should no longer be proscribed.

### *D. Penalties prescribed*

Violations of the proposed statute are punishable by a fine of not more than $10,000 or imprisonment for not more than one year (two years for recidivists) or both as is the case generally for violation of the Communications Act under section 501. That section sets out the sanctions for violation of the Communications Act for which no penalty other than a forfeiture is provided. However, the penalties proposed here are contained in proposed section 511 in order to avoid the requirement that specific intent be proven as is necessary under section 501. During review of the *Miller* decision the Commission determined that convictions under proposed section 511 should require only proof of general intent. Violations of the proposed statute would also be punishable administratively, most notably under the forfeiture authority of section 503(b)(1)(E).

Section 1464 is currently punishable by a fine of not more than $10,000 or imprisonment for not more than two years or both. S. 1 of the 94th Congress would make section 1464 punishable as a misdemeanor under the Communications Act, thereby reducing the period of imprisonment to one year. The fine would remain the same. The sanction proposed here conforms to the intent of the draftsmen of S. 1.

FOOTNOTES

[1] Act of February 23, 1927, Ch. 169, sec. 27, 44 Stat. 1172.

[2] Act of June 19, 1934, Ch. 642, sec. 326, 48 Stat. 1091. This section provides that nothing in the Communications Act should be understood or construed to give the Commission the power of censorship over radio communications or signals transmitted by any radio station and that no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.

[3] The fact that the relevant portion of sec. 326 was moved to the criminal code did not affect the FCC's responsibility for enforcement since the Congress explicitly incorporated sec. 1464 by reference in the Communications Act [47 U.S.C. sec. 503(b)(1)(E)] which authorizes the Commission to impose certain administrative sanctions for violations of sec. 1464.

[4] 347 U.S. 284 (1954).

[5] In this case, the U.S. Supreme Court ruled that the Commission had concurrent authority with the Department of Justice to enforce 18 U.S.C. 1304 (1948), *Broadcast of Lottery Information.* The Commission derives its forfeiture authority for violations of 18 U.S.C. 1464 from the logic of this ruling. 347 U.S. at 289.

[6] The Commission may impose a forfeiture not to exceed $1,000. Each day during which a violation occurs constitutes a separate offense.

[7] 47 U.S.C. sec. 312(a) (1960).

[8] 47 U.S.C. sec. 312(b) (1960).

[9] *See* National Association of Broadcasters, *The Television Code* 4, (17th ed., 1973) and National Association of Broadcasters, *The Radio Code* 10, (17th ed., 1972) setting out the industry standards for acceptable broadcast programming. *See also* FCC Public Notice 99446 (March 27, 1973), containing an NAB resolution which "unequivocally and vigorously" deplores and condemns tasteless and vulgar program content.

[10] During Fiscal Year 1974, the Complaints and Compliance Division received 23,344 complaints about allegedly obscene, indecent or profane program material. This compares with 32,438 in FY 1973, 2,141 in FY 1972 and 1,180 in FY 1971.

[11] Address to the Illinois Broadcasters Association by FCC Chairman Richard E. Wiley, October 10, 1974, FCC Pub. No. 31717 (October 10, 1974).

[12] Allen B. DuMont Laboratories v. Carroll, 184 F.2d 153, (3d Cir. 1950), *cert. denied,* 340 U.S. 929 (1951).

[12a] *See* Gagliardo v. U.S., *infra* at n. 53.

[13] 47 C.F.R. sec. 76.251 (1972) (*Minimum Channel Capacity; access channels*) requires in subsection (a)(4) (*Public Access Channel*) that each CATV system operating in a major television market, and carrying the signal of any TV broadcast station, maintain at least one specially designated, noncommercial public access channel, available on a first-come, nondiscriminatory basis, and at least minimal equipment necessary for program production. Subsections (a)(5) and (a)(6) require such systems to provide an educational and a local government access channel. Subsection (a)(7) authorizes such systems to offer other portions of its nonbroadcast bandwidth, including unused portions of the specially designated channels, for lease subject to displacement if there is a demand for use of these channels for their specially designated purposes. 47 C.F.R. sec. 76.253 (1974) (*Cablecasting equipment requirements for larger cable systems*), requires that cable systems having 3,500 or more subscribers, operator production and presentation of such programs. [Note: this section supersedes former 47 C.F.R. sec. 76.201 which required, in addition, that a cablecaster "operate to a significant extent as a local outlet by origination cablecasting". See FCC 74-1279, Docket No. 19988, December 9, 1974.]

[14] 47 C.F.R. § 76.55 (1972) (*Manner of Carriage*) provides in subsection (b) that where a television signal must be carried by a cable system pursuant to Commission rules (generally local commercial and noncommercial stations) the programs broadcast shall be carried in full, without deletion or alteration of any portion. 47 C.F.R. § 76.55(b) requires that broadcast signals carried voluntarily by a CATV system should be carried in full, without deletion or alteration.

[15] Because section 315 of the Communications Act and 47 C.F.R. 76.205 of the cable rules proscribe the exercise of program content control in the case of political broadcasts and origination cablecasts by legally qualified candidates for public office, dissemination carried out by broadcasters or cable operators pursuant to these sections is also an affirmative defense to an action brought under proposed section 511. Under these circumstances, liability falls only upon those persons who speak or act in violation of the proposed section.

[16] 47 C.F.R. § 76.215 (1972) (*Obscenity*) bars obscene or indecent programming from origination cable.

[16a] See discussion of affirmative defense available to such persons on pp. 27, n. 104 and 32, n. 121.

[17] 47 C.F.R. section 76.253(b)(2) (1974) (*Program Content Control*) bars larger cable systems from exercising control over the content of non-operator origination cablecasts subject to the limitation contained in subsection (b)(3) (*Operating Rules*) that each such system establish rules prohibiting the presentation of obscene or indecent material. Similarly, 47 C.F.R. section 76.251 (1972) (*Minimum Channel Capacity; Access Channels*), although barring a cablecaster from exercising control over program content in subsection (a)(9) (*Program Content Control*), requires in subsection (a)(11) (*Operating Rules*) that cable systems establish rules prohibiting the presentation of obscene or indecent material. Because these rules were ambiguous, the Commission issued a clarification concurrent with the adoption of this legislative proposal to the effect that cable operators are responsible to the Commission for obscene and indecent program content on access channels. Liability is measured on a standard of reasonableness designed to accommodate the unique features of this means of communication. This clarification is particularly important since the alleged offensive programming disseminated by CATV systems has generally been over access channels. In two instances, one in California and the other in the Pennsylvania-Ohio border area, so-called "stag" movies

were cablecast. A third instance involved the cablecast of an allegedly obscene act on a New York City access channel. Because the Commission's authority in this area was ambiguous, no enforcement action was taken against these operators or those persons who spoke or acted offensively. These ambiguities were highlighted when, on June 14, 1974, a New York cable system requested an opinion regarding its responsibilities with respect to a potentially offensive program. In its response, the Commission cautioned the cable operator concerning compliance with existing rules governing such programming. It suggested that the system schedule offensive programs to avoid exposure to juveniles, and advise its audience of the nature of its content before and during use.

[18] *See* S. 2343; H.R. 10620, 94th Cong., 1st Sess. (1975). This legislation was submitted separately because it confers forfeiture authority for violation of a variety of provisions of the Criminal Code and the Communications Act, only one of which is the prohibition against obscenity and indecency.

[19] "Utter" means "to give out in an audible voice" or "to exercise the faculty of speech". It can also mean "to put into circulation", but this definition is limited to commercial paper, Webster's Third New International Dictionary 2526 (unabridged 1971).

[20] "Language" means "an audible, articulate, meaningful sound as produced by the action of the vocal organs", Webster's Third New International Dictionary 1270 (unabridged 1971).

[21] "Disseminate" means "to make widespread", "to foster general knowledge of", or "to spread out: extend widely". Webster's Third New International Dictionary 656 (unabridged 1971).

[22] We do not doubt our current authority to impose an administrative sanction against a licensee for the actions or speech of his employees or guests. Our uncertainty is limited to the imposition of criminal penalties under these circumstances.

[23] U.S. v. Mobil Oil Corp., 464 F.2d 1124, 1127 (5th Cir. 1972); Casco Products Corp. v. Hess Bros., Inc., 184 Pa. Super 47, 132 A.2d 922, 925 (1957); *see also* 47 U.S.C. 153(i) of the Communications Act.

[24] Footnotes 24–28 have been removed.

[29] 354 U.S. 476 (1957).

[30] *Id.* at 489.

[31] *Id.* at 491.

[32] The requirement that crimes be defined with appropriate definiteness is generally held to be an essential element of due process of law. Indefiniteness is objectionable since no man should be held criminally responsible for conduct which he could not have reasonably known to be prohibited. Vagueness would delegate to the judiciary the responsibility for ascertaining what is criminal.

[33] 378 U.S. 184 (1964).

[34] 383 U.S. 413 (1966).

[35] 383 U.S.C. 463 (1966).

[36] 390 U.S. 629 (1968).

[37] This concept arose in *Butler* v. *Michigan*, 352 U.S. 380 (1957), where the Court invalidated a statute designed to protect children because it denied adults access to constitutionally protected materials and thereby had the effect of reducing the adult population to reading only what was fit for children.

[38] 386 U.S. 767 (1967) (*per curiam*).

[39] *Id.* at 769; *see also* Cohen v. California, 403 U.S. 16 (1971).

[40] 394 U.S. 557 (1969).

[41] 402 U.S. 351 (1971) (sustained a federal statute prohibiting the mailing of obscene material even to consenting adults).

[42] 402 U.S. 363 (1971) (sustained seizure of obscene materials intended for private use from the luggage of a returning tourist).

[43] 397 U.S. 728 (1970).

[44] *But see* Von Sleichter v. U.S., 472 F.2d 1244 (D.C. Cir. 1972), *cert. denied,* 409 U.S. 1063 (1972), which intimates that offensive speech may be judged by a stricter standard than written words since the former may not be avoided by a turning of the head as can the latter.

[45] 413 U.S. 15 (1973).

[46] 413 U.S. 123 (1973). *See also* U.S. v. Hamling, 418 U.S. 87 (1974) where the Court held that the *Miller* contemporary community standard was to be defined in state and local terms under federal as well as state statutes.

[47] 413 U.S. 49 (1973).

[48] The Hill-Link Minority view was also approved by former President Nixon, and the U.S. Senate in S. Res. 477, 91st Cong., 2d Sess. (1970) (by a vote of 60–5). The Commission's majority report urged legalization of obscenity for adults.

[48a] Jenkins v. Georgia, 418 U.S. 153 (1974).

[49] 48 F.2d 128 (9th Cir), cert. denied, 283 U.S. 863 (1931).

[50] This case was tried under sec. 29 of the Radio Act, however, that section contained language substantially similar to that in 18 U.S.C. 1464.

[51] Duncan v. U.S., 48 F.2d at 133–4.

[52] 366 F.2d 720 (9th Cir. 1966).

[53] The case is perhaps more notable fcr its holding that citizen's band radio falls within the scope of sec. 1464 since it has a substantial enough effect upon interstate commerce to permit congressional regulation, than for its pronouncements on "indecency."

[54] 465 F.2d 282 (7th Çir. 1972); *see also* U.S. v. Smith, 467 F.2d 1126 (7th Cir. 1972).

[55] *Id.* at 285, *quoting* Roth v. U.S. 354 U.S. at 491.

[56] *Id.* at 286, *referring to* Chaplinsky v. New Hampshire, 315 U.S. 568 (1942).

[57] 315 U.S. at 573; *see also* Terminiello v. City of Chicago, 337 U.S. 1 (1949): *but see* Von Sleichter v. U.S., *supra*, which intimates that there is a state interest in protecting the sensibilities of passers-by against shock which does not depend upon a showing of a tendency to result in violence.

[58] *Id.*

[59] Stein v. Batchelor, 300 F. Supp. 602 (1969); Interstate Circuit, Inc. v. Dallas, 390 U.S. 676 (1968); U.S. v. Klaw, 350 F.2d 155 (2d Cir. 1965); *see also* Holmby Productions, Inc. v. Vaughn, 350 U.S. 870 (1955) (*per curiam*).

[60] 419 F.2d 638 (D.C. Cir. 1969).

[61] *Id.* at 644.

[62] 413 U.S. 123 (1973).

[63] Cases which have concluded that there is no distinct meaning include *Interstate Circuit, Inc.* v. *Dallas, supra; United States* v. *Klaw, supra;* and *Holmby Productions, Inc.* v. *Vaughn, supra.*

[64] U.S. v. 12–200 ft. Reels of Super 8 mm Film, 413 U.S. at 130, n. 7.

[65] 515 F.2d 397 (D.C. Cir. 1975), petition for rehearing denied March 13, 1975.

[66] 27 R.R. 285, *recon. denied* 41 FCC 2d 777 (1973) discussed, *infra*).

[67] Illinois Citizens Committee for Broadcasting v. FCC, 515 F.2d at 406.

[68] *Id.* at p. 404. *"Moreover, and significantly,* 'Femme Forum' is broadcast from 10 a.m. to 3 p.m. during daytime hours when the radio audience may include children—perhaps home from school for lunch, or because of staggered school hours or illness. Given this combination of factors, we do not think that the FCC's evaluation of this material infringes upon the rights protected by the First Amendment" (emphasis added).

[68a] 422 U.S. 205 (1975).

[68b] *See also* Walker v. Dillard, No. 73–1108 (4th Cir. decided July 10, 1975). This case involved a constitutional challenge to a Virginia statute prohibiting the use of "vulgar, profane, threatening or indecent" language over the telephone. The Court concluded that a listener could easily avoid exposure to such language by hanging up his phone.

[69] 310 U.S. 88 (1940).

[70] *Id.* at 98.

[71] 371 U.S. 415 (1963).

[72] *Id.* at 438.

[73] 389 U.S. 241 (1967).

[74] *Id.* at 249.

[75] 408 U.S. 104 (1972).

[76] *Id.* at 110.

[76a] *Id.* at 108-9.

[76b] *See also* Walker v. Dillard, *supra.* There the Fourth Circuit objected to the use of the words "vulgar," "profane," and "indecent" in a Virginia statute where the state court had not supplied a limiting construction. However, the court stated that it would uphold a construction which limited these terms to obscenity or fighting words.

[77] 28 FCC 795 (1960).

[77a] WREC Broadcasting Service, 19 FCC 1082 (1955).

[78] Palmetto Broadcasting Co., 33 FCC 250 (1962).

[79] Robinson v. FCC, 334 F. 2d 534 (D.C. Cir 1964), *cert. denied* 379 U.S. 843 (1964).

[80] 36 FCC 147 (1964).

[81] 2 FCC 2d 1066 (1965).

[82] 21 FCC 2d 833, reconsidered and aff'd 24 FCC 2d 266 (1970).

[83] 29 FCC 2d 334 (1971).

[84] *Morality and the Broadcasting Media: A Constitutional Analysis of FCC Regulatory Standards,* 84 Harv. L. Rev. 664, 671 (1971). *Cf.* Banzhaf v. FCC, 405 F. 2d 1082, 1096 (D.C. Cir. 1968), *cert. denied,* 396 U.S. 842 (1969), which argues that the public interest standard is too vague a basis for administrative action unless it is narrowed by definable standards, particularly where First Amendment rights are involved.

[85] *Contra,* National Broadcasting Co. v. U.S., 319 U.S. 190, 216 (1943), which holds that the public interest standard "is as concrete as the complicated factors for judgment in such a field of delegated authority permit", *quoting* from FCC v. Pottsville Broadcasting Co., 309 U.S. 134, 138 (1940).

[86] *Contra,* NBC v. U.S., 319 U.S. at 227.

[87] 372 U.S. 58 (1963). In this case, a Rhode Island Commission notified book distributors that certain books had been declared objectionable for sale to young persons. The Commission reminded the distributors of its duty to recommend prosecution where appropriate. The Supreme Court held this procedure unconstitutional for lack of safeguards. The Court held that rigorous safeguards were required to insure that protected expression was not curtailed. FCC regulation under the public interest standard is alleged to be devoid of the necessary safeguards since the risk of non-renewal may inhibit broadcasters from asserting First Amendments rights. *See also* Interstate Circuit, *supra*, and Freedman v. Maryland, 380 U.S. 51 (1965).

[89] In this connection, the Commission has acknowledged its responsibility under *Red Lion* v. *FCC,* 395 U.S. 367, 390 (1969) to preserve the public's right to receive suitable access to "social, political, esthetic, moral or other ideas and experiences."

[90] 36 FCC 147, 149 (1964).

[91] 24 FCC 2d 408 (1970).

[92] The licensee was charged with broadcasting "indecent" material which the Commission defined as "(a) patently offensive by contemporary community standards and (b) utterly without redeeming social value." The Commission concluded that "indecency" did not require a finding that the offensive material appeal to prurient interest, but applied the remaining elements of the Roth-Memoirs test, *id.* at 412.

[93] The issuance of this Notice allegedly resulted in the removal of programming discussing sexual subjects from the format of the Sonderling station, WGLD–FM, Oak Park, Illinois, as well as KGBS, Los Angeles (originating station for a program syndicated on twenty-one stations), WHN, New York, and WDEE, Detroit. "Sexually Explicit Radio Shows Wilt Under Criticism of FCC", New York Times, April 24, 1973, p. 1.

[93a] In re Citizen's Complaint against Pacifica Foundation Station WBAI(FM), 56 FCC 2d 94 (1975).

[93b] The Commission's Order is the subject of an appeal styled *Pacifica Foundation* v. *FCC*, Docket No. 75X1391, now pending before the Court of Appeals for the District of Columbia Circuit. Oral argument was held March 30, 1976. No decision has yet been rendered. In a related action the Commission ruled on a "Petition for Clarification or Reconsideration" of its *Pacifica* decision filed by the Radio Television News Directors Association (RTNDA). See *"Petition for Clarification or Reconsideration" of a Citizen's Complaint Against Pacifica Foundation*, FCC 76-271 (released March 23, 1976). RTNDA asked the Commission to rule that its indecency standard did not apply to speech uttered during bona fide news or public affairs programs. While reaffirming the general application of its *Pacifica* order, the Commission did state that it would not hold licensees responsible for indecent language spoken during such programming when it was broadcast live since there was no opportunity for editing.

[94] 395 U.S. 367 (1969).

[95] *Id.* at 386; *see also* Burstyn v. Wilson, 343 U.S. 495, 502–3 (1952).

[96] *Id.* at 388.

[97] *Id.* at 388. The Commission acknowledges that the "scarcity" theory, in *Red Lion* is less cogent when applied to CATV because of the multiplicity of channels of communication made available by cable technology. However, it nevertheless believes that there are compelling reasons for extending a different First Amendment standard to all electronic media. *See infra.*

[98] 412 U.S. 94 (1973).

[99] *Id.* at 101; *See also* Office of Communication of the United Church of Christ v. FCC, 359 F. 2d 944, 1003 (D.C. Cir. 1966) where Judge Burger wrote when a broadcaster seeks and is granted the free and exclusive use of a limited and valuable part of the public domain, "it is burdened by enforceable public obligations."

[100] *Id.* at 18; *See also* Red Lion, 395 U.S. at 389, which indicated that a licensee, as a public trustee, owes an affirmative duty to his audience to program in the public interest. To allow otherwise, would undermine the usefulness of radio and TV to millions of persons and constitute a breach of fiduciary duty.

[101] Red Lion Broadcasting Co. *v.* FCC, 395 U.S. at 376, *quoted in* CBS v. DNC, 412 U.S. at 104; *see also* NBC v. U.S., *supra.*

[102] The Commission acknowledges the *contra* view expressed in *Offensive Speech and the FCC*, 79 Yale L. Rev. 1351, 1366 (1970) that it is illogical to assume that the First Amendment becomes less important as the importance of a form of communication increases, but believes that this view fails to recognize that other interests must be put in balance with First Amendment rights (E.G., society's interest in its children, and the individual's interest in privacy discussed *infra*).

[103] Eastern Educational Radio (WUHY–FM), *supra.* Of course, a receiver must be turned on to facilitate reception. However, the Commission believes that use of the electronic media is so easy and so common that this alleged affirmative act is not comparable to that required for access to other media. Television and radio receivers are frequently turned on in the morning or early evening and left on for long periods of time as broadcasters move from program to program. Thus, the single act of switching on a receiver permits a variety of programs to enter the home whereas in the case of other media, an affirmative act is required prior to each exposure.

[104] The captive audience notion applies *a fortiori* to many of the safety and special radio services where a licensee has access to only limited spectrum space which he must monitor to use effectively. On the other hand, this reasoning is inapplicable to cable television or subscription television where a per-program charge is made, or where a locked channel or comparable protective device is employed or available at the option of the subscriber. Under these circumstances, additional affirmative acts—e.g., purchasing the particular service and/or "unlocking" the receiver—is necessary. Moreover, subscribers are likely to know program content in advance. Because these acts would entail a significant amount of parental supervision, it could not be said that children would be captive under these circumstances. The Commission accommodates the peculiar circumstances of these forms of communication by providing that it shall be an affirmative defense to an action for indecency that dissemination was carried out utilizing a per-program charge or in any other manner which minimizes the risk of exposure to children under 12 or persons who choose not to be exposed (see subsection (1)(c)(2) of proposed statute). Accordingly, these services could disseminate so-called "adult" programing under circumstances when this could not be done over other media. However, the Miller obscenity test would apply to these media in the same manner as it does to broadcast communications. Moreover, the Commission has barred any action pursuant to this section against a cable television *operator* engaged in cable access programing (see subsec. 1(d) of proposed legislation). Thus, the above discussion—as it pertains to access programing—relates only to actions brought against persons who speak or act in an indecent manner or persons who provide programming containing material of this nature.

[105] *CBS* v. *DNC*, 412 U.S. at 128 *quoting Banzhaf* v. *FCC*, 405 F.2d at 1100–1101.

[106] *Ginsberg, supra*, 390 U.S. at 649–50 (concurring opinion of Justice Stewart).

[107] *See also, Sonderling, supra*, where the Commission recognized the fact that many unintended listeners are reached simply because they engage in "electronic smorgasbord sampling" (i.e., tuning across a band or changing channels while looking for a desirable program).

[108] *Citing Stanley, Ginsberg, Interstate Circuit, Redrup, Jacobellis, inter alia*, 413 U.S. at 19.

[109] *Illinois Citizens Committee for Broadcasting* v. *FCC*, 515 F.2d at 404.

[110] This definition is based upon that set out in S. 1400, 93d Cong., 1st Sess. (1974), a bill to revise and reform the federal criminal code, drafted by the Department of Justice, and section 1851 of comparable legislation introduced in the 94th Congress as S. 1. However, two changes were made. First, the references to flagellation, torture and other forms of violence indicating a sadomasochistic sexual relationship were deleted. Second, the words "or a close-up representation" were deleted in favor of the words "or lewd exhibition." (See S. 1400 and S. 1 language at page 4 and 6 of the Appendix.) These changes were made in order to more accurately track the decision in *Miller*.

[111] The term *"indecent"* was at issue but avoided by the court in *Robinson, Gagliardo*, and *Illinois Citizens*. Its use was referenced with approval in *Tallman*. The term "profane" was avoided by the Government in *Gagliardo*, but sustained in *Duncan;* its use was referenced with approval in *Smith* and *Tallman*. Outside the section 1464 context, the terms have also met with a mixed response. *Chaplinsky* inferentially sustained both terms, but *Stein, Interstate Circuit* and *U.S.* v. *Klaw* implied that "indecent" was unconstitutionally vague and overbroad absent a definition setting off a recognizable category of unprotected expression. *Williams* said, with reference to both terms that words *per se* may not be barred, but that content must be considered. *Walker* v. *Dillard* implies that the terms "indecent" and "profane" are subsumed by the word "obscene."

[112] *See also* Walker v. Dillard, *supra.*

[113] Ginsberg, *supra*, 390 U.S. at 470; *cf.* Erznoznik v. City of Jacksonville, *supra;* Wisconsin v. Yoder, 406 U.S. 213–4 (1972), *cited* in Miller, 413 U.S. at 36, n. 17.

[114] This standard is based upon a comparable standard for obscenity recognized in *Ginsberg* and employed in section 1851 of the Final Report of the National Commission on Reform of Federal Criminal Laws (see Appendix, p. 1).

[115] Ginsberg, *supra.*

[116] Red Lion, *supra*, 395 U.S. at 390.

[117] *Cf. Erznoznik, supra*, which stated that such an invasion would occur when a speaker intrudes on the privacy of the home or the degree of captivity makes it impractical for the unwilling viewer or auditor to avoid exposure.

[118] This definition is based upon the Commission's ruling in *WBAI, supra*. However, the contemporary community standard is written to reflect the desired inclusion of all forms of radio communication and cable television. The Commission will employ a public nuisance concept in applying this standard in order to make clear that its intent is to channel offensive material to appropriate audiences rather than to ban it altogether. It is drawn from the *Williams* and *Von Sleichter* cases, *supra*. Despite the Court's ruling in *Roth* that use of the word "indecent" without further definition does not make statutes containing it void for vagueness, the Commission feels strongly that the term must be specifically defined to conform to the Court's statement concerning imprecision in *Miller*, and its statement on vagueness and overbreadth in *Erznoznik* and *Grayned, supra*. Since *Miller* required specificity in the case of obscenity statutes, *a fortiori*, an indecency statute should be specific. [The Commission notes that former Commissioners Johnson (dissent in *Sonderling, supra*) and Cox (dissent in *WUHY, supra*) argued for such precision.] *Grayned* called for fair warning as to what is proscribed; a minimum of subjective decision-making to avoid the likelihood of discriminatory enforcement; and avoidance of any chilling effect upon free speech. *Grayned*, however, acknowledges that what is called for is reasonable breadth, not meticulous specificity. Note however, in the context of moral offensiveness, that *Erznoznik* said that only sexually explicit materials could be controlled.

[119] This is accomplished through the use of an affirmative defense. It is based upon such a defense contained in sec. 1851, *Obscenity and Lewdness*, of the *Brown Commission Final Report* (see Appendix, p. 1). Age 12 was selected since it is the accepted upper limit for children's programming in the industry and at the Commission. The Commission considered using the generally recognized age of majority—18—but concluded that it would be virtually impossible for a broadcaster to minimize the risk of exposure to 18-year-olds, and thus the affirmative defense would become a nullity. Furthermore, inasmuch as this defense applies only to indecent material, and not to obscenity, a reduced age seemed in order.

[120] i.e. no pandering tactics as in *Ginzburg* and *Illinois Citizens*.

[121] 10% or fewer of all children under 12 years of age are in the weekday television audience after 11 p.m. During the preceding hour the percentage runs from 19 to 32% depending upon the day of the week. Given these figures, the Commission believes that a decision to broadcast a program after 11 p.m. during the week would probably minimize the risk of exposure to children under age 12 and thereby raise the affirmative defense. *Television and Social Behavior Reports and Papers, Volume IV: Television in Day-to-*

*Day Life: Patterns of Use, A Technical Report of the Surgeon General: Scientific Advisory Committee on Television and Social Behavior* (1972), p. 143. However, this restriction would be inapplicable to cable television or subscription television where a per program charge is made, or where a locked channel or comparable protective device is employed or available at the option of the subscriber. These means of communications employ additional safeguards which minimize the risk of exposure to children (see subsection (1) (c) (2) of proposed legislation and discussion at p. 27, fn. 104, *supra*). Accordingly, these services could program so-called "adult" material during hours when this could not be done over other media.

[122] The Commission notes that in the *Hamling* decision, *supra*, the Supreme Court held that the *Miller* contemporary standard was to be defined in state and local terms under federal as well as state statutes. However, that case dealt with a mail statute and did not address the electronic media. Because of the differences between these forms of communication set out *supra*, it is unclear whether *Hamling* governs in this case.

[123] The D.C. Circuit has sanctioned limited exercise of the Commission's authority to impose administrative sanctions without a jury trial. In *Illinois Citizens*, the court rejected the petitioner's contention that the FCC did not furnish the "contemporary lens" which supplied the premise for the obscenity determination in *Miller*. In so doing, the court sanctioned Commission obscenity determinations where a jury trial was available and had been waived (515 F.2d at 405–6). However, in a supplement to the court's opinion issued March 13, 1975, Judge Leventhal added that the Commission must adopt in its deliberations leading to substantive determinations of obscenity, approaches which provide "as nearly as possible the *functional equivalent of a jury determination* of a clear community consensus that the material is lewd and offensive." (Emphasis supplied, 515 F.2d 406, 407.) While it is not entirely clear that would constitute the "functional equivalent of a jury determination", the Commission believes that this requirement may be met in forfeiture cases by the trial *de novo* procedure available under 47 U.S.C. 504. However, under those circumstances where *de novo* review is not available, such as license renewal, the Commission contemplates that it will conduct a proceeding which will ensure public participation.

[124] The *Burstyn* case held that use of the word "sacrilegious" in a New York statute was void for vagueness since it set the censor "adrift upon a boundless sea amid a myriad of conflicting currents of religious views, with no charts but those provided by the most vocal and powerful orthodoxies." Under such a standard the Court held that "the most careful and tolerant censor would find it virtually impossible to avoid favoring one religion over another, and he would be subject to an inevitable tendency to ban the expression of unpopular sentiments sacred to a religious minority." 343 U.S. at 504–5. *See also* Walker v. Dillard, *supra*.

[125] City of Georgetown v. Scurry, 90 S.C. 346, 73 S.E. 353, 354 (1912) ("Irreverence towards God or holy things,") Bodenhamer v. State, 60 Ark. 10, 28 S.W. 507 (1894) ("To irreverently, disrespectfully or contemptuously take the name of God in vain."); Gaines v. State, 75 Tenn. 410, 40 Am. Rep. 44 (1881) ("Any words importing an imprecation of divine vengeance or implying divine condemnation so used as to constitute a nuisance.")

[126] In *Jack Straw, supra*, where profanities were at issue, the Commission treated the utterances as instances where improper program supervision had been exercised, and elected to consider this as an element in its renewal process.

[127] 315 U.S. at 573. The Court also uses the phrases "[s]uch words as ordinary men know, are likely to cause a fight;" and "[words which] have the characteristics of plainly tending to excite the addressee to a breach of peace." *See also* Gooding v. Wilson, 405 U.S. 518 (1972).

[128] 419 F.2d at 646. *Williams* also required that the circumstances under which words are spoken must be considered in judging whether an expression is profane.

[129] *Id.*

[130] *See also* Street v. New York, 394 U.S. 576, 591 (1960); *But see Erznoznik* v. *Jacksonville, supra*, where the Supreme Court said that restrictions upon non-obscene expression would be sustained only where it invaded a substantial privacy interest in an essentially intolerable manner.

[131] 405 U.S. at 527. *See also* Walker v. Dillard, *supra*.

## APPENDIX

Several efforts have been made to consolidate those sections of Title 18 which proscribe conduct or language judged to be morally offensive. Each was designed to include the electronic media, and thereby supersede section 1464. *The Final Report of the National Commission on Reform of Federal Criminal Laws*, under the chairmanship of Edmund G. Brown, recommended the following on January 7, 1971:

### *Obscenity and lewdness*

### § 1851. Disseminating Obscene Material.

(1) Offense. A person is guilty of an offense if he disseminates obscene material, or if he produces, transports, or sends obscene material with intent that it be disseminated. "Disseminate" means sell, lease, advertise, broadcast, exhibit, or distribute.

(2) Defenses. It is a defense to a prosecution under this section that dissemination was restricted to:

(a) institutions or persons having scientific, educational, governmental or other similar justification for possessing obscene material; or

(b) noncommercial dissemination to personal associates or the actor [; or

(c) dissemination carried on in such a manner as, in fact, to minimize risk of exposure to children under eighteen or to persons who had no effective opportunity to choose not to be so exposed].

(3) Grading. The offense is a Class C felony if dissemination is carried on in reckless disregard of risk of exposure to children under eighteen or to persons who had no effective opportunity to choose not to be so exposed. Otherwise the offense is a Class A misdemeanor. [The offense is a Class A misdemeanor.]

(4) Jurisdiction. There is federal jurisdiction over an offense defined in this section under paragraphs (a), (e) or (f) of section 201.

### Comment

Section 1851, apart from the bracketed defense in subsection (2) (c), reflects the view that obscene material is harmful to individuals and society; that the federal government should continue to play a role in suppressing commercial trafficking in obscenity, and that *Stanley* v. *Georgia*, 394 U.S. 557 (1969), sustaining the right of an individual to possess obscene material in the privacy of his own home, does not mean that a commercial supplier has a correlative right to sell obscene materials to adults who wish to have it. Divergent views are summarized in the Working Papers, pp. 1203–43.

The section simplifies existing law (18 U.S.C. §§ 1461–64) and deletes anachronistic references to contraceptives and abortifacients. An effort to give some precision to the concept of "obscenity" (see Study Draft § 1851) was abandoned in view of the current state of flux in the relevant constitutional law, leaving it to the courts to continue to evolve the test on a case-by-case basis.

The defenses set forth in paragraphs (a) and (b) of subsection (2) reflect the prosecution policy of the federal government. See *Redmond* v. *United States*, 384 U.S. 264 (1966). Bracketed paragraph (c) of subsection (2) would afford an additional defense that would permit dissemination of concededly obscene materials to adults. This reflects a substantial body of opinion in the Commission that harmful results from exposure to obscenity have not been demonstrated; that the attempt to suppress obscenity infringes on First Amendment and other constitutional rights, and that federal law enforcement resources are inappropriately diverted and wasted in this field.

Grading in subsection (3) reflects the consensus that there should be some discrimination between, on the one hand, commercial exploitations involving exposure of obscenity to children or unwilling adults, and more limited circulation, on the other. The bracketed provision in subsection (3) reflects a substantial body of opinion in the Commission that misdemeanor sanctions are adequate in any event, in view of the availability of felony penalties for persistent misdemeanants, under § 3003.

Federal jurisdiction under this section includes enclaves, use of a facility of commerce or movement of the obscene material across a state or United States boundary.

An alternative approach that would permit distribution of some obscenity but would require labelling of "potentially offensive sexual material" and "adult sexual material" is set forth in the comment to § 1851 of the Study Draft.

The Brown Commission's Report predated the *Miller* decision and by its own admission does not attempt to reflect the current state of the law, however subsection 2(c) and (3) are notable for their special treatment of children and unwilling adults.

Subsequently, the Senate Committee on the Judiciary drafted and considered legislation (also pre-Miller) on this subject as a part of its effort to effect a comprehensive revision of Title 18.[1] Note the last sentence of subsection (c) which recognizes that the means of dissemination may affect the characterization of material or an item.

"§ 2–9F5. Disseminating Obscene Material

"(a) OFFENSE.—A person is guilty of an offense if he traffics in or disseminates obscene material or an obscene item.

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense that the trafficking or dissemination was restricted to institutions or persons having scientific, educational, governmental, or similar justification for possession of such material or item.

"(c) STANDARDS.—The elements of 'dominant theme', 'appeal to a shameful or morbid interest', and 'candor permissible' shall be judged by standards generally accepted in the judicial district in which the material was or was to be trafficked in or disseminated. The manner of dissemination may be considered, where relevant, in determining how to characterize the material or item.

"(d) GRADING.—The offense is a Class D felony.

"(e) DEFINITIONS.—As used in this section:

"(1) 'disseminate' means advertise, broadcast, or exhibit;

"(2) material or an item shall be characterized as 'obscene' if, taken as a whole, it:

"(i) has as its dominant theme an appeal to a shameful or morbid interest of an average person in sex, nudity, sadomasochistic, violent behavior, or scatalogical matters or materials or, in the case of material as to which the trafficking or dissemination was made or to be made to a member of a special class to the interest of the members of such class in sex, nudity, sadomasochistic, violent behavior, or scatalogical matters or materials; and

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[1] S. 1, 93d Cong., 1st Sess. (1973).

"(ii) exceeds the candor permissible in description or representation of matters of sex, nudity, sadomasochistic, violent behavior, or scatalogical matters or materials.

"(f) Jurisdiction.—Federal jurisdiction exists when the offense is committed within the jurisdiction defined in section 1–1A4 (64) (special jurisdiction); section 1–1A4 (69) (mails jurisdiction); or section 1–1A4 (12) (commerce jurisdiction).

Subsequently, the Department of Justice drafted its own legislation which incorporated the *Miller* tests: [2]

"§ 1851. Disseminating Obscene Material

"(a) Offense.—A person is guilty of an offense if he knowingly:

"(1) disseminates obscene material; or

"(2) produces, transports, or sends obscene material with intent that it be disseminated.

"(b) Definitions.—As used in this section:

"(1) 'disseminate' means to transfer, distribute, dispense, display, exhibit, broadcast, or lend, whether for profit or otherwise;

"(2) 'obscene material' includes:

"(A) an explicit representation, or detailed written or verbal description, of an act of sexual intercourse, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal, or of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship;

"(B) an explicit, close-up representation of a human genital organ;

"(C) a device designed and marketed as useful primarily for stimulation of the human genital organs; and

"(D) an advertisement, notice, announcement, or other method by which information is given as to the manner in which any of the materials described in subparagraphs (A), (B), or (C) may be procured

unless it constitutes a minor portion of the whole product of which it is a part, is reasonably necessary and appropriate to the integrity of the product as a whole to fulfill an artistic, scientific, or literary purpose, and is not included primarily to stimulate prurient interest.

"(c) Affirmative Defenses.—It is an affirmative defense to prosecution under this section that dissemination of the material was restricted to:

"(1) a person associated with an institution of higher learning, either as a member of the faculty or as a matriculated student, teaching or pursuing a course of study related to such material; or

"(2) a person whose receipt of such material was authorized in writing by a licensed medical practitioner or psychiatrist.

"(d) Defenses Precluded.—It is not a defense to a prosecution under this section:

"(1) that the defendant did not believe the material disseminated to be obscene if he had general knowledge of the content of the material disseminated; or

"(2) that the defendant did not knowingly disseminate the material to a person other than a person described in subsection (c), if he failed to take reasonable and appropriate precautions to insure against inadvertent dissemintion to persons other than those described in subsection (c).

"(e) Grading.—An offense described in this section is a Class E felony.

"(f) Jurisdiction.—There is federal jurisdiction over an offense described in this section if:

"(1) the offense is committed within the special jurisdiction of the United States;

"(2) the United States mail or a facility in interstate or foreign commerce is used in the commission or consummation of the offense; or

"(3) the property which is the subject of the offense is moved across a state or United States boundary.

The proposed Criminal Justice Reform Act of 1975 introduced in the present Congress as S. 1 contains the following language:

"§ 1842. Disseminating Obscene Material

"(a) Offense.—A person is guilty of an offense if he:

"(1) disseminates obscene material:

"(A) to a minor; or

"(B) to any person in a manner affording no immediately effective opportunity to avoid exposure to such material; or

"(2) commercially disseminates obscene material to any person.

(b) Definitions.—As used in this section:

"(1) 'commercially disseminate' means to disseminate for profit:

"(2) 'disseminate' means:

"(A) to transfer, distribute, dispense, lend, display, exhibit, send, or broadcast whether for profit or otherwise; or

"(B) to produce, transport, or possess with intent to do any of the foregoing:

"(3) 'minor' means an unmaried person less than seventeen years old:

"(4) 'obscene material' means material that:

(A) sets forth in a patently offensive way:

"(i) an explicit representation, or a detailed written or verbal description, of an act of sexual intercourse, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal; of masturbation; or of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship; or

"(ii) an explicit, close-up representation of a human genital organ;

"(B) taken as a whole, appeals to the prurient interest of:

"(i) the average person, applying contemporary community standards; or

"(ii) the average person within a sexually deviant class of persons, if such material is designed for, and is primarily disseminated to, such class of persons; and

"(C) taken as a whole, lacks serious artistic, scientific, literary, or political value.

"(c) Affirmative Defenses.—It is an affirmative defense to a prosecution under this section that dissemination of the material was restricted to:

"(1) a person associated with an institution of higher learning, either as a member of the faculty or as an enrolled student, teaching or pursuing a bona fide course of study, or conducting or engaging in a bona fide research program, to which such material is pertinent; or

"(2) a person whose receipt of such material was authorized in writing by a licensed or certified psychiatrist, psychologist, or medical practitioner.

"(d) Grading.—An offense described in this section is a Class E felony.

"(e) Jurisdiction.—There is federal jurisdiction over an offense described in this section if:

"(1) the offense is committed within the special jurisdiction of the United States;

"(2) the United States mail or a facility in interstate or foreign commerce is used in the commission of the offense; or

"(3) the material is moved across a state or United States boundary.

The Commission was asked to comment on this legislation prior to introduction. In its comments,[3] the Commission strongly objected to the consolidation of current section 1464 of Title 18 into the proposed section on grounds that electronic media were distinct from other forms of communication and should be governed by a separate, more restrictive standard than that proposed. The Commission suggested that the word "broadcast" be deleted from the proposed section and that section 1464 be retained pending submission of legislation setting out the desired, more restrictive standard.

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By Mr. BAYH (for Mr. Hartke):

S. 3860. A bill for the relief of Luella Hoffmann, wife of Victor F. Hoffmann. Referred to the Committee on Post Office and Civil Service.

Mr. HARTKE. Mr. President, I am introducing today a private bill for the relief of Mrs. Luella Hoffmann, widow of my legislative assistant, Victor F. Hoffmann, who died very suddenly on June 28 of a heart attack while in Indianapolis on business for me.

Vic was 3 days short of being eligible for a civil service pension—that is 3 normal working days for most people. You know as well as I do, the long hours at night, the many Saturdays and Sundays, that dedicated staff put in with no "overtime" benefits. Vic was one of these people. He worked around the clock. Vic's wife and children shared these sacrifices so commonly and willingly made by Capitol Hill employees. What he gave over and over again in extra effort, in time spent away from home, Lu gave in added family burden and responsibilities. No one knows this kind of sacrifice better than you and your families.

I am, therefore, not asking for something that has not been earned many times over. I ask only what is right and fair and human—what any of you would want to do given the same situation. In view of the very short time we have left in this session, I am hopeful that the Senate will act expeditiously to provide this minimum benefit for Mrs. Hoffmann and their three children, David, Daniel, and Susan.

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By Mr. INOUYE (for himself and Mr. Huddleston):

S. 3865. A bill to amend the Federal Energy Administration Act of 1974, as amended, and for other purposes. Referred to the Committee on Government Operations.

Mr. INOUYE. Mr. President, I am introducing for myself and Senator Huddleston a bill to amend section 26 of the Federal Energy Act of 1974. I realize that it is much too late in the session to act on this bill, but I hope that its introduction today will give interested parties an opportunity to study it.

Section 26 of the 1974 act ordered the Administrator of the Federal Energy Administration to conduct a comprehensive review of foreign ownership of, influence on, and control of domestic energy sources and supplies. Pursuant to that section, the FEA sent to the Congress in December 1974, a report entitled "Foreign Ownership Control and Influence on Domestic Energy Sources and Supply."

The report noted that on the basis of selected measurements, the foreign ownership control of most phases of U.S. energy activities represented less than 12 percent of total U.S. energy interests. The level of such foreign direct investment in individual energy industry sectors varied considerably in a range from 2.4 to 12 percent.

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[2] S. 1400, 93d Cong., 1st Sess. (1973).

[3] Letter to Department of Justice, adopted November 27, 1974.

In order to monitor continued investment, the FEA suggested that systematic identification of foreign-interest investments in specific sectors and coordinated effort among all Government data systems which collect information on foreign investment would be needed.

The recent Commerce Department report on "Foreign Direct Investment in the United States" found substantial foreign investment in selected areas of American energy. Foreign-owned firms accounted for an estimated 13 percent of total U.S. refinery capacity in 1974, 10 percent of total gasoline sales, 7 percent of petroleum production, and 4 percent of natural gas production.

In other energy-related sectors, foreign investors have shown considerable interest in coal production. Several foreign firms have signed long-term supply contracts or have provided equity investment or loans or participate directly in coal mine operations in the form of joint ventures.

In the nuclear fuel area, foreign-owned firms may not by law operate uranium enrichment facilities, but these restrictions do not extend to their participation in milling, mining, and gaseous conversion. However, foreign-held companies own less than 2 percent of U.S. reserves of uranium and do not constitute a serious factor in this area.

The bill being introduced today would require the Administrator to establish a monitoring program within the Federal Energy Administration and to make annual reports to the Congress about foreign participation in the energy sector, including ownership and control, foreign influence, exports, magnitude of annual foreign direct investment in the energy sector, and business transactions materially affecting the price and availability of U.S. energy supplies. He shall also report the identity of significant foreign direct investors and financial and operating information of affiliates and such other information as he deems appropriate to assist Congress in the formulation of policies with respect to foreign direct investment in United States energy sources and supplies.

I should emphasize that the legislation being introduced today does not in any way restrict foreign direct investment in the United States. It merely replaces an outmoded section of the original 1974 act with detailed directions to the Administrator of the FEA for continuous monitoring of foreign direct investment in the U.S. energy industry.

Based on available information, there is little reason to believe that the aggregate effect of foreign direct investment in the United States has been adverse although there may be some localities which have suffered disproportionately from such investment. Thus I would not advocate that any further limitations be placed on foreign corporate activity here in addition to those already in place unless further negative evidence concerning foreign direct investors were developed.

Mr. President, I am pleased to have as a cosponsor on this bill Senator WALTER D. HUDDLESTON, who originally drafted section 26 of the 1974 bill.

By Mr. WEICKER:

S. 3866. A bill to establish a program to improve U.S. commercial fisheries. Referred to the Committee on Commerce.

Mr. WEICKER. Mr. President, today I am pleased to introduce legislation entitled "The Commercial Fisheries Assistance Act of 1976" to assist the commercial fishing industry in meeting both present and future needs of the United States for fish and fish products.

The current state of our domestic fisheries is a disgrace. Our equipment is outdated; our vessels are in disrepair; our fishermen are misdirected; and many of the species caught are wasted for lack of markets.

We need to bring the U.S. fishing fleet into the 20th century. The Commercial Fisheries Assistance Act of 1976 will provide capital to repair vessels, to replace outmoded equipment, and to enlarge our fishery capacity, especially for underutilized species. The bill will provide management training and educational assistance to establish fisheries cooperatives. This will help the small and independent fisherman to strengthen his marketing efficiency. A fisheries board will be established to promote and research fisheries products, and locate new markets. The bill also provides training programs in commercial fisheries to assure that future manpower needs are fulfilled.

The U.S. domestic fishing fleet has been in bad repair for many years. Most of the individual vessels are not only outmoded and run down, but their numbers have been dwindling. This is particularly true in Connecticut where the number of offshore vessels have been cut in half over the past 20 years. In comparison, fishing vessels from the Soviet Union, Japan, Korea, Norway, and other nations are increasingly more modern and efficient. As a result, U.S. fishermen have been unable to effectively compete with them off our own coasts. While foreign fleets have increased their catch threefold off the U.S. coasts over the past 25 years, our catches have remained static. Furthermore, over 60 percent of the fish consumed in this country is imported, creating a $1.5 billion balance-of-payments deficit. Much of these imports are caught right in our own backyard.

In March 1977, the United States will assume exclusive jurisdiction over the living resources extending to 200 miles off our coasts, managed by eight regional councils. Since there will be no foreign fishing permitted within the zone until the councils have determined that there is a fish "surplus," U.S. fishermen will have primary access to some of the richest fishing areas in the world.

Mr. President, the present condition of the U.S. domestic fishing fleet and shoreside fisheries facilities simply cannot meet the large increase in fishing efforts that will be required in the coming years. The fisheries need to be improved and improved soon. Even though there are now several assistance programs for the commercial fisheries within the Federal Government, they are uncoordinated and ineffectual. For example, the fisheries loan fund has been in moratorium since 1972; the capital construction fund and the fishing vessel obligation guarantee programs, administered by the National Marine Fisheries Service, are clearly inadequate to meet current needs. The Farmers Credit Administration's loan guarantees for commercial fishermen are helpful, but again are insufficient to meet future needs of the Nation.

New legislation is, therefore, needed to provide the funds and impetus to build our fisheries and today I am introducing this needed legislation.

Briefly, The Commercial Fisheries Assistance Act of 1976 provides: First, low-interest loans for commercial fishermen to rehabilitate, purchase, and construct fishing vessels and fishery facilities; second, loans and grants for adverse impacts caused by certain Federal regulations; third, a commercial fisheries training program; fourth, a fisheries market report; fifth, a new office within the National Atmospheric and Oceanic Administration to properly administer the program; sixth, a report and recommendation on a sanitary seafoods program; seventh, a fisheries board to promote and research new markets for fish; and eighth, a pilot fisheries cooperative service program.

### DETAILED EXPLANATION OF THIS BILL

### TITLE I—COMMERCIAL FISHERIES ASSISTANCE FUND

Section 101 provides long-term, low-interest loans for the construction, rehabilitation and purchase of fishing vessels and fisheries facilities. These loans would be provided at maturity not exceeding 15 years for fishing vessels and 25 years for fisheries facilities and at a minimum interest rate of 3 percent and a maximum of the Government's cost of money.

Section 102 provides low-interest loans and grants for forced economic distress caused by Federal action such as the closing of a fishery for conservation reasons. Fishermen would receive a loan or a grant to finance refitting for a new fishery. The Secretary of Commerce will base the amount and whether the assistance should be a loan or a grant on the extent of the impact and need of the fisherman or fishery.

Section 103 provides loans up to 75 percent for experimental fishing gear.

Section 104 provides low-interest loans for certain vessels under five net tons with a maturity rate of 7 years.

Section 105 establishes a commercial fisheries training program to provide for future needs in the industry's manpower.

Section 106 provides for a report from the Secretary of Commerce to enhance and create markets for fish particularly for underutilized species.

Section 107 creates a new office within the National Oceanic and Atmospheric Administration directed by an Associate Administrator to be appointed by the President with the advice and consent of the Senate.

Section 108 provides for a plan with specific recommendations to establish a national health and sanitary program for seafood.

Section 109 calls for a review of all applications for loans and grants with some guidelines to determine eligibility for such loans and grants with special consideration for fishermen who will harvest underutilized species.

Section 110 stipulates the qualifications of applicants for loans and grants based on his or her citizenry or the number of citizens and/or nationals within an organization applying for such loans and grants.

Section 111 provides for appropriations for: First, the Commercial Fisheries Assistance Fund with a $200 million revolving fund; second, the operation of the new Office of Commercial Fisheries Assistance at $1 million per annum; third, $250,000 for the seafood health and sanitary report; fourth, $2 million per annum for commercial fisheries training program.

Section 112 gives the Secretary the authorization to modify interest rates and time of payment of loans based on special circumstances.

Section 113 repeals section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 74c) and transfers outstanding loans to the Commercial Fisheries Assistance Fund. The Fishing Vessel Obligation Guarantees and Capital Construction Fund are transferred to the Office of Commercial Fisheries Assistance.

### TITLE II—FISHERIES MARKET PROMOTION AND RESEARCH ORDER

Section 201 establishes a fisheries board composed of representatives of fisheries producers, handlers and processors from regions identified by the Secretary.

Section 202 describes the purpose of the board, particularly to: First, promote, create and research markets for fish and fish products; second, to research ways to increase yields of fish markets; third, upgrade existing fish markets; and fourth, encourage markets for underutilized species.

Section 203 stipulates the regulations for nominations to the fisheries board.

Section 204 outlines the powers of the Board to: First, administer its duties; second, collect landing fees from handlers, et cetera; and third, make rules and regulations to effectuate terms of the act.

Section 205 stipulates the duties of the Board including: First, promoting markets for fisheries products; second, contracting with outside institutions to conduct research on fisheries products; and third, submitting an annual report to the President and Congress.

Section 206 authorizes the Secretary to collect 0.4 percent of the total value of a catch from the first handler of the catch.

Section 207 gives any person or organization the authority to demand a refund of an assessment pursuant to section 206, made against their fish and fish products.

Section 208 describes the eligibility of fisheries organizations to make nominations.

Section 209 imposes a fine up to $1,000 for each offense by a handler who willfully violates the provisions of this act, such as failing to collect appropriate fees.

Section 211 stipulates the provisions of the orders, particularly for the establishment, issuance, effectuation, and administration of plans for the promotion of fish and fish products.

Section 213 appropriates $1 million to establish a fisheries board with a provision to pay back the same to the Treasury within 15 years.

### TITLE III—FISHERIES COOPERATIVE SERVICE ASSISTANCE

Section 301 establishes a pilot program of services for fisheries cooperatives administered by the Farmers Cooperative Service.

Section 302 stipulates the services provided by the Farmers Cooperative Service including: First, assistance to fishermen in management, research, and education for establishing cooperatives; second, consultation to fisheries cooperative leaders; third, assistance to fishermen in purchasing and obtaining supplies; and, fourth, encouraging international cooperative services.

Section 303 mandates the Secretary of Agriculture and Commerce to submit an annual and final report to the President and Congress with specific recommendations for establishing a permanent Fisheries Cooperative Service.

Section 304 appropriates $1 million to the Farmers Cooperative Service to conduct a 4-year pilot program for a Fisheries Cooperative Service.

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By Mr. MATHIAS:

S. 3868. A bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 with respect to the awarding of attorney's fees and the authority of the Department of Housing and Urban Development to initiate a civil action to enforce the provisions of such title. Referred to the Committee on the Judiciary.

Mr. MATHIAS. Mr. President, I am introducing today a bill to provide some enforcement "teeth" to title VIII of the Civil Rights Act of 1968 with regard to discriminatory housing practices.

Present law provides that the Secretary of HUD can enforce title VIII through persuasion, conciliation, and conferences with the disputing parties. This method of enforcement has proven to be inadequate for insuring compliance with fair housing laws.

It is only in cases where a pattern of discrimination can be shown to exist, or in cases of general public importance, can the Justice Department intervene.

As a result of existing law, the burden of proof falls upon the individual complainant who in most cases, cannot afford the time and expense of Federal court litigation.

Enforcement of nondiscrimination in housing transactions, therefore, is very weak. It is administratively cumbersome and a time-consuming process.

This bill would provide for direct enforcement action by HUD in instances of discriminatory housing practices. I think my colleagues would agree that the time has come for HUD to take positive action in the field of fair housing and equal opportunity.

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By Mr. HUMPHREY:

S. 3869. A bill to provide meaningful and productive work for the Nation's youths by establishing a Youth Community Service program; to provide comprehensive job counseling and placement services for youths by establishing a Youth Counseling and Employment Service; and for other purposes. Referred to the Committee on Labor and Public Welfare.

### YOUTH COMMUNITY EMPLOYMENT ACT OF 1977

Mr. HUMPHREY. Mr. President, one of the most important provisions of the Humphrey-Hawkins bill is a section which would require the President to submit to Congress a comprehensive and effective program to reduce youth unemployment and to help youths cope with the many problems they face when they first enter the job market.

Even if the Humphrey-Hawkins bill is not enacted this year, Congress should make passage of a youth employment bill one of its major priorities next year.

To speed this effort, I am today introducing a major piece of legislation dealing with the problem of high unemployment among our Nation's youths—the Youth Community Employment Act of 1977.

Although we have less than a week to go before Congress adjourns for the year, I am introducing this legislation now so that we can have the advantage of 4 months of thought and discussion on the bill's proposals, and so that we can have time to work to improve the bill for introduction and enactment early in the next Congress. I do not consider this proposal the final answer to this crucial problem, but as the beginning of the process of finding a solution.

This bill has two very important parts.

The first part creates a nationwide Youth Community Service program that will give our Nation's unemployed youths the opportunity to work on useful and productive projects in their local communities. It will guarantee to young people who choose to participate an opportunity to do meaningful work and to gain job training and work experience. It will provide many youths with a sense of accomplishment and worth that could be the start of a lifetime of real productive contributions to our society. Furthermore, the program will provide important benefits to local communities receiving the human, social, and community services performed by the young people. The Youth Community Service will focus on work—good, hard, productive work—for young people. And it will be meaningful work, accomplishing visible goals within the youth's own community and the Nation.

The second part creates a Youth Counseling and Employment Service in the U.S. Employment Service to focus entirely on the job counseling, job information, and job placement needs of our Nation's youths and young workers. It will place trained professional job counselors in our Nation's high schools and junior colleges, so that every youth will have ready access to someone who can help with career plans, educational plans, and job information, and someone who can actually help young people find the jobs they want and need. It will establish a national databank on entry-level jobs for youths; it will provide training opportunities for counselors; it will establish counseling offices in urban and rural neighborhoods to bring job counseling and placement services to areas where youth unemployment is disgracefully high; and it will put computer terminals into high schools and other convenient service offices so that interested youths can readily obtain information on job openings, job requirements, and job rewards.

Mr. President, this is a particularly difficult time for a young person to be planning a career and looking for work in this country. Teenagers and young adults suffer from higher unemployment rates than any other group of workers. For example, in August, the unemployment rate for teenagers 16 to 17 years old was 22.5 percent, almost four times the unemployment rate for adults 25 and over. For teenagers 18 to 19 years old, the August unemployment rate was 18 percent, triple the adult rate, while for young adults 20 to 24 years old, the August unemployment rate was 11.8 percent, double the adult rate. For black teenagers, the hardest hit group, unemployment in August hit 40.2 percent, and in many of our major cities, unemployment among black teenagers far exceeds even this official figure.

These extraordinary unemployment rates mean that there are almost 3.5 million young Americans under the age of 25 who are unemployed. These young people comprise almost half the total number of jobless American workers.

This is a terrible burden to place on our young people and our economy.

Joblessness denies these young people the opportunity to learn the joys, rewards, and responsibilities of productive and useful work; it denies them the opportunity to develop job skills; it denies them the opportunity to become familiar with the workings of the job market; and it denies them the opportunity to begin moving up the ladder to more productive, more interesting, and better rewarding jobs.

Joblessness tells these young people that they have no productive role to fill in our society, that they have been rejected by society even though they desperately want to participate and have talents and energy galore to offer.

We may not be able to see the psychological and emotional damage, the insecurity, and the alienation unemployment causes young people, but we can see the skyrocketing crime rate it has caused among those under 25, and the increased drug and alcohol abuse among our Nation's youths.

For our Nation's economy this is a terrible waste of millions of young people and up to $40 billion worth of potential output from the labor that is foregone and lost forever.

It is also a terrible waste for our Nation's employers, who are going to find that the young workers needed to expand production in the future will be less well-trained, less skilled, and less attuned to the needs of the workplace.

From any point of view, we have sorely neglected the job needs of our youths and it has been a big mistake. I have been particularly discouraged and angered by this administration's total lack of concern for the job needs of American youths. Youth unemployment in this country is a calamity. This administration has been frozen in the ice of its own indifference about youth unemployment.

JOINT ECONOMIC COMMITTEE HEARING

Earlier this month—on Thursday, September 9—the Joint Economic Committee held a day of hearings on the problem of youth unemployment. We had excellent witnesses—Congressman ANDREW YOUNG; Pittsburgh Mayor Pete Flaherty; Howard Samuel, vice president of the Amalgamated Clothing & Textile Workers Union, AFL–CIO; Beatrice Reubens, professor of economics at Columbia University; Bernard Anderson, professor of economics at the Wharton School; and Paul Barton, Executive Director of the National Manpower Institute—and all of them agreed that youth unemployment has reached a crisis stage in this country and that it will be a great national tragedy if we fail our young people.

The difficulty of solving this problem was illustrated in the remarks before the Joint Economic Committee of my friend and colleague, Congressman ANDREW YOUNG:

> In a recent editorial in the New York Times, Roger Wilkins made the shocking statement that it may be harder to deal with the problems of unemployed young people than it was to deal with the problem of integrating former slaves into our society at the end of the Civil War. For the former slavers were economically participants in the system, and it was simply a matter of beginning to set up political and educational opportunities. But their economic wellbeing and work was already established. That is not today the fact with our young people, black and white, from the ages of 18 to 21. They are perhaps the group in our society that we spend the least amount of money on, unless they stay within the public education system.

Congressman YOUNG presented the alternative we will soon face if we fail to provide decent job opportunities for these young people:

> When we are talking about roughly 50 percent of our youth population who are not now a part of the ongoing economy of this Nation, we are running the risk of having them set up a counter-criminal economy. They will not be inactive. This is the most active stage in life. They will do something. The question, I think, that is put before the Government is, will they be encouraged to do something constructive and creative, or will they be allowed to sink into chaos and destructive activity and become part of a criminal counterculture that we will spend far more money to try to counteract. I think very simply that is the choice that is before us.

To create jobs for youths, a number of witnesses proposed enacting a national youth service jobs program. Bernard Anderson outlined such a program in some detail:

> What is required today is a National Youth Service that will redirect manpower training funds primarily toward out of school youth. Such a program would involve: (a) a substantially enlarged commitment primarily to assist poorly prepared youth to become productively employed in the regular economy; (b) a strong emphasis on performing useful work in the community; (c) the creation of a separate organizational entity within the Department of Labor; (d) the inclusion of a broad spectrum of the youth population; (e) an emphasis on full-time jobs with job counseling and training to the fullest extent possible.
>
> The net cost of such a program would not be significant because existing manpower expenditures for NYC (now running about $1.2 billion including the summer program) can be reprogrammed to support a National Youth Service. The program might start modestly with 600,000 participants the first year, and increase gradually to an authorized annual enrollment of about one million youth 16 to 21 years old. Because not all youth will remain in the program for a full year, the total number of participants will be greater than the average monthly number.
>
> Young people in the Service would be engaged in productive work aimed at the visible improvement of their physical and social environment. The Secretary of Labor should be authorized to enter into contracts with public, nonprofit, or private firms with the capability of managing such work efforts. The stipend and graded wage scale would be congruent with the youth wage scales in the community. Funds through the Community Development Act, general revenue sharing, and other sources can provide materials and supervision of the work performed. Participation in the Service should be limited to two years during which youth would gain opportunities for skill acquisition useful for transition into regular employment.
>
> A new national effort, designed to consolidate and redirect much of the current spending on youth holds promise of generating the kind of focus, energy, and purpose necessary for achieving measurable gains in the labor market status of youth. The National Youth Service idea deserves careful examination as an alternative to the current efforts which, thus far, have proven to be unsuccessful.

YOUTH SERVICE PROGRAM

The concept of a national youth service program has many respectable and venerable antecedents in the United States.

During the Great Depression, when unemployment hit more than 25 percent of all American workers and there were more than 3 million youths out of work, we did not hesitate to create programs that put youths to work on national service projects.

One of President Roosevelt's first actions after taking office in 1933 was to establish the Civilian Conservation Corps. During the 9-year life of the CCC, from 1933 to 1942, nearly 3 million young men were provided useful work and training.

According to a report by the Library of Congress, the CCC constructed over 150,000 miles of roads and trails, put up over 85,000 miles of telephone lines, erected 4,000 fire towers, and built approximately 45,000 bridges.

Participants in the CCC planted almost 3 billion trees in reforestation and conservation projects. The CCC added more than 17 million acres of forest land. It has been estimated that of all the forest planting, public and private, in the history of the Nation, more than half was done by the CCC. The total cost of the CCC came to about $2.5 billion over its lifetime.

In 1935, President Roosevelt created a second youth employment program, aimed at urban areas—the National Youth Administration.

According to the Library of Congress, the NYA spent about $660 million during its 8 years of existence to provide part-time work for more than 600,000 college students and 1.5 million high school students, as well as for over 2.6 million jobless youths—45 percent female—who were not in school. Many of these NYA participants received job training as well as work experience.

In his testimony before the JEC, Bernard Anderson indicated that our national expenditures for these two youth employment programs accounted for almost 7 percent of the Federal budget during the depression years. Today, with 3.5 million young people between the ages of 16 and 24 years old unemployed, and with hundreds of thousands more so discouraged by their job prospects that they have simply given up the search for work, the Federal Government devotes less than 1 percent of the budget to the job needs of young people.

These two programs came to an end with World War II. Since the War, however, there have been a number of other service programs that have provided useful work to youths. Among these were the Peace Corps and VISTA, established by President Kennedy and Congress to show our young people that they had a valuable contribution to make in the less-developed nations and in disadvantaged urban areas of our own country; the Job Corps and the Neighborhood Youth Corps, established as part of the Great Society by President Johnson to help bring disadvantaged youths back into the mainstream of the American economy; and the Youth Conservation Corps, which gives thousands of young people the opportunity each year to work on projects conserving our Nation's resources.

These are some of the major steps we have taken in the recent past to provide youths with the opportunity to serve their communities and the Nation, and to experience meaningful and productive work.

But there are still almost 3.5 million youths who are unemployed today, and who do not have that opportunity. In the crisis of the Great Depression, we did not hesitate to provide the opportunity for service work for our young people, and to dillydally any longer today would be a prescription for national disaster.

The legislation I am introducing today fills this gaping hole, by creating a community youth service program that will give young Americans the opportunity for useful and productive work serving their community and the Nation.

### COUNSELING AND PLACEMENT

Another serious problem our young people face today is lack of information on job opportunities—and they have no one they can turn to for job counseling or help in finding a job.

Even with a national youth service program, most young people will still depend on the private sector for their first jobs. Most decent career jobs are in the private sector, and most young people want to make their careers in the private sector.

But jobs are becoming more complex every year. The requirements for holding good jobs are becoming more rigorous. Entry-level jobs that young people can use to develop job skills are becoming increasingly scarce. And young people are finding it more and more difficult to obtain a job that promises to lead them in their chosen career paths.

Young people who cannot obtain the information they need to make decent career choices and who cannot talk with job counselors while they are making those choices, will end up in frustrating, deadend, unproductive jobs that do not fully use their abilities or fully provide hoped-for rewards. The result will be young lives wasted and young dreams shattered.

Most young people today have only two sources of professional job counseling and job placement help—their school counselors and the U.S. Employment Service. Neither is entirely adequate.

High school counselors are often overworked, and many have to devote their full efforts on college placement and counseling. In addition, many counselors have teaching duties and many are just not adequately informed to help the workbound high school student with the job decisions that will affect their lives.

The U.S. Employment Service has professional counselors and does help youths with career decisions. But there are precious few places in this country where the Employment Service actually makes counselors available to the high schools.

Under President Kennedy, the Employment Service had professional counselors in more than half the high schools in this country. These counselors were readily available to any student who needed help finding a job or finding job information. This program was abandoned by President Nixon.

As a result, most of the high school students in this country do not have the opportunity to talk with a counselor when it comes to making momentous decisions about what they will do with their lives. For example, a study of 32,000 youths in 33 States a few years ago found that only 58 percent of the 11th graders had ever talked with a counselor or teacher about the jobs they were interested in or how these jobs related to their goals. Two-thirds had never taken a course introducing them to aspects of the work world, and 40 percent had never participated in a "job fair" or "career day."

This means that there are literally millions of high school dropouts and graduates, and many more at the junior college and college level, who have never talked with a counselor. These young people are making lifetime career plans without any help, without any information needed to make an informed choice.

We need to rectify this situation by establishing a special job counseling and placement service that will devote itself to the job market needs of the millions of young people who look for jobs or make career plans each year. My bill does this.

For too long, this Nation has ignored its youths and the result has been rising crime, rising drug abuse, and rising disaffection among them.

The Youth Community Employment Act signals a new committment to develop and use the talent of our young people and a new dedication to the goals and needs of our Nation's youth. I ask unanimous consent that a summary of the bill be printed in the RECORD at this point together with the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 3869

### YOUTH COMMUNITY EMPLOYMENT ACT OF 1977

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Youth Community Employment Act of 1977."

### TITLE I—YOUTH COMMUNITY SERVICE

SEC. 101. This Title may be cited as the "Youth Community Service Act of 1977".

SEC. 102. Title of the Comprehensive Employment and Training Act of 1973 (PL 93-203) is amended by striking out the following:

"TITLE II—PUBLIC EMPLOYMENT PROGRAMS

"STATEMENT OF PURPOSE";

and inserting in lieu thereof the following:

"TITLE II—PUBLIC EMPLOYMENT AND YOUTH SERVICE PROGRAMS

"PART A—PUBLIC EMPLOYMENT PROGRAMS

"STATEMENT OF PURPOSE";

by striking out "this title" wherever such term occurs in sections 201 through 211 and inserting in lieu thereof "this part"; and by adding at the end thereof the following new part B:

"PART B—YOUTH COMMUNITY SERVICE

"PURPOSE

"SEC. 220. It is the purpose of this part to ensure that all youths shall have the opportunity for useful and productive work experience serving their community and the Nation as a whole; to assist youths in the acquisition and development of job skills; to provide local communities and the Nation with services which would not otherwise be performed; to foster job creation for youths in both the public and private sectors; and to bring together all sectors of the economy in an effort to give young people a meaningful place in society, the economy, and the Nation.

"DEFINITIONS

"SEC. 221. As used in this part the term—

"(1) 'eligible applicant' means any public agency, including any department or agency of the Federal Government and any State or local government agency; any private or public nonprofit organization, including labor unions, voluntary organizations, neighborhood organizations, and community-based organizations as defined in section 701(a)(1) of this Act as amended; and any business enterprise meeting the requirements of section 225(b)(10) of this part;

"(2) 'youth' means individuals who have attained age sixteen but not age twenty-one;

"(3) 'Secretary' means the Secretary of Labor;

"(4) 'State' means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific Islands.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 222. (a) There are authorized to be appropriated to carry out the provisions of this part $100 million for the fiscal year ending September 30, 1977; $1.25 billion for the fiscal year ending September 30, 1978; and for each of the succeeding calendar quarters (beginning with the calendar quarter beginning on October 1, 1978)—

"(1) $250,000,000 plus

"(2) $62,500,000 multiplied by the number of one-half percentage points by which the rate of seasonally-adjusted national unemployment for the most recent calendar quarter which ended before the beginning of such calendar quarter exceeded 4 per centum.

"(b) The Secretary shall prepare and transmit to the Congress, prior to or during any period specified in subsection (a), such estimates of unemployment as may be necessary or appropriate for determining amounts to be appropriated for such period or allocated pursuant to this Act; and appropriations and allocations for any such period may be made prior to or during such period on the basis of such estimates.

"(c) Any amounts appropriated for any such period which are not obligated prior to the end of such period shall remain available for obligation in the succeeding fiscal year after the period for which such amounts were appropriated.

### "ALLOCATION OF FUNDS

"SEC. 223. (a) Not less than 40 per centum of the funds appropriated under section 222 for any period shall be allocated among prime sponsors in proportion to the number of youths residing in areas within the jurisdiction of the prime sponsor compared to the number of youths residing in the Nation.

"(b) Not less than 40 per centum of the funds appropriated under section 222 for any period shall be allocated among prime sponsors in proportion to the number of persons in families with incomes below the low income level as defined in section 701 (a)(4) of this Act as amended residing within the jurisdiction of the prime sponsor compared to the number of persons in families with incomes below the low income level residing in the Nation.

"(c) The remainder may be distributed by the Secretary at his discretion taking into account the severity of unemployment among youths in areas under the jurisdiction of each prime sponsor.

### "PROGRAM AUTHORIZED

"SEC. 224. (a) Each prime sponsor shall in accordance with the provisions of this part make payments to eligible applicants having applications approved by the prime sponsor, for the purpose of providing community service employment for youths in jobs required to carry out eligible community service projects.

"(b)(1) Of the funds allocated to each eligible community service project, no more than 5 per centum may be used for necessary administrative expenses incurred by the eligible applicant in carrying out the eligible project, no more than 25 per centum may be used for equipment, supplies or supervisory personnel necessary to the carrying out of the eligible project, and not less than 70 per centum shall be expended only for wages and employment benefits to youths employed pursuant to this part.

"(2) Nothing in this part is intended to prohibit the use of funds from other sources, including other Federal programs, in combination with funds appropriated under section 222, for purposes of carrying out approved community service projects which meet the requirements set forth in this part.

### "APPLICATIONS

"SEC. 225. (a) Payments under this part with respect to any community service project may be made by the Secretary only pursuant to an application which is submitted by an eligible applicant and which is approved by the prime sponsor in accordance with the provisions of section 226(a).

"(b) Each such application shall—

"(1) Set forth a full description of the eligible project consistent with the provisions of section 226(b), providing not more than 100 jobs for youths, except that pursuant to regulations of general applicability prescribed by the Secretary, projects for the employment of more than 100 youths may be approved pursuant to such section 226(a) provided that a total of not more than 1 per centum of the funds appropriated under section 222 for any fiscal year or period shall be used for projects employing more than 100 youths;

"(2) provide a description of the jobs to be filled, a listing of the major kinds of work to be performed to carry out the eligible project and the approximate duration for which participants would be assigned to such jobs;

"(3) provide a description of job training and skill development opportunities that will be made available to participating youths, as well as a description of plans to coordinate the training activities of the eligible project with training activities provided for under other provisions of this Act;

"(4) describe the wages or salaries to be paid youths and other persons employed in jobs and supervisory positions assisted under this part;

"(5) set forth assurances that the activities and services for which payment is sought under this part will be administered by or under the supervision of the applicant, identifying any agency, institution, or enterprise designated to carry out such activities or services;

"(6) set forth assurances that no funds received under this part will be used to hire any youth to fill a job opening created by the action of an employer in laying off or terminating the employment of any regular employee not supported under this part in anticipation of filling the vacancy so created by hiring a youth to be supported under this part;

"(7) set forth assurances that the eligible applicant will provide for youths employed in the eligible project assisted under this part reasonable opportunity and encouragement to find other work at the conclusion of that project and will provide to the appropriate office of the United States Employment Service 60 days prior to the expected conclusion of the project the name of the youths employed in the project who desire other employment at the conclusion of the project;

"(8) set forth assurances that all persons employed in an eligible project under this part, other than necessary technical, supervisory and administrative personnel, will be selected from among youths. and that members of the immediate families of the eligible applicant or its officers, owners, directors or elected officials will not be employed with funds provided by this part;

"(9) set forth assurances that there will be adequate supervisory personnel on an eligible project, as required under section 226 (b)(3);

"(10) in the case of an eligible applicant that is a business enterprise, set forth assurances that (A) the eligible project for which assistance is sought under this part will be operated at no profit to the applicant, (B) such project will not directly benefit the employees of that business enterprise, and (C) such project will be operated in a field separate from the normal activities of that business enterprise;

"(11) set forth assurances that no person with responsibilities in the operation of the project will discriminate with respect to any participant or applicant for participation in such project because of race, creed, color, national origin, sex, political affiliations, or beliefs and that participants in the program will not be employed on the construction, operation or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

"(12) set forth assurances that jobs assisted under this part are in addition to jobs that would be assisted by the eligible applicant in the absence of assistance under this part;

"(13) set forth assurances than any income generated by the project will be applied toward the cost of the project; and

"(14) set forth such other assurances, arrangements and conditions consistent with the provisions of this part, including the special conditions required under section 226, as the Secretary deems necessary in accordance with such regulations as the Secretary shall prescribe.

### "APPROVAL OF APPLICATIONS

"SEC. 226. (a) An application, or an amendment or modification of such application for payments under this part may be approved by the prime sponsor only if the prime sponsor determines that—

"(1) the application meets the requirements set forth in this part; and

"(2) the application fully describes an eligible project which complies with the provisions of subsection (b) of this section.

"(b) No application shall be approved by the prime sponsor unless the prime sponsor determines that the eligible project described in that application will—

"(1) be initiated within 60 days of the date on which it is approved;

"(2) provide work that is socially valuable, including, but not limited to, any public service as defined in section 701(a)(7) of this Act as amended.

"(3) provide no fewer than one supervisor for each ten participating youths, and provide that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating youths in skills needed to carry out the projects.

"(c) In deciding whether to approve an application under this part the prime sponsor shall to the fullest practical extent approve those applications which—

"(1) will contribute to reducing youth unemployment in those geographic areas in which the rate of youth unemployment is highest;

"(2) will result in the production of goods or services of greatest value to the local community or to the Nation; and

"(3) will contribute to providing a broad range of part-time and full-time jobs, in order to meet the employment needs of both youths in school and those out of school.

### "SPECIAL CONDITIONS

"SEC. 227. (a) A prime sponsor shall not make payments under this part with respect to any project unless it determines with respect to such project in accordance with such regulations as the Secretary shall prescribe, that—

"(1) the project (A) will not result in the displacement of currently employed workers, including partial displacement such as a reduction in the hours of non-overtime work or wages or employment benefits, (B) will not impair existing contracts for services or result in the substitution of federal or other funds in connection with work that would otherwise be performed, and (C) will not substitute jobs assisted under this part for existing federally funded jobs;

"(2) youths employed in jobs assisted under this part will be paid wages which will not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, or (B) the State or local minimum wage for the most nearly comparable covered employment;

"(3) persons employed in necessary technical, supervisory, or administrative positions assisted under this part shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6 (a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, (C)(i) in the case of those applicants which are States, political subdivisions, local educational agencies, or public institutions of higher education, the prevailing rates of pay for persons employed in similar public occupations by the same employer or, (ii) in the case of those applicants which are nonprofit private organizations or institutions, the appropriate prevailing wages determined in accordance with the Service Contract Act of 1965, or the prevailing rates of pay for persons employed in similar occupations by the same employer, whichever is higher, or (D) in the case of persons performing work of the type to which the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5) applies, the prevailing wage determined in accordance with that Act;

"(4) appropriate workmen's compensation, health insurance, unemployment insurance, and other benefits will be provided to youths and other persons employed in jobs assisted under this part, except that, pursuant to regulations of general applicability prescribed by the Secretary, the Secretary may arrange for the direct Federal provision of such benefits whenever he determines that an eligible applicant by reason of size or resources is ill equipped to provide such benefits;

"(5) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such projects; and

"(6) every youth or other person employed in such project will be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

"(b) The Secretary shall prescribe regulations to ensure that projects assisted under this part have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of such assistance, except that no regulations prescribed under this subsection shall impose unreasonable burdens upon eligible applicants that are ill equipped by reason of size or resources to comply.

"(c) The Secretary shall prescribe regulations to ensure that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative effectiveness of this part and other federally-funded job programs for youths. Such data shall include information on—

"(1) characteristics of participants including age, sex, race, health, educational level, and previous wage and employment experience; and

"(2) total dollar cost per participant, including breakdown between wages, all fringe benefits, supplies and equipment, and administrative costs;

except that no regulations prescribed under this subsection shall impose unreasonable burdens upon eligible applicants that are ill equipped by reason of size or resources to comply.

"(d) A prime sponsor shall not provide financial assistance for any project under this part which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code. The Secretary shall prescribe regulations to carry out the provisions of this subsection.

### "PAYMENTS

"SEC. 228. (a) The Secretary shall pay to each eligible applicant having an application approved under section 226 by the prime sponsor the amount which the applicant is entitled to receive under this part.

"(b) Payments made to eligible applicants may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

### "ADMINISTRATIVE PROVISIONS

"SEC. 229. (a) The Secretary may, in accordance with Chapter 5, Title 5, United States Code, prescribe such rules, regulations, guidelines, and other published interpretations under this part as he deems necessary.

"(b) The Secretary may make such grants, contracts, or other agreements, establish such procedures and take such other action as he may deem necessary to carry out the provisions of this part. The Secretary may also withhold funds otherwise payable under this part, but only in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provisions of this part, or any term or condition of applications approved by the prime sponsor under this part.

"(c) The Secretary through the United States Employment Service shall provide eligible applicants whose projects have been approved for funding with the latest information with respect to unemployed youths who have been registered with the Employment Service as seeking work.

"(d) Persons hired by eligible applicants to work on projects shall be drawn from the names provided by the United States Employment Service under section (c) above, except as otherwise provided in section 225 (b)(8) of this part or except as may be otherwise prescribed by the Secretary.

"(e) The Secretary through the United States Employment Service shall provide those persons with whose names it is provided under section 225(b)(7) with assistance in obtaining other employment at the conclusion of the project in which such persons are employed, such assistance to include counseling, referral, and other such assistance as it is within the capability of the United States Employment Service to provide.

### "RECORDS, AUDITS, AND REPORTS

"SEC. 230. In order to assure that funds provided under this part are used in accordance with its provisions, each eligible applicant receiving such funds shall—

"(1) use such fiscal, audit, and accounting procedures as may be necessary to assure (A) proper accounting for payments received by it, and (B) proper disbursement of such payments;

"(2) provide to the Secretary and the Comptroller General of the United States access to, and the right to examine, any books, documents, papers, or records as he requires; and

"(3) make such reports to the Secretary or the Comptroller General of the United States as he requires."

## TITLE II—YOUTH COUNSELING AND EMPLOYMENT SERVICE

### STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this Title to insure that effective and comprehensive job counseling, job information and job placement services are available to the Nation's youths, in order to reduce the unemployment rate among youths and young workers; to improve the ability of youths to obtain useful, productive, and remunerative jobs; to ease the transition of youths from school to work and to improve communication and cooperation between State and local educational agencies, State employment services, youths and businesses; to increase, improve, and make more readily available to youths necessary information on jobs, careers, and employment prospects; to improve the long-run career plans of youths and the way career plans are developed; and to improve the matching of long- and short-run employment desires of youths with the technical managerial and labor skills needed to sustain the long-run growth and prosperity of the American economy.

### YOUTH COUNSELING AND EMPLOYMENT SERVICE

SEC. 202. (a) There is established in the United States Employment Service of the Department of Labor a Youth Counseling and Employment Service which shall be responsible for administering this Act.

(b) The Service shall be headed by a Director.

(c) The Service shall be under the direction and supervision of the Secretary. The Director shall report to the Secretary through the Assistant Secretary of Labor for Employment and Training.

### STATE YOUTH COUNSELING AND EMPLOYMENT SERVICES

SEC. 203. The Secretary shall make such arrangements as he determines necessary to assure that in each State there is established a State Youth Counseling and Employment Service in the State Employment Service.

### YOUTH COUNSELING AND EMPLOYMENT SERVICE PROGRAM GRANTS

SEC. 204. (a) The Secretary, through the Youth Counseling and Employment Service, is authorized to make grants to State Employment Services to establish job counseling, job information, and job placement programs for youths, for the purposes of—

(1) reducing the rate of unemployment among youths by increasing their access to available job opportunities;

(2) improving the information available to youths on job and career opportunities, including such information as short- and long-run employment opportunities in various careers, skill and education requirements of various jobs and employers, location of job opportunities, and compensation and benefits of various jobs;

(3) providing for better matching of youth job and career desires with available jobs as well as the perspective job opportunities over the long run;

(4) furnishing job counseling and placement services to youths who are actively seeking employment, as well as to those forming career plans;

(5) furnishing preemployment counseling to youths in intermediate and secondary schools; and

(6) furnishing information to youths, both in school and out of school, on postsecondary educational opportunities, job training and vocational education programs, manpower development programs, and Federal, State and local assistance available to youths for participation in such programs and opportunities.

(b) Job counseling, job information and job placement programs for youths assisted under this section may include, but shall not be limited to—

(1) in cooperation with State and local educational agencies, establishment of Youth Counseling and Employment Service offices in secondary and postsecondary schools, including but not limited to community colleges, junior colleges and technical schools;

(2) in cooperation with community-based organizations, farm, labor, and other interested organizations, establishment of neighborhood, rural, mobile and seasonal Youth Counseling and Employment Service offices, to bring job counseling and placement services provided under this Act to disadvantaged, rural, and minority youths who would not otherwise have access to such services;

(3) in cooperation with State and local correctional agencies, establishment of Youth Counseling and Employment Service offices in correctional institutions;

(4) assignment of one or more employees of the staffs of local State Employment Service offices, in addition to any personnel assigned to programs created under other sub-

sections of this section, to assist youths in job counseling and placement;

(5) establishment of computer on-line terminals and other communication facilities in Youth Counseling and Employment Service offices that are linked to United States Employment Service data banks, to provide youths with complete and up-to-date job information;

(6) in cooperation with State and local educational agencies, establishment of programs to bring employment and career counseling to presecondary youths;

(7) in cooperation with the Department of Defense, establishment of Youth Counseling and Employment offices on military bases, on a full-time or part-time basis;

(8) establishment of programs designed to encourage public and private employers to list all available job opportunities for youths with the U.S. Employment Service, and to increase cooperation and contact between the U.S. Employment Service and public and private employers; and

(9) such other programs as the Secretary determines will carry out the purposes of this Act.

### COUNSELING AND PLACEMENT PERSONNEL TRAINING GRANTS

SEC. 205. (a) The Secretary, through the Youth Counseling and Employment Service and the U.S. Employment Service, shall make grants to public agencies, colleges, and nonprofit private organizations for the purpose of providing training and retraining for job counseling and placement personnel. Such grants may be used for—

(1) improving and upgrading counselor training, improving the skills of counselors and placement personnel, and improving training programs;

(2) providing opportunities for the establishment and development of preservice and inservice training and retraining for job counseling and placement personnel; and

(3) providing training programs for paraprofessionals and support personnel to aid professionals working in job counseling and placement.

(b) For purposes of this section, the term "job counseling and placement personnel" includes professionals, including counselors who meet certification requirements; administrators, and other professional school personnel such as teachers and pupil personnel specialists, who work directly with the programs or with students involved with the programs; and counselors in related settings such as community agencies, community-based organizations, job training programs, United States Employment Service, Youth Counseling and Employment Service, and affiliated State employment service agencies, rehabilitation centers, career resource centers, and post-secondary educational institutions.

### COMPUTER, FACILITIES AND EQUIPMENT GRANTS

SEC. 206. (a) The Secretary, through the Youth Counseling and Employment Service and the United States Employment Service, shall carry out a program consistent with the purposes of this Act, of grants to States for—

(1) providing computers, computer terminals, computer programs, other computer equipment, computer assisted guidance, and storage and retrieval equipment, for the purposes of providing information to youths on job opportunities, occupational trends, educational opportunities, and other information required for carrying out the purposes of this Act;

(2) providing employment and career information for State Youth Counseling and Employment Services which shall be integral parts of the State Employment Service's plan for employment guidance and job placement programs, and which shall include such components as (A) accurate and up-to-date survey and statistical data on current projected areas of occupational needs, (B) accurate and up-to-date information on educational institutions and opportunities, (C) material to promote career decision-making skills among youths, and (D) information on the availability of jobs, loans, work-study programs and scholarships for obtaining postsecondary education; and

(3) equipment and supplies including, but not limited to, books, films and filmstrips, video and audio tape equipment, periodicals, career information bulletins, commercially prepared information packets, film and slide projectors, and microfiche and microfilm readers.

(b) In carrying out the grant program authorized by this section, the Secretary shall endeavor to assure that full use is made of all information, data, and equipment available in the community and at the State and National levels and that existing capabilities for improving and expanding relevant current information and data are utilized and coordinated.

### DEMONSTRATION AND EVALUATION PROGRAMS

SEC. 207. (a) The Secretary, through the Youth Counseling and Employment Service and the U.S. Employment Service, shall carry out a program of demonstration and evaluation projects for the purposes of—

(1) developing and demonstrating new job counseling job information, and job placement programs and techniques for youths;

(2) promoting demonstration activities in job counseling and job placement for youths, through the encouragement of pilot projects and the publication of development in new technology, personnel utilization, facilities utilization, and delivery systems with innovative administrative and structural designs;

(3) providing for evaluation of the programs and services offered to determine their effectiveness and efficiency in meeting the needs of youths; and

(4) providing for the communication of proven effective and efficient job counseling, job information, and job placement programs for youths.

(b) Demonstration and evaluation projects under this section may include, but shall not be limited to—

(1) establishing innovative job counseling, job information, and job placement programs and techniques for youths;

(2) creating new data and data sources, and updating and communicating information, on job and career opportunities;

(3) identifying effective methods of establishing programs, and for communicating information on how to establish programs, of job counseling and job placement that meet the needs of youths and make the most efficient and effective use of job counseling and placement personnel;

(4) developing multimedia materials which (A) provide information on such areas as career and job opportunities, projected needs for specific skills and occupations at the local, State and National levels, and educational and training opportunities and which (B) assist youths in making career and job decisions and in obtaining jobs;

(5) identifying more effective methods for the training and retraining of job counseling and job placement personnel;

(6) establishing local councils of educators, employers, union members, community organization members, students, parents, and other interested citizens to bring together sectors of the community concerned with youth, to advise on, oversee, or carry out job counseling and placement projects and programs;

(7) contracting with other agencies, community-based organizations, private employment services or other groups with job counseling and placement experience to provide such services on a demonstration basis;

(8) establishing a demonstration public TV program at the local level, on a scheduled basis, which would solicit job listings from employers and give regular job availability bulletins, interview employers about job offerings and requirements, present occupational information, and present other job market information that would be useful to youths;

(9) developing a local and State occupational inventory of entry-level jobs, as well as summer and part-time jobs;

(10) establishing demonstration projects to measure educational and skill requirements of entry-level jobs in various occupations, with publication of findings;

(11) establishing any other project which the Secretary finds may improve, or provide information which may improve, the job counseling, job information or job placement services available to youths.

(c) The Secretary will report annually to Congress on projects undertaken under authority of this section including, but not limited to, a description of each project undertaken, purpose of each project, evaluation of each project, and proposals for terminating, expanding, and communicating information about each project.

### ALLOCATION OF FUNDS

SEC. 208. (a) The amounts appropriated under this Act for any fiscal year shall be allocated by the Secretary in such manner that of such amounts—

(1) not less than 80 per centum shall be apportioned among the States in the proportion which the total number of youths residing in each such State bears to the total number of youths residing in the Nation; and

(2) the remainder shall be available as the Secretary deems appropriate to carry out the purposes of this Act.

(b) The amount apportioned to each such State under paragraph (1) of subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration the proportion which the total number of youths in each such area bears to the total number of youths in that State.

(c) As soon as practicable after funds are apportioned to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments required by subsection (a)(1) of this section.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 209. There are authorized to be appropriated to carry out the provisions of this Act $75,000,000 for the fiscal year ending September 30, 1977, and $100,000,000 for each succeeding fiscal year through the fiscal year ending September 30, 1983.

### ADMINISTRATION

SEC. 210. (a) In order to carry out his functions under this Act, the Secretary is authorized to—

(1) promulgate such rules and regulations as may be necessary;

(2) appoint and fix the compensation of such personnel as may be necessary;

(3) employ experts and consultants in accordance with section 3109 of Title 5, United States Code;

(4) secure from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the United States Government, or of any State, or political subdivision thereof, information, estimates, and statistics required in the performance of his functions under this Act;

(5) enter into and perform such contracts, cooperative agreements, or other arrangements as may be advisable without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) and other provisions of law relating to competitive bidding;

(6) appoint such advisory committees composed of private citizens and public officials who, by reason of their experience or

training, are knowledgeable in the area of job opportunities for youths, as he deems desirable to advise him with respect to his functions under this Act; and

(7) accept and use with his consent, with reimbursement, such services, equipment and facilities of other Federal agencies as are necessary to carry out such functions efficiently, and such agencies are authorized to loan, with reimbursement, such services, equipment, and facilities to the Secretary.

(b) Each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to furnish such information, estimates, and statistics directly to the Department of Labor upon written request made by the Secretary.

(c) Each member of a committee appointed pursuant to clause (6) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the daily rate prescribed for GS-18 under section 5332 of Title 5, United States Code, for each day on which he is engaged in the actual performance of his duties (including traveltime) as a member of the committee. All members shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

### AUDIT PROVISIONS

SEC. 211. (a) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipients of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants, agreements, or contracts entered into under this Act.

### PROGRAM COORDINATION

SEC. 212. (a) The Secretary is authorized and directed to require the Youth Counseling and Employment Service and the State Employment Service agencies administering activities assisted under this Act to coordinate their activities with agencies and organizations conducting related manpower and employment programs under other provisions of law such as the Comprehensive Employment and Training Act of 1973 and the Emergency Job and Unemployment Assistance Act of 1974.

(b) No individual, institution, organization, or agency shall evaluate any program under this Act if that individual, or any member of such institution, organization, or agency is associated with the program as a consultant, technical adviser, or in any other capacity.

### DEFINITIONS

SEC. 213. As used in this Act the term—

(1) "youth" means individuals who have attained age sixteen but not age twenty-five;

(2) "Secretary" means the Secretary of Labor;

(3) "Service" means the Youth Counseling and Employment Service established under section 202 of this Act; and

(4) "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

### SECTION-BY-SECTION ANALYSIS

Title: The title of the bill is the "Youth Community Employment Act of 1977".

Purpose: The bill has two major purposes. First, it seeks to create a nationwide youth service program that will ensure youths the opportunity to work on useful and productive jobs benefiting their local communities and the Nation. Second, it seeks to ensure that our Nation's youths receive effective and comprehensive job counseling, job information, and job placement services needed to form career plans and obtain jobs.

Provisions: Title I of the bill creates a major new community service program for youths by amending Title II of the Comprehensive Employment and Training Act and establishing a Youth Community Service jobs program, and authorizes the allocation of funds to CETA prime sponsors for the purpose of funding locally-initiated community service projects that will provide jobs for youths. Title II creates a Youth Counseling and Employment Service and authorizes the Service to establish numerous programs designed to provide needed job counseling and placement services to youths or to expand and upgrade existing services.

### TITLE I: YOUTH COMMUNITY SERVICE

This Title amends Title II of the Comprehensive Employment and Training Act and establishes a nationwide community service jobs program for youths 16 to 20 year old called "Youth Community Service." The title provides funds to CETA prime sponsors for the purpose of setting up locally-initiated projects designed to provide useful work to unemployed youths and provide needed services to the local community.

Under the Youth Community Service program, any public agency including any agency of the Federal Government or any State or local agency; any private or public nonprofit organization, including any labor union, voluntary organization, neighborhood organization, or community-based organization; or any business enterprise meeting certain qualifications, may propose a project for funding.

To be eligible, a project must—

(1) employ up to 100 youths, although 1 percent of available funds can be used for larger projects. This limit is designed to assure that projects are not so large as to be unmanageable;

(2) submit an application describing the jobs to be filled, the work to be performed, the amount of time participants would be assigned to such jobs, and the wages to be paid for each job;

(3) guarantee adequate adult supervision, with no fewer than 1 adult supervisor for each 10 youths. The adult supervisors must be trained in the skills needed for successful completion of the project, and must be capable of teaching youthful project participants necessary job skills;

(4) provide useful services to the local community and the Nation;

(5) pay no less than the Federal minimum wage;

(6) not cause or contribute to the displacement of currently-employed workers; and

(7) for projects sponsored by business enterprises, not contribute to the profits of the enterprise or directly benefit the employees of the business enterprise.

Any youth between the ages of 16 and 20 years old would be eligible to participate in Youth Community Service projects.

The allocation of funds among prime sponsors would be on the basis of a formula taking into account the number of youths residing within the jurisdiction of each prime sponsor, the number of persons in low-income families, and the number of unemployed youths. The formula ensures that all youths will have the opportunity to participate in Youth Community Service projects, but that some additional funding will be made available to low-income and high unemployment areas. The bill authorizes to be appropriated $100 million for fiscal 1977 for planning and demonstration purposes, $1.25 billion for fiscal 1978, and for subsequent fiscal years an authorization based on a formula involving the national unemployment rate.

### TITLE II: YOUTH COUNSELING AND EMPLOYMENT SERVICE

This Title establishes a Youth Counseling and Employment Service in the United States Employment Service and authorizes the Secretary of Labor to make arrangements for establishing a Youth Service in each State Employment Service.

The goal of the title is to reduce unemployment among youths; to improve the information, job counseling, and job placement services available to youths; to increase the information youths have on job opportunities, skill requirements, job location, and long-run career opportunities; to provide better matching of jobs and youths; to make counseling services more convenient and relevant to youths; and to furnish youths with information about Federal, State and local programs and private programs to assist youths.

To carry out these purposes, the title authorizes the Youth Counseling and Employment Service to undertake a number of programs, including the placement of counselors in high schools, community colleges, urban neighborhoods, rural areas, and correctional institutions; to set up computerized job banks; to compile a nationwide inventory of entry-level jobs for youths, among other programs.

In addition, the Labor Department is authorized to conduct demonstration programs to develop new guidance and placement techniques, including the use, for example, of public TV to broadcast job information and career programs; to cooperate with other Federal agencies and private enterprises to deliver guidance and placement services; to train counselors; and to provide grants for the purchase of computers and equipment that will improve counseling and placement services.

The bill authorizes appropriations of up to $100 million per year through fiscal 1983 for the Youth Counseling and Employment Service, and allocates it among States in proportion to the number of youths in each State.

The Secretary of Labor is required to report annually to Congress on programs established under this title.

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By Mr. KENNEDY:

S. 3870. A bill to authorize the Comptroller General of the United States to prescribe the monetary limitation for waiver of claim actions by the heads of agencies and secretaries of executive departments. Referred to the Committee on Government Operations.

Mr. KENNEDY. Mr. President, consistent with my longstanding interest in streamlining the administrative process of the Federal Government, I am today introducing two bills that affect the responsibilities of the General Accounting Office. This legislation will improve the efficiency of processing requests for documents made pursuant to the Miller Act, and requests for waiver of erroneous payments of pay under the "waiver" acts. My purpose in introducing these bills at this time is to elicit reactions to them from interested persons and agencies prior to the start of the new Congress, so that we might be able to take action on them early in the new year.

The first bill is a amendment to the

Miller Act which establishes performance and payment bonding requirements for most Federal construction contracts. Section 3 of the act requires the Comptroller General to furnish a certified copy of a bond and the contract for which the bond was given to any person who submits the required affidavit.

Under the Miller Act, the General Accounting Office must first obtain the original bonds and contracts from the contracting agency in order to furnish the requestor with certified copies of these documents. The GAO frequently encounters delays in the length of time it takes for agencies to respond to its requests for the contracts and bonds.

The Miller Act was amended in 1959 to eliminate the Comptroller General's responsibility for fixing dates on which the period of limitation for filing suits against Miller Act payments bonds commences to run. Since the act no longer requires the Comptroller General to determine the final settlement date of contracts, the Comptroller General would like to be relieved of the related bonds and contracts, and that is the purpose of this bill.

The second bill that I am introducing is an amendment to the "waiver" acts. These acts allow the waiver of a claim of the United States against an employee of a Federal agency and members of the military arising out of erroneous payments of pay or allowances.

Under these laws, agencies may settle cases of $500 or less, but must forward all cases in excess of $500 to the General Accounting Office for adjudication. The legislation would permit the Comptroller General to set the monetary limitation on cases that may be adjudicated at the agency level. Since the Comptroller General would set this limitation by regulation, it will eliminate the need to return to the Congress every few years to request raising of the monetary limitation consistent with the changes brought about by inflation and workload factors.

Officials from many of the administrative agencies have told the GAO that they believe that, because of inflation and delays in processing claims, the existing $500 limitation should be increased. The $500 limitation was first established in 1968. It represents about $800 in today's inflation. Continuing inflation has increased the average amounts of overpayments, the cost of processing individual cases, and the percentage of waiver requests that must be sent to the General Accounting Office. For example, in fiscal year 1972, agencies settled 1,969 cases and referred 311 cases to the General Accounting Office. In fiscal year 1975, agencies settled 2,682 cases, which is an increase of 36 percent, and referred 1,475 cases to the General Accounting Office, which is an increase of 374 percent.

The processing of waiver requests in the General Accounting Office now takes about 6 to 9 months because of the increased volume of waiver claims forwarded to that agency. This greater volume of cases is due both to inflation and to the passage of the law in 1972 that extended the waiver authority to military personnel. Increased delays in processing waiver requests creates longer periods of uncertainty on the part of the requestor concerning the status of his debt, and tend to prompt numerous congressional inquiries on behalf of constituents.

The General Accounting Office is confident that the administrative agencies possess the expertise to handle an increased number of waiver requests. In addition, this legislation will not create an additional administrative workload for agencies because they must review waiver claims regardless of whether the cases are settled at the administrative level or forwarded to the General Accounting Office for review.

Both these bills would significantly reduce the administrative delays encountered by persons seeking certified copies of Government payment and performance bonds or waiver of erroneous payments from Federal agencies. It would have the additional effect of lessening some of the administrative burdens of the General Accounting Office without increasing the burdens on other agencies.

I ask unanimous consent that a letter from the Comptroller General to Judiciary Committee Chairman EASTLAND explaining the purpose of these bills in further detail, be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
*Washington, D.C., April 22, 1976.*
Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary, U.S. Senate.*

DEAR MR. CHAIRMAN: The purpose of this letter is to recommend amendments to legislation affecting the responsibilities of the General Accounting Office.

Our first recommendation is that the Act approved August 24, 1935 (49 Stat. 793, 40 U.S.C. 270a–c) as amended by the Act approved August 4, 1959 (73 Stat. 279, 40 U.S.C. 270a–3) popularly known as the Miller Act, be amended to transfer the responsibility to furnish certified copies of payment bonds from the Comptroller General to the head of the agency which awarded the contract.

The Miller Act establishes performance and payment bonding requirements for most Federal construction contracts. Section 3 of the Act requires the Comptroller General to furnish a certified copy of a bond and the contract for which it was given to any person who submits an affidavit that (1) he has supplied labor or materials for the construction, alteration or repair of any public buildings or public work of the United States, and payment therefore has not been made; or, that (2) he is being sued on a bond.

Under the present law, GAO must first obtain the original bonds and contracts from the contracting agency in order to furnish the requestor with certified copies of these documents. We believe that the transfer of the duty to furnish such copies from the General Accounting Office to the agency that awarded the contract will result in more expeditious processing of requests for such copies.

In addition, the Act was amended in 1959 to eliminate the Comptroller General's responsibility for fixing dates on which the period of limitation for filing suits against Miller Act payment bonds commences to run. This amendment provided that suit must be commenced within one year after the date on which the last of the labor was performed or material was supplied by the person initiating the lawsuit. (73 Stat. 279). Since the Miller Act no longer requires the Comptroller General to determine and certify the final settlement date of contracts, we recommend that the Comptroller General be relieved of the concomitant duty of furnishing certified copies of bonds and contracts.

Therefore, our recommendation is that the language of the first sentence in section 3 of the Miller Act of August 24, 1935 (49 Stat. 794), as amended by the Act of August 4, 1959 (73 Stat. 279), reading "The Comptroller General" should be amended to read "The department secretary or agency head of the contracting agency." In addition, the second sentence in section 3 reading "Comptroller General" should be amended to read "department secretary or agency head of the contracting agency." Suggested language for a bill to accomplish the necessary changes is enclosed.

Our second recommendation is that the Act of October 21, 1968 (82 Stat. 1212, 5 U.S.C. 5584) as amended by the Act of October 2, 1972 (86 Stat. 760, 5 U.S.C. 5584) and amended by the Act of July 25, 1974 (88 Stat. 393, 5 U.S.C. 5584) and the Act of October 2, 1972 (86 Stat. 758, 759, 10 U.S.C. 2774, 32 U.S.C. 716), hereinafter referred to as the Waiver Acts, be amended to authorize the Comptroller General to prescribe the monetary limitation for waiver of claims actions by the head of an agency or Secretary of a Department.

The Waiver Acts allow the waiver, either in whole or in part, of a claim of the United States against an employee or former employee of a Federal agency and members or former members of the military and National Guard arising out of an erroneous payment of pay or allowances, the collection of which would be against equity and good conscience and not in the best interests of the United States.

Under the present laws authorizing waiver of erroneous payments of pay and allowances, agencies may settle cases of $500 or less, but must forward all cases of $500 or of $500 to GAO for adjudication. The proposed amendment would permit the Comptroller General to prescribe and modify the monetary limitation on cases that may be adjudicated at the agency level, with due regard to inflation and the savings generated through more timely and less costly processing of waiver requests.

Providing additional authority to the agencies to adjudicate debts is consistent with the concepts and objectives of the Federal Claims Collection Act of 1966, which recognized that giving agencies primary responsibility for debt settlement functions would improve the economy and efficiency of Government operations. The intent of this proposed amendment is similar to the intent of title I of Public Law 93–604, January 2, 1975, which amended subsection (a) of Public Law 88–521 to allow the Comptroller General to prescribe monetary limitations on the amount of disbursement vouchers subject to audit by statistical sampling. The amendment to Public Law 88–521 avoids the problem of having the limitation fixed by law and also is expected to result in substantial savings in both time and manpower.

Primarily due to considerations of timely processing and inflation, officials from a number of the administrative agencies have told us that they agree that the existing $500 limitation should be increased. The $500 limitation, first established in 1968, represents about $800 in today's inflation. Continuing inflation has increased the average amounts of overpayments, the cost of processing individual cases, and the percentage of waiver requests which must be sent to this Office. In fiscal year 1972, agencies settled 1,969 cases and referred 311 cases to GAO. In fiscal year 1975, agencies settled 2,602 cases (an increase of 35 percent) and referred 1,475 cases to GAO (an increase of 374 percent).

The processing of waiver requests in our Claims Division presently takes from 6–9 months due to the increasing volume of waiver cases forwarded to GAO. The greater volume of cases is due both to inflation and to the passage of Public Law 92–453 on October 2, 1972, which extended the waiver authority to military personnel. In fiscal year 1973, a total of 451 waiver requests were received from the agencies. This contrasts drastically with fiscal years 1974 and 1975 during which 1317 and 1475, respectively, waiver requests were forwarded to us for resolution. Increasing delays in processing waiver requests result in longer periods of uncertainty on the part of the requester as to the status of his debt and tend to prompt numerous congressional inquiries in behalf of constituents.

In both 1974 and 1975 military waiver requests constituted over 67 percent of the total referrals. We expect that the number of military waiver requests forwarded to GAO will increase significantly in 1976 and 1977 as the result of the Department of Defense's recently established uniform policy of advising members and former members of their rights to request waiver.

The agencies' expertise in handling waiver requests has grown over the years through the guidance contained in hundreds of GAO decisions dealing with various questions raised in such cases. Analysis of recent cases referred to GAO shows that we usually agree with the disposition recommended by the agencies. Satisfactory agency performance is also evidenced by the fact that appeals of agency actions are infrequent. In fiscal year 1975, there were 637 cases in which agencies denied all or part of the requested waiver—only 13 appeals were received by GAO during this period and the agency actions were sustained in all 13 cases.

The proposed amendment would improve the overall economy and efficiency of waiver processing. It would result in no additional administrative workload to the agencies because they must make similar reviews regardless of whether the cases are forwarded to GAO or settled at the administrative level. The overall procedures for handling waivers will not be significantly changed because waiver cases will continue to be handled in accordance with standards prescribed by the Comptroller General. Agency performance will continue to be evaluated by GAO during on-site reviews of agency operations and doubtful cases and appeals will continue to be submitted to the Comptroller General for review.

Permitting the Comptroller General to prescribe the monetary limitation will eliminate the need to return to the Congress every few years to offset the changes brought about by inflation and workload factors.

Therefore, our recommendation is that the language of subsection (a)(2)(A) of section 1 of the Act of October 21, 1968 (82 Stat. 1212), as amended by the Act of October 2, 1972 (86 Stat. 760) and by the Act of July 25, 1974 (88 Stat. 393) and the language of subsection (a)(2)(A) of sections 1 and 2 of the Act of October 2, 1972 (86 Stat. 758, 759) reading "in an amount aggregating not more than $500" should be amended to read "not in excess of amounts prescribed by the Comptroller General from time to time." Suggested language for a bill to accomplish the necessary changes is enclosed.

Sincerely yours,

ELMER B. STAATS,  
*Comptroller General*  
*of the United States.*

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By Mr. HRUSKA:

S. 3871. A bill to improve the judicial machinery in customs courts by amending the statutory provisions relating to judicial actions and administrative proceedings in customs matters, and for other purposes. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I rise to introduce legislation to amend the provisions of title 28 pertaining to the U.S. Customs Court. The amendments which I am proposing were discussed at the recent meeting of the American Bar Association and recommendations thereto forwarded to the chairman of the Judiciary Committee (Mr. EASTLAND).

Mr. President, I ask unanimous consent that this letter, together with the reports of the American Bar Association's standing committee on customs law and the text of the bill be placed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. HRUSKA. Mr. President, I have long been interested in the workings of the Customs Court, having introduced in the 91st Congress of the legislation, S. 2624, to revise the structure and practice of that court. This legislation was enacted in 1970 as Public Law 91–271. Extensive hearings were held in both the House and Senate on this subject. In the 6 years during which the Customs Court has been operating under these new procedures, vast improvement has come about. However, some areas of difficulty have become apparent.

Specifically, the bill which I am introducing would permit the Customs Court to exercise equitable powers brought under their present jurisdiction. This provision would grant the court plenary powers identical with those possessed by other article III courts. This would remove the uncertainty and confusion as to which forums are open to litigants seeking to redress their grievances arising out of the customs law.

Second, the bill would also remove the present requirement that a prescribed balance of members of the court be of differing political parties. Restrictions of this kind are usually found in provisions pertaining to administrative or regulatory agencies but not to article III courts. Because the Customs Court is an article III court, such a provision tends to demean the status of this court.

These two provisions were adopted by the House of Delegates at the American Bar Association meeting this past August. The standing committee on customs law of the American Bar Association further recommended a third provision which is currently undergoing study. This provision, which is also included in the bill at hand, would permit the Customs Court to hear cases, even though administrative remedies had not been fully explored, in those situations where delay would result in immediate and irreparable damage to an aggrieved party. Present law does not contain this flexibility. Rather, it is now required that all administrative remedies be exhausted before the Customs Court obtains jurisdiction.

Mr. President, I offer this bill with hopes that it will serve as a focal point of discussion for these recommendations. I do not necessarily believe that its provisions are set in concrete. The bill will, of course, not be acted upon this session of Congress. It is my hope that this bill and material which is being placed in the RECORD will, however, receive wide circulation and be studied by the interested parties the next several months. While I will not be returning to join the 95th Congress, it is my hope that others will pursue this legislation next year and that all interested parties will be afforded the opportunity to be heard as to the merits of this proposal.

Mr. President, it is my intention to supplement my discussion of this subject with insertion in the RECORD of additional pertinent material in the near future.

S. 3871

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, this Act shall be cited as the "United States Customs Court Act of 1976."

SEC. 2. Section 251 of title 28, United States Code, is amended—

(1) by striking out the period at the end of the second sentence and inserting in lieu thereof a comma and the following:

"and, in any action properly pending before the court, it shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States;" and

(2) by striking out the third sentence in the first paragraph of such section.

SEC. 3. Section 1582 of title 28, United States Code, is amended—

(1) by inserting after subsection (b) the following new subsection:

"(c) The Customs Court shall have exclusive jurisdiction of petitions for immediate relief brought by any person who is authorized by statute to contest a final order or decision of the Secretary of the Treasury or of the United States Customs Service, and who is likely to sustain immediate and irreparable injury as a result of a preliminary order or decision (or lack thereof) relating to an actual or attempted importation prior to such final order or decision: provided all required customs duties have been paid, except where the Court determines such payment in itself would constitute irreparable injury.

(2) by redesignating subsection (c) as subsection (d) and by striking out in such subsection "The" and inserting in lieu thereof "Except in cases arising under subsection (c), the"; and (3) redesignating subsection (d) as subsection (e).

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AMERICAN BAR ASSOCIATION,  
*Chicago, Ill., August 24, 1976.*

Re: U.S. Customs Court.

Hon. JAMES O. EASTLAND,  
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: At the meeting of the House of Delegates of the American Bar Association held August 9–11, 1976 the following resolution was adopted upon recommendation of the Standing Committee on Customs Law:

Be it resolved, That the American Bar Association recommends that Section 251 of Title 28, United States Code, be amended to provide that:

(a) The United States Customs Court shall have, in any matter within its jurisdiction, the same powers in law and equity of, or as conferred by statute upon, a district court of the United States;

(b) The present requirement in Section 251 that not more than five of the nine Judges of the United States Customs Court shall be appointed from the same political party be deleted.

This resolution is being transmitted for your information and whatever action you may deem appropriate. If hearings are scheduled on the subject of this resolution, we would appreciate your advising Herbert E. Hoffman, Director of the American Bar Association Governmental Relations Office, 1800 M Street, N.W., Washington, D.C. 20036, (202) 331-2210.

[American Bar Association]

### Report to the House of Delegates Standing Committee on Customs Law

#### RECOMMENDATION

The Standing Committee on Customs Law recommends the adoption of the following:

Be it resolved that the American Bar Association recommends that Section 251 of Title 28, United States Code, be amended to provide that:

(a) The United States Customs Court shall have, in any matter within its jurisdiction, the same powers in law and equity of, or as conferred by statute upon a district court of the United States;

(b) The present requirement in Section 251 that not more than five of the nine Judges of the United States Customs Court shall be appointed from the same political party be deleted.

Be it further resolved that the President of the Association or his designee be authorized to appear before the appropriate Committees of Congress to present testimony in support of the Association's resolution and otherwise to communicate this resolution to such Committee and their members.

#### REPORT

The foregoing recommendation was adopted by the Standing Committee on Customs Law.

While the present provisions of Section 251 of Title 28, United States Code, declare the United States Custom Court to be a Court under Article III of the Constitution of the United States, as are district courts, questions have been raised as to whether the Court possesses equitable powers.

Without the equitable and other powers possessed by a district court, the Court cannot extend full relief in appropriate cases within its jurisdiction.

Set forth below is proposed language to resolve this problem by providing that in actions properly brought within the area of its subject-matter jurisdiction, the Customs Court possesses plenary powers identical with those possessed by other Article III Courts of the United States within their respective areas of subject-matter jurisdiction. If enacted, this should remove the existing confusion and uncertainty and provide more adequate redress of grievances arising out of the customs laws. This proposal also will help the Customs Court to insure the continued development of uniform interpretation and application of laws in the field of customs and tariffs as required by Article I, Section 8, Paragraph 1 of the Constitution of the United States.

The Committee also recommends the deletion of the requirement that not more than five members of the Court be from the same political party is made because it is believed that the provisions demeans the stature of the Court. A provision of this kind is usually found only in the provisions governing appointments to administrative agencies and commissions and not any Article III Court.

§ 251. Appointment and number of judges: offices

The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record known as the United States Customs Court. Such court is hereby declared to be a court established under Article III of the Constitution of the United States, *and, in any action properly pending before the court, it shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States.* [Not more than five of such judges shall be appointed from the same political party.]

The President shall designate from time to time one of the judges to act as chief judge.

The offices of the court shall be located at the port of New York.

(Proposed new language is italicized, proposed deletion is enclosed in brackets.)

David Busby, *Chairman.*

August 1976.

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[American Bar Association]

### Report to the House of Delegates Standing Committee on Customs Law Recommendation

The Standing Committee on Customs Law recommends the adoption of the following resolution:

Be it resolved that the American Bar Association recommends a new statutory provision be added to the existing statutory provisions concerning the jurisdiction of the United States Customs Court, to provide that in an appropriate case the Court may assume jurisdiction prior to the otherwise required exhaustion of all administrative remedies.

Be it further resolved that the President of the Association or his designee be authorized to appear before the appropriate Committees of Congress to present testimony in support of the Association's resolution and otherwise to communicate this resolution to such Committees and their members.

#### REPORT

The foregoing recommendation was adopted by the Standing Committee on Customs Law.

The existing jurisdiction of this Court has, of course, a statutory prerequisite concerning the exhaustion of administrative remedies. Section 1582(c) of Title 28 now provides, in essence, that the Customs Court shall not have jurisdiction unless and until all statutorily-prescribed administrative prerequisites have been complied with. This proposal will continue to recognize that in the ordinary case the Customs Court shall not exercise jurisdiction over an action which will eventually be "ripe" for submission to the Court unless and until the statutorily-prescribed administrative remedies have been exhausted; but (and this is the principal change), in an exceptional case such administrative steps may be obviated when they would result in immediate and irreparable injury to an aggrieved person.

The language underscored, if included in section 1582 of Title 28, would accomplish the purposes set forth in the above Recommendation:

§ 1582. Jurisdiction of the Customs Court

(a) The Customs Court shall have exclusive jurisdiction of civil actions instituted by any person whose protest pursuant to the Tariff Act of 1930, as amended, has been denied, in whole or in part, by the appropriate customs officer, where the administrative decision, including the legality of all orders and findings entering into the same, involves: (1) the appraised value of merchandise; (2) the classification and rate and amount of duties chargeable; (3) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury; (4) the exclusion of merchandise from entry or delivery under any provisions of the customs laws; (5) the liquidation or reliquidation of an entry, or a modification thereof; (6) the refusal to pay a claim for drawback; or (7) the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930, as amended.

(b) The Customs Court shall have exclusive jurisdiction of civil actions brought by American manufacturers, producers, or wholesalers pursuant to section 516 of the Tariff Act of 1930, as amended.

(c) The Customs Court shall have exclusive jurisdiction of petitions for immediate relief brought by any person who would be authorized by statute to contest a final order or decision of the Secretary of the Treasury or of the United States Customs Service, and who is likely to sustain immediate and irreparable injury as a result of a preliminary order or decision (or lack thereof) relating to an actual or attempted importation prior to such final order or decision; provided all required customs duties have been paid, except where the Court determines such payment in itself would constitute irreparable injury.

(d) Except in cases arising under (c), the Customs Court shall not have jurisdiction of an action unless (1) either a protest has been filed, as prescribed by section 514 of the Tariff Act of 1930, as amended, and denied in accordance with the provisions of section 515 of the Tariff Act of 1930, or if the action relates to a decision under section 516 of the Tariff Act of 1930, as amended, and all remedies prescribed therein have been exhausted, and (2) except in the case of an action relating to a decision under section 516 of the Tariff Act of 1930, as amended, all liquidated duties, charges or exactions have been paid at the time the action is filed.

(e) Only one civil action may be brought in the Customs Court to contest the denial of a single protest. However, any number of entries of merchandise involving common issues may be included in a single civil action. Actions may be consolidated by order of the court or by request of the parties, with approval of the court, if there are common issues.

[Additions underscored; deletions stricken]

David Busby, *Chairman.*

August, 1976.

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## ADDITIONAL COSPONSORS

### S. 2939

At the request of Mr. Schweiker, the Senator from Delaware (Mr. Roth) was added as a cosponsor of S. 2939, to provide a special program of financial assistance to Opportunities Industrialization Centers.

### S. 3192

At the request of Mr. Hartke, the Senator from Tennessee (Mr. Brock) was added as a cosponsor of S. 3192, the Consumer Communications Reform Act.

### S. 3392

At the request of Mr. Gary Hart, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 3392, the Veterans' Administration Judicial Review Act.

### S. 3397

At the request of Mr. Nelson, the Senator from Ohio (Mr. Taft) was added as a cosponsor of S. 3397, the Small Business Growth and Job Creation Act.

### S. 3486

At the request of Mr. Leahy, the Senator from Idaho (Mr. McClure) was added as a cosponsor of S. 3486, to amend the Emergency Petroleum Allocation Act.

### S. 3596

At the request of Mr. Hartke, the Senator from New Jersey (Mr. Williams) was added as cosponsor to S. 3596, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes.

**S. 3630**

At the request of Mr. CHURCH, the Senator from South Dakota (Mr. ABOUREZK), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from California (Mr. CRANSTON), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 3630, the Endangered American Wilderness Act of 1976.

**S. 3797**

At the request of Mr. KENNEDY, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 3797, to establish a program to revitalize the U.S. commercial fishing industry.

**S. 3801**

At the request of Mr. TALMADGE, the Senator from North Dakota (Mr. BURDICK) and the Senator from West Virginia (Mr. ROBERT C. BYRD) were added as cosponsors of S. 3801, relating to fraudulent activities under the medicare and medicaid programs.

**SENATE CONCURRENT RESOLUTION 118**

At the request of Mr. JACKSON, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Concurrent Resolution 118, concerning religious freedom in the Soviet Union.

**AMENDMENT NO. 2334**

At the request of Mr. DURKIN, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of amendment No. 2234, intended to be proposed to the bill (S. 969) relating to educational assistance benefits for veterans and dependents.

**AMENDMENT NO. 2318**

At the request of Mr. GARY HART, the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Michigan (Mr. PHILIP A. HART) were added as cosponsors of amendment No. 2318, intended to be proposed to the bill (S. 969) to amend chapter 14 of title 38, United States Code, to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 35 from 36 to 45 months.

**AMENDMENT NO. 2337**

At the request of Mr. NELSON, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of amendment No. 2337, intended to be proposed to S. 3823, a bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

**AMENDMENT NO. 2350**

At the request of Mr. GOLDWATER, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of amendment No. 2350, intended to be proposed to S. 2278, the Civil Rights Attorneys' Fees Awards Act of 1975.

## SENATE RESOLUTION 566—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 15136

Mr. SYMINGTON, from the Committee on Armed Services reported the following original resolution which was placed on the calendar:

**S. RES. 566**

*Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 15136, a bill to authorize appropriations for construction of facilities on Guam, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

Typhoon Pamela which struck Guam on May 21, 1976, was one of the worst storms in the history of that island and caused extensive damage to military installations located there. It is essential that the military forces on Guam have the facilities necessary to efficiently conduct their important mission and immediate action to repair damage is necessary. Since the storm and damage occurred subsequent to the statutory deadline for the reporting of new authorizing legislation, H.R. 15136 could not have been reported by the date called for in section 402(a) of the Congressional Budget Act.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 15136 as reported by the Committee on Armed Services.

## SENATE RESOLUTION 567—ORIGINAL RESOLUTION REPORTED RELATING TO PURCHASE OF CALENDARS

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

*Resolved*, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $21,580 for the purchase of fifty-two thousand calendars. The calendars shall be distributed as prescribed by the committee.

## SENATE RESOLUTION 568—SUBMISSION OF A RESOLUTION RELATING TO THE REDISTRIBUTION OF CERTAIN WINDFALL CORPORATE PROFITS

(Referred to the Committee on Interior and Insular Affairs.)

Mr. HARTKE submitted the following resolution:

**S. RES. 568**

Whereas business concerns engaged in the production and marketing of petroleum products have inequitably and in various cases unlawfully overcharged for their products by adding non-product costs to the costs of their products and otherwise engaged in the use of illegal non-product cost pass throughs;

Whereas such overcharges have amounted to $1,350,000,000 during the period beginning on January 1, 1975, and ending on February 29, 1976; and

Whereas these overcharges are windfall profits to certain corporations engaged in the production and marketing of petroleum products to the detriment and injury of the consuming public: Now, therefore, be it

*Resolved*, That the Administrator of the Federal Energy Administration should take all necessary and proper steps, including the promulgation, amendment, or suspension of relevant rules or orders, to recover such windfall profits by the use of selective price roll-backs, civil penalties, or such other measures as are authorized by law which will most equitably redistribute such monies throughout the economic sector and among those persons from whom such funds were unlawfully and inequitably extracted.

Mr. HARTKE. Mr. President, it has recently been brought to my attention that major corporate segments of the petroleum industry in the United States have engaged in the inequitable and, in various cases, unlawful act of increasing their sale price of products by the inclusion of nonproduct cost passthroughs in the computation of the sale price of their petroleum products.

It is estimated that during the period from January 1975 through February 1976, approximately $1,350,000,000 was received by these corporations as windfall profits by the use of these nonproduct cost passthroughs.

As a result, I am introducing a resolution that states that it is the sense of the Senate that the Administrator of the Federal Energy Administration take all necessary and proper steps to recover such windfall profits by the use of selective price rollbacks, civil penalties, or such other measures as are authorized by law which will most equitably redistribute such moneys throughout the economic sector and among those persons from whom such moneys were unlawfully and inequitably extracted.

The expression of the sense of the Senate at this outrageous situation is the minimum appropriate congressional reaction in light of the enormity of the offense. I trust this body will join me in support of this resolution.

## SENATE RESOLUTION 569—SUBMISSION OF A RESOLUTION RELATING TO THE MEDAL OF HONOR AWARDED TO DR. MARY EDWARDS WALKER IN 1865

(Referred to the Committee on Armed Services.)

Mr. BROOKE submitted the following resolution:

**S. RES. 569**

Whereas Dr. Mary Edwards Walker, born in Oswego, New York, on November twenty-sixth, eighteen hundred thirty-two, a woman destined for great achievements, graduated from the Syracuse Medical College in eighteen hundred fifty-five as the only woman in her class;

Whereas Dr. Walker, a woman one hundred years ahead of her time, pursued many other occupations including teaching, lecturing, and writing on women's rights, and campaigning for women's suffrage and other progressive reforms;

Whereas during the Civil War, Dr. Walker dedicated seven years of her life to voluntary service in the Union Army as the first woman commissioned assistant surgeon, treating Union soldiers at such battles as Bull Run and Gettysburg;

Whereas Dr. Walker, at the risk of capture, crossed enemy lines to doctor destitute Southern civilians near Chattanooga who were suffering for professional attention;

Whereas Dr. Walker endured four months' imprisonment by the Confederate Army, during which time she continued to attend to ailing inmates;

Whereas President Lincoln recommended Dr. Walker for the Medal of Honor shortly before her death and President Johnson endorsed the recommendation and presented the award to her for her patriotism, bravery, and untiring services in attending the sick and wounded;

Whereas Dr. Walker, being the only woman in the history of the United States to have ever received the nation's highest award for valor, was stripped of the honor by the Adverse Action Medal of Honor Board in nineteen hundred seventeen for some indeterminate reason that her award lacked statements of specific acts of valor;

Whereas it is the sense of this legislature to acknowledge its citizenry for contributions to our American society, especially in this bicentennial year: Therefore, it is hereby

*Resolved* by the Senate of the United States of America in Congress Assembled, that the Congressional Medal of Honor previously awarded to Dr. Mary Edwards Walker in 1865 be reinstated.

Mr. BROOKE. Mr. President, it is with a deep sense of pride and admiration that I introduce this resolution today to return to Dr. Mary Edwards Walker the Congressional Medal of Honor which she so rightfully deserves, and which was so wrongfully taken away from her by the Adverse Action Medal of Honor Board in 1917. Dr. Walker was an outstanding woman, a dedicated physician and teacher, a renowned lecturer, an active campaigner for women's suffrage, and an outspoken advocate for other progressive reforms. She was truly a woman ahead of her times. She was the first woman ever commissioned as an Army doctor, and the only woman to serve as a Union Army physician during the Civil War. I might add that Dr. Walker volunteered her services to our Nation and received not a single penney for her untiring efforts on the battlefield. Her bravery and valor must not go unrewarded.

Dr. Walker graduated from Syracuse Medical School in 1855 at the age of 22—the only woman in her class. Seven years later, she became an unsalaried physician in the Union Army, during which time she treated soldiers at the battles of Bull Run and Gettysburg and, at the risk of capture, crossed enemy lines to care for destitute Southern civilians near Chattanooga who were suffering and in serious need of medical attention. And as a result of her ministry, these people were won over to the Union cause. She later endured 4 months in a Confederate prison, where she continued her medical mission of mercy by attending to ailing inmates, to the detriment of her own health.

For her patriotism, courage, and dedicated service in healing the sick and wounded, President Lincoln, shortly before his death, recommended that Dr. Walker be given the Congressional Medal of Honor. President Johnson endorsed the recommendation and presented the Medal to her on November 11, 1865. She is the only woman in our history ever to receive the Nation's highest award for valor. She earned it, and she deserves to keep it.

It is indeed a tragedy that this remarkable woman was stripped of her medal by the Adverse Action Medal of Honor Board in 1917. The Board stated at the time that there "was insufficient reason indicated in the available record" to warrant the presentation of the award to Dr. Walker. I cannot agree. And I hope my colleagues will concur with me that there is more than enough evidence to prove that Dr. Walker is truly worthy of the great honor that was bestowed on her 111 years ago. I hope that Congress will act favorably and expeditiously on this resolution so that the President may file a request with the Pentagon's Board for the Correction of Military Records. I think it is most fitting that in this, our Bicentennial Year, we pay tribute again to one of America's finest women, and that we return to Dr. Mary Edwards Walker the Congressional Medal of Honor which has, in a sense, always been hers.

## AMENDMENTS SUBMITTED FOR PRINTING

### EXPORT REORGANIZATION ACT—S. 1439

AMENDMENTS NOS. 2460 THROUGH 2482

(Ordered to be printed and to lie on the table.)

Mr. DURKIN submitted 23 amendments intended to be proposed by him to the bill (S. 1439) to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

AMENDMENT NO. 2499

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted an amendment intended to be proposed by him to the bill (S. 1439), supra.

### NUCLEAR FUEL ASSURANCE ACT—H.R. 8401

AMENDMENTS NOS. 2483 THROUGH 2494

(Ordered to be printed and to lie on the table.)

Mr. DURKIN submitted 12 amendments intended to be proposed by him to the bill (H.R. 8401) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, to provide a procedure for prior congressional review and approval of proposed arrangements, and for other purposes.

AMENDMENT NO. 2500

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted an amendment intended to be proposed by him to the bill (H.R. 8401), supra.

### INTERSTATE HORSERACING ACT OF 1976—H.R. 14071

AMENDMENTS NOS. 2495 THROUGH 2497

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. Brooke, Mr. Buckley, Mr. Javits, and Mr. Stevenson) submitted three amendments intended to be proposed by them to the bill (H.R. 14071) to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes.

### FEDERAL MINE HEALTH AND SAFETY AMENDMENTS OF 1976—H.R. 10760

AMENDMENT NO. 2498

(Ordered to be printed and to lie on the table.)

Mr. HASKELL (for himself, Mr. Bayh, Mr. Gravel, Mr. Huddleston, and Mr. McGee) submitted an amendment intended to be proposed by them to the bill (H.R. 10760) to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes.

### PAYMENTS TO LOCAL GOVERNMENTS—H.R. 9719

AMENDMENT NO. 2501

(Ordered to be printed and to lie on the table.)

Mr. STEVENS. Mr. President, I applaud the purposes of the payments-in-lieu-of-taxes measure. This bill is long overdue and very definitely required. Those of us from Western States recognize the inequity of our municipalities paying for services required by the presence of Federal land when those lands do not provide tax revenues. This places an enormous burden on Western counties with large Federal land holdings. And with the increasing use of Federal lands, more and more demands for services are placed on local governments.

I have long supported measures of this type and urge the Senate to pass this bill this year.

I do, however, have an amendment which I would like to introduce. The purpose of this amendment is to further adapt the bill to the unique conditions in Alaska. While Alaska has large areas of Bureau of Land Management, National Park Service and National Forest land, there are other Federal lands which need to be included to insure the boroughs in Alaska are compensated adequately.

The Alaska Railroad operates through the heart of the State and travels through the area of heaviest population. Because of the railroad municipalities along its route are required to provide added police and fire protection, better highway and road maintenance, and a variety of other services. They must serve not only the roadbed and right-of-way but all the switching facilities, train yards, station maintenance sheds, and so forth. This amounts to quite a burden. But since the Alaska Railroad is the only federally owned railroad in the Nation, it is exempt from State and local taxes and therefore does not contribute its fair share to the localities that must provide services to it. My amendment would include the Alaska Railroad's lands in the bill to begin to compensate those communities.

The second portion of the amendment I am proposing would partially compensate those communities which must provide services to Indian Health Service. Although the Indian Health Service performs a much-needed service, often their facilities occupy land in the centers of communities which would have very high commercial value. Also, the community must provide municipal services to these facilities. Again, I think this change in the bill is needed to begin to compensate those communities.

Again, let me stress these amendments are minor. The Alaska Railroad owns less than 30,000 acres of land that would be included and the Indian Health Service has less than 1,000 acres. But for those communities which are impacted by this Federal land, it is of major concern. I hope the Senate can make this minor change to make a gool bill better.

## LOBBYING AND RELATED ACTIVITIES—H.R. 15

### AMENDMENTS NOS. 2502 AND 2503

(Ordered to be printed and referred to the Committee on Government Operations.)

Mr. BARTLETT submitted two amendments intended to be proposed by him to the bill (H.R. 15) to regulate lobbying and related activities.

### AMENDMENTS NOS. 2504 AND 2505

(Ordered to be printed and referred to the Committee on Government Operations.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill (H.R. 15), supra.

### AMENDMENTS NOS. 2506 THROUGH 2508

(Ordered to be printed and referred to the Committee on Government Operations.)

Mr. HRUSKA submitted three amendments intended to be proposed by him to the bill (H.R. 15), supra.

### AMENDMENTS NOS. 2509 THROUGH 2514

(Ordered to be printed and referred to the Committee on Government Operations.)

Mr. FANNIN submitted six amendments intended to be proposed by him to the bill (H.R. 15), supra.

## ADDITIONAL STATEMENTS

## NOTICE OF HEARING ON S. 3423 AND S. 2762, BILLS TO ESTABLISH A NATIONAL COURT OF APPEALS

Mr. BURDICK. Mr. President, as chairman of the Judiciary Subcommittee on Improvements in Judicial Machinery, I wish to announce that additional public hearings will be held for the consideration of S. 3423 and S. 2762, both of which propose to establish a National Court of Appeals.

The hearings will be held on November 9 and 10, 1976, in room 2228 of the Dirksen Senate Office Building, commencing at 10 a.m. on each date.

Because the subcommittee has received requests from a number of persons and organizations who want to be heard on these bills, the subcommittee will notify the persons who will be heard on November 9 and 10.

Additional days of hearings will be held during the next Congress and persons who wish to testify or submit a statement on this legislation should communicate with the subcommittee office, 6306 Dirksen Senate Office Building, telephone 224-3618.

## ANNOUNCEMENT OF HEARING ON IMPACT OF PRODUCT LIABILITY ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will hold a field hearing on the impact of product liability on small business in Des Moines, Iowa, on October 20, 1976. Chairing the hearing will be the Senator from Iowa (Mr. Culver). Details as to location of the hearing in Des Moines, the time, and names of witnesses will be announced at a later date.

The committee has already held two public hearings, on September 8 and 10 in Washington, D.C., to explore all possible avenues of relief to small firms that encounter difficulty in obtaining product liability insurance at reasonable prices, or at any price. In addition to the October 20 hearing, future hearings are also planned as part of the committee's study of this problem.

Further information can be obtained from the offices of the committee, room 424, Russell Building, telephone 224-5175.

## ANNOUNCEMENT OF HEARINGS ON SMALL BUSINESS AND THE EFFECT OF ILLEGAL ALIEN EMPLOYMENT LEGISLATION

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will hold a public hearing on small business and the possible effect of illegal alien employment legislation, on November 22 and 23, 1976. The hearing will begin at 10 a.m. in room 318 of the Russell Senate Office Building. Chairing the hearing will be the Senator from Oregon (Mr. Packwood).

During the months of August and September, and continuing in October, the committee staff has been interviewing employers in the cities of New York, Cleveland, and Los Angeles, to obtain information on the possible effects of various legislative proposals which would prohibit the employment of illegal aliens. The forthcoming hearings will provide an opportunity for employers and their representatives to participate in the committee efforts, and will bring their experiences directly to the attention of Small Business Committee Senators in Washington, D.C.

Further information on the hearings can be obtained from the offices of the committee, room 424, Russell Office Building, telephone 224-5175.

## AEROSPACE EDUCATION FOUNDATION

Mr. GOLDWATER. Mr. President, it is my honor to be chairman of the board of the Aerospace Education Foundation which is an affiliate of the Air Force Association. The purpose of the foundation is to raise money so that scholarships may be given to deserving young people, scholarships that cost our Government nothing. During the course of our recent meeting during the Air Force Association convention in Washington Mr. James Straubel, who is executive director of the foundation, presented a report to the trustees. This report is extremely interesting, because it shows what people who believe in our system of government and economy can do in the helping of young people in their desire to acquire a better education. I ask unanimous consent that this very fine report be printed in the Record, and it is my hope that many people across this country will see these remarks and feel in their hearts that they can give a little bit of money to help this excellent cause.

There being no objection, the report was ordered to be printed in the Record, as follows:

### Annual Report of the Executive Director to the Board of Trustees, Aerospace Education Foundation, Presented September 21, 1976, Washington, D.C.

During the past organizational year we expanded significantly our pioneering work in the transfer of occupational education courses from military to civilian classrooms.

Twenty Air Force courses now are available to civilian schools through our Foundation. Eight of these were announced earlier this month. As of today, with only early returns on these new courses, we have placed 953 Air Force course packages, representing 192,142 instructional hours in 400 educational institutions in 47 states, plus Puerto Rico, Saudi Arabia, Australia and the Virgin Islands.

Attachment No. 1 to this report cites a few of the endorsements we have received from educators who have been introduced to Air Force courses by our Foundation. Please note that the State of Ohio has adopted the Air Force's "Instructional Systems Design" program—obtained from the Foundation—for statewide use by Ohio teachers. Attachment No. 2 lists a few of the educational institutions which obtained Air Force courses from the Foundation. Most of the "users" are community colleges and high schools, but please note a few four-year universities among them. The introduction of occupational education in these institutions seems to be a growing trend.

All this has been accomplished as a private, non-profit venture—at no government expense. Our Foundation teams, using our own special equipment, reproduce Air Force course materials (slides, films, videotapes, etc.) by working in between classes or at night at Air Training Centers so as not to interfere with the military mission. Civilian schools obtain Air Force courses from the Foundation for only the cost of reproduction and handling fees. But they purchase them. This is not a giveaway program. And it is one in which the taxpayer already has invested heavily—in which he for the first time, is getting double duty on his defense dollar.

Now for a brief progress report on our expansion:

I mentioned that we now have twenty Air Force courses available. At this time a year ago we offered only eight. They were: Auto/Truck Mechanic; Medical Service Fundamentals; Nurse's Aide; Food Inspector; Structural Engineering Assistant; Aircraft Maintenance Fundamentals; Apprentice Carpenter, and Electronic Principles.

In December, 1975, we announced four more Air Force courses: Cooking, Baking and Serving; Instructional System Materials Development; Still Photographer, and Still Photojournalism.

Then, early this month we announced eight new Air Force courses, as follows:

### ALL-NEW, SELF-PACED, ELECTRONIC PRINCIPLES

Compared to the Air Force Electronic Principles course system we released in 1973, this system is designed so that the students can proceed at their own learning pace. The system has 10 blocks and some 600 hours of instruction—ranging from DC Circuits to Microwave Devices.

### TECHNICAL INSTRUCTOR

This course system provides training in the more common phases of instructional methods and techniques. Included among the major subject areas are: the learning process; instructional methodology; communication skills; instructional system development; instructional aids; measurement and the instructor's role in human relations.

### AUDIOVISUAL METHODS

This course system is designed as a self-paced learning experience in which the instructor acts as a course manager and tutor to students with individual learning problems. It gives the student both training and practical experience in the selection, design, production, application and validation of audio-visual software.

### DEVELOPMENT AND MANAGEMENT OF AN INSTRUCTIONAL SYSTEM

This is a 40-hour course system designed to train supervisors in current concepts and philosophies in instructional system development and management. It features modular scheduling—part group lock-step and part self-paced. It covers a variety of areas including systems analysis, job task inventories, instructional standards, and criterion objectives.

### DEVELOPMENT OF LEARNING OBJECTIVES

This 36-hour course is designed to train individuals in the concepts, methods, and techniques for developing learning objectives. It is sequentially arranged to combine class training activities with completion of work projects outside the classroom. Primary emphasis is placed on the formulation, composition and format of learning objectives.

### TESTS AND MEASUREMENTS

Another 36-hour course system—self-paced, composed entirely of programmed texts. This course provides training in measurement concepts, objectives and procedures, preparation of progress checks, and criterion tests.

### ACADEMIC COUNSELING

This course system is designed to be used in either a group-paced or self-paced mode. It is a 36-hour course covering the basic skills used in interviewing, counseling and guiding students in relation to their academic progress.

### TECHNICAL WRITER

This course system is designed so that it may be utilized in the self-paced mode. It provides students with the basic skills and knowledge required for a writer of technical training materials, with particular emphasis on planning and production.

So much for our eight new courses.

In November of this year, the Foundation team will visit Chanute Air Force Base in Illinois to perform an initial review of several courses in the automotive field as well as courses in the areas of: heat treatment and electroplating of metals, machinist, jet engine mechanic, fabric and rubber products, etc. There are 28 courses listed for this initial review. Selection of courses for dissemination will be based upon demand.

As a non-endowed Foundation, we are indebted for our growth to the Air Force Association, with whom we are affiliated, for defraying our overhead expenses, and to the growing number of contributions from individuals and organizations who believe in our cause. They fully support our unique efforts to provide more young people with saleable skills by expanding and upgrading occupational education—while making the tax dollar do double duty.

Thus, while the U.S. Office of Education continues to invest its research funds exploring ways and means to transfer occupational education courses from military to civilian classrooms, we have done just that—at no government expense. And we will keep expanding our program as a cost-effective venture in the true spirit of the free enterprise system.

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## Aerospace Education Foundation Annual Report

A few of the endorsements from educators who have obtained Air Force courses from the Foundation.

"The priority emphasis now in the State of Ohio is Instructional System Design (ISD). This effort found its roots in the U.S. Air Force Training Command and its concepts and techniques. Air Force materials were of great importance when we developed occupational analyses and survey techniques for the curriculum efforts."—Tom L. Hindes, Director, Instructional Materials Laboratory, the Ohio State University.

"At Prince Georges Community College in Largo, Maryland, we have been using the first two blocks of the Air Force Electronic Principles course, with some modifications, in the self-paced/self-study/individualized instruction/open laboratory modes since the Fall Semester of 1974.

"Results: (1) although the student load almost doubled, no additional instructors nor school resources were required, and (2) some students who worked full or part time and who would have had to drop out because of job travel, overtime, etc., remained in the course because they could make up the missed portions at their convenience."—Henry E. Davis, Associate Professor, Engineering Technology, Prince Georges Community College.

"The Aerospace Education Foundation instructional materials have made a significant impact on the improvement of instruction at the Milwaukee Area Technical College. The aerospace instructional packages have assisted learning in a wide variety of occupational programs.

"The self-paced, open-ended design features of the various packages have eased instructional implementation and freed the instructor to work with individuals requiring special help. The instructional sequence allows the student to experience early success which has helped motivate students with learning problems."—William L. Ramsey, President, Milwaukee Area Technical College.

"The South Carolina State Board for Technical and Comprehensive Education worked closely with Piedmont Technical College in adapting the first two blocks of the Air Force Electronic Principles course to the College's curriculum. The course is being utilized as a core curriculum for various disciplines.

"More than $100,000 was saved by the adaptation as against developing these blocks from scratch. Our nationwide search indicated that this course was the most feasible and cost effective."—Samuel G. Higgins, Director, Educational Technology, State Board for Technical and Comprehensive Education, SC and James Rehg, Chairman, Technology Division, Piedmont Technology College.

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## Aerospace Education Foundation Annual Report

A sampling of the 400 users of Air Force courses in 47 States:

Texas State Technical Institute.
NC Dept. of Public Education.
Wayne Community College, NC.
Lake City Community College, FL.
Ind. School District of Bosie City, ID.
Purdue University, IN.
Polk Vocational Technical Ctr., FL.
Miami-Dade Junior College.
Milwaukee Area Technical College.
Ind. School District, MN.
University of South Carolina.
College of the Sequoias, CA.
School Board of Dale County, FL.
Utah Technical College.
Board of Education, Oakland Schools, MI.
Indiana Univ. Medical Center.
Newaygo County Area Vocational Center, MI.
Livonia Public Schools, MI.
Rutgers University, NJ.
Washington Technical Institute, DC.
University of Hawaii.
Brevard Community College, FL.
Lakeshore Technical Institute, WI.
Clintonville Public Schools, WI.
Millbury School Department, MA.
Department of Education, MD.
Allan Hancock Joint Community College District, CA.
Duval County School Board, FL.
American Vocational Schools, CA.
Utah State Board of Education.
AT&T Long Lines, DC.
Southern New England Telephone Company, CT.
Capistrano Unified School Dist., CA.
International Harvester Company, IL.
Hancock County Schools, WV.
Rockwell International Corp., CA.
Prince George's Community College, MD.
Northern Oklahoma College.
Johnson & Wales College, RI.
Hutchinson Area Vocational Technical Institute, MN.
Collins Radio Company, TX.
Trident Technical College, SC.
New York Community College.
Union County Technical Institute, NJ.
Cincinnati Technical Institute.
State Dept. of Education, CT.
Central Piedmont Com. College, NC.
Triton College, IL.
Helena School District #1, MT.
Los Angeles Community College.
Appalachia Educational Lab., WV.
Big Bend Community College, WA.
Cochise College, AZ.
Ledyard High School, CT.
Clinton County Vocational School, KY.
West Virginia Wesleyan College.
State Area Vocational Technical School, TN.
North Carolina Baptist Hospital.
Nome Public Schools, AK.
Piedmont Technical College, SC.
Groveton Elementary School, NH.
Walla Walla Community College, WA.
Department of Education, Hawaii.
Baltimore City Public Schools.
City School District, Rochester, NY.
College of the Mainland, TX.
Ind. School District, Duluth, MN.
Mesa Elementary Schools, AZ.
Howard Community College, MD.
Xerox Corporation, NY.
Shell Oil Company, TX.
Western Wyoming College.

Digital Equipment Corporation, MA.

New Hampshire Vocational Technical College.

Russell County Vocational Schools, VA.

## FIRST SUCCESSFUL TEST OF HAWAII GEOTHERMAL PROJECT

Mr. FONG. Mr. President, I wish to call attention to an encouraging development in a geothermal project in my home State of Hawaii.

According to University of Hawaii engineers and scientists, the project recently passed its first test successfully when a geothermal well which had been drilled 6,400 feet deep into a volcano showed it is capable of recharging and could produce steam over extended periods.

If plans of the scientists become a reality, as expected, the project would culminate in the construction of a prototype powerplant to convert steam into electrical energy on the island of Hawaii within a few years.

The project is funded by the National Science Foundation, the State of Hawaii, the county of Hawaii, the Hawaiian Electric Co., and other public and private sources of financing.

I commend and congratulate the University of Hawaii for its first successful test of the geothermal well. As one who has assisted the project from its inception, I have great confidence in its future and extend my best wishes for continued success to all who are engaged in this exciting and useful work.

A description of the project is contained in an article appearing in the September 1976 issue of the Malamalama, a newspaper published by the university's office of university relations in cooperation with the University of Hawaii Foundation and the University of Hawaii Alumni Association.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### UH Geothermal Project Finds Lots of Steam in Big Isle Explorations

Engineers and scientists at the University of Hawaii this summer took another step toward harnessing the heat of volcanoes for the benefit of humankind.

After nearly three years of exploration and preparation, University personnel successfully "flashed" the state's first geothermal well, a 6,400-foot deep shaft drilled into the east rift zone of Kilauea volcano.

A four-hour flow test on July 22 was hailed a "milestone" in the program by John Shupe, director of the Hawaii geothermal project and dean of the UHM College of Engineering. A short preliminary test also was successful, but the four-hour effort "seems to prove the well is capable of recharge and can produce steam over extended periods," Shupe said.

The flow test was conducted under the direction of Paul Yuen, associate dean of engineering, assisted by Professor Deane Kihara, and engineering students Arthur Seki from Manoa and Jeff Fujii from Hilo. "Paul and his crew continued on the job running down-hole temperature and pressure tests long after the rest of us had finished celebrating and were in bed," Shupe said. They deserve our congratulations for bringing the test off on schedule."

Flashing the well involved adjusting the pressure to vaporize the hot water within, which had been measured at a temperature of 617 degrees Fahrenheit at the bottom. Pressure and temperature measurements obtained by Yuen's team before, during, and after the flow test provided a better understanding of the nature of the geothermal reservoir.

The selection of the site of the test well in the Puna district on the Big Island was based upon an extensive series of geological and geophysical surveys and field tests conducted by scientists from the Hawaii Institute of Geophysics to "map" potential geothermal reservoirs. The late Dr. Agatin A. Abbott, former chairman of geology and geophysics at UHM, headed the site selection committee.

Before the flow test, it was not known whether the well had sufficient permeability to allow recharge of fluid to occur. If this element had been lacking, Shupe said, "The well would have blown itself dry in less than 15 minutes."

During the four-hour test, however, the well sent a white cloud of relatively clean steam several hundred feet into the air, according to observers. The noise level from the well was reported at 120 decibels—about the same as that generated by a 747 jet aircraft.

After four hours of flow, said Shupe, the well was still discharging steam at a rate equivalent to five megawatts of electrical power, enough to serve a community of 5,000 persons. The encouraging results will now lead to further testing by Paul Yuen and his associates.

Yuen said the project will next analyze steam and air samples taken during the test flow to assure there are no environmental hazards. A silencer will be built to muffle the noise level, and a flow test lasting some four weeks will be conducted to give a better indication of the amount of recharge occurring.

Shupe recommends that the State proceed with additional drilling in the Puna area to define the extent of the geothermal reservoir, and also expects that explorations on Oahu and Maui should go ahead. At least two more geothermal wells should be drilled in Puna before building a prototype power plant to convert steam to electrical energy. If the project proceeds on schedule, Shupe said, there would be "power on the line" within four years.

"Increasingly," he said, "it is beginning to look like geothermal power will have an important role to play in Hawaii's energy future."

If he's right, the University will be at the forefront of that development.

## TOXIC SUBSTANCES CONTROL ACT

Mr. DURKIN. I signed the conference report on the Toxic Substances Control Act because I feel it is the best legislation we could come up with this year. It is certainly not the best legislation Congress could devise to address the problem of uncontrolled manufacture of harmful chemicals.

Senators HARTKE and TUNNEY deserve particular praise for their hard work on this bill during this session and previous sessions of Congress.

Unfortunately for the prospective cancer victims and for the country, the White House did not support the Senate bill, which provided for greater protection for our citizens. The prospective cancer victims are not as well organized as the chemical industry. Once again the Ford administration has subordinated human interest to the corporate interests. The chemical feast continues while the Ford White House conspires with the oil and chemical industry.

The Senate should approve the conference report not with a cheer but with some satisfaction that 6 years of study and hard work have not totally gone for naught.

Next year we must renew the fight for the strongest possible Toxic Substances Act. The burden of establishing the safety of chemicals should be on those who wish to introduce such lethal substances into our homes, our work places, our air, and our water.

## FIRST FLIGHT SOCIETY LUNCHEON

Mr. GOLDWATER. Mr. President, during the First Flight Society luncheon at Kitty Hawk, N.C., on September 19 of this year, retired Maj. Gen. Clifton F. von Kann, who is senior vice president of operations and airports, Air Transport Association, delivered the address. It is an interesting address in that the general has recognized the importance of Kitty Hawk for history and the importance of aviation to our well-being. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### Presentation by Maj. Gen. Clifton F. von Kann

It is a pleasure and an honor to be here today at Kitty Hawk—the birthplace and shrine of powered flight. I have no doubt that when I start reminiscing, I will look back upon this day and the opportunity to speak here as one of my proudest moments. As a matter of fact, to stand on this platform with Dick Merrill and our other distinguished guests is an unforgettable experience in itself.

As you know, it all began here on December 17, 1903, a date which will shine throughout the annals of civilization. Now many aviation anniversaries are celebrated in our Country, usually those involving decades, quarter centuries, or perhaps a half century. This bicentennial year we are celebrating the fiftieth anniversary of commercial aviation because the Air Commerce Act of August 21, 1926 established air commerce as a national institution.

I could no doubt add to the pleasure of this occasion by elaborating on the progress of the last fifty years and offering statistical comparisons between 1926 and 1976. However, it may be more worthwhile—even if less satisfying—to pick two other dates and consider their significance.

The dates I have selected are these: July 20, 1969, May 19, 1971.

Why these? Let me explain.

On July 20, 1969 we sat transfixed before our TV screens and watched Neil Armstrong and Ed Aldrin set foot on the moon, while Mike Collins orbited over their heads. This brought to a successful climax the greatest technical/operational achievement and feat of exploration that the world had ever seen.

To me this great event symbolized the amazing progress which aviation had made in the 66 years since Kitty Hawk. At that moment in time our preeminence in aviation was so complete that the possibility of challenge in any phase of it seemed hopelessly remote.

We had completely overcome the Soviet challenge in space. In manned space exploration they were no longer competitive.

In military aviation we led the Soviets in total delivery vehicles, strategic offensive warheads and bombs, and total missile launchers.

Our export surplus for aerospace products was $2.8 billion compared with a deficit of $1.2 billion for all other products.

Our scheduled airlines were producing 57% of the world's revenue passenger miles. Domestically the air transport system provided the great bulk of all intercity public passenger miles and had become an indispensable building block in the nation's economy.

General aviation in the United States had achieved a comparable international leadership role, and was producing 90% of all the world's general aviation aircraft.

Our traffic control system dwarfed all others in size and technical sophistication—and the safety it achieved.

We were moving forward in the construction of a supersonic transport research prototype which promised to be far superior to its foreign competitors.

The Federal Aviation Administration was preeminent among the world civil aviation authorities all of whom looked to FAA for leadership. At home the Civil Aeronautics Board was almost universally considered to be the best of the economic regulatory agencies.

In short, in less than two-thirds of a century after the flight at Kitty Hawk, aviation had become a major element of the military might, the economic strength, the technological leadership and the national prestige of the United States. The strength and vitality of our aviation establishment had no counterpart in any phase in American life.

This second date you may not have identified. It was the day on which the Senate killed the last hope for a research prototype of a U. S. supersonic transport. By this dramatic halt in the program, we announced to the world that aviation leadership was no longer of consequence to this nation. While this in itself may not have been the cause of all that followed, it is inevitable that when a nation renounces its leadership role and dismantles a national resource, which the SST indeed was, other nations will take up the challenge and domestic prorities will become unclear. The predictable result has been that the succeeding years have seen a slowdown in the forward thrust of our aviation and aerospace programs and a weakening of our competitive position in the world.

In military aviation the Soviets have passed us in total delivery vehicles, total missile launchers, and narrowed our lead in manned bombers.

In SST technology, three other countries have built two models of a SST, have placed them in commercial service, and are now moving toward second generation SST's. We have none, and not even the prospect of a research aircraft exists.

Our scheduled airlines' share of the world's revenue passenger miles has declined to 47%.

With the dramatic increase in fuel costs, serious questions have been raised in financial circles about the economic viability of the U. S. air transport system.

Our export surplus in aerospace products, while still significant, had appreciably declined as a factor in our international trade balance.

International route agreements which had maintained stability in the world market since the Bermuda Conference are beginning to come apart as other nations seek greater shares of the market. The United Kingdom has formally announced withdrawal next June from the Bermuda agreement, and the negotiations now underway to establish a new agreement are proving difficult.

The ability of our government to prevent international discrimination against U.S. flag carriers or U.S. manufactured aviation products is in doubt.

The sale of U.S. general aviation aircraft in foreign markets is being hampered by import restrictions which many nations have arbitrarily established.

To maintain sales overseas against competition from subsidized foreign aerospace consortia, our aerospace industry has been forced to international arrangements which amount to export of our technological know-how.

While the FAA's position in international aviation has held up fairly well, the CAB is now in extreme difficulty, with its role and functioning under heavy attack. Part of this is self-inflicted.

Expenditures of more than $2 billion have been made by the federal government to subsidize passenger railway travel to compete with passenger airline travel.

Even Congressional support has been badly eroded. On June 14, 1976 the editorial page of Aviation Week and Space Technology said:

"The aerospace industry faces a legislative onslaught of unprecedented scope and ferocity that is eroding the foundation of its future growth".

So the five years since the defeat of the U.S. SST program have brought numerous problems to our aviation and aerospace establishment. Because they have not been faced effectively, our ability to maintain preeminence, or even leadership, in world aviation is now in doubt. Though there are still many elements of strength in the U.S. aviation picture, the prognosis must be guarded.

What went wrong?

I ask this question not to place blame or engage in recrimination. Rather, I would like to see if the adversities of the recent past can give us useful clues on what we failed to do and what we must do better in the future.

It would be easy enough to blame our problems on what Hamlet called "the slings and arrows of outrageous fortune"—on bureaucratic stupidity—on over-zealous environmentalists—on scheming foreign governments—or just plain bad luck. Certainly these have all been present at one time or another.

But the answer does not lie here; nor can we blame politics. Both Republicans and Democrats, when properly informed, have supported aviation programs.

I am therefore going to suggest that we in aviation have done less than we should have—or could have—to deal with these forces in a timely way and thus nip them in the bud. After all, Murphy's law applies in politics as well as engineering.

For example, in the fight to save the SST, the aviation community as a whole was far too late in perceiving that a thoroughly studied, carefully designed government research program, supported by several successive administrations and congresses, could be overturned by a coalition exploiting a series of fictitious issues which were long on PR, but short on facts. The seriousness of the threat was not seen nearly soon enough; and the aviation community was much to slow in rallying itself and its supporters.

Another matter of major concern is the penchant of aviation people to battle one another rather than the common enemy. No group has shown less capacity, or even desire, for establishing overriding goals—those of such vital importance that individual objectives of the various aviation segments must automatically be subordinated to them.

Now this does not mean that our different aviation interests should not have their own objectives—or pursue them vigorously. But at times the pursuit of such objectives has militated against aviation's overall goals.

Again the SST offers a good case in point. I think we would all agree that maintaining U.S. preeminence in aviation and aerospace is a vital national goal, one which should be the primary goal of the aviation and areospace community. This being the case, does it not follow that the aviation community to a man should have supported the research to develop an environmentally acceptable SST?

It does not.

The aviation community had its share of SST detractors—even though the failure of the United States to maintain its supremacy in aviation could not fail in time to be a national detriment. One must therefore conclude that those members of the aviation community who opposed the SST were not armed with all the facts or that they misjudged the consequences of their actions. Both explanations are understandable; but neither is very comforting, for a full and complete effort by the aviation community in support of the SST was badly needed—and it just wasn't there. For the same reason our ability to obtain the understanding and support of non-aviation people is very low.

Now this is no news to you. I can't begin to count the number of times when I sat down with other members of the aviation community in an effort to pull the segments together—to establish major goals and objectives—or to draft so-called aviation manifestos. And I was joined in these efforts by many outstanding aviation leaders who agreed on the need for greater unity within our community. Some very fine papers were drafted; yet none of these efforts scored.

So there is the problem. Aviation in this country, after two-thirds of a century of spectacular progress, now faces the most serious challenges at home and abroad. We are going to meet those challenges and retain our position of world preeminence—or we are not. But while our technical record has been outstanding, our overall capacity to sense the external threat has been poor, and our ability to work together has been abysmal.

If the progress of the first sixty-six years is to continue we must do better.

We owe this not only to ourselves, but more importantly, to our Country.

Aviation is more than a mode of transportation. It is a principal element of our national power.

It is one of our greatest assets in international diplomacy.

It is the key element of our military strength.

It is a vital part of our domestic economy.

It is essential in the development of the more remote regions of our Country.

It has provided us with our principal export products since World War II.

Aerospace and aeronautical research and development have produced spinoffs that have triggered dynamic progress and benefitted every element of our society.

The preservation of these elements of our national powers is the greatest challenge we in aviation have every faced.

Here are some of the things we must do to meet the challenge:

We must agree that U.S. preeminence—not just leadership, but preeminence—in aviation and aerospace is a vital goal for the nation and the aviation community.

We must enlist the support of those not in the aviation community—for they have as much to gain or lose as we.

We must agree upon and press for better organization of aviation responsibilities within the Executive Branch.

We must support aerospace and aviation R&D programs that will produce the technology to insure that we maintain our preeminence. This has to include a new program to develop a United States SST which is financially viable, environmentally acceptable, and fuel economical.

We must discipline ourselves to defer short term gains in favor of the overall goal, recognizing that what is best for our Country will be best for each of us in the longer term.

This we must do if the challenge is to be met. This we must do—and much more.

Thank you for giving me the honor of your attention.

## TRIBUTE TO THE HONORABLE FRANCES KNIGHT, HEAD OF THE PASSPORT OFFICE

Mr. McCLELLAN. Mr. President, it is not often that I have an opportunity to express appropriate appreciation for an individual who, as a Government official, has been in position to do as much for as many as the Honorable Frances Knight. As Director of the U.S. Passport Office for the past 21 years, Miss Knight has been a great innovative force for increased efficiency in the Passport Division of the State Department. Her sense of dedication and never diminishing efforts have resulted in increased safety and security for American citizens traveling abroad and at the same time in the saving of millions of dollars for our Government. For this valuable two-way contribution to the American taxpayer, we are indeed grateful.

In the context of travel, I am pleased to take note of, and ask unanimous consent to have printed in the RECORD, an account of a singular honor recently accorded this distinguished lady and highly regarded Division Chief by the American Society of Travel Agents in naming her to the Travel Hall of Fame—as recently announced at the Society's 46th World Travel Congress held in New Orleans, La.

There being no objection, the account was ordered to be printed in the RECORD, as follows:

### THE AMERICAN SOCIETY OF TRAVEL AGENTS (ASTA) NAMES FRANCES G. KNIGHT TO THE TRAVEL HALL OF FAME, SEPTEMBER 16, 1976

Frances G. Knight has been named to the 1975 Travel Hall of Fame by the American Society of Travel Agents. The announcement was made at the Society's 46th World Travel Congress held in New Orleans, Louisiana, on September 16, 1976. Over 3,000 delegates from 120 countries were in attendance.

The Travel Hall of Fame was established in 1971 to honor and recognize permanently those individuals whose careers have made a long standing impact on the development and expansion of the travel industry and tourism in this century. It is the highest honor the worldwide travel and tourism industry can bestow.

Miss Knight is the first woman to be chosen for this award by the 14,000 member organization which paid tribute to her 21 years as Director of the U.S. Passport Office. ASTA noted that under her direction and leadership the U.S. Passport Office has become one of the most efficient operations in the Federal Government.

The presentation of the silver and marble trophy which represents "Direction", the symbol of the Travel Hall of Fame, was preceded by a film recording for the 3,000 delegates highlighting the recipient's achievements.

## RETIREMENT OF GEN. FRED C. WEYAND

Mr. THURMOND. Mr. President, tomorrow an outstanding military leader, Gen. Fred C. Weyand, Army Chief of Staff, retires after 36 years of service to his country.

The appointment of General Weyand as Army Chief 2 years ago was greeted with unusual approval in Congress because he was well known as a man of integrity, competence, and experience.

### EXCEPTIONAL BACKGROUND

His prior service as Chief of Legislative Liaison, Chief of Reserve Components, Division Commander, adviser to the Paris Peace Talks, Deputy Commander and Commander in Vietnam, and Vice Chief of Staff enabled him to bring a unique background of service to the Army's top job.

As successor to the late and highly respected Gen. Creighton W. Abrams, General Weyand has steered the Army through its post-Vietnam rebuilding period. He has furthered the Army toward its goal of a 16-division force, balancing the manpower toward combat forces while carefully reducing the support forces.

He has also supervised the building of the All-Volunteer Force and the Guard and Reserve affiliation program, both of which have proceeded on schedule.

### FORTHRIGHT WITNESS

Mr. President, as a long-time associate of General Weyand, I have especially admired his candor and forthrightness. He testified before Congress during those difficult days when efforts were being made to bolster the South Vietnamese Forces after the fall of Cambodia. Despite his delicate position as a witness for administration requests, he answered all questions fully and won the admiration of Senators on both sides of the Vietnam aid issue.

Also, it seems particularly noteworthy that General Weyand's commission as an Army officer came through the Reserve Officers Training Corps program at the University of California. Although he entered police work after graduation in 1938, his entry into Army service in 1940 initiated a career which has greatly benefited our Nation.

General Weyand has rendered many valuable services to this Republic during his 36 years of service—as an intelligence officer in Burma and China in World War II and as a combat unit commander during the Korean war prior to the recent services I have already cited.

One of his greatest contributions has been in reminding the Congress and the American people of the realities of military power, particularly at a time when this message was unpopular and unfashionable.

Two years ago I commented on the new directions the Army was pursuing, directions which deserved to be continued, and concluded with the hope that General Abrams' successor would go forward with many sensible efforts to make the Army hard and lean. It is with special pleasure that it is possible to report today that General Weyand has more than fulfilled my expectations.

There is no better testimony to General Weyand's concern for the well-being of this Nation than his own words spoken to the graduates of Texas A. & M. last May. The full text of General Weyand's remarks on that occasion was entered into the CONGRESSIONAL RECORD on July 17, 1976, by my distinguished colleague, the senior Senator from Texas, as an important contribution to the dialog on national security. As General Weyand said:

> . . . even the wisest of us cannot foresee the future. I suppose that is why one of the precepts I have personally fostered as Chief of Staff of the Army is that this Army of ours must be prepared for the unexpected.
>
> In my opinion, it's the finest, most ready, and best disciplined force we have ever had in peacetime. We must insure that they are of the highest quality because we have a great mission to perform: to insure our survival—to deter conflict and war—to maintain our freedom of action as a people and as a nation, and to uphold our position as not just "a" but "the" leader of the free world.

I echo General Weyand's sentiments. He knows, more than most, the value of preparedness and the folly of unpreparedness. A wise Congress and a wise Nation will heed his counsel and rededicate themselves to the principles of leadership which have kept this country strong and free for more than 200 years.

In closing, Mr. President, I ask unanimous consent that the résumé of General Weyand, including major assignments during the past 10 years, be printed in the RECORD.

There being no objection, the résumé was ordered to be printed in the RECORD, as follows:

### RÉSUMÉ OF SERVICE CAREER OF GEN. FREDERICK CARLTON WEYAND

Date and place of birth: September 15, 1916, Arbuckle, California.

Years of active commissioned service: Over 35.

Present assignment: Chief of Staff, United States Army, Washington, D.C., since October 3, 1974.

### MILITARY SCHOOLS ATTENDED

The Coast Artillery School, Advanced Course, the Infantry School, Advanced Course, United States Army Command and General Staff College, Armed Forces Staff College, the National War College.

### EDUCATIONAL DEGREES

University of California—AB Degree—Criminology.

### MAJOR PERMANENT DUTY ASSIGNMENTS

(Last 10 years)

Commanding General, 25th Infantry Division, United States Army, Vietnam, from Mar. 66 to Feb. 67.

Deputy Commanding General, II Field Force, United States Army, Vietnam, from Mar. 67 to May 67.

Commanding General, II Field Force, United States Army, Vietnam, from May 67 to Aug. 68.

Chief, Office of Reserve Components, United States Army, Washington, D.C., from Sept. 68 to Mar. 69.

Military Advisor, United States Peace Delegation, Paris, France, from Mar. 69 to Jun. 70.

Assistant Chief of Staff for Force Development, United States Army, Washington, D.C., from Jun. 70 to Aug. 70.

Deputy Commander, United States Military Assistance Command, Vietnam, from Sept. 70 to Jun. 72.

Commander, United States Military Assistance Command, Vietnam (also Commanding General, United States Army, Vietnam, from Jun. 72 to Oct. 72), from Jun. 72 to Mar. 73.

Commander in Chief, United States Army, Pacific, from Mar. 73 to Jul. 73.

Vice Chief of Staff, United States Army, Washington, D.C., from Aug. 73 to Sept. 74.

Acting Chief of Staff, United States Army, Washington, D.C., from Sept. 74 to Oct. 74.

PROMOTIONS

Second Lieutenant, 6 May, 38.
First Lieutenant, permanent, 28 Jun. 46, other 24 Jun. 41.
Captain, temporary, 1 Feb. 42, permanent, 1 Jul. 48.
Major, temporary, 17 Nov. 42, permanent, 2 Jul. 53.
Lieutenant Colonel, temporary, 4 Mar. 45, permanent, 15 Sept. 61.
Colonel, temporary, 20 Jul. 55, permanent, 15 Sept. 66.
Brigadier General, temporary, 1 Aug. 60, permanent, 11 Sept. 68.
Major General, temporary, 1 Nov. 62, permanent, 24 Apr. 70.
Lieutenant General, temporary, 1 Jul. 67.
General, temporary, 1 Nov. 70.

U.S. DECORATIONS/BADGES

Distinguished Service Cross.
Defense Distinguished Service Medal.
Distinguished Service Medal (with 2 Oak Leaf Clusters).
Silver Star.
Legion of Merit (with Oak Leaf Cluster).
Bronze Star Medal with V Device (with Oak Leaf Cluster).
Air Medals.
Joint Service Commendation Medal.
Army Commendation Medal (with Oak Leaf Cluster).
Combat Infantryman Badge.
General Staff Identification Badge.
Joint Chiefs of Staff Identification Badge.
Source of commission: ROTC.

## NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS OF 1976

Mr. MAGNUSON. Mr. President last night the Senate agreed to a House amendment to the Senate amendment to H.R. 12168, the Natural Gas Pipeline Safety Act Amendments of 1976. Conferees had met on H.R. 12168 and a conference report was filed in the House. However, a point of order was sustained against the conference report on September 27, 1976, and the House instead approved the conference report as a House amendment to the Senate amendment to H.R. 12168. Thus, while technically we considered a House amendment, the language of H.R. 12168 as passed by the two Houses was identical to that approved by the conferees. This language was printed in the CONGRESSIONAL RECORD of September 22, 1976, on page 31974.

Mr. President, the Department of Transportation's Materials Transportation Bureau has registered a rather lackluster performance in administering the Natural Gas Pipeline Safety Act. In 1970, there were 1,019 failures in distribution, transmission, and gathering lines. Four years later, the number of failures had increased to 1,477. In 1970, 218 persons were injured in gas pipeline safety-related accidents. In 1974, that number increased to 334. While there has been no significant increase in the number of gas pipeline-related deaths in this period, the National Transportation Safety Board believes that this trend is only random, and that since the number of pipeline failures has increased 45 percent from 1970 to 1974, there is serious cause for concern.

This legislation is designed to provide the legislative support and the financial commitment necessary to insure an effective natural gas pipeline safety program. The major provisions of the legislation worked out by the Senate and House conferees are as follows:

First, it would authorize to be appropriated $500,000 for the transition quarter, $4,664,000 for fiscal year 1977, and $5 million for fiscal year 1978, for purposes of implementing the Natural Gas Pipeline Safety Act of 1968—other than the grants-in-aid program. In addition, it would authorize $2,500,000 for fiscal year 1977 and $4,500,000 for fiscal year 1978 for the grant-in-aid program.

Second, the increased authorization for fiscal year 1978 is necessary to implement a new 1-year grant-in-aid program to assist the States in enforcing the Federal standards. In the course of the Senate hearings, we found that while 45 States have been certified to enforce the Federal standards, more than a dozen of those States have failed to provide sufficient resources to support even one full-time natural gas pipeline safety inspector. The legislation would authorize the Secretary to pay the cost of not more than three full-time natural gas pipeline safety inspectors for each State—not to exceed $60,000 for each State—in fiscal year 1978.

This grant-in-aid program is in addition to the existing 50-percent grant-in-aid program under section 5 of the act. It is designed and intended to be temporary, and it is the hope of those of us that conferred on this legislation that those States which have not provided sufficient inspection activity to date will take this opportunity to bring their inspection forces up to an appropriate level and maintain that level. The legislation provides that if a State accepts funding to increase the size of its inspection forces under this new 1-year program then it is obligated to assume the cost of supporting the additional inspectors for at least 2 years.

The alternative to this special grant program is the establishment of a Federal force of inspectors to insure compliance with the Federal regulations. I believe that the grant program which is incorporated in this legislation will be a more efficient and effective means of insuring compliance with regulations.

Third, the legislation would require that in order for a State to be certified to enforce the gas pipeline safety regulations, it must be encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of excavation activity. More than half of the natural gas pipeline failures in recent years are attributable to outside forces, primarily excavation activity. It is the belief of those of us that conferred on this legislation that by incorporating this provision as a certification requirement, the Federal Government and the States will focus greater attention on efforts to reduce the number of such pipeline failures.

Fourth, the legislation requires each person who engages in the transportation of gas, in accordance with regulations prescribed by the Secretary of Transportation, to conduct a program to educate the public of the possible hazards associated with gas leaks, and on the importance of reporting gas odors and leaks to appropriate authorities. Those of us that conferred on this legislation believe that this program will increase the awareness of consumers about possible hazards associated with gas leaks. The National Transportation Safety Board has cataloged accident after accident which could have been prevented had consumers known how to recognize a gas leak and known what action to take to protect life and property.

Fifth, the legislation incorporates the citizen's civil action provision which enables any person to commence a civil action for mandatory prohibitive injunctive relief against any person who is alleged to be in violation of the Natural Gas Pipeline Safety Act of 1968 or an order or regulation issued thereunder. No such action could be commenced unless the Secretary of Transportation—or the State agency if such State has been certified under section 5—and the alleged violator has been notified of the alleged violation. If the Secretary of Transportation—or the State agency—has commenced and is diligently pursuing administrative proceedings or the attorney general—or the chief law enforcement officer of the State if it has been certified under section 5—has commenced or is diligently pursuing judicial proceedings, then no such civil action may be sought. This provision is similar to the citizen's civil action provision contained in numerous other Federal statutes, including the Consumer Product Safety Act, the Clean Air Act, the Energy Policy and Coordination Act, as well as the recently approved toxic substances legislation.

The legislation incorporates a provision which allows a court, in the interest of justice, to award the costs of suit, including reasonable attorneys' fees and reasonable expert witnesses' fees, to a prevailing plaintiff-petitioner. This would apply either at the trial court or the appeals court level. Additionally, the legislation incorporates the general practice of the courts with respect to awarding such fees to a prevailing defendant. The legislation provides that a court may, in the interest of justice, award such costs to a prevailing defendant whenever such action was unreasonable, frivolous, or meritless.

Mr. President, while the House technically did not approve the conference report, the language which the House did approve is identical to the language agreed upon by the conference committee.

Mr. BEALL. Mr. President, as the author of the Senate version, I strongly support the Natural Gas Pipeline Safety Act Amendments of 1976.

Thus far this year, there have been 72 fatalities from gas pipeline explosions, making 1976 the worst year since we have been keeping statistics. This record and the potential for catastrophe show what is at stake and the need for this measure. Literally, this bill involves the very life and safety of our citizens.

The Senate passage clears this measure for the President's signature and culminates extensive efforts by me over recent years to focus the public spotlight on pipeline safety problems; to secure needed improvements both legislatively and administratively; and to stimulate the new sense of urgency needed and rquired by the Federal Government and the responsive States in addressing pipeline safety problems.

My initial interest in this area grew out of a series of explosions which rocked a number of Maryland and Virginia communities, particularly those occurring in Bowie and Columbia, Md., and in Annandale, Va. The legislation before the Senate, although not as strong as I would have liked, nevertheless is a good measure and has the potential of improving pipeline safety, its administration, and its enforcement.

Overall, I believe the Senate position fared very well in the conference committee. This bill, as agreed upon, will—

First. Authorize for fiscal year 1978 100 percent Federal funding of 1 to 3 full-time safety inspectors; my figures show that 13 States do not even have a single inspector;

Second. Require pipeline operators to conduct consumer education programs on the hazards of gas leaks and the importance of reporting them;

Third. Underscore the importance of emergency plans and procedures for pipeline safety; studies have shown that company personnel have been at the accident scene in time to prevent subsequent explosions if proper action had been taken;

Fourth. Authorize private enforcement action against violations of the act if the Government failed to act;

Fifth. Require the States to encourage and promote programs designed to prevent damage to natural gas pipelines resulting from excavation activity; over half of the natural gas failures are attributable to pipeline damage from outside forces, primarily excavation activities; and

Six. Provide for a thorough reporting of leak repairs.

Mr. President, an estimated 150 million Americans are served by more than 1.1 million miles of natural gas pipeline. In 1973, there were 900,000 reported leaks, an estimated one quarter of which could have resulted in serious explosions.

The 1968 act authorized minimum Federal standards for pipeline safety, but States were permitted to administer and enforce such standards. The spirit of the 1968 act is still sound, but we cannot lose sight of the fact that the legislative scheme provides for Federal minimum standards. Thus, we in the Congress must make certain that when the Federal Government certifies a State to administer and enforce such standards, that the State provide effective administration and adequate inspection and enforcement. Otherwise, the safety of the public is placed in jeopardy; and in this area, where the potential for catastrophe is so great, this cannot be tolerated. We have had enough, as the conference statement indicates, of mere paper certification.

Mr. President, while technically the House approved a modification of the earlier bill, the measure that passed is identical to the language agreed upon by the conference committee. Accordingly the statement of the managers will still accurately reflect the intentions of the conferees with respect to the legislation. Therefore, I ask unanimous consent that the statement be printed in the RECORD.

Also, Mr. President, I ask unanimous consent that the text of my floor statement when the measure initially passed the Senate as well as an article by Thomas Love, which appeared recently in the Washington Star, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers, and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amenment. The difference between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

### AUTHORIZATION OF APPROPRIATIONS

#### *House bill*

The House bill authorized to be appropriated $500,000 for the fiscal year transition period beginning July 1, 1976, and ending September 30, 1976, and $4,664,000 for the fiscal year ending September 30, 1977 for purposes of implementing the Natural Gas Pipeline Safety Act of 1968. In addition, the House bill authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1977, for purposes of implementing the State grant-in-aid program pursuant to section 5(c) of the Natural Gas Pipeline Safety Act of 1968.

#### *Senate amendment*

The Senate amendment authorized to be appropriated $2,850,000 for the fiscal year ending June 30, 1976, $650,000 for the fiscal year transition period beginning July 1, 1976, and ending September 30, 1976, $4,500,000 for the fiscal year ending September 30, 1977, and $5,000,000 for the fiscal year ending September 30, 1978 for purposes of implementing the Natural Gas Pipeline Safety Act of 1968. In addition, the Senate amendment authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1976 and the transitional period ending September 30, 1976, $4,500,000 for the fiscal year ending September 30, 1977, and $4,500,000 for fiscal year ending September 30, 1978 for purposes of implementing the State grant-in-aid program pursuant to section 5(c) of the Natural Gas Pipeline Safety Act of 1968.

#### *Conference substitute (section 2)*

The conference substitute authorizes to be appropriated $500,000 for the transition quarter, $4,664,000 for the fiscal year ending September 30, 1977, and $5,000,000 for the fiscal year ending September 30, 1978, for purposes of implementing the Natural Gas Pipeline Safety Act of 1968 (other than Federal grants-in-aid under the Act). In addition, it authorizes to be appropriated $2,500,000 for the fiscal year ending September 30, 1977 and $4,500,000 for the fiscal year ending September 30, 1978 for purposes of implementing the State grant-in-aid program pursuant to section 5 of the Natural Gas Pipeline Safety Act of 1968. The increase of $2 million for fiscal year 1978 is needed to implement the 1-year additional grant-in-aid program provided in section 5(d) of the conference substitute.

### TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

#### *House bill*

The House bill contained no provision with respect to the Technical Pipeline Safety Standards Committee.

#### *Senate amendment*

The Senate amendment amended section 4(a) of the Natural Gas Pipeline Safety Act of 1968 to require that the Technical Pipeline Safety Standards Committee meet at least twice during each calendar year.

#### *Conference substitute*

The conference substitute adopts the position of the House and contains no provision with respect to the Technical Pipeline Safety Standards Committee. While deleting this provision, the conferees agree that the performance of the Technical Committee has been disappointing. The Secretary has not adequately sought the Committee's advice and the Committee itself has met infrequently and has shown little initiative in proposing standards.

The conferees believe that the Technical Committee should be meeting at least twice a year, but rather than write this requirement in the law, it was decided to give the Technical Committee maximum flexibility in scheduling meetings. However, both the House and the Senate Committees contemplate a closer evaluation of the meetings and performance of the Technical Committee in their future examination of this legislation.

### DAMAGE TO SUBSURFACE UTILITY EQUIPMENT

#### *House bill*

The House bill contains no provision relating to damage to subsurface utility equipment.

#### *Senate amendment*

The Senate amendment amended section 5(a) of the Natural Gas Pipeline Safety Act of 1968 regarding the burden that a State agency must meet in order to be certified to enforce the Federal natural gas pipeline safety regulations. Under existing law, the State must submit to the Secretary an annual certification that such State agency (1) has regulatory jurisdiction over the safety standards and practices of pipeline facilities for the transportation of gas; (2) has adopted each Federal safety standard; (3) is enforcing such standards; and (4) has the authority to require record maintenance, reporting and inspections substantially the same as provided under the Act, the filing for approval of plans of inspection and maintenance required under the Act, and that the law of the States makes provision for the enforcement of the safety standards. The Senate amendment would require that a State agency encourage and promote programs designed to prevent damage to natural gas pipelines and other subsurface utility equipment as a consequence of any excavation activity.

#### *Conference substitute (section 5(a)(4))*

The conference substitute incorporates the Senate provision with technical modifications. More than half of the natural gas pipeline failures in recent years are attributable to outside forces, primarily excavation activity. It is the belief of the conferees that by incorporating this provision as a certification requirement, both the Federal Government and the States will focus greater attention on efforts to reduce the number of such pipeline failures.

### AUTHORITY OF THE FEDERAL POWER COMMISSION

#### *House bill*

The House bill contained no provision with respect to the authority of the Federal Power Commission.

#### *Senate amendment*

The Senate amendment amended section 7 of the Natural Gas Pipeline Safety Act of 1968 to provide that the Federal Power Commission may not attach any condition to the issuance of a certificate of public convenience and necessity, or to the exercise of rights granted under such a certificate, if such condition requires the applicant to comply with any safety standards for pipeline facilities or for the transportation of gas other than safety standards prescribed by the Secretary of Transportation.

#### *Conference substitute*

The Senate recedes to the House position and conference substitute does not include the Senate provision. The Natural Gas Pipeline Safety Act assigns to the Secretary of Transportation primary responsibility for establishing minimum Federal safety standards for the transportation of gas and pipeline facilities as defined in the Act. These standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of those pipeline facilities. The conferees believe that it is incumbent upon the Federal Power Commission and other Federal departments and agencies with overlapping responsibilities in this area to direct the Secretary's attention to deficiencies in the natural gas pipeline safety regulatory program rather than to pursue piecemeal solutions on their own. Both industry and Government gain by uniform, consistent regulation.

The conferees note with approval FPC Chairman Dunham's letter of March 22, 1976 to Congressman Dingell (a copy of which is reprinted in House Report 94-1050) in which he supports the solution to this interagency controversy contained in the Senate provision. Based on Chairman Dunham's approval of this approach and DOT Secretary William Coleman's statement in his July 20, 1976 letter to Chairman Magnuson "that the current spirit of cooperation (between the DOT and the FPC) will alleviate past problems," the conferees are confident that the jurisdictional squabbles between the two agencies will cease.

### NEW GRANTS-IN-AID

#### *House bill*

The House bill contained no provision with regard to a new program for grants-in-aid to the States.

#### *Senate amendment*

The Senate amendment provided that the Secretary shall pay out of the funds appropriated 100 percent (but not to exceed $60,000 for each State) of the cost of not more than three full time inspectors. The number of inspectors for which each State was eligible was to be determined by regulations issued by the Secretary taking into account the needs of the respective States. This 100-percent funding program was in addition to the 50 percent grants now provided for in section 5(c) of the Natural Gas Pipeline Safety Act of 1968. In order for a State to receive such funds, it must have maintained its expenditures at a level which does not fall below the average level of expenditures for the last 2 fiscal years preceding the fiscal year for which the State agency is seeking a 100-percent funding grant.

#### *Conference substitute (section 5(d))*

The conference substitute incorporates a substantially modified and scaled-down grant program. Under the substitute provision, the Secretary is authorized to pay the cost of not more than three full-time natural gas pipeline safety inspectors for each State (not to exceed $60,000 for each State) in fiscal year 1978. The Secretary is directed to promulgate regulations which define criteria for determining the eligibility of a State, and the number of inspectors an eligible State may receive under this provision. Those regulations should take into account such factors as the number of miles of pipeline in each State and the age of the pipeline. The conferees agreed that the Secretary should provide no more than $25,000 for any one inspector.

This limited program is designed to insure that the public is adequately protected from the dangers associated with the transportation of natural gas by pipeline. It is the belief of the conferees, however, that the public is not now adequately protected from such dangers. More than a dozen States, for example, have failed to provide sufficient resources to support even one full-time natural gas pipeline safety inspector. While 45 States have been certified under section 5(a) of the Act to enforce the safety regulations, there are serious questions as to whether all of those States are in fact meeting their obligations required by the statute for certification. The conferees will not tolerate "paper" certifications and the Secretary is directed to closely scrutinize the natural gas pipeline safety program of each State to insure that the State is fullfilling its responsibilities.

This special grant-in-aid program is designed and intended to be temporary. It is the hope of the conferees that those States which to date have not provided sufficient inspection activity will take this opportunity to bring their inspection forces up to an appropriate level and maintain that level. The conference substitute provides that if a State receives a grant-in-aid for additional inspectors during calendar year 1978 under this section and then fails to continue to provide the funding for that inspector for at least 2 subsequent calendar years, then the State would be required to reimburse the Federal Government a sum equal to 50 percent of the funds it received under this section in proportion to which such State has failed to meet its obligations. Thus, if a State which currently supports 2 inspectors receives a grant of $20,000 for a third inspector, that State would be required, after calendar year 1978 to provide funding for at least 3 inspectors (2 inspectors previously supported, plus 1 inspector supported under this subsection) for the next 2 calendar years. If it fails to do so, it must reimburse the Federal Government $10,000 (50 percent of the total grant). If it provides such funding for only 1 year, it must reimburse the Federal Government $5,000 (one-half of 50 percent of the total grant). In providing the funding for the additional inspector in the years subsequent to calendar year 1978, the State would of course be eligible for the 50-percent funding under the existing grant-in-aid provisions of section 5(c) of the Act.

The conferees endorsed this approach because it is designed to assist the States to upgrade their environment program on a permanent basis. The alternative to this approach whereby the States share enforcement responsibilities with the Federal Government is to fund a network of Federal enforcement officials. This would of course be much more expensive and most likely less efficient, and it is the hope of the conferees that this temporary grant program will assist the States in creating and maintaining a meaningful enforcement capability.

### CONSUMER EDUCATION

#### *House bill*

The House bill contained no provision with respect to consumer education.

#### *Senate amendment*

The Senate amendment required each person who engages in the transportation of gas, in accordance with regulations prescribed by the Secretary of Transportation, to conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary was further authorized to develop materials suitable for use in such education programs.

#### *Conference substitute (section 8)*

The conference substitute adopts the provision contained in the Senate amendment. While this section is designed to upgrade the awareness of consumers about possible hazards associated with gas leaks, it is not intended to impact existing tort principles relating to the liability of a pipeline owner or operator for failure to educate the public about such possible hazards.

### CITIZENS CIVIL ACTION

#### *House bill*

The House bill contained no provision with respect to citizens' civil actions.

#### *Senate amendment*

The Senate amendment added a new section to the Natural Gas Pipeline Safety Act of 1968 to provide that any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any person who is alleged to be in violation of a provision of the Natural Gas Pipeline Safety Act of 1968 or of an order or regulation issued thereunder. However, no such civil action could be commenced prior to 60 days after the moving party had given notice of the alleged violation to the Secretary and to any alleged violator, or if the Secretary has commenced and is diligently pursuing administrative proceedings or the Attorney General has commenced or is diligently pursuing judicial proceedings with respect to the alleged violation. In any action under this section, the court may, in the interest of justice, award the costs of suit, including reasonable attorneys' fees and reasonable expert witnesses' fees to a prevailing plaintiff. Additionally, the court may, in the interest of justice, award such costs to a prevailing defendant whenever such action was unreasonable, frivolous, or meritless. A reasonable attorney's fee was defined as one which is based upon the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this subsection and such reasonable expenses as may be incurred by the attorney in the provision of such services. Additionally, such fees were to be computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

#### *Conference substitute (section 8)*

The conference substitute adopts a citizen's civil action provision similar to the provision in the Senate bill. Under this provision, any person may commence a civil action for mandatory or prohibitive injunctive relief, against any person who is alleged to be in violation of the Natural Gas Pipeline Safety Act or an order or regulation issued under the Act. This provision would not supplant the Secretary's efforts (or if a State agency has been certified under section 5(a), the State agency's efforts) for enforcement and compliance. Before a person may file such a civil action. he must inform the Secretary (or the State agency) of his intention to do so. If the Attorney General of the United States (or of the State if it has been certified under section 5(a)) has commenced and is diligently pursuing judicial proceedings or the Secretary (or the State agency) has commenced and is diligently pursuing administrative proceedings with respect to the alleged violation, then the person may not commence the civil action.

If a suit is brought in a State which has been certified under section 5(a) of the Act, then the petitioner may seek to enforce only the requirements of Federal minimum standard, notwithstanding a higher State standard. The 11th Amendment to the Constitution stands as a bar to bringing a suit against a State which has not consented to be sued in Federal court in such an action.

Like the Senate bill, the conference substitute authorizes the award of costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees to a prevailing plaintiff-petitioner if the court determines that such an award is in the interest of justice. In awarding such costs, it is important to keep in mind that the purpose of this provision is to protect the public health and safety—generally the petitioner will not personally gain by his actions. The statute also allows the court, in the interest of justice, to award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. This is consistent with case law on the award of attorney's fees (*see United States Steel Corp. v. United States,* 385 F. Supp. 346 (W.D. Pa. 1974)).

The conferees intend that if such an action is brought and an injunction is sought which would impact the availability of gas to those served by the pipeline, those who would be impacted should be given prior notice and opportunity to participate in the court proceeding in the manner and to the extent determined by the court to be appropriate.

### MISCELLANEOUS PROVISIONS

#### *House bill*

The House bill amended sections 3(a) and 3(b) of the Natural Gas Pipeline Safety Act of 1968 by deleting the word "minimum" wherever it appears. Those provisions now refer to the Federal safety standards as "minimum" standards and this amendment was contained in the House bill to emphasize that the regulations of the Secretary of Transportation were not to be modified or expanded upon by any other agency.

#### *Senate amendment*

First, the Senate amendment did not contain the provision striking the word "minimum" from sections 3(a) and 3(b) of the Natural Gas Pipeline Safety Act of 1968.

Second, the Senate amendment amended section 3(b) of the Act to provide that among the areas to which Federal pipeline safety regulations may be addressed are regulations relating to emergency plans and procedures.

Additionally, the Senate amendment amended section 14(a)(1) of the Natural Gas Pipeline Safety Act of 1968 regarding the annual report of the Secretary to the President and Congress on the implementation of the Natural Gas Pipeline Safety Program. The amendment would require the report to contain a thorough compilation of leak repairs occurring in the year to which the report is addressed.

#### *Conference substitute*

The conference substitute does not incorporate the House amendment to sections 3(a) and 3(b) deleting the word "minimum." The conferees believe that the relationship between the Federal Power Commission and the Department of Transportation with respect to natural gas pipeline safety is clear. Additionally, the conferees want to emphasize that Federal safety standards are minimum standards and industry is free to exceed those standards where it deems appropriate.

Section 4(1) of the conference substitute incorporates the Senate amendment to section 3(b) relating to emergency plans and procedures.

While DOT has issued regulations requiring such plans and procedures, the conferees have incorporated this provision to underscore the critical importance of improvements in this vital area. In 6 recent pipeline accidents, pipeline operator's personnel were at the leak site in sufficient time to prevent the ensuing accidents. The conferees strongly believe that emergency plans and procedures should be upgraded and the inclusion of this provision emphasizes the priority the conferees place on improvements in this area.

Section 7 of the conference substitute incorporates the Senate amendment to section 14(a)(1) regarding the inclusion of data on leak repairs in the Secretary's annual report. This latter amendment does not impact the Secretary's authority to collect data from pipeline owners and operators.

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## NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS OF 1976

(BY SENATOR BEALL)

As the author of S. 2042, the "Natural Gas Pipeline Safety Act Amendments of 1976," I urge the enactment of this measure.

S. 2042 was introduced by me on June 27, 1975. The measure is a product of my continued concern with respect to pipeline safety and my determination to make certain that the federal safety standards are both adequate and enforced.

My initial interest in this important subject grew out of a series of residential gas explosions which rocked the Baltimore-Maryland areas. Alarmed in particular over the natural gas explosions which occurred in Annandale, Virginia, and Columbia and Bowie, Maryland, I authored a floor amendment to the Department of Transportation (DOT) Appropriaiton bill earmarking $257,000 for research effort into the then growing problem of natural gas explosions in residential areas, with particular reference to a number of potential problem areas identified. Pursuant to my amendment, contracts were let by DOT to examine the following problem areas: plastic pipes; odorization; in-place evaluation of pipeline systems; and the overall safety of gas distribution systems. These studies have now been completed, and I received a copy of the last report on April 12th. DOT has distributed copies to appropriate parties in this field and has made them available to the public as well. They are being evaluated by DOT and they are expected to assist the Department in its regulatory safety responsibilities.

Then in 1974, I introduced one of the major bills providing for independence and additional authority in the surface transportation area, which includes pipelines, for the National Transportation Safety Board (NTSB). Legislation along these lines was enacted, and is now Public Law 93-633. At the time the NTSB legislation was advanced, they had only two individuals in the pipeline safety area, and although the work of these two gentlemen—Mr. Barry Sweedler and Mr. Henry Shepherd—were outstanding and their reports invaluable, staffing patterns at NTSB were clearly shortchanging and neglecting the surface transportation area. Since the enactment of Public Law 93-633, and with the good support of Senator Byrd of West Virginia, the surface transportation staffing has improved, increasing from two to five professionals this year. And relevant to today's discussion, pipeline safety staffing of DOT increased to 39 in the same period.

My studies of a number of years of the NTSB reports, plus a study prepared by the Library of Congress at my direction by Jean S. March, Analyst in Environmental Policy, and some additional work by Robert Anderson from the same division of the Library, led to my making recommendations in a 1974 Floor speech calling for specific regulatory change.

In this statement, I urged the Labor Department and DOT to adopt six needed regulatory changes which I felt were needed to strengthen and improve pipeline safety. In 1975, I also called upon the Department of Housing and Urban Development to implement the NTSB's recommendation relating to gas migration.

Dissatisfied with the overall response and the safety efforts at DOT, I introduced S. 2042 in June of 1975. S. 2042, along with S. 2183, an Administration bill, were the subject of hearings in September of last year. These hearings were chaired by Senator Hartke and me. I believe the hearings and the written questions and answers produced a good record for those interested in and involved in the natural gas field.

S. 2042, as reported unanimously by the Commerce Committee, combines the features of my bill—S. 2042—the Administration's proposal—S.2183—and some committee proposals. I am particularly grateful to Senator Hartke, the Chairman of the Subcommittee on Surface Transportation, for his interest and leadership, and to Edward B. Cohen of the Majority Staff, and to Mel Sterrett, Minority Staff Director, for their excellent work and assistance in bringing this bill to the Floor.

S. 2042, as reported, contains a number of significant provisions, which I would like to discuss.

First, S. 2042 would assure that states have at least a minimum number of employees by authorizing federal assistance to finance 100 per cent of the cost of from one to three full-time inspectors, the actual number depending on the need in the various states. In the DOT report, entitled, "Federal-State relations in Gas Pipeline Safety", it was pointed out that at least sixteen states did not have an employee working full time on pipeline safety. Our hearing record disclosed that as the result of DOT efforts, three additional states acquired a full-time employee.

Mr. President, we must keep in mind the original Pipeline Safety Act of 1968 envisioned a federal-state partnership, and I endorse that approach. We must keep in mind that the DOT, however, has the responsibility of issuing standards. Although we want the states to assume responsibility for administering and enforcing the standards, DOT has an important and continuing responsibility not only to make certain that the standards are adequate to assure the public safety, but also that they are enforced. Thus, it is the Senator's position that if the states are going to administer the Act—and I want them to do so—they must have manpower to carry out their safety responsibilities. If they do not, their citizens may be exposed to the catastrophe of a natural gas explosion; if DOT does not insist that the states do so, they are derelict in their duty and responsibilities under the Act.

This provision, in recognition of the budget problems of the states, is designed to make certain that minimum manpower and inspection are available. Eight years after the original Act and still inadequate staffing is inexcusable.

Second, S. 2042 amends the list of items delineated as appropriate for standards to include "emergency plans and procedures". S. 2042, as introduced, would in addition have required pipeline operators to file with the Secretary of Transportation a plan for "emergencies and procedures".

In 1974, when I made specific recommendations to DOT to tighten safety regulations, emergency procedures were one area addressed. Adequate emergency plans and procedures by operators are critical.

In a number of accidents, pipeline operator personnel have been on the scene in sufficient time before the accident. The National Transportation Safety Board in its 1974 report on a pipeline accident in Clinton, Missouri, stated:

"In at least 5 recent pipeline accidents (including this accident) on which the Safety Board has issued reports, the pipeline operator's personnel were at the leak site from ten minutes to more than ninety minutes before any explosion occurred. In each case, there should have been sufficient opportunity to prevent an accident. In none of the cases, however, was the flow of gas turned off, and in four, nearby buildings were not checked for the presence of gas before the explosions. As a result of these accidents, 19 persons died."

Locally, in the 1972 Annandale, Virginia, explosion, personnel of the Gas Company were on the scene some 20 to 25 minutes prior to the explosion and in its Annandale, Virginia, report the NTSB observed:

"It appears reasonable that Washington Gas Light personnel could have taken steps prior to the explosion to stop the flow of leaking gas or to reduce hazards to the public."

Last year, in Stroudsburg, Pennsylvania, it appeared that company personnel were alerted two days prior to an explosion which resulted in destruction of a home and the death of a man. To me, these reports reveal inadequate leak searches and emergency procedures and operator plans should clarify the requirements for emergency procedures. To prevent explosions, when personnel arrive on the scene in sufficient time, management has to give its personnel in the field proper training and practice for actual emergencies and appropriate guidance. It is often "ingrained" in personnel not to shut off services. Indeed, one can understand the reluctance of companies to interrupt service to its customers. Yet, it seems we should insist that gas operators have certain emergency procedures. For example, the emergency practices should cover pipeline cut-off procedures. Further, when a leak or break in the lines occurs, the company should not have to examine maps to determine what valves to close. This should all be preplanned and programed ahead of time so that when emergencies occur the information on which valves to close is readily at hand. I am convinced that we can, with proper planning, improve emergency procedures and that management can provide clear directions to its personnel in the field.

The Department of Transportation, in response to my question with respect to gas personnel being on the scene in time to prevent an accident, but not doing so, stated:

"We believe the most likely reason is that some operators do not have adequate plans to be followed in response to an emergency or that operators with adequate plans do not implement them well on the scene."

DOT has promulgated proposed rulemaking in this area and public comments have been received. DOT should move forthwith to not only finalize their regulations but also should, with the states, make certain that operator plans are adequate and that they are implemented on the scene of any accidents. This is one of those critical areas of concern where action is required. The listing of "emergency plans and procedures" services to underscore their importance and the need for regulations and their enforcement.

Third, S. 2042 requires the Technical Pipeline Safety Standards Committee to meet at least twice yearly. This was placed in the statute in view of the rather sporadic meeting of the Committee. At the time of the hearing in September 1975, the Committee had last met in 1973 and since 1972, they had only met twice. Congress, I believe, intended this Committee to be more active. It is my position that this Committee should either be made an effective, functioning entity or be abolished. Certainly, two meetings a year would be the minimum to "evaluate pipeline safety standards." I, for one, believe they should be examining the recommendations of NTSB pipeline safety reports and the various research recommendations of the various contractors. In any event, their performance, like DOT in the pipeline safety area, can and must be improved.

Fourth, S. 2042 would require pipeline operators to conduct consumer education programs. Natural gas is a clean and safe source of fuel. Its overall good safety record can lull us into ignoring deeper signs, identifying leaks and promptly reporting them. The Washington Gas Light Company has been sending its customers a sample of the odor of natural gas (the chemical added to it since natural gas is odorless) to educate their consumers on the smell and to alert th m to the necessity of reporting potential problems. Section 9 of the bill would require operators to conduct education programs, and further directs the Secretary to assist in the development of materials suitable for education efforts.

Fifth, S. 2042 requires the states to encourage and promote programs designed to prevent damage to pipelines resulting from excavation.

The Federal Power Commission in a survey of interstate gas transmission lines indicated that from 1950 to 1965, "carelessness in the operation of farming, road building, and excavation equipment caused the largest number of gas failures, accounting for 26 per cent of such failures reported."

By 1972, according to the National Transportation Safety Board, 52 percent of the gas transmission accidents were caused by outside forces; 41 per cent involved excavation damage and in 85 per cent of the excavations accidents, the pipeline operator was not notified before excavation was done. The NTSB also found that of the 70 per cent gas distribution line failures caused by outside force accidents, 42 per cent related to excavation damage. In 62 per cent of these excavation-related accidents, the pipeline operators had been given prior notice. A 1975 study of gas distribution systems showed outside forces responsible for 68 per cent of the significant leaks.

The NTSB on a number of occasions has strongly recommended programs for the prevention of excavation damage. There is also a broad consensus of support by various authorities.

As I stated when I urged regulation in 1974 on this subject:

"First, a contractor preparing to excavate should be made aware of the need to exercise care in a vicinity of underground facilities and must have an incentive to do so. Second, he should have a simple and timely way of determining all underground facilities in proximity to the proposed earthmoving activities. Third, contractor representatives, including the field crew, should be able to recognize easily the exact locations, depths, alinements, and special relationships of all affected facilities.

"To satisfy all three criteria could require that a variety of operations be performed and that the activities of multiple parties be coordinated. These include advertising, to alert the contractor to the dangers and/or penalties for violation of safety standards; simple notification system for contacting operators of affected facilities; effective facility marking systems; and followup measures when accidents do occur."

Sixth, S. 2042 would allow for private enforcement or citizen suits of pipeline standards against any persons in violation of the Act or regulations thereunder. While this was not in my proposal, and was added in Committee, it can serve a useful purpose. However, I do have one major concern. Namely, given the general inadequate staffing of DOT in the pipeline safety area, I am concerned that the staff not spend an inordinate amount of time and expend too large an effort in responding to such suits—time which must come from regulating, monitoring, and evaluation functions. I am hopeful that our Committee, in its oversight responsibilities, and the Appropriations Committee, in funding DOT will be mindful and respond accordingly if so required.

Seventh, S. 2042 would amend the section of the Act dealing with state certification to make it clear that certification is allowed notwithstanding the fact that a state has not adopted a standard which has been issued within 120 days of certification. This provision merely provides states with some time to implement the federal standards.

Eighth, S. 2042 would clarify the relationship between the Federal Power Commission (FPC) and the Department of Transportation with respect to pipeline safety. The FPC would not be allowed to attach additional safety conditions, other than those standards of DOT, to its certificates of public conveniences. This provision was not in my proposal. While FPC is not intended to supersede or duplicate DOT, it is our intent that FPC in granting permission to contract pipelines should instruct and require compliance with DOT's standards before issue of its certificate. This will require the highest safety standards for pipeline during construction.

Ninth, S. 2042 amends the annual report to require DOT to include a full report of gas pipeline leaks. It does this by adding the requirement that the Secretary submit a thorough compilation of "leak reports" as well as "casualties" and "accidents" under current law. This will provide the Congress and the country with a clearer understanding of the pipeline safety picture in the Nation. Under present DOT practices, only major accidents are reported. For example, in the 1973 annual report DOT reported 1,393 pipeline failures or accidents, but there were actually 770,000 leaks requiring repairs by the pipeline operators. The new section will require full reporting and reveal the total picture.

Tenth, S. 2042 substantially, although prudently, in view of the seriousness of the safety problem and the need, increases the authorizations' level for both the federal administration and grants-in-aid to the states. In view of the research needs, the training requirement, particularly for emergencies and response thereto, and the need for improved monitoring of the states and the evaluation of their performance these sums are the minimum needed to meet our responsibilities to the public.

I might add that the Committee deleted the specific delineation of research efforts, feeling it was better not to spell such effort out with such specificity in the statute. However, the Committee did agree that I had spelled out priority areas. Because such listing can serve as a useful point of inquiry when we review DOT research undertaking, I ask unanimous consent that such section from S. 2042, as introduced, be listed at this point in my remarks. (See exhibit 1.)

The Nation's gas distribution system consists of over 1.1 million miles of buried pipelines. Such systems serve some 44 million residential customers. With an average family size of approximately 3.5, this would mean that there is a population-at-risk of some 150 million citizens.

When one looks at deaths from pipelines compared to other transportation accidents, it is true that the number of pipeline fatalities is relatively small. In 1973, for example, while 61,000 Americans lost their lives in transportation accidents, only 70 of these deaths resulted from pipeline accidents.

Mr. President, while natural gas is a safe, clean and until recently, a very inexpensive form of energy, it is also potent. Its potency and its potential for catastrophe, as well as existing problems, underscore safety concerns.

Gas distribution systems are plagued with leaks, an estimated 900,000 such leaks according to the 1975 study of gas distribution systems by AMF, Inc., or an average of approximately one leak per mile. The Washington Gas and Light Company in 1973 estimated that it checked 80,000 residential leaks and that one quarter, if left unattended, were serious enough to cause an explosion. Projecting this local experience nationwide would mean that some 225,000 of the 900,000 leaks might be potentially explosive.

Fortunately, very few of these leaks produce the spectacular blasts that grab headlines, such as Bowie, Maryland, and Annandale, Virginia, explosions. However, while citizen concern is high in the wake of such disasters, such concern recedes with the passage of time, that is until another disaster occurs. We are, I fear, experiencing such a period of complacency now. And in this business, complacency—when the potential for catastrophe looms so large—has no place.

As the Washington Post concluded in a 1974 editorial following the rash of explosions in this region:

"Meanwhile, when and where will the next blowup occur? Until federal and state officials, not to mention the gas companies themselves, take the problem with more seriousness, the accident rate is not likely to go down. It may even go up, like the homes and buildings in the blasts."

It is true that compared to our modes of transportation, the number of fatalities from natural gas is low. Gas pipeline fatalities from 1968 to 1973 increased from sixteen to fifty-nine. In 1974, fatalities dropped to twenty-four. In 1975, they fell by one of twenty-three.

Although we welcome these improvements, one has to be careful not to relax in this area where the potential for a large scale catastrophe is ever present, 1976 began with one—maybe the worst—pipeline accident in the history of the Nation. At Fremont, Nebraska, twenty individuals were killed and this drives home the danger and need for action in the pipeline area. Thus far in 1976, we have had thirty-seven.

As Barry Sweedler of the NTSB, and one of the foremost experts in the Nation, has warned:

"It's difficult to say if we're having more accidents each year or not. In some recent accidents we've been extremely lucky. If they'd happened a few miles down the line, or at another time of the day, the death rate would be very much higher. I don't foresee a drastic reduction in the number of serious accidents unless action is taken in the number of areas. . . . So far we have been lucky."

We have been lucky. One shudders to contemplate, for example, the catastrophe that could have resulted in the April 1974, New York City twenty-four story office building explosion, if the accident had occurred at 9:30 a.m., rather than prior to working hours. The time of the explosion saved us No one was killed although seventy individuals were injured and damage approximately $10 million. We cannot count on or rely on luck.

I am hopeful that the new authority and funding authorized by S. 2042 will result in a new sense of urgency by the federal government and the states and give direction and impetus to improvements in pipeline safety for the American public.

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### EXHIBIT 1

"(a) The Secretary shall conduct, through grants of contracts, or both, with individuals, States, and nonprofit institutions, research, testing, and development in—

"(1) methods to detect leaks and the methods of repair of such leaks;

"(2) the development of monitoring devices, both automatic and manual;

"(3) improved procedures for accident control;

"(4) component reliability of gas pipelines and facilities and the development of safe service life prediction for the various components;

"(5) gas odorization and migration into buildings;

"(6) the development of safety or quality assurance programs or systems;

"(7) the development of tools and procedures for inplace evaluation;

"(8) excavation damage accidents and their prevention;

"(9) offshore and Arctic pipeline safety problems; and

"(10) other appropriate areas which will promote the purposes of this Act."

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### NATURAL GAS PIPELINE EXPLOSIONS: CAUSES AND PREVENTION—ONE-CALL DATA POINTS ARE AN ALTERNATIVE TO DISASTER

This has been the worst year for natural gas pipeline safety since detailed records began to be compiled. As of yesterday, 72 people had been killed in pipeline explosions during 1976.

There were 14 fatalities in all of 1975, and the highest number of deaths previously in one year was 45 in 1971.

Each year there are some 750,000 to 900,000 leaks in gas pipelines ranging from massive trancontinental transmission lines to small lines serving individual homes.

The vast majority of these leaks are caused by corrosion of metal pipes. But nearly all of these are of pinhead size and leak so little gas that they are only detected by sensitive instruments.

According to Barry M. Sweedler, the National Transportation Safety Board's pipeline safety chief, these corrosion leaks rarely turn into disasters. "I'm not going to spend my time worrying about corrosion," he said. "What I worry about is people."

As is true in so many fields, the vast majority of pipeline disasters stem from human error. And most errors are caused by carelessness on the part of people not connected with gas companies.

A recent tragedy in the Washington area typifies this problem.

In Annandale on March 24, 1972, an employe of a sewer construction firm working for Fairfax County snagged a gas line with his "backhoe" trench digger. As a result, the line was pulled out of a connection some 22 feet away.

The escaping gas seeped into three houses, which exploded, demolishing two and serioulsy damaging a third. A woman and her two young children were killed.

The scenario is common: a heavy equipment operator who doesn't know—or who doesn't worry about—where a gas main is buried near his construction job. If the main isn't snagged and pulled as it was in Annandale, it frequently is cut at the point of impact. In either case the results can be catastrophic.

Of course, the carelessness isn't always the fault of an outside contractor. Sometimes the problem can be traced back to the gas company.

For instance, a house exploded in Kenosha, Wis., on Aug. 29, investigation by the safety board disclosed a barely believable combination of incidents:

About a month before, the local gas company had installed a new high-pressure gas line. Rather than digging a trench and laying the pipe, the line was pushed underground behind an auger that drilled a small tunnel for it.

But there had been inadequate planning, and the auger took the line directly through a sewer line. The error wasn't noticed until the sewer pipe clogged because of the gas line running through it.

When the pipe clogged, a sewer cleaning device was run through the pipe to clean it. The device cut the gas line and the gas poured into the house through the sewer.

Two persons were killed and one was injured in the resulting blast.

For years it has been obvious that the most important safety advance for the pipeline industry would be some system to make sure that every construction worker digging in an area knows where everyone's pipes are located.

Ideally, any construction firm should call every utility company to learn the location of the pipes before digging. But this poses two major problems.

First is the inconvenience—particularly for a small businessman—of having to call the local gas company, the telephone company, the county sewer department, the water department, the electric company and perhaps a transcontinental gas pipeline firm.

In many, if not most, cases, the calls are not made. And, since usually there would be no problem, contractors begin to feel the calls are not necessary.

The second problem is at the other end of the phone line. It would be a major expense for each utility to set up a special office to check out the location of lines and relay that information to every contractor. It would be a special burden on smaller companies.

The obvious answer is establishment of a single contact point where a contractor can call to get pipeline information about all utilities.

In April of 1972, just two weeks after the Annandale gas explosion, there was a national symposium for representatives of all utility groups and government pipeline safety officials at which it was decided to establish such one-call systems.

The American Public Works Association was selected to head up the national effort, and in September 1973 it established the Utility Location and Coordination Council, which went into operation in April 1974.

"The results have been fantastic, just fantastic," Sweedler said. "There are now more than 80 one-call agencies in 38 states."

Does this approach work? Within the service area of the Washington Gas Light Co., there are such systems in the Virginia and Maryland suburbs but not in the District.

In Virginia, reported gas pipeline damage incidents dropped from 614 in 1973, before the system was initiated, to 338 last year. In Maryland the incidents dropped from 859 to 350.

But in the District, where there is no such system, the numbers rose from 185 to 248.

Because of the case provided by the one-call centers, the number of inquiries about the location of gas pipelines soared 76 percent in the suburbs during that three-year period, while inquiries in the District were up only 41 percent.

Sweedler said the District is close to starting a one-call system but that adoption of the plan has been blocked by objections from the Potomac Electric Power Co. These can probably be overcome in the near future, he added.

Attitudes toward the one-call systems point out a basic difference between the safety board and the Department of Transportation, which has its own Office of Pipeline Safety.

Sweedler is very happy with the way the construction industry has acted in setting up the one-call systems. Although he feels there is a long way to go before the public is amply protected by a nationwide system, he believes that the industry approach is the proper one.

The general attitude of the safety board is that industry cooperation is necessary and that this cooperation should be utilized whenever possible. Only when this does not work should legislation be requested.

James Curtis, director of DOT's Materials Transportation Bureau, which includes the Office of Pipeline Safety, said, "I don't favor this (voluntary) approach. If has been unsuccessful. It is the federal role to define some proper vehicle for getting this done.

"The safety board's attitude absolutely amazes me. They are trying all possibilities—any blue-sky scheme which might be available," he continued. "They point to the successes, but many voluntary schemes are unsuccessful."

The Transportation Department stand is that local or state legislation is needed to establish any one-call plan for it to be effective. "We may have to ask Congress for a legislative mandate" if the states don't pass one-call laws, Curtis added.

This view of the necessity of legislation is reflected in its new regulations requiring an intricate system of marking pipeline locations on the surface of the ground. If there is a mandated one-call system in effect, in an area, the regulations would not apply. However, if the local system were voluntary, they would.

Thus, in this area, mains in Maryland would not have to be marked, since there is a state law mandating the one-call system. Nor would the markings be required in Fairfax County, which has a similar ordinance.

But pipelines in neighboring Arlington and Alexandria, which use the same one-call operation, would have to be marked just like in the District where there is no such system.

The second most serious pipeline safety problem—after outside contractors disturbing existing mains—is poor emergency response and training of gas company personnel, according to Sweedler.

Slow response by the Washington Gas Light Co. in the Annandale explosion was cited by the safety board as a contributing cause to the disaster. The woman who was killed had called to report a gas leak, but no action was taken on her call until after the explosion.

A more recent case this January clearly points out these problems, according to the safety board.

A plastic gas pipe in front of the Pathfinder Hotel in Fremont, Neb., pulled out of a coupling as it contracted during extremely cold weather. According to the safety board, it had been improperly connected.

Gas flowed from the pipe into the hotel, where it exploded. Twenty people were killed and another 39 were injured.

At 4:50 a.m. gas was smelled at the hotel, but no one called the Nebraska Natural Gas Co. At 8:02 a.m., an employe of a bakery across the street from the hotel called to report an odor of gas and got a recording giving home numbers of employes on call for the weekend and warning there would be a $10 fee for weekend calls to repair customer piping.

He called one of the three service men mentioned on the recording who responded, confirmed the odor of gas and went to the firm's warehouse to get a gas detection instrument. The serviceman had a hard time finding it and, when he did, he discovered it did not work and he could not fix it.

Meanwhile, hotel employes smelled the gas and called the company to get the same recording. Another serviceman was contacted, but he had a previous call and contacted his supervisor, who went to the hotel. Other calls were made and the district manager went to the hotel.

By 9:10 a.m., more than an hour after the first call, three supervisors and a serviceman were at the hotel and had begun to check for a leak with another detection instrument.

When they found pure gas at one point of the hotel's foundation, they called for evacuation of the hotel. It was too late. The building exploded at 9:32, before the occupants could evacuate.

Among the 20 dead were the three gas company supervisors. Possibly because of this, employes did not know how to isolate the ruptured main, so gas was cut off to a quarter of the town at 11:30 a.m. The mains that fed the intersection at the hotel were not cut and capped until 2:30 p.m., five hours after the explosion.

The Office of Pipeline Safety is also worried about the problem of training gas company personnel and response to leaks and explosions. As a result, the office trains state and local officials at its Transportation Safety Institute in Oklahoma City and conducts a traveling course for gas company employes.

Washington-area residents are fortunate, according to Sweedler. Criticism of response to the Annandale disaster obviously was taken seriously, he said.

He cites the recent case of a safety board employe who struck a gas line while digging in his Bowie yard. He called the gas company to report that he had hit the line with his spade, that there was no leak but that the company might want to check out the line sometime.

Within five minutes, not only the gas company but the local fire department were on the scene.

Sweedler rates the Washington Gas Light Co. as one of the better gas distribution firms in the country.

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## TEACHER UNION POWER

**Mr. GOLDWATER.** Mr. President, in March I presented to the Senate information revealing that the National Education Association and related political action committees for education were taking on the characteristics of a militant labor union. Now, there is more evidence than ever of the use of money raised by teacher unions being spent for political purposes.

The National Education Association, the American Federation of Teachers and their various State and local chapters are planning to spend, and are spending, huge sums of money through their political action committees to elect candidates in this year's elections. These teachers unions have made it clear that they hope to write their own legislation next year with a rubber-stamp Congress.

The power of these unions is seen in the fact that various teachers unions have spent toward the 1976 elections in this year alone almost $700,000 and have raised a total of $1,797,564 for political purposes in 1976. Now, these figures, which are compiled from information reported to the Federal Election Commission, are by no means complete, but they do give a strong idea of the muscle which teachers unions have at their disposal.

The National Education Association, is, by far, the largest most active teacher organization. They openly revealed their personal interest in this year's elections by spending $48,968 on expenses for 234 people in order that they could attend the Democratic National Convention. They also spent $5.562 on expenses so that 28 people could attend the Republican National Convention. These are but small examples of the political involvement of this union.

A further sign of the strong political interest of education unions in politics is shown in the candidacy of the president of the Utah Education Association, who happens to be the Democratic National Committeeman from Utah and is running as a write-in candidate for the Second Congressional District seat which is currently held by Congressman Allan Howe. It will be most interesting to see how much money the teacher union bosses put into that campaign.

Mr. President, as further background on the potential for political influence by teacher unions, I will offer the following list of major contributions which teachers' unions have given to certain Democrat caididates for election or reelection to the U.S. Senate: Senator Hubert Humphrey, Democrat of Minnesota, $7,000; Patsy Mink, Democrat of Hawaii, $3,100; Senator Frank Moss, Democrat of Utah, $4,550; Daniel Moynihan, Democrat of New York, $5,000; Senator John Tunney, Democrat of California, $5,350, and Senator Harrison Williams, Democrat of New Jersey, $8,625.

In this connection, Mr. President, I am impressed with a timely article by Nick Thimmesch entitled "Teacher Power and the Democrats." This article appeared in the Chicago Tribune of September 9, 1976. The first paragraph of this piece sums up well what I have been trying to make know about the tremendous political potential of teacher unions.

It reads:

> The single most powerful political punch to be thrown this fall by a special interest group belongs to the Nation's teachers. Pedagogues are no longer benign or acquiescent. They want more money and say so, and they belong to labor unions. They back Carter-Mondale and a big hike in Federal aid to public education. So, look out.

Mr. President, I ask unanimous consent that the entire text of the article by Mr. Thimmesch be printed in the Record at the end of my statement.

Also, as specific proof of the great possibilities which teacher unions will have to make their political force felt in this year's elections, I ask unanimous consent that an itemized list showing receipts, expenditures, and cash on hand in 1976 of political funds operated by teachers' unions be printed in the Record following the above article.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Teacher Power and the Democrats

(By Nick Thimmesch)

Washington.—The single most powerful political punch to be thrown this fall by a special interest group belongs to the nation's teachers. Pedagogues are no longer benign or acquiescent. They want more money and say so, and they belong to labor unions. They back Carter-Mondale and a big hike in federal aid to public education. So, look out.

If the membership claims of the National Education Association [NEA] and the American Federation of Teachers [AFT] are honest, these two labor unions represent all but 100,000 of the nation's 2.2 million elementary and secondary public school teachers.

That doesn't mean that the members are robot-obedient to the NEA and AFT, but it does mean that there is an enormous concentration of power in these organizations. The leadership's militant and illiberal in its liberalism because it shuts out any conservative point of view.

The NEA's Political Action Committee [PAC] recommended that the NEA back

Jimmy Carter and Walter Mondale. Some 9,000 delegates to the last convention are presently balloting on that recommendation, but the outcome surely will follow what NEA-PAC asked for. Actually, the announcement is being orchestrated to coincide with a Carter-Mondale visit to Washington, so that one or the other will be on hand to exude gratitude and receive appropriate war whoops from the assembled.

NEA-PAC will collect some $3 million from its 1,870,000 members this year year to do political war. All but $731,000 will be spent on the state and local level. The money is collected by adding a $1 assessment to the regular dues checkoff. Members who do not want to donate must fill out a form for a refund. The result is most members donate because it's too much bother to collect that buck back, and besides your name goes on record as being a noncontributor.

In 1974, NEA-PAC raised $250,000 for candidates. It backed 28 candidates for the Senate and 22 were elected; 229 out of 282 NEA House candidates won. Heady with this high batting average, the NEA vowed to go all out in 1976, and it is.

Same with the AFT, with its 475,000 members [some also belong to NEA]. Albert Shanker is president, and he gave you all those lovely teacher strikes in New York City and elsewhere, causing the NEA to try to match AFT and its strike power. Nothing like competition.

Anyway, the AFT hopes to collect $400,000 for its political action fund, although it doesn't use the heavy-handed deduction technique of the NEA. Some 70 per cent of AFT's political money goes for state and local activity and candidates. The AFT, by a vote of 94 per cent of its delegates, endorsed Carter-Mondale.

But the AFT stresses that while money helps, it is the teachers who volunteer to make phone calls and work the precincts that really make a difference in an election. Nearly all their candidates are Democrats, so the AFT, like the NEA, is a big weapon against Republicans.

The NEA is power-minded. Four years ago it formed a three million-member coalition with other public employes called CAPE. And this year it formed a political alliance with Jerry Wurf's Public Service Employees Union, the United Mine Workers, and the United Auto Workers to send delegates to the Democratic National Convention. As it turned out, there were 150 NEA members as delegates and 46 AFT.

The teachers unions are tough today because teachers were underpaid for generations, and suddenly there was a boom in numbers of school-age children, making it possible for teachers to make demands. Now, with enrollments shrinking, teachers protect their economic interest. They love to get into the federal till, and they hate being asked to account for their failings.

Anybody who has looked at the scores of college entrance examinations knows that as public education budgets and teachers' salaries swelled across the republic, the performance scores of pupils went down. Last year's results of Scholastic Aptitude Tests showed a record drop of 10 points.

Education has become permissive, and basics suffered. Grades have been inflated, and students' rights emphasized. There is danger that we are spending record amounts of money to educate a generation of ninnies. We put good money after bad, but Carter-Mondale are so pleased to have that campaign help and those votes.

Beyond the strife of the campaign, there is another basic question here, and it deals with fairness.

Is it right for these teachers' unions to adhere to a narrow, ideological point of view, especially when education is supposed to allow a wide scope of ideas? Is the good society which educators have talked about for generations a form of watered-down Swedish socialism? If teachers think only in terms of their own economic and political interests, don't they become mechanistic and actually anti-intellectual?

Is it good for the political process to have teachers glued to one party? And finally, is it fair to have the nation's schoolchildren exposed to teachers who are increasingly ideologically minded and who shut out other points of view?

TEACHER POLITICAL ACTION GROUPS

| | 1976 receipts | 1976 expenditures | Cash on hand | Last report |
|---|---|---|---|---|
| National Education Association Political Action Committee | $635,569.84 | $294,501.40 | $341,068.44 | Aug. 31, 1976 |
| American Federation of Teachers—COPE | 51,852.62 | 30,425.00 | 35,838.25 | June 30, 1976 |
| Association for Better Citizenship (California Education Association): | | | | |
| Federal | 2,600.00 | 2,000.00 | 600.00 | June 28, 1976 |
| State and local | 176,632.57 | NA | NA | NA |
| (Colorado) Political Action Committee for Education | 25,085.55 | 2,177.94 | 30,345.00 | June 30, 1976 |
| (Iowa) Political Action Committee for Education | 5,084.63 | 4,620.00 | 404.63 | June 28, 1976 |
| (Los Angeles) Political Action Committee of Educators | 9,240.77 | 5,884.03 | 3,356.74 | June 30, 1976 |
| (Kansas) Political Action Committee | 132,124.25 | 102,180.63 | 29,943.62 | Aug. 23, 1976 |
| Minnesota Federation of Teachers Political Fund | 14,948.12 | 3,675.00 | 11,273.12 | Aug. 31, 1976 |
| Independent Minnesota Political Action Committee for Education | $221,661.91 | $81,820.22 | $139,841.69 | Sept. 4, 1976 |
| New Jersey Education Association Political Action Committee | 5,386.01 | 3,893.63 | 4,828.74 | Mar. 31, 1976 |
| (Oregon) People for the Improvement of Education | 24,233.63 | 17,068.92 | 7,164.71 | June 30, 1976 |
| State College and University Faculties Political Action Committee on Education | 30,705.40 | 10,001.75 | 20,703.65 | June 30, 1976 |
| Utah Council for Improvement of Education | 19,415.47 | 8,154.07 | 11,261.40 | Sept. 4, 1976 |
| United Federation of Teachers—COPE (New York) | 32,960.99 | 8,392.51 | 24,568.48 | June 30, 197 |
| Voice of Teachers for Education (New York) | 410,062.77 | 110,363.54 | 299,699.23 | June 30, 1976 |
| Total to date | 1,797,564.53 | 685,158.64 | 960,897.70 | |

## A TRIBUTE TO AN AMERICAN FAMILY BUSINESS

Mr. CHURCH. Mr. President, I would like today to pay tribute to a man who exemplifies the spirit of independence and free enterprise that contributed so much to the growth of this country. Fifty years ago next month Fred Landau founded an accounting firm which now has five offices in the United States and a number more throughout the world. Fred Landau and Co. was then, and remains today, a family business, a fast disappearing breed of enterprise. He has worked long and hard to protect the integrity of his business and his efforts have paid off both financially and for the benefit of the accounting profession.

I came to know the Landau family only recently, within this past year. They are a cohesive and truly remarkable family. One of Fred Landau's sons, Bill, and his wife, Edith took 6 months out of their business and life at home to come to Washington as volunteers in my Presidential campaign. They had never before been involved in politics. But, like so many others, they had a gift for, and greatly enjoyed their political experience.

I extend congratulations and my best wishes to the Landau family on the 50th anniversary of their family business.

## RECENT DATA ON UNION POLITICAL MUSCLE

Mr. GOLDWATER. Mr. President, from time to time I have placed in the RECORD items that revealed the growing effort by labor unions to control the body in which we serve, and indeed, the American political system. It appears to me that the public press is not doing a thorough job of bringing this fact to the American people and I regret to say that often the only place in which voters can easily read about the millions of dollars being spent by labor unions on political efforts is in the RECORD of our daily proceedings.

For example, I have not seen or heard in the news of the $274,622.26 in contributions, both direct and indirect, which the Democrat Presidential candidate, Jimmy Carter, has received from big labor in his bid for the nomination and shortly thereafter. And this is just one sign of the purpose of union bosses to control this year's elections.

Another indication of union designs is the fact that large contributions continued to pour into Democrat coffers in July and August. The Democratic National Committee received the following amounts in these 2 months:

| | |
|---|---|
| August 12, 1976—U.S.-PAC (Plumbers) | $5,000 |
| August 30, 1976—Transportation, Political League | 13,000 |
| July 23, 1976—Transportation, Political League | 15,000 |

As further evidence of organized labor's efforts to dominate this body, I have collected data on contributions of $5,000 or more which union bosses have given to candidates for the U.S. Senate in just July, August, and early September of this year. I think the American voter has a right to know this information before the election and not discover it after the fact. In order to get the facts about union political muscle to the people, I ask unanimous consent to have printed in the Record a compilation of recent contributions of $5,000 or more to Senate candidates.

There being no objection, the compilation was ordered to be printed in the Record, as follows:

*Contributions of $5,000 or more from organized labor to various Democrat candidates for the Senate in July, August and September*

| | |
|---|---|
| Bella Abzug (D-N.Y.) (lost primary): | |
| July 22, 1976, United Auto Workers ($50 of total given June 21) | $5,000 |
| August 31, 1976, Amalgamated P.E.C. (Clothing Workers) | 5,000 |
| July 28 and August 30, 1976, Communication Workers of America COPE) | 5,000 |
| August 19, 1976, Machinist NPPL ($200 of total given June 7) | 5,000 |
| | 20,000 |
| Dennis DeConcini (D-Ariz.): | |
| July 16 and Aug. 31, 1976, United Steelworkers P.A.F. | 5,000 |
| Aug. 4, 1976, AFL-CIO COPE | 5,000 |
| Aug. 10, 1976, Active Ballot Club (Retail Clerks) | 5,000 |
| | 15,000 |
| Senator Quentin Burdick (D-N.D.): | |
| July 31, 1976, AFL-CIO COPE | 5,000 |
| September 1, 1976, North Dakota AFL-CIO | 5,000 |
| | 10,000 |
| William Green (D-Pa.): | |
| July 26, 1976, Active Ballot Club | 5,000 |
| August 13, 1976, Railway Clerks Political League | 5,000 |
| | 10,000 |
| Senator Vance Hartke (D-Ind.): | |
| July 1, 1976, AFL-CIO COPE | 5,000 |
| July 12, 1976, Transportation PEL | 5,000 |
| | 10,000 |
| Senator Hubert Humphrey (D-Minn.): | |
| September 13, 1976, ILGWU | 5,000 |
| Tom Maloney (D-Del.): | |
| August 2, 1976, P.A.T.C.O. (Air Traffic Controllers) | 5,000 |
| Spark Matsunaga (D-Hawaii): | |
| July 26, 1976, A.F.L.-C.I.O C.O.P.E. | 5,000 |
| September 17, 1976, Masters, Mates & Pilots | 5,000 |
| | 10,000 |
| Howard Metzenbaum (D-Ohio): | |
| July 16, 1976, United Steelworkers P.A.F. | 5,000 |
| July 20, 1976, A.F.L.-C.I.O. C.O.P.E. | 5,000 |
| July 26, 1976, Active Ballot Club | 5,000 |
| August 18, 1976, Machinist N.P.P.L | 5,000 |
| | 20,000 |
| Senator Joseph Montoya (D-N.M.): | |
| July 27, 1976, A.F.L.-C.I.O. C.O.P.E. | 5,000 |
| Daniel Moynihan (D-N.Y.): | |
| July 30, 1976, United Steelworkers P.A.F | 5,000 |
| July 2, 1976, I.L.G.W.U | 5,000 |
| August 13 and August 20, 1976, Department Store Union | 5,000 |
| September 8, 1976, Seafarers S.P.A.D | 5,000 |
| September 10, 1976, Transportation P.E.L | 5,000 |
| September 10, 1976, V.O.T.E.-C.O.P.E. (N.Y. Teachers) | 5,000 |
| | 30,000 |
| Senator Edmund Muskie (D-Maine): | |
| July 27, 1976, A.F.L.-C.I.O. C.O.P.E. | 5,000 |
| August 16, 1976, United Auto Workers | 5,000 |
| | 10,000 |
| Peter Peyser (R-N.Y.) (lost primary): | |
| September 8, 1976, M.E.B.A.-P.A.F. Dist. No. 2 | 5,000 |
| Don Riegle (D-Mich.): | |
| August 20, 1976, A.F.L.-C.I.O. C.O.P.E | 5,000 |
| August 18, 1976, Active Ballot Club | 5,000 |
| | 10,000 |
| James Symington (D-Mo.) (lost primary): | |
| July 19, 1976, United Steelworkers P.A.F | 5,000 |
| July 24, 1976, M.E.B.A.-P.A.F | 5,000 |
| | 10,000 |
| Senator John Tunney (D-Calif.): | |
| July 1, 1976, A.F.L.-C.I.O. C.O.P.E. | 5,000 |
| Senator Harrison Williams (D-N.J.): | |
| August 21, 1976, N.E.A.-P.A.F. | 5,000 |

## TRIBUTE TO CAPT. PETE EDRIS AND AMERICAN AIRLINES FLIGHT 243

Mr. DURKIN. Mr. President, I want to take a brief moment of the Senate's time to give praise to the captain and crew of an airplane I was flying in Wednesday, September 15, for its quick thinking in the air.

I was en route from Boston to Washington when, shortly after takeoff, a young passenger began choking on a piece of food. The flight was American Airlines No. 243, and was piloted by Capt. Pete Edris.

While the crew and a doctor on board made its best efforts to assist the choking passenger, Captain Edris quickly put the plane down at New York's LaGuardia Airport—an unscheduled stop, where the police were waiting to rush the passenger to medical treatment. The young passenger was removed from the plane and happily was later reported in good condition at Booth Memorial Hospital.

The commercial goes something like: "American Airlines—Doing what we do best." As one who observed a crew in a difficult situation, I would have to second that thought.

The leadership was very kind in extending the rollcall vote on four treaties in expectation of my arrival, and I want to thank them for their courtesy and apologize for the delay. Had I been present, I would have voted "aye" on each treaty.

## COMMODORE URIAL P. LEVY

Mr. BEALL. Mr. President, on October 27, the Menorah Lodge of B'nai B'rith of Baltimore will pay tribute to the memory of Commodore Urial P. Levy. Commodore Levy was born in Philadelphia on April 22, 1792 and died on March 22, 1862. His love of the sea developed very early and he served as a cabin boy on coastal vessels between the ages of 10 and 12. In 1806 he began an apprenticeship under John Coulter, a prominent Philadelphia merchant and shipowner. By 1811 he had earned enough money to purchase a partial ownership in the schooner, the *George Washington*.

The outbreak of the War of 1812 caused Urial Levy to volunteer his services to the U.S. Navy. His service during the War of 1812 was cut short when he was captured by the British and held a prisoner in England for 16 months.

He returned to his naval duties and devoted the rest of his life to service in the U.S. Navy. During this long career he had to overcome a number of obstacles, not the least of which was prejudice against his Jewish ancestry. Throughout his career he compiled a reputation as a courageous and humane officer and a dedicated American patriot. In 1860 he received a command with the Mediterranean squadron.

Mr. President, it is interesting to note that Commodore Levy purchased Thomas Jefferson's beautiful home, "Monticello," and dedicated much of his personal resources to efforts to restore and preserve this national shrine.

I commend the Menorah Lodge for reviving the memory of Commodore Levy as part of their Bicentennial celebration. I am also delighted to know that they will be paying tribute to Maryland's distinguished senior Senator, Charles "Mac" Mathias at their Bicentennial banquet on October 27. Like Commodore Levy, Senator Mathias is an intelligent, dedicated man who is making a substantial contribution to the life of this Republic.

Mr. President, I ask unanimous consent that the Bicentennial tribute to Commodore Levy, which was prepared by the Menorah Lodge, be printed in the Record.

There being no objection, the tribute was ordered to be printed in the Record, as follows:

Menorah Lodge No. 771, B'nai B'rith,
*Baltimore, Md.*

### Introduction

Menorah Lodge of B'nai B'rith, a Baltimore (Md.) organization that has engaged, since 1915, in educational, philanthropic, patriotic and civic activities for the youth and adults, will pay tribute on October 27, 1976 to the memory of Commodore Uriah P. Levy; and during the same evening will bestow the Menorah Distinguished Service Award on Senator Charles McC. Mathias, Jr. of Maryland.

The Commodore's contributions are recalled in the following article.

### Bicentennial Tribute

When Menorah Lodge of B'nai B'rith in Baltimore, Md. holds its Bicentennial Banquet on the evening of October 27, 1976 at the Chizuk Amuno, with Senator Charles McC. Mathias, Jr. as the honoree, the Bicentennial portion of the program will be dedicated to Commodore Uriah P. Levy, immortalized in "Honoring 1776 and Famous Jews in American History," a Joseph Jacobs Publication.

As recorded in the publication, Uriah P. Levy, famed naval hero, served his country with great distinction from the War of 1812 to his final year, 1862. Through sheer hard work and brilliance, he climbed from sailing master to Commodore, then the Navy's highest rank, the equal today of rising from chief petty officer to Admiral.

It is also noted in the same publication that Levy was one of the first naval officers to recognize men for their ability, and not classing them by ethnic roots or social standing. When commander of the U.S.S. Vandalia during the War of 1812, he fathered a law that would secure his name in history, the law abolished flogging in the Navy. This fact is inscribed on his tombstone in Cypress Hills Cemetery, New York City.

A descendant of Commodore Levy, Miss Nellie A. Rupp, residing in the Catonsville section of Baltimore, has in her possession a set of epaulettes worn by the Commodore, well preserved in their special case and described by Judge Albert L. Sklar, President of Menorah Lodge, as "resplendent and magnificent mementos recalling the colorful career of Commodore Levy."

According to Col. Michael W. Merritt, banquet general chairman and Murray Slatkin and Norman Hochberg, banquet co-chairmen, and Morris H. Price, Honorary Banquet Chairman, Miss Rupp plans to place these extraordinary epaulettes on display in a Museum.

The volume also contains the following sidelights on this Naval hero . . . Before the Naval Academy came into existence, Commodore Levy wrote and published the "Manual of Rules for Men of War," the first printed guide book for young officers duties aboard ship, a work that ran into three editions, up to and including the "new age of steam."

A devoted admirer of Thomas Jefferson, Levy on a visit to Paris paid his respects to the aging Lafayette who was saddened to hear that the great Jefferson had died penniless and wondered what had happened to beautiful Monticello. Levy didn't know. But not for long. He found the mansion and grounds suffering from years of neglect and decay. He purchased Monticello on May 20, 1836, and labored to restore and preserve it for unborn generations.

Uriah Levy was a religious man, belonging to two synagogues. He was the first president of the Washington Hebrew Congregation, and a member of Shearith Israel Congregation in New York (the oldest existing in the U.S. today).

In World War II, the destroyer U.S.S. Levy was named in his memory. Thus, it was only natural that the first permanent Jewish Chapel ever to be built by the U.S. armed forces should also honor his memory. The Commodore Levy Chapel is located near the main gate of the historic Naval Station in Norfolk, Va.

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## CONGRESS SHOULD ACT TO ALLOW INTEREST ON PUBLIC DEMAND DEPOSITS

Mr. PROXMIRE. Mr. President, last week, by the narrow margin of one vote, the Senate refused to consider and laid on the table H.R. 3035, a bill that would have permitted State and local governments, and the U.S. Treasury, to earn interest on their demand deposits held in checking accounts at commercial banks, Present law prohibits payment of interest on demand deposits.

As one of the sponsors of the bill, I find it deplorable that the Senate sat on its hands and refused even to debate this important legislation. I certainly hope we will do better in the next Congress. Let me use this opportunity to describe to my colleagues what H.R. 3035 would have done, had it passed the Senate and been enacted.

First, it would have given State and local governments a significant new source of revenue, by allowing them to get interest on the more than $18.7 billion they now hold as demand deposits. Banks can and do make money on these interest-free deposits, by investing them in the overnight Federal funds market or in other short-term money market instruments. At current rates of 5 to 5½ percent on up, banks earn about $1 billion a year on all those State and local deposits. If this bill had passed, most of that billion dollars would have been returned to our financially strained cities and States, to help them offset the impact of inflation and hold down the pressure for tax increases. In addition, H.R. 3035 would have permitted the Federal Government to gain interest directly or indirectly on a smaller volume of demand deposits—averaging about $1.6 billion in the past year—held in Treasury tax and loan accounts.

Second, and probably as important, passage of this bill would have stimulated major reforms in the cash management practices of public bodies, and curbed the abuses so often associated with the handling of public funds at the State and local level. Often a State treasurer, or a city's money handler, has very few restrictions on his authority to deposit unexpended cash balances. All too frequently those funds end up in so-called "pet banks" with connections to prominent politicians, or to their friends, relatives, or campaign contributors. And the biggest prize of all is the lucrative noninterest bearing demand account.

Mr. President, this legislation was and remains very much in the public interest. Its potential benefits could hardly be more widespread, since they would accrue to all the taxpayers, indeed to all the residents, of this country. The bill had the strong endorsement of a number of State and local officials who testified at the Banking Committee's hearings and of the Effective Government Committee of the National League of Cities.

### H.R. 3035 FELL VICTIM TO A BANK LOBBYING CAMPAIGN

Why, then, was it tabled? Mr. President, H.R. 3035 was the victim of a vigorous, widespread, well-orchestrated campaign by the banks to kill this or any other bill, up to and including the Financial Institutions Act which passed this body last December but failed in the House, any bill which threatens that sacred cow known as the prohibition on payment of interest on demand deposits.

Why is this prohibition sacred? Because it means easy money for the bankers—money out of your pocket and my pocket and out of the pockets of our hard-pressed State and local governments. And in the face of any threat to that easy money, the bankers fight harder and stronger than any other interest group in the country.

### BANK LETTERS ILLUSTRATE NEED FOR THIS LEGISLATION

Mr. President, two letters which arrived in my office just after the bill was tabled give such a vivid illustration of why H.R. 3035 is needed, and why it was killed by the banks, that I feel compelled to comment on them and to include them in the RECORD. These letters, which are virtually identical, come from two banks in Massachusetts: Harbor National Bank of Boston and Capitol Bank and Trust Co., also of Boston.

It is not at all surprising that I happened to hear from these two banks, and not from any other banks in Massachusetts. Let me tell you a bit about these banks.

They first came to my attention last year when I asked the Federal Deposit Insurance Corporation—FDIC—to supply me with figures on the top 100 banks in the country and the top 5 banks in each State holding the largest amounts of interest-free State and local demand deposits relative to their total holdings of demand deposits. The initial figures I received were for 1974, and going back to 1971. Later on, I got an update of the figures to 1975.

The two Boston banks named above figured prominently on all of these lists. I do not know how they get all their public deposits or where they get them from; I can only cite the figures available from the public records of the FDIC. They show the following:

In 1974, Harbor National Bank ranked fourth in the country and first in Massachusetts in terms of the proportion of State and local demand deposits in its accounts. A whopping 75.10 percent of its demand deposits came from State or local governing bodies—figures for State and local deposits are lumped together by the FDIC and cannot be separated out in the publicly available data. Capitol Bank and Trust was way up there too: ninth in the country and second in the State, with a State and local demand deposit ratio of 65.68.

Further study showed that these banks were almost exactly the same size. Each had about $64 million in total deposits in 1974, and they ranked 38th and 39th in size out of a total of 144 banks in the State. I also computed the average ratio of public demand deposits to total demand deposits for all the other banks in the State: it came out to a far, far lower 16 percent.

The 1975 FDIC figures show a similar pattern. Harbor National Bank is still fourth in the country and first in the State; and its ratio of State and local demand deposits to total demand deposits is about the same, 75.57. Capitol Bank and Trust has dipped a bit but is still way up there: 29th in the country, second in the State, with a ratio of 53.17. Going back as far as 1971, the ratios remain at a very high level for both banks. In 1973, the ratio for Harbor National Bank was 71.29; the ratio for Capitol Bank and Trust was 66.39. For 1972, the ratios were 49.67 and 59.30, respectively; for 1971, they were 64.02 and 61.75.

Mr. President, the FDIC figures make it painfully obvious why these banks have written to me, and probably to other Members of the Senate, to express their "strong opposition to the enactment of H.R. 3035." It is because they stand to lose money if the legislation passes, or rather if it had passed. At least these two banks admit as much. Specifically, each of them states that enactment of H.R. 3035 would "result in decreased profit margins of commercial banks." They do not claim it would make the banks go broke; they just say it "would adversely affect this economic goal."

The question they do not answer is why should banks be allowed, even encouraged, to increase their profit margins at the expense of the taxpayers? Why should they not have to accomplish this through good management and efficient operations and prudent investment of their funds, just like any other business?

Of course, for all the other banks in Massachusetts, and for most other banks around the country, the impact would be minimal, because they do not hold nearly such a large proportion of public demand deposits.

### WEAKNESS OF ARGUMENTS AGAINST H.R. 3035

Mr. President, I should like to discuss the other points made in these two letters, because they are typical of the apparently persuasive arguments contained in the letters which my colleagues have been receiving.

First, both letters state that Massachusetts communities now receive certain benefits from banks, such as low interest rates on their tax anticipation notes and free financial consulting services. They go on to claim that "enactment of H.R. 3035 will result in the elimination of these services increasing the financial burden to these communities."

The question here is whether the communities would lose more than they would gain if the legislation were enacted. Given the expressed concern about "decreased profit margins," it is apparent that the two banks believe that the benefits now provided are worth substantially less than the earnings Massachusetts communities could receive through direct payment of interest on their demand deposits.

Furthermore, I must emphasize that this legislation is wholly permissive. It does not require States and localities to do anything. It simply authorizes them to get interest on their demand deposits, should they choose to do so, by exempting them from the flat prohibition contained in existing law. If the cities and States feel they are getting a better deal from their banks now, or if the banks offer them a generous package of services and interest rate cuts, then these units of government can choose that alternative and forego obtaining interest on their demand deposits.

The important thing is the bottom line. The bottom line question is whether or not States and localities can get a better return on their money if they are allowed to receive interest on demand deposits than they can get in the form of bank services. In my view, the outpouring of mail from banks opposing H.R. 3035 says clearly and incontrovertibly that they can.

In a second point, the letters argue that because banks are required to "collateralize Treasury Tax and Loan deposits with prime collateral," it would be an "unreasonable burden" for them to have to pay interest on those deposits as well. What is being referred to here is the fact that banks have to pledge collateral for Federal deposit balances they hold in excess of the amounts covered by FDIC insurance, so the Government will not lose its money if the bank goes under. The collateral has to be in the form of such securities as Treasury bills, obligations issued or guaranteed by U.S. Government agencies, bankers acceptances, and obligations of State and local governments.

However, the two banks fail to mention that the securities they are required to hold as collateral are the types of securities banks would normally buy in some quantity in any event, for portfolio management purposes and to meet requirements imposed by the bank regulatory agencies. Furthermore, they do, of course, get interest on all of these securities, at rates—now ranging generally between 6 and 8 percent—which are and will remain higher than the rates they will be required to pay on their Treasury tax and loan account balances. So the banks would still make money on this collateral, and on the Federal deposits generally; just not so much money as they do now.

Finally, the banks in their letters make two interrelated arguments: that Congress should not change a policy—that is, prohibiting interest on demand deposits—that has been "effective for over 40 years," and that H.R. 3035 is particularly bad because it singles out a class of depositors—public bodies—and allows that group to get interest "at the expense of all other depositors."

To take the latter argument first, let me just point out that I am firmly on the record in favor of repealing the prohibition on interest on demand deposits altogether. This is clear from my efforts in behalf of the Financial Institutions Act. However, I also see a limited repeal covering only public deposits as a logical first step toward this end, and one very much in the public interest. Far from benefiting a single class of depositors, it would clearly be a significant benefit for all the taxpayers and all the people of this country. Furthermore, the impact on the banking industry would be minimal, since the $20 billion in demand deposits held by the Federal, State and local governments is a mere 7 percent of the total demand deposits in the banking system.

This leaves only the old chestnut argument the banks always resort to when this issue comes up, which is that the prohibition was enacted because so many bank failures in the depression were caused by competition in paying interest on demand deposits. A number of careful studies, including one by Carter H. Golembe Associates appearing in a recent American Bankers Association publication, have demonstrated that this was simply not the case. The Golembe study argues convincingly that the prohibition contained in the 1933 Banking Act resulted from a deal struck with the big money center banks to get them to drop their opposition to Federal deposit insurance, something the smaller banks wanted very badly. The money the big banks made from not having to pay interest on demand deposits more than compensated for the cost of their contributions to the new insurance.

Mr. President, I think it is time that Congress stop being bound by the political bargains of 40 years ago. I intend to pursue the issue of interest on public demand deposits, and on all demand deposits, in the next Congress. By that time we should have the results of study being conducted by the Federal Reserve Board of Governors on this whole question, which ought to allay the fears expressed by the bankers and conveyed so effectively to the Members of Congress. Then I hope we can finally take action in the public interest.

Mr. President, I ask unanimous consent that the two letters mentioned above be printed in full in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Harbor National Bank of Boston,
*Boston, Mass., September 17, 1976.*

Hon. William Proxmire,
*Dirksen Office Building,*
*Washington, D.C.*

Dear Senator Proxmire: This letter will serve as recorded notice of our strong opposition to the enactment of HR 3035. The enactment of this legislation, in our opinion, will have a detrimental effect upon the commercial banks throughout the United States. The difficulties encountered by the banking industry during the past three years is well known to you. The banking industry will incur more serious difficulties in future years as a result of this legislation. We oppose HR 3035 for the following reasons:

1. The enactment of HR 3035 will result in decreased profit margins of commercial banks to the detriment of their depositors and shareholders. A strong banking industry is essential to a sound economy. This legislation would adversely effect this economic goal.

2. Banks are able to render financial consulting services to municipalities at no cost because of the present demand deposit relationship existing between the parties. The enactment of HR 3035 will effectively eliminate these free services increasing the financial burden to the municipalities and their taxpayers.

3. The communities in Massachusetts benefit from having some of the lowest bids in the country for their tax anticipation notes—recently as low as 2¼% for short term borrowings. The demand deposits maintained in the bidding banks by the municipalities have a direct relationship to these rates. The enactment of HR 3035 will result in a substantial increase in these rates.

4. Moreover, this legislation attempts to change a proven monetary policy that has been effective for over forty years. HR 3035 singles out a class of depositors by benefiting them at the expense of all other depositors.

5. Each bank must collateralize Treasury Tax and Loan Deposits for the Federal Government with prime collateral as set forth by the Federal Reserve Board and/or United States Treasury. It would appear that an unreasonable burden is being imposed upon commercial banks if they must pay interest on those deposits in addition to this collateral. We are strongly opposed to such action.

In consideration of the above reasons, we feel that a reasonable logical approach requires an intensive study and review of the effects of this legislation upon the banking industry as a whole. Therefore, we respectfully request that this legislation be tabled and referred to a study by the Federal Reserve Board.

Sincerely yours,

ALLYN L. LEVY,
*President & Chief Executive Officer.*

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CAPITOL BANK AND TRUST CO.,
*Boston, Mass., September 17, 1976.*

DEAR SENATOR PROXMIRE: The purpose of this letter is to record our strong opposition to the enactment of HR 3035. In our judgment, the enactment of this legislation will have a serious adverse effect upon the commercial banks throughout the United States. The difficulties that have been encountered by the banking industry during the past three years is well known to you. This legislation will result in the creation of more serious difficulties for the banking industry in future years. We oppose HR 3035 for the following reasons:

1. Massachusetts communities enjoy some of the lowest bids in the country for their tax anticipation notes—recently as low as 2¼% to 2½% for short term obligations. These rates have a direct relationship to the demand deposits of the municipalities maintained in the bidding banks. The enactment of HR 3035 will result in a substantial increase in these rates.

2. Enactment of HR 3035 must result in a decrease in the profit margin of the commercial banks to the detriment of both the depositors and stockholders of the bank. The strength of the banking industry is essential to a sound economy. An unreasonable decrease in the profit margin of commercial banks would adversely affect this economic goal.

3. The present demand deposit relationship between commercial banks and the municipalities enables the banks to render financial consulting services to these municipalities at no cost. The enactment of HR 3035 will result in the elimination of these services increasing the financial burden to these communities.

4. Finally, HR 3035 seeks to change a monetary policy which has proven effective for over forty years. This legislation singles out a class of depositors and benefits one group at the expense of others, i.e., consumers, non-profit organizations, corporations, and the small businessman.

5. As you know, each bank that accepts Treasury Tax and Loan Deposits for the Federal Government must collateralize those deposits with prime collateral as set forth by the United States Treasury and/or the Federal Reserve Board. It would seem an unreasonable burden is being imposed upon commercial banks if in addition to the collateral, those banks must now pay interest on those deposits. We are opposed to such action.

In view of the foregoing reasons for our opposition to HR 3035, we feel that a sensible logical approach to this legislation requires an intensive study and review of its effects upon the banking industry as a whole. Therefore, we suggest that this legislation be tabled and referred to a study by the Federal Reserve Board.

Sincerely yours,

SHERWOOD J. TARLOW,
*President.*

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## PROTECTING RUSSIAN REPATRIATES

Mr. BEALL. Mr. President, on August 1 an article entitled "Protecting Russian Repatriates" by Denis Hills appeared in the Washington Post. This article focused attention on the repatriation program which saw many thousands of people, of various nationalities, returned to the Soviet Union after World War II. It is ironic that this program was designated "Operation Keelhaul," an appropriate reference to the old naval punishment of "keelhauling" which usually resulted in death.

I wanted to share this article with my colleagues, Mr. President, because I think it has a pertinent message in it for us today. Over the years I have received a number of letters from families and friends of Soviet citizens who desire to leave the Soviet Union. Through working with these cases I have become acutely aware of the diversity of the Soviet population and the possible role that diversity could play in the conduct of U.S. policies toward the Soviet Union.

According to the 1970 census, Russians comprise only slightly more than 50 percent of the population of the U.S.S.R. and about 90 percent of the non-Russian population still claim the language of their nationality as their mother tongue. Still today, our political leaders, educators, and journalists use the terms Soviet Union and Russia interchangeably leaving the impression that the U.S.S.R. consists only of Russians. This distorts the true nature of the Soviet Union and fails to expose one of its major weaknesses; the fact that it is an empire with almost 50 percent of the population desiring freedom and self-determination for their homelands.

To label as "Russian" the millions of Ukrainians, Byelorussians, Estonians, Lithuanians, Latvians, Armenians, and almost 100 other nationalities in the U.S.S.R. is unjust and inaccurate.

It is ironic that our failure to recognize the various nationalities in the Soviet Union serves to strengthen the Soviet policy of Russification. This policy seeks to eliminate the national identities of its peoples and thus eliminate the U.S.S.R.'s greatest weakness. Many of the Soviet dissidents who we have all heard about, such as Valentyn Moroz and Gunars Rode, are imprisoned because they sought to preserve the national consciousness of their people.

Mr. President, as I work with cases involving Soviet Jews, Ukrainians, Balts, and so forth, I am made acutely aware of the dynamic forces which are at work within the Soviet Union resisting the dictatorial rule of the present Kremlin leadership. I believe that all of us in policymaking positions should be aware of these societal weaknesses which plague the Soviet Union and I think the United States and the Western World should actively seek to promote policies which are designed to make it increasingly difficult for the Soviet Union to continue its totalitarian control over its 215 million people. Our policy should be designed to reassure the divergent elements in the Soviet society that they have not been forgotten.

Mr. President, I ask unanimous consent that the Denis Hills' article entitled "Protecting Russian Repatriates" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### PROTECTING RUSSIAN REPATRIATES

(By Denis Hills)

(NOTE.—In the aftermath of World War II, hundreds of thousands of Russian prisoners captured on the Western front were returned to the Soviet Union by the British and American authorities. Many of them were soldiers captured in German uniform; some had volunteered, out of hatred of communism, to fight or work for the Germans; some were Red Army men who switched allegiance after capture by the Germans; some were women or children. Their treatment on return to Russia was harsh.

(Two years ago Outlook published extracts from "The Last Secret," a detailed account of the tragedy by the British journalist Nicholas Bethell. Alexander Solzhenitsyn among others has bitterly criticized the Anglo-American decision and in a recent broadcast in London he said Russian men, women and children were "handed over to the Communists to be killed or sent to the labor camps in the Urals."

(Denis Hills, a wartime British army major in Italy, has written: "But there was another side of the operations ... the deceptions deliberately practiced ... in order to protect lives, the patient whittling down of lists of the condemned, the private arrangements made for individuals to go into hiding. These facts, as they are known to me, ought to be recorded.")

The first big influx of Russians to fall into British hands in Italy was an entire Turkoman Division. It had been serving with the Wehrmacht in the Ravenna area.

When the time came to repatriate the Turkomans, they flocked quietly on board the ships that were to carry them back to Odessa. No force was used. It seemed that they believed, or wanted to believe, in Stalin's amnesty promise. It was known that Stalin had appealed to all displaced Russians "to return home to their families and help rebuild their shattered villages."

We British soldiers were also prepared, at this stage, to accept Stalin's word. In our eyes the Turkomans were, in any case, renegades: men who had fought for the enemy while their own Red Army and the Allies were losing lives in a bloody struggle.

In March 1945 I sailed to Odessa in one of the repatriation ships, the Arawa, as escort officer to 1,651 Turkomans. They entertained us at first with their marvelous songs and dances. No one tried to jump overboard while we lay for a day off the Golden Horn at Istanbul.

But when we moved up the Bosporus and were met in the Black Sea by a Soviet gunboat, our passengers fell silent and doleful. Small groups came to tell me privately how anxious they were about their reception in Russia. Some claimed to have fought with "partisans" in France and Italy. "You should have spoken up before," was all I could say, "Now it is too late."

At Odessa I watched our now cowed and dejected Turkomans—already stripped of their British army great-coats and packs—parade to a suburb, where they were harangued and then marched off under armed guard to a nearby internment camp. I asked some onlookers what would happen to them. "Twenty years' penal servitude," they said.

When we sailed away, we found that the interpreter, a White Russian emigre doctor with Italian citizenship who had recklessly volunteered for the trip, was missing. We heard later that he had been seized and put into captivity with the Turkomans.

For me, the cat was now out of the bag. Stalin's amnesty promise was a manifest falsehood. I would use this knowledge in any future dealings with Russian repatriates.

In June 1945 I was sent to investigate a Russian camp on the Via Appia outside Rome. Here a mixed bag of Russians—men and women—were being kept under casual British guard. They had heard of the harsh treatment Moscow had given to the Turkomans, and they were refusing to be repatriated. GHQ at Caserta had no wish to use force.

The solution I adopted was to register the inmates as displaced civilians, which was not entirely true—there were former officers and nurses among them—and to encourage them (unofficially) to disperse. This I did with the help of a young Ukrainian priest of the Russikom (Greek Catholic) organization attached to the Vatican, who set up a temporary refugee center for them in Rome.

Rome HQ took the attitude that the Russians in the Via Appia camp were an embarrassment. The CO did not take action against my irregular method of dispersing them, but preferred to know nothing officially about it.

In August 1945 I was posted to a POW camp at Bellaria, a few miles north of Rimini, where 10,000 Ukrainians of the Galicia Division, which had been in action against the Red Army at Brody in Czechoslovakia and had found refuge in Italy, were being guarded.

Their strength was in their cohesion, their relative literacy and their extreme national consciousness. They regarded themselves as part of the Ukrainian Freedom Army. They had their own language, military insignia, ranks and uniform, their own religion with its double-barred cross and marvelous chants, their own history.

When I was told that a Soviet Repatriation Mission would visit the Ukrainian camp, it was clear that their moment of crisis had come. My orders were to shadow the Soviet team and to see fair play. I warned the Ukrainian camp leaders and their OC to be absolutely firm with the Moscow officers; they were not to fear them, and they would not be under duress.

The Soviet officers spent several weeks interrogating the Ukrainians. They worked relentlessly, without meal breaks, in a tent pitched inside the cage. I was present at every interview. Prisoners were brought in individually. They had been well coached. They made no attempt to deny their Soviet citizenship. But asked why they had taken up arms against the USSR, they answered—with vehemence as they gained confidence—that they "hated the Bolsheviks for having persecuted them."

I recall how each prisoner, standing to attention before the trestle tables where the Soviet officers sat, kept his eyes on me as he gave his answers. It was quite clearly my British uniform that helped give them the moral strength to stand up and defy the "men from Moscow."

The mission failed. Only five Ukrainians volunteered to return home (they were immediately segregated).

A colonel freshly arrived from Moscow to ginger things up was permitted to address the prisoners by companies. "You are the grey mass (*tyomnaya massa*)," he cried to the wooden faces gazing at him. "You have nothing to offer but your hands. The world doesn't want you. For them, you are rubbish. Be warned. Sooner or later the Soviet Union will have you."

In October 1945 I was sent on a temporary mission to Udine to help evacuate a former German military hospital. The patients were Russians, mostly Turkomans. Many were severe amputation cases. Some were dying of tuberculosis. The small hospital staff were Russians. The wards smelt of pus.

The Soviet Mission officers, eager as usual for their pound of flesh, insisted that we should hand over the whole of our hospital equipment and stores (we compromised on this) as well as the patients. Before they boarded the German ambulance train (boxcars) that was to take them to the Hungarian border, I toured the wards and told every man that he was free to stay or to be repatriated. No one volunteered to stay. The small Russian medical staff also said they would go.

I assumed that the patients—sick, mutilated and simple men (many were without legs ar arms)—preferred suffering among their own folk to facing the loneliness of exile. Yet they must have known that for Moscow they were not only useless cripples but "traitors" and that their hope of survival in the USSR was very small.

I watched our patients being dumped roughly on the floor of open horse-drawn carts. It was raining. Their bundles were thrown on top of them. Legless men rode on the shoulders of comrades. The carts jolted off along a track to a large red building on a hill. The callousness of it was inevitable. Men who could not work were not wanted in Russia.

In August 1946, under Operation Keelhaul, as a preliminary to a final solution of the Russian problem in Italy, about 600 Russians remaining in camps in the Naples area were sent to Rimini enclave where the British army was holding many thousands of captured and surrendered prisoners-of-war

These Russians had already been provisionally listed in two categories: repatriable (goats) and non-repatriable (sheep). At Rimini I separated the goats from the sheep and put them in different cages. Among them were women and children. My orders were to rescreen everyone and to prepare the final nominal rolls that would decide their fate.

My immediate task—it took me many weeks—was to draw up a maximum list of condemned Russians without exciting their suspicion. The leader of this group, Maj. Ivanov, was cooperative. He believed, and I was not in a position to disabuse him, that if he and his men behaved themselves, they would earn our commendation and eventually be given the status of political refugees. Through naivete or honesty, most of those who had served in the Red Army and/or German armed forces readily told me so. Others who tried at first to hide a military record were identified during the screen process or through informers.

When I had completed my condemned list, I started to execute my real, longterm intention, which was to reduce the number to a minimum.

Under the currently enforced terms of the Yalta agreement, the three categories of Soviet citizens to be repatriated, by force if necessary, were (1) those captured in German uniform (2) former members of the Soviet armed forces (3) persons who had voluntarily rendered aid and comfort to the enemy.

Category (2) I took little notice of unless combined with (1). The third category I ignored. But I qualified and, to a large extent, nullified the first category with a new one of my own invention: a non-repatriable category of "para-military" personnel who, I informed GHQ, had served only on guard duties along lines of communication or in base areas; as pioneer labour or Organization Todt [military construction] workers; as grooms, cooks, batmen and hospital orderlies.

GHQ accepted the new "para-military" classification. Because it lacked concision, it was elastic. It enabled me, by gradual elimination, to make a very large hole in my original condemned list. But it took time. For I had to submit each individual case for reprieve to GHQ for approval.

I invented one other non-repatriable category: the "ex-partisan." But this I had to use sparingly.

Certain other persons I eliminated from the list by telling them privately to escape or by giving them certificates as Stateless Persons.

Shortly before forcible repatriation was due (Operation Eastwind), I took the long calculated risk of striking the whole of the Kabardine group—101 men—off the list. The Kabardines were a united band of silent, swarthy, illiterate Moslems. They acted and spoke only through their leader, an ex-schoolmaster whose utopian wish was to emigrate with his flock to Syria. I persuaded GHQ that these men had served with the Wehrmacht only on guard duties, armed with rifles (they had in fact been notorious looters). GHQ agreed to reprieve them.

I could do no more. My original condemned list had been more than halved, to 180. Senior officers at GHQ would be growing uneasy at the continual erosion of names, and Moscow expecting to receive several hundred repatriates, was going to be very angry.

On May 8, 1947, under Operation Eastwind, the 180 Russians were rounded up by troops of the Royal Sussex Regiment and, with the exception of nine married men, brought to Ficcione railhead to be put on a sealed train for surrender to the Soviet authorities at St. Valentin on the zonal border in Austria.

I went to the station to see them. They were orderly and rather dazed. Though they had realized what was going to happen to them as soon as razor blades and knives were removed from their kits, they showed no open resentment; but they had the strained faces of men about to go into action.

Maj. Ivanov, looking haggard but calm and in control of his men, broke away and came over to me. This was the Judas moment I had feared. I must go through with it.

"So you are sending us to our death after all," he said. "I believed in you. Democracy has let us down."

"You are the sacrifice," I answered. "The others will now be safe."

*"Ja znayu kak eto bilo trudno dla vas,"* he said. "I know it has been difficult for you."

So in his chivalry he was making it easier for me. He shook my hand and I gave him my cigarettes.

"This is a rotten job," the officer in charge of the escort party said to me, "not really a job for soldiers at all."

The nine married prisoners and their wives had been segregated. Since GHQ had no wish to use force on women, we had given the wives the choice of either accompanying their husbands to Russia or staying.

On 9 May the nine couples were brought to a small building where I interviewed them and posed the cruel alternative for the last time. One or two of the women could have been persuaded, or were willing, to accompany their menfolk into captivity. But none of the men would allow this—and we ourselves would have prevented them, in their own interest, from going.

There was lamentation. Banderovicz, a young Cossack with a rosy face, and his wife were looking at me in such a way that I had to turn my back.

On impulse I picked up the telephone and told Major Condron at GHQ that I had discovered a last-minute error—Banderovicz had been a "partisan" and I heard Major Condron swear. There was a pause till his voice came back. "The Brigadier is furious," he said, "but it's alright."

Some of them struggling and wailing, the women were taken away.

I quote the incident of Banderovicz because it illustrates the quandary in which the politicians who signed the Yalta repatriation terms had landed British soldiers responsible for carrying them out, and the absurd power of a whim to decide a man's fate. One had a duty to be equally just, and therefore equally harsh. Why had I spared Banderovicz not Crigorenko? Partiality was in itself an act of injustice.

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## ENERGY

**Mr. DURKIN.** Mr. President, last week the Federal Energy Administration served up a real treat to the millions of motorists, homeowners, and businesses which rely on oil and gasoline for heat and power—an admission that the agency had allowed $1.3 billion in overcharges by the Nation's major oil companies during 1975. The FEA estimated its goof amounted to an overcharge of 6 cents per gallon.

It is bad enough that the error was allowed to occur, and continue through an entire year—January 1975 to January 1976. In New Hampshire and New England, that 6 cents per gallon translates into millions of dollars in overpayments by people and businesses already suffering from the highest prices for oil and gas in the Nation; it translates into hundreds of lost jobs and lost businesses as the trend continues away from economic development in the energy-expensive Northeast and toward the energy-abundant Sunbelt; and it translates into millions of dollars in higher electric bills which already include an outrageous monthly fuel surcharge of more than $1.50 per 100 kilowatts during the spring months.

According to the FEA, the oil company overcharges were allegedly the result of a mistake made by the FEA in explaining its oil price regulations. We in New Hampshire and New England question the honesty of such a mistake.

How honest can the FEA claim to be when it first proposed to let the oil companies keep that $1.3 billion rather than return it to consumers by some equitable formula. Only after Members of Congress raised strenuous objections did the FEA back down from its original decision, and promise to begin a company-by-company review. And the overcharges will still not be returned if an oil company can prove a serious economic hardship would result from the repayment.

The shoe should be on the other foot: The overpayment should be returned immediately to each customer with interest unless the oil company can prove that a particular customer suffered *no* economic hardship from the overcharging.

The "honesty" of FEA mistakes was also called into question last week by reports that FEA informational materials on energy prices are cleared before publication by the oil and gas industry—the industry the agency is supposed to be regulating. A House subcommittee found that a prepublication copy of a pamphlet, the "Natural Gas Story," was shown to a gas company lobbyist in Washington to gain his comments and approval of the material before publication and distribution. When a consumer group later filed suit in Federal court to block publication of the pamphlet at Government expense, the FEA quickly destroyed those parts of its files which would have spelled out the entire story of oil and gas industry domination of FEA. When the House subcommittee began looking into the coverup, top FEA officials did everything they could to deny House investigators the information they were looking for.

As a result of that House investigation, one $37,800 a year public relations man for the FEA, the one who exposed the corruption and coverup at FEA, has lost his job. There have been charges and countercharges of theft and forgery of Government documents, the FEA has admitted destroying a memo urging the agency to "shove it" to Congressman John Dingell and one of the men who helped destroy the memo has been given a promotion.

Without sorting out in any great detail who did the lying and who did the cheating, who did the firing and who did the promoting, it is easy to agree with the assessment of FEA Deputy Administrator John Hill when he told a newspaper that the last 6 months have been a very unfortunate period in the FEA—very unfortunate for my constituents who are paying the highest prices for gasoline and home heating oil.

This is not the story of "good faith" and "honest mistakes" by a Federal agency. Instead, it simply confirms a widely held suspicion that the FEA is in bed with the petroleum industry, and will go as far as public opinion and the Congress will allow in bowing to oil and gas industry wishes and pressure.

The FEA should be spending its full effort to see that the American family has the lowest price possible for its gasoline, its home heating fuel, and its electricity. But I am afraid the officials at the FEA spend more of their time issuing reams of regulation which have either been first cleared by the petroleum industry itself, or which will lie unenforced in the Federal Register.

But this is not news for us in New Hampshire.

During the height of the Arab oil embargo, the Sprague Oil Co. suddenly stopped giving its bulk users discounts to some of its largest customers in the State, including the largest electric utility, Dartmouth College, and the State itself. This discontinuance was in flagrant violation of FEA price controls at the time. Complaint was made to the FEA regional office by several large users. Yet despite passage of 3 years and dozens of letters, including letters from Members of Congress, the FEA has done nothing about the matter, and millions of dollars in overcharges have never been returned.

We learned from that, that the Sprague Oil Co. has a friend at the FEA.

I will readily concede that regulation of the large oil companies is sophisticated and complicated business, which is one reason the Congress is giving serious consideration to breaking up these companies—because they cannot be effectively regulated. The petroleum companies understand this, and they have thousands of lobbyists in Washington to keep an eye on every move the FEA makes.

But the public, which understands higher prices and higher oil company profits, does not understand the intricacies of the thousands of regulations issued by the FEA. Instead, it expects the agency to be its scout, guide, and protector, looking out for the public interest as vigilantly and effectively as the petroleum lobby looks out for its interest. In the past 2 weeks, the public has been reminded again that too many Washington regulatory officials are double agents.

Mr. President, Mr. Zarb, Mr. Hill, and the entire top brass of the FEA ought to resign, or be fired by the President. During the Nixon-Ford administration, this agency has been run often in direct violation of congressional mandate and intent, and certainly with less than a vigilant and questioning eye on the machinations of the Nation's petroleum industry. While lower level FEA bureaucrats have spun an endless series of regulations, the Nation has watched energy prices skyrocket, oil company profits soar, and public anger and frustration reach new heights. The agency has been less than forthright, less than aggressive, and less than efficient.

I think we have had enough of Mr. Zarb's brand of energy politics. President Ford should ask for the resignations of Mr. Zarb, Mr. Hill, and the entire top brass at the FEA before Congress adjourns, and if the resignations are not forthcoming, President Ford should fire the lot.

Mr. President, I ask unanimous consent that three articles on this subject be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

### FEA Aide Possibly Was Scapegoat in Gas Lobbying Case

(By John Fialka)

Investigators for a House subcommittee are studying new evidence that a suspended employe of the Federal Energy Administration (FEA), Robert E. Nipp, former director of the agency's public affairs office, may have been used as a scapegoat in an attempt to ease the agency's problems in a controversy over lobbying activities used to promote deregulation of natural gas.

Nipp, 48, who has served as the agency's press spokesman since it was formed after the Arab oil embargo, was given a six-month suspension without pay from his job last Monday and informed that his salary will be cut from $37,800 to $22,000 a year when he returns.

John A. Hill, deputy administrator for the FEA, told the energy subcommittee of the House Interstate and Foreign Commerce Committee yesterday that the disciplinary action against Nipp was the only action the agency felt it necessary to take after an internal investigation into a series of bizarre events at FEA, including office break-ins, circulation of a forged memorandum and an admitted obstruction of a probe by the subcommittee's investigators.

Hill, 35, who runs the day-to-day operations at the agency, admitted that the last six months have been a "very unfortunate period in FEA."

The subcommittee's counsel, Frank Potter, told Hill that if Nipp had been disciplined because he had cooperated with subcommittee investigators, "this is a very serious matter indeed." The subcommittee, he said, was "troubled" that Nipp, who gave the subcommittee evidence that a requested document had been destroyed, had been the one who was punished while an FEA lawyer, James Rubin, who helped destroy the document and removed others from files requested by investigators, was given a promotion last week.

Increasing the subcommittee's concern over the matter is a packet of documents it has received anonymously in the mail containing several drafts of a memo that Nipp had given investigators that was later found to be a forgery. The packet also contains a note calling Nipp a "turkey" and as having "too much power."

According to Jim Phillips, a subcommittee investigator, the new material has been turned over to the FBI for fingerprint and typewriter analysis.

Nipp's name came up several times yesterday as Hill admitted that he decided to delay responding to a December letter from the subcommittee's chairman, John Dingell, who requested information about how an FEA pamphlet, "The Natural Gas Story," had been produced.

After is was discovered that the documents requested by Dingell would disclose that one of the editors who reviewed the pamphlet was an employe of the American Gas Association, an industry group pushing for the deregulation of natural gas, Hill said he was worried about the impact such information would have on a House vote on deregulation, which was scheduled for Feb. 5.

So Hill said he ruled that the materials were "irrelevant" and should not be sent to Dingell, an opponent of deregulation, before the vote. Hill admitted that, in retrospect, "this decision may have been a case of improper judgment. . . ."

Afterwards, he said, the agency decided to further delay replying to Dingell's request because it was felt that Dingell, "having been successful in the floor fight on the deregulation vote, was probably no longer interested. . . ." Hill said this was "regrettable."

Finally. on March 31, after FEA's general counsel, Michael F. Butler, received an angry phone call from Dingell, FEA decided to comply with Dingell's request. Hill added that Butler, however, "does not recall" that Dingell said he wanted nothing removed from the files dealing with the publication.

Rubin and another FEA lawyer, Eric J. Fygi, then reviewed the files and removed several documents. They decided to destroy one of them, a memo suggesting that FEA should "shove it to Dingell," according to a detailed statement given to the subcommittee by Hill.

Hill said they were trying to save the employe who wrote it from embarrassment and he rejected the charge by Dingell that he, Rubin and Fygi and several other FEA aides were involved in a "cover-up."

Investigators did not learn about the "shove it to Dingell" memo until they received a packet of documents from Nipp, who has testified that he was following orders from FEA's administrator, Frank Zarb, to cooperate with Dingell's investigators.

Among the documents collected by Nipp from his sources within the agency. however, was a small memo called a "buckslip," purportedly signed by Rubin, that suggested stronger language on the need for deregulation might be used in the pamphlet. The memo later was proven to be a forgery and Hill began the disciplinary action against Nipp because he had allegedly sent Congress a forged document.

The forgery was discovered in April shortly after Nipp's office had been burglarized and just after his public affairs staff had been cut by Hill from 122 to 70 persons. Nipp appeared to be confused about the memo. First he told subcommittee investigators he had received it from two other persons. Later he said he had written it. Still later he said he was "covering" for other FEA employes who he thought might have written it to help him.

Now Nipp believes the forged memo was deliberately inserted in the documents he was collecting for the investigators to set him up for the disciplinary action. "Hill has a vested interest in making me a scapegoat in this while thing," Nipp told a reporter, charging that Hill had always regarded him as an enemy.

### FEA Accused of Cover-Up in Natural Gas Case

(By John Fialka)

House investigators charged today that five officials of the Federal Energy Administration have engaged in a "cover-up" to impede a subcommittee's investigation of how a trade association was allowed to review an agency publication calling for higher natural gas prices.

The cover-up, according to investigators of the House Commerce Committee's energy and power subcommittee, included the removal of materials from files that had been requested by investigators and the destruction of some documents.

Named in the investigators' report were John A. Hill, deputy administrator; David G. Hanes, executive assistant to Frank Zarb, the agency's administrator; Michael F. Butler, general counsel, Butler's deputy, Eric J. Fygi; and Stanley P. Hidalgo, deputy director of FEA's office of congressional affairs.

While he denied there was a cover-up, Hill told the subcommittee today that he felt it was "clear that some FEA personnel made significant errors in judgment" in preparing the publication and admitted that his agency was guilty of "failing to respond" to the subcommittee's request for information regarding the publication and its development.

One subcommittee investigator, Michael Barrett, said the agency's activities, seen in the context of a critical congressional vote on deregulation of natural gas, amount to lobbying by a federal agency, which he said is illegal.

Before testifying before the subcommittee, Hill has told The Washington Star that the cover-up charge was erroneous and an "outrage" and that the report contained many inaccuracies. In testifying under oath, however, he admitted that most of the major incidents described by the investigators had, in fact, occurred.

He also admitted that he personally had decided that the subcommittee's letter requesting information about how the publication was prepared should not be answered until after a crucial House vote on deregulation of natural gas. He said he decided that how the publication was prepared was "irrelevant information" that "should not be allowed to influence in any way the outcome of a vote on the House floor."

"This logic may be inappropriate; it is certainly widely used," Hill said, admitting that it may have been an "improper judgment." He denied, however, that it amounted to a cover-up.

The report charges that Fygi and James Rubin, executive director of the agency's "Natural Gas Task Force," removed and destroyed documents that would have shown that a pre-publication copy of a pamphlet entitled the "Natural Gas Story" had been sent to the American Gas Association, an industry trade association, and that the association had suggested a number of changes that were later made including a stronger argument for the deregulation of natural gas.

Th pamphlet, the release of which was later blocked by a suit brought by the Consumers Federation of America, was written by Edward Falck, a private gas expert and member of AGA. According to the report, he was paid $9,000 for his work.

Last fall, after a draft of the pamphlet had been submitted, the report says; Clyde Ball, an employe of FEA's office of communications and public affairs, sent a copy to a "friend," Paul Smith, a marketing expert for the AGA, "to review the manuscript for technical accuracy."

Ball later told investigators that he had acted on his own and that he "didn't consider this to be unusual." At the time there were no agency regulations barring such outside review, but the AGA's involvement, if known, would have had an impact on the CFA suit, then pending, and on the House vote on whether or not to follow FEA's suggestion and deregulate natural gas. The vote was scheduled for Feb. 5.

The report states that although the subcommittee's chairman, Rep. John Dingell, D-Mich., had written Zarb making repeated requests for access to the files relating to the pamphlet, beginning in December, "a group of top FEA officials made the decision to ignore the Dingell letter, and with it, the request for access to the files."

The alleged cover-up, according to the report, was successful in delaying disclosure until after the Feb. 5 vote (which the FEA and industry forces seeking deregulation lost by a narrow margin) and might have "continued indefinitely" if Dingell had not kept insisting, finally gaining access to the agency's files in late March.

### Refiners Could Keep the Money—FEA Admits $1.3 Billion Oil Price Error

Washington.—The Federal Energy Administration said it and the oil industry made a pricing mistake that could cost consumers $1.3 billion.

The agency proposed letting the refiners keep the money.

The FEA said the dollar total averages out to 0.6 cent a gallon in the price of petroleum products such as gasoline and heating oil.

The agency proposed amending its regulations to let oil refiners keep the $1.3 billion because the mistake was partly due to wrong guidance to the industry from the FEA about oil-price rules, said David Wilson, FEA deputy general counsel.

The FEA said it won't make a final decision on the oil-price proposal until after a hearing Oct 13. It also asked for public comment on the matter by Oct. 7.

The FEA said the snafu results from incorrect interpretation of its oil price rules by refiners from January 1975 through January 1976.

The agency said its rules at that time allowed oil refiners to pass through to customers their increased costs for purchase of crude oil. Refiners were allowed to save or "bank" such costs so they wouldn't have to pass them along all at once for competitive reasons.

The FEA rules at the time, though, didn't allow banking of the cost of doing business other than the purchase of crude oil.

Such non-oil product costs had to be passed through within a month of being incurred and couldn't be banked.

Wilson said that many oil refiners, though, incorrectly banked the costs of doing business as well as the crude oil costs.

Later, much or most were passed through to customers although the FEA doesn't yet know exactly how much, Wilson added.

The refineries' actions were due to their misinterpretation of complex FEA rules and also to wrong guidance they got from agency manuals on the matter, the officials said.

## THE PALESTINIAN ISSUE

Mr. BEALL. Mr. President, perhaps no region in the world is as volatile as the Middle East. The area has been the scene of four major wars and almost continual tension throughout the past three decades.

As my colleagues all know, I have a deep and abiding personal commitment to the State of Israel. I have consistently supported legislation, appropriations, and policies designed to insure the military and economic security of our ally in the Middle East. I believe that we must make it clear to friend and foe alike, that the United States will not tolerate the destruction of the State of Israel.

The volatile state of the region is heightened by the dangerous role the Soviet Union is playing in the Middle East. The Soviets have poured massive amounts of military supplies into the more radical Arab States. They have obstructed our efforts to find a peaceful solution to this problem and it has become clear to me that they want to keep the Middle East pot simmering. The buildup of Soviet naval forces in the eastern Mediterranean Sea, the rising power of the Communist Party in Italy, and various restrictions on our use of bases to resupply Israel in other Western European nations all serve to complicate our efforts to guarantee the survival of Israel.

I believe the best interests of the United States, Israel, and the moderate-responsible Arab States would be well served by finding a peaceful solution to this protracted conflict. Even if all outside factors could be neutralized, the search for peace would be long and difficult. One of the thorniest issues that has to be dealt with is the Palestinian question. The pros and cons of establishing a Palestinian State have long been debated. Dr. Clinton Bailey who lectures on Palestinian affairs at Tel Aviv University, expressed his belief that "The problem of the Palestinians must be solved in order to embark on a lasting peace."

Mr. President, I ask unanimous consent that Dr. Bailey's article entitled "Palestinian Nationalism's Extremist History" which appeared in the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### PALESTINIAN NATIONALISM'S EXTREMIST HISTORY

(By Clinton Bailey)

TEL AVIV.—The last three years have witnessed increased support for Palestinian independence among the Western nations. The slogan "No peace without Palestinian statehood" is widely accepted, and examples of Palestinian extremism are dismissed as exceptional. An examination of the role of extremism in Palestinian political behavior, however, leads one to the opposite conclusion—that there will be no peace if the Palestinians succeed in establishing a state.

Extremism has always had the upper hand in Palestinian nationalism. Throughout the British Mandate, the extremist faction led by the Mufti of Jerusalem set the tone for the entire community. In 1947, the extremists precipitated the Arab-Israeli war by rejecting the United Nations Partition Plan. After the war they persuaded the Palestine refugees to reject offers of resettlement. They also harassed the moderate Jordanian Government into antagonizing Israel. When in 1967 they pressed King Hussein into allowing terrorist raids from within Jordan, they precipitated the escalation that brought on the six-day war.

In September 1970, it was the more extreme elements in the Palestine Liberation Organization that drew all the organizations into a war with Jordan, and the refusal by extremists to honor agreements with the Government of Lebanon precipitated the present civil war in that country.

If extremism were solely a method of dealing with the Jews, it might be understandable. However, extremism has so frequently led the Palestinians to sabotage their own cause that one comes to see in it an irrepressible element of their political behavior.

Palestinian extremism contains a total unwillingness to compromise, even for tactical reasons. In 1922 the Mandatory government proposed the establishment of a Legislative Council in which the Arabs would have a five-to-one advantage over the Jews. This council would have been a most effective platform for expressing their opposition to further Jewish immigration. The extremists rejected the proposal because it implied acquiescence in the presence of a few thousand Jews already in Palestine.

When the Palestinians rejected the United Nations Partition Plan, they forfeited their chance to establish a state. Then extremism lost them the West Bank when Yasir Arafat involved the unprepared Arab states in the six-day war. In 1970, extremism led the P.L.O. to be expelled from Jordan; in 1976, perhaps from Lebanon as well.

Extremism, however, has also paid off. In 1921, the British invested Amin al-Husseini as Mufti of Jerusalem after he had incited riots for two consecutive years. In the 1960's, violence often forced King Hussein to accept Palestinian demands; and in the 1970's Western nations, intimidated by Palestinian terrorism, are calling for the establishment of a Palestinian state.

The British surrender to violence, instead of moderating the Mufti, merely encouraged him to be more extreme. King Hussein's concessions to the Palestinians merely whetted their appetite. Similarly, the call of Western nations for Palestinian statehood, if successful, will not eliminate extremism but rather, by confirming its effectiveness, encourage its further use against Israel and Jordan.

Another reason why extremism will prevail in an independent Palestine is that traditional Palestinian factionalism still survives. The Palestinian sees greater value in promoting his own faction than in national solidarity. In the Arab Revolt of 1936–39 three times as many Arabs were killed in factional strife over the leadership of the revolt than were Jews and Britons. And As Saiqa Syrian-based units of the Palestine Liberation Army have shed the blood of fellow Palestinians so that Syria, which supports them, will remain predominant in Lebanon.

Factionalism aggravates extremism because each faction is loath to let another outdo it in being extreme. In the civil war of 1970, a disaster to the Palestinians, Mr. Arafat joined George Habash in fighting the Jordanians because Mr. Habash's extremism was making the Popular Front for the Liberation of Palestine more popular than Mr. Arafat's Al Fatah. In an independent Palestine, no moderate leadership, however sincere, will be able to restrain the extremists and remain in power.

All movements of liberaation, including Zionism, have extreme elements, but in some the moderates prevail. Among the Palestinians there are moderates too; but they never prevail. Some extremist-dominated movements, moreover, become moderate with independence, but that is because independence is their only goal.

One cannot argue that because the Palestinians are a nation they deserve a state. This claim, denied by the Arabs themselves to the Kurds of Iraq and the blacks of the Sudan, is not an axiom of international behavior. If it were, the African continent would comprise twice as many states as it does and countries in the East and West would have to divide.

The international community may be warranted in advocating statehood for a nation that does not constitute a threat to the regional order. In the light of experience, however, that may not be expected of the Palestinians.

A solution that will grant the Palestinians national expression while sparing the region an additional source of friction must be sought in the context of Palestinian autonomy within Jordan or Israel. Which it will be must be decided by the two states themselves. The problem of the Palestinians must be solved in order to embark on a lasting peace. But there will be no peace if the solution is an independent Palestinian state.

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## RESPONSE TO AN AMERICAN LEGION RESOLUTION ON GENOCIDE

Mr. PROXMIRE. Mr. President, my distinguished colleague from New Mexico recently shared with us a resolution from the American Legion Post in Silver Spring, N. Mex., expressing opposition to Senate ratification of the Genocide Convention. Although I appreciate the concern voiced in this resolution, I would like to comment on some of the points raised.

First, the Genocide Convention is not retroactive. The provisions of this treaty would not apply to actions which occurred prior to its ratification.

Second, the convention would in no way jeopardize the rights guaranteed by the Constitution or the Bill of Rights. The Supreme Court, "has regularly and uniformly recognized the supremacy of the Constitution over a treaty," Reid against Covert. This treaty cannot and will not supercede the Constitution of the United States.

Third, the convention will not make Americans subject to the dictates of a world court. Under the treaty, the United States reserves the right to try all American citizens charged with genocide here at home, with all of our safeguards.

Mr. President, I hope the American Legion Post will reconsider their objections to the Genocide Convention. We must act now to ratify this important human rights treaty.

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## IS AN AMERICAN ENTEBBE-LIKE RESCUE LEGALLY POSSIBLE?

Mr. BEALL. Mr. President, on July 4, 1976, the bicentennial of the founding of this Republic, Israeli Armed Forces carried out a daring but spectacularly successful rescue of over 100 passengers held hostage on an Air France Airliner at Entebbe, Uganda. My reaction to this rescue mission was one of deep admiration for the skill and courage with which it was executed.

It raised in my mind several important questions about the ability of our own Government to respond to a similar situation should it ever develop. In recent years a great deal of attention has focused on the so-called "War powers" of the American Presidency. As one who has supported the enactment of the war powers legislation and other efforts by Congress to play a more active role in the shaping of our defense and foreign policies, I began to wonder whether we had taken any steps which would inadvertently prevent an American President from acting with equal swiftness and determination should such circumstances develop.

I requested and received an in-depth memorandum from the American Law Division of the Congressional Research Service which explored various aspects of this question.

Mr. President, after viewing the findings of Raymond J. Celada, senior specialist in American public law, I believe that the President of the United States does have the authority to order a Entebbe-like rescue mission. I believe that it would be beneficial to make this legal memorandum a part of the public record and I would, therefore, ask unanimous consent, Mr. President, that the text of Mr. Celada's memorandum be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Library of Congress,
Congressional Research Service,
*Washington, D.C. August 4, 1976.*

To: Honorable J. Glenn Beall.
From: American Law Division.
Subject: Is an American Entebbe-Like Rescue Legally Possible.

Reference is made to your inquiry of July 13, 1976, requesting information on the above matter. Specifically, you ask whether a U.S. President sua sponte can respond in the manner of the Israeli rescue of 100 plus hostages at Entebbe, Uganda, or, if he is prevented from doing so by the War Powers Resolution, P.L. 93–148, 87 Stat. 555 (1973); 50 U.S.C.A. 1541 et seq. (Supp.) or other provisions of domestic law.

Your inquiry essentially asks "just what authority goes with the name [Commander-in-Chief]." Jackson, J., concurring, Youngstown Co. v. Sawyer, 343 U.S. 519, 641 (1952). If the Commander-in-Chiefship power which "puts the Nation's armed forces under presidential command," includes the right and duty to protect American nationals abroad, then Congress may not deprive him of that aspect of such command. Ibid. It may be noted that the interpretation section of the War Powers Resolution, 50 U.S.C.A. 1548(d) provides, inter alia, that nothing in the law "is intended to alter the constitutional authority of Congress or the President."

The records of the debates at the Constitutional Convention on the division of the war powers between the two political branches are sparse. Two points emerge from the available documentation: First, that as with the king of Great Britain, the President is Commander-in-Chief of the Army and Navy; however, unlike the king, the President was not authorized to commit the United States to war. The Federalist No. 69, at 465 (J. Cooke ed. 1961) (A. Hamilton). Second, that by vesting Congress with the power to "declare" war rather than to "make" war as originally proposed, the Framers "[left] to the Executive the power to repel sudden attacks." 2 The Records of the Federal Convention of 1787, at 318–319.

As will be seen shortly, the authorities are generally in accord with respect to the right of a nation to use force to protect its nationals abroad. Also, there are suggestions in case decisions that the President as Commander-in-Chief is the chief instrument to carry it out. The Senate version of the War Powers Resolution contained a provision (S. 440, 93rd Cong., 1st Sess., § 3(3)) which would have authorized the President to employ the Armed Forces "to protect while evacuating citizens and nationals of the United States . . . ." The report of the Foreign Relations Committee stated that this authority was conferred by the Constitution, viz.; "Subsection [ ] . . . . . . 3 [is] codification [ ] of the President's authority to 'repel sudden attacks' and protect U.S. nationals whose lives are endangered abroad—powers based on established precedent and the intention of the Constitutional Convention, as evidenced by Madison's notation about 'leaving to the Executive the power to repel sudden attacks.'" S. Rept. No. 220, 93rd Cong., 1st Sess. 2–3 (1973).

Section 3 of the Senate version was eliminated in conference and the House version which in large measure became the law leaves this matter unresolved. However, the Mayaquez incident wherein the President moved forcefully to free a U.S. merchant ship and its crew, stands as somewhat of a counterpoint to the argument that he is either unable to or disabled from undertaking such rescue efforts. In carrying out the Mayaquez operation the President reported to the Speaker of the House and the President Pro Tempore of the Senate in accordance with the requirements of the War Powers Resolution, 50 U.S.C.A. 1543 (Supp.). See, for example, 11 Weekly Compilation of Presidential Documents 514–515 (May 19, 1975).

## I

Generally, both international and domestic legal authorities support the right and duty of a nation to employ force as a last resort to safeguard the lives and property of nationals abroad. The former make clear that there exists a "general consensus supporting the right of a State to intervene by the use or threat of force for the protection of its nationals suffering injuries within the territory of another State. . . ." Whiteman, 12 Digest of International Law 187 (1971).

Insofar as the limits on the threat or use of force in the protection of nationals abroad, Bowett states that:

". . . there may be occasions when the threat or danger is great enough in its application to a sizable community abroad, for it to be legitimately construed as an attack on the state itself. It is submitted that, in deciding at what stage a threat to nationals involves a threat to the state, no process of 'counting heads' will serve any useful purpose. The proper recourse is to have recourse to the principle of relativity of rights which demands a weighing of the one state's right of territorial integrity against the other state's right of protection. This is also demanded by the requirement of proportionality which is common both to reprisals and to self-defense. The measures of self-defense, of protection, must be proportionate to the danger, actual or imminent, to the nationals in need of protection. It follows, therefore, that action in self-defense must be conditioned by respect for the equal rights of other states and that it must not be, in the words of Mr. Webster, 'unreasonable or excessive . . . (but) justified by the necessity of self-defense, . . . limited by that necessity and kept clearly within it.' The principle of relativity of right and the notion of proportionality involve a strict adherence to the measure of proportionally which the occasion demands, so that a state may not lightly violate the independence and integrity of another state in defense of its own right to the treatment of its nationals according to established standards. Bowett, Self-Defense in International Law 91 (1958).

As to the conditions upon which the protection of the life and property of nationals may be predicated in the exercise of the right of self defense, Bowett states that:

". . . The Regulations for the Government of the Navy of the U.S., under which action has been taken on many occasions, are of interest in so far as they set out the basis upon which intervention is justified in these terms:

"The right of self-preservation, however, is a right that belongs to states as well as to individuals, and it includes the protection of the state, its honour, and its possessions, and the lives and property of its citizens against arbitrary violence, actual or impending, whereby the state or its citizens may suffer irreparable injury. . . . It (the use of force in time of peace) must be used only to the extent which is absolutely necessary to accomplish the end required. It can never be exercised with a view to inficting punishment for acts already committed." (1913, para. 1647.)

"It is believed that this accurately states the conditions upon which the right of self-defense may be exercised in the protection of nationals and their property, the question of the protection of the 'honour' of the state apart. For in these terms protection is seen as an exceptional measure, available as a last resort to prevent irreparable injury, and never as an act of reprisal for acts already committed." Bowett, *supra*, at 93–95.

Other authorities in the same vein cited in Whiteman, 12 *Digest of International Law* 191–192, include the following:

". . . The landing of forces without consent, being unmistakably a usurpation of political authority, is *prima facie* intervention. The question is whether it is an intervention which is justifiable as an exceptional measure of self-protection. That must depend on whether it satisfies the principles laid down in the Caroline incident. There must be (1) an imminent threat of injury to nationals, (2) a failure or inability on the part of the territorial sovereign to protect them and (3) measures of protection strictly confined to the object of protecting them against injury. Even under customary law only an absolute necessity could justify an intervention to protect nationals. But, where such necessity existed, intervention seems to have been legally justifiable in the period before the Covenant." Waldock, "The Regulation of the Use of Force by Individual States in International Law," 81 *Recueil des Cours* (1952, vol. II) 455, 467."

"The prohibition of the use of armed force may be restricted not only by permitting the use of armed force in executing the specific sanctions provided by the constituent treaty and exercising self-defense, but also in case a state comes to the assistance of its own nationals abroad whose lives or property are seriously endangered." Kelsen, "Collective Security Under Internatonal Law", U.S. Naval War College, *International Law Studies*, 1954 (1956) 62.

". . . It is also generally held that the right of self-defense extends not only to the protection of a State's territory, armed forces, vessels and aircraft against attack, but equally to the protection of its nationals in foreign territory in case they are threatened with loss of life or grave physicial injury, by action of an extra legal character directed against them by the local government, or against foreign nationals generally, or arising from a breakdown of law and order in the territory concerned, or from mob violence which the local authorities are unable to control. This is a controversial matter, because the right is liable to abuse, and may be made the pretext for politically motivated intervention. . . . No subsequent action, remedy, redress or compensation can bring the dead to life or restore their limbs to the mained. There is no remedy except prevention. In this lies the ultimate justification for intervention of this kind. Its object is protective. No doubt, because the plea of safety of foreign lives may be made the pretext for intervention having nationalistic or other ulterior aims, this plea has become suspect. But its humanitarian basis exists and cannot be overlooked. In this connection it may be recalled that, again in the Corfu Channel case, the International Court made an important pronouncement according to which humanitarian considerations were given the status of a principle of law. The Court mentioned as giving rise to international obligations 'certain general and well recognized principles' and amongst these cited 'elementary considerations of humanity, even more exacting in peace than in war." Fitzmaurice. "The General Principles of International Law Considered from the Standpoint of the Rule of Law", 92 *Recueil des Cours* (1957, vol. II) 5, 172–174.

The United States recognized the principle at an early date when it condoned the action of Great Britain in invading American waters and destroying the *Caroline*. The incident which occurred during the Canadian Rebellion of 1837 was precipitated by American sympathizers who used the ship in question to transport arms to the rebels. The United States were the beneficiaries of the principles in 1901 when the Chinese Imperial Government conceded that President McKinley's action in joining the powers in defense of the legations in Peking against the Boxers had not constituted an act of war. Corwin, The President, Offices and Powers 1787–1957, 198 (1957).

The power to use force to protect citizens abroad was recognized in *Durand* v. *Hollins*, 8 F. Cas. 111 (No. 4186) (D.D.S.D.N.Y. 1860).

The case arose because of the bombardment of Greytown, Nicaragua, by the U.S. *Cyane* commanded by Lieutenant Hollins. The action was taken when the local authorities defaulted on reparations for damage done to the U.S. Consul by a local mob. Hollins was sued by Durand who claimed compensation for damages to his property occasioned by the bombardment. Hollins' defense that he was acting under orders of the President and the Secretary of the Navy was sustained by Mr. Justice Nelson who observed that—

"As the Executive head of the nation, the President is made the only legitimate organ of the General Government, to open and carry on correspondence or negotiations with foreign nations, in matters concerning the interests of the country or of its citizens. It is to him, also, that citizens abroad must look for protection of person and of property, and for the faithful execution of the laws existing and intended for their protection. For this purpose, the whole Executive Power of the country is placed in his hands, under the Constitution, and the laws passed in pursuance thereof; and different departments of government have been organized, through which this power may be most conveniently executed, whether by negotiation or by force—A Department of State and a Department of the Navy.

"Now, as respects the interposition of the Executive abroad, for the protection of the lives of property of the citizen, the duty must, of necessity, rest in the discretion of the President. Acts of lawless violence, or of threatened violence to the citizen or his property, cannot be anticipated and provided for; and the protection, to be effectual or of any avail, may, not unfrequently, require the most prompt and decided action. Under our system of Government, the citizen abroad is as much entitled to protection as the citizen at home. The great object and duty of Government is the protection of the lives, liberty, and property of the people composing it, whether abroad or at home; and any government failing in the accomplishment of the object or the performance of the duty, is not worth preserving." 8 F. Cas., at 112.

Mr. Justice Miller, in the *Slaughter-House* Cases, 16 Wallace (83 U.S.) 36, 79 (1872), declared that a "privilege of a citizen of the United States is to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government. Of this there can be no doubt or that the right depends upon his character as a citizen of the United States."

## II

Generally, the "War Powers Resolution" is intended to insure legislative-executive cooperation in the conduct of hostilities. Under the Constitution, the power to wage war is a joint responsibility of the Congress and the President. As enumerated in Article I, section 8, the Congress shall have the power

> 11. To declare war, grant letters of marque and reprisal, and makes rules concerning captures on land and water;
>
> 12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than 2 years;
>
> 13. To provide and maintain a Navy;
>
> 14. To make rules for the government and regulation of the land and naval forces;
>
> 15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;
>
> 16. To provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States;
>
> 17. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

The President's powers in this regard are set out in Article II, section 2 as follows:

> The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States. . . .

For a variety of reasons, both intrinsic institutional and extrinsic circumstantial reasons, the exercise of the presidential warmaking power grew while that of the Congress receded during the cold war period. As a general matter, Congress accepted the Commander-in-Chief's determination that strategic interests of the United States were involved in various parts of the world. Throughout this period, congressional action consisted in the main of passing area resolutions which supported the President's judgment regarding the need to use the U.S. Armed Forces in hostilities and appropriation of moneys for their support.

Understandably, as disillusionment with U.S. involvement in Southeast Asia grew, persons both on and off Capitol Hill began to reexamine and reassert the congressional warmaking role. Proposals designed toward this end sought to underscore the joint nature of the war powers delegated by the Constitution. Generally, the centerpiece of such proposals was the establishment of procedures to ensure prior consultation with the Congress. As explained by the House Committee on Foreign Affairs.

> The objective . . . was to outline arrangements which would allow the President and Congress to work together in mutual respect and maximum harmony toward their ultimate, shared goal of maintaining the peace and security of the Nation. House Report No. 93–287, at 5.

Beginning in the 91st Congress, both the Senate and House considered legislative proposals directed toward this goal. Differences between the approaches of two Houses, as well as the difficulty of legislating on the subject during ongoing hostilities produced a number of impasses, notably in the 92d Congress, when conferees could not reconcile their different points of view. Finally, the impasse was broken during the 93rd Congress, when the conferees hammered out a bill largely along the lines of the House-passed measure. As previously noted, one of the chief differences between the Senate and House versions was the former's enumeration of circumstances in which the President could commit troops upon his own authority (e.g., "(3) to protect while evacuating citizens and nationals of the United States . . ."). S. 440, 93rd Cong., 1st Sess., Senate Report No. 93–220, *supra*. The House resolution made no effort to distinguish between such circumstances and those in which he could not commit troops without specific congressional approval. The wedding of the two approaches has occasioned some problems. See "The War Powers Resolution: Statutory Limitation on the Commander-in-Chief", 11 Harvard Journal on Legislation 181 (February, 1974).

The introductory or purpose line of the measure ultimately passed by both Houses over a presidential veto, reads: "Concerning the war powers of Congress and the President." The House Report states that:

> The word "concerning" was chosen because the resolution is merely intended to elaborate upon the application of the warmaking powers of the Congress and the President mentioned in the Constitution. By contrast with other [particularly Senate] war powers proposals, House Joint Resolution 542 does not attempt any itemized definition of the war powers. House Report No. 93–287, at 6.

The resolution's first section provides that it may be cited as the "War Powers Resolution".

Section 2 which is captioned "Purposes and Policy", consists of three subsections. The first of these states that it is the purpose of the resolution to carry out the Framers' intent that any decision to commit U.S. armed forces into actual hostilities or in circumstances of potential hostilities will be the result of joint congressional and executive action. In the words of the resolution, that such a decision represents "the collective judgment of both the Congress and the President . . . ."

Subsection (b) refers to Congress' necessary and proper power and asserts that it relates to all of the powers of government, not simply the powers conferred upon the Congress.

Subsection (c) is a statement of the Commander-in-Chief's powers to commit U.S. armed forces into actual hostilities or in circumstances of potential hostilities. It states that such powers may be "exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces." Since the President possesses certain inherent powers in the area, see, for example, *Durand* v. *Hollins*, 8 Fed. Cas. 111 (No. 4186) (C.C.S.S.D.N.Y.), confirming his power to protect American lives and property, it may not be surprising that this subsection is not controlling of the operative provisions that follow. Thus, the Conference Report provides that:

> Subsequent sections of the joint resolution are not dependent upon the language of this subsection. . . . House Report No. 93–547, at 8. See the aforementioned law review article for paradox that may obtain partly as a result thereof.

Section 3, which is captioned "Consultation" directs the President "in every possible circumstance" to consult with Congress before committing the U.S. armed forces to actual hostilities or in circumstances of potential hostilities. This requirement is buttressed by an additional directive to the President which calls upon him to "consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations." It is clear from the Conference Report that "consultations [are to] take place during hostilities even when advance consultation is not possible." House Report No. 93–547, at 8. As explained in the earlier House Report:

> . . . consultation prior to the commitment of armed forces should be inclusive. In other words, it should apply in extraordinary and emergency circumstances—even when it is not possible to get formal congressional approval in the form of a declaration of war or other specific authorization.
>
> [However] . . . a situation may be so dire, e.g., hostile missile attack underway, and require such instantaneous action that no prior consultation will be possible.

It [section 3] is therefore simultaneously firm in its expression of congressional authority yet flexible in recognizing the possible need for swift action by the President which would not allow him time to consult first with Congress. House Report No. 93-287, at 6.

It is clear from the legislative history of the "War Powers Resolution" that consultation envisions joint participation of the President and the Congress, not simply the conveyance of information between the two political branches of the government.

. . . consultation in this provision means that a decision is pending on a problem and that Members of Congress are being asked by the President for their advice and opinions and, in appropriate circumstances, their approval of action is contemplated. Furthermore, for consultation to be meaningful, the President himself must participate and all information relevant to the situation must be made available." House Report No. 93-287, at 6-7.

Section 4 which is captioned "Reporting" requires the President to report to the Congress when, "[i]n the absence of war", he takes steps to involve the U.S. armed forces in hostilities. Specifically, the President would be required to report to the Congress in accord with section 4(a) whenever he is going to introduce U.S. troops (1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances; (2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; (3) in numbers which substantialy enlarge United States Armed Forces equipped for combat already located in a foreign nation.

One significant difference between first and second circumstances outlined above is that the former refers to the commitment of U.S. troops to a war zone, that is, where hostilities are in actual progress, while the latter refers to the introduction of U.S. troops into a noncombat area which introduction runs the risk of their becoming involved in hostilities. The dispatch of marines to Thailand in 1962 and the quarantine of Cuba at the time of the "Missile Crises" were cited as examples falling within the second circumstance. House Report No. 93-287, at 8.

The third circumstance requires the exercise of some commonsense-based judgment. In brief, a 100 percent increase in the marine guard force at an embassy would not necessitate a report whereas a 25 percent increase in U.S. armed forces personnel at Guantanamo Bay, Cuba, would. See House Report, No. 93-287, at 8.

The initial presidential report is required to be submitted to the Congress within 48 hours.

The report which is to be transmitted to the Speaker of the House and to the President pro tempore of the Senate, must address three points, viz: (A) the circumstances necessitating the introduction of U.S. armed forces; (B) the constitutional and legislative authority therefore; and (C) the estimated scope and duration of the hostilities and U.S. involvement.

Section 4 requires the President to give any other information that Congress may request and requires him to submit periodic reports—at least every 6 months—so long as U.S. troops are engaged in actual hostilities. As explained in the Conference Report, "[t]he objective is to ensure that the Congress by right and as a matter of law will be provided with all the information it requires to carry out its constitutional responsibilities with respect to committing the Nation to war and to the use of the United States Armed Forces abroad." House Report No. 93-547, at 8.

Section 5 which is captioned "Congressional Action", more than any other provision can be termed the "heart" of the "War Powers Resolution." It sets durational and other limits on the President's ability to commit U.S. troops to hostilities "[i]n the absence of a declaration of war." Generally speaking, in the absence of congressional authorization, the President may not continue U.S. involvement in hostilities for more than 60 days—90 days in certain extraordinary circumstances. However, Congress may bring U.S. participation in hostilities to an end at any time by passage of a concurrent resolution.

Section 5(a) provides that "each" report relating to the involvement of U.S. troops in hostilities or in circumstances which portend imminent involvement in hostilities shall be transmitted to the House and Senate on the same calendar day. The report, in turn, is to be referred to the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations for appropriate action. If Congress is not in session when the report is submitted, the Speaker and the President pro tempore, "if they deem it advisable" or if they are petitioned by 30 percent of the membership of their respective Houses, "shall" request the President to convene Congress so that action may be taken.

Section 5(b) provides that "within sixty calendar days after a report is submitted or is required to be submitted" the President would be obligated to terminate the commitment covered in the report unless the Congress (1) enacts a declaration of war or a specific authorization for the use of the U.S. armed forces, *or* (2) enacts a specific 60-day extension, *or* (3) is unable to convene because of an armed attack upon the United States. Briefly, if at the end of 60 days Congress has taken no affirmative action specifically authorizing the President to continue hostilities, he must order the withdrawal of the troops in question. The resolution permits a single exception from this mandatory requirement. The President is allowed an additional 30 days if he "determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of the United States Armed Force requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces."

Section 5(c) provides that the use of U.S. troops by the President without a declaration of war or specific statutory authorization can be terminated by congressional passage of a concurrent resolution. The concurrent resolution which is not subject to a presidential veto can terminate U.S. involvement in hostilities at any time—i.e., even before the initial 60-day period has run its course.

Section 6 which is captioned "Congressional Priority Procedures for Joint Resolution or Bill", describes congressional procedures which govern the consideration of legislative proposals affirmatively authorizing the President to continue hostilities. Section 6(a) provides that legislation to this effect will be referred to the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations if it is introduced "at least thirty calendar days before the expiration of the [specified] sixty-day period." Briefly, in order to receive traditional committee consideration, a proposal authorizing support for the President's actions must be introduced within 30 days after a report is submitted or is required to be submitted. Moreover, unless the House or Senate votes otherwise, its respective committees must report such legislation "not later than twenty-four calendar days before the expiration of the sixty-day[s]" after which the President is required to recall the U.S. Armed Forces.

Section 6(b) makes any such legislation when reported the "pending business of the House in question." Also, unless such House provides otherwise, the proposal must be voted within 3 days.

Section 6(c) provides that a legislation passed by one House shall be referred to the appropriate committee in the other House. The latter in turn, is required to report the legislation "not later than fourteen calendar days before the expiration of the sixty-day[s]" after which the President is required to recall the U.S. Armed Forces.

Section 6(d) provides that in the event of a disagreement between the House and Senate versions of such legislation, conferees shall be appointed and must report "not later than four days before the expiration of the sixty-day[s]" after which the President would be required to withdraw U.S. troops from hostilities.

Section 7 which is captioned "Congressional Priority Procedures for Concurrent Resolution" describes congressional procedures to be followed when considering a concurrent resolution terminating U.S. involvement in hostilities. By virtue of subsection (a), a concurrent resolution for this purpose would have to be referred to the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations. Unless otherwise determined by the House in question, its committee would have 15 days to consider and report the matter.

Section 7(b) requires the reported concurrent resolution to be made the pending business and, unless otherwise provided, to be voted within 3 calendar days.

After its passage by the initiating House, such a concurrent resolution is to be referred to the appropriate committee in the other House. The latter, in turn, has 15 calendar days to consider and report it. Thereafter, the concurrent resolution becomes the pending business of that House which generally has 3 days to consider and vote the matter.

Section 7(d) provides that if a conference is required because of differences in the House and Senate passed versions, the conferees have 6 days to reconcile such differences. Notwithstanding any procedural rules to the contrary, both Houses are required to act on the conference report within 6 calendar days. If the conferees fail to agree within 48 hours, they shall report the fact of disagreement to their respective Houses.

As explained by the House Report, "[t]he intent of the committee in including sections [6] and [7] is to establish the status of relevant legislation as "privileged motions,' approximate to the procedure followed when a discharge petition is filed for the consideration of a resolution." House Report No. 93-287, at 11.

Section 8 which is captioned "Interpretation of Joint Resolution", deals with the construction, intent and effect of the resolution. Subsection (a) provides that authority to commit U.S. troops cannot be inferred from various sources. Specifically, such authority shall not be inferred from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), . . . unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this resolution . . . .

"The purpose of this clause is to counteract the opinion in the *Orlando* v. *Laird* decision of the Second Circuit Court holding that passage of defense appropriation bills, and extension of the Selective Service Act could be construed as implied Congressional authorization for the Vietnam War." Senate Report No. 220, 93rd Cong., 1st Sess., at 25. Nor can a similar inference be drawn from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

This clause has a two fold purpose:

First, is to ensure that both Houses of Congress must be affirmatively involved in any decision of the United States to engage in hostilities pursuant to a treaty. Treaties are ratified by and with the consent of the Senate. But the war powers of Congress in Article I, section 8 of the Constitution are vested in both Houses of Congress and not in the Senate (and President) alone. A decision to make war must be a national decision. Consequently, to be truly a national decision, and, most importantly, to be consonant with the Constitution, it must be a decision involving the President and both Houses of Congress.

Second, the provisions with respect to treaties are important so as to remove the possibility of future contention such as arose with respect to the SEATO Treaty and the Vietnam War. Senate Report No. 220, at 26.

Section 8(b) makes it clear that the "War Powers Resolution" does not prevent members of the United States Armed Forces from participation in certain joint military exercises with allied or friendly organizations or countries (e.g., NATO, NORAD, UNC). House Report No. 93–547, at 10.

Section 8(c) defines the term "introduction of United States Armed Forces" to include the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

Section 8(d) specifies that nothing in the resolution "is intended to alter the constitutional authority of the Congress or of the President . . ." and nothing "shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces . . . which authority he would not have had in the absence of this joint resolution."

Section 9 is the now familiar "Separability Clause" which states that if any provisions of the "War Powers Resolution" or its application to any person or circumstance is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected.

Section 10 establishes the "Effective Date" of the "War Powers Resolution" as the date of enactment.

### III

That there exists various tensions among certain provisions of the War Powers Resolution and between the War Powers Resolution and the Commander-in-Chiefship powers seems fairly obvious. Illustrative of the former is the apparent conflict between the "Purpose and Policy—Congressional Declaration" section, 50 U.S.C.A. 1542, which inter alia, purports to limit presidential use of U.S. Armed Forces in hostile situations, actual or potential, to three specified circumstances, and a reading of the reporting and congressional action sections, 50 U.S.C.A. 1543 and 1544 so as to mean that the President is authorized to use such forces in combat as long as he complies with the reporting requirement and Congress does not adopt a disapproving resolution, 119 Cong. Rec. 33860, 33870, 33872, 36207 (1973). An example of the latter is the seeming contradiction between the same "Purpose and Policy, etc.," section and the range (?) of pure Article II initiatives. The uncertainty is heightened by the aforementioned legislative history which indicates that that section is not deemed to be controlling of the substantive provisions of the War Powers Resolution.

Although there appears to be almost universal agreement that the Nation has the right and duty to use reasonable force to safeguard citizens and nationals abroad, opinions vary as to whether the President is constitutionally authorized to undertake such an initiative. For a dissenting view, see Kelley, "The Constitutional Implications of the Mayaguez Incident," 3 Hastings Constitutional Law Quarterly 301 (Winter 1976). However one views the matter, that is, either as an exercise of constitutional power or a statutorily delegated power, the Mayaguez episode stands as evidence that that and similar rescue efforts are not out of the question. In the aftermath of the Mayaguez affair, Senator Eagleton proposed various amendments to the War Powers Resolution, including one which would declare that the President has the right to rescue endangered citizens even in the absence of congressional authorization. S. 1790, 94th Cong., 1st Sess. Obviously, passage of such an amendment would resolve the existing uncertain situation.

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## PETITION FILED WITH ITC TO SLOW COLOR TV IMPORTS

Mr. BAYH. Mr. President, American workers and industry are being severely injured by a rising tide of imported color TV sets flooding into our home market. Members of a coalition of labor unions and companies have filed a petition with the U.S. International Trade Commission requesting that import quotas be established for color televisions.

As the New York Times points out, this is one of the most important "escape clause" cases filed under the 1974 Trade Act. Many hundreds of workers are involved and so are a number of high-technology companies.

The Congress will be following the progress of this case with considerable interest and I ask unanimous consent that a story from the September 23 issue of the New York Times which discusses this pending petition be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Petition Asks Curb on Color TV Imports

Washington, September 22.—Five manufacturers and 11 unions filed a petition with the United States International Trade Commission today seeking to curb rapidly growing imports of color television sets, mainly from Japan.

Imports, according to the petition, reached 29 percent of the market in the first seven months of this year, up from 16 percent in all in 1975. The petition seeks relief in the form of import quotas.

Along with shoes, already decided, and sugar, which has just begun, this is one of the most important "escape clause" cases filed under the 1974 trade law. Import relief has been granted in only one case so far—stainless and other specialty steels.

In several relatively minor cases the commission found injury from imports, but the only relief granted was "adjustment assistance" for companies and workers in the industry.

### SIX MONTHS TO DECIDE

The Commission will have six months to decide whether the color television industry is being damaged by imports and, if it is, to recommend relief.

In the shoe case, the commission unanimously found injury but divided three ways on the relief. Because there was no majority for any form of relief, though three of six commissioners recommended import restraints, President Ford chose only adjustment assistance, and Congress was unable to override his decision.

The big Tax Revision Bill, which the President is expected to sign shortly, contains a provision designed to correct this situation. From now on a vote of three commissioners will be considered a majority recommendation, and the President can reject it only at the risk of being overridden by a vote of either house of Congress.

The manufacturers and unions that filed the petition today are grouped in a new body called, The Committee to Preserve American Color Television. Co-Chairmen of the group are Jacob Clayman, secretary-treasurer of the Industrial Union Department of the A.F.L.-C.I.O., and Allen W. Dawson, executive vice-president of Corning Glass Works.

## BRIG. GEN. ROBERT H. MORRELL RETIRES

Mr. THURMOND. Mr. President, Brig. Gen. Robert H. Morrell who spent 40 years in service to his State and Nation retired September 12, 1976, as Chief of Staff of the South Carolina Air National Guard, concluding a truly outstanding career.

Indeed, his service in the South Carolina Air National Guard began with that organization's first muster 30 years ago, shortly after World War II. Ten years earlier, this man had taken his first oath of military service in the U.S. Marine Corps Reserve. By the time World War II began, he held a commission and the wings of a pilot in the then Army Air Corps. It was after his distinguished wartime service that he joined in organizing his State's Air National Guard. Since that time he was an integral part of that excellent operation, serving as Chief of Staff from 1961 until his retirement this month.

Mr. President, the career of General Morrell is as inspiring as it has been productive. His love of flying has never faltered, beginning in his youth and remaining today. His love of country is as deep as his commitment to service. The example of his life's work and the manner in which he has conducted his duties stand as an inspiration to all who seek to serve.

General Morrell was a true son of the soil where he served the most. Only a stone's throw from the Air National Guard base in Richland County was the place of his birth, as well as his home throughout the years.

When duty called, however, his travels were far and wide. Twice, over a period of years, he led the citizen-airmen of his organization into Federal service as international problems arose.

General Morrell is a dynamic man and he has provided his leadership and expertise in a generous manner. When I was Governor of South Carolina, the Air National Guard was in its infancy. It was in those days that I had occasion to learn of his dedicated work and patriotism. He has displayed those same high qualities of commitment and purpose during all the years of his service.

Mr. President, the organization which this man headed serves as the finest example of his good works. It has consistently rated with the best and the caliber of his leadership is evident in the high quality of performance by the South Carolina Air National Guard. Upon his retirement he was awarded the second star of a major general, the South Carolina Meritorious Service Medal and the accolades of all who knew him.

At the time of his retirement, a number of newspaper accounts were published in South Carolina about the ceremony and about the man. In order that my colleagues may have the opportunity to know more about General Morrell, I ask unanimous consent that one such representative article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Columbia (S.C.) State, Sept. 13, 1976]

### GENERAL MORRELL RETIRES, GETS MERITORIOUS MEDAL

EASTOVER.—Brig. Gen. Robert H. Morrell retired here Sunday as chief of staff for the S.C. Air National Guard (SCANG), capping a colorful 40-year military career amid praise for "molding the SCANG into the finest Air Guard unit in the country."

Maj. Gen. Robert L. McCrady, S.C. adjutant general, offered that praise and conferred upon Morrell the South Carolina Meritorious Service Medal—highest honor bestowed by the state's Military Department upon National Guardsmen.

The presentation came in ceremonies at McEntire Air National Guard Base, where Morrell helped organize the SCANG and attended its first muster in 1946.

Before a stately formation of some 600 Air Guardsmen, McCrady presented the medal and cited Morrell for outstanding and meritorious service to his state and nation while Chief of Staff (SCANG) from May 29, 1961 to September 12, 1976."

McCrady added, "Brig. Gen. Morrell also served as commander of McEntire Air National Guard Base and directed its development to a highly effective facility that today is recognized by Department of the Air Force as one of the most modern and efficient in the reserve system."

Morrell was then presented the Guardsman's Retirement Medal and promoted to the rank of major general.

The flamboyant Morrell launched his military career in 1936 by volunteering for service in the U.S. Marine Corps Reserve. He then earned a commission and his pilot's wings in 1941, and distinguished himself as an Army Air Corps pilot during WWII.

The powerful built Morrell has won respect throughout the national Air Guard community for his forceful, outspoken style of leadership. He has also been revered by Palmetto State Air Guardsmen as a fair and compassionate leader. It was an emotional moment for the veteran Air Guard commander as he stood before the formation of his troops Sunday and heard McCrady say, "Gen. Morrell has given, really and truly, most of his life to his country in the various years that he's worn the uniform."

McCrady further told the troops, "All that you see about you hasn't just happened by accident. It came about, to a tremendous extent, due to the foresight and initiative of Gen. Morrell. I know he won't forget it, and I hope you don't.

"He wanted to see you progress and be the professionals I'm proud to say you've turned out to be."

Morrell was born in the Lower Richland area of Richland County, and will retire to "hobby farming" at his home near here in Horrell Hill. His wife, the former Kathleen Hook, is also a life-long resident of the Lower Richland community.

Some 1,000 citizen-soldiers comprise the SCANG force. Brig. Gen. Grady L. Patterson Jr. will become the new SCANG chief of staff. Patterson is state treasurer of South Carolina and a command pilot with more than 5,000 flying hours.

## AGRICULTURAL PUBLICATIONS ARE NEEDED

Mr. BURDICK. Mr. President, last week the President signed H.R. 8603, the Postal Reorganization Act Amendments of 1976, into law. I wish to express my hope that this legislation, through the creation of the Commission on Postal Public Service, will result in the kind of positive answers to the staggering problems of the Postal Service that we all seek.

We who represent the vital farming areas of the Midwest are greatly concerned with mounting postal costs and threatened decreases in service. This act provides a moratorium on postage rate increases, service cutbacks and post office closings until the Commission on Postal Public Service completes its work and recommendations on March 15, 1977.

One tragic result of mounting postal costs is the decline in both the number and circulation of agricultural magazines. It has predicted that world population will double early in the 21st century. A top Agriculture Department official recently explained that the world will be faced with a simple challenge—

> Grow more food with less land, less energy, and less water.

Our agricultural magazines will be required to meet this challenge as our agricultural science is expanded.

It is in the national interest to maintain this vital flow of scientific information from the laboratory to the land. Agricultural magazines have made a vast contribution to the great success of American agriculture whose production is a miracle before the eyes of a hungry world.

And yet, we see this widely recognized tool of farming being slowly driven from the land. In recent years the American Beef Producer went out of business. After 53 years of service to the livestock industry, this publication was suspended "because of skyrocketing postal rates, printing costs, and budget cuts on the part of agribusiness advertisers * * *." Farm Quarterly, a highly respected publication, ceased publishing around 1973, citing the same basic reason for its demise. Now we are advised that, after 50 years, the American Farmer, the official voice of the Farm Bureau, with a circulation of 2½ million copies per issue, has suspended publication with its April/May issue. Facing postal hikes of an additional $100,000 this year, this important farm publication was forced to fold. Unless we can put the brakes on mounting postal costs, there will be even more farm magazines making this same announcement in the not-too-distant future.

Paid circulation agricultural publishing comprises less than 2 percent of all second-class mail. According to the U.S. Department of Commerce, there are currently 33 publications engaged in this business. Since 1960 the number of such farm publications has declined from 49 to 33. Total circulation has also declined by 7 million copies in that same period of time. Advertising revenues in farm publications on an annual basis had declined from $55 million per year in 1960 to $47 million in 1971. This decline continued after 1972 and is continuing.

Can we afford this information decline in the science of agriculture? In the face of national and international demand on the American harvest, we should be increasing the flow of technical information rather than curtailing it. For truly, the agricultural magazine has made an outstanding contribution to the vitality and success of our Nation's farms.

Look at the record. We are told that today 1 American farmworker supplies enough food and fiber for 56 people. Ten years ago he was producing enough for only 29 people. Only 5 percent of our work force is employed on the farms who now produce basic food and fiber worth $88.6 billion. Agricultural exports have increased from $5.7 billion in 1969 to $21.6 billion in 1975. This success is due in no small part to our ability to keep scientific information for improved farming and farm yields readily available for the American farmer.

It is my sincere desire and belief that the Commission will recognize the importance of all science of agriculture publications.

## PETITION FOR IMPORT RELIEF—COLOR TV

Mr. TAFT. Mr. President, I should like to call to the Senate's attention a petition for import relief which is about to be filed with the International Trade Commission by 11 labor organizations and 5 corporations concerned by the astonishing rate at which imports of color television sets have taken over the American market. In 1966, imported color televisions were 5 percent of the U.S. market, with 240,000 sets imported. In 1975, imports had 16 percent of the market, or 1,214,000 sets. Imports have captured 31 percent of U.S. sales so far this year, with 2,000,000 sets to be imported by year's end. The result of this sudden import invasion has been a severe threat to 65,000 jobholders in the U.S. color television industries, and with secondary effects on jobs in many related industries.

This is not a case of normal import growth. This is no gradual adjustment of production patterns to reflect changing costs or technology. This is a case of sudden, overwhelming efforts at capturing foreign markets. There have been dumping rulings against many of these importers in the past, and there are more complaints pending.

I await the ruling of the ITC on this petition with great interest.

## UNITED STATES-CHINA RELATIONS

Mr. SPARKMAN. Mr. President, I wish to call the attention of the Senate to the excellent work being done by the National Committee on United States-China Relations, under the chairmanship of the distinguished former Ambassador to the United Nations, Mr. Charles W. Yost.

Among its many activities directed toward encouraging public interest in, and understanding of, China and United States-China relations, the National Committee arranges for visits to the People's Republic of China by a variety of Americans. One such visit last summer was by a group of staff members of several congressional committees, including two from the staff of the Committee on Foreign Relations. In accordance with the rules of the Foreign Relations Committee, those staff members have since reported, in confidence, to the committee. Not only have their reports contributed to the committee's understanding of this complex country; but more importantly, the insights which they gained from their experience in the People's Republic will be available to the committee in the years to come.

I ask unanimous consent that there be printed in the Record a statement, prepared by the National Committee on United States-China Relations, on its purpose and history.

There being no objection, the statement was ordered to be printed in the Record, as follows:

### United States-China Relations

#### PURPOSE

The National Committee on United States-China Relations is a private, non-profit, educational organization which encourages public interest in, and understanding of, China and United States-China relations. As a citizens' committee, it is composed of distinguished Americans from all parts of the country who represent many viewpoints and walks of life. They share the belief that increased public knowledge of China and U.S.-China relations is essential to international understanding and the effective conduct of America's foreign policy.

The Committee's purpose is carried out through a program of educational, cultural, civic, and sports exchanges with the People's Republic of China and through educational activities enhancing, reinforcing and building upon such exchanges: conferences and meetings on related subjects, advisory services for organizations and individuals interested in participating in the exchange process, and information services.

The Committee's work has been cited by President Ford for its "important contribution . . . to our national effort to build a normal relationship with the People's Republic of China."

#### HISTORY

The Committee was formed in 1966 following two major conferences that brought together prominent scholars, government officials, businessmen, and journalists for discussion of China and China policy—topics that had received little dispassionate public study for over a decade. The founding members recognized the mounting danger in the mutual isolation and hostility of the People's Republic and the United States, and felt there was a pressing need to mobilize public concern.

During its first four years, the Committee brought the question of U.S.-China relations to the attention of thousands of Americans through 130 seminars and meetings throughout the country, including a National Convocation in New York (1969) attended by over 2,500 people. Scores of appearances on radio and television were arranged for China specialists, and a study of "China Trade Prospects and U.S. Policy" drew the interest of more than 200 corporations.

In 1969, the United States government took the first steps to come to grips with the reality of China by substantially easing restrictions on American contacts with the P.R.C. ,The National Committee has been credited with contributing substantially to the climate of American public opinion that made possible this reassessment of U.S. policy.

With increased interest in China, the demand for educational programs and information grew. The National Committee produced "China Conversations," an extensive series of taped interviews with China specialists, for distribution to commercial and educational radio stations, schools and other organizations. Field Staffs, composed of graduate students and teachers at major universities across the country, were established to assist high schools, community organizations, and the local media with their China programs. The activities of these Field Staffs have now been incorporated into the regular outreach programs of a number of universities. The San Francisco Bay Area China Education Project was established to develop and test new mechanisms of cooperation between university and pre-collegiate educators in order to improve teaching about China.

In April 1971, the People's Republic of China extended its surprise invitation to the U.S. Table Tennis Team. Almost a year before the advent of "ping pong diplomacy," the National Committee had felt that it was time to prepare Americans for future de facto relations with the P.R.C. In January 1971, a roundtable meeting of scholars and representatives of civic, educational, and professional groups was convened in New York to consider the "Prospects and Problems of Developing Relations with China." A second meeting in July 1971 carried the discussion of exchange prospects further, drawing upon the experience of recent visitors to that country. Attention was increasingly given to practical education for those who might have early contact with China—businessmen, journalists, scientists, educators and others.

The historic reciprocal visit to the United States of China's Table Tennis Team in April 1972 was jointly arranged and financed by the National Committee and the United States Table Tennis Association. This successful event paved the way for the National Committee's participation in the developing exchange program between the two countries.

Believing exchanges to be among the most valuable educational tools available, the Board of Directors decided in 1975 to concentrate the Committee's efforts on the conduct of exchanges with the People's Republic of China and on related activities. Simultaneously, it was agreed to assist the Asia Society in developing a new public education program on China to carry out a variety of educational activities in which the Committee would no longer be directly involved.

## OCEAN THERMAL ENERGY CONVERSION PROGRAM

Mr. MATHIAS. Mr. President, one of the novel uses of one of our largest natural resources—the ocean—is now being investigated by the Johns Hopkins Applied Physics Laboratory. In its most recent report to the U.S. Maritime Administration, the APL concludes that the development of an industrial plant ship and the attendant commercial benefits of such a ship are both technologically and economically feasible. In fact, if the program gets off the ground this year it could provide a way to save up to 3 percent of our domestic natural gas consumption by the mid 1980's.

I call my colleague's attention to interest in this program expressed by the Commerce Committee in its report on the 1977 Maritime Appropriation Authorization Act. The committee stated:

> For several years, the Johns Hopkins Applied Physics Laboratory (APL) has been working in this area. More specifically, APL proposes to construct an industrial plant ship which will operate in international waters where it will generate electricity to ultimately produce ammonia which will be transported to U.S. markets in conventional bulk carriers.
>
> The Committee believes this proposal holds significant near-term potential for replacing large volumes of natural gas now used as a feed-stock in the production of ammonia. Furthermore, it will generate hundreds of shipyard jobs during the construction of the plant ships as well as seagoing jobs for the crew of supporting supply vessels and bulk carriers which will transport the ammonia to U.S. ports.

A recent article in the Baltimore News American details the findings of the Applied Physics Lab. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### APL Report Says Factory Ship Could Supply Ammonia

(By Ellison Moss)

Scaggsville.—A feasibility report prepared by the Applied Physics Labs of Johns Hopkins University here asserts a "floating factory" ship could cruise tropical ocean waters and glean enough raw materials to produce 313 tons of ammonia a day.

A demonstration ship would have a 140,000 long ton displacement, a 196 foot beam and be 476 feet in length.

According to the report, the ship would "graze" the tropical waters at a speed slightly in excess of one mile per hour and pick up the materials for the manufacture of the ammonia through the use of inexhaustible solar energy found in the warm waters of the globe.

The Hopkins' APL finding notes 21 plants of commercial size, each producing 586,000 tons of ammonia a year, could fill 40 per cent of the United States' ammonia requirements by 1986 and save 475 billion cubic feet of natural gas a year.

The report explained 75 per cent of the nation's ammonia is used in the making of fertilizer, primarily for corn and wheat.

The findings were prepared by the APL for the U.S. Maritime Administration and work was done on the report by a team of scientists under the direction of Dr. William H. Avery, assistant director of the APL, for exploratory development.

Warm ocean water piped aboard the graze ship would evaporate the working fluid (ammonia) in a heat exchanger in a closed system creating a vapor to turn a turbine to make electricity.

Cold water drawn from depths of 2,500 feet would cool the vapor to liquid ammonia. The process then would start over again.

The electricity generated by the process would be used to electrolyze water to make hydrogen and to operate an air liquefaction unit to make nitrogen.

Combining nitrogen and hydrogen forms ammonia.

The report asserts the use of such a graze ship and combined factory to produce inexpensive fertilizers would alleviate some world food shortages.

The Ocean Thermal Energy Conversion plant (OTEC) also would bring nutrient-rich cold water to the surface where it could be made available to shellfish.

If an OTEC construction program were begun in American shipyards, a shipyard employment increase of about 100,000 could be achieved, the report states.

## BABI YAR—35TH ANNIVERSARY

Mr. JACKSON. Mr. President, today, September 29, is the 35th anniversary of the tragic massacre of the Jews of Kiev. Babi Yar has become the symbol throughout the world of the struggle of the Jewish people to survive. Yet the present Soviet leadership is trying to wipe out all memory of Babi Yar and of the holocaust.

It has taken an unconscionable number of years and continuing international pressure to persuade the Soviet authorities to build a Babi Yar monument. Finally, they constructed a memorial which nowhere mentions or portrays the Jewish people. And Moscow discourages those who want to visit the site of their massacred relatives and share in religious services of remembrance. Just this month warnings and threats were issued by the KGB against Jews who wish to participate in the ceremony of solemn mourning on September 29 in accordance with Jewish national tradition.

Mr. President, this is one more chapter in the plight of the Jewish people of Soviet Russia, a people whose suffering is one of the tragic stories of this century.

By writing letters, by peacefully demonstrating, by asking for their internationally recognized right to emigrate, even by just being Jews, they put their very lives on the line. These are genuine heroes of our time. They command our deepest respect.

Today, on the anniversary of Babi Yar, I urge President Ford to utilize all available channels, formal and informal, to convey the American position that the Soviet Government must honor the U.N. Declaration of Human Rights and the words of its own Constitution by permitting the free expression of ideas and religious observances by all its citizens. I ask unanimous consent to print in the RECORD a number of recent items relating to Babi Yar, including a statement by Eugene Gold, chairman of the National Conference on Soviet Jewry.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### NATIONAL CONFERENCE ON SOVIET JEWRY CHAIRMAN CHARGES BABI YAR MEMORIAL EMBARGOES JEWISH HISTORY

NEW YORK.—"The Soviet Government's newly erected monument at Babi Yar, perpetuates the Soviet's denial of Jewish history," said Eugene Gold, Chairman of the National Conference on Soviet Jewry (NCSJ), on the 35th anniversary of the Nazi massacre of Kiev's Jews. "The monument which makes no mention of Jews, is an all embracing embargo and a prime example of the Soviet authorities' insensitivity to Jewish suffering."

Hitler's systematic extermination of Kiev's Jews at Babi Yar began on September 29, 1941 when Nazi machine guns murdered men, women and children in the ravine. Estimates of the number of Jews killed vary between 70,000 and 100,000. Thereafter, the site was used as a routine place of execution and in the next two years thousands of people of various Soviet nationalities were slaughtered and buried there.

According to Soviet news agency reports, and an account in Pravda, a newly dedicated 50-foot high memorial depicts eleven dead and dying victims about to fall into the Babi Yar ravine and omits all references to Jews. The inscription reads, "Here in 1941–1943 German Fascist occupiers killed more than 100,000 citizens of Kiev and prisoners of war."

The monument is a further example of the USSR's conspiracy of silence regarding all aspects of the Jewish contributions in the fight against Hitler and the brutal fact that the Nazis had planned a total extermination of European Jewry," Gold explained.

Knowing the symbolic power of the site Soviet authorities had planned to level the ravine and build a park and sports stadium. But by 1961 when Soviet poet Yevgeny Yevtushenko wrote his famous poem "Babi Yar" the issue of commemorating the thousands killed became an international cause celebre.

"To this day there is not one official major monument to the Jewish victims of Nazism anywhere in the Soviet Union. Not only do the Soviet authorities oppose the building of Jewish memorials, but to gather at Babi Yar, to visit the sites of massacred relatives and participate in services of remembrance for the dead, is an act which is closely watched by the Soviet secret police (KGB).

"To pray for the Jewish dead is considered bourgeois nationalism and Jewish bourgeois nationalism is another term for Zionism according to Soviet ideologists," Gold continued, "The edifice of stone at Babi Yar, who's meaning has been rewritten and perverted, is as much a symbol of anti-Semitism as the ravine."

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[From the weekly news magazine, Time July 26, 1976]

### SILENCE AT BABI YAR

For three decades poets, writers, musicians and at least one politician in the Soviet Union have called for a monument to be built at Babi Yar, a desolate ravine near Kiev that is a worldwide symbol of Jewish martyrdom. There, on Sept. 22–30, 1941, a 150-man SS extermination team assembled the Jews of the German-occupied capital of the Ukraine, stripped them naked, lined them up on the edge of the ravine and machine-gunned them. Children were thrown into the ravine alive. The team halted only long enough to shovel sand over each layer of bodies. When the job was done 36 hours later 33,771 Jews had perished—a record of efficiency unsurpassed even at Auschwitz. By the time the Germans were driven from Kiev in 1943, 100,000 to 200,000 Jews and non-Jews had been murdered at Babi Yar.

#### SILENT SCREAMS

Yet all efforts to memorialize the victims foundered on the Kremlin's unwillingness to acknowledge that Jews were particular targets of the Nazis. The postwar party chief in the Ukraine, Nikita Khrushchev, publicly promised to erect a monument at Babi Yar, but his plan was forestalled by Stalin's anti-Semitic drives. Even after Khushchev himself took power in Moscow, Babi Yar remained a refuse-strewn wasteland. Poet Yevtushenko was fiercely rebuked for singling out Jews as victims of the massacre. So was Composer Dimitri Shostakovich, who made Babi Yar a theme of his 13th Symphony. Soviet Jews seeking to commemorate the massacre's anniversary have been jailed by local police.

Still, last summer construction of a monument near the ravine began. Yet now that the work has been completed, it is clear that there has still been no policy reversal in the Kremlin. Standing 50 ft. high, the memorial consists of eleven bronze statues representing such figures as a Communist guerrilla fighter, a Red Army soldier with clenched fist, and a sailor shielding an old woman. A plaque reads: "Here in 1941–1943 the German Fascist invaders executed over 100,000 citizens of Kiev and prisoners of war." The Jews are nowhere mentioned or portrayed, thus underscoring rather than answering Yevtushenko's plaint: "Everything here screams in silence."

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[From "The Poetry of Yevgeny Yevtushenko, 1953 to 1965," translated by October House Inc. Distributed by the National Conference on Soviet Jewry.]

### BABI YAR

(By Yevgeny Yevtushenko)

No monument stands over Babi Yar.
A drop sheer as a crude gravestone.
I am afraid.
Today I am as old in years as all the Jewish people.
Now I seem to be a Jew.
Here I plod through ancient Egypt.
Here I perish crucified, on the cross, and to this day I bear the scars of nails.
I seem to be Dreyfus.
The Philistine is both informer and judge.
I am behind bars.
Beset on every side.
Hounded, spat on, slandered.
Squealing, dainty ladies in flounced
Brussels lace stick their parasols into my face.
I seem to be then a young boy in Byelostok.
Blood runs, spilling over the floors.
The bar-room rabble-rousers give off a stench of vodka and onion.
A boot kicks me aside, helpless.
In vain I plead with these pogrom bullies.
While they jeer and shout, "Beat the Yids. Save Russia!" some grain-marketeer beats up my mother.
O my Russian people!
I know you are international to the core.
But those with unclean hands have often made a jingle of your purest name.
I know the goodness of my land.
How vile these anti-Semites—without a qualm they pompously called themselves "The Union of the Russian People!"
I seem to be Anne Frank transparent as a branch in April.

And I love
And have no need of phrases.
My need is that we gaze into each other.
How little we can see or smell!
We are denied the leaves, we are denied the sky.
Yet we can do so much—tenderly embrace each other in a dark room
They're coming here?
Be not afraid. Those are the booming sounds or spring; spring is coming here.
Come then to me.
Quick, give me your lips.
Are they smashing down the door?
No, it's the ice breaking . . .
The wild grasses rustle over Babi Yar.
The trees look ominous, like judges.
Here all things scream silently, and, baring my head, slowly I feel myself turning gray.
And I myself am one massive, soundless scream above the thousand thousand buried here.

I am each old man here shot dead.
I am every child here shot dead.
Nothing in me shall ever forget!
The "Internationale," let it thunder when the last anti-Semite on earth is buried forever.
In my blood there is no Jewish blood.

In their callous rage, all anti-Semites must hate me now as a Jew.
For that reason
I am a true Russian!

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### BABI YAR—CALENDAR OF EVENTS

December 4, 1957—The renowned Soviet author V. Nakrasov protested the plan to turn Babi Yar into a park and soccer field and demanded the erection of a monument.

September 21, 1961—The Soviet poet Yevgeny Yevtushenko wrote the poem "Babi Yar," an emotional protest against anti-Semitism.

August 2, 1971—A hunger strike at Babi Yar. Twelve Jews were arrested after the memorial service.

September 5, 1971—A day of mourning at Babi Yar. Jewish delegations from across the Soviet Union placed wreaths and lit memorial candles at the site. The police tried to disperse the crowd, placards written in Yiddish and Hebrew were confiscated and destroyed. Thirty Jewish youths attempted to gather at the synagogue but were prevented by plainclothed police.

April 12, 1972—84 Jews in the USSR appealed to the authorities to allow them a memorial service.

October 2, 1974—Soviet authorities decide to erect a memorial.

October 2, 1975—Piotr Kriksunov and Alexander Ginsburg commemorated on Sept. 28 the creation of a monument. Soviet authorities arrested the two, later releasing them.

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## GEN. MAXWELL TAYLOR ON THE UNITED STATES-SOVIET MILITARY BALANCE

Mr. HATFIELD. Mr. President, the summer issue of Harvard University's International Security contains a very thoughtful article by retired Army Gen. Maxwell Taylor on the United States-Soviet military balance. General Taylor moves away from a comparison of raw numbers into a more sophisticated understanding of the relative strengths of the two adversaries. That alone is a valuable contribution in this election year, when what should be a matter for the most serious analysis has been reduced to emotional sloganeering.

Even more important, Mr. President, is General Taylor's recognition and articulation of the political, economic, and spiritual components of national security. In this he apparently agrees with Dwight Eisenhower, who used to say that the military is only the sharp edge of the sword, while the strength of the blade, and hence the effectiveness of the sword itself, depends upon the strength of the society behind that military might.

Mr. President, I ask unanimous consent that General Taylor's article be printed in the RECORD, and I commend it to my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE UNITED STATES—A MILITARY POWER SECOND TO NONE?

(By Gen. Maxwell D. Taylor)

While public debates on national defense are never unusual, in this election year they have appeared in unusual abundance. One theme already on the agenda concerns the relative military strength of the United States and the Soviet Union. Are we still the number one military power, are we tied for first place, or have we fallen definitely behind our principal rival? Right-wing critics of the present Administration contend that we are allowing ourselves to become dangerously inferior to the Soviets, whereas Administration supporters hotly deny the charge, asserting that we are second to none today and that they intend to keep us so indefinitely.

As an old soldier of hawkish persuasion, I would instinctively rally to the side of those who insist on being at least second to none if I were sure of that slogan's meaning in practical terms. The concern of its vocalizers is clear enough—an apparent imbalance to our disadvantage developing between the war-making potential of the United States and that of the Soviet Union—but how can such a difference in potential be measured?

I find that most of those who debate this issue base their views on comparative tabulations of manpower and weaponry expressed in units which in the past have been used to measure military strength. For strategic forces, the yardsticks are normally numerical estimates of long-range bombers, land-based and submarine-launched ballistic missiles, and the size and numbers of the warheads associated with the missiles. For conventional forces, the analogous measures are numbers of men under arms, army divisions, tanks, ships, and aircraft. While there is no generally accepted calculus for determining net superiority on the basis of these tabulations, the side is usually conceded superiority which has the numerical advantage in the most items.

Obvious, such a method for determining superiority has serious shortcomings. For one thing, it makes the Soviets look good beyond their probable deserts since they generally lead the United States in most of these categories, the notable exceptions of United States superiority being in numbers of bombers, aircraft carriers, and missile warheads. So unless we add to our computations additional factors such as the presumptive superiority in quality of our men and weapons, we shall turn out decisively number two. .

Furthermore, the item count is plagued by the same difficulty which has been encountered in our negotiations with the Soviet Union over the limitations of strategic weapons—the asymmetries between force structures and the difficulties of equating dissimilar elements. How does one devise a common notation system for evaluating units of military strength as different as an army division, a naval task force, a strategic bomber squadron, or a Poseidon submarine? Although we might cut through the knot by taking the position that the United States should be superior in every category of military force, the exorbitant cost of such an effort for the primary purpose of keeping up with the Soviet Joneses should be sufficient to dampen enthusiasm for it.

Another objection to comparison by military line items is the omission from consideration of intangible values which throughout history have been major determinants of victory or defeat. These intangibles include the quality of the contending political and military leadership, the organization and training of the opposing forces, the comparative state of national morale and stamina and the war-sustaining capabilities of the national economies. No such items appear in force tabulations or military budgets, yet they are indications of strength or weakness fully as significant as the size and structure of the armed forces of a nation.

So before taking a final position regarding our strength relative to that of the Soviets, we should make an earnest effort to find a better method for determining what military superiority entails. This need is particularly pressing in the case of strategic weapons where the absence of reliable data on numbers and performance of weapons makes the tabulation method particularly untrustworthy. To appreciate the scope of the problem, we should recall that in the case of ballistic missiles, neither the United States nor the Soviet Union has ever tested a complete weapon system from takeoff to detonation of a warhead at target. Hence, the data on our own missiles are based upon the results of limited numbers of partial tests, usually carried out under laboratory rather than field conditions. As for Soviet weapons, our information is even less adequate. In the SALT negotiations, Soviet representatives have never provided our delegates with any official information as to numbers, characteristics of performance of their bombers, missiles or submarines, leaving our side to depend upon such information as American intelligence agencies have acquired. Despite amazing ingenuity on their part, these agencies have never been able to provide all the data needed to permit a thoroughly reliable estimate of the quality and quantity of the Soviet strategic arsenal.

The development of missiles carrying multiple warheads (MIRVs) has raised another obstacle to determining the number of missile warheads available to the Soviets. Although we are quite candid in reporting the number we expect to have, the Soviets remain mum as usual and we can foresee no accurate way for our intelligence technology to obtain, and subsequently verify, the missing information.

Thus, if we wished to settle the question of strategic superiority by a numbers count, there is no way to make two comparably accurate tabulations of strategic forces. I have long since concluded that because of this inadequacy of weapons data and the inherent incomparability of such factors as missile numbers, accuracy, reliability, megatonnage and indestructibility, a direct comparison of our strategic forces with those of the Soviet Union can be only very approximate and can have only limited meaning. In my opinion, the only rational way to measure the adequacy of our strategic forces is by their ability to destroy all Soviet targets and/or systems which they may be ordered to attack, regardless of the circumstances. This measurement, then, is not primarily dependent on the size of the Soviet forces. For the present and foreseeable future, I am convinced that both the United States and the Soviet Union are able to destroy each other utilizing their present or predicted forces and should be able to retain this destructive capability indefinitely. If such is indeed the case, we may say with confidence that, in the strategic field, both sides are second to none and then pass on to a consideration of conventional forces.

In contrast to strategic forces which are designed to offset similar forces of a specific enemy, the conventional forces of the two countries serve many functions which do not directly involve the other. Nor can the superpowers be certain that their conventional forces will ever be used solely against each other. The Soviets are obliged to maintain some 40 divisions on the Sino-Soviet frontier and 30 more in their European satellites partially to keep in line restless client states which might otherwise incline to revisionist errors. In structuring and positioning our forces, we too must consider contingencies and threats other than those emanating directly from the Soviets—the possibility of a renewal of the Korean War in the Far East or the Israeli-Arab conflict in the Mideast, and the need to keep sea-lanes open to overseas trade partners and suppliers of raw materials.

Furthermore, domestic circumstances might decrease the number of forces which could be properly counted in a comparison of ready conventional strength. I have no doubt that, in an international crisis, concern in Moscow over internal unrest in parts of the Soviet Union would divert a considerable number of Soviet units. In the United States, disagreements between the President and Congress might prevent or at least delay the dispatch of American forces to an overseas scene of confrontation. The War Powers Act of 1973 makes it necessary or at least highly expedient for any President to obtain prior Congressional approval before sending troops into a potential combat situation.

Such considerations bearing on the availability of forces to both sides in a military challenge suggest the uncertainties in making an estimate of relative strength at the point of conflict. The uncertainties increase when we consider the effect of the time, space, and locale upon comparative military effectiveness. In general, the closer the scene of action to home, the greater the advantage of a contestant. Distance increases the time and cost of assembling the forces and of organizing a logistical system capable of sustaining them in combat. Some of the handicaps of distance may be alleviated by the presence of local facilities near at hand, such as ports, airfields and idigenous sources of supply. Allies in the neighborhood may also prove helpful although a resource-poor or technologically backward ally may add to the difficulties of the logisticians. The terrain and climate of the area will also have a bearing on military effectiveness, favorable to the side which has anticipated these factors in training and equipping its forces.

These considerations of force availability and geographical influences on military operations suggests a few generalities regarding the relative strength of United States-Soviet conventional forces. In 1962 Khrushchev demonstrated in Cuba an obvious truth, namely, that the Caribbean was no place for the Soviet to pick a fight with the United States. Regardless of the relative size of the national military establishment, the disadvantages of geography were too great for the intruder.

By the same token, the United States and its allies could never hope to maintain the security of West Berlin by force of arms, situated as it is deep within the territory of the Warsaw Pact. Fortunately, they have not depended upon military means alone for its defense but have succeeded rather well in utilizing a blend of forces in which the political element has predominated.

The fact is that, for geopolitical purposes, both the United States and the Soviet Union may be viewed as adversaries confronting one another across wide oceans, each from a national base of power which embraces its principal means for making and sustaining war. For the United States the national power base is the Western Hemisphere north of approximately the Tropic of Capricorn, including the adjacent hemispheric waters and the sea-lanes linking our homeland to our allies, trade partners, and foreign sources of raw materials. In this quarter of the globe, it is essential for us to establish and maintain military superiority over the Soviets or any other troublemaker bent on disturbing hemispheric tranquility. This superiority should be unqualified as to time, place, or duration.

The Soviets have a similar power base containing more land and less water than ours—the territory of the Soviet Union and the Warsaw Pact countries with the adjacent waters. They have a feeling comparable to ours as to the need to preserve the inviolability of this vast land area. The feeling is reflected in their peacetime military dispositions which suggest those of a beleaguered fortress with a garrison ready and determined to meet and reject the enemy at the moat.

As I contemplate their advantages of geography, the vast military reserves behind them, and the historical performance of their armies in defense of Mother Russia, I am prepared to concede the Soviets superiority along the perimeter of their national base and would expect them for similar reasons (reinforced by the Cuban experience) to display a corresponding respect for ours. This would not be pusillanimity on either side but a sensible recognition that "every cock has great influence on his own dunghill."

At this point, one is tempted to comment that past American policymakers do not appear to have appreciated this truism in pursuing a foreign policy which requires large deployments of armed forces in Western Europe and Northeast Asia far from home and in close proximity to the perimeter defenses of the Soviet Union and its allies. In defense of our policymakers one should point out that, at the time of their decisions, international conditions were quite different from what they are now. The United States enjoyed the advantages of a total or near monopoly of nuclear weapons, of allies with great military potential and of air and maritime supremacy which gave to our forces a strategic mobility permitting the rapid reinforcement of our overseas deployments.

Unfortunately, time has nullified most of these advantages. Today we share nuclear supremacy with the Soviets. In Europe, the NATO alliance is showing its years; member states exhibit alarming signs of political and economic debility; most of them must defer to the OPEC cartel which controls their oil supply.

The growth of the Soviet air force and navy, particularly of the submarine fleet, coupled with the absence of an American line of communications across France raises serious doubts as to our ability to reinforce NATO from across the Atlantic even it we maintain ample reserves in the United States for that purpose. Under these circumstances to which are added the inherent disadvantages of geography, I see no hope for establishing sustained military superiority over the Soviets in Western Europe.

In other areas of likely confrontation, notably the Mediterreanean-Mideast and Northeast Asia, the situation is not so bleak but yet is definitely not encouraging. In both areas should a confrontation occur, we would again be far from home and our communications endangered by Soviet submarines. In the Mediterranean-Mideast, we would lack allies and secure bases to help with the logistic problems. In the Far East we would operate under the cloud of our Vietnam failure in close proximity to the strong Soviet forces in their maritime provinces. While the Soviets would have a fair share of problems of their own in both areas, I find little in either situation to warrant a claim of American military superiority.

It is true, of course, that if we had not staked out our national interests so close to the Soviet power base we would have made a better showing in these comparisons. If we could chose a scene of confrontation with favorable geographic and logistic characteristics, we could probably establish superiority over such forces as the Soviets might be able to muster there. The difficulty is to imagine a reason for a direct collision with the Soviets in such a place. With the exception of fishing, the Soviets have had none of the economic incentives which attract a nation from its home shores and which account for much of the global dispersion of American national interests. When pursuing political goals abroad the Soviets rarely allow their own military forces to become involved. When a fight seems imminent, they seem always able to find proxies to do the job. So, although mischief by surrogate is likely to remain a Soviet tactic along with the practice of troubling international waters in anticipation of fishing in them, I would expect no provocation on their part which might lead to crossing swords with the United States at a distance from home. And, especially where the factors of time and space would favor our side, there seems little chance of a military showdown.

Perhaps this discussion has been futile as an exercise to prove or disprove conclusively that the United States is a military power second to none. It would appear that we can claim equivalence of power in strategic weapons but that, in conventional warfare, any statement on the subject must be carefully qualified in terms of where, when, and for how long. Unfortunately, if the time is the present or the near future and the place is Europe, the Mediterranean-Mideast, or Northeast Asia, the qualifying footnotes would amount to a concession of probable superiority to the Soviets and their allies.

If an excuse were needed for this unsatisfactory outcome, one might argue that the question of relative superiority was posed in too narrow terms. What we should want to know is whether our aggregated national power, made up of political, economic, military and spiritual components, is adequate to assure our security and well-being despite the opposition to be expected from the Soviets and other unfriendly forces. While Soviet malevolence backed by increasing military strength is likely to remain a primary obstacle to our well-being, it is only one of several. We shall be exposed to many dangers for which we cannot blame the Soviets: the global consequences of excessive population growth, a mounting resentment of have-not nations against the international affluent clique of which the United States is the most notorious member, the increasing scarcities of raw materials retarding our economy, and the progressive degeneration of the democratic governments to which we are allied. Furthermore, we ourselves have serious internal weaknesses which the Soviets can exploit but did not cause—inadequacies of government and leadership, national disunity, and self-destructive political and social practices.

We would be ignoring the essential needs of national security if we focused our concern exclusively on our military strength in relation to that of the Soviet Union. As we have seen, there is no way of achieving unqualified military superiority everywhere all of the time regardless of the effort expended. Even if the impossible were achieved, it would still not assure our overall objective of national security and well-being. Internal weaknesses alone if unrestrained would be sufficient to invalidate a major effort to improve our military posture in relation to the Soviets. After all, unlimited military force is of little use without a trusted national leader to direct it and a united people to support him in its use. Heavily armed but divided, we would run the danger of feeling superior to all but being in fact second to many in the effectual integrated power which counts.

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## U.S. LIONS CLUBS AND FAMINE RELIEF

Mr. CRANSTON. Mr. President, I single out the U.S. Lions Clubs for the extraordinary work they are doing in the areas of international famine relief. The Lions are currently organizing a nationwide program, mobilizing the volunteer efforts of their members, to collect, ship and distribute existing stocks of Civil Defense shelter biscuits and carbohydrate supplements to needy countries overseas.

As you know, local communities hold title to the Civil Defense stocks, Since 1970, a handful of municipalities have donated more than 13,500 tons of food cartons to foreign areas for disaster relief. In these instances ocean shipping costs were born by the U.S. Government through AID. The Acting Director of the Defense Civil Preparedness Agency said in January 1975:

> Our aim is to continue to request cooperation of States and local governments to donate the food while it is still nutritious and edible and to assist the Agency for International Development with the necessary administrative arrangements to make the shipments.

In the meantime, large-scale progress in shipping the stocks to hungry countries has faltered because of the lack of funds expressly targeted for this purpose. What the Lions Clubs are now attempting to do is to provide the resources and manpower needed to meet this task without requiring a specific authorization of funds. They will be working in close cooperation with volunteer disaster relief agencies and the Defense Civil Preparedness Agency.

I believe that there are instances where a project is undertaken with such vigor and scope that it deserves special Senate recognition. In a year when food prices keep rising at home and the world food crisis persists, I hope that my colleagues in the Senate will join me in supporting this humanitarian relief project of the U.S. Lions Clubs—a project that involves no cost to the American taxpayer.

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## TRIBUTE TO PAUL EBELTOFT

Mr. BURDICK. Mr. President, throughout my years in Congress I have been fortunate to have had the assistance of an outstanding staff. Several members of my present staff have been with me since I first arrived in Washington. The contributions of these individuals has meant a great deal to me and their efforts have made my task of representing the State of North Dakota more fulfilling and productive.

One of the standout staff members during my tenure here in the Senate has been Paul F. Ebeltoft, Jr. As many of my colleagues whose States have experienced natural disasters have found, Paul is the Senate expert on disaster assistance. Through his work on the Subcommittee on Disaster Relief which I chair, Paul has dealt effectively with natural disaster legislation and problems around the Nation, including Hurricane Agnes, the Rapid City flood, and the recent dam breaking in Idaho. Paul has provided effective and outstanding counsel to the committee as a whole and to its chairman.

In addition, Paul has worked diligently on matters related to the development of national energy policies, national water and air pollution policies and other key environmental legislation. We will surely miss Paul Ebeltoft in the Senate. He is, in my opinion, the kind of staff person whose dedication to reasonable and sensible national policy has helped to make this body what it has often been called, the greatest deliberative body in the world.

I want to take this opportunity to thank Paul for his outstanding contribution and to wish him and his wife Gail the very best as they return to North Dakota to embark on their new careers and life.

## ADMINISTRATION DISREGARDS HUMANITARIAN FOOD AID MINIMUM

Mr. HUMPHREY. Mr. President, this administration has left no uncertainty as to its attitude toward humanitarian food assistance.

Under the present administration, title I of Public Law 480 was turned into a fund to use for foreign policy objectives.

In the later years of the Vietnam war when the Congress limited economic assistance to Southeast Asia, National Security Council strategists hit upon the idea of using title I of Public Law 480 as a way of getting around the restrictions placed on resource transfers to this area by the Congress.

Thus, in fiscal year 1974, two-thirds of our Public Law 480 title I program was allocated to Cambodia and Vietnam. That was a year of unprecedented tight food supply worldwide. Food aid shipments had fallen to 3.3 million metric tons from the 1968 through 1972 average of 9.8 million metric tons. Yet, little was left of the title I pie for humanitarian assistance after the State Department had taken its cut in order to respond to foreign policy priorities.

Now the administration is trying early to woo the farm vote. Yet, what the current administration has done to title II of Public Law 480 is even more alarming to our humanitarian sensibilities. Unlike title I, under which the U.S. Government simply provides long-term financing for developing-country governments to purchase agricultural commodities on our market, title II authorizes a distribution of food commodities directly to needy people through the programs of U.S. voluntary agencies and the World Food Program. Therefore, title II represents our truest form of food aid in the sense that the food commodities are used directly to alleviate hunger and human suffering.

Yet, under the leadership of the present administration, title II shipments, which had been maintained at between 2.5 and 3 million metric tons annually, were abruptly reduced to 1.3 million metric tons in fiscal year 1974.

In order to halt this decline, Congress in December of 1975 passed legislation mandating a minimum level of shipments under title II of Public Law 480 of 1.3 million metric tons annually. In establishing this figure, I had been advised by the Secretary of Agriculture that he could support a minimum, if the figure was reduced from 1.5 million metric tons as provided under the House version of this legislation, to 1.3 million metric tons.

Yet, memories are sometimes short. The administration has failed to meet the legal requirement that 1.3 million metric tons of commodities be distributed under Public Law 480 annually.

In fiscal year 1976, 986,781 metric tons grain equivalent of commodities were shipped under title II of Public Law 480. Despite the good faith which seemed to prevail at the time Congress was working on the proper formulation of this legislative minimum, the administration has attempted to develop excuses for failing to conform to the law. It is claimed that the legislative mandate that 1.3 million metric tons of title II commodities be distributed in any fiscal year does not mean that they actually be shipped but simply that they be approved for programing.

But hungry people cannot eat promises. The concern of the Congress is that at least a minimum level of food aid reach needy people in any given year. The 1.3 million metric tons, as provided in the International Development and Food Assistance Act of 1975, was regarded as an absolute minimum and represents the smallest volume of programing since 1956, the second year the program was in operation. Frankly, it never occurred to me that the United States could not meet this very minimal figure of food aid.

Mr. President, I began to wonder why this administration ignores the law and places itself above the will of Congress and the people. The intent of the minimum for title II programing was clear. It had been worked out in good faith by all parties. And now, having failed to comply with the law, the administration returns with weak excuses.

Of course, the administration says that normal slippage prevented it from meeting the 1.3 million metric tons distribution target. Yet, had the administration not regarded the 1.3 million metric ton figure as a maximum rather than as a minimum, as defined by Congress, the programing would not have been so close that such slippage would have occurred.

I cannot emphasize in any stronger terms that the 1.3 million metric ton minimum is a minimum. It does not represent the recommended level of programing. It is not a figure on which to target our humanitarian assistance. It is well below half the figure for humanitarian food assistance which was maintained by the previous administration and the absolute lowest level that a nation of our resources should be able to offer to help the needy abroad.

Mr. President, I do not intend to stand idly by while the administration disregards the intent of Congress in this matter. The authorization for Public Law 480 will expire December 31, 1977. Early next year, I intend to offer legislation to extend and amend Public Law 480. I assure you that this legislation will leave no room for misinterpretation of the legislative minimum for title II distribution.

America can do better. In the past, the United States has played a leadership role in providing for humanitarian food assistance to needy nations abroad. When I was Vice President, over a quarter of our total agricultural exports were provided under grants or concessional financing to needy nations. At that time, the United States led other nations to increase their participation in humanitarian food assistance. It was during this period that the United States fostered a network of programs to deliver food assistance to those who need it the most. Yet, in a few short years, the present administration has largely dismantled these achievements.

It is time to recommit the United States to providing firm leadership in the area of humanitarian food assistance.

Mr. President, I would like to call this matter to the attention of my colleagues and ask that they join me in calling upon the administration to not only obey the law, but to show a genuine commitment to humanitarian food needs through increased programing for title II assistance under Public Law 480.

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## MAN AGAINST THE BOMB: CURBING THE SPREAD OF NUCLEAR WEAPONS

Mr. CHURCH. Mr. President, it is of utmost importance that the United States commit itself to an active nonproliferation policy and take the lead in establishing new safeguards that would promote peace and security while giving all States access to the peaceful use of nuclear technology. It is absolutely vital for our country to work with others to formulate a worldwide safeguard system for nuclear fuels while there is still time.

I ask unanimous consent to have printed in the Record an address I delivered recently on the subject of nuclear proliferation in which I call for the convening of a World Conference on Nuclear Peace in the coming year.

There being no objection, the address was ordered to be printed in the Record, as follows:

### Man Against the Bomb: Curbing the Spread of Nuclear Weapons

(By Senator Frank Church)

My topic this evening concerns the dangers posed by the further spread of nuclear weapons. Avoidance of nuclear annihilation is, I believe, the ultimate challenge faced by humanity.

Thirteen years ago, President Kennedy warned of "the new face of war." he said:

"Total war makes no sense in an age when great powers can maintain large and relatively invulnerable forces and refuse to surrender without resort to those forces. It makes no sense in an age when a single nuclear weapon contains almost ten times the explosive force delivered by all of the allied air forces in the Second World War. It makes no sense in an age when the deadly poisons produced by a nuclear exchange would be carried by wind and water and soil and seed to the far corners of the globe and to generations yet unborn."

These words remain as poignant today as in 1963. The urgency with which President Kennedy pleaded for a "strategy of peace" rather than annihilation has not lost its meaning. If anything, the dangers have grown, for we now stand at the threshold to an era of unexpected energy demands likely to sow the earth with nuclear reactors—each one of which could become the parent of new-born bombs.

Whether or not a system of global birth control can be devised and imposed upon this lethal parenthood remains to be seen. Certainly our record so far is lamentable. We have faced four major opportunities to harness the atom, and four times we have failed. Cats, we pretend, have nine lives; but I have never heard that claim made for civilization.

Our first opportunity slipped away at the stormy dawn of the atomic age, when news of the new weapon, fell upon us like a clap of thunder. Mushroom clouds of searing heat, deadly radiation, and the dust of disintegrated cities suddenly filled the skies above Japan. On those two mornings, in August 1945, well over 100,000 men, women, and children were burned to death in the nuclear fire; as many more were gravely injured; and still thousands of others were left with the seed of cancer in their bones.

I remember clearly when I first heard of it. I was serving at the time as a military intelligence officer in China. I recall the trouble we had comprehending the awesome power that had been released 20,000 tons of TNT! Of course, we realized the incineration of Hiroshima and Nagasaki signified an early end to the war. But we knew also that the world would never be the same again.

In 1945, our political leaders also understood that the new weapon had brought about a radical change in warfare. "The release of atomic energy constitutes a new force too revolutionary to consider in the framework of old ideas," President Truman told the Congress. But no one knew quite what to do about it. As historian John Lewis Gaddis later observed, "the formulation of United States policy on the control of atomic energy took place in an atmosphere of uncertainty, confusion, and ignorance."

The two alternatives soon presented themselves; the United States could either attempt to keep its secret, or it could relinquish the new technology to an international authority to which all nations would submit.

American scientists advised that our exclusive possession of the secret could not long endure. International control, therefore, seemed to make sense. So it was decided to propose a method for international management of nuclear technology.

The Baruch Plan was put forward by the United States to create a United Nations Atomic Development Authority. But, in the end, the inability to devise adequate safeguards for preventing cheating, that is, the clandestine construction of A-bombs, proved to be a fatal obstacle. Rejected by the Soviet Union, the plan was left as so much wreckage on the reef of the surfacing Cold War. Thus was lost the first opportunity to stop the spread of atomic weapons. As Einstein suggested, "The unleashed power of the atom has changed everything save our modes of thinking, and we thus drift toward unparalled catastrophes." The nuclear arms race was soon to begin.

In August 1949, the Russians exploded their first atomic weapon; and, within a decade after Hiroshima and Nagasaki, both the United States and the Soviet Union were testing and deploying hydrogen bombs with energy yields of millions of tons of TNT, rather than the thousands released by their puny predecessors.

To this quantum jump in explosive power was added a vast expansion of nuclear stockpiles, as the bombs multiplied like a deadly locust. Today, the number of nuclear weapons in the world is equivalent, in explosive power, to 1,300,000 Hiroshima bombs.

It was the explosion of the Soviet hydrogen bomb in 1953 that led the United States to a second effort to curb the spread of nuclear weapons. In December of that year, President Eisenhower presented to the United Nations an "Atoms-for-Peace" proposal. The objective was to export American reactors, together with the fuel to run them, for peaceful use under a loose system of surveillance. This active promotion of "atoms-for-peace" opened up a world market for the fledgling American nuclear industry.

Through bilateral agreements and, after 1957, through the newly-founded International Atomic Energy Agency (IAEA), the United States furnished nuclear reactors to other nations, presumably to carry on peaceful experiments in medicine, agriculture, and industry. Our policy-makers spoke euphorically of deserts brought to bloom with water from nuclear-powered irrigation projects.

But were neither willing to insist on adequate international controls nor to police the system stringently ourselves. The "heavy water" we supplied enabled India to detonate her first bomb two years ago. "Atoms-for-peace" had, in reality, produced more atoms for war.

Our third opportunity to bring the bomb under control arose, in large part, as a result of increasing public concern over the levels of radioactive strontium 90 found in the air during the fifties and early sixties. England had exploded her first atomic bomb in 1952, and planned to construct hydrogen bombs. In 1960, France joined the "nuclear club" by detonating an atomic weapon in the Sahara, following it with several other nuclear explosions. In the interim, the United States and the Soviet Union set off ever larger devices. By 1961, the Russians were conducting atmospheric tests of bombs equivalent to 50 million tons of TNT.

As the air we breathed thickened with radioactivity, people throughout the world learned of the sickness and deformity which strontium 90 could eventually induce. Popular resistance grew into a widespread clamor for a halt to the further poisoning of the air.

On July 25, 1963, following President Kennedy's pledge to conduct no more nuclear tests above ground so long as other governments refrained, the United States and the Soviet Union signed a partial test ban treaty that eliminated nuclear tests in the air, the ocean, and in outer space. It was a moment of hope. Many, including myself, viewed the occasion as a first step toward putting the nuclear genie back in the bottle.

But it proved to be a Pyrrhic victory. Once the decision was made to test no more in the atmosphere, public protest soon subsided. The immediate problem of strontium 90 had been solved and popular interest faded in further efforts to put an end to underground testing. By burying the tests, we buried the problem—and our own heads in the sand.

The paradoxical result was an actual acceleration of nuclear testing. In the ten years following the partial test ban treaty, the United States and the Soviet Union conducted 424 nuclear tests—almost as many as the total conducted in the 18 years between Hiroshima and the signing of the partial ban treaty.

Our fourth opportunity to turn back from the nuclear brink came in recent years, with the SALT talks. One useful result was produced: the Americans and the Russians succeeded in stopping a futile arms race in ABMs, anti-ballistic missiles.

As for the rest, it has been mostly window-dressing, which fails to conceal the steady upward spiral of nuclear arms competition between the United States and the Soviet Union. Following the SALT I treaties of 1972, the United States accelerated development of the B–1 bomber, rapidly deployed the Trident submarine, and continued deployment of multi-warhead missiles—actually doubling the number of nuclear warheads ready for firing. At the same time, the Soviets tested four new strategic missiles and continued to improve their multi-warhead capability.

The subsequent agreements between our country and the Soviet Union reached at Vladivostok in November 1974 set the total number of strategic launchers at a level requiring no reductions for the two superpowers. Moreover, the agreements placed no limits on qualitative improvements in accuracy, range, or penetration capability; so both sides have continued to develop ever more sophisticated weapons.

Now our own defense budget once again shows an upward trend in strategic spending. Today, in the United States, practically half of the total spent on all research and development, public and private, is devoted to the military and to space—almost 15 billion a year! Our intelligence on the Soviet Union suggests a similar rise there in strategic spending.

But it should comfort us little that Russia shares our addiction. As Governor Carter, who has demonstrated much interest in this problem, has said, ". . . the hour is too late for business as usual, for politics as usual, or for diplomacy as usual. An alliance for survival is needed—transcending regions and ideologies—if we are to assure mankind a safe passage to the twenty-first century."

For today we confront the worst peril yet in the unhappy history of man against the bomb. Tremendous are the pressures that stimulate the spread of nuclear reactors across the earth. The energy crisis is upon us, and virtually every nation reaches out for its own reactors to generate electricity. A multi-billion dollar market summons eager salesmen from the United States, England, France, Germany, Canada, the Soviet Union, Japan, and other supplier nations. The lure of enormous profits becomes overriding, and considerations of arms control and environmental safety—even the spectre of nuclear war itself—gives way.

"We will never be able to release the power of the atom to build, unless we are able to restrain its power to destroy," said Adlai Stevenson in 1952. We face the same dilemma today. How can these nuclear reactors produce their electricity and still be harnessed to the ends of peace?

Some believe it is already too late. Not long ago, a distinguished panel of scientific experts concluded that "nuclear war in some form is likely before the end of this century, and will probably occur as the direct result of a proliferation of nuclear powers and weaponry."

Clearly, a dramatic act of leadership by the United States is called for—not a Utopian dream. Schemes to change human nature have not worked well in the past, and we shall never quell the human appetite for profit and power. Instead, we must pursue a plan that has some chance in the real world. It will be difficult, but not impossible. As President Kennedy said here in 1963, "Our problems are manmade; therefore, they can be solved by man."

What are the elements that might furnish us with a solution? We must begin by recognizing the mutuality of interests among nations able to supply nuclear reactors and those desiring to purchase them. The suppliers have a common interest in developing uniform international controls to prevent diversion of reactor fuels into bomb-building.

Nuclear reactors present no danger in themselves; they are simply containers for "burning" radioactive fuel to produce steam to make electricity. The problem arises with the nature of the fuel, and the waste created in the burning. In "light" water reactors, the fuel necessary at the beginning of the cycle consists of enriched uranium. For a reactor using "heavy water," ordinary uranium is sufficient. The spent fuel, in either case, contains plutonium, which (when separated out) is the core explosive of a nuclear bomb. Thus, at the beginning and the end of the reactor cycle, the fuels and their wastes must be carefully controlled to prevent conversion into the production of nuclear weapons.

The reactor fuel used in light water reactors—enriched uranium—is not sufficiently enriched to be explosive. Further enrichment requires the possession of a complex and extraordinarily expensive uranium enrichment plant. Uranium ore for heavy water reactors is easier to come by, but the heavy water is difficult to produce. As for the spent fuel, the plutonium, in order to be used for bomb-making, must be chemically separated from the other waste materials in an elaborate reprocessing plant.

Thus the key links between possession of reactors and bomb construction are uranium enrichment plants, heavy water facilities, and plutonium reprocessing plants. If the supplier nations wish to curb the proliferation of nuclear bombs, they must not allow these facilities to spread beyond their control.

Unfortunately, just the opposite is happening. Last year, West Germany agreed to sell Brazil from two to eight reactors, along with a uranium enrichment plant and a reprocessing facility for spent fuel. This represents the entire fuel cycle. Once installed it delivers into the hands of the Brazilian government an independent capacity to develop its own nuclear arsenal. Eyeing this transaction from across the border, Argentina may well be the next nation to feel compelled to build the bomb.

Meanwhile, in Asia, France has offered to sell the complete reactor cycle to South Korea and to Pakistan. American pressure on the Koreans prevented the first sale, but Pakistan still insists on obtaining her own reprocessing plant. The Prime Minister of Pakistan has vowed his people will "eat grass" if necessary to match the nuclear power of India.

Legislation now pending in the Congress to strengthen controls on nuclear sales abroad testifies to the growing concern in the United States over this chain reaction. Those who have worked hard on this legislation are to be highly commended.

But, I fear, the lessons of the past demonstrate that the passage of national legislation, however well intended, will fall short of the mark in the absence of an international accord to tame the atom. We, ourselves, soon will disregard our own standards if other supplier nations keep offering the carrot of complete fuel cycles, in order to make lucrative sales.

Indeed, the very bill now pending in the Senate gives the President authority to waive its restrictions on a case-by-case basis, in the "vital interests" of the United States. He is permitted, furthermore, to delay each year any attempts to reach an international agreemen to curb proliferation if he believes the national interest could be affected adversely. The upshot is this: in the clutch, if other supplier nations offer easier terms than ours, then we will meet those terms in order to protect our share of the market—all in the name of "national interest."

As long as unrestricted competition for these multi-billion dollar sales continues to govern, the buyers—not the sellers—will set the terms. We have seen this happen for years in conventional arms sales. In 1952, our international arms sales amounted to $300 million; today, they have soared to an estimated $20 billion in this last year alone. Not that we wished to fill Asian countries with huge stockpiles of weapons; not that we believed the inflammatory Middle East was a good place for mountains of missiles and tanks; but because we reasoned that others would sell the weapons if we did not.

The United States has become munitions maker for the world, selling the means for new wars on almost every continent, always with the justification: "If we don't, the Russians, the French, the English, or somebody else will." So, for the profit, the balance-of-trade, and the political leverage, we do it.

Now we are selling, not the obsolescent, but the most advanced and sophisticated planes and ships. To the Shah of Iran we offer scores of F–14 jets, Spruance destroyers more advanced than those in our own Navy, and high-precision Sidewinder and Maverick missiles.

Countries in the Middle East alone have signed agreements with the United States to purchase weapons worth over $5 billion in Fiscal Year 1976. In this arms race, all restraints are off as the competition keeps raising the stakes higher.

And so it is with nuclear reactors, too. Already, we are introducing nuclear technology and equipment into the tension areas of the world, under the guise that "if we don't others will"—the universal excuse for doing wrong. We have assisted South Korea, Iran, Taiwan, and India, among others, with so-called peaceful nuclear programs only to find the Koreans and Iranians striving to buy reprocessing plants from European suppliers; Taiwan developing stockpiles of plutonium diverted from her reactors; and India setting off a nuclear explosion. Within weeks of the Indian blast, President Nixon promised first Egypt, then Israel, to help expand their nuclear energy programs in the very midst of the inflamed Middle East. And this May an American firm applied for a license to introduce reactors into South Africa, at the tip of another continent seething with unrest.

This terrifying trend must be stopped before it is too late. The Administration coming to power in January must call for a World Conference on Nuclear Peace. Its membership should be universal, consisting of sellers and buyers alike. Its purpose should be the drafting of a global charter to flesh out the skeleton of the existing nuclear non-proliferation treaty, in order to give it the strength and substance that can make it work.

The challenge faced by the World Conference would be to achieve a satisfactory accommodation between buyers and sellers of nuclear reactors and fuels. Those buyers solely interested in nuclear reactors for peaceful use must be guaranteed assured sources for obtaining enriched fuel or heavy water, and later (if the need arises) for reprocessing spent fuel, under competitive—not cartel—market conditions. In return, the buyers must agree to submit to international inspection of their reactors in order to insure that fuels and waste are not diverted for military purposes.

The sellers, for their part, must agree among themselves to dedicate to the world market a certain proportion of their capacity to enrich and reprocess and to produce heavy water; to refrain from selling enrichment and reprocessing facilities; to sell reactors only to nations accepting strengthened international inspection; and, to impose sanctions against renegade buyers that divert fuel for military purposes. These sanctions should include the withholding of further foreign aid, military and economic.

Such an arrangement could effectively curb the spread of nuclear weapons, while confirming the benefits of peaceful nuclear energy. But, by itself, it could not last long. For if the governments which possess nuclear weapons insist on their right to keep building more, it is unreasonable to expect other governments which feel themselves threatened to refrain indefinitely from building their own bombs.

To succeed, the World Conference on Nuclear Peace must include a guaranteed quid pro quo. We must begin to carry out the promise we made when we first signed the nonproliferation treaty in 1972, to "pursue negotiations in good faith on effective measures regarding the cessation of the nuclear arms race and disarmament."

Let the United States and the Soviet Union begin by entering into a comprehensive test ban treaty. Then let us agree to a staged mutual reduction of our vast stockpiles of nuclear bombs, thus lowering the level of danger to ourselves and the world at large. Presently, this nation has 8,900 hydrogen bombs. That's equivalent to over 600,000 Hiroshimas. In the Soviet Union, there are 219 major cities with populations over 100,000. Thus, we have 41 H-bombs for every major Soviet city! Surely, both the United States and the Soviet Union can bring an end to this excessive stockpiling, without jeopardizing their security in any way.

We could do more. The nuclear powers could pledge never to use their nuclear weapons against non-nuclear states; and they could explore the possibility of dismantling obsolete weapons, converting the plutonium into peaceful reactor fuel.

The agenda is full, and time is short. The United States must take the lead. The alternatives were starkly suggested by J. Robert Oppenheimer, the American scientist who headed the development of the atomic bomb. Quoting from the ancient *Gita*, he foresaw the dazzling promise of the atom if only it were confined to peaceful uses; "If the radiance of a thousand suns were to burst forth at once in the sky, that would be like the splendor of the Mighty One." But he also foresaw the dreadful fate awaiting us if the atom were turned to the dark arts of war, and quoted Vishnu: "I am become death, the destroyer of worlds."

It is for us to choose.

## THE ADMINISTRATION APPROACH TO THE LEAA LEGISLATION

Mr. BIDEN. Mr. President, I noted with interest recent news reports about President Ford's call for a new war on crime during the first 100 days of his next term.

I do not think anyone can argue with the President's statement that we must do something about the crime problem. I think some of his views with regard to sentencing reform must be given consideration because we have to make our sentencing structure more fair.

Unfortunately, however, President Ford does not seem to realize where the heart of our anticrime program must be. He apparently does not realize that Federal laws alone cannot control the type of crime which concerns Americans the most; namely, street crime, mugging, murder, burglary, and rape.

The best way to attack street crime at the Federal level is to effectively provide Federal money to State and local criminal justice systems.

Unfortunately, this administration's program, the law Enforcement Assistance Administration, has been ineffective and wasteful.

President Ford's call for a new war on crime rings hollow when one compares the way his administration has acted with regard to the Law Enforcement Assistance Administration.

Studies by the General Accounting Office, the 20 Century Fund and the Center for National Security Studies have concluded that LEAA has been ineffective in administering $4 billion over the past 8 years.

Despite this record of mismanagement, the Ford administration supported extending the agency for another 5 years and recommended virtually no changes in the way it works. In other words, business as usual for 5 more years.

During the Senate debate on this issue, the administration opposed my amendments to shorten the agency's life to 1 or to 3 years. However, House and Senate conferees have agreed on a 3-year extension; namely, the bill which is before us today.

For myself, this time period is still too long. If the agency were extended for only 1 year, until October 1, 1977, we would have ample opportunity to study its problems and enact legislation.

Despite his statements to the contrary, Mr. Ford seems willing to accept the same tired old approach to crime. He wants to lock us into another 3 to 5 years of mismanagement.

It seems to me that if he is truly committed to spend the first 100 days of next year working on a crime program, he will not support a bill which commits us to LEAA for 3 years. Rather, he should veto it and urge that we extend the agency for only 1 year until he can make recommendations for change. I urge him to veto this bill.

## THE NATIONAL EMERGENCIES ACT

Mr. CHURCH. Mr. President, the Congress recently passed, and President Ford signed into law, the National Emergencies Act. This legislation will put an end to four existing declarations of national emergency and makes provision for congressional oversight of future emergencies declared by the President.

Last week, I spoke to the California Bar Association about the 4 years of work by Congress and the executive branch which produced this legislation. I ask unanimous consent, Mr. President, that those remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### Ending Emergency Government

(By Senator Frank Church)

In the course of the national campaign now upon us, there will be much discussion of virtue lost. Democrats will point to the Watergate scandal, the Agnew Affair, the widespread abuses uncovered in the CIA, the FBI, and the IRS, along with the multimillion dollar bribes and pay-offs by American big business seeking lucrative arms contracts abroad, as proof that the Republican Party, its candidates and chief supporters, are unworthy to govern a virtuous people.

The Republicans, in turn, will point to the recent exposes in Congress, the Wayne Hays scandal, the Allan Howe episode, the junketeering and extravagances uncovered on Capitol Hill, as proof that the Democrats have no monopoly on virtue, and are hypocrites when they pretend they do.

Our Founding Fathers understood that the frailties of human nature would always be with us. They agreed with Lord Acton that all power corrupts and that absolute power corrupts absolutely. Hence, they sought to construct a constitutional system based upon a separation of powers, the system of checks-and-balances brought about by the interaction of three independent branches of government: the Legislative, Executive, and Judicial, with which we are all familiar.

After 200 years, this system still retains its essential vitality. It was, after all, a Republican Attorney General, Elliot Richardson, who felt compelled by his oath of office and his fidelity to the law, to institute criminal proceedings against an incumbent Vice President, thus forcing Spiro Agnew into plea bargaining which led to his resignation.

It was the Judiciary Committee of the House of Representatives, under the Democratic Chairmanship of Peter Rodino, which rose to its constitutional responsibility by investigating charges of the most serious misconduct by the President himself, an investigation which led to the Committee's approval of two counts of impeachment that forced Richard Nixon to resign in disgrace.

And, in the Senate, the most publicized investigations of recent years—Sam Ervin's Watergate Committee, and the investigation of misconduct in the most powerful Federal intelligence and law-enforcement agencies, which it fell to me to chair—represent the continuing discharge of the Legislative's duty to hold the Executive to account.

But the examples I have cited were so glaring, they compelled counter-action. A far more insidious threat to Constitutional government in this country has gone all but unnoticed. I refer to the steady accretion of power, placed in the hands of the President by emergency statutes, hastily enacted to cope with the wars, depressions, and domestic crises that have marked the past half a century.

The extent of these emergency powers—and their potential for subverting Constitutional government—was brought forceably to the attention of Congress by an incident which occurred during the course of a hearing over the introduction of U.S. forces into Cambodia. Secretary of Defense Melvin Laird, testifying before the Senate Foreign Relations Committee, was asked what the effect would be should the Congress vote to cut off funds.

The Secretary replied that, even though Congress decided to revoke all further funding for Cambodia, the President, in his opinion, could still go on paying the troops. When asked by what authority, Secretary Laird cited an obscure act approved during the Civil War—the Feed and Forage Act of 1861—which had been passed in order to enable the cavalry in the American West to buy feed for its horses when Congress was out of session, and the money previously authorized and appropriated for such purpose had run out.

Laird explained that the Act had been used to finance the landing of American marines in Lebanon in 1958, and to support our military mobilization during the Berlin Crisis in 1962. Now, he implied, the statute, well over one hundred years old, might be used to justify a direct Presidential override of the will of Congress.

The shock effect of this testimony led many of us to wonder what other laws were on the books which might be construed as permitting the President to govern without leave of Congress.

Accordingly, a resolution was introduced to create a special committee to investigate the emergency powers available to the President. Established by vote of the Senate on June 13, 1972, this special committee was composed of an equal number of Democrats and Republicans. As the senior Democrat, I would normally have chaired the committee with Senator Mathias of Maryland, the senior Republican, serving as Vice Chairman. However, in order to underscore the bipartisan character of the Committee's work, I suggested, and it was agreed, that Senator Mathias and I should act together as co-chairmen, thus, the Committee became unique in that it was the only one in Congress where a Republican shared with a Democrat the role of Chairman.

Our first task was to bring together the body of statutes enacted by Congress over a long period of time, which conferred extra powers upon the President in times of national emergency. Nowhere in the government, not even in the Justice Department, did there exist a complete catalogue of all the emergency statutes!

There was an awareness, of course, that an enormous amount of emergency power had been placed in the President's hands, but how much, no one knew. To find out, the Special Committee staff began a search, with the help of the Executive Departments, experts in the Library of Congress, and the General Accounting Office. The purpose was to compile a complete roster of all delegated emergency powers. The task was formidable: leafing through every page of the 86 massive volumes of the Statutes-at-Large. No sooner had we commenced the search, however, than we made a highly fortuitous discovery. For some strange reason, our Air Force had computerized the entire U.S. Code. All the information we needed was waiting for us at a computer facility in Colorado, if we could devise a way to get it out of the machine.

The key to the problem, of course, lay with the selection of certain words that were almost bound to be contained in typical laws delegating extraordinary powers. Examples of some of these trigger words would include: "emergency,' "war," "defense," "security," "attack," "invasion," "insurrection," "crises," etc.

With the use of these words, the computer awarded us with a huge mass of material which was then checked against existing official catalogues of the Department of Defense, Office of Emergency Planning Documents, and a 1962 House Judiciary Committee synopsis of emergency powers. The result was the identification and compilation of 470 special statutes invokable by the President at any time during a declared national emergency.

Taken together, these hundreds of statutes clothe the President with virtually unlimited power with which he can affect the lives of American citizens in a host of all-encompassing ways. This vast range of powers constitutes enough authority to permit one-man rule, should the President choose to invoke them, as long as the country remains in a declared state of emergency.

We then discovered that there were four separate declared states of national emergency presently in effect. They were:

The national emergency declared by Franklin Roosevelt on March 9, 1933, to cope with the banking crisis;

The national emergency declared by Harry Truman on December 16, 1950, to respond to the Korean conflict;

The national emergency declared by Richard Nixon on March 23, 1970, to deal with the Post Office strike;

The national emergency declared by Richard Nixon on August 15, 1971 to implement currency restrictions and to enforce controls on foreign trade.

This meant that a majority of the American people had lived all their lives under emergency rule. For 43 years, ever since early in President Roosevelt's first term, normal constitutional procedures had, in varying degrees, been abridged by executive orders that derived from presidentially-proclaimed states of national emergency, long since outdated by events. The existence of these declared emergencies, even though they are now legal fictions, can, at the President's option, trigger into effect any or all of the 470 emergency statutes.

These include the power:

To seize property;

To organize and control the means of production;

To seize commodities;

To assign military forces abroad;

To institute martial law;

To seize and control all transportation and communication;

To regulate the operation of private enterprise;

To restrict travel; and, in a plethora of other ways,

To control the lives of all American citizens.

The discovery of so many emergency laws led to an expanded focus for the committee. Not only did we have to be concerned with declared states of national emergency that remained open-ended, but we were faced with literally hundreds of laws that the Chief Executive could legally invoke even though no real emergency existed. The enlarged task facing the committee caused it to be redesignated the Special Committee on National Emergencies and Delegated Emergency Powers.

These emergency powers were like a loaded gun lying around the house, ready to be fired by any trigger-happy President who might come along.

While the danger of dictatorship arising through legal means may seem remote, we should not forget that Adolph Hitler seized control of the Weimar Republic through use of the emergency powers contained in its laws. And India, the Asian model of constitutional democracy, now has succumbed to the will of a single individual who also resorted to the use of emergency powers.

As for the chaotic state of our own laws respecting emergency powers, much of the blame must rest with Congress. These laws—in the main, drafted in the Executive Branch—were passed hastily with little consideration. Almost all of them make no provision for congressional oversight, nor do they provide a means for terminating their use, even those which are designated "temporary" by their own terms.

Most troubling is that these open-ended grants-of-power have usually been delegated to the President in response to the exigencies of war or other crises. Thus, they were rushed into law with only the most perfunctory committee review and with virtually no consideration of their effect on civil liberties. The passage of a broad economic emergency measure in 1933, provides an extreme example: there was a total of only eight hours of debate in both Houses. There were no committee reports; indeed, only one copy of the bill was available on the floor when the Senate acted. The same pattern of haste was repeated during the 1964 debate on the Tonkin Gulf Resolution, a malfunction of the legislative process which Congress lived to regret.

Emergency rule has always raised troublesome problems both in political theory and in constitutional practice. Since the failure of the Roman Republic, historians and philosophers have analyzed the problem posed to a legislature when it confers extraordinary power upon the Executive. Machiavelli, in his "Discourses on Livy," acknowledged that great power may, on occasion, have to be given to the Executive if the state is to survive, but warned of the grave dangers in doing so. He cautioned:

> Yet it is not good that in a republic anything should ever happen that has to be dealt with extralegally. The extralegal action may turn out well at the moment yet the example has a bad effect, because it establishes a custom of breaking laws for good purposes; later with this example, they are broken for bad purposes.

Rousseau discussed the question of delegated emergency powers in his "Social Contract." He wrote:

> Moreover, in whatever way this important commission may be conferred, it is important to fix its duration at a very short term which can never be prolonged. In the crises which cause it to be established, the State is soon destroyed or saved; and the urgent need having passed away, the dictatorship becomes tyrannical or useless.

Turning to the American contest, it is of interest to note that the word "emergency" is not found in the Constitution. As scholar Clinton Rossiter has observed:

> It never seems to have been seriously considered in the Convention of 1787, the Federalist, or the debates in the state ratifying conventions that the men who were to govern in future years would ever have to go outside the words of the Constitution to find the means to meet any crisis.

As a result, the authority to respond to a crisis must be derived from the powers that are expressly contained in the Constitution.

The Supreme Court has indicated that there are clear restraints upon Executive action in times of emergency.

In 1934, Chief Justice Hughes held for a majority of the Supreme Court:

> Emergency does not create power. Emergency does not increase granted power or remove or diminish restrictions imposed upon power granted or reserved. The Constitution was adopted in a period of grave emergency. Its grants of power to the federal government and its limitations of the power of the states were determined in the light of emergence and they are not altered by emergency.

Nonetheless, the emergency powers made available to the President have steadily expanded and led to an erosion of normal constitutional government.

Little review by the Judicial Branch was exercised until 24 years ago when the Supreme Court turned back an attempt by President Truman to take over the striking steel industry by means of an assertion of "inherent" emergency power. Speaking for the majority, Justice Black issued the Youngstown Steel opinion which still stands as the court's definitive statement in this area. Justice Black held that "the President's power, if any, to issue the order must stem from an act of Congress or from the Constitution itself." He characterized President Truman's action as an unconstitutional arrogation of "lawmaking power" by the Executive.

Justice Jackson's widely quoted and praised concurring opinion stressed that our system of government is a "balanced power structure" and pointed out that the executive power to act is a variable depending upon the collective will of Congress for its authority. Justice Jackson listed three situations which determine the extent of the President's power:

> 1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate . . .
>
> 2. When the President acts in the absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers . . .
>
> 3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter.

Justice Jackson's analysis is as important today as when written. The special committee accepted Justice Jackson's opinion as a basic guideline in drafting legislation to curb the abusive use of emergency powers.

In writing the National Emergencies Act, the committee worked closely with the White House and the Justice Department to achieve a bill acceptable to both the Executive and Legislative Branches. In this, the cooperation of President Ford proved indispensable. From the outset, he showed a willingness to work with Congress in developing a legislative formula for ending emergency rule and restoring constitutional practices. I also must express gratitude to the members of the Judiciary Committee of the House of Representatives. That committee worked in close concert with the Senate in furthering our common objective and fully shares the credit for the legislation. In particular, I express my thanks to Chairman Rodino and Representative Flowers.

The National Emergencies Act became law last week with little fanfare. But the obscurity and unanimity surounding the bill should not disguise its importance. It provides a means for ending the four existing states of declared national emergency, and establishes procedures for reasserting ultimate congressional control over emergencies declared by the President in the future.

Specifically, the bill provides that Congress shall review national emergencies declared in the future at least every six months and consider whether to vote out a concurrent resolution determining the emergency. Such a resolution is not subject to a veto by the President.

The bill also provides that future declared emergencies shall terminate after one year in any case unless the President expressly calls for an extension by reporting to Congress.

When the President declares a future emergency, the bill also directs that he shall specify those emergency powers he proposes to invoke and that he shall keep the Congress informed of all emergency regulations issued and expenditures made.

Finally, the bill provides for the repeal of obsolete emergency statutes, where both the Executive and Legislative Branches have agreed that they are no longer of any use or purpose. A few of the emergency statutes, deemed necessary for certain ongoing operations of the government, will remain in effect.

It is my belief that the National Emergencies Act will provide long overdue statutory guidelines for the handling of national emergencies in the future. Moreover, it is the committee's belief, supported, I would suggest, by Justice Jackson's opinion and the weight of constitutional scholarship, that our legislation will constitute the exclusive authority in the exercise of Presidential powers in any national emergency.

It should be emphasized that nothing in this bill would interfere with the President's right to declare a national emergency in the future or deprive him of the necessary power to cope with such an emergency. But the procedures governing the use of emergency powers in the future will always be subject to congressional review and any declaration of an emergency may be terminated by a concurrent resolution of the Congress. Thus the Legislative Branch will be in a position to assert its ultimate authority.

To those who argue that the duration of a given emergency should be left exclusively to the President to determine, I would cite the precedent established by the British Parliament which, throughout the Second World War, delegated emergency powers to the Prime Minister for no longer than 30 days at a time.

The point is simply this: the Congress should be forewarned that it is inherent in the nature of government that the Executive will seek to enlarge its power. No one among us, I am sure, would have much difficulty in identifying certain recent Presidents who exhibited lust for power.

The historic redemption of jurisdiction by Congress which has gone on in this decade—in the form of the War Powers Act, the congressional intervention to circumscribe and finally end the war in Vietnam, the new budget authority and the regaining of some control over foreign policy—is long overdue and urgently needed. The Congress must not again trade away its constitutional role in the name of national emergency.

Separation of governing authority among the Legislative, Executive and Judicial Branches is a key to democracy and transcends partisan politics. Whether Jimmy Carter or Gerald Ford is in the White House in January, congressional abdication of power must end. Congress must insist upon its status of an independent and co-equal arm of the government.

Let that be one of the lessons learned from the investigation now completed, after four long years of unsung effort, with the passage of the National Emergencies Act.

When men and women in separate branches of the government, representing a great variety of views and often conflicting interests, who are members of competing political parties, can get together out of a common recognition of a need to restore the government to normalcy, I take heart that our underlying commitment to constitutional government in America still lives.

## MAINE'S SMALL BUSINESS COMMUNITY AND ITS PUBLIC SERVANTS

Mr. HATHAWAY. Mr. President, one of my foremost pleasures and responsibilities as a Member of this body is my service on the Select Committee on Small Business. The small business community accounts for the major share of our Nation's gross national product; it is the lifeblood of our communities, providing jobs and opportunities through the market system.

My State of Maine has an especially active small business community. I have been privileged to chair several hearings in the State since coming to the Senate and have listened to problems of fishermen and farmers, loggers and woodworkers, and a wide variety of other small business men and women. There were problems and there were complaints; but for the most part the testimony reflected the concerns of a healthy small business community, interested in sharpening its skills and becoming more competitive with the corporate giants.

The success of Maine's small business community may be attributed to a number of things: a healthy small business climate; active communities; citizens who believe in hard work; and, one of the most important items, a Small Business Administration office with personnel who understand the State's unique problems, as well as the Government machinery with which they must work.

Today, one of those SBA employees will be in the Capital City to receive an honor that is well deserved—William H. Clifford, who a few days ago was named New England Regional Supervisor of the Year in Boston, will be named National Supervisor of the Year.

Bill Clifford is not the only member of the Maine SBA office to receive an award this year. As a matter of fact, this office has set something of a record this year, winning three regional awards: Thomas A. McGillicuddy, district director of the SBA in Maine, accepted the award for the Regional Office of the Year. Harvey L. Bryant, management assistance officer, received the Regional Public Contact Award—the second year in a row Mr. Bryant has received this honor.

It is unusual for one office to receive such honors.

But having worked with this office, and its staff, I know they represent the very best kind of Government employee. The small business community in my State is healthy and aggressive, and a large measure of their success is due to the excellent help they are given by the SBA's office there.

To the congratulations of the SBA office here in Washington, I add my own to William Clifford, Supervisor of the Year, Tom McGillicuddy and Harvey Bryant, and the rest of the staff in Augusta that supported this effort.

## INTERNATIONAL LAW OF THE SEA DEVELOPMENTS

Mr. METCALF. Mr. President, after another session, delegates from some 150 nations again have been unable to agree on a United Nations treaty on the law of the sea.

The most recent was the fifth session—New York in 1973; Caracas in 1974; Geneva in 1975; New York twice in 1976. The most recent session ended September 17, with agreement to meet in New York next May for at least 7 weeks.

The Washington Post issue of September 18, reported on the conclusion of the conference in an article headlined: "Sea Law Session Ends With No Minerals Accord." The New York Times issue of Sunday, September 19 has an article headlined: "Still No Law of the Sea." I ask unanimous consent that these articles be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### SEA LAW SESSION END WITH NO MINERALS ACCORD

UNITED NATIONS, Sept. 17.— The 5th session of the U.N. Conference on the Law of the Sea ended here today with general agreement on one point, at least: that no progress had been made.

Some observers felt there had actually been some movement backwards during seven weeks of sluggish negotiations on the key issue of who should control the mineral wealth of the deep-sea bed.

The marathon conference will resume at U.N. headquarters next May for another seven-week run. Although there will be no formal talks on the issue of deep-sea minerals in the interim, informal negotiations are expected to take place under the leadership of Jens Evensen of Norway, a widely respected diplomat who has achieved compromise on other sea-law issues in the past.

The deadlock on a global treaty on all aspects of sea law remained unbroken despite an initiative put to the delegates two weeks ago by Secretary of State Henry A. Kissinger.

Kissinger came here to offer guarantees on the financing of an international enterprise that would mine half the mineral wealth on the ocean floor for the Third World. He asked that those nations, in return, assure the corporations of the industrial countries access to the profits from the other half of the estimated $3 trillion worth of metal-bearing modules lying on the deep sea bed.

The American offer on this "dual access" system of mining did not break the diplomatic logjam. Instead, the Third World nations pressed their demand for a unitary system of mineral exploitation in which the international sea-bed authority would decide how the profits should be reaped and divided.

A statement read tonight on behalf of Kissinger said, "we will work cooperatively with other nations, but we expect a reciprocal attitude of good will and reasonableness.

"There are limits beyond which the U.S. will not go, and we are close to such limits now," Kissinger added.

He said he was encouraged by the reaction of some delegations which termed his proposals a constructive contribution to the negotiations.

"On the other hand, some delegations chose tactics of confrontation. Such tactics cannot work and will inevitably lead to deadlock and unilateral action," he said.

"The issues are not irreconcilable," one legal expert said. "The problem is that we haven't devised a negotiating mechanism to handle issues of this complexity involving such a large group of divergent interests."

There was agreement on other issues, such as the methods of dispute settlement, and guarantees for landlocked nations. Two issues that remained to be resolved are regulations for scientific exploration and the legal status of the economic zone stretching 200 miles offshore.

### Still No Law of the Sea

(By Thomas Butson and Bryant Rollins)

The fifth session of the United Nations Law of the Sea Conference has ended in New York without an agreement on the most important issue, how to control the exploitation of minerals in the deep seabeds of the world's seas and oceans. The failure was expected. The question now is whether the United States and a few other countries with advanced technology will unilaterally begin to mine the wealth of the seas.

The conference broke down because of a dispute between the developing countries, which wanted an international seabed authority to control all the exploitation, and the developed countries, which wanted some degree of autonomy.

Secretary of State Henry A. Kissinger has warned that in the absence of an international treaty, America would unilaterally begin to mine the seabeds. A sixth session of the sea law conference will be held in May; there is slim hope for an agreement beyond the speculation that developing countries may feel greater pressure to reach agreement when they see that they are being left out of any role in the seabed exploration.

Mr. METCALF. Mr. President, on September 1, our Secretary of State hosted a reception for those who headed delegations to the Law of the Sea Conference. In his remarks to that group, which I shall include as part of my remarks, he offered three propositions with a view to encouraging a successful conclusion of the treaty negotiations.

In his words, these were "very significant concessions" on the part of the United States.

Secretary Kissinger first repeated an earlier suggestion for parallel access to the deep seabed, with reservation of mining sites for use by the International Authority.

Second, he proposed that the United States underwrite financing of ocean mining by the International Authority. Without going into detail, he said that the purpose would be to transfer technology and otherwise enable the International Authority to exploit its portion of the seabed concurrently with private enterprise and participating nation-states.

Third, the Secretary suggested a periodic review so that the seabed regime might at some time be reformulated.

In his summation Secretary Kissinger warned that American flexibility on this issue is limited. He stated his belief that the "basic principles," as put forward by him are not likely to be changed under a new administration in Washington, and in this connection referred to the bipartisan composition of the congressional delegation taking part in the Conference negotiations.

Mr. President, I take this opportunity to emphasize that we not only have insisted upon and continue to support the nonpartisan character of the U.S. Law of the Sea negotiations, but also that as Senators we have insisted upon and continue to support a bipartisan approach to ocean mining legislation.

At stake in the Law of the Sea Conference is the chance of avoiding global confrontation of one kind or another. Of this we are quite aware. So, in matters having to do with ocean mining it is appropriate that the United States adopt a farsighted approach.

It is also vitally important that representatives of developing nations at the Conference are fully aware that we agree with Secretary Kissinger that American flexibility concerning Law of the Sea matters is indeed limited, and that we do not favor the direction that the negotiations have been taking. Nor would we be inclined to grant, advise, and consent to ratification of a treaty pertaining to ocean mining which is based on the framework provided by the revised single negotiating text, including subsequent recent additions to it.

Furthermore, despite the discouraging years of ideological haggling and delay at the Conference, it should be made clear that Congress has shown restraint out of a desire to see the Conference achieve a successful conclusion. For this reason, legislation to foster American ocean mining interests has been held in abeyance.

Nevertheless, since the Conference this year failed to arrive at an agreement conducive to the development of ocean mining, I believe that Congress will definitely be in a mood to act on legislation in 1977 regardless of whatever administration is in office.

Our domestic ocean mining industry, by dint of major expenditure of capital and effort, is prepared to undertake the commercial recovery of manganese nodules from the ocean floor with due regard to other uses of the ocean. Certainly our Nation stands in need of the nickel, cobalt, and other critical minerals which are available on the ocean floor and open to exploitation under existing international law. Congress will not mark time indefinitely while the Law of the Sea delegates continue to procrastinate.

I therefore am among those who would respectfully suggest that the President take all necessary steps to clarify the intention of the United States to move forward with the development of ocean mining, with or without a Law of the Sea Treaty.

Mr. President, I ask unanimous consent that the State Department press release of September 1 on the remarks of Secretary Kissinger in New York be printed at this point in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### Remarks of the Honorable Henry A. Kissinger

Ladies and Gentlemen: Let me first of all express my appreciation to all of you for coming here and for giving me an opportunity to talk to you briefly.

My visit here performs several functions. One of them is to provide an alibi for our delegation in case this Conference for any reason should not have the maximum success that it deserves. [Laughter] The second is so that I can get blamed in Washington for any concessions which we may make to you. [Laughter]

But I wanted to say a few words. We have distributed a prepared text of staggering profundity, but I may not understand everything that is in it. [Laughter] So I will stick with that text but make a few extemporaneous observations.

You will all remember, of course, that my native language is German so that if verbs appear only at 10-minute intervals you will understand why. [Laughter]

I believe very deeply, and so do all of my colleagues, that the negotiation in which all of you are engaged is the most significant international negotiation that is now taking place. It is not as dramatic as some other events that catch the daily headlines, but what other group has had the opportunity to establish international norms for three-quarters of the earth's surface? When else have a group of diplomats been able to assemble and establish a legal order for a part of the globe that contains so much of our resources and that will affect so much of our future?

And I know that in the tedious negotiations that go on daily, we will never lose sight of the fact that we're engaged on a historic enterprise and it is an enterprise that simply cannot afford to fail.

We, therefore, should not deal with each other with threats of confrontation because the advantages that can be gained on this or that issue pale in significance compared to the long-range benefits—not just to this or that nation but to all of mankind—that is inherent in this process.

This is the basic attitude of the United States Government. This is the reason, and not any economic necessity nor any negotiating pressures, that compelled us to make a maximum effort to bring matters forward to some sort of conclusion.

I believe, therefore, in the two weeks or so that are left in this Conference it is extremely important that we move matters to a point in which we can say to ourselves, can say to our people, that on the Law of the Seas the nations of the world are making progress and that we do not export into the sea all of the conflicts that have made life complicated on land.

And, conversely, if we should succeed in that arena, it must have the profoundest significance on our other relations as well.

We are working essentially in three Committees. I believe that in Committee II, the debate of whether the economic zone is *sui generis* or whether it has attributes of high-sea status, can, in my view, after the discussions we have had this morning, be resolved in a practical and satisfactory manner to all of the parties concerned. It will require further efforts, but I believe that an understanding can be reached.

Similarly, with respect to scientific—marine scientific research of Committee III—if all of the delegations work with the spirit that has characterized them so far, I believe that a satisfactory conclusion can also be reached.

We must keep in mind in both of these negotiations, first, that we are starting a new international regime in these 200-mile zones that has not existed previously but also that there are certain practical problems that must be solved if the interpretation of our texts is not to lead to endless future disputes.

Now, let me say a few words about Committee I and the deep seabed. And you notice I did not say that if Committee I continues to work in the spirit it has exhibited up to now, that success is probable. [Laughter]

I believe that Committee I has clearly the most novel and the most complicated issue. And it is important that in solving it we do not approach it too much from a theoretical point of view and that we do not attempt to use it to prove ideological points for which there are many opportunities to vindicate them.

With respect to the deep seabeds, we face two realities. One is that the developed countries—a few developed countries at this moment—alone possess the technology with which to exploit the seabeds—why don't I use a more happy word?—to mine the seabeds. [Laughter]

On the other hand, there is the concept

that the deep seabeds represent the common heritage of mankind and, therefore, there is a certain conflict between the realities of the capabilities of certain countries and the theoretical conviction of many other countries.

From the point of view of those who possess the technology, many of the proposals that have already been made represent very significant concessions in the sense that they represent self-imposed restrictions on what would otherwise be an unrestricted freedom.

From the point of view of many of the developing countries some of these concessions, in view of their convictions, are not considered concessions at all but tend to be taken for granted.

At the last session, the United States proposed the system of parallel access in which, concurrently with any state or private mining of the deep seabed, a similar site would have to be set aside for the international community to be exploited or mined by the international community. And this concept was reflected in the negotiating text which emerged from the last session.

On reflection, many countries have expressed reservations about this concept on many grounds—more familiar to the delegates here than to me, I'm sure—but one of the principal grounds was that it did no good to set aside a part of the mining sites for the international community if the international community did not possess the financial resources with which to mine or to put its enterprise into business and if there were no provisions for the transfer of technology to the international community.

We have taken these views into serious consideration. And, therefore, on the occasion of my meeting with some of the members of Committee I, I proposed on behalf of the United States Government that the United States would be prepared to agree to a means of financing the enterprise in such a manner that the enterprise could begin its mining operation either concurrently with the mining of state or private enterprises or within an agreed time span that was practically concurrent. We proposed also that this would include agreed provisions for the transfer of technology so that the existing advantage of certain industrial states would be equalized over a period of time.

We have also taken into account the views that have been expressed by some delegates that it might be premature to establish a permanent regime for the deep seabeds, for the exploitation of the deep seabeds, at the beginning of a process of technology and to freeze it for an indefinite period of time.

For this reason we have proposed today that there could be periodic review conferences at intervals to be negotiated—for example, 25 years—in which the methods by which mining in the deep seabed take place and the apportionment between various sectors could be periodically reexamined.

In other words, the United States has made a serious effort to move forward on this deep seabed question.

I have heard, since I was here, the view that perhaps a settlement is premature in the light of our unsettled domestic situation. (Laughter) Of course, some of us consider our domestic situation more settled than others. (Laughter) But I would believe—I would consider it highly unlikely that the basic principles are likely to be changed that I have put forward with respect to the deep seabeds.

And I do not have the impression that they are the subject of partisan discussion, as is reflected by the bipartisan composition of the Congressional delegation that participates in these meetings.

We obviously will not be able to settle all of the issues now. And this afternoon, for example, some proposals were made—including by the distinguished delegate from Nigeria—in the discussions of the Committee I that we will examine with great care. But I would urge that the time has come to put aside the theoretical debates. I believe the issues are too crucial to try to prove abstract ideological points.

The United States has made its proposals, which represent significant restrictions on our freedom of action for the sake of international peace and international harmony, and for the purpose of demonstrating that in this new area of mankind's activities we will make every effort to avoid the sort of rivalries that characterize colonial exploitations of the Nineteenth Century.

But there are limits beyond which no American leader can go. And if those limits are attempted to be exceeded, then we will find ourselves in the regrettable and tragic situation where at sea—just as previously on land—unilateralism will reign supreme.

We in the United States would not, in the short term, have any disadvantages from this—quite the contrary. But we are part of mankind, and we believe that an opportunity would be lost that may not come again.

So, on behalf of the American delegation, I want to assure you that in all of the Committees, and on the crucial issue of dispute settlements, we will work with dedication and conviction and with a profound sense of responsibility that what we are doing her—or rather, what you are doing here—is of historic significance. And we hope that in this spirit we can use the next few weeks to move matters forward to a point from which a final solution in the early part of next year becomes so inevitable that even the brilliant negotiators assembled here cannot find enough fine points to interfere. (Laughter)

Thank you very much.

Mr. METCALF. Mr. President, there are those in Congress who have been concerned with the problem for years. The original Seabed Mineral Resources Act was introduced in 1971. Ordinarily the executive agencies concerned with legislation would submit their recommendations to the Congress. But all we have had since 1971 is advice that we in Congress need do nothing because great progress was being made in the international negotiations.

A matter of record is a letter of March 1, 1973 to the chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON) from Mr. Charles N. Brower, acting legal adviser to the Department of State and Acting Chairman of the Inter-Agency Task Force on the Law of the Sea. His letter includes these words:

> We will spare no efforts to insure that a successful Law of the Sea Conference can be concluded on schedule. However, this does not mean that we intend to focus our efforts exclusively on the Law of the Sea negotiations.
>
> Prudence dictates that we also begin at once to formulate a legislative approach on a contingency basis for two reasons. First, it could conceivably become clear during the negotiations that we have no reasonable basis for expecting a timely and successful Law of the Sea Conference. Second, we can prepare for provisional entry into force of some aspects of the international seabed regime once it is signed.

While seabed mining legislation pending at the time did not in Mr. Brower's words "appear to us to be satisfactory, we intend to continue the useful discussions we have been having with industry representatives and members of the public on this issue with a view to formulating such an approach within the administration."

Three years later we have additional evidence that the administration may be thinking about domestic legislation.

The September 17, 1976 issue of the authoritative "Ocean Science News," weekly newsletter published in Washington, D.C., quotes Deputy Administrator Howard Pollock of the National Oceanic and Atmospheric Administration as saying "a kind of paralysis has descended upon the Law of the Sea negotiations."

The newsletter continued:

> An LOS treaty with seabed mining provisions acceptable to the U.S. is not likely to be concluded until the U.S. applies pressure in the form of domestic ocean mining legislation.
>
> Until that happens, the developing nations are just not going to find conclusion of a treaty to be in their interest. That's how two official advisors to the U.S. delegation analyzed LOSC lack of accomplishment for the Natl. Advisory Committee on Oceans & Atmosphere (NACOA) this week. 'In my judgment,' said Donald L. McKernan, Univ. of Washington, 'action by the U.S. Congress and government in the next few months would be one of the greatest guarantees for a law of the sea of any single thing that could be done by this government.'
>
> 'This issue is a political one; there are no technical questions left.' insisted Marne Dubs of Kennecott Copper Corp. The main difficulty, he said, is that the developing world 'wants the (seabed) authority to behave toward the seabed the way a sovereign state behaves toward its own territory.' In contrast, he noted, the U.S. favors a 'parallel' approach guaranteeing direct access by mining states as well as the international authority. Secretary of State Henry Kissinger's offer that 'the U.S. will see to the financing of the (seabed) Enterprise' made no dent in the developing nations' stone wall of intransigence, he said. 'The 'quid' was accepted all right.' Dubs quipped, 'but there was no evidence of the 'quo' being returned.' As things stand, he told NACOA, 'it's not likely in the near future that there will be a treaty for the deep seabed.' . . .
>
> The question of the freedom of scientific research produced an impasse in the U.N. deliberations, McKernan and Dubs told NACOA. 'The developing world has held very firm on this particular issue,' McKernan noted. They see any lack of a requirement for coastal state consent to research in waters off its shores 'as a derogation of the coastal state's rights in this zone,' he said. At this session, the Soviet Union, formerly in agreement with the U.S. on the need for a more open arrangement for research, also seemed to accept the developing nations' concept of a rigid consent regine.
>
> Said Sen. Warren Magnuson (D–WA) last week: 'I could not give my support to a treaty which opens the door to arbitrary control over scientific research in the sea.'
>
> The Ford Administration is ready to send Congress a Deep Sea Mining bill, Interior Secretary Thomas Kleppe hinted (16 Sept.) to Rep. John Breaux's (D–LA) hearings on U.S. national ocean policy.
>
> So today (17 Sept.) ended the current session of the U.N. Law of the Sea negotiations. Of course, the conference won't fold permanently. As has been reported (OSN, 2 Sept.), a May meeting is scheduled, most likely in New York City again. There's a possibility that it may be restricted to Committee I (seabed) deliberations.

Mr. President, if the past is prologue, the result of this immediate past U.N. session in New York will be another "single negotiating text." Like its predecessors, it will be touted as evidence of progress in negotiations toward a generally accepted treaty.

I have seen these "single negotiating texts" before. Three of them have been printed in the hearing records of the Subcommittee on Minerals, Materials, and Fuels of the Senate Committee on Interior and Insular Affairs.

In the jargon of our negotiators, a single negotiating text is referred to by its initials "S-N-T." On the basis of experience, I call an SNT a SNIT—a "snit," defined by Mr. Webster as "a state of agitation."

The new SNIT will be at least the third version—because there were two versions of the first. The official version of the first was put together by the General Chairman of the United Nations Law of the Sea Conference in 1975. It was labeled "informal." The second SNIT came out of the New York session in May of this year, and was identified as "revised." I do not know what they will call the third version—"son of SNIT," perhaps—but if the earlier versions are any guide it will include some 500 articles of legalistic and conflicting language, which may retard mankind's development of ocean resources—and may become a primary source of international conflict.

My problem is that I have read the single negotiating text—or texts.

And, as I have read it, or them—I get the impression that the international community could own—and run—everything beyond 200 miles seaward from our coast and could hand the bill to U.S. taxpayers and consumers.

There would be a headquarters in Jamaica; branch offices elsewhere. The international agency would adopt budgets, make rules, decide on benefit sharing, determine compensation, borrow money, and be exempt from taxes and customs.

The international community would own everything beyond 200 miles, right down to what is referred to as "objects of an archaelogical and historical nature." It could do its own developing, processing, transportation and marketing. It could decide, on the basis of its own evaluation, the ocean areas "of commercial interest." It could give developing countries access to what is referred to in the draft as "patented and nonpatented technology."

And the text is shot through with discrimination.

Although the International Seabed Authority is to avoid discrimination, at least one SNIT includes these words:

> Special consideration . . . for the interests and needs of the developing countries . . . shall not be deemed to be discrimination.

Geography would be considered in locating branch offices and in hiring personnel. There is reference to "preferential access or favorable terms" for developing countries. And finally if the International Authority finds and develops seabed resources, the draft says the products may be offered for sale at not less than the international market price—but may be sold at lower prices to developing countries.

At the end of the line is Uncle Sugar—and the reference to what is politely termed: "Assessment of the contributions of Parties to this Convention as necessary for meeting the administrative budget."

Reports coming out of New York in the past few days are to the effect that somewhere between 60 and 80 percent of the problems pending before the conference have been solved. If that is the case, the remaining 20 to 40 percent still present substantial obstacles in the way of an agreement which I would recommend that the Senate ratify.

Of course the major obstacle is the question of seabed mining. Then there are international pollution control standards and scientific research, among others. Article 14 of the revised single negotiating text would require coastal Nation-State consent to conduct scientific research. The scientists of the world tell us they cannot live with that provision.

We still have the question of who is going to pay for the huge bureaucracy which would be a creature of SNIT. The revised single negotiating text says the International Authority shall determine "if and to what extent developing countries shall be obliged to make payments." The oil-rich OPEC countries are developing countries. Under the loophole existing in SNIT, the OPEC countries could hand the bill to U.S. taxpayers and consumers.

And, although some of our negotiators continue to exude optimism they cannot even tell us how many nations are with us in these complex negotiations. I put that question to the man who heads our delegation at subcommittee hearings on June 8, 1976. The reply was:

> I would not try to put a number on it.

Considering our administrative progress in the United Nations to date, I hope my colleagues will agree that it is time for Congress to have a piece of the action in the national interest.

Mr. FANNIN. The Senator from Montana is to be commended for his excellent appraisal of the disastrous results of the recently concluded negotiations in New York on the Law of the Sea. The Senator is to be commended for his totally bipartisan approach toward this matter. Ever since he chaired the ad hoc committee on the Outer Continental Shelf in 1969 he has been the Senate's leading expert—and I emphasize bipartisan expert and leader—on Law of the Sea matters and specifically on ocean mining matters, including his own ocean mining legislation which I have had the honor to cosponsor.

This Senator shares the opinion of the Senator from Montana that the Secretary of State was absolutely correct when he told foreign delegates in New York that the next administration will treat Law of the Sea and ocean mining as a bipartisan issue no matter who is in office.

This Senator also agrees that this body would never give its advice and consent to ratification of the "revised single negotiating text," including recent changes and proposed changes to it. A treaty embodying these provisions would gather dust on the committee shelf and probably never even reach the floor for a vote.

If such a vote did in fact take place, there probably would not even be nearly one-third of the Members of the Senate in favor of the treaty, let alone the two-thirds required.

So this Senator cannot help but agree with the statements of the able Senator from Montana. Will the Senator yield for some questions?

Mr. METCALF. Mr. President, this Senator will be pleased to yield to his colleague from Arizona. Before yielding, however, it is appropriate to note that the Senator from Arizona deserves much credit for his leadership in Law of the Sea matters. He witnessed first-hand this spring in New York the miserable state of the Law of the Sea negotiations. He has assisted admirably in keeping Law of the Sea and ocean mining nonpartisan issues. His leadership in this field will be sorely missed next year.

Mr. FANNIN. The kind words of the Senator are deeply appreciated. He mentioned that Secretary Kissinger made a speech in New York, in April, I believe, in which he offered what seemed to many of us to be very generous concessions. They were not accepted?

Mr. METCALF. The Senator is correct. Secretary Kissinger made a formal speech in New York in April in which he made important proposals relating to the minerals of the deep seabed.

First, he reaffirmed the proposal, which had first been made by the Nixon administration in 1970, that the treaty should establish an "International Seabed Resource Authority to supervise exploration and exploitation of the deep seabeds." It would consist of an assembly, of all member states—about 150—a council, of about 30 nations, a tribunal, and a secretariat. This put the United States into a very difficult negotiating position.

Mr. FANNIN. May I ask the Senator, would the assembly be made up of the same nations that are members of the Assembly of the United Nations, each casting one vote?

Mr. METCALF. It would. All we have to do is to examine the voting record of the General Assembly of the United Nations to discover what would happen to American interests in this new assembly, which, unlike its U.N. counterpart, would have the power to legislate and bind the United States, while the United States would have no recourse to a veto to block irrational action. But, in justice to Secretary Kissinger, I should add that this super-government idea was contained in a draft treaty made public in the administration of Mr. Nixon and Secretary Rogers. The Senator may recall that when this draft was shown to members of the Senate Interior and Insular Affairs Committee, just 3 days before it was made public, we protested in writing and asked that it not be presented.

Mr. FANNIN. And what sort of powers would this Authority have?

Mr. METCALF. As respects the seabed, the new scheme would totally replace the principle of freedom of the seas, which has been the cornerstone of American ocean policy from the beginning of our Nation's history, with the legal concept that the seabeds are under the control of this new supergovernment. Whereas up to now, every nation and its people have always had the right to mine the minerals of the seabed, just as they have the right to freely navigate on the surface, hereafter, if the new scheme were ever to be ratified with the Senate's approval, no one could explore for or mine these minerals unless he had a contract with the new supergovernment.

Mr. FANNIN. Is not that about like the relationship between the Arab governments and others that own on-shore minerals, and the companies to whom they give permission to develop those minerals?

Mr. METCALF. The Senator has put his finger on the heart of the new scheme. I will come back to that. But for the moment, let me continue with Secretary Kissinger's offer of April 8. He said that the United States "accepts" that a mining company, to be known as the Enterprise, should be established as part of the Authority. The United States would "accept," as part of an overall settlement, a scheme whereby each mining company, each would-be contractor, would have to discover and propose two mine sites for exploitation. He proposed "The Authority would then select one of these sites which would be mined by the Authority directly or made available to developing countries at its discretion. The other site would be mined by the contractor on his own."

Mr. FANNIN. Does this mean that the American mining company would have to bear the cost of exploration as a gift to the Authority? How much would it cost?

Mr. METCALF. It would be a gift. The added cost of discovering and exploring a second site, and designing a processing plant to refine that particular ore, could run to many millions of dollars. But that offer was only the beginning. The Secretary went on to propose a system of revenue sharing—that is, sharing the mining company's revenues, not those of the Enterprise. He said that this could be "based either on royalties or on a system of profit sharing from contract mining." And now we come to a very important statement. He said, "Such a system would give reality to the designation of the deep seabeds as the common heritage of all mankind."

Mr. FANNIN. Is it not true that the American position was that these words, "common heritage of mankind" had nothing to do with ownership of the seabed, but meant something like a common interest in the freedom of the seas, a common right to be free of pollution, a common right to take the fish of the high seas. Has the American position changed?

Mr. METCALF. The other nations seemed to think so. "Royalties" are the revenues that a sovereign, as landowner, collects from a contractor to whom he has given the privilege of mining the minerals that the sovereign owns, as proprietor. Our own Government, for example, collects royalties on the production of oil from its leases on the Continental Shelf. So when the Secretary said that a system of collection of royalties by the authority "would give reality to the designation of the deep seabeds as the common heritage of all mankind," he seemed to be making, intentionally or not, a polar shift of the whole axis of American ocean policy.

Mr. FANNIN. Is it also true that the U.S. delegation also offered to accept a production limitation scheme?

Mr. METCALF. That is correct. I think it important to quote the Secretary's exact words:

> The United States is prepared to accept a temporary limitation, for a period fixed in the Treaty on production of the seabed minerals tied to the projected growth in the world nickel market, currently estimated to be about 6 percent a year. This would in effect limit production of other minerals contained in deep seabed nodules, including copper. After this period, the seabed production should be governed by overall market conditions.

"Temporary," we later discovered, meant 20 years plus a possible 5-year extension. Note particularly his statement that "This would in effect limit production of other minerals contained in deep seabed nodules, including copper." I call attention to this because, incredible though it may seem, the American negotiator in committee I, Mr. Leigh Rainer, has told Members of Congress that this formula would result in such high numbers for allowable production as to impose no limitation at all on seabed production of copper, and that the copper-producing countries, which had demanded a limitation, are well aware of this. He describes the so-called production limitation as "optics."

Mr. FANNIN. How will the foreign negotiators explain this to their governments?

Mr. METCALF. It seems to have a built-in ambiguity. One interpretation would indeed produce no limitations at all, as Mr. Ratiner asserts, and, if so, the copper-producing countries have been misled. But another interpretation would result in such severe limitations that there could never be more than two or three mining companies—excluding the Enterprise—producing to capacity, and their total allowable production, even if it all came into the United States, would satisfy only a fraction of our mineral deficit. On that interpretation, the American consumers, not the foreign producers, have been misled.

Mr. FANNIN. What was asked in return for all these concessions?

Mr. METCALF. The Secretary said:

> The United States proposes that the treaty should guarantee nondiscriminatory access for states and their nationals to deep seabed resources under specified and reasonable conditions. The requirement of guaranteed access will not be met if the treaty contains arbitrary or restrictive limitations on the number of mine sites which any nation might exploit. And such restrictions are unnecessary because deep seabed mining cannot be monopolized; there are many more productive seabed mining sites than conceivably can be mined for centuries to come.

Mr. FANNIN. So what happened? Did the less developed countries accept the Secretary's offer?

Mr. METCALF. Not at all. A month later, May 7, the conference adjourned, publishing a "Revised Single Negotiating Text." It incorporated all the concessions that Secretary Kissinger had offered, you may be sure, and added several layers of icing to his cake, but offered nothing at all in the way of guaranteed nondiscriminatory access. The Assembly, one nation one vote, is made the "Supreme Organ" of the authority. All contractors are required to accept full control by the authority. The authority is to decide what stages of operations are to be included in a contract. The chairman of committee I, who was the author of the revised single negotiating text, said that such stages as "feasibility studies, constructions of facilities, processing, transportation and marketing are clearly not excluded." Transfer of technology from the miner to the authority can be required, in return for any relaxation on contract terms. All activities in the deep seabed are to be conducted "directly by the authority and in association with the authority and under its control." Here we have the death knell of the freedom of the seas, the answer to Secretary Kissinger's plaintive plea that "the treaty should guarantee nondiscriminatory access for states and their nationals to deep seabed resources under specified and reasonable conditions." The authority can impose production controls. The U.S. delegation's 6-percent formula is written into an annex, ambiguity and all. There is evidence that the group of 77 regards this 6 percent as a figure to be negotiated downward to restrain U.S. industry, rather than as a floor percentage as intended by its author.

Article 9 of the treaty provides that activities in the area shall be undertaken in such a manner as to "protect against the adverse economic effects of a substantial decline in the mineral export earning of developing countries for whom export revenues from minerals or raw materials also under exploitation in the area represent a significant share of their gross domestic product or foreign exchange earnings." Article 9 goes on to say that this protection is to be achieved in three ways.

The first involves arrangements to promote the stability of markets. This is just another way of saying price fixing. It says the authority shall "assure the uniform and nondiscriminatory implementation of such decisions in respect of all production in the area of the minerals concerned."

The second device authorized is for the Authority to limit "total production in the area so as not to exceed the projected cumulative growth segment of the nickel market during that period." This is the limitation scheme earlier discussed. The formula is spelled out in annex I, paragraph 21, with the 6 percent scheme and ambiguities that have already been referred to.

The third method authorized by article 9 to protect onshore producing countries is "a compensatory system of economic adjustment assistance in respect of the adverse effects referred to in this paragraph."

Mr. FANNIN. Was that really part of the U.S. proposal?

Mr. METCALF. It was. The Secretary made it clear that he was talking about a scheme of payments to the producing countries to offset any decline in prices or markets occasioned by seabed production.

Mr. FANNIN. Is not this just as though the United States were to agree to compensate the OPEC countries for any reduction in their petroleum export earnings occasioned by the success of efforts on our part to make ourselves independent of them by developing our own petroleum production?

Mr. METCALF. Precisely. The Chairman, Mr. Engo, went on to say in his report that article 9 provides "a three layer system of complementary measures," that is first, commodity arrangements to facilitate efficient and stable markets, second, production controls, and third, a compensatory system of economic adjustment assistance.

Mr. FANNIN. How about the Enterprise? Is it subject to all of these restrictions?

Mr. METCALF. Not at all. The Chairman made it clear that special care had to be given to protect the Enterprise, that is, the mining company owned by the Authority, from the adverse effects of these restrictions. Indeed, the Statute of the Enterprise, which is annex II of the revised single negotiating text, states that the Enterprise, its assets and property, shall be free from all restrictions, regulations, controls, moratoria, taxation, and customs duties and shall carry special immunities to insure such special treatment.

Mr. FANNIN. When we talk about production controls and price fixing, aren't we running counter to the policy of the American antitrust laws?

Mr. METCALF. It seems so to me. Indeed, in article 9 that I have referred to, it is expressly stipulated that production levels under existing contracts shall not be affected by the production controls although such production is to be included in the calculation of the stated production limits. That is to say, if two or three companies having contracts could produce the whole amount of the allowable production, no new competitors would be allowed into the field, except for the Enterprise.

Mr. FANNIN. How about profit-sharing? Did the less-developed countries take up the U.S. offer on that?

Mr. METCALF. You may be sure they did. There is a special appendix captioned "financial appendix." It offers two alternate schemes, both of them keyed to stated returns on the investment. The amounts are left blank. But it is perfectly clear that, when the contractor's return on investment exceeds an amount that the Authority has written into the contract, the excess is recaptured by the Authority.

Mr. FANNIN. What happens to American taxation of the American companies involved?

Mr. METCALF. Of course their earnings would be subject to American income tax under existing U.S. laws.

Mr. FANNIN. Is there any provision for offsetting these taxes against the Authority's collection, or offsetting the Authority's collections as a credit against U.S. taxes?

Mr. METCALF. There is not. Indeed, the Treasury Department has made clear that it would not agree to allowing a tax credit, that is, a credit against U.S. taxes because of payments to the Authority, and the treaty doesn't offer any allowances for U.S. taxes against the amounts that must be paid the Authority.

Mr. FANNIN. How can U.S. mining companies compete with the Enterprise or with on-shore producers, if they are subject to double taxation in this way?

Mr. METCALF. They could not. They have made it plain that if a treaty in this form becomes law, there will be no U.S. deep sea mining. Indeed, this is just one of the features of the treaty that makes it wholly unacceptable. American mining companies could not attract the necessary capital for this hazardous business if the revised single negotiating text of May 7 or anything like it should become a treaty.

Mr. FANNIN. But does not this text for the most part simply incorporate the U.S. proposals?

Mr. METCALF. It is built on the U.S. treaty proposal of 1970, which offered to create this supergovernment, and it incorporates all of the U.S. concessions of April 8, but it offers little or nothing in the form of guaranteed access which was the quid pro quo which was demanded.

Mr. FANNIN. This takes us up to May 7. You discussed a summer meeting of the conference?

Mr. METCALF. Yes, there was a meeting which convened on August 2 and adjourned on September 17.

Mr. FANNIN. Did the less developed countries accept the generous offer of the United States and agree quickly on a treaty? Was an agreement reached?

Mr. METCALF. Fortunately, no agreement was reached. It was not for lack of further concessions on the part of the United States.

Mr. FANNIN. What was there left to give away?

Mr. METCALF. On September 1 the Secretary returned to New York and made three more offers. He said the United States "would be prepared to agree to a means of financing the Enterprise in such a manner that the Enterprise could begin its mining operations either concurrently with the mining of State or private enterprises, or within an agreed time span that was practically concurrent."

Mr. FANNIN. Does this mean that the United States would put up the money to finance the Enterprise, as a competitor to U.S. mining companies?

Mr. METCALF. It means precisely that. We pay 20 percent of the operating expenses of the United Nations, so I suppose it is fair to assume that we would put up 20 percent of the cost of getting the Enterprise underway.

Mr. FANNIN. How much money are we talking about?

Mr. METCALF. I am told that to put a deep sea mining operation into production will cost some $400 million. About half of this is represented by equipment at the mine site, and about half would have to be invested in processing and refining plants onshore, tailored for this particular type of ore. It cannot be processed in an ordinary smelter or refinery.

Mr. FANNIN. Does this mean that the United States would be expected to put up funds in the range of $80 million?

Mr. METCALF. This seems to be a logical interpretation. But I am told that the U.S. delegation was put to work, fanning out through the other delegations saying that what we are really talking about was just a few million dollars to help the Enterprise out with an exploration program. This seems to be another unfortunate example of the doubletalk that has lost us all credibility in Committee One.

Mr. FANNIN. The Senator spoke of three offers that were made September 1. What were the others?

Mr. METCALF. The second was this. The Secretary said:

> We proposed also that this would include agreed provisions for the transfer of technology so that the existing advantage of certain industrial States would be equalized over a period of time.

Mr. FANNIN. Who owns this technology?

Mr. METCALF. Our own mining companies do. They are far ahead of the rest of the world.

Mr. FANNIN. How would they be forced to transfer their technology to the enterprise?

Mr. METCALF. No one said. There was no consultation with any U.S. companies before offering to give away their technology. This technology has been developed painfully over many years, at a cost of millions of dollars.

Mr. FANNIN. And what was the third offer?

Mr. METCALF. As earlier indicated the press release states:

> We have proposed today that there could be periodic review conferences at intervals to be negotiated—for example, 25 years—in which the methods by which mining in the deep seabed take place and the apportionment between various sectors could be periodically reexamined.

Mr. FANNIN. Just what was meant by that?

Mr. METCALF. The signal here is that private enterprise will be eliminated 25 years from now, and that the deep seabed will, in fact, be managed exclusively by the authority and its enterprise.

Mr. FANNIN. Did the summer session that ended September 17 also produce a "Revised Single Negotiating Text?"

Mr. METCALF. It has yet to do so.

Mr. FANNIN. How long has this been going on? Hasn't it been nearly a decade?

Mr. METCALF. Debates in one form or another have been going on for 8 years. This was the fifth formal session of the Conference which was preceded by 6 years of preparatory meetings in the spas of the world.

It may interest the Senator to know that we have been trying desperately to find a way to negotiate with the "Group of 77" for quite some time now—unsuccessfully. The major result of this last session seems to be that it finally signaled one of two conclusions, either of which may be fatal to the negotiating process in the U.N. Conference.

Negotiating attempts in the past have always run up on the shoals of group of 77 requirements that any negotiations have to take place among the entire 110 or so nations of the developing world. This, and the internal distrust in that group, meant that negotiations bogged down from sheer complexity. In the Spring 1976 session, negotiations were attempted in a group of limited membership. The "Revised Single Negotiating Text" of May 7 was the result. That the group existed was common knowledge but not publicly discussed, in order to save the face of those not involved. The work product of that group, and the negotiating group itself, were ultimately publicly repudiated in the session which ended September 17; indeed, the group of 77 leaders involved found no difficulty in washing their hands of any responsibility for its efforts and results. They did, however, glibly accept concessions made by the United States in the process, treating these as confirmation of existing "rights" of the group of 77.

The two fatal conclusions? Either the Group of 77 is incapable of negotiating in good faith, or its core members are unwilling to negotiate at this time.

Mr. FANNIN. And American miners have been held up all this time, waiting on a treaty?

Mr. METCALF. Yes. Every year the State Department has come back with the same story: Give us one more year, and if we cannot get a treaty we will endorse domestic legislation to permit these companies to go ahead.

Mr. FANNIN. What is involved here is clearly a basic clash between two diametrically opposite political philosophies, one the American principle of free enterprise, the other the Socialist principle of government ownership and control. This enables the Arab countries and some others to squeeze the consumers for all they can get, because these countries enjoy such a dominant position in the control of petroleum. Are we not in danger of transferring exactly that same philosophy to their control of the minerals of the deep seabed by the less-developed countries?

Mr. METCALF. Exactly so. These minerals are the last great reserve available to the American people, without having to bow to the foreign governments that control the mineral resources of the world. And we are busily trading that off, acquiescing in the establishment of a supergovernment to own and control these seabed resources.

Mr. FANNIN. The Senator just used the key word, "control." Is not that what is really at stake here? Whether the freedom of the seas shall be surrendered, and control of the deep seabed shall pass to the less-developed countries which have dedicated themselves to making life miserable for the United States in the Assembly of the United Nations?

Mr. METCALF. It seems so to me.

Mr. FANNIN. This is so difficult to understand how the U.S. delegation continues to negotiate and seems dedicated to making concession after concession. Why do we do this to ourselves?

Mr. METCALF. We seem to be dealing with personal ambitions of a handful of people who have dedicated 8 years or more of their lives to negotiating a treaty. They are fascinated by the structure of their creation, and the fact that it is one which is adverse to the interests of the United States has been lost sight of. The U.S. treaty negotiators have been compared, I think accurately, to the British officer in the movie, "The Bridge on the River Kwai." He was captured by the Japanese, along with his men. He was an engineer officer. The Japanese were busy trying to build an all-important bridge across the River Kwai, and were not doing very well at it. He was sure he could do a better job, and was given the opportunity. The British Government learned what he was up to, and had to send a task force to destroy the bridge. One of the most dramatic confrontations in the movie was that between this unfortunate British officer who could not realize the damage he was doing to his country by building this bridge, and the other British officers who were sent to destroy the bridge and stop him. We have about reached the point where the U.S. Senate has to stop the nonsense that has gone into the building of this treaty.

Mr. FANNIN. Perhaps what we see here is an example of the pressure for the new economic order of the less-developed countries that we transfer our wealth and our know-how to them, as a sort of penance for some imaginary wrongs that the United States has imposed on these countries.

Mr. METCALF. The Senator has expressed it very well. The Senator knows that the developing countries are moving to cartelize commodities, even extending their ambitions to such an intangible commodity as the news. This is all part and parcel of their attempt to structure a "New World Economic Order" by increasing their demands on the free world, which trades with them, and ignoring the Socialist bloc, which does not. The minerals of the seabed have provided the Group of 77 with a test case in the effort to control hard minerals within the context of the "New World Economic Order." They have answered each conciliatory move by the United States with a new demand and a harsher response. Surely it is time to call a halt to all this. It is surely no longer in the interests of the United States to support what has become an experiment in international socialism. Let us move forward with our legislation and hope that rationality will return to the U.N. when it realizes that the United States has, indeed, exceeded the limits of its generosity.

Mr. FANNIN. The Wall Street Journal, on September 20, 1976, reported that moderates among the Group of 77 seemed to be recapturing the initiative in that group at the end of the last session. Is this a signal of assured progress in the 1977 session?

Mr. METCALF. For years now the State Department has reported to Congress at the end of Law of the Sea sessions that, while radicals held sway during the session, the moderates began to speak for compromise in the end. Indeed, some State Department representatives made a career of breathless reports of this nature in 1973, 1974, and 1975. It is an illusion, it is a forlorn hope, and it begins to smack of collusion between the State Department and the Group of 77 to keep this Congress off balance. We should no longer give credence to such reports.

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## LOCKS AND DAM NO. 26 SHOULD BE INCLUDED IN THE WATER RESOURCES DEVELOPMENT ACT OF 1976

Mr. SYMINGTON. Mr. President, the existing structure of locks and dam No. 26 was designed in the 1920's, constructed in the 1930's, and placed in operation in 1938 using engineering techniques now outmoded.

At the same time, the wear and tear on the locks by the river and the increased size and power of the towboats and barges are causing this structure to deteriorate. The Army Engineers are hard pressed just to keep the present facility open.

It is vital to the economy of the Midwest and the Nation that locks and dam No. 26 be kept open and operating efficiently.

At the present time, for example, some 55 million tons of grain, coal, petroleum, petrochemicals, iron and steel, and building materials pass through this facility each year. It is estimated that the theoretical physical capacity of the locks will be reached by 1983. Even if construction on a new facility begins next year, it cannot be completed before 1985.

The total amount of cargo passing through locks and dam No. 26 includes almost 30 percent of the grain exported from the United States last year. These agricultural products meant the difference between a balance-of-payments deficit and our $2 billion surplus in 1975.

As shown during the temporary closure—for emergency repair—of locks and dam No. 26 in April of this year, other modes of transportation cannot handle all of the grain now transported by barge through this outdated and outmoded facility.

The total amount of tonnage also includes coal used to generate electricity. Powerplants without any rail transportation presently provide 25 percent of the electricity in the central Midwest. Again, there is presently no adequate alternative mode of transportation to move this coal to where it is needed.

Section 4 of the Water Resources Development Act of 1976 provides protection against flagrant abuses of the economy or the environment.

It calls for a comprehensive study of whether a new 1,200 foot lock and dam should be constructed or the facility rehabilitated; the effect on other modes of transportation; the environmental effects of increased barge traffic and dredging; other factors associated with rebuilding or rehabilitating this facility; and prohibits any studies of deeping the present 9-foot channel above locks and dam No. 26 without an act of Congress.

The need to replace locks and dam No. 26 has been recognized by several Federal Government agencies, including the

Departments of Agriculture, Commerce, Labor, and Transportation. There have been numerous studies, public hearings and the proposal has been reviewed and recommended by the Corps of Engineers, the Secretary of the Army, the Office of Management and Budget, and the President.

I support the authorization of locks and dam No. 26 and its inclusion in the Water Resources Development Act of 1976.

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## CONFEREES OVERRIDE FORD: REAFFIRM SENATE JUVENILE CRIME PRIORITY

Mr. BAYH. Mr. President, on July 23, 1976, this body rejected a Ford administration proposal and a compromise proposal designed to repeal and dilute key provisions of the Juvenile Justice and Delinquency Prevention Act of 1974. Instead my colleagues, by a vote of 61 to 27, voted to reaffirm our bipartisan congressional commitment to retaining juvenile crime prevention as the Federal crime priority. I am especially pleased to announce that the House-Senate conferees (S. 2212) rejected a last-ditch effort by the administration to diminish juvenile crime programs and have reaffirmed and adopted the Senate approach. I commend Senator McCLELLAN for his dedicated advocacy of the Senate position, as well as our other colleagues, including Senators HRUSKA and KENNEDY, who collectively labored with Chairman RODINO and his House conferees.

Five years of hearings in Washington and throughout the country by my Subcommittee to Investigate Juvenile Delinquency have led me to two important conclusions.

The first is that our present system of juvenile justice is geared primarily to react to youthful offenders rather than to prevent the youthful offense.

Second, the evidence is overwhelming that the system fails at the crucial point when a youngster first gets into trouble. The juvenile who takes a car for a joy ride, or vandalizes school property, or views shoplifting as a lark, is confronted by a system of justice often completely incapable of responding in a constructive manner.

We are all too aware of the limited alternatives available to juvenile court judges when confronted with the decision of what to do with a case involving an initial, relatively minor offense. In many instances the judge has but two choices—send the juvenile back to the environment which helped create the problems in the first place with nothing more than a stern lecture, or incarcerate the juvenile in a system structured for serious, multiple offenders where the youth will invariably emerge only to escalate the level of violations into more serious criminal behavior.

The most eloquent evidence of the scope of the problem is the fact that although youngsters from ages 10 to 17 account for only 16 percent of our population, they, likewise, account for fully 45 percent of all persons arrested for serious crimes. More than 60 percent of all criminal arrests are of people 22 years of age or younger.

We can trace at least part of this unequal distribution of crime to the idleness of so many of our children.

The rate of unemployment among teenagers is at a record high and among minority teenagers it is an incredible 50 percent. Teenagers are at the bottom rung of the employment ladder, in hard times they are the most expendable.

We are living in a period in which street crime has become a surrogate for employment and vandalism a release from boredom. This is not a city problem or a regional problem. Teenage crime in rural areas has reached scandalous levels. It takes an unusual boy or girl to resist all the temptations of getting into trouble when there is no constructive alternative.

But it is not solely the unemployment of teenagers that has contributed to social turmoil. The unemployment of parents deprives a family not only of income but contributes to serious instability in American households which, in turn, has serious implications for the juvenile justice system. Defiance of parental authority, truancy, and the problem of runaways are made materially worse by national economic problems. And it is here that we must confront the dismal fact that almost 40 percent of all the children caught up in the juvenile justice system today fall into the category known as the "status offender"—young people who have not violated the criminal law.

Yet these children—70 percent of them young women—often end up in institutions with both juvenile offenders and hardened adult criminals.

Thus, each year scandalous numbers of juveniles are unnecessarily incarcerated in crowded juvenile or adult institutions simply because of the lack of a workable alternative. The need for such alternatives to provide an intermediate step when necessary between essentially ignoring a youth's problems or adopting a course which can only make them worse, is evident.

To assist State and local governments, private and public organizations in an effort to fill these critical gaps by providing adequate alternatives, the Congress overwhelmingly approved and President Ford signed into law the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415. This legislation, which I authored, is a product of a bipartisan effort of groups of dedicated citizens and of strong bipartisan majorities in both the Senate, 88 to 1, and House, 329 to 20, to specifically address this Nation's juvenile crime problem, which finds more than one-half of all serious crimes committed by young people who have the highest recidivism rate of any age group.

This measure was designed specifically to prevent young people from entering our failing juvenile justice system and to assist communities in developing more sensible and economic approaches for youngsters already in the juvenile justice system. Its cornerstone is the acknowledgement of the vital role private nonprofit organizations must play in the fight against crime. Involvement of the millions of citizens represented by such groups will help assure that we avoid the wasteful duplication inherent in past Federal crime policy. Under its provisions the Law Enforcement Assistance Administration—LEAA—of the Department of Justice, must assist those public and private agencies who use prevention methods in dealing with juvenile offenders to help assure that those youth who should be incarcerated are jailed and that the thousands of youth who have committeed no criminal act—status offenders, such as runaways—are not jailed, but dealt with in a healthy and more appropriate manner.

Thus, the Juvenile Justice Act was designed to make juvenile crime and delinquency prevention a top Federal priority. With its implementation we will have a clear opportunity to reduce the size of the next generation of hardened criminals. There will be, however, no immediate impact in this regard. Thus, we must deal now with the legitimate concerns about youth and others who have shown by their conduct that they are beyond any reasonable expectation of rehabilitation. We must prefer prevention to rehabilitation, but with some we will have little choice.

My program vigorously pursues alternatives that will enable local communities to deal effectively with the problems of young people in trouble at a point when it is still possible to prevent problems of the home, school, and the community from escalating to the point that they result in serious criminal activity.

As we emphasize prevention and rehabilitation, however, we must also realize that rehabilitation is not always possible. Some youthful offenders must be removed from their communities for society's sake as well as their own. But the incarceration of youthful offenders should be reserved for those dangerous youths, especially serious repeat offenders, who cannot be handled by other alternatives.

This program has helped to cut the bureaucratic redtape that, in the past, strangled local community initiatives. One basic problem in this area was the total lack of proper coordination and management. We found that there were several dozen separate and independent Federal agencies and bureaus supposedly dealing with the problems of young people in trouble and juvenile crime. If a sheriff or chief of police or mayor or youth services director sought help from a Congressman's or Senator's office as to where they could go for assistance to fight juvenile crime in their communities, they needed a road map of the Washington bureaucracy.

One of the major steps we took in the Juvenile Justice Act was to establish one place in the Federal Government to meet these needs. We established a separate assistant administrator position in LEAA and, for the first time, placed authority in this one office for mobilizing the forces of Government to develop a new juvenile crime prevention program and to coordinate all other Federal juvenile crime efforts. That responsibility now rests in one clearly identified office, headed by a Presidential appointment, with advice and consent of this body.

In the management area, we made progress by eliminating wasteful duplication and directing that all resources be harnessed to deal more effectively with juvenile crime. We provided that no Federal programs undermine or compete with the efforts of private agencies helping youths in trouble and their families.

An essential aspect of the 1974 act is the "maintenance of effort" provision—section 261(b) and section 544. It requires LEAA to continue at least the fiscal year 1972 level—$112 million—of support for a wide range of juvenile programs. This provision assured that the 1974 act's primary aim, to focus the new office efforts on prevention, would not be the victim of a "shell game" whereby LEAA merely shifted traditional juvenile programs to the new office. Thus, it guaranteed that juvenile crime prevention was the priority.

Fiscal year 1972 was selected only because it was the most recent year for which current and reportedly accurate data were available. Witnesses from LEAA represented to the Subcommittee to Investigate Juvenile Delinquency in June 1973 that nearly $140 million had been awarded by the agency during that year ostensibly to programs for the improvement of the traditional juvenile justice system. It was this provision, when coupled with the new prevention thrust of the substantive program authorized by the 1974 act, which represented a commitment by the Congress to make the prevention of juvenile crime a national priority—not one of several competing programs administered by LEAA, but the national crime-fighting priority.

Thus, the passage of the 1974 act, which was opposed by the Nixon administration—LEAA, HEW, and OMB—was truly a turning point in Federal crime prevention policy. It was unmistakably clear that we had finally responded to the reality that juveniles commit more than half the serious crime.

Once law, the Ford administration, as if on cue from its predecessor, steadfastly opposed appropriations for the act and hampered the implementation of its provisions.

Despite continued stifled Ford administration opposition to this congressional crime prevention program, $25 million was obtained in the fiscal year 1975 supplemental. The act authorized $125 million for fiscal year 1976; the President requested zero funding; the Senate appropriated $75 million; and the Congress approved $40 million. In January, President Ford proposed to defer $15 million from fiscal year 1976 to fiscal year 1977 and requested a paltry $10 million of the $150 million authorized for fiscal year 1977, or a $30 million reduction from fiscal year 1976. On March 4, 1976, the House, on a voice vote, rejected the Ford deferral and recently the Congress provided $75 million for the new prevention program.

Mr. President, when we had obtained, over strong administration opposition, 50 percent of the funding Congress authorized for the new prevention program under the 1974 act, the administration renewed its efforts to prevent its full implementation. In fact, the Ford Crime Control Act of 1976, S. 2212, would have repealed the vital maintenance of effort provision of the 1974 act.

It is interesting to note that the primary reason stated for the Ford administration's opposition to funding of the 1974 act prevention program was the availability of the very "maintenance of effort" provision which the administration sought to repeal in their original version of S. 2212.

Mr. President, the same forked-tongue approach was articulated by Deputy Attorney General Harold Tyler before the Senate Appropriations Subcommittee. He again cited the availability of the maintenance of effort requirement in urging the Appropriations Committee to reduce by 75 percent, to $10 million, current funding for the new prevention program or in other words, kill it.

The Ford administration was unable to persuade the Judiciary Committee to fully repeal this key section of the 1974 act, but they were able to persuade a close majority to accept a substitute percentage formula for the present law, the effect of which would substantially reduce the total Federal effort for juvenile crime prevention. But, what the President seeks, and what his supporters will diligently pursue, is the full emasculation of the program. This intent is clearly evidenced in the original version of S. 2212 and even more importantly in the President's proposal to extend the 1974 act, for 1 year, which was submitted to Congress on May 15, after the compromise version was reported from the Judiciary Committee. This new Ford proposal again incorporates sections repealing the key maintenance of effort provision. My subcommittee heard testimony on this measure on May 20 and it was clear to me that rather than an extension bill, it is an extinction bill.

It is this type of doubletalk for the better part of a decade which is in part responsible for the annual record-breaking double-digit escalation of serious crime in this country.

The Ford administration has responded at best with marked indifference to the 1974 act. The President has repeatedly opposed its implementation and funding and worked first to repeal its significant provisions and until yesterday to dilute this bipartisan crime program. This dismal record of performance is graphically documented in the subcommittee's 526-page volume, the "Ford Administration Stifles Juvenile Justice Program."

The failure of President Ford, like his predecessor, to deal with juvenile crime and his insistent stifling of an act designed to curb this escalating phenomenon is the Achilles' heel of the administration's approach to crime.

The President's widely reported remarks before the National Association of Chiefs of Police, in Miami Beach, on Monday, in which he stressed the need to address the escalation of juvenile crime represents the highest degree of hypocrisy yet simultaneously his approach is one of consistency, for even as the President delivered his headline-making remarks, at White House direction the Attorney General at the 11th hour hand-delivered a letter on behalf of the President again urging the House-Senate conferees on the LEAA bill to reject the Senate's priority on juvenile crime.

I am pleased that the conferees saw through the inconsistent, obstructive Ford rhetoric on juvenile crime, found it unacceptable, and rejected it; just as I am certain that the American people will.

Mr. President, if I were not a realist, I would be ashamed to invest only 20 percent of the LEAA dollars in this area when 50 percent of the serious crime is attributable to young people. This year, with strident White House opposition, however, I believe the best we can do is to require, as the conference bill does, that each LEAA budget component allocate at least one-fifth of its appropriation for juvenile crime prevention programs.

I must emphasize, however, that I do not believe that those of us in Washington have all the answers. There is no Federal solution, no magic wand or panacea, to the serious problems of crime and delinquency. More money alone will not get the job done, but putting billions into old and counterproductive approaches—$15 billion last year, while we witnessed a record 17-percent increase in crime—must stop.

I understand the President's concern that new spending programs be curtailed to help the country to get back on its feet.

But, I also believe that when it can be demonstrated that such Federal spending is an investment which can result in savings to the taxpayer far beyond the cost of the program in question, the investment must be made.

In addition to the billions of dollars in losses which result annually from juvenile crime, there are the incalculable costs of the loss of human life, or fear for the lack of personal security and the tremendous waste in human resources.

Few areas of national concern can demonstrate the cost effectiveness of governmental investment as well as an all-out effort to lessen juvenile delinquency.

I am pleased that the conferees acted consistent with our dedication to the conviction that juvenile crime prevention must be the priority of the Federal crime program. The GAO has identified this as the most cost-effective crime prevention program we have; it is supported by a myriad of groups interested in the safety of our citizens and our youth who are our future; and I am proud to say that this bipartisan approach is strongly endorsed in my party's national platform. My amendment which the conferees adopted will guarantee a continuity of investment of Crime Control Act funds for the improvement of the juvenile justice system and thus the protection of our communities; and when coupled with the appropriations obtained for the new Office of Juvenile Justice and Delinquency Prevention—$75 million for fiscal year 1977—and when, as intended by Congress, the Assistant Administrator of that Office is delegated rightful statutory authority, as provided in section 527 of the 1974 act, to administer or direct all LEAA juvenile programs—then we can truly say that we have begun to address crime's cornerstone in this country—juvenile crime and violence.

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## TUTORIAL ASSISTANCE FOR VOCATIONAL-TECHNICAL STUDENTS UNDER THE GI BILL

Mr. CHURCH. Mr. President, I am very pleased that the Committee on Veterans' Affairs has included legislation which I introduced, S. 3237, as section 210 in S. 969, the Veterans' Education and Employment Assistance Act of 1976, which the committee has favorably reported to the full Senate for action. I ask unanimous consent that the portions of the committee report explaining this provision and the support for it from the Veterans' Administration be printed in the RECORD.

There being no objection, the portions of committee report were ordered to be printed in the RECORD, as follows:

Section 210 of the proposal would make two changes in section 1692 of title 38. The first change would permit a veteran, pursuing a vocational course, who has not received his high school diploma or equivalency certificate, to be afforded tutorial assistance for that portion of the course which deals with the academic, rather than the laboratory or shop, segment. The second change would increase the tutorial allowance payable under this section by 8 percent.

It has been determined that there are a few cases where an eligible individual is taking a vocational or technical course at an educational institution, but has not received his high school diploma or equivalency certificate. In some cases, the institution requires the individual to pass an entrance examination. In others, it does not. Under current law, such an individual is not entitled to tutorial assistance.

It is our view that in these limited cases, where the individual is attempting to obtain job training through pursuit of a vocational course, but has not completed his secondary level training, and needs tutorial assistance in such areas as math, reading, etc., in order to be aided in the classroom or theoretical, as opposed to the actual on-job, laboratory and shop portions of the course, the individual should be given this benefit. We would, however, be opposed to extending this benefit to those areas which are in reality, the actual manual types of instruction. We note that the proposal would exclude high school and PREP courses.

Any additional cost which might be involved as the result of enactment of the first change would be minimal. The cost of the second change is reflected in the rate increase table attached to this report.

SECTION 210

This section amends the Special Supplementary Assistance Program authorized under section 1692 of title 38, United States Code, to increase benefits and expand eligibility. Section 1692 currently provides that any veteran enrolled in an educational institution who is pursuing a postsecondary program of education on a half-time or better basis may receive "individualized tutorial assistance" when the veteran has "a deficiency in a subject" which is required if the veteran is to pursue his or her program of education satisfactorily. Currently, the veteran may receive assistance at the rate of $60 per month for a maximum of 12 months or until a maximum of $720 is utilized. The educational institution is required to certify that the individualized tutorial assistance is essential to correct the deficiency, that the tutor chosen to perform the assistance is qualified, and that the charges for such assistance do not exceed customary charges for tutorial assistance.

*Clause 1* amends section 1692(a) by authorizing individualized tutorial assistance for the academic portions of institutional technical courses not leading to a standard college degree for veterans who have not received a high school diploma or equivalency certification.

The Veterans' Administration considers a course or program to be postsecondary if the school generally requires the GED certificate or completion of high school as an admission requirement, even though it has provisions for accepting some students solely on the basis of general admission and tests. However, if an Admissions examination is the sole requirement for entrance, the Veterans' Administration has taken the position that the course may not be considered post-secondary for tutorial purposes (cf. section M-48, VA Program Guide 21-1). In this connection, it has come to the attention of the Committee that there are State vocational-technical programs which do not require, as part of their admissions requirements, completion of high school or GED.

Consequently, such vocational-technical students cannot qualify for tutorial assistance under section 1692. While the Committee continues school diploma or its equivalency, it believes that the exclusion of tutorial assistance for veterans who are enrolled in vocational-technical schools and who are in need of such assistance is counterproductive. There are many veterans who have excellent aptitudes for vocational-technical careers who may be deficient in communications or mathematical skills. This amendment permits individualized tutorial assistance in those academic portions of the vocational-technical course to enable, for example, proficiency in math and reading skills. It is not intended, however, that tutorial assistance be provided in the case of shop or laboratory portions of such vocational courses.

*Clause 2* amends section 1692(b) to provide an 8 percent increase in the maximum amount payable for tutorial assistance. Tutorial assistance benefits are increased from $60 to $65 per month for a maximum of 12 months or until a maximum of $780 is utilized (currently $720).

In increasing and expanding tutorial benefits, the Committee would be remiss if it failed to acknowledge that a number of cases have been brought to its attention recently concerning instances where false certification of individualized tutorial assistance has occurred and convictions obtained. In certain instances, the tutoring was done in groups and not on an individual basis as required by law; in other cases there was no tutoring or less tutoring than certified. And in other cases serious questions have been raised as to the qualifications of certain tutors, although such tutors must be certified to the Veterans' Administration as qualified by the schools under section 1692(b).

The Committee expects the Veterans' Administration to monitor the tutorial program to ensure that schools are thoroughly familiar with all rules and that these requirements are being fully complied with. The Congressional Budget Office reports that the costs occasioned by enactment of clause 1 are minimal. The increase in tutoring allowances is estimated to cost $0.3 million for each of the next 5 years.

Mr. CHURCH. Mr. President, section 210 of S. 969 is identical to the bill I introduced, except that it includes the 8-percent benefit increase for tutorial assistance that is proposed generally for GI bill programs. I wish to thank the distinguished chairman of the Committee, Senator HARTKE, and the committee members for their consideration in this matter. I also wish to pay special thanks to Gary Bermeosolo, the Coordinator of Veterans Affairs at Boise State University, for calling the situation which this legislation seeks to resolve to my attention.

Mr. Bermeosolo and many others in Idaho concerned with the GI bill have, over the years, done an excellent job of pointing out anomalies and injustices in the program, for which I have sought correction. Many of them, including tutorial assistance eligibility, have arisen because of the different treatment under the GI bill between academic and vocational-technical students.

These differences, Mr. President, almost invariably result in disadvantage for vo-tech students. They discourage veterans from participating in vo-tech programs, which offer career opportunities that may prove far more fruitful for them than those pursued by their academic brothers.

In today's universities and community colleges, Mr. President, academic and vo-tech students may share exactly the same English and mathematics courses, despite their different curricular goals. Yet under present law, academic students may obtain tutorial assistance for such courses, while vo-tech students may not. This is the matter which S. 3237 sought to resolve. Again, I am pleased that the committee has taken favorable action on this bill, and I urge its adoption by the full Senate.

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## THE DAVIS INSTITUTE FOR THE STUDY AND CARE OF THE AGING, DENVER, COLO.

Mr. HASKELL. Mr. President, as a Coloradan I am deeply proud that individuals in our State are exercising significant leadership in the effort to secure a better quality of life for our Nation's senior citizens. In March of 1975 the Davis Institute for the Study and Care of the Aging was established in Denver as a nonprofit organization dedicated to the purpose of improving the quality of life for older Americans. The institute provides innovative clinical care programs and multidisciplinary research and training in the complex and long neglected field of aging.

Established through the generous gift of Mr. Marvin Davis, a resident of Denver, the Davis Institute is drawing together policymakers, professionals, and concerned individuals in a productive partnership encompassing both the private and public sectors. The Davis Institute will provide a Rocky Mountain region focal point for the training of professionals and paraprofessionals in gerontology as well as for the delivery of services to the region's elderly population. By functioning as a successful model of a multidisciplinary research and care center, the Davis Institute will also make a significant contribution to the delivery of care nationally.

The Davis Institute is governed by a Board of Trustees which includes the founder, Marvin Davis. Dr. A. J. Kauvar is president of the institute, and Dr.

Eric Pfeiffer is acting director. Dr. Kauvar is also manager of the department of health and hospitals of the city and county of Denver, with which the institute is closely affiliated. Dr. Pfeiffer is a recognized authority in the field of care and research on the aging, who is spending a sabbatical year away from Duke University to assist in the development of the programs of the Davis Institute. Doctors Kauvar and Pfeiffer receive guidance and consultation from a distinguished national advisory council which includes: Dr. Robert Butler, director of the National Institute on Aging; Dr. Carl Eisdorfer, chairman of the Department of Psychiatry and Behavioral Sciences at the University of Washington School of Medicine and past chairman of the Federal Council on Aging; Dr. George L. Maddox, director, Duke University Center for the Study of Aging and Human Development; Dr. Theodore Puck, professor of biophysics and genetics, University of Colorado School of Medicine; Dr. Joseph Kirsner, chief of staff at the University of Chicago School of Medicine, and Judge David Bazelon, of Washington, D.C.

The decision to locate the Davis Institute on the campus of the Denver Department of Health and Hospitals, was made in recognition of the many health, health education, and social service resources already in existence under the aegis of the Denver Department of Health and Hospitals, one of the Nation's most progressive health agencies. These facilities include an outstanding modern municipal acute care hospital, a highly efficient emergency room connected to an extensive ambulance network throughout Denver; 2 major neighborhood health centers; plus some 10 neighborhood health stations; a very effective visiting nurse service; and a community mental health center. All of the above service providers are tied together through a common network of data collection for both business and clinical purposes.

Locating the Davis Institute next to the Department of Health and Hospitals avoided wasteful duplication of expensive plant and service facilities. Only the facilities specifically required by the services, research, and training goals of the institute needed to be built.

The institute also interacts with the diverse resources of the University of Colorado School of Medicine, other colleges and universities in the area, the several human service agencies and departments of the State of Colorado, and many other educational and professional organizations. The institute is thus uniquely situated to involve scientists and investigators, students and teachers, service providers and recipients, in collaborative efforts to undertake multidisciplinary research, to develop training programs, and to innovate in the area of service delivery.

The Davis Institute was formally opened this past summer with the First Colorado Conference on Aging held June 7 to 9. The conference was attended by some 500 persons from around the United States, and was addressed by experts from this country and abroad on the theme of a humanistic response to problems of the elderly. I am proud of the work that has already been done in launching the Davis Institute on a promising path and am confident that the institute will make an ever growing contribution to improving the quality of life for older people everywhere.

I congratulate all those involved with the institute, and ask unanimous consent that a further explanation of the programs and services of the Davis Institute be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### AN OVERVIEW OF PROGRAMS AND SERVICES OF THE DAVIS INSTITUTE FOR THE STUDY AND CARE OF THE AGING, DENVER, COLORADO

(By Eric Pfeiffer, M.D., Professor of Psychiatry, Duke University, Acting Director, Davis Institute)

#### PROGRAMS

Specific programs, which will consist of clinical services, research, and education and training, are designed to make the Davis Institute the focus of knowledge about the field of aging in the Rocky Mountain region.

#### CLINICAL SERVICES

Cornerstone of the clinical services program will be an outpatient geriatric evaluation center aimed at early recognition of problems and restoration of full and independent function for patients. The evaluation team, when necessary, will make home calls to assess patients' problems and needs.

Other clinical components will include: a day care program where elderly people will be assisted in regaining their mental, physical and social skills; an inpatient unit where more seriously ill patients will receive intensive evaluation and acute care; an independent living center where program participants will be taught to regain their capacity for living in the community; and a community outreach unit.

#### RESEARCH

Davis Institute research programs will range from basic investigations of how mammalian cells age, especially human brain cells, to studies of pre-retirement procedures in industry.

Additional projects will cover:

Studies of special subgroups of the elderly, with a special focus on Hispanic, blacks, inner city, and rural elderly; use of multidimensional functional assessment techniques to determine appropriate treatment plans for long-term care; basic and applied research on how medications affect elderly patients. Research on suicide among elderly people; and studies of the relationship of older people to other members of their families.

#### EDUCATION AND TRAINING

Because the training received by most health care and social service personnel did not deal with problems of the elderly, emphasis of education and training activities in the Davis Institute will be on "catch-up" training for these professionals.

Activities also will involve: establishment of a technical assistance program in gerontology, monthly interdisciplinary meetings for area health care providers and research scientists; the establishment of a gerontology resource center to serve as a readily accessible repository of current information on aging in all disciplines; to expand existing legal assessment and service programs to increase available legal services to the elderly and to heighten awareness of legal issues among service providers, the elderly and their families, and the general public; continuing education programs on aging for physicians and other health care personnel; rotations in the Davis Institute for health care personnel now in training; development of curricula and educational materials on aging for use in the Institute and in other educational programs; programs on the provision of mental health consultations in long-term care facilities; and public forums on aging which will provide elderly people and their families information on life style choices, activities, and services available to older people; forums, conferences and workshops on aging, topics of national, regional, state and local significance to professionals; and information dissemination to the lay public on topics of aging utilizing the media;

Expected outcomes of a multidisciplinary gerontology center at the Davis Institute include enhancement of the quality of research, professionalism, and service delivery as a result of the centralized available resources of the gerontology resource center; an increase in the quality of service delivery to the elderly in this region as a result of active participation in the technical assistance and professional training programs; an increase in the quality and number of programs in aging at universities and colleges in this region; an increase in the technical and scientific merit of research in aging as a result of direct utilization by researchers of the proposed research supportive services; increased awareness on the part of professionals, elderly and their families as well as the lay public of issues and policies regarding the aged as a result of the short-term training and information-dissemination; an increase in the numbers of elderly requesting and utilizing legal services and increased awareness on the part of other service providers of the legal problems faced by the elderly.

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## INTERNATIONAL WOMEN'S YEAR COMMISSION REPORT

Mr. BAYH. Mr. President, today I am inserting into the RECORD the last three chapters of the section on Today's Realities of the International Women's Year Commission Report for the use of my colleagues and their constituents.

The U.S. Government is the largest single employer of women in the United States. It also touches the lives of millions of other American women—not just Federal employees. In two chapters, Impact on Women and A Needed Watchdog, the IWY Commission looks at the effect on women of Government programs and policies. A proposal is made on structural change within the Federal Government to give women a stronger voice in its operation.

The last chapter, A Greater Voice, asks for greater participation of women in U.S. foreign affairs agencies and international organizations and calls for the involvement of nongovernmental women's organizations in more phases of foreign policy activity.

Mr. President, I ask unanimous consent that these three chapters of the report be printed in the RECORD.

There being no objection, the chapters were ordered to be printed in the RECORD, as follows:

### IMPACT ON WOMEN

The Federal Government exercises considerable influence over the well-being and livelihood of American women. It does so as the administrator of vast social and economic programs which affect all citizens, and as the largest single employer of women in the country.[1]

That women can and do receive benefits and employment from government is not in question. What is in question is how responsive government agencies are to the needs of women across the country when they design their programs and how well women fare in sharing the opportunities for advancement within the Federal bureaucracy.

An innovative survey of a sampling of programs of some 50 agencies and departments regarding their impact on women as actual and potential beneficiaries throughout the United States was recently instigated by the Interdepartmental Task Force for IWY. This task force, a parallel body to the U.S. Commission for IWY, was created by the same Executive order which brought the Commission into being. Its stated purpose was the coordination of government projects which would further the aims of IWY.

Its special mission was to call for a series of female-impact statements very much like the environmental impact reports, which the government requires of major projects. Agencies were asked to make candid examinations of their programs for their effect on women.

For example, are women being fairly considered in government revenue-sharing programs? Is there discrimination against women in "man-power training" programs? Even the name "man-power training" suggests such discrimination exists, which may explain the recently announced change by the Department of Labor of "The Man-power Division" to "The Employment and Training Administration" within the Department of Labor. In providing Federal grants in housing, are provisions for community public services assessed in terms of women's needs?

This noncustomary approach to examining programs caused an initial stir in the Federal bureaucracy and ultimately produced an impressive stack of documents with interesting, if inconclusive, results.

By and large, the agencies were cooperative in this endeavor even though the brief time they were given to prepare a report imposed some apparent difficulty.

The degree of sensitivity reflected in these studies toward women as government clientele and as program recipients varied considerably. Almost every agency, however, did manage to come up with some observation on where it could do a better job in putting women more in the picture of government planning, though at times some of them appeared to be straining for effect.

The reports varied so much in depth and extent of coverage that it was difficult to get a firm grasp of where women stand. As one Commission member commented, "sorting through them to get something cohesive that you can really put a handle on, is rather like sorting out oranges and oysters."

It nevertheless can be said that in many areas of government programming, women are not given due consideration even though certain of their special needs are clearly evident and logically should be of concern to Federal policymakers. And the reports themselves cast some interesting light on why this is so.

Part of the truth is that if there were more women in high positions and on the advisory boards which influence policy decisions, the ability and the resolve of government to construct and implement programs beneficial to women would be considerably strengthened.

It should surprise no one that the Department of Transportation (DOT), in its thoughtful report, finds that there are very few women in all the male-dominated fields of transportation. After all, as the report points out, "transportation has always been heavy work and traditionally male work—the songs and stories of flatboating and steamboating are of rough men in rough places. The only female worker reported in the songs of the great canal era was Sal, who was a mule."

While women are slowly moving into the world of transport, there are still very few women in senior policy positions in the DOT. This fact is reflected in the lack of any sustained attention to the ways transportation policies can affect males and females differently, due to the divergent roles each group plays within the economy, as well as to the different mobility patterns of their lives.

For example, the preferred mode of transportation for a woman commuter may be influenced by her family responsibilities, the personal and school schedules of her children, and the convenience of combining the journey home with a shopping trip. These are variables that may not enter into the choices of male users of transportation systems, or that may not enter into the plans made by predominantly male planners. Transportation planning should take into consideration the characteristics of all users, including the increasingly large number of full-time and part-time workers.

In another vein, the National Aeronautics and Space Administration reports on a fascinating array of special spin-off benefits to women from space technology. A brassiere with sensors is being tested to help women detect breast cancer at an early stage. A Thermal Magic cooking pin has been developed from the research into high heat transfer-withdrawal for space vehicles. Thermal Magic cooks or freezes heat in approximately one-half the normal time. Space-proof materials are being used to make nearly indestructible refrigerators and other home appliances.

The Justice Department admits that the needs and problems of female offenders have historically been largely overlooked and is taking steps to make facilities for women a more integral part of the correction system and to initiate research into the special needs of the female offender.

In general, the reports indicate that, at the pace women are moving up in the Federal hierarchy, it will be some time before women will be occupying decisionmaking jobs and influencing policy. As the Treasury Department predicts, "It will be 10 to 15 years before women have had sufficient experience to rise in numbers to the top of our career ladders."

A much more pessimistic forecast was made before a task force hearing on the employment of women in the government by the president of Federally Employed Women (FEW). She suggested as a long range goal that the ratio of women in policymaking positions should be set at around 40 percent, the approximate ratio of women in the civilian labor force. But at the 0.25 percent rate of change of women moving from middle to top grades in the period from 1972 to 1974, it would take 141 years to bring women up to that 40 percent goal.

The reports do indicate that affirmative government efforts to bring women into the skilled trades which have been male-dominated are opening up new career possibilities for women both in and outside government.

The National Science Foundation is funding studies and programs to involve more women in science and technology. The Environmental Protection Agency is concerned that traditionally very few women work in the realm of wastewater management and sanitary engineering; it is taking steps to make it easier for women to enter and obtain higher degrees in these engineering fields.

On a small scale, jobs previously available largely to men only are opening up to women. The Interior Department is seeking to hire women as coal inspectors. The number of female air-traffic controllers rose 18.5 percent in 1975.

All positions in Federal penal institutions, except penitentiaries, will be open to women in 1976 and by 1978 even penitentiaries will employ women.

In one vital area affecting women, data collection and analysis, virtually all the agencies admitted to serious deficiencies. These data gaps were such that it was difficult for many agencies to make any precise assessment of the impact on women of Federal and federally supported programs.

The failure, reported throughout the government, to collect and cross-tabulate data by sex, race, and ethnic origin especially obscures the extent to which minority women fail to share in Federal benefits. Many of the committees of the Commission also found that this lack of statistics on women was a severe handicap in evaluating the additional discrimination barriers these women suffer.

To correct this situation, the IWY Commission has recommended to the President that the Office of Management and Budget (OMB) require all Federal departments and agencies to collect, tabulate, cross-tabulate, and analyze data relating to persons by sex, ethnicity, and race, and where appropriate, by age, income, and other indicators of disadvantaged conditions. The OMB is the logical agency to improve this situation, since it already has the authority to establish government-wide statistical standards.

There can be no doubt that the decision of the Commission to seek the cooperation of the IWY Interdepartmental Task Force in requesting these female-impact assessments was an important step for beginning a long overdue process.

There may as yet be no dramatic change in direction in programming as a result of this exercise in government self-evaluation, but it certainly started some thinking by some program managers as to where and how women's interests can be better served. It also created a general awareness in many agencies about the inadequate participation of women in designing and implementing programs. These gains must not be lost.

Heightened sensitivity to the needs of women will be greatly increased if this evaluation process is made part of regular government operations, supervised by some mechanism within the government.

The OMB lent strong support to the task force request for these special IWY impact statements. It also has the necessary oversight and authority of government, through its annual budget and review process, to be the supervisory agency.

For this reason, the Commission is recommending to the President of the United States that OMB require all the departments and agencies of the Federal Government to continue to consider the impact of their programs on women in the United States, and that these impact assessments be made a part of the regular budget preparation and review processes of the government.

Women can play a significant role in seeing that government is more responsive to their concerns and interests. Particularly effective ways were suggested by Mr. James Lynn, Director of OMB, at one of the task force meetings, when he called upon government agencies to hold more public hearings before they made substantive decisions on policy issues and programs. He urged women as individuals and as members of organizations to watch for such hearings and use them to present their perspectives and concerns.

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[1] A 1974 survey by the Civil Service Commission shows 682,490 full-time white-collar women in Federal employment. 1974 figures are not available for full-time, blue-collar women employees, but in 1972, they numbered 42,189.

The need for more cross-communication between government and women's groups was reiterated in the evaluation reports. Women must be on the alert for opportunities to monitor government's performance in areas where they are concerned and to look for more effective ways to make their views and interests known to government policymakers.

### A Needed Watchdog

Every day, decisions are made in Washington, D.C. that affect the lives of American women. These decisions are often made without the knowledge or consent of the women involved.

This situation is due to the fact that very few women occupy positions of power and influence in the Federal Government. There are, in May 1976, no women in the Senate and only 19 in the House of Representatives. No women sit on the Supreme Court and only one woman is a Cabinet Secretary. In the Federal bureaucracy, only 1.6 percent of the top government administrators (GS-18) are women.[1] Issues of war and peace are decided solely by men.

A permanent and high-level voice for women is necessary to insure that their needs and interests are integrated into the day-to-day activities of government. A mechanism to represent the women of America—who comprise a majority of our population—is needed to insure that the work of this Commission and the goals of International Women's Year are brought to fruition.

Existing government programs for women were looked at by the Government Organization Structure Committee. The committee found that these units are scattered throughout the Federal bureaucracy. Because these women's advocates are so dispersed, and sometimes buried, their visibility and influence are often marginal.

For example, in addition to those agencies which enforce laws prohibiting sex discrimination (such as the Office of Contract Compliance and the Equal Employment Opportunity Commission), there are (in May 1976) nine different women's programs which offer information and advice on women's needs.[2] These programs perform similar functions, and they are all handicapped by the lack of visibility, power, and resources. While performing a valuable service, they are unable to make the government as responsive to women as it should be.

Research also revealed that there were no progressive models in other countries that the United States could copy. Those few countries that have created special governmental programs for women rely on appointed advisers to the Executive. Lacking a staff and a firm power base, these advisers, such as Francoise Giroud in France, are completely dependent upon the goodwill and interest of the Executive for their existence and influence.

For example, Elizabeth Reid of Australia believes that she lost her post as special adviser to the Prime Minister because of her outspoken feminist positions. There does not seem to be a suitable model of a high-level government program for women with an independent power base from which women can influence government decisions affecting their lives.

The Commission began to consider a range of options. On the one hand, it could accept the existing situation while recommending that particular programs, such as the Women's Bureau of the Department of Labor, be strengthened. However, it was felt that a unified voice for women would be stronger than one which was so fragmented.

Another possibility was to ask the President to appoint a special counsellor of Cabinet rank who would advise him on women's affairs. The current Ambassador to England, Anne Armstrong, had fulfilled this role in 1973, but her successors have had neither the rank of counsellor nor direct access to the President, A consideration against this option is that such a position is neither as powerful nor as secure as needed to represent the women of America. The President would be free to hire and fire the counsellor at any time. He could also choose to downgrade the post or leave the post vacant.

Finally, the possibility of consolidating some of the existing programs for women into either an independent agency or a Cabinet-level department was considered. Each option has definite advantages for women.

A Cabinet Secretary would enjoy great prestige, would have direct access to the President, and would be intimately involved in the policymaking process. The head of an independent agency would be freer to criticize Administration policies and play an independent role in integrating women's concerns into Federal policies. An agency administrator could conceivably adopt more controversial positions than a Cabinet officer, who could be summarily fired by a displeased President. However, the price of independence could also be isolation.

A question arose as to whether a combination of these alternatives was feasible. Some Commission members noted that the appointment of a Presidential counsellor, such as Anne Armstrong, would not preclude the creation of an independent agency for women within the executive branch. The creation of a Cabinet Secretary, however, would preclude the creation of such an agency because they would perform similar functions.

Commission members agreed that a new mechanism is needed to provide women with a strong, unified voice. But, they disagreed on the best means to achieve that goal. After a lengthy debate on the merits of the alternatives before them, the Commission adopted, by a very close vote, the recommendation of the Government Organization Structure Committee to create by legislation a Cabinet-level office which would be responsible for the functions of many existing programs for women in the Federal Government.

The Cabinet-level officer could be either a Presidential counsellor with Cabinet rank or a Department Secretary. This post would have more power and influence than any existing women's program. In addition to collecting and disseminating information on women, the Cabinet-level officer would monitor and evaluate Federal programs and activities affecting women, make recommendations on policies and programs to advance the status of women. participate in the budget process, and challenge Federal policies and decisions adversely affecting women.

In short, it is hoped that this Cabinet-level office will become the vehicle by which women will finally realize the goals of the Commission and enable women to be full and equal participants in American life. The first step is to provide women with an effective voice in government.

### Government Organization Structure Committee [1]

#### PERMANENT STRUCTURE TO ADVANCE WOMEN'S NEEDS AND INTERESTS BEFORE THE FEDERAL GOVERNMENT [2]

The IWY Commission recommends that the President request Congress to enact legislation to create a Cabinet-level office in the executive branch of the Federal Government responsible for the functions of the:

Women's Bureau of the Department of Labor;

Citizens' Advisory Council on the Status of Women;

National Commission on the Observance of International Women's Year;

Women's Action Program of the Department of Health, Education, and Welfare; and

Women's Rights Program Unit of the Commission on Civil Rights.

To carry out these responsibilities, the Cabinet officer should be assisted by adequate staff and general counsel and should have the power to:

Hold hearings, issue subpoenas, obtain and disseminate information on women;

Intervene in proceedings before Federal departments and agencies to articulate the needs and interests of women;

Appear as *amicus* in court actions involving the interests of women;

Seek judicial review of decisions by Federal officials affecting women;

Request a Federal department or agency to initiate a proceeding or take action in the interest of women;

Assist the Office of Management and Budget in evaluating the impact of Federal programs on women by requiring annual reports from revelant Federal departments and agencies;

Monitor and evaluate Federal programs and policies affecting women and make recommendations to the Congress and the President for remedial policies on women;

Offer assistance to State and local bodies concerned with the status of women;

Recommend legislation to secure equal opportunities for women;

Examine laws for differential treatment based on sex and recommend changes in such laws;

Evaluate and monitor Federal programs to insure equal employment opportunity for women employees of the Federal departments and agencies;

Make recommendations to Federal departments and agencies concerning the needs and interests of women;

Stimulate public discussion of women's problems;

Recommend persons sensitive to the needs of women for executive and judicial appointments and as participants in international organizations; and

Monitor and evaluate Federal enforcement efforts and recommend remedial policies.

To insure a continuous liaison with private groups and individuals who are concerned with the status of women, the Cabinet officer should consult regularly with an Advisory Board and with a Task Force on Minority Women composed of individuals from the private sector who are concerned with the status of women.

#### BACKGROUND

A strong. innovative mechanism is needed to finally eradicate barriers to the full participation of women in American life. Without such a powerful mechanism, there is no assurance that the recommendations of the IWY Commission and the priorities set by the National Women's Conference will actually be implemented. To assure that these goals for women are finally achieved once and for all, the appropriate national machinery (with Cabinet status) must be created. A permanent mechanism is needed to investigate the situation of women in all fields; to make recommendations for needed legislation, policies, and programs; to monitor and evaluate policies and activities pertaining to women; and to coordinate the activities of women at the regional, national, and international level. To insure the effectiveness of this national machinery, it must be provided with adequate staff and funds to carry out its task of advancing the cause of women.

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[1] Civil Service *News*, Oct. 6, 1975, table C.

[2] The programs are: The Federal Women's Program (Civil Service Commission); Women's Bureau (Department of Labor); Women's Action Program and the National Advisory Council on Women's Educational Programs (HEW); White House Office of Women's Programs; Citizens' Advisory Council on the Status of Women; Interdepartmental Committee on the Status of Women; Women's Rights Program Unit (Commission on Civil Rights); and the National Commission on the Observance of International Women's Year.

[1] IWY Commission members: Representative Bella Abzug, Chair; Senator Birch Bayh, Honorable Martha Griffiths, Congresswoman Margaret Heckler, and Senator Charles Percy. Staff member: Shelah Leader.

[2] Recommendation approved by IWY Commission, Feb. 26, 1976.

At present, women do not have a single organizational focal point through which they can coordinate their efforts to improve their lot. The multiplicity of women's groups are often frustrated in achieving their goals by lack of resources and information; lack of access to decisionmakers; and lack of an effective voice in the creation and implementation of policies and laws affecting their lives. There is now no single source for accurate and timely information on women's problems, activities, and achievements. Greatly needed is a single reliable source of expert advice on women's affairs. Most importantly, there is no single agency to hold accountable officials responsible for enforcing laws prohibiting sex discrimination.

Rather than continue to rely on a variety of *ad hoc* bodies and programs scattered throughout the Federal bureaucracy, a single permanent and highly visible advocate for women, endowed with adequate resources, must be created to advance the cause of women. A unified entity could bring about more comprehensive, representative, and uniform policies on women. It would be a more effective instrument for insuring that the laws barring sex discrimination are vigorously enforced.

Manifestations of sex discrimination are varied—yet they are all derived from a stereotyped view of women as passive, dependent, and inferior. If women are to achieve full equality, then a systematic and coordinated effort must be made to seek out and eradicate sex discrimination, whatever its guise.

Therefore, it is desirable that Congress enact a law creating a permanent Cabinet-level position to be the voice for women in the Federal Government.

### CLARIFICATION

The transcript of the February 1976 Commission meeting contains a record of the discussion which preceded the vote on this recommendation. The record contains the following clarifications of the recommendation adopted by the Commission after a lengthy debate and a close vote.

1. The Cabinet-level office could be that of Presidential Counsellor with Cabinet status or a Cabinet Secretary. The Presidential Counsellor or Cabinet Secretary would have the powers and duties and staff outlined in the recommendation. Appointment of this Counsellor or Secretary would be statutorially provided.

2. Actual responsibility for enforcing laws prohibiting sex discrimination would not be assigned to the Cabinet-level officer.

### A Greater Voice

The National Commission on the Observance of International Women's Year finds it imperative that more American women be involved in the formulation and execution of U.S. foreign policy.

An International Interdependence Committee charged by the Commission with examining women's international role recognized from the beginning of its study that the policy of this Nation and others is concerned with basic issues of global peace, economics, food, population, energy, protection of environment and international understanding and that women's voices are seldom heard when policies are set and decisions implemented in these areas.

To correct this situation the committee concentrated its efforts on identifying specific methods by which more women could participate in these vital decisions. A variety of procedures were outlined to the Commission and were subsequently adopted as recommendations.

Among the most important is one which directs agencies to consult with women from voluntary organizations, also known as nongovernmental organizations, when formulating positions to be taken at international meetings.

The Committee noted that the State Department directs public affairs programs and materials to women and that it makes an effort to involve women in support of U.S. foreign policy. While applauding these activities, the committee said "communication is a two-way affair. In addition to involving women in support of foreign policy the opinions of women should be taken into account when developing that policy. Including women's organizations in this process will greatly enrich the foundation upon which U.S. foreign affairs must rest."

In another recommendation the Commission asks that all agencies be instructed to appoint women on an equal basis with men to the governing bodies of international organizations, such as the Organization of American States, the U.N. Human Rights Commission, and other U.N. functional committees.

The Commission also seeks the equal representation of women on delegations to international meetings. A survey of the files at the State Department's Office of International Conferences revealed that in 1975, out of a total of 3,653 delegates to conferences, meetings, working groups, councils, etc., 3,459 were men and only 194, or 5 percent, were women. The Commission asks that each government agency concerned with such conferences maintain a roster of qualified women and that the rosters be drawn from both government and the private sectors.

To increase the number of women participating within the Federal agencies which have international responsibilities, the Commission asks that efforts be intensified to attract women candidates from all sectors of society, giving special emphasis to minority groups. The goal is the hiring of equal numbers of women and men at the entry level.

The Commission also calls for an aggressive program, not only of recruitment, but also of training, assignment and promotion, to increase the number of women serving in mid- and upper-level career positions in the Department of State, the Agency for International Development, the U.S. Information Agency, and others.

Believing that the objectives of the women's movement in the United States and in most other countries are concerned with the same human rights as set forth in the Declaration of Independence and the Constitution and its Bill of Rights, the Commission further asks that courses on the status of women around the world be taught at the Foreign Service Institute of the Department of State. Courses linking the new global issues of diplomacy with the expanding, nearly universal, social movement of women would greatly benefit employees of the foreign affairs agencies and other government employees.

The Commission opposes the abolition of the United Nations Commission on the Status of Women. The Group of Experts on the Structure of the U.N. System has recommended that the work of this Commission be assumed by the Group of Experts along with the work of some other U.N. agencies.

In recommending that the Status of Women commission be maintained in its present form, the IWY Commission stated that:

"If it were not for this Commission, almost certainly little would be done within the United Nations to improve the status of women around the world. Further, there would be no communications or support system for women at this international level."

"Women's presence as policy planners and decision makers must be felt," says IWY Commissioner Pat Hutar, if we want the policies of the public and private sectors to be altered so as to be more equitable for women and men."

### International Interdependence Committee [1]

### OPPOSING ABOLITION OF U.N. COMMISSION ON THE STATUS OF WOMEN [2]

The IWY Commission recommends that the U.S. Department of State oppose the abolition of the U.N. Commission on the Status of Women, as recommended in the Report of the Group of Experts on the Restructuring of the U.N. System, and work for the retention of this Commission—the only support system for women within the United Nations. It is recommended further that the U.N. Commission on the Status of Women meet annually rather than biennially.

#### *Background*

The U.N. Commission on the Status of Women, established in June 1946, is charged with making recommendations and reports to the U.N. Economic and Social Council (ECO-SOC): (a) "on promoting women's rights in the political, economic, civil, social, and educational fields"; and (b) "on urgent problems requiring immediate attention in the field of women's rights, with the object of implementing the principle that men and women shall have equal rights." [3]

Since its creation, the Commission has studied obstacles to achieving equal rights for women and has suggested ways to remove such obstacles. Without attempting to list the innumerable important documents that originated in the Commission on the Status of Women, it should be noted that instruments such as the Convention on Political Rights of Women and the report on the "Legal Capacity of Married Women—Capacity to Engage in Independent Work" resulted from the work of this body. Moreover, it was the U.N. Commission on the Status of Women that first proposed that 1975 be proclaimed International Women's Year and later, that the United Nations hold a World Conference on IWY. In brief, this Commission has produced solid results and is the only support system within the United Nations working to improve the status of women. Solid progress has been made by the Commission, in spite of its meager budget and the higher priorities assigned by the United Nations to areas of greater political interest. For example, because of fiscal strains on the overall U.N. system, the Commission on the Status of Women now meets only every 2 years instead of annually.

If it were not for this Commission, almost certainly little would be done within the United Nations to improve the status of women around the world. Further, there would be no communications or support systems for women at this international level.

For these reasons the committee energetically opposes the recommendation of the Group of Experts on the Restructuring of the U.N. System by which ECOSOC "should assume direct responsibility for the work now performed by" eight U.N. committees and commissions—including the Commission on the Status of Women—"all of which would cease to exist." (Note: The 26-member Group

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of Experts, appointed by the U.N. Secretary General, did not include a single woman.) Moreover, the U.S. Department of State should actively endeavor to insure the continued existence of the U.N. Commission on the Status of Women, in keeping with its terms of reference and its broad mandate as a result of the World Conference for IWY.

### RECRUITING WOMEN FOR POSITIONS WITHIN THE UNITED NATIONS SYSTEM [4]

The IWY Commission recommends that:

1. The Bureau of International Organization Affairs within the Department of State—the department exercising primary responsibility in this field—maintain a current roster of women qualified for positions within the U.N. system.

2. The Bureau, in its search for qualified candidates, use not only this roster but also all relevant organizational and private sources of information in order to assure wider employment of American women within the U.N. system, especially on technical, policymaking, and managerial levels.

#### *Background*

The International Recruitment Staff within the Bureau of International Organization Affairs maintains a roster of some 3,000 persons qualified for U.N. positions. This roster, based on applications from job seekers, provides only about 15 percent of the Americans who are actually placed in U.N. positions. The remaining 85 percent are located through active recruitment, which entails contacting agencies of the Federal Government, university departments, professional associations, etc.

The recruitment staff states its present roster can and does provide the names of women applicants since they can usually be distinguished by their first names. The committee believes that a more certain system could be to encode the roster so that names of women applicants could be extracted when a position opens up and could be considered together with names of men applicants. This would save the time required to select female applicants and should not cause any additional expenditure.

Since the individual recruitment procedure is more important than the use of the roster, the committee recommends that the Bureau make use of all organizational and private sources of information to assure wider employment of American women in the U.N. system. This could include such measures as circularizing women's colleges, professional societies, clubs, etc., advising them of a State Department drive to increase the number of American women in the U.N. system and asking them to circularize their memberships.

Also, reference could be made to the rosters of qualified women which are now being established by various government agencies. Use of these rosters should include direct contacts with women's organizations and women's caucuses within professional organizations—with special attention given to minority women's groups, many of which have the added advantage of bilingual membership. The committee is assured that the recruitment staff is already making those contacts as a matter of policy.

### APPOINTING WOMEN TO GOVERNING BODIES OF INTERNATIONAL ORGANIZATIONS [5]

The IWY Commission recommends that the President instruct all concerned agencies of the Executive Branch to strive to appoint women on an equal basis with men to represent the United States on all executive boards and governing bodies of international organizations and on U.N. functional commissions such as the U.N. Development Program, the U.N. Educational and Scientific Organization (UNESCO), the International Labor Organization (ILO), the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), the U.N. Commission on Human Rights, the Organization of American States (OAS), etc.

#### *Background*

Women represent the United States on two U.N. functional commissions—the Commission on the Status of Women and the Commission on Social Development. But they are largely absent from the governing bodies of other U.N. organizations and the specialized agencies.

There is no set pattern for the organization of governing bodies. The governing body of the Food and Agriculture Organization, for example, is the Annual Conference; that of the IMF is the Board of Directors, which meets throughout the year.

Implementing this recommendation, therefore, would require that the concerned agencies—particularly the White House—be sensitive to the need for appointing women to these key positions. A mandate from the White House would do more than any other one action to make this recommendation effective.

### APPOINTING WOMEN TO U.S. DELEGATIONS TO INTERNATIONAL CONFERENCES [6]

The IWY Commission recommends—as a means to give women equal representation with men on governing boards of international bodies and on U.S. delegations to international conferences—that:

1. Each government agency concerned maintain a current roster of qualified women.

2. Rosters be drawn from both government and private sectors.

3. Agency heads be required to nominate equal numbers of men and women.

#### *Background*

This recommendation is intended to help correct the present inequitable situation in which there are roughly 20 times as many men on U.S. delegations to international meetings as there are women. A survey of the files at the State Department's Office of International Conferences for FY 1975 revealed that the figures for delegates to conferences, meetings, working groups, councils, etc., were 3,459 men to 194 women, or 95 percent men and 5 percent women.

A major difficulty to be overcome in righting this inequity is the contention among concerned government agencies that not enough qualified women are available. They point out that the percentage of women occupying all government positions at the GS-13 level and higher is about 5 percent. This fact suggests that the problem transcends representation on delegations and is a part of the far larger problem of inequitable representation for women in the higher levels of government.

While it recognizes that the larger problem exists, the committee believes that responsible agencies, if they have the will, can begin rectifying the immediate problem of inequitable female representation by maintaining rosters of qualified women and by drawing upon the names listed whenever they nominate delegates. Also, recognizing that government agencies generally nominate from among government officials before turning to private citizens, the committee believes that in the interests of equity and justice the agencies should draw upon the private sector to supplement qualified government delegates.

The committee has been informed by the Office of International Conferences that on its own initiative it has taken action that in part implements this recommendation. In October 1975 the Committee sent a memorandum to all government agencies that participate in the nomination of delegates and asked them to establish rosters of women who could represent the United States at international conferences. Almost every addressee agency has responded affirmatively. This is a very constructive initiative. If it is to achieve its purpose, however, follow-up action, preferably by women's organizations within the responsible agencies, must be taken to see that such rosters are in fact established, that they do list all the qualified women possible, and that they are actually used in the nominating process.

### APPOINTING A COMMITTEE TO ADVISE ON THE SELECTION OF WOMEN MEMBERS FOR INTERNATIONAL BODIES [7]

The IWY Commission recommends that a permanent committee composed of government officials and public members, a majority of them women, be made responsible for advising the State Department's Bureau of International Organization Affairs on the selection of women candidates for positions on U.S. delegations, on governing bodies of international agencies, and in the U.N. system.

#### *Background*

Whether women are given an equal opportunity with men to serve in responsible positions on international bodies depends on how enthusiastically and determined the agencies concerned act. If an advisory committee were formed to ask the necessary questions and to inspect the relevant records, good intentions would be less likely to fall by the wayside.

This committee envisages that the proposed advisory committee be composed of 12 representatives, one of whom would serve as Chair. The composition would be as follows: one representative each from the Department of State, the U.S. Information Agency (USIA), the Agency for International Development (AID) and the Office of U.S. Representative to the Organization of American States (OAS); and 8 from the private sector. The public members would be drawn from women's organizations, women's caucuses of professional organizations and societies, and minority women's groups. The 12 members would be nominated by the IWY Commission and be appointed by the Secretary of State. The term of office would be 3 years, with the exceptions noted below, and three new members would start their terms each year. To achieve this staggering of terms, three members, one government official and two public members, would be appointed for 1 year only; three members, one government official and two public members, would be appointed for 2 years only; and five members would relinquish their seats after the first 3 years. The Chair would be appointed.

After the IWY Commission's authority expires, which as now anticipated is 1978, the nominations would be made by the proposed Special Assistant to the Secretary of State for the Participation of Women in Foreign Policy. The establishment of this position is the subject of a separate recommendation.

### APPOINTING A SPECIAL ASSISTANT TO THE SECRETARY OF STATE FOR THE PARTICIPATION OF WOMEN IN FOREIGN POLICY [8]

The IWY Commission recommends that a Special Assistant to the Secretary of State for the Participation of Women in Foreign Policy be appointed to assume, upon the termination of the IWY Commission, responsibility for U.S. participation in the U.N. Decade of Women. The Special Assistant would provide Executive Branch followup on the decisions of the forthcoming National Women's Conference (discussion follows) insofar as they deal with foreign affairs and would supervise implementation of recommendations proposed by the IWY Commission on the participation of women in formulating and administering foreign policy.

#### *Background*

At its 30th General Assembly, the United Nations adopted, with U.S. support, a resolu-

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tion calling for the "U.N. Decade of Women: Equality, Development, and Peace (1975–1985)," and for a midterm conference in 1980. Shortly thereafter, the U.S. Congress passed Public Law 94–167, which provides for the holding of a National Women's Conference, to be preceded by State or regional preparatory conferences. Among its responsibilities, the National Conference is to identify the barriers that prevent women from participating fully and equally in all aspects of national life; to recommend how such barriers can be removed; and to assess the participation of women in efforts to develop friendly relations and cooperation among nations and to strengthen world peace.

The U.S. Government organization charged with implementing this program is the IWY Commission. Its life has been extended for 150 days after the conclusion of the National Conference, or no later than March 1978.

Upon the expiration of the IWY Commission, much continuing work will clearly be required to follow through on the initiatives taken during the National Conference; to plan and administer U.S. participation in the U.N. Decade of Women and in the related midterm conference; and to see that approved recommendations of the IWY Commission on the participation of women in foreign policy do not die aborning for lack of followup action.

The IWY Commission recommends that the new position of a special assistant be established before the Commission is terminated because provision would have to be made for that position and for appropriate staff in the budgetary process for FY 1978.

### INVOLVING WOMEN IN THE FORMULATION OF POSITIONS TO BE TAKEN AT U.N. AND OTHER INTERNATIONAL CONFERENCES [9]

The IWY Commission recommends that the President direct the heads of responsible agencies to consult those representatives of women's nongovernmental organizations that have expertise in relevant fields before formulating positions to be adopted by the U.S. Government at U.N. and other international conferences.

### *Background*

As the President of the United States said when he proclaimed the International Women's Year, "There is a growing awareness today of the significant contributions that American women have made to our country's development, its culture, and its social and economic life. . . . Despite these important contributions, women continue to face inequities as they seek a broader role in the life of our Nation." [10]

In this age of international interdependence, it becomes increasingly clear that the positions taken by our Government in foreign affairs tend to affect directly the U.S. population, of which women comprise over 50 percent. However, women's voices are seldom heard when such positions are being formulated.

The committee therefore feels that the heads of the responsible agencies should seek input from nongovernmental women's organizations when formulating U.S. positions on international matters. This information could be obtained by inviting women's organizations and women's caucuses within professional organizations to participate, paying special attention to minority women's groups, in initially considering the foreign policy positions to be adopted.

The committee notes that in its "impact" statement made through the Interdepartmental Task Force to the IWY Commission, the State Department said:

"Although women are more than half the national constituency, no special attention is given to developing them as a political resource in support of foreign policy goals. It is in the interest of the Department to analyze the issues of special concern to women, to focus public affairs programs on such issues, to direct public affairs material to women, and to make every effort to involve women in support of U.S. foreign policy."

Although the committee applauds that statement, it believes that communication is a two-way affair. In addition to involving women "in support of U.S. foreign policy," the opinions of women should be taken into account when developing that policy.

In essence, the committee is convinced that including women's organizations in the policymaking process will greatly enrich the foundation upon which U.S. foreign policy must rest.

### INCREASING THE PARTICIPATION OF WOMEN IN FORMULATING AND ADMINISTERING U.S. FOREIGN POLICY [11]

The IWY Commission recommends that the President direct the heads of the U.S. Department of State, the Agency for International Development (AID), the U.S. Information Agency (USIA), and all other Federal agencies with international responsibilities and with staffs serving overseas to:

1. Establish and implement procedures to get more women to participate in formulating and administering U.S. foreign policy. Such procedures should include the following:

a. Continued and intensified attention should be given to attracting women candidates from all sectors of society (giving special consideration to minority groups), during the recruitment process, with a view toward hiring equal numbers of women and men at the entry level. Recruiting advertisements should be designed and distributed in ways to attract qualified women candidates, and recruitment teams should include women. Student recruitment efforts should emphasize and encourage the participation and selection of young women in internships and summer programs to increase the number of women applicants to positions within the foreign service agencies.

b. An aggressive program of recruitment, training, assignment, and promotion should be established to increase the number of women serving in mid- and upper-level career positions, with a view toward having equal numbers of women and men serving at all professional levels.

c. Government managers should be made accountable for and evaluated in terms of their compliance with the law requiring Federal agencies to act affirmatively on the Equal Employment Opportunity Program. A system should be designed to commend those managers who act affirmatively as well as those who refrain from discriminating on the basis of sex.

2. Include, as a part of their annual review to the Office of Management and Budget in requests for funding, a status report on the extent to which they have implemented the procedures recommended above (i.e., the "Percy Amendment"), through the year 1985.

3. Provide for the participation of nongovernmental women's groups in planning and implementing State Department public affairs programs throughout the country. Moreover, government spokespersons participating in such public affairs programs should include as many women as possible.

4. Establish in the foreign affairs agencies at appropriate bureau or divisional levels the position of liaison officer. He or she would be responsible for establishing and maintaining close contact with interested nongovernmental women's organizations experienced and expert in policy matters of a particular division or bureau, so that the agencies can solicit, on a regular basis, views from informed persons in the private sector.

### *Background*

As Senator Charles H. Percy stated, referring to the results of the Congressional Symposium on IWY and the U.N. IWY Conference at Mexico City, it has been "concluded that women have been virtually excluded from every aspect of the foreign policy area." [12] This was underlined at the conference in the unanimously adopted World Plan of Action, which calls for increased participation of women in international affairs.

When considering this matter, the International Interdependence Committee had a dual focus: (a) the employment of women inside the foreign affairs agencies; and (b) the role of nongovernmental women's organizations that have programs dedicated to foreign policy matters.

With regard to employment, the committee found that women hold only a small percentage of mid- and upper-level positions in three major foreign affairs agencies (State Department, USIA, and AID). Therefore, recruitment practices for entry-level positions should seek a greater number of qualified women candidates. From all the evidence, more women in the decisionmaking processes of U.S. foreign affairs agencies would greatly encourage women in general to use their influence in foreign policy matters.

This conclusion was confirmed by the State Department in evaluating the impact of its programs on women:

"Department of State bureaus, in assessing ways in which their programs might have a more positive impact on women in the U.S., recognized as a significant problem the paucity of women in policymaking or program-directing roles in their own offices. Thus, although women are more than half the national constituency and a powerful political resource to sway foreign policy, the Bureau of Public Affairs has six male division chiefs to one acting female chief; five male office directors to one woman; one female Deputy Assistant Secretary and two males; and a male Assistant Secretary. The Bureau of Education and Cultural Affairs, dealing with the same constituency in its efforts to increase mutual understanding between the U.S. and other countries, has no women at the Assistant Secretary or Office Director level; [13] three at the Deputy Director level, but few others in policymaking roles."

Other statistics reveal that of the functional and geographic bureaus located in the Department of State, the number of women at the mid- and senior-officer levels is exceedingly low when compared to the female percentage of the U.S. population—over 50 percent. For example, in two of the largest and most important bureaus a profile showed the following: Bureau of Economic and Business Affairs—of 111 persons in mid- and senior-officer level positions, only 11 (10 percent) were women; Bureau of European Affairs—of 119 only 9 (8 percent) were women. (These figures were compiled in early 1975 but are the latest available.)

The State Department's "impact" evaluation, after citing the above-quoted data, continues:

"The primary recommendation, therefore, is to increase the representation of women in policymaking and program-directing positions. It is in the interest of the Department and of the United States."

Another important factor in insuring a greater role for women in foreign affairs agencies is the attitude of managers toward laws requiring affirmative action. As the Equal Employment Opportunity Program Director of AID stated in her recommendations to the committee, "Enforcement of the law requiring that Federal agencies act affirmatively . . . [instead of merely refraining from discrimination] must be strengthened." She further noted that "the distinction between affirmative action and non-dis-

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Footnotes at end of article.

crimination is the difference between the active and the passive mode." It is in order to insure that the active mode is followed that the Committee recommends that the "Percy Amendment" approach be adopted in funding foreign service agencies.

To encourage women's active interest in foreign policymaking, for which the second and third recommendations above are designed, is likely to lead more women generally to urge government compliance with the provisions of the World Plan of Action.

### STUDY OF THE STATUS OF WOMEN IN THE FOREIGN AFFAIRS AGENCIES [14]

The IWY Commission recommends that the President direct the heads of the Foreign Service agencies to:

1. Prepare a report due December 3, 1976, on the status of their women personnel [15] in order to determine whether they have been given assignments equal to their professional qualifications and also opportunities for promotion equal to those given their male colleagues. The report should include a survey of those women Foreign Service personnel in positions classified below, equal to, or above their own personal rank (relative to men in comparable situations), and should compare the rate of promotions of men and women Foreign Service employees for the past 10 years.

2. Explore, through a program of exit interviews, the reasons for the disproportionately high incidence of resignations and early retirements among women Foreign Service employees.

#### *Background*

Selected statistical material (as of June 30, 1974) on Foreign Service women employees in the Department of State showed that women made up 25.8 percent of all Foreign Service employees, 8.8 percent of the Foreign Service officer corps, but only 3.5 percent of senior-level employees in the entire Foreign Service. A preliminary study of the 100 State Department women Foreign Service employees eligible for senior assignments showed that 43 were serving in positions at least one grade lower than their personal rank. The Office of Equal Opportunity found that women lagged 3–5 years behind their male colleagues in achieving promotions and that women were clustered in support functions rather than in policymaking positions. Women, finding it difficult to reach the upper levels, were leaving the Foreign Service voluntarily at middle levels, taking valuable talents with them.

The study recommended by this Committee should examine whether the talents of present Foreign Service women employees are being used to their maximum potential and if women are being rewarded equally, relative to men colleagues. Because the Foreign Service personnel system, unlike Civil Service, assigns each individual a personal rank (determined competitively each year), comparing the grade of the position with the rank of the individual gives a rough but easily identifiable indication of how effectively employee talents are being utilized.

More women can be brought into top decisionmaking positions in our foreign affairs agencies, as recommended elsewhere by this committee, by insuring that women employees on active duty—the full-time professionals who have met the rigorous tests for entry and performance—are given an equal opportunity with men for challenging assignments and rewards through the competitive promotion system.

### UPGRADING THE INTERNATIONAL WOMEN'S PROGRAM WITHIN THE BUREAU OF INTERNATIONAL ORGANIZATION AFFAIRS, U.S. DEPARTMENT OF STATE [16]

The IWY Commission recommends that the Secretary of State direct the Assistant Secretary for International Organization Affairs to upgrade the Office of International Women's Programs to that of Special Advisor for International Women's Programs to the Assistant Secretary, with an appropriate increase of staff.

#### *Background*

The Office of International Women's Programs is a part of the Directorate for Labor and Women's Affairs, one of 15 directorates within the Bureau of International Organization Affairs. This Office, because it affects the work of the entire Bureau and cuts across directorate lines, should be upgraded to have direct access to the Assistant Secretary handling international organization affairs and should make its influence felt in all directorates.

The reorganization recommended by the Commission is especially called for now, due to the broadened scope of women's programs offered during the International Decade for Women. The new approach is underlined by Presidential statements, by documents adopted by the U.N. General Assembly and other international organizations, following the U.N. World Conference at Mexico City.

In accepting the report of the World Conference of the IWY, the 30th session of the U.N. General Assembly approved a broad and intensive program of action to eliminate discrimination based on sex and to integrate women into all aspects of U.N. development efforts during the next decade. The instruments that were adopted, particularly the World Plan of Action, represent a clear commitment to expand any government action that would give women greater opportunities to participate in the activities of the various agencies and commissions of the U.N. system, the Inter-American system, and other intergovernmental organizations.

The International Interdependence Committee therefore feels strongly that the existing staffing of international women's programs, as subsidiary to the office director who handles international labor affairs, minimizes the effectiveness of the programs of this office. The office must be raised above the level of the other directorates within the Bureau of International Organization Affairs and be placed in the office of the Assistant Secretary so that it can have an effective impact on all segments of this important Bureau.

This recommendation accords with the recommendations made by the House Foreign Affairs Committee after its hearings on human rights in 1974. Since no action was taken at that time, and in view of U.S. support for IWY programs that endorse an equal role for women, this recommendation should be implemented immediately.

In addition to the Special Advisor to the Assistant Secretary, as recommended, there should be a minimum staff of three program officers and two secretaries. This staff would provide (a) necessary international program support and participation in regional and international seminars, conferences, and national meetings concerned with women's participation in foreign affairs; and (b) fuller consultation with nongovernmental organizations interested in these programs.

The following chart shows the present status of the women's program within the Bureau and the change that would be effected by this recommendation.

[Chart not printed.]

### ESTABLISHING IN THE FOREIGN SERVICE INSTITUTE COURSES ON THE STATES OF WOMEN AROUND THE WORLD AND ITS IMPLICATIONS FOR MULTILATERAL DIPLOMACY [17]

The IWY Commission recommends that the Secretary of State instruct the Foreign Service Institute of the Department of State to take immediate steps to plan and implement one or more courses on the women's movement around the world and its implications for international diplomacy. The Commission further recommends that other courses at the Foreign Service Institute be reviewed and data on women included.

#### *Background*

In recognition of the women's movement having become an international phenomenon, 1975–85 has been designated by the United Nations as the Decade for Women and Development. Yet many employees in the foreign affairs agencies of the U.S. Government do not yet realize that the aspirations and objectives of feminism—variously but universally and increasingly being upheld by men and women in all countries—have political, social, and economic implications within nearly all societies and for diplomatic relations among nations.

Feminist objectives, in the United States and in most other countries, are fundamentally the same human rights as are set forth in the Declaration of Independence and the Constitution and its Bill of Rights—by clear implication the fullest development of every individual's human potential, free of restrictions based primarily on that individual's sex.

Attitudes, laws, and customary practices pertaining to women's rights and responsibilities are changing profoundly and demonstrably at precisely the same time as the issues of global diplomacy also are being redefined.

Speaking generally, before World War II diplomacy was largely concerned with negotiating and implementing treaties of peace, friendship, commerce, and navigation and with protecting citizens abroad (consular activities). In the last few decades the content of multilateral diplomacy has related more and more to global issues such as food production and distribution; the impact of unchecked population growth on national and international institutions; the use and conservation of natural resources and protection of the planetary environment; utilization and development of energy resources; consumption patterns and attitudes; exploration and utilization of space and the seabeds; and worldwide transformation of many facets of human life due to the speed of travel and communication.

All of these issues, in one context or another, can be considered subjects in which women have both a particular, as well as a traditional, concern.

Although the women's movement has taken various forms in different areas of the world, the general consensus is that women's contribution, if unfettered by legal or attitudinal restrictions, could lead to much greater progress by people and their governments toward alleviating or solving the problems that are transforming global diplomacy.

Courses that link redefined international issues with an expanding social movement, a movement that may be crucial and is nearly universal, would benefit employees of the foreign affairs agencies and other government employees as well.

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FOOTNOTES

[1] IWY Commission members: Patricia Hutar, Chair; Elizabeth Athanasakos, Helen K. Copley, and Clare Boothe Luce. Public members: Dr. Jerald Brauer; Naomi Shenstone Bonnelly, Professor of Christianity, University of Chicago; Joan Dunlop, John D. Rockefeller III Fund; Adrienne Germain, Ford Foundation; Dorothy Height, President of National Council of Negro Women; Jewel S. LaFontant, attorney; Mary Locke, International Relations Chairman, League of Women Voters; Dr Elizabeth May, President of International Federation of University Women; Catherine E. McDermott, Carnegie Corporation of New York; Florence Perman, Advisor to Department of Health, Education, and Welfare; and Carmen Votaw, President of Washington Chapter of National Conference of Puerto Rican Women.

Staff Member: Joan Goodin.

[2] Recommendation approved by International Interdependence Committee Dec. 4, 1975; by IWY Commission Jan. 16, 1976.

[3] U.N. ECOSOC 405 (1946).

[4] Approved by International Interdependence Committee Dec. 4, 1975; by IWY Commission Jan. 16, 1976.

[5] Recommendation approved by International Interdependence Committee Dec. 4, 1975; by IWY Commission Jan. 16, 1976.

[6] Recommendation approved by International Interdependence Committee Dec. 4, 1975; by IWY Commission Jan. 16, 1976.

[7] Recommendation approved by International Interdependence Committee Jan. 6, 1976; by IWY Commission Jan. 16, 1976.

[8] Recommendation approved by International Interdependence Committee Jan. 6, 1976; by IWY Commission Jan. 16, 1976.

[9] Recommendation approved by International Interdependence Committee Jan. 6, 1976; by IWY Commission Jan. 16, 1976.

[10] Proclamation 4262, Jan. 30, 1974.

[11] Recommendation approved by International Interdependence Committee Jan. 6, 1976; by IWY Commission Jan. 16, 1976.

[12] "Report to the Committee on Government Operations, U.S. Senate" by Senator Charles H. Percy (Ill.), Sept. 8, 1975, p. 15.

[13] In late winter 1975, the Bureau of Educational and Cultural Affairs announced the appointment of a woman as Deputy Assistant Secretary and a woman as Office Director.

[14] Recommendation approved by International Interdependence Committee Jan. 6, 1976; by IWY Commission Jan. 16, 1976.

[15] As used in this recommendation, Foreign Service personnel include the following: Foreign Service Officers, Foreign Service Information Officers, Foreign Service Reserve Unlimited, Foreign Service Reserve (Limited), Foreign Service Staff, and Staff (Limited).

[16] Recommendation approved by International Interdependence Committee Feb. 9, 1976; by IWY Commission Feb. 27, 1976.

[17] Recommendation approved by International Interdependence Committee Feb. 25, 1976; by IWY Commission Feb. 27, 1976.

## INTERNATIONAL CONVENTIONS FOR WOMEN COMMITTEE [63]

### RATIFICATION OF INTERNATIONAL CONVENTIONS ON WOMEN [64]

(The recommendation calling for U.S. ratification of two international conventions on the political rights of women has been overtaken by events. On January 22, 1976, the Senate voted to accept the U.N. Convention on the Political Rights of Women and the Inter-American Convention on the Granting of Political Rights to Women. They were signed by the President on March 21, 1976, and the U.N. Convention comes into force for the United States July 7, 1976. The recommendation and background discussion as originally approved by the IWY Commission are included to complete the record.)

The IWY Commission urges the immediate ratification of the United Nations Convention on the Political Rights of Women and the Inter-American Convention on the Granting of Political Rights to Women.

The Commission believes that the failure of the United States to ratify these international conventions on women's rights contravenes the spirit of our Constitution and discredits the strength of our national commitment to equal rights and to opportunities for all.

Since the United States is already legally bound by our Constitution and statutes to all the major human rights commitments set forth in these conventions on women's rights, the Commission proposes that it is in the best interest of this country to ratify these conventions as reaffirming our recognition of and support for minimum universal guarantees of dignity to one-half the human race.

As a major commitment, the Commission pledges to do all it can to forward the recommendation of the International Women's Year World Plan of Action that every effort be made by those governments which have not already done so to ratify these international instruments on women's rights. The Commission urges concerned individuals and organizations to support this effort.

STATUS OF WOMEN'S RIGHTS CONVENTIONS IN RELATION TO U.S. RATIFICATION

| Title | Origin | Signed | Transmitted to Senate | Current status—United States | Current status—global |
|---|---|---|---|---|---|
| Nationality of women | Inter - American Conference 1933. | Dec. 26, 1933 | May 12, 1934, by President Roosevelt. | Ratified with reservations June 30, 1934. | 13 OAS States ratified or acceded to. |
| Political rights of women | OAS [1] 1948 | May 2, 1948 | Jan. 13, 1949, by President Truman. | Senate accepted Jan. 22, 1976 | 17 OAS States ratified or acceded to. |
| Civil rights of women | OAS 1948 | May 2, 1948 | | | 16 OAS States ratified or acceded to. |
| Suppression of the traffic in persons and of the exploitation of the prostitution of others. | U.N.[2] 1950 | | | | In force July 25, 1951; 42 countries now adhere. |
| Political rights of women, U.N | U.N. 1953 | | July 22, 1963, by President Kennedy. | Senate accepted Jan. 22, 1976; in force July 7, 1976. | In force July 7, 1954; 82 countries now adhere. |
| Consent to marriage, minimum age for marriage and registration of marriages. | U.N. 1962 | Dec. 10, 1962 | | | In force Dec. 9, 1964; 29 countries now adhere. |
| Nationality of married women | U.N. 1957 | Feb. 20, 1957 | | | In force Aug. 11, 1958; 40 countries now adhere. |

[1] Organization of American States.

[2] United Nations.

### *Discussion*

The U.S. record on ratifying international women's rights conventions is poor. Of seven conventions on women's rights approved by international bodies, the U.S. has ratified only one (see chart, which includes U.S. acceptance in early 1976 of two additional conventions).

The major U.S. objections to ratifying the human rights conventions and the appropriate responses follow:

*Objection:* Under the Constitution, the issue of human rights is not a proper subject for exercising the treatymaking power.

*Response:* The Constitution does not express any specific limitations of the treatymaking power. The power, however, is not unrestricted. The Supreme Court ruled in *Geofroy* v. *Riggs*, 133 U.S. 258, 267 (1890):

> It would not be contended that it [the treatymaking power] extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the states, or a cession of any portion of the territory of the latter, without its consent.
>
> . . . But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching on any matter which is properly the subject of negotiations with a foreign country.

It would be difficult to interpret any of the international women's rights conventions as requiring anything which in essence contravenes an express prohibition of the Constitution or changes the character of the government. However, if a particular convention may be held in part incompatible with constitutional requirements or government policy, the convention could be accepted with a reservation or an understanding which would exclude, modify, or nullify the effect of the incompatible provision.

*Objection:* Human rights essentially fall within domestic jurisdiction and therefore are not a proper subject of negotiations with a foreign country.

*Response:* Concern for human rights has been a traditional American principle and a major feature of U.S. foreign policy. Throughout its history the United States has intervened on behalf of oppressed religious and ethnic minorities in other lands. The United States also has been party to international treaties dealing with human rights. In the 19th century the United States was a party to numerous treaties regulating the slave trade. The Hoover Administration ratified the League of Nations Convention on Slavery. The F. D. Roosevelt administration ratified a convention on the nationality of women. Further, the United States ratified the U.N. Charter which has as one of its central concerns the protection of human rights and fundamental freedoms. More recently, in 1967 the United States ratified the Supplementary Convention on the Abolition of Slavery.

*Objection*: Ratification of human rights conventions would shift into the Federal domain certain subjects hitherto reserved for State jurisdiction.

*Response*: The treatymaking power is not circumscribed by the 10th amendment, which makes a general reservation of power to the States. In *Missouri* v. *Holland*, 252 U.S. 416 (1920), the Supreme Court decided that the Constitution authorizes Congress to pass legislation implementing valid treaty commitments on certain matters otherwise reserved to the States.

*Objection*: U.S. citizens already enjoy the rights guaranteed by international human rights conventions. The United States, therefore, has no need to ratify such conventions.

*Response*: Although international human rights conventions generally specify standards already observed in the United States, the United States has an interest in seeing that they are observed by as many countries as possible. The United States cannot effectively urge other countries to adhere to such conventions without doing so itself. The United States would be in a stronger position to promote the goals of human rights in the world community if it ratified international human rights conventions.

### *Why the United States should ratify International Women's Rights Conventions*

The basic rights guaranteed by the international women's rights conventions are often taken for granted in the United States, but they are not taken for granted everywhere. In fact, they are very much at issue in many countries of the world. By ratifying these conventions, the United States can help give international effect to fundamental rights which U.S. women enjoy.

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[63] IWY Commission members: Senator Charles H. Percy, Chair; Velma Murphy Hill and Patricia Hutar.

Staff member: Joan Goodin.

[64] Recommendation approved by International Conventions for Women Committee Oct. 16, 1975; by IWY Commission by letter Oct. 1975.

Ratification also will put the United States in a better legal and moral position to protest infringement of these rights in countries that may have ratified the conventions but have failed to put them into practice. Further, ratification will increase U.S. influence in the continuing international process of setting legal standards in the field of women's rights. So long as the United States fails to ratify international women's rights conventions, its views on this issue will carry less weight than they deserve.

The report of the President's Commission for the Observance of the 25th Anniversary of the United Nations puts it effectively and succinctly:

> The United States would be in a far stronger position to play its historic role as champion of international rights and take a leading part in consideration of alleged violations of international standards if it ratified the instruments it has helped to develop.

## JEC HOLDS HEARINGS ON ECONOMIC OUTLOOK

Mr. HUMPHREY. Mr. President, last week, Dr. Saul Hymans, professor of economics at the University of Michigan and codirector of the Research Seminar in Quantitative Economics, testified before the Joint Economic Committee on the economic situation and outlook. Dr. Hymans was one of three economists present at the hearing. He was not optimistic about the prospects for the coming year, declaring that "the American economy is in trouble."

He asserts that we are in for a period of inadequate and progressively declining growth of real GNP and will continue to face an unemployment rate that will remain at least as high as 7 percent for the next 18 months. He further states that the two principal factors which have constituted the bulk of the recovery—consumer spending and increased business inventory stocks—cannot be expected to continue their rapid increases. Consumer purchases of durable goods are at or near record levels and business stocks are fairly normal compared with sales so a significant upsurge in these two areas is unlikely.

Dr. Hymans states that it now remains for some combination of increased plant and equipment investment, a surge in residential building activity, or expansionary fiscal and monetary policies to bring about the necessary 5-to-6-percent growth rates needed to get back on the track of full employment. He said:

> No such prospects appear to be in the offing.

On the contrary, he states, the rate of GNP growth will progressively decline from the present rate of 4 percent to 3.7 percent by the second quarter of next year. Increases in consumer purchases will just keep pace with the growth of GNP rather than leading it as they previously did. Federal purchases will rise barely more than 1 percent annually in real terms, thus a drag on the economy's growth rate will result. Business fixed investment will lead the growth of real GNP—but not nearly by enough. If this happens, it will not be possible for a strong economic uptrend to continue. The result will be a more sluggish economy, which is something we can ill afford at this point.

Dr. Hymans believes that the major reason for the "gloomy" forecast, as he terms it, is due to the decline in Federal purchases, capital expenditures, and residential building. In the 1960's, these three sectors constituted about 26 percent of GNP. In 1977, they will probably remain in the 20- to 21-percent range. Consequently, we will be facing a difficult time in the next 18 months.

He indicates that reducing the unemployment rate is of critical importance in turning the economy around. He therefore advocates a tax cut of at least $10 billion to be aimed mainly at business so as to promote investment expenditures. A tax cut, claims Dr. Hymans, "is easily justified as well as vitally needed." Not only would it encourage growth but it would "provide capital stock needed for more efficient production."

Mr. President, Dr. Hymans' proposal of a tax cut is a proposal which the Joint Economic Committee in its recent midyear report has urged be given serious consideration. Although a tax cut may result in a larger deficient in the short run, it has a multiplier effect of increasing investment capital and ultimately increasing employment and income levels. As Dr. Hymans notes, "it may take special courage to push the current deficit even deeper." However, stimulative economic policy at a time like this will create jobs, productivity, and income; not inflation.

Since the administration has steadfastly refused to believe that a stimulative economy will, in fact, increase employment and ultimately reduce inflation, it is up to Congress to initiate the type of responsive fiscal policy that will bring about this goal.

I stand by Dr. Hymans' statement that we must first tackle the problem of unemployment and by doing so, will simultaneously watch our inflation rate decline. Mr. President, I ask unanimous consent that Dr. Hymans' testimony before the Joint Economic Committee on September 22 be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

### On the Prospects for Economic Growth in 1976–77

(By Saul H. Hymans, Professor of Economics)

Let me begin by saying how pleased I am to be given the opportunity to discuss my views about the economic outlook before this Committee. I have appeared before the JEC on several occasions and have always found the exchange of views beneficial to me; I hope that on this occasion I can provide you with some food for thought as well. In the process of my discussion I shall present some rather explicit forecasts, particularly forecasts of growth rates, the unemployment rate and inflation. I should make clear at the outset that these are derived from the latest run of the Michigan Quarterly Econometric Model of the U.S. Economy. I and my colleague, Professor Harold T. Shapiro, share the responsibility for maintaining and operating the Michigan Model as part of an ongoing program which has been in existence at the University of Michigan since the early 1950's.

To begin the discussion in as direct a manner as possible, let me state that

As I interpret the prospects for the coming year and a half, the American economy is in trouble.

If that is both too blunt and not sufficiently informative, let me clarify:

No, I do not believe that the economy faces a substantial likelihood of sliding back into a recession during the next 18 months, but

Yes, I do believe that we are in for a period of inadequate and progressivly declining growth of real GNP, and further

I do believe that a severe unemployment problem—an unemployment rate *at best* near 7 percent—will be with us for all of the next year and a half.

If I am correct, then by the end of next year we will be looking back at 2½ years of recovery from the worst of our postwar recessions and asking how so severe a recession could have been followed by so anemic a recovery. We will have suffered tragic costs if we allow ourselves to be found in that position.

What is it that generates so dismal an outlook for the rest of this year and next year? Let me tell you how I came to this view. The substantial economic recovery from mid-1975 to the present has been led by two factors: a sharp rebound in consumer purchases, especially the purchase of automobiles and other consumer durables; and the rebuilding of stocks of business inventories. Consumer spending—as well as the mood of the consumer—was depressed for most of 1974, began to recover early in 1975 and moved ahead even more strongly once the 1975 tax cuts and the slowing of inflation gave a strong positive jolt to the growth of consumer purchasing power. The recovery of consumer spending ate into the existing stock of inventories, and production jumped in the Fall quarter of 1975 and again in the quarter of this year. Where do we stand now? Consumer purchases of durable goods are at or near record levels. We can no longer expect consumers to be leading the overall rate of growth with unusually rapid increases in their spending. Further, business inventory stocks look fairly normal relative to sales, so again we can expect little more than a kind of average behavior of stock-building activity.

The economy is going to have to experience sustained 5–6 percent growth rates for the next 18–24 months if it is to get back on the track of reasonably full employment. In the period ahead, the source of that growth will have to be some combination of a take-off in plant and equipment investment and/or a marked surge in residential building activity and/or expansionary fiscal and monetary policies. No such prospects appear to be in the offing. The First Concurrent Resolution on the fiscal '77 federal budget envisions an expenditure level of $422 billion (NIA basis).

Even if that target is achieved—and the grant program contained in the $422 billion target looks awfully rich to me from where we are now—it will represent an increase of only 9 percent at annual rate compared with the fiscal '76 budget. That is much less than the 15 percent increase in fiscal '76, and once it is discounted for inflation it amounts to a very spare expenditure budget. On the monetary side, Chairman Burns can hardly be interpreted as willing for the Fed to be anything more than nearly accommodative to the financing requirements of the economy. And that is not equivalent to a stimulative monetary policy. When I factor all these conditions into the Michigan Model, the results indicate no reasonable expectation that plant and equipment spending is poised for a take-off, or that homebuilding activity is about to surge. On the contrary, the econometric results may be characterized as follows (see Table 1):

From mid-1976 through the end of 1977, the rate of growth of real GNP will decline progressively—from a 4 percent annual rate in the second half of this year to a 3.7 percent rate in the second half of next year.

By the second half of next year:

Economic growth will have slowed down to that point at which little further progress at reducing the unemployment rate will be forthcoming.

The rate of growth of consumer purchases—adjusted for inflation—will be just keeping pace with the growth of real GNP, not leading that growth.

After adjusting for inflation, Federal government purchases will be rising at an annual rate barely in excess of one percent—thus amounting to a drag on the economy's growth rate.

Business fixed investment, in real terms, will be rising by more than 6½ percent (annual rate), thus leading the growth of real GNP, but not nearly by enough.

TABLE 1.—SUMMARY OF RSQE CONTROL FORECAST FOR 1976-77 (SEPTEMBER 1976)

| | Units | Actual [1] 1975.4-1976.2 | Control forecast 1976.2-1976.4 | 1976.4-1977.2 | 1977.2-1977. |
|---|---|---|---|---|---|
| **Percent change at annual rates:** | | | | | |
| Gross National product | Billions of 1972 dollars | 6.7 | 4.0 | 9.3 | 3 |
| Personal consumption expenditures | do | 6.4 | 5.3 | 4.5 | 3 |
| Autos and parts | do | 31.2 | 10.0 | 5.1 | 1 |
| Business fixed investment | do | 8.1 | 7.5 | 6.3 | 6 |
| Presidential construction | do | 19.0 | 16.1 | 3.1 | — |
| Government purchases | do | −1.2 | 1.1 | 1.8 | 2 |
| Gross national product | Billions of dollars | 11.1 | 9.8 | 9.3 | 9 |
| GNP deflator | 1972=100 | 4.1 | 5.6 | 5.2 | 5 |
| Personal income | Billions of dollars | 9.8 | 9.9 | 9.4 | 9 |
| Corporate profits before taxes | do | 22.5 | 5.6 | 6.0 | 5 |
| **Level in terminal quarter:** | | | | | |
| Aggregate unemployment rate | Percent | 7.4 | 7.6 | 7.4 | 7 |
| Treasury bill rate | do | 5.2 | 5.7 | 5.3 | 5 |
| Consolidated national income account surplus | Billions of dollars | −44.3 | −45.1 | −44.1 | −44 |

[1] Based on preliminary data.

Residential building activity is likely to be stalled if not declining by the second half of next year, and at a housing starts level of 1.6–1.7 million, far below the peak rate of early 1973. If the Fed does no better than provide weak accommodation for the economy as a whole, homebuilding activity will be subjected to tight credit conditions.

Let me provide a bit more perspective on the prospects for federal purchases and the outlook for capital expenditures and residential building. In the mid-1960's these three sectors combined accounted for about 26 percent of real GNP: about 11½ percent for federal purchases, 10½ percent for business fixed investment, and 4 percent for residential building. Since the mid-1960's federal purchases as a share of real GNP have trended downward to a current level of only about 7½ percent. Business fixed investment has fallen to below 9½ percent of real GNP, and residential building is barely over 3½ percent of GNP. All combined, these three sectors now account for only 20–21 percent of real GNP, compared with 26 percent a decade ago. With present prospects, their combined share is highly unlikely to move out of the 20–21 percent range in 1977, and that is a major reason why the near-term outlook is so gloomy.

One other point must be made before I try to draw conclusions from this analysis. Experimental calculations which I have made indicate that at an unemployment rate of about 4½ percent, the federal budget would be in surplus to the tune of at least $10 billion, despite the current deficit of some $50 billion. I therefore believe that a tax cut of at least $10 billion is easily justified as well as vitally needed. I would aim a good deal of that cut toward the stimulation of business investment expenditures—both to stimulate economic growth and to provide the capital stock needed for more efficient production in the future. I would also opt for a more stimulative monetary policy—to the tune of at least 2–3 more percentage points in the rate of growth of the monetary aggregates than is embodied in the Fed's targets.

I believe that we are facing a difficult time. Business investment and business profits are both very low by the standards of past periods of rapid growth, and the Federal budget is deeply in deficit. In the short-run an even larger deficit produced by a sizeable tax cut may be needed to restore the inducement to invest in capital equipment. This soon after the tax cuts of 1975, it will take special courage to push the current deficit even deeper. And even that may not be enough, for I judge that much of the hesitancy of the business sector can be traced to the myriad of government rules and regulations which have made it seem ever more risky to tie up financial capital in equipment which may soon be judged harmful to the public interest.

Let me close with a few words about inflation. It is obvious from the tone of my presentation that I am presently more concerned about unemployment than inflation. I see inflation staying at about 5 percent for the next year and a half, whether we grow at 4 percent or manage to push the growth rate even to 6 percent. And I think that our 5 percent rate of inflation still contains several percentage points which are a legacy of the past. We may need an incomes policy to restrain inflation—I believe that we do. But we are now in far greater need of restoring spirit to what is rapidly becoming a very dispirited economic recovery.

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## ENERGY POLICY: PRINCIPAL ACHIEVEMENTS AND REMAINING PROBLEMS

Mr. KENNEDY. Mr. President, a substantial portion of the 94th Congress has been spent developing a more adequate response by the Federal Government to the problem of securing reliable supplies of energy, at reasonable prices, and in relation to our real needs. In recent days, other Senators have discussed the positive actions taken by the 94th Congress in this regard and, just as importantly, the many ill-advised proposals by the administration that have been resisted. There is no need to repeat this litany. Let it be simply noted, in particular, that Congress was well advised to reject President Ford's efforts to decontrol the price of domestic crude oil and natural gas, as well as to ignore Vice President ROCKEFELLER's scheme for creating a $100 billion Energy Independence Authority. Both proposals shared the common deficiency of profoundly misunderstanding the nature of our continuing energy problems.

As I review the positive accomplishments of this Congress in the field of energy policy, and there were many, I am particularly encouraged by the congressional initiatives directed toward the goal of achieving greater energy efficiency in this country. Despite a verbal commitment by the administration in support of energy conservation, the major thrust of President Ford's energy proposals was clearly in the direction of providing governmental subsidies of all sizes and descriptions for the expansion of domestic energy production, even though energy conservation in many cases offered a more cost-effective, more rapid, and more environmentally safe procedure for expanding available supplies of energy.

### ENERGY CONSERVATION LEGISLATION

The two major omnibus energy bills of the 94th Congress—the Energy Policy and Conservation Act of 1975 and the Energy Conservation and Production Act of 1976—provide the foundation for this country's initial effort to eliminate the enormous amount of energy waste that occurs every day. The Energy Policy and Conservation Act included the following provisions:

Mandatory fuel efficiency standards for automobiles, requiring a fleet average of 27.5 miles per gallon by 1985;

Mandatory labeling of major home appliances;

Federal grants-in-aid to States for the support of State energy conservation programs;

Energy conservation targets for industry and mandatory reporting requirements for the most energy-intensive industries;

Strict energy conservation standards for the Federal Government.

More recently, Congress enacted the Energy Conservation and Production Act that included:

Mandatory energy performance standards for new housing to be promulgated by the Secretary of HUD within 3 years and submitted to Congress for approval;

A national energy conservation demonstration program, to be designed and conducted by the Secretary of HUD, to evaluate the effectiveness of various direct Federal incentives for homeowners and tenants to install energy conserving materials, including insulation, storm windows, heat pumps, as well as renewable energy resource measures, such as solar heating and cooling equipment;

A weatherization program for the homes of low-income families;

Federal loan guarantees for cost-effective energy conservation measures taken by businesses, private nonprofit corporations, local governments, and educational institutions; and

Additional Federal grants-in-aid to the States for conducting expanded energy conservation implementation programs, stressing the need for public education and information about the costs and benefits of energy conservation measures.

This legislation also required the Federal Energy Administration to develop proposals for improving electric utility rate design and for funding electric utility rate demonstration projects, as well as to support State offices for consumer services representing consumer interests before State public utility commissions.

In other legislation, we will have created an energy extension service within the Energy Research and Development Administration to provide outreach and technical expertise in achieving energy conservation at the local community level. We have also approved additional funds for the energy conservation activities of ERDA, increasing the appropriations for fiscal year 1977 from the $91 million requested by the administration to $125 million.

Considering that many of these congressional initiatives were passed in spite of the administration's footdragging or, in some cases, its active opposition, this is a good record. The Subcommittee on Energy, which I chair, of the Joint Economic Committee spent a considerable portion of its time this session helping focus the attention of Congress on the proposition that energy conservation must be the foundation on which to build a comprehensive and balanced energy program for the United States. I believe it was time well invested.

These beginnings, while important in themselves, also provide a basis for more vigorous action in the 95th Congress. If, as I hope, Governor Carter is elected President, I am confident that Congress and the Executive will work cooperatively to expand these beginnings. Governor Carter has spoken out clearly and without ambiguity on the priority which he attaches to energy conservation. This will be a welcome change from the present situation, one characterized, first, by the administration's reliance on high energy prices as the principal tool to induce energy conservation and, second, by a confusing and ambiguous shifting of position by the administration on those energy conservation provisions initiated by Congress.

Areas of concern for the 95th Congress include the full and imaginative implementation of the energy conservation already on the books; a more balanced distribution of Federal research and development funds in support of energy conservation; the continued development of appropriate incentives for retrofitting of existing residential and commercial buildings to make them energy efficient; national standards for the reform of electric utility rates; greater attention to achieving energy efficiency in the transportation sector, with special emphasis on developing a more energy efficient automobile engine; Federal support for a nationwide program of resource recovery and recycling; and continued efforts to promote greater energy efficiency in the industrial sector, with special attention to capturing the large amounts of waste heat for the cogeneration of onsite electric power.

### INTERNATIONAL ENERGY POLICY

As we look ahead to the 95th Congress, it is also clear that both Congress and the Executive must give far higher priority than we have in this Congress to developing a workable and consistent international energy policy, with special emphasis on U.S. policy toward the OPEC producers and the U.S. multinational oil companies that still play an important role in the international oil trade. This part of the energy problem should be at the top of our legislative agenda next year.

We have spent much of the past 2 years reaching a compromise on the issue of domestic energy pricing and considering various proposals for accelerating energy production and energy conservation. In this period we have practically ignored what is the most immediate energy-related threat to the economic stability of the United States and much of the world as well: the transformation of crude oil into an economic and political weapon of unimagined potency.

The United States suddenly awoke in the early 1970's to the extraordinary economic and political power that had been acquired by the members of OPEC. The concessionary companies which had gained access to OPEC oil on highly favorable terms suddenly lost control. We discovered that the assumptions of two generations which shaped U.S. policy toward our multinational oil companies and toward the oil-producing States no longer applied. The quadrupling of international oil prices within a 4-month period, coupled with the embargo of oil exports to the United States by the Arab members of OPEC, left U.S. policy in a shambles. We responded to these new circumstances with an irrational mixture of military threats, the import tariff, proposals for immediate decontrol of domestic oil prices, and dire predictions about the capacity of the international monetary system to withstand the deluge of petrodollars.

Our Government is now only beginning to adjust its policies to the new realities of the international oil market. The creation of the International Energy Agency—IEA, the Conference on International Economic Cooperation—CIEC, and the recent U.S. proposals at the UNCTAD meeting at Nairobi for an International Energy Institute and an International Resources Bank are evidence that the United States has recognized, however belatedly, the interdependent nature of the world economy and the vital role that energy plays in the maintenance of this international economic structure.

Even if we could, by some miracle, eliminate U.S. dependence on OPEC oil, our OECD partners and Japan will continue to rely heavily on OPEC for their energy needs. The economies of less-developed countries will likewise be directly affected by the availability of oil at reasonable prices, both in terms of their own industrial and agricultural development and of the ability of Western nations to provide markets for their raw materials and agricultural commodities.

Beyond these considerations of supply and price, discussions of international energy policy must necessarily take on a wider political significance. OPEC is now a major political force. Some of its members, through OAPEC, are involved in the longstanding conflict between Israel and the Arab States; and all are now important in the relations between rich and poor countries. How do these political factors enter into relations between producing countries and U.S. oil companies? What happens if the economic interests of the companies run counter to the political interests of the United States?

We should, moreover, expect no miracles by the United States in eliminating its need for substantial amounts of imported oil. Even the administration now admits that "energy independence" means little more than maintaining our present level of dependence, around 6.5 million barrels per day, by 1985. This is a far cry from the goal of total self-sufficiency initially presented by President Nixon and President Ford.

### OPEC—OIL COMPANY HEARINGS

In early June of this year, the Subcommittee on Energy of the Joint Economic Committee held 3 days of hearings to explore the web of issues and problems that have arisen in the wake of the producers' revolution of 1970–74, with particular emphasis on the implications for U.S. energy policy of the evolving relationships between U.S. multinational oil companies and OPEC. The hearings were premised on the belief that it was time to put aside our feelings of futility in dealing with OPEC and it was time to look to our strengths in the international oil trade, without resorting to the bluster and empty threats that characterized our initial response to the embargo and the OPEC-induced price increases.

Our best hope, in the long run, lies in an effort to find a basis for mutual cooperation with oil-producing states, as well as with our fellow consumers. But this does not mean that we should do any less than try to maximize our own advantages and strike the toughest bargains possible.

From this perspective, the witnesses were asked to examine and evaluate a number of propositions. These included, among others:

Should the United States assume a more direct role in the negotiations between multinational companies and the producing nations, such as requiring U.S. approval of all long-term supply contracts? Or should the United States simply inquire the companies to provide the Government with full and complete information about such negotiations while reserving the right to intervene if U.S. interests require it?

Should the United States become the principal purchasing agent of OPEC oil, thereby removing the companies from their new role and de facto managers of production levels among OPEC members? Or, alternatively, should the Government support the companies in a common effort to force a lower price by their refusing to market oil at irrational and inflated prices?

Should the production subsidiaries of the major oil companies be separated from their transportation, refining, and marketing subsidiaries as a way of generating greater competition among companies in the purchase of OPEC oil and as a way of denying to OPEC the guaranteed markets of the vertically integrated companies?

Finally, what institutional reforms within the U.S. Government are needed to provide the United States with the capacity to play a more direct and coherent role in the international oil market?

Mr. President, I ask unanimous consent that the names and affiliations of the witnesses who testified before the Subcommittee on Energy on June 2, 3, and 8 be printed at this point in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

### Revised Witness List for Subcommittee on Energy Hearings—Multinational Oil Companies and OPEC: Implications for U.S. Policy

June 2—10:00 a.m., 1114 Dirksen Senate Office Building:

W. P. Tavoulareas, President, Mobil Oil Corporation.

Jerry A. McAfee, Chairman and Chief Executive Officer, Gulf Oil Corporation.

John G. Buckley, Vice President, Northeast Petroleum Industries; Energy Corporation of Louisiana.

June 3—10:00 a.m., 1114 Dirksen Senate Office Building:

Robert Krueger, Los Angeles attorney and Project Director of the FEA-sponsored study, "An Evaluation of the Options of the United States in International Petroleum Affairs" (the Krueger Report).

Paul Frankel, President, Petroleum Economics, Lt., London, England; a leading petroleum consultant for national petroleum companies, producing countries, and petroleum companies.

James E. Akins, consultant, Washington, D.C.; former U.S. Ambassador to Saudi Arabia and Head of the Office of Fuels and Energy, U.S. Department of State.

William J. Lamont, attorney, Washington, D.C.; formerly with the Antitrust Division, Department of Justice.

June 8—10:00 a.m., 1114 Dirksen Senate Office Building:

Elliot L. Richardson, Chairman, Energy Resources Council; Secretary of Commerce.

Charles W. Robinson, Deputy Secretary of State.

Frank Zarb, Administrator, Federal Energy Administration.

Mr. KENNEDY. As one might suspect, there was considerable difference of view among the witnesses on the questions which the subcommittee had raised.

Mr. William Tavoulareas, president of the Mobil Oil Corp., presented his view of the continuing role that major integrated oil companies would likely play in the exploration, production, transportation, and marketing of OPEC oil. He said, in part:

> It is appropriate at this point to say a word about the role which the international oil companies can or may play in the future, particularly in the producing areas. We have now had experience with a number of years of government "takeovers" in producing areas, and that experience has shown that without exception the same or other Western producing companies have been invited to return or to continue to supply services that are required in these countries. To be sure, the companies have not retained access to all of the crude they once had, and the profitability has been less than before, as I already indicated. Nonetheless, the fact that the Western companies are needed to play a role in the exploration, producing, and transporting petroleum is an important one for us to understand in trying to access the future. Let me state the point more categorically.
>
> Those who direct the affairs of most OPEC governments have no doubt that in their self-interest it is desirable to retain the services of integrated Western oil companies and pay them—in cash and in access to crude oil—to retain those services into the indefinite future. It is important to understand, moreover, that while our profits are less than formerly, the vast majority—if not all—of the new capital will be provided by the countries and thus relieve the companies of the carrying costs and risks of those investments. . . .
>
> If the U.S. multinationals were to disappear from the scene for whatever reason, the foreign multinationals (many of them government-supported and subsidized) could be expected to step into our shoes before they scarcely cooled to provide the services we had offered. Such a development would be contrary to the interests of the United States, but probably would be of less long-run concern to OPEC; the world's oil demand would still be there and non-U.S. companies would be dealing with OPEC. How secure will the United States feel when it has to acquire oil directly from foreign governments or foreign multinationals? The International Energy Agency has designed an allocation system that relies on the major oil companies for its implementation; how will this system work if there are no major United States multinationals?

Mr. Jerry A. McAfee, chairman of the Gulf Oil Corp., testified that multinational oil companies continue to shop for the best price quoted by OPEC producers for different grades of crude oil in different locations, within the basic price framework established by OPEC for Saudi Arabian marker crude. He also argued that U.S. companies have the flexibility to match the many grades and types of crude to the requirements of different refineries designed to fill many different product needs.

On the question of whether the Government should initiate direct purchases from OPEC producers, Mr. McAfee said:

> . . . We do not believe that such an entity would be able to simultaneously negotiate crude oil purchases from several producers, relate these to constantly changing transportation costs and varying refinery needs, make daily adjustments for operating problems and still provide adequate petroleum supplies at competitive costs. In fact, government-to-government crude oil acquisition agreements have been tried by a number of oil importing countries without any particular success.
>
> In addition, a multinational oil company is able to negotiate with producer countries on the basis of economic rather than political objectives. It would be difficult indeed to eliminate political considerations from oil negotiations between the U.S. Government and the Middle Eastern governments. For example, it must be remembered that the arrived at price will be highly visible and there would be tremendous pressure within OPEC and from political elements within the exporting country to maintain set price levels.
>
> In this context it is important to keep in mind that OPEC is not a cartel in the classic economic sense. It is not a business cartel, but a treaty among sovereign nations. The treaty is designed to protect finite natural resource which is, for most OPEC countries, their major source of income.

Mr. John Buckley, vice president of Northeast Petroleum Industries, testified that OPEC was stronger than ever, in his view, and that having survived a 25-percent drop in production in 1975, OPEC was unlikely to break up in the face of rising consumer demand for energy. He noted further:

> The sooner we recognize that this is not just another cartel, but is a cartel which has a philosophy behind it, a cartel anxious to see a redistribution of wealth between industrial countries and raw material producing countries, then you recognize not just economic factors, and not just the normal economic decisions that a cartel might make; but rather an economic cartel backed by a philosophy, and one that in the long range they are not going to sacrifice for any short-range gains.
>
> The other myth that continues to plague us here is a feeling that somehow or other we can become less dependent on oil, and on imported oil in particular. I just don't think it is realistic for the FEA to keep putting out reports that by 1980, or 1985, we are only going to import half as much as we do now; it flies in the face of what is actually happening.

Mr. Buckley also pointed out some of the advantages which he believed were now open to the smaller independent oil companies in the aftermath of the OPEC revolution. He said:

> Now, it was not very long ago that an independent company buying crude oil and competing with a major in this market had an 80 or 90 cent differential, it started out that far behind. Today you start much closer by virtue of these changes that occurred.
>
> It might be, for example, that we can get a longer credit in paying for the oil. For every 30 days, roughly, that you could get credit for the oil, that is in effective a five or six cents a barrel discount.
>
> We have found that we have been able to negotiate some reasonably extensive credits, helping us with our working capital, and in effect giving us that oil at a somewhat lower price than it would be if it were just sold on a normal credit basis.
>
> Other flexibility you might get would include not having to lift the same amount of oil every month under a long-term contract, but rather being able to take more in one season and less in another, giving you flexibility which is worth real money. You don't have to build as much storage, you can in other ways save money.
>
> In those rather novel approaches you can end up, actually, very competitive with the major company competitors that you have to deal with in this market.

All three industry witnesses opposed the idea of the U.S. Government or a Government-supported instrumentality purchasing oil directly from OPEC members. Mr. Buckley observed:

> Frankly, I just don't think it would work. I can't think of anything that would unite OPEC more than to have the world's largest importing country establish a mechanism designed to break OPEC. They would simply sit down together—and there are not antitrust laws to reach them—and decide what the price was they were going to bid for in a sealed system to the United States Government, and if that price happened to be a little higher than the market place, then they face us with the embarrassing decision of whether we pay the higher price with a slightly red face, or whether we just go without the oil. And, of course, they know that we can't go without the oil . . . We need the oil more than they need to sell it to us.

### PETROLEUM EXPERTS

On June 3, the subcommittee received testimony from a panel of petroleum experts who responded, in part, to the testimony of the industry officials who had appeared the previous day.

Dr. Paul Frankel, chairman of Petroleum Economics Limited, London, did not agree with the testimony of Mr. Tavoulareas of Mobil that major oil companies wanted to see lower prices for OPEC oil. Dr. Frankel stated:

> The companies as buyers of oil are in the short run not directly interested in the absolute level of prices but mainly in their terms of acquisition being no worse than those of other companies of equal stature and somewhat better than that applying to lesser operators. It is even likely that they would not favor any sharp and general reduction of crude oil prices, since it would leave them high and dry with costly inventories—the term "windfall losses" does not even exist.

Dr. Frankel also raised some doubt about the effect of international oil companies shopping for the most convenient and economic crude oil they can find on the market. He said:

> Obviously with very large operations these flexible, how shall I say, the collapsible extension of the main program can cover only a comparatively small part of the oil OPEC has to dispose of, or the oil which the offtakers have to take.
>
> If I may say, Mr. Chairman, at this stage all these ideas, including those put forward by the companies and previously by some noted economists suffer from the fact that the people, especially the economists, mistake the tail for the dog. That is to say, they look in a fascinated way at the movable fringe of the market, the spot sales, if you like, and forget that in an energy industry the overwhelming part of the operations must be planned and operationally executed over a long period with a great deal of advance planning because it cannot be done on an *ad hoc* basis.
>
> Now, undoubtedly the fringe operations are very important, but they have to be seen in the right context. If I may still stick to my picture, you can imagine a dog without a tail, but it is very difficult to imagine a tail without the dog.

On the important question of greater access by the U.S. Government to information concerning international transactions of U.S. multinational oil companies, Dr. Frankel testified that—

> Surveillance of oil companies in their domestic and international dealings is more necessary than ever. A higher degree of transparency is called for, without necessarily following the example of the child who, bent on finding how the toy works, dismantles it and in the process wrecks it altogether.

Dr. Frankel also argued that power will increasingly flow away from private multinational oil companies in the direction of national oil companies and that the U.S. Government must monitor these developments very carefully. He said:

> . . . We have to recognize that the major international companies themselves are going to change in the different climate which the world provides for them because as they have lost the control of the low-cost crude oil which they had for 20, 25 years, they will probably be much less interested in remaining global operators, as we have known them so far. Therefore, there will probably be a higher incidence not of big or small corporations, and certainly not a number of small corporations because there will not be enough profitability for their emergence, but it will be the national companies of the various countries which will play an increasing role in the future development. Both national companies of producing countries and national companies of other importing countries. . . .
>
> It is towards this changing character of the international companies which will lose, by their own volition, the character of universal purveyors of oil internationally. We must watch the new developments which are already visible outside the United States, and draw certain conclusions for the policy or non-policy of the United States which would be adequate.

The next witness, Robert B. Krueger, a Los Angeles attorney, focused his comments on the need for a more active governmental role and greater access to information in relation to the international dealings of U.S. oil companies. Drawing from a major study conducted by his law firm for the Federal Energy Administration on the options of the U.S. Government in its relationships to U.S. firms in international petroleum affairs, Mr. Krueger testified:

> Our report, which was released in February of 1975, indicated that there was a clear-cut need for a greater involvement, a greater presence, by the U.S. Government in the activities of U.S. firms in international petroleum transactions. We found abundant evidence that the major oil firms did not cause or conspire with OPEC or producer countries in bringing about the energy crisis and the resulting higher prices. On the other hand, it was also very clear that the oil companies operating abroad, both the U.S. and foreign companies, and both the independents and majors, had become virtually hostages of the major producer nations and lacked the will and resources to resist their demands for higher prices and greater "participation". We concluded that "the existing incentives for the companies do not assure that their behavior will be consistent with the national interests of the United States."
>
> We accordingly recommended that the U.S. Government should "have access to relevant information regarding present and future significant international petroleum arrangements."
>
> . . . On a confidential basis, is what we proposed, but before the fact, through disclosure to the Federal Government. We also predicated it on there being a sufficiently responsible and a sufficiently independent agency being established to do it. We recommend that the Federal Government be given "the power to review and approve such transactions where they may affect significant aspects of the national interest".

The former U.S. Ambassador to Saudi Arabia, James E. Akins, now a Washington-based energy consultant, provided support for the proposition that the U.S. Government was not receiving adequate information before the fact of international oil activities conducted by U.S. firms. He testified:

> . . . The British, the Dutch, the French, through their national oil companies, or companies in which they have strong national interests, have access to information, total information. The Arabs, of course, assume that the United States has the same—but it doesn't. I think that we generally have gotten most of the information after the fact; we have gotten some of the information at the time it's happened; but very rarely have we received advance information of company planning. We can never be sure how much we got. . . .
>
> I would therefore propose that the problem perhaps could be handled by placing a United States Government member on the board of directors of every oil company operating abroad. This group of government directors could then form a body in itself, which could serve to give direction to U.S. oil policy abroad. The U.S. directors in the company would not participate in negotiations, but would at least be kept fully informed of everything that went on; and if U.S. Government intervention were then desirable, at least we would have all the facts at hand . . .

Messrs. Frankel, Krueger, and Akins were generally agreed that the major U.S. multinational oil companies had little, if any, leverage over the production decisions of individual OPEC members, even though the producers still depended heavily upon the companies to produce, refine, transport, and market much of their crude oil. Frankel, Krueger, and Akins were also opposed to the vertical divestiture of the major U.S. multinational oil companies. However, William J. Lamont, a Washington attorney, took vigorous and specific exception to these views, arguing that vertical divestiture was the essential first step in bringing compeition to the international oil markets and in weakening the internal cohesion of the OPEC cartel. He testified:

> I suggest that whatever possible alternatives we may have to consider are really useless until we have an oil industry that is not larger than the United States Government. You cannot regulate that which has more inherent power than you do.
>
> I suggest as far as international energy is concerned, as far as the energy that this world needs is concerned, the multinational companies and their allies in the OPEC countries have basically a control which we cannot directly shape as long as the organization of the oil markets remains what it is. No matter what we choose to do, no matter what strategies we seek to apply, we will run up against the basic fact that oil movements are now controlled by a series of markets in which buyers and sellers have virtually identical interests, as far as crude oil is concerned.
>
> . . . When we speak of energy companies now, when we speak of vertically integrated companies, we speak of individual companies that are so cross-linked in so many places, in terms of particular crude oil supply and movement, that the decision of none of them with respect to price or supply is a decision that is independent by the rest of them. That, essentially, is the controlling mechanism that has been maintained by this cartel, which was protected by the constant series

of emergencies which we faced—or maybe we didn't—between 1970 and the present.

### GOVERNMENT WITNESSES

On June 8, the three representatives of the U.S. Government—Secretary of Commerce Richardson, in his capacity as Chairman of the Energy Resources Council; Deputy Secretary of State Robinson; and FEA Administrator Zarb—testified in support of the administration's domestic and international energy policies.

In essence, their testimony boiled down to the following propositions:

The United States remains dangerously vulnerable to another oil supply interruption because of our continuing, and growing independence on imported oil.

The U.S. multinational oil companies do not function as the prorationing agents of the OPEC cartel. The producers' power arises instead from our import dependence and the OPEC members' willingness to limit total production to the level demanded at the basic price they determine. The behavior of Saudi Arabia is critical in maintaining the cartel's solidarity since it is the only country able to absorb large production cutbacks that otherwise would have to be allocated among OPEC members.

The U.S. Government is adequately informed by U.S. multinational companies of their international oil dealings. There is no need for legislation requiring greater access to information or authorizing the U.S. Government to review and approve contracts between companies and producers.

Vertical divestiture would weaken U.S. companies in their dealings with OPEC members, leaving the United States more vulnerable than it is at present.

The United States has abandoned its initial policy of confrontation with OPEC. It has taken the lead in seeking cooperative relationships among consuming countries, through the International Energy Agency, and we are seeking mutually beneficial cooperation between producers, consumers, and less-developed countries through the Conference on International Economic Cooperation. Additional initiatives, such as the International Energy Institute and the International Resources Bank, have been proposed by Secretary Kissinger.

The solution to this country's problems, both domestic and foreign, lies in implementing the administration's proposals for expanding domestic energy production and constraining energy consumption.

In order to provide a more detailed understanding of the administration's policies, I ask unanimous consent to have printed at this point in the Record the answers to the specific questions raised by the subcommittee in its invitation to Secretary Richardson, and the answers to followup questions submitted to Deputy Secretary Robinson after the June 8 hearing.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Department of Commerce Response to Questions in May 6 Letter From Senator Kennedy to Secretary Richardson

Question 1. What is Administration policy regarding crude oil prices in international trade? Does it actively pursue, or plan to pursue, initiatives that have the goal of applying downward price pressure?

Answer. OPEC controls over 70 percent of the world's proven crude oil reserves. Japan and Western Europe depend on OPEC for around 90 percent of their oil imports. U.S. reliance on OPEC crude has risen from 68 percent of total imports in September 1973, just prior to the Arab oil embargo, to 78 percent in 1975, and the OPEC import share is still rising. This world market strength has enabled OPEC to quadruple crude oil prices in a little more than two years.

Thus U.S. policy aimed at reducing OPEC prices could not, in the short-term, be very effective. However, the Administration, in the CIEC, is encouraging OPEC to act more responsibly in its decisions to raise prices by pointing out that current price levels have contributed to a misallocation of global resources—affecting particularly the non-oil-producing developing countries.

Marginal oil price competition does exist in any event, and without government interference, for particular types of crude, and companies shop around for those crudes that best meet specific oil product demands. Such competition should not be discouraged.

(For instance, gasoline demand in most developed countries is strong, compared with heating fuels. Gasoline can generally be refined more efficiently from light gravity crudes. Hence companies are competing for these grades whose prices, consequently, are relatively higher than those of the heavier crudes used for heating fuels.)

Question 2: Are there divergencies between the interests of the companies and those of the U.S. Government in the negotiation of long-term crude sales contracts? How is the U.S. protected in these negotiations? Does the Government have sufficient knowledge of them? Would it be helpful for Congress to require access to a) information on negotiations, b) participation in them, or c) both?

Answer: U.S. and company interests are parallel in their main elements. U.S. interests in maintenance of growing global oil supplies and in minimization of upward price pressure are served by long term contracts which oblige producers to offer large amounts of crude on a steady basis and permit the companies some flexibility to shop around for the best values as opportunities present themselves. Under ongoing contractual arrangements made or under negotiation with key producers in connection with nationalization and 100 percent participation, companies generally have made or seek long term contracts involving smaller base amounts than their past peak requirements. The companies have also insisted upon some escape provision on price since future prices are not negotiable. In a growing market they will have to shop around for additional requirements. We do not regard such arrangements as incompatible with national interests in supply and price under present realities of OPEC control over these matters.

The Department of State, assisted by our embassies abroad, has primary responsibility within the Government for keeping informed on issues involving U.S. international oil companies, including as a priority matter the main elements in the evolving arrangements between U.S. companies and key oil producers. As the issues arise we employ a variety of means including contracts at appropriate levels with the companies involved and sometimes with the producer government.

We value the flexibility that exists. As a practical matter, producers and companies are fully aware of our interest in these matters. So long as the companies continue to voluntarily cooperate in meeting our need for essential information, we do not perceive a need for legislation which attempts to define for all cases a formal procedure which in practice could become narrowly legalistic and perhaps of no incremental value in clarifying major issues of concern to U.S. policymakers.

U.S. Government direct participation in negotiations would be unprecedented in international buyer-seller talks. We consider it unfeasible unless the U.S. Government is itself the purchaser (for example, for the strategic storage program) or unless the objective is to reach a bilateral umbrella agreement under which subsequent private transactions would be negotiated (as in the talks with the USSR for an oil agreement). If the USG is neither buyer nor seller, it could not have a decisive influence on the terms at issue by being represented at the table and its intervention in the negotiating process could have unwanted and undesirable effects in producing countries, e.g., by making oil policies the primary focus of bilateral U.S. relations with these countries.

Question 3: What impact would various alternative policies, such as tariffs, an oil import quota, divestiture of international subsidiaries from parent companies, have on our ability to move closer to energy self-sufficiency?

Answer: Speaking generally, as the question does, there would be different impacts from each of the so-called alternative policies mentioned.

In the case of the tariff, this Administration proposed and imposed such a tariff in 1975. The tariff was a part of the President's energy and economic program first announced in his State of the Union Address last year, and called for the three-step, dollar per step imposition of the fee on imported oil. In conjunction with that, he called on the Congress to pass an energy conservation tax program, a revised personal income tax program, a windfall profits tax on oil companies and deregulation of natural gas prices. He said he would administratively decontrol oil prices. Congressional reaction and the passage of time eventually led to withdrawal of the $2.00 in tariff fees that had been imposed, and related litigation is pending in the Supreme Court.

That is history. The point is that the tax part of the Administration's program, including the tariffs, was projected to save .9MM B/D of oil by the end of 1975, and 1.6 MM B/D by the end of 1977. Other parts of the program would have had a considerable and positive effect on our efforts to move closer to energy self-sufficiency by increasing our domestic production, yet the new income tax structure would have protected the consumer.

In the case of the oil import quota, that could work as a self-imposed embargo, and thus harm the economy without contributing positively to the development of new sources of domestic supply. This effect would be increased by the fact that our domestic supplies of oil and gas are continuing to decline even despite the increased drilling that has been taking place in the country over the last two years. Positive actions (such as removal of price controls on oil, and the deregulation of new supplies of natural gas) should be taken, rather than the negative approach of quotas alone.

Divestiture of international subsidiaries from parent companies is different from pending divestiture legislation, but it is possible that it would be the result of the vertical divestiture proposals. We see the impacts that would result from such divestiture as negative, in that they would:

Weaken the U.S. companies that would have to try to bargain with OPEC for oil to import;

Not weaken OPEC's control over "world excess capacity," world oil prices, or the terms of access to supply;

Strengthen non-U.S. international (including former U.S. subsidiaries) integrated oil companies relative to U.S. companies;

Create friction with foreign governments since existing contracts with them would be affected;

Create a further opportunity and possibly provide greater incentive for further nationalization of oil company assets;

Enhance the ability of OPEC to "target" the United States in any future embargo or supply action since the international companies would be easier to "police" if they had no direct connection with U.S. companies and thus less flexibility in moving supplies into this country;

Reduce the ability of U.S. companies to explore for and produce oil in less developed countries—or even in the North Sea and other known areas—thus increasing the world's degree of reliance on OPEC;

Probably reduce the development of U.S. energy supplies by excluding international companies from participating—and, in the case of BP, by taking away North Slope oil from a foreign-based international company that has invested in North Slope development which will increase U.S. supplies, and

Probably result in years (or more than a decade) of litigation, investment uncertainty reduced ability of the companies to raise external capital, and other negative impact on U.S. progress toward a greater degree of self-sufficiency and/or supply security.

Question 4: How does the U.S. Government foresee maintaining its access to markets and its share of exports from OPEC producers in the face of stiff competition from other consumers? Can the U.S. Government provide adequate protection for independent oil companies in their overseas operations in view of our continued dependence on a few major oil producers, particularly Saudi Arabia, and traditional access that a few major oil companies have had to these resources? Do contracts assuring a producing country outlets for its crude production minimize its need to compete for sales by cutting prices?

Answer: There is adequate crude oil for today's needs available on a global basis. Some 27% of OPEC's productive capacity (38 MM barrels daily) is unused. To the slight degree that competition prevails for specific types of crude, prices are slightly higher for Arabian Light "marker" crude. However, there is no reason to believe U.S. companies cannot purchase their requirements. Furthermore, the weakening position of the international oil majors is freeing up a larger percentage of the OPEC oil they formerly controlled making it available for the independents from the OPEC State companies.

Regarding Saudi Arabia, the expected agreement with Aramco will probably leave Saudi Arabia with considerable crude available even after supplying its contract requirements to Aramco.

The purpose of OPEC is to prevent competition among the member suppliers. There is little or no relationship between the supplying country's long-term contracts and intra-OPEC price competition.

Question 5: Has the Administration considered the relative merits of the various policy options set forth in An Evaluation of the Options of the United States in International Petroleum Affairs (the Krueger Report) prepared for the Federal Energy Administration in 1975? If so, what were the results of this evaluation?

Answer: The Krueger report itself makes clear in a number of cases the disadvantages inherent in some of the policy options it discussed have been overtaken by events. In other cases the Administration has made evaluations of the pros and cons of a particular option—sometimes in connection with various legislative proposals—and has made its position clear. To go through the Krueger options quickly:

1. Removal or modification of Federally created incentives and disincentives—

The depletion allowance and foreign tax credit have already been changed by legislation and by rulings. Price controls and regulations are still in effect for oil and gas, but I believe the Administration's position is clear on these controls.

Generally, we favor the removal or modification of the numerous Federally created incentives and disincentives, and the President has called for a general overhaul of the Federal regulatory system to reduce its inherent inefficiencies and the costs it forces on the consumer.

2. Regulation of the oil companies as public utilities—

This goes against the thrust of the Administration's position on regulation. We want to reduce, rather than expand, regulation and regulatory bureaucracy.

3. Establishment of a national system to limit petroleum imports—

Again, this would increase regulations and regulatory activity at a time when we are trying to move back toward market mechanisms. But further, as discussed elsewhere in these questions and answers, such a system could turn out to be a self-imposed embargo and thus result in emergency-type measures as domestic production continued to shrink while relief through imports was limited.

4. Regulation of all significant foreign supply arrangements—

Once again, this extends rather than reduces regulation. But further, the Federal Government does monitor such arrangements. This is done through various departments, including Treasury, State, Commerce and FEA, and also through various International Energy Agency mechanisms now in place or under consideration.

5. Creation of a petroleum corporation, fully or partially owned by the Federal Government—

The disadvantages of such a corporation are discussed at length in the Krueger Report, and the Administration agrees with that evaluation, as has been discussed elsewhere in these questions and answers.

6. Coordination of international supply arrangements through an industry-wide association of consumer country companies—

As is pointed out in the Krueger Report, "U.S. antitrust laws pose a major problem for industry cooperation of this type." There seems little likelihood that the laws could be changed enough to facilitate such cooperation in the near future. The idea is interesting and could provide for greater information and for coordination through a Federal agency. But increasing inter-company coordination does not seem to be an idea whose time has come.

7. Bilateral arrangements between the United States and producer governments—

This option has now been exercised, to some extent by the EPCA provision granting authority to the President to buy foreign oil at a discount for import and resale. The likelihood of discounts is not clear at this time, and there are numerous other questions about the technical purchase authority that are still undergoing evaluation. But overall, the terms of such arrangements in the past seem to be less advantageous to the consumer country than those made by the companies. As Krueger points out, voluntary "special relationships" that enhance the atmosphere of cooperation may be more beneficial than specific deals for exchange of goods and services.

8. Establishment of an international organization to coordinate national petroleum policy with other importing countries—

This is an option that has been implemented through creation of the International Energy Agency. Now, if we in the United States could only come to some agreement on our own national petroleum policy, everyone would benefit because it would make our situation and that of our IEA allies more clear and precise.

9. Establishment of multilateral negotiations between consuming and producing countries—

This option has also been implemented through the creation of the Conference on International Economic Cooperation. The CIEC, like the IEA, has been discussed further in other of these questions and answers.

To sum up, the Krueger alternatives have been evaluated, some have been implemented, others rejected, and others still in abeyance pending further developments in our efforts to agree upon a true, comprehensive national energy policy.

### Department of State Response to Question in June 30 Letter From Senator Kennedy to Deputy Secretary Robinson

1. Question: In the expectation of a better price than now is dictated to the oil companies, please review in detail the results of direct government (separately the U.S. government and foreign governments) bilateral negotiation for petroleum. In your answer discuss:

a. The U.S. negotiations with the Soviets for their oil;

b. The proposed oil-for-arms barter talks with Iran;

c. Iran's proposal to France, that France receive payments in oil rather than currency for French exports to Iran;

d. Talks with Venezuela, Saudi Arabia, and Iran for oil for the proposed U.S. Storage System. In your answer discuss: Will these be direct government-to-government deals, or will a company be an intermediary? Who is to pay for the oil for this Strategic Petroleum Reserve"? What conclusions can be made from these collective negotiations?

Answer: The results of past attempts by other industrialized countries to negotiate preferential price terms with producer governments do not support the proposition that commercial oil transactions between governments are likely to be at better than prevailing terms. France and Japan explored the government-to-government alternative when faced with the events of 1973–74 and they have chosen not to continue this as general policy.

U.S. Government agencies have made no direct purchases of oil abroad except for their own uses. We believe that the companies continue to perform the marketing function efficiently. We negotiated with the Soviets from January to March of this year for an oil agreement. Under the terms of the letter of intent signed in Moscow in October, 1975, the agreement would obligate the Soviet Union to offer, and would give the United States the option to buy, a stipulated quantity of crude petroleum and products over a number of years.

It would be an umbrella agreement and the detailed terms and conditions of sale would be settled between the Soviet seller and the buyer, the US Government or, at our option, private firms serving the US market. We made clear to the Soviet that landed prices would have to be attractive to US buyers and would have to provide remunerative returns to US-flag vessels eligible to participate in the trade under the US-Soviet Maritime Agreement. Talks were recessed when we were unable to reach agreement on an appropriate formula for shipping. rates.

Government-to-government purchase for the Strategic Petroleum Reserve has neither been ruled out nor decided upon. We are prepared to explain the nature of the storage program to friendly foreign governments whether suppliers or not. Certain technical and financial aspects of the Strategic Petroleum Reserve must be worked out before any purchase, domestic or foreign, could be concluded. FEA can provide greater detail on this program.

A sharp reduction in liftings of Iranian oil in late 1975 as a result of depressed and relative overpricing caused concern within the Iranian Government about its ability to continue planned economic and military modernization programs. Iran considered a number of ways to increase oil sales. We are unable to comment upon the reported Iranian proposal to France about their bilateral trade.

Iran has approached certain US defense contractors with the request that they assist in finding US purchasers for incremental amounts of Iranian oil on a long-term basis. Funds so generated would be used to pay for a part or all contemplated equipment purchases. It must be emphasized that these would not be government-to-government oil transactions. However, we do not object to the concept of the proposed triangular arrangements, inasmuch as it would not impinge on regular U.S. Government policies or procedures controlling arms sales and Iran is a relatively secure source of oil supply.

2. Question: Is it possible for U.S. international oil companies to have mutual self interest both with OPEC and U.S. interest? Do you see any conflict? . . . possible future conflict? Please comment on Senator Church and Ambassador Akins' proposal that U.S. government representatives be placed on the board of directors of international oil companies.

Answer: Since imported oil is essential to the U.S. and the world economy, it is apparent to us that the companies which produce, transport, process and distribute it are performing a vitally important function. It is in our interest that they continue to perform as efficient intermediaries. The established pattern of 100 percent company equity and exclusive offtake rights has been shattered by producers in pursuit of their individual perceptions of their interest. Most now deal with some companies in arms-length sales and with others under investment or technical assistance offtake agreements. There is no OPEC-wide pattern. Every producer sets the price of its crudes around the basic OPEC price. Most set production ceilings and any can embargo destinations for its crudes. Companies which offtake crude do retain the ability to refuse to take oil they consider uncompetitive or to take more oil than they can market. Company commercial interest in procuring an adequate, diversified crude supply at competitive prices is compatible with U.S. national interest. The unprecedented suggestion of placing a U.S. Government member on the Board of Directors of U.S. corporations raises legal, practical and public policy questions that would need to be explored fully. It would not get to the root of our vunerability vis-a-vis the producers and may reflect a misperception of the ability of the companies, or the government, to overcome this vulnerability through negotiating tactics.

3. Question: How do you reconcile bilateral and global diplomacy as regards to energy matters? Which do you regard as more important in restraining the price of oil?

Answer: The growing dependence of the US and its allies on imported oil made it possible for the small group of producers to take exclusive control of international oil prices and production and to exercise this power arbitrarily in 1973–74. Our international energy policy and diplomatic efforts are designed to provide emergency protection against this arbitrary power, to promote restraint in the producers' use of their power and to eliminate our vulnerability by reducing over time the dependence of the US and its allies on imported oil. The International Energy Agency has established workable instruments to minimize the effects of a future supply interruption. It has become a valuable vehicle for coordinating consumer relations with the producers. It is now preparing concrete, long-term cooperation proposals for achieving reduced dependence on imported oil. We have also entered a dialogue with the producers to analyze our respective concerns and to seek areas of cooperation out of a recognition of our mutual interdependence. It is our hope that this dialogue will be continued in accordance with the schedule planned for the Conference on International Economic Cooperation. In addition, we have intensified our bilateral relations with key producers in such areas as trade, finance, economic and military modernization.

We do not rank the elements of our policy hierarchically. It is an integrated policy. At the same time, a successful national energy policy is absolutely crucial to our ability to give effective leadership to international consumer cooperation and to maintain credibility in our dealings with the producers.

4. Question: Describe any headway that has been made since 1974 in constraining OPEC in the momentum of price increases.

Answer: The quadrupling of prices in 1973–74 was followed in late 1974 and 1975 by further increases of lesser percentages but still substantial in cost. In May 1976, for the first time since 1973, the OPEC members continued a price freeze which was due to expire. The momentum of price increases has clearly slowed in 1975–76 for a number of reasons, including market conditions of supply and demand. However, demand for OPEC oil is again rising with economic recovery and we remain highly vulnerable to substantial price increases.

5. Question: In your opinion, do the U.S. oil companies consider the access to crude oil supplies more important than price or vice-versa? In the conclusion that you give with your analysis, do you believe that this is in the best interest of U.S.?

a. Do you believe that European and Japanese companies have the same objectives as U.S. oil companies?

Answer. U.S. companies seek assured supplies through diversification of sources and, as commercial entities, must seek competitive terms. Considerations of technology, scale, flow and planning make it impractical to expect, or to suggest, that the industry make or should make its worldwide lifting decisions on a daily spot basis. Decisions to increase or decrease liftings from a particular producer are highly sensitive to the small differences around the basic OPEC price. The effect of these decisions on liftings by the various companies can cause dramatic swings in the sales of individual producers. In 1975 this was evidenced in increased sales by Iraq, down and up patterns for Libya and Abu Dhabi, decreased sales by Iran and erratic sales by Ecuador. In some of these instances, companies placed their future access to crude in jeopardy over the issue of competitive price.

Non-U.S. oil companies must consider the same commercial factors as U.S. companies. The smaller among them may feel constrained by having few alternative sources, however, and in general other governments are more prone than we to inject the factor of bilateral relations into company decisions. Our observation is that non-U.S. companies are not more price-sensitive than U.S. firms, and perhaps a bit less in some instances.

### COMMENTS ON KRUEGER REPORT OPTIONS

1. Removal of federally created incentives and disincentives to international petroleum production.

Changes have already been made in the depletion allowance, foreign tax credit and production-sharing payments. Deregulation of domestic natural gas and oil prices has been advocated by the Administration. The Department of State has a limited role in U.S. tax policy and tax legislation although we can comment on the foreign policy impact of specific measures which may be proposed for adoption. We do favor U.S. private investment in foreign oil production. We have proposed an International Resources Bank to stimulate capital flows to oil investments in the non-oil LDC's.

2. Regulation of oil companies as public utilities.

The Report sets out a weak case for this option and we do not favor the suggestion.

3. Petroleum import limitation system.

An effective quota restriction on imports would cause embargo-like dislocations, requiring allocation rationing under a regime of price controls or rationing by price in a decontrolled market. The dislocation and regulation are both undesirable. The Administration did impose a supplementary import fee to discourage imports and does not now propose to reinstate it. Reduction of our dependence on imported oil remains a crucial energy policy objective, however. Agreed national goals of reduced dependence, backed by policy commitments to achieve them, would be highly desirable.

4. Regulation of significant international supply arrangements.

We fully agree with the importance to the U.S. Government of information regarding arrangements between oil companies and producer governments. We regret that the report simply assumes that the information currently available to the Government is insufficient. We welcome the General Accounting Office's inquiry into the relationship between companies and producer because we believe it will illuminate the extent of the Government's information and it will place company contractual arrangements in perspective.

Within the Department of State and in our Embassies in the producing countries we give priority attention to developing information on developments in oil. This attention extends far beyond consultations with companies concerning the main elements of arrangements between them and the producer governments. Our attention extends to the processes whereby the producer government, and the producers as a group, make the critical decisions on price and supply. The Krueger Report is somewhat out of date in suggesting that the basic price and available volume of the world oil supply are any longer determined by company/producer government negotiations. In addition to the information which we obtain, FEA and the International Energy Agency now collect extensive company data on actual costs of oil moving in world trade. Other agencies, including Treasury, Commerce, Interior and CIA, obtain certain data or information helpful to understanding company producer relationships. We believe studies now underway can place this issue in better perspective than was possible in the Krueger Report. In discussing the government review and approval of contracts option, the Report points out such high costs and hazards in an approval that we question its utility as a public policy option.

5. Creation of a Federal Petroleum Corporation.

We do not favor this option, the disadvantages of which are discussed at length in the Krueger Report.

6. Coordination of international supply through an association of consumer country companies.

Anti-trust laws probably prohibit this, as the Report observes. Moreover, it is unlikely that consuming country companies, or governments, could negotiate advantageous, dependable arrangements on price and supply with the producers at our present levels of import dependence.

7. Bilateral arrangements between the US and producer governments.

We have intensified our bilateral relations with key producers as a part of our overall policy. The Report suggests that such relationships can be very useful in producer/

consumer cooperation although they do not involve bilateral oil agreements.

8. Establishment of international consumer country organization.

This option has been implemented through the creation of the International Energy Agency. The IEA has made an impressive beginning. It has established emergency mechanisms to mitigate the impact of another supply interruption. It has conducted useful analyses and evaluations of member country energy problems and programs. It is an important vehicle for coordinating consumer cooperation to reduce dependence on imported energy.

9. Multilateral negotiations between producers and consumers.

This option has been exercised through the Conference on International Economic Cooperation (CIEC) and its Commissions on Energy, Raw Materials, Development and Finance. The Krueger Report perceptively observes that there was a need to begin a process for clipping off manageable pieces of intractable issues which would arise between resources producers and consumers. The range of issues under discussion in the CIEC is even wider than was foreseen in the Report.

Mr. **KENNEDY**. Mr. President, my principal quarrel with the administration centers on its extraordinary passivity and acquiesence of the present situation. It appears to be true that OPEC's weight in oil markets gives it considerable latitude in setting prices and terms of access until such time as increased conservation and alternative supplies shift the terms of energy markets. But this should not excuse the administration from actively pursuing, with far greater intensity and imagination than it has, economic and political initiatives that have the goal of applying downward price pressure. It should not excuse the administration from understanding that vital U.S. national interests are wrapped up in the continuing relationships between U.S. oil companies and the producing states and from insisting, at the very least, on far more complete advance information from the companies as to their long-range plans for acquiring OPEC oil.

The problem with the administration's posture was illustrated by former Ambassador Akins in response to my question about the U.S. Government's intensity in striving for more reasonable OPEC price levels. Mr. Akins responded:

> The instructions that I got in Saudi Arabia led me to believe that the policy was to reduce oil prices. I took this up with the king, King Faisal; with Prince Mahad, who is now the Crown Prince, with Yamani, who is now the petroleum minister, and others. I went over with them in detail the dangers of higher prices; why they should restrain price increases, and why they should in fact bring down prices.
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> Not only did they agree, but as you know from their actions inside OPEC from December '73 until the last meeting in Bali, they have been rather consistent in taking this position, that prices have gone up too far too fast, and that the world should have a chance to adjust to these prices before they should go any further.
>
> However, I was constantly urged by King Faisal and by Shiek Yamani to get other countries in OPEC to stop and support the Saudi Arabian position. . . .
>
> I reported this frequently to Washington, so frequently that I was told Washington was very annoyed by these reports. I then asked if I should stop reporting things that were raised by the Saudis, and was told only that Washington was annoyed. . . .
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> It was not a very satisfactory dialogue. However, I did tell my staff at the time I had been given these warnings and I was under no circumstances going to abide by them. I did not want to leave Saudi Arabia, I had a lot of things I thought I wanted to do, but I was not going to twist reports to give Washington what it wanted to hear. You can have a GS-1 clerk handling this sort of thing, you don't need an Ambassador. I think I perhaps became on this subject more abrasive than was absolutely necessary.
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> However, King Faisal did raise with Kissinger himself exactly the reports that I had already sent in, "We can understand your reason for oil prices, but we cannot act alone, you must put pressure on other OPEC countries; and you must persuade your friend, the Shah, to go along with us in holding down oil prices."
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> What happened after that I don't know. I know that Kissinger saw the Shah, and the Saudis at least told me that they were told by the Iranians that we understood the oil prices had to go up. Now, whether the Iranians made that up, or the Saudis interpreted it wrong, I don't know. But I do know that there was absolutely no change in the position of Iran or of any other OPEC country . . .

This has been the most cursory overview of the many issues and subjects raised in the June hearing of the Subcommittee on Energy. The subcommittee staff has also received a considerable amount of additional data from written questions submitted to most of the witnesses following the hearing. I should also note that the General Accounting Office is presently preparing a major report to the Joint Economic Committee on the same issues raised in the subcommittee hearings. It is GAO's expectation that this report will be completed early in the 95th Congress.

### NEW OPEC PRESSURES

The subcommittee hearings took place several days after the OPEC meeting in Bali where it was decided not to increase the price of the Saudi Arabian marker crude. When OPEC next meets in December, however, pressures for a new price increase will have intensified considerably. It is reported, for example, that Iran will be pushing for a 25-percent increase, bringing the cost of a barrel of oil delivered to the United States to around $16 or $17.

Although Saudi Arabia successfully resisted these upward price pressures at the May meeting, there is no way to predict what will happen next time around. Just this week there have been reports—now denied—of a Saudi Arabian threat to reinstitute the embargo of oil to the United States in response to congressional opposition to the anti-Israeli economic boycott. It is, perhaps, worth recalling that the Saudis warned of the possibility of an embargo in early 1973. At that time it was confidently asserted by high U.S. officials that King Faisal never mixed oil and politics.

In an event, after 2 years of relative stability in the international oil market following the dramatic upheavals of 1970 to 1974, we are now clearly entring a period of new turbulence and uncertainty. It requires no particular foresight on my part to predict that Congress will find itself in the middle of these new developments.

If the worst happens and the United States is suddenly faced with a new oil embargo by the Arab producers, or if OPEC decides in favor of a sharp price increase—actions which I profoundly hope will not occur—the U.S. Government's failure to use the past 2 years to maximum advantage in developing a more effective international energy policy will be obvious to every citizen. As I remarked at the opening of the Energy Subcommittee hearings on OPEC, we are still very much in the posture of responding to external events that can have the gravest consequences on energy supply and price.

Even if the worst does not happen and we are spared the disruption and turmoil of another embargo or major price rise, the world will be entering a period of new uncertainty and danger. We have, for example, recently heard predictions that the world will be faced with a supply shortage of about 1 million barrels per day by mid-1977 unless Saudi Arabia is willing to expand its production beyond the present limit of 8.5 million barrels per day. In a most thought-provoking analysis, Walter J. Levy has described what he believes will be the most important energy issue over the next 15 years; namely, whether the level of Saudi Arabia's output will be dictated by its own needs or dictated by the needs of its customers; or whether it tries to bring the two figures closer together by using the price mechanism'.

As an appendix to his analysis, Mr. Levy examines a number of developments that will provide the backdrop for international energy decisions in mid-1977. Because this analysis is directly relevant to this discussion, I ask unanimous consent that appendix C be printed at this point in the RECORD.

There being no objection, Appendix C was ordered to be printed in the RECORD, as follows:

### APPENDIX C: THE BACKGROUND IN MID-1977

1. In Doha next December OPEC ministers are expected to review prices. Prices will probably also be discussed at other meetings in the first half of 1977. However, by mid-1977 the political and economic background to these discussions will be radically different from that at Vienna and Bali in 1975 and 1976.

2. On the political side, the Conference on International Economic Cooperation (the North-South dialogue) will probably have ended, at least in the form originally conceived. While this dialogue has been running, and during the earlier period when it was being prepared, oil producers have been under some inhibition about putting prices up. The West was persuaded to enter the dialogue by the prospect of a more orderly and favourable set-up for world oil prices and supplies. The dialogue may produce a major impetus towards new arrangements for commodities and agreement on debt rescheduling. But even if it does, and this looks far from likely, oil producers will then cease to be constrained in their price policy by fears of enraging the West and scuppering the dialogue.

3. Secondly, by mid-1977 the OECD countries will probably have enjoyed an 18-month period of economic growth averaging 5.3–5.4 per cent, on the Secretariat's latest fore-

casts. By mid-1977 OECD GNP looks likely to have grown by 30 per cent in money terms, in the 2½ year period since oil prices were first frozen on 1st January, 1975. In this period oil prices have risen 10 per cent so far, with perhaps another rise to come in December, 1976.

4. Thirdly, this revived economic growth will probably have caused an upsurge of commodity prices, though perhaps not on the scale of 1972–74. The LDC's will benefit considerably. Their payments problems will be eased. They will also be better able to withstand new oil price rises, a factor that will influence OPEC.

5. Fourthly, with revived economic growth and shrinking margins of spare productive capacity in key sectors of the industrial economies, inflationary pressures will intensify. They will be reinforced by the commodity price boom.

6. By mid-1977 it will be beyond dispute that real oil prices have been significantly eroded since January, 1975, and that the erosion is continuing. Since January, 1974 both the American and Saudi governments have been arguing that some erosion of real oil price levels has been needed, to allow normal world economic growth to resume. And the Americans have ascribed the slippage in OPEC oil output since autumn 1973 to over-large price increases then and later.

7. In mid-1977, however, both these arguments will cut the other way. They could then be used to justify new price increases: growth will have convincingly resumed; and OPEC output looks likely to be above the previous peak (of 32.7 million barrels per day in September, 1973).

8. Moreover by that time revived economic growth will have brought a new wave of prosperity to both the developed countries and (through a new commodity price boom) to most LCD's. Only the oil producers will be left out. Most of them will have enjoyed some increase in volume sales. But by mid-1977 it will be hard for most of them to generate higher revenues even by higher volume sales. As we show in Table A5 on page A–7, all will have reached capacity operation, except for Saudi Arabia, except for those countries pursuing deliberate policies of conservation (which will be producing at their ceilings) and except for margins needed for technical reasons.

**Mr. KENNEDY.** I must conclude on the basis of the testimony and supplementary information presented to the Energy Subcommittee that the United States remains extremely vulnerable to a range of potentially adverse developments on the international energy front. Despite the administration's rhetoric about Congress not responding to the energy crisis, I find the sense of passivity displayed by the administration—that is, its willingness to acquiesce to the fundamental changes that have transferred massive amounts of economic and political power from the consuming to the producing nations—to be at the root of this country's present vulnerability.

We can hope that a new Democratic administration will be more willing to confront these fundamental issues. But regardless of the outcome of the November elections, the following issues, among others, will necessarily demand the time and attention of the next Congress.

### ISSUES TO BE ADDRESSED

First: What should be the role of the U.S. Government in future international energy decisions?

The administration has made very clear its intention to remain fundamentally aloof from the continuing negotiations between the producing countries and the multinational oil companies. A largely informal flow of information now exists between the Government and the companies and, as Ambassador Akins pointed out, there is no procedure for the Government to learn of company decisions before the fact. The companies, not surprisingly, prefer this arrangement. The question that Congress will have to address is whether this arrangement adequately protects the vital interests of the United States and, if it does not, what new procedures should be established by legislation.

A range of alternatives has been suggested, including mandatory reporting requirements, Government review and approval of producer-company contracts, or Government representation on company boards of directors. Other suggestions, such as direct government-to-government purchases or a secret import auction, would bring the U.S. Government into active participation in the oil industry. It seems to me that whatever Congress ultimately decides, we are coming to a period where the U.S. Government must assert itself more forcefully in critical international energy decisions. We must actively explore ways to make it more in the interests of OPEC members to provide reliable access to crude at reasonable prices, rather than just standing on the sidelines hoping for the best.

Second: Are the interests of the U.S. multinational oil companies identical to those of the United States? If not, how can U.S. interest be protected in the decisions and actions of the companies?

This question arose frequently during the subcommittee hearing. It is clear that there are no simple or pat answers. But I would find it surprising, to say the least, if a company were to consider anything but the interests of its stockholders as ultimately paramount. This is not to suggest that the companies do not also fulfill a number of functions that are vital to the economic security of the United States. It is obvious that today we rely on private companies for nearly all our hydrocarbons and will continue to do so for the immediate future. The issue is one of deciding whether the Government should be able to intervene in those situations where company interests run counter to broader U.S. concerns.

Related to this issue are the antitrust and tax policies that should be pursued in relation to U.S. multinational oil companies. On the one hand, there are those who believe that vertical divestiture or, alternatively, divestiture of the international subsidiaries from the U.S.-based parent companies to be the proper course of action for Congress. On the other hand, it has been suggested that antitrust exemptions for the major oil companies, similar to those granted in the early 1970's, would permit them to bargain more effectively with OPEC producers over the terms of access to crude and its price. Tax policy is also a major factor in determining the scope and profitability of oil company operations overseas.

In the longer term, we must consider the proposition put forward by Dr. Frankel in his testimony before the subcommittee: Namely, that the companies will gradually relinquish their international role in a world increasingly dominated by national oil companies. It is a fact that Aramco will soon become a totally owned Saudi corporation and will join a long list of producer-owned companies which include the National Iranian Oil Co., Petrovan—Venezuela—and Pertamina—Indonesia. Three of the four are now among the 10 largest oil companies in the world. What should be the U.S. response in these changing circumstances? Are there steps that the United States should take now to prepare for the possible withdrawal of U.S. companies from their dominant position in the world oil markets?

Third: Is the U.S. Government organized effectively to develop and implement an international energy policy?

The General Accounting Office study will address this question in some detail. But it is already clear that something is seriously amiss in the present arrangement. It has been reported, for example, that the Energy Resources Council—the nominal interagency energy committee—has never had a major discussion of U.S. international energy policy. There is obvious competition and overlapping between the international energy activities of the State and Treasury Departments. Within State itself, there is the important issue of how international energy policy is related to broader foreign policy objectives.

The FEA also performs a variety of functions, from collecting company data for the IEA to monitoring direct foreign investment of oil revenues in the United States. Moreover, there is continuing evidence that separate parts of the executive bureaucracy are not above playing politics with energy. The problem is finding out which agency and which Government officials have principal responsibility for this country's international energy policy. Providing a concrete answer to this question should be a major objective of any Government-wide reorganization of energy functions.

Fourth: How can the United States more effectively build consumer-nation solidarity on energy?

The International Energy Agency is the principal instrumentality of the energy-consuming nations. In the relatively stable times since the end of the 1973–74 embargo, the solidarity has held. But what of the future? A program has been developed to protect security of supply in the event of another emergency, with the IEA assuming most of the decisionmaking responsibilities which the oil companies performed in the 1973–74 embargo. What is unknown, at present, is whether these procedures would function effectively in the next supply emergency. There is no reason to assume that OPEC would follow the same embargo procedures as in 1973–74. Is the IEA capable of adjusting its emergency system to meet such a change? If not, would the IEA agreement collapse in an uncontrolled scramble by each consuming nation to protect its own interests?

The IEA also maintains an information system on international oil markets to which all member nations contribute. There is also the obvious need for the consuming nations to move far more vigorously in developing meaningful long-term cooperation on energy research, development, and related projects.

Fifth: How can the United States provide more effective support for developing countries that have suffered the most from high oil prices?

In the aftermath of the OPEC embargo, the more militant LDC's took the lead at the United Nations and other international organizations for the establishment of a new international economic order designed to redress a long list of perceived economic wrongs forced on the LDC's by Western industrialized nations. U.S. hints at military intervention against OPEC producers served only to strengthen a coalition of LDC's and OPEC members. Faced with an overwhelming opposition bloc at the Seventh Special Session of the United Nations in September 1975, the United States refined its position and opened a dialog with the LDC's which was carried over into the Conference on International Economic Cooperation last February. The United States made additional proposals at the UNCTAD meetings in Nairobi, including the creation of an International Energy Institute and an International Resources Bank.

A number of questions, however, remain to be settled. What will be the specific accomplishments, if any, of the CIEC? Is it possible to create the political goodwill among LDC's and the access to technology and capital that will encourage them to follow a more independent course from OPEC? Can the U.S. Government provide the necessary technology for oil development in non-OPEC countries when it is largely the property of private oil companies? One fact is clear: development of oil in any non-OPEC nation is in the long-term interests of the United States and our Government's trade and international finance policies should support this objective.

Sixth: How secure are U.S. sources of imported oil?

As the subcommittee hearings came to a close, the insecurity of U.S. sources of petroleum was painfully evident. By the end of April 1976, imports from Arab oil exporting nations and Nigeria had risen to over 3 million barrels a day—nearly 64 percent of total U.S. imports—and continued to rise through July. As the summer progressed, the petroleum press and officials of foreign governments also became aware of several emerging concerns in the Arab world, and particularly in Saudi Arabia, that could seriously impair the availability of oil for the United States and other consumer nations. A shortfall might result from several circumstances short of an embargo, including: First, a decision by Saudi Arabia to reduce production to about 5 million barrels per day in order to bring production into line with development requirements; second, abrupt political change in nations with that potential; and third, disruption of transshipment and transportation facilities by natural causes, accident, war, revolution, or terrorism. The long supply chain from the above nations is only as strong as the most fragile link, such as a loading platform, a pumping station, or a pipeline. Should we continue this growing dependence on imported oil that is subject to interruption for any of the above reasons? Do we have a choice? How can we increase security of supply when it is so vital to our interests?

This is the international energy agenda that awaits the next administration and the next Congress. The fact that none of these issues are particularly new is perhaps the most telling evidence of our collective failure to deal with adequately. They can be postponed no longer. Along the way, other shorter range considerations should also be examined, such as: What is the Government's position on the barter negotiations now being conducted between Iran and several U.S. weapons manufacturers? How would such deals affect the price of imported oil and the level of armaments in this critical area of the world? What is the Government's program for stocking the strategic petroleum reserves established by Congress last year? Is the Government able to negotiate direct purchases of oil from producing countries?

A closing thought: We in the United States could perhaps learn a valuable lesson from our OPEC neighbors. For the most part they view oil as a national treasure and a capital asset which increases in value in the ground as available supplies in the world decline. The decision to produce is an important one in which broader economic and social interests of the Nation are considered.

Contrast this with the United States where the rule of capture has largely prevailed. Anyone who can put together the necessary land and capital has been able to produce with a minimum concern for national goals or the public interest. Indeed, for much of our history, the Federal and State governments have encouraged the frivolous use of oil and gas without due regard for the future. It is time for Congress, working with a new administration and the American people, to examine our traditional attitudes and begin defining a new energy ethics to guide our use of these precious and dwindling resources. The first and essential step in this process is the elimination of energy waste through a national commitment to energy conservation.

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## DR. MORDECAI WYATT JOHNSON, DISTINGUISHED EDUCATOR

Mr. BROOKE. Mr. President, on September 10, 1976, a great black educator died. Mordecai Wyatt Johnson was the first black president of Howard University and its president for over 34 years, from September 1, 1926, to June 30, 1960, a little more than one-third of the life of the university. He was a gifted orator about whom was said:

> He was one of the great platform orators of his day. Practically never using a manuscript but relying almost entirely on an outline, his remarkable memory, and his thorough "homework," he generally won the admiration of his audiences. He exploited his commanding physical presence and resonant voice which ran the gamut from an overpowering crescendo to almost a whisper. His gestures, which he on the whole used sparingly, were eloquent except for a rearing back on his heels and the waving aloft of both arms while he flexed his fingers. Few persons who heard him were left unmoved.

He was a mentor to thousands, dedicated community leader and dear friend, an irreplaceable asset.

He was that rarity: A man who had a deep feeling of vocation, a man of special commitment, and who was alternately viewed with affection, reverence, awe. But he clearly altered directly or indirectly, the opportunities and possibilities for black Americans. We all, therefore, owe him a debt of great honor.

Dr. Johnson was a robust president. He had great intellectual and physical vitality and he poured all of this vitality and energy in revitalizing, building, and expanding Howard University. His long tenure is all the more remarkable for the scope, the breadth, and the depth of his accomplishments.

Mordecai W. Johnson, son of the Reverend Wyatt and Carolyn Freeman Johnson was born in Paris, Tenn., on January 12, 1890. He received his early education at the Academy of Roger Williams University and Howe Institute in Memphis. He entered the Preparatory Department of Atlanta Baptist College in 1905. Upon his graduation from the college in 1911, he taught English, history, and economics until 1913, when Atlanta Baptist College received a new charter and a new name, Morehouse College.

He delved even further into his intellectual potential, receiving another A.B. from the University of Chicago in 1913, a B.D. from Rochester Theological Seminary in 1921, and an S.T.M. from Harvard University. All of this educational achievement was remarkable, for few black men and women attempted to scale the unassailable walls of the closed, elite, almost totally white institutions in those dark days of segregation, inequality, and injustice.

This intellectual and educational heritage prepared Mordecai Johnson for his life's work. For after serving as an ordained Baptist minister for 9 years, he was asked by the board of trustees to assume the presidency of Howard.

He applied his considerable skills, welding a superior faculty; developing new programs and departments; expanding the physical facilities; enhancing the cosmopolitan and intellectual milieu which even today makes Howard a university of distinction.

Hayford W. Logan, in his history, "Howard University: The First Hundred Years," remarks that:

> . . . (a)s Caesar Augustus is alleged to have said of Rome, Mordecai Wyatt Johnson could have said, with no more exaggeration of Howard: "I found it brick and left it marble." The first Negro and most dynamic of Howard Presidents, Dr. Johnson was a builder of faculties as well as buildings.

During Dr. Johnson's tenure, many men and women of distinction were lured to Howard's faculty and administration: Walter Dyson, the great historian, Charles Wesley and Rayford Logan, also great historians; Russell A. Dixon, dean, college of dentistry, 1934–66, under whose administration the college became one of the leading centers of dental education; Lewis K. Downing, first dean, college of engineering and architecture, 1936–64, who laid the foundation and developed curricular for meeting unexpected needs and opportunities. Inabel B. Lindsay, first dean, school of social work, 1948–67, whose vision kept the school abreast of the intensifying demand for professionally trained social workers, and Frank M. Snowden, Jr., dean, college of liberal arts, 1956–68, a distinguished classicist and teacher who reinforced the traditions of a liberal arts education during the unprecedented increase in the enrollment. Ernest Everett Just, author; internationally known scientist and professor of biology; Alain L. Locke, first American Negro Rhodes Scholar, an intellectual leader of the Negro Rennaisance of the 1920's; author and editor; art collector, and professor of philosophy. Stering A. Brown, author, scholar, poet, critic, professor of English; William H. Hastie, first Negro Governor of the Virgin Islands; judge of the Third Circuit Court of Appeals; dean of the law school; Charles Hamilton Houston, "the first Mr. Civil Rights," vice dean of the law school; and James T. Nabrit, scholar, dean of the law school and professor emeritus. Charles R. Drew, a pioneer developer of blood plasma, surgeon, medical director of Freedmen's Hospital and professor of surgery. Ralph J. Bunche, pioneer scholar of modern colonialism; Under Secretary for Special Political Affairs, United Nations, Nobel Peace Prize, 1950, professor of government. Merze Tate, scholar; historian; specialist in problems of disarmament and of American expansion in the Pacific; professor of history.

E. Franklin Frazier, scholar, teacher, author; president, American Sociological Society, 1948; LL.D., University of Edinburgh, professor and head of the Department of Sociology, 1934–59; professor emeritus, 1959–1962; the eminent sociologists Dr. Kenneth and Dr. Mamie Clark; Dorothy B. Porter, biblographer, researcher in Afro-American history and literature; Ambassador Patricia Roberts Harris, eminent professor of law, to name only a few. Dr. Johnson increased the luster of Howard's faculty by encouraging an atmosphere of imagination, expansion, dynamism, challenge, and change.

As a result of his efforts, Howard's faculty, trustees, and students were able to show the world a model of achievement and growth almost unparalleled in the history of American education. The university is his living monument. He has shown black youth what is possible; he has helped black scholars and planners coalesce around worthy goals.

He will be missed by those who love Howard and by those who work tirelessly to attain greater educational opportunities for all deserving young people. Dr. Johnson, a man who was a voice of conscience during turbulent times, the architect of many assaults on injustice and inequality, a man who often said: "The Lord told me to speak, but he did not tell me to stop," is now silent, his voice stilled by the rest which comes to all mortal beings. But his legacy still speaks with force and clarity and truth. And his legacy still galvanizes us for even greater efforts to insure that our society and its educational institutions truly reflect the diverse character of our citizenry and that they offer educational stimulation and opportunity to all.

Mr. President, I was privileged to know Dr. Johnson and his distinguished family while I was a student at Howard University; and to his wife Alice, his two daughters, Carolyn Graves and Anna Faith Jones, his three sons, Dr. Mordecai W. Johnson, Jr., Dr. Archer C. Johnson, and William Howard Johnson, I extend my personal prayers. We have all suffered a great loss.

## EDUCATION AMENDMENTS OF 1976

## (S. 2657)

Mr. JAVITS. Mr. President, yesterday the Senate approved the conference report on S. 2657, the Education Amendments of 1976 by a vote of 73 yeas and 3 nays. I am gratified that my colleagues established this record of approval on this omnibus educational legislation which is the result of such a long and arduous effort by the members of the Labor and Public Welfare Committee after so many days and nights of negotiations in the House-Senate conference. I must express my disappointment that I was unable to be present in the Chamber to cast my vote in favor of the conference report. I was not present because I was fulfilling a longstanding commitment in California to appear on behalf of President Ford. I wish the RECORD to show that had I been present, I would have voted in the affirmative on this conference report.

The basic purpose of this legislation is to extend and, where necessary, modernize education legislation affecting higher education, vocational education, and education research. Two years of examination and consideration by the Education Subcommittee produced a consensus that current Federal education programs were fundamentally sound. Thus, this bill maintains the general structure of education programs, while providing certain consolidations and administrative improvements which experience has shown are necessary to improve the delivery of programs to their intended beneficiaries.

Mr. President, the size of this bill precludes my noting every significant provision. There are, however, a number of items which deserve comment.

The conferees were successful in merging different approaches in respective bills to improve the guaranteed student loan program. I believe that the blending of House and Senate provisions here represents a much needed and highly meritorious overhaul of this vital program which allows private enterprise financing to assist a public purpose of financing higher education.

The reported measure includes improvements for State guarantee agencies, for lenders who voluntarily provide private capital and for students, who are the reason for a Federal program. There are incentives for States to begin or expand State loan programs. State guarantee agencies which are willing to serve substantially all the residents of their State will receive greater Federal reinsurance and additional administrative cost allowances.

Lenders will, for the first time, have greater certainty as to the yield on their investment in student loans, and will be protected from undue processing delays by the Government. Students will have increased access to loan programs and will receive, prior to making commitments, full disclosure information regarding the nature of aid and the educational institution they choose. Prospective students will then be better informed consumers of educational services.

Other significant changes in present higher education law include an increase, beginning after 1 year, in the maximum award for basic educational opportunity grants; a new program of lifelong learning which expand educational opportunities to adults who may have never had such opportunities, and who can improve their job skills or enrich their lives through additional study; a new authorization for teacher centers, which will allow persons presently in the teaching profession to upgrade their skills and have new access to successful teaching methods and results of education research; updating of the academic facilities authority to provide for renovation of existing buildings, particularly for increased energy efficiency, access of handicapped persons, and compliance with Federal occupational health and safety requirements; and, updating of existing Federal authority to provide support for graduate education and major research libraries.

In the vocational education area, greater flexibility to State and local educators have been provided through a type of block grant. I wish to stress that my support of a block grant approach within a particular field of education, such as vocational education, does not imply that other block grant approaches seeking to combine major areas of education such as disadvantaged, vocational, and handicapped, would receive similar favorable review. Vocational education over the years had become fragmented and needed internal consolidation as provided in this bill. To consolidate major categories is a question to be carefully examined in the 95th Congress.

The National Institute of Education and the Fund for the Improvement of Post-Secondary Education have been reauthorized. I am pleased that the ill-advised setaside of funds within NIE has been dropped by the conferees. While new advisory panels are created, the policy role of the National Council on Education Research has been maintained. I am hopeful that both NIE and FIPSE will receive increased resources so that they may better fulfill their missions, which are critical to advancing education in our Nation.

The conferees have dealt carefully with revisions of present maintenance of effort requirements to reflect present fiscal reality in our States and localities. The conference result maintains the important principle that Federal moneys are not a substitute for local efforts, while giving local communities the opportunity to bring special situations to the attention of the Commissioner for review and, where appropriate, waiver of requirements. It is important that the Commissioner use this authority carefully, as intended by the conferees. It is equally important that the use of waivers is publicly reported, so that affected parties may be informed and the Congress may keep careful oversight on the use of maintenance of effort waivers.

I would just like to add a few comments about other civil rights provisions that were dealt with in the conference. The House had a provision in their bill which would have removed the Scott-Mansfield language from the law. The Senate conferees felt very strongly that this would be a great step backward in the area of civil and human rights and resisted strongly.

We felt that Congress could not circumscribe the remedies for violations of the civil rights law in such a manner so as to deny basic constitutional rights themselves. The House amendment even if enacted into law could never have done that but we felt it was important that the Scott-Mansfield language reaffirming the authority of the Federal courts to enforce fully the 5th and 14th amendments to the Constitution should remain in the law.

I was pleased to see that the House receded in part on these matters and I am hopeful that the effort at obtaining equal educational opportunity can proceed in a peaceful manner as it has been this year.

A second House amendment set up procedures whereby the Secretary of HEW could not defer funds to a State or local educational agency or an institution of higher learning without a full administrative hearing and a decision on the record. This would have put a curb on the enforcement of civil rights statutes which the Senate felt would be harmful.

In the first instance the Secretary only defers funds for new programs in cases where the funding is discretionary and must be approved by HEW. Ongoing programs are not deferred and no outright termination of funds is possible without first going through a full administrative hearing. The compromise reached in conference will allow the Secretary to continue deferrals as under the present law but sets up specific procedures to speed up the administrative process and to get a decision on the merits as quickly as possible. The new legislative change is limited to local educational agencies. The conferees have stated that the amendment does not indicate one way or the other whether or not the Secretary has the authority to defer funds. However, I am convinced that the Secretary of HEW's authority to make such deferrals comes while approving discretionary applications. It would be strange indeed if the Secretary would have to give automatic approval to a discretionary application from a school district which he or she felt was in violation of civil rights law. This view has in fact been upheld by the Fifth Circuit Court of Appeals in the case of *Board of Public Instruction of Palm Beach County, Florida* v. *Cohen,* 415 F. 2d 1201 (1969).

Another House amendment made it unlawful for the Secretary of HEW to require the imposition of quotas, goals, or other numerical requirements on the student admissions practices of colleges and also forbids deferral based on the failure to comply with such requirements. The conference changed that amendment to make it unlawful to defer or limit funds on the basis of the failure to comply with imposed quotas or other numerical requirements of having the effect of imposing quotas. This clearly limits the effect of the language to quotas alone and to my knowledge the Secretary of HEW does not attempt to defer funds based on the failure to comply with imposed quotas and in fact the Department does not impose quotas on any college or university. I do not believe this language will inhibit the enforcement of the civil rights laws.

Mr. President, legislation of this magnitude is the result of much hard work and sacrifice. I would like to particularly commend our distinguished colleague CLAIBORNE PELL, who has guided this legislation from its inception last year, to approval yesterday by the Senate. I hope all who benefit from these educational programs will realize the persistence and dedication which Senator PELL has exhibited in bringing forth this legislation.

Likewise, I would like to commend the work of the leaders in the other body, Chairman CARL PERKINS and ranking minority member AL QUIE, who were equally dedicated and diligent in this effort. I also wish to recognize the efforts of the staff associated with this legislation. On my own staff, I express my gratitude to Gregory Fusco, Chuck Warren, and Michael Shorr. On the Democratic side, I would particularly note the efforts of Jean Frohlicher, the counsel of the Education Subcommittee, and also Nick Edes of the chairman's staff who assisted in civil rights matters. Finally, the staff of the Senate legislative counsel selflessly worked many long hours to prepare the necessary documents. I would like to thank Blair Crownover and Bruce Kelly of that office for their outstanding effort.

Mr. President, the Education Amendments of 1976 represent the largest measure reported by the Labor and Public Welfare Committee in this Congress.

I am pleased that such an extensive bill covering so many subjects could be produced with both careful preparation and timely legislative action. I shall urge President Ford promptly to sign this measure, so that the Congress and the Executive can act together to bring expanded educational opportunity to all of our citizens.

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## THE PUBLIC SAFETY OFFICER'S BENEFIT ACT OF 1976

Mr. HRUSKA. Mr. President, earlier today President Ford signed into law H.R. 366 the Public Officers' Benefit Act of 1976. He did so on the White House lawn in the presence of a congressional delegaton of Representatives and Senators who were among those actively interested and active in the passage of the measure.

It is a law establishing a new program providing for the payment by the Federal Government of a $50,000 death benefit to the survivors of any State or local public safety officer who loses her or his life as a result of injuries sustained in the line of duty.

Similar bills were approved by the House and the Senate in the 92d and 93d Congresses, but they were not finally cleared for Presidential action until in this present 94th Congress. It gives me pleasure to note that the author and introducer of the bill in the Senate in this 94th Congress, was the senior Senator from Arkansas (Mr. MCCLELLAN), chairman of the Subcommittee on Criminal Laws and Procedures, and long-time advocate and friend of law enforcement and of law enforcement officials. It was my privilege to cosponsor that bill, as well as those in previous Congresses.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point in my remarks the text of President Ford's statement made upon the signing of the bill.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 366, the Public Safety Officers' Benefits, Act of 1976.

This law establishes a new program providing for the payment by the Federal government of a $50,000 death benefit to the survivors of any State or local public safety officer who loses her or his life as a result of injuries sustained in the line of duty.

I fully recognize that no amount of money can fill the void left when these brave officers make the supreme sacrifice in pursuit of their duties. The least the Federal government can do is to assure that their dependents have adequate financial assistance to see them through their difficulties.

The signing into law of this bill is a solemn action by a grateful people and their government. It demonstrates the esteem of a free society for those of its members entrusted with public safety.

While it is important that the survivors of public safety officers who die in the line of duty be provided for, it is infinitely more important that steps be taken to avoid unnecessary death or injury to those who protect our safety. This is why I have pledged that a top priority during the first 100 days of my next Administration will be devoted to rallying the American people behind the legislative proposals I have submitted to the Congress so that the Federal government may better do its part to reduce crime in the United States.

It is with great pride and pleasure that I have signed this act into law.

Mr. HRUSKA. Mr. President, legislation to establish a Federal death gratuity program for public safety officers was proposed in partial response to a shocking wave of public safety officer killings and the fact that some officers were inadequately covered by job-related benefits.

The original administration proposal to provide a Federal benefit to the survivors of public safety officers covered only officers killed as the result of a criminal act. The present legislation expands this scope significantly by providing coverage for all deaths resulting from a personal injury sustained in the line of duty.

The new law establishes within the Law Enforcement Assistance Administration an entirely federally funded death benefits program.

It authorizes payment of a $50,000 death benefit to the survivors of State and local public safety officers who have died as the direct and proximate result of a personal injury sustained in the line of duty. Eligible public safety officers would include all persons serving with or without compensation as law enforcement officers—for example, police, corrections, probation, parole, and judicial officers—or as firemen.

It provides that death benefits be in addition to any other benefits to which the decedent's survivors would be entitled, except that they would be reduced by payments made under the Federal Employees Compensation Act—FECA—to State and local law enforcement officers for injury or death resulting from apprehending persons suspected of committing Federal crimes, or the District of Columbia's statutorily authorized death benefits' program for police and firemen.

It bars payment of the benefit if the public safety officer's death was the result of his or her intentional misconduct, suicidal act, or voluntary intoxication, or the actions of a potential beneficiary.

It authorizes such sums as may be necessary for each fiscal year.

The Department of Justice has estimated an annual Federal cost of $19.3 million. I am informed that the administration plans to seek appropriations for this program as quickly as possible.

Mr. President, it should be clear that this new law will serve the cause of law enforcement well. It is also encouraging and heartening to note the President's pledge of top priority to a rallying behind additional legislative proposals which he has submitted to Congress so that the Federal Government may better do its part to reduce crime in the United States.

## H.R. 14071—INTERSTATE HORSERACING ACT OF 1976

Mr. KENNEDY. Mr. President, Senators Buckley, Brooke, Javits, Stevenson, and I have raised questions concerning the so-called Interstate Horseracing Act of 1976, H.R. 14071. This bill would forbid the States from engaging in interstate off-track wagering operations on horse races. Its intended purpose is to protect the horseracing industry.

We have questioned whether the Senate should spend valuable time considering and disposing of the many amendments that will be offered to the bill if it is called up for floor action. We have suggested that the better course would be to put this bill over until next year when the Senate will have time to hold hearings and give this proposal the committee consideration that it has never received. We have also questioned whether we should at least defer consideration of this bill until the National Commission on Gambling completes its final report on this issue next month. After all, we have waited 6 years for this report and spent nearly $6 million in its preparation—we can surely wait another 6 weeks for its findings concerning interstate off-track betting before passing a law that would absolutely forbid the States from utilizing that method to raise revenues.

We have also suggested that the Federal Government should not take the extreme step of prohibiting interstate OTB's. Rather, perhaps we should give the States some flexibility to enter into mutually beneficial agreements when it is in their respective interests to do so. This clearly seems to be the preferable course in light of the fact that the Chairman of the National Commission on Gambling, Charles H. Morin, advised Senator Javits by letter dated September 22, 1976, that the Commission will recommend to the Congress that H.R. 14071 not be enacted, and that the Commission is now developing legislative alternatives to H.R. 14071 that would preserve some flexibility to the States. In fact, the Commission's preliminary conclusion is that the need for any legislation in this area has not been demonstrated and that such legislation would be protective of certain segments of the racing industry without the record justifying such congressional involvement.

The Justice Department has questioned the constitutionality of this measure. The bill authorizes someone who has a financial interest in a racehorse to bring treble damage suits against a State that takes interstate wagers on a race that his horse participated in. The Department of Justice has advised that this aspect of the bill may violate the 11th amendment to the Constitution. It should also be pointed out that the civil remedy provisions of the bill exempt racehorse owners from meeting the ordinary venue, diversity of citizenship, and jurisdictional amount requirements for Federal court jurisdiction if they should start a lawsuit under this bill.

We are also curious as to why the civil remedy provisions of the act would apply against State-authorized interstate off-track betting but would not apply to the organized criminal who also take bets on horseraces. In other words, the betting parlor operator under State law could be sued under the bill but the illegal bookmaker right down the street could not.

Finally, Mr. President, we have also questioned the precedent this bill would establish. I have serious doubts whether the Federal Government should interject itself so obtrusively into what up to now has been left to the States. This bill says in effect that the Federal Government will allow and, in fact, promote gambling on horseracing in certain States but will prohibit gambling at legal betting parlors in other States. This year the horse breeder is asking the U.S. Senate to protect him economically by prohibiting States from competing with him through off-track betting. Next year it might be the numbers runners asking us to do the same for them by outlawing all State-approved lotteries. Or a sincere but vocal antigambling group will ask us to intercede in the affairs of Nevada by regulating or prohibiting casino operations there. At a time when the American people seem genuinely skeptical about Federal interference, I for one am very reluctant to act hastily on a bill that treads so heavily on the powers of State and local governments.

Mr. President, I think it important that we in the Senate resolve these questions satisfactorily before going forward with this legislation. Accordingly I ask unanimous consent that certain material relating to this subject be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 28, 1976]

### OUT-OF-STATE BETS OFF?

(By Carole Shifrin)

A bill fast gaining ground in the final moments of the race toward Congressional adjournment would prohibit any person from taking a parimutuel bet on a horse race in another state.

Supported by racetracks and horse owners, the bill is designed to end New York's off-track betting operations on races outside New York and to prevent other states from gaining state revenues from similar operations.

Proponents of the measure argue that unless off-track interstate wagering by states is stopped now, people will stop going to racetracks to place their bets, attendance and betting at the racetracks will fall off, providing less revenue to the states in which the tracks are located and less income to the tracks and the owners of horses, and racetracks will begin to disappear, taking jobs and the entire "equine industry" with them.

Opponents of the measure argue that there is no evidence that off-track betting has or will contribute to the decline of track attendance or wagering, that gambling has been and should be left to state, not federal, regulation, and that state off-track betting premises just channels some money which would have gone to illegal bookmakers into state coffers.

The bill started out slowly but has picked up considerable speed in the stretch. Last week, the House approved the bill by a 315-86 vote on the suspension calendar despite action of the Rules Committee to put off any consideration of the measure until after a six-year, $6 million study commission authorized by the Congress reports its findings next month.

In its report to the President and the Congress, due Oct. 15, the Commission on the Review of the National Policy Toward Gambling specifically recommends that Congress not enact the bill.

"The need for such legislation is not apparent and in fact would be protective of the racing industry without the record justifying such congressional involvement," its chairman, Charles H. Morin, told Sen. Jacob Javits (R-N.Y.) in a letter last week.

The lobbying for the bill, led by former Sen. George A. Smathers (D-Fla.) on behalf of the American Horse Council, is said to be so heavy and smooth that should it be brought up in the Senate this week before the scheduled Oct. 2 adjournment, it stands a good chance of passage despite the fact that there have been no Senate hearings at all.

The bill is written in such a way, its proponents admit, as to exempt Nevada's legalized bookmakers who take wagers on out-of-state races. The bill specifically bars persons from accepting interstate off-track "parimutuel" wagers; an earlier version of the bill had barred any interstate off-track wager.

Under a parimutuel system—used in New York's OTB operation—the betters actually set the odds, which vary during the betting period, and the payoff—after a certain portion is deducted from the pool for the track or state. The winners divide the net amount in proportion to the sums they have wagered.

The parimutuel system is not used by Nevada's legalized bookies; the odds are set ahead of time and don't change according to the amount of money being bet.

The Justice Department has told Congress that the measure presents "constitutional" problems. In order to enforce the prohibition against interstate off-track betting, the measure allows individuals of one state to go to federal court to sue a state believed violating the act, a provision Justice says appears to violate the 11th Amendment of the Constitution. (The measure authorizes class actions comprised of the host state in which a race was run, owners whose horses participated, and the racing association to collect treble damages.)

Thirty states currently have racetracks within their borders. At this time only New York and Connecticut have established OTB programs but other states, including Massachusetts and Illinois, are said to be considering them also.

The bill's opponents urged the House to await the national commission's report next month. "Why this unseemly haste? Who are the beneficiaries of this legislation?" asked Rep. John Joseph Moakley (D-Mass.) "There are only two—millionaire horsebreeders and organized crime."

He argued that the tracks wouldn't gain attendance by outlawing interstate bets; the "$2 bettor from Brooklyn" would just place his bet at the corner candy store "at which point his money starts its way ultimately into the coffers of organized crime" instead of the OTB parlor. Tracks might even be hurt by the bill by losing the commissions which off-track betting pays them, he added.

Rep. John M. Murphy (D-N.Y.) said New York tracks hadn't lost any revenues or attendance since the state instituted OTB, which contributed $106 million to the state last year. "This bill would abridge the rights and the responsibility of all the states to manage their own fiscal affairs," he contended.

House proponents painted the bill as an employment measure (saving jobs at the tracks), a tax measure (states and municipalities collect track admission and other taxes), and a bill to help prevent juvenile delinquency. "The horse industry fosters horse and pony activities for the youth of our country which in itself is a deterrent to many of the unwholesome activities which confront the youth of today," Rep. Joe Skutitz (R-Kan.) said.

Rep. Cristopher J. Dodd (D-Conn.) suggested that legalized off-track betting contributes to illegal gambling activity. "Legitimizing the activity introduces new betters to OTB and they turn to the bookmaker when they learn of the advantages," he said, citing better odds, bets on credit, and hiding winnings from the Internal Revenue Service.

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[Letter from Charles H. Morin, Chairman, Commission on the Review of the National Policy Toward Gambling, to Senator JACOB JAVITS, Sept. 22, 1976]

COMMISSION ON THE REVIEW OF
THE NATIONAL POLICY TOWARD
GAMBLING,
*Washington, D.C., September 22, 1976.*

Senator JACOB JAVITS,
*Russell Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR JAVITS: It has come to my attention that HR 14071, the interstate Horseracing Act of 1976, was acted upon favorably by the House of Representatives on September 21, 1976. My information is that the Senate shall shortly, in due course, consider the provisions of that act. The purpose of this letter is to advise you of the position of this Commission as it relates to that bill.

Enclosed is that portion of our report which shall be made to the President and the Congress on October 15, 1976, relating to the issue of offtrack betting. You will note that the Commission does *not* recommend that Congress enact HR 14071. In fact, the Commission has advised Congress that the need for such legislation is not apparent and in fact would be protective of the racing industry without the record justifying such congressional involvement.

Our staff, under its Executive Director, James E. Ritchie, has prepared proposed legislation in the event Congress should find there to be a definable national interest which would allow interstate offtrack betting to exist where the States themselves consent and agree among themselves, to engage in such activities. This material shall be filed in the Appendix to our report and will be available to the Congress in the very near future. I hasten to emphasize that the Commission does not recommend such legislation unless Congress determines that these issues present a problem requiring national legislation or in the alternative to assist states who by their own statutes have decided that they wish to prohibit such interstate offtrack betting activity.

We apologize for the temporary nature of this report and would have preferred to submit this as part of our Final Report when the complete matter is given to the Congress and the President. However, in view of the possibility of debate that might occur prior to our report being filed we wish the record to clearly reflect the Commission's recommendations that shall be made and the supporting reasons so that Congress may utilize that information in any manner it deems appropriate. Both Mr. Ritchie and myself are available to discuss this matter with you or any of your Senate colleagues if such a meeting is desirable.

Thank you for your continuing cooperation and support.

Sincerely,

CHARLES H. MORIN, *Chairman.*

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[Excerpts from draft of report to be presented to President and Congress on October 15, 1976, from Commission on the Review of the National Policy Toward Gambling]

### EXCERPTS

#### INTERSTATE OTB

Most efforts against parimutuel off-track wagering have centered on interstate OTB; a bill now before the 94th Congress—H.R. 14071—would prohibit all interstate off-track parimutuel wagering "to protect and further the horseracing industry in the United States." The Commission recommends that Congress not pass H.R. 14071. To do so would violate what the Commission believes to be the appropriate national policy toward gambling: That unless there is evidence of a national interest or of interference by one State with the gambling policies of another, each State should have the primary responsibility for determining what forms of gambling may legally take place within its borders.

In accordance with that general position, the Commission recommends that interstate OTB be prohibited only in States which have themselves taken legislative action against it. In one State, the action may take the form of criminalizing all betting; in another, intrastate OTB may be allowed but interstate OTB prohibited. Passage and enactment of H.R. 14071, the Commission believes, would be an unwarranted intrusion by the Federal Government into an area of regulation better left to the States. The Commission further finds no convincing evidence that "off-track parimutuel wagering on an interstate basis will result in a severe decrease in the number of racetracks" or that "interstate off-track parimutuel wagering greatly increases the availability of prerace and postrace information which would otherwise be unobtainable by illegal wagering operations [leading] to an increase in illegal wagering," as claimed in H.R. 14071. The argument that the number of racetracks will severely decrease is speculative; even if it were true, the Commission finds no apparent national interest in the continued existence of racetracks that are economically unable to compete in the marketplace with other forms of legal wagering. In addition, illegal interstate bookmaking operations are currently able to receive all necessary prerace and postrace information; the Commission believes the existence of interstate OTB would not materially improve that capability.

Nevertheless, Congress itself may determine that the need to further assist and protect the horseracing industry by the blanket prohibition of interstate off-track parimutuel wagering constitutes a national interest, or that interstate OTB legislation is needed to prevent the interference by one State with the gambling policies of another. If so, the Commission advises the passage of a bill that would prohibit interstate parimutuel off-track wagering except when pursuant to an agreement between the racing commissions of the State in which a horserace takes place and the State taking bets on that race. Such a bill would avoid the possibility of one State's "pirating" the races of another State, but would permit interstate off-track parimutuel wagering when it is mutually beneficial to the two States involved.

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[From the Turf and Sport Digest, July 1976]

### INTERSTATE OTB—IS IT REALLY SUCH A SNAKE IN THE GRASS?

(By Michael Yockel)

During the past several months, every notable racing official that can speak into a microphone or have himself quoted in the press has assailed the interstate off-track betting arrangement between the states of Connecticut and New York, as well as the principle of interstate OTB in general. According to these officials interstate OTB lies somewhere between the bubonic plague and nuclear holacaust in terms of desirability. Old wags and young wags alike have taken a punch at the set-up. Even organizations that do little more than meet annually for a week-long, backslapping convocation have hopped aboard the already-crowded "get interstate OTB" bandwagon, denouncing it as an insidious monster that will ultimately destroy Thoroughbred racing.

So what is this nefarious disease that supposedly is eating away at the sacred sport? Will it bring about racing in only New York and California as has been declared time and time again? Hardly. In fact, it could benefit racing in the long run. Because behind the allegations of irresponsibility, behind the doomsday rhetoric, and behind the across-the-board endorsement of anti-interstate OTB legislation in Congress, lie only shortsighted industry policies.

Interstate OTB is that arrangement whereby one state uses another state's races for purposes of pari-mutuel wagering. In the past, New York OTB has taken bets on races at Keystone, Bowie, and Calder, always adequately rewarding the particular racetrack whose races are providing betting action for the folks in New York. In fact, the money paid to Bowie and Calder during early 1975 kept both tracks out of the red.

But the bone of contention in recent months has been the pact between New York and neighboring Connecticut, whereby Connecticut residents will have the opportunity to bet on NYRA races. Connecticut will "rent" the races, with the state of New

York pocketing the largest share of the payments, and the NYRA and horsemen receiving an inordinately small sum for putting on the show.

But consider the alternative—actual racing in Connecticut. Such an eventuality would mean that every state north of Maryland (except Maine, which got out of the racing game years ago) would conduct Thoroughbred racing sometime during the calendar year, resulting in more dates—conflicts like the ones experienced in New England two years ago, and the one last winter at Keystone and Garden State.

Still, Connecticut has a safety valve if present anti-interstate OTB legislation passes Congress—build its own tracks. Late in February, the Old Rock Road Corporation won two important procedural battles in their effort to construct Connecticut Park (yes, a racetrack) in Wolcott. Following the State Traffic Commission's decision to stay lifting Old Rock's traffic permit. Noel Bernstein, president of the corporation, said, "In essence it looks as if we passed the final hurdle and we will soon be able to start building." Swell.

A racetrack in Connecticut would require an influx of new horses, something beyond the realm of possibility. Already, short fields abound in Maryland, Pennsylvania, New Jersey, and New York, with many horses asked to go to the post 35 times a year. Such a grueling schedule sends horses to early graves. The prospect of an additional East Coast track would only serve to worsen an already acute situation. Realistically (realism is something racing officials seldom indulge in), paying New York for the use of its races seems a prudent choice, a sentiment espoused by Paul Silvergleid, chairman of the Connecticut Commission on Special Revenue.

Of course, the breeders are beside themselves with glee when new racetracks are proposed. That means that I'm Lame, Lady Bute Machine, and Always Up-Track can each be bred five more times this spring.

As for the argument that Connecticut OTB would pilfer New York's track attendance—pshaw. Wouldn't "live" racing in Connecticut have an even worse effect?

However, the problem of states venturing into racing is not as isolated as Connecticut. Recently the Indiana House of Representatives and Senate passed a measure legalizing parimutuel wagering in that state. Governor Otis R. Bowen promptly vetoed the bill, an action he also took in 1975. A concerted effort to override the veto then ensued on the part of pro-racing forces, spearheaded by the Thoroughbred Association of Indiana. But by virtue of "political maneuvering," as Association president Thomas Wetterer termed it, the override vote fell four votes short. Wetterer vowed to return "next year when the legislature meets, and having learned from this setback, we'll use different strategy to gain our objectives."

The Thoroughbred Association of Indiana plans to build their track in either Gary or Indianapolis. Imagine the effect a Gary track would have on the quality of Chicago area racing, a circuit whose dates have been extended to nine months out of the year. Or, for that matter, how a track in Indianapolis would sap the Thoroughbred population at Commonwealth, Ellis Park, Beulah Park, and Churchill Downs.

Yet Lynn Stone, president of Churchill Downs, asks in a Daily Racing Form survey of OTB views, "What would happen, for example, if there were betting shops in Indiana?" Answering his own question, Stone said, "Sixteen percent of our attendance at Churchill Downs comes from that state." Again, wouldn't more people be lost to an Indiana track that conducts racing? And wouldn't Churchill be fighting the Indiana plant for the same horses? Of course.

Virginia racing advocates are also pushing a measure through their General Assembly. This bill calls for the establishment of a Virginia Racing Authority to construct and operate the tracks. The state Senate stamped its seal of approval on the bill with a 27–13 vote, and it now rests in the House of Delegates General Laws Committee, enjoying the solid backing of the Virginia Horse Council and rating an even-money chance of passage. If approved by the House, then Virginia voters will decide by referendum whether racing and pari-mutuel wagering will come to the state. Just what the area needs—another racetrack. Maryland and West Virginia stand to lose a substantial portion of their backstretch population if Virginia racing becomes a reality.

Talk still persists of introducing racing to Texas and Georgia, and no state is exempt if racing is sanctioned by the local legislature, many of which are searching for new and lucrative revenue sources.

Rather than construct Plater Downs in Gary, Norfolk, or Houston, why not work out an equitable agreement with another state for the use of its races.

Ideally, a standard fee for race rental (set by a federal regulatory agency) could guarantee that horsemen and racetrack management receive fair remuneration, preventing state governments from gorging the lion's share. But since federal intervention drives racing officials into an impromptu St. Vitus dance, perhaps one of their own organizations (TRA, NASRC, or HBPA), or a combination of several, could determine reasonable recompense.

There's another bubble to burst in this industry-manufactured maelstrom against interstate OTB, and that is the myth that interstate wagering would cause small tracks nationwide to crumble, leaving only two Thoroughbred meccas in New York and California.

Industry rhetoric consistently neglects to give reasons for this cataclysmic demise of smaller tracks. Remember, interstate OTB helped bail Calder and Bowie out of trouble this time last year. How the minors will be driven out of business remains an enigma.

But this much has been proven: proliferation of racing in one area will certainly diminish the quantity and quality of horseflesh, and could ultimately result in the closing of a racetrack, as was the case with little Dover Downs. And Dover wasn't snuffed out by interstate OTB; it eliminated its Thoroughbred racing program with advent of Sunday racing in Pennsylvania, and because of intense competition from nearby Maryland, New Jersey, and Pennsylvania, Delaware Park, long renowned for its picturesque setting and classy distaff stakes events, is in a similar tailspin due to the supersaturation of racing in the Mid-Atlantic region.

Instead of forcing small tracks to close their doors, interstate OTB might enable these plants to continue operation by precluding a neighboring state from inaugurating its own race circuit. The original New York-Connecticut set-up was conceived to stop just such an occurrence. "Several years ago, as an alternative to a small racetrack offering poor racing," says Jacques Wimpfheimer, president of the Thoroughbred Owners and Breeders Association, "I suggested an arrangement between Connecticut and New York whereby New York could sell its racing to a neighboring state. However, under the present arrangement as I know it, the horsemen in New York will get nothing, and that is wrong."

It is wrong. But is the complete repudiation and Congressional outlawing of interstate OTB the remedy for what is considered unsatisfactory payments to horsemen? Wouldn't it make more sense to simply reorder priorities, with greater consideration for trainers and owners? Interstate OTB need not be parasitic, as it often has been labeled; it can be symbiontic (mutually advantageous to all parties).

Seldom have the various segments of the racing industry united to reach such a meeting of the minds. However, this will not be the first time that they have gummed up the works by standing implacably in the way of change, nor will it be the last.

Revenue-hungry states will undoubtedly cast a greedy eye to Thoroughbred racing to replenish their dwindling funds, resulting in new tracks (the stuff breeders' dreams are made of) and an escalating racetrack war to secure the few available sound horses. Those that cannot afford to pay top dollar must settle for less than the best, perhaps even wither and die.

Interstate OTB can prevent rather than cause that depressing scenario. But shortsighted industry officials seem intent on banning the antidote and fostering the disease, and instead of being the snake in the grass that they insist it is, interstate OTB may well turn out to be racing's salvation.

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[Letters from Michael Uhlmann, Assistant Attorney General for Legislative Affairs, to Senator Edward M. Kennedy, Hon. John M. Murphy, and Hon. Harley O. Staggers.]

Department of Justice,
*Washington, D.C., September 27, 1976.*

Hon. Edward M. Kennedy,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Kennedy: Pursuant to your request, I have enclosed a copy of the views of the Department of Justice on H.R. 14071, a bill cited as the "Interstate Horseracing Act of 1976," as set forth in a letter to Congressman John M. Murphy dated August 26, 1976.

The Department's position remains unchanged on this legislation. I trust these comments will be of assistance.

Sincerely,

Michael M. Uhlmann,
*Assistant Attorney General.*

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Department of Justice,
*Washington, D.C., August 26, 1976.*

Hon. John M. Murphy,
*House of Representatives,*
*Washington, D.C.*

Dear Congressman Murphy: This is in response to your July 30 inquiry whether the comments of the Department regarding H.R. 11610 pertain as well to H.R. 14071.

The purpose of our report on H.R. 11610 was to point out the Eleventh Amendment issue with respect to the bill. The language differences of H.R. 14071 do not allay this issue. We are, of course, cognizant of those cases where the courts have found a "waiver" of the immunity conferred by the Eleventh Amendment where the State had not expressly and knowingly intended to do so. Therefore, the courts will ultimtately have to decide whether this legislation, if enacted, is constitutional as currently written.

H.R. 14071 would have very little effect upon the operations of the Department, however; we feel obliged to comment on possibly unconstitutional features of proposed legislation when requested to do so by committees of the Congress.

Sincerely,

Michael M. Uhlmann,
*Assistant Attorney General.*

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Department of Justice,
*Washington, D.C., June 14, 1976.*

Hon. Harley O. Staggers,
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.*

Dear Mr. Chairman: This is in response to your request for the views of the Department of Justice on H.R. 11610, a bill "[t]o regulate interstate commerce in wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes."

The proposed legislation provides that "[n]o person or State may accept any interstate off-track wager." The term, "interstate off-track wager" is defined as a "wager placed or accepted in one State on the outcome of a horse race run in another State." To enforce the prohibition against interstate off-track wagering, the measure creates a civil action against "[a]ny State or person violating this Act." The action may be brought by the "host State," in which the race was run, an owner whose horse participated in the race, or the racing association of the "host State." Since the action may be maintained by any one plaintiff on behalf of a group consisting of the State, the racing association and the owners, the civil action created by the legislative measure is in the nature of a representative or class action. The bill also provides that the successful plaintiff is entitled to injunctive relief and treble damages.

In its present form, the constitutionality of H.R. 11610 is questionable. The Eleventh Amendment to the Constitution reads:

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State. . . ."

The Amendment has been consistently construed as forbidding a federal court from exercising jurisdiction over a suit brought by a citizen against a state where the state has not consented to the suit. *E.g., Ford Motor Co.* v. *Department of Treasury of Indiana,* 323 U.S. 459 (1945); *Hans* v. *Louisiana,* 134 U.S. 1 (1890). Since H.R. 11610, authorizes a federal court to entertain an action by a horse owner or racing association against a state, the legislation appears to run afoul of the Eleventh Amendment

Insofar as H.R. 11610 forbids any person or state from competing with the "host State" for certain wagering business, the proposed legislation is, of course, at odds with the spirit of the antitrust laws and the purpose of those laws to preserve legitimate competitive alternatives. Because, however, the extensively state-regulated nature of horseracing and wagering has customarily limited antitrust scrutiny of these activities, the Department does not believe passage of H.R. 11610 would affect antitrust enforcement in any significant regard.

In view of the questionable constitutionality of H.R. 11610, the Department of Justice recommends against the enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

MICHAEL M. UHLMANN,
*Assistant Attorney General.*

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## THE TRAGEDY OF LEBANON

Mr. KENNEDY. Mr. President, thousands of words have been written on the tragedy in Lebanon, and countless reports on the escalating human toll caused by the continuing civil war—but none have captured so poignantly the indescribable human tragedy which has overtaken the people of Lebanon than today's story on Joseph Moroun of Beirut, as reported by the Baltimore Sun.

It is a story of an entire family who has been lost to the civil war. A once prosperous and proud family of Beirut, the Moroun's have all perished in the escalating violence that has swept over Lebanon this past year. It is a story of a surviving son who has buried his entire family, one by one—his mother, father, sisters, brothers, grandparents, nieces, and nephews. And with no life for him left in Lebanon, finally departing by boat for parts unknown.

But even more, it is a story of a tragedy that cries out for greater concern by the international community. It reminds us again that greater efforts are required to bring peace and relief to all the people of Lebanon—for more sustained international efforts to not only achieve a cease-fire, but also to meet the urgent humanitarian needs of the homeless refugees, the maimed and wounded, and countless others in need.

Mr. President, the story of the Moroun family—like countless thousands of other Lebanese families—cannot truly be portrayed by words. Yet, yesterday's report in the Baltimore Sun, by its Beirut correspondent Michael Parks, comes as close as possible to recreating the human tragedy of Lebanon, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Sept. 29, 1976]

### WITH ALL 18 OF HIS RELATIVES DEAD, BEIRUT MAN FINALLY LEAVES HIS COUNTRY

(By Michael Parks)

Beirut, Lebanon—Joseph Moroun, the last survivor of a once proud and prosperous Beirut family, left Lebanon yesterday. Everyone else in his family—mother, father, sisters, brothers, grandparents, nieces and nephews—has died in the civil war here.

"Yes, I am escaping the war, but I am carrying its agony within me," he said as he prepared to leave for France.

"When I buried my parents Monday, there was nothing left for me except the graves of people I loved very much. I buried them all, 18 of them, mostly one by one."

Mr. Moroun, 27, an accountant, had little else to say. He was too drained emotionally by a year and a half of tragedy and horror here.

His parents were killed last week when rightists shelled West Beirut one afternoon.

A mortar shell slammed into the kitchen of their apartment, hitting a tank of butane gas used for cooking. The explosion killed Mr. Moroun's father, Charles, 64, and his mother, Jeanne-Marie, 60, as they ate a late lunch.

Earlier, the couple's six other children, four sons and two daughters, had each been killed along with their families as the Lebanese conflict escalated from factional fighting to civil war, killing more than 40,000.

The elder Mr. Moroun's father, Joseph's 89-year-old grandfather, and Mr. Moroun's mother, 86, had also died.

"Toward the end my father had become almost like Job," Joseph said, recalling the biblical figure tested with a multitude of curses. "He would complain and rail against God, but his belief remained deep."

"If he had not believed so strongly, he might have given up months ago and left this country—it is cursed, not our family—and lived."

As Greek Catholics, the Morouns were only marginally involved in the Christian-Muslim conflict that is part of the civil war since Maronite Catholics form the basis of the Christian rightist forces.

Indeed, none of the family was involved on either side of the conflict, and many were killed by the indiscriminate violence that characterizes this war.

The family's oldest son, George, 39, a prosperous wholesale dealer in household electrical appliances, was shot to death—no one knows why—as he stood in line for bread for his family one morning in May.

His wife Marie, 32, then moved with their daughter Michelle, 11, to Christian East Beirut to stay with relatives. Both were fatally wounded by shrapnel when that neighborhood was shelled and rocketed by leftists in August.

Michelle, a bright, vivacious child who was the delight of her grandparents, simply bled to death because there was no blood of her type available in East Beirut, and none could be gotten from a stock on the western side of the city because of heavy fighting at the crossing point.

The family's second son, Charles, 36, a highly successful distributor of water pumps, irrigation equipment and farm tools, was kidnapped and killed by leftists, presumably because he was a Christian, last October.

His wife, Cecile, 27, who saw the kidnaping from their living room window and then identified the badly mutilated body, was killed by a sniper while shopping three days before Christmas. She was seven months pregnant.

Their 4-year-old son, George, was killed in June, 1975, when a Palestinian commando jeep, apparently racing to a shoot-out, jumped onto the sidewalk and hit him as he played with friends on a quiet residential street. The Jeep did not stop.

He was the first and youngest member of the family to be killed. The family's patriarch, Robert Moroun, who founded the retail fabric shop that was the basis of the family's prosperity, was the next to die. He suffered a fatal heart attack when a band of leftist gunmen pushed their way into his flat in early October last year. His body, found at the apartment door, had become a virtual doormat for the gunmen looting his home.

In December, the family's younger daughter, Marie-Louise Malouf, 30, and her husband, Antoine, 33, a college chemistry teacher, and their two sons, Paul, 9, and Jean-Luc, 7, were killed when an artillery bombardment from rightist-held areas on a mixed Christian-Muslin neighborhood hit their apartment building. It collapsed after three shells struck it. They were trapped in the basement shelter.

In April, the youngest of Charles Moroun's four sons, Albert, 25, a mathematics professor, was kidnaped and tortured to death by right-wing extremists who had heard of his leftist sympathies, though he had never joined any of the active political groups here. He was unmarried.

Later that month, Mrs. Moroun's mother, Marie-Louise Nazzal, 86, died of acute food poisoning, apparently from a piece of bad meat, uninspected with the closing of the Beirut slaughterhouse.

A fourth son, Elias, 34, was killed in May when his taxi was shelled on the way from the airport into Beirut. A geologist, he had been working in Quatar on the Arabian Peninsula. He, too, was a bachelor.

Anne-Marie Boustros, 32, the family's second daughter and a former literature teacher in France, was killed by a burst of machine-gun fire in heavy mountain fighting when Syrian troops intervened last June. She was five months pregnant. Her husband, Pierre, 37, a lawyer, was found shot in the back of the head in the garbage dump of the mountain village where they had taken refuge some months before.

No one knows who killed either, as rightist, then leftist, then Syrian and then Palestinian forces moved through the town in two days of heavy fighting.

None of the Moroun's was involved in supporting either side in the war or even in prewar politics, not even Albert, the intellectual leftist and armchair political theorist.

All were good, decent people. George Moroun, before he was killed in the breadline, had been placing orphans with families who would care for them. Marie-Louise Malouf, a nurse, had been helping the city's many rape victims, both Christian and Muslim. Shortly before his death, Charles Moroun had helped rescue and then shelter a group of elderly Jews caught between the lines. Pierre Boustros had helped keep the peace near his mountain village, mediating disputes between Maronite Catholics and Muslims there.

"There is much to reflect on in what has happened to my family," Joseph Moroun said, "but I cannot—the memories are too painful. And others in my country, I am afraid, will not because they are deliberately blinding themselves to what they are doing.

"What we have here is not the death of a family, but the death of a country and all that was good and decent and worthwhile in it."

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## DOT REPORT FAILS TO ADDRESS URGENT RURAL RAIL LINE NEEDS

Mr. HUMPHREY. Mr. President, I call to the attention of the Senate the testimony of the Commissioner of Agriculture of the State of Minnesota, the Honorable Jon Wefald, before the Interstate Commerce Commission Rail Services Planning Office. This testimony concerns the U.S. Department of Transportation report under section 503(b) of the Railroad Revitalization and Regulatory Reform Act of 1976.

Commissioner Wefald appropriately criticizes the report in so far as it affects rural transportation and in particular Minnesota. The commissioner's testimony is worthy of the attention of every Member of the Congress. The rural transportation needs of America are being ignored not only by the railroad system, but also by our highway program. America cannot survive with just an interstate highway system and major railroad trunk lines. It must have feeder lines and feeder roads. Farmers who produce the food and fiber so vitally necessary to the health and well-being of our people and the general prosperity of our Nation are being shortchanged by the inadequate transportation system which serves our rural areas.

We are indebted to men like Commissioner Jon Wefald for his incisive testimony and his constant vigilance over matters relating to rural America. I ask unanimous consent that this testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

### TESTIMONY OF JON WEFALD, ON THE U.S. DEPARTMENT OF TRANSPORTATION'S PRELIMINARY STANDARDS, CLASSIFICATION, AND DESIGNATION OF LINES OF CLASS I RAILROADS EX PARTE NO. 329

The task assigned to the United States Department of Transportation in Section 503 (b) of the Railroad Revitalization and Regulatory Reform Act of 1976 is immense. The time allowed was short. With this in mind, the immensity of the task and the limited time available does not justify acceptance of the designations established in a report of such importance to the rural areas of Minnesota. Indeed, this report is unacceptable.

The enormity of the transportation logistics for Minnesota's agricultural production must be clearly understood. Minnesota is the sixth ranking agricultural state in America. For example, in 1973, the output side of Minnesota's agricultural production alone totaled some 43-million tons. Minnesota ranks in the top ten states in America in the production of wheat, soybeans, corn, oats, barley, sunflower seeds, honey, processed vegetables, potatoes, sugarbeets, eggs, pork, chickens, beef, turkey, and dairy products.

On the input side, fertilizer consumption by Minnesota agriculture alone amounts to about two-million tons annually. Liquid nitrogen fertilizers, phosphate and potash must be brought to Minnesota from the Mississippi Delta, Florida, Canada, and other supply sources. Minnesota's agricultural system depends heavily upon the ability of the distribution system to handle the farmer's requirements.

For these reasons, Minnesota—and American—agriculture needs an integrated handling and transportation system that is at once efficient and economical. This means that American agriculture needs not only a system of mainlines; it absolutely needs good, rebuilt branchlines serving our nation's number one industry—American agriculture.

Our concern is that the United States Department of Transportation's "Preliminary Standards, Classification, and Designation of Class I Railroads in the United States" report does not promote this objective. Quite to the contrary, this report is deficient in meeting rural needs in four major respects:

1. The freight density is assumed to be a sufficient criterion for the establishment of most priorities. It is not.

2. The methodology employed is inappropriate and fails to adequately consider overall transportation system needs. It also neglects consideration of the future.

3. The data employed is insufficient and inaccurate.

4. Finally, the adoption of this report would only accelerate the abandonment and dismantling of rail branch lines all over rural Minnesota.

For these reasons, the report is totally inadequate for making such unwarranted decisions.

The United States Department of Transportation concludes "density should be—and is—the principal standard to be used in the classification of the rail system for both mainlines and branchlines." The bulk of the designations are based on this standard.

Density may be a criterion. But it is not by itself sufficient.

Density is not a sufficient criterion because it fails to consider the importance of rail service to the economy of the community served in any more than a single-minded economy of scale fashion; it does not recognize the quality of service being provided; and it does not recognize the indivisibility of portions of a system.

Density does not serve as a proxy for the value of rail service to a farmer or community. Bulk shipments of fertilizer are critical to Minnesota agriculture at certain times of the year, for example. Fertilizer is not moved as easily or as economically by truck as by rail. Over the year, these shipments may average into lower density for the line. The economic benefit and necessity to the farmer goes unconsidered in the DOT analysis.

Jobs serve as an example of the value of rail service to a community. Obviously, some work is more labor intensive than other work. Loss of rail service in some communities would mean a greater loss of jobs than in other communities, a fact not reflected by density analysis.

The Department of Transportation designations initiate a prioritizing of rail lines "which will serve as a guideline for future investment in track." Precise, not gross, indicators of economic impacts on communities served must be conisdered.

Density measures fail to accurately reflect the quality of service provided. Performance on the line is critical to agricultural marketing. Employing the gross traffic density measures, lines providing quality service meeting rural needs could be sacrificed.

The railroad plant is not always easily divisible. Physical plant fixity must be considered. Using only density as a criterion, it is difficult to establish priorities on lines without seriously damaging important routes. If important routes were damaged, traffic would decline and both railroad profits and public benefits would suffer. In an article advocating substantial abandonment of trackage, T. E. Keeler still finds it necessary to note that "with indivisibilities, a benefit-cost analysis is necessary to determine optimal facility investment."[1]

The methodology employed fails to note that lighter density lines may contribute significantly to overall system traffic. The gross tons/mile measure provides only a picture of traffic originating and terminating on a line segment. There is very clearly a difference between a carload moving 25 miles from Winnebago to Lake Crystal and one moving 115 miles from Winnebago to Minneapolis. In the latter case, the shipment is contributing over 4.5 times as many gross ton-miles to the system as a whole. We know the major destination of rail shipments on the Winnebago to Lake Crystal segment is Minneapolis. The method of analysis should account for this through a measure such as "system gross ton-miles contributed per mile."

The methodology employed also: (a) Fails to consider an overall transportation system and (b) neglects to look to the future. Rail service is considered in a vacuum. Relationships to highways and barge transportation are not considered. For example, in Minnesota load limits are in effect on many roadways. Low priorities for rail service in these areas may require the state to make substantial and costly improvements in order to market agricultural products or to bring in agricultural input materials. Under DOT priorities, there is no mainline service from southern Minnesota to barge loading facilities at Red Wing.

It is difficult to comprehend that any federal proposal relating to our vital transportation resources would entirely overlook the basic and critical issue of the energy crisis and the established fact that rail service is this Nation's most energy-efficient system of land transportation.

Any reduction in rail transportation can only result in increased dissipation and import dependency for this Nation's non-renewable petroleum energy resources and further escalation of inflation.

Increased truck fuel costs and increased agricultural production are two expectations for the future which affect agricultural transportation needs. The implications of these factors for rail service in rural Minnesota are not considered in the DOT report. They must be.

Finally, the Minnesota State Planning Agency has gathered and analyzed considerable data on rail traffic in Minnesota. They have demonstrated the insufficiency of data and inaccuracies in the Department of Transportation report. In addition, rail companies have expressed similar concerns. These concerns must be cleared up.

The Railroad Services Planning Office of the Interstate Commerce Commission has as its basic role monitoring of reports developed under the Railroad Revitalization and Regulatory Reform Act. While federal funds will be distributed on the basis of applications for assistance as well as the DOT designations, I strongly urge the Railroad Services Planning Office to use its role in monitoring and making recommendations to the Interstate Commerce Commission which will provide rural America and American agriculture a much higher priority in the railroad system of our Nation.

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[1] Theodore E. Keeler, "Railroad Costs, Returns to Scale, and Excess Capacity", *The Review of Economics and Statistics* (56:201-206), May, 1974, Page 207, footnote 21.

## S. 800: ELIMINATION OF SOVEREIGN IMMUNITY AND OTHER TECHNICAL DEFENSES IN SUITS AGAINST THE UNITED STATES

Mr. KENNEDY. Mr. President, the House Judiciary Committee has cleared S. 800 for floor action, and this important bill should soon be enacted into law. It was developed from work done by a number of outstanding administrative law professors. The Administrative Conference and the American Bar Association also played important roles in the drafting and refinement of the legislation.

Congressman WALTER FLOWERS, chairman of the House Subcommittee on Administrative Law and Governmental Relations, introduced H.R. 10199, a counterpart to S. 800, last fall. In light of the short time left in this session, Congressman FLOWERS graciously agreed to move forward with the Senate version, which was favorably reported to the House last week accompanied by Report No. 94-1656.

During the House Judiciary Committee's consideration of S. 800, it was pointed out that certain provisions of the bill which would permit the naming of the United States in lawsuits brought to challenge Federal agency actions might be construed to be in conflict with other provisions of law which require the naming of the agency itself, such as section 4(b) of the Tennessee Valley Authority Act of 1933. TVA has always been subject to suit in its own name and without regard to the amount of money in controversy, the major concerns of this bill. The House Judiciary Committee correctly concluded that the bill does not contain such a conflict, since it provides that the United States alone may be named only where there is no other applicable special statutory review procedure. The TVA Act provides one such special review procedure in that it intends that litigation involving actions of TVA be brought against that agency only in its own name and that, because of TVA's status and purposes, venue and service of process be similarly restricted. See *Natural Resources Defense Council v. TVA*, 459 F.2d 255 (2d Cir. 1972).

With enactment of S. 800, Mr. President, Congress will eliminate confusing and irrational technical defenses which have occasionally sidetracked litigation against the United States. And it will lay to rest once and for all the use of the outdated, nonsensical doctrine of sovereign immunity where suits for specific relief are brought against the United States or its officials.

## NEW STUDY SUPPORTS HUMPHREY-HAWKINS TYPE PROGRAMS

Mr. HUMPHREY. Mr. President, one of my keenest disappointments in the waning days of the 94th Congress is that this Congress has not seen fit to move expeditiously in adopting the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1976 (H.R. 50 and S. 50). But I am an optimist—and I am convinced we will do what is right.

I know this is complex legislation with far-reaching social and economic implications, and while I would have preferred an early commitment to full employment so we could begin the tasks before us, I understand the desire of some of my colleagues to further refine the proposal. And, as with other great social legislation, the legislative process, and due consideration of all the effects, takes time.

Therefore, it is incumbent upon all Members to acquaint themselves with, and evaluate, new research on the impact of full employment strategies. We are not engaged in academic and speculative interchange in this Chamber, but policymaking that affects the lives of millions. To fail to consider the best recommendations intellectuals can produce is to fail, period.

A major study, presented just a couple of weeks ago to the American Economic Association meetings in Atlantic City, is just such an analysis deserving of everyone's close and critical attention. The study, prepared by economic Prof. Barbara R. Bergmann and Prof. Robert L. Bennett of the University of Maryland, simulated what would have happened to the U.S. economy over the past 3 years had a Humphrey-Hawkins type program been implemented. Once again, the results confirm that the economic output and jobs we have foregone because of shortsighted, timid policy are tremendous.

The researchers used a new exciting technique of econometrics to conduct their study, a Transaction Model. Instead of relying upon "best fit" regression equations with no intuitive appeal, their approach began with 800 worker-consumer-asset holders, 12 firms in different industrial sectors, the Federal Government, a local-State government sector, and monetary authorities. Then the economic units interacted in actual decisionmaking consistent with certain assumptions through 48 rounds per year. The results were aggregated to draw conclusions regarding the entire economy.

And the conclusions are dramatic. According to the authors:

> Our simulation results would indicate that PSE (public service employment) programs can make a timely and significant reduction in unemployment in periods in which private demand is weak, at net costs to the Treasury which seem remarkably low when considering the benefits.

In discussing their study, the authors correctly note that—

> It is not the intention of proponents of the Humphrey/Hawkins approach that all or even a major part of the burden of fighting unemployment be placed on the provision of public service jobs; . . . Obviously, the more that is done by the conventional instruments, the less needs to be done by PSE.

In addition to traditional fiscal-monetary policy, which should be better coordinated with national needs, I have repeatedly stressed the need to concentrate on micro-structural employment efforts, including job training, placement and information programs. Public service employment plays second fiddle to other policies in achieving the objective of the act.

Several of the authors' assumptions are not strictly in accord with present Senate wording of the bill which, as Bergmann and Bennett observe, is "still in a state of evolution." But this does not detract from the important guidance which the general lessons garnered in their paper provide.

The authors do not tie their policy to specific employment goals. Doing so would appear unnecessary since they seek to determine what can realistically be achieved—not whether goals, which psychologically focus debate and enthusiasm, are salutary in and of themselves. The authors concede that—

> Our computer simulation, elaborate as it is, is not set up to detect problems in management or in the motivation of participants.

Clearly, the establishment of explicit goals is designed to add to that motivation.

The tabular output of the study assumes two programs, one "high option" with 6 week minimal unemployment period before individuals may enter PSE jobs, and a $225 maximum weekly wage, and a "low option" which provides for a 10-week waiting period and a maximum weekly PSE wage of $150. Such barriers are in the spirit of the bill and safeguard against abuse of emergency or countercyclical Government employment, similar to provisions in the unemployment insurance program. The model accounts for such factors as interaction with unemployment insurance, and displacement of some State and local government jobs, considerations that are vastly exaggerated by some critics.

It is 20-20 hindsight to bemoan what we could have had—unemployment rates averaging 1.3 percent lower, slightly lower inflation, an average of $26 billion more GNP a year, lower State and local deficits—and all at a net Treasury cost of $3.1 billion. Rather, I offer this study in the expectation that, as the statue before the National Archives reminds us, "the past is prologue."

I ask unanimous consent that the study, with accompanying tables, be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

### MACROECONOMIC EFFECTS OF A HUMPHREY-HAWKINS TYPE PROGRAM

(By Barbara R. Bergmann and Robert L. Bennett)

The provisions of the Humphrey-Hawkins bill are still in a state of evolution at this writing, but the body of ideas and value judgments behind the legislative effort going on under that title can probably be summed up by three principles:

(1) It should not be deliberate policy of the U.S. to induce or tolerate high unemployment rates for the express purpose of curing or preventing inflation. (High unemployment rates are defined as rates above some maximum; the most frequently discussed maximum is in the 3.5-4.5 percent range.)

(2) The government should have an ongoing program to prevent unemployment from exceeding the maximum insofar as possible, and to expeditiously reduce the unemployment rate when it exceeds the maximum for any reason.

(3) A part of the anti-unemployment program should be the provision of specially created jobs on the public payroll for persons who cannot be absorbed into regular jobs in the private or public sectors.

Proponents of the Humphrey-Hawkins approach tend to emphasize the economic waste and the human deprivation attendant on high rates of unemployment, and would fight inflation by means other than high unemployment rates. Critics of the Humphrey-Hawkins approach include those who are reluctant to give up the option of fighting inflation through deliberately created unemployment or through the toleration or slow cure of whatever unemployment shows up fortuitously.[1] The critics also include those who fear that a public jobs scheme would be difficult to administer, and would prove to be a permanent, unproductive and expensive addition to the public payroll; thus they would prefer to fight unemployment by other means.[2]

In this paper, we formulate a concrete program which we consider to be in the spirit of Humphrey-Hawkins, and assess its budgetary costs and some of its benefits. As an instrument in the assessment of the program, we use an entirely micro-simulated macroeconomic model of the U.S. economy currently under development by the authors. With the help of this model, we rerun the history of the 1973–75 period under the assumption that either of two versions of a Humphrey-Hawkins program was in effect. Our computer simulation, elaborate as it is, is not set up to detect problems in management or in the motivation of participants. We must make assumptions about how people will act in the context of such a program, and then on the basis of those assumptions assess what differences such a program would have made to unemployment rates, to the fiscal position of federal and non-federal governments, to the rate of price change, to GNP. Our intention is thus to make a limited but constructive contribution to the debate as to the general desirability of the Humphrey-Hawkins approach, and to the deliberations concerning the concrete form which programs under this approach might assume.

### I. AN IMPLEMENTING PROGRAM FOR HUMPHREY-HAWKINS

The program format implementing the Humphrey-Hawkins concept which we have chosen for our simulation experiments has the following characteristics: (1) Standards for eligibility are set up for admission to public service employment (PSE) and for continuance in the program in terms of the person's unemployment history. (2) A wage schedule for PSE is set up, in terms of some fraction of what the person's wage would currently be in regular employment based on occupational history and an assessment of skill level, up to some maximum. (3) Everyone who wants a public service job and who meets the eligibility requirements is given one, at the prescribed wage, regardless of the state of the economy.

For example, one variant of such a program format which we have simulated runs as follows: Anyone who has been unemployed ten weeks or more and who wants a public service job would be given one at a wage of 75 percent of his presumed wage in a regular job up to a maximum of $150 per week, with no limit of time on his continuance in the program. (We must acknowledge here that it is considerably simpler in a computer simulation than it is in reality to determine what a person's wage in a regular job would be, and to pay different PSE wages to different individuals.[3]

The format of the Humphrey-Hawkins implementation program we have chosen to study does not guarantee in advance any particular level of unemployment and in this sense violates at least some versions of the bill. However, it does embody the idea of an automatic and a relatively quick response to worsening employment conditions regardless of the rate of inflation; it addresses the plight of those most acutely affected by unemployment by directly providing them with employment. The wage feature of our implementation program is counter to the desire of some of the bill's proponents that "prevailing wages" be paid to those on the program. However, it seemed obvious to us that if public service jobs were provided at a wage equal to that prevailing in regular jobs the fears of the opponents of the Humphrey-Hawkins approach would be realized in terms of the size, expense and growth of the program. Under a "prevailing wage" regime private employers would be unable to attract people who had been provided with work by the program. For these reasons, we viewed the "prevailing wage" variant of the program as unlikely of adoption, and have not included it in our evaluative calculations.[4] Given our assumptions concerning eligibility and wages, we have assumed that no one would consider leaving a regular job in the private sector for the express purpose of shifting to a PSE job, despite the nonpecuniary attractions some forms of PSE might have for some members of the work force.

It is not the intention of proponents of the Humphrey-Hawkins approach that all or even a major part of the burden of fighting unemployment be placed on the provision of public service jobs; the usual monetary and fiscal instruments are to continue to be employed, perhaps more vigorously, skillfully and presciently than at present if that be possible. Obviously, the more that is done by the conventional instruments, the less needs to be done by PSE. In our simulation of the 1973–75 period, we have assumed that tax rates and government purchases unconnected with the proposed PSE program[5] remained what they in fact were, and that our proposed PSE program was added on top of them. It is assumed that the monetary authority accommodated the additional issuance of government debt by acting on reserves to keep interest rates within the announced target range. One of the interesting issues raised by the Humphrey-Hawkins approach for those who accept its basic premises is the amount of reliance which should be placed on PSE as opposed to the other instruments. As will be seen, the answer which many currently favor, namely, "as little as possible," is not necessarily the most conservative answer.

In order to simulate the operations of such a program, certain assumptions about the nature of the setup and behavior of the persons and institutions involved must be made explicit. We have chosen to make the following assumptions:

(1) Unemployed persons eligible for unemployment insurance (UI) will tend to want to go on PSE less often than those not eligible. We have set the probability that a person will want to shift to PSE from UI in a given week at 0.1 for those with fewer than 10 weeks of UI entitlement remaining, and at 1.0 for those with no weeks remaining.

(2) Persons on UI and on PSE will continue to search for regular jobs, but will accept 75 percent as many job offers as persons eligible for neither.

(3) State and local governments will reduce the number of their regular employees by two persons for every five persons on PSE, up to a maximum of ten percent of their regular employees.[6]

(4) In addition to paying the salaries of the public service workers, the Federal Government will purchase seven cents worth of work materials, training services, and the like from the private sector for each dollar of PSE wages, and will hire five additional regular federal workers for each 100 PSE workers to administer the program.

(5) Welfare payments will decrease by ten cents for every dollar of PSE wages paid.

### II. A MICROSIMULATED MODEL OF THE MACROECONOMY

The vehicle we have used to simulate the effects of a Humphrey-Hawkins program is a specially prepared version of the Transactions Model—a microsimulated model of the U.S. economy.[7] The Transactions Model represents the United States economy by a much smaller-scaled simulated economy, in which the actors are 800 worker-consumer-asset holders, 12 firms, each of which produce the product of a particular industrial sector, the federal government, a consolidated state/local government, and the monetary authority. The situation and history of each of the actors in the model is kept track of in considerable detail, and the "action" in the economy consists in decisions by the actors based on their individual situations and on interactions among the actors based on those decisions. All macroeconomic magnitudes generated endogenously by the model are built up on the basis of actions by individuals; in particular, the simulated GNP accounts and flow of funds accounts are based on the summed transactions between individual actors, in which money is exchanged against goods, services or claims. The supply side of the economy is fully represented; firms make production and pricing decisions endogenously, and try to hire enough workers to realize their production plans at wages they set endogenously.

The Transactions Model is a particularly apt vehicle for the simulation of the operations of a Humphrey-Hawkins type of program because account can be taken of each unemployed worker's situation: the length of time he has been unemployed, his eligibility for UI, his customary occupation, the current value of his assets. A further feature of the model which makes it particularly useful in this context is its timeframe: although the model produces monthly simulated unemployment rates and quarterly simulated GNP and flow of funds accounts, the operations of the actors within a smaller unit of time is represented. A sample "round" of activities which includes hiring and firing, wage payments and purchases of all sorts is represented as taking place 48 times each calendar year. Since the basic period is approximately a week, it is possible to calculate unemployment durations for the simulated individuals almost in their natural units.

The forms of behavioral equations used in the model to control the simulated decision makers are derived largely from economics and business literature and the parameters have been adjusted to minimize the mean squared simulation errors of dynamic runs of the model in the period 1973–75. Money wage rates are set by the firms to change (weekly) at an annual rate of 3.00 percent plus 0.65 percent for every 1.00 percent change in the cost of living and by an additional—1.00 percent for every point the unemployment rate[8] is greater than 5.0 percent, subject to a weekly maximum equivalent to an annual rate of 21 percent per year. With the exception of the firms representing the farm, auto and mining industries whose prices have been set in all runs to follow the course they actually took, prices are raised by the firms when profit margins over average cost sink below averaged past profit margins. Firms figure the average cost for their current out-

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Footnotes at end of article.

put based on labor cost, productivity, materials cost, depreciation, and interest and indirect taxes. Most of the wages paid to white collar workers, plus depreciation and interest are treated as fixed costs.

As a result, average cost curves have a slight downward slope in the range of output in question. Although firms which run into production bottlenecks are programmed to raise prices on this account, this did not occur in the period in question. The labor force is programmed to rise by .25 persons for each additional regularly employed person in addition to a trended rise. Expectations of the future figure in the current version of the model chiefly in connection with decisions concerning real and financial investment; firms making wage and price decisions do not take forecasts into account.

### III. SIMULATED RESULTS

For the years 1973–75 the Transactions Model was run three different ways: (1) with federal fiscal outlays exogenously set equal to their actual values in the period; (2) with federal outlays augmented by a "low option" PSE program which allowed entry after 10 weeks of unemployment at a wage of 75 percent of private sector wages for each person's occupation and skill level to a maximum of $150 per week and (3) with a "high option" PSE program which allowed entry after six weeks of unemployment, at 75 percent of private sector wages up to a maximum of $225. Income taxes and social security taxes were collected on PSE wages.

The table gives the results of the three simulations.[9] Neither of the PSE programs simulated was capable of preventing a rise in unemployment rates although the high option program succeeded in arresting the rise in unemployment rates by the end of 1974. Both programs significantly moderated the force of the recession on the labor market at a moderate net cost to the Federal government.

Neither the low nor the high option program had a big effect on reducing unemployment rates in 1973, because during that period relatively few people were eligible for it under the rules set up, and a high proportion of those who were eligible had entitlement to UI and did not go on the program. However, starting in 74–II the situation changes markedly; both the number of people on either program and the direct expenditures on them are substantial through the end of the period simulated. During the period, the low and high option programs enrolled a maximum of 1.4 and 1.5 million persons, respectively.[10]

We have used the difference in the simulated federal deficit in a PSE program run and in the baseline simulations run as a measure of the net cost of that program to the Federal Treasury. Net costs are not very different from gross costs in the first half of the period, but in the second half the extra tax revenues generated through the moderating of the recession push net costs down significantly. Throughout the period the state and local governments gain through lower payroll costs and higher tax collections.

Neither form of the program causes simulated business firms to jack up prices any faster than prices rose in fact. Although wage rates would have risen somewhat faster, the effect on unit cost would have been balanced by higher production levels and the installation and use of more of the newer, more efficient production equipment. Whether one believes this is a realistic representation of what might have occurred depends on whether one believes that the model's decision-making rules for wages and other prices are reasonable. Replacing these rules by others would produce very different price results.

### IV. CONCLUSION

Our simulation results would indicate that PSE programs can make a timely and significant reduction in unemployment in periods in which private demand is weak, at net costs to the Treasury which seem remarkably low when considering the benefits.[11] A PSE program in the form we have proposed would be a powerful addition to the automatic stabilizers we already have and would give direct help to those with the longest duration of unemployment. Consolidated net costs of these programs to all levels of government are modest, since avoiding the worst of the recession gives a boost to tax collections. The PSE programs simulated have the same fiscal effect as extending the eligibility for UI and increasing its benefits would have. The difference, of course, is in the services which the PSE jobholders would perform. What the nature of those services might be and with what efficiency they might be performed, are matters about which our calculations can say nothing. We believe that the opponents of the program are not wrong to worry about these matters, and that the proponents of the program should worry about them more. What our calculations do seem to show is that from the strictly macroeconomic point of view, programs of the type envisaged under the Humphrey-Hawkins framework deserve continued serious attention and research.

SIMULATED EFFECTS OF 2 VARIANTS OF A PSE PROGRAM

[All dollar figures in billions at annual rates]

| | Civilian unemployment rate (percent) | | | | Percent of civilian labor force on PSE (simulated) | | GNP deflator | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Simulated | | | | | | Simulated | | |
| Date | Actual, No PSE | No PSE | Lo PSE | Hi PSE | Lo PSE | Hi PSE | Actual, No PSE | No PSE | Lo PSE | Hi PSE |
| 73 I | 5.0 | 5.0 | 4.8 | 4.6 | 0.3 | 0.7 | 150 | 152 | 152 | 153 |
| 73 II | 4.9 | 4.6 | 4.6 | 4.5 | .3 | .7 | 153 | 154 | 154 | 155 |
| 73 III | 4.8 | 4.7 | 4.5 | 4.7 | .4 | .7 | 156 | 158 | 158 | 158 |
| 73 IV | 4.7 | 4.6 | 4.7 | 4.7 | .2 | .6 | 159 | 160 | 161 | 161 |
| 74 I | 5.1 | 4.9 | 4.7 | 4.6 | .4 | 1.0 | 164 | 164 | 165 | 164 |

### FOOTNOTES

[1] A statement of this attitude, although not an outright endorsement of it appears in a letter by Leonard A. Lecht of the National Industrial Conference Board, reproduced in a report of the National Commission for Manpower Policy (pp. 190–1). For a somewhat equivocal view of this matter, see the testimony of Charles L. Schultze and compare pp. 2 and 14.

[2] See letter of Rudolph Hale of the National Association of Manufactures in the National Commission volume, pp. 198–200. In the same volume, Sar A. Levitan, hardly a foe of job creation, sees definite limits in the number of jobs which could be made available, presumably on the grounds that useful work could not be set up for a larger number. If a program of the type we simulate here were set up, this issue would have to be faced seriously.

[3] See the Schultze testimony on the actual dispersion of wages in low wage jobs. The program we have simulated might be viewed as a compromise between Arthur Burns' suggestion that government jobs be provided at below the minimum wage, and the "prevailing rate" wage specification of the bill. See Barth on this and other issues.

[4] This is not to say that a program which took certain individuals onto the public payroll at wages higher than they could get from private employers for the purpose of changing the distribution of income by race, sex or I.Q. would be without merit. See Thurow. Richard Nathan in the National Commission volume (p. 114) considers such an approach "infeasible."

[5] There were in fact some PSE programs within the period, but we have ignored their existence for present purposes and assumed in effect that the enrollees were in regular federal jobs.

[6] This is on the high side of the range thought reasonable by Fechter (p. 17) and the Congressional Budget Office.

[7] For a description of an earlier version of the Transactions Model see Bergmann (1974). A more complete version will appear in Bennett and Bergmann.

[8] The PSE jobholders were counted as employed in calculating the unemployment rate for these purposes and in the Table.

[9] Although we have shown actual figures for unemployment, the price index and GNP, so as to give an idea as to the ability of the model to track the data, the simulated run with no PSE program is best as a baseline in assessing the simulated results of the PSE programs.

[10] We have not addressed the issue of what this number of PSE participants would do. This number is considerably above the upper limit for job creation in the public sector set by Levitan in the National Commission volume (p. 165).

[11] See Wiseman.

### REFERENCES

Michael C. Barth, "The Full Employment and Balanced Growth Act of 1976: An Analysis and Evaluation," Institute for Research on Poverty Discussion Papers, Madison, 1976.

Robert L. Bennett and Barbara R. Bergmann, *A Microsimulated Transactions Model of the U.S. Economy* (mimeo, 1976).

Barbara R. Bergmann, "A Microsimulation of the Macroeconomy with Explicitly Represented Money Flows," *Annals of Economic and Social Measurement*, 3/3, 1974, pp. 475–489.

Congressional Budget Office, "An Economic Analysis of the Full Employment and Balanced Growth Act of 1976," Washington, D.C.: May 21, 1976.

Alan Fechter, "Public Employment Programs," An Urban Institute Reprint, Washington, D.C., 1976.

A. Gartner, W. Lynch, Jr., and F. Riessman, *A Full Employment Program for the 1970s*, New York, 1976.

National Commission for Manpower Policy, Proceedings of a Conference on Public Service Employment, Washington, D.C., May 1975.

Charles L. Schultze, "The Economics of the Full Employment and Balanced Growth Act of 1976," Statement before the Senate Committee on Public Welfare, Subcommittee on Unemployment, Poverty and Migratory Labor. Washington, D.C., May 14, 1975 (mimeographed).

Lester Thurow, *Generating Inequality: Mechanisms of Distribution in the U.S. Economy*, New York, 1975.

Michael Wiseman, "Public Employment as Fiscal Policy," *Brookings Papers Economic Activity*, 1:1976, pp. 67–104, Washington, D.C., 1976.

| Date | Civilian unemployment rate (percent) | | | | Percent of civilian labor force on PSE (simulated) | | GNP deflator | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Actual, No PSE | Simulated | | | | | Actual, No PSE | Simulated | | |
| | | No PSE | Lo PSE | Hi PSE | Lo PSE | Hi PSE | | No PSE | Lo PSE | Hi PSE |
| 74 II | 5.1 | 5.5 | 5.0 | 4.8 | .5 | .9 | 167 | 166 | 166 | 5<br>169 |
| 74 III | 5.5 | 6.1 | 5.6 | 5.4 | .6 | .8 | 172 | 170 | 170 | 163 |
| 74 IV | 6.6 | 7.0 | 6.5 | 5.8 | .4 | 1.2 | 178 | 174 | 174 | 175 |
| 75 I | 8.3 | 7.8 | 6.7 | 5.5 | .8 | 1.6 | 182 | 177 | 177 | 179 |
| 75 II | 8.9 | 8.0 | 6.4 | 5.0 | .9 | 1.6 | 184 | 181 | 181 | 171 |
| 75 III | 8.4 | 8.2 | 6.8 | 5.2 | .8 | 1.3 | 186 | 183 | 183 | 186 |
| 75 IV | 8.3 | 8.4 | 6.5 | 5.0 | 1.5 | 1.5 | 189 | 188 | 188 | 18 |
| Mean | 6.3 | 6.2 | 5.6 | 5.0 | .6 | 1.1 | 170 | 169 | 169 | 168 |

| Date | Gross national product | | | | Gross cost of PSE (simulated) | | Net increase in Federal deficit (simulated) | | Net increase S/L deficit (simulated) | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Actual No PSE | Simulated | | | | | | | | |
| | | No PSE | Lo SPE | Hi PSE | Lo PSE | Hi PSE | Lo PSE | Hi PSE | Lo PSE | Hi PSE |
| 73 I | $1, 249 | $1, 260 | $1, 262 | $1, 264 | $1.9 | $4.7 | $2.1 | $4.8 | −$0.6 | −$1.7 |
| 73 II | 1, 278 | 1, 275 | 1, 278 | 1, 281 | 2.0 | 4.5 | 3.7 | 5.2 | −.7 | −1.9 |
| 73 III | 1, 309 | 1, 300 | 1, 302 | 1, 305 | 2.6 | 4.7 | 3.0 | 5.2 | −1.0 | −1.5 |
| 73 IV | 1, 344 | 1, 322 | 1, 325 | 1, 329 | 1.5 | 4.1 | 3.2 | 4.9 | −.5 | 1.8 |
| 74 I | 1, 359 | 1, 355 | 1, 359 | 1, 362 | 3.0 | 6.4 | 3.2 | 5.1 | −1.5 | −3.0 |
| 74 II | 1, 384 | 1, 371 | 1, 376 | 1, 376 | 3.7 | 5.7 | 3.5 | 5.9 | −1.7 | −2.7 |
| 74 III | 1, 416 | 1, 397 | 1, 403 | 1, 402 | 4.2 | 4.6 | 2.7 | 4.1 | −2.3 | −3.2 |
| 74 IV | 1, 431 | 1, 419 | 1, 432 | 1, 434 | 3.3 | 8.3 | 1.4 | 4.8 | −2.5 | −4.1 |
| 75 I | 1, 417 | 1, 444 | 1, 471 | 1, 482 | 5.6 | 11.5 | −1.2 | −.9 | −5.7 | −10.4 |
| 75 II | 1, 441 | 1, 491 | 1, 519 | 1, 541 | 6.1 | 11.8 | 2.2 | 1.1 | −5.9 | −12.0 |
| 75 III | 1, 498 | 1, 530 | 1, 555 | 1, 581 | 6.2 | 10.2 | 4.6 | −1.0 | −4.7 | −9.4 |
| 75 IV | 1, 541 | 1, 566 | 1, 597 | 1, 622 | 11.6 | 11.1 | 5.6 | −2.4 | −7.3 | −9.7 |
| Mean | 1, 389 | 1, 394 | 1, 407 | 1, 415 | 4.3 | 7.3 | 2.8 | 3.1 | −2.9 | −5. |

## MFN FOR ROMANIA

**Mr. TAFT.** Mr. President, today's discussion centers on the extension of the MFN status of Romania.

As you may recall, I rose on the floor on July 28, 1975, when the MFN was first approved, to refer to the situation of the 2.5 million Hungarians and about half a million Germans—Saxons—in the historical province of Transylvania. I asked the Department of State to discuss this matter with the Romanian authorities.

In the meantime, several developments took place. The first was my letter to President Ford in March of this year asking that the issue be raised in talks with the Romanian Government. The second was the establishment of some direct contact between the American Hungarian Federation and the Romanian Government and reports that talks were held between our Government and the Romanian Government on the human rights situation in Romania.

Despite these contacts, talks and letterwriting, the situation did not change appreciably, although a number of technical high schools were supposedly opened in September.

I wish to stress again the importance of this issue, along with the family reunification problem in which field Romania's performance also remains unsatisfactory.

The national minorities in Romania do not enjoy equal rights. While the Romanian constitution guarantees the right of the free use of the mother tongue and education in the mother tongue, and these guarantees are buttressed by various international agreements—International Covenant on Human Rights, Helsinki Final Act of 1975—they only exist in theory, but not often in practice.

Only one out of nine Hungarian nationality students attends Hungarian language vocational school sections in Romania—"The Hungarian Nationality in Romania," Bucharest; 1976, citing official Romanian statistics—and only one out of three preparatory schools on the secondary level. While the ratio of Hungarians to Romanians in Romania is about 1:10, the ratio of Hungarian university students to Romanians fell from about 1:11 in 1969 to 1:20 in 1974–75, according to official Romanian statistics.

Bilingualism is absent except in some purely Hungarian communities in southeastern Transylvania. Officials in the cities, even if Hungarian, dare only speak Romanian even to one another. Bilingual signs in the cities outside of two counties with more than 80 percent Hungarian population are unknown, even in Hungarian majority cities and towns.

Community leadership is disrupted by assigning the university graduates to Romanian provinces outside of Transylvania while Romanian professionals are assigned to Hungarian cities and communities. Reports persist that near 50 percent of the physicians in the Romanian province of Moldavia are of Hungarian nationality while many doctors in the purely Hungarian areas are Romanian, both of them having to overcome language problems.

Churches are uniformly oppressed, but the Catholic and Protestant minority churches even more. Protestant congregations were reported to have had some of their archives taken in late 1974, and further confiscations were prevented only by exposure of the antihistory measures of the Romanian Government in the western press—Switzerland and the United States.

The list could be continued. It is my intention to call attention to these occurences and ask my colleagues to join me in expressing our deep concern about Romanian national minority and emigration policies.

## TRIBUTE TO SENATOR MIKE MANSFIELD

**Mr. DURKIN.** Mr. President, the majority leader had undoubtedly hoped to steal away from the Senate during the last 2 weeks of his term and avoid the tributes which he so richly deserves. I am glad the Senate picked up on this end run, although I have no doubt the majority leader has made a better choice in spending these 2 weeks in China. It may be easier for 1 billion Chinese to pick a new leader than for the U.S. Senate to replace Mike Mansfield.

Several questions come to mind as we consider the Senate without Mike Mansfield.

Will every Member continue to be treated as an equal in the eyes of the leadership?

Will decorum and good faith be the unwritten rules of the Senate?

Will quiet persuasion continue to be the leadership's source of power rather than arm-twisting and threats?

Will concise eloquence continue to edge out overwrought and overdone explanation?

If Mike Mansfield has had any lasting effect on the Senate—and I think we can all agree he has—then the answer to these questions is obvious:

A resounding but eloquent yes.

If I were to pick out the qualities which Mike Mansfield brought to the Senate, I would mention two in particular.

One is Mike's ability to feel strongly about an issue, do everything he possibly can to win the Senate over to his position, and yet never abuse the powers of the majority leader or get all hot and bothered about what the other side was doing. Some of us sometimes confuse intensity of commitment with the volume of voice or the number of sheets of paper consumed in expressing that commitment. MIKE's example should set us straight on that.

Just as important, MIKE never takes anyone—including himself—too seriously. Perhaps this is what everyone means when they talk about the supreme humility and humanity of the majority leader. We are, we 100, not always with the best perspective on things. We sometimes are too quick to overlook our own foibles, follies, and personal fancies. We sometimes forget that our seats in the Senate have been filled by dozens of men before us, and will, undoubtedly, be filled by hundreds of men and women in the future.

MIKE sets a good example in this regard. He has the perspective not only to see the Senate in the context of the rest of the world, but also the current decade in the context of thousands of years of human history. He does not lose those perspectives in the heat of the moment on the floor, or late at night in his office dictating personal letters to constituents.

The Senate will persist with or without MIKE MANSFIELD on the floor, in the majority offices or in the Democratic cloakroom. Shakespeare was not far from wrong when he predicted for us:

> So we'll live, and pray, and sing, and tell old tales, and laugh
> At gilded butterflies, and hear poor rogues
> Talk of court news; and we'll talk with them too,
> Who loses and who wins, who's in, and who's out;
> And take upon us the mystery of things,
> As if we were God's spies; and we'll wear out,
> In our Senate chamber, packs and sects of great ones
> That ebb and flow by the moon.

MIKE MANSFIELD, the historian, gentleman, Senator, and friend, is one of the great ones. Farewell, fellow traveler. Godspeed you well.

## DRAFT CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

Mr. PELL. Mr. President, one of the most important items of business before the current session of the United Nations General Assembly which opened in New York September 21 will be consideration of the draft convention on the prohibition of military or any other hostile use of environmental modification techniques. The draft convention, which was submitted to the General Assembly on September 3 by the Conference of the Committee on Disarmament—CCD—resulted from more than a year of negotiations in Geneva.

I am particularly pleased that the CCD's work on this draft convention has been completed, as I was the author of a Senate resolution which was adopted, 82 to 10, by the Senate on July 11, 1973, urging the administration to seek an international agreement banning environmental modification as a weapon of war.

During the negotiations in Geneva, a broadly agreed text was worked out in a genuinely multilateral process. The identical draft treaty texts which were originally submitted to the CCD in August 1975 by the United States and the Soviet Union were significantly modified in the course of the CCD's deliberations in order to accommodate the views of other delegations.

Although I still have reservations about the applicability of the treaty only to those cases where environmental modification techniques have "long-lasting, widespread, or severe effects," I nevertheless believe that the CCD text accomplishes the main objective of eliminating the principal dangers of military or any other hostile use of environmental modification techniques. I therefore hope that the General Assembly will act favorably on the treaty.

## TRIBUTES TO SENATOR PASTORE

Mr. BUMPERS. Mr. President, I rise to add my voice to the many who have expressed admiration for the distinguished Senator from Rhode Island (Mr. PASTORE) and regret his departure from the Senate.

I first became aware of JOHN PASTORE's stature and his contributions to public service at the time of his keynote address at the Democratic National Convention in 1964. His performance on that occasion was characteristically outspoken and forthright. The hallmark of his approach to issues of public policy then, as it is now, was a devotion to the interests of the plain people—the great mass of citizens who must attend to their own business, who cannot travel to Washington to defend themselves, who cannot hire high-priced lobbyists, and who must depend on conscientious representatives like Senator PASTORE to fight their battles.

The able Senator's service has also been characterized by commonsense—a commodity of which there is no surplus here in Washington. I can recall many times, in the late afternoons, when Mr. PASTORE would rise in his place in the Senate Chamber and ask the Senate, in his own unique way, to come to an end of talking and take action. As he often reminded us, there is a time to talk, and there is a time to decide, and the Senator from Rhode Island never hesitated to tell us that the time to decide had come.

This same sense of timing, Mr. President, has now told the Senator that he should leave us. After able service as a member of the Rhode Island General Assembly, as Governor of Rhode Island, and as a Senator for three terms, he has decided to lay down the burden of public service and devote his time and energy to his family and personal life. His decision is a matter of great regret to me and, I am sure, to all other Members, but the point remains that JOHN PASTORE has decided to quit now, while he is still way ahead, and we must all respect him for that decision. I am honored to have served here with him.

## JOHN PASTORE

Mr. BIDEN. Mr. President, I'd like to take just a few moments today to say a word or two about the impending retirement of JOHN PASTORE.

I have known Senator PASTORE for only 4 years; a shorter period than many in this chamber. And yet, even though that span of time is brief, I know I will not soon forget him, for few among us have his flair not only for sound judgment, but also his ability—which he possesses in such abundance—to cut through the fog that occasionally engulfs us all, and to get to the heart of problems as they come before us.

It is, I believe, his straightforwardness that we will miss the most in the Senate when he leaves us. His penetrating questions have sharpened debate just as his forceful arguments have demanded attention. I learned very early when I came to the Senate that having JOHN PASTORE on your side during debate is to be considered a major asset.

As much as I will miss JOHN PASTORE for his ability and for the friendship he has accorded me, there is another element in the man which will make the Senate a poorer institution for his retirement.

JOHN PASTORE is a man of style; he has been a Senator in the old tradition—a man who placed emphasis upon logical debate, skilled oration, and hard work. His gifts of speech are seldom matched in this era of television and instant communication, and when he leaves, we will not soon see his likes again in this Chamber. I count that as a loss.

Yet as sorry as I am to see Senator PASTORE's retirement, I know how much he looks forward to the freedom he will earn to spend more time with his family, and to engage in the leisurely pursuits of his many and varied interests.

My wish for him is for a prosperous future marked by abundant good health and filled with happiness.

## TRIBUTES TO SENATOR FONG

Mr. PEARSON. Mr. President, as we near the last days of the 94th Congress the senior Senator from Hawaii, HIRAM FONG, will be parting ways with a body he has known for over 17 years. He will be missed.

He is a native son of Hawaii. To both this constituency and to this body he has been the embodiment of equality and reason. He is the first person of oriental ancestry to serve in the Senate and he has used this ethnic background to demonstrate the necessity of the landmark civil rights legislation of the early 1960's.

His 17 years in the Senate portray a man who scrutinizes the issues and with a gentle manner works to pursuade his colleagues of an issue's merit. He has always been a self-reliant man guided by a strong conscience.

Senator FONG has been a goodwill ambassador to the multiethnic people of Hawaii and the other distant islands of the Pacific. He has focused his "man of the Pacific" image on a cause that has shown the need for a positive role in the Pacific.

To those of us who have worked with this man, he exemplifies the experience, belief and aspiration of a vital society. He blends with the common life and has the prophet's vision essential for leadership to a better and stronger America.

I join today with the rest of my colleagues in wishing Hiram and his wife, Ellyn, fortune in their upcoming endeavors. I would ask, too, that the distance between this body and the State of Hawaii not be allowed to keep the Senator from making many return trips.

Mr. PACKWOOD. Mr. President, Senator Hiram Fong has the unique satisfaction of serving as U.S. Senator since the State of Hawaii joined the Union. As such, he insured that the citizens of Hawaii were ably represented. He has begun a tradition which Hawaiians will not soon forget.

Senator Fong, as the ranking minority member of the Senate Post Office and Civil Service Committee, engineered many of the successful reforms which passed the Senate within these jurisdictions; most recently the compromise postal reform bill bears his stamp.

Rising from his humble origins, he became chairman of the board of several financial institutions and real estate agencies and devoted much of his time and energies to public service. We know his Horatio Alger success story will not stop with his retirement from the Senate. We who have worked with Hiram Fong know that he will continue to devote his time and energies to public service.

Mr. HANSEN. Mr. President, Senator Hiram L. Fong comes from one of the most cosmopolitan areas in the world. The State of Hawaii has drawn to its shores peoples from all parts of the globe. They have learned to live together in amity and harmony, in the "aloha spirit" for which the islands are famous.

Hiram Fong represents that spirit of aloha in Washington. Although 5,000 miles from his home State, Hiram personifies, wherever he goes, the genial, friendly attitudes of Hawaii's people of many races.

It is no surprise, therefore, that he has won the friendship, respect, and admiration of peoples on the mainland United States. Ever since the announcement of his intention to retire from the U.S. Senate after 17 years of dedicated service, Hiram Fong has been widely feted and honored by his friends.

During his senatorial career, he has been cited and recognized by diverse groups, such as the National Conference of Christians and Jews, "for outstanding and devoted leadership"; by former Gov. Carlos G. Camacho "with profound gratitude for your sincere interest in the welfare of Guam"; and by ethnic organizations such as the Japanese American Citizens League and a long list of Chinese American societies.

Long a staunch friend of the Filipinos of Hawaii, Hiram Fong has been presented with a "Ating Kaibigan" award by the United Filipino Council of Hawaii for his outstanding service to Hawaii's people.

Senator Fong has also been honored for his contributions abroad. Recently, the Republic of China decorated him with the Order of Brilliant Star with Grand Cordon, one of the highest honors ever bestowed on an American citizen by that Government.

Among the Chinese people in the United States, the following organizations have conferred honors on Senator Fong:

A plaque from the Organization of Chinese Americans, Inc., "in recognition of distinguished services to humanity and for his inspiring leadership and outstanding services to the Nation and to all its people which have won him the admiration, respect, and goodwill of all Chinese Americans";

Commendation from the Chinese Consolidated Benevolent Association of New York for the enhancement of Chinese heritage;

Commendation from the Chinese Consolidated Benevolent Association of Washington, D.C., as "the first American of Chinese ancestry to serve the public for 16 years as U.S. Senator with the highest level of statesmanship";

A plaque from the National Chinese Welfare Council "in recognition of his meritorious services for the achievement of equalities for Chinese";

Commendation from the Chinese-American Republican National Federation to "our honorary chairman, Senator Hiram L. Fong, in appreciation of your inspirational leadership"; and

Commendation from the New York Soo Yuen Benevolent Association "in recognition of his outstanding and dedicated service to his country, his fellow man, and his family."

Plaque from the Sino-American Cultural Society for "distinguished service to his country, his State, his community, and to the promotion of friendly relations between American and Chinese people."

On the occasion of the Sino-American Cultural Society's ceremony to honor Senator Fong, President Gerald R. Ford, and Vice President Nelson Rockefeller sent letters of commendation to the Hawaii Senator. I ask unanimous consent that the text of their letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

June 17, 1976.

Hon. Hiram Fong,  
*U.S. Senate,*  
*Washington, D.C.*

Dear Hiram: I welcome this opportunity to join with the members of the Sino-American Cultural Society in honoring your brilliant career. Your service to Hawaii and the nation has been marked by the finest qualities of integrity, loyalty and dedication that Americans could ask of their elected officials.

We are a nation of nations. As we celebrate two hundred years of independence, we acknowledge with special pride the vitality we have derived from this diverse legacy. We also focus on the significant contributions of those Americans who have best perpetuated the traditions of their ancestral homes. Your own accomplishments reflect enduring credit on your Chinese heritage and enrich us all by their positive influence on our society. It is easy to understand the sentiments of those who gather for this tribute. As members of an organization devoted to preserving Chinese culture in our country, they rightly chose to honor the distinguished Senator whose lifelong achievements have so greatly expanded public awareness of the significanec of that culture in our national life. You have earned their praise and the enduring respect of countless fellow citizens.

Betty and I hope that this will be a memorable eveniing for you and Ellyn, and we send you our warmest regards.

Sincerely,

Jerry Ford.

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June 14, 1976.

Hon. Hiram L. Fong,  
In care of Mr. William G. Carr,  
*President, Sino-American Cultural Society,*  
*Washington, D.C.*

Dear Hiram: It is a pleasure to join with the Sino-American Cultural Society in paying tribute to you and Mrs. Fong.

America is a better Nation for your vast contributions in the United States Senate. Your service to Hawaii and to the United States can only be called brilliant—a mixture of compassion and responsibility, a combination of idealism and effectiveness. Your statesmanship has honored both our Party and the entire democratic process.

I am sure that this tribute from the Sino-American Cultural Society carries a special meaning to you. America's richly varied ethnic strains are a primary source of our strength and vitality. Your dedicated efforts to preserve your heritage has been a great service not only to Chinese-Americans, but to all of us who appreciate the invaluable part the Chinese culture has played in shaping the history of civilization.

Please accept my best wishes for a memorable celebration and continued success in the future.

Sincerely,

Nelson.

Mr. HANSEN. Mr. President, the Japanese American community in the United States has also expressed its deep appreciation for Senator Fong's services in two documents which have been presented him—one a citation adopted at the 21st Biennial National Convention of the Japanese American Citizens League in 1970 in Chicago, Ill.; and the other a resolution adopted at its 24th Biennial National Convention in Sacramento, Calif. last summer.

Mr. President, I ask unanimous consent to have these two documents printed in the Record.

There being no objection, the documents were ordered to be printed in the Record, as follows:

### Resolution—To Pay Tribute to the Honorable Hiram L. Fong, Senior U.S. Senator From Hawaii, For His Valuable and Outstanding Service to the Japanese American Citizens League

Whereas, the Honorable Hiram L. Fong became the first American of Asian ancestry ever to be elected to the United States Senate by virtue of his election in the first statewide election held in Hawaii following statehood in 1959; and

Whereas, throughout his Senate career of the last 17 years; Senator Fong has been a consistently loyal and devoted friend of Americans of Japanese ancestry as a whole and of the Japanese American Citizens League in particular; and

Whereas, he has long been an effective leader in the cause of fair play and equal rights for all Asian Americans and has been in the forefront of national legislation to advance the cause of civil rights, immigration reform, naturalization, and other matters of deep concern to Asian Americans; and

Whereas, he has responded on innumerable occasions to requests from the JACL to provide leadership and assistance in seeking support for projects ranging from grants for special JACL programs to successful efforts such as the Presidential proclamation for the repeal of Executive Order No. 9066; and

Whereas, Senator Fong will retire from the United States Senate at the expiration of his current term this year, thereby closing a distinguished career of public service; now, therefore,

Be it resolved by the delegates assembled for the 24th Biennial National Convention of the Japanese American Citizens League in Sacramento, California, that they do hereby express their highest commendation to the Honorable Hiram L. Fong for his long and outstanding public service and extend their heartfelt appreciation for his steadfast friendship and support; and

Be it further resolved, that a copy of this Resolution be presented to United States Senator Hiram L. Fong with the warmest best wishes and high regard of the JACL.

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### CITATION FROM THE JAPANESE AMERICAN CITIZENS LEAGUE AT 21ST BIENNIAL NATIONAL CONVENTION RECOGNITION BANQUET IN CHICAGO, ILL., JULY 18, 1970

Senator Hiram L. Fong's election in 1959 as the first American of Asian ancestry to the United States Senate has brought great credit and prominence to all Americans of Oriental descent.

His distinguished Services in the Senate have been as a member of numerous important Committees and Sub-Committees. As the ranking Minority Member of the Senate Post Office and Civil Service Committee whose work affects all Federal Government Employees, he has exercised concern and leadership in improving their lot.

Senator Fong has been eminently successful in championing causes and programs of special importance to Japanese Americans—in his efforts to reform Immigration and Naturalization Laws and in Civil Rights legislation.

The Japanese American Citizens League warmly commends Senator Hiram L. Fong for his outstanding public services and for his impressive leadership based upon the principles of equality and advancement for all peoples regardless of race, color, creed or national origin; and especially for his loyal support and active cooperation in behalf of the well-being of Japanese Americans.

Mr. BURDICK. Mr. President, I would like to express my sincere best wishes to my friend and colleague, Senator HIRAM FONG of Hawaii. His retirement will be met with admiration for a job well done.

Having served with the distinguished Senior Senator from Hawaii on the Post Office and Civil Service Committee, I well know of his worthy contributions to this committee. As a long-standing member of the Appropriations and Judiciary Committees he has served his State and his Nation in the best possible manner.

We have all been enriched by his service during the past 17 years. I join my colleagues in saluting the distinguished Senator from Hawaii, HIRAM FONG.

### TRIBUTE TO SENATOR FONG

Mr. BAKER. Mr. President, the presence of a number of outstanding men will be missing from the Senate Chambers when the next session begins. The senior Senator from Hawaii, HIRAM FONG, is among those dedicated colleagues with whom it has been my pleasure to serve and to whom it is now a genuine honor to pay tribute.

HIRAM FONG's service in the U.S. Senate has been one of unimpeachable integrity. With innate wisdom, he has provided an overwhelming balance of fairness and self-deprecation in bringing settlement to a wide scope of national and world issues for nearly 17 years.

With patience, skill, and courage he has mastered every challenge life has presented him in achieving his present position of leadership. He has rendered the great State of Hawaii service of honor and ability; and through his devotion and dedication to serve the people, has earned the respect and admiration of both his constituency and the Nation.

It has been my privilege to serve for 10 years with this great American in the Senate, and it is with the deepest respect that I salute him now as a solid citizen, an outstanding leader, and a success in jobs where anything less than a superior performance would have been a failure. There are not many like him and he will be missed.

Joy joins me in wishing for HIRAM and Ellyn all the happiness and contentment their mutual lives of public service so richly merit.

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## TRIBUTES TO SENATOR FANNIN

Mr. PEARSON. Mr. President, as the Senate concludes its business of the 94th Congress we should each pause in tribute to the retiring senior Senator from Arizona, PAUL FANNIN.

He has been a tireless Senator. His intense interest and dedication to issues of energy, finance, and government regulation have gained him recognition as one of the Senate's hardest working and most knowledgeable Members.

Senator FANNIN came to the Senate in 1965 after three terms as Governor of his State. Although he was immensely popular and successful I am sure I share the selfish sentiment of the rest of my colleagues in wishing he would have joined our ranks sooner.

His two terms as Senator have gone quickly. Yet, he has left an unforgettable imprint. In the field of energy he has been the leading proponent of the development of solar energy. He has demanded that this body not relegate energy to a secondary issue. He has shown the foresight necessary to guide this Nation past its present energy crisis toward commonsense policies of self-sufficiency.

Senator FANNIN has also demonstrated an uncanny ability to understand and explain the complex and massive Tax Reform Act of 1976. His work on this legislation is a testament to his enthusiasm and involvement in the legislative process. These are also qualities forever protected from atrophy.

Mr. President, the Arizona Senator has been an articulate spokesman for the causes in which he believes. But he has not been a demagog. He is a man who has learned through his Senate experience that patience and reason are the eventual victors.

We each will miss the bond of friendship that his years of Senate activity have forged. We can only hope that many others are able to benefit from this man's energy and dedication as we have.

Mr. President, I join with other Members of the Senate in hoping that whatever paths taken by the Arizona Senator are fruitful and that whatever goals are pursued are likewise conquered.

Mr. PACKWOOD. Mr. President, I had the good fortune to know and work with PAUL FANNIN since my first days as a Senator. As one of the senior Members of the Senate Finance Committee on which I serve, Senator FANNIN was generous with his guidance and tolerant of the ways of a freshman. During my first term I learned much from him, and I continue to profit from his experience and be impressed with his tolerance.

Senator FANNIN was first elected to the Senate in 1964 after serving as Governor of Arizona for three terms. As the ranking minority member of the Senate Interior Committee, he has done much to temper our Nation's energy policy. But for me, his mark is more apparent in the Finance Committee. I have worked with him on legislation as broad as tax reform and health insurance and as specific as a narrowly defined tax treaty. In all cases, PAUL FANNIN has exhibited that restraint and patience which only comes with experience.

We will miss his calm presence, but I am certain that should ever we need his judgment, he would be more than willing to assist us.

Mr. BAKER. Mr. President, the great State of Arizona long has been ably and effectively represented in this Chamber, and certainly one of the most noteworthy Senators from Arizona has been PAUL FANNIN.

As one who always has been impressed by the diligence and fervor with which PAUL FANNIN articulates and defends his positions, and as one who has often agreed with my distinguished colleague's appraisal, I certainly will rue his retirement from this body; but I likewise wish to pay tribute to his many years of public service and to wish PAUL FANNIN a happy and well-deserved retirement.

During my 10 years in the Senate, I think that one of the more notable and desirable legislative trends which I have observed is that governmental power, authority, and funding are being directed to the State and local level, rather than unalterably flowing to Washington. As a three-term Governor of Arizona, PAUL FANNIN's perspective and advice have proved invaluable as we have endeavored to restore to State and local governments the proper role in our federal system; and I have found him to be a staunch defender of the individual citizen and local government against the encroachments of an all-powerful, ever-expanding Federal Government.

Perhaps more than any other Member, PAUL FANNIN has recognized that level of government which is too much government, how many dollars are too many dollars, and how much taxation is too much taxation. This insight and the courage to act upon it has been in short supply, and the Senate and this notion will sorely miss the insight and courage contributed by PAUL FANNIN.

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## COMMITTEE PRINT ISSUED ON FEDERAL ENERGY REORGANIZATION

Mr. PERCY. Mr. President, both Mr. Carter and Mr. Ford have talked extensively of the need to reform the Federal bureaucracy to make it more efficient and responsive. In particular, both of them have mentioned the need to do something about the way in which the executive branch is structured to handle its energy responsibilities. As everyone knows, Mr. Carter recently published a plan for reorganizing the Federal energy organizations.

This is an area which is of much concern to the Government Operations Committee on which I serve as ranking minority member. Undoubtedly, we will be holding extensive hearings on energy reorganization early in the 95th Congress under the able leadership of Senator RIBICOFF.

Earlier this year, I requested the Congressional Research Service to conduct a thorough evaluation of some of the fundamental issues involved on the subject of energy reorganization, and to conduct a workshop on this subject with some of the country's energy and public administration experts.

CRS has recently submitted their report to me and I am pleased that the Committee on Government Operations is issuing that report today as a committee print.

The committee print, entitled "Federal Reorganization—Issues and Options," is organized in six sections as follows:

I. U.S. National Energy Organization: The Policy Setting

II. Government Organization for Energy Affairs. Summary of a June 22–23, 1976, Workshop Arranged for the CRS by the National Academy of Public Administration Foundation (NAPAF)

III. Government Organization for Energy Affairs: Statements Submitted to NAPAF Workshop

IV. Selected Excerpts from the Transcript of Proceedings of the NAPAF Workshop

V. Federal Energy Organization—Review of Organizational Status of 94th Congress

VI. Bibliography: A Selected List of Reading Pertaining to Energy Policy and Energy Organization

Mr. President, this committee print is an extremely useful reference document and will be very helpful to the Congress as it begins to wrestle with the issue of energy reorganization.

I ask unanimous consent that the transmittal letter from Dr. Norman Beckman, Acting Director of the Congressional Research Service, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
*Washington, D.C., August 3, 1976.*

Hon. CHARLES H. PERCY,
*Committee on Government Operations,*
*U.S. Senate, Washington, D.C.*

DEAR SENATOR PERCY: On April 26, 1976, you requested "CRS assistance in thinking through the fundamental issues relating to organizational structure and in recommending any changes to improve the effectiveness and efficiency of Federal energy action." In response to your request, the Service, among other things, contracted with the National Academy of Public Administration Foundation to hold a two-day workshop in which a number of current and past officials in the Federal Government and academic specialists in the discipline of public administration exchange views. Other CRS actions include a review of the pertinent literature and a survey of historical developments in Federal energy policy.

We transmit herewith the results of these actions. Included are the following:

1. U.S. National Energy Organization: The Policy Setting. A background paper by Frances A. Gulick, CRS.

2. Government Organization for Energy Affairs. Summary of a June 22–23, 1976, Workshop arranged for the CRS by the National Academy of Public Administration Foundation.

3. Government Organization for Energy Affairs: Statements submitted to NAPAF Workshop.

4. Selected Excerpts from the Transcript of Proceedings of the NAPAF Workshop.

5. Federal Energy Organization by Susan Abbasi, CRS. Review of organizational status at beginning of 94th Congress.

6. Bibliography: A Selected List of Readings Pertaining to Energy Policy and Energy Organization. Compiled by Adrienne C. Grenfell, CRS.

These documents trace the emergence of current U.S. energy policies, the history of Federal organization structures developed in response to the changing policies, current analyses and criticisms of both the policies and organizational structures, and, via the NAPAF workshop, contemporary attitudes toward both policy and organizational issues.

Two major points emerge, in our opinion. First is the issue of policy formulation vs. policy implementation. Clearly displayed in the attached documentation is a consensus among public administrators that, when one knows where he is going, the best organizational way to get there is via a strong, centralized organization within which are placed all the functions required for implementation. In counterpoint to this consensus is an equally strong consensus that the U.S. has not yet developed a comprehensive, agreed-upon policy to describe where it is going with respect to energy. A major unresolved issue is the relative role of augmented energy supply vs. augmented conservation and utilization efficiency. This lack of policy consensus raises basic questions about the extent of centralization (particularly between policy formulation and program implementation) which should be sought at this time.

The second major point is the issue of regulatory policy vs. energy policy. In this issue area as well as the one above, the documents clearly show a consensus. In this case, that consensus is that there is as yet no agreement on how the various regulatory functions relate to each other, what the major regulatory issues are, and how regulatory policy might relate to energy policy. This fact indicates that significant regulatory reorganizational initiatives would probably be premature at this time.

Other energy organizational issues, such as data gathering and analysis, commercialization of Federally-developed technologies, and inconsistencies among ongoing energy programs appear to be relatively insensitive to the more general policy issues already discussed.

I hope you will find this CRS exercise to be of value to you as you formulate your views on future U.S. energy organizational alternatives. Our efforts were led by Mr. David E. Gushee and Dr. Frances A. Gulick of our Environment and Natural Resources Division, who remain available to you and your staff should you wish additional information, analysis, or other support.

Sincerely yours,

NORMAN BECKMAN,
*Acting Director.*

## INTERCULTURAL PROGRAMS AN INVESTMENT IN THE FUTURE

Mr. RANDOLPH. Mr. President, included in S. 2657, the higher and vocational education bill from conference which the Senate approved yesterday, there is an amendment to the graduate facilities construction program which makes a great deal of sense to me. I joined with Senator BEALL in sponsoring the provision in title VII, section 721, which provides funds for construction of facilities for national model intercultural programs.

Among the national centers, one of these could be logically located in the Nation's Capital to provide for a Latin America and Near East-East Center. This center would address itself to the linking of substantive knowledge and language proficiency to these areas with the integration of education, research, instruction and cultural experience. The Center would contain conventional programs and also would give emphasis to unique intercultural approaches for innovation graduate-undergraduate educational and athletic components to achieve the ideal of "mens sana in corpore sano"—a keen mind in an active body.

The need for this legislation was advanced by Georgetown University. Georgetown has a long history of contact with the Near East-East and Latin America. In addition, the institution contemplates involving the area universities, including Howard University, with its emphasis and expertise on Africa, in a consortium arrangement.

Understanding of an area of the globe requires substantive knowledge of its countries, their culture, economics, history and other factors. It also requires knowledge of the language of a nation. While schools such as Georgetown's Foreign Service School and School of Language and Linguistics have provided substantial knowledge, a missing link—impeding maximum effectiveness—is the linking of substantive knowledge and language proficiency. Often students become skilled in one, but not both. I believe such students must acquire both for effective action in the world by programs that mix students, professors, and community leaders in this country with others and with their peers from other countries on a basis of equality. So the projected facilities should provide for attracting the qualified persons of these countries by cultural, educational and athletic programs.

## VETO OF THE LABOR-HEW APPROPRIATIONS BILL

Mr. BAYH. Mr. President, on January 28, 1970, President Richard Nixon issued the first of 43 vetoes. The bill vetoed was the Labor-HEW appropriations bill.

Mr. Nixon went on to veto the education appropriations bill in 1971; and the Labor-HEW appropriations bill in 1973—which he vetoed twice, so that Labor-HEW was forced to operate the entire fiscal year on a continuing resolution.

On July 25, 1975, President Gerald Ford issued the 35th veto of his tenure. He vetoed the education appropriations bill for fiscal 1976. That veto was overridden by a vote of 379 to 41 in the House of Representatives, or better than a 9 to 1 margin; in the Senate, the vote was 88 to 12, or better than a 7 to 1 margin.

Mr. Ford went on to veto the Labor-HEW appropriations bill for fiscal 1976 on December 19, 1975. It was the 42d veto of his tenure. That veto was overridden by a vote of 310 to 113 in the House, and by a vote of 70 to 24, in the Senate.

Today, Mr. President, Congress and the Nation have received news of the 59th veto of President Ford's. The veto: the fiscal 1977 Labor-HEW appropriations bill.

Mr. Ford has held the office of the Presidency for slightly more than 25 months. In that time, he has managed to average one veto for every 2 weeks in office.

This is hardly a record of constructive leadership.

The repeated resistance of the Nixon-Ford administrations to adequate funding of programs for the working man and woman, the elderly, the poor, the sick and the disadvantaged bears eloquent and sad testimony to the insensitivity of a Republican administration.

This bill appropriates $56.6 billion for more than 400 major programs. It is within the congressional budget ceiling, and exceeds the President's budget request by $4 billion.

The President's budget request for Labor-HEW was about $52.537 billion—$1 billion less than the comparable appropriations for fiscal 1976. In other words, the administration's response to an inflation rate of 6 percent was a budget increase of less than 2 percent—which means an average reduction of 4 percent in terms of real spending power.

When more than 7½ million Americans are out of work, when more than 52 million Americans are functionally illiterate, when nearly 80 million children remain unimmunized against serious diseases, a cutback of that magnitude is unacceptable.

Mr. Ford has attacked the Congress for "big spending" programs which he claims would spell higher deficits, higher taxes, and higher inflation.

Let us look at the facts: the funds appropriated in this bill represent less than a 6-percent increase compared to last year's level. With an inflation rate of better than 6 percent, it represents no increase at all in real terms. This is hardly "inflationary."

Higher deficits and higher tax rates do not result from "overspending"—they result from overspending compared to income, as every household knows. In the case of the Federal Government, income is tax revenues. When the rate of unemployment is nearly 8 percent and rising, there are obviously fewer people paying Federal income taxes. In that case, either the deficit will grow or the tax burdens on those still employed will be increased.

The President's response to unemployment and inflation is to cut Government spending. I believe that there are many instances where Government spending can indeed be reduced through greater efficiency and without jeopardizing the needs which government is meant to fulfill. One example is defense spending, where costs are not controlled and where unnecessary weapons systems are procured. We can cut defense spending without jeopardizing legitimate defense needs. Another area is bureaucratic inefficiency—where time and money is wasted through duplication and disorganization.

But the President has offered no cost-saving initiatives in the areas of defense hardware or administrative organization—quite the contrary.

Instead, he proposes savings of the most inefficient sort. For example, this bill includes $85 million for adult education. The programs covered by that appropriation are sufficient to reach 1.2 million people in need of adult education. I am certain that by any standard it is more cost-effective to educate men and women so that they can obtain jobs, rather than reducing them to dependence on unemployment compensation or welfare payments.

The President proposed a saving of $21 million in family planning services in fiscal 1977 compared to fiscal 1976. Yet every dollar invested in family planning services in 1 year results in a $2 saving during the next year in maternal costs, infant care, and public assistance.

The President proposed a saving of $137 million for the National Institutes of Health in fiscal 1977 compared to fiscal 1976. Even apart from human suffering and the loss of life which biomedical research is intended to alleviate, it is much, much cheaper to invest in research to cure or prevent disease, rather than treating people after they have become ill. To give but one example: it has been estimated that cancer costs this country some $50 billion per year in lost productivity and medical expenses. Medicare and medicaid costs alone—for hospital beds, but not laboratory tests or doctors fees—exceed $800 million for cancer. Yet the President recommended that we cut $75 million from the cancer research budget.

I hope that the American people are aware of the fact that the President's budget request is no magic number; it is an estimate, by the administration, of the funds which the administration believes should be spent on each program included in a given approriations bill. I think that the American people should be made aware of the types of programs which the present administration has sought to gut. Let me name just a few: reduction of $6 million in the migrant health program; reduction of $11 million in welfare services; reduction of $20 million for Head Start; reduction of $76 million in aging programs; reduction to zero for hemophilia treatment centers, for hypertension grants, for rape prevention, for drug abuse education, and for environmental education.

This is indeed a negative approach to human problems. Let us not forget that disease, unemployment, education are human problems—not numbers, not dollars and cents.

The Congress has produced a sound bill which is fiscally responsible and which responds to the needs of our people. I hope, and I urge, that my colleagues will vote to override the President's veto so that this bill can become law.

## FIRST HISPANIC SAVINGS AND LOAN

Mr. PERCY. Mr. President, it is with pleasure that I bring to the attention of my colleagues the first chartered Hispanic Savings and Loans institution in Illinois. A year ago a group of Hispanic citizens from the Logan Square area in Chicago organized the Americana Federal Savings and Loan Association to serve the Hispanic community. The Association has been remarkably successful. Americana will mark its first anniversary Saturday, October 2. Hopefully within 3 months it will show a profit.

During this past year, Americana has achieved a unique rapport with the community it serves. The bank has been an advocate of the need for community involvement and participation in the neighborhood's economic development. Mr. Nelson Carlo, chairman of the board of directors and one of the original organizers, believes Americana made progress in stimulating the community's awareness. He feels, however, that much work lies ahead.

I want to congratulate the association's bilingual staff, Mr. Florentino Diaz and Gustavo Botero, as well as the Board of Directors and Mr. Nelson Carlo, its chairman.

I ask unanimous consent to have printed in the RECORD a news article that appeared in the Chicago Tribune on Thursday, September 23, 1976, which focuses on the services rendered by Americana Federal Savings and Loan Association.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### FIRST HISPANIC S&L ENDS YEAR IN OPTIMISM

(By Gary Washburn)

Americana Federal Savings & Loan Association, touted as the first federal S&L in the Chicago area organized and controlled by Hispanic Americans, has ended its first year of operation with $1.5 million in deposits and 59 mortgage loans on its books.

"We're doing well," said Florentino Diaz, president and manager of the association at 2603 N. Milwaukee Av.

"Loan demand has been excellent. Savings flows have been as good as we've worked for them. I don't think savings will come in the door when you turn the key. You have to go out and get them."

Though it usually takes a new S&L a few years to make a profit, Diaz said, Americana should be in the black "very soon." He said the association plans to open branches in its third or fourth year of operation.

Before Americana's formation, Diaz asserted the financial needs of Spanish-speaking persons in the Logan Square area were not being met.

"There are characteristics or idiosyncracies of a group of people which can only be correctly interpreted and understood by people of the same type. It all comes down to being able to understand what the guy is telling you," he explained.

Diaz stopped short of saying Logan Square was redlined before the advent of Americana but said few mortgages were being issued.

"Most of the credit in the United States is based on character and capacity to repay," he said. Some residents had the capacity to meet mortgage requirements, but loan officers couldn't assess their character, largely because of the language barrier.

Americana, with a bilingual staff, has established financial counseling to show savers how to budget and handle money.

"Many Latinos are financially naive," said Nelson Carlo, the S&L's chairman who also is president of Abbott Specialty Metals Co., Inc. "They are easy to victimize."

Because Hispanic Americans don't use checks "by nature," Carlo said, Americana offers free money orders.

"There is a tremendous job for us here to educate," Diaz said. "Teaching thrift, how to use money, and explaining how it works is a big thing for us."

## CONSERVATION OF ENERGY IN EDUCATION IS AN IMPORTANT PRIORITY

Mr. RANDOLPH. Mr. President, I congratulate the members of the Senate Subcommittee on Education, the chairman (Mr. Pell) and ranking minority member (Mr. Javits), together with their staffs, for the arduous and productive effort which produced S. 2657, the omnibus higher and vocational education bill. Yesterday the Senate approved a compromise bill which was created out of long and decisive conference with members of the House. It is my hope that this bill is approved by the White House, since it assures a period of stability and certainty for the Nation's higher education and vocational education communities.

Among the small but significant provisions incorporated in the vocational education title of S. 2657 is a new program related to special energy education. Its purpose is to provide special training at the postsecondary level for coal mining technicians and those engaged in production of modes of solar energy. For a nation so heavily dependent upon energy, and dangerously reliant on imported fuel, it is essential that we train skilled personnel in the areas attendant to coal production. This is an important step toward our goal of achieving energy selfsufficiency in the years ahead.

Another aspect of the energy problem involves the concerted efforts of all citizens to conserve our resources and consumption of energy. In the field of education, the American Association of School Administrators has started a program which has far-reaching impact on the future financing of education. Across the Nation, school districts are experiencing greatly increased costs for fuel and energey. Any savings that might be effected will result in additional dollars for instruction.

I ask unanimous consent that a description of the AASA project, "Saving Schoolhouse Energy," be printed in the Record, together with letters from Monongalia County School Superintendent Lawrence G. Derthick, Jr., of Morgantown, W. Va., and C.D. Lilly, superintendent of Mercer County schools. Both school officials delineate the problems of fuel and energy costs and their resultant impact on the operation of local school districts.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Project: Saving Schoolhouse Energy

The schools of America consume 11% of the space heating/cooling energy. Over fifty percent of the schools now in use were built in the post WW II "baby boom" when first cost was far more important than energy efficient buildings. A "one shot" expenditure in these schools across the land could markedly reduce the nation's energy consumption on a continuing basis.

There are 79,000 elementary schools in the United States. The most conservative estimate available indicates at least fifty percent of them need major retrofitting. Modifications that will save 30, 40, even 60 percent of the energy now consumed will cost an estimated $150,000 per building. Thus, a potential $6 billion "new market" exists for the construction industry and for the industries that supply energy conserving materials.

Escalating energy costs are creating a heavy burden on the local school districts limited revenues. The only alternative to a one time expenditure that would reduce these energy costs are increased revenues or reduced educational programs. Current voter reluctance to increase revenues is well known. To continue on the present course, then, necessitates a reduction in educational opportunities and constitutes a waste of human resources as well as energy resources. School superintendents, well aware of the problem, rated energy as the "No. 1" federal issue in a survey in the fall of 1975.

The need is evident. The concerns are great. What is needed is hard data that will clearly demonstrate the desirability of renovating school buildings for energy conservation.

The American Association of School Administrators has launched "Project: Saving Schoolhouse Energy" to meet this need.

The project will be conducted in five phases:

1. Evaluation and selection of ten school buildings for analysis of potential energy conserving modifications.
2. Architectural and engineering design.
3. Installation and construction of modifications.
4. Monitoring of energy use after modifications and development of energy conservation data.
5. Dissemination of the information to school districts and others interested in energy conservation.

The project for the above study will be managed by the American Association of School Administrators partially supported by a $170,000 contract with the Federal Energy Administration. Additional funding will come from the school districts of the selected schools, the private sector, and foundations. Dr. Shirley Hansen of the AASA staff will serve as Project Director.

Phase 1, school buildings from each federal region will be selected from the "Public School Energy Conservation Service" (PSECS) computer program. The service provides recommendations for energy conserving practices and renovation. These ten buildings will be selected on the basis of type of structure, predictably consistent usage patterns after modifications, building size, available energy consumption data, and expected energy savings.

An investigation will ensue which shall encompass thorough consideration of the PSECS computer as it relates to the as-built drawings and the on-site inspection. It shall be thorough and comprehensive so as to reveal all feasible energy conserving opportunities available in a specific building whether or not it is identified by the computer program.

It is within the scope of the work but not limited to considerations of the desirability of replacing complete heating or cooling systems of a given building either by the respective system or by design of an alternate system as well as significant components of the heating and cooling production plant. Significant portions of subsystems of the heating, cooling, ventilating, and lighting distributions, special support systems and relevant modifications as to insulation and fenestrations of the building envelope are also within the scope of work in this project.

Independent computer runs will be conducted to validate PSECS, test any modifications or suggested alternatives.

From these analyses comprehensive recommendations for implementation of energy conserving measures will be developed which will: (a) specify changes in system or equipment modifications or operation as indicated; (b) specify structural changes—location and nature of work and/or controls required; (c) estimated cost of implementation and recurring costs, if any, will be given; and (d) estimated energy savings that are expected to accrue will be stated. Each recommendation will be made on the basis that it is feasible, shows a significant positive cost benefit, is educationally desirable and environmentally acceptable.

Detailed reports of the ten schools for the purpose of validating the PSECS program and providing prototypical design features which can be replicated and/or adapted to similarly constructed schools will be submitted to FEA. FEA will sign off at this point.

Phase 2, relying on Phase 1 data, the architectural and engineering modifications for the ten school buildings will be produced. Materials and equipment suppliers who have expressed interest in supporting this program will be expected to assist the A & E personnel in designing the most cost effective energy saving modification to the buildings.

Phase 3, the installation and construction of modification will, by necessity, be handled on a local basis by the respective school districts under the supervision of the AASA Project Director. The plans and specifications for modifications will be provided by the A & E studies of Phase 2.

Phase 4, monitoring of energy use after modifications and development of energy conservation data, will begin as soon as possible after modifications are completed. It is anticipated that results can be correlated with degree day and previous cost history. Collection of the appropriate data should begin within thirty to sixty days of post-modification operation.

Phase 5, the dissemination of the energy conservation data, will be the final stage of the project. Reports will be readied to assist in a replication program of energy conservation for school districts throughout the country.

As a result of the demonstrations and the data collected, the American Association of School Administrators will disseminate the findings to their respective association members and to other professional and educational associations. On site press briefings are planned. Various material and equipment suppliers and others will also develop their own programs to reach this new market.

To carry out this project involving ten representative schools, the total estimated budget is $1,988,000. The first phase is being funded by the Federal Energy Administration contract for $170,000. For Phases 2 and 3 estimated at $1.6 million, the respective school districts of the selected schools will contribute 10–15% of these costs. It is anticipated that the remainder of Phases 2 and 3 as well as Phases 4 and 5 will be supported by the private sector and foundations.

It should be emphasized that these budget figures are tentative and subject to further refinement as the schools are selected and their specific needs are identified.

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Monongalia County Schools,
Morgantown, W. Va.,
*September 10, 1976.*

Hon. Jennings Randolph,
*The U.S. Senate,*
*Washington, D.C.*

Dear Senator Randolph: I recently read your remarks from the August 27, 1976 Congressional Record, concerning Energy Conservation in Educational Buildings. I certainly want to commend you for your interest in this subject. All school districts across the nation are experiencing greatly increased costs for fuel and energy. Any savings that might be effected will result in additional dollars for instruction.

I am a member of the American Association of School Administrators (AASA). This organization is involved in a nationwide project for saving schoolhouse energy. I am enclosing with this letter a description of this project. I am certain that members of the AASA staff would be happy to discuss the matter with members of your staff on this subject of great concern to us all.

You will be pleased to know that Monongalia County is opening bids on a new Vocational Center and a new elementary school on October 5. Citizens of this county will be voting on a school bond referendum on September 28, which, if passed, will make possible even greater improvements.

Sincerely yours,

LAWRENCE G. DERTHICK, Jr.,
*Superintendent.*

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MERCER COUNTY SCHOOLS,
PRINCETON, W. VA.,
*September 9, 1976.*

Hon. JENNINGS RANDOLPH,
*Member, House of Representatives, House Office Building, Washington, D.C.*

DEAR MR. RANDOLPH: I would like to commend you on your stand in the U.S. Senate on the 27th of August for the conservation of energy and the utilization of West Virginia coal. As Superintendent of Mercer County Schools, I can assure you that the energy crisis is of great importance to the school system as the following figures will indicate. In 1974–75 we used the following amounts of energy in Mercer County.

Fuel oil, 204,400 gallons.
Natural gas, 65,507 MCF.
Coal, 1,600 tons.
Electricity, 5,000,000 KWH.
Gasoline, 250,000 gallons.

I am also president of the West Virginia Association of Superintendents and as I talk with administrators from other counties I understand that they are having the same problems in that the crisis has caused such an escalation in prices that it is becoming more difficult to stay within our budgets.

I would like to also bring to your attention the fact that the American Association of School Administrators is currently conducting a nationwide project called "Saving Schoolhouse Energy".

As you can see school people on the county, state, and national level encourage you to continue your efforts in energy saving and to offer our assistance to this great cause.

Sincerely,

C. D. LILLY,
*Superintendent, Mercer County Schools.*

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## MOST-FAVORED-NATION STATUS FOR ROMANIA

Mr. WILLIAMS. Mr. President, we are again considering the complex issue of human rights and the President's recommendation of June 4, 1976, that most-favored-nation status for Romania be continued for another year under the waiver provision of the Trade Reform Act of 1974. I believe we should accept the President's recommendation and see whether there will be improvements in the treatment accorded to the minority groups in Romania.

The Jackson-Vanik amendment contained in section 402 and 409 of the Trade Reform Act of 1974 was adopted in order, "to insure the dedication of the United States to human rights," and it emphasized emigration for particular attention as evidence of a nonmarket economy country's willingness to accept fundamental standards of human rights.

Romania's record since the extension of the MFN status certainly leaves much to be desired. Exit visas to family members of U.S. citizens seem to be approved whenever Congress begins to discuss Romania's trade status. Otherwise we have not seen any improvement in the numbers being processed. Jewish emigration has remained on the same level as it was immediately before MFN status was granted, and it has actually decreased if compared with the 1971 through 1973 annual figures as a base period.

In addition, the abridgments of the human and cultural rights of the 2.5 million Hungarian and about one-half million German minorities in Transylvania continued for the past year particularly in the fields of education, religion and languages. All of these areas are supposed to be guaranteed by the Romanian Constitution and under various international agreements, including the Paris Peace Treaty, the International Covenant on Civil and Political Rights, and the Final Act of the Conference on European Security and Cooperation at Helsinki.

I have heard that recently measures have been taken by the Romanian Government to improve this situation, but it is too early to corroborate these reports. I sincerely hope that the Romanian Government will take appropriate action in the areas of emigration, nationality school sections, bilingualism, dispersions of nationality professionals into purely Romanian areas and religious freedom. Progress in these areas will enable us to support MFN next year without the serious reservations which are being expressed now.

The Government of the Socialist Republic of Romania should be on notice that our decision to retain MFN status for Romania does not mean that we have acquiesced in its policies on emigration and national minorities. In fact, we must make it explicit that Congress wants to see concrete and measurable progress on these humanitarian issues. Otherwise, I do not believe most-favored-nation treatment will be continued in 1977.

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## S. 2910, THE ARTHRITIS, DIABETES, AND DIGESTIVE DISEASE AMENDMENTS OF 1976

Mr. SCHWEIKER. Mr. President, the Committee on Labor and Public Welfare this morning met and considered S. 2910, the Arthritis, Diabetes, and Digestive Disease Amendments of 1976. The bill was ordered favorably reported as amended by the committee by a vote of 11 to 1. I would like to take this opportunity to inform my colleagues as to the background of and the need for this legislation and to describe the committee's bill since Senators should have an opportunity to review this information as soon as possible.

I originally introduced S. 2910 on February 2, 1976. S. 2910 as ordered favorably reported consists of three titles:

Title I extends the authorizations for the programs for arthritis demonstration projects, the arthritis data system, and multipurpose arthritis centers, and places new emphasis on public education and continuing education programs for physicians and other health care personnel.

In addition, it broadens the scope of data that may be collected, stored, analyzed, retrieved, and disseminated by the arthritis data system, and emphasizes the importance of increasing research training programs for scientists and health professionals in arthritis related research.

The bill as ordered reported establishes a 24-member National Arthritis Advisory Board, composed of scientists, health and other related professionals, members of the general public, and heads of various designated Federal agencies, to advise and make recommendations to the Secretary and other appropriate Federal agencies with respect to Federal arthritis programs; and submit an annual report to the President and the Congress describing its activities and findings and recommendations for changes in Federal arthritis programs as well as any additional measures and legislative proposals it finds necessary for the successful implementation of the arthritis plan, and the most effective utilization and organization of national arthritis resources.

Title II extends authorizations for diabetes research and training centers and establishes a 23-member National Diabetes Advisory Board, composed of health professionals and scientists in the diabetes field, members of the general public, and designated officials of Federal agencies involved in diabetes-related activities. The National Diabetes Board's primary function is to review, evaluate, and advise the Federal Government with regard to the implementation of the long-range plan to combat diabetes developed by the National Commission on Diabetes. The committee bill makes it clear that the National Diabetes Board is strictly advisory. Its authority to act is related solely to its function of advice with regard to the implementation of the Commission's long-range plan and with regard to the coordination of all national diabetes resources. It is not an operational agency. The advisory function is important, however, for the Board will represent the major interests in the diabetes field: The Federal agencies, consumers, professionals, and voluntary agencies. In order to provide a more effective link with the National Institute for Arthritis, Metabolism, and Digestive Diseases—the Institute which has the primary role as measured by research dollars for diabetes—the bill includes as a member of the Board the Associate Director for Diabetes of the National Institute of Arthritis, Metabolism, and Digestive Diseases. This provision is intended to insure that there is a close working relationship between the Advisory Board and the top ranking NIH official whose responsibility is solely for diabetes. The intention of the committee's bill is that the Board be supportive of this leadership role rather than duplicating it.

In particular, it is not intended that authorities in sections 9(A) and (B) of title II, or the Secretary's authority to contract on behalf of the Board, replace the basic responsibilities of the Associate Director for Diabetes. The Associate Director for Diabetes is the individual with the essential responsibility for diabetes program activity, such as data collection, workshops, conferences, and related information. The data collection, workshop, and other related responsibilities of the Board are intended only to allow the Board to perform its function of assessing the implementation of the long-range plan and in submitting its annual report.

Similarly, the National Arthritis Advisory Board established under title I of the committee's amended bill is intended to be purely advisory and is not designed to be an operational agency.

In addition, I would like to clarify the committee's intent with regard to voting on the Arthritis and Diabetes Advisory Boards. The bill states that designees of ex-officio members of the Boards representing Federal agencies will be nonvoting members. However, it is not the intention of the bill to require the physical presence of ex-officio members. Consistent with the intent of S. 2910, if an ex-officio member of the Diabetes or Arthritis Advisory Board—other than a designee—wishes to cast a vote on a specific issue before the Board, he or she may do so by a specific written proxy on that issue.

Title III of the committee bill establishes a National Commission on Digestive Diseases and a Coordinating Committee for Digestive Diseases. The Commission will be charged with preparing a report on the organization of all resources for digestive diseases and outlining a long-range plan for utilizing national resources to deal effectively with digestive diseases. The coordinating committee, similar to those already in existence for diabetes and arthritis, would be composed of the heads of the major Federal agencies and entities involved in digestive disease programs. The committee would be charged with the coordination of the digestive disease-related activities of the Federal agencies represented on the committee.

Hearings on the issues dealt with in S. 2910 as amended and ordered reported by the Senate Committee on Labor and Public Welfare were held earlier this year before the Senate Health Subcommittee, and, on the House side, before the House of Representatives Subcommittee on Health and the Environment. In addition to the administration, which expressed some opposition to the legislation while supporting the objectives of the Board which would be established by S. 2910, other witnesses at the Senate hearings included Congressman Carter, the House sponsor of a similar bill, and representatives of the American Diabetes Association and the Juvenile Diabetes Association. Also testifying was Dr. Oscar Crofford, Chairman of the National Commission on Diabetes.

In its testimony, the administration indicated the extensive efforts begun in the National Institute of Arthritis, Metabolism, and Digestive Diseases, the National Heart and Lung Institute, and the National Eye Institute regarding diabetes research. The administration indicated in its testimony that the diabetes research and prevention effort required a high level of program coordination. In fact, the administration testified that in its forward plan for health, the Director of NIH singled out diabetes in particular as an example of an activity requiring high level formal program coordination. Yet, the administration opposed S. 2910 because it did not "share the view that establishment of a quasi-operational board is a necessary or desirable means of assuring better coordination." In particular, the administration based its objections on the fact that other disease areas might make similar claims for the creation of advisory bodies to deal with cross-cutting research and prevention activities. The administration also mentioned the problem of the conflict that might exist between the efforts of the National Advisory Board and the Advisory Councils charged with the responsibility for recommending grant awards and advising on program policy as well as the possible conflict with the Federal Advisory Committee Act, the intent of which was to keep the number of advisory committees to a minimum. The administration also argued that the provisions in S. 2910 requiring membership on the Board of Federal officials would create a conflict of interest since the programs of those Federal officials would be the programs being evaluated. Finally, the administration argued that S. 2910 would vest in the National Advisory Board certain authorities not ordinarily assigned to advisory boards.

All other witnesses spoke of the necessity for this legislation. They emphasized that the role of the Advisory Board was simply to advise the President, the Secretary of HEW, and the Congress with regard to the efforts of HEW to implement the recommendations of the National Commission on Diabetes and to carry out the program. These witnesses indicated the need, as aptly demonstrated by the report of the National Commission on Diabetes, for improved public accountability with regard to the efforts of the many institutes and agencies within HEW focusing on diabetes activity. Dr. George Cahill testified on behalf of the American Diabetes Association as its president and indicated in his statement that—

> Research in major diseases done by many institutes creates not only the problems of failure to coordinate research but also the far more serious problems of (1) neglect in time of scarce resources and (2) lack of accountability. Neglect because it is basic bureaucratic instinct to let someone else spend his institute's money on diabetes and lack of accountability because the diabetes effort is varied in at least 7 or 8 institutes rather than being highly visible in one. This problem is not unique to us but common to management systems generally.

Dr. Cahill emphasized that S. 2910 proposes a mechanism to assist HEW in surmounting this management problem through the creation of an advisory board which will strengthen the present NIH system as opposed to efforts in other areas through the creation of separate institutes which endanger the basic NIH system. Mrs. Caroline Lurie, president of the Juvenile Diabetes Foundation, testified to the importance that a report to the Congress by the National Advisory Board can have in bringing to the public knowledge about efforts in the diabetes area. Mrs. Lurie also testified to the fact that the National Advisory Board would be limited in time and would not become a permanent part of the bureaucracy as the administration seemed to fear. Dr. Oscar Crofford, Chairman of the National Commission on Diabetes, provided in his testimony answers to a number of questions raised by HEW. He stressed that there was no existing mechanism which he or the Commission believed was equipped to evaluate progress and advise the Congress and the President with regard to the implementation of the plan proposed by the National Commission on Diabetes. Dr. Crofford's testimony also rebutted the proposition of the administration that the Diabetes Mellitus Coordinating Committee was an appropriate vehicle for reviewing and making recommendations with regard to the implementation of the plan. He stressed the fact that the National Advisory Board, unlike the Coordinating Committee, would report on the activities of voluntary health agencies and State and local health agencies as well as pharmaceutical companies and organizations and associations of health professionals.

With regard to the proposition that the National Advisory Board was intended to be operational, Dr. Crofford indicated that—

> The Board is strictly advisory.

He stressed that in order to be effective in its advisory role, the Board must have the ability to review and evaluate current efforts and base its advice on solid facts. To quote Dr. Crofford:

> This requires the Board to hold meetings, to establish its own working subcommittees and to have some degree of staff assistance. Let me emphasize, however, that these provisions are for the sole purpose of permitting the Board to serve in a meaningful advisory capacity. It operates nothing except its own affairs.

Two days of hearings were conducted before the House Subcommittee on Health and the Environment on a number of identical or similar bills which included provisions similar to those of S. 2910 as ordered reported by the Committee on Labor and Public Welfare. Among the witnesses testifying before the House subcommittee were administration witnesses; Congressman Steiger; experts in the fields of arthritis, diabetes, and digestive diseases; and representatives of private voluntary organizations consisting of consumers and members of the diabetes, arthritis, and digestive diseases communities.

The House subcommittee reintroduced a clean bill, containing similar provisions to S. 2910, and approved it by voice vote on September 20, 1976. Further information on the testimony presented in House hearings on the issues dealt with in S. 2910 is included in the background material submitted at the end of my remarks.

I believe objections and concerns raised in hearings on this legislation have been dealt with in an effective manner, and I commend the committee's bill to my Senate colleagues and urge its rapid passage.

Mr. President, I ask unanimous consent that there be printed in the RECORD a copy of S. 2910 as amended by the Committee on Labor and Public Welfare and ordered favorably reported, a summary of the bill, and background information on past efforts in the fields of arthritis, diabetes, and digestive diseases and the need for new legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 2910

A bill to amend the Public Health Service Act to revise and extend provisions respecting arthritis, diabetes, and digestive diseases

*Be it enacted by the Senate and House of representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Arthritis, Diabetes, and Digestive Disease Amendments of 1976".

### TITLE I—ARTHRITIS AND RELATED MUSCULOSKELETAL DISEASES

SEC. 101. Section 438 of the Public Health Service Act is amended as follows:

(1) Such section is amended (A) by striking out "prevention," in subsection (a), and (B) by striking out "data bank" and inserting in lieu thereof "data system".

(2) Subsection (b) of such section amended (A) by striking out "and" at the end of paragraph (3), (B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and" and (C) by adding after paragraph (4) the following new paragraph:

"(5) emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

"(A) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis.".

(3) Subsection (c)(1) of such section is amended (A) by striking out "Screening and Detection Data Bank" and inserting in lieu thereof "Data System", and (B) by striking out "useful in screening, prevention, and early detection involving" and inserting in lieu thereof "derived from".

(4) Effective October 1, 1977, subsection (d) of such section is amended to read as follows:

"(d)(1) There are authorized to be appropriated to carry out subsections (a) and (b) $3,000,000 for the fiscal year ending September 30, 1978, $4,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980.

"(2) There are authorized to be appropriated to carry out subsection (c) $1,000,000 for the fiscal year ending September 30, 1978, $1,250,000 for the fiscal year ending September 30, 1979, and $1,500,000 for the fiscal year ending September 30, 1980.".

(5) The section heading is amended to read as follows:

"ARTHRITIS DEMONSTRATION PROJECTS AND DATA SYSTEM".

SEC. 102. Section 439 of such Act is amended as follows:

(1) Subsection (b)(2)(B) of such action is amended by inserting "and in research in arthritis" immediately before the semicolon.

(2) Subsection (f) of such section is amended to read as follows:

"(f) Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases.".

(3) Effective October 1, 1977, the first sentence of subsection (g) of such section is amended by inserting "the" before "fiscal year" each place it appears, by striking out "and" before "$20,000,000", and by inserting before the period "$18,700,000 for the fiscal year ending September 30, 1978, $19,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980".

(4) The section heading is amended by striking out "COMPREHENSIVE" and inserting in lieu thereof "MULTIPURPOSE".

SEC. 103. Part D of title IV of such Act is amended by inserting after section 439 the following new section:

"NATIONAL ARTHRITIS ADVISORY BOARD

"SEC. 440. (a) The Secretary shall establish, within ninety days after the date of enactment of this section, a National Arthritis Advisory Board (hereinafter in this section referred to as the 'Board'). The Board shall consist of twenty-four members as follows:

"(1) Eight members shall be appointed by the Secretary from individuals who are scientists, physicians, or other health professionals, who are not employed by the Federal Government, and who represent the various specialties and disciplines involved in arthritis. Of the members appointed pursuant to this paragraph, three shall be clinical rheumatologists, two shall be orthopedic surgeons, two shall be rheumatology investigators, and one shall be an allied health professional.

"(2) Six members shall be appointed by the Secretary from individuals, who are not employed by the Federal Government, with an interest in arthritis and who as a group have knowledge and experience in the fields of medical education, nursing, community program development, health education, data systems, and public information.

"(3) One member shall be appointed by the Secretary from individuals who are members of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and who are expert in the field of arthritis.

"(4) Four members shall be appointed by the Secretary from the general public. At least two of such members shall be persons who have arthritis and one shall be the parent of a child who has arthritis.

"(5) The Assistant Secretary of Health or his designee, the Director of the National Institutes of Health or his designee, the Associate Director for Arthritis of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee, the Chief Medical Director of the Veterans' Administration or his designee, and the Secretary of Defense or his designee shall each be ex officio members.

The designees of ex officio members of the Board shall serve as nonvoting members The members of the board shall select the Chairperson of the Board from the appointed members of the Board.

"(b) The appointed members of the Board shall be appointed for terms of three years, except that (1) of the members first appointed to the Board nine members, as designated by the Secretary at the time of appointment, shall be appointed for terms of two years, and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) The Secretary shall provide the Board an executive director and assistant director and shall provide the Board with such administrative support services and facilities, additional professional and clerical staff, and such information and the services of such consultants as the Secretary determines is necessary for the Board to carry out its functions. The Secretary shall consult with, and consider the recommendations of, the Board with respect to staff for the Board.

"(d) The Secretary shall consult with, and consider the recommendations of, the Board before entering into contracts or other arrangements for the Board.

"(e) Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(f) The Board shall review, evaluate, and advise with regard to the implementation of the Arthritis Plan formulated by the National Commission on Arthritis under section 3(g) of the National Arthritis Act of 1974. In carrying out this function, the Board shall advise and make recommendations to the Secretary and the heads of other appropriate Federal agencies with respect to the guidelines, policies, and procedures of Federal programs relating to arthritis and to any additional measures and legislative proposals that it finds necessary for (1) the successful implementation of the Arthritis Plan, and (2) the most effective utilization and organization of national arthritis resources.

"(g)(1) The Board may collect such data and conduct or sponsor such conferences, workshops, and related activities as it deems advisable and necessary to enable it to perform the functions required by subsection (f).

"(2) The Board may, from time to time, establish working committees. Such working committees may be composed of Board members and nonmember consultants with expertise in the particular area addressed by such committees.

"(3) The Board may make such recommendations to the Secretary with respect to subsections (c) and (d) as it deems advisable and necessary to perform its functions.

"(h) The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its working committees may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.

"(i) Two months prior to the transmission of the President's budget to Congress, the Board shall submit simultaneously to both the President and to Congress an annual arthritis report as follows:

"(1) Such report shall (A) describe the Board activities for the prior year, (B) describe and evaluate progress made during such year in arthritis research, treatment, education, and training with reference to the Arthritis Plan, and (C) describe the Board's proposed activities for the next year.

"(2) Such report shall also include an analysis of current expenditures for arthritis related activities of the Federal Government.

"(3) Such report should also discuss recommended changes in the Arthritis Plan necessitated by developments in the field. The annual arthritis report shall be made available to the public at the time it is transmitted to Congress and the President.

"(j) There are authorized to be appropriated to carry out the purposes of this section $500,000 for the fiscal year ending September 30, 1978, $500,000 for the fiscal year ending September 30, 1979, and $500,000 for the fiscal year ending September 30, 1980.

"(k) Section 14 of the Federal Advisory Committee Act shall not apply to the duration of the Board.".

## TITLE II—DIABETES

### THE NATIONAL DIABETES ADVISORY BOARD

SEC. 201. Section 436 of the Public Health Service Act is amended (1) by inserting "(a)" after "SEC. 436.", (2) by inserting at the end of the section heading "AND NATIONAL DIABETES ADVISORY BOARD", and (3) by adding at the end of the section the following:

"(b) (1) Within ninety days after the date of enactment of this subsection, the Secretary shall establish a National Diabetes Advisory Board (hereinafter in this section referred to as the 'Board').

"(2) The Board shall be composed of twenty-three members as follows:

"(A) The following ex officio members: The Assistant Secretary for Health or his designee, the Director of the National Institutes of Health or his designee, the Director of the National Institute of Arthritis, Metabolism and Digestive Disease or his designee, the Director of the National Heart, Lung, and Blood Institute or his designee, the Director of the National Eye Institute or his designee, the Director of the Center for Disease Control or his designee, the Administrator of the Health Services Administration or his designee, the Administrator of the Health Resources Administration or his designee, the Associate Director for Diabetes of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee, the Chief Medical Director of the Veterans' Administration or his designee, and the Secretary of Defense or his designee.

"(B) Seven members shall be appointed by the Secretary from individuals who are not in the employ of the Federal Government and who are health and allied health professionals or scientists representing the various specialties and disciplines involved with diabetes mellitus and related endocrine and metabolic diseases.

"(C) Five members shall be appointed by the Secretary from the general public, including at least one person with diabetes and two parents each of whom is a parent of a diabetic child.

"(3) The designees of ex officio members of the Board shall serve as nonvoting members. The members of the Board shall select a Chairperson from among the appointed members.

"(4) The Secrtary shall provide the Board an executive director and assistant director and shall provide the Board with such administrative support services and facilities, additional professional and clerical staff, and such information and the services of such consultants as the Secretary determines is necessary for the Board to carry out its functions. The Secretary shall consult with, and consider the recommendations of, the Board with respect to staff for the Board.

"(5) The Secretary shall consult with, and consider the recommendations of, the Board before entering into contracts or other arrangements for the Board.

"(6) Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 573(b) of title 5 of the United States Code.

"(7) The appointed members of the Board shall be appointed for terms of three years, except that (A) of the members first appointed to the Board, six members shall, as designated by the Secretary at the time of appointment, be appointed for terms of two years, and (B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(8) The Board shall review, evaluate, and advise with regard to the implementation of the long-range plan to combat diabetes mellitus formulated by the National Commission on Diabetes under section 3(e) of the National Diabetes Mellitus Research and Education Act. In carrying out this function the Board shall recommend those additional measures and legislative proposals that it finds necessary for (A) the successful implementation of the long-range plan to combat diabetes mellitus and (B) the most effective utilization and organization of national diabetes resources.

"(9) (A) The Board may collect such data and conduct or sponsor such conferences, workshops, and related activities as it deems advisable and necessary to enable it to perform the functions required by paragraph (8).

"(B) The Board may, from time to time, establish working committees. Such working committees may be composed of Board members and nonmember consultants with expertise in the particular area addressed by such committees.

"(C) The Board may make such recommendations to the Secretary with respect to paragraphs (4) and (5) as it deems advisable and necessary to perform its functions.

"(10) The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its working committee may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.

"(11) Two months prior to the transmission of the President's budget to Congress, the Board shall submit simultaneously to both the President and to Congress an annual diabetes report as follows:

"(A) Such report shall (i) describe the Board activities for the prior year, (ii) describe and evaluate progress made during each year in diabetes research, treatment, and education with reference to the long-range plan to combat diabetes mellitus, and (iii) describe the Board's proposed activities for the next year.

"(B) Such report shall also include an analysis of current expenditures for diabetes-related activities of the Federal Government.

"(C) Such report should also discuss recommended changes in the long-range plan to combat diabetes mellitus necessitated by developments in the field.

The annual diabetes report shall be made available to the public at the same time it is transmitted to Congress and the President.

"(12) There are authorized to be appropriated to carry out the purposes of this section $500,000 for the fiscal year ending September 30, 1978, $500,000 for the fiscal year ending September 30, 1979, and $500,000 for the fiscal year ending September 30, 1980.

"(13) Section 14 of the Federal Advisory Committee Act shall not apply to the duration of the Board.".

### DIABETES RESEARCH AND TRAINING CENTERS

SEC. 202. Effective October 1, 1977, section 435(c) of the Public Health Service Act is amended to read as follows:

"(c) There are authorized to be appropriated to carry out the section $12,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980.".

## TITLE III—DIGESTIVE DISEASES

### NATIONAL COMMISSION ON DIGESTIVE DISEASES

SEC. 301. (a) The Secretary of Health, Education, and Welfare (hereafter in this section referred to as the "Secretary") after consulting with the Director of the National Institutes of Health, shall, within sixty days of the date of enactment of this section, establish a National Commission on Digestive Diseases (hereafter in this section referred to as the "Commission").

(b) The Commission shall be composed of twenty-six members as follows:

(1) Ten members, appointed by the Secretary from scientists, physicians, and other health professionals, not in the employment of the Federal Government, as follows: Two shall be practicing clinical gastroenterologists, two shall be gastroenterologists involved primarily in research on digestive diseases, one shall be a surgeon, one shall be an expert in liver disease, one shall be an epidemiologist, one shall be an allied health professional, and two shall be basic biomedical scientists (such as biochemists, physiologists, microbiologists, nutritionists, pharmacologists, or immunologists).

(2) Six members, appointed by the Secretary from the general public, of whom at least three shall have personal or close family experience with digestive diseases.

(3) One member, appointed by the Secretary from the members of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council whose primary interest is in the field of digestive diseases.

(4) The Director of the National Institutes of Health or his designee; the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee; the Directors, or their designees, of the National Institute of Allergy and Infectious Diseases, the National Cancer Institute, the National Institute of General Medical Sciences; the Associate Director for Digestive Diseases and Nutrition of the National Institute of Arthritis, Metabolism, and Digestive Diseases; the Director of the Center for Disease Control or his designee; the Chief Medical Director of the Veterans' Administration or his designee; and the Secretary of Defense or his designee shall each be ex officio members of the Commission.

(c) The members of the Commission shall select a Chairperson from among the appointed members of the Commission.

(d) The Commission shall first meet as directed by the Secretary, not later than sixty days after the Commission is established, and thereafter shall meet at the call of the Chairperson of the Commission, but not less often than three times during the life of the Commission. The Commission may hold such hearings, take such testimony, and sit and act at such time and places as the Commission deems advisable.

(e) (1) The Commission may appoint and fix the pay of an executive secretary to effectively carry out its functions. The executive secretary shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary shall provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Secretary determines to be necessary for the Commission to carry out effectively its functions.

(f) Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission who are not officers or employees of the Federal Government shall receive compensation at a rate not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Commission. All members, while serving away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(g) (1) The Commission shall—

(A) conduct a comprehensive study of the present state of knowledge of the incidence, duration, and morbidity of, and mortality rates resulting from, digestive diseases and of the social and economic impact of such diseases;

(B) evaluate the public and private facilities and resources (including trained personnel and research activities) for the diagnosis, prevention, and treatment of, and research in, such diseases; and

(C) identify programs (including biological, behavioral, nutritional, environmental, and social programs) in which, and the means by which, improvement in the management of digestive diseases can be accomplished.

Each Federal entity administering health programs and activities related to digestive diseases shall, upon request, assist the Commission in carrying out its duties under this paragraph.

(2) Based on the study, evaluation, and identification made pursuant to paragraph (1), the Commission shall develop and recommend a longe-range plan for the use and organization of national resources to effectively deal with digestive diseases. The plan shall provide for—

(A) research studies into the basic biological processes and mechanisms related to digestive diseases;

(B) investigations into the epidemiology, etiology, diagnosis, treatment, prevention, and control of digestive diseases;

(C) development of preventive measures (including education programs, programs for the elimination of environmental hazards related to digestive diseases, and clinical programs) to be taken against digestive diseases;

(D) detection of digestive diseases in the presymptomatic stages and development and evaluation of new and improved methods of screening for digestive diseases;

(E) development of criteria for the diagnosis and the clinical management and control of digestive diseases;

(F) development of coordinated health care systems for dealing with digestive diseases;

(G) education and training (including continuing education programs) of scientists, clinicians, educators, and allied health professionals in the fields and specialties requisite to the conduct of programs related to digestive diseases with special emphasis on training for careers in research, teaching, and all aspects of patient care;

(H) the conduct and direction of field studies and clinical trials for testing, evaluating, and demonstrating preventive, diagnostic, therapeutic, rehabilitative, and control measures in digestive diseases;

(I) establishment of a standardized nomenclature of all digestive diseases for use in basic and clinical research and to facilitate collaborative studies; and

(J) establishment of a system of periodic surveillance of the research potential and research needs in digestive diseases corresponding with the recently completed survey organized by the National Institute of Arthritis, Metabolism, and Digestive Diseases.

The long-range plan formulated under this paragraph shall also include within its scope related nutritional disorders and basic biological processes and mechanisms in nutrition which are related to digestive diseases.

(h) The Commission shall recommend for each of the Institutes of the National Institutes of Health whose activities are to be affected by the long-range plan estimates of the expenditures needed to carry out each Institute's part of the overall program. Such estimates shall be prepared for the fiscal year beginning immediately after completion of the Commission's plan and for each of the next two fiscal years.

(i) (1) Within eighteen months following its initial meeting (as prescribed by subsection (d)), the Commission shall publish and transmit directly to the Congress a final report respecting its activities under this section. The report shall contain (A) the long-range plan required by subsection (g), (B) the expenditure estimates required by subsection (h), and (C) any recommendations of the Commission for legislation.

(2) The Commission shall cease to exist on the thirtieth day following the date of submission of the final report to Congress.

(j) There are authorized to be appropriated without fiscal year limitation $1,500,000 to carry out the purposes of this section.

### COORDINATING COMMITTEE FOR DIGESTIVE DISEASES

SEC. 302. Part D of title IV of the Public Health Service Act is amended by adding after section 440 (as added by section 103 of this Act) the following new section:

### "COORDINATING COMMITTEE FOR DIGESTIVE DISEASES

"SEC. 440A. (a) The Secretary shall establish a Coordinating Committee for Digestive Diseases (hereafter in this section referred to as the 'Committee') to be composed of the Directors (or their designated representatives) of each of the Institutes of the National Institutes of Health involved in digestive disease research; and the head (or his designated representative) of the Alcohol, Drug Abuse and Mental Health Administration, the National Institute of Occupational Safety and Health, the Food and Drug Administration, the Department of Medicine and Surgery of the Veterans' Administration, the Center for Disease Control, the Department of Defense, the Department of Agriculture, the Health Services Administration, the Health Resources Administration, the Social Security Administration, and the Institute of Medicine of the National Academy of Sciences. The Committee shall be chaired by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases and the Associate Director for Digestive Diseases and Nutrition of that Institute shall serve as vice chairman. The Committee shall meet at the call of the Chairman, but not less often than three times a year.

"(b) The Committee shall be responsible for the coordination of the activities of the entities represented on the Committee respecting digestive diseases. The Committee shall submit to the Secretary an annual report detailing the manner in which the Committee has coordinated such activities.".

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### SUMMARY OF LEGISLATION

S. 2910, as ordered reported, provides a revision and extension of existing programs relating to arthritis, diabetes, and digestive diseases. The legislation makes the following major substantive modifications in the existing law governing these programs:

### ARTHRITIS

(1) Extends, for three fiscal years through fiscal 1980, the authorizations for the programs for arthritis demonstration projects, the arthritis data system, and multipurpose arthritis centers.

(2) Requires arthritis demonstration projects to include programs which emphasize the development and demonstration of new and improved methods of public education with respect to arthritis.

(3) Broadens the scope of data that may be collected, stored, analyzed, retrieved and disseminated by the arthritis data system.

(4) Requires arthritis centers to conduct training programs for scientists and health professionals in arthritis research.

(5) Requires the Secretary of HEW to establish a 24-member National Arthritis Advisory Board, composed of scientists, health and other related professionals, members of the general public, and heads of various designated Federal agencies, to—

(A) advise and make recommendations to the Secretary and other appropriate Federal agencies with respect to Federal arthritis programs; and

(B) submit an annual report to the President and the Congress describing its activities and findings and recommendations for changes in Federal arthritis porgrams.

### DIABETES

(1) Extends, for three fiscal years through fiscal 1980, the authorizations for diabetes research and training centers.

(2) Requires the Secretary of HEW to establish a 23-member National Diabetes Advisory Board, composed of scientists and health professionals, members of the general public, and heads of various designated Federal agencies, to—

(A) advise and make recommendations with respect to the successful implementation of Federal diabetes programs and the most effective utilization and organization of national diabetes resources, and

(B) submit an annual report to the President and the Congress describing its activities, findings, and recommendations for changes in Federal diabetes programs.

### DIGESTIVE DISEASES

(1) Requires the Secretary to establish a 26-member National Commission on Digestive Diseases, composed of scientists, health professionals, members of the general public, and heads of various designated Federal agencies and entities.

(2) Requires the National Commission on Digestive diseases to—

(A) identify, study and evaluate the national resources and problems associated with digestive diseases;

(B) develop and recommend a long-range plan for the use and organization of national resources to deal with digestive diseases: and

(C) publish and transmit to the Congress a final report containing its long-range plan, recommendations for expenditures by the National Institutes of Health for digestive disease activities, and recommendations for future legislation.

(3) Requires the Secretary of HEW to establish a Coordinating Committee for Digestive Diseases, composed of the heads of appropriate Federal agencies and entities, to be responsible for the coordinating of all Federal activities respecting digestive diseases and to submit an annual report to the Secretary detailing its activities.

## BACKGROUND

### ARTHRITIS

On January 4, 1975, the Arthritis Act of 1974 was enacted (P.L. 93–640). This law authorized programs of support for the development, modernization, and operation of centers for arthritis research, screening, detection, diagnosis, prevention, control, treatment, education and rehabilitation relating to arthritis. For support of arthritis centers, this law authorized to be appropriated $11 million for FY 1975, $13 million for FY 1976, and $15 million for FY 1977. Subsequently, Title VI of P.L. 94–278 revised the authorization levels for FY 1976 and FY 1977 to read $15 million and $20 million, respectively. P.L. 94–278 also made a number of purely technical and clarifying amendments to the Arthritis Act.

The Arthritis Act of 1974 also authorized the establishment and support of demonstration projects for the development and demonstration of methods for arthritis screening detection, prevention, and referral and for the dissemination of these methods to the health and allied health professions. It directed the Secretary to establish the Arthritis Screening and Detection Data Bank for the collection, storage, analysis, retrieval and dissemination of certain data related to arthritis. For both of these purposes this law authorized to be appropriated $2 million for FY 1975, $3 million for FY 1976, and $4 million for FY 1977.

In addition, the Arthritis Act directed the establishment of an Arthritis Coordinating Committee, composed of the representatives of the various Federal departments and agencies involved in research, health services, or rehabilitation programs affecting arthritis. That Act directed the Committee to meet at least four times a year and to prepare an annual report detailing its work in seeking to improve coordination of departmental and interdepartmental activities relating to arthritis during the preceding year.

The Arthritis Act of 1974 established the position of Associate Director of Arthritis and Related Musculoskeletal Diseases in the National Institute of Arthritis, Metabolism and Digestive Diseases, and created the National Commission on Arthritis and Related Musculoskeletal Diseases to develop a long-range plan to combat arthritis and make its final report to Congress and the Secretary this year. Under section 16 of S. 2548, the Senate-passed Emergency Medical Services (EMS) legislation, this Commission would cease to exist on December 31, 1976, if the provision is accepted by the House. For further reference see: sections 434, 437, 438, and 439 of the Public Health Service Act (42 U.S.C. 289c–1(b) and (e), 289c–4, 289c–5, and 289c–6); P.L. 93–640; and P.L. 94–278.

### DIABETES

On July 23, 1974, the National Diabetes Mellitus Research and Education Act was enacted (P.L. 93–354). This law authorized programs of support for the development and expansion of centers for research and training in diabetes. For support of diabetes centers the law authorized to be appropriated $8 million for FY 1975, $12 million for FY 1976, and $20 million for FY 1977.

In addition, this law directed the establishment of a Diabetes Mellitus Coordinating Committee, composed of representatives of the various Institutes in the National Institutes of Health (NIH), and other Federal departments and agencies involved in research and other programs affecting diabetes. This law directed the Committee to prepare an annual report for the Director of NIH detailing its work in carrying out its activities in coordinating the diabetes activities of NIH and other Federal departments and agencies.

Lastly, the National Diabetes Mellitus Research Act established the position of Associate Director for Diabetes in the National Institute of Arthritis, Metabolism and Digestive Diseases and created the National Commission on Diabetes to formulate a long-range plan to combat diabetes and make its final report to Congress this year. Under Title VII of P.L. 94–278, this Commission shall cease to exist after September 30, 1976. For further reference see: sections 434, 435, and 436 of the Public Health Service Act (42 U.S.C. 289c–1(d), 289c–2, and 289c–3); P.L. 93–354; and P.L. 94–278.

### DIGESTIVE DISEASES

On May 19, 1972 legislation was enacted to designate the Research Institute on Arthritis, Rheumatism and Metabolic Diseases in NIH as the National Institute of Arthritis, Metabolism and Digestive Diseases (NIAMDD) (P.L. 92–305). This law also established the position of Associate Director for Digestive Diseases and a committee within the NIAMDD Advisory Council to advise the Director of the Institute respecting the Institute's activities concerning digestive diseases and to review and make recommendations respecting applications for research projects concerning digestive diseases. In addition, this law authorized an intramural research program for digestive diseases and extramural programs for research and training in digestive diseases. For further reference see: section 434 of the Public Health Service Act (42 U.S.C. 289c–1(a)(b) and (c)); and P.L. 92–305.

## NEED FOR LEGISLATION

### ARTHRITIS

Arthritis is a major health problem affecting the people of the United States. The Health Information Survey estimates that 22 million Americans suffer from this disease and six million persons are afflicted with related diseases. According to the National Commission on Arthritis and Related Musculoskeletal Diseases, arthritis is the greatest single cause of prolonged pain. In 1975, the estimated total cost to the national economy of arthritis was $13 billion. Lost wages due to arthritis and related diseases amounts to approximately $4 billion a year and lost homemaker services amount to approximately $1.3 billion a year. Hospitalization of people with arthritis cost an estimated $1.5 billion in 1975. Arthritis patients spent an average of $859 million dollars for physician visits and $1.265 billion dollars for medications in 1975.

The etiology of most forms of arthritis is unknown. In recent years, it has become evident that genetics plays a major role in a predisposition to certain rheumatic diseases, and scientists have speculated that once genetics can define the at-risk population, scientists and health professionals will know which population groups to study before the disease manifests itself. The National Commission report indicated that associated with genetic research is the work being done in immunology, and that future research in arthritis will rely heavily on both of these areas. Other research developments indicate that a faulty immune system response may be responsible for the inflammation of rheumatoid arthritis and systemic lupus erythematous (SLE). The nature of the antigen that initiates the inflammatory process is still unknown. It is speculated that this antigen is a virus, bacteria, or some other infectious agent. With continued research in this area, more will be learned about the inflammatory process. This information should help to improve treatment for arthritis patients and for those who suffer from other inflammatory diseases as well.

Osteoarthritis, the most widespread form of arthritis is attributed to an aberration of the protein, collagen. It frequently causes the eventual loss of cartilage in the joints entirely. Research in osteoarthritis has led to new discoveries in the structure and function of protein-carbohydrates in the cartilage.

The characterization of arthritis is incomplete due to the lack of sufficient epidemiological research in the field. Such research has led to improved methods of treatment, identification of high risk populations, and environmental hazards associated with such varied diseases as poliomyelitis, rheumatic fever, rubella and heart disease. Epidemiological research related to gout (one of the musculoskeletal diseases) has shown that this disease for the most part afflicts only men and runs in families. Extensive research is necessary to determine the incidence and prevalence of the eighty related diseases, highly susceptible populations, genetic transmission patterns, and environmental factors related to the onset of these diseases.

Although there are many forms of arthritis, the disease is usually crippling and debilitating. Clinical research is an important part of the fight against arthritis. The systems developed for management of arthritis patients can be useful in the management of patients with other chronic diseases.

Of the 22 million people afflicted with arthritis in the United States, slightly more than half (12 million) receive any medical care. Of those seeking medical care, approximately three per cent see a rheumatologist. The Commission report estimated there are one thousand practicing rheumatologists throughout the nation, and that these practicing rheumatologists are geographically maldistributed. Current training programs graduate approximately one hundred new rheumatologists per year. The availability of specialists in pediatric rheumatology is severely limited. Although there are over 230,000 arthritic children in the United States, there are only thirty practicing pediatric rheumatologists.

This shortage of specialists is especially critical considering the limited exposure of general practitioners to many forms of arthritis during their training. Medical education is aimed at acute catastrophic illness, rather than the usual chronic forms of arthritis. Eighty-eight of the 114 medical schools in this country employ full-time rheumatologists on the faculty who are essential to develop the continuing education programs in arthritis needed for practicing physicians as well as students, not only to update information, but in many cases to provide basic information concerning diagnosis and treatment.

As part of the health team, allied health professionals have the potential to provide a great deal of assistance to arthritis patients. Patient education concerning quackery, the psychological impact of the disease, and the nature of the disease symptoms can well be provided by the trained allied health professional.

### DIABETES

Diabetes is a metabolic disease that results in abnormal levels of certain pancreatic hormones, especially insulin. As the disease progresses many other changes occur, particularly in the blood vessels. These changes in the blood vessels are thought to be primarily responsible for eye disease, kidney disease, coronary disease, and atherosclerosis in diabetics.

Diabetes and its complications present a major health problem to the Nation. In its report dated December 1975, the National Commission on Diabetes made a number of findings. The Commission found that there are at least 10 million Americans affected by diabetes. It also found that between 1965 and 1973, the prevalence of diabetes increased by more than 50% in the United States. In 1974, it was estimated that more than 600,000 new cases of diabetes were diagonosed and that the incidence of diabetes appears to be increasing by 6% per year. The Commission concluded that, at this rate, the average American born today has a better than 1 in 5 chance of developing diabetes unless a method of prevention is found.

The Commission further found that having diabetes presents significant problems reflected in mortality and morbidity statistics. According to the National Commission on Diabetes, 38,000 deaths were directly attributable to diabetes in 1974, making it the 5th leading cause of death from disease. However, since diabetes affects all parts of the body system, including the heart, the Commission asserted that diabetes and its complications seem to be responsible for almost 8 times as many deaths annually or about 300,000 deaths. With regard to morbidity statistics, the Commission estimated that diabetics are 25 times more prone to blindness than nondiabetics, 17 times more prone to kidney disease, and 5 times more prone to gangrene which is a leading cause of amputation. Diabetics are estimated to be twice as prone to heart disease as non-diabetics. These ratios are translated into the following estimated statisics and findings: Over 5,000 people become blind each year due to diabetes. The incidence of other eye diseases, glaucoma and cataract, is higher among diabetics, as well. It is estimated that kidney disease in diabetics is responsible for at least 3,200 deaths per year. Atherosclerosis, usually caused by diabetes, ranks as the fourth major cause of death in this country. Atherosclerosis is partly responsible for the development of coronary disease, stroke, and reduced circulation that leads to infection in diabetics. Besides the changes in blood vessels, several environmental factors such as nutrition, obesity, and drugs used for treatment are suspected of playing a part in the development of atherosclerosis; for example, the Commission has indicated that the chance of being diabetic more than doubles for every 20% of excess weight.

In its report, the Commission also made a number of epidemiological findings. It found that women are 50% more likely to have diabetes than men, that non-whites are more likely to have diabetes than whites, and that the poor with incomes of less than $5,000 a year are 3 times as likely to have diabetes as the non-poor. Diabetes often makes its first appearance in susceptible women during pregnancy. This gestational diabetes is dangerous for the fetus and the mother. The incidence of toxemia (metabolic disturbances during pregnancy), eclampsia, (convulsions and coma in pregnant women), and hyramnois (excess amniotic fluid) is much higher among diabetic women. Congenital malformation of the fetus occurs approximately four to six times more frequently in diabetic pregnancies than in non-diabetic pregnancies.

The discovery of insulin in 1921 has made it possible for juvenile diabetics to live past the child-bearing age, perhaps passing a susceptibility for diabetes to their children. There is a great deal of evidence that suggests that environmental factors also play a role in the development of the disease. Viral infection from the Coxsackie B Virus often precedes the development of diabetes. The relationship of this virus to diabetes is still unknown. Obesity is common among diabetics, but the effect that this condition has on the development of the disease is also yet unknown. There are many areas where epidemiological research could prove extremely productive in the near future. Breakthroughs in diabetes research could be of significant value to much of the biomedical community because the disease effects many body systems.

There is a need for augmented training of specialists in diabetes, clinics with a special interest in diabetes, and continuing education of health and allied health professionals in diabetes. Testimony before congressional committees revealed that most diabetics are treated by general practitioners because of the shortage of specialists in diabetes and clinicians in various specialties (heart, eye, kidney, etc.) who have expertise in diagnosing and treating the complications of diabetes. According to a study at Vanderbilt University, there were only two thousand physicians in the country who have an expertise in diabetes. This represents an average of one physician for 2,500 patients. These few specialists are not distributed on an even geographic basis throughout the nation. Only fifteen diabetes specialists are located in the 5-state area of Montana, Idaho, South Dakota, North Dakota, and Wyoming.

Medical education is aimed at catastrophic acute illness. Most general practitioners are not prepared to provide the maintenance therapy needed by a diabetic. The shortage of knowledgable health professionals in the diabetes specialty is not limited to physicians. A survey by the diabetes project of the North Carolina Regional Medical Program showed that nurses lacked basic knowledge about diabetes. Continuing medical education programs could play a role in increasing awareness of the diabetes problem in physicians and other health professionals, but in 1975, only six tenths of 1% of continuing medical education programs concerned diabetes.

The nation spends billions of dollars a year on diabetes. The direct health cost of illness, including hospitals, doctors, drugs, nursing homes, and other professional services, for diabetes was approximately $2.54 billion dollars in 1974. The loss of productivity and earnings due to diabetes amounted to approximately $1.066 billion in that year. These cost estimates do not include the costs arising from the complications associated with diabetes, nor do they measure the emtional and psychological cost of this disease.

Despite these startling facts with regard to the prevalence, incidence, effects, and costs of diabetes, to date, efforts have been insubstantial in developing improvements regarding prevention and treatment of the disease. Despite considerable research in diabetes and metabolism, the biochemical basis of the disease remains unknown. Very few improvements in therapy have occurred since the discovery of insulin more than 50 years ago. The National Commission on Diabetes therefore recommended accelerated research and research training programs in the diabetes field. The Commission identified a need for increased training of professionals in delivering health care to diabetics and increased preventive programs. The main emphasis of the Commission Report, however, was on the need for research activity since basic knowledge still needs to be developed with regard to the causes and methods of preventing and treating the disease. During the past few years, a number of potential breakthroughs have been established but substantial work still needs to be done in the biomedical research field. Examples of breakthroughs include the development of the laser beam treatment of diabetic retinopathy, improved developments with regard to the artificial pancreas and the development of research on the virus as the causative agent in diabetes. However, research breakthroughs have not been plentiful in the clinical treatment and rehabilitation of either juvenile or mature-onset diabetes. Progress in these areas has the potential to reduce significantly both the economic and human costs of diabetes.

The Commission Report, for the first time, identifies with some specificity the level of activity related to diabetes throughout the programs of HEW as well as programs of the Veterans Administration. Efforts with regard to diabetes research are presently being undertaken in at least 7 Institutes as well as through support provided in the research resources program.

In FY 1975 and 1976 the NIH research effort in diabetes was at a level under $40 million. It has been estimated that this amount represents about 90% of the total research effort in diabetes.

The National Commission also recommended the creation of a National Advisory Board to review and evaluate the efforts of the Executive Branch in implementing the recommended 5 year plan. To the extent that all, or a substantial part, of the additional funds recommended by the House and the Senate for research and prevention in the diabetes field are enacted in HEW appropriations legislation for fiscal year 1977, the necessity for this Board increases. The Commission found that there was not a sufficient focus in the Department of Health, Education, and Welfare on the various research, training, and other programs dealing with diabetes to assure the necessary fiscal and programmatic accountability to the public and to assure the implementation of a long-range plan to combat this dread disease.

### DIGESTIVE DISEASES

Digestive diseases, including diseases of the gall bladder, colon, stomach, liver, and other organs of the digestive tract, constitute a major health problem in the United States. Although mortality from these diseases is low, their morbidity is very high. Most digestive diseases are chronic, progress slowly, and are characterized by cycles of remission and reflux. More than 13 million Americans are afflicted with one or more of the digestive diseases.

The Second Conference on Digestive Diseases reported that:

One out of every nine Americans has a history of a specific chronic or recurrent digestive disease.

One of every three patients undergoing surgery (excluding tonsil cases and mothers in normal delivery) is undergoing surgery for digestive diseases.

Nearly one of every nine patients discharged from a hospital was treated for digestive diseases.

Disability from digestive diseases is responsible for one out of every 10 absences from work among males.

Digestive diseases are the leading cause of hospitalization of patients aged 45 to 64; they are the second highest cause of above age 65 and between ages 15 and 34.

Although digestive diseases tend to be chronic instead of fatal, digestive diseases account for nearly one out of every ten deaths in the U.S.

Digestive diseases absorb nearly one of every ten dollars spent for personal health services including hospital medical nursing care and drugs, in the U.S.

Even when cancer of the digestive tract is excluded, the annual cost of digestive diseases is estimated at nearly 12 billion dollars in 1973, or $60 for every American.

Testimony at hearings before the House Subcommittee on Health and the Environment indicated that aproximately one out of every ten Americans suffer from an ulcer during their lifetime. Research has shown that the development of ulcers is positively associated with tobacco smoking and aspirin ingestion. The effect of the diet on the development of ulcers has not yet been demonstrated. Genetic susceptibility and abnormal amounts of certain hormones may be related to the onset of an ulcer.

Ulcerative colitis, one of the inflammatory diseaseses, is often followed by cancer of the colon. A virus is suspected as the cause. Witnesses also indicated to the Subcommittee that research in this area may lead to new developments in the treatment of and a cure for this particular cancer.

It is estimated that nearly 20 million Americans have suffered with gallstones and 80,000 new cases appear every year. Treatment for gallstone disease in the past has been limited to surgery. There are 400,000 of these operations (cholecystectomies) performed each year.

According to one witness, the incidence of cirrhosis of the liver, one of the ten major causes of death, is on the rise. This disease has often been associated with alcholism, but it is estimated that only 10% of alcoholics develop cirrhosis. Genetic susceptibility to drug toxicity and a hepatitis virus are suspected etiological factors. Testimony revealed that an increase in studies of the immunological response and the inflammatory response with respect to chronic liver disease could lead to significant advances in its treatment and in the treatment of many other inflammatory diseases.

Numerous research advances have taken place since legislation was enacted to rename the National Institute of Arthritis and Metabolism to the National Institute of Arthritis, Metabolism and Digestive Disease. Also, according to the American Gastroenterological Association for the first time an overall study of the past and present research efforts has been made, as well as an analysis of future research opportunities. Over 500 gastroenterologists took part in this massive overview. These witnesses indicated that this survey will be of lasting value to the field of gastroenterology.

There have been many significant research advances since 1971, when Congress intensified its interest in digestive diseases. One example is the remarkable advance in gallstone therapy.

Gallstones are estimated to be present in approximately 10% of the U.S. population, and in 30% of those persons over the age of 65. About 85% of those with gallstones have cholesterol gallstones (15 million persons). Extensive tests since 1972 indicate that in the near future many of these persons will be able to take orally a form of chenodeoxycholic acid, which will dissolve gallstones, making surgery unnecesary. In 1973, NIAMDD funded a large scale effort to determine the efficacy and safety of this medication, and last October the clinical phase was initiated at ten medical centers, and it is estimated that within two years, these studies should be completed.

These studies have already yielded valuable information respecting prevention of gallstones and prediction of those persons who are likely to get gallstones, the effect of birth-ocntrol pills on gallstone formation in women, and the development of gallstones in post-menopausal women who take estrogens. There are indications that the risk of gallstone formation is 2 to 2½ times that of the average population for these two groups of women. Experts also cite other examples of research advances in areas related to endoscopy, gastroenterol hormones, and diarrheal disease.

The House Subcommittee on Health and the Environment also received testimony recommending that a survey be made of the total manpower and delivery system concerning digestive diseases. Such a survey has never previously been undertaken, and witnesses indicated that it would be invaluable for future planning in the field, as well as for preparation for a national health insurance program. For example, there has never been a comprehensive survey of the incidence, duration, morbidity and mortality resulting from digestive diseases in this nation, or of their social and economic impact. Similarly, comprehensive surveys have not been made of the public and private facilities involved in the delivery of care, the number and training of health and allied health professionals or the preventative and education programs that exist or should exist in the field of digestive diseases. In addition, there has been no comprehensive survey of nutritional programs, coordinated health care programs, or clinical trials needed in the rapidly expanding technology with respect to digestive diseases. Nor has there been an on-going structure developed for the continuous monitoring of research opportunities.

The House Subcommittee also heard testimony revealing that in spite of the digestive disease program, efforts of the National Institute for Arthritis, Metabolism and Digestive Disease, there has not been a corresponding improvement in the interagency coordination and information-exchange programs relating to these diseases.

Lack of adequate coordination and information-exchange programs among the Institutes which are involved in digestive disease activities within NIH, HEW, and other Federal agencies and entities, create corresponding difficulties among researchers outside NIH in gaining access to information available to their colleagues who are funded from a different Institute, agency, or entity.

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## CULTURAL EXCHANGES AND DEMOCRATIC DEVELOPMENT

Mr. PELL. Mr. President, on September 23 I spoke before a visiting delegation from the European Parliament on the subject of cultural exchanges and democratic development. I believe that exchanges play an important role not only in achieving their principal objective of fostering better understanding among nations of the world but also in promoting democratic development and respect for human rights.

I expressed my concern to the European parliamentarians that despite the benefits which exchanges bring, democratic governments, including that of the United States, spend so little money on them. The Department of State, for example, spends only about $60 million annually on exchanges. A tenfold increase in that amount would only be the equivalent of two nuclear-powered guided missile cruisers. I urge the administration, whichever one takes office in January, to give serious consideration to increasing the amount budgeted for cultural exchanges.

Mr. President, in order that my reasons for advocating such an increase may be a matter of public record, I ask unanimous consent that the full text of my remarks on September 23 be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### Remarks by Senator Claiborne Pell on Cultural Exchanges and Democratic Development Visit of European Parliament, September 23, 1976

I can think of few more important issues for consultations between the United States and Western Europe than the encouragement of democratic development and the observance of human rights throughout the world. Too often, the human and moral dimensions of international relations are overlooked or consciously downplayed in favor of other, supposedly more vital, aspects of national security and foreign policy.

I believe, however, that at a time when liberal democratic principles are increasingly threatened by varying forms of totalitarianism around the world, it is in the national interest of democratic societies to encourage the democratic elements struggling to assert themselves in so many countries. I happen to believe that nations, just as individuals, have a moral obligation—if they consider themselves civilized—not to ignore oppression and abusive practices wherever they occur. For those who take a more calculating view of national interests, it ought to be a matter of grave concern that democratic societies could become an ever decreasing minority in a world increasingly hostile to democracies, their values, and their interests.

Having said all this, what role can and do cultural exchanges play in furthering democratic development and promoting human rights?

Before proceeding to answer that question, I would like to make it clear that I do not look upon exchanges as part of a process of political manipulation or interference in the internal affairs of other countries. Even less do I look upon exchanges as a oneway expression of cultural conceit in which non-Western societies are viewed as backward consumers of advanced Western culture, including democracy.

Rather, the principal purpose of exchanges is and should continue to be, to maximize constructive contacts and mutual give and take between influential or potentially influential people in other societies in order to promote a better understanding of and respect for the achievements and values of each other's culture and institutions. Ultimately—and hopefully—such understanding and respect will influence the behavior of governments and will lead to more cooperation and less confrontation among nations regardless of their forms of government.

There is, however, another dimension to exchanges which relates directly to democratic development. A couple of years ago, the Hazen Foundation, a small private organization in New Haven, Connecticut, studied the impact of cultural exchanges on governmental behavior and concluded that cultural relations "are the chief means to shape the future of men and nations, to change their directions through creative mutual borrowing and to strengthen an awareness of shared values. . . ."

It is this concept of "creative mutual borrowing" that I would like to relate to the theme of this morning's discussion. Exchange programs, if they are well planned and carried out, provide a two-way market place of ideas, many of which hopefully will be relevant to the needs and aspirations of participants on both sides of the exchange.

Among the important ideas and related value systems which the democracies have to offer is their political system and respect for human rights. To the extent that democracy is shown as a system responsive to the needs of its people and it is demonstrated that government can function on the basis of the consent of the governed and the minimum use of coercion, so too will the prospects be maximized that democracy will form part of the "creative mutual borrowing" process.

It should be borne in mind, however, that whether or not democratic ideas or values are borrowed by another nation will depend more upon the needs, conditions, and quality of leadership obtaining in that country than by whatever exposure is fostered through contacts with a democracy. Yet, where conditions are favorable for democracy, contacts with legislators, educators, journalists, and jurists in democracies provide important encouragement, support, and intellectual stimulation to democratically inclined elements.

In this connection, it is encouraging that many recently established democracies are actively seeking help in making their new institutions work; other nations which have experimented with democracy intermittently have not ruled out a return to democracy; and a third group of countries—while closed and in some cases rigid, totalitarian societies—at least pays lip service to democratic principles. There is, consequently, a potential receptivity for democratic ideas and a nucleus of democratically inclined leaders in much of the world. That should be a source of optimism!

On the other hand, it should be realized that many countries have not yet consolidated their nationhood to an extent that consent can replace coercion as the basis of their political organization. Before that essential aspect of democratic development can occur, history has shown us that bonds of mutual loyalty and kinship must first be forged within a state.

The prospects for democratic development are, therefore, less encouraging where the internal consensus to live together as a nation is weak or non-existent as compared with a state with a strong sense of nationhood.

In addition, there are nations, some cohesive in terms of their nationhood and others not, in which animosity toward democracy, either deriving from their colonial experience or for other reasons, is so strong that there is little likelihood that any "creative mutual borrowing" can take place. In these cases, it will first be necessary to break down the barriers of prejudice and suspicion—which are often mutual, I might add. Faced with this kind of obstacle, it will be sufficient if a dialogue aimed at creating understanding and mutual respect can be initiated and maintained.

Ideally, exchange programs are most effective if an effort is made to bring together people who are either already favorably inclined toward learning about each other or are sufficiently openminded to permit a fruitful exchange of ideas. In addition, the ideal exchange visitor should be someone whose personal, professional, or power potential is such that he can make a difference in his own country. Quite often, as we have seen, it will not be possible to combine both of these ideal aspects of cultural exchange, and the process of facilitating democratic development through cultural exchanges will often be a slow one. But breakthroughs *do* occur. In one recent case that has come to my attention, a high official of a radical developing country remarked that his visit to the United States changed his ideas about America and Americans and that his first-hand impressions were totally different from the anti-American propaganda he had been exposed to back home.

In cases such as these, it is success enough if a foreign visitor is able, through an exchange program, to compare his own perceptions of another country, or those of his government, with the real thing. In fact, in many cases, the very exposure of foreign visitors to a free flow of ideas, even if they do not involve politics, may raise expectations about individual rights and opportunities and thus generate resistance to political constraints.

Given the potential good that cultural exchanges can promote, it is discouraging to me that governments spend so little money on them. In a world which is spending more than $250 billion for military purposes, it seems to me that it is logical and sensible to devote more attention to cultural exchanges and make them a major activity warranting at least one-half of 1% of the amount devoted to military preparations.

For some time, I have been arguing for a reordering of American foreign policy priorities and have called for a contraction of certain military and political activities in favor of an expansion in the economic and ideological areas. In this latter area, I have pointed out that the Department of State spends only $60 million on the exchange of persons program and that a ten-fold increase in that amount would only be the equivalent of two nuclear powered guided missile cruisers.

What would be the response of the rest of the world if the United States and other democracies were to increase sharply their exchange programs? I am thinking particularly of the reaction of those countries which now look with disfavor upon democracies and are reluctant to engage in extensive exchanges of their citizens. I believe those countries would find it difficult to stay aloof from a major effort designed to break down the suspicion, prejudices and hatred which have characterized international relations for too long. Moreover, I believe that national and cultural pride would cause countries everywhere to want to participate fully out of concern that failure to do so would indicate a lack of confidence in their own traditions and values.

It seems to me that no country would admit that its way of life and its social, political, and economic system will not stand the light of scrutiny, that its citizens are vulnerable to losing their national ties through contacts with foreigners, and that they have nothing to offer in an exchange of ideas.

In closing, I would like to observe that in addition to being America's bicentennial year, 1976 is also the 30th anniversary of the Fulbright exchange program which is probably the largest planned program of educational exchange in the history of the world. While the impact of this program, or any other interchange of people and ideas, is difficult to assess with any degree of precision or confidence, I believe that it has not only generated a greater and more favorable understanding of America and its people but that it has also contributed to the furtherance of respect for democracy and human rights generally.

I am convinced, however, that neither we in the United States nor others in the Western community ought to be content with what has been achieved in the past through cultural exchanges. More can and must be done, for I fear that the future challenges to democratic values and the ability of disparate nations to live together in peace are greater than is generally realized.

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## MINORITY BUSINESS DEVELOPMENT AND ASSISTANCE ACT OF 1976—S. 2617

Mr. JOHNSTON. Mr. President, on Tuesday, September 28, 1976, the Government Operations Committee's Subcommittee on Intergovernmental Relations reported S. 2617, a bill to establish an Office for Minority Business Development and Assistance in the Department of Commerce. The 8-to-0 reporting vote represents, I believe, a firm commitment to early action on this vitally needed legislation in the 95th Congress.

I am deeply grateful to the junior Senator from Ohio (Mr. GLENN) and to the senior Senator from Maine (Mr. MUSKIE) for their unfailing and diligent efforts to complete subcommittee action on S. 2617. The many minority entrepreneurs the bill is designed to assist will also join me, I am sure, in expressing their deep appreciation for the long hours and attention Senators GLENN and MUSKIE—as well as all the other subcommittee members—have devoted to this legislation.

I would like to take this opportunity to reaffirm my total commitment to making sure that minority businessmen have a fair and equal opportunity for full participation in American enterprise. Only if all businessmen and businesswomen—be they white, red, black, brown, or yellow; be they Spanish speaking, French speaking, English speaking, or any other linguistic origin; be they male or female—are full and free participants, can our capitalist economic system remain strong and vital.

Mr. President, today our Federal programs providing assistance to minorities are in a shameful state of disarray. Some 17 Federal agencies administer our current uncoordinated, undirected, and ultimately ineffective, programs. It is up to the Congress to provide the positive leadership needed to reshape this Federal effort and failure to act in the next Congress will mean that past efforts will die by default.

When I introduced this bill, on November 5, 1975, I emphasized that we have reached a crossroads in our policy toward minority business. One path we can take, that of inaction, is clearly unacceptable. I do not believe that we, as a strong and democratic nation, can afford to pull back and maintain a neutral stance. Minority entrepreneurs constitute a crucial sector of our competitive economic system. Erosion of these enterprises can only lead to serious undercutting of our Nation's economic system.

The other path we can and must take, firm and supportive congressional action to revamp Federal minority assistance programs, will strengthen our economy. We must recognize and address pressing problems confronting minority businesses. Tight credit policies, prohibitively high interest rates, bankers' reluctance to lend money to new and unproven minority undertakings, excessively high unemployment rates among minorities which reduces minorities' purchasing power, SBA guaranteed loan program policies, Federal procurement policies, contracting problems and many other problems must be faced squarely. If we do this and make the hard decisions which must be made, I sincerely believe we can get back on the right track and keep our free enterprise system strong.

Mr. President, let me conclude by emphasizing that those who know the value of our economic and democratic system and the danger of allowing it to be eroded through lack of support have no right merely to sit around and hope. We have the ability to move forward and reaffirm our commitments through positive action. I sincerely hope we will do this by giving our high priority for action on S. 2617 in January.

## ADJOURNMENT UNTIL 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, since a quorum is not present, I move that the Senate stand in adjournment pursuant to the previous order.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Senate will stand in adjournment, under the previous order, until 8:30 a.m. tomorrow.

Whereupon, at 9:08 p.m., the Senate adjourned until tomorrow, Thursday, September 30, 1976, at 8:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 29 (legislative day of September 24, 1976), 1976.

### Department of State

G. McMurtrie Godley, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ethiopia.

### Government National Mortgage Association

David M. deWilde, of the District of Columbia, to be president, Government National Mortgage Association. (New Position.)

### National Commission on Libraries and Information Science

The following-named persons to be members of the National Commission on Libraries and Information Science for terms expiring July 19, 1981:

Robert W. Burns, Jr., of Colorado, vice Andrew A. Aines, term expired.

Gloria Sejulveda-Vazquez, of Michigan, vice Catherine D. Scott, term expired.

### National Council on Educational Research

The following-named persons to be members of the National Council on Educational Research for terms expiring June 11, 1979:

John E. Corbally, of Illinois. (Reappointment.)

Jewel Lafontant, of Illinois, vice Edward E. Booher, term expired.

### U.S. Advisory Commission on Information

D. Tennant Bryan, of Virginia, to be a member of the U.S. Advisory Commission on Information for a term expiring January 27, 1979, vice J. Leonard Reinsch, term expired.

### Department of State

Donald R. Norland, of Iowa, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Donald R. Norland, of Iowa, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

James M. Wilson, Jr., of Maryland, a Foreign Service Officer of Class one, to be Coordinator for Human Rights and Humanitarian Affairs.

### District of Columbia Court of Appeals

Theodore R. Newman, Jr., of the District of Columbia, to be an associate judge of the District of Columbia Court of Appeals for the term of 15 years, vice Gerard D. Reilly, retired.

### Superior Court of the District of Columbia

Edwin C. Brown, Jr., of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for the term of 15 years, vice George W. Draper II, deceased.

### Commission on Civil Rights

Herschel Schacter, of New York, to be a member of the Commission on Civil Rights, vice Robert S. Rankin, deceased.

### Federal Council on Aging

Charles J. Fahey, of New York, to be a member of the Federal Council on the Aging for a term expiring June 5, 1979, vice Charles J. Turrisi, term expired.

### Advisory Council on Women's Educational Programs

The following-named persons to be members of the Advisory Council on Women's Educational Programs for terms expiring May 8, 1979:

Marjorie Bell Chambers, of New Mexico, vice Holly Knox, term expired.

Jon W. Fuller, of Michigan. (Reappointment.)

Marguerite C. Selden, of the District of Columbia, vice Margaret B. Harty, term expired.

Agnes I. Chan, of California, vice Irene E. Portillo, term expired.

Thera C. Johnson, of Utah, vice Benjamin DeMott, term expired.

Elizabeth Z. Fryer, of Tennessee, vice Marsha Jean Darling, term expired.

### U.S. Metric Board

The following-named persons to the positions indicated:

Louis F. Polk, of Ohio, to be Chairman of the U.S. Metric Board for a term of 6 years, (New Position.)

To be Members of the United States Metric Board for the terms indicated: (New Positions.)

#### For a term of 2 years

Harold M. Agnew, of New Mexico.
Sydney D. Andrews, of Florida.
Andrew H. Kenopensky, of New Jersey.
Adrian G. Weaver, of Connecticut.
Virginia H. Knauer, of Pennsylvania.

#### For a term of 4 years

Valerie Antoine, of California.
Carl A. Beck, of Pennsylvania.
Ralph V. Durham, Sr., of North Carolina.
W. E. Hamilton, of Illinois.
Harry E. Kinney, of New Mexico.

#### For a term of 6 years

Francis R. Dugan, of Ohio.
Frank Hartman, of Michigan.
James D. McKevitt, of Colorado.
Jerry J. McReal, of Oregon.
Satenig S. St. Marie, of Connecticut.
Kenyon Y. Taylor, of Illinois.

### In the Marine Corps

The following-named officers of the Marine Corps for temporary appointment to the grade of captain:

Mark W. Adams
Arthur A. Adkins
Leo L. Accursi
Robert C. Anderson
Robert G. Anderson
Christopher M. Arey
Willie A. Armstead
Russel P. Armstrong
Leon B. Arthur
Willim G. Ashley
Allan R. Bacon, Jr.
David O. Bailey
Dale L. Baird
Michael J. Baker
Alfred M. Bancroft
Richard L. Barineau
Michael J. Barr
Bonie P. Barron
Charles H. Barton, Jr.
Jacque A. Baseley
Floyd L. Bass, Jr.
Frederick T. Beale, Jr.
Richard J. Beatty
David L. Beck
Arthur J. Belville, Jr.
Stephen E. Berger
Joseph W. Bergeron, Sr.
Gary A. Besaw
Raymond R. Bickel, III
Robert M. Biddle, Jr.
James M. Birren
James T. Bishop
Roy H. Bixler
Steven C. Blair
Rex P. Blankenhorn
Wayne F. Blankenship
Paul J. Blemberg
Barry L. Bodine
David L. Bogardus
Elmer S. Bolles
Paul D. Bonds
Scott R. Borderud
Gregory D. Borgert
Louis L. Boros
Thomas J. Borowitz
Thomas W. Bowen
John C. Bowers
Gerard J. Boyle
James C. Braddy
Gary R. Bradley
Laurence R. Brakowiecki
Robert A. Brandon
James R. Brassell, Jr.
Dennis A. Braund
James J. Brisson
John V. Brooks, Sr.
Bruce H. Brothers
Frankie D. Broughton
William C. Broughton, Jr.
Franz K. Brown
Darrell A. Browning
Edward L. Bryant
Everett R. Buck, Jr.
Gary B. Burcal
Edwin A. Burnette
Ronniere L. Burton
Donald N. Bush
Aaron X. Butler
Dean E. Butler
John Buzzi
Michael J. Byers
Charles T. Byrd
Robert S. Byrd
Jimmie M. Byrem, Jr.
Michael Cajohn
John Caldwell
William B. Caldwell, Jr.
Donald J. Call
William F. Campbell III
Louis J. Campomenosi III
Thomas J. Card, Jr.
Cesare Cardi
David H. Carl
Michael J. Carnevale
Stephen A. Carnevale
James T. Carney
Thomas P. Carney, Jr.
Donald L. Caroway
George E. Carpenter
Francis J. Carr
Phillip K. Carreon
Robert W. Carrick
John W. Carter
Wallace M. Carter
James E. Cartwright
Stephen A. Case
John G. Castellaw
Christopher H. Chaney
Stephen W. Chambers
Wendell C. Chinn
Eric C. Christenson
James R. Christian
John B. Christie
Hershel G. Chronister
Frank H. Clayburn
Wendell D. Clemons
Johann A. Clendenin
Michael F. Clough
Stewart J. Cobain, Jr.
Raymond Cole
Ronnie T. Coley
Russel C. Colten
Larry A. Comstock
Jimmy W. Condrey
Bartholomew J. Connolly
James A. Conrady
George M. Conroy
David W. Cook, Jr.
Michael G. Cooper
Whylen G. Cooper
Garnet E. Cope
Edward F. Corbett
Tony L. Corwin
David C. Covert
Alan S. Craig
Hilton Craig, Jr.
Walter M. Creech
Roger A. Critzer
John A. Cross
Walter L. Crump, Jr.
Jack C. Crutchfield
Raymond S. Cuddy, Jr.
Donovan C. Cullison
Frederick M. Cunningham
Carl R. Curry
Wayne R. Dale
Andrew L. Davis
Calvin R. Davis
Douglas R. Davis
Samuel J. Davis
John R. Daymude
Michael N. Dedchak
Mark E. Detering
Thomas A. Devaney
Robert J. Dewey
Daniel B. Diviney
Jerry L. Dixon
Richard C. Dobson
Charles L. Dockery
Howard G. Dodd
Paul F. Donohue
Frederick L. Dowell
Stephen E. Downing
Joe H. Driver
Frederick J. Ducat
Francis G. Duggan
Dwight D. Dyer
Arthur E. Edinger
William R. Edwards
Carroll F. Egbert, Jr.
Frederick R. Eldredge, Jr.
Jerry L. Ellis
Richard L. Engelen
Michael E. Ennis
James E. Evans, Jr.
Michael S. Fagan
Jeris L. Faircloth
Dennis F. Fallon
Larry G. Fanning
Peter B. Farley
Elliott D. Fellman
Paul M. Fenlon
Roy A. Ferrell
John K. Feuerriegel
Richard E. Ehrler
James K. Fife
Robert C. Figlock
Dwight A. Fink, Jr.
John L. Finklea
Henry W. Finley, Jr.
Stephen T. Fisher
Joseph T. Fitzgerald, Jr.
Frederick J. Flihan
Percy Flowers
Dennis R. Fogel
Charles C. Foss II
Richard J. Frawley

Donald L. Fleming, Jr.
David B. Franke
Douglas N. Frazier
Dallas D. Furman
Michael L. Gale
Patrick F. Gallagher
Emerson N. Gardner, Jr.
Kevin A. Garvey
John R. Garvin
Howard L. Gault
John R. Gaumer, Jr.
Albert S. Gazjuk
George M. Gebhardt
Frederick J. Geier
Charles E. George III
Rodney S. Getz
James R. Gevock
Frank L. Gibson
Lewis C. Gibson, Jr.
Paul A. Gido
John R. Giger
Lawrence J. Giles
James A. Gillis III
Clifford J. Gion
Dale E. Giordano
Joe H. Glover, Jr.
Philip E. Goble
John F. Goodman
Mark T. Goodman
Wellington H. Gordon
William R. Gossett
Wyatt W. Grant III
Gary N. Graves
Roy E. Gray
James A. Grebas
Walter J. Green, Jr.
Jeffrey D. Greene
William J. Grein
Charles L. Griffin
Robert R. Grider
Russell W. Grove
William L. Groves
Philip A. Grzanich
Ronald G. Guilliams
Robert P. Gwinn
James C. Halburnt
Dale A. Haley
Johnny J. Hall
Marvin D. Hall
Robert I. Hall
Larry J. Hallbick
Henry D. Halloway
Philip T. Hamilton
Theodore N. Hamilton
Kenneth D. Hankins
Gregory L. Harm
Charles W. Harpe, Jr.
Robert A. Harper
Neil T. Hartenstein
Donald J. Hashagen
Sidney T. Hastings
Joseph B. Hatfield
Glenn B. Hausold
Daniel G. Hawthorne
James E. Haynie
James W. Head
Michael J. Hedin
Harold S. Heinbaugh
Joseph P. Heine
Ronald B. Helle
Patrick T. Henry
Michael R. Herbaugh
Robert J. Herkenham
John W. Herstead
Franklin R. Hester
James T. Hickey
Robert Hicks
Roger A. Hield, Jr.
James D. Hildreth
Kenneth W. Hill
Patrick G. Hill
David C. Hilmers
Herbert C. Hinchliffe
William J. Hisle III
Douglas G. Hodsdon
James C. Hoffman
Paul R. Hoffman
Thomas A. Holton
Joel P. Hood
Paul C. Hoover
James A. Horn, Jr.
Arthur J. Howard, Jr.
Michael W. Howard
Sylvester Howard
Robert C. Hubner
Eric G. Huckabee
Larry K. Hudnall
Timothy P. Hudson
Roger D. Hughes
Phillip W. Hughey
Robert L. Hunt
Daniel C. Inghram
Richard B. Inghram
Robert G. Ingold
Bruce D. Jameson
Joseph F. Jennings, Jr.
Francis Jiminez
Michael S. Jindra
Dallas W. Johnson
John W. Johnson
Larry E. Johnson
Raymond H. Johnson
Robert B. Johnson
Stephen T. Johnson
Charles D. Johnston
John J. Johnston
Brett A. Jones
Homer Jones
Nelson M. Jones III
Roy K. Jones III
Thomas D. Jones
Wilford G. Jones, Jr.
Donnie B. Jordan
Robert T. Jordan
William J. Jorgens
Gregory J. Kammeyer
Alexander K. Kaonohi, Jr.
Henry W. Kappel
James A. Kasica
Darryl F. Keane
Lloyd W. Keaser
Eddie A. Keith
Ronald W. Kelemen
Robert E. Kenney
Arthur J. Kidd
Winfred T. Kincaid
Frank R. King
James R. Kingham
Roderick M. Kippen
Edward M. Klein
Gerard J. Kline
William L. Knapp
David L. Kolek
David A. Kratochvil
Paul R. Kroeger
Fred A. Krumm
Paul J. Labarge
Wilfred A. Lachapelle
Aurel E. Lafreniere
Alan R. Lamb
Charles E. Lambert
Donald A. Lane
Patrick R. Larkin, Jr.
Robert W. Leas
Don R. Lecander
Clinton H. Leavitt
James Ledford
Robert E. Lee, Jr.
Thomas C. Lenke
Paul J. Leon
Charles D. Lewis
David A. Lewis
Donald C. Lewis
Brian K. Lile
Richard J. Linhart, Jr.
George H. Linnemeier II
Russell L. Llewellyn III
Michael F. Loftus
Paul E. Long, Jr.
Gilbert B. Loomis III
Bradley M. Lott
Douglas E. Lott
Rudolph Lowery
Lloyd L. Loy
Dean T. Lucas
Gary A. Lucus
George J. Luchansky
Frank C. Lundberg
Michael T. Lundblad
John F. Lynch
Richard J. Macak, Jr.
Stephen Mack
D. B. Mackenziegraham
John W. Macroglou
John C. Maddox
Michael A. Mahoney
James W. Mannix
John R. Marcucci
Kenneth B. Marlin
James M. Marshall, Jr.
George F. Martin
Joseph Martin, Jr.
Larry A. Martin
Lawrence R. Martin
Paul W. Martin
Michael W. Mather
James N. Mattis
Chester C. Mattox
Henry R. Mayer
Thomas P. McClowry
John S. McFarland
Patrick H. McGann, Jr.
Jeffrey J. McGillivrae
Bernard J. McGuire
Thomas J. McIntyre
David M. McKee
Steven M. McLaughlin
Robert W. McLean
Robert J. McLellan
John W. McLeod
John F. McMahon III
James R. McRae, Jr.
William B. McTurnal
Marshall Mead
Gregory F. Meagher, Jr.
Edward L. Melton
Bruce E. Merrill
George A. Messier
Robert L. Metcalfe
Randolph M. Michaux
Michael P. Mihalik
Charles W. Miller
Peter T. Miller
Harold L. Mitchell
Henry P. Mitchell
Thomas P. Mitchell
Donald T. Mize
Donald N. Mizell
John T. Mooney
William J. Moore, Jr.
William P. Moore, Jr.
Robert D. Moorhead
Dennis A. Morga
George W. Morgan
Terry L. Morin
Richard W. Morrell II
James T. Morris
John V. Morris
Ralph C. Morse, Jr.
Joseph Mouton
Frank W. Mott
Richard A. Mu
Lawrence T. Mullin
David W. Murray
Patrick C. Murphy
James Muschette, Jr.
Robert S. Nasby
Gordon C. Nash
Robert D. Neal
Roger L. Nesslage
Clayton W. Noto
Steve A. Nowka
John A. Nugent
Larry B. Nutt
Michael W. O'Boyle
Patrick D. O'Boyle
Jerry W. Odell
Gary J. Ohls
James P. O'Meara
Jack E. Owen, Jr.
Thomas J. Padden III
Edward A. Palacio
Porter G. Pallett
Charles J. Palmquist
Tony D. Palmquist
Fred D. Parish
Ralph E. Parker, Jr.
Thomas W. Parker
John W. Parrish
Walter A. Payne
Roger E. Penrod
Hiram M. Perkins
Edward A. Pernal, Jr.
Edward J. Perrott
Alfred M. Perry
George L. Peterson
Jerrold B. Peterson
Charles E. Petrusch II
Joe D. Phillips
Robert P. Phillips
Thomas S. Phillips
William J. Piatnitza
Rene J. Piccarreto, Jr.
John R. Pipho
James C. Pisciottano
Mark B. Pizzo
Joseph M. Poirier
Gary L. Polites
Richard K. Polly
Jerry L. Poole
Michael K. Popper
Patrick G. Port
Robert R. Pospischil
Preston P. Pratt, Jr.
Gary J. Price
William S. Proctor
Bryan S. Quint
Kenneth W. Quigley
William E. Rambow
Donn W. Ramey
Stuart L. Randolph
Michael L. Rapp
Randy F. Rasmussen
Robert D. Rasmussen
Thomas A. Reavis
Earl K. Reed
John W. Reed, Jr.
Thomas J. Rees
David A. Reid
Douglas W. Reiser
Frank C. Revels
Ronald W. Richards
Francis D. Rineer, Jr.
Roger L. Rippy
Dale E. Robinson
Lloyd A. Robinson
Marvin C. Rodney
Robert A. Roesener
Russell A. Romagna
Ralph W. Roraff
Paul A. Rossano
Charles H. Rucks
Ronald L. Rueger
Gregory M. Russell
James L. Rust III
Kenneth W. Tarrant, Jr.
James L. Taylor
John R. Taylor III
Gene F. Taxis
John A. Tempone
William G. Terry
Jeffrey E. Thayer
Carl W. Thiem
Clayton R. Thomas
James M. Thomas
Lloyd M. Thorne
John F. Thornell III
Julius S. Tindall
John F. Torsak
William C. Tourek
Peter L. Treleaven
Carl E. Treutle
James A. Turner
Ronald D. Twardy
Marcelo J. Tyler
David K. Saffle
Fay G. Sanford, Jr.
Scott L. Sandberg
Thomas A. Santos
Ronald R. Sauer
William H. Sbrocco III
Teryl W. Scalise
Michel P. Schaefer
Kenneth E. Schaub
Mark C. Schickner
Gordon K. Schmaus
Robert L. Schneider
Thomas M. Schuler
Mark P. Schultz
Randolph L. Schultz
Kenneth A. Schwarz
John D. Scroggins
Gene A. Scroggy
Peter R. Seal
Wayne H. Seiler
Benjamin B. Selvitelle
Walter S. Sellers
John L. Sexton
Jerry M. Seybert
Thomas E. Sheets
Albert W. Sheldon
Roger A. Sherman
Guy R. Sherry
John F. Shipley
Stephen L. Shivers
Peter J. Shoaf
Thomas C. Shoger
Dan W. Showalter, Jr.
William M. Sigler III
Mark S. Silvestri
Gary G. Simmons
Glenn D. Simon
James M. Sluder III
Charles B. Smelcer
Perry Smiley
Edward M. Smith
Michael D. Smith
Randall E. Smith
Randall T. Smith
Nathaniel L. Snodgrass
James R. Snowden
Harold M. Snyder
Peter K. Solecki
John B. Sollis
James M. Solomon
Lloyd D. Songne
Tommy L. Spangler
Wayne A. Spencer
Creighton G. Staff
Keith J. Stalder
John E. Steele
Thomas G. Stefek
Dennis L. Steigmann
Blake R. Stephens
Cortez D. Stephens
Mark Stevens
Scott H. Stevens
Nelson H. Stewart
Roger D. Stiles
Ronald P. Stirrat
Donald S. Stone
Joseph J. Stours C.
James B. Stover
Terry A. Strassburg
Randolph B. Strautnan
James N. Strock
Robert L. Strawser
Robert R. Stutler
Michael W. Sullivan
Steven D. Summers
Charles T. Surles
John M. Sweeney, Jr.
David P. Sztuk
James L. Vance
Steven K. Vandoren
Perry E. Vanover
Frank A. Vargas III
David Venegas
Thomas J. Venters
Kenneth A. Vincent
Joseph M. Vizzier
John G. Upton
Thomas G. Wagner II
William Wallace, Jr.
Larry E. Walther
James P. Walsh
Thomas H. Walsh, Jr.
Stephen C. Ward
Gary E. Washburn
Charles R. Waters
Ray E. Watkins
Kenneth D. Watts
Ronald E. Webb
Joseph F. Weber
Robert A. Wehrle W.
Richard V. Weidner
James J. Wemlinger
Randall B. West
Richard D. West
John A. Wester, Jr.
Gary T. Wetherill
James R. Wheeler
Michael J. Wheeler
Frank H. White III
Llewellyn S. White
Roderick E. White
Otis J. Whitehead
Robert S. Whitehead
Ronald A. Wickes
Rodney J. Wijas
Ronald D. Wilczak
John A. Wilkerson
Donald J. Williams
Gene R. Williams, Sr.
George E. Williams
Leroy Williams
Mark G. Williamson
William J. Williamson
James H. Wilk
Richard P. Wilks
Eugene S. Wilson
Larry D. Wilson
Edward D. Wilt
Gary F. Wines
Francis C. Winter
Larry V. Wise
Jerrold A. Wohlfarth
Robert T. Wolfertz
Douglas L. Wood
Douglas K. Wood
Jack G. Woods
William A. Woods
Michael S. Woodson
John A. Woodward
Larry K. Worthington
Lee A. Wright
Steven C. Wry
Stephen T. York
Paul M. Young, Jr.
Robert L. Young
William R. Young
Kenneth W. Zebal
Joseph M. Zeimetz
Steven K. Zeiser
George E. Zhookoff
Robert R. Zimmerman
Andrew D. Zinn

The following named women officers of the Marine Corps for temporary appointment to the grade of captain:

Sheryl E. Bouchie
Mary L. Brown
Susan A. Driggs
Lauren E. Gordon
Barbara J. Loomis
Ruthanna M. McBride
Lynnae C. Reynolds
Sally A. Stansbury
Patricia A. Wahls
Frances C. Wilson

# HOUSE OF REPRESENTATIVES—*Wednesday, September 29, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Keep yourselves in the love of God.*—Jude 21.

Eternal God, our Father, without whose blessing all our labor is in vain, and with whose presence we walk the way to life, we lift our hearts unto Thee seeking strength and wisdom, guidance, and peace from Thee. Consecrate with Thy presence the way our feet may go that the humblest work may shine and the roughest places be made smooth. Lift us above fear, failure, and frustration by a simple and a steadfast reliance upon Thee.

May the light of faith burn brightly within us, may the life of hope ever glow in our hearts, and may the love of truth lead us in the way of Thy kingdom—peace on Earth and good will among men.

In the spirit of Him who is the Way, the Truth, and the Life we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 519. Joint resolution to provide for the appointment of George Washington to the grade of General of the Armies of the United States.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14260) entitled "An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30. 1977, and for other purposes," and that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 7, 17, 20, 24, and 35 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2657) entitled "An act to extend the Higher Education Act of 1965. to extend and revise the Vocational Education Act of 1963, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2981) entitled "An act to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1414. An act to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes;

S. 1506. An act to designate a segment of the Missouri River, Mont., as a component of the National Wild and Scenic Rivers System;

S. 2839. An act to supplement the authority of the President and various Federal agencies to collect regular and periodic information on international investment, and for other purposes;

S. 2991. An act to amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes;

S. 3035. An act for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson;

S. 3050. An act to authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country; and

S. 3383. An act to authorize and direct the Secretary of Commerce to develop a national policy on weather modification, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 12168. An act to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1073. An act to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional 3 years, ending September 7, 1978;

H.R. 1244. An act to establish procedures and regulations for certain protective services provided by the U.S. Secret Service;

H.R. 11891. An act to authorize the establishment of the Congareee Swamp National Monument in the State of South Carolina, and for other purposes;

H.R. 12939. An act to amend certain laws affecting personnel of the Coast Guard, and for other purposes;

H.R. 11347. An act to authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation;

H.R. 14451. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes; and

H.R. 15445. An act to save the gray and bowhead whales.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11337) entitled "An act to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MOSS, Mr. STONE, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3823. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

## REQUEST FOR APPOINTMENT OF CONFEREES ON H.R. 1386, FOR THE RELIEF OF SMITH COLLEGE, NORTHAMPTON, MASS.

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1386) for the relief of Smith College, Northampton, Mass., with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. STARK. Mr. Speaker, reserving the right to object, I would like to inquire of the distinguished chairman of the Committee on Ways and Means if this bill is coming back with an amendment which would provide a credit for tuition on income tax returns.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the amendment that was added by the Senate was the amendment that provided the tax credits for college tuition.

Mr. STARK. Mr. Speaker, further reserving the right to object, I do so to point this out: We have not had agreement on this matter, and it could involve considerable funds. With all due respect to Smith College and its curriculum, I am constrained to object.

The SPEAKER. Objection is heard.

## CONTINUING EXISTING SUSPENSION OF DUTIES ON MANGANESE ORE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12033) to continue until the close of June 30, 1979, the existing suspension of duties on manganese ore (including ferruginous ore) and related products, with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, after line 8, insert:

TEMPORARY EXTENSION OF FEDERAL WELFARE RECIPIENT EMPLOYMENT INCENTIVE TAX CREDIT

SEC. 2. Section 50B(a)(2) of the Internal Revenue Code of 1954 is amended by striking out "July 1, 1976" and inserting in lieu thereof "September 1, 1976".

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

## STATUS REPORT ON THE FISCAL YEAR 1977 CONGRESSIONAL BUDGET

(Mr. ADAMS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ADAMS. Mr. Speaker, on behalf of the House Committee on the Budget, I rise to report today again on the status of the fiscal year 1977 congressional budget. This report reflects both Monday's action of Congress to approve H.R. 10339, hay subsidy assistance; S. 3734, authorizing the sale of certain naval vessels; and the Presidential veto of H.R. 5465, providing liberalized retirement benefits to certain employees affected by Indian preference laws. Since a veto override on this bill has not been scheduled, the amounts previously counted for the conference report will be eliminated from the congressional scorecard.

Today's report updates yesterday's report by including the final conference agreement on H.R. 14260, foreign assistance appropriations, 1977. The Senate adopted the conference report on Tuesday, thus clearing it for Presidential action.

This report which has been transmitted to the Speaker is part of the Budget Committee's notification to the House about where Congress stands in relation to the budget authority and outlay ceilings and revenue floor adopted in Senate Concurrent Resolution 139 for fiscal year 1977. With regard to these figures, as of close of legislative business Tuesday, September 28, 1976, the current level of spending reported to the Speaker stood as follows:

STATUS OF FISCAL YEAR 1977 CONGRESSIONAL BUDGET REFLECTING COMPLETED ACTION AS OF SEPT. 28, 1976

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Appropriate level | 451, 550 | 413, 100 | 362, 500 |
| Current level | 424, 950 | 408, 182 | 362, 117 |
| Amount remaining | 26, 600 | 4, 918 | −383 |

I must remind my colleagues in the House that some major spending bills still remain to be adopted by Congress for the fiscal year. The spending levels adopted in the budget resolution assume funding for the certain items which were not included in the regular Labor-HEW appropriations for 1977, the funding for pay adjustments normally included in the spring supplemental, and certain other items which we must address in the next Congress in January.

I must also point out that the revenue floor is currently breached by $383 million due to the nonenactment of H.R. 10210, Unemployment Compensation Act Amendments of 1976, which would raise $387 million in new revenues for the fiscal year. Once this bill clears the House-Senate conference and becomes law, the Congress will have realized the major revenue items included in the second budget resolution.

In addition to these bills, the pressures of changing economic conditions continue to make the budget vulnerable to increased spending. The tenuous nature of our slow economic recovery will be monitored closely by the Budget Committee in the event there is an automatic increase in the uncontrollable spending created by a worsening economy.

In summary, Mr. Speaker, I again want to caution my colleagues in the House that the current level of spending leaves little room for new legislation of either the President or Congress which was not contemplated in this year's budget resolution.

## AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on the bill (H.R. 13655) to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding.

The Chair recognizes the gentleman from Texas (Mr. TEAGUE) for 1 hour.

## CALL OF THE HOUSE

Mr. CEDERBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. MAHON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 839]

Abzug
Allen
Ambro
Andrews, N.C.
Armstrong
Ashley
Badillo
Beard, Tenn.
Bell
Biaggi
Bolling
Bonker
Breaux
Brodhead
Brown, Ohio
Burke, Fla.
Burton, John
Chisholm
Clay
Conable
Conyers
Dellums
Diggs
Dingell
Dodd
Edwards, Calif.
Eilberg
Esch
Eshleman
Fascell
Fish
Flynt
Foley
Ford, Mich.
Fountain
Frey
Gibbons
Gilman
Green
Gude
Guyer
Hagedorn
Hébert
Heinz
Hinshaw
Hungate
Ichord
Jarman
Johnson, Colo.
Jones, Okla.
Karth
Leggett
McCollister
McDonald
Matsunaga
Meeds
Melcher
Mills
Mink
Moss
Neal
Nix
Nolan
Nowak
Obey
O'Hara
Ottinger
Passman
Patterson, Calif.
Pattison, N.Y.
Pepper
Pritchard
Railsback
Rangel
Rees
Reuss
Richmond
Riegle
Rodino
Rose
Runnels
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Shipley
Simon
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symington
Udall
Waxman
Wiggins
Wilson, C. H.
Wilson, Tex.
Wolff
Young, Alaska
Young, Ga.

The SPEAKER. On this rollcall 327 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The gentleman from Texas (Mr. TEAGUE) is recognized for 1 hour.

Mr. TEAGUE. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I thank the gentleman from Texas for yielding.

Mr. CARTER. Mr. Speaker, will the distinguished gentleman from West Virginia, the chairman of the Committee on Interstate and Foreign Commerce, yield?

Mr. STAGGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, as my colleagues are aware, on Monday this body considered the conference report on H.R. 5546, the Health Professions Educational Assistance Act of 1976, I would like to make inquiry of the gentleman from West Virginia (Mr. STAGGERS), the chairman of the committee from which this legislation originated, with respect to congressional intent surrounding House action on this measure.

Mr. STAGGERS. During the course of debate, our colleague from Washington, the chairman of the Budget Committee (Mr. ADAMS), raised a point of order against the conference report because one of its provisions was in violation of the Budget Act. As manager of the conference report, you conceded the point of order, and, in lieu of the conference report, the House passed an amendment to the Senate amendment which included the provisions of the conference report as well as a provision which rendered the conference report in compliance with the Budget Act.

Mr. CARTER. As I understand the situation, since the action of the House was to approve an amendment to the Senate amendment to H.R. 5546—and did not involve the conference report—

and since the statement of managers accompanied the conference report and not the provisions which passed this body, there is some question as to whether the statement of managers is intended to apply to the House amendment. Thus, my question to the gentleman from West Virginia is as follows:

Is it the intention of the committee that the statement of managers which accompanied the conference report is applicable to the House amendment?

Mr. STAGGERS. Yes. There is no question about it.

Mr. CARTER. That is my position, also.

### GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto legislation, H.R. 13655.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, for the second time in 2 weeks we must deal with a Presidential veto of important legislation in the areas of energy conservation and environmental pollution. On September 17 the Congress successfully overrode the President's veto of H.R. 8800, the Electric Vehicle Research, Development and Demonstration Act, by substantial margins in both the House and Senate. The Automotive Transport Research and Development Act (H.R. 13655) is essentially a companion bill to H.R. 8800 in that the primary aim of each is to increase the energy efficiency of our personal transportation sector while reducing its environmental impact. Because of its importance, H.R. 13655 passed the House on June 3, 1976 by a 296 to 86 vote and the conference report, which allayed the fears of some Members with regard to the more ambitious Senate bill, was adopted by the House with a vote of 344 to 39 on August 31.

It is regrettable that we must take time in this busy period before adjournment to address a veto which again seems to be based on weak objections and bad advice given to the President.

In addition to misrepresenting the objectives of the bill, the veto message contains three specific objections. First, the President states H.R. 13655 duplicates existing authorities. Rather, it builds on existing general authorities to establish a focused program to develop a more efficient propulsion system.

Second, the veto message charges the bill invades "areas private industry is best equipped to pursue." In fact, H.R. 13655 provides funds to supplement and not supplant private efforts in the research areas that industry has not been able to justify significant private investment in the past.

Third, the President states this bill is the forerunner to a massive spending program much larger than the $100 million authorized. This is not so. The bill establishes a program that will include cost sharing by industry, and it sharply defines the R. & D. objectives.

Mr. Speaker, H.R. 13655 will establish an aggressive, but focused, 5-year research and development program in the Energy Research and Development Administration. The primary goal is the development of advanced automobile propulsion systems and the secondary goals are the development of other advanced automotive subsystems and the integration of these propulsion systems and other subsystems into test vehicles to evaluate their performance and compatibility with other automotive technology.

The program will accelerate the national effort in advanced engines, drive train components and other subsystems. Hopefully, the industry will be able to make a decision by the early 1980's on the commercial viability of these advanced systems. The automobiles of tomorrow which use the technology resulting from this program will be more energy-efficient, less polluting to our environment, and capable of using a broad variety of fuels.

Our transportation system uses about half of our national petroleum requirements and automobiles constitute about 40 percent of these requirements. Experts state that we can nearly double the fuel economy of the current automobiles with the advanced propulsion systems which will be developed under this program. These new propulsion systems will also have a lesser environmental impact on the urban areas of the country.

The program proposed in H.R. 13655 is constrained to complement, supplement, and stimulate the efforts of private industry in advanced automotive technology, but not compete with or displace the efforts of private enterprise. As each automotive technology progresses from the research toward commercial implementation the industry will be stimulated to invest more of its resources in related activities. Advisory panels will keep the governmental program directed toward realistic goals leading to advanced propulsion systems and components which will be attractive to the industry for mass production in our future automobiles.

Mr. Speaker, an override of the veto of H.R. 13655 will tell the people of this Nation that the Congress places extreme importance on a viable, efficient, clean, personal transportation system tomorrow, and that the Members demand that the job be started now in a meaningful way. This is a good bill, and I urge the vote of each Member of this body to override the veto.

Mr. MOSHER. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Ohio such time as he may consume.

Mr. MOSHER. Mr. Speaker, I do agree with one assertion in the veto message, but I say it is beside the point. It is not at all convincing.

It probably is true that the agencies, particularly DOT and ERDA, already have sufficient authority to go ahead without new legislation and do what we are very urgently telling them to do in H.R. 13655, the Automotive Research and Development Act of 1976.

But the crucial fact is this that DOT and ERDA seem not likely to accomplish the purposes of this bill, unless the Congress gives them the push, the mandate which Congress clearly intends in our overwhelming support of this bill.

Most of us involved in preparing this bill are convinced that the agencies will not provide the much-needed timely and vigorous advanced research needed in the Nation's interest, especially in the development of far more efficient automobile engines and new fuels.

Also, we are convinced that the private sector, the automobile industry, cannot afford to do this advanced research as quickly as the Nation needs it done.

Mr. Speaker, I am especially aware of the superb capabilities of the Lewis Research Center of NASA, at Cleveland, Ohio, to do much of the advanced research in motors and fuels which we need.

So I especially urge that the authority provided in H.R. 13655 be used by DOT and ERDA to establish a very productive working partnership with NASA.

And, of course, that same type of working partnership must be established with the motor industry.

I see the bill as a prime example of the kind of congressional initiative and leadership, in giving positive, creative direction to national policy—the kind of leadership we should demonstrate more often.

Therefore, as much as I do very reluctantly disagree with my President, I shall vote to override this veto.

I believe the President was poorly advised in sending up this veto. I suspect he was not given adequate information. I see here the routine, negative influence largely of OMB.

Frankly, I believe it is very unfortunate that none of the White House advisers consulted with the minority members of the Science and Technology Committee before making the decision to veto. This is an example of all too common lack of communication.

Mr. Speaker, I need not elaborate on the importance of the automobile in our country. The automobile determines much of our lifestyle, economy, mobility, and energy consumption. It represents a classic example of native American ingenuity and the free enterprise system working at their best. The country owes a debt of gratitude to those persons who pioneered the development of the automobile. One way of repaying that debt is to vote to pass H.R. 13655 despite the President's action.

The automobile plays such an important role in our society that the Government has regulated and "intruded" upon the private sector for many years and we must continue to do so. Health, safety, and energy concerns have led to seatbelt requirements, ignition interlock systems, bumper standards, and legislation on mileage and emission standards.

This legislation differs markedly from those examples, in that it will establish a program whereby the Government can contribute to developing the knowledge necessary to improve automobiles, rather than just forcing the private sector to do so on its own, too little and too late. The Federal program will expedite progress on automotive propulsion systems and improve the mutual understanding between private enterprise and the Government on automobiles.

The Federal program will approach the issue from a fresh perspective and I am confident will lead to innovative, new ideas and techniques.

Likewise the Federal Government's active involvement should give Federal officials a better appreciation of the practical difficulties related to automotive performance. This firsthand experience should lead to better informed Government action affecting automobiles.

Mr. Speaker, I view this act as giving the private sector a helping hand rather than as an unwarranted intrusion. Its focus is on improving propulsion systems and not reengineering incidental items. Accordingly, I support the motion to override.

Mr. TEAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I understand the gentleman from Texas yielded 3 minutes to the gentleman from Illinois and I appreciate it.

Mr. Speaker, during this campaign season and in fact throughout the 94th Congress, we have heard a lot of rhetoric about streamlining and making more efficient the Federal bureaucracy, and lots of bull about eliminating duplication.

Rather than just talking about what we are going to do, we have the opportunity to back up our rhetoric with action today to end some of this duplication.

The President vetoed this bill because the authority and funds are already available for automotive transport research and development. Furthermore, the private sector is better equipped to pursue this effort. Let us look at the record:

Both ERDA and DOT already have authority to accomplish the objectives of this bill.

Ongoing DOT programs are currently sponsoring advanced automobile research that, except for advanced automobile engines, are achieving the purposes of this bill.

Detailed design development for two versions of a research safety vehicle should be completed before the end of this year.

DOT will have sufficient funds for its advanced automobile research and development activity.

This program will eventually require a massive spending program not reflected in the $100 million startup authorization for the first 2 years.

Mr. Speaker, the provision for the construction of integrated test vehicles provided for in the bill infringe upon the traditional responsibilities of the automobile industry, and goes a long way toward putting the Federal Government in the business of designing and producing automobiles. While I believe the Federal Government should continue to engage in the research and development of advanced automobile engines and the technologies and designs necessary to meet the Nation's goals for advanced automobiles, I feel very strongly that the Federal role should be limited to the present research and development programs which are performing well and should not go beyond into borderline commercial areas.

If it is determined that increased funding levels for the existing programs in advanced automobile research and development could accelerate these programs, then I believe it would be appropriate for the Congress to utilize the normal budgeting processes rather than resorting to legislation requiring the construction of so-called integrated test vehicles which, while not called "production prototypes," may very well result in the same thing.

Accordingly, Mr. Speaker, I urge my colleagues to support the President and sustain his veto of this program which can be far better pursued in the private sector.

Mr. TEAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I thank the gentleman from Texas for yielding this time.

Mr. Speaker, I rise, of course, to urge an aye vote on the veto override. As the gentleman has indicated, this bill passed overwhelmingly earlier in this session by almost a 4 to 1 margin, and on the conference report almost a 10 to 1 margin.

I think that all of the Members recognize the fact that the automobile is the largest single consumer of liquid fuels in this country; that essentially it is the cause of our dependence upon the import of petroleum from other countries, and that until we resolve this matter of an efficient automobile, the very security of this country is threatened.

Mr. Speaker, as the chairman said, this is a companion bill to the electric vehicle R. & D. bill which we passed by a similarly large margin in this House, and on which we overrode the President's veto by a substantial vote just a week or so ago. On that matter of the electric vehicle, I noted just a few days after we overrode the veto a story in the press with regard to new developments in Japan. They have been aggressively pursuing an electric vehicle research and development program, and have made a breakthrough in batteries which allows them to construct and market electric vehicles with a range of 250 miles on one charge—four to five times what we can do in this country. It illustrates that our action in this electric vehicle field was probably several years too late. I bring that up only to suggest that I do not want to see us several years too late again in this vital program involving research and development upon other types of engines.

The distinguished gentleman from Illinois (Mr. MICHEL), who preceded me in the well, made certain statements reflecting the content of the President's veto message with regard to the role of the Federal Government and private industry. I would like to make just one or two comments with regard to that. The committee, in the whole process of drafting this bill, was thoroughly aware of this problem. Through the essential assistance of the distinguished gentleman from Califorinia (Mr. GOLDWATER), this bill was tailored so as to successfully avoid criticism that we were overlapping into the area of responsibility of private industry.

I am going to quote a few statements of spokesmen from the automobile industry in this connection, but before I do so, I want to quote from the report, on page 27, with regard to the position of the administration itself as expressed in a paper issued by the Federal Energy Administration. The FEA recommends that, and I quote:

> . . . the government adopt a strong leadership in this area (automotive research and development) in order to assure an adequate, but environmentally benign personal transportation system for the Nation during the period out to the year 2000 and beyond.

This FEA paper also indicates that—

> To generate the necessary new technology, a national R. & D. investment of $150 million per year for the next 25 years or so will be required.

This bill, of course, does not come anywhere close to that dollar figure. In other words, it is far less than the recommendation of the Federal Energy Administration, but we have to make a beginning, recognizing the fiscal realities of the present time.

Now, with regard to the position of the automobile companies, the hearings were careful to elucidate the views of the industry on this matter, and the report quotes a spokesman for Chrysler Corp. as follows:

> The most effective way of achieving an automobile—or a variety—that is clean, efficient, and economical is a thoughtful division of research and development work between government and industry.

A thoughtful division of R. & D. between Government and industry. This bill is that thoughtful division of research between Government and industry.

The spokesman for General Motors pointed out:

> There is a real need today for more work to be done in such areas as combustion, materials, heat exchange, electrochemistry, catalysts and hydrogen generation, and storage. Progress must be made in these areas before competitive alternative power plants can be built to survive in the marketplace.

The report further states:

> Government research of a basic type, in areas which now represent critical bottlenecks in the industry's efforts on advanced power plants, would supplement rather than duplicate the efforts of industry and thus make real contributions to progress.

This bill represents that effort to supplement rather than duplicate. The Ford

Motor Co. made the same general type of statement.

That is all in the RECORD.

Of course, I am sure that all of the Members read the report, that this is the reason why they voted in such overwhelming numbers on this bill for its passage, and I urge they do the same thing on the veto.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California (Mr. ROUSSELOT) 2 minutes.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, I would like to address a question to my colleague, the gentleman from California.

In a letter that my colleagues, the gentleman from California (Mr. BROWN) the gentleman from Texas (Mr. TEAGUE), and the gentleman from Florida (Mr. FUQUA) sent to us yesterday, there is a statement that "enacting H.R. 13655 into law will make a major contribution to our energy conservation goals and will greatly reduce our dependence on imported oil, since the automobile is the greatest single user of liquid petroleum."

Could the gentleman explain to us how $100 million spent over a 2-year period is somehow going to provide real conservation and at the same time reduce our dependence on the OPEC countries for the importation of oil in that same 2-year period?

I will yield to either the gentleman from Washington (Mr. McCORMACK) or the gentleman from California (Mr. BROWN).

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

Mr. Speaker, I would like to try to respond to the question of the gentleman from California (Mr. ROUSSELOT).

Every 1-mile-per-gallon improvement in fuel economy that we attain for the automobile in this country, will result in savings of 400,000 barrels of oil per day. At a price of only $11 a barrel. this amounts to a savings of $1.6 billion a year in imported oil costs, and we will see also that it amounts to over 100 million barrels a year savings, for just 1-mile-per-gallon improvement.

We clearly envision saving even more than that with the technological improvements resulting from this bill. As a matter of fact, the existing law mandates that we must have automobiles with much better fuel economy, but we have to do the research to achieve it. This program is designed to do the research to make it possible to have these kinds of savings.

Mr. ROUSSELOT. Mr. Speaker, is the gentleman telling us then that the research funding in this bill is directed to the specific problem that the gentleman from Washington has outlined, quite specifically that is to achieve better gas mileage and improve utilization of the fuel?

Mr. McCORMACK. If the gentleman will yield, there is no doubt about the fact that this is the primary objective. Another important objective, is to reduce the exhaust emissions of our cars, but the primary objective of this legislation is better gas mileage, yes.

Mr. ROUSSELOT. Can that research objective be achieved in a 2-year period of time?

Mr. McCORMACK. If the gentleman will yield, there is no claim that this can be achieved in any specific length of time. The program under this bill is a 5-year period. Based on the testimony we have received, the program is designed to have the answers necessary for the automobile industry by that time. We hope that as each new piece of technological information is made available, the automobile industry will pick it up; and its use will increase the gas mileage of their vehicles.

Mr. ROUSSELOT. I accept what the gentleman says.

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## CALL OF THE HOUSE

Mr. SKUBITZ. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 840]

Abzug
Archer
Armstrong
Breaux
Breckinridge
Brown, Ohio
Burke, Fla.
Burton, John
Byron
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Conable
Conlan
Conyers
Crane
Diggs
Dingell
Drinan
Esch
Flood
Flowers
Flynt
Fraser
Frey
Fuqua
Giaimo
Green
Guyer
Harsha
Hawkins
Hayes, Ind.
Hébert
Heinz
Hinshaw
Horton
Howard
Jarman
Johnson, Colo.
Jones, Okla.
Karth
Kemp
Leggett
McCloskey
McCollister
McKinney
Madigan
Mathis
Matsunaga
Melcher
Milford
Mink
Montgomery
Moss
Nix
O'Hara
Passman
Pepper
Rangel
Rees
Richmond
Riegle
Santini
Satterfield
Scheuer
Seiberling
Simon
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symington
Udall
Waggonner
Wiggins
Wilson, C. H.
Wilson, Tex.
Wolff
Young, Alaska
Young, Ga.

The SPEAKER. On this rollcall 346 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

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## AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. TEAGUE).

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the distinguished chairman's yielding.

Let me follow up on our previous colloquy regarding the need for this legislation.

Since we all know that the President has stated over and over again his desire to decrease our dependence on the OPEC nations for the supply of crude oil, why does the gentleman from Washington (Mr. McCORMACK) suppose that he has vetoed this bill if, in fact, this research will provide a lessening of the use of gasoline in potentially developed engines?

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Washington to answer the question propounded by the gentleman from California.

Mr. McCORMACK. I thank the gentleman for yielding.

I do not think I am the person who should be trying to speak to what was in the mind of the President when he vetoed this bill. I cannot very well speak to what was in his mind. I have analyzed his veto statement, and I intend to speak to it shortly and insert a detailed analysis of it in the RECORD.

To summarize, I can only say that I think the President is the victim of bad advice.

Mr. ROUSSELOT. I appreciate the gentleman's comment.

Mr. TEAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of the veto.

Mr. Speaker, I would like to speak in favor of the President's veto of H.R. 13655, a bill which in my view would lead to a massive funding program that is not at all adequately reflected in the bill's $100 million authorization provisions.

One of the peculiarities of this bill is that one has to look to its legislative history to discover some of the most vital information concerning its potential cost. For example, the bill neither contains a comprehensive definition of its program nor a projection of the funding which would be required over its 5-year lifespan. The reason for these extraordinary omissions is stated in the conference report discussion on the "Reports" section (section 10) of the bill, as follows:

> In complying with the requirement that annual reports contain a comprehensive program definition, the Administrator shall include projections for funding over the life of the program, the number and types of propulsion systems and other technologies to be developed, the costs of program elements, and a schedule for accomplishing the goals of the program. (Page 21, Rept. No. 94–1043)

In brief, if we are interested in knowing what the potential magnitude of this supercar program might be—its program definition and its eventual cost—we should pass the bill first, and then wait a year for the cost projections to be included in the annual report.

Another fascinating example of how crucial cost information is not adequately reflected in the bill is the issue of Federal loan guarantee authority. The "Reports" section of the bill also would require the ERDA Administrator to conduct a 1-year study on the need for Federal loan guarantee authority which may be useful or appropriate for the commercialization of advanced automotive engines, advanced subsystems, and integrated test vehicles. This study requirement was substituted by the conference committee in lieu of a $175 million loan guarantee provision in the Senate-passed version of the bill.

My point should now be obvious to everyone. In short, it is quite clear that President Ford was well-advised that this bill would eventually lead to a massive spending program of the kind that justifies a veto. How many hundreds of millions of dollars will be projected over the life of this program in the first annual report? Also, how many hundreds of millions of dollars will be recommended for a Federal loan assistance program in the report to be submitted within 1 year of the bill's enactment?

No one has the answers to these crucially important questions, of course, and I respectfully suggest, Mr. Speaker, that until we do have the answers to these questions, the Congress would be grossly negligent and irresponsible to pass upon such a program. Accordingly, I am in complete agreement with the President's veto in this case, and I strongly urge my colleagues to vote against H.R. 13655 and sustain the veto.

Mr. Speaker, I believe it is simply factually inaccurate to say that ERDA has not been actively involved in developing advanced alternative automobile propulsion systems. I hold in my hand a copy of the statement that was delivered by Austin Heller, the Assistant Administrator for Conservation of ERDA, on similar legislation way back in March of this year that details the work that is already going on in this area by ERDA.

The other feature of the legislation is a direction to ERDA to go ahead and develop an advanced automobile suitable for mass production with the label of integrated test vehicle, again a duplication, because I have in my hand a press release on the experimental safety vehicle conference to show small, safe, and economical cars, integrated test vehicles. Here is even a picture of them.

There is going to be exhibited here in Washington by the Department of Transportation in October, between the 12th of October and the 15th, a vehicle that is already in being and is being developed by the Department of Transportation and is specifically labeled an integrated test vehicle. Why in heaven's name do we want to go on then and commission ERDA to develop something else with a similar label? I think the President's point is amply documented that this is duplicative legislation that ought to be vetoed and we should support that veto here today.

Mr. TEAGUE. Mr. Speaker, I yield to the gentleman from Washington (Mr. McCORMACK) such time as he may consume.

Mr. McCORMACK. Mr. Speaker, I rise in support of H.R. 13655, the Automotive Transport Research and Development Act of 1976, and I ask the Members of the House to join in overriding this veto by a vote as large as the 344-to-39 margin by which the conference report was passed.

I would like to speak to the points made by the gentleman from Illinois, and provide a clearer picture of the issues he raised. The gentleman spoke of the programs for transportation research being carried out by the ERDA.

To put these programs in proper context, we are appropriating about $23 million for ERDA programs for transportation, including nonhighway traffic, electric vehicles, lightweight railroad cars, and even ships. The fact is that these ERDA programs are spread so thin that we are not moving forward as we should be doing in this area. These programs are not able to concentrate where most fuel is being consumed today, in our automobiles. I want to comment also on several points in the veto message, so that we all will understand.

Mr. Speaker, the President makes four points in his veto message which I should like to address briefly for the benefit of the Members' understanding.

The veto message incorrectly states that the "major objective of the program would be the development and construction of integrated test vehicles." The fact is that the objectives of the bill, as clearly spelled out in the conference report, are to put primary emphasis on development of the advanced automotive propulsion systems, with two-thirds to three-fourths of the funding for that specific objective.

Efforts will also be directed toward other automotive subsystems, such as infinitely variable transmissions and lightweight aerodynamic bodies meeting all Federal safety requirements.

The integrated test vehicles have the very limited objective of testing the automotive propulsion systems and other automotive technology in a road vehicle to show the durability of the technology and its performance characteristics. Only a very limited number, on the order of 10 to 20, of such vehicles are anticipated to be constructed under this program.

The objective of the program is to obtain information, not to make test vehicles.

Confirming these points, I would like to quote from Mr. GOLDWATER's statement on August 31 when this conference report was adopted:

> The primary focus of this 5-year program will be on advanced automotive propulsion systems. Two or three advanced engine concepts probably will be developed under the program.
>
> The test vehicles are designated by the bill as "integrated test vehicles" to reflect the integration of the DOT advanced safety and damageability technology in the vehicles designed to test the advanced engines.

And he further stated:

> The conferees have made clear that these vehicles are purely for test purposes and are not in any way intended as production prototypes or any other variant of the Senate's original "advanced automobile" goal.

Second, Mr. Speaker, the veto message states that—

> Such development would unnecessarily duplicate existing authorities and extend into areas (which) private industry is best equipped to pursue.

The reality is that while ERDA probably does have the general overall authority to carry out such programs, it very obviously does not have the motivation necessary to accomplish the all-important goals set forth in this bill, once again reflecting the fact that congressional initiative is required. This has been the case for solar energy, geothermal energy, energy conservation, and, of course, the electric vehicle program.

In fact, the bill would focus the efforts of ERDA scientists, individual entrepreneurs and inventors, and scientists from DOT and NASA in an intensive 5-year program to provide the technical information required for this Nation to achieve the goals of efficiency in automotive transportation that this Congress has already established. The fact is, Mr. Speaker, that it does us no good to set mandatory mileage requirements for our automobiles at certain dates in the future, such as 1980 or 1985, unless somebody does the research to provide the technological information that will make such advances possible. There is good reason to believe that we will not make these goals for more efficient gas mileage simply by improving the types of automobile engines we now employ. The research and development programs that would be established under this bill are essential if we are to meet the fuel conservation goals we have established as necessary to help reduce the pressure on our oil supplies.

I think that this point is emphasized, Mr. Speaker, by the fact that private industry has not undertaken the scale and intensity of research and development in the areas that this bill will cover. The proof of the pudding is the eating. It does no good to say that private industry can do something if they are not doing it when it needs to be done.

Speaking on this subject when the House passed the conference report on this bill on August 31, Mr. GOLDWATER said:

> The conference bill responsibly defines a statutory program for Federal auto R. & D. It effectively codifies the ongoing efforts in ERDA, DOT, NASA, and other Federal agencies into a single, cohesive program. That program for the first time is fully described and the role of the Federal Government is fully defined and limited to an appropriate role.

Mr. MOSHER said:

> I wish that all of ERDA's programs in conservation R. & D. had the vital ingredients of this approach. This automotive partnership will see ERDA and NASA serving as a "technical broker" between industry and the regulatory agencies. I feel certain they have the proven technical credibility to make it work.

Mr. Speaker, the third mistaken concept in the veto message is that—

> The appropriate Federal role in this area should be confined to research and development only, and not extend into borderline commercial areas. . . .

The fact is that the programs established under the Automotive Research and Development Act would not "extend into borderline commercial areas." Under the programs, the Federal effort would extend only as far as the fabrication of a few "integrated test vehicles" which are anything but commercial, and are really nowhere near the borderline of commercial. They will be, in fact, simply test beds for testing and demonstrating the various propulsion drive systems, et cetera, in a realistic atmosphere. The information from these tests will then be made available to the public so that any one can take advantage of it.

It should be emphasized, Mr. Speaker, that we are discussing the type of long-range, expensive research and development that private industry normally cannot justify but it must be done by somebody. This is classically the appropriate role of the Federal Government and follows the pattern we have established for solar energy, nuclear energy, and other energy production and conservation technologies.

Mr. Speaker, this is emphasized in the statement by Mr. MOSHER on August 31, when he said:

> This bill initiates a new partnership between Government and industry, founded on the principle that, ultimately, energy technology must be done in and by industry with Government's support. The ERDA/NASA expertise and the cost sharing plan for advanced engine research guarantees technology transfer to the private sector.

Mr. GOLDWATER also stated:

> The importance of industry's role in the advancement of automotive technology also has been recognized by the conferees in addressing the role of the Federal laboratories in conducting the R. & D. under this program.

The fourth misconception in the veto message is that this program would "eventually require a massive spending program—and would provide no commensurate benefit."

This is clearly not the case. The bill spells out a 5-year program with specific limited objectives. The estimated cost will be $50 to $60 million a year for a total to $250 to $300 million over the 5-year life of the program.

Mr. Speaker, in setting this investment into proper perspective, I would like to repeat part of my statement on the floor when this bill was passed on June 3 of this year:

> Petroleum production in this country is on the decline. People who were born in the 1930's will see in their lifetime the disappearance of 80 percent of this country's total petroleum. People who were born in the 1960's will live to see 80 percent of the world's supply of oil consumed. Conservation of petroleum fuels and use of alternative fuels is a must. Every 1-mile-per-gallon improvement in fuel economy for all autos on the road would result in a petroleum savings of 400,000 barrels per day. At the $11 per barrel import price, that is about $1.6 billion per year. Clearly, there is a need to find ways to achieve both clean air and maximum energy efficiency.

Mr. Speaker, this bill has the strong support of a wide spectrum of individuals and organizations: Businessmen, labor unions, and other interest groups. They recognize the wisdom of legislation that combines the commonsense of the businessman, expanded employment opportunities for the workingman, and greater protection of the environment with the opportunity to save millions of barrels of imported oil at the same time.

Mr. Speaker, I was particularly pleased to note that all Members of the House received a letter from the representatives of five groups supporting H.R. 13655. Although these organizations, the Sierra Club, Public Citizens, Friends of the Earth, Environmental Action, and the Environmental Policy Center take a negative position on most legislation intended to solve the Nation's energy problems, I am encouraged by their support for this bill, and trust it is the forerunner of similar constructive positions in the future. Mr. Speaker, the text of this letter follows:

SIERRA CLUB,
*Washington, D.C., September 29, 1976.*

DEAR REPRESENTATIVE: The House of Representatives will vote this week to override the veto of H.R. 13655, the Automotive Transport Research and Development Act of 1976. We urge you to support this important legislation and vote for its enactment. The bill authorizes a five-year program under the Energy Research and Development Administration to develop propulsion systems, such as the steam engine, that would provide an alternative to the gasoline-dependent internal combustion engine. It would provide $25 million for FY 1977 and $75 million for FY 1978.

This legislation will go to support positive programs to find solutions to two pressing problems: oil use and air pollution. The internal combustion engine in automobiles currently in use accounts for 40 percent of current consumption of petroleum (the single largest end-user). In addition, the automobile is a major contributor to air pollution, especially gaseous hydrocarbons and oxides of nitrogen. As we have just seen in the debate over the amendments to the Clean Air Act, the automotive industry has been behind schedule in efforts to clean up auto emissions, and it has successfully pleaded for delays totaling at least ten additional years. At the same time the major auto manufacturers have not been successful in developing alternative propulsions systems, nor have government efforts been adequate.

Given the record to date, it is clear that a new, concerted effort such as H.R. 13655 provides is necessary to produce clean, efficient automobiles. We note that Congress recently voted to override the veto of legislation to intensify research and development of electric cars. Therefore, we believe it is all the more urgent that Congress vote to override the veto of H.R. 13655. In developing alternatives to the internal combustion engine it is important to investigate all promising research. Putting all the research eggs in the basket of electric cars is not acceptable to us. Other types of engines and cars must also be investigated at the same time.

In endorsing H.R. 13655, we wish to make it clear that we have an overall commitment to planning for a balanced national transportation program. Over reliance on the automobile has created a number of problems which must be corrected. Other modes of transportation must be encouraged, in particular mass transit and railroads. Automobiles that play an appropriate role in national transportation modes and policies should be cleaner and more fuel efficient than the ones currently in use. We believe that H.R. 13655 is an essential ingredient in attaining that goal.

Sincerely,

LINDA M. BILLINGS,
*Washington Representative,*
*Sierra Club.*
JOAN CLAYBROOK,
*Public Citizen.*
JEFFREY W. KNIGHT,
*Legislative Director,*
*Friends of the Earth.*
LEN ARROW,
*Environmental Action.*
JOHN MCCORMICK,
*Environmental Policy Center.*

Mr. Speaker, I would like to take this opportunity to comment on one small point of confusion regarding this conference report. The distinguished Senator from Utah (Mr. MOSS) whose leadership on this bill in the Senate was so instrumental to its passage, managed the conference report in the Senate. In his statement (CONGRESSIONAL RECORD, p. 29881, September 13, 1976), he discussed at length one of the areas of disagreement between the two Houses—the scope of the authority of the Comptroller General to conduct audits of participating contractors under this R. & D. program. The conferees agreed to apply to this program the existing provision on GAO audits in the Energy Reorganization Act, which incorporates by reference the provisions of the Atomic Energy Act.

Broader audit authority proposed by GAO; that is, access to any related management decision documents or records, was considered as a compromise in the conference, but was specifically rejected. One of several reasons for that rejection was that the scope of existing GAO authority under current law is the subject of litigation and the conferees did not wish to act until the litigation has resolved that issue. The distinguished Senator went on to state that "what the intent of those provisions of the Energy Reorganization Act should be in the context of this program" is the broader authority proposed by GAO.

The GAO audit provision in the Energy Reorganization Act, which applies the provisions of the Atomic Energy Act, clearly only grants ERDA or GAO access to "directly pertinent books, documents, papers and records," as that phrase has been interpreted by the courts, or may be affected by the pending litigation. The broader interpretation suggested as the intent for this program was not only not endorsed in the conference, but it was specifically rejected. ERDA, GAO, and other participating agencies should be guided by the accepted interpretation, as may be subsequently modified by judicial decision.

I believe this is an important matter and the conferees intent should be clear.

The SPEAKER. The time of the gentleman from Washington (Mr. MCCORMACK) has expired.

Mr. TEAGUE. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington.

Mr. McCORMACK. Finally, Mr. Speaker, this program does not require a massive spending program. It is not the tip of the iceberg. The bill spells out a 5-year program with specific limited objectives. The estimated cost will be $50 to $60 million a year for a total of $250 million to $300 million over the 5-year life of the program.

Mr. Speaker, in setting this investment into proper perspective, I would like to repeat part of my statement on the floor when this bill was passed on June 3 of this year:

> Petroleum production in this country is on the decline. People who were born in the 1930's will see in their lifetime the disappearance of 80 percent of this country's total petroleum. People who were born in the 1960's will live to see 80 percent of the world's supply of oil consumed. Conservation of petroleum fuels and use of alternative fuels is a must. Every 1-mile-per-gallon improvement in fuel economy for all autos on the road would result in a petroleum savings of 400,000 barrels per day. At the $11 per barrel import price, that is about $1.6 billion per year. Clearly, there is a need to find ways to achieve both clean air and maximum energy efficiency.

Mr. Speaker, I urge my colleagues to vote for auto research and development, and to override the President's veto of H.R. 13655.

Mr. TEAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I rise in strong support of this bill. I am happy to join my colleagues on the Science Committee in supporting the veto override.

I would like to point out to my friend, the gentleman from Illinois (Mr. ANDERSON), that the use of loan guarantees here is really quite different than was proposed in the synfuels program. I am not opposed to loan guarantees as such. I am opposed to loan guarantees which shift huge blocks of capital to companies that have no need for the capital. What we have here is relatively small-sized companies that cannot acquire the capital to go into major production of new alternative engines; the use of the loan guarantee device for this kind of company makes very great sense, as opposed to the proposal to try to go into a multibillion-dollar diversion of capital, as was proposed in the synfuel program.

This legislation addresses two of our most very important problems facing the Nation. One is our depleting resource of oil and the other one is the great problem of air pollution. The internal combustion engine in automobiles in current use accounts for 40 percent of the current consumption of petroleum, the single largest end user. In addition, automobiles are a major contributor to air pollution, especially the gaseous type with nitrous oxides.

As we have seen in the debate on the Clean Air Act, the automobile industry has been behind schedule in the effort to clean up the air from auto emissions and it will require at least 10 additional years to do this. At the same time, the major automobile manufacturers have not been successful in developing alternative antipollution systems, nor have those efforts been adequate. This program simply helps to fill the gap because of the tremendous inertia of the automobile companies in developing alternative systems of propulsion. These are coming on line very quickly. The Sterling engine, the most promising alternative, is undergoing research at the present time. With a little boost it could very well be brought on line and help us in a very real way toward the objective of energy independence.

We spend billions and billions of dollars on the supply side of the energy equation. We have not done nearly enough with respect to cutting back on excessive demands and waste that we have. The internal combustion engine in our society is the greatest waster we have and it seems to me to fund this program is one of the best investments we can make in the future.

I urge my colleagues to join in overriding the veto.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, do I understand the gentleman from New York is actually supporting a bill that according to the report envisages the eventual granting of loan guarantees, maybe hundreds of millions of dollars of loan guarantees to manufacturing concerns?

Mr. OTTINGER. I made it quite clear earlier—I do not think the gentleman from Illinois was here at the time—when I made a clear distinction between these loan guarantees of limited amounts of money to help relatively small companies to acquire capital, and the synfuels program which sought to move billion-dollar blocks of capital to the giant energy companies.

Mr. HECHLER of West Virginia. Mr. Speaker, I urge the House to override the President's veto of the very valuable Automotive Transport Research Act.

As a member of the Committee of Science and Technology, I was privileged to participate in hearings on this legislation. It is clear that we as a nation have a responsibility to move forward aggressively to develop new auto propulsion systems, as well as the necessary test vehicles. Not only from the standpoint of conservation and effective use of energy, but also from considerations of clean air, we simply must do more in these areas. For too long, we have relied on the efforts of the automobile manufacturers to dictate the nature of the automobiles and propulsion systems contained therein. As a result, good advertising has all too often controlled the nature of the gas-guzzling vehicle the public is forced to accept.

I believe that the research and development contemplated in this legislation is well-balanced, and yet provides the opportunity for a breakthrough in a highly important area. I therefore urge my colleagues to vote to override so the Nation can derive the fullest benefits from breakthroughs in auto propulsion systems already on the drawing boards in ERDA and the sources ERDA can tap at universities and other outside resources.

Mr. LAGOMARSINO. Mr. Speaker, I would like to speak against H.R. 13655, a bill which in my view would lead to a massive funding program that is not at all adequately reflected in the bill's $100 million authorization provisions.

One of the peculiarities of this bill is that one has to look to its legislative history to discover some of the most vital information concerning its potential cost. For example, the bill neither contains a comprehensive definition of its program nor a projection of the funding which would be required over its 5-year lifespan. The reason for these extraordinary omissions is stated in the conference report discussion on the "reports" section—section 10—of the bill, as follows:

> In complying with the requirement that annual reports contain a comprehensive program definition, the Administrator shall include projections for funding over the life of the program, the number and types of propulsion systems and other technologies to be developed, the costs of program elements, and a schedule for accomplishing the goals of the program. (page 21, Rept. No. 94–1043)

In brief, if we are interested in knowing what the potential magnitude of this "super-car" program might be—its program definition and its eventual cost—we should pass the bill first, and then wait a year for the cost projections to be included in the annual report.

Another fascinating example of how crucial cost information is not adequately reflected in the bill is the issue of Federal loan guarantee authority. The "reports" section of the bill also would require the ERDA Administrator to conduct a 1-year study on the need for Federal loan guarantee authority which may be useful or appropriate for the commercialization of advanced automotive engines, advanced subsystems, and integrated test vehicles. This study requirement was substituted by the conference committee in lieu of a $175 million loan guarantee provision in the Senate passed version of the bill.

My point should now be obvious to everyone. In short, it is quite clear that this bill would eventually lead to a massive spending program of the kind that justifies a veto. How many hundreds of millions of dollars will be projected over the life of this program in the first annual report? Also, how many hundreds of millions of dollars will be recommended for a Federal loan assistance program in the report to be submitted within 1 year of the bill's enactment?

No one has the answers to these crucially important questions, of course, and I respectfully suggest, Mr. Speaker, that until we do have the answers to these questions, the Congress would be grossly negligent and irresponsible to pass upon such a program. Accordingly, I am in complete agreement with the veto in this case, and I strongly urge my colleagues to vote against H.R. 13655 and sustain the veto.

To those who argue the need for highway safety as justification for this bill, I would point out that the National Highway Traffic Safety Administration's research safety vehicle program is already well along in the development and evaluation of advanced safety automobiles, which will achieve high levels of damage-resistance, safety, fuel economy, and lower emissions while designed to be produced at reasonable costs. Detailed design development for two versions of such advanced research automobiles, which should meet the Nation's goals for advanced automobiles through the mid-1980's, will be completed before the end of this year. The contracts for the development of the two versions of these advanced automobiles were awarded to the Calspan Corporation and to Minicars, Inc., of Santa Barbara in July 1975.

If the Calspan and Minicars designs appear practical, and vehicle fabrication is determined to be in the national interest, each of these contractors will be awarded a contract for final design and manufacture of test vehicles, scheduled for completion in mid-1978. The final phase of the program will consist of comprehensive testing of the vehicles, which should be completed in mid-1979.

Calspan is developing an RSV based on modification and improvement of a new production vehicle.

The key features of this car include improved crashworthiness and a soft foam bumper which will reduce pedestrian injuries. Excellent fuel economy and provisions for materials recycling also are featured.

The Minicars vehicle is an all-new, innovative design, which utilizes a foam-filled structure to reduce weight and improve omnidirectional crashworthiness. The front bumper is designed to reduce property damage and to provide pedestrian protection. The "body glove" concept includes sectionalized covers for fenders and car doors, which will reduce sheet metal finish requirements and can be easily replaced if damaged. Total cost of the NHTSA program will be $24 million. I submit we should not commit additional and possibly duplicative taxpayer funds. I urge a vote to sustain the veto.

Mr. TEAGUE. Mr. Speaker, I move the previous question on the veto.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ADAMS). The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. The Chair desires to make an announcement.

The Chair has been advised that the electronic voting system is, at the present time, not operable. Until further notice, therefore, all votes and quorum calls will be taken by the standby procedures which are provided for in the rules.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken, and there were—yeas 293, nays 102, not voting 35, as follows:

[Roll No. 841]

YEAS—293

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gradison
Gude
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kindness
Koch
Krebs
Krueger
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Railsback
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Talcott
Taylor, N.C.
Teague
Thompson
Thornton
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—102

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bevill
Brinkley
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Carter
Cederberg
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conlan
Coughlin
Crane
Daniel, Dan
de la Garza
Devine
Edwards, Ala.
English
Erlenborn
Eshleman
Evans, Ind.
Findley
Forsythe
Goldwater
Goodling
Grassley
Hall, Tex.
Hammerschmidt
Hansen
Henderson
Holt
Hubbard
Hutchinson
Hyde
Ichord
Jacobs
Johnson, Pa.
Jones, Okla.
Kelly
Kemp
Ketchum
LaFalce
Lagomarsino
Landrum
Latta
Levitas
Lott
McClory
McDonald
McEwen
Martin
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Myers, Ind.
Nichols
Paul
Quie
Quillen
Rhodes
Robinson
Rogers
Rousselot
Ruppe
Satterfield
Schneebeli
Sebelius
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Symms
Taylor, Mo.
Thone
Traxler
Treen
Vander Jagt
Vigorito
Waggonner
Wilson, Bob
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—35

Breaux
Brown, Ohio
Clay
Conable
Dickinson
Esch
Flynt
Green
Guyer
Hébert
Heinz
Hinshaw
Jarman
Karth
Leggett
McCollister
Matsunaga
Mink
Moss
Nix
Passman
Pepper
Rees
Riegle
Santini
Scheuer
Simon
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symington
Udall
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Pepper and Mr. Matsunaga for, with Mr. Hébert against.

Mr. Esch and Mr. Brown of Ohio for, with Mr. Stuckey against.

Mr. Heinz and Mr. Guyer for, with Mr. Conable against.

Mr. Moss and Mr. Nix for, with Mr. Dickinson against.

Mr. Charles H. Wilson of California and Mr. Clay for, with Mr. McCollister against.

Until further notice:

Mr. Breaux with Mr. Green.
Mr. Santini with Mr. Scheuer.
Mr. Leggett with Mr. Flynt.
Mr. Riegle with Mr. Rees.
Mr. Udall with Mr. Passman.
Mr. Simon with Mr. Karth.
Mrs. Mink with Mr. Stephens.
Mr. Symington with Mr. James V. Stanton.

Mr. BIESTER changed his vote from "nay" to "yea."

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

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## CONFERENCE REPORT ON S. 507, MANAGEMENT, PROTECTION, AND DEVELOPMENT OF NATIONAL RESOURCE LANDS

Mr. MELCHER submitted the following conference report and statement on the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1724)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

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TITLE I—SHORT TITLE; POLICIES; DEFINITIONS

Sec. 101. Short title.
Sec. 102. Declaration of policy.
Sec. 103. Definitions.

TITLE II—LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION

Sec. 201. Inventory and identification.
Sec. 202. Land use planning.
Sec. 203. Sales.
Sec. 204. Withdrawals.
Sec. 205. Acquisitions.
Sec. 206. Exchanges.
Sec. 207. Qualified conveyees.
Sec. 208. Conveyances.
Sec. 209. Reservation and conveyance of mineral interests.
Sec. 210. Coordination with State and local governments.
Sec. 211. Omitted lands.
Sec. 212. Recreation and Public Purposes Act.
Sec. 213. National forest townsites.
Sec. 214. Unintentional Trespass Act.

TITLE III—ADMINISTRATION

Sec. 301. BLM directorate and functions.
Sec. 302. Management of use, occupancy, and development.
Sec. 303. Enforcement authority.
Sec. 304. Service charges and reimbursements.
Sec. 305. Deposits and forfeitures.
Sec. 306. Working capital fund.
Sec. 307. Studies, cooperative agreements, and contributions.
Sec. 308. Contracts for surveys and resource protection.
Sec. 309. Advisory councils and public participation.
Sec. 310. Rules and regulations.
Sec. 311. Program report.
Sec. 312. Search and rescue.
Sec. 313. Sunshine in government.
Sec. 314. Recordation of mining claims and abandonment.
Sec. 315. Recordable disclaimers of interest.
Sec. 316. Correction of conveyance documents.
Sec. 317. Mineral revenues.
Sec. 318. Appropriation authorization.

TITLE IV—RANGE MANAGEMENT

Sec. 401. Grazing fees.
Sec. 402. Grazing leases and permits.
Sec. 403. Grazing advisory boards.
Sec. 404. Management of certain horses and burros.

TITLE V—RIGHTS-OF-WAY

Sec. 501. Authorization to grant rights-of-way.
Sec. 502. Cost-share road authorization.
Sec. 503. Corridors.
Sec. 504. General provisions.
Sec. 505. Terms and conditions.
Sec. 506. Suspension and termination of rights-of-way.
Sec. 507. Rights-of-way for Federal agencies.
Sec. 508. Conveyance of lands.
Sec. 509. Existing rights-of-way.
Sec. 510. Effect on other laws.
Sec. 511. Coordination of applications.

TITLE VI—DESIGNATED MANAGEMENT AREAS

Sec. 601. California desert conservation area.
Sec. 602. King range.
Sec. 603. Bureau of land management wilderness study.

TITLE VII—EFFECT ON EXISTING RIGHTS: REPEAL OF EXISTING LAWS; SEVERABILITY

Sec. 701. Effect on existing rights.
Sec. 702. Repeal of laws relating to homesteading and small tracts.
Sec. 703. Repeal of laws related to disposals.
Sec. 704. Repeal of withdrawal laws.
Sec. 705. Repeal of laws relating to administration of public lands.
Sec. 706. Repeal of laws relating to rights-of-way.
Sec. 707. Severability.

## TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

### SHORT TITLE

SEC. 101. This Act may be cited as the "Federal Land Policy and Management Act of 1976".

### DECLARATION OF POLICY

SEC. 102. (a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the provisions of this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposals in excess of a specified acreage;

(11) regulations and plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

### DEFINITIONS

SEC. 103. Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in, or amended by, this Act, as used in this Act—

(a) The term "areas of critical environmental concern" means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

(b) The term "holder" means any State or local governmental entity, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title V of this Act.

(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resources uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) The term "public involvement" means the opportunity for participation by affected citizens in rulemaking, decisionmaking, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(c) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) lands located on the Outer Continental Shelf; and

(2) lands held for the benefit of Indians, Aleuts, and Eskimos.

(f) The term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purpose listed in title V of this Act.

(g) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

(i) The term "wilderness" as used in section 603 shall have the same meaning as it does in section 2(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131–1136).

(j) The term "withdrawal" means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land other than "property" governed by the Federal Property and Administrative Services Act as amended (40 U.S.C. 472) from one department, bureau or agency to another department, bureau or agency.

(k) An "allotment management plan" means a document prepared in consultation with the lessees or permittees involved, which applies to livestock operations on the public lands or on lands within National Forests in the eleven contiguous Western States and which:

(1) prescribes the manner in, and extent to, which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic and other needs and objectives as determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management; and

(3) contains such other provisions relating to livestock grazing and other objectives found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(l) The term "principal or major uses" includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term "department" means a unit of the executive branch of the Federal Government which is headed by a member of the President's Cabinet and the term "agency" means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term "Bureau" means the Bureau of Land Management.

(o) the term "eleven contiguous western States" means the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(p) The term "grazing permit and lease" means any document authorizing use of public lands or lands in National Forests in the eleven contiguous western States for the purpose of grazing domestic livestock.

## TITLE II—LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION

### INVENTORY AND IDENTIFICATION

SEC. 201. (a) The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.

(b) As funds and manpower are made available, the Secretary shall ascertain the boundaries of the public lands; provide means of public identification thereof including, where appropriate, signs and maps; and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity of such public lands.

### LAND USE PLANNING

SEC. 202. (a) The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

(b) In the development and revision of land use plans, the Secretary of Agriculture shall coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approved tribal land resource management programs.

(c) In the development and revision of land use plans, the Secretary shall—

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) rely, to the extent it is available, on the inventory of the public lands, their resources, and other values;

(5) consider present and potential uses of the public lands;

(6) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(7) weigh long-term benefits to the public against short-term benefits;

(8) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located, including, but not limited to, the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended, and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact of non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

(d) Any classification of public lands or any land use plan in effect on the date of enactment of this Act is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section. The Secretary may modify or terminate any such classification consistent with such land use plans.

(e) The Secretary may issue management decisions to implement land use plans developed or revised under this section in accordance with the following:

(1) Such decisions, including but not limited to exclusions (that is, total elimination) of one or more of the principal or major uses made by a management decision shall remain subject to reconsideration, modification, and termination through revision by the Secretary or his delegate, under the provisions of this section, of the land use plan involved.

(2) Any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the prinicpal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate. If within ninety days from the giving of such notice (exclusive of days on which either House has adjourned for more than three consecutive days), the Congress adopts a concurrent resolution of nonapproval of the management decision or action, then the management decision or action shall be promptly terminated by the Secretary. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the management decision or action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution

with respect to the same management decision or action. When the committee has reported, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) Withdrawals made pursuant to section 204 of this Act may be used in carrying out management decisions, but public lands shall be removed from or restored to the operation of the Mining Law of 1872, as amended (R.S. 2318–2352, 30 U.S.C. 21 et seq.) or transferred to another department, bureau, or agency only by withdrawal action pursuant to section 204 or other action pursuant to applicable law: *Provided*, That nothing in this section shall prevent a wholly owned Government corporation from acquiring and holding rights as a citizen under the Mining Law of 1872.

(f) The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.

### SALES

SEC. 203. (a) A tract of the public lands (except land in units of the National Wilderness Preservation System, National Wild and Scenic Rivers System, and National System of Trails) may be sold under this Act where, as a result of land use planning required under section 202 of this Act, the Secretary determines that the sale of such tract meets the following disposal criteria:

(1) such tract because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency; or

(2) such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract will serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

(b) Where the Secretary determines that land to be conveyed under clause (3) of subsection (a) of this section is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of this section or in accordance with other existing law.

(c) Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation to the Senate and the House of Representatives, and then only if the Congress has not adopted a concurrent resolution stating that such House does not approve of such designation. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the designation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same designation. When the committee has reported, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Sales of public lands shall be made at a price not less than their fair market value as determined by the Secretary.

(c) The Secretary shall determine and establish the size of tracts of public lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract which is judged by the Secretary to be chiefly valuable for agriculture is sold, its size shall be no larger than necessary to support a family-sized farm.

(f) Sales of public lands under this section shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper in order (1) to assure equitable distribution among purchasers of lands, or (2) to recognize equitable considerations or public policies, including but not limited to, a preference to users, he may sell those lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

(1) the State in which the land is located;

(2) the local government entities in such State which are in the vicinity of the land;

(3) adjoining landowners;

(4) individuals; and

(5) any other person.

(g) The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bidding at his invitation no later than thirty days after the receipt of such offer or, in the case of a tract in excess of two thousand five hundred acres, at the end of thirty days after the end of the ninety-day period provided in subsection (c) of this section, whichever is later, unless the offeror waives his right to a decision within such thirty-day period. Prior to the expiration of such periods the Secretary may refuse to accept any offer or may withdraw any land or interest in land from sale under this section when he determines that consummation of the sale would not be consistent with this Act or other applicable law.

### WITHDRAWALS

SEC. 204. (a) On and after the effective date of this Act the Secretary is authorized ot make, modify, extend, or revoke withdrawals but only in accordance with the provisions and limitations of this section. The Secretary may delegate this withdrawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.

(b) (1) Within thirty days of receipt of an application for withdrawal, and whenever he proposes a withdrawal on his own motion, the Secretary shall publish a notice in the FEDERAL REGISTER stating that the application has been submitted for filing or the proposal has been made and the extent to which the land is to be segregated while the application is being considered by the Secretary. Upon publication of such notice the land shall be segregated from the operation of the public land laws to the extent specified in the notice. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of lands by the Secretary, or

(c) the expiration of two years from the date of the notice.

(2) The publication provisions of this subsection are not applicable to withdrawals under subsection (e) hereof.

(c) (1) On and after the date of approval of this Act a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal or any other withdrawal involving in the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than twenty years by the Secretary on his own motion or upon request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become ineffective at the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, if the Congress has adopted a concurrent resolution stating that such House does not approve the withdrawal. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(2) With the notices required by subsection (c) (1) of this section and within three months after filing the notice under subsection (e) of this section, the Secretary shall furnish to the committees—

(1) a clear explanation of the proposed use of the land involved which led to the withdrawal;

(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the

economic impact of the change in use on individuals, local communities, and the Nation;

(3) an identification of present users of the land involved, and how they will be affected by the proposed use;

(4) an analysis of the manner in which existing and potential resource uses are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;

(5) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

(6) a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

(9) a statement of the expected length of time needed for the withdrawal;

(10) the time and place of hearings and of other public involvement concerning such withdrawal;

(11) the place where the records on the withdrawal can be examined by interested parties; and

(12) a report prepared by a qualified mining engineer, engineering geologist, or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands.

(d) A withdrawal aggregating less than five thousand acres may be made under this subsection by the Secretary on his own motion or upon request by a department or an agency head—

(1) for such period of time as he deems desirable for a resource use; or

(2) for a period of not more than twenty years for any other use, including but not limited to use for administrative sites, location of facilities, and other proprietary purposes; or

(3) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

(e) When the Secretary determines, or when the Committee on Interior and Insular Affairs of either the House of Representatives or the Senate notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost, the Secretary notwithstanding the provisions of subsections (c)(1) and (d) of this section, shall immediately make a withdrawal and file notice of such emergency withdrawal with the Committees on Interior and Insular Affairs of the Senate and the House of Representatives. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed three years and may not be extended except under the provisions of subsection (c)(1) or (d), whichever is applicable, and (b)(1) of this section. The information required in subsection (c)(2) of this subsection shall be furnished the committees within three months after filing such notice.

(f) All withdrawals and extensions thereof, whether made prior to or after approval of this Act, having a specific period shall be reviewed by the Secretary toward the end of the withdrawal period and may be extended or further extended only upon compliance with the provisions of subsection (c)(1) or (d), whichever is applicable, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period. The Secretary shall report on such review and extensions to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate.

(g) All applications for withdrawal pending on the date of approval of this Act shall be processed and adjudicated to conclusion within fifteen years of the date of approval of this Act, in accordance with the provisions of this section. The segregative effect of any application not so processed shall terminate on that date.

All new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (e) of this section) shall be promulgated after an opportunity for a public hearing.

(i) In the case of lands under the administration of any department or agency other than the Department of the Interior, the Secretary shall make, modify, and revoke withdrawals only with the consent of the head of the department or agency concerned, except when the provisions of subsection (e) of this section apply.

(j) The Secretary shall not make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431–433); or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to the date of approval of this Act or which thereafter adds lands to that System under the terms of this Act. Nothing in this Act is intended to modify or change any provision of the Act of February 27, 1976 (90 Stat. 199; 16 U.S.C. 668dd(a)).

(k) There is hereby authorized to be appropriated the sum of $10,000,000 for the purpose of processing withdrawal applications pending on the effective date of this Act, to be available until expended.

(l)(1) The Secretary shall, within fifteen years of the date of enactment of this Act, review withdrawals existing on the date of approval of this Act, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of (1) all Federal lands other than withdrawals of the public lands administered by the Bureau of Land Management and of lands which, on the date of approval of this Act, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service, the National Wild and Scenic Rivers System, and the National Systems of Trails; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive or natural areas or designated as national recreation areas) which closed the lands to appropriation under the Mining Law of 1872 (17 Stat. 91, as amended: 30 U.S.C. 22 et seq.) or to leasing under the Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(2) In the review required by paragraph (1) of this subsection, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, or for legislation. The Secretary may act to terminate withdrawals other than those made by Act of the Congress in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives either House of the Congress has adopted a concurrent resolution indicating otherwise. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reported, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) There are hereby authorized to be appropriated not more than $10,000,000 for the purpose of paragraph (1) of this subsection to be available until expended to the Secretary and to the heads of other departments and agencies which will be involved.

### ACQUISITIONS

SEC. 205. (a) Notwithstanding any other provisions of law, the Secretary, with respect to the public lands and the Secretary of Agriculture, with respect to the acquisition of access over non-Federal lands to units of the National Forest System, are authorized to acquire pursuant to this Act by purchase, exchange, donation, or eminent domain, lands or interests therein: *Provided*, That with respect to the public lands, the Secretary may exercise the power of eminent domain only if necessary to secure access to public lands, and then only if the lands so acquired are confined to as narrow a corridor as is necessary to serve such purpose. Nothing in this subsection shall be construed as expanding or limiting the authority of the Secretary of Agriculture to acquire land by eminent domain within the boundaries of units of the National Forest System.

(b) Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable departmental land-use plans.

(c) Lands and interests in lands acquired by the Secretary pursuant to this section or section 206 shall, upon acceptance of title, become public lands, and, for the administration of public land laws not repealed by this Act, shall remain public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to the first section of the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315) (commonly known as the "Taylor Grazing Act"), they shall become a part of that district. Lands and interests in lands acquired pursuant to this section which are within boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable thereto.

(d) Lands and interests in lands acquired by the Secretary of Agriculture pursuant to this section shall, upon acceptance of title, become National Forest System lands subject to all the laws, rules, and regulations applicable thereto.

### EXCHANGES

SEC. 206. (a) A tract of public land or interests therein may be disposed of by exchange by the Secretary under this Act and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture under applicable law where the Secretary concerned determines that the public interest will be well served by making that exchange: *Provided*, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

(b) In exercising the exchange authority granted by subsection (a) or by section 205 (a) of this Act, the Secretary may accept title to any non-Federal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land or interest to be acquired. For the purposes of this subsection, unsurveyed school sections which, upon survey by the Secretary, would become State lands, shall be considered as "non-Federal lands". The values of the lands exchanged by the Secretary under this Act and by the Secretary of Agriculture under applicable law relating to lands within the National Forest System either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. The Secretary concerned shall try to reduce the amount of the payment of money to as small an amount as possible.

(c) Lands acquired by exchange under this section by the Secretary which are within the boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable to the National Forest System. Lands acquired by exchange by the Secretary under this section which are within the boundaries of National Park, Wildlife Refuge, Wild and Scenic Rivers, Trails, or any other System established by Act of Congress may be transferred to the appropriate agency head for administration as part of such System and in accordance with the laws, rules, and regulations applicable to such System.

### QUALIFIED CONVEYEES

SEC. 207. No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any State or of the United States.

### CONVEYANCE

SEC. 208. The Secretary shall issue all patents or other documents of conveyance after any disposal authorized by this Act. The Secretary shall insert in any such patent or other document of conveyance he issues, except in the case of land exchanges, for which the provisions of subsection 206(b) of this Act shall apply, such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest: *Provided*, That a conveyance of lands by the Secretary, subject to such terms, covenants, conditions, and reservations, shall not exempt the grantee from compliance with applicable Federal or State law or State land use plans: *Provided further*, That the Secretary shall not make conveyances of public lands containing terms and conditions which would, at the time of the conveyance, constitute a violation of any law or regulation pursuant to State and local land use plans, or programs.

### RESERVATION AND CONVEYANCE OF MINERALS

SEC. 209. (a) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 206, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that if the Secretary makes the findings specified in subsection (b) of this section, the minerals may then be conveyed together with the surface to the prospective surface owner as provided in subsection (b).

(b)(1) The Secretary, after consultation with the appropriate department or agency head, may convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, regardless of which Federal entity may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(2) Conveyance of mineral interests pursuant to this section shall be made only to the existing or proposed record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(3) Before considering an application for conveyance of mineral interests pursuant to this section—

(i) the Secretary shall require the deposit by the applicant of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance: *Provided*, That, if the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(ii) the applicant, with the consent of the Secretary, shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(4) Moneys paid to the Secretary for administrative costs pursuant to this subsection shall be paid to the agency which rendered the service and deposited to the appropriation then current.

### COORDINATION WITH STATE AND LOCAL GOVERNMENTS

SEC. 210. At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

### OMITTED LANDS

SEC. 211. OMITTED LANDS.—(a) The Secretary is hereby authorized to convey to States or their political subdivisions under the Recreation and Public Purposes Act (44 Stat. 741 as amended; 43 U.S.C. 869 et seq.), as amended, but without regard to the acreage limitations contained therein, unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey: *Provided, however*, That such island may be surveyed at the request of the applicant State or its political subdivision if such State or subdivision donates money or services to the Secretary for such survey, the Secretary accepts such money or services, and such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management. Any such island so surveyed shall not be conveyed without approval of such survey by the Secretary prior to the conveyance.

(b)(1) The Secretary is authorized to convey to States and their political subdivisions under the Recreation and Public Purposes Act, but without regard to the acreage limitations contained therein, lands other than islands determined by him after survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys (hereinafter referred to as "omitted lands"). Any such conveyance shall not be made without a survey: *Provided*, That the prospective recipient may donate money or services to the Secretary for the surveying necessary prior to conveyance if the Secretary accepts such money or services, such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management, and such survey is approved by the Secretary prior to the conveyance.

(2) The Secretary is authorized to convey to the occupant of any omitted lands which, after survey, are found to have been occupied and developed for a five-year period prior to January 1, 1975, if the Secretary determines that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership. Conveyance under this subparagraph shall be made at not less than the fair market value of the land, as determined by the Secretary, and upon payment in addition of administrative costs, including the cost of making the survey, the cost of appraisal, and the cost of making the conveyance.

(c)(1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262) and/or title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4) have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(2) The provisions of section 210 of this Act shall be applicable to all conveyances under this section.

(d) The final sentence of section 1(c) of the Recreation and Public Purposes Act shall not be applicable to conveyances under this section.

(e) No conveyance pursuant to this section shall be used as the basis for determining the baseline between Federal and State ownership, the boundary of any State for purposes of determining the extent of a State's submerged lands or the line of demarcation of Federal jurisdiction, or any similar or related purpose.

(f) The provisions of this section shall not apply to any lands within the National Forest System, defined in the Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System.

(g) Nothing in this section shall supersede the provisions of the Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), as amended, and the Act of May 31, 1962 (76 Stat. 89), or any other Act authorizing the sale of specific omitted lands.

### RECREATION AND PUBLIC PURPOSES ACT

SEC. 212. The Recreation and Public Purposes Act of 1926 (44 Stat. 741, as amended; 43 U.S.C. 869–4), as amended, is further amended as follows:

(a) The second sentence of subsection (a) of the first section of that Act (43 U.S.C. 869 (a)) is amended to read as follows: "Before the land may be disposed of under this Act it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under this Act, including public hearings or meetings where he deems it appropriate to provide public comments, and shall hold at least one public meeting on any proposed disposal of more than six hundred forty acres under this Act."

(b) Subsection (b)(i) of the first section of that Act (43 U.S.C. 869(b)) is amended to read as follows:

"(b) Conveyances made in any one calendar year shall be limited as follows:

"(i) For recreational purposes:

"(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, hereinafter referred to as the State, or to any political subdivision of such State, six thousand four hundred acres, and such additional acreage as may be needed for small roadside parks and rest sites of not more than ten acres each.

"(B) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

"(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under this Act in any one State per calendar year. Should any State or political subdivision, however, fail to secure, in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year".

(c) Section 2(a) of that Act (43 U.S.C. 869–1) is amended by inserting "or recreational purposes" immediately after "historic-monument purposes".

(d) Section 2(b) of that Act (43 U.S.C. 869–1) is amended by adding ", except that leases of such lands for recreational purposes shall be made without monetary consideration" after the phrase "reasonable annual rental".

### NATIONAL FOREST TOWNSITES

SEC. 213. The Act of July 31, 1958 (72 Stat. 438, 7 U.S.C. 1012a, 16 U.S.C. 478a), is amended to read as follows: "When the Secretary of Agriculture determines that tract of National Forest System land in Alaska or in the eleven contiguous western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided, however,* That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands."

### UNINTENTIONAL TRESPASS ACT

SEC. 214. (a) Notwithstanding the provisions of the Act of September 26, 1968 (82 Stat. 870; 43 U.S.C. 1431–1435), hereinafter called the "1968 Act", with respect to applications under the 1968 Act which were pending before the Secretary as of the effective date of this subsection and which he approves for sale under the criteria prescribed by the 1968 Act, he shall give the right of first refusal to those having a preference right under section 2 of the 1968 Act. The Secretary shall offer such lands to such preference right holders at their fair market value (exclusive of any values added to the land by such holders and their predecessors in interest) as determined by the Secretary as of September 26, 1973.

(b) Within three years after the date of approval of this Act, the Secretary shall notify the filers of applications subject to paragraph (a) of this section whether he will offer them the lands applied for and at what price; that is, their fair market value as of September 26, 1973, excluding any value added to the lands by the applicants or their predecessors in interest. He will also notify the President of the Senate and the Speaker of the House of Representatives of the lands which he has determined not to sell pursuant to paragraph (a) of this section and the reasons therefor. With respect to such lands which the Secretary determined not to sell, he shall take no other action to convey those lands or interests in them before the end of ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the date the Secretary has submitted such notice to the Senate and House of Representatives. If, during the ninety-day period, the Congress adopts a concurrent resolution stating the length of time such suspension of action should continue, he shall continue such suspension for the specified time period. If the committee to which a resolution has been referred during the said ninety-day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the suspension of action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same suspension of action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) Within five years after the date of approval of this Act, the Secretary shall complete the processing of all applications filed under the 1968 Act and hold sales covering all lands which he has determined to sell thereunder.

## TITLE III—ADMINISTRATION

### BLM DIRECTORATE AND FUNCTIONS

SEC. 301. (a) The Bureau of Land Management established by Reorganization Plan Numbered 3, of 1946 (5 U.S.C. App. 519) shall have as its head a Director. Appointments to the position of Director shall hereafter be made by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management. He shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of lands and resources under his jurisdiction according to the applicable provisions of this Act and any other applicable law.

(b) Subject to the discretion granted to him by Reorganization Plan Numbered 3 of 1950 (43 U.S.C. 1451 note), the Secretary shall carry out through the Bureau all functions, powers, and duties vested in him and relating to the administration of laws which, on the date of enactment of this section, were carried out by him through the Bureau of Land Management established by section 403 of Reorganization Plan Numbered 3 of 1946. The Bureau shall administer such laws according to the provisions thereof existing as of the date of approval of this Act as modified by the provisions of this Act or by subsequent law.

(c) In addition to the Director, there shall be an Associate Director of the Bureau and so many Assistant Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter 3 of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Nothing in this section shall affect any regulation of the Secretary with respect to the administration of laws administered by him through the Bureau on the date of approval of this section.

### MANAGEMENT OF USE, OCCUPANCY, AND DEVELOPMENT

Sec. 302. (a) The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 202 of this Act when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provision of law it shall be managed in accordance with such law.

(b) In managing the public lands, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands, including, but not limited to, long-term leases to permit individuals to utilize public lands for habitation, cultivation, and the development of small trade or manufacturing concerns: *Provided*, That unless otherwise provided for by law, the Secretary may permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way under section 507 of this Act, withdrawals under section 204 of this Act, and, where the proposed use and development are similar or closely related to the programs of the Secretary for the public lands involved, cooperative agreements under subsection (b) of section 307 of this Act: *Provided further*, That nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as enlarging or diminishing the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public land and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species. Except as provided in section 314, section 603, and subsection (f) of section 401 of this Act and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

(c) The Secretary shall insert in any instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with applicable State or Federal air or water quality standard or implementation plan: *Provided*, That such violation occurred on public lands covered by such instrument and occurred in connection with the exercise of rights and privileges granted by it: *Provided further*, That the Secretary shall terminate any such suspension no later than the date upon which he determines the cause of said violation has been rectified: *Provided further*, That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect health or safety or the environment: *Provided further*, That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail.

### ENFORCEMENT AUTHORITY

Sec. 303. (a) The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully *violates* any such regulation which is lawfully issued pursuant to this Act shall be fined no more than $1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

(c) (1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcment officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the persons to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contract for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

(d) In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

(e) Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 601 of this Act for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of subsection (c) of this section.

(f) Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

(g) The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

### SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS

Sec. 304. (a) Notwithstanding any other provision of law, the Secretary may establish reasonable filing and service fees and reasonable charges, and commissions with respect to applications and other documents relating to the public lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for reasonable costs with respect to applications and other documents relating to such lands. The moneys received for reasonable costs under this subsection shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. As used in this section "reasonable costs" include, but are not limited to, the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities. In determining whether costs are reasonable under this section, the Secretary may take into consideration actual costs (exclusive of management overhead), the monetary value of the rights or privileges sought by the applicant, the efficiency to the government processing involved, that portion of the cost incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant, the public service provided, and other factors relevant to determining the reasonableness of the costs.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of public lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

### DEPOSITS AND FORFEITURES

Sec. 305. (a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), shall be expended for the benefit of such land only.

(c) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

### WORKING CAPITAL FUND

SEC. 306. (a) There is hereby established a working capital fund for the management of the public lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, as amended), and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated a sum not to exceed $3,000,000 as initial capital of the working capital fund.

### STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS

SEC. 307. (a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands.

(b) Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

### CONTRACTS FOR SURVEYS AND RESOURCE PROTECTION

SEC. 308. (a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal year until such appropriation becomes available for expenditure.

### ADVISORY COUNCILS AND PUBLIC PARTICIPATION

SEC. 309. (a) The Secretary is authorized to establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens' interests concerning the problems relating to land use planning or the management of the public lands located within the area for which an advisory council is established. At least one member of each council shall be an elected official of general purpose government serving the people of such area. To the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. App. 1).

(b) Notwithstanding the provisions of subsection (a) of this section, each advisory council established by the Secretary under this section shall meet at least once a year with such meetings being called by the Secretary.

(c) Members of advisory councils shall serve without pay, except travel and per diem will be paid each member for meetings called by the Secretary.

(d) An advisory council may furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established and such other matters as may be referred to it by the Secretary.

(e) In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands.

### RULES AND REGULATIONS

SEC. 310. The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act and of other laws applicable to the public lands, and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5 of the United States Code, without regard to section 553(a)(2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practical.

### PUBLIC LANDS PROGRAM REPORT

SEC. 311. (a) For the purpose of providing information that will aid Congress in carrying out its oversight responsibilities for public lands programs and for other purposes, the Secretary shall prepare a report in accordance with subsections (b) and (c) and submit it to the Congress no later than one hundred and twenty days after the end of each fiscal year beginning with the report for fiscal year 1979.

(b) A list of programs and specific information to be included in the report as well as the format of the report shall be developed by the Secretary after consulting with the Committees on Interior and Insular Affairs of the House and Senate and shall be provided to the committees prior to the end of the second quarter of each fiscal year.

(c) The report shall include, but not be limited to, program identification information, program evaluation information, and program budgetary information for the preceding current and succeeding fiscal years.

### SEARCH AND RESCUE

SEC. 312. Where in his judgment sufficient search, rescue, and protection forces are not otherwise available, the Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperating in the protection and rescue of, persons or animals endangered by an act of God, and (c) in transporting deceased persons or persons seriously ill or injured to the nearest place where interested parties or local authorities are located.

### SUNSHINE IN GOVERNMENT

SEC. 313. (a) Each officer or employee of the Secretary and the Bureau who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit, lease, or right-of-way under, or (B) applies for or acquires any land or interests therein under, or (C) is otherwise subject to the provisions of, this Act,

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term "known financial interests" for the purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

### RECORDATION OF MINING CLAIMS AND ABANDONMENT

SEC. 314. (a) The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the three-year period following the date of the approval of this Act and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after the date of this Act shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, or a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701; 30 U.S.C. 28–1), relating thereto.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

(b) The owner of an unpatented lode or placer mining claim or mill or tunnel site located prior to the date of approval of this Act shall, within the three-year period following the date of approval of this Act, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill or tunnel site located after the date of approval of this Act shall, within ninety days after the date of location of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground.

(c) The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an abandonment of the mining claim or mill or tunnel site by the owner; but it shall not be considered a failure to file if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill or tunnel site.

(d) Such recordation or application by itself shall not render valid any claim which would not be otherwise valid under applicable law. Nothing in this section shall be construed as a waiver of the assessment and the requirements of such law.

### RECORDABLE DISCLAIMERS OF INTEREST IN LAND

SEC. 315. (a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document or disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be deposited to the then-current appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quitclaim deed from the United States.

### CORRECTION OF CONVEYANCE DOCUMENTS

SEC. 316. The Secretary may correct patents or documents of conveyance issued pursuant to section 208 of this Act or to other Acts relating to the disposal of public lands where necessary in order to eliminate errors. In addition, the Secretary may make corrections of errors in any documents of conveyance which have heretofore been issued by the Federal Government to dispose of public lands.

### MINERAL REVENUES

SEC. 317. (a) Section 35 of the Act of February 25, 1920 (41 Stat. 437, 450; 10 U.S.C. 181, 191), as amended, is further amended to read as follows: "All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this Act and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof, shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions. as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (i) planning. (ii) construction and maintenance of public facilities. and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated. as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902. and of those from Alaska as soon as practicable after March 31 and September 30 of each year, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this Act and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as 'miscellaneous receipts', as provided by the Act of June 4. 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252). All moneys received under the provisions of this Act and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts.".

(b) Funds now held pursuant to said section 35 by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as C–A; C–B; U–A and U–B shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.

(c) (1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended. Such loans shall be confined to the uses specified for the 50 per centum of mineral revenues to be received by such States and subdivisions pursuant to section 35 of such Act. All loans shall bear interest at a rate not to exceed 3 per centum and shall be for such amounts and durations as the Secretary shall determine. The Secretary shall limit the amounts of such loans to all States except Alaska to the anticipated mineral revenues to be received by the recipients of said loans and to Alaska to 55 per centum of anticipated mineral revenues to be received by it pursuant to said section 35 for any prospective 10-year period. Such loans shall be repaid by the loan recipients from mineral revenues to be derived from said section 35 by such recipients, as the Secretary determines.

(2) The Secretary, after consultation with Governors of the affected States, shall allocate such loans among the States and their subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(3) Loans under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure that the purpose of this subsection will be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

### APPROPRIATION AUTHORIZATION

SEC. 318. (a) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after October 1, 1978, any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of the date of approval of this Act or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

(b) Consistent with section 607 of the Congressional Budget Act of 1974, beginning May 15, 1977, and not later than May 15 of each second even numbered year thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the four-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to the Office of Management and Budget, the funding levels which he determines can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

(c) Nothing in this section shall apply to the distribution of receipts of the Bureau from the disposal of lands, natural resources, and interests in lands in accordance with applicable law, nor to the use of contributed funds, private deposits for public survey work, and townsite trusteeships, nor to fund allocations from other Federal agencies, reimbursements from both Federal and non-Federal sources, and funds expended for emergency firefighting and rehabilitation.

(d) In exercising the authority to acquire by purchase granted by subsection (a) of section 205 of this Act, the Secretary may use the Land and Water Conservation Fund to purchase lands which are necessary for proper management of public lands which are primarily of value for outdoor recreation purposes.

### TITLE IV—RANGE MANAGEMENT

#### GRAZING FEES

401(a) The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after the date of approval of this Act, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after the date of approval of this Act, the grazing fee charge then in effect shall not be altered and shall remain the same until such support has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

(d)(1) Congress finds that a substantial amount of the Federal range lands is deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.) and the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181d), and on lands in National Forest in the eleven contiguous Western States under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other range management. Such rehabilitation, protection, and improvements shall include all forms of range land betterment including, but not limited to, seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with user representatives. The annual distribution and use of range betterment funds authorized by this paragraph shall not be considered a major Federal action requiring a detailed statement pursuant to section 4332(c) of title 42 of the United States Code.

(2) The first clause of section 10(b) of the Taylor Grazing Act (48 Stat. 1269), as amended by the Act of August 6, 1947 (43 U.S.C. 315i), is hereby repealed. All distributions of moneys made under section 401(b)(1) of this Act shall be in addition to distributions made under section 10 of the Taylor Grazing Act and shall not apply to distribution of moneys made under section 11 of that Act. The remaining moneys received by the United States as fees for grazing domestic livestock on the public lands shall be deposited in the Treasury as miscellaneous receipts.

(3) Section 3 of the Taylor Grazing Act, as amended (43 U.S.C. 315), is further amended by—

(a) Deleting the last clause of the first sentence thereof, which begins with "and in fixing," deleting the comma after "time", and adding to that first sentence the words "in accordance with governing law".

(b) Deleting the second sentence thereof.

#### GRAZING LEASES AND PERMITS

SEC. 402. (a) Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on public lands issued by the Secretary under the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315 et seq.) or the Act of August 28, 1937 (50 Stat. 874, as amended; 43 U.S.C. 1181a–1181j), or by the Secretary of Agriculture, with respect to lands within National Forests in the eleven contiguous Western States, shall be for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years; or

(3) it will be in the best interest of sound land management to specify a shorter term: *Provided*, That the absence from an allotment management plan of details the Secretary concerned would like to include but which are undeveloped shall not be the basis for establishing a term shorter than ten years.

(c) So long as (1) the lands for which the permit or lease is issued remain available for domestic livestock grazing in accordance with land use plans prepared pursuant to section 202 of this Act or section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477; 16 U.S.C. 1601), (2) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the lease specified by the Secretary concerned, and (3) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(d) All permits and leases for domestic livestock grazing issued pursuant to this section, with the exceptions authorized in subsection (e) of this section, on and after October 1, 1988, may incorporate an allotment management plan developed by the Secretary concerned in consultation with the lessees or permittees involved. Prior to that date, allotment management plans shall be incorporated in grazing permits and leases when they are completed. The Secretary concerned may revise such plans from time to time after such consultation.

(e) Prior to October 1, 1988, or thereafter, in all cases where the Secretary concerned has not completed an allotment management plan or determines that an allotment management plan is not necessary for management of livestock operations and will not be prepared, the Secretary concerned shall incorporate in grazing permits and leases such terms and conditions as he deems appropriate for management of the permitted or leased lands pursuant to applicable law. The Secretary concerned shall also specify therein the numbers of animals to be grazed and the seasons of use and that he may reexamine the condition of the range at any time and, if he finds on reexamination that the condition of the range requires adjustment in the amount or other aspect of grazing use, that the permittee or lessee shall adjust his use to the extent the Secretary concerned deems necessary. Such readjustment shall be put into full force and effect on the date specified by the Secretary concerned.

(f) Allotment management plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are intermingled with, or, with the consent of the permittee or lessee involved, associated with, the Federal lands subject to the plan. The Secretary concerned under appropriate regulations shall grant to lessees and permittees the right of appeal from decisions which specify the terms and conditions of allotment management plans. The preceding sentence of this subsection shall not be construed as limiting any other right of appeal from decisions of such officials.

(g) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(h) Nothing in this Act shall be construed as modifying in any way law existing on the date of approval of this Act with respect to the creation of right, title, interest or estate in or to public lands or lands in National Forests by issuance of grazing permits and leases.

#### GRAZING ADVISORY BOARDS

SEC. 403. (a) For each Bureau district office and National Forest headquarters office in the eleven contiguous Western States having jurisdiction over more than five hundred thousand acres of land subject to commercial livestock grazing (hereinafter in this section referred to as "office"), the Secretary and the Secretary of Agriculture, upon the petition of a simple majority of the livestock lessees and permittees under the jurisdiction of such office, shall establish and maintain at least one grazing advisory board of not more than fifteen advisers.

(b) The function of grazing advisory boards established pursuant to this section shall be to offer advice and make recommendations to the head of the office involved concerning the development of allotment management plans and the utilization of range betterment funds.

(c) The number of advisers on each board and the number of years an adviser may serve shall be determined by the Secretary concerned in his discretion. Each board shall consist of livestock representatives who shall be lessees or permittees in the area administered by the office concerned and shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary concerned.

(e) Each grazing advisory board shall meet at least once annually.

(f) Except as may be otherwise provided by this section, the provisions of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. App. 1) shall apply to grazing advisory boards.

(g) The provisions of this section shall expire December 31, 1985.

### MANAGEMENT OF CERTAIN HORSES AND BURROS

SEC. 404. Sections 9 and 10 of the Act of December 15, 1971 (85 Stat. 649, 651; 16 U.S.C. 1331, 1339–1340) are renumbered as sections 10 and 11, respectively, and the following new section is inserted after section 8:

"SEC. 9. In administering this Act, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.".

## TITLE V—RIGHTS-OF-WAY

### AUTHORIZATION TO GRANT RIGHTS-OF-WAY

SEC. 501. (a) The Secretary, with respect to the public lands and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Federal Power Act of 1935 (149 Stat. 8471; 16 U.S.C. 791);

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities on lands in the National Forest System; or

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way, over, upon, under, or through such lands.

(b)(1) The Secretary concerned shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose those plans, contracts, agreements, or other information reasonably related to the use, or intended use, of the right-of-way, including its effect on competition, which he deems necessary to a determination, in accordance with the provisions of this Act, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary concerned, prior to granting a right-of-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity, when he deems it necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. Such disclosures shall include, where applicable: (A) the name and address of each partner; (B) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

### COST-SHARE ROAD AUTHORIZATION

SEC. 502. (a) The Secretary, with respect to the public lands, is authorized to provide for the acquisition, construction, and maintenance of roads within and near the public lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of timber and other products from the public lands, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That, where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from public lands shall not, except when the provisions of the second proviso of this subsection apply, be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further*, That when timber is offered with the condition that the purchaser thereof will build a road or roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

(b) Copies of all instruments affecting permanent interests in land executed pursuant to this section shall be recorded in each county where the lands are located.

(c) The Secretary may require the user or users of a road, trail, land, or other facility administered by him through the Bureau, including purchasers of Government timber and other products, to maintain such facilities in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a facility to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: ***And provided further***, That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded.

(d) Whenever the agreement under which the United States has obtained for the use of, or in connection with, the public lands a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

### RIGHT-OF-WAY CORRIDORS

SEC. 503. In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

### GENERAL PROVISIONS

SEC. 504. (a) The Secretary concerned shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way shall be limited to the ground which the Secretary concerned determines (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be necessary for the operation or maintenance of the project, (3) to be necessary to protect the public safety, and (4) will do no unnecessary damage to the environment. The Secretary concerned may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) Each right-of-way or permit granted, issued, or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project. In determining the duration of a right-of-way the Secretary concerned shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The right-of-way shall specify whether it is or is not renewable and the terms and conditions applicable to the renewal.

(c) Rights-of-way shall be granted, issued, or renewed pursuant to this title under such regulations or stipulations, consistent with the provisions of this title or any other applicable law, and shall also be subject to such terms and conditions as the Secretary concerned may prescribe regarding extent, duration, survey, location, construction, maintenance, or transfer assignment and termination.

(d) The Secretary concerned prior to granting or issuing a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by that Secretary, including the terms and conditions required under section 505 of this Act.

(e) The Secretary concerned shall issue regulations with respect to the terms and conditions that will be included in rights-of-way pursuant to section 505 of this title. Such regulations shall be regularly revised as needed. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this title and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this title.

(f) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(g) The holder of a right-of-way shall pay annually in advance the fair market value thereof as determined by the Secretary granting, issuing, or renewing such right-of-way: *Provided*, That when the annual rental is less than $100, the Secretary concerned may require advance payment for more than one year at a time: *Provided further*, That the Secretary concerned may waive rentals where a right-of-way is granted, issued, or renewed in reciprocation for a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder. The Secretary concerned may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however*, That the Secretary concerned need not secure reimbursement in any situation where there is in existence a cooperative cost share right-of-way program between the United States and the holder of a right-of-way. Rights-of-way may be granted, issued, or renewed to a Federal, State, or local government or any agency or instrumentality thereof, to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, or to a holder where he provides without or at reduced charges a valuable benefit to the public or to the programs of the Secretary concerned, or to a holder in connection with the authorized use or occupancy of Federal land for which the United States is already receiving compensation for such lesser charge, including the use as the Secretary concerned finds equitable and in the public interest. Such rights-of-way issued at less than fair market value are not assigned except with the approval of the Secretary issuing the right-of-way. The moneys received for reimbursement of reasonable costs shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended.

(h)(1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this title shall be liable to the United States for damage or injury incurred by the United States caused by the use and occupancy of the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims caused by their use and occupancy of the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(i) Where he deems it appropriate, the Secretary concerned may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to him to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary concerned.

(j) The Secretary concerned shall grant, issue, or renew a right-of-way under this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

### TERMS AND CONDITIONS

SEC. 505. Each right-of-way shall contain—

(a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards; and

(b) such terms and conditions as the Secretary concerned deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto.

### SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY

SEC. 506. Abandonment of a right-of-way or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary concerned may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and, and with respect to easements, an appropriate administrative proceeding pursuant to section 554 of title 5 of the United States Code, the Secretary concerned determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary concerned determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary concerned shall give written notice to the holder of the grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way, except that where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary concerned is not required to commence proceedings to suspend or terminate the right-of-way.

### RIGHTS-OF-WAY FOR FEDERAL AGENCIES

SEC. 507. (a) The Secretary concerned may provide under applicable provisions of this title for the use of any department or agency of the United States a right-of-way over, upon, under, or through the land administered by him, subject to such terms and conditions as he may impose.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

### CONVEYANCE OF LANDS

SEC. 508. If under applicable law the Secretary concerned decides to transfer out of Federal ownership any lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576; 30 U.S.C. 185), the lands may be conveyed subject to the right-of-way; however, if the Secretary concerned determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be carried out, the terms and conditions of the right-of-way complied with, or the lands protected, he shall (a) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (b) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

### EXISTING RIGHTS-OF-WAY

SEC. 509. (a) Nothing in this title shall have the effect of terminating any right-of-way of right-of-use heretofore issued, granted, or permitted. However, with the consent of the holder thereof, the Secretary concerned may cancel such a right-of-way or right-of-use and in its stead issue a right-of-way pursuant to the provisions of this title.

(b) When the Secretary concerned issues a right-of-way under this title for a railroad and appurtenant communication facilities in connection with a realinement of a railroad on lands under his jurisdiction by virtue of a right-of-way granted by the United States, he may, when he considers it to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value, notwithstanding the provisions of this title, provide in the new right-of-way the same terms and conditions as applied to the portion of the existing right-of-way relinquished to the United States with respect to the payment of annual rental, duration of the right-of-way, and the nature of the interest in lands granted. The Secretary concerned or his delegate shall take final action upon all applications for the grant, issue, or renewal of rights-of-way under subsection (b) of this section no later than six months after receipt from the applicant of all information required from the applicant by this title.

### EFFECT ON OTHER LAWS

SEC. 510. (a) Effective on and after the date of approval of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, under, or through such lands except under and subject to the provisions, limitations, and conditions of this title: *Provided*, That nothing in this title shall be construed as affecting or modifying the provisions of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–538) and in the event of conflict with, or inconsistency between, this title and the Act of October 13, 1964, the latter shall prevail: *Provided further*, That nothing in this Act should be construed as making it mandatory that, with respect to forest roads, the Secretary of Agriculture limit rights-of-way grants or their term of years or require disclosure pursuant to Section 501(b) or impose any other condition contemplated by this Act that is contrary to present practices of that Secretary under the Act of October 13, 1964. Any pending application for a right-of-way under any other law on the effective date of this section shall be considered as an application under this title. The Secretary concerned may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of lands covered by this title for highway purposes pursuant to sections 107 and 317 of title 23 of the United States Code.

(c)(1) Nothing in this title shall be construed as exempting any holder of a right-of-way issued under this title from any provision of the antitrust laws of the United States.

(2) For the purposes of this subsection, the term "antitrust laws" includes the Act of July 2, 1890 (26 Stat. 15 U.S.C. 1 et seq.); the Act of October 15, 1914 (38 Stat. 730; 15 U.S.C. 12 et seq.); the Federal Trade Commission Act (38 Stat. 317; 15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894.

### COORDINATION OF APPLICATIONS

SEC. 511. Applicants before Federal departments and agencies other than the Department of the Interior or Agriculture seeking a license, certificate, or other authority for a project which involve a right-of-way over, upon, under, or through public land or National Forest System lands must simultaneously apply to the Secretary concerned for the appropriate authority to use public lands or National Forest System lands and submit to the Secretary concerned all information furnished to the other Federal department or agency.

## TITLE VI—DESIGNATED MANAGEMENT AREAS

### CALIFORNIA DESERT CONSERVATION AREA

SEC. 601. (a) The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population;

(2) the California desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the California desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use, which are certain to intensify because of the rapidly growing population of southern California;

(4) the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plan to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the public lands in the California desert; and

(6) to insure further study of the relationship of man and the California desert environment, preserve the unique and irreplaceable resources, including archeological values, and conserve the use of the economic resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided to the Secretary to facilitate effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality.

(c)(1) For the purpose of this section, the term "California desert" means the area generally depicted on a map entitled "California Desert Conservation Area—Proposed" dated April 1974, and described as provided in subsection (c)(2).

(2) As soon as practicable after the date of approval of this Act, the Secretary shall file a revised map and a legal description of the California Desert Conservation Area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and a map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 202 of this Act, shall prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Conservation Area. Such plan shall take into account the principles of multiple use and sustained yield in providing for resource use and development, including, but not limited to, maintenance of environmental quality, rights-of-way, and mineral development. Such plan shall be completed and implementation thereof initiated on or before September 30, 1980.

(e) During the period beginning on the date of approval of this Act and ending on the effetcive date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage, use, and protect the public lands, and their resources now in danger of destruction, in the California Desert Conservation Area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

(f) Subject to valid existing rights, nothing in this Act shall affect the applicability of the United States mining laws on the public lands within the California Desert Conservation Area, except that all mining claims located on public lands within the California Desert Conservation Area shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this section. Any patent issued on any such mining claim shall recite this limitation and continue to be subject to such regulations. Such regulations shall provide for such measures as may be reasonable to protect the scenic, scientific, and environmental values of the public lands of the California Desert Conservation Area against undue impairment, and to assure against pollution of the streams and waters within the California Desert Conservation Area.

(g)(1) The Secretary, within sixty days after the date of approval of this Act, shall establish a California Desert Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 309 of this Act.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(h) The Secretary of Agriculture and the Secretary of Defense shall manage lands within their respective jurisdictions located in or adjacent to the California Desert Conservation Aera, in accordance with the laws relating to such lands and wherever practicable, in a manner consonant with the purpose of this section. The Secretary, the Secretary of Agriculture, and the Secretary of Defense are authorized and directed to consult among themselves and take cooperative actions to carry out the provisions of this subsection, including a program of law enforcement in accordance with applicable authorities to protect the archeological and other values of the California Desert Conservation Area and adjacent lands.

(i) The Secretary shall report to the Congress no later than two years after the date of approval of this Act, and annually thereafter, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(j) There are authorized to be appropriated for fiscal years 1977 through 1981 not to exceed $40,000,000 for the purpose of this section, such amount to remain available until expended.

### KING RANGE

SEC. 602. Section 9 of the Act of October 21, 1970 (84 Stat. 1067), is amended by adding a new subsection (c), as follows:

"(c) In addition to the lands described in subsection (a) of this section, the land identified as the Punta Gorda Addition and the Southern Additions on the map entitled 'King Range National Conservation Area Boundary Map No. 2,' dated July 29, 1975, is included in the survey and investigation area referred to in the first section of this Act.".

### BUREAU OF LAND MANAGEMENT WILDERNESS STUDY

SEC. 603. (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness: *Provided*, That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present in such areas: *Provided further*, That the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedure specified in section 3(d) of the Wilderness Act.

(b) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act: *Provided, That*, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than preservation of their wilderness character. Once an area has been designated as wilderness, the provisions of the Wilderness Act which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, and mineral development, access, exchange of lands, and ingress and egress for mining claimants and occupants.

## TITLE VII—EFFECT ON EXISTING RIGHTS; REPEAL OF EXISTING LAWS; SEVERABILITY

### EFFECT ON EXISTING RIGHTS

SEC. 701. (a) Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act.

(b) Notwithstanding any provision of this Act, in the event of conflict with or inconsistency between this Act and the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a–1181j), and May 24, 1939 (53 Stat. 753), insofar as they relate to management of timber resources, and disposition of revenues from lands and resources, the latter Acts shall prevail.

(c) All withdrawals, reservations, classifications, and designations in effect as of the date of approval of this Act shall remain in full force and effect until modified under the provisions of this Act or other applicable law.

(d) Nothing in this Act, or in any amendments made by this Act, shall be construed as permitting any person to place, or allow to be placed, spent oil shale, overburden, or byproducts from the recovery of other minerals found with oil shale, on any Federal land other than Federal land which has been leased for the recovery of shale oil under the Act of February 25, 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(e) Nothing in this Act shall be construed as modifying, revoking, or changing any provision of the Alaska Native Claims Settlement Act (85 Stat. 688, as amended; 43 U.S.C. 1601 et seq).

(f) Nothing in this Act shall be deemed to repeal any existing law by implication.

(g) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or two or more States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

(5) as modifying the terms of any interstate compact;

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof or any right it may have to exercise civil and criminal jurisdiction on the national resource lands; or as amending, limiting, or infringing the existing laws providing grants of lands to the States.

(g) All actions by the Secretary concerned under this Act shall be subject to valid existing rights.

(h) The adequacy of reports required by this Act to be submitted to the Congress or its committees shall not be subject to judicial review.

(i) Nothing in this Act shall be construed as affecting the distribution of livestock grazing revenues to local governments under the Granger-Thye Act (64 Stat. 85, 16 U.S.C. 580h), under the Act of May 23, 1908 (35 Stat. 260, as amended; 16 U.S.C. 500), the Act of March 4, 1913 (37 Stat. 843, as amended; 16 U.S.C. 501), and under the Act of June 20, 1910 (36 Stat. 557).

### REPEAL OF LAWS RELATING TO HOMESTEADING AND SMALL TRACTS

SEC. 702. Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed except the effective date shall be on and after the tenth anniversary of the date of approval of this Act insofar as the listed homestead laws apply to public lands in Alaska:

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| 1. Homesteads: | | | | |
| Revised Statute 2289 | | | | 161, 171. |
| Mar. 3, 1891 | 561 | 5 | 26: 1097 | 161, 162. |
| Revised Statute 2290 | | | | 162. |
| Revised Statute 2295 | | | | 163. |
| Revised Statute 2291 | | | | 164. |
| June 6, 1912 | 153 | | 37: 123 | 164, 169, 218. |
| May 14, 1880 | 89 | | 21: 141 | 166, 185, 202, 223. |
| June 6, 1900 | 821 | | 31: 683 | 106, 223. |
| Aug. 9, 1912 | 280 | | 37: 267 | |
| Apr. 6, 1914 | 51 | | 38: 312 | 167. |
| Mar. 1, 1921 | 90 | | 41: 1193 | |
| Oct. 17, 1914 | 325 | | 38: 740 | 168. |
| Revised Statute 2297 | | | | 169. |
| Mar. 31, 1881 | 153 | | 21: 511 | |
| Oct. 22, 1914 | 335 | | 38: 766 | 170. |
| Revised Statute 2292 | | | | 171. |
| June 8, 1880 | 136 | | 21: 166 | 172. |
| Revised Statute 2301 | | | | 173. |
| Mar. 3, 1891 | 561 | 6 | 26: 1098 | |
| June 3, 1896 | 312 | 2 | 29: 197 | |
| Revised Statute 2288 | | | | 174. |
| Mar. 3, 1891 | 561 | 3 | 26: 1097 | |
| Mar. 3, 1905 | 1424 | | 36: 991 | |
| Revised Statute 2296 | | | | 175. |
| Apr. 28, 1922 | 155 | | 42: 502 | |
| May 17, 1900 | 479 | 1 | 31: 179 | 179. |
| Jan. 26, 1901 | 180 | | 31: 740 | 180. |
| Sept. 5, 1914 | 294 | | 38: 712 | 182. |
| Revised Statute 2300 | | | | 183. |
| Aug. 31, 1918 | 166 | 8 | 40: 957 | |
| Sept. 13, 1918 | 173 | | 40: 960 | |
| Revised Statute 2302 | | | | 184, 201. |
| July 26, 1892 | 251 | | 27:270 | 185. |
| Feb. 14, 1920 | 76 | | 41:434 | 186. |
| Jan. 21, 1922 | 32 | | 42:358 | |
| Dec. 28, 1922 | 19 | | 42:1067 | |
| June 12, 1930 | 471 | | 46:580 | |
| Feb. 25, 1925 | 326 | | 43:981 | 187. |
| June 21, 1934 | 690 | | 48:1185 | 187a. |
| May 22, 1902 | 821 | 2 | 32: 203 | 187b. |
| June 5, 1900 | 716 | | 31: 270 | 188, 217. |
| Mar. 3, 1875 | 131 | 15 | 18: 420 | 189. |
| July 4, 1884 | 180 | Only last paragraph of sec. 1. | 23: 96 | 190. |
| Mar. 1, 1933 | 160 | 1 | 47: 1418 | 190a. |

The following words only: "Provided, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96; U.S.C. title 48, sec. 190)."

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| Revised Statutes 2310, 2311 | | | | 191. |
| June 13, 1902 | 1080 | | 32: 384 | 203. |
| Mar. 3, 1879 | 191 | | 20: 472 | 204. |
| July 1, 1879 | 60 | | 21: 46 | 205. |
| May 6, 1886 | 88 | | 24: 22 | 206. |
| Aug. 21, 1916 | 361 | | 39: 518 | 207. |
| June 3, 1924 | 240 | | 43: 357 | 208. |
| Revised Statute 2298 | | | | 211. |
| Aug. 30, 1890 | 837 | | 26: 391 | 212. |

The following words only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act."

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| Mar. 3, 1891 | 561 | 17 | 26: 1101 | |

The following words only: "and that the provision of 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes,' which reads as follows, viz: 'No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| Apr. 28, 1904 | 1776 | | 33: 527 | 213. |
| Aug. 3, 1950 | 521 | | 64: 398 | |
| Mar. 2, 1889 | 381 | 6 | 25: 854 | 214. |
| Feb. 20, 1917 | 98 | | 39: 925 | 215. |
| Mar. 4, 1921 | 162 | 1 | 41: 1433 | 216. |
| Feb. 19, 1909 | 160 | | 35: 639 | 218. |
| June 13, 1912 | 166 | | 37: 132 | |
| Mar. 3, 1915 | 84 | | 38: 953 | |
| Mar. 3, 1915 | 91 | | 38: 957 | |
| Mar. 4, 1915 | 150 | 2 | 38: 1163 | |
| July 3, 1916 | 220 | | 39: 344 | |
| Feb. 11, 1913 | 39 | | 37: 666 | 218, 219. |
| June 17, 1910 | 298 | | 36: 531 | 219. |
| Mar. 3, 1915 | 91 | | 38: 957 | |
| Sept. 5, 1916 | 440 | | 39: 724 | |
| Aug. 10, 1917 | 52 | 10 | 40: 275 | |
| Mar. 4, 1915 | 150 | 1 | 38: 1162 | 220. |
| Mar. 4, 1923 | 245 | 1 | 42: 1445 | 222. |
| Apr. 28, 1904 | 1801 | | 33: 547 | 224. |
| Mar. 2, 1907 | 2527 | | 34: 1224 | |
| May 29, 1908 | 220 | 7 | 35: 466 | |
| Aug. 24, 1912 | 371 | | 37: 499 | |
| Aug. 22, 1914 | 270 | | 38: 704 | 231. |
| Feb. 25, 1919 | 21 | | 40: 1153 | |
| July 3, 1916 | 214 | | 39: 341 | 232. |
| Sept. 29, 1919 | 64 | | 41: 288 | 233. |
| Apr. 6, 1922 | 122 | | 42: 491 | 233, 272, 273. |
| Mar. 2, 1889 | 381 | 3 | 25: 854 | 234. |
| Dec. 29, 1894 | 14 | | 28: 599 | |
| July 1, 1879 | 63 | 1 | 21: 48 | 235. |
| Dec. 20, 1917 | 6 | | 40: 430 | 236. |
| July 24, 1919 | 126 | Next to last paragraph only. | 41: 271 | 237. |
| Mar. 2, 1932 | 69 | | 47: 59 | 237a. |
| May 21, 1934 | 320 | | 48: 787 | 237b. |
| May 22, 1935 | 135 | | 49: 286 | 237c. |
| Aug. 19, 1935 | 560 | | 49: 659 | 237d. |
| Mar. 31, 1938 | 57 | | 52: 149 | |
| Apr. 20, 1936 | 239 | | 49: 1235 | 237e. |
| July 30, 1956 | 778 | 1, 2, 4 | 70: 715 | 237f, g, h. |
| Mar. 1, 1921 | 102 | | 41: 1202 | 238. |
| Apr. 7, 1922 | 125 | | 42: 492 | |
| Revised Statute 2308 | | | | 239. |
| June 16, 1898 | 458 | | 30: 473 | 240. |
| Aug. 29, 1916 | 420 | | 39: 671 | |
| Apr. 7, 1930 | 108 | | 46: 144 | 243. |
| Mar. 3, 1933 | 198 | | 47: 1424 | 243a. |
| Mar. 3, 1879 | 192 | | 20: 472 | 251. |
| Mar. 2, 1889 | 381 | 7 | 25: 855 | 252. |
| June 3, 1878 | 152 | | 20: 91 | 253. |
| Revised Statute 2291 | | | | 254. |
| May 26, 1890 | 355 | | 26: 121 | |
| Mar. 11, 1902 | 182 | | 32: 63 | |
| Mar. 4, 1904 | 394 | | 33: 59 | |
| Feb. 23, 1923 | 105 | | 42: 1281 | |
| Revised Statute 2293 | | | | 255. |
| Oct. 6, 1917 | 86 | | 40: 391 | |
| Mar. 4, 1913 | 140 | Only last paragraph of section headed "Public Land Service." | 37: 925 | 256. |
| May 13, 1932 | 178 | | 47: 153 | 256a. |
| June 16, 1933 | 99 | | 48: 274 | |
| June 26, 1935 | 419 | | 49: 504 | |
| June 16, 1937 | 361 | | 50: 303 | |
| Aug. 27, 1935 | 770 | | 49: 909 | 256b. |
| Sept. 30, 1890 | J. Res. 59 | | 26: 684 | 261. |
| June 16, 1880 | 244 | | 21: 287 | 263. |
| Apr. 18, 1904 | 25 | | 33: 589 | |
| Revised Statute 2304 | | | | 271. |
| Mar. 1, 1901 | 674 | | 31: 817 | 271, 272. |
| Revised Statute 2305 | | | | 272. |
| Feb. 25, 1919 | 37 | | 40: 1161 | 272a. |
| Dec. 28, 1922 | 19 | | 42: 1067 | |
| Revised Statute 2306 | | | | 274. |
| Mar. 3, 1893 | 208 | | 27: 593 | 275. |

The following words only: "And provided further: That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| Aug. 18, 1891 | 301 | Only last paragraph of section headed headed "Surveying the Public Lands." | 28: 397 | 276. |
| Revised Statute 2309 | | | | 277. |
| Revised Statute 2307 | | | | 278. |
| Sept. 21, 1922 | 357 | | 42: 990 | |
| Sept. 27, 1944 | 421 | | 58: 747 | 270–283. |
| June 25, 1946 | 474 | | 60: 308 | 279. |
| May 31, 1947 | 88 | | 61: 123 | 279, 280, 282. |
| June 18, 1954 | 306 | | 68: 253 | 279, 282. |
| June 3, 1918 | 399 | | 62: 305 | 283, 284. |
| Dec. 29, 1916 | 9 | 1–8 | 39: 862 | 291–208. |
| Feb. 28, 1931 | 328 | | 46: 1454 | 291. |
| June 9, 1933 | 53 | | 48: 119 | 291. |
| June 6, 1924 | 274 | | 46: 469 | 292. |
| Oct. 25, 1918 | 195 | | 40: 1016 | 293. |
| Sept. 29, 1919 | 63 | | 41: 287 | 294, 295. |
| Mar. 4, 1923 | 245 | 2 | 42: 1445 | 302. |
| Aug. 21, 1916 | 361 | | 39: 518 | 1075. |
| Aug. 28, 1937 | 876 | 3 | 50: 875 | 1181c. |
| 2. Small tracts: | | | | |
| June 1, 1938 | 317 | | 52: 609 | 682a–e. |
| June 8, 1954 | 270 | | 68: 239 | |
| July 14, 1945 | 298 | | 59: 467 | |

REPEAL OF LAWS RELATED TO DISPOSAL

SEC. 703. (a) Effective on and after the tenth anniversary of the date of approval of this Act, the statutes and parts of statutes listed below as "Alaska Settlement Laws", and effective on and after the date of approval of this Act, the remainder of the following statutes and parts of statutes are hereby repealed:

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| 1. Sale and Disposal Laws: | | | | |
| Mar. 3, 1891 | 561 | 9 | 26: 1099 | 671. |
| Revised Statute 2354 | | | | 673. |
| Revised Statute 2355 | | | | 674. |
| May 18, 1898 | 344 | 2 | 30: 418 | 675. |
| Revised Statute 2365 | | | | 676. |
| Revised Statute 2357 | | | | 678. |
| June 15, 1880 | 227 | 3, 4 | 21: 238 | 679–680. |
| Mar. 2, 1889 | 381 | 4 | 25: 854 | 681. |
| Mar. 1, 1907 | 2286 | | 34: 1052 | 682. |
| Revised Statute 2361 | | | | 688. |
| Revised Statute 2362 | | | | 689. |
| Revised Statute 2363 | | | | 690. |
| Revised Statute 2368 | | | | 691. |
| Revised Statute 2366 | | | | 692. |
| Revised Statute 2369 | | | | 693. |
| Revised Statute 2370 | | | | 694. |
| Revised Statute 2371 | | | | 695. |
| Revised Statute 2374 | | | | 696. |
| Revised Statute 2372 | | | | 697. |
| Feb. 24, 1909 | 181 | | 35: 645 | |
| May 21, 1926 | 353 | The 2 provisos only. | 44: 591 | |
| Revised Statute 2375 | | | | 698. |
| Revised Statute 2376 | | | | 699. |
| Mar. 2, 1889 | 381 | 1 | 25: 854 | 700. |
| 2. Townsite Reservation and Sale: | | | | |
| Revised Statute 2380 | | | | 711. |
| Revised Statute 2381 | | | | 712. |
| Revised Statute 2382 | | | | 713. |
| Aug. 24, 1954 | 904 | | 68: 792 | |
| Revised Statute 2383 | | | | 714. |
| Revised Statute 2384 | | | | 715. |
| Revised Statute 2386 | | | | 717. |
| Revised Statute 2387 | | | | 718. |
| Revised Statute 2388 | | | | 719. |
| Revised Statute 2389 | | | | 720. |
| Revised Statute 2391 | | | | 721. |
| Revised Statute 2392 | | | | 722. |
| Revised Statute 2393 | | | | 723. |
| Revised Statute 2394 | | | | 724. |
| Mar. 3, 1877 | 113 | 1, 3, 4 | 19: 392 | 725–727. |
| Mar. 3, 1891 | 561 | 16 | 26: 1101 | 728. |
| July 9, 1914 | 138 | | 38: 454 | 730. |
| Feb. 9, 1903 | 531 | | 32: 820 | 731. |
| 3. Drainage Under State Laws: | | | | |
| May 20, 1908 | 181 | 1–7 | 35: 171 | 1021–1027. |
| Mar. 3, 1919 | 113 | | 40: 1321 | 1028. |
| May 1, 1958 | P.L. 85–387 | | 72: 99 | 1029–1034. |
| Jan. 17, 1920 | 47 | | 41: 392 | 1041–1018. |
| 4. Abandoned Military Reservation: | | | | |
| July 5, 1884 | 214 | 5 | 23: 104 | 1074. |
| Aug. 21, 1916 | 361 | | 39: 518 | 1075. |
| Mar. 3, 1893 | 208 | | 27: 593 | 1076. |

The following words only: "Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place."

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| Aug. 23, 1894 | 314 | | 23: 491 | 1077, 1078. |
| Feb. 11, 1903 | 543 | | 32: 822 | 1079. |
| Feb. 15, 1895 | 92 | | 25: 664 | 1080, 1077. |
| Apr. 23, 1904 | 1496 | | 33: 306 | 1081. |

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| 5. Public Lands; Oklahoma: | | | | |
| May 2, 1890 | 182 | Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27. | 26: 90 | 1091–1094, 1096, 1097. |
| Mar. 3, 1891 | 543 | 16 | 26: 1026 | 1098. |
| Aug. 7, 1946 | 772 | 1, 2 | 60: 872 | 1100–1101. |
| Aug. 3, 1955 | 498 | 1–8 | 69: 445 | 1102–1102g. |
| May 14, 1890 | 207 | | 26: 109 | 1111–1117. |
| Sept. 1, 1893 | J. Res. 4 | | 28: 11 | 1118. |
| May 11, 1896 | 168 | 1, 2 | 29: 116 | 1119. |
| Jan. 18, 1897 | 62 | 1–3, 5, 7 | 29: 490 | 1131–1134. |
| June 23, 1897 | 8 | | 30: 105 | |
| Mar. 1, 1899 | 328 | | 30: 966 | |
| 6. Sales of Isolated Tracts: | | | | |
| Revised Statute 2455 | | | | 1171. |
| Feb. 26, 1895 | 133 | | 28: 687 | |
| June 27, 1906 | 3554 | | 34: 517 | |
| Mar. 28, 1912 | 67 | | 37: 77 | |
| Mar. 9, 1928 | 164 | | 45: 253 | |
| June 28, 1934 | 865 | 14 | 48: 1274 | |
| July 30, 1947 | 383 | | 61: 630 | |
| Apr. 24, 1928 | 428 | | 45: 457 | 1171a. |
| May 23, 1930 | 313 | | 46: 377 | 1171b. |
| Feb. 4, 1919 | 13 | | 40: 1055 | 1172. |
| May 10, 1920 | 178 | | 41: 595 | 1173. |
| Aug. 11, 1921 | 62 | | 42: 159 | 1175. |
| May 19, 1926 | 337 | | 44: 566 | 1176. |
| Feb. 14, 1931 | 170 | | 46: 1105 | 1177. |
| 7. Alaska Special Laws: | | | | |
| Mar. 3, 1891 | 561 | 11 | 26: 1099 | 732. |
| May 25, 1926 | 379 | | 44: 629 | 733–736. |
| May 29, 1963 | P.L. 88–34 | | 77: 52 | |
| July 24, 1947 | 305 | | 61: 414 | 738. |
| Aug. 17, 1961 | P.L. 87–147 | | 75: 384 | 270–13. |
| Oct. 3, 1962 | P.L. 87–742 | | 76: 740 | |
| July 19, 1963 | P.L. 86–66 | | 77: 80 | 687b–5. |
| May 14, 1898 | 299 | 1 | 30: 409 | 270. |
| Mar. 3, 1903 | 1002 | | 32: 1028 | |
| Apr. 29, 1950 | 137 | 1 | 64: 94 | |
| Aug. 3, 1955 | 496 | | 69: 444 | 270, 687a–2. |
| Apr. 29, 1950 | 137 | 2–5 | 64: 95 | 270–5, 260–6, 270–7, 687a–1. |
| July 11, 1956 | 571 | 2 | 70: 529 | 270–7. |
| July 8, 1916 | 228 | | 39: 352 | 270–8, 270–9. |
| June 28, 1918 | 110 | | 40: 632 | 270–10, 270–14. |
| July 11, 1956 | 571 | 1 | 70: 528 | |
| 8. Alaska Settlement Laws: | | | | |
| Mar. 8, 1922 | 96 | 1 | 42: 415 | 270–11. |
| Aug. 23, 1958 | P.L. 85–725 | 1, 4 | 72: 730 | |
| Apr. 13, 1926 | 121 | | 44: 243 | 270–15. |
| Apr. 29, 1950 | 134 | 3 | 64: 93 | 270–16, 270–17. |
| May 14, 1898 | 299 | 10 | 30: 413 | 270–4, 687a to 687a–5. |
| Mar. 3, 1927 | 323 | | 44: 1364 | |
| May 26, 1934 | 357 | | 48: 809 | |
| Aug. 23, 1958 | P.L. 85–725 | 3 | 72: 730 | |
| Mar. 3, 1891 | 561 | 13 | 26: 1100 | 687a–6. |
| Aug. 30, 1949 | 521 | | 63: 679 | 687b to 687b–4. |
| 9. Pittman Underground Water Act: | | | | |
| Sept. 22, 1922 | 400 | | 42: 1012 | 356. |

(c) Effective on and after the tenth anniversary of the date of approval of this Act, section 2 of the Act of March 8, 1922 (42 Stat. 415, 416), as amended by section 2 of the Act of August 23, 1958 (72 Stat. 730), is further amended to read:

"The coal, oil, or gas deposits reserved to the United States in accordance with the Act of March 8, 1922 (42 Stat. 415; 43 U.S.C. 270–11 et seq.), as added to by the Act of August 17, 1961 (75 Stat. 384; 43 U.S.C. 270–13), and amended by the Act of October 3, 1962 (76 Stat. 740; 43 U.S.C. 270–13), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further*, That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.".

(d) Section 3 of the Act of August 30, 1949 (63 Stat. 679; 43 U.S.C. 687b et seq.), is amended to read:

"Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under the Act of August 30, 1949 (63 Stat. 679), shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949.".

### REPEAL OF WITHDRAWAL LAWS

SEC. 704. (a) Effective on and after the date of approval of this Act, the implied authority of the President to make withdrawals and reservations resulting from acquiescence of the Congress (U.S. v. Midwest Oil Co., 236 U.S. 459) and the following statutes and parts of statutes are repealed:

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| Oct. 2, 1888 | 1069 | | 25: 527 | 662. |
| Only the following portion under the section headed U.S. Geological Survey: The last sentence of the paragraph relating to investigation of irrigable lands in the arid region, including the proviso at the end thereof. | | | | |
| Mar. 3, 1891 | 561 | 24 | 26: 1103 | 16 U.S.C. 471. |
| Mar. 1, 1893 | 183 | 21 | 27: 510 | 33 U.S.C. 681. |
| Aug. 18, 1894 | 301 | 4 | 28: 422 | 641. |
| Only that portion of the first sentence of the second paragraph beginning with "and the Secretary of the Interior" and ending with "shall not be approved." | | | | |
| May 14, 1898 | 299 | 10 | 30: 413 | 687 a–4. |
| Only the fifth proviso of the first paragraph. | | | | |
| June 17, 1902 | 1093 | 3 | 32: 388 | 416. |
| Only that portion of section three preceding the first proviso. | | | | |
| Apr. 16, 1906 | 1631 | 1 | 34: 116 | 561. |
| Only the words "withdraw from public entry any lands needed for townsite purposes", and also after the word "case", the word "and". | | | | |
| June 27, 1906 | 3559 | 4 | 34: 520 | 561. |
| Only the words "withdraw and". | | | | |
| Mar. 15, 1910 | 96 | | 36: 237 | 643. |
| June 25, 1910 | 421 | 1, 2 | 36: 847 | 141, 142, 16 U.S.C. 471(a). |
| All except the second and third provisos. | | | | |
| June 25, 1910 | 431 | 13 | 36: 858 | 148. |
| Mar. 12, 1914 | 37 | 1 | 38: 305 | 975b. |
| Only that portion which authorizes the President to withdraw, locate, and dispose of lands for townsites. | | | | |
| Oct. 5, 1914 | 316 | 1 | 38: 727 | 569(a). |
| June 9, 1916 | 137 | 2 | 39: 219 | |
| Under "Class One," only the words "withdrawal and." | | | | |
| Dec. 29, 1916 | 9 | 10 | 39: 865 | 300. |
| June 7, 1924 | 348 | 9 | 43: 655 | 16 U.S.C. 471. |
| Aug. 19, 1935 | 561 | "Sec. 4" | 49: 661 | 22 U.S.C. 277c. |
| In "Sec. 4", only paragraph "c" except the prov iso thereof. | | | | |
| Mar. 3, 1927 | 299 | 4 | 44: 1347 | 25 U.S.C. 398d. |
| Only the proviso thereof. | | | | |
| May 24, 1928 | 729 | 4 | 45: 729 | 49 U.S.C. 214. |
| Dec. 21, 1928 | 42 | 9 | 45: 1063 | 617h. |
| Mar. 6, 1946 | 58 | | 69: 36 | 617h. |
| First sentence only. | | | | |
| June 16, 1934 | 557 | "Sec 40(a)" | 48: 977 | 30 U.S.C. 229a. |
| The proviso only. | | | | |
| May 1, 1936 | 254 | 2 | 49: 1250 | |
| May 31, 1938 | 304 | | 52: 593 | 25 U.S.C. 497. |
| July 20, 1939 | 334 | | 53: 1071 | 16 U.S.C. 471b. |
| May 28, 1940 | 220 | 1 | 54: 224 | 16 U.S.C. 552a. |
| All except the second proviso. | | | | |
| Apr. 11, 1956 | 203 | 8 | 70: 110 | 620g. |
| Only the words "and to withdraw public lands from entry or other disposition under the public land laws." | | | | |
| Aug. 10, 1956 | Chapter 949- | 9772 | 70A: 588 | 10 U.S.C. 4472, 9772. |
| Aug. 16, 1952 | P.L. 87-590 | 4 | 76: 389 | 616c. |
| Only the words "and to withdraw public lands from entry or other disposition under the public land laws." | | | | |

(b) The second sentence of the Act of March 6, 1946 (60 Stat. 36; 43 U.S.C. 617 (h)), is amended by deleting "Thereafter, at the direction of the Secretary of the Interior, such lands" and by substituting therefor the following: "Lands found to be practicable of irrigation and reclamation by irrigation works and withdrawn under the Act of March 6, 1946 (43 U.S.C. 617(h))".

### REPEAL OF LAW RELATING TO ADMINISTRATION OF PUBLIC LANDS

SEC. 705. (a) Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed:

| Act of | Chapter | Section | Statute at Large | 43 U.S. Code |
|---|---|---|---|---|
| 1. Mar. 2, 1895 | 174 | | 28: 744 | 176. |
| 2. June 28, 1934 | 865 | 8 | 48: 1272 | 315g. |
| June 26, 1936 | 842 | 3 | 49: 1976, title I. | |
| June 19, 1948 | 548 | 1 | 62: 533 | |
| July 9, 1962 | P.L. 87–524 | | 76: 140 | 315g–1. |
| 3. Aug. 24, 1937 | 744 | | 50: 748 | 315p. |
| 4. Mar. 3, 1909 | 271 | 2d proviso only. | 35: 845 | 77.2 |
| June 25, 1910 | J. Res. 40 | | 36: 884 | |
| 5. June 21, 1934 | 689 | | 48: 1185 | 871a. |
| 6. Revised Statute 2447 | | | | 1151. |
| Revised Statute 2448 | | | | 1152. |
| 7. June 6, 1874 | 223 | | 18: 62 | 1153; 1154. |
| 8. Jan. 28, 1879 | 30 | | 20: 274 | 1155. |
| 9. May 30, 1894 | 87 | | 28: 84 | 1156. |
| 10. Revised Statute 2471 | | | | 1191. |
| Revised Statute 2472 | | | | 1192. |
| Revised Statute 2473 | | | | 1193. |
| 11. July 14, 1960 | P.L. 86–649 | 101–202(a), 203–204(a), 301–303. | 74: 506 | 1361, 1362, 1363–1383. |
| 12. Sept. 26, 1970 | P.L. 91–429 | | 84: 885 | 1362a. |
| 13. July 31, 1939 | 401 | 1, 2 | 53: 1144 | |

REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY

SEC. 706. (a) Effective on and after the date of approval of this Act, R.S. 2477. (43 U.S.C. 932) is repealed in its entirety and the following statutes or parts of statutes are repealed insofar as they apply to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System:

| Act of | Chapter | Section | Statute at Large | 48 U.S. Code |
|---|---|---|---|---|
| Reivsed Statutes 2339 | | | | 661. |
| The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed: but whenever any person, in the construction of any ditch or canal injures or damages the possession of any settler on the public domain, the party committing such injury or damages shall be liable to the party injured for such injury or damage." | | | | |
| Revised Statutes 2340 | | | | 661. |
| The following words only: ", or rights to ditches and reservoirs used in connection with such water rights," | | | | |
| Feb. 26, 1897 | 335 | | 29: 599 | 664. |
| Mar. 3, 1899 | 427 | 1 | 30: 1233 | 665. 958 (16 U.S.C. 525). |
| The following words only: "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plots of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby." | | | | |
| Mar. 3, 1875 | 152 | | 18: 482 | 934–939. |
| May 14, 1898 | 290 | 2–9 | 30: 409 | 942–1 to 942–9. |
| Feb. 27, 1901 | 614 | | 31: 815 | 943. |
| June 26, 1906 | 3548 | | 34: 481 | 944. |
| Mar. 3, 1891 | 561 | 18–21 | 26: 1101 | 946–949. |
| Mar. 4, 1917 | 184 | 1 | 39: 1197 | |
| May 28, 1926 | 409 | | 44: 668 | |
| Mar. 1, 1921 | 93 | | 41:1194 | 950. |
| Jan. 13, 1897 | 11 | | 20: 484 | 952–955. |
| Mar. 3, 1923 | 219 | | 42: 1437 | |
| Jan. 21, 1895 | 37 | | 28: 635 | 951, 956, 957. |
| May 14, 1896 | 179 | | 29: 120 | |
| May 11, 1898 | 292 | | 30: 404 | |
| Mar. 4, 1917 | 184 | 2 | 39: 1197 | |
| Feb. 15, 1901 | 372 | | 31:790 | 959, (16 U.S.C. 79, 522). |
| Mar. 4, 1911 | 238 | | 36: 1253 | 951 (16 U.S.C. 5, 420, 523). |
| Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service." | | | | |
| May 27, 1952 | 338 | | 66: 95 | |
| May 21, 1896 | 212 | | 29: 127 | 962–965. |
| Apr. 12, 1910 | 155 | | 36: 296 | 966–970. |
| June 4, 1897 | 2 | 1 | 30: 35 | 16 U.S.C. 551. |
| Only the eleventh paragraph under Surveying the public lands. | | | | |
| July 22, 1937 | 517 | 31, 32 | 50: 525 | 7 U.S.C. 1010–1012. |
| Sept. 3, 1954 | 1255 | 1 | 68: 1146 | 931c. |
| July 7, 1960 | Public Law 86–608. | | 74: 363 | 40 U.S.C. 345c. |
| Oct. 23, 1962 | Public Law 87–852. | 1–3 | 76: 1129 | 40 U.S.C. 319–319c. |
| Feb. 1, 1905 | 288 | 4 | 33: 628 | 16 U.S.C. 524 |

(b) Nothing in Section 706(a), except as it pertains to rights-of-way, may be construed as affecting the authority of the Secretary of Agriculture under the Act of June 4, 1897 (30 Stat. 35, as amended, 16 U.S.C. 551); the Act of July 22, 1937 (50 Stat. 525, as amended, 7 U.S.C. 1010–1012); or the Act of September 3, 1954 (68 Stat. 1146, 43 U.S.C. 931c).

SEVERABILITY

SEC. 707. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill insert the following: "To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes."

And the House agree to the same.

JOHN MELCHER,
HAROLD T. JOHNSON,
MORRIS K. UDALL,
PHILLIP BURTON,
JOHN F. SEIBERLING,
JIM SANTINI,
JAMES WEAVER,
DON H. CLAUSEN,
DON YOUNG,
*Managers on the Part of the House.*

HENRY M. JACKSON,
FRANK CHURCH,
LEE METCALF,
J. BENNETT JOHNSTON,
FLOYD K. HASKELL,
DALE BUMPERS,
MARK O. HATFIELD,
JAMES A. MCCLURE,
*Managers on the Part of the Senate.*

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

MAJOR PROVISIONS

1. The Senate bill provided an organic act for the Bureau of Land Management, and also addressed a number of resource related problems. The House amendments, in addition, addressed a number of other major BLM resource-related problems of current concern and to the extent these problems and organic provisions dealt with subject matter where Bureau of Land Management and Forest Service programs interfaced, the House amendments made them applicable to national forest lands. Where the interfacing is limited geographically, the applicability of the provisions is adjusted accordingly.

The conferees adopted the House approach but modified or deleted certain provisions as noted below. Consistent with this, the conferees adopted the short title of the bill contained in the House amendments instead of the Senate's "National Resource Lands Management Act."

2. The declarations of policy in the Senate bill and the House amendments were essentially the same. The House amendments expressed the policies in more specific detail in some instances. With minor changes, the conferees adopted the House amendments.

3. The conferees, with some editorial changes, adopted the definitions in the Senate bill and the House amendments except as follows:

a. The conferees retained the traditional use of the term "public lands" (hereinafter referred to as BLM lands) in referring to the bulk of the lands administered by BLM. However, this does not prevent the Secretary of the Interior from continuing to use the term "national resource lands" in official as well as unofficial references to the public lands. It was made clear that the definition of "public lands" and other terms in S. 507 do not change the meaning of the terms in statutes enacted prior to the approval of S. 507.

b. The conferees deleted the definition of "lands in the National Forest System," preferring to retain the definition of that term as it appears in the Humphrey-Rarick Act.

4. The Senate bill and the House amendments both had similar provisions for the inventory and identification of, and land use planning for, BLM lands. The House amendments had some additional provisions which

the conferees acted upon as follows; in addition to consolidating and making editorial improvements in the adopted text:

a. The conferees adopted the House provisions that the Forest Service shall coordinate its land use plans with those of Indian tribes.

b. The conferees adopted the House requirement that BLM land use planning provide for compliance with, rather than consideration of, both State and Federal pollution standards or implementation plans.

c. The conferees adopted a consolidation of the Senate and House provisions for coordination of BLM land use planning with Federal, State, local governments, and Indian tribes, with revisions making clear that the ultimate decision as to determining the extent of feasible consistency between BLM plans and such other plans rests with the Secretary of the Interior. This affirmed the need to maintain the integrity of governing Federal laws and Congressional policies.

d. The conferees adopted the House provisions for referral to Congress and possible veto of certain management decisions excluding public lands from one or more principal uses. As to this and other veto provisions of the House amendments, the conferees revised the House amendments to require adverse actions by concurrent resolution. They also adopted procedures for facilitating consideration of such resolutions when introduced.

5. The Senate bill and the House amendments both had similar provisions for sales of public lands. The House amendments had some additional provisions which the conferees, in addition to consolidating and making editorial improvements in the adopted text, acted upon as follows:

a. The conferees did not adopt the Senate provision barring sales of tracts which would cause needless degradation of the lands. They adopted elsewhere in S. 507 provisions giving the Secretary of the Interior general authority to prevent needless degradation of the public lands.

b. The conferees adopted the House provision forbidding sales of land designated as "wilderness" and broadened the prohibition to lands designated as national wild and scenic rivers and as national trails.

c. The conferees adopted a revised version of the House provision for referring proposed sales of tracts of more than 2500 acres to Congress for review and possible veto.

6. The Senate bill contained no provisions relating to authority for withdrawals of public lands. The conferees adopted the House amendments with the following changes:

a. A provision permitting the Secretary of the Interior to publish notice of a proposed withdrawal prior to his noting his records of the proposal. This is to minimize possible nuisance filings on lands proposed for withdrawal.

b. The conferees extended time periods in the House amendments as follows:

1. Two-year segregative period (instead of one),

2. Twenty-year terms for withdrawals (instead of ten),

3. Three years for emergency withdrawals (instead of one),

4. Fifteen years for withdrawal review (instead of ten).

c. Lands added to wildlife refuges by the Secretary under the terms of the bill cannot be excluded from the refuge except by Act of Congress. The one-House veto provision does not apply to wildlife refuges. The bill requires review of such withdrawals toward the end of their nominal terms; however, if the Secretary determines that extension is not in the public interest, he must extend the term of the withdrawal but can suggest legislation to revoke the withdrawal.

7. The Senate bill and House amendments had similar provisions for acquisition of lands and interests in land by BLM. The conferees adopted the additional House provision granting the Forest Service authority to acquire lands outside the national forest boundaries for the purpose of gaining access to national forest lands.

8. The Senate bill and House amendments had similar provisions for exchanges. The conferees took the following actions where provisions of the two bills differed:

a. The conferees adopted the Senate criterion for weighing the values and public advantages of lands proposed to be disposed of in an exchange and the lands proposed to be acquired in that exchange, together with the House criterion.

b. The conferees agreed upon an upper limit of 25 percent in balancing monetary values in exchanges by use of cash. The Senate bill had permitted 30 percent while the House amendments had a 20 percent limit.

c. The conferees adopted the House provisions for extension of criteria for exchanges and cash equalization to national forest exchanges.

9. The conferees adopted the House provision that only citizens and corporations subject to the laws of any State or the United States are qualified to acquire title to public lands under the Act.

10. The Senate bill and the House amendments had similar provisions for reservation and conveyance of minerals. The conferees acted on the differences by:

a. Deleting the Senate's reference to term covenants since specific reference is not necessary, and

b. Adopting the Senate's provision for permitting applicants to conduct the required exploratory programs.

11. The conferees consolidated the provisions of the Senate bill and the House amendments with respect to coordination of sales with State and local governments.

12. The conferees adopted the Senate bill's provisions with respect to omitted lands. The House amendments had no comparable provisions, except as to certain features in the section on sales of public lands, contributions for surveys and in amendments to the Recreation and Public Purposes Act.

13. The conferees adopted the House amendments provisions for revision of the Recreation and Public Purposes Act. The Senate bill did not have any comparable provisions except as to omitted lands.

14. The conferees adopted the House amendments provision for amendment of the National Forest Townsite Act with one change. The Senate bill did not have a comparable provision. The conference amendment limits the application of the amended act to Alaska and in the 11 western contiguous States where the most serious problems of restricted community expansion exist.

15. The Senate bill had no provisions for amendment of the Unintentional Trespass Act of 1968. The conferees adopted the House amendment with changes in the appraisal date and Congressional reference.

16. Both the Senate bill and the House amendment require the Director of BLM to be hereafter appointed by the President with the advice and consent of the Senate. The House amendments had additional language to maintain the continuity of BLM operations after enactment of S. 507, unless specifically revised by the bill. The conferees adopted the House amendments.

17. The Senate bill and House amendments differed as to relation of BLM and the Forest Service management to State hunting and fishing laws. The conferees authorize the two Bureaus to ban hunting and fishing for reasons of public safety, administration, and compliance with applicable law. The word "administration" authorizes exclusion of hunting and fishing from an area in order to maintain the ability of appropriate officials to maintain administrative supervision. It does not authorize exclusions simply because hunting and fishing would interfere with resource-management goals.

18. The Senate bill had a provision directing the Secretary of the Interior to require appropriate land reclamation as a condition of use likely to entail significant disturbances to or alteration of the public lands. The conferees did not adopt this provision.

19. Both the Senate bill and the House amendments had similar provisions for law enforcement with some marked differences. The conferees acted on the differences as follows:

a. The conferees adopted the Senate mandatory requirement for law enforcement regulations.

b. The conferees adopted the House provisions that violation of regulations must be "knowing and willful" to invoke criminal penalties.

c. The conferees accepted the policy in the House amendments that the Secretary of the Interior seek maximum feasible reliance in his discretion upon local law enforcement officials in enforcing Federal laws and regulations. The Secretary is expected to keep this goal in mind, as well as his authority to assist local law enforcement officials in enforcing local laws and regulations, as he carries out his primary responsibility of assuring adequate law enforcement for the public land areas.

d. The conferees adopted the Senate's specific reference to the authority to carry firearms.

In granting the right to bear firearms, the conferees acted upon the full expectation that the Department of the Interior would retain as no less than its minimum standards those spelled out in Chapter 446.2 (dated December 20, 1974) of the Department of the Interior Manual. Those standards are as follows:

2. *Standards*. The following standards will be incorporated into all bureau/office law enforcement programs, and shall be applied in all decision-making, administrative procedures and program development activities.

A. All contracts for law enforcement services shall require contractor to maintain the same standards that are required of programs operated directly by the Department.

B. Each law enforcement officer shall be specially identified as such and shall be individually authorized to make arrests and to carry firearms, and only employees assigned duties as law enforcement officers shall be authorized to carry firearms and to make arrests, except where firearms are necessary in the performance of other game management or resource protection duties.

C. Uniforms, when worn, will positively identify the wearer as a law enforcement officer. Badge, name plate and bureau patch must be visible at all times. Uniforms of all nonenforcement personnel shall be plainly distinguishable from the uniforms of law enforcement officers.

D. Except in firearms training, each time a firearm is used for law enforcement purposes a report shall be filed with the superior of the officer who used the weapon. Whenever use of a weapon results in serious injury or death of any person, the officer shall be placed on administrative leave, or be assigned to strictly administrative duties, pending a thorough investigation of all circumstances surrounding the incident.

E. Each bureau shall require its officers to maintain their shooting proficiency and fire for record at least twice a year at a recognized and approved firearms practice course. Firearms will not be issued to enforcement personnel until each has demonstrated his ability to properly use the weapon.

F. Each bureau shall specify the type of firearms, ammunition, and auxiliary equipment to be used by the law enforcement officers of that bureau.

e. The conferees adopted the House's specific reference to search and seizures.

f. The conferees adopted the Senate bill's declaration that use, occupancy, or development of public lands contrary to applicable regulations is unlawful and prohibited. This declaration does not expand the Secretary's authority to establish criminal penalties but will support his effort for injunctive and other restraining action to prevent continuing violation of laws and regulations.

20. The Senate bill's and the House amendments' provisions for service charges differed in certain respects. The conferees acted on the differences as follows:

a. They adopted the House amendments' use of the adjective "reasonable" to modify charges and costs; the adjective is implict in the Senate bill except where the adjective "extraordinary" was used. The conferees substituted "reasonable" for "extraordinary," giving the Secretary of the Interior greater policy leeway in determining whether reimbursement of costs will be required at both the lower and upper levels of charges.

b. They agreed to eliminate direct appropriation of moneys paid for reimbursement of costs.

c. They agreed to mention specifically the "reasonable costs" of doing special studies and preparing environmental impact statements as was done in the Senate bill. The conferees wrote into the bill factors to be considered by the Secretary in determining whether charges are in fact reasonable.

21. Both the Senate bill and the House amendments permitted the Secretary of the Interior to establish advisory boards or councils subject to the Federal Advisory Committee Act. The conferees accepted the House version of the authority with an amendment reducing the mandatory number of meetings to one annually. The conferees retained the House provision that each board must have at least one elected official of general purpose government.

22. Both the Senate bill and the House amendments provided for an annual report by the Secretary. The conferees adopted the House language with one amendment. It placed the responsibility for developing the structure of the reports with the Secretary of the Interior after consultation with the Interior and Insular Affairs Committees.

23. The conferees adopted the House amendments relating to search and rescue and to "sunshine in government." There were no comparable Senate provisions.

24. Both the Senate bill and House amendments provided for recordation of mining claims and for extinguishment of abandoned claims. The conferees adopted the more specific House amendments with one perfecting amendment.

25. The Senate bill (but not the House amendments) contained a provision for requiring application for patent within 10 years of recordation. The conferees did not adopt this provision.

26. Both the Senate bill and the House amendments had provisions relating to distribution of revenues to States from Mineral Leasing Act (MLA) operations.

a. The Senate bill would have increased the distribution to the States (other than Alaska) from 50 percent to 60 percent. The House amendments would have retained the present 50 percent. The conferees did not accept the Senate increase.

b. The Senate amendment would have permitted the States (other than Alaska) to use all the funds they receive for any purpose the State legislatures directed, provided priority was given to subdivisions impacted by development of leased minerals. The House amendments would have retained existing law requiring use of 75 percent of the total revenues for schools and roads and the remaining 25 percent as the legislatures directed, subject to the priority mentioned. The conferees adopted the Senate revision.

c. The Senate bill (but not the House amendments) revised the dates for delivery of the States' share of mineral revenues to coincide with the new fiscal year. The conferees adopted the new dates.

d. The conferees adopted an amendment to make clear that Alaska is to continue to get 90 percent of the mineral revenues from lands in that State, all of which is to be used as the State legislature directs.

e. The Senate bill, but not the House amendments, authorized a loan program to the States to relieve social and economic impacts caused by mineral development under the leasing act. The 3 percent loans would be, in effect, a prepayment of anticipated State receipts for their share of mineral revenues under the MLA. The conferees adopted the Senate bill's provision, with revisions that place a maximum on loans amounting to the 50 percent of total Federal revenues which the States receive from MLA operations.

27. The Senate bill authorized all sums needed to carry out the purposes and provisions of S. 507. The House amendments required, with minor exceptions and starting with fiscal year 1979, specific authorizations for all BLM programs. The House amendments also permitted BLM to use Land and Water Conservation Fund moneys for acquisition of lands necessary for proper management of public lands which are primarily of value for outdoor recreation purposes. The conferees adopted the House amendments with a further amendment to require quadrennial requests for authorizations rather than biennial.

28. The Senate bill had no provisions relating to grazing on public and national forest lands. The House amendments dealt with grazing fees, range management funds, terms of grazing leases and permits, and grazing advisory boards.

The House amendments established a mandatory formula for determining grazing fees. The conferees did not accept this amendment.

In lieu of the House provision, the Conferees added a subsection requiring the Secretaries of Agriculture and of the Interior to make a study of the value of grazing on public lands and lands in National Forests in the eleven contiguous Western States and to report to the Congress within one year showing the results of the study, together with recommendations to implement a reasonable grazing fee schedule based on the study. The provision forbids an increase in the grazing fee for the 1977 grazing year and thereafter until the required report and recommendations are submitted to the Congress. The Conferees expect the study to be in such form and content as to furnish a basis for evaluating the grazing fee formula included by the House in its amendments.

29. The House amendments also provided that 50 percent of grazing fees be used for on-the-ground range betterment installations The conferees adopted this provision.

30. The House amendments spelled out the terms and conditions either in general or specific terms that the Secretaries may or must place in grazing leases or permits. The conferees adopted the House amendments with revisions. They revised the House proposal to make a distinction between allotment management plans and other approaches to management of livestock grazing. The revision authorizes the Secretaries to require allotment management plans, where appropriate. in all leases and permits. After October 1, 1988, in the absence of an allotment management plan in a lease or permit the Secretaries must incorporate other provisions for proper management of the range.

The conferees also included a statement in S. 507 that preserves existing law relating to the creation of right, title, interest or estate in and to Federal lands by issuance of grazing permits and leases.

The provisions in S. 507 declaring that the annual distributions and use of range-betterment funds are not to be considered to be a major Federal action under the National Environmental Policy Act and requiring 10-year leases and permits do not affect that Act's applicability to other aspects of grazing operations of BLM and the Forest Service. The conferees are aware of BLM's current program for environmental impact statements approved by the Court. Nothing in S. 507 is intended to interfere with that program. The bill, if enacted, does negate the Court's order barring issuance of 10-year leases and permits in the absence of a specific showing that such action could lead to a significant adverse impact on the human environment.

A cancellation in part as used in section 401 of the bill does not refer to reductions in use where lands are not excluded from a lease or a permit. Where lands are excluded from a lease or permit, a reduction in use of the remaining lands also is not a cancellation in part.

The requirements of the bill for two years' notice prior to cancellation are satisfied if two years elapse after notice of intention to cancel, even though final cancellation may be delayed for a longer period because of appeals or related proceedings.

The bill does not diminish the authority of the Secretaries under the Taylor Grazing Act or other existing law to specify terms and conditions of grazing use when such use is permitted nor to decide whether grazing use will be permitted to continue during the term of a lease or permit or thereafter.

31. The House amendments mandated local grazing advisory boards for the public lands and the national forests in the 11 western states. The conferees adopted this provision with amendments limiting the functions of, and representation on, the boards.

32. The Senate bill did not contain any provisions relating to wild horses and burros. The House amendments amended the Wild Horse and Burro Act with respect to the disposal of excess animals and the use of motorized vehicles by the Secretaries of the Interior and Agriculture.

The conferees did not accept the provisions relating to disposition of excess animals. It approved the grant of authority for the use of helicopters and, for the purpose of transporting captured animals, motor vehicles. This grant does not deprive the Secretaries of their current authority to use aircraft and motor vehicles in wild horse and burro management where harassment of animals cannot result. Examples are use of any aircraft for surveillance or use of motor vehicles for transportation of personnel and equipment.

33. With the exceptions noted below, the Senate bill and the House amendments had practically identical provisions relating to rights-of-way over, upon, under, and through the public lands. The conferees took the following actions with respect to significant differences in addition to clarifying certain parts of the text:

a. The conferees accepted the House amendments which made the rights-of-way provisions applicable to national forest lands.

b. The conferees accepted the House provisions excluding lands designated as wilderness, allowing the provisions of the National Wilderness Preservation System Act to control.

c. The conferees did not adopt the House disclaimer as to authority for granting rights for purposes ancillary or complementary to rights-of-way granted under S. 507. Such disclaimer was not necessary in the light of the provisions adopted by the conferees. The conferees also excepted from the terms of S. 507 transportation facilities constructed and maintained in connection with commercial recreation facilities over National Forest lands.

d. The conferees did not adopt the Senate provision for direct appropriation of funds reserved for reimbursement of costs. The House authorization for appropriation of such funds was retained.

e. The conferees adopted the House provisions requiring compliance by right-of-way grantees with State air and water quality standards but not with the House provisions for compliance with siting provisions of State laws without any exception. They did adopt the House requirements with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of rights-of-way for similar purposes of those standards are more stringent than applicable Federal standards.

f. The conferees adopted the Senate provision requiring consent of the head of the department or agency concerned before the Secretary of the Interior could terminate or otherwise limit a grant of right-of-way to such head.

g. The House amendments permitted the Secretaries to waive a limited number of requirements of S. 507 in connection with rights-of-way involved in realignment of railroad lines. They also established time limits of action on applications for such rights-of-way. The conferees adopted these amendments but eliminated provisions permitting the automatic vesting of grants and requiring reports to the Congress. The conferees recognized the need for prompt action on rights-of-way.

S. 507 protects all valid rights existing on the date of its approval, including grants under the railroad right-of-way act of 1875 which will have attached prior to that approval date.

34. The Senate bill and the House amendments had almost identical provisions for the California Desert Conservation Area. The conferees agreed to change the final date for the desert plan to September 30, 1980, in conformance with provisions of the Senate bill and with the new fiscal year dates. The conferees also accepted the House amendments affecting the principles of multiple use and permitting regulation of mining operations in the Conservation Area.

35. The House amendments (but not the Senate bill) contained a revision of the boundaries of the King Range National Conservation Area. The conferees agreed to this revision.

36. Both the Senate bill and the House amendments provided for wilderness studies and inclusion of appropriate wilderness areas in the National Wilderness Preservation System. The House amendments provided specific detail for the conduct of studies, inclusion of lands in the Wilderness Preservation System, and exclusion of lands from the study provisions of S. 507. The conferees adopted the House amendments with further amendments. One affirms the right of the Secretary of the Interior to withdraw lands in study areas from the Mining Law of 1872 for reasons other than preservation of their wilderness character. Another struck out the procedures for excluding lands from study areas.

37. Both the Senate bill and the House amendments had a series of different disclaimer clauses. The conferees accepted all of these clauses and added two in addition. One forbids judicial review of the adequacy of reports required by S. 507. The adequacy of such reports is a matter for resolution between the Congress and the President. The other protects current distribution of national forest grazing receipts.

In specifying the substance to be included in reports to be submitted to the Congress or its committees, the bill establishes the general areas of subject matter. Details to be included in the reports will be worked out between the committees and the departments. The committees have authority to waive the supplying of required information whenever they determine that it will serve no legislative purpose.

38. S. 507 is not to be construed as repealing any prior legislation by implication.

39. The Senate bill (but not the House amendments) provided for immediate repeal of the Alaska settlement laws. The conferees provided for termination of those laws ten years after the date of approval of S. 507.

40. The House amendments (but not the Senate bill) provided for repeal of practically all existing executive withdrawal authority. The conferees agreed to this repeal to the extent provided for by the House.

JOHN MELCHER,
HAROLD T. JOHNSON,
MORRIS K. UDALL,
PHILLIP BURTON,
JOHN F. SEIBERLING,
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*Managers on the Part of the Senate.*

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## PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE CONFERENCE REPORT ON S. 3131, AMTRAK IMPROVEMENT ACT OF 1976

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a conference report on the bill S. 3131, Amtrak Improvement Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

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## CONFERENCE REPORT ON S. 2228, PUBLIC WORKS AND ECONOMIC ACT EXTENSION

Mr. ROE. Mr. Speaker, I call up the conference report on the bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 23, 1976.)

Mr. ROE (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The gentleman from New Jersey is recognized for 30 minutes.

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report that is before you today—S. 2228—authorizes a 3-year extension of the Public Works and Economic Development Act of 1965 as amended. Total authorizations for the 3-year extension through fiscal year 1979 are $4.8 billion. I want to take this opportunity to congratulate the House conferees, and particularly Congressman JOHN PAUL HAMMERSCHMIDT, ranking minority member of the Economic Development Subcommittee, for the hard work and long hours which they devoted to reach a compromise with the Senate. As chairman of the Conference Committee, I am proud to say that we have agreed to a conference report which incorporates the best provisions from both the House and Senate bills. The conference report makes necessary improvements in existing programs as well as provide new economic development tools to stimulate the creation of jobs and the redevelopment of distressed areas whose industrial or commercial sectors are badly in need of assistance.

Mr. Speaker, before I review the major provisions of the conference report I want to acknowledge the support of the administration in a 3-year extension of these programs.

Both the House and Senate have demonstrated their strong support for the Public Works and Economic Development Act programs since their inception in 1965. Last Friday, the Senate once again demonstrated their strong conviction that these programs must be continued. By a vote of 70–2 the Senate accepted this conference report—recognizing that these programs which are directly targeted at distressed communities throughout the country, communities which are suffering from high unemployment and long-term economic deterioration, are absolutely essential. The programs authorized by this legislation have increased permanent job opportunities in the private sector as well as provided the needed stimulus for long-term economic growth and development.

The conference report authorizes a new program under title II of the act—the business development loan program—which provides for interest-free loans to redevelopment areas designated under the act.

The initial recipient of the interest-free loan would be the governing body of the redevelopment area but, in most cases, it is expected that the loan would be "passed-through" to a separate, nonprofit lending agency designated by the local governmental jurisdiction in order to most effectively meet the varying State requirements on providing assistance for economic development.

Once a designated area has a redevelopment plan approved by the Secretary of Commerce these funds may be reloaned by the area to carry out a number of activities—such as, industrial land assembly, land banking, acquisition of industrial sites including acquisition of abandoned facilities with redevelopment potential, renovation of usable empty factory buildings for industrial and commercial use, and other activities which will accelerate the recycling of both land and facilities for job-creating economic activity. As these loans are repayed the funds will be placed in an economic development revolving fund in order that other loans approved by the Secretary can be made for the development of the distressed area. When the redevelopment area's designation is terminated under the provisions of this act, the funds remaining in the revolving fund account will revert to the U.S. Treasury and any outstanding loans will be repaid directly to the Treasury.

Title II is also amended to authorize the Secretary to finance existing liens where he determines it essential to save employment, avoid a significant rise in unemployment or create new employment. Although the committee is aware that the Economic Development Administration believes that they now have this authority to refinance, the agency's policy to date has been not to use this authority. This amendment is therefore provided to make it clear to the Secretary of Commerce that refinancing is an appropriate tool to save jobs or create new jobs. Finally, the title II program is amended to authorize an interest subsidy up to 4 percent on any loans guaranteed under the title. The conferees intend that this interest supplement is to be used when no reasonable interest rate is available in the private lending market. The subsidy cannot be used to reduce the interest rate on the guaranteed loan below the rate for direct loan.

Mr. Speaker, the conference report amends several other provisions of the act that affect the designation of redevelopment areas. First, the unemployment statistics that are used to determine the eligibility of a redevelopment area must be calculated for 12 consecutive months. The conferees also agreed to a provision which allows an area seeking designation under the act to use either State or Federal unemployment statistics. Unemployment statistics certified by the State are to be accepted by the Secretary of Commerce unless he proves them to be inaccurate. Based on our recent experience with the Public Works Employment Act, the conferees agreed that State certification of local area unemployment statistics is essential in many cases, to insure that the best available unemployment data is used in the designation procedure. The Bureau of Labor Statistics does not have current unemployment data for most communities below 50,000 population and it is therefore essential that local areas have the option of using State Employment Security Agency figures if needed.

Under section 401(b) of the act, the conference report reduces the population size of municipalities that may be designated by the Secretary as "redevelopment areas" from 250,000 to 25,000 population. The conferees believe that the Secretary should encourage the cooperative planning among communities of any size within redevelopment areas. To this end, the conferees intend that an eligible municipality may combine with one or more contiguous communities of any size for the purpose of this designation, providing that the communities share a mutuality of interests or problems concerning economic growth, employment, transportation, or other industrial or commercial infrastructure needs.

Mr. Speaker, S. 2228 also adds a new section 704(e) to the act which amends the prohibition on providing financial assistance for facilities to generate, transmit or distribute electric energy, or to produce or transmit gas by providing two exceptions: first, financial assistance is authorized for projects which are specifically authorized by the Congress; and second, for local projects for industrial parks or commercial areas in communities where the electrical energy or gas supply is threatened to be interrupted or curtailed resulting in a loss of jobs; or where the proposed facility would create new jobs or save existing jobs. These local projects are eligible for assistance provided that the Secretary finds that financing is not available at a reasonable rate from private or Federal lending agencies, and that the State or Federal regulatory body regulating such a service determines that the proposed facility would not compete with an existing public utility, or if the public utility cannot meet the energy requirements of the area.

Under title IX of the Public Works and Economic Development Act—the economic adjustment assistance program—the conferees added the provision of long-term economic deterioration as a condition for which assistance may be provided. In addition, recipients of such grants under title IX may use the funds for the relocation of businesses and to reduce the interest on guaranteed loans.

Mr. Speaker, these are the major amendments as provided for in the conference report on S. 2228. I believe these new provisions represent a great improvement in the existing law and a major move toward a balanced economic growth and development policy for this Nation. The economic needs of both our rural and urban areas are addressed by this legislation—not in a divisive way but comprehensively. Both our urban inner cities and our smaller rural towns share many of the same problems—declining tax bases, out-migration, long-term economic deterioration, declining per capita income levels, the loss of industry and commercial enterprises—and these are problems that must be met now, not in 20 years. It takes a long time to restore the economic viability of those communities which are suffering the pains of economic distress. I hope my colleagues will join with me in supporting this conference report as you did in passing the bill on August 30 by a vote of 372 to 5. This legislation will not solve all the economic problems that our communities face, but it will provide the kind of assistance that we know will work—public works grants, business development loans, technical assistance and so forth—these tools have been tested and have proven their effectiveness. I urge my colleagues to support the conference report on S. 2228.

Mr. NOWAK. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New York.

Mr. NOWAK. Mr. Speaker, I thank my distinguished colleague for yielding. I want to take just a moment to offer my deep appreciation and praise to a gentleman who is a true leader in the development of our Nation's economically depressed areas—the chairman of the conference; the chairman of our Economic Development Subcommittee—whose personal involvement and commitment to economic development has been an indispensable factor in moving the legislation which is before us today. One example of the innovative approach my colleague BOB ROE takes to this complicated problem is providing long-term interest-free loans to cities for them to promote private sector industrial investment—the redevelopment area loan program.

Is it the understanding of the gentleman from New Jersey (Mr. ROE) that the appropriations bill which we passed in June of this year—appropriating a block of funding to be allocated by title—would be available for any and all programs and a particular title? That is, would the redevelopment area loan program, authorized by the legislation before us today, be eligible for funds we have appropriated for title II of the act?

Mr. ROE. Mr. Speaker, it is my feeling that such a program certainly would be eligible for funding from the appropriated funds—but I also want to add that I hope we can provide a supplemental appropriation to increase total funding for title II at the earliest possible date.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Speaker, I rise in support of the conference report on S. 2228, a bill to extend for 3 years the Public Works and Economic Development Act of 1965, as amended. Authorizations total $4.8 billion for activities under EDA to assist communities suffering economic ills and decline; $161.26 million is authorized for the transition quarter, $1.395 billion is authorized for fiscal year 1977, and $1.65 billion is authorized for each of the fiscal years 1978 and 1979. Over the years EDA has provided over a billion dollars in public works grants, hundreds of millions of dollars in business loans and technical assistance to eligible areas needing a boost in their respective economies. EDA is a proven effective program for Federal assistance to boost the private sector for sustained economic growth and development.

Specifically in this legislation there is an amendment to the title II business loan provision, which provides for an interest subsidy for loans guaranteed by EDA. Authorization for the title II loan program is increased to $200 million per fiscal year. This interest subsidy may be up to 4 percent of the interest on the loan provided that the interest of a private loan shall not be lowered below the interest rate on an EDA direct loan, and the payment shall be made either to the borrower or to the lender, no less often than annually. I support this provision because it is direct aid to the private sector, it stimulates lending activity in areas where loans may be otherwise prohibitively expensive, and it allows the greatest leverage of Federal spending in the private sector. Many marginal firms in need of capital improvement, repair of existing facilities, and additions to pollution control and abatement facilities are in desperate need of finance capital. This interest subsidy will aid these firms greatly to meet the cost of borrowing. This provision allows EDA to review the loan, since only loans guaranteed by EDA are eligible for the interest subsidy. In my own district of Ohio, there is a firm which, due to the age of the facility, was forced to lay off half of its 2,400 employees, due directly to environmental orders. This is a major source of employment in my district and this payroll is obviously of great importance and need to the local economy. Since this is a marginal firm, a loan to finance pollution abatement facilities would be prohibitively expensive. However, by providing an interest subsidy the loan may be within this company's financial capacity.

Additionally, I support the new provision contained in title II, section 204, which authorizes interest-free loans to redevelopment areas for development purposes. This provision is a result of a compromise over the House-Senate urban provision. The funds under this new provision would be available to all eligible areas under EDA. This is a broad program which will offer aid to areas for the implementation of a plan which may include industrial land assembly, land banking, acquisition of surplus property, acquisition of industrial sites, real estate development, rehabilitation of buildings, renovation of usable factories, and other investments for job-creating activities. This section may prove vital to the many decaying center cities in America. I support this new provision and the other provisions contained in this conference report.

I urge enactment of S. 2228.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the conference report on S. 2228, to extend for 3 years the Public Works and Economic Development Act of 1965, as amended, and to add a new program, interest-free loan program for redevelopment areas, and for other purposes. Total authorizations are $4.856 billion, $161.25 million for the transition quarter, $1.395 billion for fiscal year 1977, and $1.650 billion each of the fiscal years 1978 and 1979. I congratulate the chairman of the conference, Mr. ROE, who also serves as chairman of the Subcommittee on Economic Development, for his splendid efforts to see this conference through. A major hurdle of the conference was the new House provision, section 405, urban economic development.

The conference agreed to add a new section 204 to the act, a provision which will authorize $125 million annually for interest-free loans for redevelopment areas for economic development purposes. These loans are to be available to all redevelopment areas; it is expected that economic development districts as authorized under title IV will be eligible for such loans.

There is no separate funding for urban areas. Instead, EDA will utilize the existing program and the new program for assistance to cities. Additionally, the minimum population requirement for a city to be designated as a redevelopment area has been lowered from 250,000 to 25,000 so long as a city meets a criterion under section 401(a). Title I authorization is increased to $425 million to adequately fund projects in these newly eligible areas. Cities with a mutuality of interests for problems of economic growth, employment, transportation, or other public facilities development are urged to combine for development purposes. The Secretary of Commerce should encourage the formation of larger units for the purpose of long-term economic development.

The economic development districts will continue in their current form. The districts are highly successful and over the years have endured the winds of change. It is the only program that has not been altered significantly under this act. Districts are the mainstay of the EDA programs, allowing redevelopment areas to combine with one another to form viable economic planning and management entities for development purposes. This new eligibility feature for the cities will provide in many ways an opportunity for districts to provide delivery capability for cities of 25,000 or more.

There are changes which are contained in this conference report relating to the operation of the Economic Development Administration. First, a new section 107 authorizes the Secretary to increase the size of a grant made under title I, public works facilities program, by an amount equal to the percentage increase in the cost of such project due to inflation provided that the increase does not exceed the original grant rate. This new section will allow the Administrator to relieve the total burden of inflation from the recipient of a public works project.

The conferees agreed to increase the public works impact program from a minimum of 10 percent to a minimum of 15 percent of title I appropriated funds. This program is useful to many communities for quick start public works projects. The program can get in place quickly a needed facility for economic development purposes.

In the House-passed version of the 3-year extension of EDA, there was a provision to authorize the Secretary to pay up to 4 percent points of an EDA guaranteed loan made by private borrower to a private lender. This provision was designed to help companies which could otherwise not meet the cost of a large loan bearing high interest rates. Loans totaling several million dollars are beyond the financial capability of the EDA direct loan program. So, the interest subsidy provision would leverage title II loan money so that a few million dollars could generate many hundreds of milions of dollars in private loans. The conferees agreed to this provision so long as no interest subsidy would lower the interest rate of a private loan below the interest rate of an EDA direct loan.

As I previously mentioned, a new section 204 is added to the act which authorizes an interest-free loan program. A redevelopment area may submit a plan to the Secretary and make application for an interest-free loan for the purpose of carrying out the plan. The interest-free loan shall go to such activities as industrial land assembly, land banking, acquisition of surplus property, acquisition of industrial sites, real estate development, rehabilitation of empty factories, and other such investments. This interest free loan shall be reloaned by the redevelopment area to carry out the purposes of the plan and the repayment of any loans shall be placed in a revolving fund available for making additional loans upon approval by the Secretary. This new program is available to any redevelopment area provided that they are not redevelopment area by the grace of the moratorium on redesignation of eligibilty. In other words, any redevelopment area designated within the last 3 years or any redevelopment area still suffering from the economic ills under which they are designated or any redevelopment area to be designated will be eligible for this program.

The current law contains a section which authorizes grants to States, cities, and sub-State political subdivisions including economic development districts for the purposes of planning for economic development. This section 302 was added by Congress to the act in 1974. At that time Congress included a provision which stated that any overall planning done by a State should be done cooperatively with the State, cities, and political subdivisions contained within the State and shall incorporate the goals and objectives of each such sub-State entity planning. This new 302 planning provision has not worked as intended. States are setting up economic planning units and are not consulting sub-State entities. They are, in certain cases, virtually ignoring the diligent work done by economic development districts and other sub-State entities. Accordingly, I offered an amendment in committee which was accepted to require that any State plan shall be prepared in cooperation with sub-State entities and cities and to the extent possible such State plan be consistent with local and economic development plans. The conference agreed in principle to this revised language and modified the resultant provision which states that any State plan prepared with assistance under this section shall be prepared cooperatively by the State and its political subdivisions and economic development districts. Furthermore, upon completion of any plan, the State shall certify that in the preparation of the plan, local and economic development district plans were considered and such State plan is consistent with the local and economic development district plans and the State shall certify that the State plan is consistent with such local and EDA plans, or if it is not, the State shall certify all the inconsistencies and the reasons for such inconsistencies.

We wish to preserve the eligibility of entities to perceive their own problems and priorities and to establish their own goals and objectives. This is the purpose of the section 302. However, to preserve the existing planning function of the Economic Development Act through the district program, the conferees agreed to this language to mandate the interchange by the local entities and the States.

The criterion under the act, section 401(a)(8) so called the "substantial unemployment" criterion, is further defined as unemployment which is both substantial and above the national average for the preceding 24 months. Currently there is no definition in the act of substantial unemployment. Additionally, a new criterion is added which will make eligible those areas which the Secretary determines have demonstrated long-term economic deterioration.

The conference agreed to lower the minimum population from 250,000 to 25,000 as a floor for designation as a redevelopment area. This new provision will allow over 800 cities, if they meet the eligibility requirements of the act, to be eligible for assistance under the act.

A new section 405 is added to permit information regarding unemployment rates required by the act to be furnished either by the Federal or State government and a rate furnished by a State government is to be accepted unless the Secretary determines it is inaccurate. The Secretary is to assist State and local governments in calculating unemployment rates to insure their validity and standardization.

The conference report preserves the prohibition on projects funded by the act for generation, transmission or distribution of electrical energy or production or transmission of gas, but allows projects to be funded upon the finding of the Secretary that such projects cannot be financed any other way or that the project will save jobs. Additionally, the Secretary must find that the appropriate State or Federal regulatory body determines that the facility will not compete with existing utilities or if there is a finding of competition, the services cannot be met by the existing utility or there is a need for the extension.

Title IX of the act is amended to make those areas suffering long-term economic deterioration eligible for title IX assistance. Areas suffering economic deterioration will now be eligible for assistance as are those areas in need of adjustment assistance, either through the loss of employment or the sudden rise in economic activity. Also included are the relocation of businesses and the payment for subsidy of interest on a loan guaranteed by a title IX grant as assistance through title IX funds.

Finally, title X jobs opportunities program is retained but given new direction. Several objectionable features have been rewritten or removed which hopefully will streamline the program to make it a more effective quick job-creating program giving emphasis to lasting employment.

A funding chart for the conference agreement is attached. I urge enactment of this conference report.

The material follows:

PROPOSED FUNDING UNDER S. 2228 AS REPORTED BY CONFERENCE COMMITTEE, SEPT. 20, 1976

[In millions]

| Title | Public Works and Economic Development Act Amendments of 1976 | July 1, 1976 to Sept. 30, 1976 (transition) | 1977 | 1978 | 1979 | Total |
|---|---|---|---|---|---|---|
| ............... | Public facility grants and supplemental grants | 62.50 | 425 | 425 | 425 | 1,337.50 |
| I | Public facility loans and business development loans and guarantees | 18.75 | 200 | 200 | 200 | 618.75 |
| | 204—Long-term interest-free fund loan | | 125 | 125 | 125 | 375.00 |
| III | Technical assistance research and planning | 18.75 | 75 | 75 | 75 | 243.75 |
| | Sec. 304 grants to States | 18.75 | 75 | 75 | 75 | 243.75 |
| IV | Area and district eligibility | 11.25 | 45 | 45 | 45 | 146.25 |
| | Indian tribe grants | 6.25 | 25 | 25 | 25 | 81.25 |
| V | Regional Action Planning Commissions Improvement Act: | | | | | |
| | Title V regional commissions (designated 2 yr or more) | | | 250 | 250 | 500.00 |
| | New commissions | | | 5 | 5 | 10.00 |
| IX | Economic adjustment | 25.00 | 100 | 100 | 100 | 325.00 |
| X | Job opportunities program | | [1]325 | [1]325 | [1]325 | 975.00 |
| | Total new funding authorized | 161.25 | 1,395 | 1,650 | 1,650 | 4,856.25 |

[1] Contingent upon unemployment in excess of 7 percent.

**Mr. DON H. CLAUSEN.** Mr. Speaker, will the gentleman yield?

**Mr. ROE.** I yield to the gentleman from California.

**Mr. DON H. CLAUSEN.** Mr. Speaker, I strongly support the conference report on S. 2228 which extends the existing programs of the Economic Development Administration through fiscal year 1979. In addition to extending the current programs, several amendments are included which will strengthen and make this a more comprehensive economic program.

A reduction in the population requirement for eligibility as a redevelopment area will expand the number of communities which can participate in the EDA programs. The introduction of an interest subsidy program for private borrowers will render greater economic flexibility to small businesses, which without some assistance might be forced to shut down. Plus an interest-free loan program has been added to provide financial assistance to redevelopment areas for economic development purposes.

In the past the various programs of the Economic Development Administration have been beneficial in solving economic problems in areas of the country suffering from high unemployment or other symptoms of economic distress. These programs have assisted communities in building a sound base for the development of stable and diversified economic growth. The record shows that EDA has targeted funds into areas having the greatest needs, expanded job opportunities through the private sector and used Federal dollars to obtain the maximum leverage to bring about economic progress.

As a result of EDA funds, communities have been able to expand and improve facilities which are necessary to attract industrial and commercial tenants. Industrial parks have been constructed and through economic planning and technical assistance, communities have learned to tackle some of the economic problems before the economic vitality of the area has been destroyed. The economic adjustment assistance program has been innovative and has provided an effective experimental approach to fostering economic development. These programs are continued and changes in this legislation will expand the thrust of the current program and enhance its mission.

I would like to highlight just a couple of these changes:

The conference committee adopted a provision authorizing interest-free loans to redevelopment areas for land acquisition, as well as for the renovation and rehabilitation of facilities which can be used for industrial and commercial purposes. The repayment of such loans would then be placed in a revolving fund which can be reused by the area, with the Secretary's approval, for future economic development and job-creating activities. This provision was offered as a compromise for the House and Senate urban program.

The House-passed bill earmarked funds specifically to provide financial assistance for cities of 50,000 or more displaying certain financial conditions. This compromise measure recognizes the serious economic plight of many of our central cities and metropolitan areas. Unlike the House provision, funds are not limited just to urban areas, but rather available to all redevelopment areas. One hundred and twenty-five million dollars is authorized for this new loan program. Certainly this amount recognizes that EDA alone cannot solve all the economic problems facing communities. These funds combined with private funds and other Federal and State funds can bring about economic progress. This seed money can revitalize many economically depressed communities.

Coupled with this change the conference committee agreed to reduce the population requirement for eligibility as a redevelopment area from 250,000 to 25,000. This amendment will appreciably increase the number of communities eligible for designation as a redevelopment area. To insure that the expanded area participation does not significantly dilute EDA funds, the authorization level for the public facility grant program—title I—and for the business development loan program—title II—has been increased.

The Senate provision to extend title X, the job opportunities program, is also included in the conference report. A number of changes have been made in this program in an effort to correct some of the problems which became apparent in the earlier funding of this program. The job opportunities program has been restructured so that it would be funded only when national unemployment exceeds 7 percent for any calendar quarter. This standby authority would be used to provide additional jobs quickly should they be needed.

In the past EDA has been subjected to several 1-year extensions. I am pleased that the administration and the Congress are requesting a 3-year extension of this program. This can be very important in providing the continuity needed for the agency and is particularly significant in providing planning and direction for local communities. The legislation before us today will provide jobs and flexibility to promote long-term economic development.

I urge its enactment.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I also congratulate the gentleman in the well for having brought this conference report back.

Mr. Speaker, I rise to urge swift action today and prompt and expeditious delivery to the President and prompt signature thereon.

Mr. Speaker, again, my interest in this is Fort Valley, Ga., among other things.

Mr. Speaker, I thank the gentleman from New Jersey.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of the conference report on S. 2228, which extends the Public Works and Economic Development Act of 1965 for 3 additional years, through fiscal year 1979. This bill was passed by the House on August 30 by an overwhelming vote of 372 to 5. The Senate also passed a companion measure in July by a vote of 79 to 2 and last Friday, voted to accept the conference report by a margin of 70 to 2. This is indeed a strong record of support for the essential programs authorized by the Public Works and Economic Development Act of 1965.

Mr. Speaker, I believe that the conference report that is before you today is innovative and represents the best compromise between the different provisions contained in the House and Senate bills. S. 2228, as agreed on by the conference committee provides authorizations for new program authorities which will address the complex needs of both rural and urban areas in the country that are suffering from long-term economic deterioration and extremely high unemployment. Recognizing that many areas have been adversely affected by the Nation's current recession, and that many cities in particular have developed severe economic problems that will require additional long-term assistance, the conferees agreed to a new program under title II of the act which will provide interest-free loans to redevelopment areas.

In order to receive assistance under this new provision a redevelopment area must submit and have approved by the Secretary of Commerce a plan which outlines the specific economic development needs of the area. Once these loans are granted the applicant is to place the repaid loans in an economic development revolving fund for the purpose of reloaning the funds for other economic development needs of the area. When an area receiving the loan no longer meets the eligibility criteria of the act, the loans would be returned to the Treasury. The conferees authorized a total of $375 million over the 3-year period ending September 1979 for the purposes of carrying out this new section under the title II program.

I want to personally commend the chairman of the conference committee, Congressman ROBERT ROE, for his hard work in reaching a compromise with the Senate on this particular provision. I believe the redevelopment loan programs will go a long way in addressing some of the critical problems that our central cities face as well as provide additional economic development tools for our depressed rural areas.

Mr. Speaker, the conferees also agreed to reduce the eligibility criteria for cities that may be designated as redevelopment areas by the Secretary from 250,000 to 25,000. This new provision will undoubtedly increase the number of eligible areas under the EDA program. Many of these areas which have extremely high unemployment have been unable to secure designation under the act because they have been part of larger areas—such as a county or a labor market area. This amendment will therefore enable us to target assistance to the depressed communities which are suffering from severe economic decline and unemployment.

In addition, the amendment makes it clear that if a city of 25,000 population wants to join with other communities of any size, which are contiguous to it, and have common economic problems or mutual public works infrastructure needs, that the Secretary must designate these combined communities as a redevelopment area. In anticipation of the number of new communities that will be eligible under this section, the conferees provided separate funding for the new title II redevelopment loan program, to insure that existing eligible communities will continue to receive their share of assistance under the act.

Mr. Speaker, I have been a strong supporter of the Public Works and Economic Development Act since its inception in 1965. In my own district in northern California the programs of the Economic Development Administration have provided the stimulus that our local communities need in carrying out programs that will create jobs through balanced economic growth. The programs authorized under this act have proven their effectiveness during the past decade in targeting assistance in the form of public works grants, business development loans and technical assistance, to the most distressed areas of the country. The criteria of this act—which requires that communities must demonstrate substantial unemployment, a large percentage of their population living in poverty, substantial outmigration, or structural changes in their economies due to the closing or curtailment of a major source of employment—has ensured that the assistance under this program is concentrated only in the most needy areas of the country.

In addition, the unique governmental mechanisms that have evolved under this program—that is, the economic development districts and the title V Regional Action Planning Commissions—have provided a flexible framework whereby local communities, such as my own in California, can effectively participate in developing priority needs for assistance.

Mr. Speaker, I commend the distinguished chairman of the Public Works and Transportation Committee, Congressman ROBERT JONES, for his leadership in bringing this conference report to the floor today. I also want to express my gratitude to the hard work of the House conferees in resolving the differences between the two bills with the Senate, and particularly, I wish to congratulate the chairman of the conference committee, Congressman ROBERT ROE and the ranking minority member of the Subcommittee on Economic Development, Congressman JOHN PAUL HAMMERSCHMIDT for the great amount of time he has devoted to this legislation.

Mr. Speaker, I urge the House to adopt the conference report on S. 2228, authorizing a 3-year extension of the Public

Works and Economic Development Act of 1965, as amended.

Ms. ABZUG. Mr. Speaker, I rise in support of the conference report on S. 2228 which extends the Public Works and Economic Development Act for 3 years through fiscal year 1979. The current tandem of high unemployment and inflation, has disrupted the fiscal year policies of communities across the Nation and reminded us that the "urban crisis" is an ongoing dilemma. The basic problem of our cities is the gradual and continuing erosion of their tax base as the result of the migration of middle and upper income tax payers and businesses. For the mayors and city councils this exodus of the tax base has come at a time when their costs are increasing. Because the need for public services does not decline at the same rate as the tax base erodes our cities have been in a constant battle to equalize income with expenditures. Plant closings and relocations have idled our urban work force and made entry into the job market a long difficult process for our youth.

To address this problem, the conferees have agreed on a new community redevelopment loan program. This provision based largely upon a proposal I had introduced in the Economic Development Subcommittee provides loans to redevelopment areas which in turn are to be reloaned for economic development activities. When these loans are repaid they are placed in a revolving account for reloaning for further economic development. The Public Works and Economic Development Act, as the only major Federal program that is specifically directed at providing jobs and strengthening local economies, is of vital importance to our urban areas. I believe that this new program provides an excellent framework for providing the type of assistance our cities need.

Mr. Speaker, the conference report also contains an important amendment to title IX of the Public Works and Economic Development Act which will make it more effective in the older urban areas of the Nation. In the past, this special economic and adjustment assistance program has been responsive to areas which have suffered a plant closing or other acute employment dislocation as a result of a localized problem. Areas experiencing long-term unemployment and/or low family income concentrations have not been able to benefit from this program. Under S. 2228 we have extended this special assistance to those areas suffering from the effects of long-term economic deterioration. In order to be a recipient under this long-term economic deterioration criteria, the unemployment rate of the area must exceed the national rate; at least 15 percent of the population must be below the poverty level, as defined by OMB; and there must be an economic development planning and management capability to administer the grant.

Finally, Mr. Speaker, the conference report provides for the reauthorization of title X, the job opportunities program. This standby antirecession program provides the authority to create new short-term jobs through an expansion of existing Federal programs when the unemployment rate reaches 7 percent or more, nationally. This is still a recession. This program can be used to create 65,000 jobs annually in those areas with the greatest need.

I believe that the assistance provided to both our older urban areas and our distressed rural communities under this legislation will enable our Nation to constructively respond to our current and long-term economic needs. I strongly urge my colleagues to join with me in extending and expanding the Public Works and Economic Development Act by passing this legislation.

Mr. JONES of Alabama. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 2228, just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## PUBLIC BUILDINGS COOPERATIVE USE ACT OF 1976

Mr. GINN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15134) to amend the Public Buildings Act of 1959 in order to preserve buildings of historical or architectural significance through their use for Federal public building purposes, and to amend the Act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped, as amended.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only to ask the gentleman from Georgia, it is my understanding that there is a nonrelated Senate amendment tacked onto this bill which will be removed by amendment to be offered?

Mr. GINN. Yes, I do have an amendment solely to strike lines 1 through 7 on page 20 to make the public works bill comply with that report by the Committee on Government Operations.

Mr. BAUMAN. And the consideration of the bill has the concurrence of the minority?

Mr. GINN. That is correct.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I

SEC. 101. This title may be cited as the "Public Buildings Cooperative Use Act of 1976".

SEC. 102. (a) In order to carry out his duties under this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

(2) give preference, after first complying with paragraph (1) of this subsection, to the acquisition and use of space in other existing buildings, unless use of such space would not be feasible and prudent compared with available alternatives;

(3) encourage the location of commercial, cultural, educational, and recreational facilities and activities within or near public buildings;

(4) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(5) encourage the public use of public buildings, including commercial, cultural, educational, and recreational use of such buildings outside of regular Federal working hours.

(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968, and chief executive officers of those units of local governments in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.

SEC. 103. The Public Buildings Act of 1959 is amended—

(1) by striking out at the end of section 7(a)(3) the word "buildings;" and inserting in lieu thereof "buildings designed to enhance the architectural, historical, social, cultural, and economic environment of the locality;";

(2) by striking out "and" at the end of section 7(a)(4), by redesignating section 7(a)(5) as section 7(a)(6), and by inserting the following new section 7(a)(5):

"(5) a statement by the Administrator of the economic and other justifications for not acquiring or purchasing a building or buildings identified to the Administrator pursuant to section 12(c) of this Act as suitable for such a public building need; and";

(3) by redesignating section 12(c) and section 12(d) and all references thereto as section 12(d) and section 12(e), respectively, and by inserting after section 12(b) the following new section 12(c):

"(c) Whenever the Administrator undertakes a survey of the public buildings needs of the Federal Government within a geographical area, he shall request that, within sixty days, the Advisory Council on Historic Preservation established by title II of the Act of October 15, 1966 (16 U.S.C. 470i), identify any existing buildings within such geographical area that are of historic, architectural, or cultural interest and which would be suitable, whether or not in need of repair, alteration, or addition, for acquisition or purchase to meet the public buildings needs of the Federal Government.".

SEC. 104. (a) The Federal Property and Administrative Services Act of 1949 is amended—

(1) by striking out "and" at the end of section 210(a) (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and the following new paragraphs:

"(16) to enter into leases of space on the major pedestrian access level of any public building with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities. The Administrator shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions as the Administrator deems necessary to protect the public interest;

"(17) to make available, on occasion, or to lease at such rates and on such other terms and conditions as the Administrator deems to be in the public interest, auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings to persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities that will not disrupt the operation of the building;

"(18) to deposit into the fund established by subsection (f) of this section all sums received under leases or rentals executed pursuant to paragraphs (16) and (17) of this subsection and each such sum shall be credited to the appropriation made for such fund applicable to the operation of such building;

"(19) to pay sums in lieu of real property taxes to States and units of local government on any space leased pursuant to paragraph (16) or (17) of this subsection to persons, firms, or organizations otherwise subject to taxation; and

"(20) to furnish utilities, maintenance, repair, and other services to persons, firms, or organizations leasing space pursuant to paragraphs (16) and (17) of this subsection. Such services may be provided during and outside of regular working hours of Federal agencies.".

(b) The Federal Property and Administrative Services Act of 1949 is amended by adding at the end of section 210(e) the following: "The Administrator shall, where practicable, give priority in the assignment of space on the major pedestrian access level not leased under the terms of subsection (a) (16) or (a) (17) of this section in such buildings to Federal activities requiring regular contact with members of the public. To the extent such space is unavailable, the Administrator shall provide space with maximum ease of access to building entrances.".

SEC. 105. As used in this title—

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "public building" and "Federal agency" have the same meaning as is given them in the Public Buildings Act of 1959.

(3) The term "unit of local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

(4) The term "historical, architectural, or cultural significance" includes, but is not limited to, buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(5) The term "commercial activities" includes, but is not limited to, restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

(6) The term "cultural activities" includes, but is not limited to, film, dramatic, dance and musical presentations, fine art exhibits, studios, and public meeting places, whether or not used by persons, firms, or organizations intending to make a profit.

(7) The term "educational activities" includes, but is not limited to, libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(8) The term "recreational activities" includes, but is not limited to, gymnasiums and related facilities.

### TITLE II

SEC. 201. The Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped" is amended as follows:

(1) The first section is amended by inserting after "structure" the following: "not leased by the Government for subsidized housing programs"; after construction or alteration in accordance with plans and specifications of the United States".

(2) Section 2 is amended—

(A) by striking out "is authorized to prescribe such" and inserting in lieu thereof "shall prescribe"; and

(B) by striking out "as may be necessary to insure" and inserting in lieu thereof "to insure whenever possible".

(3) Section 3 is amended—

(A) by striking out "is authorized to prescribe such" and inserting in lieu thereof "shall prescribe"; and

(B) by striking out "as may be necessary to insure" and inserting in lieu thereof "to insure whenever possible".

(4) Section 4 is amended—

(A) by striking out "is authorized to prescribe such" and inserting in lieu thereof "shall prescribe"; and

(B) by striking out "as may be necessary to insure" and inserting in lieu thereof "to insure whenever possible".

(5) Section 6 is amended—

(A) by striking out "is authorized";

(B) by inserting immeditely after "(1)" the following: "is authorized"; and

(C) by striking out all that follows "(2)" and inserting in lieu thereof "shall establish a system of continuing surveys and investigations to insure compliance with such standards.".

(6) By adding at the end thereof the following new section:

"SEC. 7. The Administrator of General Services shall report to Congress during the first week of January of each year on his activities and those of other departments, agencies, and instrumentalities of the Federal Government under this Act during the preceding year including, but not limited to, standards issued, revised, awarded, or repealed under this Act an all case by case modifications, and waivers of such standards during such year.".

SEC. 202. The amendment made by paragraph (1) of section 201 of this Act shall not apply to any lease entered into before January 1, 1977. It shall apply to every lease entered into on or after January 1, 1977, including any renewal of a lease entered into before such date which renewal is on or after such date.

SEC. 203. Section 410(b) of title 39, United States Code, is amended by adding at the end thereof the following:

"(8) The provisions of the Act of August 12, 1968 (42 U.S.C. 4151 4156).".

With the following committee amendment:

### TITLE I

SEC. 101. This title may be cited as the Public Buildings Cooperative Use Act of 1976".

SEC. 102. (a) In order to carry out his duties under this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities within public buildings;

(3) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for cultural, educational, and recreational activities;

(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968, and chief executive officers of those units of general local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.

SEC. 103. The Public Buildings Act of 1959 is amended—

(1) by striking out at the end of section 7(a) (3) the word "buildings;" and inserting in lieu thereof "buildings, especially such of those buildings as enhance the architectural, historical, social, cultural, and economic environment of the locality;";

(2) by striking out "and" at the end of section 7(a) (4), by redesignating section 7 (a) (5) as section 7(a) (6), and by inserting the following new section 7(a) (5):

"(5) a statement by the Administrator of the economic and other justifications for not acquiring or purchasing a building or buildings identified to the Administrator pursuant to section 12(c) of this Act as suitable for the public building needs of the Federal Government; and"; and

(3) by redesignating section 12(c) and section 12(d) and all references thereto as section 12(d) and section 12(e), respectively, and by inserting after section 12(b) the following new section 12(c):

"(c) Whenever the Administrator undertakes a survey of the public buildings needs of the Federal Government within a geographical area, he shall request that, within sixty days, the Advisory Council on Historic Preservation established by title II of the Act of October 15, 1966 (16 U.S.C. 470i), identify any existing buildings within such geographical area that (1) are of historic, architectural, or cultural significance (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976) and (2) would be suitable, whether or not in need of repair, alteration, or addition, for acquisition or purchase to meet the public buildings needs of the Federal Government.".

SEC. 104. (a) Section 210(a) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "and" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon, and by adding after such paragraph the following new paragraphs:

"(16) to enter into leases of space on major pedestrian access levels and courtyards and rooftops of any public building with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976). The Administrator shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions and be negotiated pursuant to such procedures as the Administrator deems necessary to promote competition and to protect the public interest;

"(17) to make available, on occasion, or to lease at such rates and on such other terms and conditions as the Administrator deems to be in the public interest, auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings to persons, firms, or organizations engaged in cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976) that will not disrupt the operation of the building;

"(18) to deposit into the fund established by subsection (f) of this section all sums received under leases or rentals executed pursuant to paragraphs (16) and (17) of this subsection, and each sum shall be credited to the appropriation made for such fund applicable to the operation of such building; and

"(19) to furnish utilities, maintenance, repair, and other services to persons, firms, or organizations leasing space pursuant to paragraphs (16) and (17) of this subsection. Such services may be provided during and outside of regular working hours of Federal agencies.".

(b) The Federal Property and Administrative Services Act of 1949 is amended by adding at the end of section 210(e) the following: "The Administrator shall, where practicable, give priority in the assignment of space on any major pedestrian access level not leased under the terms of subsection (a) (16) or (a) (17) of this section in such buildings to Federal activities requiring regular contact with members of the public. To the extent such space is unavailable, the Administrator shall provide space with maximum ease of access to building entrances.".

SEC. 105. As used in this title and in the amendments made by this title—

(1) The term "Administrator" means the Administrator of General Services.

(2) The terms "public building" and "Federal agency" have the same meaning as is given them in the Public Buildings Act of 1959.

(3) The term "unit of general local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

(4) The term "historical, architectural, or cultural significance" includes, but is not limited to, buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(5) The term "commercial activities" includes, but is not limited to, the operations of restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

(6) The term "cultural activities" includes, but is not limited to, film, dramatic, dance, and musical presentations, and fine art exhibits, whether or not such activities are intended to make a profit.

(7) The term "educational activities" includes, but is not limited to, the operations of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(8) The term "recreational activities" includes, but is not limited to, the operations of gymnasiums and related facilities.

TITLE II

SEC. 201. The Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968 (42 U.S.C. 4151–4156), is amended as follows:

(1) The first section is amended by inserting after "structure" the following: "not leased by the Government for subsidized housing programs"; and by striking out in paragraph (2) the following: "after construction or alteration in accordance with plans and specifications of the United States".

(2) Section 2 is amended—

(A) by striking out "is authorized to prescribe such" and inserting in lieu thereof "shall prescribe";

(B) by striking out "as may be necessary to insure" and inserting in lieu thereof "to insure whenever possible"; and

(C) by inserting immediately after "Department of Defense" the following: "and of the United States Postal Service".

(3) Section 3 is amended—

(A) by striking out "is authorized to prescribe such" and inserting in lieu thereof "shall prescribe"; and

(B) by striking out "as may be necessary to insure" and inserting in lieu thereof "to insure whenever possible".

(4) Section 4 is amended—

(A) by striking out "is authorized to prescribe such" and inserting in lieu thereof "shall prescribe"; and

(B) by striking out "as may be necessary to insure" and inserting in lieu thereof "to insure whenever possible".

(5) Immediately after section 4 insert the following new section:

"SEC. 4a. The United States Postal Service, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe such standards for the design, construction, and alteration of its buildings to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.".

(6) Section 6 is amended—

(A) by inserting immediately after "section 4 of this Act," the following: "and the United States Postal Service with respect to standards issued under section 4a of this Act";

(B) by striking out "is authorized";

(C) by inserting immediately after "(1)" the following: "is authorized"; and

(D) by striking out all that follows "(2)" and inserting in lieu thereof "shall establish a system of continuing surveys and investigations to insure compliance with such standards.".

(7) By adding at the end thereof the following new section:

"SEC. 7. (a) The Administrator of General Services shall report to Congress during the first week of January of each year on his activities and those of other departments, agencies, and instrumentalities of the Federal Government under this Act during the preceding fiscal year including, but not limited to, standards issued, revised, amended, or repealed under this Act and all case-by-case modifications, and waivers of such standards during such year.

"(b) The Architectural and Transportation Barriers Compliance Board established by section 502 of the Rehabilitation Act of 1973 (Public Law 93–112) shall report to the Public Works and Transportation Committee of the House of Representatives and the Public Works Committee of the Senate during the first week of January of each year on its activities and actions to insure compliance with the standards prescribed under this Act.".

SEC. 202. The amendment made by paragraph (1) of section 201 of this Act shall not apply to any lease entered into before January 1, 1977. It shall apply to every lease entered into on or after January 1, 1977, including any renewal of a lease entered into before such date which renewal is on or after such date.

SEC. 203. Section 410(b) of title 39, United States Code, is amended by adding at the end thereof the following:

"(8) The provisions of the Act of August 12, 1968 (42 U.S.C. 4151–4156).".

SEC. 204. Notwithstanding any other provision of law, no person who is eligible for assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 shall be denied such eligibility if he moved from facilities he was occupying due to his anticipation of General Services Administration Lease Project GS–03–B–5960 in Alexandria, Virginia.

Mr. GINN (during the reading). Mr. Speaker, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. GINN. Mr. Speaker, H.R. 15134, is a unique bill which was referred jointly to the House Public Works and Transportation Committee and to the House Committee on Government Operations. The bill consists of two titles. Title I amends the Public Buildings Act of 1959, which is under the jurisdiction of the House Committee on Public Works and Transportation, as well as, the Federal Property and Administrative Services Act of 1949, which is under the jurisdiction of the House Committee on Government Operations. Title II amends existing law relating to the accessibility of certain buildings to the physically handicapped, which is under the jurisdiction of the House Committee on Public Works and Transportation, in an effort to assure more effective implementation of the congressional policy to eliminate architectural barriers to the physically handicapped.

Title I of the legislation is similar to S. 865 which passed the Senate on August 1, 1975, and represents important policy changes in the way the Federal Government houses its internal activities. The legislation will fulfill the Government's duty to provide leadership in the conservation and preservation of our cultural heritage. It will also affirm the Government's commitment to an economy based on conservation rather than consumption. It will encourage the restoration of older buildings for new uses and make Federal installations better neighbors in the communities in which they are located. There are many buildings in all parts of our country that are old and in need of repair. Their useful potential is great. Since renovation also tends to be more labor-oriented—per construction dollar—than new construction, it could mean more jobs. A $1 million investment in repair and alteration work could produce up to three times as many new jobs as $1 million in new construction activity. A second feature of title I is permitting the use of federally occupied structures for other purposes.

These buildings could provide rental space to other activities and thus contribute to restoring life to many of our increasingly sterile urban communities. The legislation would allow the term "public buildings" to truly include the public by allowing the buildings to stay open after the normal 5 p.m. closing hours and provide cultural and educational and recreational activities for the community. The restoration of older buildings would assist in urban development; and the multiple-use of these buildings lend impetus to urban activities, by generating life in the unattractive areas which frequently surrounds Federal buildings.

Specifically, title I gives a broader purpose to the duties of the Administrator of General Services in acquiring space necessary for accommodating Federal agencies. First, it authorizes and encourages the Administrator to acquire and utilize space in suitable existing buildings that have historical, architectural, or cultural significance. This mandate follows the committee policy whereby GSA is encouraged to construct or purchase buildings to accommodate Federal space needs rather than leasing space. The legislation directs the Administrator, as a part of the normal acquisition policy, to work with local officials and groups, as well as community leaders and the general public. Further, the legislation directs the Administrator prior to undertaking a survey of the public buildings needs of the Federal Government within a geographical area to request the chairman of the Advisory Council on Historic Preservation to identify existing buildings in the community that are of architectural, cultural, or historic interest and suitable for purchase to convert into Federal office space. The Advisory Council has advised the committee that they plan to work with all Federal agencies, local agencies, and the State Historic Preservation Officer, in the process of identifying such buildings. The legislation encourages and authorizes the Administration to lease space on pedestrian levels in Federal buildings to persons or firms engaged in commercial, cultural, educational, or recreational activities in order to encourage a broader spectrum of public use of public buildings. Last, it encourages the Administrator to make available on occasion auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings for cultural, recreational, and educational activities.

Mr. Speaker, title II of the legislation amends the act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped. Specifically, the provisions incorporated in title II are recommendations made by the General Accounting Office in a report to the Congress concerning the degree to which Federal buildings were in compliance with the Architectural Barriers Act of 1968. Oversight hearings on the study and the effectiveness of the act were conducted by the Investigations and Review Subcommittee of the Public Works and Transportation Committee, chaired by our distinguished colleague. Mr. WRIGHT of Texas.

The study documented systematic violations of the spirit and letter of the act. GAS stated that after surveying 134 buildings, they found some were in various stages of compliance with the act, but not a single building was completely free of barriers. Further, GAO found serious deficiencies in the implementation of the act by HEW, GSA, DOD, and HUD.

Mr. Speaker, the provisions of title II would impose a clear statutory mandate that the Federal agencies named in the act, insure that public buildings are made accessible to the physically handicapped. Another important aspect of the bill is to include within the coverage of the act all Government-leased buildings intended for public use or in which the physically handicapped might be employed, all privately-owned buildings leased to the Government for public housing and the U.S. Postal Service. Also, H.R. 15134 takes an important step in requiring annual reports from the Administrator of GSA on the status of activities related to the Architectural Barriers Act. Further, the legislation requires agencies named in the act to establish a system of continuing surveys to insure compliance with the act.

Mr. Speaker, an estimated 18 million people are prevented from using buildings designed solely for the physically fit. If Federal facilities are not designed for the physically handicapped, they will be denied many of the things which most of us take for granted, making our handicapped second-class citizens. If the physically handicapped cannot enter and use public buildings, they cannot easily vote, obtain Government services, conduct business, further their education, and find recreational and cultural outlets. I believe the accessibility of public buildings is essential if the handicapped are to have the same rights and opportunities as the able bodied. Further, this legislation will assure our physically handicapped people that Congress indeed supports the policy of a barrier-free society for all citizens of the United States.

There has been concern about the cost of making buildings barrier-free, however, I believe the cost factor is minimal when you consider the 18 million people who are denied access to a barrier-free society. It is estimated by the General Services Administration that a barrier-free design would impose additional costs to a new building by one-half of 1 percent. Further, the GAO report upheld these findings.

Mr. Speaker, I urge enactment of the legislation.

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Speaker, as the sponsor of the legislation I wish to state my strong endorsement for H.R. 15134. When it is implemented, this bill should produce real cost saving to the Government, while providing more jobs, better use of energy, new urban vitality, and greater neighborhood continuity.

Title I of the legislation gives a broader purpose to the duties of the Administrator of General Services in acquiring space necessary for accomodating Federal agencies. The legislation authorizes and encourages the Administrator to acquire and utilize space in suitable buildings that have historical, architectural, or cultural significance. Further, it authorizes and encourages the Administrator to stimulate pedestrian traffic and community use of certain parts of public buildings by leasing or otherwise making available space for commercial, cultural, education, and recreational activities.

Title II of the legislation amends existing law to assure more effective implementation of the congressional policy to eliminate architectural barriers to physically handicapped persons in most federally occupied or sponsored buildings.

Mr. Speaker, a need currently exists to create Federal buildings that are more inviting and accessible to the public. The legislation seeks to add vitality to existing and future Federal office buildings by allowing for the rental of space for shops and restaurants on the major pedestrian access levels of Federal buildings. Too often we have witnessed a Federal client restricting the program of a building to their agency needs, to the virtual exclusion of those of the public users of the building or the community of which it is part. We need to achieve in designing a Federal building an end product of quality and excellence which is responsive not only to Government but also to the community needs. Further, the legislation will enhance the social, cultural and economic environment in and around Federal buildings.

The legislation further seeks to preserve our cultural, architectural, and historic heritage by encouraging retention of existing buildings of historic, architectural, and cultural significance. Title I does this by encouraging retention of such buildings in two ways: By encouraging their acquisition to meet Federal needs for space, and by encouraging the retention and rehabilitation of such buildings when they are already in Federal hands. The Federal Government has a responsibility to assure that its actions contribute to humane and enriching public purposes particularly when to do so also conserves energy, natural resources, and costs. While we would not recommend that our cities become museums of the past, the past's fine architecture preserved and complemented by creative and compatible new construction, where appropriate, can contribute to an environment which is diverse and rich in memory, activity, and design.

Title II of this bill amends the Act of 1968 relating to architectural barriers in public buildings. Since the inception of that act the track record of the Federal Government is dismal in making Federal buildings accessible to everybody regardless of physical ability. Although new Federal buildings do have accessibility features incorporated in their design, this accounts for a mere fraction of the total Federal buildings inventory. It is commonly agreed that accessibility features are not expensive to incorporate into new design. Nor is it expensive to incorporate barrier-free design into the repair and alteration of existing buildings. But, the current law only calls for authority for GSA to provide barrier-free accessibility but does not mandate it. Title II of this legislation mandates this barrier-free policy and attempts to step up the Government's activities in this important field. The legislation also provides for a reporting requirement on GSA's activity so that Congress can be kept apprised of the Government's steps to alter buildings and to provide accessibility to all.

Further, Mr. Speaker, the committee is withdrawing section 204 of the bill with regret at this time solely because of procedural objection that has been indicated. The committee wishes to reiterate its belief in the principle of this section which would rectify a problem caused to approximately 80 families who were displaced from their homes in Alexandria in connection with a Federal-lease construction project and were denied relocation benefits because they were not aware of their rights under the Uniform Relocation Act.

Ms. ABZUG. Mr. Speaker, as the original sponsor of the original Public Building Cooperative Use Act in the House, which is embodied in title I of this legislation, and as a sponsor of H.R. 15134, I rise in strong support of this measure.

Title I of the bill, will permit the General Services Administration to lease out space on the pedestrian levels of Government buildings to day care centers, and to private commercial, cultural, educational, and recreational activities; it will change Government buildings from often-forbidding fortresses to open, familiar neighborhood landmarks. Federal officials will rub shoulders with the general public on their way to and from their offices and meetings. Perhaps this will create an atmosphere in which the people who make and execute Federal policy will take greater heed of the everyday needs and concerns of private citizens. It should certainly break down the enigmatic facade the Government presents to the people and will hopefully embolden individuals to take a more active role in monitoring and shaping Federal activities.

Title II will shatter barriers even more odious than these—the actual barriers that prevent elderly and handicapped citizens from entering or operating effectively in Federal buildings. This is an injustice that the Congress first addressed 8 years ago. Since that time, the executive branch has taken steps to eliminate some of the architectural barriers to the handicapped, but it is now time to speed up the process and finish the job.

The Public Buildings Cooperative Use Act will do other things as well to improve our building program. It will increase our use of old, historic buildings for contemporary needs. These adaptive use projects not only preserve our architectural heritage; they signify a new attitude toward the use of our resources. We can no longer afford to throw away the old just to satisfy a penchant for the new. The Federal budget cannot afford it, and neither can the finite bank of our Nation's building resources. Adaptive use will save us money and resources. It will give us labor-intensive construction projects that, dollar for dollar, support more jobs than equivalent new building undertakings.

This bill will adapt for our public building program policies that have been proven in the private sector and in governments at the State and local levels here, and in national governments in Canada and Europe. It has the support of GSA, the American Institute of Architects, the National Endowment for the Arts, city planners, mayors and civic groups.

The bill has been widely acclaimed in architectural journals. It was recently endorsed in an article in the Wall Street Journal, an endorsement that should allay any concern that it represents an impingement on the prerogatives of private business. I would like to insert excerpts from that article in the RECORD at this time.

### OUR DOMINEERING PUBLIC BUILDINGS

(By Mitchell C. Lynch)

WASHINGTON.—Pennsylvania Avenue is one of the world's most famous streets. Stretching between the Capitol and the White House, it is the route of presidential inauguration parades. During the day it bustles with activity. bumper-to-bumper traffic, sidewalks teeming with government workers. But try walking it at night sometime. You'll think you've been caught up in one of Roman Polanski's more sinister thrillers.

The sounds of your footsteps seem inordinately loud as they echo off the giant mausoleum that is the Justice Department building. The street lights only seem to darken and lengthen the shadows in the doorways of the other huge structures along the avenue. Your one thought is to get out of the area as fast as you can.

All of which bothers Bill N. Lacy, because of him this twilight-zone eeriness says a lot about federal architecture. "People don't just leave those buildings at the end of the day, they *flee* from them." He and other critics like to quote President Kennedy as complaining that the architecture of some government buildings is "crummy." Actually, Mr. Lacy asserts, federal architecture is worse than "crummy," it is downright undemocratic.

Mr. Lacy's views are of some importance. He is head of the architectural section of the government's National Endowment for the Arts. While one of the main functions of the architectural section is to help cities and towns spruce up their buildings and neighborhoods, Mr. Lacy figures the time is long overdue for the federal government to put its own house in order.

It's a big house. One report by the National Endowment for the Arts says the government spends about $1 billion a year on new construction, and government workers occupy enough office space to fill up 1,250 Empire State Buildings.

Because of their sheer size and grim architecture, most federal buildings aren't very inviting. "No one in his right mind goes into a public building except for business," the National Endowment report says. Mr. Lacy suggests that the massive, fortress-like design of many government buildings reflects a traditional American attitude of assertiveness, which he feels is now outdated.

"At one time, large and imposing buildings were considered essential to express the stability of a young government," he says. "It is no longer necessary to flex our architectural muscles for public relations purposes. It is more important to express the concept of a government accessible to its people."

The government, Mr. Lacy adds, "has the role of a host; a person should feel comfortable going into a federal building; the ambience should be relaxing, welcoming, open. Instead, what does the person see? First he sees a building surrounded by signs like 'No Parking,' no this, no that, no nothing." In short, Mr. Lacy comes down hard on the side of architecture for people.

"I remember sitting near a fountain in another city on a hot day," he says. "People didn't stand and look at the fountain, they rolled up their pantlegs or hoisted their skirts a little and waded right in. I said to myself, 'That's the kind of fountain I like.' "

Government buildings, on the other hand, often repel people. One example of their effect can be found at Scollay Square in Boston. The area once was something of a center of nightlife—a little gaudy, with strip joints here and there, but lively enough to attract thousands of persons nightly. The federal and city governments ripped down the old buildings and replaced them with sterile office structures. Now footsteps echo loudly there after the government workers go home at 5 o'clock.

But what can be done to humanize those government buildings already situated in cities? Mr. Lacy thinks the solution is simple: Lease parts of the buildings to owners of restaurants, boutiques, snack bars, theaters, exhibit halls. "You could have ground-floor restaurants or other places for people, then several floors for office space, then perhaps a rooftop restaurant," he says enthusiastically. "Something could be going on around the clock; the public and the people working in those buildings would be enjoying themselves."

It isn't a wild-eyed idea. The Canadian government routinely leases parts of federal buildings to private entrepreneurs. Indeed, one of the attractions of the capital city of Ottawa is a mile-long shopping mall—all on the lower floors of government buildings.

The General Services Administration, in charge of construction and maintenance of government buildings, likes the idea of letting shops and restaurants in. "It's a refreshing breeze in planning," says Raymond O'Brien, deputy assistant commissioner of space planning and management at the GSA. "It's also a challenge."

A particular challenge would arise in determining just what commercial facilities to allow. "We wouldn't want to set up competition against someone who owns a restaurant nearby," he says. One challenge Mr. O'Brien doesn't mention is the fact that some government officials don't go for the idea of letting outsiders traipse around their buildings.

One legend hard to verify but nonetheless believable involves the new fortress-like Federal Bureau of Investigation Building on Pennsylvania Avenue. The late FBI Director J. Edgar Hoover reportedly was scanning architects' drawings of the proposed building when he noticed sketches of people shopping or seated at outdoor restaurants in a wide-open, ground-level area of the building. "Who are they?" Mr. Hoover grumbled. Tourists and FBI workers on their coffee or lunch breaks, aides replied. "Cement it up," he snapped. That was done, but with the agreement that the FBI not install gun-shooting ranges or other immovable fixtures on the inside. Architects hope that some future FBI director will relent and allow wrecking crews to hammer the cement walls down.

The opportunities under this legislation exist in all of the cities and towns in America that harbor Federal workplaces. With creative planning and management, those Federal offices can become centers of community vitality, pleasant places to work, and symbols of open and representative government.

Mr. WALSH. Mr. Speaker, I rise in support of H.R. 15134, a bill to amend the Public Buildings Act of 1959 to preserve buildings of historical or architectural significance through their use for public buildings purposes and to amend the act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped. I join with my colleague from Georgia, chairman of the Subcommittee on Public Buildings and Grounds, Mr. GINN, and I congratulate him on his diligent and successful efforts to see this important bill through committee. His leadership is exemplary to the newer Members of Congress.

This bill provides authorization for the Administrator of General Services Administration to, upon consultation with the Advisory Council on Historic Preservation, acquire buildings that are of historical, architectural, or cultural significance that would be suitable to meet the public buildings needs of the Federal Government. The bill also authorizes the Administrator of GSA to lease space in major pedestrian access levels to persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities and to charge rental rates that are comparable to the private sector. The bill also authorizes the Administrator to lease or make available from time to time portions of public buildings on a case-by-case basis for cultural, educational, or recreational activities.

The Administrator shall furnish utilities, maintenance, and repair, and shall give priority to Federal activities requiring regular contact with members of the public to areas not leased either long term or on a case-by-case basis.

There are in many parts of our country buildings that are old and in need of repair. They have seen better days but their potential is great. Many of these old buildings have historical value and are more durable and are of considerably better quality than that which we can afford to build today. Refurbishing old buildings is more labor intensive than construction of new buildings and thus can provide employment opportunities far better than those in new construction. Many modern Federal buildings are latter day fortresses with little or no activity in the first floor with most citizen-oriented agencies tucked away and out of reach for the citizens who need the services provided. These modern buildings die at night with no commercial activity currently in existence in these buildings. In fact, the term "public building" is a misnomer for they can hardly be called public in the sense of their foreboding characteristics.

Second, this bill amends the act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped. H.R. 15134 strengthens that act to require the Administrator of GSA to promulgate and enforce standards to insure that public buildings are made accessible to the physically handicapped.

Additionally, the act requires the Postal Service to provide the same standards and adherence to standards as do GSA, the Departments of Housing and Urban Development, and Defense under the current act.

Lastly, the committee adopted an amendment to require reporting in January of each year to Congress and the Committee on Standards issued, revised, amended, or repealed and all case-by-case modifications and waivers.

Last year the Investigations and Review Subcommittee under the leadership of Mr. WRIGHT and Mr. CLEVELAND looked into the subject of compliance with Public Law 90–480 and through a GAO report discovered that many Federal buildings do not meet the American National Standards Institute standards for barrier-free design for the handicapped. It is estimated that there are between 18 and 68 million handicapped Americans in this country. It is a disgrace that Federal buildings or public buildings cannot be accessible to a large portion of our citizens. A little foresight in the design of new buildings would provide wider doors, ramps, lower elevator buttons, drinking fountains, phones, and other features essential to the handicapped.

This bill is long needed to make public buildings public once again. It is also needed to step up the Federal Government's efforts to make Federal and federally assisted buildings accessible to the handicapped. I cannot think of any more commendable purpose that would cost so little money. The committee held 2 days of hearings on these matters and from those hearings made several changes in both title I and II to accommodate the many divergent interests that appeared before the subcommittee. The committee does not intend to compromise any security agencies such as the FBI through this bill by allowing commercial activities in public buildings.

I may add that this bill was jointly referred to the Public Works and Transportation Committee and the Government Operations Committee and I am in opposition to action taken by the Government Operations Committee with regard to payments to State and local governments by the Federal Government in lieu of taxes for commercial enterprises locating in Federal buildings. I support this concept as an equitable feature to make rightful payments to States and local governments. Without this provision, any commercial enterprise locating in a Federal building would not be subject to property taxes or other taxes they may be immune from by their presence in Federal buildings. As a former mayor I know that cities are hardpressed for tax dollars. By allowing a commercial enterprise to locate in Federal buildings and have these enterprises pay rent to the Federal Government without some repayment by the Federal Government to cities in lieu of taxes that may be paid by these enterprises, is a serious financial blow to cities. The Government Operations Committee has indicated that it will study the question of payments in lieu of taxes and make recommendations for any future legislative action.

I urge enactment of this bill.

Mr. RANDALL. Mr. Speaker, I support H.R. 15134. The bill is an imaginative venture by the Federal Government into greater participation in community and cultural activities within our cities. It will be done through changes in the way our Government acquires and uses Federal buildings for office space.

The Subcommittee on Government Activities and Transportation of the House Government Operations Committee has jurisdiction over the Federal Property and Administrative Services Act of 1949, which H.R. 15134 would amend. That subcommittee, which I have the honor to chair, adopted language that became the full committee's amendment in the nature of a substitute. This language had been worked out in cooperation with the Public Works and Transportation Committee. I believe the bill as reported by the Committee on Government Operations is an excellent vehicle to accomplish the progressive objectives set for this legislation.

We want to see our historic and architectural treasures preserved, conserved, and enjoyed through utilization and cooperative occupancy. We want to see our urban areas improve and flourish as Federal buildings are adapted to multiple uses beyond just Federal functions. Title I of the bill will do this.

And we want to help with the heavy burden our physically handicapped must bear by making our buildings more accessible to them. In this way, too, we will be taking better advantage of the special strengths and remarkable productive capabilities of these physically handicapped citizens. Title II will do this.

This bill, Mr. Speaker, is one I feel sure all of us can wholeheartedly and proudly support. I urge that it be approved.

AMENDMENT OFFERED BY MR. GINN

Mr. GINN. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. GINN to the committee amendment: Page 20, strike out lines 1 through 7.

The amendment to the committee amendment was agreed to.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. GINN. Mr. Speaker, I ask unanimous consent that the Committee on Public Works be discharged from the further consideration of the Senate bill (S. 865) to promote more efficient use of the Nation's construction resources, to foster the preservation of buildings of historic, architectural, or cultural significance, and to enhance the social and economic environment within and surrounding Federal office buildings, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to

the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 865

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Public Buildings Cooperative Use Act of 1975".

SEC. 2. (a) In order to carry out his duties under this Act and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this Act, the Administrator shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not be feasible and prudent compared with available alternatives;

(2) give preference, after first complying with paragraph (1) of this subsection, to the purchase and use of space in other existing buildings, unless use of such space would not be feasible and prudent compared with available alternatives;

(3) encourage the location of commercial, cultural, educational, and recreational facilities and activities within or near public buildings;

(4) provide and maintain space, facilities, and activities, to the extent practicable, that encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(5) encourage the public use of public buildings, including commercial, cultural, educational, and recreational use of such buildings outside of regular Federal working hours.

(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968, and chief executive officers of those units of local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.

SEC. 3. The Public Buildings Act of 1959, as amended, is amended—

(1) by striking at the end of section 7(a)(3), the word "buildings;" and inserting in lieu thereof "building, and designed to enhance the architectural, historical, social, cultural, and economic environment of the locality;";

(2) by striking the word "and" at the end of section 7(a)(4), by redesignating section 7(a)(5) as section 7(a)(6), and by inserting the following new section 7(a)(5):

"(5) whenever a project proposed in the prospectus does not provide for acquisition or purchase of the building or buildings identified to the Administrator pursuant to section 12(c), a statement of the economic and other justifications for not acquiring or purchasing such building or buildings; and";

(3) by redesignating section 12(c) and section 12(d) as section 12(d) and section 12(e), inserting the following new section 12(c):

"(c) Whenever the Administrator undertakes a survey of the public buildings needs of the Federal Government within a geographical area, he shall request that, within sixty days, the Advisory Council on Historic Preservation identify any existing buildings within such geographical area that are of historic, architectural, or cultural interest and that would be suitable, whether or not in need of repair, alteration, or addition, for acquisition or purchase to meet the public buildings needs of the Federal Government.".

SEC. 4. (a) The Federal Property and Administrative Services Act of 1949 is amended—

(1) by striking the word "and" at the end of section 210(a)(14), and adding the following paragraphs following section 210(a)(15):

"(16) to enter into leases of space on the major pedestrian access level of any public building with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities. The Administrator shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions as the Administrator deems necessary to protect the public interest;

"(17) to make available, on occasion, or to lease at such rates and on such other terms and conditions as the Administrator deems to be in the public interest, auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings to persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities that will not disrupt the operations of the building;

"(18) to deposit into the fund established by subsection (f) of this section all sums received under leases or rentals executed pursuant to paragraphs (16) and (17) of this subsection;

"(19) to pay sums in lieu of real property taxes to States and units of local government on any space leased pursuant to paragraph (16) or (17) of this subsection, to persons, firms, or organizations otherwise subject to taxation; and

"(20) to furnish utilities, maintenance, repair, and other services to persons, firms, or organizations leasing space pursuant to paragraphs (16) and (17) of this subsection. Such services may be provided during and outside of regular working hours of Federal agencies.".

(b) The Federal Property and Administrative Services Act of 1949 is amended by adding at the end of section 210(e) the following: "The Administrator shall, where practicable, give priority in the assignment of space on the major pedestrian access level not leased under the terms of subsection (a)(16) or (a)(17) of this section in such buildings to Federal activities requiring regular contact with members of the public. To the extent such space is unavailable, the Administrator shall provide space with maximum ease of access to building entrances.".

SEC. 5. As used in this Act—

(1) The term "Administrator" means the Administrator of General Services.

(2) The terms "public building" and "Federal agency" bear the same meaning as the Public Buildings Act of 1959.

(3) The term "unit of local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

(4) The term "historical, architectural, or cultural significance" includes, but is not limited to, buildings listed or eligible to be listed on the National Register.

(5) The term "commercial activities" includes, but is not limited to, restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

(6) The term "cultural activities" includes but is not limited to, film, dramatic, dance and musical presentations, fine art exhibits, studios, and public meeting places, whether or not used by persons, firms, or organizations intending to make a profit.

(7) The term "educational activities" include, but is not limited to, libraries, schools, laboratories, and lecture and demonstration facilities.

(8) The term "recreational activities" includes, but is not limited to, gymnasiums and day care centers.

MOTION OFFERED BY MR. GINN

Mr. GINN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GINN moves to strike all after the enacting clause of the Senate bill S. 865 and insert in lieu thereof the provisions of H.R. 15134, as passed by the House as follows:

TITLE I

SEC. 101. This title may be cited as the "Public Buildings Cooperative Use Act of 1976".

SEC. 102. (a) In order to carry out his duties under this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities within public buildings;

(3) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for cultural, educational, and recreational activities.

(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968, and chief executive officers of those units of general local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.

SEC. 103. The Public Buildings Act of 1959 is amended—

(1) by striking out at the end of section 7(a)(3) the word "buildings;" and inserting in lieu thereof "buildings, especially such of those buildings as enhance the architectural, historical, social, cultural, and economic environment of the locality;";

(2) by striking out "and" at the end of section 7(a)(4), by redesignating section 7(a)(5) as section 7(a)(6), and by inserting the following new section 7(a)(5):

"(5) a statement by the Administrator of the economic and other justifications for not acquiring or purchasing a building or buildings identified to the Administrator pursuant to section 12(c) of this Act as suitable for the public building needs of the Federal Government; and"; and

(3) by redesignating section 12(c) and section 12(d) and all references thereto as section 12(d) and section 12(e), respectively, and by inserting after section 12(b) the following new section 12(c):

"(c) Whenever the Administrator undertakes a survey of the public buildings needs of the Federal Government within a geographical area, he shall request that, within sixty days, the Advisory Council on Historic Preservation established by title II of the Act of October 15, 1966 (16 U.S.C. 470i), identify any existing buildings within such geographical area that (1) are of historic, architectural, or cultural significance (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976) and (2) would be suitable, whether or not in need of repair, alteration, or addition, for acquisition or purchase to meet the public buildings needs of the Federal Government.".

SEC. 104. (a) Section 210(a) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "and" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon, and by adding after such paragraph the following new paragraphs:

"(16) to enter into leases of space on major pedestrian access levels and courtyards and rooftops of any public building with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976). The Administrator shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions and be negotiated pursuant to such procedures as the Administrator deems necessary to promote competition and to protect the public interest;

"(17) to make available, on occasion, or to lease at such rates and on such other terms and conditions as the Administrator deems to be in the public interest, auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings to persons, firms, or organizations engaged in cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976) that will not disrupt the operation of the building;

"(18) to deposit into the fund established by subsection (f) of this section all sums received under leases or rentals executed pursuant to paragraphs (16) and (17) of this subsection, and each sum shall be credited to the appropriation made for such fund applicable to the operation of such building; and

"(19) to furnish utilities, maintenance, repair, and other services to persons, firms, or organizations leasing space pursuant to paragraphs (16) and (17) of this subsection. Such services may be provided during and outside of regular working hours of Federal agencies.".

(b) The Federal Property and Administrative Services Act of 1949 is amended by adding at the end of section 210(e) the following· "The Administrator shall, where practicable, give priority in the assignment of space on any major pedestrian access level not leased under the terms of subsection (a) (16) or (a)(17) of this section in such buildings to Federal activities requiring regular contact with members of the public. To the extent such space is unavailable, the Administrator shall provide space with maximum ease of access to building entrances.".

SEC. 105. As used in this title and in the amendments made by this title—

(1) The term "Administrator" means the Administrator of General Services.

(2) The terms "public building" and "Federal agency" have the same meaning as is given them in the Public Buildings Act of 1959.

(3) The term "unit of general local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

(4) The term "historical, architectural, or cultural significance" includes, but is not limited to, buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(5) The term "commercial activities" includes, but is not limited to, the operations of restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

(6) The term "cultural activities" includes, but is not limited to, film, dramatic dance, and musical presentations, and fine art exhibits, whether or not such activities are intended to make a profit.

(7) The term "educational activities" includes, but is not limited to, the operations of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(8) The term "recreational activities" includes, but is not limited to, the operations of gymnasiums and related facilities.

## TITLE II

SEC. 201. The Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968 (42 U.S.C. 4151–4156), is amended as follows:

(1) The first section is amended by inserting after "structure" the following: "not leased by the Government for subsidized housing programs"; and by striking out in paragraph (2) the following: "after construction or alteration in accordance with plans and specifications of the United States".

(2) Section 2 is amended—

(A) by striking out "is authorized to prescribe such" and inserting in lieu thereof "shall prescribe";

(B) by striking out "as may be necessary to insure" and inserting in lieu thereof "to insure whenever possible"; and

(C) by inserting immediately after "Department of Defense" the following: "and of the United States Postal Service".

(3) Section 3 is amended—

(A) by striking out "is authorized to prescribe such" and inserting in lieu thereof "shall prescribe"; and

(B) by striking out "as may be necessary to insure" and inserting in lieu thereof "to insure whenever possible".

(4) Section 4 is amended—

(A) by striking out "is authorized to prescribe such" and inserting in lieu thereof "shall prescribe"; and

(B) by striking out "as may be necessary to insure" and inserting in lieu thereof "to insure whenever possible".

(5) Immediately after section 4 insert the following new section:

"SEC. 4a. The United States Postal Service, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe such standards for the design, construction, and alteration of its buildings to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.".

(6) Section 6 is amended—

(A) by inserting immediately after "section 4 of this Act," and following: "and the United States Postal Service with respect to standards issued under section 4a of this Act";

(B) by striking out "is authorized";

(C) by inserting immediately after "(1)" the following: "is authorized"; and

(D) by striking out all that follows "(2)" and inserting in lieu thereof "shall establish a system of continuing surveys and investigations to insure compliance with such standards.".

(7) By adding at the end thereof the following new section:

"SEC. 7. (a) The Administrator of General Services shall report to Congress during the first week of January of each year on his activities and those of other departments, agencies, and instrumentalities of the Federal Government under this Act during the preceding fiscal year including, but not limited to, standards issued, revised, amended, or repealed under this Act and all case-by-case modifications, and waivers of such standards during such year.

"(b) The Architectural and Transportation Barriers Compliance Board established by section 502 of the Rehabilitation Act of 1973 (Public Law 93–112) shall report to the Public Works and Transportation Committee of the House of Representatives and the Public Works Committee of the Senate during the first week of January of each year on its activities and actions to insure compliance with the standards prescribed under this Act.".

SEC. 202. The amendment made by paragraph (1) of section 201 of this Act shall not apply to any lease entered into before January 1, 1977. It shall apply to every lease entered into on or after January 1, 1977, including any renewal of a lease entered into before such date which renewal is on or after such date.

SEC. 203. Section 410(b) of title 39, United States Code, is amended by adding at the end thereof the following:

"(8) The provisions of the Act of August 12, 1968 (42 U.S.C. 4151–4156).".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Public Buildings Act of 1959 in order to preserve buildings of historical or architectural significance through their use for Federal public building purposes, and to amend the Act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15134) was laid on the table.

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## GENERAL LEAVE

Mr. GINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 15134.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

## DESIGNATING PLAZA AREA OF FEDERAL BUILDING, PORTLAND, OREG., "TERRY SCHRUNK PLAZA"

Mr. GINN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13727) to designate the plaza area of the Federal Building, Portland, Oreg., the "Terry Schrunk Plaza."

The clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 13727

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the plaza fronting the Federal Building, 1220 Southwest Third Street, and bounded on the north by Madison Street, on the south by Jefferson Street, on the east by Third Avenue and on the west by Fourth Avenue, Portland, Oregon, is hereby designated as the "Terry Schrunk Plaza".

SEC. 2. Any reference in a law, map, regulation, document, record, or other paper of the United States to such plaza shall be held to be reference to the "Terry Schrunk Plaza".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. GINN. Mr. Speaker, I ask unanimous consent that the Committee on Public Works be discharged from the further consideration of the bill (S. 1971), an identical bill to H.R. 13727, to designate the plaza area of the Federal building, Portland, Oreg., the "Terry Schrunk Plaza," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1971

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the plaza fronting the Federal Building, 1220 Southwest Third Street, and bounded on the north by Madison Street, on the south by Jefferson Street, on the east by Third Avenue and on the west by Fourth Avenue, Portland, Oregon, is hereby designated as the "Terry Schrunk Plaza".

SEC. 2. Any reference in a law, map, regulation, document, record, or other paper of the United States to such plaza shall be held to be reference to the "Terry Schrunk Plaza".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 13727) was laid on the table.

## GENERAL LEAVE

Mr. GINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

## EMERGENCY LIVESTOCK CREDIT ACT EXTENSION

Mr. BERGLAND. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15059) to amend the Emergency Livestock Credit Act of 1974.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, I would like, if I may, to pose three questions to the gentleman from Minnesota (Mr. BERGLAND).

Is it correct that this is just a simple extension for 2 years of the existing law, and that it was passed unanimously by the Committee on Agriculture, with all minority Members supporting it?

Mr. BERGLAND. Mr. Speaker, if the gentleman will yield, yes, it is a 21-month extension of the law as it is now, without change.

Mr. MADIGAN. Mr. Speaker, is it necessary, particularly for the areas represented by the gentleman from South Dakota (Mr. PRESSLER) and the gentleman from South Dakota (Mr. ABDNOR) because of the drought conditions out there?

Mr. BERGLAND. Mr. Speaker, if the gentleman will yield, yes, those regions have been particularly hard-hit by this drought.

Obviously, this program will be applicable nationally, not necessarily limited to that region. It is supported by the Administration and it has been reported unanimously.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 15059

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 8 of the Emergency Livestock Credit Act of 1974 (88 Stat. 391, as amended; 7 U.S.C Prec. 1961) is amended to read as follows:

"SEC. 8. The provisions of this Act shall become effective upon enactment, and the authority to make new guarantees shall expire on September 30, 1978.".

Mr. BERGLAND. Mr. Speaker, I rise in support of H.R. 15059. This bill extends the termination date for the making of loan guarantees under the Emergency Livestock Credit Act from December 31, 1976, through September 30, 1978, a period of 21 months.

The assistance provided by H.R. 15059 is particularly needed by the livestock industry at this time. Cattle prices have been at a depressed level for many months. The disastrous drought in the upper Midwest has aggravated an already bad situation and seriously impaired cattle production operations.

Except for a brief period in late April and early May, fed cattle prices have been below the break-even level for most cattle feeding operations since late January and losses continue to run up to $100 per animal sold.

The extension comes at a time when the usefulness of the program to cattle farmers and ranchers is reflected in increased loan activity under the Emergency Livestock Credit Act. According to latest statistics available to the committee, a total of approximately $776 million had been obligated as of September 10, 1976, involving approximately 6,000 loans made since inception of the program on July 25, 1974. Almost $75 million of this total had been obligated in the period since August 1, 1976.

This act authorizes the Farmers Home Administration to guarantee loans made by private lenders at prevailing market rates. It does not involve the direct extension of credit by the Federal Government. The only Federal funds affected by the act are administrative expenses and costs arising from possible defaults. As of June 30, 1976, defaults amounted to less than 1 percent of the loans guaranteed under the act.

The Administration has testified in support of an extension of the Emergency Livestock Credit Act and action on H.R. 15059 was taken by the Committee on Agriculture by a unanimous voice vote.

Mr. Speaker, I urge the Members to join me in favor of this much needed measure.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## COMMODITY FUTURES TRADING COMMISSION

Mr. BERGLAND. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate bill (S. 3051) to amend the Commodity Exchange Act, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Minnesota (Mr. BERGLAND) if it is his intention to explain just exactly what this bill does?

Mr. BERGLAND. Mr. Speaker, if the gentleman will yield, I do intend to ask unanimous consent to revise and extend my remarks, which will carry an explanation of the bill in detail.

Mr. Speaker, in summary, may I say the matter has been introduced at the request of the administration. Hearings were held, and it was reported unanimously. For the most part, it is technical in nature. There is one substantive policy change carried in this bill, and that is the removal of the current requirement in the law that appointment of the Executive Director of the Commodity Futures Trading Commission be confirmed in the Senate.

Mr. MADIGAN. Mr. Speaker, it is my understanding—I would like the gentleman to correct me if I am wrong—that these are simply technical amendments, with the exception of the one the gentleman has mentioned, and they are technical amendments that the Commission has asked for so as to be able to go about discharging the duties we assigned in 1974 when we created the Commission.

Mr. BERGLAND. If the gentleman will yield, the answer to the questions of the gentleman is yes in all instances.

Mr. MADIGAN. Mr. Speaker, it is my understanding that all of the minority Members on the Committee on Agriculture supported this bill.

Mr. BERGLAND. Yes.

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3051

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Section 2(a)(5) of the Commodity Exchange Act, as amended (7 U.S.C. 4a), is amended by striking out ", by and with the advice and consent of the Senate,".

SEC. 2. Section 4c of the Commodity Exchange Act, as amended (7 U.S.C. 6c) is amended by striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved".

SEC. 3. Section 4g(3) of the Commodity Exchange Act, as amended (7 U.S.C. 6g), is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

SEC. 4. Section 4n of the Commodity Exchange Act, as amended (7 U.S.C. 6n), is amended by striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6), respectively.

SEC. 5. Section 4o(1) of the Commodity Exchange Act, as amended (7 U.S.C. 6o), is amended by striking out "registered under this Act" and inserting in lieu thereof the following: "who is or should be registered under this Act".

SEC. 6. Section 6001 of part V of title 18 of the United States Code (18 U.S.C. 6001) is amended by inserting after "Civil Aeronautics Board," the following: "the Commodity Futures Trading Commission,".

COMMITTEE AMENDMENTS

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 2, line 4, strike out all after the words "is amended" through the end of the sentence on line 7 and insert in lieu thereof the following:

"By striking out in subsection (2) the words 'thirty days' and inserting in lieu thereof the words 'six months'."

Page 2, immediately after line 15, insert the following new sections:

"SEC. 7. Section 217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a) is amended by striking such section.

"SEC. 8. (a) The Commodity Exchange Act as amended, is amended by inserting the following new section immediately after section 18 (7 U.S.C. 22):

"SEC. 19. No person shall offer to enter into, enter into or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract contrary to any rule, regulation, or order of the Commission designed to insure the financial solvency of the transaction or prevent manipulation or fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing. If the Commission determines that any such transaction is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.

"(b) Section 9(c) of the Commodity Exchange Act, as amended (7 U.S.C. 13(c)), is amended—

"(1) By deleting the word 'or' after 'section 4o,'; and

"(2) by inserting the words 'or section 19,' after 'section 8b,'."

Mr. BERGLAND (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read, printed in the RECORD, and considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The committee amendments were agreed to.

Mr. BERGLAND. Mr. Speaker, I rise in support of S. 3051, together with the amendments that appear in the bill which is at the desk.

S. 3051, as amended provides a number of technical changes in the Commodity Exchange Act, as amended, to facilitate regulation of futures trading by the Commodity Futures Trading Commission established by the Commodity Futures Trading Commission Act of 1974.

The Commodity Futures Trading Commission Act of 1974 made extensive changes in the Commodity Exchange Act, bringing under Federal regulation all agricultural and other commodities, goods, and services traded on exchanges, and otherwise strengthening the regulation of the Nation's $600 billion commodity futures industry. The Commodity Exchange Act is designed to insure fair practices and honest dealing on the commodity exchanges.

One of the most significant changes made by the 1974 act was the creation of the Commodity Futures Trading Commission, an independent regulatory agency consisting of a Chairman and four other Commissioners.

The Commission has been in existence slightly over 15 months during which time it has completed a major job of organization and has begun to carry out its statutory mandate. It has made progress in the task provided it under the act.

During the course of its work the Commodity Futures Trading Commission encountered several provisions in the act which it believes are in need of technical change. S. 3051, as amended, contains the changes requested by the Commission.

The 1974 act provides, among other things, that the Commission is to have "an Executive Director, who shall be appointed by the Commission, by and with the advice and consent of the Senate, and serve at the pleasure of the Commission."

In approving the Commodity Futures Trading Commission Act of 1974 on October 23, 1974, President Ford stated that the act provided for the appointment of the Executive Director in a manner not contemplated by the Constitution.

In the recent Supreme Court case of Buckley against Valeo involving the Federal Election Commission, the Court considered the appointments clause of the Constitution—Article II, clause 2—and concluded that:

> Unless their selection is elsewhere provided for in the Constitution, all officers of the United States are to be appointed in accordance with the Clause. Principal officers are selected by the President with the advice and consent of the Senate. Interior officers Congress may allow to be appointed by the President alone, by the heads of departments, or by the Judiciary. No class or type of officers is excluded because of its special functions. 96 Sup. Ct. at 68.

To remove any constitutional question regarding the appointment of the Executive Director, S. 3051, as amended, deletes the requirement that the appointment be made "by and with the advice and consent of the Senate."

S. 3051, as amended, also would enable the Commodity Futures Trading Commission to grant "use" immunity to witnesses in proceedings before the Commission. The Commodity Exchange Authority, the agency which regulated futures trading prior to the enactment of the Commodity Futures Trading Commission Act of 1974, was able to grant such immunity since it was an agency of the Department of Agriculture, an "executive department" within the context of section 6001 of title 18 of the United States Code.

S. 3051, as amended, would simply add the Commission to the list of agencies authorized to grant immunity according to provisions of title 18.

S. 3051, as amended, also makes other technical changes in the Commodity Exchange Act.

Section 4(c) of the act is amended to make it conform with other provisions of the act relating to the affirmative approval of exchange rules by the Commission. Prior to the enactment of the 1974 act, rules were subject only to disapproval by the Secretary of Agriculture.

Section 4(g)(3) of the act is amended to make it clear that floor brokers—not simply "brokers"—are the persons required to maintain daily trading records in a specified manner and form.

Section 4(n) of the act is amended to extend from 30 days to 6 months the time for acting on the registration of any commodity trading advisor or commodity pool operator. It has been the experience of the Commission that 30 days is an insufficient period of time for the completion of a thorough fitness check of applicants.

Section 4(o) of the act generally makes it unlawful for any commodity trading advisor or commodity pool operator "registered under this act" to defraud any client or participant. S. 3051, as amended, strikes the phrase "registered under this act" and substitutes therefor the phrase "who is or should be registered under this act." The intent of section 4(o) would be thwarted if persons conducting themselves as commodity trading advisors or commodity pool operators could escape the applicability of the prohibitions in the section by not registering. The bill, therefore, makes it clear that the antifraud provisions apply to those persons who are required by the act to be registered as trading advisors or pool operators but who have in fact not registered.

Sections 7 and 8 would transfer the provisions of section 217 of the Commodity Futures Trading Commission Act of 1974 into the Commodity Exchange Act, as amended. Section 217 of the CFTC Act provides that no one shall conduct transactions commonly known to the trade as leverage contracts or margin contracts contrary to any rule, regulation or order of the CFTC designed to insure the financial solvency of the transaction or to prevent fraud or manipulation. The provision applies to transactions involving silver or gold bullion, or bulk silver or gold coins.

Although enacted with other provisions of the 1974 amendments to the Commodity Exchange Act, section 217, itself, did not constitute an amendment to the Commodity Exchange Act; it is soley a provision of the Commodity Futures Trading Commission Act of 1974. While it is clear from section 207 that the criminal penalties of section 9(c) of the Commodity Exchange Act apply to violators of its provisions, there is a question whether the transactions addressed by section 217 are subject to other enforcement authority contained in the Commodity Exchange Act.

This proposed amendment would bring the section 217 provisions fully within the Commodity Exchange Act, as amended, thus enabling the Commission to utilize without question its full complement of enforcement authority in regulating leverage contracts.

The amendments to S. 3051 consist of two committee amendments—one extends from 30 days to 6 months the period within which the Commission must take action on applications for registration of commodity trading advisors and commodity pool advisers. The other integrates the provisions of section 217 of the Commodity Futures Trading Commission Act into the Commodity Exchange Act. A third amendment is necessitated by the repeal of section 217. It makes a purely technical correction in the Commodity Exchange Act by changing a cross reference in the Commodity Exchange Act from section 217 of the CFTC Act to the new section added by this bill.

I have discussed this technical correction with the ranking minority member of the committee and it has his approval.

Mr. Speaker, this bill has been introduced at the request of the administration and has its support. I urge the Members to join me in voting in favor of S. 3051, together with the amendments which I have described to you.

AMENDMENT OFFERED BY MR. BERGLAND

Mr. BERGLAND. Mr. Speaker, I offer a technical clarifying amendment.

The Clerk read as follows:

Amendment offered by Mr. BERGLAND: On page 3, after line 16, insert the following:

"(c) Section 2(a)(1) of the Commodity Exchange Act, as amended (7 U.S.C. 2), is amended by striking 'section 217 of the Commodity Futures Trading Commission Act of 1974' and inserting in lieu thereof 'section 19 of thiss Act."

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12253) was laid on the table.

## GENERAL LEAVE

Mr. BERGLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

## AUTHORIZING CONSIDERATION OF CONFERENCE REPORTS ON SAME DAY REPORTED OR ANY DAY THEREAFTER DURING REMAINDER OF SESSION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1582 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1582

*Resolved*, That it shall be in order at any time during the remainder of this session to consider conference reports and amendments reported from conference in disagreement on the same day reported or any day thereafter notwithstanding the provisions of clause 2, rule XXVIII (but subject to the two-hour availability requirement of that clause).

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, the Committee on Rules has reported three procedural resolutions designed to expedite the business of the House in the remaining days of this session.

The Rules Committee decided to report three separate resolutions rather than one omnibus resolution to permit Members a separate vote on each of the questions.

House Resolution 1582 permits the same-day consideration of conference reports. It waives the provisions of clause 2, rule XXVII, the 3-day layover rule. However, the 2-hour availability requirement of that clause, adopted by this Congress, is retained.

In summary, Mr. Speaker, this resolution simply provides that conference reports during the remainder of this session must be available for 2 hours prior to floor consideration. This is not an unusual procedure and resolutions of this type have been adopted on many prior occasions. Therefore, Mr. Speaker, I urge my colleagues to adopt House Resolution 1582.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this resolution is to waive the rule that requires conference reports to be available for 3 days prior to consideration in the House. However, the rule which requires such reports to be available for 2 hours prior to consideration on the House floor remains in effect.

Mr. Speaker, the problem with this resolution is that it invites abuse. The danger is that some conference reports may be railroaded through, without Members having the time to become fully aware of their contents. We all know that the rush at the end of a session can produce poorly drafted legislation which is not as well thought-out as it should be. If there is a situation which absolutely requires more rapid consideration of a conference report then such consideration can be provided by having the Rules Committee meet and report out a rule waiving points of order on that specific conference report.

Mr. Speaker, I have these reservations. However, I realize the futility of fighting a resolution of this kind.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR CONSIDERATION OF REPORTS FROM COMMITTEE ON RULES

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1581 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1581

*Resolved*, That it shall be in order at any time during the remainder of this session to consider reports from the Committee on Rules as provided in clause 4(b), rule XI, except that the provisions requiring a two-thirds vote to consider said reports is hereby

**suspended during the remainder of this session.**

The SPEAKER. The gentleman from California (Mr. Sisk) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. Del Clawson), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1581 is the second of the procedural resolutions reported from the Committee on Rules yesterday. Again, it is simply a resolution to expedite the business of the House.

House Resolution 1581 ,provides for suspending the provision of clause 4(b) of rule XI requiring a two-thirds vote to consider reports of the Committee on Rules on the same day as reported during the remainder of this session. The effect of this resolution would be to allow the House to consider a report from the Committee on Rules on the same day as it is reported by a majority vote. Normally, a report from the Committee on Rules must lie over for 1 day unless a two-thirds majority vote to consider it on the same day.

Mr. Speaker, a resolution almost identical to this measure was passed by a substantial majority of 247 to 142 at the end of the first session of this Congress. I am sure my colleagues understand the need for this type of procedure, and I would urge them to adopt House Resolution 1581.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly oppose this resolution. The normal procedure in the House is that a rule reported by the Rules Committee may not be considered on the same day reported, unless by a two-thirds vote the House agrees to consider it on the same day.

The resolution before us now proposes to suspend this requirement for the remainder of the session. If this resolution is adopted the Rules Committee could report a rule waiving important safeguards in the House rules, and then bring the rule to the floor immediately, and pass it by a simple majority vote.

There is no assurance that Members would have an opportunity to learn the effect of the provisions in the resolution. The rule which applies to most committees requiring committee reports to be available on the floor 2 hours prior to consideration does not apply to the Committee on Rules. Also there is no assurance that copies of the rule would be available on the floor of the House. Clause 5 of rule XXIII, for example, provides that copies of amendments will be available on the House floor, but no such requirement applies to resolutions reported by the Rules Committee. Thus it is possible, if this resolution is adopted, that the Rules Committee could report a rule, bring it to the floor 5 minutes later, with no copies available on the floor, call it up for consideration and pass it by a majority vote, with most Members never having a chance to see what they were voting on. If the emergency is so great that it cannot wait until the next day, then there should be no problem in obtaining a two-thirds vote to consider the rule on the same day reported. To suspend this 1-day layover requirement is an invitation to abuse. If on the last day, there is suddenly a need to suspend this 1-day layover rule, the House could adopt an adjournment resolution, and the 1-day layover requirement would automatically be suspended. But until that time arrives, I see no need to suspend the 1-day layover. And if we are shortsighted enough to suspend this safeguard, we are inviting abuse unnecessarily.

I ask for a no vote on this resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. Lott).

Mr. LOTT. Mr. Speaker, I thank the gentleman from California (Mr. Del Clawson) for yielding.

Mr. Speaker, I oppose the resolution before us, House Resolution 1581, because it purports to allow the House to consider on the same day reports coming from the Rules Committee for the balance of this week.

This resolution represents a request that was made by the leadership near the end of the last session. If it is adopted, the members of the Rules Committee could grant a rule by a 9 to 7 vote in committee that would waive practically all of the applicable rules of the House with respect to any legislation which the leadership desires to bring before this body. At that point, a simple majority vote of the House for the rule would be all that would be necessary for the bill to qualify for consideration on the same day.

This procedure has been a dangerous one to follow in the past and adopting it today is no exception. How in the world can we justify conducting the business of the U.S. Government in such a fashion? What is more, with all the bad press about the Congress these days it is very difficult for me to understand why we would want to expose ourselves to further criticism should we act on legislation that has not been adequately explored.

Mr. Speaker, this resolution is really not even necessary. If we approve a sine die adjournment resolution today we could have the same day consideration of rules under the existing rules of the House. At this late hour I just do not believe in changing our normal procedure. We should stick with the precedents and rules which have stood the House in good stead for many, many years. This is not the proper course for us to follow, and I strongly urge the defeat of House Resolution 1581.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. Ashbrook).

Mr. ASHBROOK. Mr. Speaker, I categorically agree with all that has been said concerning legislative abuse. We have already seen, in my opinion, abuse of the orderly legislative process. We saw it last week when three bills were merged in the Senate. There was no conference. When they were brought up here, the Members had no opportunity to vote to separate them. It was either up or down. I am referring, of course, to the bills on civil investigations, premerger notice, and parens patriae.

Right now I would say to my colleague, the gentleman from California (Mr. Del Clawson) that I see a legislation situation developing, as he does, where the will of the House could be thwarted.

On the mid-decade census, the vote was 248 to 140 to adopt an antibureaucratic amendment. That amendment was knocked off in conference. It will go to the Senate first and then it will be brought back here on a straight up or down basis.

I will object to many of the unanimous-consent requests where we would have such a travesty of the legislative process.

Mr. Speaker, I would hope that on a record vote the intelligence of this body would prevail and we would vote for an orderly legislative process and against this catchall process that allows the leadership of the House to do anything that it wants, the will of the House be damned.

Mr. DEL CLAWSON. Mr. Speaker, I thank the gentleman from Ohio for his remarks, and I agree with them wholeheartedly.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. Miller).

Mr. MILLER of Ohio. Mr. Speaker, I am very much concerned about this proposed resolution. We need only look at what has taken place today. I have been up to the desk on several occasions asking for the bill that was under consideration and have been told that it is not yet printed. A few minutes ago a Member on the floor asked to have a bill considered, H.R. 12896. The Reading Clerk did not have the bill and it could not be considered.

This situation shows that we are being pushed in a much too rapid and irresponsible manner. That means we will not have all of the information we need. As a matter of fact, in some cases we will not have any of the information that we should have for consideration of a bill. I do not believe we are demanding too much when we ask to know exactly what we are voting on.

Mr. Speaker, I oppose the adoption of House Resolution 1581.

Mr. DEL CLAWSON. I thank the gentleman from Ohio for his remarks.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, I thank my colleague on the committee, the gentleman from California (Mr. Del Clawson) for yielding me this time.

I think the arguments that have already been presented have very well stated the reasons why we ought to defeat this resolution, and I can concur completely and absolutely in all that my friends and colleagues on the Committee on Rules, the gentleman from Mississippi (Mr. Lott) has said, and what the other speakers on this side of the aisle have said.

Mr. Speaker, I opposed this proposition when it was before the House in the closing hours of the last session of this Congress, and I oppose it again today. Let me state one additional reason why I think Members ought to be concerned lest we adopt this resolution. It puts not only the Committee on Rules under renewed pressures to be producing rules on all kinds of legislation in the final hours of this Congress, but it also puts Members here on the floor then, once those rules have been granted, under great pressure to remain here and to dispatch the various legislation that is called for under those rules. Given the fact that this is an election year and that we have little more than a month remaining between now and the time we answer to the electorate, I for one believe it is important that we finish the business of this Congress, that we do adjourn sine die on Friday, hopefully, of this week. But I see a very real possibility embraced in this resolution, the fact that if we adopt it we will seriously impair our chances of adjourning this Congress in a timely fashion. We will be defeating the purpose that many Members have, which is to go home to their constituents and campaign as they should.

Mr. Speaker, I urge the defeat of the resolution.

Mr. DEL CLAWSON. Mr. Speaker, I thank the gentleman from Illinois for his comments.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I want to join with my colleagues in urging the defeat of this resolution. There really is no reason whatever for its adoption except to permit the leadership to call up matters that are highly controversial, or to call them up in such a procedural manner as to conceal the true content of legislation. In fact the rules already provide for the handling of extraordinary situations without waiving the protections for the minority as this does.

If this resolution is passed it allows the Committee on Rules to waive a great many protections that minorities now have, and that does not mean just Republican and Democratic—there are many minorities that form on different issues. For example, it even allows the Committee on Rules to waive the simple protection of the so-called Burton rule which requires 2 hours' notice and copies in writing of anything that we consider. This has already been done in past sessions.

It would be entirely possible for the Rules Committee to come out with a resolution saying that the House will take from the table a particular bill, agree to the Senate amendments, and the Members might not even have before them any written copy of the matter on which we are voting. It has been done before; it can be done again.

Such a resolution is subject to abuse, and I think this should be turned down.

Mr. DEL CLAWSON. Mr. Speaker, I have no further requests for time.

I reserve the remainder of my time.

Mr. SISK. Mr. Speaker, I yield myself 2 minutes.

I appreciate the comments of my friends on the other side of the aisle. I should like to remind them, though, that this resolution has been acted on by this Congress. We did it in the first session of Congress.

I might say during the closing days of the first session this identical resolution was passed by a pretty substantial majority of 247 to 142. I raised a question about precedents at the time the matter was before the Committee on Rules, and I was assured there were precedents. I have checked, and in fact there are.

Let me simply say I do not think there is any real desire that I know of on anyone's part to put something over on someone as a result of this particular procedure.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding.

I think the difference between this particular time where we are approaching sine die adjournment and last year is that the House knew very well at the end of 1975—1st session—that we had another whole year ahead of us as part of the same term, and that the bills would be carried over to 1976. Many of those bills were still under discussion. But we have had a full 2 years to work on all of that legislation. We do not need this loose and wide-open procedure to take up legislation we have known about, but take up under a "rush-act method." Many times when conferences come back, as my colleague, the gentleman from Maryland, pointed out, under this kind of a "loose" rule when we do not even have to have anything in writing. We can be voting on things totally blind. Many of us think that it is a bad precedent to establish. Members are not aware or even able to read what they are voting for.

Mr. SISK. I appreciate the comments of my colleague, the gentleman from California.

Let me say that I think the time has come when we are all desirous of wrapping up this particular session. I think the gentleman from Illinois (Mr. ANDERSON) made it very clear, and I agree basically with a great many of the things that he has said. We do want to get out of here. We have other problems that we are faced with, and I am in favor of getting out as expeditiously as we can.

With reference to the pressure of the Committee on Rules, let me say that I, for one, would hope that the Committee on Rules is not confronted with anything other than procedural matters. I think we all know that from time to time the leadership, the Speaker in his responsibility, has to call on us for certain kinds of resolutions dealing with procedural matters, and we have to do them almost on an hourly basis in the closing hours and days of the session.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Mississippi.

Mr. LOTT. I thank the gentleman for yielding.

Is it not a fact that the Committee on Rules is planning to have another meeting tomorrow to meet on one, two, three—I do not know how many—bills that are truly not procedural matters or emergency matters? If the answer is yes, I think it is very indicative of the fact that the Committee on Rules is not shutting down, has not shut down, and we do not know when it will shut down. Is it accurate that we are going to have another meeting tomorrow on two or three other bills?

Mr. SISK. Let me say to my good friend, I do not know exactly what is up there. I have indicated I would hope that we can lay aside substantive matters and simply consider procedural matters. I think there may very well be some procedural questions the leadership is going to have to come to us on. As I say, that is my justification for supporting this legislation, in the hope that we can get out of here.

Now, with reference to additional bills being up there, I think the time has come for us to have to cut these off.

I know the gentleman feels that way.

Mr. DEL CLAWSON. Mr. Speaker, today is Wednesday. We are talking about Friday night as adjournment time, but if we adopt the sine die resolution these 3 days would be covered and we would not even need this kind of resolution to cover anything, emergency or otherwise.

Mr. SISK. As I understand the rules, I think the gentleman is absolutely correct. However, there are still pending certain situations that could still develop in connection with the bills that even today are on the President's desk that might necessitate some additional time. I would hope that that does not happen. I believe my good friend, the gentleman from California (Mr. DEL CLAWSON) knows what we are referring to. That is the problem, I think, with a sine die resolution as of today.

Mr. DEL CLAWSON. I thank the gentleman.

That is one of the problems we are concerned with, too.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the remarks of the gentleman from California underscore the dangers of this resolution. He is talking about matters that are on the President's desk. If the leadership would want to keep us completely hogtied for a week or two they would be able to do so without the Members knowing what is to be coming up or having their rights protected.

What we ought to pass is a sine die adjournment resolution. There is no reason for this resolution and I hope it is turned down.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, if the Members of the House have kept track of what has taken place in just the last few minutes, we have been on this particular resolution for 15 or 20 minutes. We had before us H.R. 15134, which passed the House at 2 o'clock. That was a bill that I understand could cost over $100 million. Then we passed the conference report on S. 3051 at 2:04 p.m. That was to amend the Commodity Exchange Act. It has several sections in it concerning and including silver and gold coins. I am sure we did not have all the information when that bill was approved.

Four minutes later, at 2:08, we passed House Resolution 1582 and that was concerning bringing conference reports back in disagreement so that they could be considered on the same day, but we did have a little safety factor. They must be here 2 hours ahead of time. They must be here 2 hours ahead, maybe one or two copies, but I am sure Members will not find a copy at the desk of those conference reports.

That is the way we have been moving. We have been moving entirely too fast.

If it is necessary to consider this legislation we should stay over another week and do the people's business.

Mr. Speaker, I am opposed to the resolution that is before us.

Mr. DEL CLAWSON. Mr. Speaker, I have no further request for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and on a division (demanded by Mr. DEL CLAWSON) there were—ayes 78, noes 26.

Mr. DEL CLAWSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken, and there were—yeas 252, nays 145, not voting 33, as follows:

[Roll No. 842]

YEAS—252

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Clay
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Ginn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holland
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McFall
McHugh
McKay
Madden
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pickle
Pike
Poage
Preyer
Price
Randall
Rangel
Reuss
Richmond
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
White
Whitten
Wilson, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—145

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Biester
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burton, John
Butler
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conte
Conyers
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Dellums
Derwinski
Devine
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
Erlenborn
Eshleman
Fenwick
Findley
Fish
Forsythe
Frenzel
Frey
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Hagedorn
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Heckler, Mass.
Hillis
Holt
Horton
Hutchinson
Hyde
Jeffords
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Martin
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
O'Brien
Paul
Pettis
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Thone
Treen
Vander Jagt
Walsh
Wampler
Whalen
Whitehurst
Wiggins
Wilson, Bob
Winn
Wirth
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—33

Beard, R.I.
Breaux
Brown, Ohio
Conable
Conlan
Dickinson
Diggs
Esch
Flynt
Green
Guyer
Hébert
Heinz
Hinshaw
Jarman
Karth
McCollister
Matsunaga
Mink
Moss
Nix
O'Hara
Passman
Pepper
Rees
Riegle
Scheuer
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Udall
Wilson, C. H.

Mrs. HECKLER of Massachusetts and Messrs. WHITEHURST, SYMMS, and HANSEN changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## AUTHORIZING THE SPEAKER TO DECLARE RECESSES DURING REMAINDER OF SESSION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1583 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1583

*Resolved*, That the Speaker be authorized to declare recesses during the remainder of this session subject to the call of the Chair.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1583 authorizes the Speaker to declare recesses during the remainder of this session subject to the call of the Chair. There is nothing unusual about this procedure, and I urge my colleagues to adopt House Resolution 1583.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides that the Speaker be authorized to declare recesses during the remainder of this session subject to the call of the Chair.

Mr. Speaker, while not enthusiastic about changing procedures at this late stage in the session, I will not oppose the resolution, recognizing the futility of such an effort.

Mr. SISK. Mr. Speaker, I have no requests for time.

Mr. DEL CLAWSON. Mr. Speaker, I have no requests for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three rules from the Rules Committee.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

### NAMING THE TAMPA, FLA., VETERANS' ADMINISTRATION HOSPITAL "JAMES A. HALEY VETERANS' ADMINISTRATION HOSPITAL"

Mr. ROBERTS. Mr. Speaker, pursuant to the unanimous consent request previously agreed to, I call up the bill (H.R. 12896) to name the Veterans' Administration hospital located at 13000 North 30th Street, Tampa, Fla., the "James A. Haley Veterans' Administration Hospital" and ask for its immediate consideration.

The Clerk read the bill as follows:

H.R. 12896

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Veterans' Administration hospital located at 13000 North Thirtieth Street, Tampa, Florida, shall hereafter be known and designated as the "James A. Haley Veterans' Administration Hospital". Any reference in a law, map, regulation, document, record, or other paper of the United States to such hospital shall be held to be a reference to the "James A. Haley Veterans' Administration Hospital".

With the following committee amendments:

Page 1, line 6, strike out "Administration".
Page 1, line 9, strike out "Administration".
Page 1, after line 9, insert the following:
SEC. 2. This Act shall take effect January 4, 1977.

Mr. ROBERTS. Mr. Speaker, as a member of the First (Big Red) Division, Congressman HALEY fought in every major battle in which the Army Expeditionary Force participated during World War I although he was only 18 years old at the time he enlisted. Since his discharge from service, JIM HALEY has championed the rights of veterans. Prior to his service as a Federal lawmaker, he was an outstanding member of the Florida legislature and his leadership talents were directed in considerable measure to legislation benefiting veterans and their dependents. He served as a member of the Committee on Military and Veterans' Affairs, and during his tenure in the State legislature the State of Florida's Division of Veterans' Affairs was established.

When Mr. HALEY first came to Congress in 1953, he was assigned to the House Committee on Interior and Insular Affairs where he now serves as chairman. In 1955 he accepted assignment to the Committee on Veterans' Affairs, having a deep and sincere interest in all veterans and their families. As a Floridian, he felt that Florida's rapidly growing veteran population should have representation on a committee which is so very important to his State. He served on the Subcommittee on Hospitals for 18 years and was chairman of the subcommittee for 8 years. During his service on the subcommittee, Mr. HALEY helped bring about the construction of three new Florida Veterans' Administration hospitals in Gainesville, Miami, and Tampa. He was also instrumental in the modernization of the facilities at Lake City and Bay Pines.

JIM HALEY's many years of hard work on behalf of all veterans has earned their respect and admiration. For his distinguished service to veterans, he has received commendations from the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars of the United States, and the Veterans of World War I, U.S.A.

Through Mr. HALEY's leadership and efforts, Florida and the Nation have an outstanding hospital and medical care program for veterans and their dependents.

The committee amendments were agreed to.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 12896, a bill to name the Veterans' Administration hospital in Tampa, Fla., the "James A. Haley Veterans' Hospital."

This bill, which is effective January 4, 1977, honors a man who served on the Subcommittee on Hospitals, Committee on Veterans' Affairs, for 18 years, and who was chairman of the subcommittee for 8 years.

During his tenure on the subcommittee, Mr. HALEY was instrumental in effecting the construction of three new Veterans' Administration hospitals in Florida: in Gainesville, Miami, and Tampa.

As a result of his work in behalf of veterans, Mr. HALEY has received commendations from the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars of the United States, and the Veterans of World War I, U.S.A.

Mr. Speaker, H.R. 12896, sponsored by the entire Florida delegation to the House, is a fitting tribute to a man who contributed years of dedicated service to our Nation's veterans, especially in the health-care area. I recommend passage of this bill by this distinguished body.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The title was amended so as to read: "A bill to name the Veterans' Administration hospital located at 13000 North Thirtieth Street, Tampa, Florida, the 'James A. Haley Veterans' Hospital'."

A motion to reconsider was laid on the table.

### EDITH NOURSE ROGERS MEMORIAL VETERANS' HOSPITAL

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15671) to name the Veterans' Administration hospital located at 200 Springs Road, Bedford, Mass., the "Edith Nourse Rogers Memorial Veterans' Hospital."

The SPEAKER pro tempore. (Mr. McFALL). Is there objection to the request of the gentleman from Texas (Mr. ROBERTS)?

Mrs. HECKLER of Massachusetts. Mr. Speaker, reserving the right to object, I do so to express my strong support for this bill.

Mr. Speaker, I urge enactment of H.R. 15671, a bill to designate the Veterans' Administration hospital located in Bedford, Mass., as the "Edith Nourse Rogers Memorial Veterans' Hospital."

As a cosponsor of this bill, along with the other Members of the Massachusetts delegation to the House, I have advocated the establishment of this memorial for many years. As a member of the Committee on Veterans' Affairs, I am pleased that the distinguished chairman of the committee, Mr. ROBERTS, and the distinguished ranking minority member, Mr. HAMMERSCHMIDT, and the other members of the committee have unanimously supported me in this effort.

Edith Nourse Rogers was a distinguished Member of the House of Representatives for 35 years—from 1925 through 1960, a period which spanned World War II and the Korean conflict.

She served on the Committee on Veterans' Affairs throughout this 35-year period and was chairman of the committee during the 80th and 83d Congresses.

Mrs. Rogers demonstrated keen political stewardship in behalf of our Nation's veterans. Fewer than 5 years after entering Congress, she guided a bill through the House to provide $15 million to build a nationwide network of veterans' hospitals.

She helped draft legislation to establish the GI bill, served as the leading spokesperson for paraplegic veterans, and championed veterans' health-care benefits. These are only a few of her accomplishments.

A native of the Commonwealth of Massachusetts, Mrs. Rogers had a profound impact on the Committee on Veterans' Affairs and on this Congress.

Mrs. Rogers' interest in veterans was a lifelong pursuit. During the First World War, through the American Red Cross, she cared for wounded soldiers in Europe. After the war, she dedicated herself to disabled veterans, as the first Gray Lady in this Capital. For such service, she earned the title of "Angel of Walter Reed."

Throughout her career, Mrs. Rogers worked diligently to build and improve the VA medical program. During the Second World War, she visited U.S. military hospitals in Europe. According to one biography of her:

> In the course of a visit to Italy, German bullets whistled past her. To that extent, she became a veteran herself.

She was especially devoted to the VA hospital in Bedford, Mass., a hospital which owes a great debt to her.

Mr. Speaker and Members of the House, Edith Nourse Rogers deserves to have a memorial which reflects her commitment and dedication to the veterans of the Commonwealth of Massachusetts, and to all the veterans of this Nation.

Accordingly, I ask your support of H.R. 15671, a bill to name the Veterans' Administration hospital in Bedford, Mass., the "Edith Nourse Rogers Memorial Veterans' Hospital."

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 15671

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Veterans' Administration hospital located at 200 Springs Road, Bedford, Massachusetts, shall hereafter be known and designated as the "Edith Nourse Rogers Memorial Veterans' Hospital". Any reference in law, map, regulation, document, record, or other paper of the United States to such hospital shall be held to be a reference to the "Edith Nourse Rogers Memorial Veterans' Hospital". This Act shall take effect November 11, 1976.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 15671, a bill to authorize naming of the Veterans' Administration hospital in Bedford, Mass., for a former chairman of the Committee on Veterans' Affairs, Mrs. Edith Nourse Rogers. The bill is sponsored by a distinguished member of the committee, Mrs. HECKLER of Massachusetts, and by all of the Massachusetts delegation to the House.

Mrs. Rogers served in the House of Representatives for more than 35 years. From her election to the 69th Congress to her death during the 86th Congress, Mrs. Rogers served continuously on the committee and its predecessor, the Committee on World War Veterans' Legislation. She was chairman of the committee during the 80th and the 83d Congresses.

Even prior to coming to Congress, Mrs. Rogers aided in the care and treatment of disabled soldiers of World War I during 1917 and 1918 as a representative of the American Red Cross.

In view of the contributions of Mrs. Rogers to veterans in the Commonwealth of Massachusetts and to veterans from throughout the Nation, I urge my colleagues to support this bill to designate the hospital in Bedford the "Edith Nourse Rogers Memorial Veterans' Hospital," effective November 11, 1976.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two bills we have just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## JUDICIAL SURVIVORS' ANNUITIES REFORM ACT

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate bill (S. 12) to amend section 376 of title 28, United States Code, in order to reform and update the existing program for annuities to survivors of Federal justices and judges.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so only for the purpose of yielding to my colleague, the gentleman from California, to allow him to bring to the attention of the Members of this body precisely what it is that is involved.

I can say at the outset and speaking for the minority that none of us has any objections. In fact we strongly support these bills. The ones at the end of the session did get caught up in the rush, and I know many are critical of those things that do happen at the end of the session, and that we do get less than sterling legislation, but in this case and that of the following bills, I agree with the gentleman from California and I yield to him to explain to the House.

Mr. DANIELSON. Mr. Speaker, the Committee on the Judiciary on September 2, 1976, ordered that S. 12, the Judicial Survivors' Annuities Reform Act be reported favorably.

The Committee on the Judiciary reports favorably S. 12 with seven amendments. The purpose of the legislation is to reform and update the existing judicial survivors' annuity program (28 U.S.C. section 376), providing benefits for surviving spouses and children of all Federal justices and judges who elect to join the program. The bill would also—

First, place the program in an actuarially sound fiscal condition;

Second, provide more liberal eligibility standards and reasonable increases in existing annuity amounts made necessary by increases in the cost of living since each existing annuity was commenced; and

Third, establish a method for providing future periodic increases in annuity amounts without endangering the fiscal integrity of the program.

The bill has the approval of the Administrative Office of the U.S. Courts, the Judicial Conference, and passed the other body by voice vote on June 22, 1976. This bill is the culmination of 20 years of attempting to rectify the errors made when the program was initiated and had blanketed in several judicial widows. The Senate Judiciary Subcommittee on Improvements in Judicial Machinery which has studied the program held 2 days of hearings on July 17 and September 10, 1975. The Subcommittee on Courts, Civil Liberties, and Administration of Justice held hearings on May 20, 1975. Judge Oren Harris testified on behalf of the Judicial Conference.

The main provisions in the bill are the following:

First, It increases a judge's contribution from 3 to 4.5 percent of his annual salary. In this way, the contributions will keep pace with the cost-of-living and other increases in judicial salaries. Approximately 667 judges are now contributing to the program.

Second. It will eliminate the existing program's $11 million fund deficiency, as well as provide a one-time cost-of-living catchup provision of $2 million. This initial injection of money into the program will stabilize it so that it can continue ts function with an annual cost of $500,000. The total cost for the initial fiscal year 1977 will be $13.4 million.

Third. It will ease eligibility standards to:

First, allow widows or widowers to receive an immediate annuity upon a spouse's death regardless of age;

Second, extend annuity coverage for dependent children who are full-time students, and increase the dollar amounts to dependent children to be equal with those provided under the Civil Service Retirement Fund;

Third, reduce the required marital period to 1 year;

Fourth, reduce the contribution period from 5 years to 18 months; and

Fifth, reform the procedures governing deposits for prior creditable service.

The Subcommittee on Courts, Civil Liberties, and the Administration of Justice adopted seven amendments to the Senate bill. They were offered in block to the committee, but can be stated as follows:

Amendments 1–4 raise the dollar amount available to children to coincide with the current rate under the Civil Service annuity plan. At the time of the Senate bill, the amount was lower.

Amendment 5 is a technical amendment which substitutes the term "actuarial" for the term "level cost". It is a more accurate term than the one it replaces.

Amendment 6 corrects terminology to cover female judges.

Amendment 7 provides an option to present members to drop the program, but requires that they exercise their option within 180 days of the effective date of this act. The present program does not allow an "opt out" provision, but some judges are concerned that the 50-percent increase in the contribution schedule will be great enough that a few members will wish to withdraw from the program. Two judges do not have any survivors. Presently the program reimburses the estate of a judge who leaves no survivor by returning the amount of his contribution plus 3 percent. The committee believes that under those circumstances there will be no real impact on the program if these judges withdraw.

A letter from Chief Justice Warren E. Burger is attached in support of this bill:

WASHINGTON, D.C.
*September 23, 1976.*

HON. PETER W. RODINO, JR.,
*Chairman, Committee on the Judiciary,*
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: The Judicial Conference of the United States, at its session held today, requested me to advise you immediately that the Conference has endorsed the House and Senate amendments to S. 12, the Judicial Survivors Annuity Act, as agreed to several months ago by its Executive Committee. The bill would materially strengthen the Judicial Survivors Annuity System by placing the fund on a sound actuarial basis and would substantially increase the benefits accruing to widows and surviving children of judges.

The Conference has asked me to express to you the urgency it attaches to this legislation which has already passed the Senate and is now pending in the House of Representatives. The Conference has asked me to convey to you the hope that this legislation may be enacted before adjournment.

Cordially,

WARREN E. BURGER.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Illinois, who is interested in these bills.

Mr. RAILSBACK. Mr. Speaker, I rise in support of S. 12, an act to reform our existing judicial *survivors'* annuities program. This act passed the other body in June of this year, without objection. It was ordered favorably reported to you without opposition by your Judiciary Committee. I am unaware of any opposition to this measure.

Mr. Speaker, this legislation is important and it is urgent. The judicial survivors annuitants program we have now was created by Congress in 1956. From its inception, it was destined for bankruptcy. A permanent deficiency in the judges' program's central fund was guaranteed on the day the program was created by the inclusion of 121 unfinanced annuities. An Administrative Office study reveals that between August 1956 and the end of fiscal year 1974, 31 percent of the total amount expended for annuities had been paid to the recipients of those unfinanced annuities, the 121 widows who were blanketed into the program on its first day. Because the dollars used for those expenditures have been "income" dollars which were never invested, the program has lost the interest on them which would have in turn earned greater interest by compounding over a period of from 1 to 20 years. As a result of those losses, the program has suffered as of March 1976, a deficit of $8,500,000.

The other body has been working on this legislation for over 3 years. During that time, at the request of the other body, cost studies have been conducted by the Civil Service Commission, the Social Security Administration, Congress Joint Economic Committee, and the Congressional Budget Office. The results of those studies have made it possible for the Congress to be certain that the reforms it is recommending will not result in this program again bordering on bankruptcy.

Mr. Speaker, the original cost of this legislation as introduced in the other body, was $63 million. That amount has been scaled down to under $14 million. It would eliminate the existing program's estimated $8.5 million deficit and increase the judges' contribution and deposit rates from 3 to 4.5 percent of annual salary. The estimated cost of the bill, for the next 5 years, is $13.8 million. That amount is derived from the following:

(a) $8.5 million needed to eliminate the existing fund deficiency.

(b) $2.0 million to pay for adjustments in annuities now in existence which will help offset the reductions in their purchasing power caused by inflation.

(c) $1.0 million to pay for the cost of continuing those adjustments until each of those annuities terminates, and

(d) $2.3 million, the amount the government will be putting into the fund to '"match" the $2.3 million more, the judges will be contributing under the new contribution rates.

The $13.8 million cost—$12 million of it will be met in the first year. In each year thereafter, the cost to the Government will consist only of the amount needed to match equal amounts contributed by the judges, approximately $500,000.

Mr. Speaker, I want to assure my colleagues that a careful examination of this legislation reveals a durable program benefiting the judges and their survivors in a fair fashion. Mr. Speaker, I urge the Members to support the enactment of this legislation.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 12

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Judicial Survivors' Annuities Reform Act".

SEC. 2. That section 376 of title 28 of the United States Code is amended to read as follows:

"§ 376. Annuities for survivors of certain judicial officials of the United States

"(a) For the purposes of this section—

"(1) 'judicial official' means:

"(A) a Justice or judge of the United States, as defined by section 451 of this title;

"(B) a judge of the United States District Court for the District of the Canal Zone, the District Court of Guam, or the District Court of the Virgin Islands;

"(C) a Director of the Administrative Office of the United States Courts, after he or she has filed a waiver under subsection (a) of section 611 of this title;

"(D) a Director of the Federal Judicial Center, after he or she has filed a waiver under subsection (b) of section 627 of this title; or

"(E) an administrative assistant to the Chief Justice of the United States, after he or she has filed a waiver in accordance with both subsection (a) of section 677 and subsection (a) of section 611 of this title;

who notifies the Director of the Administrative Office of the United States Courts in writing of his or her intention to come within the purview of this section within six months after (i) the date upon which he or she takes office, (ii) the date upon which he or she marries, or (iii) the date upon which the Judicial Survivors' Annuities Reform Act becomes effective;

"(2) 'retirement salary' means:

"(A) in the case of a Justice or judge of the United States, as defined by section 451 of this title, salary paid (i) after retirement from regular active service under subsection (b) of section 371 or subsection (a) of section 372 of this title, or (ii) after retirement from office by resignation on salary under subsection (a) of section 371 of this title;

"(B) in the case of a judge of the United States District Court for the District of the Canal Zone, the District Court of Guam, or the District Court of the Virgin Islands, salary paid after retirement from office (i) by resignation on salary under section 373 of this title or (ii) by removal or failure of reappointment after not less than ten years' judicial service;

"(C) in the case of a Director of the Administrative Office of the United States Courts, an annuity paid under subsection (b) or (c) of section 611 of this title;

"(D) in the case of a Director of the Federal Judicial Center, an annuity paid under subsection (c) or (d) of section 627 of this title; and

"(E) in the case of an administrative assistant to the Chief Justice of the United States, an annuity paid in accordance with both subsection (a) of section 677 and subsection (a) of section 611 of this title;

"(3) 'widow' means the surviving wife of a 'judicial official', who:

"(A) has been married to him for at least one year on the day of his death; or

"(B) is the mother of issue by that marriage;

"(4) 'widower' means the surviving husband of a 'judicial official', who:

"(A) has been married to her for at least one year on the day of her death; or

"(B) is the father of issue by that marriage;

"(5) 'child' means:

"(A) an unmarried child under eighteen years of age, including (i) an adopted child and (ii) a stepchild or recognized natural child who lived with the judicial official in a regular parent-child relationship;

"(B) such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable educational institution. A child whose twenty-second birthday occurs before July 1, or after August 31, of a calendar year, and while he or she is regularly pursuing such a course of study or training, is deemed to have become twenty-two years of age on the first day of July immediately following that birthday. A child who is a student is deemed not to have ceased being a student during an interim period between school years, if that interim period lasts no longer than five consecutive months and if that child shows, to the satisfaction of the Director of the Administrative Office of the United States Courts, that he or she has a bona fide intention of continuing to pursue a course of study or training in the same or a different school during the school semester, or other period into which the school year is divided, immediately following that interim period; or

"(C) such unmarried child, regardless of age, who is incapable of self-support because of a mental or physical disability incurred either (i) before age eighteen, or (ii) in the case of a child who is receiving an annuity as a full-time student under subparagraph (5)(B) of this subsection, before the termination of that annuity.

"(b) Every judicial official who files a written notification of his or her intention to come within the purview of this section, in accordance with paragraph (1) of subsection (a) of this section, shall be deemed thereby to consent and agree to have deducted and withheld from his or her salary, including any 'retirement salary', a sum equal to 4.5 percent of that salary. The amounts so deducted and withheld from the salary of each such judicial official shall, in accordance with such procedures as may be prescribed by the Comptroller General of the United States, be covered into the Treasury of the United States and credited to the 'Judicial Survivors' Annuities Fund' established by section 3 of the Judicial Survivors' Annuities Reform Act. Such fund shall be used for the payment of annuities, refunds, and allowances as provided by this section. Payment of such salary less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such judicial official during the period covered by such payment, except the rights to those benefits to which such judicial official, or his or her survivors, shall be entitled under the provisions of this section.

"(c) There shall also be deposited to the credit of the 'Judicial Survivors' Annuities Fund', in accordance with such procedures as may be prescribed by the Comptroller General of the United States, amounts matching those deducted and withheld in accordance with subsection (b) of this section. Such deposits shall be taken from the fund used to pay the compensation of the judicial official, and shall immediately become an integrated part of the 'Judicial Survivors' Annuities Fund' for any use required under this section.

"(d) Each judicial official shall deposit, with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31 of each year, to the credit of the 'Judicial Survivors' Annuities Fund':

"(1) a sum equal to 4.5 percent of that salary, including 'retirement salary', which he or she has received for serving in any of the offices designated in paragraph (1) of subsection (a) of this section prior to the date upon which he or she filed notice of an intention to come within the purview of this section with the Director of the Administrative Office of the United States Courts; and

"(2) a sum equal to 4.5 percent of the basic salary, pay, or compensation which he or she has received for serving as a Senator, Representative, Delegate, or Resident Commissioner in Congress, or for serving as an 'employe', as that term is defined in subsection (1) of section 8331 of title 5, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section.

The interest otherwise required by this subsection shall not be required for any period during which a judicial official was separated from all such service and was not receiving any retirement salary.

"Each such judicial official may elect to make such deposits in installments, during the continuance of his or her service in those offices designated in paragraph (1) of subsection (a) of this section, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts: Provided, That in each instance in which a judicial official does elect to make such deposits in installments, the Director shall require (i) that the first installment payment made shall be in an amount no smaller than that amount necessary to cover at least the last eighteen months of prior creditable civilian service, and (ii) that at least one additional installment payment shall be made every eighteen months thereafter until the total of all such deposits have been made.

"Notwithstanding the failure of any such judicial official to make all such deposits or installment payments, credit shall be allowed for the service rendered, but the annuity of that judicial official's widow or widower shall be reduced by an amount equal to 10 percent of the amount of such deposits, computed as of the date of the death of such judicial official, unless such widow or widower shall elect to eliminate such service entirely from credit under subsection (k) of this section: *Provided,* That no deposit shall be required from any such judicial official for any honorable active duty service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, or for any other creditable service rendered prior to August 1, 1920.

"(e) The amount deducted and withheld in accordance with subsection (b) of this section, and the amounts deposited in accordance with subsection (d) of this section, shall be credited to individual accounts in the name of each judicial official from whom such amounts are received, for credit to the 'Judicial Survivors' Annuities Fund'.

"(f) The Secretary of the Treasury shall invest, from time to time, in interest bearing securities of the United States or Federal farm loan bonds, those portions of the 'Judicial Survivors' Annuities Fund' which in his judgment may not be immediately required for the payment of annuities, refunds, and allowances as provided in this section. The income derived from such investments shall constitute a part of such fund for the purposes of paying annuities and carrying out the provisions of subsections (g), (h), (m), (o), (p), and (q) of this section.

"(g) If any judicial official resigns from office without receiving any 'retirement salary', all amounts credited to his or her individual account, together with interest at 4 percent per annum to December 31, 1947; and at 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this subsection a 'reasonable period of time' shall be presumed to be no longer than one year following the date upon which such judicial official relinquished his or her office.

"(h) Annuities payable under this section shall be paid only in accordance with the following provision:

"(1) In any case in which a judicial official dies while in office, or while receiving 'retirement salary', after having completed at least eighteen months of creditable civilian service, as computed in accordance with subsection (k) of this section, for the last eighteen months of which the salary deductions provided by subsection (b) of this section or, in lieu thereof, the deposits required by subsection (d) of this section have actually been made—

"(A) if such judicial official is survived by a widow or widower, but not by a child, there shall be paid to such widow or widower an annuity, beginning on the day on which such judicial official died, in an amount computed as provided in subsection (l) of this section; or

"(B) if such judicial official is survived by a widow or widower and a child or children, there shall be paid to such widow or widower an annuity, beginning on the day on which such judicial official died, in an amount computed as provided in subsection (l) of this section, and there shall also be paid to or on behalf of each such child an immediate annuity equal to:

"(i) $1,466; or

"(ii) $4,399 divided by the number of children;

whichever is smaller; or

"(C) if such judicial official leaves no surviving widow or widower, but does leave a surviving child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to:

"(i) the amount of the annuity to which the judicial official's widow or widower would have been entitled under paragraph (1)(A) of this subsection, had such widow or widower survived the judicial official, divided by the number of children; or

"(ii) $1,760; or

"(iii) $5,279 divided by the number of children;

whichever is smallest.

"(2) An annuity payable to a widow or widower under subparagraphs (1)(A) or (1)(B) of this subsection shall be terminated upon his or her death or remarriage.

"(3) An annuity payable to a child under this subsection shall terminate:

"(A) if such child is receiving an annuity based upon his or her status under subparagraph (5)(A) of subsection (a) of this section, on the last day of the month during which he or she becomes eighteen years of age;

"(B) if such child is receiving an annuity based upon his or her status under subparagraph (5)(B) of subsection (a) of this section, either (i) on the first day of July immediately following his or her twenty-second birthday or (ii) on the last day of the month during which he or she ceases to be a full-time student in accordance with subparagraph (5)(B) of subsection (a) of this section, whichever occurs first: *Provided,* That if such child is rendered incapable of self-support because of a mental or physical disability incurred while receiving that annuity, that annuity shall not terminate, but shall continue without interruption and shall be deemed to have become, as of the date of disability, an annuity based upon his or her status under clause (ii) of subparagraph (5)(C) of subsection (a) of this section;

"(C) if such child is receiving an annuity based upon his or her status under subparagraph (5)(C) of subsection (a) of this section, on the last day of the month during which he or she ceases to be incapable of self-support because of mental or physical disability; or

"(D) on the last day of the month during which such child dies or marries.

"(4) An annuity payable to a child or children under subparagraph (1)(B) of this subsection shall be recomputed and paid as provided in subparagraph (1)(C) of this subsection upon the death, but not upon the remarriage, of the widow or widower who is receiving an annuity under subparagraph (1)(B) of this subsection.

"(5) In any case in which the annuity of a child is terminated, the annuity of each remaining child which is based upon the service of the same judicial official shall be recomputed and paid as though the child whose annuity has been terminated had not survived that judicial official.

"(i) All questions of dependency and disability arising under this section shall be determined by the Director of the Administrative Office of the United States Courts, subject to review only by the Judicial Conference of the United States, and the decision of the Judicial Conference of the United States shall be final and conclusive. The Director may order or direct at any time such medical or other examinations as he deems necessary to determine the facts relative to the nature and degree of disability of any child who is an annuitant, or an applicant for an annuity, under this section, and may suspend or deny any such annuity for failure to submit to any such examination.

"(j) In any case in which a payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability, as determined by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary of such claimant by the laws of the State of residence of such claimant, or to any other person who is otherwise legally vested with the care of the claimant or of the claimant's estate, and need not be made directly to such claimant. The Director of the Administrative Office of the United States Courts may, at his or her direction, determine whether such payment is made directly to such claimant or to such guardian, fiduciary, or other person legally vested with the care of such claimant or the claimant's estate. Where no guardian or other fiduciary of such minor or such person under legal disability has been appointed under the laws of the State of residence of such claimant, the Director of the Administrative Office of the United States Courts shall determine the person who is otherwise legally vested with the care of the claimant or of the claimant's estate.

"(k) The years of service rendered by a judicial official which may be creditable in calculating the amount of an annuity for such judicial official's widow or widower under subsection (l) of this section shall include—

"(1) those years during which such judicial official served in any of the offices designated in paragraph (1) of subsection (a) of this section, including in the case of a Justice or judge of the United States those years during which he or she continued to hold office following retirement from regular active service under subsection (b) of section 371 or subsection (a) of section 372 of this title;

"(2) those years during which such judicial official served as a Senator, Representative, Delegate, or Resident Commissioner in Congress, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section;

"(3) those years during which such judicial official honorably served on active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section: *Provided*, That those years of such military service for which credit has been allowed for the purposes of retirement or retired pay under any other provision of law shall not be included as allowable years of service under this section; and

"(4) those years during which such judicial official served as an 'employee', as that term is defined in subsection (1) of section 8331 of title 5, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section.

For the purposes of this subsection the term 'years' shall mean full years and twelfth parts thereof, excluding from the aggregate any fractional part of a month which numbers less than fifteen full days and including, as one full month, any fractional part of a month which numbers fifteen full days or more. Nothing in this subsection shall be interpreted as waiving or canceling that reduction in the annuity of a widow or widower which is required by subsection (d) of this section due to the failure of a judicial official to make those deposits required by subsection (d) of this section.

"(l) The annuity of a widow or widower of a judicial official shall be an amount equal to the sum of—

"(1) 1¼ percent of the average annual salary, including retirement salary, which such judicial official received for serving in any of the offices designated in paragraph (1) of subsection (a) of this section (i) during those three years of such service in which his or her annual salary was greatest, or (ii) if such judicial official has so served less than three years, but more than eighteen months, then during the total period of such service prior to his or her death, multiplied by the total of:

"(A) the number of years of creditable service tabulated in accordance with paragraph (1) of subsection (k) of this section; plus

"(B) the number of years of creditable service tabulated in accordance with paragraph (2) of subsection (k) of this section; plus

"(C) the number of years of creditable service tabulated in accordance with paragraph (3) of subsection (k) of this section; plus

"(D) the number of years up to, but not exceeding, fifteen of creditable service tabulated in accordance with paragraph (4) of subsection (k) of this section,

plus:

"(2) three-fourths of 1 percent of such average annual salary, multiplied by the service, as tabulated in accordance with subsection (k) of this section, not applied under paragraph (1) of this subsection:

*Provided*, That such annuity shall not exceed 40 percent of such average annual salary and shall be further reduced in accordance with subsection (d) of this section, if applicable.

"(m) Whenever the salary paid for service in one of the offices designated in paragraph (1) of subsection (a) of this section is increased, each annuity payable from the 'Judicial Survivors' Annuities Fund', which is based, in whole or in part, upon a deceased judicial official having rendered some portion of his or her final eighteen months of service in that same office, shall also be increased. The actual amount of the increase in such an annuity shall be determined by multiplying the amount of the annuity, on the date on which the increase in salary becomes effective, by 3 percent for each 5 percent by which such salary has been increased. In the event that such salary is increased by less than 5 percent, there shall be no increase in such annuity.

"(n) Each annuity authorized under this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued. No annuity authorized under this section shall be assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

"(o) In any case in which a judicial official dies while in office, or while receiving 'retirement salary', and;

"(1) before having completed eighteen months of civilian service, computed in accordance with subsection (k) of this section, during which the salary deductions provided by subsection (b) of this section or the deposit required by subsection (d) of this section have actually been made; or

"(2) after having completed eighteen months of civilian service, computed in accordance with subsection (k) of this section, during which all such deductions or deposits have been made, but without a survivor or survivors who are entitled to receive the annuity benefits provided by subsection (h) of this section; or

"(3) the rights of all persons entitled to receive the annuity benefits provided by subsection (h) of this section terminate before a valid claim therefor has been established;

the total amount credited to the individual account of that judicial official, established under subsection (e) of this section, with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31, of each year, to the date of that judicial official's death, shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence:

"First, to the beneficiary or beneficiaries whom that judicial official may have designated in a writing received by the Administrative Office of the Untied States Courts prior to his or her death;

"Second, if there be no such beneficiary, to the widow or widower of such judicial official;

"Third, if none of the above, to the child or children of such judicial official and the descendants of any deceased children by representation;

"Fourth, if none of the above, to the parents of such judicial official or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor, executrix, administrator, or administratrix of the estate of such judicial official;

"Sixth, if none of the above, to such other next of kin of such judicial official, as may be determined by the Director of the Administrative Office of the United States Courts to be entitled to such payment, under the laws of the domicile of such judicial official, at the time of his or her death.

Such payment shall be a bar to recovery by any other person. For the purposes of this subsection only, a determination that an individual is a widow, widower, or child of a judicial official may be made by the Director of the Administrative Office of the United States Courts without regard to the definitions of those terms contained in paragraphs (3), (4), and (5) of subsection (a) of this section.

"(p) In any case in which all the annuities which are authorized by this section and based upon the service of a given official terminate before the aggregate amount of annuity payments received by the annuitant or annuitants equals the total amount credited to the individual account of such judicial official, established under subsection (e) of this section with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31, of each year, to the date of that judicial official's death, the difference between such total amount, with such interest, and such aggregate amount shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in subsection (o) of this section.

"(q) Any accrued annuity benefits remaining unpaid upon the termination of an annuity, other than by the death of an annuitant, shall be paid to that annuitant. Any accrued annuity benefits remaining unpaid upon the death of an annuitant shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

"First, to the duly appointed executor, executrix, administrator, or administratrix of the estate of such annuitant;

"Second, if there is no such executor, executrix, administrator, or administratrix, payments shall be made, after the expiration of sixty days from the date of death of such annuitant, to such individual or individuals as may appear, in the judgment of the Director of the Administrative Office of the United States Courts, to be legally entitled thereto, and such payment shall be a bar to recovery by any other individual.

"(r) Nothing contained in this section shall be interpreted to prevent a widow or widower eligible for an annuity under this section from simultaneously receiving such an annuity while also receiving any other annuity to which such widow or widower may also be entitled under any other law without regard to this section: *Provided,* That service used in the computation of the annuity conferred by this section shall not also be credited in computing any such other annuity.".

Sec. 3. That on the date upon which this Act becomes effective there shall be established on the books of the Treasury a fund which shall be known as "The Judicial Survivors' Annuities Fund", and all money credited to the judicial survivors annuity fund established by section 2 of the Act of August 3, 1956 (70 Stat. 1021), as amended, shall be transferred to the credit of the Judicial Survivors' Annuities Fund established by this section.

Sec. 4. That on the date upon which this Act becomes effective the Secretary of the Treasury shall ascertain from the Director of the Administrative Office of the United States Courts the amount of the level cost deficiency in the fund transferred by section 3 of this Act on the date of that fund's transfer and, at the earliest time thereafter at which appropriated funds in that amount shall become available, the Secretary shall deposit such funds, in a single payment, into the Judicial Survivors' Annuities Fund established by section 3 of this Act. Such funds as are necessary to carry out this section are hereby authorized to be appropriated.

Sec. 5. That on the date upon which this Act becoms effective each annuity then being paid to a widow from the judicial survivors annuity fund established by section 2 of the Act of August 3, 1956 (70 Stat. 1021), as amended, shall be increased by an amount equal to one-fifth of 1 percent of the amount of such annuity multiplied by the number of months which have passed since the commencement of that annuity. For the purposes of this section, any fractional part of a month which numbers less than fifteen full days shall be excluded from the computation of the number of months and any fractional part of a month which numbers fifteen full days or more shall be included in the computation as one full month. Such funds as are necessary to carry out this section are authorized to be appropriated and, upon appropriation, shall be deposited by the Secretary of the Treasury, in a single payment, to the credit of the Judicial Survivors' Annuities Fund established by section 3 of this Act.

Sec. 6. That the benefits conferred by this Act shall, on the date upon which this Act becomes effective, immediately become available to any individual then receiving an annuity under section 2 of the Act of August 3, 1956 (70 Stat. 1021), as amended: *Provided,* That although the rights of any judicial official electing to come within the purview of section 376 of title 28, United States Code, on or after the date upon which this Act becomes effective, shall be determined exclusively under the provisions of that section as amended by this Act, nothing in this Act shall be interpreted to cancel, abrogate, or diminish any rights to which an individual or his survivors may be entitled by virtue of his having contributed to the judicial survivors annuity fund established by section 2 of the Act of August 3, 1956 (70 Stat. 1021), as amended, before the date upon which this Act becomes effective.

Sec. 7. That this Act shall become effective on the first day of the third month following the month in which it is enacted, or on October 1, 1976, whichever occurs last.

With the following committee amendments:

Page 11, line 15, strike out "$1,466" and insert in lieu thereof "$1,548".

Page 11, line 16, strike out "$4,399" and insert in lieu thereof "$4,644".

Page 12, line 4, strike out "$1,760" and insert in lieu thereof "$1,860".

Page 12, line 5, strike out "$5,279" and insert in lieu thereof "$5,580".

Page 23, line 20, strike out "level cost" and insert in lieu thereof "actuarial".

Page 25, line 7, strike out "or his" and insert "or his or her"; and strike out "of his" and insert "of that individual's".

Page 25, strike out lines 12 through 14 and insert in lieu thereof the following:

Sec. 7. That, at any time within 180 days after the date upon which this Act becomes effective, any judicial official who has, prior to that date, already participated in the judicial survivors annuity program created by the Act of August 3, 1956 (70 Stat. 1021), as amended, shall be entitled to revoke his or her earlier election to participate in that program and thereby completely withdraw from participation in the Judicial Survivors' Annuities Program created by this Act: *Provided,* That (a) any such revocation may be effected only by means of a writing filed with the Director of the Administrative Office of the United States Courts, (b) any such writing shall be deemed to have become effective no sooner than the date upon which that writing is received by the Director, (c) upon receipt of such a writing by the Director, any and all rights to survivorship benefits for such judicial official's survivors shall terminate, and all amounts credited to such judicial official's individual account, together with interest at 3 percent per annum, compounded on December 31 of each year to that date of revocation, shall thereafter be returned to that judicial official in a lump-sum refund payment, and (d) any judicial official who effects such a revocation and who subsequently again becomes eligible and elects to join the Judicial Survivors Annuities Program created by this Act under the provisions of section 376 of title 28, United States Code, as amended by this Act, shall be permitted to do so only upon the redeposit of the full amount of the refund obtained under this section plus interest at 3 percent per annum, compounded on December 31 of each year from the date of the revocation until the date upon which that amount is redeposited. Any judicial official who fails to effect a revocation in accordance with the right conferred by this section within 180 days after the date upon which this Act becomes effective shall be deemed to have irrevocably waived the right to that revocation.

Sec. 8. That this Act shall become effective on the first day of the third month following the month in which it is enacted, or on October 1, 1976, whichever occurs last.

The SPEAKER pro tempore (Mr. McFall). The question is on the committee amendments.

The committee amendments were agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## COST-OF-LIVING ADJUSTMENTS FOR RETIRED TERRITORIAL JUDGES

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate bill (S. 14) to provide cost-of-living adjustments in retirement pay of certain Federal judges.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, and again I reserve the right to object for the same purpose, to allow my colleague, the gentleman from California, to present the basic details involved in the Senate bill, S. 14, to the Members of the body, because I know quite often we wonder how these things whisk through, but I would only point out all these bills call for only minor appropriations, I think in this case less than $4,000, but if not enacted, they could not go into the budget until 1978. That is one of the reasons to expeditiously handle it.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, the Committee on the Judiciary report favorably S. 14, a bill providing cost-of-living adjustments in retirement pay of territorial judges. Both this committee and the Senate Judiciary Subcommittee on the Improvement of Judicial Machinery have held hearings on the subject. Our hearing was held on May 20, 1976, and testimony was received from the Administrative Office of the U.S. Courts. The purpose of the legislation is to amend 28 U.S.C. section 373 to allow territorial judges who are eligible for retirement pay to receive cost of living increases in that pay, incorporating the formula specified in 5 U.S.C. section 8340 (b) for civil service retirees. A territorial judge can retire with pay if he or she has reached the age of 70 with 10 years of service or age 65 with 15 years of service. Presently four judges are covered by the retirement program. They are:

Judge Moore of the Virgin Islands—$22,500.

Judge Gordon of the Virgin Islands—$30,000.

Judge Shriver of Guam—$40,000.

Since the maximum number of active territorial judges is 4; Canal Zone—1; Guam—1; and the Virgin Islands—2; the number of beneficiaries would be very small. The present estimated annual increased costs of the revised program, assuming a 5-percent rise in the price index, would be $3,750.

Territorial judges are article I judges, appointed for 8-year terms. However, their duties and jurisdiction are similar to article III judges, who have lifetime tenure. Article III judges have the same eligibility standards for retirement as territorial judges, but have the advantage of the election to retire and take "senior status," thus entitling them to the salary of the office. Only one article III judge has elected to resign, thereby receiving retirement pay limited to the amount of the salary when he resigned. Since territorial judges cannot elect "senior status," S. 14 would compensate them more equitably for their past service, while keeping their retirement pay in line with inflationary increases. They could never receive an increase which would bring their retirement pay to more than 95 percent of the salary of a U.S. district court judge in active service. S. 14 is supported by the Administrative Office of the U.S. courts. I ask your support.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I thank the gentleman for yielding. I wish to congratulate the gentleman for calling up this bill. It is a measure long neglected and it is a case of justice. The gentleman certainly deserves the commendation of this body for bringing it up.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois (Mr. RAILSBACK) who was instrumental in making sure these bills were acted upon favorably in the Committee on the Judiciary and making sure they are on the Calendar today.

Mr. RAILSBACK. Mr. Speaker, I rise in support of S. 14, to provide cost-of-living adjustments in retirement pay for territorial judges. This bill passed the other body and the committee without opposition. I am unaware of any opposition to this legislation.

The bill would grant to retired territorial judges—four in number—who are eligible for retirement under section 373 of title 28, an adjustment in their retirement compensation based upon the formula set forth in section 8340(b) of title 5, United States Code. The bill also inserts a 95-percent limitation in order to keep the retirement compensation of these territorial judges below the level of compensation paid either to active judges or to senior judges.

There are four territorial judges presently receiving retirement compensation under section 373. If the provisions of this bill become law, and assuming a 5-percent rise in the price index, one judge would receive a $600 adjustment, another judge would receive a $1,350 adjustment, and a third judge would receive $1,800 adjustment for a total annual cost of $3,750. The fourth judge would receive no adjustment because his current retirement compensation would exceed the 95-percent limit specified in this bill.

I urge the Members to support the enactment of this legislation.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 373 of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:
>
> "Any judge who has retired by resigning under the provisions of this section, or who is otherwise entitled to payments under this section, shall be entitled after the effective date of this Act to a cost-of-living adjustment in the amount payable to him computed as specified in section 8340(b) of title 5, United States Code: *Provided, however*, That in no case shall the salary or amount payable to such judge as increased under this paragraph exceed 95 per centum of the salary of a United States district court judge in regular active service.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks on the Senate bill, S. 14, just passed, and I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 14.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 12, which was last previously passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## MAGISTRATE SALARIES AND MAGISTRATE POSITION FOR VIRGIN ISLANDS

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate bill (S. 2923) to amend title 28 of the United States Code to provide that full-time U.S. magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, and again I reserve the right to object for the identical purpose, to allow the gentleman from California to explain the bill and to point out, as in the previous two cases, all that is involved is a matter of equity. There is no great money amount. We think this is necessary to have this entitlement bill passed, so that these changes can be made effective in the 1978 budget.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, S. 2923 was voted favorably from the Subcommittee on Courts, Civil Liberties and the Administration of Justice on August 26, 1976. S. 2923 was ordered reported favorably from the full Judiciary Committee on September 9, 1976. The basic Senate bill was accepted, with one additional amendment which would authorize the Virgin Islands district court to appoint a magistrate if the need is documented.

S. 2923 would authorize the Judicial Conference to raise the salaries of magistrates to be on a parity with bankruptcy referees. When Congress passed Public Law 94-27, February 27, 1976, which increased the bankruptcy referees to a maximum salary of $37,800—subject to adjustment according to the Federal Salary Act—no comparable increase was made for magistrates' salaries. S. 2923 would eliminate the restriction on magistrates' salaries which limits them to 75 percent of district court judges' salaries.

Magistrates perform such important judicial acts as issuing search and arrest warrants, fixing bail and holding initial hearings of persons accused of criminal offenses. They may be authorized to hold pretrial conferences, review social security appeals, review Narcotics Addict Rehabilitation Act matters and serve as special masters.

Presently there are 150 full-time magistrate positions, at the salary level of $31,500, and 316 part-time magistrates, whose salaries range from $100 to $15,750. There are also 16 combination positions, which include the position of a part-time magistrate at $15,750, plus another part-time position such as clerk of the court, deputy clerk, or bankruptcy referee. Although a full-time bankruptcy referee now receives $37,800 per year, and a clerk of the court can now receive that amount, and a part-time position of either is half that amount, when the position of part-time magistrate is combined with either, the person is prohibited from receiving a total salary of more than a full-time magistrate, due to the present salary restriction.

S. 2923 has been supported by the Administrative Office of the U.S. Courts and the Judicial Conference. Many judges have written to personally request this legislation. The need for the legislation is critical because a large number of magistrates have left in the past year due to the low salary. Many positions are being left vacant since few competent candidates are willing to accept the low salary. The subcommittee also believes that the magistrates should be compensated at a level which is comparable to the Government attorneys who appear before them and with those hearing examiners and administrative judges whose decisions are being reviewed by them. In addition, S. 1283 would expand their duties, and it is fitting that they be properly compensated for their additional work. The cost of S. 2923, presuming the Judicial Conference exercises its discretion to raise the salaries, would be approximately $1.2 million for fiscal year 1977. If a 4.8 percent pay increase is given to bankruptcy referees, the sum would be $1.3 million.

The committee amendment to S. 2923 would authorize the Federal district court of the Virgin Islands to request a magistrate position. The Administrative Office of the U.S. Courts would have to document and measure the need, and then the Judicial Conference would request a full or part-time position. At this time the Administrative Office supports this amendment, and has indicated that the position, if necessary, could be filled on October 1, 1977, if this legislation is passed now. The conference only meets twice a year. The caseload of the Virgin Islands—population 100,000—district court has grown 100 percent since 5 years ago, and now totals 2,382. Since there are only two judges there, the caseload far exceeds the national average of 400 cases per year for Federal judges.

I will here append letters from the Administrative Office of the Courts, dated August 30 and October 9, 1975, and from Delegate Ron de Lugo of the Virgin Islands, dated September 8, 1976, in further explanation of this bill.

Administrative Office of the
U.S. Courts,
*Washington, D.C., August 30, 1976.*

Hon. Robert W. Kastenmeier,
*House Judiciary's Subcommittee on Courts, Civil Liberties and the Administration of Justice, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.*

Dear Congressman Kastenmeier: At the request of your staff, I am writing to explain the purpose of H.R. 12045, which I understand your Subcommittee may consider shortly. The bill was introduced at the request of the Judicial Conference of the United States. It would amend 28 U.S.C. § 631 to permit the Conference to authorize United States magistrate positions for the District Court of the Virgin Islands.

The jurisdiction of the District Court of the Virgin Islands is broader than that of the United States district courts. It also has original jurisdiction over most matters of local law and appellate jurisdiction to review judgments of the municipal courts.

The Federal Magistrates Act of 1968 did not authorize the territorial district courts to appoint United States magistrates. The Judicial Conference believes that the Act should be amended to give it the authority to establish magistrate positions in the Virgin Islands to the extent they may be warranted by the nature and volume of the pertinent caseload. The proposal would, thus, give the Conference the same authority to allocate magistrate positions for the District Court of the Virgin Islands that it now has for the 91 United States district courts.

The procedure for establishing magistrate positions is set forth in 28 U.S.C. § 633. It requires the Director to survey the need for magistrate services in each district court, whether full-time or part-time. The Judicial Conference considers the Director's recommendations, together with those of the district court and circuit council concerned, in making its final determinations. If H.R. 12045 is enacted, these procedures would be followed to determine the need for magistrate services for the District Court of the Virgin Islands.

We appreciate the opportunity to assist the Subcommittee. If there is anything else we can do for you, please let me know.

Respectfully yours,
William E. Foley,
*Deputy Director.*

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Administrative Office of the
U.S. Courts,
*Washington, D.C., October 9, 1975.*

Hon. Carl Albert,
*Sepaker of the House of Representatives, Washington, D.C.*

Dear Mr. Speaker: On behalf of the Judicial Conference of the United States, I am transmitting herewith a draft bill which would amend section 631 of title 28 of the United States Code to authorize the Conference to establish United States magistrate positions to facilitate the expeditious administration of justice in the District Court of the Virgin Islands.

The Federal Magistrates Act of 1968, 28 U.S.C. § 631 et seq., established an upgraded lower tier of federal judicial officers with important responsibilities. The Act, however, did not authorize the territorial district courts to appoint United States magistrates.

The jurisdiction of the District Court of the Virgin Islands is broader than that of United States district courts. It includes the federal jurisdiction exercised by the United States district courts, without regard to the sum of the matter in controversy. It also has original jurisdiction over most matters of local law and appellate jurisdiction to review judgments of the municipal courts.

The Judicial Conference believes that the Federal Magistrates Act should be amended to give it the authority to establish United States magistrate positions in the Virgin Islands to the extent they may be warranted by the nature and volume of the pertinent caseload. The proposal would, thus give the Conference the same authority to allocate magistrate positions for the District Court of the Virgin Islands that it now has for the 91 United States district courts.

Representatives of the Judiciary and of this office will be pleased to furnish any further information regarding the proposal contained in this draft bill that may be requested, or to testify before the committee to which the bill may be referred.

Respectfully yours,
Rowland F. Kirks,
*Director.*

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House of Representatives,
*Washington, D.C., September 8, 1976.*

Hon. Robert W. Kastenmeier,
*Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice.*

Dear Mr. Chairman: This week, the full Judiciary Committee will be considering S. 2923, the bill dealing with the salaries of Federal Magistrates. Section 2 of this measure authorizes a magistrate position in the Virgin Islands. This existed originally as a bill which I introduced earlier this Congress, H.R. 12045.

I believe that a few statistics will show you, and the other members of the Judiciary Committee, the necessity of this legislation.

The current population of the Virgin Islands is nearing 100,000 people. (1973 census figures totaled 82,600) The population is growing. Sadly, the case load last year in the Virgin Islands is also growing. It is 100% above that of 5 years ago. In 1971 there were 1,0505 cases before the Virgin Islands bench. Last year there were 2,382. While each of the two Virgin Islands Federal District Court Judges does have a wider range of responsibilities due to the nature of the Virgin Islands judicial system, this case load per Judge is far in excess of the 400 cases of the average Judge hears each year.

One of the other reasons I authorized this legislation is that a magistrate could perform the functions of a bankruptcy referee in the Islands. At present, our bankruptcy needs are handled by a referee from Puerto Rico. However, due to the disparity in size and population he has little time to devote to the Virgin Islands. Our bankruptcy situation does not call for a full time referee, but the need is great enough for some attention. A magistrate could fill this position in addition to his other duties. This would be consistent with the role of the magistrate as an aid to the Federal Judge.

I should like to make clear that this bill does not establish the magistrate position in the Virgin Islands, it merely authorizes the Judicial Conference to establish such a position if the Conference decides such a position is necessary. While I, and others have expressed the need for a magistrate, the Judicial Conference will have final decision making powers.

I hope the above information is of help to you, and the other members of the Committee. Please feel free to contact me if you have other thoughts or questions on this matter.

With best regards, I am.

Cordially,
Ron de Lugo,
*Member of Congress.*

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I again yield to my colleague from Illinois (Mr. Railsback), the champion of this bill in the Judiciary Committee on the minority side.

Mr. RAILSBACK. Mr. Speaker, I rise in support of S. 2923, amending the statutory ceiling on salaries payable to the U.S. magistrates.

S. 2923, passed the other body on February 5, 1976. This act was favorably reported, amended, by the subcommittee with no opposition. The bill has the support of the Judicial Conference and the Department of Justice.

In 1972, Congress amended the provisions pertaining to magistrates' salary to equate it to that received by bankruptcy judges. This amendment contained, however, the provision that the salary level was not to exceed 75 percent of that received by Federal district judges. This percentage in effect limited the magistrates' salary to $30,000. Because this salary level has been tied to that of district judges, no cost of living was granted to magistrates, as has been the case with other Federal employees until the fall of 1975.

The bill, by removing the provision tying magistrates' salary to a fixed percentage of the salary of Federal district judges, would clear the way for the Judicial Conference to raise the magistrates' salaries up to $37,800, the congressionally authorized salary level of bankruptcy referees.

In 1972, when the last legislation on this matter was processed, H.R. 7375, to adjust the magistrates' salary level, it was noted that the duties and responsibilities of magistrates are comparable to those of referees in bankruptcy and of the attorneys employed by the Federal Government. For example, the most common grade for a hearing examiner in the executive branch is GS-16—$36,338–$37,549; and U.S. attorneys earn $32,700 per year, depending upon the size of their district. Although a magistrate is often called upon to review a finding of a hearing examiner or to decide an issue argued by a U.S. attorney, he is by the present statute limited to a considerably lower salary than either of these Federal employees.

Most administrative law judges begin at GS-16. While their expertise is normally limited to a single speciality, magistrates must cover the entire spectrum of the law, from environmental matters to criminal cases. Magistrates perform such important judicial acts as issuing search and arrest warrants, fixing bail, and holding initial hearings of persons accused of criminal offenses. They may be authorized to hold pretrial conferences, review social security appeals, review Narcotics Addict Rehabilitation Act matters and serve as special masters.

The Judiciary Committee believes, that magistrates should be compensated at a level comparable to those Government attorneys who appear before them and those hearing examiners and administrative judges whose decisions they may be called upon to review. In addition, the Judiciary Committee recently ordered favorably reported legislation which would expand the jurisdiction and duties of the magistrates (S. 1283).

Based upon a maximum permissible compensation of $37,800 per annum for 142 full-time magistrates, and assuming a pro rata adjustment in the compensation of 340 part-time magistrates, the approximate annual cost of this legislation will be $1.3 million.

Mr. Speaker, during 1975, the 482 full- and part-time magistrates handled some 255,061 matters. The magistrate system has become a virtually indispensable supplement to our overworked Federal judiciary. I believe that the performance of the magistrate system justifies the salary increase proposed by this legislation.

I urge the Members to support the enactment of S. 2923.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

**S. 2923**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 634(a) of title 28 of the United States Code is amended by changing the first sentence of said subsection to read as follows:

"(a) Officers appointed under this chapter shall receive as full compensation for their services salaries to be fixed by the conference pursuant to section 633 of this title, at rates for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended, except that the salary of a part-time United States magistrate shall not be less than $100 nor more than one-half the maximum salary payable to a full-time magistrate.".

SEC. 2. Section 631 of title 28 of the United State Code is amended—

(1) in the first sentence of subsection (a), by inserting "and the district court of the Virgin Islands" immediately after "United States district court";

(2) by inserting immediately after the first sentence of subsection (a) the following: "In the case of a magistrate appointed by the district court of the Virgin Islands, this chapter shall apply as though the court appointing such magistrate were a United States district court."; and

(3) in subsection (b)(1)(B), by inserting immediately before the semicolon the following: ", and in the Virgin Islands of the United States, a member in good standing of the bar of the district court of the Virgin Islands".

With the following committee amendment:

Page 2, after line 7, insert the following:

SEC. 2. Section 631 of title 28 of the United States Code is amended—

(1) in the first sentence of subsection (a), by inserting "and the district court of the Vigrin Islands" immediately after "United States district court";

(2) by inserting immediately after the first sentence of subsection (a) the following: "In the case of a magistrate appointed by the district court of the Virgin Islands, this chapter shall apply as though the court appointing such magistrate were a United States district court."; and

(3) in subsection (b)(1)(B), by inserting immediately before the semicolon the following: ", and in the Virgin Islands of the United States, a member in good standing of the bar of the district court of the Virgin Islands".

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## REORGANIZATION OF THE JUDICIAL SYSTEM OF GUAM

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 4580) to amend the Organic Act of Guam to provide for the reorganization of the judicial system of Guam, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I would yield to my colleague from California for an explanation of the bill. This bill is supported by all Republicans on the Judiciary Committee, and especially by my colleague from Ohio (Mr. KINDNESS) who is vitally interested in this proposal.

Mr. Speaker, I yield to my colleague from California.

Mr. DANIELSON. Mr. Speaker, the purpose of the bill, as amended, is to establish a Supreme Court of Guam under Federal law as the highest court in the territory of Guam for non-Federal matters.

Indeed, the present legislation was largely occasioned by a November 4, 1974, decision of the District Court of Guam denying the validity of the action of the Guam legislature in creating the Supreme Court of Guam as an appellate court.

H.R. 4580 would also extend the jurisdiction of the Supreme Court of the United States to review decisions of the Supreme Court of Guam in the same way as it reviews the decisions of the Supreme Court of Puerto Rico since 1961.

### BACKGROUND: ORGANIC ACT OF GUAM, PUBLIC LAW 17

The legislative background may be briefly stated. In 1950 the Congress enacted the Organic Act of Guam. This statute established a District Court of Guam, having the jurisdiction of a U.S. district court, plus original jurisdiction over other causes not otherwise assigned by the legislature and such appellate jurisdiction as the legislature might determine.

In the following year, 1951, the legislature of Guam enacted Public Law 17 establishing a number of non-Federal, local courts, including an island court. Appeals from the island court went to the District Court of Guam.

### COURT REORGANIZATION ACT OF 1974: AGANA AND OLSON CASES

Thirteen years later, however, in the Court Reorganization Act of 1974 (Public Law 12-85), the legislature of Guam made a number of significant changes:

First. It repealed the appellate jurisdiction of the District Court of Guam;

Second. It established a Supreme Court of Guam to take over this appellate function;

Third. It replaced the island court with a Superior Court of Guam having original general non-Federal jurisdiction under the law of Guam.

The District Court of Guam retained Federal question jurisdiction and exclusive original jurisdiction with respect to litigation involving the Guam territorial income tax.

Later in 1974, however, the validity of these actions of the legislature of Guam was sharply challenged. On November 4, of that year, in Agana Bay Development Co. against Supreme Court of Guam, the District Court of Guam held that the legislature lacked power to strip the district court of its appellate functions.

Subsequently, the 9th circuit, by a 2 to 1 vote reversed the Agana decision, but on August 10, 1976 the principle of this decision was reversed by the ninth circuit sitting en banc in a case called People against Olsen. The opinion in that case reads in part as follows:

> We recognize that Guam's Court Reorganization Act was drawn to give expression to a strong desire by the territorial legislature for a greater degree of autonomy and self-government for Guam, and our ruling should not be construed as critical of that objective. We hold only that the appellate jurisdiction of the district court may not be transferred without congressional authorization and pursuant to such provisions and safeguards as Congress may provide.

It seems most probable that removal of the obstacle to validation of an appellate Supreme Court of Guam requires enactment of legislation of the character of H.R. 4580.

### HEARING: AGENCY VIEWS

On July 31, 1975, the committee held a public hearing on the legislation. It received the views of the Departments of Justice and Interior, the Judicial Conference and of judicial, executive, and certain legislative officers of Guam who favor the legislation.

The Department of Justice has no objection to enactment of H.R. 4580, but recommends clarification of the jurisdiction of the District Court of Guam to include diversity of citizenship cases. The Judicial Conference shares the recommendation of the Department of Justice. The recommendation in question has been written into the committee's amendment.

The Department of the Interior and the Judicial Conference likewise have no objection to enactment but the Judicial Conference asks consideration of the impact of the legislation on the caseload of the District Court of Guam. The committee has been advised that the caseload of the Supreme Court of Guam is 40 cases, while the caseload of the District Court of Guam is 351 cases. The committee does not anticipate any serious dislocation from enactment of the bill.

Further, the Judicial Conference requests that consideration be given to the question whether review should be by a circuit court of appeals rather than directly to the Supreme Court of the United States. The Supreme Court of Puerto Rico since 1961, when the present system of review as instituted, has been that no petition for certiorari to the Puerto Rico Court has been granted by the Supreme Court. We perceive no grave risk of overcrowding of the high court docket through enactment of the pending bill.

Witnesses from Guam were unanimously favorable to the legislation. The only concerted opposition has been by the Guam Bar Association.

Mr. Speaker, I urge my colleagues to join me in supporting this much needed legislation.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

### H.R. 4580

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Organic Act of Guam (64 Stat. 384; 48 U.S.C. 1421–1424b) is amended by striking out section 22 and inserting in lieu thereof the following new sections:

"THE JUDICIARY

"SEC. 22. (a) The judicial system for the territory of Guam shall consist of the District Court of Guam, the Supreme Court, the Superior Court, and such other courts as the Legislature of Guam may establish.

"(b) The Legislature of Guam may, by law—

"(1) provide for the establishment of rules of procedure for the Supreme Court and the Superior Court;

"(2) establish divisions of the Superior Court and designate which of such divisions shall be courts of record and which shall not be;

"(3) establish the qualifications, method of appointment, salary, and tenure of justices of the Supreme Court and judges of the Superior Court; and

"(4) otherwise provide for the proper administration of the courts of Guam.

"SEC. 23. (a) (1) The Superior Court shall consist of a presiding judge and such additional judges as may be necessary for the proper dispatch of the business of the court.

"(2) The Superior Court shall have original jurisdiction in all causes arising under the laws of Guam, civil or criminal, in law or equity, regardless of the amount in controversy, except for—

"(A) causes arising under the Constitution, treaties, and laws of the United States; and

"(B) causes with respect to the Guam territorial income tax.

"(3) The Superior Court shall have such appellate jurisdiction as the Legislature of Guam may provide;

"(b) (1) The Supreme Court shall consist of the Chief Justice of Guam and two associate justices.

"(2) The Supreme Court shall be a court of record and shall have appellate jurisdiction as the Legislature of Guam may provide from the judgments, orders, and decrees of the Superior Court or any division thereof.

"(c) (1) The District Court of Guam shall be a court of record and shall have the jurisdiction of a district court of the United States in all causes arising under the Constitution, treaties, and laws of the United States, regardless of the sum or value of the matter in controversy, and shall have original exclusive jurisdiction over all causes with respect to the Guam territorial income tax.

"(2) Any general rule prescribed from time to time by the Supreme Court of the United States pursuant to section 2072 of title 28, in civil actions, including admiralty and maritime cases; section 2075 of title 28, in bankruptcy cases; and sections 3771 and 3772 of title 18, in criminal cases; shall apply to the District Court of Guam and to appeals therefrom; except that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Guam unless and until made so applicable by laws enacted by the Legislature of Guam, and except further that the terms 'attorney for the government' and 'United States attorney', as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Guam, mean the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein.".

SEC. 2. Section 24 of the Organic Act of Guam (64 Stat. 390; U.S.C. 1424b) is amended—

(1) in subsection (a) by striking out "judge of the Island Court" and inserting in lieu thereof "justice of the Supreme Court";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting immediately after subsection (a) the following new subsection:

"(b) The Governor of Guam shall, by and with the advice and consent of the Legislature of Guam, appoint the Chief Justice and associate justices for the Supreme Court and a presiding judge and such additional judges as may be necessary for the Superior Court.".

SEC. 3. (a) (1) So much of section 1258 of title 28, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"1258. Supreme Court of Puerto Rico and Supreme Court of Guam; appeal; certiorari

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the territory of Guam may be reviewed by the Supreme Court as follows:".

(2) Paragraphs (2) and (3) of such section are each amended by inserting immediately after "Commonwealth of Puerto Rico" the following: "or the territory of Guam."

(b) The item relating to section 1258 in the section analysis of chapter 81 of title 28, United States Code, is amended to read as follows:

"1258. Supreme Court of Puerto Rico and Supreme Court of Guam; appeal; certiorari."

SEC. 4. Section 1869(f) of title 28 United States Code, is amended by striking out "section 22 of the Organic Act of Guam, as amended (64 Stat. 389; 48 U.S.C. 1424)," and inserting in lieu thereof the following: "section 23(c) of the Organic Act of Guam, as amended,".

SEC. 5. (a) Except as provided in subsection (b), the amendments made by the foregoing provisions of this Act shall take effect on the date of the enactment of this Act.

(b) The amendments made by the foregoing provisions of this Act shall not apply with respect to any cause arising under the laws of Guam which is filed in the District Court of Guam, or any division thereof, before the date of the enactment of this Act.

With the following committee amendment:

Strike out all that follows the enacting clause and insert in lieu thereof the following:

That the Organic Act of Guam (48 U.S.C. 1421–1424b) is amended by striking out that portion of the Act following section 21 and preceding section 24 of the Act and inserting in lieu thereof the following new sections:

"THE JUDICIARY

"SEC. 22. (a) The judicial system for the territory of Guam shall consist of the Supreme Court, the Superior Court, and such other courts as may have been or may hereafter be established by the laws of Guam.

"(b) The Legislature of Guam may, by law—

"(1) provide for the establishment of rules of procedure for the Supreme Court, the Superior Court, and all other courts established by the laws of Guam;

"(2) establish divisions of the Superior Court and designate which of such divisions shall be courts of record and which shall not be;

"(3) establish the qualifications, method of appointment, salary, and tenure of justices of the Supreme Court and judges of the Superior Court and all other courts established by the laws of Guam; and

"(4) otherwise provide for the proper administration of the Supreme Court, the Superior Court, and all other courts established by the laws of Guam.

"(c) (1) The Superior Court shall consist of a presiding judge and such additional judges as may be necessary for the proper dispatch of the business of the court.

"(2) The Superior Court shall have original jurisdiction in all causes arising under the laws of Guam, civil or criminal, in law or equity, regardless of the amount in controversy, except for—

"(A) causes arising under the Constitution, treaties, and laws of the United States; and

"(B) causes with respect to the Guam territorial income tax.

"(3) The Superior Court shall be a court of record and shall have such appellate jurisdiction as the Legislature of Guam may provide.

"(d) (1) The Supreme Court shall consist of the Chief Justice of Guam and two associate justices.

"(2) The Supreme Court shall be a court of record and shall have appellate jurisdiction as the Legislature of Guam may provide from the judgments, orders, and decrees of the Superior Court or any division thereof.

"SEC. 23. (a) The judicial system for the territory of Guam shall also include the District Court of Guam.

"(b) The District Court of Guam shall be a court of record and shall have the jurisdiction of a district court of the United States; except that—

"(1) in all causes arising under the Constitution, treaties, and laws of the United States, it shall have jurisdiction regardless of the sum or value of the matter in controversy, and

"(2) it shall have original exclusive jurisdiction over all causes with respect to the Guam territorial income tax.

"(c) Any general rule prescribed from time to time by the Supreme Court of the United States pursuant to section 2072 of title 28, United States Code, in civil actions, including admiralty and maritime cases; section 2075 of title 28, United States Code, in bankruptcy cases; and sections 3771 and 3772 of title 18, United States Code, in criminal cases; shall apply to the District Court of Guam and to appeals therefrom; except that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Guam unless and until made so applicable by laws enacted by the Legislature of Guam, and except further that the terms 'attorney for the government' and 'United States attorney', as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Guam, mean the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein.".

SEC. 2. Section 24 of the Organic Act of Guam (48 U.S.C. 1424b) is amended—

(1) by striking out "judge of the Island Court" in subsection (a) and inserting in lieu thereof "justice of the Supreme Court";

(2) by redesignating subsections (b) and (c), and all references thereto, as subsections (c) and (d), respectively; and

(3) by inserting immediately after subsection (a) the following new subsection:

"(b) The Governor of Guam shall, by and with the advice and consent of the Legislature of Guam, appoint the Chief Justice and associate justices for the Supreme Court, a presiding judge and such additional judges as may be necessary for the Superior Court, and such additional judges as may be necessary for all other courts established by the laws of Guam.".

SEC. 3. (a) Section 1258 of title 28, United States Code, is amended—

(1) by striking out all that precedes paragraph (1) of such section and inserting in lieu thereof the following:

"§ 1258. Supreme Court of Puerto Rico and Supreme Court of Guam; appeal; certiorari.

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of Guam may be reviewed by the Supreme Court as follows:": and

(2) by inserting immediately after "Commonwealth of Puerto Rico" each place that term appears in paragraphs (2) and (3) of such section the following: "or the territory of Guam".

(b) The item relating to section 1258 in the table of sections for chapter 81 of title 28, United States Code, is amended to read as follows:

"1258. Supreme Court of Puerto Rico and Supreme Court of Guam; appeal; certiorari.".

SEC. 4. Section 1869(f) of title 28, United States Code, is amended by striking out "section 22 of the Organic Act of Guam, as amended (64 Stat. 389; 48 U.S.C. 1424)," and inserting in lieu thereof the following: "section 23 of the Organic Act of Guam,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

### DEFINING JURISDICTION OF U.S. COURTS IN SUITS AGAINST FOREIGN STATES

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 11315) to define the jurisdiction of U.S. courts in suits against foreign states, the circumstances in which foreign states are immune from suit and in which execution may not be levied on their property, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so for the identical reason as stated previously, and I am happy to point out that this bill costs the Government nothing and, in fact, adds rights to U.S. citizens they do not now have.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. I thank the gentleman for yielding.

Mr. Speaker, I am glad the gentleman pointed out what I think is one of the more imprtant pieces of legislation to come up today.

Traditionally, if an American citizen here in the United States has a cause of action arising against a foreign government, he cannot sue them. They have sovereign immunity. Our courts have always recognized this. However, an American company in a foreign country which gets involved in litigation, does not have that protection. Citizens of foreign countries can sue the United States in their courts whereas over here our citizens cannot sue a foreign country. This bill will cure that ill. It makes a distinction between the governmental activities and commercial activities of a foreign state. For example, a foreign state may operate an airline which serves part of the United States. As a consequence, in doing so, an injury or breach of an obligation may take place which ordinarily results in a lawsuit. But today the American citizen cannot sue the foreign state. With this bill, an American citizen will be able to sue the foreign state. The line of demarcation is as I have described. The bill is supported by the State Department, the Justice Department, the American Bar Association, the New York City Bar Association. As a matter of fact, I know of no opposition to it.

### PURPOSE

This bill would codify existing law on when foreign states, and their state-owned enterprises, are immune from suit. It would prescribe when and how a private person could commence a lawsuit against a foreign state or its entities in U.S. courts. It would bring U.S. practice in this area up to date with the practice in other countries.

### PRINCIPAL PROVISIONS

First. Codification of existing law: A foreign state under international law is immune from suit in cases based on its purely public acts. However, it is not immune in cases based on its commercial or private acts. These principles have been followed by our courts and by the Department of State since 1952. Moreover, they are regularly applied against the U.S. Government when it is sued abroad—sections 1604–1607 of the bill.

Second. Under current U.S. practice, the foregoing principles are not consisttently applied. When a foreign state wishes to assert immunity, it will often ask the State Department to decide the issue. And it may bring diplomatic influences to bear, thereby converting an ordinary lawsuit into a diplomatic irritant. To reduce foreign policy implications of immunity decisions and to assure judicial safeguards for all litigants, the bill would leave immunity determinations exclusively to the courts. This would conform to the practice in virtually every other country.

Third. For the first time in U.S. law, the bill would provide a statutory procedure for making service upon, and obtaining in personam jurisdiction over, a foreign state and its entities. Such procedures exist in other countries—sections 1330(b) and 1608.

Fourth. To further reduce foreign relations irritants, the bill makes it unnecessary to commence a lawsuit by locating and attaching foreign government property. But the bill does provide a method whereby a private litigant can, under express court directions and as a last resort, satisfy a final judgment from commercial property—sections 1609–1610.

### SUPPORT

The bill is the product of several years. consultation involving the bar, academic community and three administrations. It has the formal backing of the ABA, and of the international law divisions of the D.C. Bar and the Association of the Bar of the City of New York.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

### H.R. 11315

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Foreign Sovereign Immunities Act of 1975.

SEC. 2. (a) That chapter 85 of title 28, United States Code, is amended by inserting immediately before section 1331 the following new section:

"§ 1330. Actions against foreign states

"(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603 (a) of this title as to any claim for relief in personam with respect to which the foreign state is not entitled to immunity either under sections 1605–1607 of this title or under any applicable international agreement.

"(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service of process has been made under section 1608 of this title.

"(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605–1607 of this title.".

(b) By inserting in the chapter analysis of that chapter before—

"1331. Federal question; amount in controversy; costs."

the following new item:

"1330. Actions against foreign states.".

SEC. 3. That section 1332 of title 28, United States Code, is amended by striking subsections (a) (2) and (3) and substituting in their place the following:

"(2) citizens of a State and citizens or subjects of a foreign state;

"(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and

"(4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizen of a State or of different States.".

SEC. 4. (a) That title 28, United States Code, is amended by inserting after chapter 95 the following new chapter:

"Chapter 97.—JURISDICTIONAL IMMUNITIES OF FOREIGN STATES

"Sec.
"1602. Findings and declaration of purpose.
"1603. Definitions.
"1604. Immunity of a foreign state from jurisdiction.
"1605. General exceptions to the jurisdictional immunity of a foreign state.
"1606. Claims involving the public debt.
"1607. Counterclaims.
"1608. Service of process; time to answer; default.
"1609. Immunity from attachment and execution of property of a foreign state.
"1610. Exceptions to the immunity from attachment or execution.
"1611. Certain types of property immune from execution.

"§ 1602. Findings and declaration of purpose

"The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

"§ 1603. Definitions

"For purposes of this chapter—

"(a) A 'foreign state', except as used in sections 1606 and 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

"(b) An 'agency and instrumentality of a foreign state' means any entity—

"(1) which is a separate legal person, corporation or otherwise, and

"(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

"(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (d) of this title, nor created under the laws of any third country.

"(c) The 'United States' includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

"(d) A 'commercial activity' means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

"(e) A 'commercial activity carried on in the United States by a foreign state' means commercial activity carried on by such state and having substantial contact with the United States.

"§ 1604. Immunity of a foreign state from jurisdiction

"Subject to existing and future international agreements to which the United States is a party a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

"§ 1605. General exceptions to the jurisdictional immunity of a foreign state.

"(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

"(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

"(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

"(3) in which rights in property taken in violation of international law are in issue and that property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

"(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue; or

"(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

"(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or.

"(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

"(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state: *Provided*, That—

"(1) notice of the suit is given by service of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; but such notice shall not be deemed to have been served, nor may it thereafter be served, if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit—unless the party was unaware that the vessel or cargo of a foreign state was involved, in which event the service of process of arrest shall be deemed to constitute valid service of such notice; and

"(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days of the service of process as provided in subsection (b)(1) of this section.

"Whenever notice is served under subsection (b)(1) of this section, the maritime lien shall thereafter be deemed to be an in personam claim against the foreign state which at that time owns the vessel or cargo involved: *Provided*, That a court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose, such value to be determined as of the time notice is served under subsection (b)(1) of this section.

"(c) As to any claim for relief with respect to which a foreign state is not entitled to immunity under this section or under section 1606 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state itself, as distinguished from a political subdivision thereof or from an agency or instrumentality of a foreign state, shall not be liable in tort for interest prior to judgment or for punitive damages; if, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

"§ 1606. Claims involving the public debt

"(a) For purposes of this section, a 'foreign state' shall not include a political subdivision of a foreign state or an agency or instrumentality of a foreign state.

"(b) Notwithstanding the provisions of section 1605 of this chapter, a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States in any case relating to debt obligations incurred for general governmental purposes unless—

"(1) the foreign state has waived its immunity explicitly, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver; or

"(2) the case arises under provisions codified as sections 77a through 80b–21 of title 15, United States Code, as amended, or any other statute which may hereafter be administered by the United States Securities and Exchange Commission.

### "§ 1607. Counterclaims

"In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

"(a) for which a foreign state would not be entitled to immunity under sections 1605 and 1606 of this chapter had such claim been brought in a separate action against the foreign state; or

"(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

"(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

### "§ 1608. Service of process; time to answer; default

"Subject to existing and future international agreements to which the United States is a party—

"(a) service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

"(1) by delivering a copy of the summons and of the complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivisions; or

"(2) if no special arrangement exists, and if service is reasonably calculated to give actual notice—

"(A) by service of a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, as directed by an authority of the foreign state or of the political subdivision in response to a letter rogatory or request, or

"(B) by sending a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the official in charge of the foreign affairs of the foreign state which is, or whose political subdivision is, named in the complaint; or

"(3) if proof of service is not made within sixty days after service has been initiated under paragraph (1) or (2) of this subsection, and if—

"(A) the claim for relief arises out of an activity or act in the United States of a diplomatic or consular representative of the foreign state for which the foreign state is not immune from jurisdiction under section 1605 of this title, or

"(B) the foreign state uses diplomatic channels for service upon the United States or any other foreign state, or

"(C) the foreign state has not notified the Secretary of State prior to the institution of the proceeding in question that it prefers that service not be made through diplomatic channels, by sending two copies of the summons and of the complaint, together with a translation into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court, to the Secretary of State at Washington, District of Columbia, to the attention of the Director of Special Consular Services, and the Secretary shall send one copy through diplomatic channels to the foreign state and shall send a certified copy of the diplomatic note to the clerk of the court in which the action is pending. The Secretary shall maintain and publish in the Federal Register a list of foreign states upon which service may be made under subparagraphs (B) and (C) of this paragraph, and such list shall be conclusive for purposes of subparagraphs (B) and (C);

"(b) service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

"(1) by delivering a copy of the summons and of the complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

"(2) if no special arrangement exists, by delivering a copy of the summons and of the complaint to an officer, a managing or general agent or to any other agent authorized by appointment or by law to receive service of process in the United States; or

"(3) if service cannot be made under paragraph (1) or (2) of this subsection, and if service is reasonably calculated to give actual notice—

"(A) by service of a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, as directed by an authority of the foreign state or of a political subdivision in response to a letter rogatory or request, or

"(B) by sending a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

"(C) as directed by order of the court consistent with the law of the place where service is to be made;

"(c) for the purposes of this section, service of process shall be deemed to have been made—

"(1) in the case of subsections (a)(1) and (b)(1), when delivered in accordance with the terms of the special arrangement;

"(2) in the case of subsections (a)(2)(B) and (b)(3)(A), when delivered as directed by an authority of the foreign state or political subdivision,

"(3) in the case of subsections (a)(2)(B) and (b)(3)(B), when received abroad by mail, as evidenced by the returned, signed receipt;

"(4) in the case of subsection (b)(2), when delivered to an officer, managing or general agent or appointed agent in the United States;

"(5) in the case of subsection (a)(3), when sent through diplomatic channels, as evidenced by a certified copy of the diplomatic note of transmittal;

"(6) in the case of subsection (b)(3)(C), when served as directed by order of the court;

"(d) in any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint or to a cross-claim, or a reply to a counterclaim, within sixty days after the service of the pleading in which a claim is asserted, and

"(c) no judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service of process in this section.

### "§ 1609. Immunity from attachment and execution of property of a foreign state

"Subject to existing and future international agreements to which the United States is a party the property in the United States of a foreign state shall be immune from attachment and from execution except as provided in sections 1610 and 1611 of this chapter.

### "§ 1610. Exceptions to the immunity from attachment or execution

"(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

"(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

"(2) the property is or was used for the commercial activity upon which the claim is based, or

"(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

"(4) the execution relates to a judgment establishing rights in property—

"(A) which is acquired by succession or gift, or

"(B) which is immovable and situated in the United States: *Provided*, That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

"(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment.

"(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

"(1) the agency or instrumentality has waived its immunity from attachment in aid of execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

"(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605(a) (2), (3), or (5), or 1605(b) of this chapter, regardless of whether the property is or was used for the activity upon which the claim is based.

"(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

"(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section, if—

"(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

"(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

"§ 1611. Certain types of property immune from execution

"(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

"(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution, if—

"(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution, notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

"(2) the property is, or is intended to be, used in connection with a military activity and

"(A) is of a military character, or

"(B) is under the control of a military authority or defense agency."

(b) That the analysis of "PART IV.—JURISDICTION AND VENUE" of title 28, United State Code, is amended by inserting after—

"95. Customs Court.",

the following new item:

"97. Jurisdictional Immunities of Foreign States.".

SEC. 5. That section 1391 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) A civil action against a foreign state as defined in section 1603(a) of this title may be brought—

"(1) in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated;

"(2) in any judicial district in which the vessel or cargo of a foreign state is situated, if the claim is asserted under section 1605(b) of this title;

"(3) in any judicial district in which the agency or instrumentality is licensed to do business or is doing business, if the action is brought against an agency or instrumentality of a foreign state as defined in section 1603(b) of this title; or

"(4) in the United States District Court for the District of Columbia if the action is brought against a foreign state or political subdivision thereof.

SEC. 6. That section 1441 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown.".

SEC. 7. If any provision of this Act or the application thereof to any foreign state is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SEC. 8. This Act shall take effect ninety days after the date of its enactment.

### COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 1, line 4: Strike "1975" and insert "1976".

Page 2, lines 11 and 12: Strike "of process."

Page 3, following line 13: Strike "1606. Claims involving the public debt." and insert "1606. Extent of liability.", and strike "1068. Service of process; time to answer; default." and insert "1608. Service; time to answer; default."

Page 4, line 16: Strike "and" and insert "or."

Page 4, lines 12 and 13: Strike "sections 1606 and" and insert "section".

Page 5, line 19: Strike "and future."

Page 5, line 20: After "party" insert "at the time of enactment of this Act".

Page 8, line 5: Strike "service" and insert "delivery."

Page 8, line 9: Strike "served," and insert "delivered,".

Page 8, line 10: Strike "served" and insert "delivered."

Page 8, line 15: Strike "service" and insert "delivery."

Page 8, line 18: After "days" insert "either."

Page 8, line 18: Strike "service of process" and insert "delivery of notice."

Page 8, line 19: After "section" insert "or, in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest."

Page 8, line 20: Strike "served" and insert "delivered."

Page 9, after line 3: Insert "§ 1606. Extent of Liability."

Page 9, line 4: Strike "(c)".

Page 9, lines 5 and 6: Strike "this section or under section 1606" and insert "section 1605".

Page 9, lines 9 and 10: Strike "itself, as distinguished from a political subdivision thereof or from" and insert "except for."

Page 9, line 10: After "instrumentality" insert "thereof."

Page 9, lines 10, 11, and 12: Strike "of a foreign state, shall not be liable in tort for interest prior to judgment or" and insert "shall not be liable."

Page 9, lines 20 through 25 and page 10 lines 1 through 12: Strike:

"§ 1606. Claims involving the public debt

"(a) For purposes of this section, a 'foreign state' shall not include a political subdivision of a foreign state or an agency or instrumentality of a foreign state.

"(b) Notwithstanding the provisions of section 1605 of this chapter, a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States in any case relating to debt obligations incurred for general governmental purposes unless—

"(1) the foreign state has waived its immunity explicitly, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver; or

"(2) the case arises under provisions codified as section 77a through 80b–21 of title 15, United States Code, as amended, or any other statute which may hereafter be administered by the United States Securities and Exchange Commission.

Page 10, line 19: Strike "sections 1605 and 1606" and insert "section 1605".

Page 11, line 3: strike "of process".

Page 11, lines 4 through 25; page 12, lines 1 through 25; page 13, lines 1 through 25; page 14, lines 1 through 24; page 15, lines 1 through 24; page 16, lines 1 through 9; strike:

"Subject to existing and future international agreements to which the United States is a party—

"(a) service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

"(1) by delivering a copy of the summons and of the complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

"(2) if no special arrangement exists, and if service is reasonably calculated to give actual notice—

"(A) by service of a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, as directed by an authority of the foreign state or of the political subdivision in response to a letter rogatory or request, or

"(B) by sending a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, by any form of mail requiring a signed receipt to be addressed and dispatched by the clerk of the court to the official in charge of the foreign affairs of the foreign state which is, or whose political subdivision is, named in the complaint; or

"(3) if proof of service is not made within sixty days after service has been initiated under paragraph (1) or (2) of this subsection, and if—

"(A) the claim for relief arises out of an activity or act in the United States of a diplomatic or consular representative of the foreign state for which the foreign state is not immune from jurisdiction under section 1605 of this title, or

"(B) the foreign state uses diplomatic channels for service upon the United States or any other foreign state, or

"(C) the foreign state has not notified the Secretary of State prior to the institution of the proceeding in question that it prefers that service not be made through diplomatic channels,

by sending two copies of the summons and of the complaint, together with a translation into the official language of the foreign state, by any form of mail requiring a signed receipt to be addressed and dispatched by the clerk of the court, to the Secretary of State at Washington, District of Columbia, to the attention of the Director of Special Consular Services, and the Secretary shall send one copy through diplomatic channels to the foreign state and shall send a certified copy of the diplomatic note to the clerk of the court in which the action is pending. The Secretary shall maintain and publish in the Federal Register a list of foreign states upon which service may be made under subparagraphs (B) and (C) of this paragraph, and such list shall be conclusive for purposes of subparagraphs (B) and (C);

"(b) service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

"(1) by delivering a copy of the summons and of the complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

"(2) if no special arrangement exists, by delivering a copy of the summons and of the complaint to an officer, a managing or general agent or to any other agent authorized by appointment or by law to receive service of process in the United States; or

"(3) if service cannot be made under paragraph (1) or (2) of this subsection, and if service is reasonably calculated to give actual notice—

"(A) by service of a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, as directed by an authority of the foreign state or of a political subdivision in response to a letter rogatory or request, or

"(B) by sending a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

"(C) as directed by order of the court consistent with the law of the place where service is to be made;

"(c) for the purposes of this section, service of process shall be deemed to have been made—

"(1) in the case of subsections (a)(1) and (b)(1), when delivered in accordance with the terms of the special arrangement;

"(2) in the case of subsections (a)(2)(A) and (b)(3)(A), when delivered as directed by an authority of the foreign state or political subdivision;

"(3) in the case of subsections (a)(2)(B) and (b)(3)(B), when received abroad by mail, as evidenced by the return, signed receipt;

"(4) in the case of subsection (b)(2), when delivered to an officer, managing or general agent or appointed agent in the United States;

"(5) in the case of subsection (a)(3), when sent through diplomatic channels, as evidenced by a certified copy of the diplomatic note of transmittal;

"(6) in the case of subsection (b)(3)(C), when served as directed by order of the court;

"(d) in any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint or to a cross-claim, or a reply to a counterclaim, within sixty days after the service of the pleading in which a claim is asserted; and

"(e) no judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service of process in this section."

and insert:

"(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraphs (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a 'notice of suit' shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of State by regulation.

(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent or to any other agent authorized by appointment or by law to receive service of process in the United States; or in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraphs (1) or (2), and if reasonably calculated to give actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request, or

(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

(C) as directed by order of the court consistent with the law of the place where service is to be made.

(c) Service shall be deemed to have been made—

(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section.

Page 16, line 12: Strike "and future".

Page 16, line 13: After "party" insert "at the time of enactment of this Act".

Page 16, line 15: Strike "and from" and insert "arrest and".

Page 20, line 1: Strike "impending" and insert "impeding".

Mr. DANIELSON (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read, printed in the RECORD, and considered en bloc.

The SPEAKER pro tempore. (Mr. McFALL). Is there objection to the request of the gentleman from California?

There was no objection.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks and that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

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## VETERANS OMNIBUS HEALTH CARE ACT OF 1976

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2735) to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Veterans Omnibus Health Care Act of 1976".

### TITLE I—GENERAL VETERANS HEALTH CARE AND DEPARTMENT OF MEDICINE AND SURGERY AMENDMENTS

SEC. 101. Section 111 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "pursuant to the provisions of this section" after "President"; and

(2) inserting at the end of such section the following new subsection:

"(e)(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative models of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and, based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

"(2) In no event shall payment be provided under this section—

"(A) unless the person claiming reimbursement has been determined, based on an annual declaration and certification by such person, to be unable to defray the expenses of such travel (except with respect to a veteran receiving benefits for or in connection with a service-connected disability under this title);

"(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

"(C) in excess of the actual expense incurred by such person as certified in writing by such person.

"(3) In conducting investigations and determining rates under this section, the Administrator shall review and analyze, among other factors, the following factors:

"(A)(i) Depreciation of original vehicle costs;

"(ii) gasoline and oil costs;

"(iii) maintenance, accessories, parts, and tires costs;

"(iv) insurance costs; and

"(v) State and Federal taxes.

"(B) The availability of and time required for public transportation.

"(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

"(4) Before determining rates under this section, and not later than sixty days after the date of the enactment of this subsection, and thereafter not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsetcion, the Administrator shall publish in the Federal Register and submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates the Administrator proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section. The justification provided under this paragraph shall specify the extent to which and the full reasons why the proposed rates would differ from the rates in effect under sections 5702 and 5704 of title 5 for employees of the United States traveling on official business.".

SEC. 102. Section 601 of title 38, United States Code, is amended by—

(1) amending paragraph (5) by striking out in clause (B) all after "training" and inserting in lieu thereof "for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title; and";

(2) amending paragraph (6) to read as follows:

"(6) The term 'medical services' includes, in addition to medical examination, treatment, and rehabilitative services—

"(A)(i) surgical services, dental services and appliances as authorized in section 612 (b), (c), (d), and (e) of this title, optometric and podiatric services, and (except under the conditions described in section 612 (f)(1)(A) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services (including the maintenance of patient drug profiles, patient drug monitoring (and drug utilization education) as the Administrator determines to be reasonable and necessary, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and

"(B) such—

"(i) consultation, professional counseling, and training, and

"(ii) mental health services in connection with the treatment of (I) the service-connected disability of a veteran pursuant to section 612(a), or the readjustment problem of a veteran pursuant to section 612A, of this title, and (II) in the discretion of the Administrator, other disabilities related to the mental health of a veteran pursuant to section 612(f)(1)(B) of this title where such services were initiated during the veteran's hospitalization.

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, necessary expenses of travel and subsistence of such family member or individual in the case of a veteran who is receiving care for a service-connected disability or in the base of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.";

(3) amending paragraph (7) to read as follows:

"(7) The term 'domiciliary care' includes necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title."; and

(4) inserting at the end of such section the following new paragraph:

"(8) The term 'rehabilitative services' means such professional, counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provided under chapter 31 of this title) as are necessary to restore the physical, mental, and psychological functioning of an ill or disabled person.".

SEC. 103. (a) Subchapter I of chapter 17 of title 38, United States Code, is amended by inserting after section 602 the following new section:

"§ 603. Presumption relating to internment as prisoner of war

"For the purposes of this chapter, the disability of any veteran who was for more than six months a prisoner of war, as provided in section 312(c) of this title, shall be deemed to have been incurred in the active military, naval, or air service if such disability, on the basis of sound medical judgment, could be attributable to or aggravated by the internment of such veteran as a prisoner of war unless the Administrator finds, on the basis of clear and convincing evidence, that the disability was not attributable to or aggravated by such internment.".

(b) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting

"603. Presumption relating to internment as prisoner of war."

below

"602. Presumption relating to psychosis.".

SEC. 104. (a) Section 612 of title 38, United States Code, is amended by—

(1) inserting after the first sentence of subsection (a) the following new sentence: "The Administrator may also furnish to any such veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations (or reimbursement for an appropriate portion of the cost thereof) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavatory and sanitary facilities, and the cost of which does not exceed the cost of the average period of hospitalization under section 610 of this title, as determined annually by the Administrator).";

(2) inserting in clause (4) of subsection (b) "(A)" after "disability" and inserting before the semicolon a comma and "or (B) for which such veteran is receiving treatment (not including routine dental care)";

(3) striking out "or" at the end of such clause (4); redesignating clause (5) as clause (6); and inserting after clause (4) in subsection (b) the following new clause (5):

"(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment; or";

(4) striking out "may also furnish" in subsection (f) and inserting in lieu thereof a comma and "within the limits of Veterans' Administration facilities, may furnish";

(5) inserting in clause (1)(A) of subsection (f) "(to the extent that facilities are available)" after "or" the first place it appears;

(6) inserting before the semicolon at the end of clause (1)(B) of subsection (f) "(for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds (i) that a longer period is required by virtue of the disability being treated, and (ii) with respect to private facilities for which the Administrator contracts, that alternative Federal reimbursement is not reasonably available to defray substantially the costs of such treatment)";

(7) striking out "80" and inserting in lieu thereof "50" in clause (2) of subsection (f);

(8) inserting at the end of subsection (f) the following new sentence: "The Administrator may also furnish to any such veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations (or reimbursement for an appropriate portion of the cost thereof) as are of a minor nature and are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities)."; and

(9) inserting at the end thereof the following new subsection:

"(i) Not later than ninety days after the date of enactment of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, except in the case of medical emergencies which pose a serious threat to life or health:

"(1) To any veteran for a service-connected disability.

"(2) To any veteran described in subsection (f)(2) of this section.

"(3) To any veteran with a disability rated as service-connected or eligible, by reason of section 612A of this title, for outpatient mental health services under section 612(f)(1)(B) of this title.

"(4) To any veteran being furnished medical services under subsection (g) of this section.".

(b) Not later than one year after the date of enactment of this section, and annually thereafter, the Administrator shall report to the Congress on the results of the regulations prescribed to carry out the amendment made by subsection (a)(9) of this section.

Sec. 105. (a) Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting after section 612 the following new section:

"§ 612A. Eligibility for readjustment professional counseling

"(a) The Administrator may furnish initial readjustment professional counseling (including a general mental and psychological assessment in connection therewith), and travel and incidental expenses pursuant to the provisions of section 111 of this title, for any veteran who served after August 4, 1964, and who requests assistance with readjustment problems within a period not to exceed four years after the date of such veteran's discharge or release from service, or two years after the date of the enactment of this section, whichever is later.

"(b) If, on the basis of initial counseling furnished under subsection (a) of this section, it is determined that the provision of mental health services is necessary to facilitate the successful readjustment of the veteran, such veteran shall be furnished such services on an outpatient basis as a part of medical services provided under the conditions specified in clause (1)(B) of section 612(f) of this title. For the purposes of furnishing such services, the counseling furnished under subsection (a) of this section shall be deemed to have been furnished as a part of hospital care. Any hospital care and other medical services deemed necessary as a result of such initial counseling shall be furnished in accordance with the eligibility criteria otherwise set forth in this chapter (including section 611(b) thereof), and where a particular veteran is not eligible for necessary care or services, the Administrator shall provide referral services to assure, to the maximum extent practicable, that such care or services are provided from sources outside the Veterans' Administration.

"(c) The Chief Medical Director shall provide for such training of professional, paraprofessional, and lay personnel as is necessary to carry out this section effectively, and shall make maximum utilization of the services of paraprofessionals, voluntary (without compensation) workers, and veteran students (under section 1685 of this title) in initial intake and screening activities.

"(d) The Administrator, in cooperation with the Secretary of Defense, shall take appropriate action, as provided in section 241 of this title, to ensure that all veterans eligible for assistance under this section are advised of their eligibility for such assistance and are encouraged to take full advantage thereof.".

(b) The table of sections at the beginning of such chapter is amended by inserting

"612A. Eligibility for readjustment professional counseling."

below

"612. Eligibility for medical treatment.".

Sec. 106. Subsection (a) of section 613 of title 38, United States Code, is amended by amending clause (2) to read as follows:

"(2) the widow or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability.".

Sec. 107. (a) Section 618 of title 38, United States Code, is amended by—

(1) striking out "The" in the first sentence and inserting in lieu thereof "(a) In providing rehabilitative services under this chapter, the";

(2) striking out "hospitals and domiciliaries" and inserting in lieu thereof "health care facilities"; and

(3) inserting below subsection (a) (as redesignated by clause (1) of this subsection) the following new subsections:

"(b)(1) In furnishing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may enter into arrangements with private industry or other sources outside the Veterans' Administration to provide for therapeutic work for remuneration for patients and members in Veterans' Administration health care facilities.

"(2) Notwithstanding any other provision of law, the Administrator may also furnish rehabilitative services under this subsection through arrangements with nonprofit entities to provide for such therapeutic work for such patients. The Administrator shall establish appropriate fiscal, accounting, management, recordkeeping, and reporting requirements with respect to the activities of any such nonprofit entity in connection with such arrangements.

"(c)(1) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund (hereinafter called the 'fund') for the purpose of carrying out the provisions of subsection (b) of this section. Such amounts of the fund as the Administrator may determine to be necessary to establish and maintain operating accounts for the various rehabilitative services activities may be deposited in checking accounts in other depositaries selected or established by the Administrator.

"(2) All funds received by the Veterans' Administration under arrangements made under subsection (b) of this section, or by nonprofit entities described in paragraph (2) of such subsection, shall be deposited in or credited to the fund, and the Administrator shall pay out of the fund moneys to participants at rates not less than the wage rates specified in the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and regulations prescribed thereunder for work of similar character.

"(3) In connection with the establishment and operation of the fund, the Administrator shall transfer to the fund not to exceed $2,000,000 from funds appropriated for the medical care of veterans. Any balance in the fund at the end of each fiscal year in excess of the estimated requirements for the ensuing two fiscal years shall be credited to that medical care appropriation.

"(4) The Chief Medical Director shall prepare, for inclusion in the annual report submitted to Congress under section 214 of this title, a description of the scope and achievements of activities carried out under this section (including pertinent data regarding productivity and wage rates) during the prior twelve months and an estimate of the needs of the program of therapeutic and rehabilitation activities to be carried out under this section for the ensuing fiscal year.

"(d) In providing rehabilitative services under this chapter, the Administrator shall take appropriate action to make it possible for the patient to take maximum advantage of any benefits to which such patient is entitled under chapter 31, 34, or 35 of this title, and, if the patient is still receiving treatment of a prolonged nature under this chapter, the provision of rehabilitative services under this chapter shall be continued during, and coordinated with, the pursuit of education and training under such chapter 31, 34, or 35.

"(e) The Administrator shall prescribe regulations to insure that the priorities set forth in section 612(1) of this title shall be applied, insofar as practicable, to participation in therapeutic and rehabilitation activities carried out under this section.".

(b)(1) The Administrator is authorized to settle claims made by the Veterans' Administration against any private nonprofit corporation organized under the laws of any State, for the use of Veterans' Administration facilities and personnel in work projects as a part of a therapeutic or rehabilitation program for patients and members in Veterans' Administration health care facilities, and to execute a binding release of all claims by the United States against any such corporation, in such amounts, and upon such terms and conditions as the Administrator deems appropriate.

(2) For the purposes of this subsection, notwithstanding section 484 of title 31, or any other provision of law, the Administrator may utilize any funds received under any settlement made pursuant to paragraph (1) of this subsection for any purpose agreed upon by the Administrator and such corporation.

Sec. 108. Section 620 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "and except as provided in subsection (e)" after "subsection (b)";

(2) striking out "40 per centum" and inserting in lieu thereof "45 per centum" in clause (ii) of subsection (a);

(3) inserting before the period at the end of clause (ii) of subsection (a) a comma and "or not to exceed 50 per centum of such cost where determined necessary by the Administrator, upon recommendation of the Chief Medical Director, to provide adequate care";

(4) amending the first sentence of subsection (d) by—

(A) inserting "(1)" after "care" the first time it appears in such sentence; and

(B) inserting after "disability" a comma and "or (2) in the discretion of the Administrator in accordance with the priorities described in section 612(1), for a non-service-connected disability,"; and

(5) inserting at the end thereof the following new subsection:

"(e) For the purposes of this section, the term 'nursing home care' includes intermediate care, as determined by the Administrator in accordance with regulations which the Administrator shall prescribe. The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a)(ii) of this section shall be determined by the Administrator except that the rate of reimbursement shall be commensurately less than that provided for nursing home care (as defined in section 101(28) of this title).".

Sec. 109. (a) Subchapter V of chapter 17 of title 38, United States Code, is amended by—

(1) striking out the semicolon and all thereafter in section 641 and inserting in lieu thereof a period and the following new sentences: "No payment shall be made with respect to any veteran under this section in excess of one-half of the cost of the veterans' care in such State home. For the purposes of this section and consistent with the limitation in the preceding sentence, the Administrator shall apply the definition of nursing home care set forth in section 5031(5) of this title with respect to determining the rate of per diem payable for any veteran receiving care in a State home in any State described in such section."; and

(2) amending section 642 by inserting at the end of subsection (a) the following new sentence: "No payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of this title.".

(b) Subchapter III of chapter 81 of title 38, United States Code, is amended by—

(1) amending section 5031 by—

(A) redesignating paragraphs (a), (b), (c), and (d) as (1), (2), (3), and (4), respectively, and inserting after "buildings" the second place it appears in paragraph (3) (as so redesignated) "(including buildings not presently used for providing nursing home care)"; and

(B) inserting at the end thereof the following new paragraph:

"(5) The term 'nursing home care' shall be deemed to include domiciliary care provided in any State in which no Veterans' Administration hospital or domiciliary facility is located.".

(2) Section 5034 is amended by—

(A) striking out "subchapter" the first place it appears and inserting in lieu thereof "section or any amendment to it with respect to such amendment"; and

(B) inserting at the end thereof the following new clause:

"(3) General standards for the furnishing of nursing home care in facilities which are constructed with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Administrator pursuant to section 620(b) of this title, except that facilities constructed with assistance received under this subchapter pursuant to the definition in section 5031(5) of this title shall meet such standards as the Administrator shall prescribe. The Administrator may inspect any State facility constructed with assistance received under this subchapter at such times as the Administrator deems necessary to ensure that such facility meets such standards.".

(3) Section 5035 is amended by—

(A) inserting at the end of clause (4) of subsection (a) "subject to the provisions of subsection (c)(1) of this section,"; and

(B) redesignating subsection (c) as paragraph (2) and inserting above such redesignated paragraph the following:

"(c)(1) The Administrator shall waive requirements set forth in subsection (a)(4) of this section in the case of an application from any State described in section 5031(5) of this title to the extent that such State provides reasonable assurance that the portion of the facility constructed with assistance received under this subchapter will be used principally for veterans and that not more than such proportion as the Administrator shall deem reasonable (not more than 50 per centum) of the bed occupancy at any one time will consist of patients who are not receiving care as veterans.".

SEC. 110. (a) Chapter 17 of title 38, United States Code, is amended by inserting at the end thereof the following new subchapter:

### "Subchapter VII—Preventive Health Care Program

### "§ 660. Purpose

"The purpose of this subchapter is to provide for a preventive health care program under which the Administrator (1) shall attempt to ensure the best possible health care for veterans with service-connected disabilities by furnishing them feasible and appropriate preventive health care services, and (2) may, in connection therewith, carry out a pilot program (including research) on a geographical or other basis to determine the cost-effectiveness and medical advantages of furnishing preventive health care services to veterans with service-connected disabilities.

### "§ 661. Definition

"For the purposes of this subchapter, the term 'preventive health care services' may include, but is not limited to, periodic medical and dental examinations; patient health education (including nutrition education); maintenance of drug use profiles, patient drug monitoring, and drug utilization education; mental health preventive services (including family counseling); substance (including tobacco) abuse prevention measures; immunizations against infectious disease; prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature; genetic counseling concerning inheritance of genetically determined diseases; routine vision testing and eye care services; periodic reexamination of likely target populations (high-risk groups) for selected diseases and for functional decline of sensory organs, together with attendant appropriate remedial intervention; and such other medical services as may be necessary for providing effective and economical preventive health care.

### "§ 662. Preventive health care services; pilot program

"(a)(1) The Administrator, in accordance with regulations which the Administrator shall prescribe, may furnish, on an inpatient, outpatient, or ambulatory basis, nationally or geographically, such preventive health care services as the Administrator determines are feasible and appropriate to any veteran in connection with the treatment of a service-connected disability under this chapter and to any veteran described in section 612(f)(2) of this title.

"(2) In connection with preventive health care services furnished under paragraph (1) of this subsection, the Administrator, in accordance with regulations which the Administrator shall prescribe, may institute appropriate controls and carry out followup studies (including research) to demonstrate the medical advantages and cost-effectiveness of furnishing such preventive health care services.

"(b)(1) The Administrator shall provide for the planning, design, and conduct of a health maintenance pilot program to demonstrate the medical advantages and cost-effectiveness of furnishing, in accordance with the priorities specified in section 612(i) of this title, comprehensive preventive health care services to veterans with service-connected disabilities. Such pilot program shall be undertaken as a controlled scientifically valid study involving not to exceed 10,000 veterans (including control groups) and shall be initiated on October 1, 1977.

"(2) The Administrator may not furnish comprehensive preventive health care services under paragraph (1) of this subsection after the last day of the tenth fiscal year following the fiscal year in which the pilot program is initiated.

"(c) In carrying out the preventive health care program provided for in this subchapter, the Administrator shall emphasize the utilization of interdisciplinary health care teams composed, to the maximum extent feasible, of various professional and paraprofessional personnel, such as public health nurses, psychologists, optometrists, technicians, physician assistants, and expanded-function dental auxiliaries.

"(d) In order to assist the Secretary of Health, Education, and Welfare in carrying out national immunization programs pursuant to other provisions of law, the Administrator may authorize the administration of immunizations to eligible veterans in connection with the provision of care for a disability under this chapter in any Veterans' Administration health care facility, utilizing vaccine furnished by the Secretary at no cost to the Veterans' Administration, and for such purpose, notwithstanding any other provision of law, the Secretary is authorized to provide such vaccine to the Veterans' Administration at no cost and the provisions of section 4116 of this title shall apply to claims alleging negligence or malpractice on the part of Veterans' Administration personnel granted immunity under such section.

### "§ 663. Reports

"The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator deems necessary.".

(b) The table of sections at the beginning of such chapter is amended by inserting at the end thereof the following:

"SUBCHAPTER VII—PREVENTIVE HEALTH CARE PROGRAM

"660. Purpose.
"661. Definition.
"662. Preventive health care services; pilot program.
"663. Reports.".

(c) Except with respect to the pilot program provided for in subsection (b) of section 662 (as amended by subsection (a) of this section) of title 38, United States Code, the amendments made by subsection (a) of this section shall be effective, with respect to services furnished, on and after January 1, 1977.

SEC. 111. Subsection (e) of section 1903 of title 38, United States Code, is amended by—

(1) striking out "or member of the Armed Forces" and inserting such language after "title" in paragraph (1); and

(2) inserting at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, the Administrator may obtain, by purchase, lease, gift, or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to carry out the purposes of this subsection, and may sell, assign, transfer, or convey any such automobile, vehicle, or conveyance to which the Veterans' Administration obtains title for such price and upon such terms as the Administrator deems appropriate; and any proceeds received from any such disposition shall be credited to the applicable Veterans' Administration appropriation.".

SEC. 112. (a) Subchapter I of chapter 73 of title 38, United States Code, is amended by—

(1) amending subsection (b) of section 4106 to read as follows:

"(b)(1) Appointments under section 4104 (1) of this title shall be for a probationary period of two years, and the record of each person serving under any such appointment shall be reviewed periodically by a board composed of employees appointed under this chapter, whose grades are comparable to or higher than the grade of the employee being reviewed, selected in accordance with regulations which the Administrator shall prescribe. If such board finds any probationary employee not fully qualified and satisfactory for reasons relating to professional competence or performance, such employee's probationary appointment may be terminated, such employee may be reassigned, or such employee may be subject to other nondisciplinary action consistent with continuing the employment of such employee in a capacity in which such employee can effectively function, in accordance with the procedures prescribed in paragraphs (2) and (3) of this subsection.

"(2) When it is proposed to take any action described in the second sentence of paragraph (1) of this subsection with respect to a probationary employee, such employee shall be entitled, before any such action is taken, to (A) a statement in writing of the reasons therefor and of any proposed finding with respect to professional competence or performance, (B) an opportunity to reply orally or in writing, or both, and (C) the assistance of any person of the employee's choice (not at Government expense) with regard to such reply.

"(3) If a board recommends that any action described in the second sentence of paragraph (1) of this subsection be taken, any such action shall be taken in accordance with the procedures prescribed in section 4110(e) of this title.

"(4) When it is proposed to take disciplinary action against a probationary employee on grounds which constitute misconduct or would result in stigma, such employee shall be entitled, before any such action is taken, to the disciplinary board procedures prescribed in section 4110 of this title.";

(2) amending section 4110 to read as follows:

"§ 4110. Disciplinary boards

"(a) When it is proposed to take disciplinary action for such cause (including inaptitude, ineffectiveness, or misconduct) as will promote the efficiency of the service against any person appointed under section 4104(1) of this title who has completed the probationary period provided for in section 4106(b) of this title, or when it is proposed to take disciplinary action on grounds which constitute misconduct or would result in stigma against an employee appointed under (or identified in) section 4104(1) of this title who has not completed such probationary period (including part-time, temporary full-time, and intermittent employees appointed under section 4114(a) of this title and serving in positions identified in such section 4104(1), or a resident or intern appointed under section 4114(b) of this title), the Chief Medical Director shall cause to be appointed a disciplinary board. Such board shall hear and review charges on the basis of which disciplinary action is proposed and make findings and recommendations thereon, and shall operate in accordance with regulations which the Administrator shall prescribe pursuant to the provisions of this section. No discipliary action shall be taken against any such employee until a final agency decision on such proposed action has been made.

"(b) Each such board shall consist of not less than three nor more than five employees appointed under this chapter, whose grades are comparable to or higher than the grade of the employee charged, and a majority of whom are of the same profession as such employee. The members of the board shall be selected by the Chief Medical Director in accordance with regulations which the Administrator shall prescribe.

"(c) The Chief Medical Director shall appoint the chairman of the board who shall be a member of the same profession as the employee charged. A member of the board shall be elected as secretary by a majority of the board. The chairman and secretary shall have authority to administer oaths to persons testifying before the board. The Chief Medical Director may designate or appoint one or more investigators to assist the board in the collection of evidence, and counsel may be designated to represent the Veterans' Administration.

"(d) Any employee answering to charges before a disciplinary board shall be entitled to (1) specification of charges, (2) a full hearing with opportunity to produce supportive witnesses and confront and cross-examine available witnesses, and (3) representation by a person of the employee's choice (not at Government expense) throughout the procedure prescribed in this section.

"(e) If a disciplinary board determines that any charge is sustained, it shall recommend to the Chief Medical Director such disciplinary action as it deems appropriate with respect to such charge, which may include, but is not limited to, reprimand, suspension without pay, reassignment, reduction in grade, and separation. The Chief Medical Director shall either (1) approve the findings and recommendation of the board, (2) approve such findings and recommendation with modification of the recommendation or exception to any finding, or (3) disagree with such findings and recommendation, as to such charge. The Chief Medical Director shall make a final decision in writing on the matter under consideration (stating the reasons for such decision, for any modification of or disagreement with any board recommendation, and for any exception to any board finding), shall provide the employee with such written decision, and shall take appropriate action to effectuate such decision. In the event the Chief Medical Director proposes to take exception to a finding or modify a recommendation of the board, the Chief Medical Director may refer the matter to the board for reconsideration; if after such reconsideration by the board, the Chief Medical Director continues to take exception to any of its findings or to disagree with its recommendation, or both, the Chief Medical Director may make an independent review of the record before making a final decision under this section. The decision of the Chief Medical Director shall be the final agency decision.

"(f) The Chief Medical Director may, as disciplinary action under subsection (e) of this section, order the reassignment of any employee charged under this section. The Chief Medical Director may also reassign an employee for the good of the service and such reassignment shall not, in itself, entitle such employee to the disciplinary board procedures prescribed in this section. When such a reassignment for the good of the service would result in the reduction in grade, salary, or relative standing in the Department of Medicine and Surgery of an employee who has completed the probationary period prescribed by section 4106(b) of this title, such employee shall be entitled, before any such reassignment is effectuated, to the disciplinary board procedures prescribed in this section. When an employee alleges that a reassignment proposed for the good of the service is disciplinary in nature, the employee shall be entitled, before any such reassignment is effectuated, to attempt to sustain such allegation through the procedures prescribed by the Administrator to determine employee grievances. If such allegation is sustained in such grievance procedure, the employee shall be entitled, before any such disciplinary action is taken, to the disciplinary board procedures prescribed in this section. For the purposes of this section, the term 'reassignment' means the transfer of an employee from one duty station to another or from one set of responsibilities to another, within the Department of Medicine and Surgery."; and

(3) amending subsection (b) of section 4114 by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting below paragraph (1) the following new paragraph (2):

"(2) In order to carry out the purposes of paragraph (1) of this subsection, the Chief Medical Director shall cause to be appointed, in accordance with regulations which the Administrator shall prescribe, House Staff Review Committees to review periodically the academic and professional performance and progress of persons appointed under paragraph (1) of this subsection. When it is proposed to take any action, such as reduction in grade, suspension without pay, or separation, with respect to a person appointed under such paragraph for reasons relating to professional or academic competence or performance, such person shall be entitled, before any such action is taken, to (A) a statement in writing of the reasons therefor and of any proposed finding with respect to professional or academic competence or performance, and (B) an opportunity to reply orally or in writing, or both, to the House Staff Review Committee. When it is proposed to take any such action with respect to a person appointed under paragraph (1) of this subsection on grounds which constitute misconduct or would result in stigma, such person shall be entitled, before any such action is effectuated, to the disciplinary board procedures prescribed in section 4110 of this title.".

(b) The amendment made by subsection (a) of this section with respect to the period of probationary service under section 4106 of title 38, United States Code, shall become effective as to probationary employees—

(1) one hundred and eighty days after the date of enactment of this Act, for those who on such enactment date have served eighteen months or more of their probationary period; or

(2) upon such enactment date for those who, on such date, have served less than eighteen months of their probationary period.

Sec. 113. Subchapter 1 of chapter 73 of title 38, United States Code, is further amended by—

(1) inserting at the end of section 4107 thereof the following new subsection:

"(g) When the Administrator finds such action to be necessary in order to obtain or retain the services of health care personnel to provide hospital care and medical services for veterans, the Administrator, notwithstanding any other provision of law, shall increase, on a nationwide basis, the minimum or maximum rates of basic pay authorized under this chapter or title 5 for one or more grades or for one or more medical, dental, or health care fields within the grades, to (1) provide rates of basic pay commensurate with competive pay practices in the same occpuation or in order to achieve internal alignment of rates of basic pay within the Department of Medicine and Surgery, or (2) meet staffing requirements at Veterans' Administration facilities. Any such increase in the minimum rate of basic pay for any grade may not exceed the maximum rate prescribed pursuant to law for such grade. Any such increase in the maximum rate of basic pay for any grade may not exceed in corresponding amount, the rate provided for in the statutory range for that grade, subject to the limitation on the rate of basic pay fixed by administrative action set forth in section 5363 of title 5."; and

(2) inserting "(which may be established retroactively based on changes in such customary amount and terms)" after "pay" in subsection (b)(1) of section 4114.

Sec. 114. Subchapter I of chapter 73 of title 38, United States Code, is further amended by—

(1) inserting in section 4102 "a Podiatric Service, an Optometric Service," after "Dental Service,";

(2) striking out "and a Director of Optometry, appointed by the Administrator," and inserting in lieu thereof "a Director of Podiatric Service, and a Director of Optometric Service, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of their respective Services." in clause (7) of subsection (a) of section 4103;

(3) amending section 4104 by—

(A) inserting "podiatrists, optometrists," after "dentists," in clause (1); and

(B) striking out "optometrists," in clause (2);

(4) redesignating clauses (5), (6), (7), and (8) in subsection (a) of section 4105 as clauses (6), (7), (8), and (9), respectively, and inserting after clause (4) the following new clause:

"(5) Podiatrist—

"hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Administrator, and be licensed to practice podiatry in a State;";

(5) inserting "podiatrists, optometrists," after "dentists," in subsections (a) and (c) and inserting "podiatrist, optometrist," after "dentist," in subsection (e) of section 4106:

(6) amending section 4107 by—

(A)(i) inserting in the SECTION 4103 SCHEDULE in subsection (a)

"Director of Podiatric Service, $36,338 minimum to $46,026 maximum."

immediately below

"Director of Nursing Service, $42,066 minimum to $47,674 maximum.";

(ii) striking out "Director of Optometry" and inserting in lieu thereof "Director of Optometric Service" in such schedule in such subsection; and

(B) inserting immediately below the NURSE SCHEDULE in paragraph (1) of subsection (b) the following new schedule:

### "CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade $31,309 minimum to $40,705 maximum.

"Senior grade, $26,861 minimum to $34,916 maximum.

"Intermediate grade, $22,906 minimum to $29,782 maximum.

"Full grade, $19,386 minimum to $25,200 maximum.

"Associate grade, $16,255 minimum to $21,133 maximum.";

(7) inserting "podiatrists, optometrists, after "dentists," and "podiatrist, optometrist" after "dentist," each place those words appear in the language preceding clause (1) and in subclause (B) of clause (6) of subsection (a) of section 4108;

(8) inserting "podiatric, optometric," after "dental," in subsection (a) of section 4112;

(9) inserting "podiatrists, optometrists," after "dentists," in section 4113;

(10) amending section 4114 by—

(A) inserting "podiatrists, optometrists," after "dentists," each place such term appears in paragraphs (1) (A) and (B) and (3) (A) and (B) of subsection (a); and

(B) striking out "or dentist" and inserting in lieu thereof a comma and "dentists, podiatrist, or optometrist" in the language preceding clause (1) of subsection (d) and in clause (1) of such subsection; (12) inserting "podiatrist, optometrist," after "dentist," each place such word appears in subsection (a) of section 4116; and

(12) amending section 4117 by—

(A) striking out "medical schools," and inserting in lieu thereof "schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing,"; and

(B) inserting "podiatrists, optometrists," after "dentists,".

SEC. 115. (a) Chapter 73 of title 38, United States Code, is amended by inserting at the end thereof the following new subchapter:

### "Subchapter III—Protection of Patient Rights

### "§ Informed consent

"The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of section 4134 of this title, shall prescribe regulations establishing procedures to ensure that all medical and prosthetic research carried out and, to the maximum extent practicable, all patient care furnished under this title shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof.

### "§ 4132. Confidentiality of certain medical records

"(a) Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, or sickle cell anemia which is carried out by or for the Veterans' Administration under this title shall, except as provided in subsection (e) of this section, be confidential, and (section 3301 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

"(b) (1) The content of any record referred to in subsection (a) of this section may be disclosed by the Administrator in accordance with the prior written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the Administrator pursuant to section 4134 of this title.

"(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed by the Administrator as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

"(C) If authorized by an appropriate order of a United States court of competent jurisdiction granted after application showing good cause therefore. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(3) In the event that the patient or subject who is the subject of any record referred to in subsection (a) of this section is deceased, the content of any such record may be disclosed by the Administrator only upon the prior written request of the next of kin, executor, administrator, or other personal representative of such patient or subject and only if the Administrator determines that such disclosure is necessary for such survivor to obtain benefits to which such survivor may be entitled, including the pursuit of legal action, but then only to the extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed pursuant to section 4134 of this title.

"(c) Except as authorized by a court order granted under subsection (b) (2) (C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against, or to conduct any invesigation of, a patient or subject.

"(d) The prohibitions of this section shall continue to apply to records concerning any person who has been a patient or subject, irrespective of whether or when such person ceases to be a patient.

"(e) The prohibitions of this section shall not prevent any interchange of records—

"(1) within and among those facilities of the Veterans' Administration furnishing health care to veterans, or

"(2) between such facilities and the Armed Forces.

"(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

### "§ 4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities

"Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any Veterans' Administration health care facility. The Administrator, pursuant to the provisions of section 4134 of this title, shall prescribe regulations for the enforcement of this nondiscrimination policy with respect to the admission and treatment of such eligible veterans who are alcohol or drug abusers.

### "§ 4134. Coordination; reports

"(a) Regulations prescribed pursuant to section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title, shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations governing—

"(1) human experimentation and informed consent prescribed by the Secretary of Health, Education, and Welfare, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act, as amended (Public Law 93-348); 88 Stat. 348), and

"(2) (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. 4551 et seq.), and the Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1101 et seq.),

to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title. Such regulations may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b) (2) (C) of this title) as are necessary to prevent circumvention or evasion thereof, or to facilitate compliance therewith. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary of Health, Education, and Welfare, and, as appropriate, the Director of the Office of Drug Abuse Policy (or any successor authority), in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they and the Administrator prescribe.

"(b) Not later than sixty days after the date of enactment of this subsection, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report with respect to the regulations (including guidelines, policies, and procedures thereunder) prescribed pursuant to subsection (a) of this section. Such report shall include (1) an explanation of any inconsistency between such regulations and the regulations of the Secretary referred to in such subsection (a); (2) an account of the extent, substance, and results of consultations with the Secretary (or Director, as appropriate) respecting the prescribing and implementation of the Administrator's regulations; and (3) such recommendations for legislation and administrative actions as the Administrator determines are necessary and desirable. The Administrator shall timely publish such report in the Federal Register.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

"4131 Informed consent.
"4132. Confidentiality of certain medical records.
"4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities.
"4134. Coordination; reports.".

(c) The following provisions of law are superseded by the provisions of the amendments to chapter 73 of title 38, United States Code, made by subsection (a) of this section:

(1) Paragraph (2) of subsection (b) of section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4581(b)(2)), as added by section 121 (a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 (Public Law 93–282; 88 Stat. 130).

(2) Paragraph (2) of subsection (b) of section 407 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1174(b)(2)), as amended by section 6(a) of the Act entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes", approved March 19, 1976 (Public Law 94–237; 90 Stat. 244–5).

(3) Subsection (h) of section 408 of such 1972 Act (21 U.S.C. 1175(h)), as amended by section 303(b)(2)(B) of such 1974 Act (88 Stat. 137).

(4) Subsection (h) of section 333 of such 1970 Act (42 U.S.C. 4582(h)), as amended by section 122(a) of such 1974 Act (88 Stat. 131).

(5) Subsection (b) of section 121 of such 1970 Act (88 Stat. 131).

(6) Subsection (b) of section 6 of the Act entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes", approved March 19, 1976 (90 Stat. 245).

(7) Subsection (c) of section 303 cf such 1974 Act (88 Stat. 139).

(8) Subsection (c) of section 122 of such 1974 Act (88 Stat. 133).

SEC. 116. (a) Subsection (a) of section 4118 of title 38, United States Code, is amended by—

(1) inserting "in professional or administrative positions or clinical research positions in the career development program" after "dentists" in paragraph (1); and

(2) inserting "professional and administrative" after "of" in paragraph (3).

(b) Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 89 Stat. 669) is amended by striking out "Octcber 11, 1976" and inserting in lieu thereof "June 30, 1977, or the expiration date of the authority contained in section 313 of title 37, United States Code, to provide special pay to physician medical officers in the uniformed services, whichever is later."

SEC. 117. Section 4123 is amended by adding at the end thereof the following new sentence: "Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.".

SEC. 118. Chapter 75 of title 38, United States Code, is amended by—

(1) amending section 4204 by—

(A) inserting "(a)" before "To"; and

(B) inserting at the end thereof the following new subsection:

"(b) Without regard to fiscal year limitations, obligations may be incurred against anticipated budgetary resources of the Service revolving fund in such amounts and for such periods as the Administrator may determine to be necessary to maintain and continue operations without incurring overobligations at any time during the fiscal year."; and

(2) amending section 4206 by—

(A) striking out "year" the first place it appears in the first sentence and the second place it appears in the second sentence and inserting in lieu thereof "five fiscal years"; and

(B) inserting at the end thereof the following new sentence: "In determining estimated requirements, the Service may provide for such capital improvements to canteen facilities, including those which are constructed and become a part of the building or structure, as may be approved by the Director of the Office of Management and Budget and included in the budget required to be submitted to Congress pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11).".

SEC. 119. Subsection (a)(3) of section 5001 of title 38, United States Code, is amended by striking out "eight thousands beds in the fiscal year ending June 30, 1974," and inserting in lieu thereof "ten thousand beds in fiscal year 1980".

SEC. 120. (a) Subchapter IV of chapter 81 of title 38, United States Code, is amended by—

(1) adding at the end of subsection (b) of section 5052 the following new sentence: "Such term also means emergency room medical resources which the Administrator determines are necessary for the treatment of veterans whose eligibility for medical services has been established under section 612(a) or 612(f)(1)(B) or (2) in medical emergencies which pose a serious threat to life or health but which would be unduly costly and duplicative to provide directly in a Veterans' Administration facility.";

(2) inserting at the end of section 5053 the following new subsection:

"(d) When a Veterans' Administration health care facility provides hospital care or medical services, pursuant to a contract or agreement authorized by this section, to an individual who is entitled to a hospital or medical insurance benefits under subchapter XVIII of chapter 7 of title 42, such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise preclude such payment, in accordance with—

"(1) rates prescribed by the Secretary of Health, Education, and Welfare, after consultation with the Administrator, and

"(2) procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and services and efficient and economical utilization of resources,

to such facility therefor or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement.";

(3) amending section 5056 by—

(A) amending the catchline to read as follows:

"§ 5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974"; and

(B) striking out "title IX" and inserting in lieu thereof "part F of title XVI": and

(4) inserting at the end of such subchapter the following new sections:

"§ 5058. Coordination with programs carried out under title XI of the Social Security Act

"(a) The Administrator and the Secretary of Health, Education, and Welfare shall, to the maximum extent practicable, attempt to coordinate the Professional Standards Review program carried out under part B of title XI of the Social Security Act and the comparable programs carried out by the Department of Medicine and Surgery to assess the quality of patient care in Veterans' Administration health care facilities. Such coordination shall include sharing of information with regard to norms of health care services developed on a regional and national basis and arrangements for joint memberships on entities established by the Department of Medicine and Surgery and entities established under such Act.

"(b) Not later than one year after the date of enactment of this section, and annually thereafter, the Chief Medical Director shall report to the Congress on the effectiveness of such coordination in improving the evaluation of the quality of patent care provided by the Department of Medicine and Surgery and in achieving the purposes of the program carried out under such Act.

"§ 5059. Reports on coordination with other programs

"Not later than three months after the end of each fiscal year, the Chief Medical Director, through the Administrator, shall report to the Congress on all activities (and the results thereof) in which the Chief Medical Director or a designee, as a representative of the Veterans' Administration, has participated, as a result of a statutory requirement or otherwise, in an advisory or coordinating capacity with respect to programs carried out by other departments, agencies, or instrumentalities of the executive branch.".

(b) The table of sections at the beginning of such chapter is amended by—

(1) striking out

"5056. Coordination with programs carried out under the Heart Disease, Cancer, and Stroke Amendments of 1965."

and inserting in lieu thereof

"5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974.";

and

(2) inserting at the end thereof

"5058. Coordination with programs carried out under title XI of the Social Security Act.

"5059. Reports on coordination with other programs.".

SEC. 121. Chapter 82 of title 38, United States Code, is amended by—

(1) redesignating subsections (e) and (f) of section 5070 as subsections (f) and (g), respectively, and inserting the following new subsection (e):

"(e) In carrying out the purposes of this chapter, the Administrator may lease to any eligible institution for such consideration and under such terms and conditions as the Administrator deems appropriate, such land, buildings, and structures (including equipment therein) under the control and jurisdiction of the Veterans' Administration as may be necessary. The three-year limitation on the term of a lease prescribed in section 5012(a) of this title shall not apply with respect to any lease entered into pursuant to this chapter. Any lease entered into pursuant to this chapter may be entered into without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease entered into pursuant to this chapter may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration of the lease.";

(2) inserting at the end of section 5070 the following new subsection:

"(h) Not later than ninety days after the end of each fiscal year, the Administrator shall submit to the Congress a report on activities carried out under this chapter, including (1) an appraisal of the effectiveness of the programs authorized herein in carrying out their statutory purposes and the degree of cooperation from other sources, financial and otherwise, (2) an appraisal of the contributions of such programs in improving the quantity and quality of physicians and other health care personnel furnishing hospital care and medical services to veterans under this title, (3) a list of the approved but unfunded projects under this chapter and the funds needed for each such project, and (4) recommendations for the improvement or more effective administration of such programs, including any necessary legislation.";

(3) striking out paragraph (1) of subsection (a) of section 5073 and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(4) striking out "subsections (a)(1) and" and inserting in lieu thereof "section 5070 (e) of this title and subsection" in section 5073(b)(2).

SEC. 122. (a) The Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration shall carry out or provide for a study to determine the short-range and long-range direction of the hospital and medical program carried out under title 38, United States Code, for eligible veterans and persons with reference to the increasing average age of the eligible veteran population. Not later than twelve months after the date of enactment of this Act, the Chief Medical Director, through the Administrator of Veterans' Affairs, shall submit to the appropriate Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of such study, including, but not limited to, specific plans for—

(1) adjusting the number of Veterans' Administration hospital, nursing home, intermediate care, and domiciliary beds;

(2) adjusting the program for contracting for such nursing home care (including intermediate and personal care) in community facilities;

(3) expanding alternatives to institutional care, including provision of home health (including homemaker and special nutrition) services;

(4) emphasizing treatment programs particularly suited to meeting the health care needs of an aging population;

(5) emphasizing education and training of health care personnel specializing in the treatment of elderly persons and diseases and infirmities characteristic of an aging population;

(6) emphasizing biomedical and health services research designed to ameliorate geriatric care problems; and

(7) meeting the special architectural, transportation, and environmental needs of an aging population.

(b) Not later than ninety days after the date of enactment of this Act, the Administrator shall take all appropriate steps to ensure that, to the maximum extent feasible, each individual eligible for new or expanded care and services as a result of the amendments made by this Act is personally notified, in a clear and simple manner, about such new or expanded eligibility and the way to secure such care and services, and shall send copies of all such notification forms to the appropriate committees of the House of Representatives and the Senate, along with a description of how such forms were distributed.

## TITLE II—VETERANS DRUG AND ALCOHOL TREATMENT AND REHABILITATION AMENDMENTS

SEC. 201. This title may be cited as the "Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1976".

SEC. 202. Paragraph (1) of section 601 of title 38, United States Code, is amended by inserting "(including alcoholism and drug dependence)" after "disease".

SEC. 203. (a) Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting at the end thereof the following new section:

"§ 620A. Treatment and rehabilitation for alcoholism

"(a) The Congress hereby finds and declares that alcoholism and alcohol abuse are among the most pervasive untreated diseases and disabilities afflicting the Nation, including the veteran population, and that the onset of alcoholism and alcohol abuse often occurs during military service.

"(b) In order to meet the situation described in subsection (a) of this section, the Administrator, in carrying out the responsibilities to furnish hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, shall carry out specialized medical programs providing inpatient treatment (including treatment of the symptoms of detoxification), outpatient treatment, and rehabilitative services on a nationwide basis to eligible veterans suffering from the disability of alcoholism or alcohol abuse. In carrying out such specialized medical programs, the Administrator (1) shall utilize the most efficacious available treatment and rehabilitation modalities (stressing the utilization in such programs of counselors who are recovered alcoholics, half-way houses, and encounter-style therapeutic communities) extending beyond the detoxification period and designed to provide for the full recovery of the patient and the restoration of such patient to society as a productive, self-sufficient citizen, and (2) may utilize private half-way-house facilities for which the Administrator contracts in accordance with regulations which the Administrator shall prescribe. Under the circumstances described in the last sentence of section 672(b) of this title, the Administrator shall arrange for the provision of treatment and rehabilitative services, at Veterans' Administration expense, in approved community facilities for which the Administrator contracts to veterans suffering from the disability of alcoholism or alcohol abuse.

"(c) The Administrator shall submit annually (as a part of the annual report submitted pursuant to section 214 of this title) a full report on the programs carried out under this section, including the same type of information specified in section 677 of this title.".

(b) The table of sections at the beginning of such chapter is amended by inserting

"620A. Treatment and rehabilitation for alcoholism."

below

"620. Transfers for nursing home care.".

SEC. 204. (a) Chapter 17 of title 38, United States Code (as amended by section 110 of this Act), is amended by inserting at the end thereof the following new subchapter:

"Subchapter VIII—Special Medical Treatment and Rehabilitative Services for Drug Dependence or Drug Abuse Disabilities

"§ 671. Definition

"As used in this subchapter and notwithstanding any other provision of this title, the term 'veteran' includes (except as otherwise provided in section 3103 of this title) a person who served in the active military, naval, or air service and who was discharged or released therefrom with other than a dishonorable discharge.

"§ 672. Treatment and rehabilitative services for veterans suffering from drug dependence or drug abuse disabilities

"(a) The Administrator shall furnish to any veteran with a drug dependence or drug abuse disability such special medical treatment and rehabilitative services and such hospital, nursing home, and domiciliary care (hereinafter in this subchapter collectively referred to as treatment and rehabilitative services) as the Administrator finds to be reasonably necessary to bring about the veteran's recovery and rehabilitation from such disability.

"(b) Such treatment and rehabilitative services—

"(1) shall (A) include, but not be limited to, in addition to those services described in section 601 of this title, individual counseling and referral services and crisis intervention, and (B) be provided in hospital, domiciliary, outpatient, and half-way-house and other community-based facilities (including satellite facilities located in areas where large numbers of veterans eligible for treatment and rehabilitative services under this subchapter reside) over which the Administrator has direct jurisdiction; and

"(2) may be provided in private half-way-house facilities for which the Administrator contracts in accordance with such regulations as the Administrator shall prescribe.

If the Administrator determines that it is essential to the successful treatment and rehabilitation of a veteran receiving initial evaluation or treatment under this subchapter or section 620A of this title that treatment and rehabilitative services (involving the furnishing of medication) be furnished in the same program to a member of the veteran's immediate family who is suffering from a drug or alcohol abuse or dependence disability, then the Administrator shall offer the veteran the provision of, and provide if requested, like treatment and services, at Veterans' Administration expense (up to costs deemed reasonable by the Administrator), in a community facility, approved by the Administrator, for which the Administrator contracts and at which such family member has been accepted for treatment (not at Veterans' Administration expense) with the veteran.

"(c) In providing for treatment and rehabilitative services under this subchapter to any veteran, the Administrator shall offer alternative modalities of treatment based upon the individual needs of such veteran.

"(d) In contracting for treatment and rehabilitative services in facilities outside the Veterans' Administration pursuant to this subchapter, the Administrator shall, wherever feasible, give priority to community-based, multiple-modality, treatment and rehabilitation programs which employ peer group veterans and stress outreach efforts to identify and counsel veterans eligible for treatment and rehabilitative services under this subchapter.

"(e) The Administrator shall, upon receipt of application for treatment and rehabilitative services under this subchapter by any veteran who has been discharged or released from a period of active military, naval, or air service, with other than an honorable or general discharge—

"(1) advise such veteran of the right to apply to the appropriate military, naval, or air service for a review of the nature of such discharge or release for the purpose of correcting the nature of such discharge and thus removing any ineligibility to the receipt of benefits under this title or any other law;

"(2) advise such veteran of the policy of the Armed Forces with respect to review of the nature of any discharge received in connection with drug use or possession; and

"(3) advise such veteran of all program benefits under this title and any other law to which such veteran is entitled or would be entitled with a general or honorable discharge.

The Administrator shall offer and, if requested, provide to any veteran within the purview of this subsection such assistance as may be necessary to facilitate the process of preparing and filing an application for a review of the nature of such veteran's discharge or release from a period of active military, naval, or air service.

"(f)(1) The Administrator shall also provide for treatment and rehabilitative services in the case of any veteran eligible therefor under this subchapter who has been charged with, or convicted of, a criminal offense by any court of competent jurisdiction in the United States, who is not confined and who is not required to participate in the treatment and rehabilitation program by any such court.

"(2) The Administrator may also provide for treatment and rehabilitative services to any veteran eligible therefor under this subchapter who is under the jurisdiction of a court of competent jurisdiction as the result of having been charged with, or having been convicted of, a criminal offense and who is required to participate in a treatment and rehabilitation program by such court, but such services may be provided only under such conditions as the Administrator determines will ensure that the participation of such veteran in the program in question will not impair the voluntary nature of the treatment and rehabilitative services being provided to other patients in such program.

"§ 673. Outreach and counseling

"(a) The Administrator shall utilize all available resources of the Veterans' Administration, including the use of peer-group veterans, in seeking out and counseling toward treatment and rehabilitation of all veterans, especially veterans who served after August 4, 1964, eligible for treatment and rehabilitative services under this subchapter.

"(b) The Administrator shall take affirmative steps, in consultation with the Secretary of Labor and the Chairman of the Civil Service Commission, to (1) urge all Federal agencies, private and public firms, organizations, agencies, and persons to provide appropriate employment and training opportunities for veterans provided treatment and rehabilitative services under this subchapter and under section 620A of this title who have been determined by competent medical authority to be sufficiently rehabilitated to be employable, and (2) provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities.

"§ 674. Audits by Comptroller General

"(a) The Comptroller General of the United States, or any duly authorized representative thereof, shall have access for the purpose of audit and examination to any books, accounts, records, reports, files, and all other things or property of facilities outside the Veterans' Administration that are pertinent to payments received pursuant to contracts entered into under this subchapter.

"(b) The Comptroller General shall carry out the responsibilities under this section in such a way as to comply with the provisions set forth in section 4132 of this title with respect to medical confidentiality.

"§ 675. Budget requests

"For fiscal year 1977, and for each fiscal year thereafter, there shall be included in the budget required to be submitted to Congress pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), a separate line item showing the estimated expenditures by the Veterans' Administration under this subchapter and under section 620A of this title during such fiscal year for the treatment and rehabilitation of eligible veterans.

"§ 676. Treatment of members of the Armed Forces by the Veterans' Administration

"(a) Any member of the active military, naval, or air service who is determined by the Secretary of the military department concerned to have a drug dependence or drug abuse disability, may, pursuant to such terms as may be agreed upon by the Secretary concerned and the Administrator, and subject to the provisions of the Act of March 4, 1915, as amended (31 U.S.C. 686), be transferred to any Veterans' Administration facility within the last thirty days of such member's tour of duty and be provided treatment and rehabilitative services under this subchapter as if such member were a veteran.

"(b) The Administrator shall from time to time make a report to the Secretary concerned as to the progress of the treatment of any member transferred pursuant to the provisions of this section, and the Administrator shall release such member to the Secretary concerned when the Administrator finds that the drug abuse disability of such member is stabilized, or certifies that (1) such member refuses to comply with the terms and conditions of the treatment prescribed, or (2) the treatment which could otherwise be provided will be of no further benefit to such member.

"(c) No member of the active military, naval, or air service shall be transferred to any Veterans' Administration facility pursuant to subsection (a) of this section unless such member requests such transfer in writing for a specified period of time within such member's tour of duty. No such member thereafter transferred shall be retained for treatment by the Administrator beyond such specified period of time within such member's tour of duty unless the member requests in writing treatment for a further specified period of time and such request is approved by the Secretary concerned and the Administrator.

"§ 677. Reports

"Not later than six months after the date of the enactment of this section and thereafter on May 1 of each year, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report (covering the period since any prior report under this section) on the implementation of this subchapter and section 620A of this title separately with respect to alcoholism and alcohol abuse, on the one hand, and to drug dependency and abuse on the other, and an evaluation of the effectiveness of alternate treatment and rehabilitation programs provided hereunder and under such section 620A, including (1) the number of veterans and servicemen provided treatment and/or rehabilitative services, (2) the average duration of such treatment and/or services, (3) the estimated percentage of successful rehabilitation and enduring recovery cases, (4) an analysis of successful and unsuccessful rehabilitation experience, (5) a description of outreach, information dissemination, and job development and placement efforts, (6) a full accounting of payments to, and an evaluation of services and programs provided in, facilities outside the Veterans' Administration, (7) experience under the medical confidentiality provisions in section 4132 of this title, (8) plans for new program directions, and (9) such recommendations for legislation as the Administrator deems appropriate.".

(b) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting at the end thereof the following:

"SUBCHAPTER VIII—SPECIAL MEDICAL TREATMENT AND REHABILITATIVE SERVICES FOR DRUG DEPENDENCE OR DRUG ABUSE DISABILITIES

"671. Definition.
"672. Treatment and rehabilitative services for veterans suffering from drug dependence or drug abuse disabilities.
"673. Outreach and counseling.
"674. Audits by Comptroller General.
"675. Budget requests.
"676. Treatment of members of the Armed Forces by the Veterans' Administration.
"677. Reports.".

## TITLE III—MEDICAL TECHNICAL AND CONFORMING AMENDMENTS

SEC. 301. This title may be cited as the "Veterans Medical Technical and Conforming Amendments of 1976".

SEC. 302. Chapter 17 of title 38, United States Code, is amended as follows:

(a) The title of such chapter is amended by inserting "NURSING HOME," before "DOMICILIARY".

(b) Section 601 is amended by—

(1) striking out "and exclusive" in clause (A) of paragraph (4);

(2)(A) inserting after "contracts" in clause (C) of paragraph (4) "when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required";

(B) redesignating subclauses (ii) and (iii) of such clause (C) as subclauses (iv) and (v), respectively;

(C) striking out subclause (i) of such clause (C) and inserting in lieu thereof the following subclauses: "(i) hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service; (ii) medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of section 612(f) of this title; (iii) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving hospital care in a facility described in clause (A) or (B) of this paragraph;"; and

(D) striking out "clause (iii)" where the term appears in subclause (v) (as so redesignated) of such clause (C) and inserting in lieu thereof "subclause (v)"; and

(3) striking out in subclause (ii) of clause (A) of paragraph (5) "for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation" and inserting in lieu thereof "pursuant to the provisions of section 111 of this title".

(c) The subchapter heading at the beginning of subchapter 11 of such chapter is amended by inserting a comma and "Nursing Home," after "Hospital".

(d) Section 610 is amended by—

(1) inserting a comma and "nursing home," after "hospital" in the catchline of such section;

(2) inserting "or nursing home" after "hospital" in subsection (a)(1)(B);

(3) striking out "of any war or of service after January 31, 1955," and the comma after "domiciliary care" in subsection (b)(2); and

(4) striking out "and exclusive" in subsection (d).

(e)(1) The catchline of section 611 is amended by striking out "Hospitalization" and inserting in lieu thereof "Care".

(2) Subsection (b) of section 611 is amended by inserting "or medical services" after "hospital care".

(f) Section 612 is amended by—

(1) striking out "Indian wars" and inserting in lieu thereof "Indian Wars" in subsection (e);

(2) striking out "granted" and inserting in lieu thereof "furnished" in subsection (f)(1)(B); and

(3) inserting after "Administrator" in subsection (g) a comma and "within the limits of Veterans' Administration facilities,".

(g) Section 616 is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

(h) Subsection (a) of section 620 is amended by—

(1) striking out "and exclusive" in clause (1) and in the last sentence of such subsection; and

(2) striking out "from time to time" and inserting in lieu thereof "annually" in clause (ii).

(i) The subchapter heading at the beginning of subchapter III of such chapter is amended by inserting "and Nursing Home" after "Hospital".

(j) Clauses (1) through (3) of section 621 are amended by inserting a comma and "nursing home," after "hospital" each time it appears.

(k) Subsection (a) of section 622 is amended by striking out "610(a)(1)" and inserting in lieu thereof "610(a) (1) (B)", and by striking out "632(b)" and inserting in lieu thereof "632(a) (2)".

(l) Subsection (c) of section 624 is amended by striking out "of any war" after "veteran".

(m) Section 627 is amended by striking out "1958" and inserting in lieu thereof "1957".

(n) Subsection (a) (1) of section 628 is amended by striking out "they" and inserting in lieu thereof "delay".

(o) Section 641 is amended by striking out "of any war or of service after January 31, 1955".

(p) Section 643 is amended by striking out "of any war" after "veteran".

Sec. 303. (a) The table of chapters and parts at the beginning of title 38, United States Code, and the table of chapters at the beginning of part II of such title are each amended by inserting in the title of chapter 17 "NURSING HOME," after "HOSPITAL".

(b) The table of sections at the beginning of chapter 17 of such title is amended by—

(1) inserting in the heading of subchapter II a comma and "NURSING HOME" after "HOSPITAL";

(2) inserting in the item relating to section 610 a comma and "nursing home" after "hospital";

(3) inserting in the heading of subchapter III "AND NURSING HOME" after "HOSPITAL"; and

(4) striking out "Hospitalization" and inserting in lieu thereof "Care" in the item relating to section 611.

Sec. 304. Chapter 23 of title 38, United States Code, is amended by inserting in subsection (a) of section 903 a comma and "nursing home," after "hospital", and by striking out "611" and inserting in lieu thereof "611(a)" in such subsection.

Sec. 305. Subchapter 1 of chapter 73 of title 38, United States Code, is amended as follows:

(a) (1) The second sentence of subsection (a) of section 4101 is amended to read as follows: "The primary function of the Department of Medicine and Surgery shall be to provide a complete medical and hospital service, as provided in this title and in regulations prescribed by the Administrator pursuant thereto, for the medical care and treatment of veterans.".

(2) Subsection (b) of section 4101 is amended by striking out "to provide a complete medical and hospital service for the care and treatment of veterans".

(3) Section 4101 is further amended by redesignating subsection (c) as subsection (d) and inserting the following new subsection (c):

"(c) (1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to contribute to the Nation's knowledge about disease and disability, the Administrator shall, in connection with the provision of medical care and treatment to veterans, carry out a program of medical research (including biomedical, prosthetic, and health care services research, and stressing research into spinal cord injuries and diseases and other disabilities that lead to paralysis of the lower extremities). In carrying out such research program, the Administrator shall act in cooperation with the entities described in subsection (b) of this section.

"(2) Prosthetic research shall include research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices. In order that the unique investigative material and research data in the possession of the Government may result in the improvement of such appliances and devices for all disabled persons, the Administrator, through the Chief Medical Director, shall make the results of such research available to any person, and shall consult and cooperate with the Secretary of Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare, in connection with programs carried out under section 3(b) of the Rehabilitation Act of 1973 (Public Law 93–112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), section 202(b) (2) of such Act (relating to the establishment and support of Rehabilitation Engineering Research Centers), and section 405 of such Act (relating to the secretarial responsibilities for planning, analysis, promoting utilization of scientific advances, and information clearinghouse activities).

"(3) (A) With the approval of the Administrator, any contract for research authorized by this section, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not covered by the financial protection required under subparagraph (E) of this paragraph:

"(i) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal workers' injury compensation laws to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

"(ii) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

"(B) A contract that provides for indemnification in accordance with subparagraph (A) of this paragraph must also provide for—

"(i) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

"(ii) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

"(C) No payment may be made under subparagraph (A) of this paragraph unless the Administrator, or the Administrator's designee, certifies that the amount is just and reasonable.

"(D) Upon approval by the Administrator, payments under subparagraph (A) of this paragraph may be made from—

"(i) funds obligated for the performance of the contract concerned;

"(ii) funds available for research or development or both, and not otherwise obligated; or

"(iii) funds appropriated for those payments.

"(E) Each contractor which is a party to an indemnification agreement under subparagraph (A) of this paragraph shall have and maintain financial protection of such type and in such amounts as the Administrator shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Administrator may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

"(F) In administering the provisions of this paragraph, the Administrator may use the facilities and services of private insurance organizations, and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable, and advance payments may be made under any such contract.

"(G) the Authority to indemnify contractors under this paragraph does not create any rights in third persons which would not otherwise exist by law.

"(H) As used in section, the term 'contractor' includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subparagraph (A) of this paragraph.

"(4) Funds appropriated to carry out this subsection shall remain available until expended.".

(b) Chapter 39 of title 38, United States Code, is amended by—

(1) striking out in the table of sections

"1904. Research and development; coordination with other Federal programs."

and inserting in lieu thereof:

"1904. Research and development.";

(2) amending the catchline of section 1904 to read as follows:

"§ 1904. Research and development";

and

(3) amending subsection (a) of section 1904 by striking out "prosthetic and orthopedic appliance research under section 216 and medical research" and inserting in lieu thereof "medical and prosthetic research".

(c) Chapter 3 of title 38, United States Code, is amended by—

(1) striking out section 216 in its entirety; and

(2) amending the table of sections at the beginning thereof by striking out

"216. Research by the Administrator; indemnification of contractors.".

(d) Section 4103 of such title is amended by—

(1) inserting "upon the recommendation of the Chief Medical Director" after "Administrator" in paragraphs (2) and (3) of subsection (a);

(2) striking out "recommendations" and inserting in lieu thereof "recommendation" in subsection (a) (4);

(3) inserting "or whose appointment or reappointment, is extended" after "reappointed" in subsection (b) (3); and

(4) inserting "or for any period not exceeding two years" in subsection (c) before the period at the end of the second sentence.

(e) Subsection (a) (6) (as redesignated by section 114(4) of this Act) of section 4105 of title 38, United States Code, is amended by inserting "hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator and" before "be".

(f) Subsection (b) of section 4108 is amended by striking out "pursuant to" after "agreement" and inserting in lieu thereof "as referred to in".

(g) Subsection (b) of section 4114 is amended by amending paragraph (3) (as redesignated by section 112(a) (3) of this Act) to read as follows:

"(3) For the purposes of this title, the term 'internship' shall include the equivalency of an internship as determined in accordance with regulations which the Administrator shall prescribe, and the term 'intern' shall mean a person serving an internship.".

Sec. 306. Chapter 81 of title 38, United States Code, is amended as follows:

(a) Section 5001 is amended by—

(1) striking out "and exclusive" in the first sentence of subsection (a) (2), and strik-

ing out "tuberculosis" and inserting in lieu thereof "tuberculous" in such sentence; and

(2) striking out "and exclusive" in the first sentence of subsection (a)(3).

(b) Subchapter III of such chapter is amended by striking out "war" each time it appears in paragraph (a) of section 5031, section 5032, paragraph (1) of section 5034, paragraphs (4) of subsections (a) and (b) of section 5035, and section 5036.

(c) Section 5053 is amended by—

(1) striking out "paragraphs" and inserting in lieu thereof "clauses" in the first sentence of subsection (a); and

(2) inserting "health care" after "Veterans' Administration" each place it appears in clauses (1) and (2) of subsection (a) and in subsection (c).

(d) Subsection (b) of section 5054 is amended by inserting "the" before "surrounding medical community" the second place it appears.

(e) The second sentence of subsection (a) of section 5055 is amended by striking out "for Research and Education in Medicine" and inserting in lieu thereof "charged with administration of the Department of Medicine and Surgery medical research program".

SEC. 307. Subchapter II of chapter 82 of title 38, United States Code, is amended by striking out "subchapter IV of chapter 81 of" in subsection (a) of section 5083.

SEC. 308. Chapter 85 of title 38, United States Code, is amended as follows:

(a) The first sentence of subsection (b) of section 5202 is amended by inserting "or a dependent or survivor of a veteran receiving care under the last sentence of section 613 (b) of this title," after "(admitted as a veteran)," in the first sentence.

(b) Subsection (a) of section 5220 is amended by inserting a comma and "or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title," after "(admitted as a veteran)".

(c) Section 5221 is amended by inserting a comma and "or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title," after "(admitted as such)".

SEC. 309. (a) Subchapter I of chapter 73 of title 38, United States Code, is amended as follows:

(1) Subsection (b) of section 4101, clause (1) of section 4104, subsection (b) of section 4105, subsection (f) of section 4106, subsection (f) of section 4107, the language preceding clause (1) in subsection (a) and clause (6)(B) in subsection (a) of section 4108, and section 4117, are each amended by striking out "physicians' " and inserting in lieu thereof "physician".

(2) Clause (1) of section 4104, clause (8) of subsection (a) and subsection (b) of section 4105, subsection (f) of section 4107, and the language preceding clause (1) in subsection (a) and subclause (B) of clause (6) of subsection (a) of section 4108 are each amended by striking out "expanded-duty" each place it appears and inserting in lieu thereof "expanded-function".

(3) Subsection (b) of section 4101 is further amended by striking out "dentists' assistants" and inserting in lieu thereof "expanded-function dental auxiliaries".

(4) Clause (8) of subsection (a) of section 4105 is further amended by striking out "Physicians' " and inserting in lieu thereof "Physician".

(5) Section 4113 is amended by striking out "and nurses" and inserting in lieu thereof "nurses, physician assistants, and expanded-function dental auxiliaries".

(6) Section 4114 is amended by—

(A) inserting "physician assistants, expanded-function dental auxiliaries," after "nurses," in clauses (A) and (B) of subsection (a)(1);

(B) striking out "and nurses" and inserting in lieu thereof "nurses, physician assistants, and expanded-function dental auxiliaries" in the first sentence of subsection (a)(3)(A);

(C) striking out "nurses and interns, and" and inserting in lieu thereof "nurses, physician assistants, expanded-function dental auxiliaries, and interns," in subsection (a)(3)(B); and

(D) striking out "dentist's assistant" and inserting in lieu thereof "expanded-function dental auxiliary" in the first sentence of subsection (e).

(7) Subsection (a) of section 4116 is amended by striking out "physicians' assistant, dentists' assistant" each time those terms appear and inserting in lieu thereof "physician assistant, expanded-function dental auxiliary".

(8) Section 4117 is amended by striking out "dentists' assistants" and inserting in lieu thereof "expanded-function dental auxiliaries".

(b) Subchapter I of chapter 73 of title 38, United States Code, is further amended as follows:

(1) Section 4106 is amended by—

(A) inserting "rate of basic" after "minimum" in the second sentence of subsection (c); and

(B) striking out "level and salary" and "and salary" and inserting in lieu thereof "and annual rate of basic pay" each place those words appear in subsection (e).

(2) Section 4107 is amended by—

(A) striking out "per annum full-pay scale or ranges" and inserting in lieu thereof "annual rates or ranges of rates of basic pay" in subsection (a);

(B) striking out "per annum full-pay ranges" and inserting in lieu thereof "annual ranges of rates of basic pay" in the first sentence of subsection (b)(1);

(C) inserting "facility" after "domiciliary" each place it appears in subsection (c); and

(D) amending subsection (e) by—

(i) striking out "basic compensation" and inserting in lieu thereof "rate of basic pay" in paragraph (1);

(ii) striking out "basic hourly rate" and "basic hourly rate of pay" and inserting in lieu thereof "hourly rate of basic pay" in paragraphs (2), (3), (5), (6), and (7);

(iii) striking out "compensation" each time it appears in paragraphs (1), (2), (3), (6), and (9) and inserting in lieu thereof "pay";

(iv) amending the first sentence of paragraph (4) to read as follows: "A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service."; and

(v) striking out "compensated" and inserting in lieu thereof "paid" in paragraph (8).

(3) Subsection (a) of section 4112 is amended by striking out "compensation" and inserting in lieu thereof "pay" in the last sentence of such subsection.

(c) Chapter 73 of title 38, United States Code, is further amended as follows:

(1) Section 4103 is amended by—

(A) striking out "individuals" and inserting in lieu thereof "persons" in the second sentence of subsection (a)(4);

(B) striking out "and employees" in subsection (a)(8); and

(C) striking out "An individual" and inserting in lieu thereof "A person" in the third sentence of subsection (c).

(2) Subsection (a) of section 4105 is amended by striking out "employees" and inserting in lieu thereof "personnel" in clause (7).

(3) Section 4107 is amended by—

(A) striking out "individual" and inserting in lieu thereof "person" in the first sentence of subsection (c);

(B) striking out "employee's" and inserting in lieu thereof "nurse's", and striking out "work" and inserting in lieu thereof "service", in paragraph (2) of subsection (e); and

(C) striking out "duty" and inserting in lieu thereof "service" in paragraph (7) of subsection (e).

(4) Clause (1) of subsection (a) of section 4108 is amended by striking out "individual" and inserting in lieu thereof "person".

(5) Section 4113 is amended by—

(A) striking out "of employees" and inserting in lieu thereof a comma and "of persons"; and

(B) striking out "paragraph (1) of section 4104" and inserting in lieu thereof "section 4104(1),".

(6) Subsection (d)(2) of section 4114 is amended by striking out "individual" and inserting in lieu thereof "person".

(7) Subsection (b) of section 4122 is amended by striking out "individuals" each time it appears and inserting in lieu thereof "persons".

SEC. 310. (a) Chapter 17 of title 38, United States Code, is amended as follows:

(1) Section 610 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Administrator" in the first sentence of subsection (a);

(B) striking out "he" and inserting in lieu thereof "such veteran" in subsections (a)(1)(B), (b)(2), and (c); and

(C) striking out "he" and inserting in lieu thereof "such person" in subsection (b)(1).

(2) Section 611 is amended by—

(A) striking out "him" and inserting in lieu thereof "the Administrator" in subsection (a); and

(B) striking out "he" and "him" each place those words appear in subsection (b) and inserting in lieu thereof "the Administrator";

(3) Section 612 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Administrator" in the first sentence of subsection (a);

(B) striking out "him" and "he" each place those words appear in subsection (d) and inserting in lieu thereof "the Administrator";

(C) striking out "he" and inserting in lieu thereof "the Administrator" in subsection (g); and

(D) striking out "his" each place it appears in the second sentence of subsection (h) and inserting in lieu thereof "such veteran's".

(4) Section 613 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Secretary" in subsection (b)(1); and

(B) striking out "he" each place it appears and inserting in lieu thereof "the Administrator" in subsection (b)(2).

(5) Section 614 is amended by—

(A) striking out "his" and inserting in lieu thereof "such veteran's" in subsection (a); and

(B) striking out "he" in subsection (b).

(6) Section 619 is amended by striking out "him" and inserting in lieu thereof "such veteran".

(7) The first sentence of subsection (b) of section 620 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(8) Paragraphs (1) and (3) of section 621 are amended by striking out "he" each place it appears and inserting in lieu thereof "the Administrator".

(9) Subsection (b) of section 622 is amended by striking out "his" and inserting in lieu thereof "such veteran's".

(10) Section 623 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(11) The first sentence of subsection (c) of section 624 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(12) Section 626 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(13) Subsection (a) of section 628 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Administrator" in the first sentence of such subsection; and

(B) striking out "his" and inserting in lieu thereof "such veteran's" in paragraph (2)(D)(ii) of such subsection.

(14) The second sentence of subsection (d) of section 632 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(15) Section 633 is amended by striking out "he" and inserting in lieu thereof "the President", and by striking out "his".

(16) Subsection (a) of section 642 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(b) Section 3301 of title 38, United States Code, is amended by—

(1) striking out "his" and inserting "of a claimant" after "representative" in subsection (b)(1), and striking out "himself" and inserting in lieu thereof "the claimant" in such subsection;

(2) striking out "in his" and inserting in lieu thereof "as a matter of" in subsection (d); and

(3) striking out "his" and inserting in lieu thereof "the Administrator's" in subsection (e).

(c) Chapter 73 of title 38, United States Code, is amended as follows:

(1) Section 4101 is amended by—

(A) striking out "servicemen" and inserting in lieu thereof "members of the armed forces" in subsection (b); and

(B) striking out "his" and "he" and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively, in subsection (d)(2) (as redesignated by section 305(a)(3) of this Act).

(2) Section 4103 is amended by—

(A) striking out the period at the end of the first sentence and inserting in lieu thereof a comma, and striking out "He" in the second sentence and inserting in lieu thereof "and who", in paragraphs (1), (2), and (3) of subsection (a); and

(B) striking out "his" and "he" and inserting in lieu thereof "such person's" and "sucn person", respectively, in the third sentence of subsection (c).

(3) Section 4104 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(4) Section 4107 is amended by—

(A) striking out "he" each place it appears in subsection (b)(2) and inserting in lieu thereof "such person"; and

(B) striking out "he" and "his" and inserting in lieu thereof "such person" and "such person's", respectively, in subsection (c).

(5) Subsection (a) of section 4108 is amended by—

(A) striking out "his" and inserting in lieu thereof "such person's" in clause (2);

(B) striking out "him" and "his" and inserting in lieu thereof "such person" and "such person's", respectively, in clause (3);

(C) striking out "him" and "his" and inserting in lieu thereof "such person" and "such person's", respectively, in clause (4);

(D) striking out "his" each place it appears and "him" in clause (5) and inserting in lieu thereof "such person's" and "such person", respectively; and

(E) striking out "his" each place it appears and inserting in lieu thereof "such person's" in clause (6).

(6) The first sentence of subsection (b) of section 4112 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(7) Section 4114 is amended by—

(A) striking out "he" each place it appears in the third and fifth sentences in subsection (b)(4) (as redesignated by section 112(a)(3) of this Act) and inserting in lieu thereof "such recipient";

(B) striking out "he" and "his" each place those words appear in the last sentence of subsection (b)(4) (as so redesignated) and inserting in lieu thereof "such person" and "such person's", respectively;

(C) striking out "he" and inserting in lieu thereof "the person" in subsection (d)(1); and

(D) striking out "his" and "he" and inserting in lieu thereof "such person's" and "the person", respectively, in subsection (d)(2).

(8) Section 4116 is amended by—

(A) striking out "his" each place it appears in subsection (a) and inserting in lieu thereof "such person's";

(B) striking out "his" and "him" and inserting in lieu thereof "such person's" and "such person", respectively, in subsection (b);

(C) striking out "his" each place it appears in subsection (c) and inserting in lieu thereof "such person's"; and

(D) striking out "he" and "his" each place those words appear in subsection (e) and inserting in lieu thereof "the Administrator" and "such person's", respectively.

(9) Subsection (a) of section 4121 is amended by striking out "his" and "he" each place those words appear and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively.

(10) Section 4122 is amended by striking out "he" and inserting in lieu thereof "the Chief Medical Director" in subsections (b) and (c).

(d) Chapter 75 of title 38, United States Code, is amended by striking out "he" each place it appears in clauses (3), (9), (10), and (11) of section 4202 and inserting in lieu thereof "the Administrator".

(e) Chapter 81 of title 38, United States Code, is amended as follows:

(1) Subsection (b) of section 5001 is amended by striking out "him" and "his" and inserting in lieu thereof "the Administrator" and "the Chief Medical Director's", respectively.

(2) Section 5002 is amended by—

(A) striking out "he" each place it appears and inserting in lieu thereof "the President"; and

(B) striking out "his opinion" and inserting in lieu thereof "the opinion of the President such is".

(3) Paragraphs (2) and (3) of subsection (b) of section 5004 are amended by striking out "he" and inserting in lieu thereof "the Administrator".

(4) The second sentence of section 5005 is amended by striking out "He" and inserting in lieu thereof "The President".

(5) The first sentence of section 5007 is amended by striking out "his" and inserting in lieu thereof "the Administrator's".

(6) Subsection (c) of section 5011 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(7) Section 5012 is amended by—

(A) striking out "his" in the first and fourth sentences of subsection (a) and inserting in lieu thereof "the Administrator's";

(B) striking out "he" and inserting in lieu thereof "the Administrator" in subsection (b); and

(C) striking out "him" and inserting in lieu thereof "the Administrator" in subsection (c).

(8) Section 5013 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(9) Section 5014 is amended by—

(A) striking out "he" each place it appears in the first and fourth sentences and inserting in lieu thereof "the Administrator"; and

(B) striking out "his" in the first sentence and inserting in lieu thereof "the Administrator's".

(10) Subsection (b) of section 5035 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(11) The first sentence of subsection (a) of section 5053 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(12) The second sentence of subsection (b) of section 5054 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(13) The first sentence cf subsection (a) of section 5055 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(f) Chapter 82 of title 38, United States Code, is amended as follows:

(1) The second sentence of subsection (f) (as redesignated by section 121(1) of this Act) of section 5070 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(2) Section 5071 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(3) Section 5073 is amended by—

(A) striking out "he" each place it appears in subsection (b) and inserting in lieu thereof "the Administrator"; and

(B) striking out "he" each place it appears in subsection (c) and inserting in lieu thereof "the Administrator".

(4) Subsection (b) of section 5083 is amended by striking out "his" in the language preceding clause (1) and in clause (4) and inserting in lieu thereof "the Administrator's".

(5) Subsection (b) of section 5093 is amended by striking out "his" in the language preceding clause (1) and in clause (4) and inserting in lieu thereof "the Administrator's".

(6) Section 5096 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

SEC. 311. Except as otherwise provided in this Act, the amendments made by this Act to title 33, United States Code, shall become effective on October 1, 1976, or on the date of enactment, whichever is later.

Amend the title so as to read: "An Act to amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse disabilities; to make certain technical and conforming amendments; and for other purposes."

Mr. SATTERFIELD (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object—and I do not plan to object—I wish to say that I am pleased to support the request of the gentleman to concur in the Senate amendments with amendments, but I do wish to take this time so I may yield to the chairman of the subcommittee so that he may give us an explanation of what we are doing here.

Mr. SATTERFIELD. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Virginia.

Mr. SATTERFIELD. Mr. Speaker, H.R. 2735 passed the House without a dissenting vote on December 15, 1975. The bill required the Administrator of Veterans

Affairs to conduct annual investigations of VA beneficiary travel reimbursement rates based on various established criteria and required the Administrator to set said rates according to his findings.

On September 16, 1976, the Senate struck out all after the enacting clause of H.R. 2735 and returned it to the House with the language of S. 2908, a comprehensive and costly health care measure. The provisions of S. 2908 are set out in detail in Senate report 94-1206.

The Veterans' Administration has estimated that the Senate measure would cost approximately $189 million in fiscal year 1977, and would total some $1.1 billion during the next 5 years.

The House received the Senate proposal less than 2 weeks ago—a proposal containing some 38 new provisions. Considering the short time we had to resolve the differences, the proposed House amendment is, in my opinion, a reasonable compromise. The Veterans' Administration estimates that the proposed amendment would cost about $42 million in fiscal year 1977, with a 5-year cost of about $209 million. In addition to the provisions in the bill that have already passed the House, the proposed amendment includes the following new provisions:

First. Authorize limited mental health services, consultation, professional counseling, and training on an outpatient basis for the family members of a service-connected veteran who is receiving outpatient care, when essential to the effective treatment and rehabilitation of the veteran; and, in the discretion of the Administrator, for the family members of a non-service-connected disabled veteran where such services were initiated during the veteran's hospitalization and are essential to permit the discharge of the veteran from the hospital. Necessary involvement of family members is presently authorized under title 38 when the veteran is receiving hospital care.

For veterans receiving medical services on an outpatient basis, there is no statutory authority for such counseling or mental health services for family members. The proposed amendment would place a limit on the services which can be provided to family members incident to outpatient services provided to veterans, by distinguishing between services provided in connection with treatment of service-connected and non-service-connected disabilities in order to insure that scarce funds are expended first for the care of the service-connected.

The proposed amendment would limit such counseling and mental health services for family members necessary in connection with the treatment of a service-connected disability of a veteran, and at the discretion of the Administrator, for family members of a non-service-connected veteran when such services were initiated during the veteran's hospitalization and are essential to permit the discharge of the veteran from the hospital.

Second. Provide total VA health care benefits for any veteran with a service-connected disability rated at 50 percent or more—lowered from 80 percent under present law.

The proposed amendment would provide a full range of outpatient services for veterans with disabilities rated at 50 percent or more. It is estimated that some 480,000 veterans with serious service-connected disabilities will be made eligible for total outpatient services.

Third. Establish a system of priorities for outpatient care stressing priority treatment for veterans requiring treatment for service-connected disabilities.

Although the Chief Medical Director has made a major effort to establish priorities for admission to outpatient treatment, the committee continues to receive complaints from service-connected disabled veterans who must wait unusually long periods of time for treatment of service-connected disabilities in many outpatient clinics. Recognizing that in certain instances these priorities may create some problems, the proposed amendment is designed to assist the Chief Medical Director in his efforts to accord the highest priority for veterans being treated for service-connected disabilities. The established priorities would apply unless compelling medical reasons required that care be provided to a veteran in another category. This would allow the attending physician to make a medical determination whether established priorities would apply in any given case.

Fourth. Authorize the VA, as part of national immunization programs administered by HEW, to provide immunization against infectious diseases to veterans otherwise receiving treatment at VA health care facilities. The Administrator of Veterans' Affairs would be authorized to assist the Secretary of Health, Education, and Welfare in carrying out national immunization programs, to eligible veterans on a voluntary basis, utilizing vaccine furnished by the Secretary at no cost to the Veterans' Administration.

Fifth. Provide statutory authorization for the Department of Medicine and Surgery's compensated work-therapy program by allowing for arrangements with private industry and nonprofit corporations to supply work projects for patient-workers, with remuneration at rates of pay not less than those specified in the Fair Labor Standards Act, and by establishing a self-sustaining revolving fund to receive and dispose of funds in connection with such work.

Compensated work programs provide therapeutic rehabilitation of the participating patient. According to the Veterans' Administration such programs provide a realistic everyday-life working environment conducive to the development of work tolerance and effective learning of work habits and skills. These programs have been utilized within the Veterans' Administration for many years, and the proposed amendment would merely provide a specific statutory reference to the program. It would also clarify the Agency's authority to obtain the needed work projects through contractual arrangements with private industry. The VA strongly supports the proposed amendment.

Sixth. Permit the transfer of veterans who have received maximum hospital benefits to intermediate care facilities, at VA exepnse, and at lower rates of reimbursement than the rates authorized for nursing home care. The cost of such intermediate care for purposes of payment by the United States would be determined by the Administrator except that the rate shall be commensurately less than that provided for skilled nursing home care as defined in title 38, United States Code.

Because of the VA's high demand for skilled community nursing home care beds which the Agency has not been able to meet, the addition of the intermediate level of care could improve the cost effectiveness of the Agency's community nursing home care beds available. It is estimated that 30 percent of the present community nursing home placements require only intermediate nursing care. This would mean a cost savings in fiscal year 1977 of $3,504,000.

Seventh. Clarify the authority to provide home health services—including certain home improvements and structural alterations—for disabled veterans as required for the effective and economical treatment of the disability. The improvements and structural alterations to the veterans home could be approved only as necessary to assure the continuation of treatment for a disability or to provide access to the home or to essential lavatory and sanitary facilities, and only to the extent that the cost of the improvement or alteration does not exceed $2,500 in the case of veterans with service-connected disabilities and $600 in the case of veterans with non-service-connected disabiilties.

The amendment is necessary because of the restrictive definition of "home health services" which the VA, in a series of recent General Counsel Opinions, has adopted. The VA has held that it has no authority to expend medical care funds to make permanent improvements to the home of a veteran, and has therefore refused to pay for two of the most commonly needed home improvements—widening bathroom doors to permit the entry of a wheelchair, and constructing driveways, paths, and ramps to facilitate wheelchair access from automobile to home and from room to room within a home. The result is that veterans remain in VA hospital beds, at considerable expense to the Federal Government.

Eighth. Authorize the acquisition and subsequent sale, assignment, or transfer of automobiles needed for special driver training courses in the VA's automobile and adaptive equipment program. Under current law, the Administrator is required to provide such training courses to any veteran or member of the Armed Forces who is eligible for assistance in purchasing an automobile or other conveyance or in equipping such automobile or conveyance with adaptive equipment. The proposed amendment authorizes the Administrator to obtain automobiles deemed necessary to carry out the special driver training courses and authorizes him to sell, assign, transfer, or convey any such vehicle for such price and upon such terms as are deemed appropriate. Proceeds realized from the sale or disposition of such vehicles are credited to the applicable VA appropriation.

Ninth. Extend until September 30, 1977, the Veterans' Administration's authority under Public Law 94-123 to pay special pay to physicians and dentists in the Department of Medicine and Surgery.

The most acute recruitment and retention problem existing within the Department involves the physicians and dentists. Although there are many factors contributing to the problem, the greatest single barrier to successful recruitment and retention is the inadequacy of statutory rates of basic pay for these professionals in light of the ceiling imposed by statute on all Federal executive schedule V employees. To provide temporary relief Congress enacted Public Law 94-123 which authorized the VA to enter into agreements with physicians and dentists under which physicians and dentists receive annual special pay in return for completion of 1 to 4 years of service with the agency. The law, enacted on October 22, 1975, and effective as of October 13, 1975, is due to expire on October 11, 1976. To date the law has proven very successful and the proposed amendment would extend the authority through fiscal year 1977.

Tenth. Provide for the employment of optometrists and podiatrists under the title 38 personnel system at rates of basic pay specified by statute in a new pay schedule in title 38. Under current law, optometrists and podiatrists are paid in accordance with the general schedule for Federal civil service employees under title 5, United States Code. The Department of Medicine and Surgery currently employs only 8 full-time optometrists and 20 full-time podiatrists. It is hoped that making optometrists and podiatrists part of the title 38 system will increase their utilization within the Department and will result in a higher quality of health care for more veterans at a lower cost to the Federal Government.

Eleventh. Provide "protection of patient rights," standards for obtaining the informed consent of all patients and research subjects to guarantee confidentiality of certain patient medical records. The proposed amendment would direct the Administrator to prescribe regulations establishing procedures to insure that all medical and prosthetic research, and to the maximum extent practicable, all patient care furnished under title 38 shall be carried out only with the full and informed consent of the patient or an appropriate representative.

The amendment would result in no basic change in current VA practice. It will replace, for Veterans' Administration purposes, the provisions of law in two other titles of the United States Code as the statutory bases for confidentiality of drug and alcohol abuse records of patients treated by VA medical facilities. Those provisions are, respectively, sections 333 and 408 of Public Law 93-282—21 U.S.C. 1175, for drug records; 42 U.S.C. 4582, for alcohol records. Section 2.1 to 2.67 of title 42, Code of Federal Regulations issued by the Secretary of Health, Education, and Welfare are currently the authority for VA action in these two areas.

Twelfth. Require the Administrator, in accordance with present Department of Medicine and Surgery plans, to establish and operate a minimum of 10,000 nursing home care beds by fiscal year 1980. Current law requires the establishment and operation of not less than 8,000 beds.

Thirteenth. Establish minimum standards for State veterans' home facilities receiving financial support from the Veterans' Administration. The proposed amendment provides that no payment or grant may be made to a State home unless it is determined by the Administrator to meet such standards as the Administrator may prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of title 38.

The Administrator would be permitted to inspect any State facility constructed with VA assistance at such time as the Administrator deems necessary.

Fourteenth. Require the Chief Medical Director to prepare a report on long-range adjustments that should be made in the VA health care program to accommodate the growing number of elderly veterans. The average age of American veterans is approaching 50 years. Approximately 14 million veterans are now between the ages of 50 and 60. As this enormous population of middle-aged veterans approaches old age during the next decade, critically important policy decisions will confront the VA, and the VA's health care capacity may have to be revised and expanded in major new directions. The objective of the proposed amendment is to encourage long-range planning in the VA to adapt the current health care program to accommodate the growing number of elderly veterans in the United States and the increasing average age of those who need care in VA health care facilities.

Fifteenth. Require that medicare payments be made to the VA for hospital care or medical services rendered by the VA to a medicare-covered individual not eligible for care in a VA health facility, who received some care or services from the VA pursuant to a sharing contract authorized under title 38. This provision would preclude reimbursement for such care or services to an eligible veteran.

This provision would enable medicare-covered patients to receive the benefits to which they are entitled while enabling VA and non-VA health care institutions to share scarce medical resources in the treatment of such patients by non-VA facilities. This authority will encourage cost control and improved quality of care regarding such patients by avoiding duplication in the acquisition of such resources, and by permitting a concentration of health care provider expertise in these very sophisticated and specialized areas of treatment.

Sixteenth. Grant authority for VA to enter into long-term leases with existing medical schools with which VA medical facilities are affiliated. As a part of a program of assistance to States for the establishment of new medical schools, subchapter I of Public Law 92-541, approved October 24, 1972, authorized the VA to lease lands and buildings under its control to grantee institutions. By a special exception contained in section 5073(a) of title 38, such leases executed under subchapter I are not limited to the normal 3-year period. The special exception does not currently apply to existing schools.

Under current law, State governments—on behalf of State universities—as well as boards of directors—on behalf of private institutions—are understandably reluctant to enter into construction projects under a lease limited to 3 years. The proposed amendment will provide the Administrator authority to enter into long-term leases with existing medical and other health professions schools with which VA medical facilities are affiliated, and is consistent with the authority the Administrator now has to enter into leasing arrangements with new medical schools.

Title II of the bill contains various amendments of a technical, perfecting, or conforming nature, including various gender changes.

The proposed House amendment to the Senate amendment is a reasonable compromise and I think the proposed amendments to current law will improve the quality and efficiency of health care provided to ill or disabled veterans in the Veterans' Administration's health care system.

The cost of the proposed amendment is well within our committee's budget allocation and I urge that the amendment be adopted.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for his explanation, and I concur with it.

Mr. Speaker, as the ranking member of both the full committee and the Subcommittee on Hospitals, I am pleased to support the request of the gentleman to concur in the Senate amendment with an amendment.

Almost a year ago, Mr. Speaker, on December 15, 1975, to be specific, this House passed H.R. 2735, at that time a relatively minor bill relating exclusively to reimbursement for expense of travel to and from Veterans' Administration facilities by certain veterans authorized to report for medical treatment or other Veterans' Administration services. The first year cost of the measure was estimated to be negligible.

Approximately 2 weeks ago, the other body sent the bill back to the House, amended so as to be unrecognizable. It contained approximately 35 or 40 new provisions that had never been considered by the House Committee on Veterans' Affairs. Its first year cost according to Veterans' Administration estimates had escalated to more than $200 million.

After much concentrated effort, Mr. Speaker, we have revised the bill, eliminating as either undesirable or requiring further study many provisions of the Senate passed bill. The magnitude of our effort is reflected in the revised cost of the measure with the proposed amendment. The provisions we have eliminated or revised have reduced the first year cost of the bill from more than $200 million to slightly more than $43 million—VA estimated costs.

The approval of the gentleman's request will permit us to send back to the other body a reasonable bill that will include the following provisions:

First. Authorizes complete medical care for veterans with 50 percent or more service-connected disability. Presently limited to those with not less than 80 percent service-connected disability.

Second. Authorizes necessary counseling and mental health services for members of the family of service-connected veterans and in the discretion of the Administrator for non-service-connected disability under certain conditions.

Third. Establishes priority in outpatient treatment for service-connected disabilities as a matter of law.

Fourth. Extends medical benefits to survivors of veterans who at time of death were suffering from a permanent and total service-connected disability.

Fifth. Extends until September 30, 1977, the Veterans' Administration's authority to enter into special pay agreements with physicians and dentists.

Sixth. Increases authorized minimum level of nursing care beds in Veterans' Administration system from 8,000 to 10,000.

Seventh. Authorizes Veterans' Administration domiciliary care for peacetime veterans.

Eighth. Permits peacetime veterans to receive care in State homes with Veterans' Administration paying per diem.

Ninth. Authorizes Veterans' Administration to participate in emergency immunization services where warranted.

Tenth. Establishes guidelines for ambulatory care program.

These, Mr. Speaker, are the highlights of the amendment that will be adopted with the approval of the gentleman's unanimous-consent request. I shall support it.

Mr. **HAMMERSCHMIDT**. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

### MOTION OFFERED BY MR. SATTERFIELD

Mr. **SATTERFIELD**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SATTERFIELD moves that the House recede from its disagreement to the Senate amendment to the text of the bill and agree to the same with the following amendment: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

That this Act may be cited as the "Veterans Omnibus Health Care Act of 1976".

### TITLE I—GENERAL VETERANS HEALTH CARE AND DEPARTMENT OF MEDICINE AND SURGERY AMENDMENTS

SEC. 101. Section 111 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "pursuant to the provisions of this section" after "President"; and

(2) inserting at the end of such section the following new subsection:

"(e)(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

"(2) In no event shall payment be provided under this section—

"(A) unless the person claiming reimbursement has been determined, based on an annual declaration and certification by such person, to be unable to defray the expenses of such travel (except with respect to a veteran receiving benefits for or in connection with a service-connected disability under this title);

"(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

"(C) in excess of the actual expense incurred by such person as certified in writing by such person.

"(3) In conducting investigations and determining rates under this section, the Administrator shall review and analyze, among other factors, the following factors:

"(A)(i) Depreciation of original vehicle costs;

"(ii) gasoline and oil costs;

"(iii) maintenance, accessories, parts, and tire costs;

"(iv) insurance costs; and

"(v) State and Federal taxes.

"(B) The availability of and time required for public transportation.

"(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

"(4) Before determining rates under this section, and not later than sixty days after the effective date of this subsection, and thereafter not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates the Administrator proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section.".

SEC. 102. Section 601 of title 38, United States Code, is amended by—

(1) amending paragraph (5) by striking out in clause (B) all after "training" and inserting in lieu thereof "for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title; and";

(2) amending paragraph (6) to read as follows:

"(6) The term 'medical services' includes, in addition to medical examination, treatment, and rehabilitative services—

"(A)(i) surgical services, dental services and appliances as authorized in section 612 (b), (c), (d), and (e) of this title, optometric and podiatric services, and (except under the conditions described in section 612(f)(1)(A) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and

"(B) such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

"(i) of the service-connected disability of a veteran pursuant to section 612(a) of this title, and

"(ii) in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(B) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital,

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, necessary expenses of travel and subsistence of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.";

(3) amending paragraph (7) to read as follows:

"(7) The term 'domiciliary care' includes necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title."; and

(4) inserting at the end of such section the following new paragraph:

"(8) The term 'rehabilitative services' means such professional, counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provided under chapter 31 of this title) as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person.".

SEC. 103. (a) Section 612 of title 38, United States Code, is amended by—

(1) inserting after the first sentence of subsection (a) the following new sentence: "The Administrator may also furnish to any such veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations the cost of which does not exceed $2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavatory and sanitary facilities.";

(2) striking out "or" at the end of clause (4) of subsection (b); redesignating clause (5) of such subsection as clause (6); and

inserting after clause (4) of such subsection the following new clause (5):

"(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment; or";

(3) striking out "may also furnish" in subsection (f) and inserting in lieu thereof a comma and "within the limits of Veterans' Administration facilities, may furnish";

(4) inserting in clause (1)(A) of subsection (f) "(to the extent that facilities are available)" after "or" the first place it appears;

(5) inserting before the semicolon at the end of clause (1)(B) of subsection (f) "(for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated)";

(6) striking out "80" and inserting in lieu thereof "50" in clause (2) of subsection (f);

(7) inserting at the end of subsection (f) the following new sentence: "The Administrator may also furnish to any such veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities)."; and

(8) inserting at the end thereof the following new subsections:

"(i) Not later than ninety days after the effective date of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

"(1) To any veteran for a service-connected disability.

"(2) To any veteran described in subsection (f)(2) of this section.

"(3) To any veteran with a disability rated as service-connected.

"(4) To any veteran being furnished medical services under subsection (g) of this section.

"(j) In order to assist the Secretary of Health, Education, and Welfare in carrying out national immunization programs pursuant to other provisions of law, the Administrator may authorize the administration of immunizations to eligible veterans (voluntarily requesting such immunizations) in connection with the provision of care for a disability under this chapter in any Veterans' Administration health care facility, utilizing vaccine furnished by the Secretary at no cost to the Veterans' Administration, and for such purpose, notwithstanding any other provision of law, the Secretary is authorized to provide such vaccine to the Veterans' Administration at no cost and the provisions of section 4116 of this title shall apply to claims alleging negligence or malpractice on the part of Veterans' Administration personnel granted immunity under such section.".

(b) Not later than one year after the effective date of this section, and annually thereafter, the Administrator shall report to the Congress on the results of the regulations prescribed to carry out the amendment adding section 612(i) of title 38, United States Code) made by subsection (a)(8) of this section.

SEC. 104. Subsection (a) of section 613 of title 38, United States Code, is amended by amending clause (2) to read as follows:

"(2) the widow or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability,".

SEC. 105. (a) Section 618 of title 38, United States Code, is amended by—

(1) striking out "The" in the first sentence and inserting in lieu thereof "(a) In providing rehabilitative services under this chapter, the";

(2) striking out "hospitals and domiciliaries" and inserting in lieu therof "health care facilities"; and

(3) inserting below subsection (a) (as redesignated by clause (1) of this subsection) the following new subsections:

"(b)(1) In furnishing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may enter into contractual arrangements with private industry or other sources outside the Veterans' Administration to provide for therapeutic work for remuneration for patients and members in Veterans' Administration health care facilities.

"(2) Notwithstanding any other provision of law, the Administrator may also furnish rehabilitative services under this subsection through contractual arrangements with nonprofit entities to provide for such therapeutic work for such patients. The Administrator shall establish appropriate fiscal, accounting, management, recordkeeping, and reporting requirements with respect to the activities of any such nonprofit entity in connection with such contractual arrangements.

"(c)(1) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund (hereinafter in this section referred to as the 'fund') for the purpose of carrying out the provisions of subsection (b) of this section. Such amounts of the fund as the Administrator may determine to be necessary to establish and maintain operating accounts for the various rehabilitative services activities may be deposited in checking accounts in other depositaries selected or established by the Administrator.

"(2) All funds received by the Veterans' Administration under contractual arrangements made under subsection (b) of this section, or by nonprofit entities described in paragraph (2) of such subsection, shall be deposited in or credited to the fund, and the Administrator shall pay out of the fund moneys to participants at rates not less than the wage rates specified in the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and regulations prescribed thereunder for work of similar character.

"(3) The Chief Medical Director shall prepare, for inclusion in the annual report submitted to Congress under section 214 of this title, a description of the scope and achievements of activities carried out under this section (including pertinent data regarding productivity and wage rates) during the prior twelve months and an estimate of the needs of the program of therapeutic and rehabilitation activities to be carried out under this section for the ensuing fiscal year.

"(d) In providing rehabilitative services under this chapter, the Administrator shall take appropriate action to make it possible for the patient to take maximum advantage of any benefits to which such patient is entitled under chapter 31, 34, or 35 of this title, and, if the patient is still receiving treatment of a prolonged nature under this chapter, the provision of rehabilitative services under this chapter shall be continued during, and coordinated with, the pursuit of education and training under such chapter 31, 34, or 35.

"(e) The Administrator shall prescribe regulations to ensure that the priorities set forth in section 612(i) of this title shall be applied, insofar as practicable, to participation in therapeutic and rehabilitation activities carried out under this section.".

(b)(1) The Administrator is authorized to settle claims made by the Veterans' Administration against any private nonprofit corporation organized under the laws of any State, for the use of Veterans' Administration facilities and personnel in work projects as a part of a therapeutic or rehabilitation program for patients and members in Veterans' Administration health care facilities, and to execute a binding release of all claims by the United States against any such corporation, in such amounts, and upon such terms and conditions as the Administrator deems appropriate.

(2) For the purposes of this subsection, notwithstanding section 484 of title 31, or any other provision of law, the Administrator may utilize any funds received under any settlement made pursuant to paragraph (1) of this subsection for any purpose agreed upon by the Administrator and such corporation.

SEC. 106. Section 620 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "and except as provided in subsection (e)" after "subsection (b)";

(2) striking out "40 per centum" and inserting in lieu thereof "45 per centum" in clause (ii) of subsection (a);

(3) inserting before the period at the end of clause (ii) of subsection (a) a comma and "or not to exceed 50 per centum of such cost where determined necessary by the Administrator, upon recommendation of the Chief Medical Director, to provide adequate care"; and

(4) inserting at the end thereof the following new subsection:

"(e) For the purposes of this section, the term 'nursing home care' includes intermediate care, as determined by the Administrator in accordance with regulations which the Administrator shall prescribe. The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a)(ii) of this section shall be determined by the Administrator except that the rate of reimbursement shall be commensurately less than that provided for nursing home care (as defined in section 101(28) of this title).".

SEC. 107. (a) Subsection (a) of section 642 of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: "No payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of this title.".

(b) Section 5034 of title 38, United States Code, is amended by—

(1) striking out "subchapter" the first place it appears and inserting in lieu thereof "section or any amendment to it with respect to such amendment"; and

(2) inserting at the end thereof the following new clause:

"(3) General standards for the furnishing of nursing home care in facilities which are constructed with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Administrator pursuant to section 620(b) of this title. The Administrator may inspect any State facility constructed with assistance received under this subchapter at such times as the Administrator deems necessary to insure that such facility meets such standards.".

SEC. 108. Subsection (e) of section 1903 of title 38, United States Code, is amended by—

(1) striking out "or member of the Armed

Forces" and inserting such language after "title" in paragraph (1); and

(2) inserting at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, the Administrator may obtain, by purchase, lease, gift, or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to carry out the purposes of this subsection, and may sell, assign, transfer, or convey any such automobile, vehicle, or conveyance to which the Veterans' Administration obtains title for such price and upon such terms as the Administrator deems appropriate; and any proceeds received from any such disposition shall be credited to the applicable Veterans' Administration appropriation.".

SEC. 109. Subsection (b)(1) of section 4114 of title 38, United States Code, is amended by inserting "(which may be established retroactively based on changes in such customary amount and terms)" after "pay".

SEC. 110. Subchapter I of chapter 73 of title 38, United States Code, is further amended by—

(1) inserting in section 4102 "a Podiatric Service, an Optometric Service," after "Dental Service,";

(2) striking out "and a Director of Optometry, appointed by the Administrator." and inserting in lieu thereof "a Director of Podiatric Service, and a Director of Optometric Service, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of their respective Services." in clause (7) of subsection (a) of section 4103;

(3) amending section 4104 by—

(A) inserting "podiatrists, optometrists," after "dentists," in clause (1); and

(B) striking out "optometrists," in clause (2);

(4) redesignating clauses (5), (6), (7), and (8) in subsection (a) of section 4105 as clauses (6), (7), (8), and (9), respectively, and inserting after clause (4) the following new clause:

"(5) Podiatrist—

"hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Administrator, and be licensed to practice podiatry in a State;";

(5) inserting "podiatrists, optometrists," after "dentists," in subsections (a) and (c) and inserting "podiatrist, optometrist," after "dentist," in subsection (e) of section 4106;

(6) amending section 4107 by—

(A)(i) inserting in the SECTION 4103 SCHEDULE in subsection (a)

"Director of Podiatric Service, $36,338 minimum to $46,026 maximum."

immediately below

"Director of Nursing Service, $42,066 minimum to $47,674 maximum."; and

(ii) striking out "Director of Optometry" and inserting in lieu thereof "Director of Optometric Service" in such schedule in such subsection; and

(B) inserting immediately below the NURSE SCHEDULE in paragraph (1) of subsection (b) the following new schedule:

### "CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade, $31,309 minimum to $40,705 maximum.

"Senior grade, $26,861 minimum to $34,916 maximum.

"Intermediate grade, $22,906 minimum to $29,782 maximum.

"Full grade, $19,386 minimum to $25,200 maximum.

"Associate grade, $16,255 minimum to $21,133 maximum.";

(7) inserting "podiatrists, optometrists," after "dentists," and "podiatrist, optometrist" after "dentist," each place those words appear in the language preceding clause (1) and in subclause (B) of clause (6) of subsection (a) of section 4108;

(8) inserting "podiatric, optometric," after "dental," in subsection (a) of section 4112;

(9) inserting "podiatrists, optometrists," after "dentists," in section 4113;

(10) amending section 4114 by—

(A) inserting "podiatrists, optometrists," after "dentists," each place such term appears in paragraphs (1) (A) and (B) and (3) (A) and (B) of subsection (a); and

(B) striking out "or dentist" and inserting in lieu thereof a comma and "dentist, podiatrist, or optometrist" in the language preceding clause (1) of subsection (d) and in clause (1) of such subsection;

(11) inserting "podiatrist, optometrist," after "dentist," each place such word appears in subsection (a) of section 4116; and

(12) amending section 4117 by—

(A) striking out "medical schools," and inserting in lieu thereof "school and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing,"; and

(B) inserting "podiatrists, optometrists," after "dentists,".

SEC. 111. (a)(1) Chapter 73 of title 38, United States Code, is amended by inserting at the end thereof the following new subchapter:

### "Subchapter III—Protection of Patent Rights

### "§ 4131. Informed consent

"The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of section 4134 of this title, shall prescribe regulations establishing procedures to ensure that all medical and prosthetic research carried out and, to the maximum extent practicable, all patient care furnished under this title shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof.

### "§ 4132. Confidentiality of certain medical records

"(a) Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, or sickle cell anemia which is carried out by or for the Veterans' Administration under this title shall, except as provided in subsection (e) of this section, be confidential, and (section 3301 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

"(b)(1) The content of any record referred to in subsection (a) of this section may be disclosed by the Administrator in accordance with the prior written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the Administrator pursuant to section 4134 of this title.

"(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed by the Administrator as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

"(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(3) In the event that the patient or subject who is the subject of any record referred to in subsection (a) of this section is deceased, the content of any such record may be disclosed by the Administrator only upon the prior written request of the next of kin, executor, administrator, or other personal representative of such patient or subject and only if the Administrator determines that such disclosure is necessary for such survivor to obtain benefits to which such survivor may be entitled, including the pursuit of legal action, but then only to the extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed pursuant to section 4134 of this title.

"(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against, or to conduct any investigation of, a patient or subject.

"(d) The prohibitions of this section shall continue to apply to records concerning any person who has been a patient or subject, irrespective of whether or when such person ceases to be a patient.

"(e) The prohibitions of this section shall not prevent any interchange of records—

"(1) within and among those components of the Veterans' Administration furnishing health care to veterans, or determining eligibility for benefits under this title; or

"(2) between such components furnishing health care to veterans and the Armed Forces.

"(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

### "§ 4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities

"Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any Veterans' Administration health care facility. The Administrator, purusant to the provisions of section 4134 of this title, shall prescribe regulations for the enforcement of this nondiscrimination policy with respect to the admission and treatment of such eligible veterans who are alcohol or drug abusers.

### "§ 4134. Coordination; reports

"(a) Regulations prescribed pursuant to section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title, shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations governing—

"(1) human experimentation and informed consent prescribed by the Secretary of Health, Education, and Welfare, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act, as amended (Public Law 93–348; 88 Stat. 348), and

"(2)(A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. 4551 et seq.), and the Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1101 et seq.),

to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title. Such regulations may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title) as are necessary to prevent circumvention or evasion thereof, or to facilitate compliance therewith. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary of Health, Education, and Welfare, and, as appropriate, the Director of the Office of Drug Abuse Policy (or any successor authority), in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they and the Administrator prescribe.

"(b) Not later than sixty days after the effective date of this subsection, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report with respect to the regulations (including guidelines, policies, and procedures thereunder) prescribed pursuant to subsection (a) of this section. Such report shall include (1) an explanation of any inconsistency between such regulations and the regulations of the Secretary referred to in such subsection (a); (2) an account of the extent, substance, and results of consultations with the Secretary (or Director, as appropriate) respecting the prescribing and implementation of the Administrator's regulations; and (3) such recommendations for legislation and administrative actions as the Administrator determines are necessary and desirable. The Administrator shall timely publish such report in the Federal Register.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

"4131. Informed consent.
"4132. Confidentiality of certain medical records.
"4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities.
"4134. Coordination; reports.".

(b) Subsection (b) of section 653 of title 38, United States Code, is amended to read as follows:

"(b) Patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions prescribed in section 4132 of this title.".

(c) The following provisions of law are superseded by the provisions of the amendments to chapter 73 of title 38, United States Code, made by subsection (a) of this section:

(1) Paragraph (2) of subsection (b) of section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4581(b)(2)), as added by section 121 (a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 (Public Law 93–282; 88 Stat. 130).

(2) Paragraph (2) of subsection (b) of section 407 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1174(b) (2)), as amended by section 6(a) of the Act entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes", approved March 19, 1976 (Public Law 94–237; 90 Stat. 244–5).

(3) Subsection (h) of section 408 of such 1972 Act (21 U.S.C. 1175(h)), as amended by section 303(b)(2)(B) of such 1974 Act (88 Stat. 137).

(4) Subsection (h) of section 333 of such 1970 Act (42 U.S.C. 4582(h)), as amended by section 122(a) of such 1974 Act (88 Stat. 131).

(5) Subsection (b) of section 121 of such 1970 Act (88 Stat. 131).

(6) Subsection (b) of section 6 of the Act entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes", approved March 19, 1976 (90 Stat. 245).

(7) Subsection (c) of section 303 of such 1974 Act (88 Stat. 139).

(8) Subsection (c) of section 122 of such 1974 Act (88 Stat. 133).

Sec. 112. Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 89 Stat. 669) is amended by striking out "October 11, 1976" and inserting in lieu thereof "September 30, 1977".

Sec. 113. Section 4123 is amended by adding at the end thereof the following new sentence: "Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.".

Sec. 114. Subsection (a)(3) of section 5001 of title 38, United States Code, is amended by striking out "eight thousand beds in the fiscal year ending June 30, 1974," and inserting in lieu thereof "ten thousand beds in fiscal year 1980".

Sec. 115. (a) Subchapter IV of chapter 81 of title 38, United States Code, is amended by—

(1) inserting at the end of section 5053 the following new subsection:

"(d) When a Veterans' Administration health care facility provides hospital care or medical services, pursuant to a contract or agreement authorized by this section, to an individual who is not eligible for such care or services under chapter 17 of this title and who is entitled to hospital or medical insurance benefits under subchapter XVIII of chapter 7 of title 42, such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise preclude such payment, in accordance with—

"(1) rates prescribed by the Secretary of Health, Education and Welfare, after consultation with the Administrator, and

"(2) procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and services and efficient and economical utilization of resources,

to such facility therefor or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement."; and

(2) amending section 5056 by—

(A) amending the catchline to read as follows:

"§ 5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974"; and

(B) striking out "title IX" and inserting in lieu thereof "part F of title XVI".

(b) The table of sections at the beginning of such chapter is amended by striking out

"5056. Coordination with programs carried out under the Heart Disease, Cancer, and Stroke Amendments of 1965."

and inserting in lieu thereof

"5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974.".

(c) At such time as the rates and procedures described in section 5053(d) of title 38, United States Code, are prescribed, the Secretary of Health, Education, and Welfare, in consultation with the Administrator of Veterans' Affairs, shall submit to the Committee on Ways and Means and the Committee on Veterans' Affairs of the House of Representatives and to the Committee on Finance and the Committee on Veterans' Affairs of the Senate a full report describing such rates and procedures (and any such additional matters relating to the formulation of such rates and procedures as the Secretary may consider pertinent).

Sec. 116. Chapter 82 of title 38, United States Code, is amended by—

(1) redesignating subsections (e) and (f) of section 5070 as subsections (f) and (g), respectively, and inserting the following new subsection (e):

"(e) In carrying out the purposes of this chapter, the Administrator may lease to any eligible institution for such consideration and under such terms and conditions as the Administrator deems appropriate, such land, buildings, and structures (including equipment therein) under the control and jurisdiction of the Veterans' Administration as may be necessary. The three-year limitation on the term of a lease prescribed in section 5012(a) of this title shall not apply with respect to any lease entered into pursuant to this chapter. Any lease entered into pursuant to this chapter may be entered into without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease entered into pursuant to this chapter may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration of the lease.";

(2) inserting at the end of section 5070 the following new subsection:

"(h) Not later than ninety days after the end of each fiscal year, the Administrator shall submit to the Congress a report on activities carried out under this chapter, including (1) an appraisal of the effectiveness of the programs authorized herein in carrying out their statutory purposes and the degree of cooperation from other sources, financial and otherwise, (2) an appraisal of the contributions of such programs in improving the quantity and quality of physicians and other health care personnel furnishing hospital care and medical services to veterans under this title, (3) a list of the approved but unfunded projects under this chapter and the funds needed for each such project, and (4) recommendations for the improvement of more effective administration of such programs, including any necessary legislation.";

(3) striking out paragraph (1) of subsection (a) of section 5073 and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(4) striking out "subsections (a)(1) and" and inserting in lieu thereof "section 5070 (e) of this title and subsection" in section 5073(b)(2).

Sec. 117. (a) The Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration shall carry out or provide for a study to determine the short-range and long-range direction of the hospital and medical program carried out under title 38, United States Code, for eligible veterans and persons with reference to the increasing average age of the eligible veterans population. Not later than twelve months after the date of enactment of this Act, the Chief Medical Director, through the Administrator of Veterans' Affairs, shall submit to the appropriate Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of such study, including, but not limited to, specific plans for—

(1) adjusting the number of Veterans' Administration hospital, nursing home, intermediate care, and domiciliary beds;

(2) adjusting the program for contracting for such nursing home care (including intermediate and personal care) in community facilities;

(3) expanding alternatives to institutional care, including provision of home health (including homemaker and special nutrition) services;

(4) emphasizing treatment programs particularly suited to meeting the health care needs of an aging population;

(5) emphasizing education and training of health care personnel specializing in the treament of elderly persons and diseases and infirmities characteristic of an aging population;

(6) emphasizing biomedical and health services research designed to ameliorate geriatric care problems; and

(7) meeting the special architectural, transportation, and environmental needs of an aging population.

(b) Not later than ninety days after the effective date of this Act, the Administrator shall take all appropriate steps to insure that, to the maximum extent feasible, each individual eligible for new or expanded care and services as a result of the amendments made by this Act is personally notified, in a clear and simple manner, about such new or expanded eligibility and the way to secure such care and services, and shall send copies of all such notification forms to the appropriate committees of the House of Representatives and the Senate, along with a description of how such forms were distributed.

## TITLE II—MEDICAL TECHNICAL AND CONFORMING AMENDMENTS

SEC. 201. This title may be cited as the "Veterans Medical Technical and Conforming Amendments of 1976".

SEC. 202. Chapter 17 of title 38, United States Code, is amended as follows:

(a) The title of such chapter is amended by inserting "NURSING HOME," before "DOMICILIARY".

(b) Section 601 is amended by—

(1) striking out "and exclusive" in clause (A) of paragraph (4);

(2)(A) inserting after "contracts" in clause (C) of paragraph (4) "when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or service required";

(B) redesignating subclauses (ii) and (iii) of such clause (C) as subclauses (iv) and (v), respectively;

(C) striking out subclause (i) of such clause (C) and inserting in lieu thereof the following subclauses: "(i) hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service; (ii) medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of section 612(f) of this title, (iii) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving hospital care in a facility described in clause (A) or (B) of this paragraph;"; and

(D) striking out "clause (iii)" where the term appears in subclause (v) (as so redesignated) of such clause (C) and inserting in lieu thereof "subclause (v)"; and

(3) striking out in subclause (ii) of clause (A) of paragraph (5) "for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation" and inserting in lieu thereof "pursuant to the provisions of section 111 of this title".

(c) The subchapter heading at the beginning of subchapter II of such chapter is amended by inserting a comma and "Nursing Home," after "Hospital".

(d) Section 610 is amended by—

(1) inserting a comma and "nursing home," after "hospital" in the catchline of such section;

(2) inserting "or nursing home" after "hospital" in subsection (a)(1)(B);

(3) striking out "of any war or of service after January 31, 1955," and the comma after "domiciliary care" in subsection (b)(2); and

(4) striking out "and exclusive" in subsection (d).

(e)(1) The catchline of section 611 is amended by striking out "Hospitalization" and inserting in lieu thereof "Care".

(2) Subsection (b) of section 611 is amended by inserting "or medical services" after "hospital care".

(f) Section 612 is amended by—

(1) striking out "Indian wars" and inserting in lieu thereof "Indian Wars" in subsection (e);

(2) striking out "granted" and inserting in lieu thereof "furnished" in subsection (f)(1)(B); and

(3) inserting after "Administrator" in subsection (g) a comma and "within the limits of Veterans' Administration facilities,".

(g) Section 616 is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

(h) Subsection (a) of section 620 is amended by—

(1) striking out "and exclusive" in clause (1) and in the last sentence of such subsection; and

(2) striking out "from time to time" and inserting in lieu thereof "annually" in clause (ii).

(i) The subchapter heading at the beginning of subchapter III of such chapter is amended by inserting "and Nursing Home" after "Hospital".

(j) Clauses (1) through (3) of section 621 are amended by inserting a comma and "nursing home," after "hospital" each time it appears.

(k) Subsection (a) of section 622 is amended by striking out "610(a)(1)" and inserting in lieu thereof "610(a)(1)(B)", and striking out "632(b)" and inserting in lieu thereof "632(a)(2)".

(l) Subsection (c) of section 624 is amended by striking out "of any war" after "veteran".

(m) Section 627 is amended by striking out "1958" and inserting in lieu thereof "1957".

(n) Subsection (a)(1) of section 628 is amended by striking out "they" and inserting in lieu thereof "delay".

(o) Section 641 is amended by striking out "of any war or of service after January 31, 1955".

SEC. 203. (a) The table of chapters and parts at the beginning of title 38, United States Code, and the table of chapters at the beginning of part II of such title are each amended by inserting in the title of chapter 17 "NURSING HOME," after "HOSPITAL".

(b) The table of sections at the beginning of chapter 17 of such title is amended by—

(1) inserting in the heading of subchapter II a comma and "NURSING HOME" after "HOSPITAL";

(2) inserting in the item relating to section 610 a comma and "nursing home" after "hospital";

(3) inserting in the heading of subchapter III "AND NURSING HOME" after "HOSPITAL"; and

(4) striking out "Hospitalization" and inserting in lieu thereof "Care" in the item relating to section 611.

SEC. 204. Chapter 23 of title 38, United States Code, is amended by inserting in subsection (a) of section 903 a comma and "nursing home," after "hospital", and by striking out "611" and inserting in lieu thereof "611(a)" in such subsection.

SEC. 205. Subchapter I of chapter 73 of title 38, United States Code, is amended as follows:

(a)(1) The second sentence of subsection (a) of section 4101 is amended to read as follows: "The primary function of the Department of Medicine and Surgery shall be to provide a complete medical and hospital service, as provided in this title and in regulations prescribed by the Administrator pursuant thereto, for the medical care and treatment of veterans.".

(2) Subsection (b) of section 4101 is amended by striking out "to provide a complete medical and hospital service for the medical care and treatment of veterans".

(3) Section 4101 is further amended by redesignating subsection (c) as subsection (d) and inserting the following new subsection (c):

"(c)(1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to contribute to the Nation's knowledge about disease and disability, the Administrator shall, in connection with the provision of medical care and treatment to veterans, carry out a program of medical research (including biomedical, prosthetic, and health care services research, and stressing research into spinal cord injuries and diseases and other disabilities that lead to paralysis of the lower extremities). In carrying out such research program, the Administrator shall act in cooperation with the entities described in subsection (b) of this section.

"(2) Prosthetic research shall include research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices. In order that the unique investigative material and research data in the possession of the Government may result in the improvement of such appliances and devices for all disabled persons, the Administrator, through the Chief Medical Director, shall make the results of such research available to any person, and shall consult and cooperate with the Secretary of Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare, in connection with programs carried out under section 3(b) of the Rehabilitation Act of 1973 (Public Law 93–112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), section 202(b)(2) of such Act (relating to the establishment and support of Rehabilitation Engineering Research Centers), and section 405 of such Act (relating to the secretarial responsibilities for planning, analysis, promoting utilization of scientific advances, and information clearinghouse activities).

"(3)(A) With the approval of the Administrator, any contract or research authorized by this section, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not covered by the financial protection required under subparagraph (E) of this paragraph:

"(i) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal workers' injury compensation laws to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

"(ii) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

"(B) A contract that provides for indemnification in accordance with subparagraph (A) of this paragraph must also provide for—

"(i) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

"(ii) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which idemnification is provided hereunder.

"(C) No payment may be made under subparagraph (A) of this paragraph unless the Administrator, or the Administrator's designee, certifies that the amount is just and reasonable.

"(D) Upon approval by the Administrator, payments under subparagraph (A) of this paragraph may be made from—

"(i) funds obligated for the performance of the contract concerned;

"(ii) funds available for research or development or both, and not otherwise obligated; or

"(iii) funds appropriated for those payments.

"(E) Each contractor which is a party to an indemnification agreement under subparagraph (A) of this paragraph shall have and maintain financial protection of such type and in such amounts as the Administrator shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Administrator may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

"(F) In administering the provisions of this paragraph, the Administrator may use the facilities and services of private insurance organizations, and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable, and advance payments may be made under any such contract.

"(G) The authority to indemnify contractors under this paragraph does not create any rights in third persons which would not otherwise exist by law.

"(H) As used in this section, the term 'contractor' includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subparagraph (A) of this paragraph.

"(4) Funds appropriated to carry out this subsection shall remain available until expended.".

(b) Chapter 39 of title 38, United States Code, is amended by

(1) striking out in the table of sections

"1904. Research and development; coordination with other Federal programs."

and inserting in lieu thereof

"1904. Research and development.";

(2) amending the catchline of section 1904 to read as follows:

"§1904. Research and development";

and

(3) amending subsection (a) of section 1904 by striking out "prosthetic and orthopedic appliance research under section 216 and medical research" and inserting in lieu thereof "medical and prosthetic research".

(c) Chapter 3 of title 38, United States Code, is amended by—

(1) striking out section 216 in its entirety; and

(2) amending the table of sections at the beginning thereof by striking out

"216. Research by the Administrator; indemnification of contractors.".

(d) Section 4103 of such title is amended by—

(1) inserting "upon the recommendation of the Chief Medical Director" after "Administrator" in paragraphs (2) and (3) of subsection (a);

(2) striking out "recommendations" and inserting in lieu thereof "recommendation" in subsection (a)(4);

(3) inserting "or whose appointment or reappointment, is extended" after "reappointed" in subsection (b)(3); and

(4) inserting "or for any period not exceeding two years" in subsection (c) before the period at the end of the second sentence.

(e) Subsection (a)(6) (as redesignated by section 110(4) of this Act) of section 4105 of title 38, United States Code, is amended by inserting "hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator and" before "be".

(f) Subsection (b) of section 4108 is amended by striking out "pursuant to" after "agreement" and inserting in lieu thereof "as referred to in".

(g) Subsection (b)(2) of section 4114 is amended to read as follows:

"(2) For the purposes of this title, the term 'internship' shall include the equivalency of an internship as determined in accordance with regulations which the Administrator shall prescribe, and the term 'intern' shall mean a person serving an internship.".

Sec. 206. Chapter 81 of title 38, United States Code, is amended as follows:

(a) Section 5001 is amended by—

(1) striking out "and exclusive" in the first sentence of subsection (a)(2), and striking out "tuberculosis" and inserting in lieu thereof "tuberculous" in such sentence; and

(2) striking out "and exclusive" in the first sentence of subsection (a)(3).

(b) Subchapter III of such chapter is amended by striking out "war" each time it appears in paragraph (a) of section 5031, section 5032, paragraph (1) of section 5034, paragraphs (4) of subsections (a) and (b) of section 5035, and section 5036.

(c) Section 5053 is amended by—

(1) striking out "paragraphs" and inserting in lieu thereof "clauses" in the first sentence of subsection (a); and

(2) inserting "health care" after "Veterans' Administration" each place it appears in clauses (1) and (2) of subsection (a) and in subsection (c).

(d) Subsection (b) of section 5054 is amended by inserting "the" before "surrounding medical community" the second place it appears.

(e) The second sentence of subsection (a) of section 5055 is amended by striking out "for Research and Education in Medicine" and inserting in lieu thereof "charged with administration of the Department of Medicine and Surgery medical research program".

Sec. 207. Subchapter II of chapter 82 of title 38, United States Code, is amended by striking out "subchapter IV of chapter 81 of" in subsection (a) of section 5083.

Sec. 208. Chapter 85 of title 38, United States Code, is amended as follows:

(a) The first sentence of subsection (b) of section 5202 is amended by inserting "or a dependent or survivor of a veteran receiving care under the last sentence of section 613 (b) of this title," after "(admitted as a veteran)," in the first sentence.

(b) Subsection (a) of section 5220 is amended by inserting a comma and "or a dependent or survivor of a veteran receiving care under the last sentence of section 613 (b) of this title," after "(admitted as a veteran)".

(c) Section 5221 is amended by inserting a comma and "or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title," after "(admitted as such)".

Sec. 209. (a) Subchapter I of chapter 73 of title 38, United States Code, is amended as follows:

(1) Subsection (b) of section 4101, clause (1) of section 4104, subsection (b) of section 4105, subsection (f) of section 4106, subsection (f) of section 4107, the language preceding clause (1) in subsection (a) and clause (6)(B) in subsection (a) of section 4108, and section 4117, are each amended by striking out "physicians'" and inserting in lieu thereof "physician".

(2) Clause (1) of section 4104, clause (8) of subsection (a) and subsection (b) of section 4105, subsection (f) of section 4107, and the language preceding clause (1) in subsection (a) and subclause (B) of clause (6) of subsection (a) of section 4108 are each amended by striking out "expanded-duty" each place it appears and inserting in lieu thereof "expanded-function".

(3) Subsection (b) of section 4101 is further amended by striking out "dentists' assistants" and inserting in lieu thereof "expanded-function dental auxiliaries".

(4) Clause (8) of subsection (a) of section 4105 is further amended by striking out "Physicians'" and inserting in lieu thereof "Physician".

(5) Section 4113 is amended by striking out "and nurses" and inserting in lieu thereof "nurses, physician assistants, and expanded-function dental auxiliaries".

(6) Section 4114 is amended by—

(A) inserting "physician assistants, expanded-function dental auxiliaries," after "nurses," in clauses (A) and (B) of subsection (a)(1);

(B) striking out "and nurses" and inserting in lieu thereof "nurses, physician assistants, and expanded-function dental auxiliaries" in the first sentence of subsection (a)(3)(A);

(C) striking out "nurses and interns, and" and inserting in lieu thereof "nurses, physician assistants, expanded-function dental auxiliaries, and interns," in subsection (a)(3)(B); and

(D) striking out "dentist's assistant" and inserting in lieu thereof "expanded-function dental auxiliary" in the first sentence of subsection (e).

(7) Subsection (a) of section 4116 is amended by striking out "physicians' assistant, dentists' assistant" each time those terms appear and inserting in lieu thereof

"physician assistant, expanded-function dental auxiliary".

(8) Section 4117 is amended by striking out "dentists' assistants" and inserting in lieu thereof "expanded-function dental auxiliaries".

(b) Subchapter I of chapter 73 of title 38, United States Code, is further amended as follows:

(1) Section 4106 is amended by—

(A) inserting "rate of basic" after "minimum" in the second sentence of subsectin (c); and

(B) striking out "level and salary" and "and salary" and inserting in lieu thereof "and annual rate of basic pay" each place those words appear in subsection (e).

(2) Section 4107 is amended by—

(A) striking out "per annum full-pay scale or ranges" and inserting in lieu thereof "annual rates or ranges of rates of basic pay" in subsection (a);

(B) striking out "per annum full-pay ranges" and inserting in lieu thereof "annual ranges of rates of basic pay" in the first sentence of subsection (b)(1);

(C) inserting "facility" after "domiciliary" each place it appears in subsection (c); and

(D) amending subsection (e) by—

(i) striking out "basic compensation" and inserting in lieu thereof "rate of basic pay" in paragraph (1);

(ii) striking out "basic hourly rate" and "basic hourly rate of pay" and inserting in lieu thereof "hourly rate of basic pay" in paragraphs (2), (3), (5), (6), and (7);

(iii) striking out "compensation" each time it appears in paragraphs (1), (2), (3), (6), and (9) and inserting in lieu thereof "pay";

(iv) amending the first sentence of paragraph (4) to read as follows: "A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service." ; and

(v) striking out "compensated" and inserting in lieu thereof "paid" in paragraph (8).

(3) Subsection (a) of section 4112 is amended by striking out "compensation" and inserting in lieu thereof "pay" in the last sentence of such subsection.

(c) Chapter 73 of title 38, United States Code, is further amended as follows:

(1) Section 4103 is amended by—

(A) striking out "individuals" and inserting in lieu thereof "persons" in the second sentence of subsection (a)(4);

(B) striking out "and employees" in subsection (a)(8); and

(C) striking out "An individual" and inserting in lieu thereof "A person" in the third sentence of subsection (c).

(2) Subsection (a) of section 4105 is amended by striking out "employees" and inserting in lieu thereof "personnel" in clause (7).

(3) Section 4107 is amended by—

(A) striking out "individual" and inserting in lieu thereof "person" in the first sentence of subsection (c);

(B) striking out "employee's" and inserting in lieu thereof "nurse's", and striking out "work" and inserting in lieu thereof "service", in paragraph (2) of subsection (e); and

(C) striking out "duty" and inserting in lieu thereof "service" in paragraph (7) of subsection (e).

(4) Clause (1) of subsection (a) of section 4108 is amended by striking out "individual" and inserting in lieu thereof "person".

(5) Section 4113 is amended by—

(A) striking out "of employees" and inserting in lieu thereof a comma and "of persons"; and

(B) striking out "paragraph (1) of section 4104" and inserting in lieu thereof "section 4104(1),".

(6) Subsection (d)(2) of section 4114 is amended by striking out "individual" and inserting in lieu thereof "person".

(7) Subsection (b) of section 4122 is amended by striking out "individuals" each time it appears and inserting in lieu thereof "persons".

SEC. 210. (a) Chapter 17 of title 38, United States Code, is amended as follows:

(1) Section 610 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Administrator" in the first sentence of subsection (a);

(B) striking out "he" and inserting in lieu thereof "such veteran" in subsections (a)(1)(B), (b)(2), and (c); and

(C) striking out "he" and inserting in lieu thereof "such person" in subsection (b)(1).

(2) Section 611 is amended by—

(A) striking out "him" and inserting in lieu thereof "the Administrator" in subsection (a); and

(B) striking out "he" and "him" each place those words appear in subsection (b) and inserting in lieu thereof "the Administrator";

(3) Section 612 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Administrator" in the first sentence of subsection (a);

(B) striking out "him" and "he" each place those words appear in subsection (d) and inserting in lieu thereof "the Administrator";

(C) striking out "he" and inserting in lieu thereof "the Administrator" in subsection (g); and

(D) striking out "his" each place it appears in the second sentence of subsection (h) and inserting in lieu thereof "such veteran's".

(4) Section 613 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Secretary" in subsection (b)(1); and

(B) striking out "he" each place it appears and inserting in lieu thereof "the Administrator" in subsection (b)(2).

(5) Section 614 is amended by—

(A) striking out "his" and inserting in lieu thereof "such veteran's" in subsection (a); and

(B) striking out "he" in subsection (b).

(6) Section 619 is amended by striking out "him" and inserting in lieu thereof "such veteran".

(7) The first sentence of subsection (b) of section 620 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(8) Paragraphs (1) and (3) of section 621 are amended by striking out "he" each place it appears and inserting in lieu thereof "the Administrator".

(9) Subsection (b) of section 622 is amended by striking out "his" and inserting in lieu thereof "such veteran's".

(10) Section 623 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(11) The first sentence of subsection (c) of section 624 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(12) Section 626 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(13) Subsection (a) of section 628 is amended by—

(A) striking out "he" and inserting in lieu thereof "the Administrator" in the first sentence of such subsection; and

(B) striking out "his" and inserting in lieu thereof "such veteran's" in paragraph (2)(D)(ii) of such subsection.

(14) The second sentence of subsection (d) of section 632 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(15) Section 633 is amended by striking out "he" and inserting in lieu thereof "the President", and by striking out "his".

(16) Subsection (a) of section 642 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(b) Section 3301 of title 38, United States Code, is amended by—

(1) striking out "his" and inserting "of a claimant" after "representative" in subsection (b)(1), and striking out "himself" and inserting in lieu thereof "the claimant" in such subsection;

(2) striking out "in his" and inserting in lieu thereof "as a matter of" in subsection (d); and

(3) striking out "his" and inserting in lieu thereof "the Administrator's" in subsection (e).

(c) Chapter 73 of title 38, United States Code, is amended as follows:

(1) Section 4101 is amended by—

(A) striking out "servicemen" and inserting in lieu thereof "members of the armed forces" in subsection (b); and

(B) striking out "his" and "he" and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively, in subsection (d)(2) (as redesignated by section 205(a)(3) of this Act).

(2) Section 4103 is amended by—

(A) striking out the period at the end of the first sentence and inserting in lieu thereof a comma, and striking out "He" in the second sentence and inserting in lieu thereof "and who", in paragraphs (1), (2), and (3) of subsection (a); and

(B) striking out "his" and "he" and inserting in lieu thereof "such person's" and "such person", respectively, in the third sentence of subsection (c).

(3) Section 4104 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(4) Section 4107 is amended by—

(A) striking out "he" each place it appears in subsection (b)(2) and inserting in lieu thereof "such person"; and

(B) striking out "he" and "his" and inserting in lieu thereof "such person" and "such person's", respectively, in subsection (c).

(5) Subsection (a) of section 4108 is amended by—

(A) striking out "his" and inserting in lieu thereof "such person's" in clause (2);

(B) striking out "him" and "his" and inserting in lieu thereof "such person" and "such person's", respectively, in clause (3);

(C) striking out "him" and "his" and inserting in lieu thereof "such person" and "such person's", respectively, in clause (4);

(D) striking out "his" each place it appears and "him" in clause (5) and inserting in lieu thereof "such person's" and "such person", respectively; and

(E) striking out "his" each place it appears and inserting in lieu thereof "such person's in clause (6).

(6) The first sentence of subsection (b) of section 4112 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(7) Section 4114 is amended by—

(A) striking out "he" each place it appears in the third and fifth sentences in subsection (b)(3) and inserting in lieu thereof "such recipient";

(B) striking out "he" and "his" each place those words appear in the last sentence of subsection (b)(3) and inserting in lieu thereof "such person" and "such person's", respectively;

(C) striking out "he" and inserting in lieu thereof "the person" in subsection (d)(1); and

(D) striking out "his" and "he" and inserting in lieu thereof "such person's" and "the person", respectively, in subsection (d) (2).

(8) Section 4116 is amended by—

(A) striking out "his" each place it appears in subsection (a) and inserting in lieu thereof "such person's";

(B) striking out "his" and "him" and inserting in lieu thereof "such person's" and "such person", respectively, in subsection (b);

(C) striking out "his" each place it appears in subsection (c) and inserting in lieu thereof "such person's"; and

(D) striking out "he" and "his" each place those words appear in subsection (e) and inserting in lieu thereof "the Administrator" and "such person's",

(9) Subsection (a) of section 4121 is amended by striking out "his" and "he" each place those words appear and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively.

(10) Section 4122 is amended by striking out "he" and inserting in lieu thereof "the Chief Medical Director" in subsections (b) and (c).

(d) Chapter 75 of title 38, United States Code, is amended by striking out "he" each place it appears in clauses (3), (9), (10), and (11) of section 4202 and inserting in lieu thereof "the Administrator".

(e) Chapter 81 of title 38, United States Code, is amended as follows:

(1) Subsection (b) of section 5001 is amended by striking out "him" and "his" and inserting in lieu thereof "the Administrator" and "the Chief Medical Director's", respectively.

(2) Section 5002 is amended by—

(A) striking out "he" each place it appears and inserting in lieu thereof "the President"; and

(B) striking out "his opinion" and inserting in lieu thereof "the opinion of the President such is".

(3) Paragraphs (2) and (3) of subsection (b) of section 5004 are amended by striking out "he" and inserting in lieu thereof "the Administrator".

(4) The second sentence of section 5005 is amended by striking out "He" and inserting in lieu thereof "The President".

(5) The first sentence of section 5007 is amended by striking out "his" and inserting in lieu thereof "the Administrator's".

(6) Subsection (c) of section 5011 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(7) Section 5012 is amended by—

(A) striking out "his" in the first and fourth sentences of subsection (a) and inserting in lieu thereof "the Administrator's";

(B) striking out "he" and inserting in lieu thereof "the Administrator" in subsection (b); and

(C) striking out "him" and inserting in lieu thereof "the Administrator" in subsection (c).

(8) Section 5013 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(9) Section 5014 is amended by—

(A) striking out "he" each place it appears in the first and fourth sentences and inserting in lieu thereof "the Administrator"; and

(B) striking out "his" in the first sentence and inserting in lieu thereof "the Administrator's".

(10) Subsection (b) of section 5035 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(11) The first sentence of subsection (a) of section 5053 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(12) The second sentence of subsection (b) of section 5054 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(13) The first sentence of subsection (a) of section 5055 is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(f) Chapter 82 of title 38, United States Code, is amended as follows:

(1) The second sentence of subsection (f) (as redesignated by section 116(1) of this Act) of section 5070 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(2) Section 5071 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(3) Section 5073 is amended by—

(A) striking out "he" each place it appears in subsection (b) and inserting in lieu thereof "the Administrator"; and

(B) striking out "he" each place it appears in subsection (c) and inserting in lieu thereof "the Administrator".

(4) Subsection (b) of section 5083 is amended by striking out "his" in the language preceding clause (1) and in clause (4) and inserting in lieu thereof "the Administrator's".

(5) Subsection (b) of section 5093 is amended by striking out "his" in the language preceding clause (1) and in clause (4) and inserting in lieu thereof "the Administrator's".

(6) Section 5096 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

SEC. 211. Except as otherwise provided in this Act, the amendments made by this Act to title 38, United States Code, shall take effect on October 1, 1976, or on the date of enactment, whichever is later.

Mr. SATTERFIELD (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The motion was agreed to.

### MOTION TO AMEND TITLE OFFERED BY MR. SATTERFIELD

Mr. SATTERFIELD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SATTERFIELD moves that the House recede from its disagreement to the Senate amendment to the title of the bill and agree to the same with the following amendment: In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, insert the following: "An Act to amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to make certain technical and conforming amendments; and for other purposes.".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

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## GENERAL LEAVE

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

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## SPECIAL UNEMPLOYMENT ASSISTANCE EXTENSION ACT OF 1976

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14970) to extend the special unemployment assistance program for one year, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), for the minority, pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution makes in order consideration of the bill (H.R. 14970) to extend the special unemployment assistance program for 1 year.

It is simply a 1-hour open rule.

Under a motion adopted by the Committee on Rules legislation has been considered for rules only under certification by the Speaker that an emergency exists. Based on a letter filed by the Speaker September 15, the committee held hearings and reported the rule September 16.

The House has passed legislation (H.R. 10210) which completely revised unemployment compensation programs effective January 1, 1978:

Presently the special unemployment assistance—SUA—program provides coverage to certain workers not covered under normal Federal programs—agricultural and domestic workers and employees of State and local governments. This program expires December 31, 1976, leaving these workers with no coverage until the new permanent program takes effect.

This bill simply extends SUA coverage for this 1-year period. The Congressional Budget Office estimates the total cost at $387 million. The entire fiscal year 1977 cost was included in the budget resolutions.

There is little controversy over the bill and absolutely none over the rule. I urge its adoption so that we may proceed to consider H.R. 14970.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on July 20 of this year, the House passed H.R. 10210, the unemployment compensation amendments of 1976. That legislation is currently pending action in the other body, I understand it has just been reported out of the Finance Committee. If the Members of the other body see fit to consider and pass H.R. 10210 at this late date, and I earnestly hope they are discriminating enough to refrain from doing so, then a permanent program of unemployment compensation, costing an estimated $1,350,000,000 in fiscal year 1978 alone, will be established and scheduled to take effect on January 1, 1978.

At the present time, under present programs, 87 percent of our Nation's wage and salary earners are covered under Federal-State unemployment compensation law. The jobs not permanently covered are those of agricultural workers, domestic workers, and State and local employees. H.R. 10210 will extend benefits to virtually 80 percent of these jobs if it is enacted into law.

In December 1974, Congress established the special unemployment assistance program—SUA—for 1 year which provided unemployment compensation benefits for unemployed workers not covered under any other State or local program. Congress extended that act for 1 additional year in June of 1975, that extension is scheduled to run out on December 31, 1976.

The purpose of the bill before us today, Mr. Speaker, is to further extend the SUA program in order that the workers which it presently covers will retain coverage until the effective date of H.R. 10210, January 1, 1978. At that time, these workers will be afforded coverage under a permanent Federal program, contingent on the enactment of H.R. 10210 into law.

House Resolution 1552 provides a 1-hour open rule for the consideration of H.R. 14970. I know of no opposition to the rule, Mr. Speaker, and I have no requests for time. I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken and the Speaker pro tempore announced that the ayes appear to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 4, answered "present" 1, not voting 44, as follows:

[Roll No. 843]

YEAS—381

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—4

Burleson, Tex.
Collins, Tex.
McDonald
Paul

ANSWERED "PRESENT"—1

Pressler

NOT VOTING—44

Allen
Ambro
Beard, Tenn.
Bedell
Bowen
Breaux
Brown, Ohio
Conable
Conlan
Esch
Evins, Tenn.
Flynt
Green
Guyer
Haley
Hébert
Heinz
Hinshaw
Jarman
Karth
McCollister
Matsunaga
Meeds
Melcher
Mills
Mink
Moss
Nix
Nolan
Passman
Pepper
Rees
Riegle
Runnels
St Germain
Scheuer
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Sullivan
Udall
Wilson, C. H.
Young, Ga.

The Clerk announced the following pairs:

Mr. Pepper with Mr. Allen.
Mr. Matsunaga with Mr. Conable.
Mr. Breaux with Mr. Esch.
Mr. Flynt with Mr. Guyer.
Mr. Hébert with Mr. Young of Georgia.
Mr. St Germain with Mr. Beard of Tennessee.
Mr. Charles H. Wilson of California with Mr. Conlan.
Mr. Moss with Mrs. Sullivan.
Mr. Nix with Mr. Bedell.
Mrs. Mink with Mr. Karth.
Mr. Ambro with Mr. Evins of Tennessee.
Mr. Bowen with Mr. McCollister.
Mr. Green with Mr. Melcher.
Mr. Heinz with Mr. Brown of Ohio.
Mr. Runnels with Mr. Udall.
Mr. Riegle with Mr. Stephens.
Mr. Meeds with Mr. James V. Stanton.
Mr. Haley with Mr. Mills.
Mr. Nolan with Mr. Rees.
Mr. Passman with Mr. Steelman.
Mr. Scheuer with Mr. Steiger of Arizona.

Mr. BUTLER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14970) to extend the special unemployment assistance program for 1 year, and for other purposes.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from California (Mr. CORMAN).

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14970, with Ms. JORDAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. CORMAN) will be recognized for 30 minutes, and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the purpose of H.R. 14970 is to continue for 1 additional year temporary unemployment compensation protection under a modified special unemployment assistance—SUA—program for those groups of workers who will be brought into the permanent Federal/State program under the provisions of H.R. 10210, the Unemployment Compensation Amendments of 1976. The bill would maintain unemployment compensation protection for agricultural workers, domestic workers, and State and local government employees between December 31, 1976, when SUA expires under existing law, and January 1, 1978, the effective date for coverage of these groups of workers under the permanent Federal/State unemployment compensation program proposed in H.R. 10210.

H.R. 14970 would require that the State base period be used in determining eligibility for SUA. This change would restrict the payment of SUA benefits to eligible unemployed individuals working in employment not covered under permanent Federal or State unemployment compensation law—agricultural, domestic, and State and local government employment.

The bill would also prohibit payment of SUA benefits during recess periods to nonprofessional school employees with reasonable assurance of returning to their previous jobs at the end of the recess period. A similar provision pertaining to professional school employees—teachers, researchers, and administrators—is contained in present law.

The Congressional Budget Office—CBO—estimates that the extension of SUA contained in the bill will cost $193 million in fiscal year 1977 and $194 million in fiscal year 1978.

The second concurrent resolution on the fiscal 1977 budget, approved September 11, contains $200 million in budget authority and outlays for the purpose of extending the SUA program as provided in this bill.

In December 1974, when unemployment was increasing rapidly, Congress established for 1 year the special unemployment assistance—SUA—program (Public Law 93-567). The purpose of the program was to provide unemployment compensation benefits financed out of Federal general revenues for unemployed workers not eligible for unemployment compensation benefits under any other State or Federal law. As originally enacted, SUA provided a maximum of 26 weeks of benefits to eligible unemployed workers when the rate of total unemployment was 6 percent or higher nationally, or 6.5 percent or higher in local areas as defined under the Comprehensive Employment and Training Act of 1973 (Public Law 93-203). To receive SUA an individual had to be ineligible for benefits under any other State or Federal unemployment compensation law and meet the State's qualifying employment and wage requirements within the 52-week period preceding his first claim for assistance.

In June 1975, Congress extended the SUA program for 1 year, through December 31, 1976—with phaseout through March 31, 1977—and increased from 26 to 39 the maximum number of weeks an individual could receive SUA benefits (Public Law 94-45). Also, provisions were included prohibiting the payment of SUA benefits during school recess periods to professional school employees—teachers, administrators, and researchers—who had contracts covering the school terms or years before and after the recess period.

Immediately following the enactment of that extension of SUA, the Unemployment Compensation Subcommittee of the Committee on Ways and Means began hearings on legislation that would extend coverage under the permanent Federal/State program to substantially all wage and salary earners, and thereby eliminate the need for the SUA program. On October 20, 1975, the subcommittee approved H.R. 10210 which extended coverage under the permanent unemployment compensation law to all State and local government employees, agricultural workers employed by larger farm operations, and domestic employees of employers who pay $600 or more in quarterly wages for domestic services. The Department of Labor estimated that these coverage provisions would extend permanent unemployment compensation protection to 8.9 million of the 10 million jobs not presently covered under permanent law: 7.7 million local government jobs, 0.6 million State government jobs, 0.3 million farm jobs, and 0.3 million domestic jobs. Under the subcommittee bill, these coverage provisions would have become effective January 1, 1977, or just as SUA expired on December 31, 1976, and would have therefore prevented a gap in unemployment compensation for the workers covered under H.R. 10210.

H.R. 10210 was approved without change by the Ways and Means Committee on December 11, 1975. Delays created by tax legislation and other emergency bills prevented the Rules Committee from scheduling House action on H.R. 10210 before the end of the session in 1975. It was hoped that the House and Senate would be able to act on H.R. 10210 early in 1976 so that the coverage provisions could take effect on January 1, 1977, or at the time coverage under SUA expired. Under the new budget procedures, however, legislation like H.R. 10210 was subject to a point of order on the House floor until after the House had approved the first concurrent resolution on the budget for fiscal year 1977. The budget resolution was approved in May and the House approved H.R. 10210 on July 20, 1976. Because of the delay in House consideration of the bill, it was necessary to move the effective dates in H.R. 10210 forward 1 year through a committee amendment approved prior to House passage of the bill.

As approved by the House, H.R. 10210 extends coverage under the permanent Federal/State unemployment compensation law to agricultural workers of employers with 4 or more workers in 20 weeks or who paid $10,000 in quarterly wages for agricultural services; to domestic workers of employers who paid $600 or more in any calendar quarter for domestic services; and to State and local government employees. This coverage becomes effective January 1, 1978, leaving a 1-year gap between the expiration of SUA under current law—December 31, 1976—and the coverage provided under H.R. 10210—January 1, 1978. The decision of the Committee on Ways and Means to modify and extend the SUA program as proposed in H.R. 14970 was predicated on the desire to prevent this gap in unemployment compensation protection for the groups of workers who will be included in the permanent unemployment compensation program under the provisions of H.R. 10210, and to provide for an orderly transition from coverage of these workers under SUA to the permanent Federal/State program.

H.R. 14970 eliminates the special "base period" and "benefit year" for determination of SUA eligibility and benefit payments contained in existing law. After December 30, 1976, SUA eligibility and benefit payments must be determined on the basis of the base period and benefit year in the State unemployment compensation law in which the claims are made.

The base period is the specified time period prior to an individual's filing for unemployment compensation benefits during which the claimant must have sufficient employment, in terms of weeks of work or wages earned, in order to qualify for benefits. The amount and duration of benefits paid to an eligible claimant are also determined on the basis of employment experience during the base period. In 35 States, the base period is the first four of the last five quarters prior to the application for unemployment compensation benefits. In other words, two-thirds of the States measure employment experience during a base period that excludes work done in the 3 to 6 months just prior to the time a claim is first filed. As a result, the claimant's most recent employment—work done in the 3 to 6 months just prior to filing for unemployment compensation benefits—is not included in the determination of eligibility or benefit amount. The reason for this type of a base period is that it allows the States in making determinations of eligibility and benefit payments to use the records of quarterly and annual earnings that are supplied by employers when they submit their unemployment insurance taxpayments and related reports.

Under existing law, the base period for SUA claims, in all States, must be the 52-week period immediately preceding the date the initial claim is made. In other words, under present law SUA eligibility and benefit payments must be determined on the basis of the claimant's work experience in the 52 weeks before he or she files for benefits, regardless of the base period in the State unemployment compensation law. This special base period for SUA claimants has created administrative problems in those States with a base period that excludes the most recent 3 to 6 months of employment. Also the special base period has made it possible for a substantial number of individuals in these States to qualify for SUA benefits rather than regular State unemployment compensation benefits, even though they had been working in covered employment; for example, mining, construction, retailing, manufacturing, et cetera. They qualified for SUA because their work experience was during the most recent 3 to 6 months before filing for unemployment compensation. These individuals had sufficient employment, in terms of wages earned, to qualify for regular State unemployment compensation benefits, and they had been working in covered employment. However, they had earned these wages during the 3 to 6 months just before they applied for unemployment compensation, or during the period that is excluded by the State base period in determining eligibility for regular State unemployment compensation benefits. As a result, they could not qualify for regular unemployment compensation benefits. However, because of the most recent 5-week base period under SUA, they did qualify for and receive SUA benefits.

The benefit year is the period during which a qualified claimant may receive the unemployment compensation benefits to which he or she is entitled. Under current law, the benefit year for SUA claims must be the 52-week period beginning with the first week for which an individual files a valid claim. This is similar to the benefit year used in the regular State unemployment compensation programs in all but a few States. As a result, the provisions in H.R. 14970 requiring that the benefit year for SUA claims filed after December 31, 1976, be the same as the benefit year in State law will have little impact on the payment of SUA benefits.

The provisions in H.R. 14970 requiring that eligibility and benefit payments be determined on the basis of the base period and benefit year in the State unemployment compensation law will eliminate administrative problems created by the special SUA base period and benefit year. Elimination of the special base period will also restrict the payment of SUA benefits to unemployed workers who have been working in employment not covered under permanent Federal or State unemployment compensation law—agricultural, domestic, and State and local government employment—or those groups of workers who, under the provisions of H.R. 10210, will be covered under permanent law as of January 1, 1978. This will prevent a gap in unemployment compensation protection for the groups of workers who will be included in the permanent unemployment compensation program under H.R. 10210. It will also provide for an orderly transition from coverage under SUA to the regular unemployment compensation program by requiring individuals to qualify for SUA during this transitional year on the basis of the same criteria that will be applied when they are covered under permanent law as provided in H.R. 10210.

H.R. 14970 prohibits the payment of SUA benefits during the summer recess or any similar break between regular school years or continuous terms to nonprofessional school employees who have reasonable assurance of reemployment in their previous or similar jobs.

As originally enacted, there were no provisions in the SUA program relating specifically to teachers or other employees of educational institutions or agencies. The SUA legislation left to the States the determination of whether a school employee was unemployed, able and available for work, and seeking work.

In 1975, a House rider to the Second Supplemental Appropriation Act provided that funds appropriated therein could not be used to pay SUA to an individual employed in education in an "instructional research, or principal administrative capacity" for the period between school years if the individual was under contract to return to work later in the year. This language was also included in the legislation (H.R. 6900; Public Law 94–45) which extended SUA from December 1975 to December 1976.

Amendments to SUA enacted last year appear to have effectively treated the question of payment during recess periods to teachers under contract. No similar limitation, however, is placed upon payment of benefits to other employees in education who, while not always under contract, have a regular work pattern of a fixed summer recess and return to the same or similar work when school sessions are resumed. In the absence of any Federal guidelines, the State pattern of handling such claims has been extremely varied, ranging from a very tight construction of the language with respect to being able to work, available for and actively seeking work to a very passive one in which virtually all such claimants are paid benefits without significant effort to ascertain the extent of the individual job effort.

Under the provisions of H.R. 14970, nonprofessional school employees will be prohibited from receiving SUA benefits during school recess periods if there is reasonable assurance that the claimant will be returning to his or her previous job after the recess.

These provisions will not limit payment of benefits to an individual who has been terminated from a job either during or at the end of a school year or term.

H.R. 14970 provides for a one year extension of the special unemployment assistance—SUA—program, until December 31, 1977, with phaseout through March 31, 1978. The Congressional Budget Office—CBO—estimates that the extension of SUA contained in the bill will cost $193 million in fiscal year 1977 and $194 million in fiscal year 1978.

Under existing law, SUA remains in effect throughout the first half of fiscal year 1977, until March 31, 1977, and CBO estimates that SUA will cost $354 million during that period. Total expenditures for SUA in fiscal year 1977 under the extension proposed in this bill are estimated to be $547 million.

In its March 15 report to the House Committee on the Budget, the Ways and Means Committee recommended that funds be included in the fiscal year 1977 budget in anticipation of a 1-year extension of the SUA program. The Budget Committee in complying with this recommendation, included $770 million in the first concurrent resolution on the fiscal year 1977 budget for SUA expenditures. This included $385 million for SUA costs under existing law and an additional $385 million for an extension of the program through the end of the fiscal year.

The modifications in the SUA program contained in H.R. 14970 will reduce substantially the estimated costs of extending the program. The extension is estimated to cost $194 million in fiscal 1977 rather than $385 million as anticipated in the first concurrent fiscal year 1977 budget resolution. Total SUA costs in fiscal 1977 under the extension proposed in this bill are estimated to be $547 million rather than the $770 million that was targeted in the first concurrent budget resolution.

The second concurrent resolution on the budget, fiscal year 1977, agreed to on September 11, 1976, contains $200 million in new budget authority and outlays for the purpose of extending the SUA program as provided in H.R. 14970. This $200 million in new budget authority and outlays is included in the allocation of spending responsibility to the Committee on Ways and Means contained on page 12 of the conference report on the second concurrent resolution on the fiscal 1977 budget (Report No. 94–1502).

The Senate has already acted on this matter. I urge my colleagues to support this legislation.

Mr. STEIGER of Wisconsin. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, I urge adoption of H.R. 14970, a bill to modify and extend the special unemployment assistance program.

This past July the House of Representatives passed H.R. 10210, the Unemployment Compensation Amendments of 1975. The Senate Finance Committee has completed its action on that bill and I understand it will be considered on the Senate floor shortly. As passed by the House, the bill would provide permanent protection to 8.5 million of the 10 million not now covered under the permanent program effective January 1, 1978.

The special unemployment assistance program which presently provides unemployment compensation benefits to those individuals not eligible under the permanent program is scheduled to expire at the end of this year. H.R. 14970 would extend the SUA program so that its phaseout would correspond with the enactment of coverage provided by H.R. 10210 on a permanent basis.

The costs associated with this extension would be $193 million in fiscal year 1977 and $194 million in fiscal year 1978. This would be in addition to the fiscal year 1977 costs of $354 million under current law.

While extending the program, the bill would also make two significant changes in its operation.

The first of these changes would eliminate the provisions of present law which have caused significant administrative problems so that, as Chairman CORMAN has indicated, SUA benefits would be computed on the basis of the "base period" and "benefit year" applicable under State law. Presently SUA benefits are computed under special base period and benefit year provisions.

Second, the bill would prohibit the payment of SUA benefits during the summer recess to nonprofessional school employees who have reasonable assurance of reemployment in the fall. Present law provides that SUA benefits may not be paid to professional school employees for periods between school years if the individual claimant has a contract for both the prior and forthcoming years. This bill would simply provide for similar treatment for nonprofessional school employees.

The administration supports this bill. It provides needed changes and would allow for an orderly transition to the permanent coverage envisioned in H.R. 10210. I urge its adoption.

Mr. STEIGER of Wisconsin. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Madam Chairman, I am opposed to this bill. It woud extend a supposedly temporary program for just 1 year. This is another temporary program that never ends.

I believe that the only possible justification for extending this program would be to provide an orderly transfer of those persons, or some of them, which it now covers to coverage under the permanent Federal-State unemployment compensation program. That is what the proponents of this bill say they are doing. But if that is the case, this extension should be incorporated into H.R. 10210, the bill passed by the House last July which would, as passed by the House, provide permanent coverage to 8.6 million workers.

I will support a SUA extension, but only if it is included with H.R. 10210. I am unwilling to vote for an extension without a responsible phaseout procedure such as provided by H.R. 10210. Otherwise, we are just singing the old song by endlessly extending programs that deserve and need termination.

SUA was initially enacted in the 93d Congress as title II of the Emergency Jobs and Unemployment Assistance Act of 1974 to be effective January 1, 1975, through December 31, 1975. During the 94th Congress the program was extended for an additional year. Now we are asked for just one more extension. At a time when 20 of our States have depleted their unemployment compensation trust funds and when more than $3 billion have been advanced to the States to permit them to continue the operation of their unemployment compensation systems, it seems to me that we should not enact legislation that will simply add an additional one-half billion dollars of expenses for a temporary program. We should be focusing on the permanent program and for these reasons I urge you to defeat this bill.

This is a program laid on the already overburdened backs of the general taxpayers. It lays a double burden on the taxpayers of my own State which already covers unemployment benefits for public employees. Therefore, our taxpayers pay our own benefits at home, and other States benefits through our Federal income tax, or through inflation.

Mr. STEIGER of Wisconsin. Madam Chairman, I yield 2 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Madam Chairman, there is absolutely no necessity for extending the SUA program. When SUA was first enacted, along with the Federal supplementary benefits, it was during the period of extremely high unemployment, at a time when we were trying, as I think we should, to responsibly face up to some of those kinds of problems. Those problems no longer exist on a national basis. SUA simply covers domestic workers, farmworkers, and other individuals who are uncovered and are paid for by the Federal Government. I cannot recall the number of the bill, but the unemployment compensation bill, as passed out of this House, would take SUA and make that a responsibility of employers rather than the Federal Government, which passed the program to begin with.

Therefore, I really feel, as my friend, the gentleman from Minnesota (Mr. FRENZEL), although perhaps for different reasons, that there is no reason at all to extend this bill and to make relatively permanent a program which was designed to be temporary.

There is no restriction on this Congress now or in the future to enact or reenact programs such as this when they become necessary.

I submit to the Members that this program is no longer necessary and does amount to an awful lot of unnecessary expenditure of tax dollars.

Mr. BURKE of Massachusetts. Madam Chairman, I want to voice my support for the bill, H.R. 14970, which will continue the special unemployment assistance program for another year.

Unemployment is still at very high levels. It is therefore necessary that we maintain unemployment insurance protection for the workers covered under the SUA program. The workers covered by SUA are domestic workers, farmworkers and State and local government employees.

Under the permanent UC program these workers are excluded from the unemployment protection provided all other wage and salary workers. They will be included in the permanent program under the provisions of H.R. 10210, which the House approved in July and is under consideration in the Senate.

This coverage, however, will not become effective until January 1, 1978. Unless the 1-year extension of SUA proposed in this bill, H.R. 14970, is approved, these workers will be without UC protection during 1977.

The purpose of this bill is to prevent a 1-year gap in UC coverage for the workers that we have voted to incorporate in the permanent program.

I urge the Members to support the bill.

Mr. LEGGETT. Madam Chairman, with the Nation's unemployment rate hovering at just under 8 percent, up dramatically from this spring's postrecession low of 7.3 percent, it is obvious that our unemployment insurance program remains of paramount importance for 8 million Americans who are out of work. Furthermore, the prospects for a continuation of the recovery through 1977 are getting increasingly cloudy, which means we have less and less reason to expect the unemployment rate to fall substantially in that year. In fact, our Joint Economic Committee has said in its recent midyear review of the economic outlook that growth in the near term is likely to be sufficient only to absorb the expansion in the labor force and productivity increases. There just will not be enough of an increase in real GNP, under current projections, to achieve much of a reduction in unemployment. We must expect the unemployment rate, which will average at least 7.5 percent in the current year, to remain at an average of 7 percent or more over 1977. Thus it is imperative that we maintain an effective and comprehensive unemployment compensation program throughout that year.

In July, the House passed H.R. 10210, still pending in the Senate, a bill which would take two essential steps with the unemployment compensation program. The first is to restore its financial solvency through increases in both the unemployment compensation tax rate and the taxable wage base. These increases are regrettable, because of their impact on lower salaried workers, but they are necessary because the drain of high unemployment during the recession has exhausted the resources of many of the State UC trust funds.

The second major purpose of H.R. 10210 is to extend coverage under permanent law to several categories of workers who now have only temporary protection under the special unemployment assistance program. H.R. 10210 was to have become effective on January 1, 1977, but because of the delay in considering the bill it was necessary to put off the effective date by 1 year. The dilemma, however, is that authority for SUA will expire on December 31, 1976. Thus even if H.R. 10210 is enacted in its present form, three groups of workers—agricultural workers, domestic workers, and State and local government employees—will be without protection during 1977, unless we enact a 1-year extension of SUA.

Extending that program is the purpose of H.R. 14970, the Special Unemployment Assistance Act of 1976, the bill before us today. Our Ways and Means Committee believes, as do I, that this should be the last SUA extension which will be necessary.

Madam Chairman, enactment of this bill will insure coverage under the UC program of almost 9 million American workers, whose fate would otherwise be left to the mercy of an increasingly uncertain and faltering economic recovery. With the economic outlook for 1977 becoming steadily more cloudy, I believe comprehensive UC coverage is a must. And provision for this extension was, I might add, included in the second budget resolution that we recently adopted.

I urge my colleagues to support this bill as an essential measure of protection for America's agricultural and domestic workers and State and local government employees.

Mr. GILMAN. Madam Chairman, I thank the gentleman for yielding, and I rise in support of H.R. 14970, a measure extending the Special Unemployment Assistance—SUA—program for 1 year, until January 1, 1978.

This measure provides the necessary bridge to prevent the lapse of unemployment protection for agricultural and domestic workers and State and local government employees not covered under other State or local compensation laws between December 31, 1976, when SUA expires under current law, and January 1, 1978, when these employees would be covered under H.R. 10210, the Unemployment Compensation Act Amendments of 1975. This measure was overwhelmingly passed by the House by a vote of 237-147 and is awaiting Senate action. The SUA program covers nearly 10 million employees for 39 weeks of unemployment compensation insurance. Without this SUA extended benefit program, these unemployed individuals would be unprotected until H.R. 12010 becomes effective on January 1, 1978, pending an affirmative vote by the Senate.

The plight of these individuals was recently brought to my attention by one of my constituents, an unemployed school teacher from Washingtonville, N.Y., who wrote:

> My wife and I were New York City teachers who were laid off due to the budget crisis. Our unemployment benefits, and those of all teachers, expire on December 31, 1976.... We've both been laid off almost seven months and are unable to find a job.
>
> I'm sure you realize that education today is under fire from every aspect of the public and government. There will undoubtedly be more teacher lay-offs. All I ask is that you give us teachers a chance to survive.

Madam Chairman, the need for this extension measure is obvious. In the interest of protecting the hundreds of thousands of teachers who will be unprotected by unemployment compensation benefits on December 31, 1976, I urge my colleagues to protect these individuals, extending this measure for 1 year.

Mr. CORMAN. Madam Chairman, I have no further request for time, and I reserve the balance of my time.

Mr. STEIGER of Wisconsin. Madam Chairman, I have no further request for time, and I yield back the balance of my time.

The CHAIRMAN. There being no further request for time, the Clerk will read.

The Clerk read as follows:

### H.R. 14970

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

SECTION 1. This Act may be cited as the "Special Unemployment Assistance Extension Act of 1976".

### EXTENSION OF PROGRAM

SEC. 2. Section 208 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended—

(1) by striking out "March 31, 1977" and inserting in lieu thereof "March 31, 1978"; and

(2) by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977".

### ELIMINATION OF SPECIAL BASE PERIOD FOR PAYMENTS OF SPECIAL UNEMPLOYMENT ASSISTANCE

SEC. 3. (a) Paragraph (1) of section 203(a) of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by striking out "*Provided,* That" and all that follows down through "; and" at the end thereof and inserting in lieu thereof the following: "*Provided,* That the individual meets the qualifying employment and wage requirements of the applicable State unemployment compensation law in the base period; and for purposes of this proviso employment and wages which are not covered by the State law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages; and".

(b) Subsection (a) of section 205 of such Act is amended by striking out "law: *Provided,* That" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "law. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.".

(c) Subsection (a) of section 206 of such Act is amended by striking out "section 205: *Provided,* That" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "section 205. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.".

(d) Subsection (a) of section 210 of such Act is amended—

(1) by striking out "and" at the end of paragraph (5); and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) 'special unemployment assistance benefit year' means the benefit year as defined by the applicable State unemployment compensation law; and

"(7) 'base period' means the base period as determined under the applicable State unemployment compensation law."

(e) The amendments made by this section shall apply with respect to benefit years beginning after December 31, 1976. In the case of any benefit year of an individual which begins after December 31, 1976, for purposes of sections 203(a)(1), 205(a), and 206(a) of the Emergency Jobs and Unemployment Assistance Act of 1974, there shall not be taken into account any employment and wages to the extent that such individual was entitled on the basis of such employment and wages to assistance under such Act during a benefit year beginning before January 1, 1977.

### DENIAL OF SPECIAL UNEMPLOYMENT ASSISTANCE IN CASE OF NONPROFESSIONAL EMPLOYEES OF EDUCATIONAL INSTITUTIONS

SEC. 4. (a) Section 203 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if—

"(1) such individual performed such services for any education institution or agency in the first of such academic years or terms; and

"(2) there is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms."

(b) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

### MODIFICATION OF AGREEMENTS

SEC. 5. The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 202 of the Emergency Jobs and Unemployment Assistance Act of 1974 a modification of such agreement designed to provide for the payment of special unemployment assistance under such Act in accordance with the amendments made by this Act. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement.

Mr. CORMAN (during the reading). Madam Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

### AMENDMENT OFFERED BY MR. MARTIN

Mr. MARTIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARTIN: Page 4, line 24, strike the word, "subsection" and insert in lieu thereof, "subsections".

Page 5, insert after line 14 the following:

"(d) Compensation shall not be payable to any individual for any week of unemployment which is a result of a strike or any labor dispute in which such individual is a participant."

Mr. MARTIN. Madam Chairman and Members of the House, the amendment which I have offered is an amendment to prohibit unemployment compensation for those who are out of work through their own choice to engage in a strike. It is a straightforward, simple amendment, although it is not without its controversy.

Most States do not allow unemployment compensation for strikers. The States of New York and Massachusetts do, after a waiting period. In the case of New York, unemployment is allowed after a waiting period of 8 weeks; and in the case of the State of Massachusetts, after 7 weeks.

I personally believe that someone who is out of work by virtue of his own decision to go on strike should not receive unemployment assistance from the Federal Government from moneys that are intended as relief for those forced out of work by decisions outside their own control.

Others may try to justify this subsidy of strikes. I cannot. There may be an argument that we should not set standards or limitations on the States which administer this law, but it seems to me that argument is moot since this House recently voted for minimum pay-out standards to be imposed on States.

I would say in conclusion, Madam Chairman, that the 170,000 Ford Motor Co. employees who are out on strike do not benefit from unemployment assistance because of State laws in the States where they reside, and neither should those who reside in States which are more lenient.

Mr. CORMAN. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, the primary trouble we have had with SUA was the result of imposing a Federal standard with respect to the base period. We found that was extremely unworkable, and that is why we are changing back to the State base period in the bill before us.

We have tailored this temporary program to be administered under the State laws and qualification requirements that are used in the permanent State U.C. program.

The gentleman accurately stated that all States disqualify workers who are unemployed because of a strike. Two States, New York and Rhode Island, do allow for the payment of benefits after a specified disqualification period. In all other States, UC benefits are not paid as long as the unemployment is a result of a strike or labor dispute.

I would urge the House to refrain from imposing this Federal standard. It is unnecessary because the States are already dealing with the problem, and it will do nothing more than complicate the administration of the SUA program.

Madam Chairman, I urge the defeat of this amendment.

Mr. STEIGER of Wisconsin. Madam Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Madam Chairman, I share the views and agree with the position taken by the distinguished chairman of the subcommittee, the gentleman from California (Mr. CORMAN).

Some of you will remember the fight we had on H.R. 10210 which revolved around, among other things, an amendment which was offered by my friend, the gentleman from California, and which would have mandated certain benefit standards, and the issue was whether the States ought to do it or whether the Federal Government ought to do it.

If we accept the Martin amendment, no matter how beguiling it might be to those Members on my side of the aisle because it gets at those who are on strike, I think we will be making a serious error. If we do that, we will fall into the same trap because we will go down the road to Federal standards. I hope that my colleagues will not fall into that trap.

Madam Chairman, the States ought to make that determination. It should not be made by this House of Representatives. That is basically a State's decision, and it ought to remain so. Therefore, I strongly oppose the Martin amendment.

Mr. KETCHUM. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, there are very few Members on this floor who would object to Federal standards any more strongly than the gentleman from California, and by the same token, there are very few Members on this floor who are more in favor of Federal standards than the distinguished chairman of the subcommittee, the gentleman from California (Mr. CORMAN).

However, in this particular case what the gentleman from North Carolina (Mr. MARTIN) is attempting to do is to amend a program that is federally funded. That is all he is trying to do. We are paying the freight in this particular instance, and we should be able to say who is going to be covered and who is not going to be covered.

Madam Chairman, in this particular instance I certainly support the gentleman from North Carolina (Mr. MARTIN) and ask for the Members' support of the amendment.

Mr. FRENZEL. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, I share the aversion of the distinguished gentleman from California (Mr. KETCHUM) to Federal standards, but I noticed that the gentlemen, the one gentleman from California (Mr. CORMAN) and the gentleman from Wisconsin (Mr. STEIGER), who are objecting to this particular standard, are indeed the very same gentlemen who have at least by their sponsorship of bills in the past tried to inflict Federal standards in programs which are essentially financed through the States by taxes on employers.

In this case where the taxpayers of the United States are assuming the entire financing burden, it seems to me that it is legitimate to apply this particular standard.

But, I would say to my good friend, the gentleman from Wisconsin (Mr. STEIGER), as well as to my other good friend, the gentleman from California, the ranking minority member, and the chairman of the subcommittee, that if they would like to arrange some kind of a truce on Federal standards, I would be glad to change my position.

Absent that kind of arrangement, Madam Chairman, I strongly urge support for the amendment of the gentleman from North Carolina (Mr. MARTIN).

Mr. CORMAN. Madam Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California (Mr. CORMAN), the distinguished chairman of the subcommittee.

Mr. CORMAN. Madam Chairman, I thank the gentleman for yielding.

I want to point out that one of the complexities we would face if we adopt this Federal standard is that then we will have to adopt a Federal standard as to the definition of a "strike." The States have different definitions of a "strike" or "labor dispute." It would probably take the Department of Labor a year to make these definitions, and by that time this program would have expired.

Madam Chairman, the other thing I would say to the gentleman from Minnesota (Mr. FRENZEL) is that if we have the luxury of serving together for 2 more years, I think we are both going to become convinced of the need for Federal standards if we are going to make unemployment compensation equitable among all the States and also solve some of the terrible abuses that were called to the attention of the public by some news commentator. Those who abuse the program are not great in number. Much of the abuse or misuse of the program that does exist is the result of no Federal standards as to qualification requirements.

Madam Chairman, I am sure that someday the gentleman from Minnesota (Mr. FRENZEL) and I will be standing here shoulder to shoulder taking the same position on the issue of Federal UC standards.

Mr. FRENZEL. Madam Chairman, I thank the gentleman for his contribution.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. MARTIN).

The question was taken; and on a division (demanded by Mr. MARTIN) there were—ayes 20, noes 35.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Ms. JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14970) to extend the special unemployment assistance program for 1 year, and for other purposes, pursuant to House Resolution 1552, she reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KETCHUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 330, nays 68, not voting 32, as follows:

[Roll No. 844]

YEAS—330

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, Tex
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—68

Abdnor
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Chappell
Clawson, Del
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Devine
Downing, Va.
English
Eshleman
Frenzel
Goldwater
Grassley
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Henderson
Hightower
Holt
Hutchinson
Ichord
Jones, Okla.
Kelly
Ketchum
Landrum
Latta
Lujan
McDonald
Mahon
Martin
Michel
Milford
Miller, Ohio
Montgomery
Moorhead, Calif.
Myers, Ind.
Paul
Pickle
Poage
Roberts
Robinson
Rousselot
Runnels
Satterfield
Schneebeli
Sebelius
Sikes
Smith, Nebr.
Sullivan
Symms
Taylor, Mo.
Thone
Waggonner
Whitten
Wiggins

NOT VOTING—32

Beard, R.I.
Breaux
Brown, Ohio
Conable
Esch
Flynt
Green
Guyer
Haley
Hébert
Heinz
Hinshaw
Jarman
McCollister
Matsunaga
Mink
Moss
Nix
Passman
Pepper
Rees
Riegle
Scheuer
Skubitz
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Udall
Wilson, C. H.
Young, Ga.

The Clerk announced the following pairs:

Mr. Breaux with Mr. Esch.

Mr. Flynt with Mr. Hébert.

Mr. Matsunaga with Mr. Haley.

Mr. Charles H. Wilson of California with Mr. Brown of Ohio.

Mr. Young of Georgia with Mr. McCollister.

Mr. Pepper with Mr. Guyer.

Mrs. Mink with Mr. Rees.

Mr. Moss with Mr. Skubitz.

Mr. Nix with Mr. Conable.

Mr. Beard of Rhode Island with Mr. Stephens.

Mr. Passman with Mr. James V. Stanton.

Mr. Scheuer with Mr. Steelman.

Mr. Riegle with Mr. Heinz.

Mr. Udall with Mr. Steiger of Arizona.

Mr. Green with Mr. Stuckey.

Messrs. GINN and FOUNTAIN changed their vote from "nay" to "yea."

Mr. SIKES changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 14970, just passed.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from California?

There was no objection.

## PROVIDING FOR ADDITIONAL EXPENSES OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 94–1725), on the resolution (H. Res. 1500), which was referred to the House Calendar and ordered to be printed.

## AMENDING SECTION 5 OF HOUSE RESOLUTION 1238 OF THE 91ST CONGRESS

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 94–1726), on the resolution (H. Res. 1576), which was referred to the House Calendar and ordered to be printed.

## PROVIDING FOR THE ACCEPTANCE OF A PORTRAIT OF LESLIE C. ARENDS OF THE STATE OF ILLINOIS

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 94–1727), on the resolution (H. Res. 1544), which was referred to the House Calendar and ordered to be printed.

## PROVIDING FOR CONSIDERATION OF H.R. 15636, WATER RESOURCES DEVELOPMENT ACT OF 1976

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1580 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1580

*Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(6) of rule XI and section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15636) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, the provisions of clause 7, Rule XVI and clause 5, Rule XXI, to the contrary notwithstanding, and said amendment shall be read by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. (Mr. McFall). The gentleman from Texas (Mr. Young) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1580 is an open rule providing 2 hours of general debate on H.R. 15636, the omnibus rivers and harbors bill. The resolution waives the 3-day rule, clause 2(1)(6) of rule XI, and section 402 of the Budget Act of 1974, reporting requirement date, to permit the consideration of this measure.

In a colloquy before the Rules Committee, the chairman of the Budget Committee, Mr. Adams, stated that there would be no objection to the Budget Act waiver on the assurance from the Committee on Public Works that this bill would not authorize appropriations for fiscal year 1977 for new projects nor would it be considered to authorize appropriations for that fiscal year for the modifications of existing projects.

The rule further provides that the committee amendment in the nature of a substitute recommended by the Committee on Public Works will be considered as an original bill for the purpose of amendment, and waives points of order against the amendment under clause 7, rule XVI, germaneness, and clause 5, rule XXI, prohibiting appropriations in a legislative bill. The germaneness waiver is necessary because the amendment is broader in scope than the bill as introduced, and the clause 5, rule XXI waiver is necessary since provisions of the bill would divert funds appropriated for one purpose to be used for another and that is considered to be an appropriation under the rules of the House.

Mr. Speaker, H.R. 15636 authorizes the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. I urge the adoption of the rule so that we may proceed to the consideration of this important legislation.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1580 is the resolution providing for consideration of H.R. 15636, the omnibus rivers and harbors bill. The rule waives clause 2(1)(6) of Rule XI, the 3-day layover rule, so that the bill may be considered before the end of 3 days after it was filed. Also waived is section 402(a) of the Budget Act, the reporting date requirement, since the bill contains authorizations for fiscal year 1977, and it was not reported before May 15 of this year.

The terms of the resolution provide that the bill is to be debated pursuant to a 2-hour open rule. It will be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for purposes of amendment. The substitute is open to amendment under the 5-minute rule. Points of order are waived that could be lodged against the substitute under clause 7, rule XVI, relating to germaneness, and under clause 5, rule XXI, relating to appropriations in a legislative measure. The germaneness waiver is necessary because the amendment in the nature of a substitute is broader in scope than the introduced version of the bill. The second rule waived against the substitute is required because funds are diverted from certain works in progress to other purposes.

With respect to the Budget Act waiver, which I mentioned previously, a provision in the committee substitute amendment will correct this situation by stating that any new authorizations are for fiscal years beginning after the first day of fiscal year 1978. The waiver remains necessary, however, so that the bill may be considered at all.

H.R. 15636 contains two titles. Title I includes $403,777,880 for various phases of the construction, repair, and preservation of public works on rivers and harbors throughout the United States. This title directly affects 32 States, American Samoa, and Puerto Rico.

Title II of the legislation increases by $590 million the existing authorizations for 12 river basin plans for flood control and other purposes.

Mr. Speaker, it goes without saying that this bill is of unparalleled importance to interstate commerce in our country as well as for the prevention of natural disasters through flood control. Without hesitation I fully endorse the measure and urge that we proceed now to adopt this rule.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to announce that the House will now consider four unanimous-consent requests from the Committee on Government Operations: H.R. 1244; H.R. 14451; H.R. 11347 and H.R. 15499.

Then, we will return to H.R. 15636, for which the rule was just adopted.

## PRESIDENTIAL PROTECTION ASSISTANCE ACT OF 1975

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1244) to establish procedures and regulations for certain protective services provided by the U.S. Secret Service, with Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Presidential Protection Assistance Act of 1976".

Sec. 2. As used in this Act the term—

(1) "Secret Service" means the United States Secret Service, the Department of the Treasury;

(2) "Director" means the Director of the Secret Service;

(3) "protectee" means any person eligible to receive the protection authorized by section 3056 of title 18, United States Code, or Public Law 90–331 (82 Stat. 170);

(4) "Executive departments" has the same meaning as provided in section 101 of title 5, United States Code;

(5) "Executive agencies" has the same meaning as provided in section 105 of title 5, United States Code;

(6) "Coast Guard" means the United States Coast Guard, Department of Transportation or such other Executive department or Executive agency to which the United States Coast Guard may subsequently be transferred;

(7) "duties" means all responsibilities of an Executive department or Executive agency relating to the protection of any protectee; and

(8) "non-Governmental property" means any property owned, leased, occupied, or otherwise utilized by a protectee which is not owned or controlled by the Government of the United States of America.

Sec. 3. (a) Each protectee may designate one non-governmental property to be fully secured by the Secret Service on a permanent basis.

(b) A protectee may thereafter designate a different non-Governmental property in lieu of the non-Governmental property previously designated under subsection (a) (hereinafter in this Act referred to as the "previously designated property") as the one non-Governmental property to be fully secured by the Secret Service on a permanent basis under subsection (a). Thereafter, any expenditures by the Secret Service to maintain a permanent guard detail or for permanent facilities, equipment, and services to secure the non-Governmental property previously designated under subsection (a) shall be subject to the limitations imposed under section 4.

(c) For the purposes of this section, where two or more protectees share the same domicile, such protectees shall be deemed a single protectee.

Sec. 4. Expenditures by the Secret Service for maintaining a permanent guard detail and for permanent facilities, equipment, and services to secure any non-Governmental property in addition to the one non-Governmental property designated by each protectee under subsection 3(a) or 3(b) may not exceed a cumulative total of $10,000 at each such additional non-Governmental property, unless expenditures in excess of that amount are specifically approved by resolutions adopted by the Committees on Appropriations of the House and Senate, respectively.

Sec. 5. (a) All improvements and other items acquired by the Federal Government and used for the purpose of securing any non-Governmental property in the performance of the duties of the Secret Service shall be the property of the United States.

(b) Upon termination of Secret Service

protection at any non-Governmental property all such improvements and other items shall be removed from the non-Governmental property unless the Director determines that it would not be economically feasible to do so; except that such improvements and other items shall be removed and the non-Governmental property shall be restored to its original state if the owner of such property at the time of termination requests the removal of such improvements or other items. If any such improvements or other items are not removed, the owner of the non-Governmental property at the time of termination shall compensate the United States for the original cost of such improvements or other items or for the amount by which they have increased the fair market value of the property, as determined by the Comptroller General of the United States, as of the date of termination, whichever is less.

(c) In the event that any non-Governmental property becomes a previously designated property and Secret Service protection at that property has not been terminated, all such improvements and other items which the Director determines are not necessary to secure the previously designated property within the limitations imposed under section 4 shall be removed or compensated for in accordance with the procedures set forth under Subsection (b) of this section.

Sec. 6. Executive departments and Executive agencies shall assist the Secret Service in the performance of its duties by providing services, equipment, and facilities on a temporary and reimbursable basis when requested by the Director, and on a permanent and reimbursable basis upon advance written request of the Director; except that the Department of Defense and the Coast Guard shall provide such assistance on a temporary basis without reimbursement when assisting the Secret Service in its duties directly related to the protection of the President or the Vice President or other officer immediately next in order of succession to the office of the President.

Sec. 7. No services, equipment, or facilities may be ordered, purchased, leased, or otherwise procured for the purposes of carrying out the duties of the Secret Service by persons other than officers or employees of the Federal Government duly authorized by the Director to make such orders, * * *

Sec. 8. No funds may be expended or obligated for the purpose of carrying out the purposes of section 3056 of title 18, United States Code, and section 1 of Public Law 90–331 other than funds specifically appropriated to the Secret Service for those purposes with the exception of—

(1) expenditures made by the Department of Defense or the Coast Guard from funds appropriated to the Department of Defense or the Coast Guard in providing assistance on a temporary basis to the Secret Service in the performance of its duties directly related to the protection of the President or the Vice President or other officer next in order of succession to the office of the President; and

(2) expenditures made by Executive departments and agencies, in providing assistance at the request of the Secret Service in the performance of its duties, and which will be reimbursed by the Secret Service under section 6 of this Act.

Sec. 9. The Director, the Secretary of Defense, and the Commandant of the Coast Guard shall each transmit a detailed semiannual report of expenditures made pursuant to this Act during the six-month period immediately preceding such report by the Secret Service; the Department of Defense, and the Coast Guard, respectively, to the Committees on Appropriations, Committees on the Judiciary, and Committees on Government Operations of the House of Representatives and the Senate, respectively, on March 31 and September 30 of each year.

Sec. 10. Expenditures made pursuant to this Act shall be subject to audit by the Comptroller General and his authorized representatives, who shall have access to all records relating to such expenditures. The Comptroller General shall transmit a report of the results of any such audit to the Committees on Appropriations, Committees on the Judiciary, and Committees on Government Operations of the House of Representatives and the Senate, respectively.

Sec. 11. Section 2 of Public Law 90–331 (82 Stat. 170) is repealed.

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Speaker, this is a bill that passed the House unanimously 352 to 0, over a year ago and has now come back to us from the Senate in slightly different form but with no substantive changes. The Senate also passed it unanimously.

The bill gives the Secret Service central responsibility for the expenditure of funds for the protection of a President or Vice President and other entitled to this protection. It also limits full-time protection to one privately owned property of a President.

It has been through the House Government Operations and Judiciary Committees and the Senate Government Operations and Judiciary Committees. Its passage is long overdue and we can take care of that now by accepting these completely germane clarifying amendments.

Mr. HORTON. Mr. Speaker, the bill is designed to correct deficiencies in the expenditure of Federal funds on private property for the purpose of providing protection to the President and others entitled to Secret Service protection. Essentially, the bill centralizes responsibility within the Secret Service over the expenditure of funds and requires the Secret Service to reimburse other agencies for assistance rendered it except DOD and the Coast Guard in temporary cases. Those entitled to protection are limited to designating one private property for full-time protection and $10,000 on other locations unless the Appropriations Committees determine otherwise. The bill passed the House unanimously.

The Senate rewrote the language of the bill to a considerable extent, for purposes of clarification, but did not alter its purposes or requirements.

Mr. Speaker, I rise in support of H.R. 1244, the Presidential Protection Assistance Act.

The purpose of this legislation is to prevent abuses of authority in expenditures for the protection of the President and other Government officials. H.R. 1244 sets forth the conditions under which the Secret Service can make expenditures for protective services, facilities, and equipment, and the terms under which it can seek assistance from other Government agencies. The bill will bring fiscal accountability to the function of protecting Government officials by requiring the Secret Service, which has this responsibility under law, to reimburse from its own appropriated funds the assisting agencies for the services, equipment, and facilities they provide.

Since there are occasions in which reimbursement is impractical, the bill exempts the Secret Service from having to reimburse the Defense Department and the Coast Guard for services, facilities, and equipment provided for the protection of the President, Vice President, and the officer next in order of Presidential succession. In addition, I think it should be understood that the Secret Service will not be required to reimburse other agencies providing services to the President or other protectee during the normal course of their operations, such as the FAA's air traffic control service provided to Air Force One.

I want to emphasize that protectees are not entitled by the terms of this bill to full-time security at property they own; the Secret Service is only authorized to provide such security as it feels necessary and appropriate. The Secret Service will provide protection and request assistance from other agencies only to the extent necessary to provide the level of protection they feel is required. Furthermore, I want to point out that the protectee will not realize a financial benefit from these expenditures, since he will be required to reimburse the Government for the security items not removed upon termination of Secret Service protection.

This legislation is the result of oversight hearings held by the Government Activities Subcommittee during the 93d Congress and reflects the recommendations made in its report. This bill is an example of what the Congress can do through oversight to prevent unnecessary or improper expenditures.

I want to congratulate Chairman Brooks for the leadership and judiciousness he has shown in our committee's investigation of improper expenditures on Presidential properties and in developing this well-balanced piece of legislation. My committee held one day of hearings on this bill, and reported the bill unanimously.

H.R. 1244 would protect the American people against unnecessary expenditures on private property and, at the same time, would grant the flexibility needed by the Secret Service to fulfill its obligations to protect the President and various other persons as authorized by law. The White House has said they have no objections to this bill or its provisions. The Secret Service has said this bill is workable. The Department of Defense and the General Accounting Office urge passage of the bill. I believe this bill is necessary and well justified by the oversight investigation by my committee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

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## AMENDING THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14451) to amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 3, line 8, strike out "States," and insert: "States in a fair and equitable basis (taking into account the condition of the property as well as the original acquisition cost thereof),".

Page 3, line 22, after "stations," insert: "museums attended by the public,".

Page 4, strike out all after line 2, down to and including line 8, and insert: "The Administrator, in allocating and transferring property under this paragraph, shall give fair consideration, consistently with the established criteria, to expressions of need and interest on the part of public agencies and other eligible institutions within that State, and shall give special consideration to requests by eligible recipients, transmitted through the State agency, for specific items of property."

Page 4, line 10, strike out "the chief executive officer of".

Page 4, line 11, strike out "approve and submit to the Administrator" and insert: "develop, according to State law,".

Page 4, line 21, after "groups." insert: "The chief executive officer shall certify and submit the plan to the Administrator. In the event that a State legislature has not developed, according to State law, a State plan within two hundred and seventy calendar days after the date of enactment of this Act, the chief executive officer of the State shall approve, and submit to the Administrator, a temporary State plan."

Page 5, line 1, after "comments." insert: "In developing and implementing the State plan, the relative needs and resources of all public agencies and other eligible institutions within the State shall be taken into consideration."

Page 5, after line 3, insert:

"(B) The State plan shall provide for the fair and equitable distribution of property within such State based on the relative needs and resources of interested public agencies and other eligible institutions within the State and their abilities to utilize the property."

Page 5, line 4, strike out "(B)" and insert: "(C)".

Page 5, after line 20, insert:

"(iii) The State plan shall require the State agency, insofar as practicable, to select property requested by a public agency or other eligible institution within the State and, if so requested by the recipient, to arrange shipment of that property, when acquired, directly to the recipient."

Page 5, line 21, strike out "(C)" and insert: "(D)".

Page 6, line 4, strike out "(D)" and insert: "(E)".

Page 6, line 15, strike out "(E)" and insert "(F)".

Page 12, line 5, strike out all after "amended" down to and including "States;" in line 6, and insert: "(42 U.S.C. 1870(e));".

Page 16, strike out all after line 6, down to and including line 17, and insert:

"SEC. 9. The provisions of this Act shall become effective one year after the date of enactment of this Act."

Page 16, strike out all after line 17, over to and including line 3 on page 17, and insert:

"Sec. 10. Not later than thirty months after the effective date of this Act, and biennially thereafter, the Administrator and the Comptroller General of the United States shall each transmit to the Congress reports which cover the two-year period from such effective date and contain (1) a full and independent evaluation of the operation of this Act, (2) the extent to which the objectives of this Act have been fulfilled, (3) how the needs served by prior Federal personal property distribution programs have been met, (4) an assessment of the degree to which the distribution of surplus property has met the relative needs of the various public agencies and other eligible institutions, and (5) such recommendations as the Administrator and the Comptroller General, respectively, determine to be necessary or desirable."

Mr. BROOKS. Mr. Speaker, this bill makes a number of changes in the program that distributes surplus Federal property to public or nonprofit institutions. It deals only with personal property and it makes the distribution much fairer and more orderly.

The bill passed the House August 24 by a vote of 340 to 51, and it passed the Senate unanimously. The Senate amendments are technical and clarifying in nature. They make no substantive changes in the bill we passed. They are completely germane and I urge the House to accept them.

Mr. Speaker, H.R. 14451 is to improve and enlarge the donation of Federal surplus personal property to State and local organizations for public purposes. Transferring Federal personal property for non-Federal public use is a form of major assistance. In terms of original Government acquisition cost, such property amounts to $600 million a year.

The bill is to reorganize—not to eliminate—existing property assistance benefits:

It enlarges the purposes for which property can be donated, so that, in addition to currently eligible purposes of public health, education, civil defense, and economic development, new purposes may be served. The new purposes would include conservation, parks and recreation, and public safety activities beyond civil defense, such as law enforcement, criminal justice, fire-fighting and rescue services.

The bill makes GSA, as a single agency, responsible for guiding the overall system at the Federal level, but gives the State governments key roles.

The Senate agreed to several amendments. They do not change the basic structure of the bill. They resolve any concerns or misunderstandings regarding distribution of surplus property by assuring the equitable allocation of property, and particularly equitable distribution between local as well as State recipients. They give a specific role to State legislatures regarding the operation of the program within the States.

Mr. HORTON. Mr. Speaker, during the 25-year period since the enactment of the Federal Property and Administrative Services Act of 1949, additions, changes, and amendments have created many different uncoordinated, uncontrolled programs with various Federal agencies distributing surplus Federal personal property. H.R. 14451 gives overall responsibility for the program to GSA; attempts to eliminate waste and maldistribution; and, at the same time, preserves the opportunities of all recipients of earlier property programs to receive their fair share of the property resources available.

Specifically, the bill places virtually all property programs for State and local users into one system; preserves the benefits enjoyed under the earlier programs; makes the program nationwide, assuring eligibility for property to all public agencies, and private nonprofit educational and public health institutions; gives GSA the guidance responsibility for the consolidated program; gives the States and their Governors more responsibility and discretion in the donation process; and requires GSA to report annually to Congress on the consolidated program—something not now done under the present mix of programs.

Mr. Speaker, this bill is a positive step toward accomplishment of the objectives stated above. The amendments of the other body assist in making it a fair, equitable system. One which is economical and efficient. I commend it to this body.

Mr. RANDALL. Mr. Speaker, H.R. 14451 is one of the most constructive pieces of legislation it has ever been my privilege to sponsor. It is a comprehensive revision of provisions of the Federal Property and Administrative Services Act of 1949 that deal with the donation of surplus personal property to State and local organizations for public purposes. This revision became necessary because so many separate, competing property distribution programs evolved under other authorities. Unacceptable duplications and gaps now exist. We need more efficiency and fairness in the distribution of this great resource from which non-Federal users each year obtain property originally costing $600 million.

Cooperation is the key principle of H.R. 14451. The bill recognizes a Federal-State-local partnership in which distribution and utilization of the property is largely left to the States and to groups within the States. Cooperation is not new to the Federal Property Act's surplus donation program. Each State today has its own surplus property agency to handle Federal donations of surplus property.

It is appropriate, I think, that this spirit of cooperation has characterized the design and development of H.R. 14451 itself. For example, the initial concept was the product of a study group of 11 Federal agencies, plus a representative of a State surplus property agency. Recognizing the need for a more orderly system in Federal property distribution, the Government Activities and Transportation Subcommittee, which I am privileged to chair, met early last year and assigned high priority to a study of badly needed revisions of the applicable laws.

Federal officials with ability and experience began working with the subcommittee, and the original version of this legislation, H.R. 9152, was the result. It was introduced on July 31, 1975. Subcommittee hearings were then held. Testimony, correspondence, and other contacts brought out points on which it appeared the bill could be revised and improved. There was constant, close collaboration with representatives of the Office of Management and Budget, and GSA. Within the committee, the collaboration involved the full committee, the subcommittee, including the minority. Special assistance, plus invaluable field work, came from the General Accounting Office. The result was a carefully revised bill introduced as H.R. 14451. It passed the House August 24, 1976 on a record vote of 340 to 51.

The cooperative process continued as hearings on the bill took place in the Senate. Protections and clarifications were added in several well-drawn amendments by the Senate Committee on Government Operations. Opportunity for informal comment on the language of the amendments was given to the House Operations Committee. The Senate then unanimously approved H.R. 14451 with the amendments.

I am pleased to have participated in the legislative and political process which has led to this fine legislation. It is a tribute to our institutions, governmental and nongovernmental, and to the purpose, perseverance, and care of the many worthy people responsible for its development and its progress through the Congress.

I compliment the chairman of the full committee, the gentleman from Texas, not only on his long, steadfast support of the legislation, but on the care and skill he has demonstrated in handling the bill.

Out of this measure will emerge a new, nationwide system of property distribution capable of doing tremendous public good. Assistance in this form has a special enriching value: as mere dollars cannot, it calls on the hands, minds, and resourcefulness of the people who will put the surplus property to use. In so doing, they will experience the solid satisfaction of knowing that as they use, they also conserve. In a world of diminishing resources, this is a supreme virtue.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just considered, H.R. 14451.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## CONVEYING THE INTERESTS OF THE UNITED STATES IN CERTAIN LANDS IN SALT LAKE COUNTY, UTAH, TO SHRINERS' HOSPITALS FOR CRIPPLED CHILDREN

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11347) to convey the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 3, after line 3, insert:

### TITLE II—OFFICE OF INSPECTOR GENERAL

SEC. 201. In order to create an independent and objective unit—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Health, Education, and Welfare;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is hereby established in the Department of Health, Education, and Welfare an Office of Inspector General.

#### OFFICERS

SEC. 202. (a) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(b) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

(c) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(d) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

(e) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 6(a)(1), and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 6(a)(2).

#### DUTIES AND RESPONSIBILITIES

SEC. 203. (a) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigate activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, or (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by section 4 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a)(1), the Inspector General shall have authority to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the competence and independence of such auditors.

(c) In carrying out the duties and responsibilities provided by this Act, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

(d) The Inspector General shall establish within his office an appropriate and adequate staff with specific responsibility for devoting their full time and attention to antifraud and antiabuse activities relating to the medicaid, medicare, renal disease, and maternal and child health programs. Such staff shall report to the Deputy.

#### REPORTS

SEC. 204. (a) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(b) The Inspector General shall make reports on a quarterly basis to the Secretary and to the appropriate committees or subcommittees of the Congress identifying any significant problems, abuses, or deficiencies concerning which the Office has made a recommendation for corrective action and on which, in the judgment of the Inspector General, adequate progress is not being made.

(c) The Inspector General shall report immediately to the Secretary, and within seven calendar days thereafter to the appropriate committees or subcommittees of the Congress, whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(d) The Inspector General (A) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (B) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(e) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsections (a) and (b) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

### AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 205. (a) In addition to the authority otherwise provided by this Act, the Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this Act;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(5) in the event that a budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent which the Inspector General deems seriously detrimental to the adequate performance of the functions mandated by this Act, the Inspector General shall so inform the Congress without delay;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 cf title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)(1) Upon request of the Inspector General for information or assistance under subsection (a) (2), the head of any Federal agency involved shall, insofar as is practicable, and not in contravention of any existing statutory restriction, or regulation of the Federal agency from which the information is requested, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary and to the appropriate committees or subcommittees of the Congress without delay.

(3) In the event any record or other information requested by the Inspector General under subsection (a)(1) or (a)(2) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

(c) The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space at central and field office locations of the Department, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(d)(1) The Inspector General shall receive compensation at the rate provided for level IV of the Executive Schedule by section 5315 of title 5, United States Code.

(2) The Deputy shall receive compensation at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code.

### TRANSFER OF FUNCTIONS

SEC. 206. (a) There are hereby transferred to the Office of Inspector General the functions, powers, and duties of—

(1) the agency of the Department referred to as the "HEW Audit Agency";

(2) the office of the Department referred to as the "Office of Investigations"; and

(3) such other offices or agencies, or functions, powers, or duties thereof, as the Secretary may, with the consent of the Inspector General, determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act, except that there shall not be transferred to the Inspector General under clause (3) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

### DEFINITIONS

SEC. 207. As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(2) the term "Department" means the Department of Health, Education, and Welfare;

(3) the term "Inspector General" means the Inspector General of the Department;

(4) the term "Deputy" means the Deputy Inspector General of the Department; and

(5) the term "Federal agency" means an agency as defined in section 52(c) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, since H.R. 11347 was originally a private calendar bill and the Senate saw fit to attach a nongermane amendment relating to a new Office of Inspector General in HEW, I wonder if the gentleman could explain to us why it was so necessary to rush through the establishment of this extra position in the Department of HEW as part of this private bill.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to my colleague, the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, back on July 20 the House passed by unanimous consent a bill conveying certain Federal land to a Shriners hospital in Utah. The Senate has taken that and added to it by a unanimous vote a bill reported unanimously by the House Government Operations Committee that establishes an Office of Inspector General in the Department of Health, Education, and Welfare.

That inspector general bill is pending before the House. It was on the list of suspensions last week but we were unable to get to it. It is a good bill that will go a long way to cut down on the fraud and abuse that is so widespread in some of our welfare programs. By concurring in the Senate amendment—which is identical to the bill reported by our committee with two clarifying amendments—we can get this worthwhile legislation enacted.

Mr. Speaker, the House-passed bill authorized the GSA Administrator to convey without reimbursement to the Shriners' Hospitals for Crippled Children in Salt Lake City, Utah, the Federal reversionary interest in 0.048 acres of land which had been transferred to the hospital in 1946. Release of the reverter is needed so that the small tract can be conveyed to Salt Lake County for street construction purposes. The bill passed the House on the Consent Calendar.

The Senate amended the bill to add, as a separate provision, the inspector general bill, H.R. 15390, which passed the committee unanimously but remains pending in the House awaiting suspension of the rules. The Senate amendment is identical to the House bill with the exception of two acceptable amendments:

First. In those cases where the Inspector General uncovers unusually serious cases of fraud, he shall report such cases to the Secretary of DHEW up to 7 days before reporting to the Congress. This differs from the House version where reports were to be made simultaneously to the Secretary and the Congress.

Second. The Inspector General was directed to establish within his office a separate staff to handle investigations involving medicare, medicaid, and child and maternal care.

Mr. FOUNTAIN. Mr. Speaker, H.R. 15390, which I introduced and cosponsored by the members of the subcommittee and others, a bill to establish an Office of Inspector General for the Department of Health, Education, and Welfare, was favorably reported by a unanimous vote of the Committee on Government Operations. The bill was based upon information obtained during more than 18 months of study and investigation by the committee's Intergovernmental Relations and Human Resources Subcommittee which included extensive hearings and the preparation of a comprehensive oversight report.

As pointed out by Mr. Brooks, chairman of our committee, the language of H.R. 15390, with two very minor modifications, has been added by the Senate to H.R. 11347. Consequently, approval of H.R. 11347, as amended, would provide for the establishment of the Office of Inspector General as provided in H.R. 15390.

The Department of Health, Education, and Welfare administers around 300 separate programs with expenditures totaling about $145 billion annually. A substantial percentage of this amount is disbursed by non-Federal entities such as States, localities, educational institutions, fiscal agents, intermediaries, carriers, and grantees. These operations present a vast potential for fraud, program abuse, waste, and mismanagement.

The record of our investigation—as well as the work of other congressional committees, Government agencies, and the press—demonstrates beyond any conceivable doubt that fraud and abuse in HEW programs has reached crisis proportions.

No one knows how much fraud and abuse in HEW programs is costing the taxpayers, but I do not think there is any doubt that such losses have reached literally billions of dollars annually.

The Secretary of Health, Education, and Welfare has acknowledged losses totaling $750 million a year on a single program—medicaid—and other estimates are substantially higher.

Effective action to combat the tremendous losses being incurred on medicaid and other programs is long overdue.

Unfortunately, the steps being taken are far from adequate.

HEW units responsible for combating fraud and abuse and for promoting economy and efficiency have been scattered through the Department in a haphazard, fragmented, and confusing pattern, with no single unit having the overall responsibility and authority necessary to provide effective leadership; most such units lack independence because they are under the direct control of program officials. Investigative resources have been ridiculously inadequate and information needed by the Secretary and Congress for effective action against fraud and abuse has not been available. Action to correct known deficiencies has sometimes been delayed for years, if taken at all.

I would be the first to acknowledge that this legislation is not the answer to all HEW's problems. However, its enactment will provide a very important—and very badly needed—step in the right direction.

This legislation will establish in HEW for the first time a high-level official with no program responsibilities who is charged with giving undivided attention to the prevention of fraud and program abuse and the promotion of economy and efficiency in the administration of HEW's programs, and operations.

If properly implemented, it will provide effective leadership which does not now exist.

It will help to coordinate the work of the many units with some degree of responsibility for preventing fraud, abuse, and mismanagement which are presently scattered throughout HEW in disorganized fashion.

It will provide a means for informing the Secretary and the Congress about serious problems and for helping to insure prompt corrective action.

It is time to take action to give this country's taxpayers some relief from the unwarranted and inexcusable burden being imposed upon them by massive fraud and abuse in HEW programs.

This legislation is badly needed, and I urge its passage.

(Mr. Fountain asked for unanimous consent that House Report No. 94–1573, the report on H.R. 15390, be included in the Record at this point.)

The report follows:

### House Report No. 94–1573

The Committee on Government Operations, to whom was referred the bill (H.R. 15390) to establish an Office of Inspector General within the Department of Health, Education, and Welfare, and for other purposes, having considered the same, report favorably thereon with a technical amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 12, line 17, strike out "Executive" and insert "General".

### EXPLANATION OF AMENDMENT

The original language of H.R. 15390 contained an inadvertent reference to the "Executive Schedule" for compensation of Federal officials where a reference to the "General Schedule" for compensation of civil service employees had been intended. The amendment corrects this error.

### PURPOSE AND SUMMARY

H.R. 15390 would establish a new office in the Department of Health, Education, and Welfare with no program responsibilities which would conduct and supervise audits and investigations relating to programs and operations of the Department.

The office would also provide leadership and coordination and recommend policies for activities designed to promote economy and efficiency in the administration of, and to prevent and detect fraud and abuse in, such programs and operations.

In addition, the office would provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of the Department's programs and operations and the necessity for and progress of corrective action.

The office would be headed by an Inspector General appointed by the President, by and with the advice and consent of the Senate, solely cn the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General would report to and be under the general supervision of the Secretary or the Under Secretary, but would not be under the control of or subject to supervision by any other officer of the Department.

A Deputy Inspector General, appointed in the same manner as the Inspector General, would assist the Inspector General and serve as Inspector General during a vacancy or the absence or temporary incapacity of the Inspector General.

The Inspector General or the Deputy could be removed from office by the President. The President would be required to communicate the reasons for any such removal to both Houses of Congress.

The Inspector General would have responsibility for conducting audits and investigations and for coordinating other activities designed to promote economy and efficiency and to prevent and detect fraud and abuse, including relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to such matters.

The Inspector General would have specific responsibility for recommending corrective action concerning fraud and other serious problems, abuses, and deficiencies and for reporting to the Secretary and the Congress on the progress made in implementing such corrective action.

In addition to an annual report to the Secretary and the Congress on activities of the office, the Inspector General would make quarterly reports identifying recommended corrective actions on which adequate progress is not being made. The Inspector General would report immediately to the Secretary and appropriate Congressional committees whenever the office became aware of particularly serious or flagrant problems, abuses, or deficiencies.

In order to prevent lengthy delays resulting from HEW "clearance" procedures reports or information would be submitted by the Inspector General to the Secretary and the Congress without further clearance or approval. Copies of annual and quarterly reports would, insofar as practicable, be submitted by the Inspector General to the Secretary sufficiently in advance of the due date for submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

In carrying out provisions of H.R. 15390, the Inspector General is specifically authorized to cbtain necessary information by subpena and to request necessary information or assistance from any Federal, State, or local governmental agency or unit thereof.

H.R. 15390 further provides for the Inspector General to have direct and prompt access to the Secretary when necessary for the performance of the duties of the office.

Two existing HEW units—the Audit Agency and the Office of Investigations—would become component parts of the Office of Inspector General. Additional HEW units or functions related to the duties of the Office of Inspector General could be transferred to the Office with the consent of the Inspector General, but no program operating responsibilities could be so transferred.

### COMMITTEE INVESTIGATION

H.R. 15390, a bill to establish an Office of Inspector General for the Department of Health, Education, and Welfare. is based upon information obtained during more than eighteen months of study and investigation by the committee's Intergovernmental Relations and Human Resources Subcommittee.

After preliminary work beginning in late 1974, the subcommittee held hearings on HEW procedures and resources for prevention and detection of fraud and program abuse in April, May and June 1975.[1] A comprehensive report on the subcommittee's continuing investigation was approved by the full committee in January 1976.[2]

Hearings relating directly to establishment of an HEW Office of Inspector General were held during May 1976.[3] During the hearings, consideration was given to the overall concept of an Office of Inspector General, as well as to specific provisions of pending bills.

### MAGNITUDE OF HEW FRAUD AND ABUSE PROBLEM

HEW's operations present, in the words of one of its Assistant Secretaries, "a vast potential for fraud and program abuse."[4]

HEW administers around 300 separate programs with expenditures estimated to total about $145 billion during fiscal year 1977—more than one-third of the entire Federal budget.[5] A substantial percentage of the huge amount is not under the direct control of HEW, but is disbursed by non-Federal entities, such as States, localities, educational institutions, fiscal agents, intermediaries, carriers and grantees.[6]

Although evidence presented at the subcommittee's 1975 hearings made it abundantly clear that tremendous losses are being incurred through fraud and abuse in HEW programs, witnesses from the Department were unable to provide reliable information on which a specific estimate of losses could be based.[7]

Since that time, the Secretary has estimated that losses totaling $750 million annually from fraud and abuse are being incurred under the Medicaid program alone.[8] Other estimates are substantially higher; for example, the New York State Welfare Inspector General has estimated Medicaid losses in that single State at more than $500 million per year.[9]

### DEFICIENCIES DISCLOSED BY SUBCOMMITTEE INVESTIGATION

As outlined below, the subcommittee investigation disclosed serious deficiencies in the organizational structure, procedures and resources being used by HEW to combat fraud and abuse and promote economy and efficiency in its programs:

*Fragmented organizational structure.*—The subcommittee found that units responsible for combating fraud and abuses and for promoting economy and efficiency were scattered throughout HEW in a haphazard, fragmented and confusing pattern, with no single unit having the overall responsibility and authority necessary to provide effective leadership. Personnel of most such units lacked independence because they reported to and were hired and fired by officials directly responsible for the programs involved.[10]

The subcommittee also found that HEW Audit Agency and the central Office of Investigations reported to different Assistant Secretaries, with no high-level departmental official having overall responsibility for coordination and leadership of audit and investigative activities.[11]

Until recently, HEW officials did not even know how many different units within the Department were engaged in activities specifically related to the promotion of economy and efficiency. A study performed at the request of the subcommittee indicated there are 63 such units, with a total of 3,642 employees directly engaged in such activities.[12]

*Lack of information.*—The subcommittee found that information needed by both HEW and Congress for effective action against fraud and abuse was simply not available. There was no central source of data concerning fraud and abuse nor, evidently, had any meaningful attempt been made to evaluate the overall fraud and abuse problem.[13]

Even when information was—or should have been—readily available, it was sometimes subject to lengthy delay in being provided to Congressional committees requesting it because of HEW's "clearance" processes. For example, a four-page report repeatedly requested by the subcommittee was not provided for more than 11 months, for reasons even the Under Secretary could not explain.[14] Moreover, on at least one occasion, admittedly inaccurate information was provided to a Congressional committee concerning the adequacy of HEW's investigative resources.[15]

*Inadequate resources.*—The subcommittee found that HEW's investigative resources were ridiculously inadequate. Although HEW had more than 129,000 full-time employees, its central investigative unit had only 10 investigators, with a 10-year backlog of uninvestigated cases. Only one individual was assigned to guard against fraud and abuse in the Medicaid program, which accounted for nearly $7 billion in Federal expenditures alone during fiscal year 1975.[16]

Testimony on the HEW appropriation for 1977 indicates that the Department's audit manpower falls about 500 man-years short of meeting its workload requirements.[17]

The subcommittee found that HEW, at least partially because of its fragmented organizational structure, had failed to make effective use of the limited resources it had.[18]

*Failure to take prompt corrective action.*—The subcommittee found that even when serious deficiencies did become known to responsible HEW officials, corrective action was sometimes not taken until literally years later, if taken at all. For example, although HEW officials testified that much program abuse comes back because of badly designed legislation, the Department was unable to find a single instance in which it had clearly taken the initiative to call such a situation to the attention of the appropriate Congressional committees.[19]

The subcommittee found evidence of inexcusable delays in taking clearly needed administrative remedial action. During May 1975, for example, its investigation disclosed that two separate sets of investigators looking into fraud and abuse in the Medicare and Medicaid programs were not allowed to tell each other which providers they were investigating, even though the same providers might be suspected of fraud under both programs. Despite assurances of prompt corrective action, hearings in May 1976—more than a year later—disclosed that HEW regulations still did not permit such exchange of information.[20]

The HEW Audit Agency, as a result of its audits, makes many recommendations for badly needed improvements in HEW procedures. However, program officials often fail to take timely action to implement such recommendations. At the end of 1975, according to testimony at subcommittee hearings, there were 490 outstanding audit reports on which timely action had not been taken.[21]

### EFFECT OF H.R. 15390

In its January 1976 report, the Committee on Government Operations unanimously recommended that action be taken to place overall responsibility for coordination and leadership of HEW auditing and investigative activities in a single individual with no program responsibilities who would report directly to the Secretary. The committee further recommended that this official should be held directly responsible for informing the Secretary of serious problems disclosed by audits and investigations and of the progress or lack of progress in correcting such problems.[22]

H.R. 15390 would accomplish this objective by providing for a high-level official with no program responsibilities, reporting directly to the Secretary, who would be responsible for giving undivided attention to the prevention and detection of fraud and abuse and the promotion of economy and efficiency in HEW's programs and operations.

H.R. 15390 would significantly improve HEW's organizational structure by establishing a central unit to provide leadership for and coordinate activities relating to the prevention and detection of fraud and program abuse and the promotion of economy and efficiency. While only the Audit Agency and the Office of Investigations would initially be transferred to the new Office of Inspector General, additional units and functions could be transferred by the Secretary where appropriate. In order to promote objectivity and prevent possible conflicts of interest, no program operating responsibilities could be assigned to the Office.

H.R. 15390 would substantially increase the likelihood that information needed by both the Secretary and Congress for effective action against fraud and abuse will be available to them on a timely basis. The new Office of Inspector General would serve as a central source of data concerning fraud and abuse. Immediate reports to the Secretary and Congress would be required whenever the Office of Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies. The Inspector General would also be required to inform the Secretary and appropriate congressional committees when adequate progress is not being made on significant recommendations for corrective action. Lengthy delays in furnishing information due to HEW "clearance" procedures would be eliminated by requiring that reports of the Inspector General be submitted without such clearance.

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[1] Hearings before a subcommittee of the Committee on Government Operations, HEW Procedures and Resources for Prevention and Detection of Fraud and Program Abuse, April 22, 30; May 15, 22; June 24, 1975; hereafter cited as "1975 hearings."

[2] House Report 94-786, hereafter cited as "report."

[3] Hearings before a subcommittee of the Committee on Government Operations, Establishment of an Office of Inspector General in the Department of Health, Education, and Welfare, May 25 and 27, 1976; hereafter cited as "1976 hearings."

[4] 1975 Hearings, p. 7.

[5] Report, p. 13; 1977 expenditure estimate obtained from HEW.

[6] 1975 Hearings, pp. 14–15.

[7] Report, pp. 8, 15–17.

[8] Statement at March 26, 1976, news conference, based on data supplied by the Medical Services Administration.

[9] Testimony before the Subcommittee on Oversight and Investigations, House Committee on Interstate and Foreign Commerce, February 13, 1976, pp. 85–86.

[10] Report, pp. 8–9, 27–30.

[11] Report, pp. 8–9, 21–22.

[12] 1976 Hearings, pp. 47–48, 81–99.

[13] Report, pp. 8, 15–16.

[14] 1975 Hearings, pp. 2–3, 379; 1976 hearings, pp. 24–25, 115.

[15] Report, p. 36; 1976 hearings, p. 38.

[16] Report, pp. 9–10, 34–35.

[17] Hearings before a subcommittee of the Committee on Appropriations, House of Representatives, Departments of Labor, Health, Education, and Welfare Appropriations for 1967, Part 6, p. 854.

[18] Report, pp. 9, 36–37.

[19] Report, pp. 10, 40; 1976 Hearings, pp. 49–50, 63.

[20] 1975 Hearings, pp. 113–116, 175–177; 1976 Hearings, pp. 50–51.

[21] 1976 Hearings, p. 71.

[22] Report, p. 11.

While H.R. 15390 would have no direct effect on the level of resources available to promote economy and efficiency and prevent and detect fraud and program abuse, it would help to achieve more effective use of such resources through better coordination and the elimination of duplication. It also provides for Congress to be informed without delay in the event resources being requested are considered by the Inspector General to be seriously inadequate.

H.R. 15390 would help secure more effective and timely corrective action by requiring that the Inspector General not only make recommendations for such action, but also keep the Secretary and the Congress informed about progress or lack of progress in implementing them. Moreover, through direct access to the Secretary and other means, the Inspector General would be in a position to help expedite the implementation of urgently needed corrective action.

### COMMITTEE VOTE

H.R. 15390 was reported by the Committee on Government Operations by a unanimous vote, with a quorum present.

### SECTION-BY-SECTION ANALYSIS OF H.R. 15390, AS AMENDED

Section 1 of the bill establishes an Office of Inspector General and describes its broad purpose as the creation of an independent and objective unit—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Health, Education, and Welfare;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

Section 2(a) provides for the appointment of an Inspector General by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General is to report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

Section 2(b) provides for a Deputy Inspector General, appointed in the same manner as the Inspector General, who is to assist the Inspector General in the administration of the Office and serve as Inspector General during a vacancy or the absence or temporary incapacity of the Inspector General.

Section 2(c) provides that the Inspector General or the Deputy may be removed from office by the President; in the event of any such removal, the President shall communicate the reasons to both Houses of the Congress.

Section 2(d) makes clear that the Inspector General and the Deputy are subject to restrictions against partisan political activity applicable to civil service employees, even though not actually civil service employees.

Section 2(e) provides for appointment of Assistant Inspectors General for Auditing and for Investigations. These officials would be civil service employees and would be responsible for supervising performance of the duties currently being carried out by the Audit Agency and the Office of Investigations. These units would be transferred to the new Office of Inspector General, and it is likely that the persons now serving as directors of the units would become Assistant Inspectors General.

Section 3(a) assigns to the Inspector General primary responsibility for auditing and investigative activities relating to programs and operatons of the Department and for other activities carried out or financed by the Department for the purpose of promoting economy and efficiency or preventing and detecting fraud and abuse.

In addition to establishing policies for and conducting activities of this type which are under the direct control of the Office of Inspector General, the Inspector General would have responsibility for recommending policies for and coordinating activities of this type being carried out by other Departmental units.

The Inspector General would have similar direct or indirect responsibilities regarding relationships between HEW and other Federal, State or local governmental agencies, and nongovernmental entities involving promotion of economy and efficiency, prevention and detection of fraud and abuse, and the identification and prosecution of participants in fraud and abuse. The Inspector General would not conduct prosecutions or decide whether prosecutions should or should not be conducted, but would undoubtedly provide assistance to officials charged with responsibility for prosecuting such cases.

The Inspector General is further charged with responsibility for keeping the Secretary and the Congress fully and currently informed concerning serious problems, abuses and deficiencies relating to programs and operations of the Department, for recommending corrective action, and for reporting on progress made in implementing such corrective action.

Section 3(b) provides specific authority for the Inspector General to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the competence and independence of such auditors.

Section 3(c) directs the Inspector General to give particular regard to activities of the Comptroller General in order to avoid duplication and insure effective coordination and cooperation.

Section 4(a) provides for an annual report to the Secretary and the Congress describing significant problems, abuses and deficiencies in HEW operations and programs disclosed by activities of the Office, together with recommendations made for corrective action, and an evaluation of the progress made in implementing such recommendations.

Section 4(b) provides for a quarterly report to the Secretary and appropriate committees or subcommittees of the Congress identifying significant recommendations for corrective action on which adequate progress is not being made.

It is intended that this report be limited to recommendations which the Inspector General regards as particularly important, rather than constituting a listing of all outstanding recommendations on which timely action has not been taken.

Section 4(c) provides for an immediate report to the Secretary and the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies in Department programs and operations. The Deputy and Assistant Inspectors General are charged with particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

This subsection would not require the Inspector General to report on every investigation, but is designed to insure that the Secretary and the Congress are promptly informed of developing problem areas.

Section 4(d) provides that the Inspector General may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable. The purpose of this language is to insure that no restrictions are placed upon the Inspector General's freedom to investigate fraud, program abuse and other problems relating to HEW activities.

Section 4(d) also provides for the Inspector General to provide information or documents requested by Congress or congressional committees. The purpose of this language is merely to emphasize that information or documents available to the Inspector General are to be provided on request; it is not intended to imply that the Inspector General is required to conduct studies or investigations at the request of congressional committees. The Inspector General would not, of course, be prohibited from making requested studies or investigations on a voluntary basis.

Section 4(e) provides for required reports or information to be transmitted to the Secretary and Congress or its committees without further clearance or approval. The purpose of this section is to eliminate lengthy delays in furnishing information due to HEW "clearance" procedures. Copies of annual and quarterly reports would, insofar as practicable, be submitted by the Inspector General to the Secretary sufficiently in advance of the due date for submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

Section 5(a)(1) makes clear that the Inspector General is to have access to all records, documents, etc., available to HEW which relate to programs and operations with respect to which the Office has responsibilities.

Section 5(a)(2) authorizes the Inspector General to request necessary information or assistance from any Federal, State, or local governmental agency or unit thereof.

Section 5(a)(3) provides subpoena authority for the Inspector General when necessary to carry out provisions of H.R. 15390.

Section 5(a)(4) makes clear that the Inspector General is to have direct and prompt access to the Secretary when necessary in carrying out the duties of the Office.

Section 5(a)(5) requires the Inspector General to inform the Congress without delay in the event the budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent considered seriously detrimental to the adequate performance of the responsibilities of the Office.

Section 5(a)(6) authorizes employment of personnel.

Section 5(a)(7) authorizes employment of experts and consultants.

Section 5(a)(8) authorizes contractual arrangements for audits, studies and other services necessary to carry out the provisions of H.R. 15390.

Section 5(b) provides for Federal agencies to furnish information or assistance requested by the Inspector General, insofar as is practicable and not in contravention of any existing statutory restriction or applicable regulations of the agency concerned.

This section also provides for the Inspector General to report the circumstances to the Secretary and appropriate congressional committees in the event requested assistance, is in the judgment of the Inspector General, unreasonably refused.

The section provides further for the Inspector General to receive the same treatment under the Privacy Act as the Comptroller General, in the event any requested information is not already available under existing provisions of that Act.

Section 5(c) provides for the Secretary to furnish the Office of Inspector General with suitable office space and supporting services.

Section 5(d) provides that the Inspector General is to be compensated at the rate provided for level IV of the Executive Schedule (which is the rate applicable to HEW Assistant Secretaries) and for the Deputy to be compensated at the rate applicable to Level V.

Section 6(a) transfers the functions, powers and duties of the present Audit Agency and Office of Investigations to the Office of Inspector General. It also provides that the Secretary may transfer additional offices or agencies, or functions, powers or duties thereof, where appropriate and with the consent of the Inspector General. In order to insure that the independence and objectivity of the Office is not compromised, transfer of program operating responsibilities to the Office would be prohibited.

Subsections (b) through (d) of Section 6 contain technical provisions relating to the transfer of the Audit Agency and the Office of Investigations, including provisions designed to prevent unintended adverse effects on the personnel involved.

Section 7 contains definitions of terms used in H.R. 15390.

### COST ESTIMATE

H.R. 15390 does not provide any new budget authority; its costs would be financed from existing and future appropriations for the Department of Health, Education, and Welfare. Most costs of the Office of Inspector General in the immediate future will be attributable to auditing and investigative activities which would be carried out whether or not the Office of Inspector General is established. H.R. 15390 does create two new positions and additional personnel will unoubtedly be required in the future. However, it is anticipated that any expenditures for these purposes will be offset many times over through savings and recoveries attributable to establishment of the Office.

The committee's cost estimate is consistent with that of the Congressional Budget Office, which appears below. No other cost estimates were received from any Federal agency.

### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 10, 1976

The cost estimate from the Congressional Budget Office follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., September 10, 1976.*

Hon. JACK BROOKS,
*Chairman, Committee on Government Operations, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 15390, a bill to establish an Office of Inspector General within the Department of Health, Education, and Welfare, and for other purposes.

The intent of the legislation is to utilize existing departmental resources for the Office of Inspector General. To that end, the functions, powers, and duties of the HEW Audit Agency and Office of Investigations within HEW are to be transferred to the Office of Inspector General. Finally, the existing and future departmental management appropriations are to be used for the salary of the Inspector General and his deputy.

Because of the utilization of existing resources, it appears that no additional costs to the government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN, *Director*.

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### INFLATIONARY IMPACT

Since the enactment of H.R. 15390 would be expected to result in a reduction in expenditures, rather than additional net costs, it would have no inflationary impact on prices and costs in the operation of the national economy.

### OVERSIGHT FINDINGS AND RECOMMENDATIONS

Findings, Conclusions and Recommendations from the committee's oversight report (House Report 94-786, January 26, 1976) follow:

### FINDINGS AND CONCLUSIONS

The findings and conclusions in this report are based on a comprehensive review by the subcommittee of procedures and resources used by the Department of Health, Education, and Welfare to prevent and detect fraud and abuse in its programs. This inquiry is continuing and is expected to include consideration, early this year, of legislation to establish an Office of Inspector General for the Department.

On August 6, 1975, after completion of the hearings which provided the documentary base for this report, the subcommittee chairman wrote HEW Secretary Mathews to alert him to the serious problem being disclosed by the subcommittee investigation and to urge that corrective action be initiated as soon as possible.

While no formal reply to the August 6 letter has yet been received, it is known that HEW is taking actions related to matters discussed in the letter. A copy of the letter is in the Appendix to this report.

On the basis of the subcommittee investigation to this date, the Committee reached the following specific findings and conclusions:

1. The Department of Health, Education, and Welfare currently is responsible for about 300 separate programs involving expenditures in excess of $118 billion annually—more than one-third of the entire Federal budget. Because of the magnitude and complexity of its activities, aggravated in many instances by lack of direct control over expenditures, HEW's operations present an unparalleled danger of enormous loss through fraud and program abuse.

2. HEW officials responsible for prevention and detection of fraud and abuse have little reliable information concerning the extent of losses from such activities.

There is no central source of data concerning fraud and abuse nor, evidently, has any meaningful attempt been made to evaluate the over-all extent of the fraud and abuse problem. Statistics which are available are often incomplete and unreliable.

HEW officials were unable to provide such basic information as an accurate count of the number of HEW programs until more than five months after the information was initially requested. During this period, at least four different figures on the number of HEW programs were supplied to Congressional committees, ranging from a low of 250 to as many as 320.

Without adequate information, neither HEW officials nor Congress can accurately measure either the need for or the effectiveness of action to prevent and detect fraud and program abuse, nor can priorities for use of available resources be determined on a rational basis.

3. Fraud and abuse in HEW programs are undoubtedly responsible for the loss of many millions of dollars each year. The committee has not attempted to name a specific figure at this time because HEW officials could not provide information on which a reliable estimate of such losses could be based.

4. HEW units charged with responsibility for prevention and detection of fraud and program abuse are not organized in a coherent pattern designed to meet the overall needs of the Department.

There is no central unit with the overall authority, responsibility and resources necessary to insure effective action against fraud and abuse. Under its charter, the Office of Investigations and Security has department-wide responsibility for leadership, policy direction, planning, coordination and management of investigations. However, its authority over operations of the Social Security Administration has been effectively nullified as the result of agreement made by non-OIS officials; moreover, OIS could not possibly carry out its assigned responsibilities with the hopelessly inadequate resources it now has.

Fraud and abuse units other than OIS and the Audit Agencies are scattered throughout HEW in a haphazard, fragmented and often confusing pattern. Some major programs have no fraud and abuse unit, while other units exist mostly on paper. Some units have no personnel in field offices; in other instances, field personnel are not subject to the direction and control of the unit's headquarters. Personnel of most units work exclusively and continuously on a single program, and are not available to help correct more serious problems elsewhere.

5. Personnel of most HEW fraud and abuse units lack independence and are subject to potential conflicts of interest because they report to officials who are directly responsible for managing the programs the unit is investigating. Under these circumstances, employees may be inhibited in making an honest and thorough report that could embarrass their superiors.

The independence of the Office of Investigations is restricted in another way. Under current arrangements, OIS may not initiate any investigation without specific approval of the Secretary or Under Secretary. In addition to the obvious restriction on the independence of OIS, this procedure creates an unnecessary burden for the Secretary or Under Secretary and places them in the undesirable position of having to decide personally whether or not suspected irregularities are to be investigated. Any safeguards necessary to insure that inappropriate investigations are not conducted should be imposed through carefully adopted procedures and guidelines, rather than individual decisions by the Secretary or Under Secretary.

6. Under current organizational arrangements, there is little assurance that the Secretary will be kept informed of serious fraud and abuse problems, or that action necessary to correct such problems will be taken. The OIS charter does not provide for guaranteed access to the Secretary or Under Secretary. Most other fraud and abuse units report to program officials, usually at a relatively low level. Since those receiving reports of fraud and abuse problems are likely to be responsible for the programs involved, there may be little incentive for such officials either to call problems to the attention of the Secretary or to initiate prompt and aggressive corrective action which could result in public laundering of their own dirty linen.

7. Resources devoted by HEW to prevention and detection of fraud and program abuse are ridiculously inadequate. Although HEW

has more than 129,000 full-time employees, the Office of Investigations and Security has had only ten investigators.

At least partially because of its fragmented organizational structure, HEW has failed to make effective use of the resources it has. As a result, OIS has a ten-year backlog of uninvestigated cases; at the same time, the 11 investigators in the SSA Investigations Branch have been so underutilized that the unit has no significant backlog and has left 8 investigative positions unfilled.

Although the total number of persons reported assigned to fraud and abuse units is about 300, more than 180 of them work exclusively on the Medicare program, and most of the remainder are assigned to other programs of the Social Security Administration. Individuals working in OIS and the SSA Investigations Branch are qualified investigators, but personnel assigned to other units may have no substantial investigative training or experience.

8. There are serious deficiencies in the procedures used by HEW for the prevention and detection of fraud and program abuse. Until recently, HEW had not advised employees of the Department that they had an obligation to call information indicating possible fraud or abuse to the attention of appropriate officials. Moreover, there is no departmentwide policy for or centralized supervision of the referral of possible fraud cases for prosecution.

The subcommittee's investigation disclosed instances in which it took as long as five years or more for HEW to take corrective action after deficiencies in its regulations became known. Part of the blame can be attributed to cumbersome procedures for changing regulations; however, some delays were so lengthy as to indicate the almost total lack of any sense of urgency.

## RECOMMENDATIONS

The committee recommends that the Secretary of Health, Education, and Welfare carefully review this report with a view to taking corrective action concerning the deficiencies disclosed herein. Specific recommendations follow:

1. It is expected that the subcommittee will give further attention to deficiencies in the organizational structure of HEW fraud and abuse units early next year in connection with its consideration of legislation to establish an Office of Inspector General for the Department of Health, Education, and Welfare. In the meantime, the committee recommends that the Secretary take appropriate steps to place the HEW Audit Agency, the Office of Investigations and Security, and the SSA Investigations Branch under the overall direction of a single official who reports directly to the Secretary and has no program responsibilities. To the extent feasible, other HEW investigative personnel should be included in this organizational arrangement.

Such action could be taken without affecting the status of OIS and the Audit Agency as separate units, nor would it require reassignment of personnel to work on different programs. However, it would place overall responsibility for coordination and leadership of auditing and investigative activities in a single individual reporting directly to the Secretary. This official should be held directly responsible for informing the Secretary of serious problems disclosed by audits and investigations and of the progress or lack of progress in correcting such problems.

2. The committee recommends that the Secretary immediately discontinue the requirement that OIS obtain prior clearance from the Secretary or Under Secretary before initiating investigations.

3. The committee recommends that the Secretary initiate an immediate review of HEW fraud and abuse problems and the personnel and resources being used to combat such problems. This review should include an effort to determine:

(*a*) The nature and magnitude of fraud and abuse problems confronting HEW and the extent, to which prompt and effective action is or is not being taken to correct them;

(*b*) The extent and nature of resources presently available to HEW which might be effectively used for the prevention and detection of fraud and program abuse;

(*c*) The extent to which additional resources are needed, taking into account any improvements which can be made through more efficient use, organization or reassignment of available personnel; and

(*d*) The manner in which responsibility for combating fraud and abuse is presently allocated between HEW and State governments and the effectiveness of such arrangements.

The committee requests that the Secretary provide it with a report on the results of this review as soon as feasible.

4. The committee recommends that the Secretary take prompt action to correct procedural deficiencies discussed in this report. In particular, the committee recommends that the strongest possible action be taken to insure that serious deficiencies known to exist in program regulations are corrected promptly.

## LETTER FROM HON. L. H. FOUNTAIN TO HON. F. DAVID MATHEWS

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., August 6, 1975.*

HON. F. DAVID MATHEWS,
*Secretary-Designate, Department of Health, Education, and Welfare, Washington, D.C.*

DEAR MR. SECRETARY: As I indicated in my letter of August 5, I am writing to call to your attention some specific problems in HEW's operations which appear to me to call for urgent remedial action.

As you may know, the Intergovernmental Relations and Human Resources Subcommittee is reviewing the resources and procedures utilized by the Department of Health, Education, and Welfare to prevent and detect fraud and abuse in its programs. In connection with this inquiry, the subcommittee requested background information in March of this year and held public hearings in April, May and June.

A formal report on the subcommittee's continuing investigation is now being prepared and is expected to be ready in the near future. It is also my expectation that the subcommittee will give consideration in the near future to the establishment of a statutory Office of Inspector General for the Department of Health, Education, and Welfare.

The report now being prepared will contain a detailed account of the subcommittee's findings, conclusions and recommendations. However, in view of very serious deficiencies disclosed by the subcommittee's investigation, I thought it advisable to write to you in advance of the report to urge that corrective action be initiated as soon as possible.

Since the subcommittee's report has not yet been completed, it would be inappropriate for me to try to speak for other members of the subcommittee at this time. However, in my judgment, the subcommittee's investigation clearly disclosed that:

1. Fraud and abuse in HEW programs are causing enormous losses and greatly reducing the effectiveness of HEW programs. Resources used to combat fraud and abuse are so inadequate and disorganized that HEW officials have little or no reliable information concerning the actual amount of such losses.

2. According to its charter, as published in the Federal Register, the Office of Investigations and Security has departmentwide responsibility and authority for policy direction, planning, coordination and management of investigations. However, HEW has not complied with this stated policy. Instead, there evidently is an unwritten agreement that OIS shall take no part in investigative matters involving the Social Security Administration, even though SSA programs account for more than 80% of all HEW expenditures.

3. The Office of Investigations and Security is responsible for reporting directly to the Secretary on fraud and abuse in HEW programs. However, even though HEW programs involve more than 129,000 employees and expenditure of $118 billion annually, OIS has only 10 investigators to investigate allegations of fraud. Five of HEW's ten regional offices do not have a single professional investigator assigned. When the subcommittee began its hearings in April, OIS had a four-year backlog of uninvestigated cases; that backlog has now grown to approximately ten years.

4. There are thirteen additional professional investigators working for HEW, who do not report to the Secretary. These investigators are assigned to the Investigations Branch of the Social Security Administration's Office of Administration, and work only on cases referred to them by SSA program units. These investigators currently have *no* backlog—primarily because very few cases are being referred to them.

5. There are also a number of quasi-investigative units which report to the administrators of some HEW programs. These units do not report to the Secretary, and apparently were established on an individual basis rather than as part of a coherent and coordinated overall plan to help provide the Secretary with information needed to combat fraud and abuse in HEW programs. There has been little or no coordination between units working on such closely related programs as Medicare and Medicaid.

The subcommittee's report will undoubtedly go into considerably more detail, but I am sure the above points are more than sufficient to illustrate the basis for my concern.

Pending issuance of the subcommittee's report, I want to urge that you give immediate personal attention to strengthening the procedures and resources used by HEW to prevent and detect fraud and program abuse, and to suggest specifically that:

1. Immediate action be taken to make the SSA Investigations Branch a part of OIS, thereby bringing HEW's investigative operations into compliance with the Department's stated policy. This would also make presently underutilized investigative resources available to meet the pressing needs of the Department.

2. An immediate review be made of personnel and resources being utilized for the prevention and detection of fraud and program abuse with a view to evaluating Departmental needs and available resources, and taking appropriate action to insure a high degree of cooperation and coordination among auditors, investigators and program managers.

3. Immediate action be taken to assign at least one qualified investigator to each regional office; if necessary, this could be accomplished by transferring qualified investigators from program units to OIS.

I hope these comments and suggestions will be helpful to you. If you would like any additional information concerning any of the matters discussed above, please feel free to have the appropriate member of your staff contact the subcommittee Counsel, Mr. Naughton.

Best personal regards.

Sincerely,

L. H. FOUNTAIN, *Chairman.*

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SUPPLEMENTAL VIEWS OF HON. BENJAMIN S. ROSENTHAL

I applaud the actions of the committee in reporting out this bill. In the 18 months which have elapsed since I introduced the original measure, evidence of mismanagement, fraud and abuse in HEW has swelled. In some programs, improper or illegal expenditures may now account for half of the total dollars consumed.

The root of the problem is the federal government's deferral of its investigatory and oversight responsibilities to the states.

The federal student loan program is an example of activity crippled by fraud, mismanagement and/or abuse. The HEW Office of Guaranteed Student Loans, with a total of $3.3 billion in federally insured loans, experienced an 18% default rate in fiscal year 1975, a figure which is expected to have grown to 20% in fiscal 1976.

It is not surprising that HEW cannot monitor effectively its multibillion dollar budget. The Office of Investigation and Security (OIS), HEW's principal oversight agency, has 24 investigators and a 10-year backlog of cases to monitor HEW's $140 billion budget. This small staff must police the performance of 129,000 HEW employees in their management of over 300 complex government programs that directly or indirectly affect the daily lives of tens of millions of Americans.

HEW has sought to cope with the huge potential for abuse by enlisting the aid of the states. This cooperation must continue but the evidence is overwhelming that it is no substitute for vigorous federal oversight. Many states do not have the resources or the experience to cope with the multitude of sophisticated schemes and devices used to evade the law. Moreover, there are many investigatory techniques, such as wider use of computer audits, which can only be undertaken economically at the federal level. Many fraudulent operations cross state lines or duplicate themselves in many areas of the country. A nationwide approach and perspective in meeting these challenges is essential.

There is a direct correlation between increased federal enforcement efforts and the detection of fraud. The 100 cases pending before the OIS offer a potential savings or recovery of $20 million. In addition, 70% of the state prosecutions for Medicaid fraud have been conducted by California, which has a staff of 74, the largest Medicaid investigatory staff in the country. California's achievements in this area are in sharp contrast with those of the twenty-one states which have no investigations staff, and consequently, are totally inactive in fraud and abuse detection.

I am an ardent supporter of our nation's social service programs. For this reason I feel even more strongly that every effort must be made to rid these programs of the waste and fraud which deprives the needy and deserving of billions of dollars a year in intended support.

As a member of this committee, I have recognized that governmental structure plays a critical role in the formulation of policy. I am afraid that the investigatory framework at HEW is timeworn, rusty and inadequate and is inappropriate to the function it is asked to perform.

The legislation approved by this committee would provide HEW with the tools essential to the exercise of its oversight responsibilities. The Inspector General would be appointed for a 10-year term by the President with the advice and consent of the Senate. He would have the power to subpoena persons, records and documents. This authority, which is indispensable for an adequate investigatory agency, is not presently enjoyed by HEW investigators.

The usefulness of inspectors general has been confirmed by the GAO. A recent GAO report found that inspectors general are integral to the economic efficiency of the agencies which they serve.

Some question has been raised about vesting the HEW Inspector General with subpoena power. This is the only way to insure complete access to information. Many federal regulatory agencies, including the SEC, FTC and FCC, have this right. Without it, an inspector general's office is forced to rely on the information which those being investigated want him to have. This precludes any effective evidence-gathering and undermines the office from its inception.

The organizational placement of the Inspector General's Office is also important. As recognized by a GAO review of the activities of the Agriculture Department Office of Inspector General, an effective inspector general must be independent of the officials directly responsible for the operations he reviews. This insures the Inspector General maximum independence and permits objectivity and impartiality in his oversight of departmental activities.

The credibility of the federal government is severely threatened by the gross mismanagement of our social welfare programs. This bill provides HEW with the tools necessary to restore some of this lost confidence.

BENJAMIN S. ROSENTHAL.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, will the gentleman tell us, since the committee has reported out a bill similar to the Senate amendment and since the committee has certainly had an opportunity to look into the reports about the abuses occurring in the medicare and medicaid programs resulting in the development of this new position, will you elaborate on why is it so necessary to rush this new position through?

Mr. WYDLER. Mr. Speaker, will the gentleman yield to me?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Speaker, I am pleased to rise in support of legislation to create an Office of Inspector General at the Department of Health, Education, and Welfare. I would also like to applaud the leadership of the gentleman from North Carolina (Mr. FOUNTAIN) in shepherding this bill through the Government Operations Committee.

Mr. Speaker, since the beginning of this Congress, we have been deluged with reports about abuses occurring in the medicare and medicaid program. During hearings held by the Intergovernmental Relations and Human Resources Subcommittee we also learned about ineffective review and administrative procedures for other programs at HEW including student loans.

The most distressing information to come out of the entire series of hearings was that HEW officials could not define the extent of fraud or abuse in any of its programs.

With the largest single budget of any Federal agency, the need for careful examination of HEW programs should be apparent. To Secretary Matthew's credit, some initiatives have already been taken including a consolidation of the investigative functions of the Department.

However, these steps are not enough. The creation of an Office of Inspector General will be a clear signal that the Congress wants the continued waste of taxpayers' dollars to cease.

It is the first step of what I hope will be many initiatives during the 95th Congress to halt this incredible loss of funds. I urge the adoption of this bill.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, is it correct that the purpose of this new position is to put a handle on these abuses and come to grips with all the fraud and the other problems that were brought out in the Senate hearings on the subject of medicaid?

Mr. WYDLER. The gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the comments of the gentlemen, both the gentleman from Texas (Mr. BROOKS) and the gentleman from New York (Mr. WYDLER) as well as the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. Speaker, I withdraw my reservation of objection.

Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 11347 which has an amendment that incorporates a bill I have cosponsored, H.R. 15390, to establish an Office of Inspector General within the Department of Health, Education, and Welfare.

The need to establish a single unit within HEW having overall responsibility for detecting fraud and program abuse has been clearly documented. My Government Operations Subcommittee on Intergovernmental Relations conducted extensive hearings on HEW procedures for prevention of fraud and program abuse. A thorough report of the subcommittee's investigation has been published which details the vast potential for fraud that exists within HEW programs. Early this year our report disclosed that millions and millions of taxpayer dollars were being lost as a result of fraudulent abuse of HEW programs.

As one who is committed to limiting the bureaucracy and reducing its size, I was originally skeptical about establishing another office within HEW. I was concerned that the Inspector General proposal was merely creating a "new bureaucracy" within one that was already topheavy. During the course of the subcommittee hearings, however, I changed my mind. For those Members who share my original skepticism, let us look at some of the facts uncovered by the subcommittee's investigation.

Although HEW has more than 129,000 full-time employees, its central investigations unit had only ten investigators in its Office of Investigation. Consequently, there is a 10-year backlog in uninvestigated cases.

Until the subcommittee requested a report on how the responsibility for program economy and efficiency was divided, HEW officials did not even know how many different units were engaged in these activities. The report revealed 63 such units, employing 3,642 people. They were not even sure how many programs they administered.

The units responsible for detecting fraud and abuse, and promoting economy and efficiency are scattered throughout HEW haphazardly with no single unit having overall responsibility to coordinate efforts.

The present Under Secretary who is acting in the capacity of "Inspector General" at the present time has clearly not been able to devote the time and attention this job deserves, considering that from January 1 to June 14 of this year alone, she was away from Washington 72 days performing other duties.

While there are many dedicated and hard-working employees at HEW, it is a source of waste and loss of billions of the taxpayers' dollars. By creating a central unit within HEW, an Office of Inspector General, with the primary responsibility for activities relating to the prevention and detection of fraud and program abuse and the promotion of economy and efficiency within HEW's administration, this waste and loss of hard-earned taxpayer dollars can be minimized. By streamlining and coordinating the work of the 63 scattered units presently having this responsibility and bringing them together, the Inspector General can achieve better results—with fewer rather than more employees, I might add. The only additional personnel would be more investigators who are desperately needed now. The remaining staff will come from the merger of the 63 existing offices.

Most importantly, the Inspector General's Office would not be a new "layer of bureaucracy" to plague the public since it would deal exclusively with the internal operations of HEW.

It would deal with the public only for the beneficial and needed purpose of receiving complaints about problems within HEW's administration and in the investigation of fraud and abuse by those persons who are misusing or stealing taxpayer dollars.

The Inspector General would be appointed by the President with the advice and consent of the Senate. As a result he would be more independent of the system and he would be able to report directly to Congress. He would also report to the Secretary of HEW directly, but his status as a Presidential appointee with Senate confirmation would afford him a considerable degree of independence and leverage in HEW and enable him to be an effective ombudsman for the people HEW is intended to serve.

The General Accounting Office is not adequate to meet the task we are proposing for the Inspector General. While GAO's investigatory work has contributed substantially to improved Government operations, it operates on a one-shot or time-to-time basis. GAO cannot provide the full-time, coordinated, and continuous monitoring HEW needs which the Inspector General's Office would do. Moreover, GAO does not have the capability of dealing with criminal investigations which the Inspector General would have.

I urge you to join with me in supporting H.R. 11347. This bill would not create more government but would actually cut back on it and make certain that we get a dollar's value for a dollar spent. It will make it possible to begin to return the vast losses because of fraud and abuse that are presently occurring at HEW.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and that all Members may be permitted to revise and extend their remarks on the legislation just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## FEDERAL GRANT AND COOPERATIVE ACT OF 1976

Mr. BROOKS. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 15499) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill as follows:

H.R. 15499

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act be cited as the "Federal Grant and Cooperative Agreement Act of 1976".

### FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationships between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards;

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

### DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

### USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

### USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State

or local government or other recipient during performance of the contemplated activity.

### USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support of stimulation authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

### AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to enter into grant or cooperative agreements shall include the discretionary authority, when it is deemed by the head of an executive agency to be in furtherance of the objectives of such agency, to vest in State or local governments or other recipients, without further obligation to the Federal Government or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such grant or cooperative agreement funds.

(c) The authority to make contracts, for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

### STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the Senate and the House of Representatives at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

### REPEALS AND SAVINGS PROVISIONS

SEC. 9. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891, 1892, and 1893), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one hundred and eighty days after receipt by the Congress of the study provided for in section 8 of this Act.

### COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 6, strike out line 24 and everything that follows through line 7 on page 7.

Page 7, line 8, strike out "(c)" and insert in lieu thereof "(b)", and insert after "contracts" the following: ", grants, and cooperative agreements".

Page 7, line 18, strike out "contract".

Page 9, line 7, strike out "1891, 1892, and 1893" and insert in lieu thereof "1891 and 1892".

The committee amendments were agreed to.

Mr. BROOKS. Mr. Speaker, H.R. 15499 is designed to introduce some order and efficiency into the awarding of grants and contracts by Federal agencies. It deals only with procedures and it carries out two recommendations of the Commission on Government Procurement.

Essentially, it distinguishes between grants and contracts and gives the agencies guidelines as to which form to use to get the best results for the Government. It also calls for a study by the Office of Management and Budget to see whether a comprehensive system of guidance for all Federal assistance programs can be developed.

The Senate has passed the bill—with one minor difference, unanimously. It is my understanding they are going to accept the House version when it goes over there.

Mr. HORTON. Mr. Speaker, I rise in support of H.R. 15499, the Federal Grant and Cooperative Agreement Act of 1976.

The importance of this legislation is underscored by the fact that one-third of the Federal budget is spent through outlays on either procurement contracts—some $70 billion, or grants—some $65 billion. This legislation would implement two key recommendations made by the Commission on Government Procurement resulting from our 2½-year study.

First, it provides uniform guidelines to distinguish and control the use of grants, procurement contracts, and cooperative agreements by Federal agencies based on the fundamental purpose of the transaction and what kind of relationship is expected between the Government and a recipient.

Second, it mandates a study that should lead to the development of a comprehensive system of guidance for Federal assistance programs.

I might add that the Paperwork Commission has recently endorsed this legislation and supports the clarification of Federal recipient relationships through a standardization of legal instruments as one way of changing the causes of the redtape paperwork problem.

The approach adopted in this legislation would clarify Federal relationships through the standardization of legal instruments rather than through organizational administrative coordination and fiscal relationships. In addition, there is increasing evidence that a primary cause of excessive redtape and paperwork problems is the growth of large numbers of uncoordinated Federal assistance programs.

This legislation would help to structure and organize management in Federal assistance programs thereby improving management techniques so that paperwork can be reduced.

In addition, section 7(b) of the bill will preserve the authority to vest property in certain performers currently contained in 42 United States Code 1892 which is being specifically repealed by the bill. It is not intended to restrict the authority of the agencies to vest title in property acquired under contracts, grants, or cooperative agreements with non-Federal participants where such participants substantially share in the cost of the work.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the Senate bill (S. 1437) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill as follows:

### S. 1437

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act be cited as the "Federal Grant and Cooperative Agreement Act of 1976".

### FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationships between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards.

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

### DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group, representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly-owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

### USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

### USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

### USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

### AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to enter into grant or cooperative agreements shall include the discretionary authority, when it is deemed by the head of an executive agency to be in furtherance of the objectives of such agency, to vest in State or local governments or other recipients, without further obligation to the Federal Government or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such grant or cooperative agreement funds.

(c) The authority to make contracts for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such contract funds.

### STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The director shall consult with and to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the Senate and the House of Representatives at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

### REPEALS AND SAVINGS PROVISIONS

SEC. 9. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891, 1892, and 1893), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one hundred and eighty days after receipt by the Congress of the study provided for in section 8 of this Act.

### MOTION OFFERED BY MR. BROOKS

**Mr. BROOKS.** Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill (S. 1437) and to insert in lieu thereof the provisions of H.R. 15499, as passed, as follows:

That this Act be cited as the "Federal Grant and Cooperative Agreement Act of 1976".

### FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationships between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards;

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

### DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

### USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

### USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

### USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

### AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

### STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the Senate and the House of Representatives at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

### REPEALS AND SAVINGS PROVISIONS

SEC. 9. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891 and 1892), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one hundred and eighty days after receipt by the Congress of the study provided for in section 8 of this Act.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 15499) was laid on the table.

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## GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

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## WATER RESOURCES DEVELOPMENT ACT OF 1976

Mr. JONES of Alabama. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15636) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. JONES).

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15636, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Alabama (Mr. JONES) will be recognized for 1 hour, and the gentleman from California (Mr. DON H. CLAUSEN) will be recognized for 1 hour.

The Chair recognizes the gentleman from Alabama (Mr. JONES).

Mr. JONES of Alabama. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. ROBERTS), the chairman of the Subcommittee on Water Resources.

Mr. ROBERTS. Mr. Chairman, I am particularly pleased to bring to the floor today H.R. 15636, the Water Resources Development Act of 1976 and the river basin monetary authorization of 1976. As always, my distinguished colleague, the gentleman from Alabama (Mr. JONES) has been the architect in directing this bill. It is probably the last one to have his direction. I also wish to extend my very warm thanks to the ranking minority member of the Subcommittee on Water Resources, the gentleman from California (Mr. DON H. CLAUSEN), and the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA).

Title I of the bill, the Water Resources Development Act of 1976, includes water resources development project authorizations similar to those found in previous water resources development acts. A total of 44 projects is contained in this title. The projects are located in 27 States and cover all types of work within the province of the Corps of Engineers. The other provisions in title I involve project modifications and items relating generally to the Nation's water resources program. Title I directly affects 32 States and American Samoa and the Commonwealth of Puerto Rico. Title I contains a number of significant and worthwhile provisions and I would like to point out just a few of them.

Section 150 authorizes the Corps of Engineers to establish new wetland areas in connection with dredging operations associated with water resources development projects. Such wetland areas may be established when the Chief of Engineers finds that the environmental, economic, and social benefits of the area justify the increased cost of dredged material disposal, the increased cost of the area over other disposal practices does not exceed $400,000 per area, and there is reasonable evidence that the wetland areas to be established will not be substantially altered or destroyed by natural or manmade causes.

The section also directs that consideration be given to the establishment of wetland areas in the study of any water resources development project. In any such study, and this is a very important point, the benefits of establishing a wetland area are to be deemed at least equal to the cost of establishing the area in the computation of benefits and costs of the project. The costs of establishment of a wetland area are to be borne by the United States. Vast amounts of our wetland areas so important to the food chain and to natural flood control and water quality control have been lost over the years because of man's activities. Much has been done to prevent further loss. This section goes one step further and provides a means of establishing new wetland areas to restore and replace past losses.

Section 103 of the bill gives me great personal satisfaction. It authorizes the construction of flood control measures to preserve and protect the Espada Acequia aqueduct in San Antonio, Tex. The Espada aqueduct and irrigation system are representative of the water supply systems that were part of the original Spanish missions in colonial settlements in the San Antonio, Tex., area. The aqueduct, built between 1730 and 1745 is the only remaining original and operational Spanish aqueduct in the United States. It was designated in 1965 as a national historic site and is included in the National Register of Historic Places. In the area of the aqueduct, Six-Mile Creek has cut through the mildly undulating terrain, leaving particularly steep streambanks adjacent to the structure. Without protection, floodflows will eventually scour out the east abutment of the historical structure and this last remaining representative work of the Spanish missionaries will be lost to us and our children. Section 103 will insure that this does not happen.

Section 117 authorizes the Corps of Engineers to investigate and study in cooperation with interested States and Federal agencies, and through the Upper Mississippi River Basin Commission, the development of a river system management plan for the Mississippi River from the mouth of the Ohio River to the head of navigation at Minneapolis. This study will include the effect of increased barge traffic, fish and wildlife resources, recreation, watershed management, and water quality. The study will also address the interrelated questions of sedimentation and channel maintenance, navigation for commercial and recreational purposes, fish, wildlife and life-support systems, historical and archaeological site preservation, and water quality needs relating to industrial use, human consumption, and sanitation.

The study will provide a comprehensive analysis of the effects of man's activities on the Mississippi and the steps which can be taken to minimize and mitigate these effects, thereby protecting one of our greatest natural resources.

Section 120 authorizes the Corps of Engineers to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources development projects under the jurisdiction of the Secretary of the Army in order to meet needs during peak visitation periods. The Corps of Engineers lakes, as other recreational facilities, experience a reasonably significant level of criminal activity. While the Federal Government does have the authority to regulate conduct upon its lands, it exercises no traditional police power in such lands. The State and local laws and ordinances are in force on these Federal lands at Corps' lakes, and the responsibility for their enforcement rests with State and local law enforcement agencies. While the State and local agencies have generally cooperated in enforcing their authority in these areas, it has been found that they have not been able to respond satisfactorily to misdemeanor and felony offenses during peak use. This is due to the magnitude of the Corps' recreation program and the geographical extent of these Corps areas. This section will remedy this situation by allowing the Corps of Engineers to contract with local agencies to obtain the increased protective services needed to protect visitors to these recreation areas. It is similar to authority presently available to the Secretary of Agriculture.

Section 133 increases the small flood control and navigation project authority of the Corps of Engineers in order to enable them to meet more effectively the flood control and navigation needs of local communities. Presently, the Corps of Engineers is authorized to construct small flood control or navigation projects without the specific authorization of Congress, if the Federal cost is less than $1 million. In addition, the Corps can construct small flood control projects with a Federal cost up to $2 million if the area which that project will protect has been declared a disaster area within the past 5 years. Section 133 increases each of these authorities by $1 million.

Section 145 will allow the Corps of Engineers to deposit clean beach-quality dredged material onto adjacent beaches in lieu of simply disposing of it in open water. The recipients of the material are required to pay any increased costs associated with this method of disposal as opposed to the methods the Corps of Engineers would otherwise use. This will allow the beneficial use of good quality sand and provide increased recreational opportunities for the people. We expect that emphasis will be placed by the Corps of Engineers on the placement of this material on beaches used by the public.

Finally, Mr. Chairman, section 168 increases from $2 million per year to $4 million per year the authority of the Corps of Engineers to provide planning assistance to States to assist in the development of sound water resources management plans. Not more than $200,000 may be expended in any one State in any 1 year. This program was first authorized in the 1974 Water Resources Development Act and it has proved so helpful and so beneficial that we have increased the amount so that the Corps of Engineers can better respond to the requests it is receiving.

Mr. Chairman, these are but a few of the many worthwhile items in this bill. This is a good bill, it is a needed bill, and I urge its enactment.

Mr. RISENHOOVER. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. Mr. Chairman, I thank the gentleman for yielding to me. I asked the gentleman from Texas (Mr. Roberts) to yield so that I might ask the gentleman a question.

Mr. Chairman, section 153 of this bill amends section 201 of the Flood Control Act of 1970 under the center heading "Arkansas-Red River Basin," to read as follows:

> Construction shall not be initiated on any element of such project until such element has been approved by the Secretary of the Army and the President.

The gentleman knows that I was principal sponsor, along with my Oklahoma colleagues, Mr. Jarman and Mr. Jones, of H.R. 14301, H.R. 14302, and H.R. 14303, which authorized specific chloride control projects in the basin.

As I told this House earlier this year, and I quote:

> I believe that pushing rapidly toward eliminating natural salt pollution of the Arkansas River offers the best solution to that problem (of meeting water demands) with the greatest economic benefits—not only for Oklahoma, Arkansas and Tennessee—but for the entire Nation and world.

As I understand the language in section 153 of this bill, the effects of H.R. 14301, H.R. 14302 and H.R. 14303 are achieved. Is that correct?

Mr. ROBERTS. That is essentially correct.

Mr. RISENHOOVER. It is also correct that under the provisions of section 153, the corps could save 1½ years in obtaining approval of chloride control in area IV of the Arkansas River portion of the project?

Mr. ROBERTS. That is my understanding.

Authorization of the Arkansas-Red River chloride control project, contained in the Flood Control Act of 1970, provides that construction of the project cannot be initiated until the project has been approved by the Secretary of the Army and the President. This provision was included because the Corps of Engineers report on the project has not yet been cleared by the Secretary of the Army and the Office of Management and Budget and transmitted to the Congress. Water resources bills containing authorizations of projects which had not been cleared had been vetoed by Republican administrations in the past, so the provision was added to avoid a possible veto.

The problem with the provision, however, is that no individual element of the overall project can be constructed until the entire project has been approved by the Secretary of the Army and the President. Section 153 of the Water Resources Development Act of 1976 recently reported out of our committee overcomes this by amending the 1970 authorization to provide that each individual element may be constructed as that element is approved by the Secretary of the Army and the President.

With regard to area IV of the Arkansas River portion of the project, the Corps of Engineers advises that there is a possibility that an interim report could be prepared under the provisions of section 153, that could save 1½ years in obtaining approval of that element.

Mr. RISENHOOVER. The people of Oklahoma are grateful for this important legislative breakthrough. I now urge the administration to proceed with utmost speed in stopping the pollution in this basin and clean up the water. While the investment is great, the rewards are greater. I appreciate the committee's work and chairman's leadership in combating this problem. Thank you.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

I wish to compliment the Chairman of the full committee and the Chairman of the subcommittee and the members of this committee for developing a very good bill sensitive to the problems of the times.

Mr. Chairman, I rise to discuss with my distinguished colleague, the gentleman from Texas, the definition of a "lawful bridge" under the Truman-Hobbs Act which section 119 of this bill amends.

Mr. ROBERTS. Mr. Chairman, I am familiar with the bridge, and I am happy to discuss this matter with my distinguished colleague.

Mr. ECKHARDT. If the gentleman would yield further, the facts are these. The Port Terminal Railroad Association Bridge across Greens Bayou 2½ miles north of the Houston Ship Channel now has a vertical clearance, between normal water level and bridge clearance, of about 19.6 feet. At the time of construction such clearance was 27.6 feet, and, hence, the bridge was a lawful bridge at that time. No structural change has been made in the bridge, and its elevation with respect to the surrounding terrain is the same as when it was constructed. The difference in relationship between the clearance of the bridge and the water level has occurred because of subsidence in the entire area. The bridge has been declared by the Coast Guard as an obstruction to navigation and, therefore, it is required that the bridge be removed or reconstructed so as to afford as much clearance as existed at the time of its construction.

The question involved is as to whether or not the provisions of the Truman-Hobbs Act may be applied so that the Port of Houston Authority, owner of the bridge, may proceed with a project to reconstruct the bridge at a permissible elevation and obtain a proportionate allocation participation in the cost by the U.S. Government, as provided under the Truman-Hobbs Act.

The Coast Guard has suggested that the owner's permitting the bridge to become an obstruction to free navigation, even though due to no act on his part, forecloses him from enjoying the benefits of the Truman-Hobbs Act because the bridge is no longer a "lawful bridge."

Mr. Chairman, what is the gentleman's judgment on this matter?

Mr. ROBERTS. It would seem to me, and I think it is clear, that under the Truman-Hobbs Act the term "lawful bridge" would apply when the bridge was constructed. The mere fact that it has settled as part of its subsidence should not make it an "unlwaful bridge." I understand the Greens Bayou Bridge was lawfully constructed to meet the requirements of the Truman-Hobbs Act.

Mr. ECKHARDT. That is correct, Mr. Chairman.

Mr. ROBERTS. Section 516 of the Truman-Hobbs Act specifically addresses the case of a bridge that "unreasonably obstructs navigation." Thus, it would seem clear that the Truman-Hobbs Act envisions a situation in which a bridge is both lawful for purposes of receiving Truman-Hobbs money and yet also obstructs navigation.

Mr. ECKHARDT. That is exactly as we understand, Mr. Chairman, and I at the proper time in the House should like to ask unanimous consent to place in the Record a letter to that effect.

We also have had a construction of the Truman-Hobbs Act by persons who were here when it passed, and I shall ask that that be included.

Mr. ROBERTS. I shall be happy to discuss the matter with my colleagues, and I hope that we can be helpful.

Mr. ECKHARDT. I thank the gentleman and include the following:

House of Representatives,
*Washington, D.C., September 1, 1976.*

Adm. Owen W. Siler,
*Commandant, U.S. Coast Guard,*
*Washington, D.C.*

Dear Admiral Siler: The Coast Guard has notified Southern Pacific Transportation Company and the Port of Houston Authority that a bridge over Greens Bayou, 2.8 miles above its confluence with the Houston Ship Channel, is an obstruction to navigation, and that it must be either removed or altered.

When the Port Authority, owner of the bridge, sought funding under provisions of the Truman-Hobbs Act (33 U.S.C. Sections 516-517), it was informed that the alteration project was not eligible for such funding, because the bridge was not a "lawful" bridge. I disagreed with this position, and met with representatives of the Coast Guard, the railway interests, and the Port of Houston in Washington on May 17, 1976. It was and is my contention that the project does, indeed, qualify for such funding. My position is set out in a memorandum, a copy of which is attached. However, since that meeting, I have researched the question thoroughly, and now have additional data which I wish to submit.

First, I would like to direct your attention to the permit issued by the Assistant Secretary of War on October 15, 1930. The Coast Guard has taken the position that the owner of the bridge has not maintained the bridge in accordance with that permit. There are three conditions specified in the permit, none of which require the bridge owner to maintain the elevation of 27.6 feet above the water. The only data showing such an elevation is a chart prepared by the Harris County Houston Ship Channel Navigation district. I do not consider this chart to be a part of the permit issued by the Secretary.

Secondly, I have researched the records during debate on passage of the Truman-Hobbs Act over a presidential veto in 1940. Though there is nothing in the debate that is definitive on this question, there is discussion that indicates that the Act was designed to relieve the builder (owner) who was not at fault when he built the bridge and who physically maintained it in a condition adequate for his purposes and safe as a structure.

Senator Clyde Martin Reed said:

"After the bridge has been built, if it is sufficient for the purposes of the builder, and there comes a change for some other reason other than the builder's reason, there is no equity in requiring the original builder of the bridge, if it is still safe, and if it is still adequate, to meet the costs of the change." Page 8788, Congressional Record—Senate, June 21, 1940.

That Senator Reed's reference to "safe" and "adequate" was with respect to structure, not present needs, is shown by this statement on the same page of the Record:

"Should they (the builders) be required to pay the expenses of raising a bridge which is perfectly adequate for their purpose, the raising of which does not affect them a particle?"

He clearly believed that the time for measuring adequacy—that is, lawfulnezs—was at the time of building, not the time when present conditions require a change, for he said in the same statement:

"It is only a matter of equity in adjusting the present bridge conditions to the *present* time (emphasis added), and permitting improvements to be made, but not requiring the cost of improvements to be made solely at the expense of the bridge owner when the bridge owner is in nowise interested and receives no benefit."

There is an even clearer declaration in the debate that the adequacy of clearance is to be measured at the time of original construction. During the debate in the House of Representatives, Congressman John J. Cochran said on Page 8650 of the Record, June 19, 1940:

"So if they (the bridge builders) did not have a proper clearance or build a proper bridge *when it was originally constructed* (emphasis added), they should bear the cost now of making the improvements that the War Department states are necessary so navigation will not be impeded."

In the instant case, the bridge builders had a proper clearance in 1930, and the clearance has been changed in the intervening years through no fault of either the builder or owner.

Finally, Congressman C. F. Lea, chairman of the House Committee on Interstate Commerce, which handled the legislation, on Page 8648 of the Congressional Record—House, dated June 19, 1940, stated:

"All must concede it is better for the Government to do the right thing than the cheaper thing."

This, I think, shows clear congressional intent that the Act should be construed favorably to accomplish its general purpose of relieving persons whose structures have become an obstruction to navigation as the result of alterations of conditions over which they have no control when they, the owners, have taken no unlawful action. Unlawfulness is related to acts of a person. A thing cannot act unlawfully, and to call a structure an "unlawful bridge" by virtue of its becoming an obstruction to navigation because of subsidence and thus denying an otherwise available right or privilege to the owner is to strain the construction of the Act against its obvious general purpose.

Another point I would like to make regarding implementation of the Truman-Hobbs Act concerns Section 513, which stipulates that a public hearing must be held. When I contacted the Coast Guard to suggest such a hearing, I was told that the hearing could not be held under Truman-Hobbs, since the bridge was not a "lawful" bridge, and therefore the statute could not be brought to bear. I believe that dialogue by Congressman Sam Hobbs, co-sponsor of the legislation, indicates differently. On Page 8653 of the Record, dated June 19, 1940, he says:

"It (General Bridge Act of 1906) says that whenever the needs of navigation require, the War Department shall have full and plenary power to order the remodeling, relocation, or rebuilding of any railroad bridge crossing a navigable stream, but it may do so only after a hearing has been held and the necessities of the cast studied."

Again, on Page 8654 of the same Record, Congressman Hobbs states:

"There is no question but that the Army engineers have the power to order the repair, remodeling, improvement, relocation, or rebuilding of *any railroad bridge* (emphasis added) across a navigable stream if the needs of navigation so require."

"This bill simply requires that in the exercise of this power, a hearing be given to interested parties and that the Army engineers shall ascertain the equities in the event they find it necessary to order the improvement of a railway bridge."

For the Corps to say that a hearing is not necessary if the bridge is an *unlawful* one is like saying that trial is not necessary if the subject is a murderer. I contend that the bridge is not an unlawful one in the sense that the Truman-Hobbs Act aid should be granted under the facts of the case. Certainly, the least that can be said for this contention is that it is not frivolous. Indeed, it is respectfully submitted that a determination to the contrary is quite erroneous and such a decision without a hearing is arbitrary and capricious.

I also call to your attention a newspaper clipping I am enclosing. According to this information, the $19.5 million highway bridge across the Houston Ship Channel:

(1) has sunk four inches a year since it was built, and

(2) obstructs the passage of roll-on/roll-off type vessels.

Therefore, under the view espoused by the Coast Guard, it is a bridge which has not been maintained at its authorized elevation, is an obstruction to navigation and may be ordered removed or altered without a hearing and without qualifying for any Truman-Hobbs aid.

Of course, we are not contending that the bridge over Greens Bayou not be elevated. It should not continue to obstruct navigation. But we do contend that its raising should qualify for Truman-Hobbs funds.

Finally I want to direct your attention to enclosed letters I received from Senator John Sparkman and Representative Wilbur D. Mills, the only two remaining members of Congress who were members of the House in 1940 when the subject statute was enacted. Both support my contentions that the bridge should, indeed, qualify for Truman-Hobbs funds.

It is most important that this issue be resolved at the earliest possible time. A stevedoring company, located upstream from the bridge, is having severe problems in getting barges to its plant and then navigating the loaded vessels underneath the span. As the earth continues to subside, the company's problems will become even more severe, even possibly preventing all traffic from reaching its docks.

I will very much appreciate your earliest consideration of this matter. If there is any further information you need or desire, please do not hesitate to let me know.

Sincerely,

Bob Eckhardt.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I thank the gentleman for yielding.

I should like to commend the gentleman from Texas (Mr. Roberts) and the gentleman from Alabama (Mr. Jones), and all who have participated in this act. I am particularly pleased that money has been put in here for the Corps of Engineers' study of the Gallipolis Lock and Dam in West Virginia, which is a great bottleneck on the Ohio River, providing for authorization of a Corps of Engineers' study for replacement and expansion of the lock. I am very pleased, I will advise the gentleman from Texas, that it has been included in this bill.

Mr. ROBERTS. I thank the gentleman very much.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

I just want to commend the gentleman from Texas (Mr. Roberts) and the entire committee under the distinguished leadership of the gentleman from Alabama (Mr. Jones). They have done a remarkable job, as they always do on this bill. I am particularly pleased with the section providing for the flood control project on the San Antonio River, and the saving of the old Spanish Aqueduct down there. I certainly appreciate their kindness to me when I appeared before them and I thank them for the very favorable consideration they gave my project.

Mr. Chairman, I rise in full support of this bill and urge its passage.

Mr. ROBERTS. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of H.R. 15636, the Water Resources Development Act of 1976. I would like to compliment our distinguished Chairman, Robert E. Jones, for bringing this legislation to the floor. His leadership in the area of water resources is well known and he is deserving of the national reputation which he so deservedly earned as a result of his hard working efforts in the Congress to advance the quality of life of our citizens.

The bill we bring before you today would authorize projects for flood control, navigation, water supply, hydropower, erosion control, and recreation. Mr. Chairman, it is vitally important that we act on this legislation now. The Congress has been considering water resource bills only on a biannual basis. Therefore, we must continue to put projects into the pipeline in order that there be no lag in the long-term Corps of Engineers water resource program. As you know, it takes many years for a water resource project to be conceived, authorized, funded, designed, and implemented. It is not in the national interest to delay this already time-consuming process unnecessarily.

Mr. Chairman, this bill contains many vitally important sections and I would like to highlight just a few of them. The Committee on Public Works and Transportation has done a great amount of work to revise the authorization procedure to lessen as much as possible the delays encountered in implementing these projects. In 1974, the committee instituted the phase 1 and phase 2 authorization procedure for water resources projects. The corps tells us this concept is working and apparently will speed up the planning process. We did discover, however, that there is still a delay built into the authorization procedure and we have revised the process in section 101 (C) of H.R. 15636 to allow the corps to continue planning those projects which the survey analysis finds are noncontroversial and meet the applicable economic and environmental criteria until the Congress has an opportunity to act on the authorization for advanced engineering and design.

The bill also "fine tunes" the provision enacted in the 1974 Water Resources Act which set up the deauthorization program for water resources projects. We have found that the implementation of the program was cumbersome and now hope to streamline this procedure. I might point out that there are no deauthorizations in this bill. The Congress has legislated a procedure for handling this matter and it is the committee's intent that the procedure be followed and allowed to work.

The committee also has increased the funding level for the National Streambank Erosion Control and Evaluation Demonstration Act in order that this vital program can be expended. When we originally authorized this program in 1974 we had great expectations. The Corps of Engineers has indicated that the program has great potential and I think it appropriate that we increase this funding. For example, in my own district, the Eel River has the highest erosion levels for any river of comparable size in the United States. The Eel River Basin has experienced a great amount of damage from floods and streambank erosion. A number of alternatives, both structural and nonstructural, have been considered and some bank stabilization work has been done. However, full flood protection is years away but we can now address channel stabilization and the control of erosion. Because of the previously mentioned high erosion rate, the Eel should be a key demonstration site for the shoreline erosion program. If we can stabilize and direct the Eel River straight out to sea, it would be a major breakthrough.

The bill also contains a number of provisions which will modify existing projects to accomplish those changes which are necessary but which were not envisioned at the time the project was originally authorized. For example, the Port St. Luis, Calif., project has been modified to accommodate the wishes of local interests. This modification has, in fact, resulted in cost savings of approximately $300,000 to the Federal Treasury. In my own district two projects have been modified. The Noyo Harbor, Calif., project authorized in 1962 has been modified to recognize that the one large breakwater cannot be feasibly constructed. However, I met with the Harbor Commission and the Public Works Committee staff and we were able to sit down with the Corps of Engineers and formulate the proposed legislation which is before us today. This section would enable the corps to construct smaller breakwaters and widen and deepen the channel if these undertakings meet the appropriate environmental and economic criteria. For the Napa River project, we are providing for mitigation lands which were not originally contemplated when the project was authorized. In addition, we are enabling the corps to undertake the construction of a Soil Conservation project which most appropriately, because of its urban flood damage benefits, should be constructed by the Corps of Engineers and finally we are stating that it is our intent that normal maintenance activities of an already existing project should not be funded by this project.

Mr. Chairman, I would like to point out that this bill also contains many new concepts not previously authorized. For example, we have provided in this bill for nourishment of beaches if the dredged material is of beach sand quality. Previously, this material was disposed in wetlands or in the open ocean. Now if the corps finds it is economically feasible to place it on beaches and if local interests pay any differential costs we can be protecting and preserving our beaches with a previously misused resource. Additionally, we have a provision in this bill which will eventually lead to the creation of new wetland areas. The loss of these valuable resources has increased catastrophically and I think it very laudable that this provision has the potential to become a reality.

Mr. Chairman, I fully support H.R. 15636 and recommend it to my colleagues. It provides lasting improvements to the quality of life of our citizens. Its provisions are vital and responsive to the needs of our people. I urge its overwhelming passage.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. HARSHA) such time as he may consume.

Mr. HARSHA. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of H.R. 15636, the Water Resources Development Act of 1976. This is a responsive bill. Its purpose is to provide lasting improvements which will improve the quality of life of our citizens. The projects authorized in this bill are for flood control, water supply, navigation, hydropower, erosion control, and recreation which, in addition to creating direct benefits to our citizens, will create jobs as these projects are planned, designed, and constructed.

Mr. Chairman, I would like to highlight a few of the sections contained in the bill which must be enacted to insure that they are not needlessly delayed.

In my own State, the authorization for the advanced engineering and design for rehabilitation and expansion of the Gallipolis locks and dam is vitally important not only to my region's economic well-being but that of the Nation as well. The commodities that move through this facility touch the lives of nearly everyone in this great Nation. This authorization has the support of the State of Ohio. I received a personal plea from our Governor. Timely action by Congress will insure that this project moves ahead and the viability of our waterway system will be insured.

The bill also increases the amount of money authorized under the Streambank Erosion Control Evaluation and Demonstration Act of 1974 in which Congress recognized the serious nationwide erosion problem and directed the Corps of Engineers to come up with low-cost techniques to address this problem. This money is to be used to continue projects currently being implemented and also for new projects on streams which reflect a variety of geographical and environmental conditions.

This addition of $25 million to carry out section 32 of the Water Resources Development Act of 1974 is intended to recognize not only increased cost but also the severity of the problem. I expect prompt, effective, and expanded efforts to implement section 32. The impact of streambank erosion in my district which includes 100 miles of the Ohio River is severe and in need of immediate work.

H.R. 15636 also addresses the problems we have encountered with the great amount of time it takes to develop a water resource project and has recommended changes. Past experience has shown that it takes approximately 20 years to conceive, authorize, fund, and construct a Corps of Engineers project. In 1974, Congress initiated a two-stage authorization procedure for speeding up this process. The Corps of Engineers informs us this concept is working well. Section 101(C) of H.R. 15636 "fine tunes" this new authorization procedure to prevent needless delays which result from the fact that Water Resource Development Acts are usually considered only biannually. Hopefully, this will delete as much as 2 years from the planning process for water resource development.

Mr. Chairman, I would like to speak for a few moments on the subject of user fees on our inland waterways. I do not believe it appropriate for the Congress, at this time, to consider the imposition of user fees on the inland waterway system. It may well be appropriate to impose these charges but, at this time, we do not have the facts before us. We have not held the hearings which would provide the detailed information that we need to act responsively on this issue. I would, therefore, urge my colleagues to defer action until we can conduct oversight hearings.

Mr. Chairman, I urge favorable consideration of H.R. 15636 so that the benefits that will accrue from these projects will be realized without delay.

Mr. SCHULZE. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Pennsylvania.

Mr. SCHULZE. Mr. Chairman, I would just like to ask the gentleman a question. It has been alleged to me that one of the reasons for section 166, the diversion of the water, is so that the Chicago Water Co. can expand the existing facilities. My question is whether this is true, or whether this project is mainly to protect lakefront property, or what is the gentleman's understanding of this?

Mr. HARSHA. Well, I would say to the gentleman that the project has several purposes. One of them is to determine the feasibility of trying to control the level of water in the lake for the purpose of eliminating erosion and the fluctuation in the water level.

Another purpose is for low flow augmentation to increase the rate of water in certain riverways, as set forth in the provision.

A third purpose is to provide, if feasible, additional water supply to other areas.

I would caution the gentleman, this is not an authorization for a permanent project. This is an authorization merely for a study and a demonstration program to determine the feasibility of making this diversion under certain controlled conditions, so that we can make a thorough study; this is a 5-year program, which will reveal the beneficial and the detrimental impacts of such activities. The Corps of Engineers will supervise the project, it will coordinate with the metropolitan sanitary district of Chicago and the State of Illinois to receive their views. Also, consideration will be given in this study and in this demonstration program to the views of downstate interests. Following this, the total picture is to be brought back to the Congress with recommendation as to whether or not this should become a permanent program or whether or not there should be some changes made. In any event, this is simply a demonstration program and before any permanent activities are prosecuted there, it will have to come back to the committee for further authorization.

Mr. SCHULZE. Mr. Chairman, if the gentleman will yield further, that would lead me to believe it would be kind of foolish to make final plans until they have been approved and have this final approval.

Mr. HARSHA. Mr. Chairman, that is the purpose of the program, to determine whether long-range plans are advisable or feasible.

Mr. Chairman, does that answer the gentleman's question?

Mr. SCHULZE. Indeed, it does, and I thank the gentleman from Ohio.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, as a member of the Public Works Committee, I rise in support of H.R. 15636, a water resources development project authorization and basin monetary authorization bill.

Title I of the legislation authorizes $403 million for various phases of the construction, repair, and preservation of public works on rivers and harbors throughout the United States. These projects cover all types of works under the jurisdiction of the Public Works Committee and U.S. Army Corps of Engineers. Under title II, the existing authorization for 12 river basins is increased by $590 million.

As our chairman has so aptly stated, the approximately $900 million funding level authorized by H.R. 15636 is surely one of the most conservative spending authorizations in the history of Federal participation in national water resources development. This fact is particularly important when we consider the size of the task that the legislation seeks to achieve.

There is a key feature of the bill which merits emphasizing. Under section 101, a new procedure for authorization of water resources development projects of the Corps of Engineers is established. It refines, improves, and speeds up the entire process of authorization, design, and engineering.

I am pleased to have been successful in including two features within the bill in committee. One incorporates the provisions of legislation I sponsored to modify the White River basin to provide for a fish hatchery at Beaver Reservoir, Ark. Such action will permit construction by the Army Corps of Engineers and the maintenance by the Bureau of Sport Fisheries and Wildlife of trout production measures, including a fish hatchery at Beaver Dam, Carroll County, Ark., in compensation for the reduced number of freshwater fish in the White River and other streams in Arkansas, resulting from construction of Beaver Dam and other dams in the State. Current trends clearly point to increased numbers of our citizens in Arkansas, as well as those from surrounding States, who will be seeking outdoor recreational opportunities by fishing in the public waters of the State. Additional trout production will be required and the Beaver Dam fish hatchery facility will be of great benefit to the citizens of Arkansas and will certainly enhance tourism in the State.

I was also able to include within the framework of this water resources bill the correction of a regrettable situation that developed relative to the Pine Mountain Lake project on Lee Creek in Arkansas and Oklahoma. The amendment which I offered in committee and which was accepted provides that no cost sharing by local interests in the recreational development at this lake will be required, inasmuch as this recreational site will be located within the boundaries of the Ozark National Forest.

Under existing law, the Federal Water Project Recreation Act, enacted in the 89th Congress, local interests have to shoulder at least one-half of the costs of developing recreational facilities at Federal multipurpose water resource projects. However, when such projects or facilities are included or projected for inclusion within a national recreational area, cost sharing is not required. My amendment clarifies a misunderstanding on the part of the Corps of Engineers, to the effect that the Pine Mountain project definitely falls within this statutory exception.

Mr. Chairman, in developing the Water Resources Development Act, our committee recognized that there exists the potential of a major crisis in our national water supply. The thrust of the measure is to bring about the effective development and utilization of our water resources, the importance of which is obvious to all of us. There is not a more vital natural resource or one that is more critical to life than water.

The American agricultural apparatus, which harvests our food, could hardly survive or exist without adequate water supplies. Water, and its proper use, is central to the food supply of our own people and of the world and it is central to the crisis in energy resources and, in turn, to the economic well-being of this Nation.

So wide and far reaching are the aims of H.R. 15636 that I consider it to be one of the real significant pieces of legislation to have come before this body in the 94th Congress.

We must act now to correct what appears to be a developing myopic national view of our finite water resources. We must act to bring the true picture into sharper focus. As is the case with all of our natural resources, there is not an unlimited supply of water. On the horizon lies the very real potential for disastrous water and power shortages. Future exigencies could easily and quickly dictate harsh conditions as a result of inadequate supplies. We can't allow ourselves to ignore reality by failing to act now, through passage of the Water Resources Development Act, to insure the prudent development and use of this precious resource.

I stated that the aims of H.R. 15636 are far reaching and I reiterate that fact. Moneys authorized by this legislation will be used for purposes of construction, repair, and preservation, and for feasibility studies, advanced engineering design, navigational improvement, hydroelectric power, erosion control, and recreation. Other provisions of the bill will permit the Corps of Engineers to plan and establish wetlands, where the benefits of such projects are judged to justify costs.

By enacting H.R. 15636, we will be acting to avert water resource problems in future years and we can make a major contribution to insure the future well-being and vitality of American industry, agriculture, our cities—and our people.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. McDADE) for purposes of debate.

Mr. McDADE. Mr. Chairman, I would like to extend my heartfelt thanks to the gentleman from Texas and to my friend, the gentleman from California, as well as my good friend, the gentleman from Alabama, whose presence will be sorely missed in this Chamber next year, and to my friend, the gentleman from Ohio, for their responsiveness in helping with the problems of a very small town in my district. It restores my faith in the Congress to see such action and I am very gratified.

Mr. Chairman, I rise in support of H.R. 5636, the Omnibus Rivers and Harbors bill. I want to take this opportunity to thank water resources chairman Ray Roberts, Representative Clawson, chairman Jones and Representative Harsha, the ranking minority member, for the warm reception and assistance they have extended the residents of Nelson, Pa., in consideration of this bill.

I know many Americans believe it is impossible for a small town to present its case to Congress and be heard. I know the residents of Nelson shared this sentiment, but the committee quickly set aside their fears.

Mr. Chairman, Nelson is a small rural Pennsylvania town, a substantial portion of which is required for the Cowanesque Dam project on the north branch of the Susquehanna River. Clearly the Cowanesque project and its companion, Tioga/Hammond project are critical to future flood protection for the entire Susquehanna River basin. However, as often happens, when Congress addressed one problem in authorizing the dam, it unknowingly created another for the residents of Nelson—dissolution of their community.

Without the provisions included in the bill, the approximately 100 Nelson families whose property is required for the project would be forced out to leave not only their homes but a community to which many of them have strong ties. Nelson is an old town with deep community feeling. The majority of its residents have lived all of their lives in one place. These citizens are not young, their average age is 48 years, nor are they wealthy, over 80 percent of Nelson residents have incomes under $12,000 per year. The average number of years in residence in the community is slightly more than 24.

These people feel that without the provisions of the bill they will lose their right to live in a community of their choice. It is apparent that, in spite of protestations to the contrary, the corps cannot provide suitable housing for project refugees in the area where they choose to remain.

Mr. Chairman, the impact of the corps on this small, quiet country town and its gentle life style, is a classic example of the devastating destructive effect which the Federal Government can have on a small community. Here the corps has acquired residences, but will not pay the citizens for their WPA sidewalks nor their township roads, nor their community structures. Obviously, the town with its $11,000 yearly budget cannot replace these old, but well maintained facilities. In addition, complex environmental regulations prevent construction of new residences in the area without acceptable water and sewage treatment, a prohibitive burden for the town. The result of all these factors would be to drive people from their community. I believe, and the Committee agreed, that Congress intended no such result when it authorized the dam.

The citizens of Nelson are most grateful to the Committee for including the relocation provisions in this legislation, their faith in the democratic process has certainly been renewed.

I urge my colleagues to support this bill.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I, too, would like to thank the chairman of the committee and the chairman of the subcommittee for their patience and understanding and goodness in all this; and my most special thanks to the ranking Member and my colleague, the gentleman from New Jersey (Mr. Roe), who has done so much for the people in my district in a most generous and public spirited way.

In this connection I am speaking of the notice concerning the Passaic River Basin on page 11, and most particularly I would like to comment and bring into the Record the report of the committee as listed on page 16. We have been a long time and lost many lives and a great deal of damage has been done to property by floods in the Passaic River Basin. Now we are looking forward, I hope, to a fruitful study.

I would like to read into the Record, if I may, the following from page 16 of the report:

> Local opposition to any plan which relies upon extensive use of dikes, dams and levees such as those proposed in previous survey reports mandates that the following alternatives or any combination thereof shall be the only ones surveyed and considered:
>
> 1. A full range of non-structural flood control alternatives to include land acquisition, flood plain mapping, flood proofing, developing early warning systems and relocation of buildings.
>
> 2. A tunnel diversion plan.
>
> 3. A system of tunnels addressing the needs of the entire basin.
>
> 4. Plans that combine local protection works where locally acceptable and nonstructural solutions including improvements to stream carrying capacity in accordance with different needs in the Lower Basin and in the Central Basin.
>
> 5. Evaluation of fulfilling water supply objectives together with flood control.
>
> 6. Aquifer recharge and undergrounds storage.
>
> 7. Reservoir management in the headwaters.

I would like to address a question, if I may, to my good New Jersey colleague concerning the last paragraph on page 15, where it speaks of, "Implementation of interim measures consistent with Public Law 92-500 and the National Environmental Policy Act, shall begin as soon as authorized and funded, and shall not await completion of the Phase I study."

Is that land acquisition?

Mr. ROE. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New Jersey.

Mr. ROE. I would like to thank the gentlewoman from New Jersey, a very good personal friend, for yielding to me.

Yes, to specifically answer the question. We know the magnitude of the problem that exists in that basin. There are 1.9 million people and 118 communities. There are some solutions that will evolve in the course of initial review. The idea of that section on page 15 is to allow us to start where the neighbors and communities are in accord so that we do not have to wait another 50 years to get something done.

Mrs. FENWICK. I thank the gentleman.

Mr. ROBERTS. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. Roe).

Mr. ROE. Mr. Chairman, after 30 years of interminable debate, delay and dissension, all dissident factions in the State have joined together in a coordinated effort to break the log-jam and embark on the phase 1 design project proposal authorized by the legislation which is estimated to cost approximately $12 million and will establish the parameters for the advanced engineering and design of the flood control-water resources management program for the Passaic River Basin.

The resolution specifically directs the Army Engineers to seek a new environmental impact statement and consider a full range of nonstructural flood control alternatives, including a review of the tunnel diversion plan—all designed to ameliorate local opposition to the use of dikes, dams, and levees in the plan of improvement for the Passaic River Basin.

The Army Engineers was also directed to consider interim flood protection measures to be submitted for authorization to the Public Works Committee as soon as they are formulated for implementation prior to the completion of this phase one study. No work whatsoever will be carried out without thorough public review and public hearing.

The Passaic River has been characterized by engineers throughout the years as one of the filthiest and most unpredictable treacherous rivers in the northeastern part of our Nation. There is no more vitally important natural resources program in our State that is so critically essential to the very safety, life, and economic dynamics of the northern regions of our State. This area of New Jersey literally lives under the sword of Damacles as clearly manifested in the disastrous flood of 1968 wherein 13 people lost their lives and countless tens of millions of dollars of damage was encountered—all requiring emergency Federal help to rehabilitate that area of our State.

The severity of the situation continues to prevail and, in fact, is worse today than it was in 1968, primarily because the inordinate growth of the region has been allowed to impinge in great measure on the natural flood plain areas and the heavy growth with ever-increasing accelerated runoff drainage waters is only serving to add to the dilemma.

This legislative measure proposes to resolve those differences of opinion that have arisen because of this enormous growth that has taken place in the Passaic River basin. We are all agreed that we desperately need a flood control plan. The call for nonstructural alternatives to the dikes and levees has been the most predominant issue of controversy. I strongly support this concept and, as a matter of fact, in our committee's Water Resources Development Act of 1974 we adopted this methodology of flood control for consideration on all projects authorized under this biennial legislation of the Congress.

The House-passed and Senate-passed versions of the Water Resources Development Act will now have to go to conference for final approval and then to the President for signature. Under phase 1 design there is an extensive amount of detailed field surveys and engineering to be carried out with the closest coordination and consultation with the cities, communities, and counties involved in order to insure the maximum local input and ascertain the best methodology to follow in meeting as much as possible the needs in each community involved.

The Passaic River basin with a population of 1.9 million people embraces 787 square miles in northeastern New Jersey and 148 square miles in southern New York.

A list of the 118 communities and 8 counties in New Jersey within the Passaic River basin is attached.

The full text of the phase 1 design project proposal incorporated in the Water Resources Development Act of 1976 is also attached.

### COMMUNITIES IN THE PASSAIC RIVER BASIN

#### BERGEN COUNTY

Allendale, Carlstadt, East Paterson, East Rutherford, Fair Lawn, Franklin Lakes, Garfield, Glen Rock, Hasbrouck Hts., Hohokus, Lodi, Lyndhurst, Mahwah, Midland Park, North Arlington, Oakland, Paramus.

Ramsey, Ridgewood, Rochelle Park, Rutherford, Saddle Brook, Upper Saddle River, Waldwick, Wallington, Washington, Wood Ridge, Wykoff, Saddle River, Woodcliff Lake, Montvale, Maywood, South Hackensack, Hackensack.

#### ESSEX COUNTY

Belleville, Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Livingston, Milburn, Montclair, Newark, North Caldwell, Nutley, Orange, Roseland, Verona, West Caldwell, West Orange.

#### HUDSON COUNTY

East Newark, Harrison, Kearny.

#### MORRIS COUNTY

Boonton, Boonton Twp., Butler, Chatham, Chatham Twp., Denville, Dover, East Hanover, Florham Park, Hanover, Harding, Jefferson, Kinnelon, Lincoln Park, Madison, Mendham Boro., Mendham Twp.

Mine Hill, Montville, Morris, Morris Plains, Morristown, Mountain Lakes, Mount Arlington, Parsippany-Troy Hills, Passaic, Pequannock, Randolph, Riverdale, Rockaway Boro., Rockaway Twp., Roxbury, Victory Gardens, Wharton.

#### UNION COUNTY

Berkeley Hghts., New Providence, Summit.

#### PASSAIC COUNTY

Bloomingdale, Clifton, Haledon, Hawthorne, Little Falls, North Haledon, Passaic, Paterson, Pompton Lakes, Prospect Park, Ringwood, Totowa, Wanaque, Wayne, West Milford, West Paterson.

#### SOMERSET COUNTY

Bernards, Bernardsville, Far Hills, Warren, Watchung.

#### SUSSEX COUNTY

Hardyston, Sparta, Vernon.

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### HOUSE COMMITTEE REPORT ON WATER RESOURCES DEVELOPMENT ACT OF 1976, PASSAIC RIVER FLOOD CONTROL

The Phase I study shall include consideration of interim flood protection measures. and recommendations as to such measures are to be made to the Committee as soon as they are formulated, prior to completion of the Phase I study. Implementation of interim measures consistent with Public Law 92–500 and the National Environmental Policy Act, shall begin as soon as authorized and funded, and shall not await completion of the Phase I study.

Controversy revolves around a concern that conclusions reached by the Chief of Engineers Report of February 18, 1976, will be given priority to the exclusion of equal consideration of alternatives, and other objectives, including water management and attainment of water quality goals, pursuant to P.L. 92–500. Controversy over construction of the project emanates from many communities in Morris and Essex Counties that stand to lose substantial portions of their land to structural solutions; from conservation interests who seek non-structural solutions; from those who reject dams, dikes, and levees in their communities; from those who believe other forms of construction such as a diversion tunnel or a system of tunnels addressing the needs of the entire basin should be reevaluated; from those who believe water supply objectives should be met together with flood control.

In the Water Resources Development Act of 1974, the Congress adopted a new two-step authorization procedure for projects such as the Passaic River Basin project. The reasons for this new procedure, and a description of the items to be included in Phase I advanced engineering and design, are set forth in House Report 93–541 which accompanied H.R. 10203, and repeated in the introductory material in this report. These requirements and provisions apply to the Phase I study of the Passaic River Basin project.

The Committee directs the reformulation of the plan for water management and flood control for the entire Passaic River Basin. Said plan shall include a new environmental impact statement which is the subject of public hearings and formulation of a final environmental impact statement to be submitted to the Council on Environmental Quality.

Local opposition to any plan which relies upon extensive use of dikes, dams and levees such as those proposed in previous survey reports mandates that the following alternatives or any combination thereof shall be the only ones surveyed and considered:

1. A full range of non-structural flood control alternatives to include land acquisition, flood plain mapping, flood proofing, developing early warning systems and relocation of buildings.
2. A tunnel diversion plan.
3. A system of tunnels addressing the needs of the entire basin.
4. Plans that combine local protection works where locally acceptable and non-structural solutions including improvements to stream carrying capacity in accordance with difference needs in the lower Basin and in the Central Basin.
5. Evaluation of fulfilling water supply objectives together with flood control.
6. Aquifer recharge and undergrounds storage.
7. Reservoir management in the headwaters.

Coordination with Federal, State and local agencies particularly the New Jersey Department of Environmental Protection in its effort on flood control and management of the total water resource cycle including water supply and water quality, shall be carried out by the Corps of Engineers.

Mr. ROBERTS. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. Flood).

Mr. FLOOD. Mr. Chairman, my name is Flood, and I come from Wilkes-Barre. Now, if that does not add up, I think the Members follow me very well. So, I have a special right to be here to thank the distinguished gentleman from Texas for what is being done to make flood control work with the development of the Wyoming Valley Project, which covers the area devastated by Hurricane Agnes and Hurricane Eloise. I wish to thank my friend from Ohio as well.

I rise in support of the Water Resources Development Act of 1976, H.R. 15636, and I salute the House Public Works Committee for their expeditious action on this critical legislation.

I use the term "critical" to describe this bill with good cause. It is vital to the survival of the hundreds of towns and cities across America; to the literally millions of people who are exposed to the probability of a flooding disaster. And my district is exhibit "A." How would you like to be named Flood and come from Wilkes-Barre?

In 1972, the Wyoming Valley of Pennsylvania—in the heart of my congressional district—was stricken by the greatest natural disaster in the history of this Nation—Hurricane Agnes. Need I say more? After years of investigation, of study, and of analysis a final plan is being constructed which will protect the Wyoming Valley from floods even greater than the magnitude of Agnes.

The cost-to-benefit ratio of this project is favorable and assures that for every dollar expended to protect this region and its scores of thousands of people there will be a minimum of $1 in benefits to those people. This project has been studied by the Baltimore District of the U.S. Army Corps of Engineers, the Office of the Chief of Engineers in Washington, the Secretary of the Army, the Office of Management and Budget, and now the House Public Works and Senate Public Works Committees. They all agree on one very basic, important thing. That is that the so-called Wyoming Valley Project is an absolute necessity to protect the people on both sides of the Susquehanna River from a repeat of Agnes. The Federal Government would be wise to spend the relatively few dollars today on long-range flood control rather than spend hundreds upon hundreds of millions of dollars in disaster relief payments in the future.

One last note. As a consequence of the flooding of the Susquehanna River by Hurricane Agnes, the river became highly silted and the many islands dotting the river—already an obstruction to free waterflow—grew in size. There are numbers of my constituents and some engineers outside my district as well who believe that the only solution to long-term flood control in the Susquehanna River Basin is island removal, stream clearance, and dredging. A survey by the U.S. Army Corps of Engineers on the advisability and feasibility of dredging will go a long way toward assuring that long-range planning in the basin becomes a reality. The corps' specific conclusions and recommendations in this regard will certainly be essential.

Lastly, let me state that the Public Works Committee has a long and proud history of aiding those unfortunate enough to have been victims of a natural disaster. At the same time, the committee has recognized that an ounce of prevention is far and away worth more than the oft-stated pound of cure. Chairman JONES has been particularly and acutely aware of this fact and I, as one among many, am happy to salute him by supporting and urging the passage of this bill.

**Mr. ROBERTS.** Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. ICHORD).

**Mr. ICHORD.** Mr. Chairman, I rise in support of H.R. 15636 and would call the attention of my colleagues to the Wears Creek flood control project which is authorized in this bill as an example of the vitally needed work which this bill authorizes.

Wears Creek is a tributary of the Missouri River which flows through an area adjacent to Missouri's State capitol building in Jefferson City, Mo. Recurrent flooding of Wears Creek extending back for nearly 100 years has led to the development of a deteriorated, blighted area in our capital city located only a few blocks from our capitol itself. Three years ago the Department of Housing and Urban Development made a commitment to the people of Jefferson City and to the State of Missouri to sponsor and proceed with an urban renewal project to revitalize this hard-hit area. It is estimated that in excess of $80 million of construction and reconstruction will be involved creating, over the life of HUD's Capitol West project, 3,000 jobs in the construction field.

HUD has taken the position, however, that adequate redevelopment and area renewal of the flood plains area just slightly west of Jefferson City's capitol building can only be accomplished if the urban renewal program is coordinated with flood protection. Indeed, further implementation of the renewal project has been delayed due to restrictions on financing new structures in potential flood areas and further because under Executive Orders 11296 and 11297 flood control is required for the project area.

The Corps of Engineers surveyed this need and recommended on October 21, 1975, authorizations for a closed conduit for Wears Creek as well as other flood control improvements to enhance vitally needed flood protection of this area of Jefferson City and to complement the total redevelopment plan. Based on the corps strong recommendations, the Public Works and Transportation Committee has authorized $50,000 in this bill for the phase I design memorandum stage of the Wears Creek project. The Senate has also authorized the project in their bill.

Mr. Chairman, the people of Jefferson City have been working hard to find a means to clean up and rebuild one of the last remaining blighted areas in our beautiful capital city. HUD's approval of the Capitol West urban renewal project provides that means, but this project will never go forward if the Wears Creek project is not authorized and constructed.

Funding of the Wears Creek project in fiscal year 1977 is extremely important since work must begin now in order to continue with HUD's urban renewal project which is scheduled to close in November 1982. The people of Jefferson City and the State of Missouri have waited years for this moment and I deeply hope that my colleagues will join me in voting for H.R. 15636 and removing the last remaining barrier to the combined flood control-urban redevelopment plan for Jefferson City. I would emphasize that this project does not involve a dam but will, through a closed conduit system, protect a large area adjacent to Missouri's Capitol to the standard project flood level or the 500-year flood and form the basis for a local-Federal project of vitally needed urban renewal in Jefferson City, Mo.

**Mr. ROBERTS.** Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. BEVILL).

**Mr. BEVILL.** Mr. Chairman, I rise in enthusiastic support of H.R. 15636, the Omnibus Rivers and Harbors Act. This measure authorizes the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, beach erosion, salt pollution control, and the construction and installation of power-generating equipment, water supply, as well as other purposes throughout the United States.

This is the most recent of a long line of internal improvements for the 25,000-mile inland waterways system which transports about 10 percent of all freight moving between U.S. cities. It is an effort which commenced in 1824 and which will continue into the indefinite future. The current energy shortage has accelerated the need as well as increased the value of waterborne transportation. Also, the generation of electric power by the use of hydroelectric facilities existing and planned, has become increasingly essential. The general benefits from the programs authorized in this excellent legislation are provided to every State, every county, and every city in the United States.

In this regard, let me briefly mention that 130 years ago there was some question as to whether Congress was permitted by the Constitution to use Federal funds for particular improvements to rivers and harbors.

In 1846 and 1847, President Polk had vetoed rivers and harbors appropriations bills on the grounds that although the burdens of taxation to finance them would be general, their benefits would be local and partial. Therefore, he stated, the Federal Government could not undertake such expenditures.

The Congressman then representing the Seventh District of Illinois, Abraham Lincoln, assumed the task of refuting Polk's argument. This he stated so eloquently and effectively that his speech remains worthy of quotation again today over a century and a quarter later:

> Now for the second position of the message, namely, that the burdens of improvements would be general, while their benefits would be local and partial, involving an obnoxious inequality. That there is some degree of truth in this position I shall not deny. No commercial object of Government patronage can be so exclusively general, as not to be of some peculiar local advantage; but, on the other hand, nothing is so local as not to be of some general advantage. The Navy, as I understand it, was established, and is maintained, at a great annual expense, partly to be ready for war, when war shall come, but partly also, and perhaps chiefly, for the protection of our commerce on the high seas. This latter object is, for all I can see, in principle, the same as internal improvements. The driving a pirate from the track of commerce on the broad ocean, and the removing a snag from its more narrow path in the Mississippi River cannot, I think, be distinguished in principle. Each is done to save life and property, and for nothing else. The Navy, then, is the most general in its benefits of all this class of objects; and yet even the Navy is of some peculiar advantage to Charleston, Baltimore, Philadelphia, New York, and Boston, beyond what it is to the interior towns of Illinois.
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> The next most general object I can think of, would be improvements on the Mississippi River and its tributaries. They touch thirteen of our States—Pennsylvania, Virginia, Kentucky, Tennessee, Mississippi, Louisiana, Arkansas, Missouri, Illinois, Indiana Ohio, Wisconsin, and Iowa. Now I suppose it will not be denied, that these thirteen States are a little more interested in improvements on that great river than are the remaining seventeen. These instances of the Navy, and the Mississippi River, show clearly that there is something of local advantage in the most general objects. But the converse is also true. Nothing is so local as not to be of some general benefit. Take, for instance, the Illinois and Michigan Canal. Considered apart from its effects, it is perfectly local. Every inch of it is within the State of Illinois. That canal was first opened for business last April. In a very few days we were all gratified to learn, among other things, that sugar had been carried from New Orleans, through the canal, to Buffalo in New York. This sugar took this route, doubtless, because it was cheaper than the old route.
>
> Supposing the benefit in the reduction of the cost of carriage to be shared between seller and buyer, the result is, that the New Orleans merchant sold his sugar a little dearer, and the people of Buffalo sweetened their coffee a little cheaper than before; a benefit resulting from the canal, not to Illinois where the canal is, but to Louisiana and New York, where it is not. In other transactions Illinois will, of course, have her share, and perhaps the larger share too, in the benefits of the Canal; but the instance of the sugar clearly shows that the benefits of an improvement are by no means confined to the particular locality of the improvement itself.

H.R. 15636 is the result of extensive hearings before the Water Resources Subcommittee of the House Committee On Public Works and Transportation. I am proud to state that I appeared before that subcommittee on September 2, 1976 in support of legislation I introduced. H.R. 15217, which dealt with the inclusion of regional economic benefits in computing the benefit to cost ratio for certain projects.

If I may elaborate by going over this matter in some detail, it should be pointed out that public funds are not appropriated for these navigation projects unless it can be conclusively proven through extensive engineering, economic, and cost analysis studies that the benefits derived to our national economy exceeds the cost which will be incurred in construction.

It is a pleasure to state that the Water Resources Subcommittee and the full committee in their wisdom and as a result of their extensive hearings saw fit to include a section derived from my legislation, H.R. 15217. This provides that for those navigation projects which are authorized, and which have been partially constructed or will be constructed in the future, any economic analysis which is under preparation at the time this legislation is enacted may include the regional economic benefits.

This fine provision will serve the double purpose of insuring that the U.S. taxpayers' dollar is more than returned from the investment made in each navigation project, also that the various cities and States will be able to use these regional benefits as justification of their various navigation projects.

This legislation is one of the most thoroughly researched and considered proposals which has come before the 94th Congress and I would like to urge all of my colleagues to vote for its passage.

Thank you Mr. Chairman.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from South Dakota (Mr. Abdnor).

Mr. ABDNOR. Mr. Chairman, I rise in support of H.R. 15636, the Water Resources Development and River Basin Monetary Authorization Act of 1976. I am particularly pleased the committee has seen fit to include section 155, the Clausen-Abdnor amendment, which was included in the omnibus bill in lieu of passage of my bill, H.R. 15025.

Section 155 amends section 32 of the Water Resources Development Act of 1974, which authorized the streambank erosion control and demonstration program. The authorized funding level for the bank stabilization research and demonstration program will be doubled from $25 million authorized in the 1974 act to a total of $50 million.

The Eel River, in the district of the gentleman from California (Mr. Don H. Clausen), is specifically authorized for inclusion in the program. I understand additional sites are given authorization in the Senate version for the Yellowstone River and for a number of particular river-mile locations on the Missouri River in North Dakota.

I would have preferred enactment of H.R. 15025, which my colleagues, Messrs. Pressler, Thone, and McCollister, joined me in sponsoring to authorize an operational bank stabilization program on the Missouri River in South Dakota and Nebraska. The committee heeded the urgings of the Corps of Engineers that the research and demonstration nature of the program be maintained at this time, however, and included section 155 to permit a sizeable increase in funding for the Missouri and Ohio Rivers and to specifically authorize the Eel River for inclusion in the program.

I remain convinced that the information and experience gained under this program, together with the continuing evolution of policy in the corps, must lead to an operational program under which the Federal Government fully accepts its responsibility for streambank erosion control downstream from Federal projects. In the present legislation, however, a doubling of the funding authorization is certainly a step in the right direction. In any event, there should be no misunderstanding about the fact that my bill, H.R. 15025, was the major impetus for section 155 of the bill before us, and it is the committee's intent that the funding for the bank stabilization program be substantially increased on the Missouri River in South Dakota and Nebraska.

It is my understanding the additional sites authorized in the House and Senate bills may require approximately $6 million. This figure was supplied by the corps and assumes additional funding of $500,000 each for the Yellowstone and Eel Rivers and $5 million on the Missouri River in North Dakota.

Thus far the corps has allocated the following amounts under section 32: fiscal year 1976, $4.8 million; transition quarter, $1.5 million; fiscal year 1977, $5 million. Although not yet approved, the corps is working with OMB and hopes to request $7.4 million for section 32 in fiscal year 1978.

The corps has allocated section 32 funding authorized under the 1974 act as follows: Eight sites on the Ohio River and two on tributaries have been allocated about 8 percent of the total funding; nine sites on the Missouri River have been allocated about 8 percent; five on the Yazoo River have been allocated about 39 percent. Additional sites on rivers unspecified in the 1974 act will be undertaken throughout the country and allocated about 23 percent of the total funding. The corps indicates the remaining funds—22 percent—are being spent on state of the art investigations, evaluation of and reconstruction at program sites, and the final report to Congress.

Allowing $6 million for newly authorized sites, a net additional funding level of $19 million remains under the new authorization contained in section 155. These funds should be allocated on a priority basis to rivers specified originally in the 1974 act. This will easily permit a doubling of funding for work on the Ohio and Missouri Rivers.

On the Missouri River in South Dakota and Nebraska in particular, the erosion problems are every bit as severe and more miles are subject to erosion than further upstream in North Dakota. The comparison of erodable bankline miles is just under 200 for South Dakota and Nebraska versus 166 for North Dakota. Also, four Federal dams are involved in South Dakota and Nebraska and just one in North Dakota. Accordingly, the States of Nebraska and South Dakota should receive additional funding, something in excess of the $5 million contemplated for North Dakota in the Senate bill.

Any number of particular river-mile locations could have been specified for the Missouri River in South Dakota and Nebraska. Due to the research and demonstration nature of the program, however, together with the inadequacy of overall funding levels, the decisions on project locations are best left to the expertise of the corps and the Governors and their staffs of the States involved. In this regard the views of the individuals and localities most directly and severely affected should weigh heavily.

I commend H.R. 15636 to my colleagues and urge its adoption.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. Hagedorn).

Mr. HAGEDORN. Mr. Chairman, I like to praise the efforts of the members of the Public Works Committee in reporting out the omnibus rivers and harbors bill, especially the gentleman from Texas (Mr. Roberts), chairman of the Water Resources Subcommittee, and the retiring chairman of the full committee, the gentleman from Alabama (Mr. Jones). The respected and admired gentleman from Alabama is going to be deeply missed by the committee and by the entire Congress for the quality of his leadership. It has been a privilege of mine to have worked with the gentleman during my term in Congress.

I would especially like to call attention to section 154 of this legislation. This section limits the authority of the Corps of Engineers under section 10 of the Rivers and Harbors Act of 1899. Section 10 establishes a permit system to be administered by the corps on navigable waters of the United States. Permits must be obtained by individuals prior to the placement of any one of various structures in such waters, including wharves, piers, breakwaters, and bulkheads. Despite the fact that the act was originally intended solely to promote accessibility to navigation along regulated waters, the corps now considers both factors of navigation and environment prior to the issuance of permits. Another section of the Rivers and Harbors Act, not affected by this amendment, establishes a similar permit program for the construction of bridges, dams, and dikes in navigable waters.

Unlike the 1972 Water Pollution Control Act, the Rivers and Harbors Act does not go on to define the meaning of navigable waters. As a result, the courts have been given primary responsibility for interpreting the meaning of the term. At the time of passage of the act, the essence of the definition was that the regulated waterway forms a continuous water link between States or countries over which commerce "is or may be carried on * * * in the customary modes." *The Daniel Ball* (10 Wall. 557, 563). Whether or not the water was navigable in its existing state was the crucial consideration. Only in more recent years has the so-called historical-use concept of navigability been introduced into law, bringing with it new Federal jurisdiction over many previously unregulated waters.

The historical-use concept includes within the framework of corps authority under the 1899 act those bodies of water which are deemed navigable only because they were navigable at some time in the past. Thus, a body of water may be currently unfit for navigation, and not susceptible to navigation through reasonable improvement, but will be brought within the act's purview because it may have been used by a dozen fur traders two centuries ago.

At the same time, the requirement that the body of water form a continuous waterway between States was transformed into the simple requirement that the waterway in conjunction with other forms of transportation form a continuous transportation link betweeen States. Thus, a body of water, completely landlocked within the borders of a single State might be found to possess an interstate character if a Federal highway or railroad line ran adjacent to it. Under this farfetched definition, it is difficult to conceive of many bodies of water which would not qualify for Federal supervision.

The result of all this is that the corps has increasingly expended time and effort in imposing its permit requirements upon purely recreational, intrastate waters over which no navigation could conceivably traverse, entwining property owners along the shores of these waters in an elaborate body of Federal regulations and redtape. One such body of water is Lake Minnetonka in Minnesota.

Section 154, which I introduced, would eliminate the historical-use concept of navigability from section 10 of the 1899 act for those bodies of water located entirely within one State. Although I believe that other problems remain with regulation under this section, including the expanded notion of which waters lie in interstate commerce, whether or not they are navigable, this amendment represents an effort in restoring some sense of reason to corps administration of its responsibilities under the Rivers and Harbors Act waters would no longer be regulated simply because they were navigable at some distant point in our past, as in the case of Lake Minnetonka. In the process, we are insuring that the limited resources of the corps are going to be put to optimum use.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. Ruppe).

Mr. RUPPE. Mr. Chairman, I rise in support of the omnibus rivers and harbors bill, H.R. 15636, and its authorization of various important water resource projects. Of particular importance to me and to the economy of the entire Great Lakes region, our Nation's fourth seacoast, is section 107 which relates to the ongoing surveys being conducted by the Corps of Engineers to determine the feasibility of an extension of the winter navigation season on the lakes beyond what has been its traditional closing date of December 15.

The importance of this region to the national economy is reflected in the facts that one-seventh of the population of the United States lives in the Great Lakes Basin which includes 4 of the 12 largest cities in the United States, Chicago, Detroit, Cleveland, and Milwaukee and whose economy is basically industrial. This region produces one-sixth of the national income. It accounts for over one-fifth of the manufacturing employees and capital expenditure and for 40 percent of the U.S. iron and steel production.

Associated with this activity is the movement of some 220 million tons of waterborne freight each year over the Great Lakes-St. Lawrence Seaway system. About 85 percent of this freight consists of bulk iron ore, coal, limestone and grain movements with the remainder including general cargo, petroleum products, cement, and chemicals. Anxious to improve upon productivity and to enhance the economic well-being of this region, we embarked on an effort to extend the navigation season, historically curtailed for about 4 months by winter, in 1970. The demonstration program authorized by Congress has proven its worth by achieving year-round navigation from Lake Superior into the lower lakes for the last 2 years with a most favorable benefit-cost ratio. The success of this venture to date warrants its continuation with special attention to the St. Lawrence Seaway terminus of the system that would keep open the gateways to world trade.

The current authorization for this program will expire this coming December. To avoid a lapse in any aspect of the winter demonstration program that would be a serious setback to what holds promise of a real potential for economic growth in the highly industrialized midcontinent of the United States, section 107 of H.R. 15636 would extend the program through June 30, 1979. This legislation would also require the agencies concerned to give concurrent consideration to measures necessary to ameliorate any adverse impacts upon local communities of extended navigation season activity. This would hopefully insure that early solutions are found for such problems as shore erosion and shore structure damage, island transportation disruption, flooding and possible power generation impacts.

I might add that last April's working conference uniting industry, labor, and Government efforts to address port development and shipper problems in the Great Lakes assigned top priority to the navigation season extension effort in the panel report that surveyed legislative and regulatory problems. Consistent with that determination and the bill which I sponsored, I am gratified to find agreement among my colleagues.

When one considers any water resource project for the Great Lakes, a parallel concern must be that related to its long-term effect on Great Lakes water levels and its consequential effect on the rights of littoral property owners. I make this statement as a note of concern for such demonstration projects as that recommended in section 166, which I endorse and which would divert a greater flow of water from Lake Michigan into the Illinois Waterway system. Though intended to improve the water quality of the Illinois Waterway and effect some relief, however small, from the high lake water levels it is foreseeable that some harm could befall riparian waterway property owners. I have urged and will continue to urge that any report on such a project give full consideration to measures necessary to ameliorate any adverse impacts upon local communities as I have done with the winter navigation demonstration program—even though the ultimate effect is for the greater public benefit.

I congratulate my colleagues of the Public Works Committee for the attention given to significant water resource projects.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. Edwards).

Mr. EDWARDS of Alabama. Mr. Chairman, I want to commend the committee for what I consider to be a very fine bill, and I would like to pay my particular respects to the dean of our Alabama delegation, Bob Jones, for the leadership he has given in the field of public works throughout the years. Later today, hopefully, we will have time to talk further about him. But we are all very proud of him and we are all going to miss him. I want to thank him for the work he has done to help build America.

I also want to pay my respects to the chairman of the subcommittee, the gentleman from Texas (Mr. Roberts), and the minority for putting together a good bill, one which we can be proud of.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. Miller).

Mr. MILLER of Ohio. Mr. Chairman, at every opportunity in recent years I have offered testimony before committees of the Congress as to the critical importance of moving forward with the Gallipolis locks and dam project. Therefore, I am extremely happy that after 11 years of extensive study, the committee has authorized replacement of a 1,200-foot lock pursuant to section 115 of this bill.

In my estimation, the design recommended appears to be a step forward in our responsibility of facilitating present navigation needs but future needs will require subsequent modernization.

The existing facility was opened in 1937 and it was sufficient for river commerce on the Ohio at that time. But commerce has increased eightfold since then, and it is projected to increase 3½ times in the next 50 years. There now are traffic delays at the existing locks and increasing traffic will result in serious interference with navigation. Maintenance costs and problems are also increasing, and longer repair times will add to traffic difficulties.

Total commerce on the Ohio River has increased many million tons as a result of the continuing industrial expansion underway in the Ohio Valley. This expansion is largely the result of the availability of coal as both a source of fuel and a basic material for chemical processing, and from the availability of large quantities of water, suitable industrial sites, and large deposits of basic resources. All indications are that the industrial expansion will continue, and that a corresponding continuation of the upward trend of river traffic can be expected. Principal commodities passing through the Gallipolis facility are coal, petroleum products, chemicals, iron and steel, and sand and gravel. We have pointed out before that major movements of chemicals transit these facilities as do important shipments of steel, much of it, destined for the gulf coast where it competes with foreign steel, thus reducing imports of foreign steel and thereby favorably affecting the balance of payments.

In addition, lock operations for pleasure boats have nearly tripled in the last 15 years. Prospective commerce passing through Gallipolis Locks is estimated to increase dramatically by the turn of the century.

As one indication of the increased reliance upon the Gallipolis Lock and Dam complex, permit me to quote from the testimony offered by the American Electric Power System:

> The AEP System is a major user of the locks at Gallipolis. In 1976, it is anticipated that about 7.4 million tons of coal in approximately 5,300 barges destined for AEP plants will move through these locks; by 1979 that figure will increase to about 14 million tons in 9,500 barges; and during the period 1982–1985, it is anticipated that 15.4 million tons of AEP coal in more than 10,000 barges will move through these locks annually. Currently, the usual amount of waiting time for a typical tow consisting either of 15 jumbo or 20 standard barges and a towboat is two to three hours. However, approximately 10% of the tows are delayed for periods ranging between 16 to 18 hours. On a roundtrip through the Gallipolis locks, the waiting time is doubled. Although it is difficult to quantify the cost of waiting time, it is estimated that each hour of delay represents an increased cost to AEP and its customers of $350.00 per tow. Consequently, on the basis of current costs, the cost to our customers in 1976 of even a two hour delay for 350 tows would be almost one-half million dollars. With the increase in river traffic projected for future years, the cost of delay would rise to almost $1 million per year. These figures are conservative because they assume only the minimum delay of two hours each way.

Mr. Speaker, directly tied to the future economic and industrial development of the Ohio Valley is the completion of the Gallipolis project. This past July, I again toured the present complex and the very serious navigational bottleneck that exists there is worse than ever. The authorization contained in this bill comes none too soon and I hope our colleagues in the other body will accept the action we have taken here this evening.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. Skubitz).

Mr. SKUBITZ. Mr. Chairman, I want to commend the committee for the outstanding job it has done, but I rise, really, to say a word about my good friend Bob Jones. I think one of the finest things that has happened in my career in the U.S. Congress has been to meet Bob Jones, to know him, and to work with him. He is a gentleman. He is always willing to learn and help those who need help, regardless of the seniority that they might have in this body.

Bob, I hate to see you go.

Mr. DON H. CLAUSEN. Mr. Chairman, I reserve the balance of my time.

Mr. JONES of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. Harris).

Mr. HARRIS. Mr. Chairman, I rise, also, in support of the bill, and I wish to commend our chairman, who has worked so hard in bringing this bill to the floor.

We will be offering, my colleague from Maryland (Mr. Gude) and my colleague from Virginia (Mr. Fisher) an amendment to the bill. I want to take just a moment to explain what it does.

No. 1, it does not authorize any more projects, it does not authorize any more money. All it does is authorize the Corps of Engineers, which operates the water aqueducts in Washington, to do two things: No. 1, to charge an equalized rate to all of the customers they have and, No. 2, to have a seasonal variable rate so that they can have disincentives during those low-flow periods in the summer.

I think it is a simple adjustment of authority for the Corps of Engineers. It will correct a serious injustice that has been going on with respect to water rates in the Washington metropolitan area.

Mr. Chairman, I do hope that the Committee will consider it favorably.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to my colleague, the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman from Virginia has explained this amendment very well. Let me say that we would not be bothering the chairman of the committee, the gentleman from Alabama (Mr. Jones), or the ranking minority member with this amendment except for solving a parliamentary problem.

Mr. Chairman, the amendment embodies a bill which I introduced along with my colleagues, the gentlemen from Virginia (Mr. Harris and Mr. Fisher) and was jointly referred to the Committee on the District of Columbia and the Committee on Public Works and Transportation. The Subcommittee on Environment of the District Committee held extensive hearings on the bill and unanimously reported it to the full committee.

Unfortunately, the bill was on the District Committee agenda which also included the much more controversial bill which would have imposed a commuter tax on the citizens of Maryland and Virginia. As I am sure my colleagues might expect, the committee was unable to obtain a quorum to consider the commuter tax legislation and therefore was unable to take action on the noncontroversial bill which is contained in the amendment before us.

The amendment has a dual purpose: To enable the Washington Aqueduct Division, Corps of Engineers, to implement pricing policies that will foster water conservation in the District of Columbia, Arlington, and Falls Church; and to attempt to establish equitable water rates to be charged those governments that purchase water from Washington Aqueduct.

The amendment therefore would have two salutary effects. First, it would finally give the Washington area a comprehensive water conservation program rather than the piecemeal approach which presently exists because the Washington Aqueduct is the only agency in the Washington area not making any attempt to conserve water. Second, it would eliminate the patently unfair situation wherein Arlington and Falls Church pay $1.75 per 10,000 gallons of water while the District pays only $1.13 per 10,000 gallons. This amendment will require that all jurisdictions pay the same wholesale rate for water, approximately $1.25 per 10,000 gallons.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, I thank the gentleman for yielding.

I simply wish to rise so I may join in support of my two colleagues, the gentleman from Virginia (Mr. Harris) and the gentleman from Maryland (Mr. Gude), in this matter, and I compliment my colleague, the gentleman from Virginia, for ferreting this matter out and bringing it to our attention. The proposal is straightforward and fair. Water rates ought to be the same for all purchasers, whether they live in the District of Columbia or northern Virginia, for water from the same source, treated in the same way, and sold from the same holding reservoir. The inequity has been brought to light and ought to be corrected promptly.

Mr. ROBERTS. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Johnson).

Mr. JOHNSON of California. Mr. Chairman, I rise in support of H.R. 15636, the Water Resources Development Act of 1976. I wish to commend the chairman of the Committee on Public Works and Transportation, the gentleman from Alabama (Mr. Jones), the chairman of the Subcommittee on Water Resources, the gentleman from Texas (Mr. Roberts), the ranking minority member of the committee, the gentleman from Ohio (Mr. Harsha), and ranking minority member of the subcommittee, the gentleman from California (Mr. Don Clausen), for the fine job they and the other members of the committee have done in bringing this bill to the floor.

The projects and legislative provisions in this bill will help us in our continuing efforts to meet the water resources needs of many regions of the country for flood control, navigation, recreation, fish and wildlife enhancement, and water supply. It confirms the well-deserved reputation of the committee for bringing out legislation which is well thought out and thoroughly considered. I would like to point out several provisions of great importance to my district and to the State of California.

The bill contains a phase 1 design memorandum stage authorization for the Calleguas Creek project and the Morrison Creek Stream Group projects in California. These are vitally needed projects to provide flood control, water supply and other very necessary purposes to the areas which they will serve. It also authorizes the modification of the Los Angeles-Long Beach Harbors project which is one of the busiest ports in the country and which contributes so much to our national economy. The bill also contains a phase 1 authorization for the Santa Ana River flood control project. This is an area which is subject to catastrophic losses from flooding and flood control for the area is urgently needed.

Another provision relating to California which is so important in section 138 which directs the continuation of an authorization for study and construction of bank protection work on the Sacramento River. The administration has unilaterally decided not to proceed any further with this project. This section makes it clear that the Congress intends for the authorized project to continue to be implemented.

Finally, Mr. Chairman, section 159 contains a provision clarifying the Corps of Engineers' authority to consider alternative sites, such as Parks Bar in its post-authorization planning of the authorized Marysville Lake project. This is a project which has been under study for some time, and it now appears that the project could provide even more benefits at alternate locations.

I wish to emphasize that since the Chief of Engineers will be proceeding under the authority of the construction authorization of the Marysville project, the same interest rate applicable to this project will apply to any alternative location chosen for the project, such as Parks' Bar, in evaluating the benefits and costs of the projects and determining its economic evaluation.

Mr. ROBERTS. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, among the development projects receiving phase 1 design authorization in this bill is the Susitna River project in Alaska. A sum of $10.5 million would be authorized for the phase 1 study.

If we ultimately authorize construction of the two dams on the Susitna River, their cost would be an estimated $1.5 billion. I understand however, that Senator STEVENS has told the press in Alaska that the final cost could reach upwards of $3 billion.

This project could easily cost more than $3 billion. I note that the initial estimated price tag on the trans-Alaska oil pipeline was $900 million; it is now around $8 billion and still going up.

The corps' justification for this project seems dubious at best. There is no shortage of energy in Alaska now and there probably would not be a shortage for decades to come. Alaska owns one-sixth of the Prudhoe Bay oil and gas field. They want to take all or a major portion of the gas in kind, for residential and industrial use in central and south-central Alaska—the very areas which would be served by the Susitna River project.

In addition, State-owned tide and submerged lands of the Continental Shelf are thought to contain vast deposits of oil and gas. The State also owns extensive deposits of coal. There is additional energy potential in wind, tide, and geothermal resources.

Given the State's bountiful supply of energy, I fail to see the need at this time for still another multi-billion-dollar power project that when completed would have one-third of its capacity idle, even at the corps' optimistic demand projections. I suspect that this excess capacity would not long go unused but would attract international resource corporations interested in cheap power. Kaiser Aluminum, for example, has expressed an interest in the Susitna project, and other aluminum corporations in the Northwest are looking north to Alaska for subsidized low-cost power which will be available as their contracts are phased out in the early 1980's.

Mr. Chairman, the Senate bill would authorize $25 million for the phase 1 study. Only $10.5 million is authorized by the House bill. The $14.5 million difference is accounted for by the desire of the Senator from Alaska (Mr. GRAVEL) to have a 65-mile road built to the sites of the proposed dams. The $10.5 million figure is based on the Corps of Engineers own request for the phase 1 study. The corps would fly core-drilling and other equipment in for its damsite investigations.

There is already a single-lane road to the proposed Devil Canyon Dam built by the Bureau of Reclamation in the mid-fifties and used then to move in core-drilling equipment. There is also a small airstrip at the Devil Canyon site.

Should the need for a road arise, the old road can be easily rehabilitated at far less cost. Helicopters can then be used to reach the proposed Watana Dam site further upstream. The cost of roadbuilding in Alaska is tremendous. It is far more efficient in terms of dollars and impact on the surrounding area to fly necessary equipment to the sites. A new road is not only unnecessary and economically wasteful; it would also penetrate an area of the Talkeetna Mountains now unspoiled. This de facto wilderness contains the calving grounds of the Nelchina caribou herd—a herd that is under increasing pressure from mechanized hunters and whose range is steadily shrinking because of developments taking place, such as the trans-Alaska pipeline which slices through the Nelchina Basin.

I therefore urge that if this body decides to authorize the phase 1 study of the Susitna project, our conferees should convince the Senate conferees of the wisdom of deleting the additional $14.5 million for a road which even the corps feels is unnecessary.

I regard the entire proposal for two multibillion-dollar dams on the Susitna River as highly questionable. When the corps submits its request for appropriations next year, I intend to give that request the most intense scrutiny. Meanwhile, I urge the Members to delete the authorization of $10.5 million for the Susitna River project.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Chairman, it is not often we, as Members of Congress, have an opportunity to speak in favor of a proposal that not only may solve two difficult problems at one time but will be of small cost to the taxpayers. Today, however, I have such an opportunity.

Section 166 of the Water Resources Development Act now before us contains language that will permit, for a 5-year demonstration period, an increase in the diversion of water from Lake Michigan down the Illinois Waterway. While that may not sound like much to most people, for those living along or around Lake Michigan it means a great deal. Strange as it may seem, at the same time high water levels are creating erosion problems for people along the lake, falling water tables are creating water shortages for people living only a few miles inland. In fact, at a conference with mayors and village presidents in my district at the end of August, one of the primary topics of discussion was the water supply situation and what could be done to improve it.

Although this water diversion proposal was initially developed to deal with the beach erosion problem along Lake Michigan, it has real potential for mitigating the water shortage many communities in my area are facing—without requiring some multi-billion-dollar Federal project. At present, up to 3,200 cubic feet per second of lake water can be diverted, roughly, half of which is used by the metropolitan sanitary district for dilution purposes; if this legislation passes, up to 10,000 cubic feet per second will be available so long as lake levels remain above normal and there is no threat of flooding downstream.

Obviously, the added increment, whatever it turns out to be at a given time, would mean a smaller percentage of lake water would be needed for combating pollution and more could be made available for domestic purposes.

At last count, there were some 192 applicants in the Chicago area for allocations of lake water diverted from Lake Michigan. Combined, their requests exceed the present diversion limit—3,200 cubic feet per second—by 1,000 cubic feet per second, thus clearly demonstrating the need for remedial action. Not all of these jurisdictions have the pipeline or pumps to take advantage of lake water now, but enactment of these provisions might make it easier for them to get the financing for such facilities. Once in a position to get lake water, communities would then be able to reduce the demands on the aquifer, thereby giving the water table a chance to come back up to normal levels.

Before going further, I should point out that the Metropolitan Sanitary District—MSD—of Greater Chicago does have an aeration facility in the works that is supposed to be ready sometime in 1979. When it is completed, MSD will need less water than at present for dilution meaning that, if this demonstration project proves that increased diversion will not work, the communities that invested in getting lakewater will not have wasted their money. The water no longer needed by MSD will be available for them to use.

Thus, the argument that once we start increased diversion, there is no stopping it does not hold up; what temporarily increasing the diversion will do is tell us if this is a viable solution to water shortage and beach erosion problems in northern Illinois while, at the same time, providing MSD and a number of communities around Chicago with some tangible benefits.

While wishing to assure my colleagues whose districts border the Illinois River and Mississippi River south of Alton, Ill., that this water diversion section includes language designed to protect against flooding due to increased diversion, I would like to point out that this bill also includes language that will reduce the threat of flooding in Chicago and its suburbs affected by the North Branch of the Chicago River. Actually, the language referred to is found in two places; section 108 authorizes "the phase 1 design memorandum stage of advanced engineering and design," for the so-called TARP—tunnels and reservoir plants—project and section 126 does the same for a flood prevention program in the North Branch Chicago River Watershed.

Inasmuch as many of the 65,300 acres that would be affected by a flood prevention program for the North Branch Chicago River Watershed lie within my district, let me explain the latter in a bit more detail. Without a flood prevention program, it has been estimated that flood damage along the North Chicago River will cost almost $3 million a year; with a program such as the one to be initiated with passage of this legislation, flood damage is expected to come to only $380,300 per year.

Moreover, average annual benefits, when the plan is completed, are expected to be just over $3.7 million while average annual costs have been estimated at just under $2.7 million a year. Such figures speak well for such a project; one could only wish all Federal projects had such encouraging cost-benefit ratio estimates.

I might also note that the overall plan envisioned for the North Chicago River contemplates, in one of its later phases, the construction of a pumping plant and pipeline for the diversion of Lake Michigan water into the Skokie Lagoon and Skokie River. Thus, this project and the water diversion proposal I mentioned earlier, are indeed complementary and I hope they will be passed as part of this omnibus rivers and harbors bill. They are certainly deserving of support.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, it never ceases to amaze me when I see someone standing in the well and using misinformation fed to him by special-interest groups.

Mr. Chairman, this dam has been well studied. The engineering aspects have been well presented. The need is there. Hydroelectric power, as we well know, is a renewable resource.

We are using the oil that can be transported to the lower 48, nor do I want the tideland, as the gentleman suggested, to serve, as a source of fuel because that is where our fish are.

Mr. Chairman, I will be very frank. I know where this information is coming from. I am well aware also that the gentleman from Pennsylvania (Mr. EDGAR) is not representing my State. I am representing that State. The people of my State support this program. The need for the power is and will be apparent in the near future.

Mr. Chairman, ironically, we have a problem in Alaska because of the climatic conditions caused by inversion during cold weather, very much like what happens in Washington, D.C., during the summertime.

Mr. Chairman, I merely want to emphasize that this project has been studied. It is an expensive project, but it will be more expensive in the future; and if it is not built, the oil that would be available for your consumption, the oil that we are going to need in the future, will have to be utilized as bunker fuel in the State of Alaska to provide the needed energy and electricity to my people in the State of Alaska.

Therefore, Mr. Chairman, I respectfully say that those who play in other people's ballparks should stay out of those other people's ballparks or they may be penalized.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 15636, the Omnibus Rivers and Harbors Act of 1976 and I want to commend the dilligence of the Subcommittee on Water Resources. Its distinguished chairman, the gentleman from Texas (Mr. ROBERTS), and ranking minority member, the gentleman from California (Mr. DON H. CLAUSEN). I might add that Mr. DON H. CLAUSEN took the time and interest to personally visit our district; for which I am highly appreciative. They have acted fairly and equitably in weighing the various requests for projects by the many members who testified before their subcommittee during the extensive hearings.

One segment of this bill that is of great interest and concern for many of my constituents is the authorization for $330,000 to provide for first phase advanced engineering and design by the Corps of Engineers for the black dirt area of the Wallkill River in New York.

This Wallkill River flood control project is sorely needed by the residents of the important agricultural area in Orange County, N.Y., through which it flows—an area of approximately 14,000 acres of rich muckland. Because of its rich composition, this black dirt area comprises one of the richest agricultural producing regions in the country.

However, since the 1930's flooding from the river has caused irreparable economic loss to the farmers who work this low-lying land. Average annual damages due to the flooding are estimated to be over $2 million in the form of crop losses—leaching of valuable nutrients and the deterioration of drainage ditches.

The periodic flooding and the resultant disruption to crop production has brought considerable hardship to a region that relies primarily on agriculture as its main commercial enterprise. The economic loss brought on by the flooding is felt not only in the local area—but affects the economy of New York State as well.

In the 1930's the corps and the Civilian Conservation Corps attempted to alleviate the problem through construction on the main channel. However, failure to complete this project has contributed to some of the current problems. In 1968, the Public Works Committee asked the corps to review the flooding situation and make recommendations for corrective measures.

Today's authorization—which will pave the way for eventual construction—is the culmination of all the preparation on this project which has been endorsed by the New York State Department of Environmental Resources, the Corps of Engineers, the Secretary of the Army, and more than a dozen Federal and State agencies.

They have recognized—as has the committee in putting this authorization in the bill—the urgent need for this Wallkill River project. The farmers, the adjoining landowners, and the local and State governments are looking to us for the passage of this sorely needed measure.

Accordingly I urge my colleagues to support the passage of this bill.

Mr. ROBERTS. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, I thank the gentleman for yielding.

I am very surprised by the statement by the gentleman from Alaska (Mr. YOUNG), who raised doubt about the legitimacy I have in challenging the merit of the project in his congressional district. I find it unfortunate that he would seek to discredit my comments about the Susitna River project by alleging that my material was supplied by an environmental group.

I recognize that this project is not in my "ballpark" as the gentleman described it. Perhaps that gives my statements expressing my concern about it more credibility before our Members. Now, I do not question the integrity of the gentleman in supporting the project. I only ask that he not try to make it appear that I am a pawn of overzealous environmentalists.

The truth is, Mr. Chairman, that I am a member of the Water Resources Committee which considered this project. I was present at the hearings when the project was considered. And the transcript of these hearings would show that I raised a number of questions about the benefit of this project which were not satisfactorily answered. I listened while the Kaiser Aluminum representative testified about how wonderful a project this would be, provided it was not built at Federal expense. It was clear to me that the company had a strong financial interest in getting cheap electricity subsidized by the public from funds authorized in this bill, and the others that follow. While this bill includes only $10.5 million for a phase I study, future bills for this project could make the almost $400 million lock and dam 26 authorization, which was fortunately deleted from the Senate bill, look like pocket money. The Susitna project was not the only project which I studied in depth. However, after a briefing by counsel of the Public Works and Transportation Committee before the markup of this bill in committee, I decided that this project was clearly the most flagrant boondoggle at public expense. Now I might be wrong. It is true that I am not from Alaska, and I have not seen the proposed project "in the flesh" as I am sure the gentleman from

Alaska has. And I respect the fact that the gentleman believes that this is a good project. However, as a member of the committee who has listened to the testimony, worked with the committee staff, and studied the merits of just about every provision in this bill—and I feel that there remain provisions which should have been deleted—I find that I have a legitimate right to discuss the project in Alaska, regardless of whether I am from the "ballpark" or not.

Mrs. FENWICK. Mr. Chairman, I am inserting the following letter for the further information of the Members of the House concerning H.R. 15636 in special reference to the Passaic River basin in New Jersey:

SEPTEMBER 3, 1976.

Mr. J. A. WEISS,
*Chief, Engineering Division, New York District, Corps of Engineers, New York, N.Y.*

DEAR MR. WEISS: Pursuant to your request of 22 June 1976, we have reviewed the July 1974 proposed final Environmental Impact Statement (EIS) for the Passaic River Basin Flood Control Project in New York and New Jersey. The comments presented below represent EPA's views on the actions proposed and the analyses contained in the proposed final EIS. We are aware that project components may have been changed appreciably since the issuance of this document especially in the light of the recent proposal by the Secretary of the Army for Phase I and interim plan authorizations. We believe, however, that the underlying principles reflected in our comments will be applicable to your consideration of whatever final plan is espoused.

The document describes a very ambitious project, involving construction of a dam and retention basin, a diversion cut through Hook Mountain, and channelization of the major streams in the area, the Passaic, the Pompton and Ramapo, the Saddle, and the Mahwah Rivers. In general, the EIS is very brief for a project of this magnitude, consisting of about 50 pages in all. Figure 2, illustrating an overview of the flood protection plan is sketchy at best, having no scale and not showing certain aspects of the project such as the works on the Mahwah River and the major wetlands. Clearly, a project of this scope requires an in-depth evaluation of alternatives before any one means to resolve identified needs is chosen.

### WATER QUALITY

#### *Channelization*

The effects of channelization of many of the major streams in the area could be very severe. For example, the Pompton River is to be channelized along its entire length from Hook Mountain to the Pompton Lakes. Also, the Ramapo and Upper Passaic (above Chatham) River will also be channelizd for significant stretches. No matter how rationalized, channelization basically consists of transforming a natural stream into a drainage ditch. In already degraded rivers, such as the Whippany, this would make little difference except as it might affect future improvement of water quality. In the case of the Pompton, Ramapo, and upper Passaic Rivers, however, water quality is high and the ramifications of the project are consistently underestimated in the document.

The water quality of the Pompton River, for example, is excellent. Mixing of its waters with the Passaic, below the confluence, is responsible for improvement of Passaic water quality for a good distance downstream. As matters now stand, the Pompton accounts for over 90% of the trout fishing in the region and, as such, is surely a diminishing resource. Channelization of the river would take place along well over 50% of the River's length. The bottom would be widened to 200 feet with 1 on 3 side slopes.

Results of such channelization in other areas of the nation can hardly be characterized as "improvements" in the ecological sense. Increased silt loads from bank erosion have made mud ditches of many streams. Heavy siltation has eliminated the benthos on which higher trophic levels depend. The esthetic value of the stream has been altered, and its value as a fishery much decreased. Removal of streamside vegetation has increased insolation and the thermal regime of streams, further altering the biota. Wetlands have been drained, and their value as wildlife habitat and as a source of nutrients for the stream destroyed.

The Ramapo River, flowing into Pompton Lake just above the Pompton River, is to be channelized to a bottom width of fully 250 feet with 1 on 3 banks. To illustrate the depth of understanding shown in the EIS, it is mentioned that, in order to mitigate effects on fisheries, linear bank strips 25 feet wide will be acquired for 8.5 miles along the Ramapo, 12 miles along teh Pompton, and 21 miles along the Passaic. While this will help the esthetics of the situation, it surely will not prevent thermal changes in the streams in question. It takes very big trees to shade 300 feet of bottom width and banks. The value of subchannels is also highly questionable in fishery protection. This is mainly due to heavy silt loading from bank erosion and the consequent destruction of benthic habitat, among other factors. The EIS should recognize what the literature makes clear; namely, that channelization invariably alters the stream as habitat, and that the alteration is highly undesirable.

As further indication of the lack of comprehensiveness of the document, no mention is made of effects on Lake Pompton. The Ramapo is to be channelized to a bottom width of 250 feet immediately upstream of Pompton Lake. Effects of this can be expected to be increased silt load and turbidity in the lake and increased flushing of nutrients into the lake. Pompton Lake is currently of high quality; increased nutrient loading as well as induced development along the Ramapo would accelerate the process of eutrophication in the lake.

#### *Impact of accelerated drainage on wetlands*

Channelization of the Passaic River upstream of Chatham would extend to the Union-Somerset County line, only 5–6 miles below the major drainage streams from Great Swamp National Refuge, namely Black Brook and Great Brook. Given this relatively short distance and the higher elevation of Great Swamp relative to the proposed channelization, there is a definite possibility of accelerated drainage of the National Refuge. We calculate that in this area there is a river gradient of about 5 feet/mile into the channelized Passaic.

It would appear that development is a purpose of the project. For example, on pg. 44 it is mentioned that ". . . over 2,400 acres would become subject to consideration for residential, commercial or industrial uses, while upstream . . . (there are) 9,400 acres that would be enhanced in value." Over 11,800 acres, then, are to be opened to a greater degree of development. No attempt is made in the document to assess what this means in terms of loss to local ecosystems. If, as the literature suggests, the life support value of fresh water wetlands in this area is taken as $500 per acre per year, development of the above acreage amounts to an annual loss of about 6 million dollars in potential annual primary production. Reference Gosselink, Odum, and Pope, The value of the Tidal Marsh, Work Paper 3, Center for Wetland Resources, Louisiana State University, Baton Rouge, 1973, LSU–SG–74–03.

#### *Effects of periodic inundation of the detention area*

The EIS points out that the area to be inundated in the detention basin will be the same as if flooded under present conditions. What is not mentioned, however, is that flooding in the detention area would be much more frequent under the influence of the proposed works.

As the EIS recognizes, the principal impact on land usage within the reservoir would be on present or proposed state and county recreation areas, particularly the Troy and Great Piece meadows, 5450 acres of which the state plans to acquire as recreation-open space areas. Such areas as the 1,253 acre Essex County park are located entirely within the impounding basin.

The document does not adequately consider effects of the project on these areas. On pg. 36, for example, it is mentioned that "compatability" can be assured by locating facilities within the zone of least probability of flooding, waterproofing, and careful selection of building materials. The proposed works will make flooding much more frequent than at present within these areas. No estimate of flooding frequency is presented, and this should be viewed as a major deficiency of the EIS. The loss of woody vegetation, wildlife habitat, and siltation will contribute to the decreased value of the basin as a recreation area. In a reply to one of our previous comments on siltation (see pg. 56), it is stated that "Accumulations of sediment that could impair project functioning would be removed as part of project maintenance." How it is proposed to have a one-inch layer of silt removed from 7000 acres of land should be further clarified.

#### *Miscellaneous*

On page 6 it is stated that measures will be taken to protect facilities of all water, sewage, and power utilities crossing the detention area. These should be stipulated since water and sewer lines flooded in proximity to each other present a health hazard.

The EIS states that no specific historical and archeological sites are known to exist in the project area. Testimony given by the Passaic River Archeological survey and reflected in the site map on p. A–46 would appear to directly contradict this.

We have, to this point, discussed the major water quality impacts of the project. Other impacts not adequately discussed are the removal of 40 million cubic yards of borrow for the Two Bridges dam and the Pompton diversion gorge along Hook Mountain.

### FLOOD CONTROL METHODS AND ALTERNATIVES

An expanded investigation of the use of non-structural flood controls for the Passaic River Basin Flood Protection Plan was recommended in a letter dated April 18, 1973 from the U.S. EPA to the U.S. Army Corps of Engineers commenting on several aspects of the project. In the 1974 revised EIS for the project, the Corps attempted to address the concerns of EPA and those of the U.S. Forest Service for a non-structural analysis in Section 5.06 (1974 EIS, p. 48), which briefly outlined a few legal mechanisms for implementing non-structural alternatives rather than requantifying these alternatives.

In response to a Congressional inquiry, an analysis of selected costs and benefits of the non-structural alternative was undertaken by EPA, embodied in a report prepared in April 1975. This report attempted to evaluate the Corps' methodology, requantify some of the Corps' estimates for the non-structural alternative, and in particular, to evaluate the feasibility of a combination of structural and non-structural measures. Since a quantification of the costs and benefits for the entire area covered by the flood control project would have been prohibitive in terms of time and resources, the analysis was a partial one, restricted to some general comments about structural vs. non-structural alternatives and restricted geographically to a detailed analysis of a four town area (Riverdale, Pompton Lakes, Pequannock and Oakland) in the upstream portion of the Passaic basin where non-structural alternatives would be relatively more feasible.

The structural changes proposed for the Pompton Lakes-Pequannock area include a straightening, deepening and widening of the Pompton River Channel downstream from the Pompton Lakes Dam with levees having an average height of 13 feet with a top width of 8 feet, and flood walls (1974 EIS, p. 7). In Oakland, the Ramapo River modifications would include alterations in the existing channel, a new diversion channel, the relocation of a lake, and the construction of a landfill, levees and flood walls between Pompton Lakes and the NY Susquehanna and Western RR intersection with the Ramapo River.

In addition to being limited geographically, the April 1974 study limited the number of variables, incorporating only relocation costs in conformance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91–646), tax base effects, potential changes in real property value adjacent to the floodplain after its renovation into a park, and property damages in terms of the amount of compensation obtainable under the National Flood Insurance Program. No attempt was made to quantify changes in local revenue and expenditures in the area of public utilities. Recreation benefits were only estimated by applying rates established in the original Corps report to the study area. Only those costs and benefits were emphasized that differ between the structural and non-structural alternatives.

The conclusions of the four town analysis were: (1) the non-structural alternative as presented for this area was not able to achieve a benefit-cost ratio greater than one, primarily because of the high value of one of the major cost factors, the cost of compensation to property owners and renters required under PL 91–646; (2) the ratio, however, can exceed 1.0 in areas where there are relatively few structures and where those present have low assessments—in Oakland the ratio approached 1.0 because of this; (3) the recreation component is a major determining factor in the benefit calculation, and a better quantification of these benefits is needed; this is crucial for the non-structural alternative since there are more recreational lands, and hence, recreational benefits for the non-structural alternative than for the structural alternative; (4) in addition to quantification of costs and benefits there is a need to quantify how these costs and benefits are distributed over various socioeconomic groups (reference "Principles & Standards," WRC, FR 9–10–73).

Differences between the April 1975 study of non-structural alternatives for the four town area and the Corps were discussed at a Corps-EPA meeting in July 1975. While many of the differences were ironed out at that meeting by Corps presentation of background data and documentation, differences still remain:

(1) On a number of basic issues the Corps does not, and maintains they cannot evaluate certain kinds of costs and benefits that are secondary or indirect. For instance, they could not quantify benefits accrued due to land enhancement which potentially can occur in the four town study area to lands adjacent to the floodplain when the floodplain is made into a recreation area. While they may not be able to do so because of specifications in "Principles and Standards" and other regulations, it would seem that NEPA requirements mandates an analysis of secondary impacts. Thus, a basic question exists as to which guidelines are applicable in defining the scope of the cost-benefit and impact analysis.

(2) Another basic policy question relates to the difference between the Corps' definition of the floodplain for the purposes of designing flood control structures and HUD's definition for the purpose of insuring properties in the floodplain. The HUD definition is the 100-year storm while the Corps' definition for the Passaic study is the level of the 1903 storm plus 20%. This latter definition in some cases more than doubles the acreage affected relative to the HUD definition, and affects the cost-benefit ratio.

(3) A basic hydrologic question exists with regard to just how the structural specifications would have to be modified to allow for a mix of structural and non-structural measures. This question has not been evaluated in detail to date, except that the Corps estimates that to allow non-structural measures in the four town area would require a levee "about 2¼ miles long with a maximum height in excess of 12 feet and average height of about 7 feet" somewhere in the Lincoln Park area.

(4) The Corps study assumes that lands improved by flood control structures will develop to their zoned potential. This grossly overstates benefits, first, because land development is a function of factors other than flood hazard and second, because zoning is not permanent and is frequently altered by variances. Related to this is the fact that the Corps obscures the relationship between the land development aspects of flood control and water quality. By counting land being developed to its zoned potential as a benefit and by not recognizing that trying to limit development in the floodplain in order to decrease impervious surface and the runoff component of flood waters (often contaminated), land management practices contrary to the goals of NEPA may indirectly be advocated, except where zoning has been changed to reflect a flood plain ordinance.

(5) Recreation planning aspects of the project should be developed to a greater extent. The revision of the project in the 1974 EIS reduced recreation benefits over the 1972 plan. This is important since New Jersey's Outdoor Recreation Plan estimated that a deficit of 246,952 acres of recreational land existed in the state in 1970 and this deficit was estimated to grow to 308,072 by 1980. The largest deficit was located in the northeastern part of the state where the four town study area is located (NJDEP. Outdoor Recreation in New Jersey. p. 5). The Corps study appears to underestimate the value of recreation benefits. While this is one way of conservatively estimating the benefit-cost ratio, it is a detriment to the non-structural approach which has more recreation benefits than the structural approach (even given that the recreation areas will be subject to intermittent inundation). One reason for the apparent underestimation is that the Corps maintains that they are bound to a maximum figure of $1.20 per visitor day to a recreation facility by "Principles and Standards" and in fact they often use $0.75. The only reference we have found in "Principles and Standards" to a quantification of such a value allows a much higher maximum: $0.75 to $2.25 per recreation day for general recreation ("involving primarily those activities attractive to the majority of outdoor recreationists and which generally require the development and maintenance of convenient access and adequate facilities") and $3.00 to $9.00 for specialized recreation where the user may have to incur a large personal expense ("Principles and Standards," 38 FR 24778, p. 52). In a region where the demand for recreational areas is great and the supply is low, the assigned value should be much greater.

(6) The HUD comments submitted to the Corps requested that a socioeconomic profile of the areas be included, which the 1974 EIS only briefly addresses in Section 3.49 (1974 EIS, p. 43). The whole issue of how the provision of structural vs. non-structural measures may shift the cost burden is not evaluated. For instance, structural works and non-structural alternatives may both reduce dependencies on subsidies for flood insurance under the National Flood Insurance Program. However, a new cost burden will fall to localities under the structural approach in the form of operation and maintenance expenditures for local protection works, which will be the full responsibility of local government (1974 EIS, p. 43). "Principles and Standards" emphasizes the requirement for such a distributional analysis (p. 108):

"For purposes of accounting, the distribution of beneficial and adverse effects will be shown to whomsoever they accrue. This will include display of the distribution of national economic development, environmental quality, regional development and social well-being effects to regions, income classes, and interest groups relevant to the particular plan. . . ."

To summarize, the role of secondary impact analysis in the Corps benefit-cost analysis and EIS has to be clarified, the floodplain definition used by different agencies should be standardized or a choice made as to which is applicable for benefit-cost and impact analysis, the mix of structural and non-structural measures rather than a choice of one or the other should be evaluated more thoroughly, the basis of zoned potential for the benefit calculation of lands no longer subject to flooding needs to be reevaluated, a greater emphasis needs to be placed on perfecting the analysis of recreation benefits and deciding on an accurate visitor day benefit rate, and the distribution of the costs and benefits of all alternatives among various groups needs to be done in accordance with "Principles and Standards." It is recommended that these analyses be done before the non-structural alternative is definitely ruled out or the structural alternative is accepted.

Thank you for the opportunity to review this internal document. We sincerely hope that our comments assist your efforts to arrive at the optimal project design.

If this informal procedure between our two agencies meets your needs, we urge its implementation in future projects. Please feel free to contact me or any of the Environmental Impacts Branch at 4–8556 or 4–0854.

Sincerely yours,

CHARLES W. ZAFONTE,

*EIS Review Coordinator, Environmental Impacts Branch, Region 2, Environmental Protection Agency.*

**Mr. ALEXANDER.** Mr. Chairman, I rise in support of the omnibus rivers and harbors proposal before us. Effective, well-planned use and development of our Nation's water resources has broad implications for the present and future of our people in the fields of agriculture, economic development, environmental protection, flood control, recreation, and transportation.

I believe that the Committee on Public Works and Transportation has done a good job in preparing the proposal before us. And, I feel compelled to speak out at this point about at least one portion of the Water Resources Development Act of 1976 proposal which the Senate has considered and rejected.

First, let me remind my colleagues that we included in the Federal-Aid Highway Act of 1976, which we passed earlier this year, a directive for the establishment of a National Transportation Policy Study Commission. This Commission is charged with the responsibility of analyzing national transportation policies and to make recommendations for future actions needed to insure the development of balanced national transportation systems to meet projected needs. Undoubtedly part of the Commission's work will deal with close study of the inland waterway transportation system. Its report is due December 31, 1978.

Despite the fact that the Commission has hardly begun its work, the Senate had before it yesterday a proposal to impose on the Nation a major and drastic change in the inland waterway transportation system. This proposal would have imposed "user charges" on commercial inland waterway barge companies. In rejecting this change the Senate took a needed step toward fairminded, economically sound examination of the issues.

In reality what this proposal would do would be to further narrow the gap between the farmer's production costs and his income; to damage the competitive position of our inland industry, such as steel, which uses inland waterways in its efforts to compete with foreign suppliers; and to raise the costs of consumers whose energy is generated through use of fuel transported on inland waterways.

This "user tax" proposal would place special disadvantages on the ports of places like Memphis, St. Louis, St. Paul, Minneapolis, Louisville, Cincinnati, Pittsburgh, and Helena, West Memphis, Osceola, and Little Rock, and Pine Bluff, Ark., and the agricultural and manufacturing complexes they serve. This would come about through the special treatment given to ocean and Great Lakes ports where user taxes would have strictly limited application and not be levied against oceangoing traffic.

In other words, this proposal specifically discriminates against the inland waterways communities and industries of our Nation.

As I understand it, this proposal was not the subject of hearings in the other body. Even though its Subcommittee on Water Resources conducted oversight hearings on Federal navigation policy in 1974–75, and the subject of waterway user charges came up on several occasions, no hearings were held on any specific proposal. Further, there have been no congressional hearings during the last decade on any type of waterway user charge.

And, while this administration indicated in its 1977 budget submission that it would be sending a user charge proposal to the Congress, it has not done so.

When the U.S. Secretary of Transportation was before the Committee on Appropriations Subcommittee on Transportation this year to testify concerning the President's proposed budget, I questioned him on the issue of user charges. He told me that at that time accurate, reliable information simply is not available for use in fairly and equitably allocating the benefit shares flowing from the Federal investment in waterways.

We simply do not know what percentage of that investment can properly be said solely or predominantly to benefit national security, units of local and State government, private industry, water-based recreational industries, inland waterways, bargelines, farmers, or a long list of other interests.

Possibly more to the point, we do not now have adequate information to counter the data, estimates, and projections which indicate that such a system as has been proposed for congressional approval would bring about closure of some parts of the river transportation network, reduce competition in the transportation services industry, and set off a serious economic dislocation reaction.

Finally, there seem to be a number of constitutional questions involved with this proposal.

It is a bill raising revenue. Bills raising revenue must originate in the House. This proposal was not even suggested as an amendment to a tax proposal which originated in the House. Court decisions have settled the point that the Federal Government has no property rights in waterways as such, so it seems clear that only under the taxing power can the United States impose charges unrelated to the use of particular improvements owned or provided by it.

The proposal explicitly and emphatically violates the tax uniformity clause of article I, section 8 of the U.S. Constitution. Under this provision all duties, imposts, and excises, that is all indirect taxes, must be geographically uniform throughout the Nation. Yet, the proposal specifically provided exclusions for waterways improved primarily for use of oceangoing vessels and for the Great Lakes.

It is stated in the sixth clause of section 9 of article I of the Constitution that "no preference shall be given by any regulations of commerce or revenue to the ports of one State over those of another."

In addition, the standards governing the discretionary authority of the Secretary of the Army under the proposal seem clearly inadequate to satisfy the constitutional prohibition against excessive delegation of legislative power.

This proposal massively discriminates against the interior States such as Arkansas and inland ports such as those at Helena, Osceola, West Memphis, and Little Rock, and Pine Bluff, Ark., and Memphis, Tenn. It has been proposed in the face of serious absence of data on the costly impact it will have on the future of the people and communities of inland States. Its constitutionality is questionable. I am glad that the Senate defeated this proposal and urge that no similar legislation be adopted.

Mr. ROSTENKOWSKI. Mr. Chairman, I strongly support H.R. 15636, Omnibus Rivers and Harbors Act of 1976. This is another fine example of the kind of thoughtful legislation that the chairman of the Public Works and Transportation Committee has produced for many years. I commend my colleague from Alabama for the expeditious manner in which this legislation was put together in view of the extensive hearings and deliberation it was given.

I am particularly pleased that this bill contains a section that I have been advocating for over 5 years. I refer to section 166 which will permit the Army Corps of Engineers to conduct a 5-year demonstration study to determine the feasibility of increasing the diversion of Lake Michigan water at Chicago. The need for increased diversion has been evident since the early 1960's when the water levels in the Great Lakes began to rise to what now are still historic record heights. This rise in water levels has caused millions of dollars of erosion to the shoreline property and flooded out the residents of the shoreline on all too many occasions.

While there has been some concern brought forth by the residents in down State Illinois about the possible flooding effects of increased diversion, there is specific language in both the bill and the report of the Public Works and Transportation Committee to satisfy their concerns.

I urge my colleagues to support this legislation so that the needed and worthwhile projects it authorizes can begin.

Mr. DERWINSKI. Mr. Chairman, today, we are voting on H.R. 15636, a bill authorizing the construction of certain public works on rivers and harbors for navigation, flood control, and for other purposes. Section 166 of the bill concerns itself with the metropolitan tunnel and reservoir plan.

I represent a Chicago suburban district, which is served by the Metropolitan Sanitary District of Greater Chicago. There has been a tremendous development of subdivisions in this area, accompanied by commercial, industrial, and public facilities growth, and naturally a very substantial increase in population. The Metropolitan Sanitary District at the present time has the most sophisticated system for waste water collection and treatment in the Nation and has been in the business of wastewater treatment for the metropolitan area since 1889, and to that end has the largest investment in its facility at the present time. This very worthwhile program will provide a viable plan for storm water relief facilities to Chicago and all other municipalities served by the district as well as improving the quality of the water in our waterways.

I commend the Metropolitan Sanitary District work on this project and urge all Members to approve this section of the bill.

Mr. THONE. Mr. Chairman, I rise in support of H.R. 15636, the Water Resources Development and River Basin Monetary Authorization Act of 1976.

I am particularly interested in section 155 which amends section 32 of the Water Resources Development Act of 1974. This section 32 authorized a streambank erosion control and demonstration program. I cosponsored H.R. 15025 along with my colleagues, Congressmen ABDNOR, McCOLLISTER, and PRESSLER, and while I would have rather had that legislation enacted, I am enough of a realist to accept the next best thing.

In Nebraska on the reaches of the Missouri River between Yankton and Sioux City the Corps of Engineers selected three demonstration sites to be constructed under this section 32 program. Funds were made available under fiscal year 1976 appropriations to initiate planning, design, and construction of one site, and it is my understanding that the bid opening is scheduled for mid-October. The Corps of Engineers has indicated the capability of proceeding on the other two sites as soon as funding is made available. This bill by increasing funding authorization indicates the congressional intent to find solutions throughout the Nation to bank stabilization and erosion problems and this stretch of the Missouri River as a pioneer should continue to receive priority.

Every year since my coming to Congress I have been involved in trying to solve this severe problem of bank erosion caused by the release of tremendous amounts of water from the Gavins Point Dam. This clean water coming from the dam has caused untold amounts of damage to farmlands as well as to roads, bridges, and public recreation areas. These demonstration projects should develop techniques that can provide solutions to the overall problem and hopefully at a lower cost than the conventional methods now used for bank stabilization.

Similar demonstration sites are earmarked on the South Dakota side of the Missouri River in this area and I want to take this opportunity to thank Congressman ABDNOR for his leadership in authoring section 155 of this legislation, and I pledge continuing support of the efforts to correct erosion problems in this area. I urge my colleagues' support of this legislation.

Mr. SYMMS. Mr. Chairman, I want to commend the House Public Works Committee for the outstanding job they have done in putting together a package which will benefit a wide cross-section of Americans.

For my own people in Idaho's First Congressional District, passage of the authorization for construction of the bridge between Lewiston and its neighboring city, Clarkston, Wash., is the gratifying conclusion of a 10-year effort within the community. Their transportation services between the cities have been entirely disrupted by the high water levels created to operate a new inland port district. Not only is commuter traffic hopelessly snarled at some hours of the day, but critically serious problems have arisen in their efforts to provide residents of both towns with coordinated, efficient medical services. This alternate bridge provided today in the Omnibus Rivers and Harbors Act will almost entirely alleviate that situation.

My special thanks to the taxpayers of the United States and to my colleague from California (Mr. CLAUSEN) and to our good chairman on the Water Resources Subcommittee, RAY ROBERTS, for their untiring efforts. Likewise, I would like to extend the gratitude of the people of northern Idaho to Chairman JONES and wish him well in his retirement. He has contributed much to America during his years of service, and it is deeply appreciated.

Mr. RISENHOOVER. Mr. Chairman, in the Senate version of this bill, S. 3823, I call your attention to section 53(2) (h) and (i) and urge House conferees to adopt this important authorization. Since the House has not held hearings on this area, I am refraining from offering an amendment at this time to include this important language in the House version of the bill. It is nonetheless vital and should be adopted by the conferees.

On July 30, 1976, I introduced H.R. 14982 and H.R. 14983 which transferred all rights titles and interests in Tenkiller and Fort Gibson Reservoirs from the Federal Government to the State of Oklahoma.

Because this Congress was short of time, we were unable to hold proper hearings and judiciously consider these bills. In a speech to this House, I noted at the time that:

> . . . A majority of people in the area favor State ownership of these two beautiful lakes which also are invaluable water, power, and recreational resources.

I believe the will of the majority should prevail and that ultimately, these lakes should revert to State ownership.

Included in the "Hydroelectric Power Development Act" portion of S. 3823 is language which simply authorizes negotiations between Federal and non-Federal public authorities concerning ownership of any projects.

Many safeguards—including ultimate congressional approval of any transfers of ownerships of any projects—are included in this wise, just and responsive authorization. Congress simply is opening the door for exploration of the merits and demerits of ownership transfers.

Large numbers—unquestionably the majority—of people in Oklahoma are demanding a shift in power away from the central government in Washington back to the State capitols and county seats.

The myth that "Washington knows best" is fast fading. The call of the public is "give controls back to local government."

This important section of S. 3823 is a direct response to that demand while also providing important checks and balances to prevent unwise management decisions, abuses or poor public policy.

With the possible information which can be gathered during the months ahead with this authority, I believe the 95th Congress will be able to consider specific transfers of Tenkiller and Fort Gibson Reservoirs based on testimony that grows out of the experiences of negotiations. And, beyond Oklahoma, other States could well want to assume the ownership, management and challenge of Federal projects in their own areas. Thank you.

Mr. VANIK. Mr. Chairman, I urge my colleagues to vote to pass the legislation before us, and I particularly urge my Great Lakes basin colleagues to support the measure because of one particular section.

Section 166(a) of the bill, Mr. Chairman, gives the Corps of Engineers authority, as described in the committee report, "to carry out a 5-year demonstration program to temporarily increase the diversion of water from Lake Michigan at Chicago, Illinois."

Commonly known as the Chicago diversion, Mr. Chairman, this language finally implements a long supported House proposal to help lower the water levels of the Great Lakes. Although the Chicago diversion will only lower Lake Michigan by about 6 inches and the other Great Lakes by about 2 inches, every single inch that can be removed without causing other harmful effects should be diverted.

Presently, Mr. Chairman, my congressional district's Lake Erie is at least 22 inches over its long-term averages. All of the Great Lakes are above their long-term averages; all of them are suffering from unprecedented erosion due to high water levels; all of them have found that concrete and steel, or sandbags and tree stumps do little or nothing in the fury of wind driven waves or a spring storm. Too many homes and too much shoreline property has been lost to high water erosion.

Although the Chicago diversion is not panacea to lake erosion problems, it is the first step in Government taking steps to fight back at the terrible damages that nature can bring on us.

Now, we must move to control the interlake flows of water that remain troublesome. I hope that our Government, along with the Canadian Government, can come to some resolution soon on any differences in that area.

Mr. MICHEL. Mr. Chairman, we have before us a massive public works bill, a bill which has rightly been referred to as a Christmas tree bill because of the goodies authorized in the bill which will benefit a large number of congressional districts from one end of the country to the other. So I can appreciate that the majority of my colleagues find this an extremely attractive proposal.

But I am distressed that instead of providing a real benefit to the people of the 18th District, this bill offers them an increase in problems. I am referring to the section of the bill which authorizes the increase of diversion of water from Lake Michigan into the Illinois waterway. This issue is not a new one. The committee has held hearings on several occasions over the past few years, but there has just not been substantial evidence which justifies increasing the diversion level beyond the 3,200 cubic feet per second rate now provided by U.S. Supreme Court decree.

In effect, the major effect of this bill is not to divert water from Lake Michigan, but to increase the level of the Illinois waterway. Realistically, increasing the diversion will have relatively little effect on the level of water in the Great Lakes. At best, we would be talking about a matter of a few inches over a period of several years. The problem obviously requires a great deal more than that and I think everyone's interest would be better served by developing an effective solution that would solve the problem on a permanent basis and not transfer it to another location.

What will happen is a substantial increase in the level of water in the Illinois waterway. And while it was especially tempting to include a diversion provision in the bill this year because the Illinois waterway is unusually low and could take additional water, I think it is important that we remember this is not the norm. We are all very sympathetic with the plight of those citizens located along the shores of the Great Lakes. There can be no doubt that their problems with erosion and flooding are serious and of grave concern to all of us. But the residents of my district are no strangers to the problems of contending with high water levels and flooding. The 18th District lies along the Illinois River and has been ravaged by floods time and again as the result of excessive rainfall and the resulting flood stage of the Illinois River and its tributaries. I have had eight of my nine counties so severely affected that they were declared disaster areas.

If you want to get a comprehensive picture of the tragedy caused by flooding, come out to central Illinois and talk to those along the Illinois River who have undergone substantial economic and personal hardships.

Oh, we can talk about supposed safeguards and assurances that diversion will be decreased if the Illinois approaches flood stage. But the truth of the matter is that we are playing games with the water levels at the expense of those downstream. Who can predict an unusually warm spell which speeds up the spring thaw, or a sudden torrential rain as we are apt to have in the spring? If this occurs and the banks are already approaching the flood warning stage, what happens to the excess water then? How long will it take the "diverted water" to pass through our area and make room for the increased runoff, even if the diversion level has been suddenly decreased to allow for the excess water?

And what about the quality of the water shipped downstream? Will the water which reaches Peoria be of the same quality as that which is diverted from the lake at the control structures? Or can we in central Illinois expect an increase in polluted water as well as an increase in water levels?

Quite frankly, I do not think we are balancing the interests of those downstream with those who are located along the shores of the Great Lakes. It just does not make good sense to increase the already large amount of diverted water from Lake Michigan to the Illinois waterway, an action which I believe would increase rather than decrease the problems of the U.S. waterway systems.

So while I would not take up time in a futile effort to delete this section from the bill, I want to emphasize my strong objection to the provision and urge my colleagues to consider the consequences of their action here today.

Mr. CLEVELAND. Mr. Chairman, I intend to vote against H.R. 15636, the Omnibus Rivers and Harbors Act of 1976, as I would have done in the Public Works Committee had there been a recorded vote on reporting this legislation to the House floor.

While some of the individual projects authorized to be funded by this legislation may have merit, I cannot justify supporting the entire package of approximately $350 million for new and existing Corps of Engineers water resource projects and $590 million for corps development plans and projects for 12 major river basins at a time when economic conditions continue to necessitate fiscal restraint. There are a great many desirable Federal programs in existence with more being proposed almost daily. Yet, alas, only too few Federal dollars exist for all the "good and worthy" causes. For this reason, I intend to vote against this legislation as in my view it represents an area in which we can and should exercise more fiscal restraint.

Mr. DODD. Mr. Chairman, I rise in support of the Water Resources Development Act of 1976, H.R. 15636, and I urge all my colleagues in the House to cast their votes in favor of this most important piece of legislation.

The chairman of the House Public Works Committee, the distinguished gentleman from Alabama (Mr. JONES), and of that body's Water Resources Subcommittee, the distinguished gentleman from Texas (Mr. ROBERTS), should be commended for their hard work to bring this constructive bill before us for consideration.

H.R. 15636 is a significant initiative by this Congress to promote flood control, environmental protection, preservation of our precious, vanishing wetlands, and improvement of our waterways—our inland, commercial transportation system so necessary for the economic health of this Nation.

There are a total of 44 water resource development improvement projects in 27 States authorized in this omnibus bill, Mr. Chairman. The citizens of these States will derive great benefit from them, as will the country as a whole. We should pass this bill overwhelmingly.

I would like to take this opportunity to highlight a section of this act which are of particular interest to me, and to my constituents in the Second Congressional District of Connecticut.

Section 106 authorizes spending approximately $5.4 million in Federal funds to help finance a vitally needed, flood control and hurricane barrier in the Shaw Cove area of New London, Conn.

New London, a coastal city, needs this barrier to protect it from the major storms for which New England is known, and which in the past have caused severe damage to shore districts, Mr. Chairman.

Completion of the barrier also is the key to the success of this city's entire, $21 million urban redevelopment program.

To me, these are two excellent reasons to support passage of H.R. 15636.

Without the protection of this hurricane barrier, the Shaw Cove redevelopment area would fail to qualify for flood control insurance, which in turn would make this project ineligible for financing from the Federal Department of Housing and Urban Development—HUD.

HUD already has advanced $7 million to New London for land acquisition, clearance, and relocation. Without flood control insurance to ensure continuation of the redevelopment, the city would have to repay HUD this huge sum.

This would be a crushing financial burden for the citizens of New London.

Worse still, Mr. Chairman, New London then would be faced with the dilemma of deciding whether to finance most of the $21 million program alone, or whether to abandon it.

Both alternatives would be great hardships on my constituents.

Last year, I introduced legislation to reauthorize this project after planning and implementation delays necessitated such congressional action, Mr. Chairman.

I am gratified that the Water Resources Subcommittee, and the full House Public Works Committee, saw fit to include this legislation in their omnibus bill now before us. I thank them heartily on behalf of my constituents.

Mr. Chairman, this hurricane barrier will allow New London to continue its revitalization program. It will protect the city from extremely severe storms, including repetitions of the "storm of record"—the 1938 huricane which decimated a then unprotected New England coast.

For the benefit of New London, Conn., and for the entire Nation, as embodied in the other projects in this bill, the Water Resources Development Act of 1976 must be passed

Mr. ROBERTS. Mr. Chairman, I have no further requests for time.

Mr. DON H. CLAUSEN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will now read, by title, the committee amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### TITLE I—WATER RESOURCES DEVELOPMENT

SECTION 101. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resources development projects, substantially in accordance with, and subject to the conditions recommended by the Chief of Engineers in, the reports hereinafter designated.

#### MIDDLE ATLANTIC COAST REGION

The project for beach erosion control, navigation, and storm protection from Hereford Inlet to the Delaware Bay entrance to the Cape May Canal, New Jersey: Report of the Chief of Engineers dated September 30, 1975, at an estimated cost of $2,062,000.

The project for beach erosion control, navigation, and storm protection from Barnegat Inlet to Longport, New Jersey: Report of the Chief of Engineers dated October 24, 1975, at an estimated cost of $2,396,000.

#### WALLKILL RIVER BASIN

The project for flood control of the Black Dirt Area, Wallkill River, New York and New Jersey: House Document Numbered 94–499, at an estimated cost of $330,000.

#### PASSAIC RIVER BASIN

The project for flood control in the Passaic River Basin New Jersey and New York: Report of the Chief of Engineers dated February 18, 1976, at an estimated cost of $12,000,000.

#### SUSQUEHANNA RIVER BASIN

The project for flood control at Lock Haven, Pennsylvania: House Document Numbered 94–577, at an estimated cost of $430,000.

The project for flood control at Wyoming Valley, Susquehanna River, Luzerne County, Pennsylvania: House Document Numbered 94–482, at an estimated cost of $450,000.

#### JAMES RIVER BASIN

The project for flood control at Richmond, Virginia: Report of the Chief of Engineers dated January 7, 1976, at an estimated cost of $800,000.

The project for flood control at the Richmond, Virginia filtration plant: House Document Numbered 94–543, at an estimated cost of $100,000.

### SOUTH ATLANTIC COASTAL REGION

The project for navigation at Brunswick Harbor, Georgia: Report of the Chief of Engineers dated August 18, 1976, at an estimated cost of $300,000, except that the Secretary of the Army, acting through the Chief of Engineers, shall include as part of the phase I study consideration of dredging a navigation channel to Colonel's Island.

### COOPER RIVER BASIN

The project for navigation improvements at Charleston Harbor, South Carolina: House Document Numbered 94–436, at an estimated cost of $500,000.

### COMMONWEALTH OF PUERTO RICO

The project for navigation improvements at San Juan Harbor, Puerto Rico: House Document Numbered 94–574, at an estimated cost of $300,000.

### UPPER MISSISSIPPI RIVER BASIN

The project for local flood protection and other purposes at La Crosse, Wisconsin, on the Mississippi River: House Document Numbered 94–598, at an estimated cost of $400,000.

### GREAT LAKES BASIN

The project for beach erosion control for Presque Isle Peninsula at Erie, Pennsylvania: Report of the Chief of Engineers dated April 8, 1976, at an estimated cost of $700,000. At the expiration of the authorization provided in section 57 of the Water Resources Development Act of 1974, the Secretary of the Army, acting through the Chief of Engineers, may provide periodic beach nourishment in accordance with the cost sharing provisions of section 103(a)(2) of the Act of October 23, 1962 (76 Stat. 1178).

The project for flood control and other purposes on Little Calumet River in Indiana: Report of the Chief of Engineers dated July 19, 1976, at an estimated cost of $1,400,000.

### OHIO RIVER BASIN

The project for abatement of acid mine drainage in the Clarion River Basin, Pennsylvania: Report of the Secretary of the Army dated April 1971, entitled "Development of Water Resources in Appalachia", at an estimated cost of $600,000.

### LOWER MISSISSIPPI RIVER BASIN

The project for flood protection for St. Johns Bayou and New Madrid Floodway, Missouri: Report of the Chief of Engineers dated September 26, 1975, at an estimated cost of $300,000.

The project for flood protection for Nonconnah Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated June 23, 1976, and as an independent part of this project, improvements for flood control and allied purposes on Horn Lake Creek and tributaries, including Cowpen Creek, Tennessee and Mississippi, at an estimated cost of $400,000.

### TEXAS GULF COAST REGION

The project for natural salt pollution control in the Brazos River: Report of the Chief of Engineers dated June 1, 1976, at an estimated cost of $650,000.

### RIO GRANDE BASIN

The project for flood control and other purposes, on the Rio Grande and Rio Salado, New Mexico: Report of the Chief of Engineers dated September 27, 1976, at an estimated cost of $1,500,000.

### MISSOURI RIVER BASIN

The project for flood protection for Jefferson City on Wears Creeks, Missouri: Report of the Chief of Engineers dated October 21, 1975, at an estimated cost of $50,000.

### COLUMBIA RIVER BASIN

The project for construction and installation of a second powerhouse at McNary Lock and Dam, Columbia River, Oregon and Washington: Report of the Chief of Engineers dated June 29, 1976, at an estimated cost of $1,800,000.

### PEMBINA RIVER BASIN

The project for flood control on the Pembina River at Walhalla, North Dakota: Report of the Division Engineer dated May 24, 1976, at an estimated cost of $930,000.

### CALLEGUAS CREEK BASIN

The project for flood control and other purposes on Calleguas Creek, Simi Valley to Moorpark, Ventura County, California: Report of the Chief of Engineers dated June 21, 1976, at an estimated cost of $1,060,000.

### SACRAMENTO-SAN JOAQUIN BASIN

The project for flood control and other purposes on Morrison Creek Stream Group, California: Report of the Chief of Engineers dated March 2, 1976, at an estimated cost of $750,000.

(b) The Secretary of the Army is authorized to undertake advanced engineering and design for the projects in subsection (a) of this section after completion of the phase I design memorandum stage of such projects. Such advanced engineering and design may be undertaken only upon a finding by the Chief of Engineers, transmitted to the Committees on Public Works of the Senate and Public Works and Transportation of the House of Representatives, that the project is without substantial controversy, that it is substantially in accordance with and subject to the conditions recommended for such project in this section, and that the advanced engineering and design will be compatible with any project modifications which may be under consideration. There is authorized to carry out this subsection not to exceed $5,000,000. No funds appropriated under this subsection may be used for land acquisition or commencement of construction.

(c) Whenever the Chief of Engineers transmits his recommendations for a water resources development project to the Secretary of the Army for transmittal to the Congress, as authorized in the first section of the Act of December 22, 1944, the Chief of Engineers is authorized to undertake the phase I design memorandum stage of advanced engineering and design of such project if the Chief of Engineers finds and transmits to the Committees on Public Works and Transportation of the House of Representatives and Public Works of the Senate, that the project is without substantial controversy and justifies further engineering, economic, and environmental investigations. Authorization for such phase I work for a project shall terminate on the date of enactment of the first Water Resources Development Act enacted after the date such work is first authorized. There is authorized to carry out this subsection not to exceed $4,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

SEC. 102. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

### NORTH-EASTERN ATLANTIC COASTAL REGION

The project for navigation improvements in New London Harbor and Thames River at New London, Connecticut: Report of the Chief of Engineers dated February 20, 1975, at an estimated cost of $8,022,000.

### UPPER MISSISSIPPI RIVER BASIN

The project for local flood protection and other purposes at Chaska, Minnesota, on the Minnesota River: Report of the Chief of Engineers dated May 12, 1976, at an estimated cost of $10,498,000.

### RED RIVER OF THE NORTH BASIN

The project for local flood protection at Grafton, North Dakota, on the Park River: Report of the Chief of Engineers dated June 11, 1976, at an estimated cost of $10,973,000.

### LOWER MISSISSIPPI RIVER BASIN

The project for flood control for Harris Fork Creek, Tennessee and Kentucky: House Document Numbered 94–221, except that highway bridge relocations and alterations required for the project shall be at Federal expense, at an estimated cost of $5,000,000.

### RED RIVER BASIN

The project for flood control and other purposes in the Red River below Denison Dam, Arkansas and Louisiana: Report of the Chief of Engineers dated August 3, 1976, at an estimated cost of $4,401,000.

### NECHES BASIN

The project for salt water control on the Neches River and Tributaries, Salt Water Barrier at Beaumont, Texas: Report of the Chief of Engineers dated April 12, 1976, at an estimated cost of $14,300,000, except that the non-Federal share for such project shall not exceed $2,100,000.

### WESTERN COASTAL REGION

The project for navigation in Los Angeles-Long Beach Harbors, California: House Document Numbered 94–594, at an estimated cost of $16,850,000.

SEC. 103. (a) The flood control project for San Antonio Channel improvement, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1260) as a part of the comprehensive plan for flood protection on the Guadalupe and San Antonio Rivers, Texas, is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct such additional flood control measures as are needed to preserve and protect the Espada Acequia Aqueduct, located in the vicinity of Six Mile Creek, at an estimated Federal cost of $2,050,000. Construction of such flood control measures shall be subject to the same conditions of local cooperation as required for the existing flood control project.

SEC. 104. The project for flood protection on the Minnesota River at Mankato and North Mankato, Minnesota, authorized by section 203 of the Flood Control Act of 1958, as modified, is hereby further modified to provide that changes to the highway bridges in Mankato-North Mankato at United States Highway 169 over the Blue Earth River and at Main Street over the Minnesota River, including rights-of-way, changes to approaches and relocations, made necessary by the project and its present plan of protection shall be accomplished at complete Federal expense, at an estimated cost of $8,175,000.

SEC. 105. The general comprehensive plan for flood control and other purposes for the White River Basin approved by the Flood Control Act of June 28, 1938, as amended, is hereby modified to provide that an amount not to exceed $6,000,000 may be used for the construction at Beaver Dam, Carroll County, Arkansas, of trout production measures (including a fish hatchery) in compensation for the reduced number of fresh water fish in the White River and other streams in Arkansas which has resulted from the construction of the Beaver Dam and other dams in the State of Arkansas, and for the acquisition of necessary real estate, construction of access roads and utilities, and performance of services related thereto, as deemed appropriate by the Secretary of the Army, acting through the Chief of Engineers.

SEC. 106. (a) The project for hurricane-flood control protection at New London, Connecticut, authorized by the Flood Control Act of 1962 (76 Stat. 1180) is hereby modified to delete the Powder Island-Bentleys Creek hurricane protection barrier; and to authorize construction of the Shaw Cove hurricane protection barrier, pressure conduit, and pumping station works substantially in accordance with the revised plan "New London Hurricane Protection", dated June 1976, on file in the Office of the Chief of Engineers and estimated to cost $7,745,000; with such modifications as the Chief of Engineers may deem advisable.

(b) Prior to initiation of construction of the project, appropriate non-Federal interests shall agree—

(1) to provide without cost to the United States all lands, easements, and rights-of-way necessary for construction and operation of the project;

(2) to hold and save the United States free from damage due to construction, operation, and maintenance of the project not including damages due to the fault or negligence of the United States or its contractors;

(3) to accomplish without cost to the United States all modifications or relocations of existing sewerage and drainage facilities, buildings, utilities, and highways made necessary by construction of the project not to include sewerage and drainage facilities at the line of protection;

(4) to maintain and operate all features of the project after completion in accordance with regulations prescribed by the Secretary of the Army; and

(5) to bear 30 per centum of the total first cost.

(c) Notwithstanding subsection (b) of this section, or any other provision of law, non-Federal interests shall bear no part of the cost of any design for this project rejected or otherwise not accepted by such interests prior to the date of enactment of this section.

Sec. 107. Section 107(b) of the River and Harbor Act of 1970 (84 Stat. 1818, 1820), as amended, is further amended by striking out "December 31, 1976" and inserting in lieu thereof "June 30, 1979" and striking out "$9,500,000" and inserting in lieu thereof "$15,968,000". Such section 107(b) is further amended in the second sentence thereof by striking out "environmental and ecological investigation;" and inserting in lieu thereof "environmental and ecological investigations, including an investigation of measures necessary to ameliorate any adverse impacts upon local communities;".

Sec. 108. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineers and design of the Chicagoland underflow plan project for flood control and other purposes in accordance with the report of the Board of Engineers for Rivers and Harbors dated July 27, 1976, at an estimated cost of $12,000,000. The preceding sentence shall take effect on the date of the Chief of Engineers submits to the Secretary of the Army his recommendations with respect to such project for transmittal to Congress.

Sec. 109. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for flood control and other purposes on the Santa Ana River, California, in accordance with the recommendations of the division engineer dated February 27, 1976 at an estimated cost of $700,000. The preceding sentence shall take effect on the date the Chief of Engineers submits to the Secretary of the Army his recommendations with respect to such project for transmittal to Congress.

Sec. 110. The project for navigation for the Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina, authorized by section 101 of the Rivers and Harbors Act of 1970 (84 Stat. 1818) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–597 with respect to Wilkerson Creek Bridge, North Carolina, and Coinjock Bridge, North Carolina, at an estimated cost of $2,875,000.

Sec. 111. The project for the Saylorville Reservoir on the Des Moines River, Iowa, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 310) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–487 at an estimated cost of $7,374,000. The Secretary of the Army, acting through the Chief of Engineers, may carry out each segment of such recommendations independently if he deems appropriate. The Secretary of the Army, acting through the Chief of Engineers is further authorized to (1) undertake such measures, including renegotiating existing easements and the acquisition of additional interests in land, as are appropriate to operate Saylorville Lake and Lake Red Rock projects, singly or as a system, to obtain the maximum benefits therefrom in the public interest and to properly indemnify owners of such easements or interests in land; and (2) provide for the full development of campground and other recreation sites and access thereto for the Lake Red Rock and Saylorville Lake projects at Federal cost, including the improvement of existing county or State roads outside the project limits to provide better access into recreation areas.

Sec. 112. The project for navigation improvements on Mobile Harbor, Theodore Ship Channel, Alabama, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives dated December 15, 1970, is hereby modified in accordance with the report of the Board of Engineers for Rivers and Harbors dated May 28, 1976, at an estimated cost of $42,800,000.

Sec. 113. The flood control project for Alabama Creek, California, authorized by section 203 of the Flood Control Act of 1962 is hereby modified in accordance with the report of the Chief of Engineers dated July 27, 1976.

Sec. 114. The project for the replacement of Vermilion Lock, Louisiana, on the Gulf Intracoastal Waterway is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in the report dated August 3, 1976, at an estimated cost of $20,683,000.

Sec. 115. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase 1 design memorandum stage of advanced engineering and design of modification of the Gallipolis Locks and Dam project, Ohio River, limited to a single 1,200 foot replacement lock, in accordance with the recommendations of the Chief of Engineers dated July 14, 1975, at an estimated cost of $2,800,000.

Sec. 116. The last sentence of section 91 of the Water Resources Development Act of 1974 (88 Stat. 39) is amended to read as follows: "There are authorized to be appropriated not to exceed $25,700,000 to carry out such project.".

Sec. 117. The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate and study, in cooperation with interested States and Federal agencies, through the Upper Mississippi River Basin Commission the development of a river system management plan in the format of the "Great River Study" for the Mississippi River from the mouth of the Ohio River to the head of navigation at Minneapolis, incorporating total river resource requirements including, but not limited to, navigation, the effects of increased barge traffic, fish and wildlife, recreation, watershed management, and water quality at an estimated cost of $9,100,000.

Sec. 118. (a) Whenever the Secretary of the Army finds that—

(1) the Intracoastal Waterway is no longer routed along a part of the segment of the Louisiana-Texas Intracoastal Waterway right-of-way described in subsection (b) of this section;

(2) maintenance of such part of the right-of-way has been abandoned by the Corps of Engineers; and

(3) such part of the right-of-way is no longer navigable by watercraft;

he shall convey, without monetary consideration, any easements or other rights or interests in real property which the United States acquired for the construction, operation, or maintenance of such part of the right-of-way to each owner of record of the real property which is subject to such easements, rights, or interests of the United States.

(b) The segment of the Louisiana-Texas Intracoastal Waterway right-of-way referred to in subsection (a) of this section is that segment of the right-of-way for the Louisiana-Texas Intracoastal Waterway, Calcasieu-Sabine section, which (1) is within the portion of the right-of-way for the old Intracoastal Waterway channel (known locally as the "East West Canal") extending from the east bank of the Calcasieu River at a point approximately twenty miles south of Lake Charles, Louisiana, to the Choupique Cutoff in the Intracoastal Waterway, and (2) is located on the southeast quarter of the southeast quarter of section 25, township 11 south, range 10 west, and in the west half of the southwest quarter of section 30, township 11 south, range 9 west, Calcasieu Parish, Louisiana.

Sec. 119. Section 4 of the Act of June 21, 1940, as amended (54 Stat. 498; 33 U.S.C. 514), is amended in the first sentence by striking out "It shall be the duty of the bridge owner to prepare and submit to the Secretary, within ninety days after service of his order" and inserting in lieu thereof "After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary of Transportation, within a reasonable time as prescribed by the Secretary".

Sec. 120. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources development projects under the jurisdiction of the Secretary of the Army to meet needs during peak visitation periods.

(b) There is authorized to be appropriated $6,000,000 per fiscal year for the fiscal years ending September 30, 1978, and September 30, 1979, to carry out this section.

Sec. 121. (a) The project for flood protection on the North Branch of the Susquehanna River, New York and Pennsylvania, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 306) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, in connection with the construction of the Cowanesque Dam to relocate the town of Nelson, Pennsylvania, to a new townsite.

(b) As part of such relocation, the Secretary of the Army, acting through the Chief of Engineers, shall (1) cooperate in the planning of a new town with other Federal agencies and appropriate non-Federal interests, including Nelson, (2) acquire lands necessary for the new town and to convey title to said lands to individuals, business or other entities, and to the town as appropriate, and (3) construct necessary municipal facilities.

(c) The compensation paid to any individual or entity for the taking of property under this section shall be the amount due such individual or entity under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 less the fair market value of the real property conveyed to such individual or entity in the new town. Municipal facilities provided under the authority of this section shall be substitute facilities which serve reasonably as well as those in the existing town of Nelson, except that such facilities shall be constructed to such higher standards as may be necessary to comply with applicable Federal and State laws. Additional facilities may be constructed, only at the expense of appropriate non-Federal interests.

(d) Before the Secretary of the Army acquires any real property for the new townsite appropriate non-Federal interests shall furnish binding contractual commitments that all lots in the new townsite will be either occupied when available, will be replacements for open space and vacant lots in the existing town, or will be purchased by non-Federal interests at the fair market value.

SEC. 122. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review the requirement of local cooperation with respect to providing a spoil disposal area for the project at Deep Creek, Warwick County (now within the City of Newport News), Virginia, authorized by the Act of August 26, 1937 (commonly referred to as the River and Harbor Act of 1937, 50 Stat. 846), to determine if (1) such requirement should be eliminated, and (2) Craney Island disposal area should be used as the spoil disposal area for dredged material from such project. Such review shall be completed and submitted in a report to Congress within two years after the date of enactment of this section.

(b) Beginning on the date of enactment of this section, (1) the requirement of local cooperation described in subsection (a) shall be suspended, and (2) Craney Island disposal area shall be used as the spoil disposal area for dredged material from such project, until Congress, by a statute enacted after the date on which the report required by subsection (a) is submitted, removes such suspension.

SEC. 123. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the Los Angeles-Long Beach harbor model in Vicksburg, Mississippi, for the purpose of testing proposals for the improvement of navigation in, and the environmental quality of, the harbor waters of the ports of Los Angeles and Long Beach to determine optimum plans for future expansion of both ports. Such testing shall include, but not be limited to, investigation of oscillations, tidal flushing characteristics, water quality, improvements for navigation, dredging, harbor fills, and physical structures.

SEC. 124. (a) The Corpus Christi ship canal project for navigation in Corpus Christi Bay, Texas, authorized by the Rivers and Harbors Act of 1968 (P.L. 90–483) is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, and embankments therefor. Credit shall be allowed in connection with the above project in an amount equal to the reasonable expenditures made by non-Federal interests in the acquisition of spoil areas and construction of necessary retaining dikes, bulkheads, and embankments prior to the effective date of the Water Resources Development Act of 1976.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Texas, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 125. For purposes of section 9 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), the consent of Congress is hereby given to the State of Louisiana to construct such structures across any navigable water of the United States as may be necessary for the construction of the following highways:

(1) Ivanhoe-Jeanerette, State project numbered 431–01–01 and 431–01–02 in Iberia and Saint Mary Parishes, Louisiana;

(2) Larose-Lafitte Highway, State Route La 3134 in Jefferson and Lafourche Parishes, Louisiana, starting at Estelle in Jefferson Parish and proceeding southwesterly to Larose in Lafourche Parish; and

(3) United States 90 Relocated (La 3052), in Saint Mary, Assumption, Terrebonne, and Lafourche Parishes, Louisiana, starting at United States 90 west of Raceland and proceeding westerly to a connection with United States 90 at or near Morgan City, Louisiana.

SEC. 126. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of a project for flood prevention and development of incidental recreation, preservation of the natural floodways, and protection of the watershed's soil resources, at an estimated cost of $370,000, substantially in accordance with the Floodwater Management Plan, North Branch of the Chicago River Watershed, Cook and Lake Counties, Illinois, dated October 1974, and also substantially in accordance with the watershed implementation program dated February 1974.

SEC. 127. The project for Wister Lake, Arkansas River Basin, Oklahoma, authorized by section 4 of the Act of June 28, 1938, entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" (52 Stat. 1218) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to recover and preserve important data from significant archeological sites located on project lands which will be adversely affected as a result of a change in seasonal pool operations. The costs of such work shall not exceed $250,000.

SEC. 128. (a) The Secretary of the Army is authorized and directed to convey by quitclaim deed to C. B. Porter Scott and Dorothy Boren Scott of the county of Randall, State of Texas, all rights, title, and interest of the United States in and to the following described tract of land acquired as part of the project for Belton Lake, Texas, authorized by the Flood Control Act of 1946:

A tract of land situated in the county of Bell, State of Texas, being part of the Stephen F. Terry Survey (A–812), and being part of a 271-acre tract of land acquired by the United States of America from Frank Morgan, and others, by Declaration of Taking filed September 11, 1952, in Condemnation Proceedings (civil numbered 1311) in the District Court of the United States for the Western District of Texas, Waco Division, and being designated as "Tract Numbered F–505 for Belton Lake", and being more particularly described as follows, all bearings being referred to the Texas Plane Coordinate System, Central Zone:

Beginning at Government marker numbered F–503–2, situated in a northeasterly boundary line for said tract numbered F–505 for the point of beginning, said point of beginning being the southeast corner for a 0.25 acre tract of land acquired by the United States of America from Edward Cameron, et ux, by deed dated January 13, 1953, and recorded in volume 679 at page 456 and by correction deed dated May 25, 1955, and recorded in volume 722 at page 550 of the deed records of Bell County, Texas, and being designated as "Tract Numbered F–503 for Belton Lake", said point of beginning also being located south 74 degrees 21 minutes east, 38.3 feet from a point on top of the bluff for a reentrant corner for said tract numbered F–505;

thence along the boundary line for said tract numbered F–505 as follows; south 74 degrees and 21 minutes east, 271.70 feet to a point;

thence south 45 degrees 14 minutes west, 154.5 feet to a point;

thence south 28 degrees 09 minutes east, 185 feet to a point;

thence north 73 degrees 45 minutes west, 324.23 feet to Government marker numbered A–65–9 for a northeast corner for a 79.70-acre tract of land acquired by the United States of America from Eleanor M. Paulk, and others, by deed dated July 28, 1952, and recorded in volume 672 at page 233 of the deed records of Bell County, Texas, and being designated as "Tract Numbered A–65 for Belton Lake";

thence departing from the boundary line for said tract numbered F–505, north 27 degrees 53 minutes west, 169.85 feet to a point;

thence north 55 degrees 26 minutes east, 184 feet more or less, to the point of beginning, containing 1.87 acres, more or less.

(b) The grantees shall, as a condition to the conveyance authorized by subsection (a), pay to the United States an amount equal to the sum originally paid by the United States for the tract of land described in subsection (a) of this section.

SEC. 129. (a) The project for Blue Marsh Lake, Berks County, Pennsylvania, a part of the plan for the comprehensive development of the Delaware River Basin, as authorized by section 201 of the Flood Control Act of 1962 (76 Stat. 1183), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to relocate and restore intact the historic structure and associated improvements known as the Gruber Wagon Works located on certain Federal lands to be inundated upon completion of the project, at an estimated cost of $922,000.

(b) Upon completion of the relocation and restoration of the Gruber Wagon Works at a site mutually agreeable to the Secretary of the Army and the County of Berks, title to the structure and associated improvements and equipment shall be transferred to the County of Berks upon condition that such county agree to maintain such historic property in perpetuity as a public museum at no cost to the Federal Government.

SEC. 130. The authorized McClellan-Kerr Arkansas River navigation system is hereby modified to provide a nine-foot deep navigation channel, one hundred feet in width, extending approximately ten miles from the McClellan-Kerr navigation sailing line upstream on the Big Sallisaw Creek and Little Sallisaw Creek to and including a turning basis, near United States Highway 59, in a location generally conforming to Site I, as described in the Tulsa District Engineer's Project Formulation Memorandum entitled "Big and Little Sallisaw Creeks, Oklahoma, Section 107 Navigation Project" dated August 1973, at an estimated cost of $1,200,000.

SEC. 131. (a) The first sentence of section 201(a) of the Flood Control Act of 1965 (Public Law 89–298) is amended by striking out "$10,000,000." and inserting in lieu thereof "$15,000,000.".

(b) Section 201(b) of such Act is amended by striking out "$10,000,000" and inserting in lieu thereof "$15,000,000".

SEC. 132. The project for flood protection on the Souris River at Minot, North Dakota, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives under authority of section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962–5), and modified by section 105 of the Water Resources Development Act of 1974 (88 Stat. 42), is hereby further modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to reimburse the designated non-Federal interest for the estimated additional expense (exceeding that set forth in such section 105) incurred by such non-Federal interest in undertaking its required cooperation for the proposed channel realinement in the downstream area of the project near Logan, North Dakota, except that such reimbursement shall not exceed $250,000.

Sec. 133. (a) Subsection (b) of section 107 of the River and Harbor Act of 1960 (74 Stat. 480) is further amended by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

(b) Section 61 of the Water Resources Development Act of 1974 (88 Stat. 12) is amended as follows:

(1) By striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

(2) By striking out "$2,000,000" and inserting in lieu thereof "$3,000,000".

(c) The amendments made by this section shall not apply to any project under contract for construction on the date of enactment of the Water Resources Development Act of 1976.

Sec. 134. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to include in the survey report on flood protection on Mingo Creek and its tributaries, Oklahoma, authorized by section 208 of the Flood Control Act of 1965, the costs and benefits of local improvements initiated by the city of Tulsa for such flood protection subsequent to January 1, 1975, which the Chief of Engineers determines are compatible with and constitute an integral part of his recommended plan. In determining the appropriate non-Federal share for such project, the Chief of Engineers shall give recognition to costs incurred by non-Federal interest in carrying out such local improvements.

Sec. 135. The project for Port San Luis, San Luis Obispo Harbor, California, authorized by section 301 of the River and Harbor Act of 1965, is hereby modified substantially in accordance with the plan described in the Los Angeles District Engineers report on "Port San Luis, California" dated April 1976, and the conditions of local cooperation specified in subparagraphs 1.a. through 1.o. of appendix 7 thereof, at an estimated cost of $6,040,000.

Sec. 136. (a) The project for flood control on the Napa River, Napa County, California, authorized by section 204 of the Flood Control Act of 1965, is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to acquire approximately 577 acres of land for the purpose of mitigating adverse impacts on fish and wildlife occasioned by the project. The non-Federal share of the cost of such lands shall be the percentage as that required for the overall project.

(b) Such project is further modified to include construction by the Secretary of the Army acting through the Chief of Engineers, of the Napa Creek watershed project of the Soil Conservation Service approved June 25, 1962.

(c) No part of the cost of the modified project authorized by this section, shall include the cost of the Secretary of the Army, acting through the Chief of Engineers, performing maintenance dredging for the navigation project for the Napa River.

Sec. 137. The project for flood control in East St. Louis and vicinity, Illinois, authorized by section 204 of the Flood Control Act approved October 27, 1965, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the Blue Waters Ditch segment of the overall project independently of the other project segments. Prior to initiation of construction of the Blue Waters Ditch segment, appropriate non-Federal interests shall agree, in accordance with the provisions of section 221 of the Flood Control Act of 1970, to furnish non-Federal cooperation for such segment.

Sec. 138. The Secretary of the Army, acting through the Chief of Engineers, shall continue studies and construction of bank protection works pursuant to the project for the Sacramento River, Chico Landing to Red Bluff, California, authorized by the Flood Control Act of 1958, notwithstanding the completion of the remaining ten sites proposed for construction at the time of enactment of this Act.

Sec. 139. The project for Waurika Dam and Reservoir on Beaver Creek, Oklahoma, authorized by the Act of December 30, 1963 (P.L. 88–253), is hereby modified to provide that the interest rate applicable to the repayment by non-Federal interests of the cost of the water conveyance facilities shall be the same as the interest rate established for repayment of the cost of municipal and industrial water supply storage in the reservoir.

Sec. 140. In the case of any authorized navigation project which has been partially constructed, or is to be constructed, which is located in one or more States, and which serves regional needs, the Secretary of the Army, acting through the Chief of Engineers, may include in any economic analysis which is under preparation at the time of enactment of this Act such regional economic development benefits as he determines to be appropriate for purposes of computing the economic justification of the project.

Sec. 141. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make a study and report which shall include his conclusions and recommendations to the Congress on the advisability and feasibility of providing flood protection by dredging the Susquehanna River in the Wyoming Valley, Pennsylvania, and the surrounding region.

Sec. 142. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to investigate the flood and related problems to those lands lying below the plane of mean higher high water along the San Francisco Bay shoreline of San Mateo, Santa Clara, Alameda, Napa, Sonoma and Solano Counties to the confluence of the Sacramento and San Joaquin Rivers with a view toward determining the feasibility of and the Federal interest in providing protection against tidal and fluvial flooding. The investigation shall evaluate the effects of any proposed improvements on wildlife preservation, agriculture, municipal and urban interests in coordination with Federal, State, regional, and local agencies with particular reference to preservation of existing marshland in the San Francisco Bay region.

Sec. 143. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make a study in cooperation with the government of the Territory of American Samoa with particular reference to providing a plan for the development, utilization, and conservation of water and related land resources. Such study shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

Sec. 144. The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the State of Hawaii and appropriate units of local government, shall make a study of methods to develop, utilize, and conserve water and land resources in the Hilo Bay Area, Hawaii. Such study shall include, but not be limited to, consideration of the need for flood protection, appropriate use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, recreation facilities, enhancement and conservation of water quality, enhancement and conservation of fish and wildlife, other measures for environmental enhancement, and economic and human resources development. Based upon the findings of such study, the Secretary of the Army, acting through the Chief of Engineers, shall prepare a plan for the implementation of such findings which shall be compatible with other comprehensive development plans prepared by local planning agencies and other interested Federal agencies.

Sec. 145. The Secretary of the Army, acting through the Chief of Engineers, is authorized upon request of the State, to place on the beaches of such State beach-quality sand which has been dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches, if the Secretary deems such action to be in the public interest and upon payment of the increased cost thereof above the cost required for alternative methods of disposing of such sand.

Sec. 146. The project for harbor improvement at Noyo, Mendocino County, California, authorized by the River and Harbor Act of 1962 (76 Stat. 1173), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct such breakwaters as may be needed to provide necessary protection, but not more than two, and to construct such additional channel improvements, including, but not limited to, deepening, widening, and extensions, as he deems necessary to meet applicable economic and environmental criteria.

Sec. 147. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to conduct hydrographic surveys of the Columbia River from Richland, Washington, to Grand Coulee Dam for the purpose of identifying navigational hazards and preparing maps of the river channel at an estimated cost of $500,000, and providing information necessary for establishment of aids to navigation.

Sec. 148. The Secretary of the Army, acting through the Chief of Engineers, shall utilize and encourage the utilization of such management practices as he determines appropriate to extend the capacity and useful life of dredged material disposal areas such that the need for new dredged material disposal areas is kept to a minimum. Management practices authorized by this section shall include, but not be limited to, the construction of dikes, consolidation and de-watering of dredged material, and construction of drainage and outflow facilities.

Sec. 149. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to remove Shooters' Island located north of Staten Island, New York, at the mouth of Arthur Kill and to utilize such removed material for fill and widening of Arthur Kill.

Sec. 150. The Secretary of the Army, acting through the Chief of Engineers, is authorized to plan and establish wetland areas as part of an authorized water resources development project under his jurisdiction. Establishment of any wetland area in connection with the dredging required for such a water resources development project may be undertaken in any case where the Chief of Engineers in his judgment finds that—

(1) environmental, economic, and social benefits of the wetland area justifies the in-

creased cost thereof above the cost required for alternative methods of disposing of dredged material for such project; and

(2) the increased cost of such wetland area will not exceed $400,000; and

(3) there is reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man-made causes.

(b) Whenever the Secretary of the Army, acting through the Chief of Engineers, submits to Congress a report on a water resources development project after the date of enactment of this section, such report shall include, where appropriate, consideration of the establishment of wetland areas.

(c) In the computation of benefits and cost of any water resources development project the benefits of establishing of any wetland area shall be deemed to be at least equal to the cost of establishing such area. All costs of establishing a wetland area shall be borne by the United States.

Sec. 151. The project for the Chief Joseph Dam authorized by the Act of July 2, 1946 (Public Law 525, 79th Congress) is modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide such school facilities as he may deem necessary for the education of dependents of persons engaged in the construction of additional hydroelectric power facilities at Chief Joseph Dam and Reservoir, Washington. When he determines it to be in the public interest, the Secretary, acting through the Chief of Engineers, may enter into cooperative arrangements with local and Federal agencies for the operation of such Government facilities, for the expansion of local facilities at Federal expense, and for contributions by the Federal Government to cover the increased cost to local agencies of providing the educational services required by the Government.

Sec. 152. The Secretary of the Army, acting through the Chief of Engineers, is authorized to participate in the construction of a levee and protective seawall at Liberty Park, New Jersey, at an estimated cost of $12,600,000. Appropriate non-Federal interests shall furnish all necessary lands, easements, and rights-of-way necessary for such project and shall contribute 30 per centum of the total cost exclusive of land costs.

Sec. 153. The last sentence under the center heading "ARKANSAS-RED RIVER BASIN" in section 201 of the Flood Control Act of 1970 (84 Stat. 1825) is amended to read as follows: "Construction shall not be initiated on any element of such project until such element has been approved by the Secretary of the Army and the President.".

Sec. 154. The prohibitions and provisions for review and approval concerning wharves and piers in waters of the United States set forth in section 10 of the Act of March 3, 1899 (30 Stat. 1151) and the first section of the Act of June 13, 1902 (32 Stat. 371) shall not apply to any body of water located entirely within one State which is, or could be, considered to be a navigable body of water of the United States solely on the basis of historical use in interstate commerce.

Sec. 155. (a) Subsection (c) of section 32 of the Water Resources Development Act of 1974 (Public Law 93–251) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and by adding at the end thereof the following:

"(5) the delta of the Eel River, California.".

(b) Subsection (e) of such section 32 is amended to read as follows:

"(e) There is authorized to be appropriated not to exceed $50,000,000 to carry out this section.".

Sec. 156. The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide periodic beach nourishment in the case of each water resources development project where such nourishment has been authorized for a limited period for such additional period as he determines necessary but in no event shall such additional period extend beyond the fifteeth year which begins after the date of initiation of construction of such project.

Sec. 157. (a) Section 12(b) of the Water Resources Development Act of 1974 (88 Stat. 17) is amended by striking out "one hundred and eighty" each time it appears and inserting in lieu thereof "ninety".

(b) The amendment made by subsection (a) of this section shall take effect on January 1, 1977.

Sec. 158. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a comprehensive study and report on the system of waterway improvements under his jurisdiction. The study shall include a review of the existing system and its capability for meeting the national needs including emergency and defense requirements and an appraisal of additional improvements necessary to optimize the system and its intermodal characteristics. The Secretary of the Army, acting through the Chief of Engineers, shall submit a report to Congress on this study, within three years after funds are first appropriated and made available for the study, together with his recommendations. The Secretary of the Army, acting through the Chief of Engineers, shall, upon request, from time to time make available to the National Transportation Policy Study Commission established by section 154 of Public Law 94–280, the information and other data developed as a result of the study.

Sec. 159. The Marysville Lake project, California, authorized by the Flood Control Act of 1966 (80 Stat. 1405), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake the phase I design memorandum stage of advanced engineering and design for a multiple-purpose project located at the Parks Bar site, including power development with pumped storage, at an estimated cost of $150,000.

Sec. 160. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for hydroelectric power on the Susitna River, Alaska, in accordance with the recommendations of the Board of Engineers for Rivers and Harbors in its report dated June 24, 1976, at an estimated cost of $10,500,000. The preceding sentence shall take effect on the date of the Chief of Engineers submits to the Secretary of the Army his recommendations with respect to such project for transmittal to Congress.

Sec. 161. Section 3 of the Act of August 11, 1888 (25 Stat. 243; 33 U.S.C. 622) is amended to read as follows:

"Sec. 3. (a) The Secretary of the Army in carrying out projects for improvement of rivers and harbors (other than surveys, estimates, and gaugings) shall carry out such work by contract or otherwise as may be most economical and advantageous to the United States. The Secretary of the Army, acting through the Chief of Engineers, shall have dredging and related work done by contract if he determines private industry has the capability to do such work and it can be done at reasonable prices. During the first year of the period which begins on the date of enactment of the Water Resources Development Act of 1976, the Secretary may limit the application of this section to 25 per centum of the total work for which the federally owned fleet is available, and during the second year of such period to 50 per centum.

"(b) To carry out emergency and national defense work, the Secretary of the Army, acting through the Chief of Engineers, may retain the minimum fleet capable of performing such work, and he may exempt from the provisions of this section such amount of work as he determines to be reasonably necessary to keep such fleet operational. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a study, at an estimated Federal cost of $100,000, to determine the minimum fleet required to perform emergency and national defense work. The study shall also include preservation of the employee rights of persons employed on the date of enactment of the Water Resources Development Act of 1976 on the existing dredge fleet. The study shall be submitted to Congress within two years after funds are first appropriated and made available for such study."

Sec. 162. Section 8 of the Act of March 2, 1919 (40 Stat. 1290; 33 U.S.C. 624), is amended to read as follows:

"Sec. 8. (a) No works of river and harbor improvement shall be done by private contract:

"(1) if the Secretary of the Army, acting through the Chief of Engineers, determines that Government plant is reasonably available to perform the subject work and the contract price for doing the work is more than 25 per centum in excess of the estimated comparable cost of doing the work by Government plant; or

"(2) in any other circumstance where the Secretary of the Army, acting through the Chief of Engineers, determines that the contract price is more than 25 per centum in excess of what he determines to be a fair and reasonable estimated cost of a well-equipped contractor doing the work.

"(b) In estimating the comparable cost of doing the work under subsection (a)(1) by Government plant the Secretary of the Army, acting through the Chief of Engineers shall, in addition to the cost of labor and materials, take into account proper charges for depreciation or replacement of plant, all supervising and overhead expenses, interest on the capital invested in the Government plant (but the rate of interest shall not exceed the maximum prevailing rate being paid by the United States on current issues of bonds or other evidences of indebtedness) and such other Government expenses and charges as the Chief of Engineers determines to be appropriate.

"(c) In determining a fair and reasonable estimated cost of doing work by private contract under subsection (a)(2), the Secretary of the Army, acting through the Chief of Engineers, shall, in addition to the cost of labor and materials, take into account proper charges for depreciation or replacement of plant, all expenses for supervision, overhead, workmen's compensation, general liability insurance, taxes (State and local), interest on capital invested in plant, and such other expenses and charges the Secretary of the Army, acting through the Chief of Engineers, determines to be appropriate.".

Sec. 163. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study waters and surface transportation needs resulting from the expansion and further development of the San Pedro Bay ports. Such study shall include, but not be limited to, the feasibility and advisability of enlarging the Dominguez Channel for flood control purposes.

Sec. 164. The project for the Snake River, Oregon, Washington, and Idaho, authorized in section 2 of the River and Harbor Act of 1945 (59 Stat. 21) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct at full Federal expense a four-lane, high-level highway bridge and approaches thereto connecting the cities of Lewiston, Idaho, and Clarkston, Washington, at or near river mile 141.3 of the Snake River, approximately two miles upstream of the present United States Highway 12 bridge. Before construction may be initiated the non-Federal interests shall agree pursuant to section 221 of the Flood Control Act of 1970

(P.L. 91–611) to (1) hold and save the United States free from damages resulting from construction of the bridge and its approaches, (2) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the bridge and its approaches, and (3) own, maintain, and operate the bridge and its approaches after construction is completed, free to the public.

SEC. 165. That portion of the first section of the Act of September 1, 1916 (39 Stat. 693) entitled "Washington Aqueduct" is hereby repealed.

SEC. 166. In order to alleviate water damage on the shoreline of Lake Michigan and others of the Great Lakes during periods of abnormally high water levels in the Great Lakes, and to improve the water quality of the Illinois Waterway, the Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a five-year demonstration program to temporarily increase the diversion of water from Lake Michigan at Chicago, Illinois, for the purpose of testing the practicability of increasing the average annual diversion from the present limit of three thousand two hundred cubic feet per second to ten thousand cubic feet per second. The demonstration program will increase the controllable diversion by various amounts calculated to raise the average annual diversion above three thousand two hundred cubic feet per second up to ten thousand cubic feet per second. The increase in diversion rate will be accomplished incrementally and will take into consideration the effects of such increase on the Illinois Waterway. The program will be developed by the Chief of Engineers in cooperation with the State of Illinois and the Metropolitan Sanitary District of Greater Chicago. The program will be implemented by the State of Illinois and the Metropolitan Sanitary District of Greater Chicago under the supervision of the Chief of Engineers.

(b) During the demonstration program a controllable diversion rate will be established for each month calculated to establish an annual average diversion from three thousand two hundred cubic feet per second to not more than ten thousand cubic feet per second. When the level of Lake Michigan is below its average level, the total diversion for the succeeding accounting year shall not exceed three thousand two hundred cubic feet per second on an annual basis. The average level of Lake Michigan will be based upon the average monthly level for the period from 1900 to 1975.

(c) When river stages approach or are predicted to approach bankfull conditions at the established flood warning stations on the Illinois Waterway or the Mississippi River, water shall not be diverted directly from Lake Michigan at the Wilmette, O'Brien, or Chicago River control structures other than as necessary for navigational requirements.

(d) The Chief of Engineers shall conduct a study and a demonstration program to determine the effects of the increased diversion on the levels of the Great Lakes, on the water quality of Illinois Waterway, and on the susceptibility of the Illinois Waterway to additional flooding. The study and demonstration program will also investigate any adverse or beneficial impacts which result from this section. The Chief of Engineers, at the end of five years after the enactment of this section, will submit to the Congress the results of this study and demonstration program including recommendations whether to continue this authority or to change the criteria stated in subsection (b) of this section.

(e) For purposes of this section, controllable diversion is defined as that diversion at Wilmette, O'Brien and Chicago River control structures which is not attributable to leakage or which is not necessary for navigational requirements.

SEC. 167. (a) The Secretary of the Army, acting through the Chief of Engineers is authorized and directed to conduct a study of the most efficient methods of utilizing the hydroelectric power resources at water resource development projects under the jurisdiction of the Secretary of the Army and to prepare a plan based upon the findings of such study. Such study shall include, but not be limited to, an analysis of—

(1) the physical potential for hydroelectric development, giving consideration to the economic, social, environmental and institutional factors which will affect the realization of physical potential;

(2) the magnitude and regional distribution of needs for hydroelectric power;

(3) the integration of hydroelectric power generation with generation from other types of generating facilities;

(4) measures necessary to assure that generation from hydroelectric projects will efficiently contribute to meeting the national electric energy demands;

(5) the timing of hydroelectric development to properly coincide with changes in the demand for electric energy;

(6) conventional hydroelectric potential, both high head and low head projects utilizing run-of-rivers and possible advances in mechanical technology, and pumped storage hydroelectric potential at sites which evidence such potential;

(7) the feasibility of adding or reallocating storage and modifying operation rules to increase power production at corps projects with existing hydroelectric installations;

(8) measures deemed necessary or desirable to insure that the potential contribution of hydroelectric resources to the overall electric energy supply are realized to the maximum extent possible; and

(9) any other pertinent factors necessary to evaluate the development and operation of hydroelectric projects of the Corps of Engineers.

(b) Within three years after the date of the first appropriation of funds for the purpose of carrying out this section, the Secretary of the Army, acting through the Chief of Engineers, shall transmit the plan prepared pursuant to subsection (a) with supporting studies and documentation, together with the recommendations of the Secretary and the Chief of Engineers on such plan, to the Committee on Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(c) There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $7,000,000.

(d) The Secretary of the Army, acting through the Chief of Engineers, is authorized with respect to previously authorized projects to undertake feasibility studies of specific hydroelectric power installations that are identified in the course of the study authorized by this section, as having high potential for contribution toward meeting regional power needs. There is authorized to be appropriated to carry out this subsection not to exceed $5,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

SEC. 168. Subsection 22(b) of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by striking out "$2,000,000" and inserting in lieu thereof "$4,000,000".

SEC. 169. Notwithstanding any other provision of law, the project for Pine Mountain Lake on Lee Creek, Arkansas and Oklahoma, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1073), shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act (Public Law 89-72).

SEC. 170. The Little Dell Project, Salt Lake City Streams, Utah, authorized in section 203 of the Flood Control Act of 1968 (P.L. 90–483; 82 Stat. 744) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to decrease the amount of storage capacity so as to more adequately reflect existing needs.

SEC. 171. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project element involving the lowermost 10.1 mile-long segment of channel modification of Sowashee Creek at Meridian, Mississippi, substantially in accordance with the plan of development approved by the Administrator, Soil Conservation Service, United States Department of Agriculture, on October 15, 1974, at an estimated cost of $450,000.

SEC. 172. The project for assumption of maintenance of the Mermentau River and the Gulf of Mexico Navigation Channel, Louisiana, is hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions contained in the report of the Board of Engineers for Rivers and Harbors dated January 16, 1976, at an estimated annual cost of $155,000.

SEC. 173. The project for flood protection in the Bassett Creek Watershed, Minnesota, is hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions contained in the report of the Board of Engineers for Rivers and Harbors dated July 26, 1976, at an estimated cost of $7,593,000.

SEC. 174. The project for Caddo Dam and Reservoir, Louisiana, authorized by the Flood Control Act of 1965 (79 Stat. 1077, P.L. 89–298) is hereby modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

SEC. 175. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for harbor modification at Cleveland Harbor, Ohio, in accordance with the report of the District Engineer, dated June 1976, at an estimated cost of $500,000. This section shall take effect on the date the Chief of Engineers submits to the Secretary of the Army his recommendations with respect to such project for transmittal to Congress.

SEC. 176. Appropriations for any project which is authorized for initial construction by this Act are authorized for those fiscal years which begin on or after October 1, 1977.

SEC. 177. This title may be cited as the "Water Resources Development Act of 1976".

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title I be dispensed with, that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FITHIAN: Immediately before the last section of title I, add the following new section:

"SEC. 177. The Lafayette Dam and Reservoir, Wabash River, Indiana, authorized by section 204 of the Flood Control Act of 1965 (P.L. 89–298), is not authorized after the date of enactment of this Act."

Renumber the succeeding section accordingly.

**Mr. FITHIAN. Mr. Chairman, first let me commend the distinguished chairman of this committee and the distinguished chairman of the subcommittee. I think they have both done a yeoman job on an extraordinarily difficult task very late in the season. I fully understand and appreciate the impossibility of the subcommittee to have a series of deauthorization periods. It would be impossible and I am perfectly aware of that.**

I rise with this amendment because it represents an important part of the district which I represent. I rise because 10 of the 11 members of the Indiana delegation in this House have cosponsored a bill which I introduced, H.R. 13689, to deauthorize the project. As I say, 10 of the 11 members of the Indiana delegation are cosponsors of that bill.

I also would point out that the Republican Governor, Dr. Otis Bowen, has withdrawn State support for this project, making deauthorization the next step. On September 1, 1976, the Governor advised the committee of the withdrawal of State support saying:

> Congressional enactment of deauthorization legislation would be an appropriate step at this time. I would urge its enactment.

The entire letter reads as follows:

OFFICE OF THE GOVERNOR,
*Indianapolis, Ind., September 2, 1976.*
Hon. RAY ROBERTS,
*Chairman, Water Resources Subcommittee of House Committee on Public Works and Transportation, Washington, D.C.*

DEAR REPRESENTATIVE ROBERTS: I write in reference to pending legislation that would deauthorize the Lafayette Lake project of the Army Corps of Engineers in Indiana.

Several months ago, I concluded that a combination of factors argued against further action on this project and so advised the Army Corps of Engineers. In my telegram to the Corps, I stated that I do not foresee that the Indiana General Assembly will fund the state share of this project because of unrelenting opposition by citizens and legislators of the affected area. In addition, cost estimates for the project have escalated substantially, while the cost-benefit ratio has narrowed. It also is the general position of the State Administration that water supply represents the primary justification for reservoir projects. Water supply is not a component of the Lafayette Lake project.

Since that time, support for the project has continued to erode. Local interests in the area that would be affected by Lafayette Lake have undertaken studies of recreational alternatives. Deauthorization legislation at the state level will be pressed in the next session of the Indiana General Assembly in order to clear the way for possible state participation in the determination of recreational alternatives.

Congressional enactment of deauthorization legislation would be an appropriate step at this time. I would urge its enactment.

Kindest personal regards,
OTIS R. BOWEN, M.D.,
*Governor.*

Mr. FITHIAN. Mr. Chairman, the next item that I would call to the attention of the committee is the correspondence and discussions that we have had with the Army Corps of Engineers and the Office of Management and Budget.

The correspondence is as follows:

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
*Washington, D.C. July 19, 1976.*
Hon. FLOYD J. FITHIAN,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. FITHIAN: Thank you for your recent letter and views on H.R. 13689, to deauthorize Lafayette Lake.

The Committee on Public Works and Transportation, House of Representatives, has referred a copy of H.R. 13689 to the Department of the Army with a request for our views. Our response to the Committee's request is receiving staff consideration given to all requests of this kind.

Although we have not yet completed review of the matter, *there appears to be no basis to oppose the bill for the following reasons:*

a. Governor Bowen of Indiana unequivocally withdrew State support for the project on 22 April 1976.

b. Sentiment in the immediate locality, as evidenced by individuals and locally elected officials, is strongly opposed to the project.

c. There is no present prospect for obtaining required local cooperation.

I believe, however, that existing Army policy should be followed. This policy would reclassify the project and permit it to be considered as a candidate for deauthorization under Section 12 of Public Law 93-251.

Sincerely.
VICTOR V. VEYSEY
CHARLES R. FORD
*Assistant Secretary of the Army (Civil Works).*

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EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
*Washington, D.C., September 20, 1976.*
Hon. FLOYD J. FITHIAN,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. FITHIAN: This is in response to your letter of August 25, 1976, to Alan Wade concerning legislation to deauthorize the Lafayette Lake project.

We have discussed the Lafayette Lake project with the Department of the Army and *we certainly believe that deauthorization would be an appropriate action in view of the withdrawal of support for the project by the state of Indiana.* This could be accomplished either by specific legislation or by means of the deauthorization process provided by Section 12 of Public Law 93-251. As Mr. Ford has informed you, the Department of the Army believes that the latter course is preferable. If, however, the Congress wishes to follow the former course of action, this Office would have no objection.

Sincerely yours,
ALAN M. KRANOWITZ,
*Assistant to the Director for Congressional Relations.*

Mr. FITHIAN. Mr. Chairman, I would point out that I came to this project many years ago as a very strong supporter and continued to support it despite tremendous political pressure until it became apparent to me, less than a year ago, that it would be absolutely impossible to proceed with this project.

Proceeding with the project in the face of the Corps of Engineers figures which were given to me that the cost-benefit ratio had dropped to 53 cents on the dollar was sheer nonsense. Also the Governor had withdrawn State support. Every single State legislator from this area in both parties was in opposition.

But there is one other reason, Mr. Chairman, that I would ask that this project be deauthorized. I know we are going to get into these problems in the future. We have an Area Plans Commission in the area and because of their arrangement and their alinement, they deem it impossible to grant a building permit in the area.

At my last townhall meeting, two people from Lafayette came and told us they were unable to get a permit to build a garage.

Mr. Chairman, although I am not a lawyer, to me that amounts to the denial of the use of one's property without due process of law and economic compensation.

Finally, any alternative development in the area for a park or recreational facilities, or anything else, that is a matter which requires careful study by the local officials or the county commissioners and the State legislators will be withheld until we can authorize this. I would not have touched my own personal support for this project until the point arrived when it was no longer even theoretically possible that we might have problems, because I have been a strong supporter of the project, and I reluctantly reversed my decision when it became impossible to proceed in the matter.

Mr. Chairman, in the name of equity I am asking this committee to deauthorize this project, almost all of which is in my congressional district. The gentleman from Indiana (Mr. MYERS) has a very small portion of this proposed project in his district, and some of the project should benefit downstream areas on the Wabash. Also, my colleague the gentleman from Indiana (Mr. HAYES) who is a cosponsor of my deauthorization bill would also derive more benefit from this but he is still a cosponsor of the legislation.

Mr. Chairman, I think when we are faced with an impossible legal situation we had better do what I have done in my own community and that is to say: We cannot go forward with this project. Therefore we should abandon it in equity to those who live there.

Mr. JONES of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee took into consideration the proposition that was raised by the gentleman's amendment, and that is the fact that we provided for the deauthorization of that which had not received an appropriation in an 8-year period.

The question raised by the gentleman's amendment is as to whether or not it should be resolved with the Committee on Public Works—the deauthorization—or should be resolved with the Committee on Appropriations. If the Committee on Appropriations does decide in its wisdom to appropriate money for it, then, consequently, it is an authorized project for a period of 8 years.

So I do not see where these deauthorizations here need to take place. They can expend their energies and make their thoughts known to the Committee on Appropriations not to make appropriations.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Indiana.

Mr. FITHIAN. I thank the gentleman for yielding.

I would call attention to the distinguished chairman that in the past year at the appropriate time and before the Committee on Appropriations we presented this case, and funding which was in the bill and was in the President's budget was, indeed, removed. I am not not now quarreling about whether or not we get the money. That is no longer a question. The question is one of an 8-year hiatus in which nothing can happen until 8 years intervene between the appropriation and the next appropriation. It seems to me that there ought to be some way that we could get to the removal of this.

In checking with the Parliamentarian, I was advised that an amendment to deauthorize a project was germane and would be appropriate.

Mr. JONES of Alabama. If the gentleman wants to object to the project, the most immediate method would be to amend the 1974 act and vacate the 8-year period. The 8-year figure was not just a figment of imagination. We took into account as to the 8-year period the time of the authorization of a project and the first time it received money. In the latter part of the 1950's it took us 10 years to go from the time a project was authorized until it received appropriation. We were trying to close the gap during that time to make the authorization and the appropriation commensurate, one with the other. We got down to approximately 8 years, and we took that 8-year period to make a reasonable time between authorization and appropriation for purposes of making a project eligible for deauthorization. So those are the facts that dictated to us our taking the 8-year figure.

Mr. HAYES of Indiana. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Indiana.

Mr. HAYES of Indiana. I thank the gentleman for yielding.

My understanding is that one of the problems that the people have in an area of a project such as the one addressed by the gentleman from Indiana (Mr. FITHIAN) is that they must continue to live and exist under a cloud that is contained in this particular authorization bill. That cloud extends both to the use of their property which is involved in the authorized project and it extends to the community's use of that property and to its plan and design for the land itself over the next several years, and specifically the period covered by the authorization.

Further, it is my understanding that the act to which the chairman referred is not truly before us in this authorization bill. So the only parliamentary possibility that we have, and the only opening for the gentleman from Indiana, is this amendment to bring about this kind of deauthorization in order to clarify all of those points.

I certainly understand the legitimacy of the gentleman's position.

Mr. JONES of Alabama. I appreciate the gentleman's explanation. But let us go back a little bit further. I would say to the gentleman from Indiana (Mr. HAYES), there is not a single proposition that has been authorized by the Congress of the United States because it was a neighborhood or community growth project. The proposition is brought to us because it is a national project and is a highly productive one to the health and strength of our country. Therefore this project was bosomed in the very concept of the first principle that we enunciated, starting in the 1887 Act, and that has been the pursuit we have always followed since that time. If a project is of national importance and has national interest sufficient to require the Congress of the United States to apportion funds that would derive from every State in the Union and authorize it for the betterment of this community, then the project had to have a great relationship of use for the wealth and strength of our country.

Now if the gentleman wants to come in and deauthorize some project, he should address himself to the Committee on Public Works and come in and say that the project does not bear any relationship to the strength and wealth of the country and it is doing an irreparable damage to the neighborhood community and we will address ourselves to that.

Why does the gentleman come in at this late hour and come in on the floor and say he has a neighborhood problem of somebody's dogs barking at somebody else's dogs?

Mr. HAYES of Indiana. If the gentleman will yield briefly, the legitimacy of the gentleman's position is well established and I do not quarrel at all with the arguments the gentleman sets forth, but the fact is the conditions as set out by the gentleman from Indiana (Mr. FITHIAN) have indeed changed over a period of time within a constituency with which that gentleman is intimately familiar. The reason for my association with that gentleman's remarks is because, as he stated, some of the benefits extend to an area with which I have a political relationship.

Also I think we can recognize the exigencies change in the course of time.

Mr. JONES of Alabama. They change and the proper course is for the gentleman to address himself to the continuing sessions of the Committee on Public Works of the House of Representatives and they will make repairs or adjustments and accommodate themselves to the ills and wants and needs of the gentleman's community.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. FITHIAN).

The question was taken; and the chairman announced that the noes appeared to have it.

### REQUEST FOR RECORDED VOTE

Mr. FITHIAN. Mr. Chairman, on that I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

### QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee shall resume its business.

The CHAIRMAN. The pending business is the request of the gentleman from Indiana (Mr. FITHIAN) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

### AMENDMENT OFFERED BY MR. ROUSH

Mr. ROUSH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROUSH: Page 61, immediately after line 11, add the following new section:

"SEC. 176. The navigation study and survey by the Secretary of the Army, acting through the Chief of Engineers, of the Wabash River, Indiana, from the Ohio River to Terre Haute, Indiana, is not authorized after the date of enactment of this Act."

Renumber the succeeding sections accordingly.

Mr. ROUSH. Mr. Chairman, first I would like to pay tribute to my colleague from Alabama (BOB JONES). He has indeed been a stalwart advocate in this House for many, many years. I served with Mr. JONES on the Government Operations Committee, and at a time when no one was talking about the environment, he was holding hearings all over the country concerning the environment. He made a meaningful contribution and I regret that he is leaving this House of Representatives. He has indeed been a fine Member and one who has served his constituency, his State and his country well.

Mr. Chairman, I rise in support of the amendment to deauthorize the Wabash River navigation study. I do so because the study is unnecessary, redundant, and a waste of the taxpayer's money.

Briefly, the idea of a cross Wabash canal is an old one in Indiana, but one I thought had ended with the 1972 reconnaissance study of the Corps of Engineers which indicated that such a canal would not be economically feasible and would cost $1 billion—by now that figure would be three or four times higher.

However, the corps at the urging of several committee resolutions undertook to study certain portions of the waterway, although the 1972 reconnaissance study only indicated that the lower reaches—from the Ohio River to Mt. Carmel—might have some economic viability. The Wabash River navigation study as now constituted goes all the way up to Terre Haute.

The Wabash River happens to flow through my district, so even though the corps has been studying just the lower reaches, I have a decided interest, and a cross Wabash canal might have cut right across my district.

The U.S. Fish and Wildlife Service has written the corps' district engineer in Louisville as to the environmental damage that would be perpetrated by a canal on the Wabash. Their lengthy letter details the natural vegetation and wildlife existing in that area where 45 species of fish abound as well as numerous species of furbearing animals and they conclude: "The effects of the proposed canal construction and operation would irreparably damage the environmental resources of the lower Wabash River." They also point out that a canal would cause changes in the permanent water level of the Wabash River, which would in turn adversely affect a famous woods, a State nature preserve, and a historic community in Indiana.

So, on environmental grounds I opposed this study and because of the adverse agricultural impact, the damage to rail transportation, the loss of revenue to local governments among other things.

The argument that "its only a study" is unrealistic. If the study is not to result in a canal, what is it for and why should we be spending the taxpayer's money?

Nevertheless the lower reaches from the Ohio River to Mt. Carmel have now been studied and the corps has concluded that the cost benefit ratio would be under 1. In no way does that justify a waterway.

It was my understanding that if this section proved uneconomic, then the study on up to Terre Haute—as authorized by the Senate Public Works Committee in 1975—would not be worthwhile. OMB has written me that they have confirmation from the corps as to the lack of economic viability of the lower reaches. Yet the study on up to Terre Haute continues and $150,000 is programed for it. I have to ask: for what purpose? The corps in their letter to me imply that this is simply because there are congressional resolutions pending on the subject. Evidently what is reasonable, what experience dictates means nothing.

Therefore, I am offering this amendment to deauthorize a study which I believe its opponent could no longer argue has any validity. It is simply a waste of $150,000 of the taxpayer's money.

Mr. HAYES of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ROUSH. I yield to my friend and colleague, the gentleman from Indiana (Mr. HAYES).

Mr. HAYES of Indiana. I thank the gentleman for yielding.

Mr. Chairman, I wish to associate myself with the gentleman's remarks, and I concur completely.

I happen to represent the Eighth District of Indiana, which is located at the confluence of the Wabash River and the Ohio River. I believe very sincerely that what the gentleman has had to present here today is factually correct. Of course, I am not the sole Representative in Congress in interest in this matter, certainly both gentlemen from Illinois (Mr. SHIPLEY and Mr. SIMON) have an interest here, but I believe that the further study, the further use of Federal moneys, in order to ascertain how unfeasible "unfeasible" really is would indeed be a waste of resources.

Mr. JONES of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am in sympathy with my distinguished colleague, the gentleman from Indiana (Mr. ROUSH), but let me lay it on the line. The House did not authorize this study. It was authorized by the other body. We did not appropriate the money. The gentleman is on the Committee on Appropriations. As he said, it is not in his district. We asked the Corps of Engineers for a report on it. They assured me they would wrap up the package and stop and send it to us.

I certainly ask my colleagues to vote down this amendment. The study has no place in this bill. The study was authorized in another bill. But we did not authorize it. We did not complete it.

Mr. Chairman, I hope we will vote down the amendment.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment endeavors to deauthorize a study and a report of the Corps of Engineers which is in the process of being made. Certain expenditures of this sum that the gentleman from Indiana refers to have already been expended. Now the only thing that is left to be done is to compile the report and study and publish it and let the public be aware of the finding that was made as a result of this study. Certainly it would be more of a waste of money to discontinue this study and report three-fourths of the way through than to go ahead and spend the additional sum that is necessary to complete it and to let us have the total evaluation.

That is the time to come in and raise any objection about authorizing any projects. We do not know the results of the study. We have not been apprised by the Corps of Engineers, but they have made the study and are in the process of completing it and compiling their report to send up here to the Congress. It seems to me penny wise and pound foolish, so to speak, to stop the study or the report and not give the Congress the benefit of what has already been expended.

Mr. Chairman, I urge the defeat of the amendment.

Mr. ROUSH. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. Surely, I will yield to the gentleman from Indiana.

Mr. ROUSH. Mr. Chairman, I would like to confirm to the House the fact that this study has been completed, although it has not yet been reported and the results of the study have not been made public.

I wrote a letter to the Office of Management and Budget setting out these facts, and this is a portion of their response:

> On receiving your letter we directed a study . . . to determine whether the $150,000 included in the recently enacted appropriations bill was needed for the study. The Corps has confirmed the information in your letter regarding the lack of economic justification for the reach of the river below Mt. Carmel.

I would say to the gentleman that the $150,000 referred to here is what I would like to stop. If that money has been spent, something is wrong because that is in fiscal year 1977.

Mr. HARSHA. Mr. Chairman, if the gentleman will allow me to respond, the study has to be published and printed, and it will take some money to take care of that expense.

Mr. ROUSH. Mr. Chairman, I will say to the gentleman that money has already been appropriated. That money is in the process of being used. This will not in any way deter them from putting their facts together insofar as a study of the lower reaches is concerned.

Mr. HARSHA. But the study has not yet been published, the Congress has not had the benefit of it, and the Committee on Public Works and Transportation has not seen it in printed form. Certainly the gentleman does not want to deny the Congress the right to see the results of the study. If the study is unfavorable, as the gentleman has indicated, certainly this committee is not going to authorize the projects. That should make the gentleman's case, if that is true.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I have talked to the corps about this. The preliminary part and the work part of the study are complete. This study has moved from the office in Louisville to Cincinnati division office for a review, but they tell me that no report can be made and no report can be considered complete until there is a review by higher echelons of the Corps of Engineers. Certainly no recommendation can be made at this time.

The only reason anyone knows what the report might contain is because of the Freedom of Information Act. My colleague, the gentleman from Indiana (Mr. ROUSH) has asked the corps for information, and they have given him what they think they are going to come up with as to a benefit-cost ratio. These figures may be changed by the review. So what has been said by my colleague, the gentleman from Ohio (Mr. HARSHA) is exactly right, we must not act without complete and accurate facts. The report cannot be completed and cannot be considered until it has been thoroughly reviewed and reported back to Congress.

We were told in the appropriations hearings that some of the money in this fiscal year will be required to complete the preliminary work on the first 42 miles that my colleague, the gentleman from Indiana (Mr. ROUSH) referred to. The money is needed out of this year's budget.

Mr. HARSHA. Mr. Chairman, to elaborate on what the gentleman from Indiana (Mr. MYERS) said, it not only has to be reported by the Corps of Engineers District office, but it has to be reviewed by their division office and sent down here to Washington to the Board of Engineers for Rivers and Harbors, the Chief of Engineers, the Secretary of the Army, and other interested agencies. The entire matter has to be evaluated and everything put in the ultimate report. So we have to read it in toto to find out what the study has indicated and revealed.

Mr. SHARP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to commend the gentleman from Indiana (Mr. Roush) for his vigilance in this issue. This is the second time he has offered an amendment and attempted to win the House over to his position.

Once again, I rise in support of the gentleman's efforts, and I urge the House of Representatives to adopt the Roush amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. Roush).

The amendment was rejected.

### AMENDMENT OFFERED BY MR. RYAN

Mr. RYAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ryan: On page 61, after line 16, add the following new section:

"Sec. 178. The Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting pursuant to Public Law 83–566, with respect to any water resource development project authorized herein, or which may be authorized hereafter, and which includes construction of a water storage facility, shall determine the risks and safety hazards associated with such project because of geologic, seismic or other factors, and shall assess the possible damage to man and the environment which might result from the failure or malfunction of such facility, and shall assess the safety precautions that should be instituted in connection with the siting, design, construction, and operation of the facility so as to prevent or lessen the possibility of failure or malfunction, and mitigate the potential damage to man and the environment. Before proceeding with the construction of any such project, the Secretary of the Army or the Secretary of Agriculture shall report to the Committees on Public Works and the Committee on Government Operations of the House of Representatives and the Senate as to such determination and assessments, and the actions which could be taken to eliminate or lessen the hazards and risks associated with such project."

Mr. RYAN. Mr. Chairman, I first would like to praise and commend the chairman of the full committee, the chairman of the subcommittee, and the ranking minority members of this committee for the very excellent work that they have done and that others have done before me, especially with specific reference to the study that is required of San Francisco Bay, which I think is long overdue and with which my very dear friends and colleague, the gentleman from California (Mr. Don H. Clausen), has had a great deal to do, among others.

Mr. Chairman, I ask for this amendment to be included here, recognizing that it is not a very good idea to try to amend a bill like this outside of the committee. I understand that and respect that kind of recommendation and that kind of custom, because it is the only way one can get his ducks in order and have it done in a proper fashion.

However, Mr. Chairman, on Monday of this week the Committee on Government Operations approved a report entitled, "Report on the Teton Dam Disaster." That Teton Dam disaster occurred last June 5.

Mr. Chairman, disasters like that do not occur in the regular kind of swing of the Pleiades kind of orbit. The regularity of the orbit here means that we can put things in the order in which they should go and that one can take his turn. However, when that dam blew in Idaho, nobody was prepared for that. It was the first time in history that a dam built by the U.S. Government failed. It was a massive failure. It took 11 lives unnecessarily. It caused over $1 billion in property damage.

Mr. Chairman, no one can go and visit that area, as I did with members of the subcommittee, including the gentleman from Maryland (Mr. Gude), and see what happened and not recognize the awesome power behind the dam which we actually had lost track of because we build so many and because the procedures we use for building dams have been regularly reviewed. They are as regular as clockwork. They do not change.

Mr. Chairman, the Bureau of Reclamation begins the process, carries it on, brings it to the Congress, the Congress approves, the dam is built, and we go on to other things.

However, Mr. Chairman, we need to face a different problem which we did not face prior to June 5 and which we did not face prior to this Monday, and that is the prospect that this House must face now: that there can be a wrong judgment made and lives can be lost, with property damage in the billions, which then this Congress must pay for. We have already paid $255 million so far for the mistake that was made by the Bureau of Reclamation. There is no other way in which to describe it, even as a minimal kind of thing, except to say it was a mistake, a $1 billion mistake.

Mr. Chairman, in order to achieve some kind of improvement so that we can guarantee ourselves here some improvement in the process of building dams, I offer this amendment. It does not cost a dime. It does not change any project. It does not make any particular recommendation except to follow, to some extent, a recommendation already adopted by the Committee on Government Operations after thorough study of the problem. Also, Mr. Chairman, the recommendation was adopted unanimously, without objection, without any kind of amendment.

Is this the time to do it? The anwer is no, of course, not within the last few days.

Mr. Chairman, I am suspicious of any kind of amendment brought in at the last moment of a legislative session; but we see the difference here is that there was no way to adopt this provision because we did not have the justification.

All this amendment says is that we should take some additional steps in the process of deciding, how to decide, and when to decide and in what fashion to decide to build a dam built by the U.S. Government.

And that, my dear friends and colleagues, is us.

If we are to be assured from now on, from this day forward, now that you are warned, as I warn you now, and as I was warned before in the committee hearings, then we must change our procedures.

There will be legislation introduced next year, but in the meantime we continue to build dams, and we are right now, today. This amendment simply says to change the procedures slightly, tighten them up, make them work better.

Mr. Chairman, one last comment. There has been objection raised in the committee, I am told, because this is already taken care of in the present language. I am not so sure it is. But one thing, it is referred to as being taken care of in the Dam Safety Act of 1973. I would point out that is not so sure.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Ryan was allowed to proceed for 1 additional minute.)

Mr. RYAN. Mr. Chairman, there is still in existence the Dam Safety Inspection Act of 1973 but the OMB has never put a dime into it. No dam in this country—and there have been more than 5,000 dams built in this country by the Federal Government—not one dime of money has been spent so far in this inspection of the dams that are required to be inspected, and this began 4 years ago.

This language does not add any money, but what it does say is: Examine very carefully your seismic information and the geology of the site and not just the construction itself.

That is all this amendment does.

Mr. JONES of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am reluctant to oppose the amendment offered by the gentleman from California (Mr. Ryan), but I do feel as though there should be some applause for the Congress of the United States in its examination of other projects that have been constructed by the Corps of Engineers.

We can refer to a public law which was passed on August 8, 1972. The reason that we undertook this action to pass that public law—and I will later refer to it and read it in full—is the fact that we went back in the Committee on Public Works and we examined the usefulness of all of the dams and all of the justifications for their initial authorization and their continued authorization. That was based upon a projection of their use for 50 years, going back to the Flood Control Act and on up through subsequent acts.

Later on we passed the act creating the Federal Power Act of 1920. In recognition of all its involvements in this, and the projected use of these dams and reservoirs, which we took into account a 50-year period of time, when these projects, we thought, might become obsolete, or in disrepair or need reconditioning.

Also, in 1972, the Congress passed public law 92–387 of the 92d Congress, and it states as follows, in section 2:

Sec. 2. As soon as practicable, the Secretary of the Army, acting through the Chief of Engineers, shall carry out a national program of inspection of dams for the purpose

> of protecting human life and property. All dams in the United States shall be inspected by the Secretary except (1) dams under the jurisdiction of the Bureau of Reclamation, the Tennessee Valley Authority, or the International Boundary and Water Commission, (2) dams which have been constructed pursuant to licenses issued under the authority of the Federal Power Act, (3) dams which have been inspected within the twelve-month period immediately prior to the enactment of this Act by a State agency and which the Governer of such State requests be excluded from inspection, and (4) dams which the Secretary of the Army determines do not pose any threat to human life or property. The Secretary may inspect dams which have been licensed under the Federal Power Act upon request of the Federal Power Commission and dams under the jurisdiction of the International Boundary and Water Commission upon request of such Commission.

We went so far as to call upon the Corps of Engineers and have the Engineers inspect all of the existing dams in this country. In pursuance of this legislative directive, we had communication with the executive branch. After the Teton Dam occurrence, which was most regrettable, we then proceeded to direct them to accelerate the dam inspection. Prior to June 28 I wrote a letter as chairman of the Committee on Public Works, to have that inspection made. To the satisfaction of my good friend, the gentleman from California, that is being pursued. Then we communicated with the Secretary of the Army to request movement, and I will put in the Record my letter to him. We have been as zealous as any committee can be.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Jones of Alabama was allowed to proceed for 3 additional minutes.)

Mr. JONES of Alabama. We have been trying to get the information and the determination as to whether the dams were in peril, whether or not they were in such condition as to need repair.

Then on June 11 we sent out a letter—I did as chairman of the Committee on Public Works—stating that we had called upon the Secretary of the Army, and every agency that might have any possible jurisdiction over dams.

So I do not object to the purpose of the gentleman's proposition, but I would like to have the gentleman recognize that this body has been the most responsive arm in the whole body politic in trying to see that these occurrences will not take place. So if the gentleman is most ernest in his effort, he can help the Committee on Public Works do its duty.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from California.

Mr. RYAN. I thank the gentleman for yielding.

I think the gentleman made a good point regarding the inspection of dams. However, the point I make here today, Mr. Chairman, in respect to the gentleman's comment, is that these occur ex post facto. The gentleman is talking about those dams already built; I am talking about those dams under construction today. I am talking about dams that may be approved tomorrow, for which there is not a tight enough procedure. This legislation simply asks that the Corps of Engineers consider more heavily geologic and seismic factors. That is all this amendment does. It requires them to do it. The law does not say that now, even in the Dam Safety Inspection Act, until after the dam is already built. The law does that now, but it is after the fact. I am trying to get at the problem before the fact on such dams being built today. The Auburn Dam in California, which is one of the highest and biggest dams in the entire world, does not apply to this one, because it has been built by the Bureau of Reclamation. But this is a start for the Corps of Engineers within the framework of this bill.

I think the gentleman's inquiries of me are thoughtful and sincere.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(By unanimous consent, Mr. Jones of Alabama was allowed to proceed for 1 additional minute.)

Mr. JONES of Alabama. Mr. Chairman, the gentleman is a Member of the House of Representatives. The Corps of Engineers or the Department of Interior or projects under the Federal Power Act are required to make a presentation to the appropriate committee. The gentleman can sit down and analyze those as carefully and as earnestly as he knows how, but how can the gentleman as a layman exercise in his own capacity any better judgment than these experts?

Mr. RYAN. Mr. Chairman, if the gentleman will yield, it is only because they did not have sufficient geological and seismic information at the time that they decided on which site to build that dam, such as the Teton Dam.

Mr. JONES of Alabama. The gentleman reminds me of the man who went to the doctor and said: "I want to take a dose of medicine to keep me from having a cold."

Mr. ROBERTS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman makes an excellent statement, but let me say this. Remember, the gentleman was talking about a dam which was not built by the Corps of Engineers and over which the Corps of Engineers has no jurisdiction. At the present time under our procedures we authorize Phase I and they must bring that back to us and included in that Phase I the basic information including all of the geological information. Then there is a Phase II review. In that phases they must give the information the gentleman is talking about.

If we pass this amendment every single project not already built would have to be stopped and we would have to have a geological impact statement and we would never have another dam completed.

None of the Corps of Engineers dams has failed. We have numerous checks and balances set up by this Congress. I assure the gentleman they are adequate.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, I associate myself with the remarks made by the distinguished chairman of the subcommittee, Mr. Roberts. Of course, we do not want to build dams where there are seismic difficulties but we do have the procedures now to detect and avoid that problem.

While the gentleman from California is undoubtedly motivated by good intentions, the result of the amendment would be to put another extra layer of redtape on and to slow down construction of the projects all over the United States.

The amendment is not necessary. We already have a 10-year-and-8-months time lag on an average project between the authorizing time and the time they put the first spade into the ground to start building the project. We do not need to extend the time any further.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California (Mr. Ryan).

Mr. RYAN. Is the gentleman willing to say we do not need geological studies?

Mr. WRIGHT. No; I say we have them and we do not need any further ones.

Mr. RYAN. I am talking about dams such as the Auburn Dam in California, where the geologists say: "Watch it. That dam will fail." That is an example.

Mr. WRIGHT. If the gentleman will permit me, the dam the gentleman is talking about is not a Corps of Engineers dam. That dam has no relationship to this program. This program under the laws we sponsored by this committee in this Congress is proceeding in an adequate and thoroughly prudent way and is examining those things. There is not a need for an extra layer to slow down these projects.

Mr. RYAN. If the gentleman will yield, is not the analogy properly made that if we find some basic defect or problem with all General Motors cars, that it should be a good idea to ask Ford and Chrysler to take a look at their cars, too?

Mr. WRIGHT. I think if we have one General Motors car that fails, which is analogous to the gentleman's example, we would not want to force an examination of all the cars of all three companies.

Mr. RYAN. But if the one car costs $1 billion, then I think we would be justified in asking them to take a look at those other cars.

Mr. EDGAR. Mr. Chairman, I move to strike the requisite number of words.

I rise in strong support of the Ryan amendment.

Mr. Chairman, I would like to commend the gentleman from California (Mr. Ryan), the chairman of the Subcommittee on Conservation, Energy and Natural Resources, not only for the amendment offered this afternoon, but also for the work the gentleman did in evaluating the disastrous impact of the Teton Dam break.

It seems important to me, Mr. Chairman, that every consideration be made to look at the risks and the safety hazards of the construction of dams.

I think it is commendable that the Army Corps of Engineers has a perfect record. I think it is commendable that the Army Corps of Engineers takes into consideration in its early stages of design some of the very things we are asking for in this particular amendment. I think it is commendable that we as a nation and as a Congress would be concerned about the catastrophic failure of dams and would be interested in trying to provide some legitimate rules and regulations as to how dams will be approved, which dams will get approval by Congress, what the site location will be; but I think, more importantly, we ought to have the ability in each of the many stages of construction to take a look at some of the possible risks.

I think if we look carefully at the language of the amendment, looking at the geological and seismic and other factors involved to excess, the possible damage to man and environment that might result from the failure or malfunction of such a facility is not only an important thing for us to do, but we ought to be mandated to do it, because that is our responsibility as a Public Works Committee. That is our responsibility as overseers of the Corps of Army Engineers and many other agencies that deal with these projects. Had we had a little foresight in the Bureau of Reclamation, we could have saved the loss of lives and the $1 billion necessary to repair that damage.

Mr. Chairman, I do not want to lay another layer of extra burden on top of the burdens the Army Corps of Engineers already has; but I want to provide for the safety and health of the citizens of this country. I believe this amendment has a good commitment to that very prospect.

Mr. Chairman, this amendment is very similar to an amendment I introduced during consideration of this bill by the Water Resources Subcommittee.

It would require that determinations made of risks and safety hazards associated with water resource projects be forwarded to the Congress. The report would also include the steps taken to minimize the risks and safety hazards. In the wake of the Teton Dam disaster, this Congress must reexamine its procedures for approving projects which have the potential for threatening life and property. Mr. Ryan, as Chairman of the Subcommittee on Conservation, Energy, and Natural Resources, is very concerned that Congress does not have enough information to assess the merit of many of the projects authorized in the bill. I share that concern.

Just this week, his subcommittee approved the publication of their Teton Dam study, House Report 94–1667. I believe that this report deserves the attention of all of our colleagues. It points out many problems in existing law which tend to increase the possibility for disasters such as Teton Dam to occur. Dams are not designed to fail, yet the "impossible" circumstances which result in disaster are dissected in hindsight. The purpose of the Ryan amendment is to provide some foresight. It will allow our colleagues to better exercise our legitimate oversight responsibilities.

Mr. Chairman, nobody here can predict which of these projects authorized in this bill, if any, will be the front-page disaster headlines 5 or 10 years from now.

I believe that the findings of the Teton Dam report must sensitize us to the important responsibility we have today. Finding No. 4 of the report, on page 32, should make us very shocked. For the benefit of my colleagues who have not seen it, I would like to take a moment to read it:

> A number of dams now being designed or constructed have significant safety problems related to geology, seismicity and design. The potential for tragic losses in lives and property posed by these dams could be as great or even greater than the $1 billion damage that resulted from the failure of the Teton Dam.

Mr. Chairman, I believe that this amendment is specifically addressed to these findings. The report makes 13 recommendations which, if implemented, would reduce the risk inherent in projects of the magnitude authorized by this bill. I do not believe that this bill is the appropriate vehicle to mandate most of these recommendations. Some are very complex, and deserve careful attention in public hearings. However, I feel that the Ryan amendment will assure that the Congress does not lack the information necessary to make the tough political judgments which are our responsibility alone.

Mr. Chairman, I will ask unanimous consent in the House to insert in the Record the findings and recommendations made in House Report 94–1167, "Teton Dam Disaster." I urge my colleagues to support this amendment.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I commend the gentleman from Pennsylvania on his remarks. Having viewed the Teton Dam disaster, I cannot see how we can say that adding one extra check in the checklist of making sure that these dams are going to hold can make that much difference as far as life and limb are concerned.

We had a $1 billion disaster. I estimate the price is going to go above $1 billion and it was only the good Lord that prevented more than 10 lives being lost. It could have been a much larger disaster.

Mr. EDGAR. Mr. Chairman, I appreciate the gentleman's comments and I also commend the chairman of the full Committee on Public Works for his efforts in the past, for setting forth the Dam Safety Act that provides for inspection of existing dams.

What we are doing in this amendment is taking a look at phase 1 in the project at what kind of harmful damage might occur if there was a catastrophic failure.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not take the 5 minutes, but I want to point out that everything that is in this amendment, the basic substance of it, is done by the Corps of Engineers right now. There is no way they can build a dam without the necessary geological and seismic studies to determine any of these dangers. I want to comment on the wording of this amendment. It says that the Corps of Engineers shall assess the possible damages to man and the environment. Now, anything is possible, and daily we get criticism from our constituents about the bureaucracy, the redtape and the problems with environmental impact statements and the tremendous volume of redtape this generates. If we make the Corps of Engineers go further and list any possible damage to the environment, we will bog down the total water resources development program. We will add superfluous work, because no Corps of Engineers' dam has failed and none can be built without making the necessary studies and taking the necessary precautions.

One final word: The dam that did fail was not a Corps of Engineers project. This amendment in no way would correct the situation insofar as the Bureau of Reclamation is concerned.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, this amendment reminds me of the first story I heard when I started the first grade. "The clouds are falling down, Chicken Little; the sky is dreary." So, let us not take Chicken Little and run her into the henhouse.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Ryan).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harris: Redesignate section 177 as section 178 and insert the following new section, immediately after section 176:

Sec. 177. (a)(1) Not later than the end of the one hundred and eighty-day period beginning on the date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with the Mayor of the District of Columbia regarding the rates to be paid by the District of Columbia for the delivery of water from the Potomac River through the Washington Aqueduct, District of Columbia. Such agreement shall provide separate rate schedules for the period beginning May 1 of each year and ending October 31 of such year and for the period beginning November 1 of each year and ending April 30 of the succeeding year. The rate scheduled for each such period shall reflect the availability of water from the Potomac River and the operational and capital costs of delivery of water during such period.

(2) The agreement entered into pursuant to paragraph (1) shall provide for the periodic adjustment of the rate schedules established by such agreement in order that such schedules accurately reflect changes in the availability of and the demand for water and the costs associated with meeting such demand.

(b) Notwithstanding any other Act or any agreement entered into under any other Act, the rate schedules established pursuant to this section shall apply with respect to any delivery of water from the Potomac River through the Washington Aqueduct to the District of Columbia or any other unit of government.

(c) The agreement entered into pursuant to paragraph (1) of subsection (a) and any other agreement entered into in carrying out this Act may contain such terms and items as may be appropriate to encourage equitable water conservation.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, as I indicated in the general debate, this is an amendment that does not add any project; does not take away any project; does not cost any money. It simply authorizes a very small administrative change which most Members of the House, I am sure, thought was authorized already.

The situation basically is that the Corps of Engineers operates the Dalecarlia Aqueduct, which supplies water for the Federal establishment and also for the District of Columbia and Virginia, by and large. What this amendment does is two things. It permits the Corps of Engineers to set an equitable rate to all its customers. I do not think there is any Member of the House who did not think that the Corps of Engineers was authorized to set an equitable rate with regard to its customers. It has not been, and this language would authorize it to do so.

No. 2, as we have gone through hearings, we feel that a conservation program is necessary and that part of this conservation program should be the ability to set seasonal rates, which simply means that one might charge more for water in summer than in the winter; charge more for water during the low flow than for higher flow.

The Corps of Engineers indicates to us that they do not have any authority to set such a seasonally-adjusted rate. This language does not change the rates of the Corps of Engineers. It does not require a seasonal adjustment rate. It simply permits the Corps of Engineers to operate the Dalecarlia Aqueduct in a businesslike manner, charging its wholesale price to its customers at the same rate to all customers. If they, along with the other local jurisdictions, wish to set a seasonal rate which would tend to put in disincentives during summer periods of low flow, they could do this.

The Chairman, and I am sure the ranking minority member of the committee, will say, "Why is this being brought up in the last week of the session?" That is an excellent question. The answer is simply that until we had our hearings in the District of Columbia Committee on the Potomac, we did not realize the situation existed. As soon as we discovered it in our hearings, we put in a bill which was referred to the Public Works Committee to correct this, and had hearings in our committee on it to make sure that what we found out was true, to make sure that there was not some element that was being confused.

The Corps of Engineers verifies that they would very much like to conduct its business this way. Their testimony before our committee confirms the fact that because of the strange way the administration was set up, they were caught in a box and were not able to adjust the rates accordingly. They would very much like to see this adjustment take place. We would hopefully like to see it done in this Congress, and because there is no one who has been able to justify a rate disparity of 45 percent, from $1.13 to $1.75 for 10,000 gallons of water on the rate, there is no justification to it.

The corps would like to change it. I think the Members would like to change it. I would certainly urge if at all possible that the committee consider this and put the language in the bill so that the corps can charge the same rate to the wholesale customers.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Kentucky.

Mr. NATCHER. I thank the gentleman for yielding.

First, Mr. Chairman, I would like to commend the distinguished gentleman in the well, Mr. HARRIS, on the able representation that he has given the district he represents. I know he serves on the Committee on the District of Columbia, also on the Committee on Post Office and Civil Service, and he is doing a fine job for his section of Virginia and for his congressional district.

I would like to ask my friend if hearings were held before the subcommittee chaired by my distinguished friend, the gentleman from Texas (Mr. ROBERTS) concerning this proposal.

Mr. HARRIS. No. I do not believe this subcommittee had an opportunity to have hearings on it. The Subcommittee of the District of Columbia was able to have its hearings about a month ago.

Mr. NATCHER. If the gentleman will yield further, as I understand from the gentleman's amendment, the gentleman would instruct the Secretary of the Army acting through the Chief of the Corps of Engineers, to enter an agreement with the Mayor of the District of Columbia for delivery of water from the Potomac River through the Washington aqueduct.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. HARRIS) has expired.

(On request of Mr. NATCHER and by unanimous consent, Mr. HARRIS was allowed to proceed for 3 additional minutes.)

Mr. HARRIS. Mr. Chairman, I will be happy to yield further to the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. I thank the gentleman for yielding.

Mr. Chairman, as the distinguished gentleman in the well knows, beginning in the early 1800's the Corps of Engineers were placed in charge of the water supply for the District of Columbia. When we had the home rule legislation up, a proposal was made at that time whereby the city would take over the water supply. The House refused, and so did the Senate. The Corps of Engineers, under the jurisdiction of the Committee on Public Works, were to be in charge of the water supply here in our Nation's Capital. The Washington aqueduct is under the control of the Corps of Engineers.

Further, I would like to ask the gentleman if he has talked with the Mayor of the city of Washington about this proposal?

Mr. HARRIS. Yes. We advised the Mayor and the city council with regard to the proposal, and actually we had the Director of the Budget, Mr. Coppie, come before the subcommittee at some length to go over the proposal, and the situation that exists would not change who operates the aqueduct at all. It would just set up a way they could be billed.

Mr. NATCHER. If the gentleman will yield further, let me ask the gentleman this further question: Has the Mayor of the city of Washington and has the city council under the chairmanship of Mr. Sterling Tucker agreed to this proposal?

Mr. HARRIS. No. So far as we know, there is no agreement.

Mr. NATCHER. Mr. Chairman, I think I know what the gentleman has in mind, so far as instructing the Secretary of the Army, acting through the Corps of Engineers, to fix the rates with the city. What would that do now as to the outlying district in Virginia and Maryland? Why is the gentleman coming before the Committee on Public Works at this time with this amendment, without any hearings, and since the Mayor has not agreed to it, the city council has not agreed to it, and now you say to the Secretary of the Army, through the Corps of Engineers, to fix rates for the supply of water to the city of Washington. What about Virginia and Maryland?

I say to my friend, why not give this subcommittee and the Committee on Public Works a chance to have hearings on this proposal? The Committee on Public Works is in complete charge of this matter. They have jurisdiction over the Corps of Engineers, not the Committee on the District of Columbia or the Committee on Appropriations.

Mr. HARRIS. In response to my colleague's question, I think it is an important point. We did refer the bill originally to the committee, as well as to the Committee on the District of Columbia, and we did take rather lengthy testimony with regard to this problem.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. HARRIS) has expired.

(On request of Mr. NATCHER and by unanimous consent, Mr. HARRIS was allowed to proceed for 2 additional minutes.)

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. Mr. Chairman, let me finish my explanation in regard to this first.

I think it should be pointed out that through the hearings the fact was brought out—and it is an amazing fact; I am sure it amazes my colleague as it does me—that the charge to the District of Columbia was in fact 50 percent lower than the charge to buyers in Virginia. I am sure that no one meant to countenance this or to have the system continue on that basis. Then we realized the Dalecarlia Reservoir which was set up to service the Federal establishment was in fact hamstrung in the way it was setting its rates.

Mr. Chairman, this language does not require it to set its rates at any level.

It simply allows us to set rates for the water itself.

Mr. NATCHER. Mr. Chairman, will the gentleman yield to me?

Mr. HARRIS. I would be happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I will ask the gentleman from Virginia (Mr. HARRIS), if it is true that before the Committee on the District of Columbia, the budget officer of the city of Washington, Mr. Comer Coppie, appeared and strongly opposed this legislation and respectfully urged that the committee not enact this legislation? Is that not true?

Mr. HARRIS. Mr. Chairman, the Director of the Budget was questioned at some length, if I may respond to my colleague, the gentleman from Kentucky. He made no attempt to justify their rate discrimination. He admitted Washington was receiving a $700,000 profit from this water transaction. He said the only basis he could justify it on was that historically they have been allowed to do this, but that is not the case.

I simply think it is true that the Director of the Budget felt that he had a good deal and wanted to keep it.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to my colleague, the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, purely and simply, there is double bookkeeping going on, and the Mayor and the City Council very rightfully oppose this because it is going to mean that the price of water in the District of Columbia will increase.

Mr. HARRIS. Mr. Chairman, today I am offering this amendment to H.R. 15636, the Water Resources Development Act of 1976. This amendment is designed to establish equitable water rates for water delivered to Washington, D.C., and Virginia and to encourage water conservation in the Washington metropolitan area.

This amendment is the result of ongoing investigations Mr. GUDE and I have been conducting into Potomac River water supply and water treatment problems. This investigation has revealed that Arlington and Falls Church, Va., are paying 54 percent more than the District of Columbia for the same water pumped in the same way, by the same Corps of Engineers from Dalecarlia Reservoir.

The Virginia suburbs are not only being overcharged but this year's estimated $700,000 in excess payments flow directly into the District's coffers and can be used however the city chooses.

I believe that this investigation provides a dramatic endorsement of the wisdom of the Congress in recently enacting legislation to audit the District of Columbia's finances. Who knows what the District's true financial picture is when a water conservation probe reveals that the Virginia suburbs are subsidizing the District's budget through excessive water charges?

On July 1, 1976, Virginia's water rates were increased 30 percent, to $1.75 per ten thousand gallons. The District of Columbia water rates remained unchanged at approximately $1.13. Enactment of this legislation could result in a 30 percent reduction of Arlington and Falls Church water bills and an increase of about 10 percent to the District. The estimated new rates would be approximately $1.25 per ten thousand gallons to Virginia and the District.

The Corps of Engineers sells water to Arlington and Falls Church under a pricing formula established in 1926 when the Virginia suburbs hooked into the Washington aqueduct system. The formula, applied by the Secretary of the Army, includes a premium to recoup the original aqueduct investment plus current operating and maintenance costs.

The District is not actually billed by the corps for water it uses. Rather, the cost of running the aqueduct, although owned and operated by the corps, appears as an expense item in the District budget. Amounting to approximately $9 million a year, this expense is paid out of the $20 million the District collects in water fees from Virginia, the Federal Government, and its own residential and commercial customers. In addition to the costs of running the aqueduct, the moneys collected pay for the costs of distribution of the water by the city.

The pricing formula may have been equitable in 1926, but over the past 50 years Virginia has contributed about $14 million toward the operating and maintenance costs of the system, and another $14 million for capital improvements. Arlington and Falls Church have more than paid their fair share. It is time to set rates that are equitable for all users of the aqueduct.

Under current billing procedures, money collected by the corps from Arlington and Falls Church is turned over to the District treasury. This is a carryover from the days before the District gained home rule, but until this year the money stayed in a special water fund that could be used only for special water utility related purposes.

In January the District of Columbia City Council eliminated the water fund so the money collected from Virginia goes into general operating funds. I think it is wrong that Virginia water payments can be used to underwrite the District budget.

This bill will also help to encourage water conservation among jurisdictions served by the Washington aqueduct by permitting the corps to establish a seasonal rate structure based on higher fees in peak summer use period and lower rates in the winter.

All other water authorities in the Washington area have already adopted similar pricing systems to discourage wastage during the summer when the Potomac is at its lowest level.

On September 9, 1976, the Committee on the District of Columbia Subcommittee on the Bicentennial, the Environment, and the International Community received testimony from the U.S. Army Corps of Engineers, the city of Falls Church and Arlington County, Va., as well as the District of Columbia concerning the legislation.

Although the District of Columbia opposes the bill, no new facts were introduced to refute the justification for this legislation.

I therefore urge the Congress to vote in favor of this amendment to H.R. 15636.

Mr. NATCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is the first time that we have had a chance to examine the amendment offered by the gentleman from Virginia (Mr. HARRIS).

Mr. Chairman, he may be right, but I think in all fairness to the Committee on Public Works and Transportation and to this subcommittee that hearings ought to be held. We see here that the budget officer for the city of Washington appeared and strongly objected to this type of legislation before the Committee on the District of Columbia.

If the Mayor is against it and if the City Council is against it, I do not think that an amendment which is offered at this time without any hearings having been held should be adopted by this committee.

I know that down through the years, Mr. Chairman, we have had matters concerning the Washington Aqueduct before the different committees. Before the home rule legislation was enacted by this Congress, a proposal was made whereby the aqueduct would be taken away from the Corps of Engineers and placed under the jurisdiction of the city of Washington. At that time the House refused, and at that time the other body refused.

Mr. Chairman, the water supply in the city of Washington should continue under the jurisdiction of the Corps of Engineers, and there should be no major changes until the Committee on Public Works and Transportation, the Committee on the District of Columbia, and until the Mayor and the City Council have had an opportunity to be heard. The representative of the city of Washington appeared and objected vigorously to the legislation before the Committee on the District of Columbia.

I say to my distinguished friend Mr. Harris that, I serve on the Committee on Appropriations. I do not serve on his committee or the committee in charge of this bill. In all fairness to the city of Washington and to my friend Mayor Washington, hearings should be held. These people ought to have a right to appear. They ought to have the right to appear before the Committee on Public Works and Transportation and the subcommittee chaired by my friend, the distinguished gentleman from Texas, and be heard on this matter before the Secretary of the Army is instructed to enter arbitrarily into an agreement demanding that the city of Washington pay certain rates.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I just want to make the record clear.

I know my colleague, the gentleman from Kentucky (Mr. NATCHER), did not mean to imply that the Committee on the District of Columbia did not have hearings on this and that the City Council and the Mayor were not given an opportunity to appear.

Mr. NATCHER. No, I did not. The representative of the Mayor appeared and objected.

Mr. HARRIS. Mr. Chairman, just the opposite was the case. Hearings were held, and both branches of government were given an opportunity to appear. They did send their Budget Director to appear on their behalf, and it is quite correct that they objected to the legislation.

Mr. NATCHER. Mr. Chairman, the gentleman is exactly right. The Budget Director appeared on behalf of the Mayor and the City Council. He objected to the legislation. He said it should not be enacted.

Mr. Chairman, in all fairness now to the city of Washington and to the Committee on Public Works and Transportation which has complete jurisdiction over this matter, I think for the time being this amendment ought to be defeated.

Mr. FISHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make a short statement on this matter.

It should not surprise anybody that officials of the District of Columbia government would not go for this because they have been getting their water at a very cheap rate, a rate much lower than that for the very same water treated in the same way and delivered from the same holding reservoir, is sold to residents in northern Virginia.

Mr. Chairman, it would seem to me that the Corps of Engineers would not want to continue selling water at two different rates to different groups of the American public. I think that is an untenable position for us to hold them in for very long.

Mr. Chairman, I recognize that the Committee on Public Works and Transportation has not had hearings on this problem, but that the Committee on the District of Columbia or its subcommittee has.

Mr. Chairman, we come, of course, to the same old problem: How many hearings have to be held on a matter which really is not all that complicated or difficult to see? It is a pure case of the same water being sold to different segments of the public at quite different rates. The capital costs and all of that have long since been retired. It does seem to me that whatever the procedures ought to be, it is perfectly clear that we ought to move as fast as we can toward permitting the Corps of Engineers to establish the same rates for the same water to different users.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I thank the gentleman for yielding.

*He has explained the situation very* well. I would merely add that the Corps of Engineers appeared before the Committee on the District of Columbia. They testified in support of this legislation.

Mr. Chairman, I asked the representative of the District of Columbia whether he had any concern about the quality of the water or about the fairness of the Corps of Engineers if this legislation were enacted; and the reply was in the negative.

Purely and simply, Mr. Chairman, the price of water will be higher in the District; and that is the reason the Mayor and the Council object. I do not blame them one bit for objecting.

Mr. FISHER. Mr. Chairman, if I may reclaim my time, it is surprising, perhaps, to many Members that this obvious inequity or disparity did not come to light long ago. I do not know why it did not come to light either. Neither my colleague the gentleman from Virginia (Mr. HARRIS), nor I was in this body at the time these arrangements were made. However, now it has been brought to light perhaps because of the new financial setup that came with home rule for the District. In any event, now it has been brought to light; and it does seem to me that it ought to be dealt with as expeditiously as possible.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken; and on a division (demanded by Mr. HARRIS) there were—ayes 11, noes 43.

So the amendment was rejected.

Mr. FINDLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, construction of a new lock and dam at Alton, Ill., remains as unfinished business for this Congress. The future of this vital link in our Nation's transportation system cannot be left to chance. Congress must act as soon as possible so that the construction can get underway. Delay could seriously jeopardize the economy of the Midwest and the entire Nation.

The importance of lock and dam 26 to the Midwest, and to the entire nation, cannot be overemphasized. Fifity-five million tons of comodities pass through this strategic link in our wateway system each year. It is as important to our Nation as the Panama Canal which has sparked so much controversy recently.

No one contests the significance of the issues involved in this controversy. Its outcome may very well decide whether there will be economic growth in the Midwest and whether our Nation's balance of payments will be in surplus in the future. In fact, nearly one-sixth of our annual exports are grains originating in the Upper Midwest and passing through lock and dam 26. Without this vital link the economic prosperity of our country is gravely threatened.

Simply to rehabilitate the old dam, without adding any additional capacity would be both imprudent and impractical. It would take about 12 to 13 years, involve building a temporary lock on the Missouri side of the river, require the dredging of a second channel, and necessitate closing the river for periods of a month or two at different intervals while new pilings for the dam are being driven. Closing the river is certainly not in the best interests of the economy of the Midwest or the Nation, and especially not of the farmers who must get their crops to market and who depend on fuels and commodities coming upstream. Moreover, to repair the existing facility for long-term service could actually end up costing more than constructing a new lock and dam and could take 2 or 3 years longer. Constructing a new lock and dam would not involve closing the river.

Opponents contend that this project is the first step in a multibillion dollar plan to rebuild the entire Mississippi River system. A look at the geography of the Midwest will quickly demonstrate that no such massive plan is needed nor would the Alton lock be the place to start. Lock 26 is located just below the confluence of the Mississippi and Illinois Rivers. Both of these are major shipping routes, with the Illinois actually handling more traffic than the Mississippi. The very next lock below Alton, lock 27 at Granite City, is already a 1,200-foot facility. Both 26 and 27 handle over 55 million tons each year—twice as much as any other lock on the Illinois or Upper Mississippi. Although building a whole new series of 1,200-foot locks may not be justified, certainly it makes good sense to make the two locks handling all the Upper Midwest's traffic compatible.

Another objection opponents raise is that a 1,200-foot lock would automatically double the amount of traffic on the Mississippi and Illinois waterways. It will not. The current traffic level is meeting current demand. At peak periods there are long, costly delays. Doubling the lock capacity will greatly reduce these delays, allowing most barges to pass through in half the time currently required. However, the number of barges and tows would increase only if demand for their services greatly increases. That is not likely to occur because farm production is already at its maximum. We are not about to double our national corn and wheat yields and thereby require double the barge capacity.

Constructing a new 1,200-foot lock would be, in effect, like fixing a bad pothole in the road. Few avoid traveling the road because of it, but it causes all to slow down, backs up traffic, inconveniences everyone, and results in added costs of travel. Fix the road and travel is faster, safer, and more economical.

Some, including several distinguished Members of this body, will tell you that what we need is more study, more delay, more hesitation, more indecision. Already the question has been studied for 7 years. Tens of thousands of pages of reports have been filed with Congress and every Federal and State agency imaginable. Millions of words have been written or spoken on every conceivable aspect of the problem. It is doubtful that those calling for delay have examined all of the material already available to them.

Yet there are real dangers to delay. The present dam at Alton is old and shows signs of instability. Those who say that the dam will not collapse must remember that the "experts" did not expect the Teton Dam in Idaho to burst.

Each day of delay in construction of a new lock and dam adds $8,545 to the total cost just because of inflation. Add the high maintenance costs to keep the old lock and dam operational and you can see that delay has already cost the American taxpayers dearly.

Lock and dam 26 must be built, and the sooner the better.

Mr. Chairman, I also have another vital matter to bring to the attention of the committee.

Mr. Chairman, I take this time to direct the attention of the committee to section 166 beginning on page 54 which authorizes what is cited as a 5-year demonstration program to temporarily increase the diversion of water from Lake Michigan at Chicago for the purpose of testing, and so forth.

Mr. Chairman, within my district are nearly 100 miles of the downstream Illinois River. Over the years my constituents have been very distressed at the fact that a lot of Lake Michigan water has been diverted into the Illinois River and has increased the flow and has contributed to damage at flood stage times. I have a vivid recollection of just 2 years ago when the citizens of two towns in Illinois, when they were forced to leave their homes and seek higher ground because of the flood water in the Illinois River. They are naturally apprehensive about any program which would introduce additional water flow during these periods of flood stage.

On page 55 there is language which I interpret as being hopeful language, that says:

> When river stages approach or are predicted to approach bankfull conditions at the established flood warning stations . . .

And so on, that then the diversion from the three different points will stop.

The term "bankfull conditions" is a new one to me, and I have lived in the river district all my life. I am familiar with the term "flood stage."

Am I correct that the term "bankfull" translates to "flood stage"? Could anyone enlighten me on that?

Mr. DON H. CLAUSEN. Mr. Chairman, if the gentleman will yield, if the gentlement will refer to page 55, section 166, it says:

> (c) When river stages approach or are predicted to approach bankfull conditions at the established flood warning stations on the Illinois Waterway or the Mississippi River, water shall not be diverted directly from Lake Michigan at the Wilmette, O'Brien, or Chicago River control structures other than as necessary for navigational requirements.

As far as this Member is concerned—and we will ask concurrence from the managers on behalf of the majority side—"bankfull" means "flood stage." And, further, it is intended that the downstream interests be protected. This language is intended to require the Corps of Engineers and the Metropolitan Sanitary District of Chicago to protect the landowners from flooding, and will not increase the flow from Lake Michigan if flooding is possible.

Perhaps the chairman would care to add something to that.

Mr. ROBERTS. Mr. Chairman, if the gentleman will yield, I agree with the gentleman, we are talking about flood control.

Mr. FINDLEY. May I put the question this way, if the Corps of Engineers predicts that river conditions are approaching flood stage at that point, and from that point on, until the danger period is over, there will be no additional diversion as a result of this legislation?

Mr. ROBERTS. That is exactly correct.

Mr. FINDLEY. I thank the gentleman.

Mr. Chairman, I have one further question. The last phrase of that section reads: "other than as necessary for navigational requirements."

My understanding is that that really means providing necessary water for the city of Chicago. Am I correct in that interpretation?

Mr. ROBERTS. If the gentleman will yield, that goes back to the basic legislation years ago and it must apply to that law.

Mr. FINLEY. But that is not intended to provide a loophole through which the officials can pour still more water into the Illinois River even during the flood stage period?

Mr. ROBERTS. No.

Mr. FINDLEY. It does not?

Mr. ROBERTS. The gentleman is correct.

Mr. FINDLEY. I thank the gentleman for that assurance.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

I sympathize with the gentleman's concern. Being a member of the Great Lakes Conference helping to prepare this language, I can state that we drafted it very carefully. Our language is clear and, I think, unmistakable. Our purpose is definitely to prevent any possibility of loading up the Illinois or Mississippi Rivers at flood stage. We want to prevent that. That is why we very carefully drafted the language, because of the concern the gentleman has expressed.

I want to assure the gentleman this is a flood control act, not a flood-creating act.

Mr. FINDLEY. I thank the gentleman verv much.

The CHAIRMAN. Are there any further amendments to title I?

### AMENDMENT OFFERED BY MR. M'EWEN

Mr. McEWEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. McEwen: Page 55, line 19, following the comma, add "or when further increased diversion of water from Lake Michigan would adversely affect water levels necessary for navigational requirements of the St. Lawrence Seaway in its entirety throughout the St. Lawrence River and Great Lakes-St. Lawrence Seaway,".

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

The committee has had an opportunity to examine this amendment. It is a technical and perfecting amendment. Speaking for the committee, I think we have no objection to it. I think we would accept this amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

Mr. Chairman, we have no objection; we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. McEwen).

The amendment was agreed to.

Mr. HUGHES. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise in strong support of H.R. 15636, and I commend the committee for their endeavors.

Mr. HUGHES. Mr. Chairman, I rise in strong support of H.R. 15636, the omnibus rivers and harbors legislation.

Included in this proposed legislation is an authorization for advanced engineering and design work for several areas of south Jersey which are renowned for their beautiful beaches. Unfortunately, the pace of erosion in some of these areas has increased to between 5 and 20 feet per year.

That erosion poses a serious threat not only to the resort industry in south Jersey, which is a multibillion-dollar industry, but to the lives, property, and safety of thousands of south Jersey citizens who reside or have businesses along low-lying coastal areas.

Our recent brush with Hurricane Belle caused $27 million worth of damage to south Jersey. It served once again to emphasize the seriousness of our beach erosion problems, and our resulting susceptibility to storm damage and flooding.

This time we fared far better than we did during the devastating storms of March 1962, and December 1974. But we never know when these disasters will repeat themselves. In some areas, we have lost so much beach that the ocean is right up against the seawall. In these areas, homes may be flooded when the tide is only 1 or 2 feet above normal.

Without the vital program provided for in this legislation, our beaches will continue to erode, our waterways will continue to shoal, and the danger to our resort industry, lives, and property will continue unabated.

I commend the committee for recognizing the seriousness of the danger of continued shore erosion in South Jersey, and urge the passage of this important legislation.

The CHAIRMAN. Are there any further amendments to title I? If not, the Clerk will read title II.

The Clerk read as follows:

### TITLE II—RIVER BASIN MONETARY AUTHORIZATIONS

SEC. 201. (a) In addition to previous authorizations there is hereby authorized to be appropriated commencing with the fiscal year which ends on September 30, 1978, for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by the date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin, Date, Amount

Alabama-Coosa River Basin, March 2, 1945, $7,000,000.

Arkansas River Basin, June 28, 1938, $5,000,000.

Brazos River Basin, September 3, 1954, $28,000,000.

Columbia River Basin, May 17, 1950, $19,000,000.

Mississippi River and tributaries, May 15, 1928, $263,000,000.

Missouri River Basin, June 28, 1938, $101,000,000.

North Branch Susquehanna River Basin, July 3, 1958, $36,000,000.

Ohio River Basin, June 22, 1936, $31,000,000.

Ouachita River Basin, May 17, 1950, $1,000,000.

Red River Waterway project, August 13, 1968, $22,000,000.

San Joaquin River Basin, December 22, 1944, $69,000,000.

South Platte River Basin, May 17, 1950. $8,000,000.

(b) The total amount authorized to be appropriated by this Act shall not exceed $590,000,000.

SEC. 202. This title may be cited as the "River Basin Monetary Authorization Act of 1976".

Mr. WRIGHT (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title II be dispensed with, that it be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Are there any amendments to title II? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of Union, reported that the Committee having had under consideration the bill (H.R. 15636) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, pursuant to House Resolution 1580, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3823), an act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HARSHA. Mr. Speaker, reserving the right to object, I am sure I shall not if I can hear the gentleman's remarks.

The SPEAKER. The gentleman has called up a Senate bill to be modified with the House bill just passed, and the title of the Senate bill on the same subject is being reported.

Mr. HARSHA. Further reserving the right to object, Mr. Speaker, we are inserting the House language in the Senate bill?

The SPEAKER. That is right.

Mr. HARSHA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas (Mr. WRIGHT) to consider the Senate bill?

There was no objection.

### MOTION OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WRIGHT moves to strike all after the enacting clause of S. 3823 and insert in lieu thereof the text of H.R. 15636, as passed by the House, as follows:

### TITLE I—WATER RESOURCES DEVELOPMENT

SEC. 101. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resources development projects, substantially in accordance with, and subject to the conditions recommended by the Chief of Engineers in, the reports hereinafter designated.

### MIDDLE ATLANTIC COASTAL REGION

The project for beach erosion control, navigation, and storm protection from Hereford Inlet to the Delaware Bay entrance to the Cape May Canal, New Jersey: Report of the Chief of Engineers dated September 30, 1975. at an estimated cost of $2,062,000.

The project for beach erosion control, navigation, and storm protection from Barnegat Inlet to Longport, New Jersey: Report of the Chief of Engineers dated October 24, 1975, at an estimated cost of $2,396,000.

### WALLKILL RIVER BASIN

The project for flood control of the Black Dirt Area, Wallkill River, New York and New Jersey: House Document Numbered 94–499, at an estimated cost of $330,000.

### PASSAIC RIVER BASIN

The project for flood control in the Passaic River Basin New Jersey and New York: Report of the Chief of Engineers dated Februrary 18, 1976, at an estimated cost of $12,000,000.

### SUSQUEHANNA RIVER BASIN

The project for flood control at Lock Haven, Pennsylvania: House Document Numbered 94–577, at an estimated cost of $430,000.

The project for flood control at Wyoming Valley, Susquehanna River, Luzerne County, Pennsylvania: House Document Numbered 94–482, at an estimated cost of $450,000.

### JAMES RIVER BASIN

The project for flood control at Richmond, Virginia: Report of the Chief of Engineers dated January 7, 1976, at an estimated cost of $800,000.

The project for flood control at the Richmond, Virginia filtration plant: House Document Numbered 94–543, at an estimated cost of $100,000.

### SOUTH ATLANTIC COASTAL REGION

The project for navigation at Brunswick Harbor, Georgia: Report of the Chief of Engineers dated August 18, 1976, at an estimated cost of $300,000, except that the Secretary of the Army, acting through the Chief of Engineers, shall include as part of the phase I study consideration of dredging a navigation channel to Colonel's Island.

### COOPER RIVER BASIN

The project for navigation improvements at Charleston Harbor, South Carolina: House Document Numbered 94–436, at an estimated cost of $500,000.

### COMMONWEALTH OF PUERTO RICO

The project for navigation improvements at San Juan Harbor, Puerto Rico: House Document Numbered 94–574, at an estimated cost of $300,000.

### UPPER MISSISSIPPI RIVER BASIN

The project for local flood protection and other purposes at La Crosse, Wisconsin, on the Mississippi River: House Document Numbered 94–598, at an estimated cost of $400,000.

### GREAT LAKES BASIN

The project for beach erosion control for Presque Isle Peninsula at Erie, Pennsylvania: Report of the Chief of Engineers dated April 7, 1976, at an estimated cost of $700,000. At the expiration of the authorization provided in section 57 of the Water Resources Development Act of 1974, the Secretary of the Army, acting through the Chief of Engineers, may provide periodic beach nourishment in accordance with the cost sharing provisions of section 103(a)(2) of the Act of October 23, 1962 (76 Stat. 1178).

The project for flood control and other purposes on Little Calumet River in Indiana: Report of the Chief of Engineers dated July 19, 1976, at an estimated cost of $1,400,000.

### OHIO RIVER BASIN

The project for abatement of acid mine drainage in the Clarion River Basin, Pennsylvania: Report of the Secretary of the Army dated April 1971, entitled "Development of Water Resources in Appalachia", at an estimated cost of $600,000.

### LOWER MISSISSIPPI RIVER BASIN

The project for flood protection for St. Johns Bayou and New Madrid Floodway, Missouri: Report of the Chief of Engineers dated September 26, 1975, at an estimated cost of $300,000.

The project for flood protection for Nonconnah Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated June 23, 1976, and as an independent part of this project, improvements for flood control and allied purposes on Horn Lake Creek and tributaries, including Cowpen Creek, Tennessee and Mississippi, at an estimated cost of $400,000.

### TEXAS GULF COAST REGION

The project for natural salt pollution control in the Brazos River: Report of the Chief of Engineers dated June 1, 1976, at an estimated cost of $650,000.

### RIO GRANDE BASIN

The project for flood control and other purposes, on the Rio Grande and Rio Salado, New Mexico: Report of the Chief of Engineers dated September 27, 1976, at an estimated cost of $1,500,000.

### MISSOURI RIVER BASIN

The project for flood protection for Jefferson City on Wears Creeks, Missouri: Report of the Chief of Engineers dated October 21, 1975, at an estimated cost of $50,000.

### Columbia River Basin

The project for construction and installation of a second powerhouse at McNary Lock and Dam, Columbia River, Oregon and Washington: Report of the Chief of Engineers dated June 29, 1976, at an estimated cost of $1,800,000.

### Pembina River Basin

The project for flood control on the Pembina River at Walhalla, North Dakota: Report of the Division Engineer dated May 24, 1976, at an estimated cost of $930,000.

### Calleguas Creek Basin

The project for flood control and other purposes on Calleguas Creek, Simi Valley to Moorpark, Ventura County, California: Report of the Chief of Engineers dated June 21, 1976, at an estimated cost of $1,060,000.

### Sacramento-San Joaquin Basin

The project for flood control and other purposes on Morrison Creek Stream Group, California: Report of the Chief of Engineers dated March 2, 1976, at an estimated cost of $750,000.

(b) The Secretary of the Army is authorized to undertake advanced engineering and design for the projects in subsection (a) of this section after completion of the phase I design memorandum stage of such projects. Such advanced engineering and design may be undertaken only upon a finding by the Chief of Engineers, transmitted to the Committees on Public Works of the Senate and Public Works and Transportation of the House of Representatives, that the project is without substantial controversy, that it is substantially in accordance with and subject to the conditions recommended for such project in this section, and that the advanced engineering and design will be compatible with any project modifications which may be under consideration. There is authorized to carry out this subsection not to exceed $5,000,000. No funds appropriated under this subsection may be used for land acquisition or commencement of construction.

(c) Whenever the Chief of Engineers transmits his recommendations for a water resources development project to the Secretary of the Army for transmittal to the Congress, as authorized in the first section of the Act of December 22, 1944, the Chief of Engineers is authorized to undertake the phase I design memorandum stage of advanced engineering and design of such project if the Chief of Engineers finds and transmits to the Committees on Public Works and Transportation of the House of Representatives and Public Works of the Senate, that the project is without substantial controversy and justifies further engineering, economic, and environmental investigations. Authorization for such phase I work for a project shall terminate on the date of enactment of the first Water Resources Development Act enacted after the date such work is first authorized. There is authorized to carry out this subsection not to exceed $4,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

Sec. 102. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

### North-Eastern Atlantic Coastal Region

The project for navigation improvements in New London Harbor and Thames River at New London, Connecticut: Report of the Chief of Engineers dated February 20, 1975, at an estimated cost of $8,022,000.

### Upper Mississippi River Basin

The project for local flood protection and other purposes at Chaska, Minnesota, on the Minnesota River: Report of the Chief of Engineers dated May 12, 1976, at an estimated cost of $10,498,000.

### Red River of the North Basin

The project for local flood protection at Grafton, North Dakota, on the Park River: Report of the Chief of Engineers dated June 11, 1976, at an estimated cost of $10,973,000.

### Lower Mississippi River Basin

The project for flood control for Harris Fork Creek, Tennessee and Kentucky: House Document Numbered 94–221, except that highway bridge relocations and alterations required for the project shall be at Federal expense, at an estimated cost of $5,000,000.

### Red River Basin

The project for flood control and other purposes in the Red River below Denison Dam, Arkansas and Louisiana: Report of the Chief of Engineers dated August 3, 1976, at an estimated cost of $4,401,000.

### Neches Basin

The project for salt water control on the Neches River and Tributaries, Salt Water Barrier at Beaumont, Texas: Report of the Chief of Engineers dated April 12, 1976, at an estimated cost of $14,300,000, except that the non-Federal share for such project shall not exceed $2,100,000.

### Western Coastal Region

The project for navigation in Los Angeles-Long Beach Harbors, California: House Document Numbered 94–594, at an estimated cost of $16,850,000.

Sec. 103. (a) The flood control project for San Antonio Channel improvement, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1260) as a part of the comprehensive plan for flood protection on the Guadalupe and San Antonio Rivers, Texas, is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct such additional flood control measures as are needed to preserve and protect the Espada Acequia Aqueduct, located in the vicinity of Six Mile Creek, at an estimated Federal cost of $2,050,000. Construction of such flood control measures shall be subject to the same conditions of local cooperation as required for the existing flood control project.

Sec. 104. The project for flood protection on the Minnesota River at Mankato and North Mankato, Minnesota, authorized by section 203 of the Flood Control Act of 1958, as modified, is hereby further modified to provide that changes to the highway bridges in Mankato-North Mankato at United States Highway 169 over the Blue Earth River and at Main Street over the Minnesota River, including rights-of-way, changes to approaches and relocations, made necessary by the project and its present plan of protection shall be accomplished at complete Federal expense, at an estimated cost of $8,175,000.

Sec. 105. The general comprehensive plan for flood control and other purposes for the White River Basin approved by the Flood Control Act of June 28, 1938, as amended, is hereby modified to provide that an amount not to exceed $6,000,000 may be used for the construction at Beaver Dam, Carroll County, Arkansas, of trout production measures (including a fish hatchery) in compensation for the reduced number of fresh water fish in the White River and other streams in Arkansas which has resulted from the construction of the Beaver Dam and other dams in the State of Arkansas, and for the acquisition of necessary real estate, construction of access roads and utilities, and performance of services related thereto, as deemed appropriate by the Secretary of the Army, acting through the Chief of Engineers.

Sec. 106. (a) The project for hurricane-flood control protection at New London, Connecticut, authorized by the Flood Control Act of 1962 (76 Stat. 1180) is hereby modified to delete the Powder Island-Bentleys Creek hurricane protection barrier; and to authorize construction of the Shaw Cove hurricane protection barrier, pressure conduit, and pumping station works substantially in accordance with the revised plan "New London Hurricane Protection", dated June 1976, on file in the Office of the Chief of Engineers and estimated to cost $7,745,000; with such modifications as the Chief of Engineers may deem advisable.

(b) Prior to initiation of construction of the project, appropriate non-Federal interests shall agree—

(1) to provide without cost to the United States all lands, easements, and rights-of-way necessary for construction and operation of the project;

(2) to hold and save the United States free from damage due to construction, operation, and maintenance of the project not including damages due to the fault or negligence of the United States or its contractors;

(3) to accomplish without cost to the United States all modifications or relocations of existing sewerage and drainage facilities, buildings, utilities, and highways made necessary by construction of the project not to include sewerage and drainage facilities at the line of protection;

(4) to maintain and operate all features of the project after completion in accordance with regulations prescribed by the Secretary of the Army; and

(5) to bear 30 per centum of the total first cost.

(c) Notwithstanding subsection (b) of this section, or any other provision of law, non-Federal interests shall bear no part of the cost of any design for this project rejected or otherwise not accepted by such interests prior to the date of enactment of this section.

Sec. 107. Section 107(b) of the River and Harbor Act of 1970 (84 Stat. 1818, 1820), as amended, is further amended by striking out "December 31, 1976" and inserting in lieu thereof "June 30, 1979" and striking out "$9,500,000" and inserting in lieu thereof "$15,968,000". Such section 107(b) is further amended in the second sentence thereof by striking out "environmental and ecological investigation;" and inserting in lieu thereof "environmental and ecological investigations, including an investigation of measures necessary to ameliorate any adverse impacts upon local communities;".

Sec. 108. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phrase I design memorandum stage of advanced engineering and design of the Chicagoland underflow plan project for flood control and other purposes in accordance with the report of the Board of Engineers for Rivers and Harbors dated July 27, 1976, at an estimated cost of $12,000,000. The preceding sentence shall take effect on the date the Chief of Engineers submits to the Secretary of the Army his recommendations with respect to such project for transmittal to Congress.

Sec. 109. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for flood control and other purposes on the Santa Ana River, California, in accordance with the recommendations of the division engineer dated February 27, 1976 at an estimated cost of $700,000. The preceding sentence shall take effect on the date the Chief of Engineers submits to the Secretary of the Army his recommendations with respect to such project for transmittal to Congress.

SEC. 110. The project for navigation for the Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina, authorized by section 101 of the Rivers and Harbors Act of 1970 (84 Stat. 1818) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–597 with respect to Wilkerson Creek Bridge, North Carolina, and Coinjock Bridge, North Carolina, at an estimated cost of $2,875,000.

SEC. 111. The project for the Saylorville Reservoir on the Des Moines River, Iowa, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 310) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–487 at an estimated cost of $7,374,000. The Secretary of the Army, acting through the Chief of Engineers, may carry out each segment of such recommendations independently if he deems appropriate. The Secretary of the Army, acting through the Chief of Engineers is further authorized to (1) undertake such measures, including renegotiating existing easements and the acquisition of additional interests in land, as are appropriate to operate Saylorville Lake and Lake Red Rock projects, singly or as a system, to obtain the maximum benefits therefrom in the public interest and to properly indemnify owners of such easements or interests in land; and (2) provide for the full development of campground and other recreation sites and access thereto for the Lake Red Rock and Saylorville Lake projects at Federal cost, including the improvement of existing county or State roads outside the project limits to provide better access into recreation areas.

SEC. 112. The project for navigation improvements on Mobile Harbor, Theodore Ship Channel, Alabama, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives dated December 15, 1970, is hereby modified in accordance with the report of the Board of Engineers for Rivers and Harbors dated May 28, 1976, at an estimated cost of $42,800,000.

SEC. 113. The flood control project for Alameda Creek, California, authorized by section 203 of the Flood Control Act of 1962 is hereby modified in accordance with the report of the Chief of Engineers dated July 27, 1976.

SEC. 114. The project for the replacement of Vermilion Lock, Louisiana, on the Gulf Intracoastal Waterway is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in the report dated August 3, 1976, at an estimated cost of $20,683,000.

SEC. 115. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase 1 design memorandum stage of advanced engineering and design of modification of the Gallipolis Locks and Dam project, Ohio River, limited to a single 1,200 foot replacement lock, in accordance with the recommendations of the Chief of Engineers dated July 14, 1975, at an estimated cost of $2,800,000.

SEC. 116. The last sentence of section 91 of the Water Resources Development Act of 1974 (88 Stat. 39) is amended to read as follows: "There are authorized to be appropriated not to exceed $25,700,000 to carry out such project.".

SEC. 117. The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate and study, in cooperation with interested States and Federal agencies, through the Upper Mississippi River Basin Commission the development of a river system management plan in the format of the "Great River Study" for the Mississippi River from the mouth of the Ohio River to the head of navigation at Minneapolis, incorporating total river resource requirements including, but not limited to, navigation, the effects of increased barge traffic, fish and wildlife, recreation, watershed management, and water quality at an estimated cost of $9,100,000.

SEC. 118. (a) Whenever the Secretary of the Army finds that—

(1) the Intracoastal Waterway is no longer routed along a part of the segment of the Louisiana-Texas Intracoastal Waterway right-of-way described in subsection (b) of this section;

(2) maintenance of such part of the right-of-way has been abandoned by the Corps of Engineers; and

(3) such part of the right-of-way is no longer navigable by watercraft;

he shall convey, without monetary consideration, any easements or other rights or interests in real property which the United States acquired for the construction, operation, or maintenance of such part of the right-of-way to each owner of record of the real property which is subject to such easements, rights, or interests of the United States.

(b) The segment of the Louisiana-Texas Intracoastal Waterway right-of-way referred to in subsection (a) of this section is that segment of the right-of-way for the Louisiana-Texas Intracoastal Waterway, Calcasieu-Sabine section, which (1) is within the portion of the right-of-way for the old Intracoastal Waterway channel (known locally as the "East-West Canal") extending from the east bank of the Calcasieu River at a point approximately twenty miles south of Lake Charles, Louisiana, to the Choupique Cutoff in the Intracoastal Waterway, and (2) is located on the southeast quarter of the southeast quarter of section 25, township 11 south, range 10 west, and in the west half of the southwest quarter of section 30, township 11 south, range 9 west, Calcasieu Parish, Louisiana.

SEC. 119. Section 4 of the Act of June 21, 1940, as amended (54 Stat. 498; 33 U.S.C. 514), is amended in the first sentence by striking out "It shall be the duty of the bridge owner to prepare and submit to the Secretary, within ninety days after service of his order" and inserting in lieu thereof "After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary of Transportation, within a reasonable time as prescribed by the Secretary".

SEC. 120. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources development projects under the jurisdiction of the Secretary of the Army to meet needs during peak visitation periods.

(b) There is authorized to be appropriated $6,000,000 per fiscal year for the fiscal years ending September 30, 1978, and September 30, 1979, to carry out this section.

SEC. 121. (a) The project for flood protection on the North Branch of the Susquehanna River, New York and Pennsylvania, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 306) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, in connection with the construction of the Cowanesque Dam to relocate the town of Nelson, Pennsylvania, to a new townsite.

(b) As part of such relocation, the Secretary of the Army, acting through the Chief of Engineers, shall (1) cooperate in the planning of a new town with other Federal agencies and appropriate non-Federal interests, including Nelson, (2) acquire lands necessary for the new town and to convey title to said lands to individuals, business or other entities, and to the town as appropriate, and (3) construct necessary municipal facilities.

(c) The compensation paid to any individual or entity for the taking of property under this section shall be the amount due such individual or entity under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 less the fair market value of the real property conveyed to such individual or entity in the new town. Municipal facilities provided under the authority of this section shall be substitute facilities which serve reasonably as well as those in the existing town of Nelson, except that such facilities shall be constructed to such higher standards as may be necessary to comply with applicable Federal and State laws. Additional facilities may be constructed, only at the expense of appropriate non-Federal interests.

(d) Before the Secretary of the Army acquires any real property for the new townsite appropriate non-Federal interests shall furnish binding contractual commitments that all lots in the new townsite will be either occupied when available, will be replacements for open space and vacant lots in the existing town, or will be purchased by non-Federal interests at the fair market value.

SEC. 122. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review the requirement of local cooperation with respect to providing a spoil disposal area for the project at Deep Creek, Warwick County (now within the city of Newport News), Virginia, authorized by the Act of August 26, 1937 (commonly referred to as the River and Harbor Act of 1937, 50 Stat. 846), to determine if (1) such requirement should be eliminated, and (2) Craney Island disposal area should be used as the spoil disposal area for dredged material from such project. Such review shall be completed and submitted in a report to Congress within two years after the date of enactment of this section.

(b) Beginning on the date of enactment of this section, (1) the requirement of local cooperation described in subsection (a) shall be suspended, and (2) Craney Island disposal area shall be used as the spoil disposal area for dredged material from such project, until Congress, by a statute enacted after the date on which the report required by subsection (a) is submitted, removes such suspension.

SEC. 123. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the Los Angeles-Long Beach harbor model in Vicksburg, Mississippi, for the purpose of testing proposals for the improvement of navigation in, and the environmental quality of, the harbor waters of the ports of Los Angeles and Long Beach to determine optimum plans for future expansion of both ports. Such testing shall include, but not be limited to, investigation of oscillations, tidal flushing characteristics, water quality, improvements for navigation, dredging, harbor fills, and physical structures.

SEC. 124. (a) The Corpus Christi ship canal project for navigation in Corpus Christi Bay, Texas, authorized by the Rivers and Harbors Act of 1968 (P.L. 90–483) is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, and embankments therefor. Credit shall be allowed in connection with the above project in an amount equal to the reasonable expenditures made by non-Federal interests in the acquisition of spoil areas and construction of necessary retaining dikes, bulkheads, and embankments prior to the effective date of the Water Resources Development Act of 1976.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Texas interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 125. For purposes of section 9 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), the consent of Congress is hereby given to the State of Louisiana to construct such structures across any navigable water of the United States as may be necessary for the construction of the following highways:

(1) Ivanhoe-Jeanerette, State project numbered 431-01-01 and 431-01-02 in Iberia and Saint Mary Parishes, Louisiana;

(2) Larose-Lafitte Highway, State Route La 3134 in Jefferson and Lafourche Parishes, Louisiana, starting at Estelle in Jefferson Parish and proceeding southwesterly to Larose in Lafourche Parish; and

(3) United States 90 Relocated (La 3052), in Saint Mary, Assumption, Terrebonne, and Lafourche Parishes, Louisiana, starting at United States 90 west of Raceland and proceeding westerly to a connection with United States 90 at or near Morgan City, Louisiana.

SEC. 126. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of a project for flood prevention and development of incidental recreation, preservation of the natural floodways, and protection of the watershed's soil resources, at an estimated cost of $370,000, substantially in accordance with the Floodwater Management Plan, North Branch of the Chicago River Watershed, Cook and Lake Counties, Illinois, dated October 1974, and also substantially in accordance with the watershed implementation program dated February 1974.

SEC. 127. The project for Wister Lake, Arkansas River Basin, Oklahoma, authorized by section 4 of the Act of June 28, 1938, entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" (52 Stat. 1218) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to recover and preserve important data from significant archeological sites located on project lands which will be adversely affected as a result of a change in seasonal pool operations. The costs of such work shall not exceed $250,000.

SEC. 128. (a) The Secretary of the Army is authorized and directed to convey by quitclaim deed to C. B. Porter Scott and Dorothy Boren Scott of the county of Randall, State of Texas, all rights, title, and interest of the United States in and to the following described tract of land acquired as part of the project for Belton Lake, Texas, authorized by the Flood Control Act of 1946:

A tract of land situated in the county of Bell, State of Texas, being part of the Stephen P. Terry Survey (A-812), and being part of a 271-acre tract of land acquired by the United States of America from Frank Morgan, and others, by Declaration of Taking filed September 11, 1952, in Condemnation Proceedings (civil numbered 1311) in the District Court of the United States for the Western District of Texas, Waco Division, and being designated as "Tract Numbered F-505 for Belton Lake", and being more particularly described as follows, all bearings being referred to the Texas Plane Coordinate System, Central Zone:

Beginning at Government marker numbered F-503-2, situated in a northeasterly boundary line for said tract numbered F-505 for the point of beginning, said point of beginning being the southeast corner for a 0.25 acre tract of land acquired by the United States of America from Edward Cameron, et ux, by deed dated January 13, 1953, and recorded in volume 679 at page 456 and by correction deed dated May 25, 1955, and recorded in volume 722 at page 550 of the deed records of Bell County, Texas, and being designated as "Tract Numbered F-503 for Belton Lake", said point of beginning also being located south 74 degrees 21 minutes east, 38.3 feet from a point on top of the bluff for a re-entrant corner for said tract numbered F-505;

thence along the boundary line for said tract numbered F-505 as follows: south 74 degrees and 21 minutes east, 271.70 feet to a point;

thence south 45 degrees 14 minutes west, 154.5 feet to a point;

thence south 28 degrees 09 minutes east, 185 feet to a point;

thence north 73 degrees 45 minutes west, 324.23 feet to Government marker numbered A-65-9 for a northeast corner for a 79.70-acre tract of land acquired by the United States of America from Eleanor M. Paulk, and others, by deed dated July 28, 1952, and recorded in volume 672 at page 233 of the deed records of Bell County, Texas, and being designated as "Tract Numbered A-65 for Belton Lake";

thence departing from the boundary line for said tract numbered F-505, north 27 degrees 53 minutes west, 169.85 feet to a point;

thence north 55 degrees 26 minutes east, 184 feet more or less, to the point of beginning, containing 1.87 acres, more or less.

(b) The grantees shall, as a condition to the conveyance authorized by subsection (a), pay to the United States an amount equal to the sum originally paid by the United States for the tract of land described in subsection (a) of this section.

SEC. 129. (a) The project for Blue Marsh Lake, Berks County, Pennsylvania, a part of the plan for the comprehensive development of the Delaware River Basin, as authorized by section 201 of the Flood Control Act of 1962 (76 Stat. 1183), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to relocate and restore intact the historic structure and associated improvements known as the Gruber Wagon Works located on certain Federal lands to be inundated upon completion of the project, at an estimated cost of $922,000.

(b) Upon completion of the relocation and restoration of the Gruber Wagon Works at a site mutually agreeable to the Secretary of the Army and the County of Berks, title to the structure and associated improvements and equipment shall be transferred to the County of Berks upon condition that such county agree to maintain such historic property in perpetuity as a public museum at no cost to the Federal Government.

SEC. 130. The authorized McClellan-Kerr Arkansas River navigation system is hereby modified to provide a nine-foot deep navigation channel, one hundred feet in width, extending approximately ten miles from the McClellan-Kerr navigation sailing line upstream on the Big Sallisaw Creek and Little Sallisaw Creek to and including a turning basin, near United States Highway 59, in a location generally conforming to Site I, as described in the Tulsa District Engineer's Project Formulation Memorandum entitled "Big and Little Sallisaw Creeks, Oklahoma, Section 107 Navigation Project" dated August 1973, at an estimated cost of $1,200,000.

SEC. 131. (a) The first sentence of section 201(a) of the Flood Control Act of 1965 (Public Law 89-298) is amended by striking out "$10,000,000." and inserting in lieu thereof "$15,000,000.".

(b) Section 201(b) of such Act is amended by striking out "$10,000,000" and inserting in lieu thereof "$15,000,000".

SEC. 132. The project for flood protection on the Souris River at Minot, North Dakota, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives under authority of section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962-5), and modified by section 105 of the Water Resources Development Act of 1974 (88 Stat. 42), is hereby further modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to reimburse the designated non-Federal interest for the estimated additional expense (exceeding that set forth in such section 105) incurred by such non-Federal interest in undertaking its required cooperation for the proposed channel realinement in the downstream area of the project near Logan, North Dakota, except that such reimbursement shall not exceed $250,000.

SEC. 133. (a) Subsection (b) of section 107 of the River and Harbor Act of 1960 (74 Stat. 480) is further amended by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

(b) Section 61 of the Water Resources Development Act of 1974 (88 Stat. 12) is amended as follows:

(1) By striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

(2) By striking out "$2,000,000" and inserting in lieu thereof "$3,000,000".

(c) The amendments made by this section shall not apply to any project under contract for construction on the date of enactment of the Water Resources Development Act of 1976.

SEC. 134. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to include in the survey report on flood protection on Mingo Creek and its tributaries, Oklahoma, authorized by section 208 of the Flood Control Act of 1965, the costs and benefits of local improvements initiated by the city of Tulsa for such flood protection subsequent to January 1, 1975, which the Chief of Engineers determines are compatible with and constitute an integral part of his recommended plan. In determining the appropriate non-Federal share for such project, the Chief of Engineers shall give recognition to costs incurred by non-Federal interest in carrying out such local improvements.

SEC. 135. The project for Port San Luis, San Luis Obispo Harbor, California, authorized by section 301 of the River and Harbor Act of 1965, is hereby modified substantially in accordance with the plan described in the Los Angeles District Engineers report on "Port San Luis, California" dated April 1976, and the conditions of local cooperation specified in subparagraphs 1.a. through 1.o. of appendix 7 thereof, at an estimated cost of $6,040,000.

SEC. 136. (a) The project for flood control on the Napa River, Napa County, California, authorized by section 204 of the Flood Control Act of 1965, is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to acquire approximately 577 acres of land for the purpose of mitigating adverse impacts on fish and wildlife occasioned by the project. The non-Federal share of the cost of such lands shall be the percentage as that required for the overall project.

(b) Such project is further modified to include construction by the Secretary of the Army acting through the Chief of Engineers, of the Napa Creek watershed project of the Soil Conservation Service approved June 25, 1962.

(c) No part of the cost of the modified project authorized by this section, shall include the cost of the Secretary of the Army, acting through the Chief of Engineers, performing maintenance dredging for the navigation project for the Napa River.

Sec. 137. The project for flood control in East St. Louis and vicinity, Illinois, authorized by section 204 of the Flood Control Act approved October 27, 1965, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the Blue Waters Ditch segment of the overall project independently of the other project segments. Prior to initiation of construction of the Blue Waters Ditch segment, appropriate non-Federal interests shall agree, in accordance with the provisions of section 221 of the Flood Control Act of 1970, to furnish non-Federal cooperation for such segment.

Sec. 138. The Secretary of the Army, acting through the Chief of Engineers, shall continue studies and construction of bank protection works pursuant to the project for the Sacramento River, Chico Landing to Red Bluff, California, authorized by the Flood Control Act of 1958, notwithstanding the completion of the remaining ten sites proposed for construction at the time of enactment of this Act.

Sec. 139. The project for Waurika Dam and Reservoir on Beaver Creek, Oklahoma, authorized by the Act of December 30, 1963 (P.L. 88–253), is hereby modified to provide that the interest rate applicable to the repayment by non-Federal interests of the cost of the water conveyance facilities shall be the same as the interest rate established for repayment of the cost of municipal and industrial water supply storage in the reservoir.

Sec. 140. In the case of any authorized navigation project which has been partially constructed, or is to be constructed, which is located in one or more States, and which serves regional needs, the Secretary of the Army, acting through the Chief of Engineers, may include in any economic analysis which is under preparation at the time of enactment of this Act such regional economic development benefits as he determines to be appropriate for purposes of computing the economic justification of the project.

Sec. 141. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make a study and report which shall include his conclusions and recommendations to the Congress on the advisability and feasibility of providing flood protection by dredging the Susquehanna in the Wyoming Valley, Pennsylvania, and the surrounding region.

Sec. 142. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to investigate the flood and related problems to those lands lying below the plane of mean higher high water along the San Francisco Bay shoreline of San Mateo, Santa Clara, Alameda, Napa, Sonoma, and Solano Counties to the confluence of the Sacramento and San Joaquin Rivers with a view toward determining the feasibility of and the Federal interest in providing protection against tidal and fluvial flooding. The investigation shall evaluate the effects of any proposed improvements on wildlife preservation, agriculture, municipal and urban interests in coordination with Federal, State, regional, and local agencies with particular reference to preservation of existing marshland in the San Francisco Bay region.

Sec. 143. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make a study in cooperation with the government of the Territory of American Samoa with particular reference to providing a plan for the development, utilization, and conservation of water and related land resources. Such study shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

Sec. 144. The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the State of Hawaii and appropriate units of local government, shall make a study of methods to develop, utilize, and conserve water and land resources in the Hilo Bay Area, Hawaii. Such study shall include, but not be limited to, consideration of the need for flood protection, appropriate use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, recreation facilities, enhancement and conservation of water quality, enhancement and conservation of fish and wildlife, other measures for environmental enhancement, and economic and human resources development. Based upon the findings of such study, the Secretary of the Army, acting through the Chief of Engineers, shall prepare a plan for the implementation of such findings which shall be compatible with other comprehensive development plans prepared by local planning agencies and other interested Federal agencies.

Sec. 145. The Secretary of the Army, acting through the Chief of Engineers, is authorized upon request of the State, to place on the beaches of such State beach-quality sand which has been dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches, if the Secretary deems such action to be in the public interest and upon payment of the increased cost thereof above the cost required for alternative methods of disposing of such sand.

Sec. 146. The project for harbor improvement at Noyo, Mendocino County, California, authorized by the River and Harbor Act of 1962 (76 Stat. 1173), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct such breakwaters as may be needed to provide necessary protection, but not more than two, and to construct such additional channel improvements, including, but not limited to, deepening, widening, and extensions, as he deems necessary to meet applicable economic and environmental criteria.

Sec. 147. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to conduct hydrographic surveys of the Columbia River from Richland, Washington, to Grand Coulee Dam for the purpose of identifying navigational hazards and preparing maps of the river channel at an estimated cost of $500,000, and providing information necessary for establishment of aids to navigation.

Sec. 148. The Secretary of the Army, acting through the Chief of Engineers, shall utilize and encourage the utilization of such management practices as he determines appropriate to extend the capacity and useful life of dredged material disposal areas such that the need for new dredged material disposal areas is kept to a minimum. Management practices authorized by this section shall include, but not be limited to, the construction of dikes, consolidation and dewatering of dredged material, and construction of drainage and outflow facilities.

Sec. 149. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to remove Shooters' Island located north of Staten Island, New York, at the mouth of Arthur Kill and to utilize such removed material for fill and widening of Arthur Kill.

Sec. 150. The Secretary of the Army, acting through the Chief of Engineers, is authorized to plan and establish wetland areas as part of an authorized water resources development project under his jurisdiction. Establishment of any wetland area in connection with the dredging required for such a water resources development project may be undertaken in any case where the Chief of Engineers in his judgment finds that—

(1) environmental, economic, and social benefits of the wetland area justifies the increased cost thereof above the cost required for alternative methods of disposing of dredged material for such project; and

(2) the increased cost of such wetland area will not exceed $400,000; and

(3) there is reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man-made causes.

(b) Whenever the Secretary of the Army, acting through the Chief of Engineers, submits to Congress a report on a water resources development project after the date of enactment of this section, such report shall include, where appropriate, consideration of the establishment of wetland areas.

(c) In the computation of benefits and cost of any water resources development project the benefits of establishing of any wetland area shall be deemed to be at least equal to the cost of establishing such area. All costs of establishing a wetland area shall be borne by the United States.

Sec. 151. The project for the Chief Joseph Dam authorized by the Act of July 2, 1946 (Public Law 525, 79th Congress) is modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide such school facilities as he may deem necessary for the education of dependents of persons engaged in the construction of additional hydroelectric power facilities at Chief Joseph Dam and Reservoir, Washington. When he determines it to be in the public interest, the Secretary, acting through the Chief of Engineers, may enter into cooperative arrangements with local and Federal agencies for the operation of such Government facilities, for the expansion of local facilities at Federal expense, and for contributions by the Federal Government to cover the increased cost to local agencies of providing the educational services required by the Government.

Sec. 152. The Secretary of the Army, acting through the Chief of Engineers, is authorized to participate in the construction of a levee and protective seawall at Liberty Park, New Jersey, at an estimated cost of $12,600,000. Appropriate non-Federal interests shall furnish all necessary lands, easements and rights-of-way necessary for such project and shall contribute 30 per centum of the total cost exclusive of land costs.

Sec. 153. The last sentence under the center heading "Arkansas-Red River Basin" in section 201 of the Flood Control Act of 1970 (84 Stat. 1825) is amended to read as follows: "Construction shall not be initiated on any element of such project until such element has been approved by the Secretary of the Army and the President.".

Sec. 154. The prohibitions and provisions for review and approval concerning wharves and piers in waters of the United States as set forth in section 10 of the Act of March 3, 1899 (30 Stat. 1151) and the first section of the Act of June 13, 1902 (32 Stat. 371) shall not apply to any body of water located entirely within one State which is, or could be, considered to be a navigable body of water of the United States solely on the basis of historical use in interstate commerce.

Sec. 155. (a) Subsection (c) of section 32 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and by adding at the end thereof the following:

"(5) the delta of the Eel River, California.".

(b) Subsection (e) of such section 32 is amended to read as follows:

"(e) There is authorized to be appropriated not to exceed $50,000,000 to carry out this section.".

Sec. 156. The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide periodic beach nourishment in the case of each water resources development project where such nourishment has been authorized for a limited period for such additional period as he determines necessary but in no event shall such additional period extend beyond the fifteeth year which begins after the date of initiation of construction of such project.

Sec. 157. (a) Section 12(b) of the Water Resources Development Act of 1974 (88 Stat. 17) is amended by striking out "one hundred and eighty" each time it appears and inserting in lieu thereof "ninety".

(b) The amendment made by subsection (a) of this section shall take effect on January 1, 1977.

Sec. 158. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a comprehensive study and report on the system of waterway improvements under his jurisdiction. The study shall include a review of the existing system and its capability for meeting the national needs including emergency and defense requirements and an appraisal of additional improvements necessary to optimize the system and its intermodal characteristics. The Secretary of the Army, acting through the Chief of Engineers, shall submit a report to Congress on this study, within three years after funds are first appropriated and made available for the study, together with his recommendations. The Secretary of the Army, acting through the Chief of Engineers, shall, upon request, from time to time make available to the National Transportation Policy Study Commission established by section 154 of Public Law 94-280, the information and other data developed as a result of the study.

Sec. 159. The Marysville Lake project, California, authorized by the Flood Control Act of 1966 (80 Stat. 1405), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake the phase I design memorandum stage of advanced engineering and design for a multiple-purpose project located at the Parks Bar site, including power development with pumped storage, at an estimated cost of $150,000.

Sec. 160. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for hydroelectric power on the Susitna River, Alaska, in accordance with the recommendations of the Board of Engineers for Rivers and Harbors in its report dated June 24, 1976, at an estimated cost of $10,500,000. The preceding sentence shall take effect on the date the Chief of Engineers submits to the Secretary of the Army his recommendations with respect to such project for transmittal to Congress.

Sec. 161. Section 3 of the Act of August 11, 1888 (25 Stat. 243; 33 U.S.C. 622) is amended to read as follows:

"Sec. 3. (a) The Secretary of the Army in carrying out projects for improvement of rivers and harbors (other than surveys, estimates, and gaugings) shall carry out such work by contract or otherwise as may be most economical and advantageous to the United States. The Secretary of the Army, acting through the Chief of Engineers, shall have dredgings and related work done by contract if he determines private industry has the capability to do such work and it can be done at reasonable prices. During the first year of the period which begins on the date of enactment of the Water Resources Development Act of 1976, the Secretary may limit the application of this section to 25 per centum of the total work for which the federally owned fleet is available, and during the second year of such period to 50 per centum.

(b) To carry out emergency and national defense work, the Secretary of the Army, acting through the Chief of Engineers, may retain the minimum fleet capable of performing such work, and he may exempt from the provisions of this section such amount of work as he determines to be reasonably necessary to keep such fleet operational. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a study, at an estimated Federal cost of $100,000, to determine the minimum fleet required to perform emergency and national defense work. The study shall also include preservation of the employee rights of persons employed on the date of enactment of the Water Resources Development Act of 1976 on the existing dredge fleet. The study shall be submitted to Congress within two years after funds are first appropriated and made available for such study."

Sec. 162. Section 8 of the Act of March 2, 1919 (40 Stat. 1290; 33 U.S.C. 624), is amended to read as follows:

"Sec. 8. (a) No works of river and harbor improvement shall be done by private contract:

"(1) if the Secretary of the Army, acting through the Chief of Engineers, determines that Government plant is reasonably available to perform the subject work and the contract price for doing the work is more than 25 per centum in excess of the estimated comparable cost of doing the work by Government plan; or

"(2) in any other circumstance where the Secretary of the Army, acting through the Chief of Engineers, determines that the contract price is more than 25 per centum in excess of what he determines to be a fair and reasonable estimated cost of a well-equipped contractor doing the work.

"(b) In estimating the comparable cost of doing the work under subsection (a)(1) by Government plant the Secretary of the Army, acting through the Chief of Engineers shall, in addition to the cost of labor and materials, take into account proper charges for depreciation or replacement of plant, all supervising and overhead expenses, interest on the capital invested in the Government plant (but the rate of interest shall not exceed the maximum prevailing rate being paid by the United States on current issues of bonds or other evidences of indebtedness) and such other Government expenses and charges as the Chief of Engineers determines to be appropriate.

"(c) In determining a fair and reasonable estimated cost of doing work by private contract under subsection (a)(2), the Secretary of the Army, acting through the Chief of Engineers, shall in addition to the cost of labor and materials, take into account proper charges for depreciation or replacement of plant, all expenses for supervision, overhead, workmen's compensation, general liability insurance, taxes (State and local), interest on capital invested in plant, and such other expenses and charges the Secretary of the Army, acting through the Chief of Engineers, determines to be appropriate.".

Sec. 163. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study water and surface transportation needs resulting from the expansion and further development of the San Pedro Bay ports. Such study shall include, but not be limited to, the feasibility and advisability of enlarging the Dominguez Channel for flood control purposes.

Sec. 164. The project for the Snake River, Oregon, Washington, and Idaho, authorized in section 2 of the River and Harbor Act of 1945 (59 Stat. 21) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct at full Federal expense a four-lane, high-level highway bridge and approaches thereto connecting the cities of Lewiston, Idaho, and Clarkston, Washington, at or near river mile 141.3 of the Snake River, approximately two miles upstream of the present United States Highway 12 bridge. Before construction may be initiated the non-Federal interests shall agree pursuant to section 221 of the Flood Control Act of 1970 (P.L. 91-611) to (1) hold and save the United States free from damages resulting from construction of the bridge and its approaches, (2) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the bridge and its approaches, and (3) own, maintain, and operate the bridge and its approaches after construction is completed, free to the public.

Sec. 165. That portion of the first section of the Act of September 1, 1916 (39 Stat. 693) entitled "Washington Aqueduct" is hereby repealed.

Sec. 166. (a) In order to alleviate water damage on the shoreline of Lake Michigan and others of the Great Lakes during periods of abnormally high water levels in the Great Lakes, and to improve the water quality of the Illinois Waterway, the Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a five-year demonstration program to temporarily increase the diversion of water from Lake Michigan at Chicago, Illinois, for the purpose of testing the practicability of increasing the average annual diversion from the present limit of three thousand two hundred cubic feet per second to ten thousand cubic feet per second. The demonstration program will increase the controllable diversion by various amounts calculated to raise the average annual diversion above three thousand two hundred cubic feet per second up to ten thousand cubic feet per second. The increase in diversion rate will be accomplished incrementally and will take into consideration the effects of such increase on the Illinois Waterway. The program will be developed by the Chief of Engineers in cooperation with the State of Illinois and the Metropolitan Sanitary District of Greater Chicago. The program will be implemented by the State of Illinois and the Metropolitan Sanitary District of Greater Chicago under the supervision of the Chief of Engineers.

(b) During the demonstration program a controllable diversion rate will be established for each month calculated to establish an annual average diversion from three thousand two hundred cubic feet per second to not more than ten thousand cubic feet per second. When the level of Lake Michigan is below its average level, the total diversion for the succeeding accounting year shall not exceed three thousand two hundred cubic feet per second on an annual basis. The average level of Lake Michigan will be based upon the average monthly level for the period from 1900 to 1975.

(c) When river stages approach or are

predicted to approach bankfill conditions at the established flood warning stations on the Illinois Waterway or the Mississippi River, or when further increased diversion of water from Lake Michigan would adversely affect water levels necessary for navigational requirements of the Saint Lawrence Seaway in its entirety throughout the Saint Lawrence River and Great Lakes-Saint Lawrence Seaway, water shall not be diverted directly from Lake Michigan at the Wilmette, O'Brien, or Chicago River control structures other than as necessary for navigational requirements.

(d) The Chief of Engineers shall conduct a study and a demonstration program to determine the effects of the increased diversion on the levels of the Great Lakes, on the water quality of the Illinois Waterway, and on the susceptibility of the Illinois Waterway to additional flooding. The study and demonstration program will also investigate any adverse or beneficial impacts which result from this section. The Chief of Engineers, at the end of five years after the enactment of this section, will submit to the Congress the results of this study and demonstration program including recommendations whether to continue this authority or to change the criteria stated in subsection (b) of this section.

(e) For purposes of this section, controllable diversion is defined as that diversion at Wilmette, O'Brien and Chicago River control structures which is not attributable to leakage or which is not necessary for navigational requirements.

SEC. 167. (a) The Secretary of the Army, acting through the Chief of Engineers is authorized and directed to conduct a study of the most efficient methods of utilizing the hydroelectric power resources at water resource development projects under the jurisdiction of the Secretary of the Army and to prepare a plan based upon the findings of such study. Such study shall include, but not be limited to, an analysis of—

(1) the physical potential for hydroelectric development, giving consideration to the economic, social, environmental and institutional factors which will affect the realization of physical potential;

(2) the magnitude and regional distribution of needs for hydroelectric power;

(3) the integration of hydroelectric power generation with generation from other types of generating facilities;

(4) measures necessary to assure that generation from hydroelectric projects will efficiently contribute to meeting the national electric energy demands;

(5) the timing of hydroelectric development to properly coincide with changes in the demand for electric energy;

(6) conventional hydroelectric potential, both high head and low head projects utilizing run-of-rivers and possible advances in mechanical technology, and pumped storage hydroelectric potential at sites which evidence such potential;

(7) the feasibility of adding or reallocating storage and modifying operation rules to increase power production at corps projects with existing hydroelectric installations;

(8) measures deemed necessary or desirable to insure that the potential contribution of hydroelectric resources to the overall electric energy supply are realized to the maximum extent possible; and

(9) any other pertinent factors necessary to evaluate the development and operation of hydroelectric projects of the Corps of Engineers.

(b) Within three years after the date of the first appropriation of funds for the purpose of carrying out this section, the Secretary of the Army, acting through the Chief of Engineers, shall transmit the plan prepared pursuant to subsection (a) with supporting studies and documentation together with the recommendations of the Secretary and the Chief of Engineers on such plan, to the Committee on Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(c) There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $7,000,000.

(d) The Secretary of the Army, acting through the Chief of Engineers, is authorized with respect to previously authorized projects to undertake feasibility studies of specific hydroelectric power installations that are identified in the course of the study authorized by this section, as having high potential for contribution toward meeting regional power needs. There is authorized to be appropriated to carry out this subsection not to exceed $5,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

SEC. 168. Subsection 22(b) of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by striking out "$2,000,000" and inserting in lieu thereof "$4,000,000".

SEC. 169. Notwithstanding any other provision of law, the project for Pine Mountain Lake on Lee Creek, Arkansas and Oklahoma, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1073), shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act (Public Law 89–72).

SEC. 170. The Little Dell Project, Salt Lake City Streams, Utah, authorized in section 203 of the Flood Control Act of 1968 (P.L. 90–483; 82 Stat. 744) is hereby modified to authorized the Secretary of the Army, acting through the Chief of Engineers, to decrease the amount of storage capacity so as to more adequately reflect existing needs.

SEC. 171. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project element involving the lowermost 10.1 mile-long segment of channel modification of Sowashee Creek at Meridian, Mississippi, substantially in accordance with the plan of development approved by the Administrator, Soil Conservation Service, United States Department of Agriculture, on October 15, 1974, at an estimated cost of $450,000.

SEC. 172. The project for assumption of maintenance of the Mermentau River and the Gulf of Mexico Navigation Channel, Louisiana, is hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions contained in the report of the Board of Engineers for Rivers and Harbors dated January 16, 1976, at an estimated annual cost of $155,000.

SEC. 173. The project for flood protection in the Bassett Creek Watershed, Minnesota, is hereby adopted and authorized to be prosecuted by the Secretary of the Army acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions contained in the report of the Board of Engineers for Rivers and Harbors dated July 26, 1976, at an estimated cost of $7,593,000.

SEC. 174. The project for Caddo Dam and Reservoir, Louisiana, authorized by the Flood Control Act of 1965 (79 Stat. 1077, P.L. 89–298) is hereby modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

SEC. 175. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for harbor modification at Cleveland Harbor, Ohio, in accordance with the report of the District Engineer, dated June 1976, at an estimated cost of $500,000. This section shall take effect on the date the Chief of Engineers submits to the Secretary of the Army his recommendations with respect to such project for transmittal to Congress.

SEC. 176. Appropriations for any project which is authorized for initial construction by this Act are authorized for those fiscal years which begin on or after October 1, 1977.

SEC. 177. This title may be cited as the "Water Resources Development Act of 1976".

## TITLE II—RIVER BASIN MONETARY AUTHORIZATIONS

SEC. 201. (a) In addition to previous authorizations there is hereby authorized to be appropriated commencing with the fiscal year which ends in September 30, 1978, for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to be date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin, Date, Amount

Alabama-Coosa River Basin, March 2, 1945, $7,000,000.

Arkansas River Basin, June 28, 1938, $5,000,000.

Brazos River Basin, September 3, 1954, $28,000,000.

Columbia River Basin, May 17, 1950, $19,000,000.

Mississippi River and tributaries, May 15, 1928, $263,000,000.

Missouri River Basin, June 28, 1938, $101,000,000.

North Branch Susquehanna River Basin, July 3, 1958, $36,000,000.

Ohio River Basin, June 22, 1936, $31,000,000.

Ouachita River Basin, May 17, 1950, $1,000,000.

Red River Waterway project, August 13, 1968, $22,000,000.

San Joaquin River Basin, December 22, 1944, $69,000,000.

South Platte River Basin, May 17, 1950, $8,000,000.

(b) The total amount authorized to be appropriated by this Act shall not exceed $590,000,000.

SEC. 202. This title may be cited as the "River Basin Monetary Authorization Act of 1976".

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15636) was laid on the table.

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## APPOINTMENT OF CONFEREES ON S. 3823

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to insist on the House amendments to the bill (S. 3823) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER. Is their objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. JONES of Alabama, WRIGHT, JOHNSON of California, ROBERTS, HOWARD, ROE, OBER-

STAR, HARSHA, DON H. CLAUSEN, and SNYDER.

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### GENERAL LEAVE

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

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### ERECTION OF AMERICAN LEGION'S FREEDOM BELL

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 181) to authorize the erection of the American Legion's Freedom Bell on lands of the park system of the District of Columbia, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 181

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the American Legion is authorized to erect on lands of the park system of the District of Columbia and its environs on lands owned by the United States and to present to the Congress of the United States on behalf of the children of America, the American Legion's Freedom Bell, in honor of the Bicentennial celebration of the signing of the Declaration of Independence.

SEC. 2. All plans for the choice of the site and the placement of the freedom bell pursuant to the first section of this bill are subject to (1) the approval of the Secretary of the Interior, the Commission on Fine Arts, and the National Capital Planning Commission, and (2) the placement of the bell is begun within five years after the date of enactment of this Act.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, will the gentleman tell us how this differs from House Joint Resolution 915 which was passed on this subject on September 20?

Mr. TAYLOR of North Carolina. If the gentleman will yield, the House and Senate joint resolutions are similar in intent. There is a slight wording difference in the two measures. The Senate resolution would provide that the bell would be placed on park system lands in the District of Columbia or its environs. The House-passed measure would have authorized the consideration of its placement on any federally owned lands in this same area. We have consulted with the officials of the American Legion who have offered to donate this bell to the United States and they concur that the Senate resolution would still permit the Secretary and the American Legion to find a suitable place in or near the Nation's Capitol for the placement of this bell.

Mr. SEBELIUS. I thank the gentleman.

I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

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### DESIGNATING CERTAIN LANDS IN POINT REYES NATIONAL SEASHORE AS WILDERNESS

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8002) to designate certain lands in the Point Reyes National Seashore, Calif., as wilderness, to designate Point Reyes National Seashore as a natural area of the national park system, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I just would like to ask the gentleman from North Carolina to give us the details in this bill.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, this bill, H.R. 8002, would designate some 25,370 acres of federally owned land within this national seashore as wilderness. An additional 8,003 acres would be classified as potential wilderness additions. This is a wilderness designation which has been recommended by the President to the Congress and which has the support of a wide variety of local and national organizations.

Mr. Speaker, I want to commend the gentleman from California (Mr. JOHN L. BURTON) who represents the area and has done an outstanding job in bringing the various groups together and getting a compromise bill which has almost unanimous support.

Mr. Speaker, the bill does two other things. It names the Environmental Education Center within the seashore after the late Congressman Clem Miller, who was instrumental in establishing this unit of the national park system. The bill also contains additional strengthening language to the original act to insure that the continued management of this national seashore will continue to fully protect its natural and scenic values.

Mr. SEBELIUS. Mr. Speaker, further reserving the right to object, I would like to ask the gentleman from North Carolina, what is the cost of this measure?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield further, this is already federally owned land. There is no cost.

Mr. SEBELIUS. Mr. Speaker, I support this bill which will designate certain lands as wilderness in the Point Reyes National Seashore in California. This bill represents basic agreement by all parties, including conservation organizations and the administration. It is a great asset to be able to have a wilderness area of this size and purity so close to San Francisco and the very highly developed bay area. This contrast provides all the more reason to assure that this wilderness is protected and managed in as pure a condition as possible—completely free from the evidences of any works or mechanisms of civilization. The National Park Service has assured us that the area to be designated as wilderness is now completely free of any development or manmade facilities. Enactment of this legislation will assure the retention of that condition. It will also probably soon become a challenge to the National Park Service, in its management of this area under terms of the Wilderness Act, to assure the retention of solitude within the wilderness. This might soon necessarily lead to some form of rationing of use.

For those who desire an outdoor experience of less primitive nature, there remains the balance of the Point Reyes National Seashore, and the adjacent Golden Gate National Recreation Area, the latter of which is somewhat toward the farther end of the spectrum in design for providing a more development-assisted form of outdoor recreation.

In recognition of this broad spectrum of outdoor recreation opportunities in this local area, this legislation also amends the 1962 authorizing legislation for Point Reyes by reinforcing a commitment to the preservation of natural values. As a consequence of this change, the National Park Service administrative management categorization of this area as a "recreational" area is expected to change to "natural" area. With that type of adjustment, along with the somewhat more recreational orientation of the nearby Golden Gate National Recreational Area, and at the other extreme the wilderness designation of part of Point Reyes itself, a wide spectrum of differing types of outdoor recreation use opportunities will be provided. This is a most desirable end product, as nearly every reasonable degree of outdoor recreation pursuit can likely be accommodated within these National Park Service managed areas.

Mr. Speaker, I believe this is a good bill which should be adopted by this body, and I urge my colleagues to vote for it.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the legislation and to convey to the committee my appreciation for their efforts in bringing this bill out.

I have had a chance to work with the gentleman from California (Mr. JOHN L. BURTON) who provided the work on this legislation. It used to be that I had Marin County and Point Reyes Seashore in my district. I think we have the kind of bill that is acceptable to all.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, I rise in strong support of this measure.

Mr. Speaker, I wish to thank the gentleman from North Carolina (Mr. TAYLOR) and the other members of the committee for their handling of this bill in a manner that is responsive both to the interests of the people of the country and to the concerns of the residents of the local communities in my district who are the immediate neighbors of Point Reyes National Seashore.

The local people agree that the lands and waters which this bill would designate as wilderness be so protected, and thus remain roadless. At the same time they want assurance that wilderness designation will not prevent the use of such mechanized equipment as may be necessary from time to time to maintain the fire trails so that they are passable for fire-fighting equipment as required in the event of fire.

Fire can be a danger at Point Reyes during certain months and is a cause of special concern this year. There has already been one fire there this year when there is a drought in this part of the west coast.

The committee also has properly made clear, and it is my understanding, that mechanized equipment is to be used on these designated fire trails only as absolutely required as the "minimum tool" that is available to the National Park Service management.

Again, I thank the chairman and the members of the committee.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendments: Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That, in furtherance of the purposes of the Point Reyes National Seashore Act (76 Stat. 538; 16 U.S.C. 459c), and of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131–36), and in accordance with section 3(c) of the Wilderness Act, the following lands within the Point Reyes National Seashore are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act: those lands comprising twenty-five thousand three hundred and seventy acres, and potential wilderness additions comprising eight thousand and three acres, depicted on a map entitled "Wilderness Plan, Point Reyes National Seashore", numbered 612–90,000–B and dated September 1976 to be known as the Point Reyes wilderness.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map of the wilderness area and a description of its boundaries with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and descriptions may be made.

SEC. 3. The area designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture, shall be deemed to be a reference to the Secretary of the Interior.

SEC. 4. (a) Amend the Act of September 13, 1962 (76 Stat. 538), as amended (16 U.S.C. 459c–6a), as follows:

In section 6(a) insert immediately after the words "shall be administered by the Secretary" the words "without impairment of its natural values, in a manner which provides for such recreational, educational, historic preservation, interpretation, and scientific research opportunities as are consistent with, based upon, and supportive of the maximum protection, restoration and preservation of the natural environment within the area,".

(b) Add the following new section 7 and redesignate the existing section 7 as section 8:

SEC. 7. The Secretary shall designate the principal environmental education center within the Seashore as "The Clem Miller Environmental Education Center," in commemoration of the vision and leadership which the late Representative Clem Miller gave to the creation and protection of Point Reyes National Seashore.

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to designate certain lands in the Point Reyes National Seashore, California, as wilderness, amending the act of September 13, 1962 (76 Stat. 538), as amended (16 U.S.C. 459c–6a), and for other purposes.".

A motion to reconsider was laid on the table.

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## PROVIDING FOR INCREASES IN APPROPRIATION CEILINGS AND BOUNDARY CHANGES IN CERTAIN UNITS OF THE NATIONAL PARK SYSTEM

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13713) to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes, with Senate amendments thereto, and consider the Senate amendments in the House.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

(1) Page 2, line 18, strike out "$3,120,000" and insert: "$3,462,000".

(2) Page 3, line 13, strike out "$145,000". and insert: "$145,000";

(3) Page 3, after line 13, insert:

(12) Canyonlands National Park, Utah: section 8 of the Act of September 12, 1964 (78 Stat. 934) as amended (85 Stat. 421) is further amended by changing $16,000 to $104,500; and

(4) Page 3, after line 13, insert:

(13) Padre Island National Seashore, Texas: section 8 of the Act of September 28, 1962 (76 Stat. 650) is amended by changing $5,000,000 to $5,350,000.

(5) Page 4, line 18, strike out "and".

(6) Page 4, line 21, strike out "$3,850,000". and insert: "$3,850,000";

(7) Page 4, after line 21, insert:

(9) Channel Islands National Monument, California: paragraph (1) of section 201 of the Act of October 26, 1974 (88 Stat. 1445, 1446), is amended by changing "$2,936,000" to "$5,452,000"; and

(8) Page 4, after line 21, insert:

(10) Nez Perce National Historical Park, Idaho: section 7 of the Act of May 15, 1965 (79 Stat. 110) is amended by changing "$1,337,000" to "$4,100,000".

(9) Page 4, strike out all after line 22 over to and including line 19 on part 6 and insert:

Sec. 301. The Act of September 21, 1965 (79 Stat. 824), as amended, providing for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, is further amended—

(a) by deleting section 7 in its entirety and substituting in lieu thereof the following:

"SEC. 7. The Secretary is authorized to undertake, in consultation with other interested Federal, State, local, and private agencies and interests, the development of a comprehensive plan for the lands and waters adjacent or related to the seashore, the use of which could reasonably be expected to influence the administration, use, and environmental quality of the seashore. Such plan shall set forth the most feasible and prudent methods for providing solid waste disposal, wetlands managements, development of visitor facilities, and other land uses all in a manner compatible with the preservation of the seashore. The Secretary may revise the plan from time to time, and he shall encourage Federal, State, local, and private agencies and interests to be guided thereby. Notwithstanding any other provision of law, no Federal loan, grant license, or other form of assistance for any project which, in the opinion of the Secretary, would significantly affect the administration, use, and environmental quality of the seashore shall be made, issued, or approved by the head of any Federal agency without the concurrence of the Secretary unless such project is consistent with the plan developed pursuant to this section.";

(b) by deleting section 9 in its entirety and by renumbering accordingly.

(10) Page 9, line 8, strike out "151–91,001–B, and dated May 1976," and insert: "151–91,001–C, and dated July 1976,".

(11) Page 9, after line 19, insert:

SEC. 308. (a) The Appomattox Court House National Historical Park shall hereafter comprise the area depicted on the map entitled "Boundary Map, Appomattox Court House National Historical Park", numbered 340–20,000, and dated November 1973, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the park from time to time by publication of a revised map or other boundary description in the Federal Register, but its total acreage shall not exceed one thousand five hundred acres.

(b) Within the boundaries of the park, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the State of Virginia or its political subdivisions may be acquired only by donation.

(c) The Secretary shall administer the park in accordance with the Acts of August 25, 1916 (39 Stat. 535), as amended and supplemented, and August 21, 1935 (49 Stat. 666) as amended.

(d) The Acts of June 18, 1930 (46 Stat. 777), August 13, 1935 (49 Stat. 613), and July 17, 1953 (67 Stat. 181), are repealed.

(e) There are authorized to be appropriated not to exceed $1,365,000 to carry out the purposes of this Act.

(12) Page 9, after line 19, insert:

Sec. 309. (a) That the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange approximately four thousand two hundred and thirty-four acres comprising part of the Canada de Cochiti Grant adjacent to the southern boundary of Bandelier National Monument, New Mexico, and approximately three thousand and seventy-six acres containing the headwaters of the Rito de los Frijoles adjacent to the northwestern boundary for addition to the monument. Lands and interests therein owned by the State of New Mexico or any political subdivision thereof may be acquired only by donation or exchange.

(b) Lands and interests therein acquired pursuant to this Act shall thereupon become part of Bandelier National Monument and subject to all laws and regulations applicable thereto.

(c) There are hereby authorized to be appropriated not to exceed $1,463,000 for the acquisition of land.

(13) Page 9, after line 19, insert:

Sec. 310. Section 7 of the Act of March 1, 1972 (86 Stat. 44) which establishes the Buffalo National River, is amended by deleting "For development of the national river, there are authorized to be appropriated not more than $283,000 in fiscal year 1974; $2,923,000 in fiscal year 1975; $3,643,000 in fiscal year 1976; $1,262,000 in fiscal year 1977; and $1,260,000 in fiscal year 1978. The sums appropriated each year shall remain available until expended." and inserting in lieu thereof "For development of the national river, there are authorized to be appropriated not to exceed $9,371,000.".

(14) Page 9, after line 19, insert:

Sec. 311. The Act of September 5, 1962 (76 Stat. 428) which designates the Edison National Historic Site, is amended (a) by deleting the words "accept the donation of" in section 2 and substituting the words "acquire, by donation, or purchase with donated or appropriated funds,"; and (b) adding the following new section:

"Sec. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $75,000 for acquisition of lands or interests therein, and $1,695,000 for development.".

(15) Page 9, after line 19, insert:

Sec. 312. The Act of September 13, 1961 (75 Stat. 489), authorizing the establishment of the Fort Smith National Historic Site, Arkansas, is amended as follows:

(a) in section 1, after "adjoining" insert "or related" in the first sentence, and add the following after the second sentence: "The total area so designated for the purposes of this Act may not exceed seventy-five acres.";

(b) in section 2, change the colon at the end of the second sentence to a period and delete the remainder of the section (through the second proviso); and

(c) revise section 4 to read as follows: "Sec. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, $1,719,000 for land acquisition and not to exceed $4,580,000 for the development of Fort Smith National Historic Site undertaken after the effective date of this section.".

(16) Page 9, after line 19, insert:

Sec. 313. The Act of September 13, 1960 (74 Stat. 881); which designates and establishes that portion of the Hawaii National Park on the island of Maui, in the State of Hawaii, as the Haleakala National Park, is amended by adding the following new section:

"Sec. 2. (a) Notwithstanding any limitations on land acquisition as provided by the Act of June 20, 1938 (52 Stat. 781), the Secretary of the Interior may acquire for addition to the park any land on the island of Maui within the boundaries of the area generally depicted on the map entitled 'Haleakala National Park, Segment 03,' numbered 162–30,000–G, and dated May 1972, by donation, purchase with donated or appropriated funds, or exchange. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

"(b) There is authorized to be appropriated such sums but not to exceed $920,000 as may be necessary to carry out the purposes of this section.".

(17) Page 9, after line 19, insert:

Sec. 314. The second sentence of subsection (e) of section 6 of the John F. Kennedy Center Act (72 Stat. 1698), as amended, is amended to read as follows: "There is authorized to be appropriated to carry out this subsection not to exceed $4,000,000 for the fiscal year ending September 30, 1978, and not to exceed $4,300,000 for the fiscal year ending September 30, 1979.".

(18) Page 9, after line 19, insert:

Sec. 315. The Act of September 18, 1964 (78 Stat. 957), entitled "An Act to authorize the addition of lands to Morristown National Historical Park in the State of New Jersey, and for other purposes", as amended by the Act of October 26, 1974 (88 Stat. 1447), is amended by changing "465 acres" in both places in which it appears in the first section to "600 acres".

(19) Page 9, after line 19, insert:

Sec. 316. The first sentence of section 15 of the Act of March 23, 1972 (86 Stat. 102; 16 U.S.C. 460z–13 which establishes the Oregon Dunes National Recreation Area, is hereby amended to read as follows: "There are hereby authorized to be appropriated for the acquisition of lands, waters, and interests therein such sums as are necessary, not to exceed $5,750,000.".

(20) Page 9, after line 19, insert:

Sec. 317. The boundary of the Pecos National Monument is hereby revised to include the area as generally depicted on the map entitled "Boundary Map, Pecos National Monument, New Mexico", numbered 430–20017, and dated December 1975, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(21) Page 9, after line 19, insert:

Sec. 318. The boundary of Zion National Park is hereby revised to include the area as generally depicted on the map entitled "'Land Ownership Types, Zion National Park, Utah", numbered 116–80,003, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior may acquire the property included by this section by donation only.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from North Carolina, does the gentleman intend to offer a motion to concur in the Senate amendments?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield, I intend to offer a motion to concur in most of the Senate amendments. In some cases we will want to concur in the Senate amendments with amendments.

The Senate has added certain boundary changes and authorization increases, which are acceptable and have the support of the Members of the House representing these areas.

Mr. Speaker, what we have tried to do in these omnibus bills is deal with the problems of the various park units collectively so that we do not have to bring them to the House one at a time. This enables us in the committee to do our job more thoroughly and effectively, and it certainly saves a considerable amount of time on the House floor.

We have two cases where we are recommending that the Senate amendments be revised. One would partially reinstate the House provision relating to Assateague Island and the other is a compromise involving Appomattox Court House.

Finally, we are adding further amendments which have been recommended by the Committee on Interior and Insular Affairs to the Senate version of the bill. These provisions were subject to hearings by the Subcommittee on National Parks and Recreation. They are all supported by the Members representing the areas involved, and every effort has been made to work out the controversies and make the provisions universally acceptable.

Mr. Speaker, Senate amendments 1 through 8 make certain conforming changes and add the following new material to the bill:

First. An additional $88,500 is authorized for land acquisition at Canyonlands National Park, to permit final payment on a parcel of land which is being purchased.

Second. An additional $350,000 is authorized for land acquisition at Padre Island National Seashore in Texas. This will permit the purchase of a tract of some 274 acres needed for visitor access at the southern end of the seashore.

Third. A development ceiling increase of $2,516,000 is authorized at Channel Islands National Monument in California, which will permit the completion of a new visitor center and related facilities for the area.

Fourth. A development increase of $2,763,000 at Nez Perce National Historical Park in Idaho is authorized to permit the needed construction of a visitor center and headquarters building, and to restore certain historic structures.

The further amendment to Senate amendment No. 9 makes a final adjustment in that portion of the bill affecting the Assateague Island National Seashore in the States of Maryland and Virginia. This language would have the effect of requiring other Federal agencies to consult with the Secretary of the Interior if they consider any action which would have an effect on this national seashore. The Secretary would also be given 30 days in which to make written response to such a proposal.

While this language does not go quite as far as the Senate version which required the concurrence of the Secretary for any such action, it does insure that a full and careful review will be made so that the full protection of this national seashore can be maintained. In all other respects, the House and Senate legislation affecting this area is identical.

Senate amendment No. 10 affects the House-passed expansion of the Saguaro National Monument in Arizona by deleting some 775 acres of land from the eastern unit of the monument. The deletion includes some privately owned lands which have already been developed, and for which acquisition is not necessary. This amendment has the concurrence of the gentleman from Arizona (Mr. UDALL) in whose district the area is located.

Mr. Speaker, we propose to further amend Senate amendment No. 11 which affects the Appomattox Court House National Historical Park in Virginia. The effect of this change will be to insert specific language permitting owners of improved property to retain a right of use and occupancy when their residences are acquired. This is similar to many other national park areas which we have worked on before.

Our amendment also makes a slight boundary adjustment to the additional area proposed by the Senate which is agreeable to all parties and which reduces the cost of this measure by some $30,000. The total acreage of the national historical park as enlarged by this amendment would include approximately 1,315 acres.

Senate amendments 12 through 20 amend additional previously authorized areas. Several of these have already been the subject of hearings and favorable consideration by our committee. These amendments include the following:

First. An additional 7,310 acres is included within Bandelier National Monument in New Mexico. Most of this property will be acquired by donation or exchange; $1,463,000 is authorized for land acquisition purposes.

Second. The existing development ceiling for the Buffalo National River in Arkansas, which was originally authorized on a year-by-year basis, is simply combined into a single authorization.

Third. The acquisition of an additional 1.39 acres of land at the Edison National Historic Site in New Jersey is authorized; $75,000 is authorized for land acquisition purposes, and $1,695,000 is authorized to permit the construction of a visitor center for the area.

Fourth. An increase of some 56 acres is authorized in the size of Fort Smith National Historic Site in Arkansas. Some $1,400,000 is authorized for land acquisition in the area, and a development ceiling of $4,588,000 is established to permit restoration of historic buildings and the construction of a visitor center and other facilities.

Fifth. An authorization of $920,000 will permit the acquisition of some 250 acres of lands at Haleakala National Park in Hawaii.

Sixth. The operation and maintenance authorization for the John F. Kennedy Center in our Nation's Capital is extended for fiscal years 1978 and 1979 at a level of $4,000,000 and $4,300,000 respectively.

Seventh. A boundary change is made to the Morristown National Historical Park in New Jersey, which will permit the acquisition of some 130 acres. This can be accomplished within the currently authorized ceiling.

Eighth. An authorization increase of some $3,250,000 is made for land acquisition purposes at the Oregon Dunes National Recreation area in Oregon. This will permit the continuing acquisition of lands within the presently authorized boundary.

Ninth. A change is made in the boundary of the Pecos National Monument in New Mexico which will permit the donation of some 24 acres of additional lands to the area.

Mr. Speaker, the further amendment to this Senate amendment will add the remaining titles of H.R. 14934, which has been previously reported by the Committee on Interior and Insular Affairs. This additional material consists of similar boundary adjustments and authorization increases much like those already in this measure. The committee has held hearings on this measure as well. The additional changes are as follows:

First. Some 1,000 additional acres of lands are added to the Manassas National Battlefield Park in Virginia. This change was the subject of hearings and consideration by the committee and the lands were found necessary to insure the continued protection of this important Civil War battlefield. Some $5,980,000 is authorized for the land acquisition program made possible by this amendment. A part of these lands will be subject to easement acquisition only.

Second. This amendment is to the act which authorized the Monocacy National Military Park. The name of the area is changed to Monocacy National Battlefield and a specific boundary is referenced for the area. The site of this Civil War engagement in western Maryland is important for the role the battle played in protecting the Nation's Capital from a late Confederate offensive during the Civil War. Some $3,525,000 is authorized to be appropriated for land acquisition purposes, and $500,000 is authorized for developments.

Third. The next change is an adjustment to the George Washington Birthplace National Monument in Virginia. An additional 1,065 acres would be authorized for addition to the monument, and up to $3,820,000 is authorized for land acquisition purposes. Additional language is added to the enabling act for this area which makes clear that owners of residential property would be able to retain a right of occupancy for those areas to be acquired. We also anticipate that land acquisition in this area will be from willing sellers unless there is some threat to the continued integrity of this scenic backdrop for the George Washington birthplace.

Fourth. The next features of this amendment are certain boundary adjustments to Olympic National Park in Washington. This proposal includes a number of boundary adjustments designed to conform with generally agreed on management boundaries. It also adds the Point of Arches and an adjoining coastal strip along the Pacific shoreline to the park. Also included is a shoreline area surrounding Lake Ozette in the western area of the park, and a provision for the deletion of certain private lands along the park boundary in the Quinault drainage following a 2-year study. While some $13 million is authorized for land acquisition under this amendment, we will expect to minimize acquisition costs by virtue of land exchanges which the bill permits, as well as the acceptance of any lands owned by Federal, State, or local governments by donation, as is our usual practice. These adjustments will improve the management of this spectacular national park and provide for important additions of great natural and scenic beauty.

Fifth. This provision will permit emergency repairs to be made on the foundations of the historic fort at the San Juan National Historic Site in Puerto Rico. A total of $2,733,000 is authorized for this purpose, a portion of which will be used for further studies to determine the need for additional restoration and repairs to assure the safety of the visiting public.

Sixth. A clarifying amendment is added to the act which established the Big Thicket National Preserve in Texas which, in line with the usual practice of the Congress, makes clear that the properties which are to be considered as qualifying for retained rights of use and occupancy must be year-round, permanent dwellings.

Seventh. The last provision of this amendment makes a boundary adjustment to the Cuyahoga Valley National Recreation Area which includes an additional 900 acres in the northern part of the recreation area. Addition of these lands has been considered by the National Park Service planning team working in the area, and is needed to protect the historic scene of the Ohio and Erie Canal in this section. An increase of $6,600,000 is authorized in the land acquisition program for this area.

The other provisions of H.R. 14934 were included by the Senate by its amendments to H.R. 13713.

Mr. SEBELIUS. Mr. Speaker, with that statement I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

### MOTIONS OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves

that the House concur in Senate amendments numbered 1 through 8.

The motion was agreed to.

The SPEAKER. The Clerk will report the next motion.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves that the House concur in Senate amendment number 9 with an amendment as follows: In lieu of Senate amendment numbered 9 insert the following:

"SEC. 301. The Act of September 21, 1965 (79 Stat. 824), as amended (16 U.S.C. 459f), providing for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, is further amended by repealing sections 7 and 9 in their entirety, and by adding the following new section 12:

"'SEC. 12. (a) Within two years of the date of enactment of this section, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives a comprehensive plan for the protection, management, and use of the seashore, to include but not be limited to the following considerations:

"'(1) measures for the full protection and management of the natural resources and natural ecosystems of the seashore;

"'(2) present and proposed uses of the seashore and the lands and waters adjacent or related thereto, the uses of which would reasonably be expected to influence the administration, use, and environmental quality of the seashore;

"'(3) plans for the development of facilities necessary and appropriate for visitor use and enjoyment of the seashore, with identification of resource and user carrying capacities, along with the anticipated costs for all proposed development;

"'(4) plans for visitor transportation systems integrated and coordinated with lands and facilities adjacent to, but outside of, the seashore; and

"'(5) plans for fostering the development of cooperative agreements and land and resource use patterns outside the seashore which would be compatible with the protection and management of the seashore.

"'(b) Notwithstanding any other provision of law, no Federal loan, grant, license, or other form of assistance for any project which, in the opinion of the Secretary would significantly adversely affect the administration, use, and environmental quality of the seashore shall be made, issued, or approved by the head of any Federal agency without first consulting with the Secretary to determine whether or not such project is consistent with the plan developed pursuant to this section and allowing him at least thirty days to comment in writing on such proposed action.'."

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next motion.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves that the House concur in Senate amendment numbered 11, with an amendment as follows: In lieu of Senate amendment numbered 11, insert:

"SEC. 308. (a) The Appomattox Court House National Historical Park shall hereafter comprise the area depicted on the map entitled 'Boundary Map, Appomattox Court House National Historical Park', numbered 340-20,-000A, and dated September 1976, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

"(b) Within the boundaries of the park, the Secretary may acquire lands and interests in lands, by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the State of Virginia or its political subdivisions may be acquired only by donation.

"(c)(1) The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition, less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

"(2) As used in this Act, the term 'improved property' means a detached, single-family dwelling, construction of which was begun before June 8, 1976, which is used for noncommercial residential purposes, together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

"(3) Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 101(6) of such Act.

"(d) The Secretary shall administer the park in accordance with the Acts of August 25, 1916 (39 Stat. 535), as amended and supplemented, and August 21, 1935 (49 Stat. 666) as amended.

"(e) The Acts of June 18, 1930 (46 Stat. 777), August 13, 1935 (49 Stat. 613, and July 17, 1953 (67 Stat. 181), are repealed.

"(f) There are authorized to be appropriated not to exceed $1,335,000 to carry out the purposes of this Act.".

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next motion.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves that the House concur in Senate amendment numbered 21, with an amendment as follows: In lieu of Senate amendment numbered 21, insert the following:

"SEC. 318. The boundary of Zion National Park is hereby revised to include the area as generally depicted on the map entitled 'Land Ownership Types, Zion National Park, Utah', numbered 116-80,003, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior may acquire the property included by this section by donation only.

"SEC. 319. The Act of April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b), entitled 'An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battles of Manassas and for other purposes', is amended to read as follows:

"'That in order to establish satisfactory boundaries for the Manassas National Battlefield Park, in the Commonwealth of Virginia, and to contain within such boundaries the important historic lands relating to the two battles of Manassas, the boundaries of such battlefield hereafter shall encompass those lands generally depicted on the map entitled "Boundary Map, Manassas National Battlefield Park," dated July 1976, and numbered 379-80,003, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. After advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions in the boundary from time to time by publication in the Federal Register of a map or other boundary description, but the total area within the battlefield may not exceed four thousand six hundred acres. The battlefield shall be administered in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666).

"SEC. 2. In order to effectuate the purposes this Act, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, or exchanges, lands and interests therein, including scenic easements, which are located within the boundaries of the battlefield, except that property owned by the Commonwealth of Virginia or any political subdivision thereof may be acquired only by donation.

"SEC. 3. (a) Subsequent to the date of enactment of this section, the owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

"(b) As used in this Act, the term 'improved property' means a detached, one-family dwelling, construction of which was begun before June 25, 1975, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

"(c) Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 101(6) of such Act.

"Sec. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $5,980,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this section shall be available prior to October 1, 1977.

"Sec. 320. The Act of June 21, 1934 (48 Stat. 1198; 16 U.S.C. 430j) is amended as follows:

"(1) In section 1:

"(a) change "national military park" to "national battlefield" and

"(b) change 'Monocacy National Military Park' to 'Monocacy National Battlefield' (hereinafter referred to as 'the battlefield'). The battlefield shall comprise the area generally depicted on the drawing entitled 'Boundary, Monocacy National Battlefield', numbered 894–40,000 and dated May 1976., and delete the remainder of the sentence.

"(2) In section 2, change 'Monocacy National Military Park' to 'battlefield' wherever it occurs.

"(3) In section 3, delete 'enter into leases with the owners of such of the lands, works, defenses, and buildings thereon within the Monocacy National Military Park, as in his discretion it is unnecessary to forthwith acquire title to, and such leases shall be on such terms and conditions as the Secretary of the Interior may prescribe, and may contain options to purchase, subject to later acceptance, if, in the judgment of the Secretary of the Interior, it is as economical to purchase as condemn title to property: *Provided*, That the Secretary of the Interior may enter into agreements upon such nominal terms as he may prescribe, permitting the present owners or their tenants to occupy or cultivate their present holdings, upon condition', and insert in lieu thereof, 'lease to the immediately preceding owner or owners any lands acquired pursuant to an agreement that such lessee or lessees will occupy such lands in a manner consistent with the purposes of this Act and'.

"(4) Change section 4 to read:

"Sec. 4. The administration, development, preservation, and maintenance of the battlefield shall be exercised by the Secretary of the Interior in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666).

"(5) Repeal all of section 5.

"(6) In section 6:

"(a) delete 'said Office of National Parks, Buildings, and Reservations, acting through the', and

"(b) change 'Monocacy National Military Park:' to 'battlefield', delete the remainder of the sentence and insert in lieu thereof 'for carrying out the provisions of this Act.'.

"(7) In section 7:

"(a) change 'Monocacy National Military Park' to 'battlefield', and

"(b) delete the comma and 'which approval shall be based on formal written reports made to him in each case by the Office of National Parks, Buildings, and Reservations; *Provided*,' and insert in lieu thereof '*Provided further*,'.

"(8) In section 8, change the comma to a period and delete 'of not less than $5 nor more than $500.'.

"(9) Change section 10 to read:

"Sec. 10. There are hereby authorized to be appropriated such sums as may be necessary, but not more than $3,525,000 for the acquisition of lands and interests in lands, and not to exceed $500,000 for the development of essential public facilities. Within three years from the date of the enactment of this section, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the battlefield consistent with the preservation objectives of this Act, indicating:

"(1) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public;

"(2) the location and estimated cost of all facilities; and

"(3) the projected need for any additional facilities within the battlefield.

"No fund authorized to be appropriated pursuant to this section shall be available prior to October 1, 1977.

"Sec. 321. The Act of January 23, 1930 (46 Stat. 58), establishing the George Washington Birthplace National Monument at Wakefield, Virginia, is amended by adding thereto the following new sections:

"Sec. 4. In order to further the purposes of the national monument the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands, waters, and interests therein within the boundaries depicted on the map entitled 'Boundary Map, George Washington Birthplace National Monument', numbered 332–20,000 A and dated May 1975: *Provided*, That the total area designated within the monument may not exceed one thousand five hundred and twenty-five acres. Lands, waters, and interests therein owned by the Commonwealth of Virginia or any political subdivision thereof may be acquired only by donation.

"Sec. 5. (a) The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition, less the fair market value, on the date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

"(b) As used in this Act, the term 'improved property' means a detached, single-family dwelling, construction of which was begun before June 1, 1976, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated, and together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

"(c) Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 101(6) of such Act.

"Sec. 6. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not to exceed $3,820,000 for the acquisition of lands and interests therein. No funds authorized to be appropriated pursuant to this Act shall be available prior to October 1, 1977.

"Sec. 322. (a) The boundaries of Olympic National Park as established by the Act of June 29, 1938 (52 Stat. 1241), and as revised by proclamation pursuant to that Act and by or pursuant to the Act of December 22, 1942 (56 Stat. 1070), and the Act of June 11, 1958 (72 Stat. 185), and hereby revised to include the lands, privately owned aquatic lands, and interests therein within the boundaries depicted on the map entitled 'Boundary Map, Olympic National Park, Washington,' numbered 149–80–001–B, and dated January 1976, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

"(b) The Secretary of the Interior (hereinafter referred to as the 'Secretary') shall, beginning within thirty days after the date of enactment of this Act, consult with the Governor of the State of Washington, the Board of Commissioners of Clallam County, and the affected landowners, and shall locate a boundary encompassing all of the shoreline of Lake Ozette, including privately owned aquatic lands not within the boundary of the park on the date of enactment of this Act: *Provided*, That such boundary shall be located not less than two hundred feet set back from the ordinary high-water mark of Lake Ozette: *Provided further*, That the privately owned lands encompassed within the park by such boundary shall not exceed one thousand five hundred acres. The Secretary shall, within one hundred and eighty days after the date of enactment of this Act, and following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of his intention to do so, publish in the Federal Register, a detailed description of the boundary located pursuant to this subsection. Upon such publication the Secretary is authorized to revise the map on file pursuant to subsection (a) of this section accordingly, and such revised map shall have the same force and effect as if included in this Act.

"(c) Section 5 of the said Act of June 29, 1938, is amended by deleting the second sentence, and inserting in lieu thereof: 'The boundaries of Olympic National Park may be revised only by Act of Congress.'.

"(d) Notwithstanding any other provision of law, within the boundaries of the park as revised by and pursuant to this Act, the Secretary is authorized to acquire lands, privately owned aquatic lands, and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any Federal agency. Property so acquired shall become part of Olympic National Park and shall be administered by the Secretary subject to the laws and regulations applicable to such park. The Secretary is authorized and directed to exclude from the boundaries of the park such private lands and publicly owned and maintained roads within Grays Harbor County which are near and adjacent to Lake Quinault, and which do not exceed two thousand one hundred and sixty-eight acres in total. Prior to excluding such lands from the park, the Secretary shall study and investigate current and prospective uses of the private lands, as well as the implications of their exclusion both for the lands involved and for Olympic National Park. The results of such study shall be transmitted to the President and to the Congress within two years of the enactment of this Act, and shall take effect unless disapproved by simple majority vote of the House of Representatives or the Senate of the United States of America within ninety legislative days of their submission to the Congress. Property excluded from the boundaries of the park by this Act may be exchanged for non-Federal property within the boundaries; or it may be transferred to the jurisdiction of any Federal agency or to the State of Washington or a political subdivision thereof, without monetary consideration, as the Secretary may deem appropriate. Any such Federal property transferred to the jurisdiction of the Secretary of Agriculture for national forest purposes shall upon such transfer become part of the national forest and subject to the laws and regulations pertaining thereto. Any property excluded from the park by this Act which is within the boundaries of an Indian reservation may be transferred in trust to such Indian tribe, subject, however, to the express condition that any concessioner providing public services shall be permitted to continue to provide such services in such manner and for such period as set forth in his concession contract, that the Secretary of the Interior is authorized to pay all franchise fees collected from the concessioner under the contract to said Indian Tribe, and that in the event his contract is terminated, the United States shall purchase his possessory interest in accordance with the Act of October 9, 1965 (79 Stat. 969). The acquisition of lands by the United States in trust for an Indian tribe pursuant to this title shall not confer any hunting or fishing rights upon such tribe which were not vested in such tribe prior to the acquisition of such lands.

"(e) (1) Any owner or owners of improved property within the boundaries of the park, as revised by and pursuant to this Act may, on the date of its acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for such noncommercial residential purposes as existed on or before January 1, 1976, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

"(2) As used in this title, the term 'improved property' shall mean any single-family dwelling on which construction was begun before January 1, 1976, together with so much of the land on which the dwelling is situated (such land being in the same ownership as the dwelling) as shall be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, as the Secretary shall designate. The amount of the land so designated shall in every case be not more than three acres in area: *Provided*, That the Secretary may exclude from the land so designated any beach or water, together with so much of the land adjoining any such beach or water, as he may deem necessary for public access thereto.

"(f) The Secretary is directed to acquire in fee all other privately owned lands added to the park by and pursuant to this Act, and to acquire within three years of adoption of this Act so much of such lands as can be acquired by donation, exchange, or purchase, to the extent of available funds, and to report to Congress on the third anniversary of adoption of this Act the estimated amount of appropriations which would be necessary to acquire the remainder, if any, of such lands by condemnation. The compensation for such lands shall be their fair market value on the date of their acquisition, taking into account applicable land use regulations in effect on January 1, 1976.

"(g) Notwithstanding the provisions of the preceding subsection, any noncorporate owner or owners, as of January 1, 1976, of property adjacent to Lake Ozette may retain title to such property: *Provided*, That such owner or owners consent to acquisition by the Secretary or scenic easements or other interests that allow only those improvements that the Secretary finds to be reasonably necessary for continued use and occupancy. Any such owner or owners who elects to improve his property or a portion thereof shall submit to the Secretary a plan which shall set forth the manner in which the property is to be improved and the use to which it is proposed to be put. If, upon review of such plan, the Secretary determines that it is compatible with the limitations of this subsection, he in his discretion may issue a permit to such owner and a certificate to that effect. Upon issuance of any such certificate and so long as such property is maintained and used in conformity therewith, the authority of the Secretary to acquire such property or interest therein without the consent of the owner shall be suspended.

"(h) In order to minimize economic dislocation in acquiring property within the park, the Secretary may acquire with the consent of the owner, lands and interests in lands outside the boundaries of the park, but within the State of Washington, and with the concurrence of the Secretary of Agriculture, he may utilize lands and interests therein within a national forest in the State of Washington hereby authorized to be transferred to the Secretary, for the purpose of exchanging lands and interests so acquired or transferred for property within the park.

"(i) Effective upon acceptance thereof by the State of Washington (1) the jurisdiction which the United States acquired over those lands excluded from the boundaries of Olympic National Park by subsection 1(a) of this Act is hereby retroceded to the State: *Provided*, That the lands restored to the Quileute Indian Reservation shall be subject to the same State and Tribal jurisdiction as all other trust lands within said Reservation; and (2) there is hereby retroceded to such State concurrent legislative jurisdiction, as the Governor of the State of Washington and the Secretary shall determine, over and within all territory within the boundaries of the park as revised by this Act.

"(j) There is hereby authorized to be appropriated not to exceed $13,000,000 for the acquisition of lands, privately owned acquatic lands, or interests therein in accordance with the provisions of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

"Sec. 323. Section 403 of the Act of October 26, 1974 (88 Stat. 1447), is amended by adding the following new subsection (c):

"'(c) To carry out the priority repairs as determined by the study performed in accordance with subsection (a) of this section, and to complete additional detailed studies to accomplish the work so identified, there are authorized to be appropriated such sums as may be necessary, but not more than $2,733,000. No funds authorized to be appropriated pursuant to this subsection shall be available prior to October 1, 1977.'

"Sec. 324. Section 3(b) of the Act of October 11, 1974 (88 Stat. 1254; 16 U.S.C. 698 (b)), is amended by deleting 'detached, one-family dwelling,' and inserting in lieu thereof 'detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and'.

"Sec. 325. The Act of December 27, 1974 (88 Stat. 1784) entitled 'An Act to provide for the establishment of the Cuyahoga Valley National Recreation Area' is amended as follows:

"(a) In subsection 2(a) strike out "Boundary Map, Cuyahoga Valley National Recreation Area, Ohio', numbered NRA—CUYA-20,000-A, and dated December 1974,' and insert in lieu thereof 'Boundary Map, Cuyahoga Valley National Recreation Area, Ohio', numbered 90,000-A, and dated September 1976,'.

"(b) In subsection 6(a) strike out '$34,500,000' and insert in lieu thereof '$41,100,000'.

"(c) No funds authorized by this section in excess of those sums previously authorized by the Act of December 27, 1974, shall be available for expenditure before October 1, 1977.".

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next motion.

The Clerk read as follows:

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. Taylor of North Carolina moves that the House concur in Senate amendments numbered 12 through 20.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Clerk will report the next motion.

The Clerk read as follows:

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. Taylor of North Carolina moves that the House concur in Senate amendment number 10.

The motion was agreed to.

Mr. HARRIS. Mr. Speaker, as the sponsor of title I of H.R. 14934, which is now H.R. 13713, to adjust boundaries of certain national parks across the country, I am pleased that the House is today taking action on this important bill.

Title I is the result of my work and that of many dedicated citizens in Prince William County over the last 2 years. This legislation would preserve approximately 1,000 historic acres adjacent to the present 3,000-acre Manassas National Battlefield Park. These properties are the scene of the first and second battles of Manassas, both important engagements of the Civil War. Just 30 minutes from the Nation's Capital. the park is an important part of our Nation's heritage and this bill would enhance the ability of the

National Park Service to protect and interpret the scene of these historic events for all time.

Most of the acreage in this bill consists of gently rolling farmland and wooded areas. The bill would authorize the acquisition of title or scenic easements on the 1,000 acres and protect the rights of owners of any affected properties. My legislation is based on voluntary negotiation with willing owners of the properties. The committee report clearly expresses Congress intent that for the property owned by Northern Virginia Community College and the private property located immediately south of this tract, easements are to consist of no more than reasonable height and noise restrictions similar to those which currently exist through zoning of this area. The few residences now on the properties are compatible with the current park and in my view would continue to be compatible if the Department of Interior wishes to add these new acres.

The historical significance of these 1,000 acres cannot be overemphasized.

The old Stone Bridge, still standing intact, is where Union troops made a diversionary attack that began the first land battle of the Civil War.

A wooded area, with trees still imbedded with Civil War shrapnel, is where the Second Battle of Manassas began in 1862, and where Gen. Stonewall Jackson made his decision to fight. It was the war up to August 28, 1862.

Another parcel contains the only surviving building of the village of Groveton, the scene of intense fighting during the second battle.

One piece of land is the site of Portici, General Johnston's headquarters during the first battle.

Mr. Speaker, I am pleased to have 30 cosponsors of this legislation, which includes half of the Virginia delegation in the House. National groups such as the Civil War Round Table Associates support this endeavor. Local support includes, for example, the Prince William Federation of Civic Associations, the Prince William League for the Protection of Natural Resources, the Virginia Division of the United Daughters of the Confederacy and the Fairfax County Board of Supervisors. Additionally, the two local newspapers in the area—the Manassas Journal Messenger and the Potomac News—have given their editorial support to this effort.

This legislation is an important contribution to this Nation, in a year when we are commemorating our national heritage. I know my colleagues will join me in preserving the priceless, historical lands that without this bill will be left to "fall as they may." The Manassas National Battlefield Park is truly a unique haven in a rapidly growing, bustling, suburban area in the Nation's Capital area. As a resident living near the park puts it:

> I can speak as one who has for seven years observed the solemnity and sacred dignity which attaches to the grounds and their preservation; the stately cedars and the rolling plains are there to be seen by present Americans and by untold millions of citizens yet unborn who may come and silently ponder the significance of this soil.

I commend my distinguished colleague from North Carolina, Congressman TAYLOR, for recognizing the need for this bill and working so diligently for its enactment, and I commend my colleagues and the community for their help and support.

Mr. BONKER. Mr. Speaker, the legislation now before us relating to Olympic National Park represents the last chance to protect and preserve the finest remaining stretch of essentially unaltered wilderness ocean beach in the United States.

Logging, residential construction, and commercial development plans threaten this 7½ miles of coastline—including the spectacular Point of Arches and Shi Shi Beach—in Washington State. These threats could become fact within a matter of months. The need for action now is urgent.

Much of the same can be said of a companion feature, the acquisition of a narrow strip of uplands along the eastern and southern shores of Lake Ozette to make complete the partial protection that Olympic National Park now affords this large and beautiful lowland coastal lake. Here, too, is an opportunity that is threatened and this is simply not available elsewhere.

No Olympic National Park legislation would have developed this year had not the Governor of Washington State brought together conservationists and industrial forest owners who recognized the importance of resolving their oft-conflicting views and interests on behalf of the Point of Arches coastline and Lake Ozette.

The spirit of this basic accord was refined, strengthened and, I believe, significantly improved by the House Interior Committee in approving H.R. 14934. Special consideration was afforded the private individuals who own property along Lake Ozette. Most are descendants of original homesteaders in the Lake Ozette area; the land has been in these families for generations and is of great significance to them.

The owners of improved, noncommercial property acquired within the proposed Olympic National Park additions would be allowed a right of use and occupancy for 25 years or the life of the owner.

In recognition of the special conditions at Lake Ozette, the noncorporate owners of property within the shoreline strip that is to be added to the park may, as an alternative, retain title to the property and undertake such improvements as meet with the approval of the Secretary of the Interior if they sell scenic easements to the government. So long as an owner complies with the provisions of the scenic easement and with the terms of any permits for improvements issued by the Secretary, the authority to acquire such property without the consent of the owner is suspended.

Several of the parcels within the proposed Lake Ozette addition are now improved with a small, generally unobtrusive detached single family residence or cabin on each. It is the intent that the present or future owners of any of the other, unimproved parcels—according to the patterns and boundaries of ownership that existed on January 1, 1976—may undertake a similar improvement on each to the extent and in the manner found by the Secretary to be consistent with the scenic values of Lake Ozette and with the purposes of the park.

These important revisions were adopted in specific response to concerns expressed by the Lake Ozette property owners and represent a major effort to tailor the bill to fit their unusual situation.

In other area of Olympic National Park, in Grays Harbor County, provision is also made for resolving longstanding questions regarding the future of private inholdings along the shores of Lake Quinault and the Quinault River.

These private inholdings are synonymous with controversy that has festered for most of the 36 years that the area has been in the park.

However, while the controversy has persisted, the character of the land involved has changed. Property has been bought and sold. Timber has been cut. Residences have been built. Commercial enterprises have been established. The area, in short, has lost whatever national-park-caliber qualities that it ever possessed.

The Secretary of the Interior is authorized and directed to delete these lands from the park, but the deletion is delayed until a comprehensive study of the effects of deletion is completed in 2 years and reported to the President and Congress. At that time, unless either the House or the Senate enacts a resolution of disapproval within 90 legislative days, it is the intent that these private lands and publicly owned and maintained roadways, encompassing approximately 2,168 acres, shall be excluded from the boundaries of Olympic National Park.

The study will provide a basis for informed congressional consideration of any resolution of disapproval.

The study must be objective and impartial and allow for broad and balanced representation of all viewpoints including both those of the affected landowners and of qualified citizens who understand both the concerns of long-range national park qualities and needs in succeeding generations. The objectivity of the study would be further enhanced if the Secretary were to contract for impartial, independent supervision of the study. Any public hearings conducted in connection with the study should include a hearing within Grays Harbor County.

Although I recognize the necessity of a middle-ground approach, I personally believe that these inholdings should be deleted immediately from Olympic National Park. No further purpose can be served by continuing to hold over residents and property owners of the area the specter of Federal control and ultimate land acquisition. They should once again become direct recipients of local services and direct beneficiaries of appropriate land use planning and zoning regulation by Grays Harbor County. The Grays Harbor County Commissioners offered strong informal commitments in this regard, pledging to give services commensurate with those received by other county residents and to provide planning and zoning administration that is sensitive to the special esthetic and environmental characteristics of the Quinault Valley.

The proposed coastal strip addition to Olympic National Park lies within Clallam County, and a key stretch of this coastline—Shi Shi Beach and its adjacent uplands—is now a county park. This park bears witness to the strong local recognition of the scenic and recreational values of the area and is a monument to the resolve of local and State officials who labored long and hard to protect the area. In the process, various trust lands set aside in perpetuity for county purposes were exchanged for the park property.

Shi Shi Beach is an integral feature of the coastal strip addition to Olympic National Park and would benefit from the unified administration of the entire area that the proposed inclusion in the national park would provide.

The proposed Olympic National Park additions are to be acquired through purchase, donation, exchange or transfer. The bill authorizes funds for acquisition. It also generates lands available for exchange purposes by providing for several boundary adjustments that would remove lands from Olympic National Park.

All of these potential exchange lands are not located so as to be usable by those who will ultimately receive them as the national park acquisition program proceeds. Therefore, it was the intent during the drafting of the original Olympic National Park bill that the Washington State Department of Natural Resources, which administers extensive lands on the Olympic Peninsula, would facilitate the exchange program by accepting lands within the areas deleted from the park and making available lands of comparable value in more suitable areas.

Clallam County's Shi Shi Beach should be acquired through the exchange program. Informal expressions of a willingness to engage in an exchange of property of equal value have come from both county commissioners in Clallam County and from the State Department of Natural Resources. An exchange is appropriate in view of the county trust lands that were committed by Clallam County in connection with the formation of the county park.

Another proposed Olympic National Park boundary adjustment would transfer from the park to the Quileute Indian Reservation some 220 acres that include First Beach, a popular recreational area, and several units of family housing constructed by the U.S. Coast Guard.

The Quileute tribal council has stated that there is no intent to close First Beach to lawful use by the public, that there is a commitment to a long-term relationship with the Coast Guard and that the Coast Guard housing and other facilities are welcome on the reservation regardless of title to the land.

A final point deserves mention. Several individuals who own property within the proposed coastal addition to Olympic National Park have for many years retained their lands in a natural or near natural state with the hope that the property could one day become part of Olympic National Park. The passing years have made these personal commitments a growing burden for some. I understand that National Park Service personnel in Washington State are aware of these situations, and I trust that they will be sensitive to them in establishing the acquisition priorities. All the people of the United States are indebted to those who have displayed such foresight and admirable stewardship of the land.

Mr. Speaker, Olympic National Park is characterized by the National Park Service as "conceived in controversy, born of compromise, and developed amidst constant conflict."

Controversy, compromise, and conflict are all reflected in this bill. There was controversy after its inception. Significant compromise was achieved in response to the issues raised. And, most importantly for the future, this legislation embodies an opportunity to resolve, once and for all, major conflicts that have been associated with Olympic National Park during its 38-year history.

There will be added to the park the last natural features worthy of inclusion, thus making the park complete without exceeding the acreage limitation set in 1938. Any future growth in the park will occur only through congressional action. This bill sets into motion a resolution of the problems posed by the private inholdings north of Lake Quinault. And this bill accomplishes other boundary adjustments that will significantly improve park administration.

The result is a compromise that was possible only through the involvement of many participants in the legislative process. All are not fully satisfied with the final result, but I am convinced that their efforts have helped produce a better bill, one that reduces conflicts to a minimum.

I urge passage of these Olympic National Park provisions.

A motion to reconsider was laid on the table.

A motion to reconsider the various motions was laid on the table.

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## PROVIDING FOR ESTABLISHMENT OF INDIANA DUNES NATIONAL LAKESHORE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11455) to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

(1) The last sentence of the first section of such Act is amended by striking out " 'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE–1008–ID' " and inserting in lieu thereof " 'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number '626–91007' ".

(2) Section 3 of such Act is amended by inserting the following at the end of the first sentence: "By no later than October 1, 1977, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the lakeshore and shall from time to time so publish any additional boundary changes as may occur.".

(3) (a) Subsection 4(a) of such Act is repealed, subsection (4) (b) is redesignated as section 4, and the following sentence is added to new section 4: "All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.".

(b) The first sentence of section 4 of such Act is amended by inserting immediately after "was begun before" the following: "February 1, 1973, or, in the case of improved property located within the boundaries delineated on a map identified as 'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE–1008–ID', which map is on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, before".

(4) (a) Section 6(a) of such Act is amended by revising the first sentence thereof to read as follows: "Except for owners of property within the area on the map referred to in the first section of this Act as area II–B, any owner or owners, having attained the age of majority, of improved property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the rights of use and occupancy of the improved property for noncommercial residential purposes for a term of twenty years, or for such lesser term as the owner or owners may elect at the time of acquisition by the Secretary".

(b) Section 6(b) of such Act is amended to read as follows:

"(b) Upon his determination that the property, or any portion thereof, has ceased to be used in accordance with the applicable terms and conditions, the Secretary may terminate a right of use and occupancy. Nonpayment of property taxes, validly assessed, on any retained right of use and occupancy shall also be grounds for termination of such right by the Secretary. In the event the Secretary terminates a right of use and occupancy under this subsection he shall pay to the owners of the retained right so terminated an amount equal to the fair market value of the portion of said right which remained unexpired on the date of termination. With respect to any right of use and ocupancy in existence on the effective date of this sentence, standards for retention of such rights in effect at the time such rights were reserved shall constitute the terms and conditions referred to in section 4.".

(5) Section 8(b) of such Act is amended (a) by striking out "seven members" and inserting in lieu thereof "eleven members", and (b) by striking out "and" immediately after "State of Indiana;", and (c) by striking out "Portage," immediately after "Dune Acres.", and (d) by inserting immediately after "designated by the Secretary" the following: ", (7) one member who is a year-round resident of the city of Gary to be appointed from recommendations made by the mayor of such city; (8) one member to be appointed from recommendations made by a regional planning agency established under the authority of the laws of the State of Indiana and composed of representatives of local and county governments in northwestern Indiana; (9) one member who is a year-round resident of the city of Portage to be appointed from recommendations made by the mayor of such city; and (10) one member who holds a reservation of use and occupancy and is a year-round resident within the lakeshore to be designated by the Secretary.".

(6) Section 8 of such Act is further amended by inserting the following new subsection (f):

"(f) The Advisory Commission is authorized to assist with the identification of economically and environmentally acceptable areas, outside of the boundaries of the lakeshore, for the handling and disposal of industrial solid wastes produced by the coal-fired powerplant in Porter County, Indiana, section 21, township 37 north, range 6 west.".

(7) Section 10 of such Act is amended to read as follows: "The Secretary may not expend more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than $8,500,000 for development. By October 1, 1979, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan detailing the development of the national lakeshore consistent with the preservation objectives of this Act, indicating:

"(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

"(2) the location and estimated costs of all facilities, together with a review of the consistency of the master plan with State, areawide, and local governmental development plans;

"(3) the projected need for any additional facilities within the national lakeshore; and

"(4) specific opportunities for citizen participation in the planning and development of proposed facilities and in the implementation of the general management plan generally.".

(8) Such Act is amended by adding at the end thereof the following:

"Sec. 11. Nothing in this Act shall diminish any existing (as of March 1, 1975) rights-of-way or easements which are necessary for high voltage electrical transmission, pipelines, water mains, or line-haul railroad operations and maintenance.

"Sec. 12. (a) Nothing in the Act shall be construed as prohibiting any otherwise legal cooling, process, or surface drainage into the part of the Little Calumet River located within the lakeshore: *Provided*, That this subsection shall not affect nor in any way limit the Secretary's authority and responsibility to protect park resources.

"(b) The authorization of lands to be added to the lakeshore by the Ninety-fourth Congress and the administration of such lands as part of the lakeshore shall in and of itself in no way operate to render more restrictive the application of Federal, State, or local air and water pollution standards to the uses of property outside the boundaries of the lakeshore, nor shall it be construed to augment the control of water and air pollution sources in the State of Indiana beyond that required pursuant to applicable Federal, State, or local law.

"Sec. 13, The Secretary shall acquire the area on the map referred to in the first section of this Act as area III–B within two years from the effective date of this section only if such area can be acquired for not more than $800,000, exclusive of administrative costs of acquisition, as adjusted by the Consumer Price Index: *Provided*, That the Secretary may not acquire such area by any means after two years from the effective date of this section.

"Sec. 14. The Secretary may acquire that portion of area I–C which is shaded on the map referred to in the first section of this Act only with the consent of the owner unless the present owner attempts to sell or otherwise dispose of such area.

"Sec. 15. Within one year after the date of the enactment of this section, the Secretary shall submit, in writing, to the Committees on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

"(1) the lands which he has previously acquired by purchase, donation, exchange, or transfer for administration for the purpose of the lakeshore; and

"(2) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

"Sec. 16. The Secretary may acquire only such interest in the right-of-way designated 'Crossing A' on map numbered 626–91007 as he determines to be necessary to assure public access to the banks of the Little Calumet River within fifty feet north and south of the centerline of said river.

"Sec. 17. The Secretary shall enter into a cooperative agreement with the landowner of those lands north of the Little Calumet River between the Penn Central Railroad bridge within area II–E and 'Crossing A' within area IV–C. Such agreement shall provide that any roadway constructed by the landowner south of United States Route 12 within such vicinity shall include grading, landscaping, and plantings of vegetation designed to prevent soil erosion and to minimize the aural and visual impacts of said construction, and of traffic on such roadway, as perceived from the Little Calumet River.

"Sec. 18. (a) The Secretary may not acquire such lands within the western section of area I–E, as designated on map numbered 626–91007, which have been used for solid waste disposal until he has received a commitment, in accordance with a plan acceptable to him, to reclaim such lands at no expense to the Federal Government.

"(b) With respect to the property identified as area I–E on map numbered 626–91007, the Secretary may enter into a cooperative agreement whereby the State of Indiana or any political subdivision thereof may undertake to develop, manage, and interpret such area in a manner consistent with the purposes of this Act.

"Sec. 19. By July 1, 1977, the Secretary shall prepare and transmit to the Committees on Interior and Insular Affairs on the United States Congress a study of areas III–A, III–C, and II–A, as designed on map numbered 626–91007. The Secretary shall make reasonable provision for the timely participation of the State of Indiana, local public officials, affected property owners, and the general public in the formulation of said study, including, but not limited to, the opportunity to testify at a public hearing. The record of such hearing shall accompany said study. With respect to areas III–A and III–C, the study shall (a) address the desirability of acquisition of any or all of the area from the standpoint of resource management, protection, and public access; (b) develop alternatives for the control of beach erosion if desirable, including recommendations, if control is necessary, of assessing the costs of such control against those agencies responsible for such erosion; (c) consider and propose options to guarantee public access to and use of the beach area, including the location of necessary facilities for transportation, health, and safety; (d) detail the recreational potential of the area and all available alternatives for achieving such potential; (e) review the environmental impact upon the lakeshore resulting from the potential development and improvement of said areas; and (1) assess the cost to the United States from both the acquisition of said areas together with the potential savings from the retention of rights of use and occupancy and from the retention of the boundaries of the lakeshore, as designated on map numbered 626–91007, including the costs of additional administrative responsibilities necessary for the management of the lakeshore, including the maintenance of public services in the town of Beverly Shores, Indiana. With respect to area II–A, the Secretary shall study and report concerning the following objectives: (a) preservation of the remaining dunes, wetlands, native vegetation, and animal life within the area; (b) preservation and restoration of the watersheds of Cowles Bog and its associated wetlands; (c) appropriate public access to and use of lands within the area; (d) protection of the area and the adjacent lakeshore from degradation caused by all forms of construction, pollution, or other adverse impacts including, but not limited to, the discharge of wastes and any excessive subsurface migration of water, and (e) the economic consequences to the utility and its customers of acquisition of such area.

"Sec. 20. After notifying the Committees on Interior and Insular Affairs of the United States Congress, in writing, of his intentions to do so and of the reasons therefor, the Secretary may, if he finds that such lands would make a significant contribution to the purposes for which the lakeshore was established, accept title to any lands, or interests in lands, located outside the present boundaries of the lakeshore but contiguous thereto or to lands acquired under this section, such lands the State of Indiana or its political subdivisions may acquire and offer to donate to the United States or which any private person, organization, or public or private corporation may offer to donate to the United States and he shall administer such lands as a part of the lakeshore after publishing notice to that effect in the Federal Register.".

(9) Section 5 of such Act is hereby repealed, and the succeeding sections are redesignated accordingly.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from North Carolina what the Senate amendment is, basically.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, H.R. 11455 was passed by this body in February of this year. Our bill included an addition of some 4,400 acres to this national lakeshore which is located on the southeastern shore of Lake Michigan. Since that time, the Senate has amended this legislation and on last Friday, September 24, passed the amended measure, thus clearing it for further consideration by the House.

The bill in its present form would add some 3,600 acres to the national lakeshore. While the Senate bill is not as strong as the measure passed by the House, I believe it still offers us a good opportunity for a responsible expansion of this important area of the national park system. I might point out that, in its amended form, the bill authorizes only about half the expense of the original House-passed measure. The main difference is the deletion by the Senate of the Beverly Shores area, an extremely expensive parcel of land. Under the terms of the Senate bill, an additional study of Beverly Shores would be made so that we might consider some disposition of this area in some future Congress.

Mr. Speaker, acceptance today of the Senate-passed measure would mean that we are able to secure the protection of a major portion of those lands included in the House bill. The total cost of this measure is now some $23.5 million as opposed to the $53.5 million included in the original House-passed measure.

### GENERAL LEAVE

Mr. SEBELIUS. Mr. Speaker, I ask that all Members may have 5 legislative days in which to revise and extend their remarks on the subject before us at the present time.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield for a question?

Mr. SEBELIUS. I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that when this bill first came up we were adding some units in this particular area that were not contiguous and that were not joining each other. We had several parcels that were far removed from the main body of the lakeshore.

Is this the case today? Are there still different parcels that are not contiguous to each other?

Mr. SEBELIUS. I would say to the gentleman, so far as the House's part is concerned, the Blue Heron unit is still in there, the same as it was when it left the House. It is noncontiguous. The most significant change by the Senate is that the community of Beverly Shores has been taken out. A study is provided for to determine whether Beverly Shores should be included at a later time.

Mr. MYERS of Indiana. If the gentleman will yield further, are there still different parcels which are not contiguous to each other?

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Speaker, I would say there are some parcels that are not attached to the balance of the lakeshore. The Hoosier Prairie is the main one. It has been declared a National Natural Landmark. The State of Indiana has appropriated money to pay for one-half the cost of Hoosier Prairie. Many people believe that is one of the finest areas in the proposal, and the State of Indiana is bearing one-half of the cost of it.

Mr. MYERS of Indiana. If the gentleman will yield further, Hoosier Prairie is quite a historic area and a colorful area. I had strong objections originally because the park was not going to be a national park in the sense that many of us expected it to be because it was in little parcels over eight different areas.

Mr. SEBELIUS. Mr. Speaker, I would say it is almost all contiguous now. I am unhappy about some of the changes made, but I think this bill represents a good effort toward resolving most of the problems here, so that we will not have these major issues coming back to us year after year after year.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. I thank the gentleman for yielding.

Mr. Speaker, this national lakeshore already has one detached unit. It, like Hoosier Prairie, has been declared a national landmark. It is probable that the National Park Service will want to enter into an agreement with the State to operate Hoosier Prairie. It is a different-type unit from the others, but it is a very valuable unit.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for his response.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

Mr. RUPPE. Mr. Speaker, I, very reluctantly, support the House action to accept the Senate amendments to the House bill on Indiana Dunes. I am very much in favor of enactment of a bill to adequately protect and expand the Indiana Dunes National Lakeshore. However, the Senate bill is considerably less protective and is much weaker than the House bill in many respects. I shall accept the Senate version today only because I feel that the extremely short time left in this session would not permit us to make the strengthening amendments needed, and allow the Senate time to consider them before Congress adjourns. That is to say a half a loaf is better than nothing.

But if time permitted, there are several areas of the Senate version of the bill which I would desire the House to take exception to, and amend into a much better form. For that reason, should the House act today to accept the Senate text, and should this legislation be enacted this year, I feel it is imperative that the subcommittee review these remaining problem areas early next year, and reconsider the advisability of further amendatory legislation. Since the Senate bill provides for studies of remaining problem areas to come back to the committees within a short time, that event should be the catalyst for us to closely review the entire Indiana Dunes situation, to consider final perfecting legislation for the entire lakeshore—once and for all.

The job will not be responsibly completed by the Congress until that action occurs, nor will the cloud on the future disposition of adjacent property owners be removed until we so act.

My specific dissatisfactions with the Senate bill are as follows:

First. NIPSCO Greenbelt—Unit II–A. The Senate version is so weak as to be nearly totally ineffective and meaningless for protecting this area, compared to the House version. The Senate approach leaves the parcel outside the boundaries of the lakeshore and, therefore, totally unprotected. The area and problem associated with it is to be studied for 6 months. Anything can happen on this land, and the National Park Service is virtually powerless to stop it. The study is a good idea, but its time frame is so short that I doubt a thorough study, scientific testing, and public hearings can all be accomplished in a respectable and professional manner. The House version put most of the parcel within the lakeshore boundary, provided for a no-cost donation by the owner of a protective easement, provided for the owner's responsibility to prevent and/or correct any pollution coming into the lakeshore and Unit II–A itself from any source, and backed all of this up with the power of condemnation over the entire maximum boundaries of Unit II–A, should any of these protective provisions fail to hold up.

Second. Crescent Dunes—Unit III–B. The Senate requires acquisition of this parcel in no less than 2 years at a cost of not to exceed $800,000. Should those stipulations fail to be met, it is all over. This appears ironic, in that the appraised value of the parcel is known to exceed that dollar limitation by a considerable amount, and moreover the owner has indicated a strong indifference to parting with this entire parcel. If a less than fee acquisition could be negotiated, something may be possible, but I even doubt that would be acceptable to the owner for the entire parcel.

Third. Beverly Shores—Unit III–A. The Senate leaves this area out and provides for a study as to its propriety of possible later inclusion. This reduces the cost of the bill by nearly $23 million. The House included this area in the lakeshore, at that cost. This decision is a value judgment, and I cannot quarrel with the Senate's position, although it leaves another unresolved issue to be reconsidered again next year by the Congress. To be responsible to the landowners here, the Congress should, after receipt of the study results next year, take affirmative and final action one way or another so that these landowners will have the cloud finally removed as to the future disposition of their property.

Fourth. Miller Lagoon and Woods—Unit I–E. The Senate provides that no property in this area shall be acquired which has been used for solid waste disposal unless the Secretary has received a commitment, by some other party, to reclaim such land at no cost to the Federal Government and act in accordance with a plan acceptable to the Secretary. It would seem that the intent was to assure no acquisition of waste-laden land, yet only a commitment to clean it up—not actual cleanup itself—is all that is necessary before the Secretary may begin acquisition. This appears somewhat questionable as an approach.

The Senate also provides that the Secretary, by cooperative agreement, may permit some other entity to manage, develop, and protect this parcel. As far as impressive major sand dunes are concerned, this area appeared to me to be the most meritorious parcel of all those proposed for addition to the lakeshore. For reasons of the maximum protection of the dunes resource, I fail to see why the National Park Service should abdicate the protection and management of this parcel to anyone. I would hope and expect that any consideration of such action would be approached very cautiously. Earlier consideration of a boat harbor and marina development here should, if reconsidered, assure that no adverse impact on this magnificent sand dune resource would result.

Mr. Speaker, I particularly wanted to make these points for the record, to indicate that in my judgment, this bill we are reconsidering at the moment is far from ideal. But time for action giving us no real alternative except for this bill or no bill, the choice obviously means that this bill is better than nothing.

It is my hope and expectation, however, that by about next year at this time, we should be taking some further and final legislative steps to finalize the Indiana Dunes National Lakeshore issue—hopefully, once and for all.

Mr. ROUSH. Mr. Speaker, I rise in support of H.R. 11455, a bill to expand the Indiana Dunes National Lakeshore. The bill has passed the House, and has now been returned from the other body with certain amendments. The bill has been reduced in size and study provisions replace acquisitions in three sections.

I was the author of the original Indiana Dunes National Lakeshore legislation which became law in 1966. My interest in this legislation, then, is certainly colored by the fact that I spent several years at that time trying to secure passage of a bill preserving some of the valuable dunes which were being lost. The Representative from that area would not sponsor such legislation. The 1966 bill did not include all the areas needed; the passage of time indicated new ones that requested addition as buffers.

Since 1971 I have been sponsoring legislation to add just over 5,000 acres to the national lakeshore. Until the 94th Congress the incumbent Congressman opposed any additions. I am happy to have been able to cooperate with Congressman FLOYD FITHIAN who in the 94th Congress represented the Second Congressional District, wherein lie many of the additional acres proposed. He has carried forward this "save the Dunes" effort with persistence and energetic dedication.

Personally I would have liked additional acreage. However, I am pleased that both bodies have now acted on the legislation and I am anxious that the House finish the job today by approving this bill. Every delay is costly to the preservation of the environment this bill promises. I therefore give this bill my enthusiastic support.

Mr. SKUBITZ. Mr. Speaker, I opposed this bill—when it was on the floor earlier this year.

I did so for a number of reasons.

The price tag was $53.3 million—50 times more than the administration requested—and $32 million more than the Congress authorized for the creation of the original Indiana Dunes National Lakeshore.

I did not agree with the proposed acquisition of Beverly Shores, a fully incorporated town of some 633 acres.

This acquisition would have been extremely expensive, some $23 million of the bill, and moreover would have put the National Park Service in the business of administering a town and providing all the essential services, something it has never done before.

I objected to the inclusion of several noncontiguous areas in the package.

Some were as much as 9 miles away from the lakeshore and completely cut off by a railroad and highway.

I still have serious reservations about the bill.

But it is more palatable now than when we passed it.

The Senate, in its wisdom, has deleted the Beverly Shores acquisition.

As a result of this action, the authorization has been cut by more than half.

Unfortunately, the Senate did not take care of the problem of the noncontiguous areas.

However, because of the deletion of Beverly Shores, and because of the much more reasonable cost, I am not going to oppose adoption of the Senate amendments.

I just hope that this is the end of Indiana Dunes legislation and that this body is not called upon to consider more additions to the lakeshore sometime in the future.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

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## AUTHORIZING THE ESTABLISHMENT OF THE CONGAREE SWAMP NATIONAL MONUMENT IN THE STATE OF SOUTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11891) to authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 4, strike out lines 3 to 8, inclusive and insert:

SEC. 5. (a) The Secretary may not expend more than $35,500,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I will just ask the gentleman from North Carolina (Mr. TAYLOR) to explain the nature of the Senate amendment.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. Yes, I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, the bill was passed by the House, and it was passed by the Senate with no alteration of its intent. The only amendment which was made was a rewording of the limitation on spending authorized for land acquisition. This is simply a technical change which the Senate Interior and Budget Committees have suggested as being an improvement. It would permit the Interior Department to request permission to reprogram some funds for this project, if necessary. But, the authorization limit remains the same.

Mr. Speaker, the House-passed bill did not authorize any spending until fiscal year 1978. The bill as passed by the Senate contains language that, in the case of an emergency, would permit the Secretary of the Interior to request the Committees on Appropriations to permit some money that had been appropriated for some other park purposes to be used to buy a tract of land that might otherwise be damaged or destroyed. The problem is that timber harvesting is going on in the swamp, and some of the finest timber and finest trees in the Nation are located there.

There are probably more champion trees there than in any other place in the Nation. Some of these trees are State champions, some are national champions. We do not want these record trees cut, and we do not want trees around them cut. In case it should later appear necessary to make some immediate acquisition in order to stop some timber operation that is planned, the Secretary of the Interior would now have authority to request of the Committees on Appropriations the right to reprogram some funds that have already been appropriated for National Park System land acquisitions.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. Yes, I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I just want to take this time to indicate to the Members of the House something that I am sure they are probably aware of, but in any event I wish to commend the gentleman from North Carolina (Mr. TAYLOR), the chairman of the Subcommittee on National Parks and Recreation.

I know of no other subcommittee chairman who has worked as tirelessly and as effectively in any session of Congress in which I have served. I think the gentleman has done a tremendous job on all the legislation which has been brought before the subcommittee. He has moved a large volume of legislation and has done for this country, I think, work of inestimable value in terms of serving present and future generations.

For that reason, Mr. Speaker, I want to commend him publicly.

I also want to commend the staff of that subcommittee. I think the members of the staff have also done a tremendous job.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I thank the gentleman from Washington (Mr. MEEDS) for his kind remarks. I want to add my commendation to what he said about our staff.

We have one professional staff man, and we also depend on Lee McElvain, counsel for our Committee on Interior and Insular Affairs, who was formerly the professional staff man on our Subcommittee on National Parks and Recreation. Both of them have been working night and day during the last 2 or 3 weeks to get these bills in shape so we could get them acted upon. Cleve Pinnix comes by my house nightly after 9 o'clock bringing work for us to take up the next day.

I would also like to commend and thank the Speaker for being so helpful and for giving us an opportunity to work out the details of these many bills.

Mr. SEBELIUS. Mr. Speaker, further reserving the right to object, I only do so to add my commendations to the staff, including Mr. Peters on our side of the aisle. He has done an excellent job.

The gentleman from North Carolina (Mr. TAYLOR) has been one of the most wonderful members to work with here on the Subcommittee on National Parks and Recreation. I know we will all miss him very much. I wish to say: Thank you, Roy.

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield further, I would just like to state that Clay Peters, the minority staff man, has worked diligently with the majority staff. The three of them have together done a tremendous job.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the matters just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

### AMENDING THE IMMIGRATION AND NATIONALITY ACT

Mr. EILBERG. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 14535) to amend the Immigration and Nationality Act, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WYLIE. Mr. Speaker, reserving the right to object, would the gentleman from Pennsylvania (Mr. EILBERG) please explain the nature of the bill and what it seeks to do?

Mr. EILBERG. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Pennsylvania.

Mr. EILBERG. Mr. Speaker, this is the Western Hemisphere preference bill. The gentleman will remember that there is presently a ceiling of 170,000 per year for the Eastern Hemisphere and 120,000 per year for the Western Hemisphere.

As for the Eastern Hemisphere, there is an inordinate preference system whereby the policies of our Government to unite families and to bring people here are clearly defined preference by preference.

There is no preference system for the Western Hemisphere. We simply have the total ceiling of 120,000. It is first-come, first-served, so that presently we have a backlog of about 300,000 people who wish to enter the United States from Canada to the north or from any of the countries to the south. It may be that a neighbor in Canada is waiting in line behind a neighbor in South America, or it may be that a relative outside of the United States, in the Western Hemisphere, is waiting to enter the country and must wait for the approximate 2½ years that it would take to enter this country once the application has been filed.

Mr. Speaker, this is a badly needed bill. It is strongly supported by the administration and by many groups and organizations.

I urge that the bill be accepted.

Mr. WYLIE. Does the bill increase the immigration quota?

Mr. EILBERG. It does not increase the quota at all.

Mr. WYLIE. It just is a reallocation of the quota; is that correct?

Mr. EILBERG. It provides for orderly reallocations in a preference system identical to that of the Eastern Hemisphere.

Mr. Speaker, this legislation is not new to the Members of this body. In fact, in the last Congress the full House by a vote of 336–30, approved similar legislation. Regrettably, the Senate did not act on this legislation.

In this Congress, the bill was unanimously approved by the full Judiciary Committee after being approved and cosponsored by all the members of the Immigration Subcommittee and the distinguished chairman of the full committee.

The primary purpose of this bill is to establish an orderly system of immigration for natives of the Western Hemisphere.

With two minor exceptions, the preference system which currently regulates immigration from the Eastern Hemisphere is extended to the Western Hemisphere. The preference system in the Eastern Hemisphere has been working satisfactorily, and except for two countries visas are currently available in all of the relative preference categories in the Eastern Hemisphere.

Contrast that with the current situation in the Western Hemisphere. No emphasis is placed on family reunification—other than the immediate family—and intending immigrants from the Western Hemisphere who do qualify are currently experiencing a 29-month delay in receiving their visas.

This unfortunate situation has resulted in numerous—and in my opinion—unnecessary hardships for potential Western Hemisphere immigrants, and these inequities must be eliminated.

Therefore, in order to facilitate consideration of this urgently needed legislation, the subcommittee restricted the scope of the provisions of this bill to those areas most urgently in need of reform.

As I have noted, this legislation is primarily designed to equalize the treatment accorded to the Eastern and Western Hemisphere for immigration purposes, and I will now attempt to briefly summarize some of the major provisions in the bill.

First of all, the numerical limitations of 170,000 visas for the Eastern Hemisphere and 120,000 visas for the Western Hemisphere are retained, and a limit of 20,000 is established for all countries in the world. At the same time because of the heavy oversubscription in the dependent areas, most of which are located in the Caribbean, the numerical limit for these areas is increased from 200 to 600. Second, the bill would propose a formula which would provide that visas be distributed throughout the preference categories in those cases where a country has reached its 20,000 limit for visa issuance. This is designed to prevent one preference category from continuously utilizing a disproportionate share of visas by providing for the allocation of visas to all of the relative and labor preference categories in certain years. This distribution formula is extremely necessary if we are to insure that the goal of family reunification is achieved for all countries in the world.

The subcommittee made only two changes in the existing preference system. One is the requirement of a job offer for all aliens who are being admitted under the labor preference categories—in effect this would require third preference applicants, namely professionals, to have prearranged employment in order to be able to immigrate. The other is a requirement that U.S. citizens who are filing immigration petitions for their brothers and sisters be at least 21 years of age—the same age currently required in order for a U.S. citizen to file for his parent as an immediate relative.

Another provision contained in this legislation would address the serious problem that has confronted a large number of colleges and universities in this country. That provision—contained in an amendment to the labor certification section of the Immigrant and Nationality Act (section 212(a)(14))—would require the Secretary of Labor to determine that "equally qualified" American teachers are available in order to deny a labor certification application. The purpose of this provision is to overcome the rigid interpretation given by the Department of Labor to the labor certification provision as it pertains to applications submitted by foreign scholars who possess unique qualifications or who are of exceptional merit and ability. Just this week, I received a letter from the American Association of Universities representing 48 major U.S. universities strongly supporting this legislation and stating that current law "denies the institutions and students the benefit of the teaching and research talents of foreign scholars and frustrates the search for excellence. The number of individuals involved is small, but the consequences for teaching and research are important."

Third, the subcommittee has also included a provision which authorizes the adjustment of status—from nonimmigrant to permanent resident alien—of natives of the Western Hemisphere. Another important provision of the bill would remove Cuban adjustments—that is, Cuban refugees who adjust their status to permanent resident aliens—from the Western Hemisphere numerical ceiling.

Mr. Speaker, as I have noted, this is a noncontroversial bill which is strongly supported by the administration, organized labor, and the voluntary agencies traditionally concerned with immigration matters. As a matter of fact, during the 13 days of hearings on this legislation in the past two Congresses, we heard no opposition to its enactment from any source.

It is a good bill, which will provide uniform treatment for all intending immigrants, and it is a major step forward in advancing the primary objective of our immigration law—the reunification of families.

I urge my colleagues' support of this meritorious, remedial legislation.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

Mr. FISH. Mr. Speaker, reserving the right to object, and of course, I shall not object, I am happy to join with my colleague from Pennsylvania, Mr. EILBERG, in support of the bill, H.R. 14535. The main purpose of this bill, as Mr. EILBERG indicated, is to establish a preference system for immigration by natives of the Western Hemisphere. Such a system now exists, but only for natives of the Eastern Hemisphere, and no one has been heard to defend the lack of such orderly system of immigration for natives of the Western Hemisphere. The committee will recall that in 1965, the last major revision of the Immigration and Nationality Act was passed. In order to obtain approval by the other body, a ceiling on Western Hemisphere immigration which was theretofore unrestricted, was accepted as the political price this House had to pay to obtain passage of our broad amendments which did away with the national origins quota system dating back to the 1920's. However, no preference system was established for Western Hemisphere immigration.

At the present time, persons seeking to immigrate to this country are treated vastly different depending solely on the country of their birth. If they are natives of the Eastern Hemisphere, they are entitled to a visa through a preference system and can come to this country to rejoin members of their family. If they have no such relatives, but have skills needed in the U.S. labor market, they may immigrate to this country through the labor certification procedure. On the other hand, if one is a native of the Western Hemisphere, unless they qualify as an immediate relative—parent, spouse or child, of a U.S. citizen, there is no preference based on relationship and one must obtain a labor certification which results in a wait for approximately 27 months to immigrate to this country. The system has often operated to keep families separated for several years which is a result opposite to one main objective of our immigration system, that of reuniting families.

Our subcommittee heard 6 days of testimony on the establishment of such a preference system and we heard no one defend the present system as fair or equitable.

During the 93d Congress, our committee reported H.R. 981 which was a similar, but more extensive bill. But its main purpose—establishment of a Western Hemisphere preference system—was the same as our bill. However, the other body failed to act on that bill during the last Congress. This year, the Senate Judiciary Committee has considered immigration legislation—and we hope during the present Congress, they can concur with this bill to cure a serious inequity in the present immigration law. The bill we report today, is not as extensive as the bill we reported during the last Congress, only because the subcommittee felt that a bill such as H.R. 14535, which does not contain any of the more controversial provisions of H.R. 981 would have a better chance of ultimate passage this year. Therefore, our bill merely establishes a preference system for the Western Hemisphere with a per country ceiling of 20,000, the same as applies in the Eastern Hemisphere; and a yearly Western Hemisphere ceiling of 120,000, the same as it is at present. It makes other changes which are for the most part more technical in nature to provide for better functioning for our system of immigration.

The administration supports establishment of a preference system for Western Hemisphere natives, and, as I have said, no opposition has been heard. The Committee on the Judiciary reported this bill by unanimous voice vote.

This bill is a well-considered piece of legislation and I urge my colleagues to vote favorably to suspend the rules and pass H.R. 14535.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Immigration and Nationality Act Amendments of 1976".

Sec. 2. Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"Sec. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), and immediate relatives of United States citizens as specified in subsection (b) of this section, (1) the number of aliens born in any foreign state or dependent area located in the Eastern Hemisphere who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of 45,000 and shall not in any fiscal year exceed a total of 170,000; and (2) the number of aliens born in any foreign state of the Western Hemisphere or in the Canal Zone, or in a dependent area located in the Western Hemisphere, who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally shall not in any of the first three quarters of any fiscal year exceed a total of 32,000 and shall not in any fiscal year exceed a total of 120,000."; and

(2) by striking out subsections (c), (d), and (e).

Sec. 3. Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out the last proviso in subsection (a);

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than a special immigrant, as defined in section 101(a)(27), or an immediate relative of a United States citizen, as defined in section 201(b), shall be chargeable for the purpose of the limitations set forth in sections 201(a) and 202(a), to the hemisphere in which such colony or other component or dependent area is located, and to the foreign state, respectively, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed 600 in any one fiscal year."; and

(3) by inserting at the end thereof the following new subsection:

"(e) Whenever the maximum number of visas or conditional entries have been made available under section 202 to natives of any single foreign state as defined in subsection (b) of this section or any dependent area as defined in subsection (c) of this section in any fiscal year, in the next following fiscal year a number of visas and conditional entries, not to exceed 20,000, in the case of a foreign state or 600 in the case of a dependent area, shall be made available and allocated as follows:

"(1) Visas shall first be made available, in a number not to exceed 20 per centum of the number specified in this subsection, to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

"(2) Visas shall next be made available, in a number not to exceed 20 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence.

"(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

"(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (3), to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

"(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

"(6) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

"(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe, in a number not to exceed 6 per centum of the number specified in this subsection, to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country within the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term 'general area of the Middle East' means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethiopia on the south: *Provided,* That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.

"(8) Visas so allocated but not required for the classes specified in paragraphs (1) through (7) shall be made available to other qualified immigrants strictly in the chronological order in which they qualify.".

SEC. 4. Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "201(a)(ii)" each place it appears in paragraphs (1) through (7) of subsection (a) and inserting in lieu thereof in each such place "201 (a) (1) or (2)";

(2) by striking out the period at the end of paragraph (3) of subsection (a) and inserting in lieu thereof a comma and the following: "and whose services in the professions, sciences, or arts are sought by an employer in the United States.";

(3) by striking out the period at the end of paragraph (5) of subsection (a) and inserting in lieu thereof a comma and the following: "provided such citizens are at least twenty-one years of age."; and

(4) by striking out the second sentence of subsection (e) and inserting in lieu thereof the following: "The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within two years following notification of the availability of such visa that such failure to apply was due to circumstances beyond his control. Upon such termination the approval of any petition approved pursuant to section 204(b) shall be automatically revoked.".

SEC. 5. Section 212(a)(14) of such Act (8 U.S.C. 1182(a)(14)) is amended to read as follows:

"(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a) (3) and (6), and to nonpreference immigrant aliens described in section 203(a)(8);".

SEC. 6. Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended to read as follows:

"SEC. 245. (a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under sections 202(e) or 203(a) within the class to which the alien is chargeable for the fiscal year then current.

"(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; or (3) any alien admitted in transit without visa under section 212(d)(4)(C).".

SEC. 7. (a) Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(27)) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(b) Section 204 of such Act (8 U.S.C. 1154) is amended to add a new subsection (f), to read as follows:

"(f) The provisions of this section shall be applicable to qualified immigrants specified in paragraphs (1) through (6) of section 202(e).".

(c) Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by striking out "section 101(a)(27)(B)" and inserting in lieu thereof "section 101(a)(27)(A)".

(d) Section 212(a)(24) of such Act (8 U.S.C. 1182(a)(24)) is amended by striking out "101(a)(27) (A) and (B)" and inserting in lieu thereof "101(a)(27)(A) and aliens subject to the numerical limitation specified in section 201(a)(2)".

(e) Section 241(a)(10) of such Act (8 U.S.C. 1251(a)(10)) is amended by striking out the language in the parentheses and inserting in lieu thereof the following: "other than an alien described in section 101(a)(27) (A) and aliens subject to the numerical limitation specified in section 201(a)(2)".

(f) Section 244(d) of such Act (8 U.S.C. 1254(d)) is amended by striking out "is entitled to special immigrant classification under section 101(a)(27)(A), or".

(g) Section 21(e) of the Act of October 3, 1965 (Public Law 89–236; 79 Stat. 921), is repealed.

SEC. 8. The Act entitled "An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes", approved November 2, 1966 (8 U.S.C. 1255, note), is amended by adding at the end thereof the following new section:

"SEC. 5. The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States on or before the effective date of the Immigration and Nationality Act Amendments of 1976."

SEC. 9. (a) The amendments made by this Act shall not operate to affect the entitlement to immigrant status or the order of consideration for issuance of an immigrant visa of an alien entitled to a preference status, under section 203(a) of the Immigration and Nationality Act, as in effect on the day before the effective date of this Act, on the basis of a petition filed with the Attorney General prior to such effective date.

(b) An alien chargeable to the numerical limitation contained in section 21(e) of the Act of October 3, 1965 (79 Stat. 921), who established a priority date at a consular office on the basis of entitlement to immigrant status under statutory or regulatory provisions in existence on the day before the effective date of this Act shall be deemed to be entitled to immigrant status under section 203(a)(8) of the Immigration and Nationality Act and shall be accorded the priority date previously established by him. Nothing in this section shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of the Immigration and Nationality Act, as amended by section 4 of this Act. Any petition filed by, or in behalf of, such an alien to accord him a preference status under section 203(a) shall, upon approval, be deemed to have been filed as of the priority date previously established by such alien. The numerical limitation to which such an alien shall be chargeable shall be determined as provided in sections 201 and 202 of the Immigration and Nationality Act, as amended by this Act.

SEC. 10. The foregoing provisions of this Act, including the amendments made by such provisions, shall become effective on the first day of the first month which begins more than sixty days after the date of enactment of this Act.

### COMMITTEE AMENDMENTS

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 10, line 7, after the words "specified in," insert: "paragraphs (1) through (6) of"

Page 10, lines 14 and 15, strike out "subject to the numerical limitation specified in section 201(a)(2)" and insert in lieu thereof: "born in the Western Hemisphere".

Page 10, lines 20 and 21 strike out "subject to the numerical limitation specified in section 201(a)(2)" and insert in lieu thereof: "born in the Western Hemisphere".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

**Mr. EILBERG.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 14535, just passed.

**The SPEAKER.** Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 23, 1976:

H.R. 9811. An act to designate the Veterans' Administration hospital in Madison, Wisconsin, as the "William S. Middleton Memorial Veterans' Hospital", and for other purposes.

On September 28, 1976:

H.R. 3348. An act to amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes;

H.R. 14973. An act to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes; and

H.R. 15319. An act to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code.

On September 29, 1976:

H.R. 366. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

## CONFERENCE REPORT ON S. 2981, INDIAN CLAIMS COMMISSION AUTHORIZATION, 1977

Mr. MEEDS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 27, 1976.)

Mr. MEEDS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Speaker, the conference report which we have before us will authorize appropriations for the Indian Claims Commission for fiscal year 1977 in the amount of $1,650,000, and will extend the life of the Commission until September 30, 1978.

The Senate had passed an authorization bill extending the Commission until September 30, 1980. The House struck all language relating to an extension of the life of the Commission. This was the matter in disagreement between the two Houses.

The Indian Claims Commission was scheduled to expire on April 10, 1977. The conference committee met on two occasions and finally agreed to an extension until September 30, 1978. No later than December 31, 1976, the Commission would transfer to the Court of Claims, in the Commission's discretion, all cases which it felt could not be completed by September 30, 1978. The conference committee firmly intends that these cases include all accounting cases in which no proceedings have been initiated, and all other claims the Commission feels it cannot complete. At the beginning of the 95th Congress, the Commission is to report to the Congress on which cases have been transferred. Semiannual reports thereafter on the progress of the remaining cases is required. All cases which are remaining in the Commission on September 30, 1978, will be transferred to the Court of Claims for completion.

The conference committee is adamantly opposed to any further extensions of the Commission beyond this September 30, 1978, dissolution date.

It was with great reluctance that I agreed to even this extension and my resolve to see the Commission end in 1978 is very strong. I agreed with the compromise only because of the certainty that the Commission would be terminated, practically, if we did not pass a bill which authorized appropriations for fiscal year 1977.

I hope the House will approve this conference report, but I do want it made very clear to the Indian Claims Commission, the Indian tribes and their attorneys, and other parties involved that this extension is the last which can be expected.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

I would like to compliment the chairman of the subcommittee.

Mr. Speaker, I rise in support of the conference report on S. 2981.

As originally passed by the Senate, the bill authorized funds to operate the Indian Claims Commission in fiscal year 1977, and provided a 3½-year extension of the life of the Commission, from April 10, 1977 to September 30, 1980. The purpose of the extension was to give the Commission sufficient additional time to complete its work.

The Committee on Interior and Insular Affairs reported out a bill with the 3½-year extension included. However, the House struck the extension provision, thereby making a conference necessary.

The conference committee has agreed to a compromise which extends the Commission 1½ years, to September 30, 1978. It also sets forth a procedure for the orderly transfer to the Court of Claims of all cases which cannot be completed by the 1978 termination date.

This compromise is both reasonable and workable, and I urge the House to approve it. It assures the termination of the Commission and minimizes to the extent possible the delays which will result from transferring an estimated 80 uncompleted cases from the Commission to the Court of Claims.

As the author of the extension provision in the House bill, I still believe that the longer time period is justified by the facts. With congressionally authorized increases in the Indian trust accounting staff at the General Accounting Office and at the Justice Department's Indian claims section, the Commission has, in the past 8 years, doubled its output of completed cases over its output of the previous 20 years. Currently, 141 of the total 615 claims remain in various stages of litigation and appeal. Given its accelerated effort to complete its work, I believe the Commission deserves an opportunity to finish all of it. This would be the most just, honorable, quickest, and probably the cheapest way to have the claims completed. However, because of congressional impatience to see the Commission terminated, this approach is not possible. Therefore, as a realist I support the compromise adopted by the conference committee and urge the House to do the same.

Since its creation in 1946, the Indian Claims Commission has functioned admirably as a court of national conscience. In the process it has fashioned a new body of law to deal with some of the most complex and difficult cases ever presented to a judicial body in this country. I commend the Commission for a job well done in providing a measure of justice to the historic grievances of America's Indian tribes.

Mr. MEEDS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to on S. 2981.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

## CONFERENCE REPORT ON H.R. 12566, NSF AUTHORIZATION FOR APPROPRIATIONS FOR FISCAL YEAR 1977

Mr. TEAGUE. Mr. Speaker, I call up the conference report on the bill (H.R. 12566) authorizing appropriations to the National Science Foundation for fiscal year 1977, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 27, 1976.)

Mr. TEAGUE (during the reading). Mr. Speaker, in view of the fact that the conference report has been printed and is available to all Members, and also was printed in the CONGRESSIONAL RECORD on Monday, September 27, 1976, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas, is recognized for 30 minutes.

Mr. TEAGUE. Mr. Speaker, I am pleased to report that the committee of conference has completed its work on the bill H.R. 12566, the authorization bill for the National Science Foundation for fiscal year 1977.

The House and Senate conferees have resolved the differences in the House and Senate passed versions of H.R. 12566. The bill passed the House on March 25 and passed the Senate on May 27. In acting on the bill, the Senate struck all after the enacting clause and substituted new language. The committee of conference agreed to accept the Senate amendment with certain substitute amendments and with certain other stipulations insisted upon by the managers on the part of the House.

The conference report which the managers have developed and which we present to the House today is a compromise—a compromise which has resulted from over 3 months of intensive negotiations. I first want to thank my colleagues on the committe on conference for their many hours of hard work on this conference report. All members made important contributions but I especially wish to recognize the distinguished chairman of the Subcommittee on Science, Research and Technology, the gentleman from Missouri (Mr. SYMINGTON) and the ranking minority member, the gentleman from Ohio (Mr. MOSHER).

Both JIM SYMINGTON and CHARLIE MOSHER are leaving Congress and we will miss them. Over the years they have brought dedication, intellect, and wise counsel to the work of our committee and to this House. Both represent a standard of excellence that might well be looked to in future years. Their contribution will long be remembered—as we will remember them with respect for their service and with affection as old friends and comrades.

The bill would authorize $816,700,000 for the National Science Foundation. This total is $15,700,000 less than the Senate amount of $832,400,000. The House bill authorized $801,000,000 which is $1,000,000 less than the budget request. The conference amount is $16,700,000 more than the House figure.

This authorization bill will provide support in two areas for which the NSF has major responsibilities: research and science education. The conference report, in combination with a large number of recommendations in House report 94-339—which accompanied H.R. 12566 when it was passed by the House on March 25—reflects not only our legislative hearings but an extensive amount of oversight activity by the committee. In this oversight work, the committee has been assisted in important ways by the Congressional Research Service and the General Accounting Office.

The extensive period of negotiation required for this conference resulted from major differences between the Senate and House bills—both in amounts authorized and in various programs provisions. In most cases where the Senate bill included a provision to initiate a new program, the conference report reflects an approach which incorporates this concept: "Let's make sure we really need this program, and, if it is needed, let's make sure we know where it is going, what it is supposed to accomplish, and what it will cost."

Not all conference members are entirely satisfied with every provision of the conference report, but it reflects a reasonable and workable compromise with the Senate. In the end, I believe this compromise is a good bill which will provide substantial support for important elements in our Nation's strength and well-being: basic research and science education. There are few problems that we have in today's world which do not depend—in the short run or the long run—on how well we perform in these two vital areas.

Yet, finally, I would express a note of caution: most of the work in basic research cannot now be related to a specific problem or objective. There is simply no way to know exactly what will turn out to be useful 10, 20, and 30 years from now. But this we do know: 30 years ago this country made a conscious decision to support basic research on a broad scale; and time has shown this to be a wise decision. This bill represents a continuing endorsement of that basic, far-reaching decision made long ago in this House during the late 1940's when enduring linkages between government and science were forged.

Mr. Speaker, this bill deserves the support of the House, and I urge its adoption.

Mr. MOSHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the passage of the conference report accompanying H.R. 12566, the National Science Foundation Authorization Act for fiscal year 1977.

The committee of conference recommends an authorization figure of $810,700,000 plus $6,000,000 in excess foreign currencies. This amount is $15,700,000 more than authorized by the House and $15,700,000 less than authorized by the other body.

For comparison, the President had requested $796,000,000 plus $6,000,000 in excess foreign currencies.

In most instances, the dollar differences between the two bills were compromised halfway, in a straightforward manner.

The conference report approves several initiatives which originated in the other body. The first is an experimental science for citizens program funded at the level of $1.2 million.

This science for citizens program will provide the seed money for recognized professional societies and groups to undertake special projects aimed at increasing the public's understanding of science, engineering, and technology, and their impact on public policies. The exact nature of the projects are flexible but are intended to encompass forums, conferences, and workshops.

The conferees recognized that this program might potentially be skewed to support the activities of so-called zealot groups advocating particular views on topical issues. But, I assure all, that the science for citizens program certainly is not intended as a vehicle for those who have "an ax to grind." It is intended to increase public awareness and understanding.

To insure that this program does not deviate from this purpose, the bill provides that proposals for grants will be reviewed by a balanced panel of scientists and nonscientists. Also, an important criterion in awarding grants will be the extent to which the project will contribute to the development of facts, issues, and arguments relevant to public issues.

The conference bill also contains a section establishing an Office of Small Business Research and Development. The conferees appreciate the special situation of aspiring small businesses in research and development. While their aims are business and profit related, their size and problems are often similar to those encountered by university research programs. The new office will seek to draw on the experience of the NSF regarding the problems and potential of small business.

In addition, the conference bill urges the NSF to exercise fully its resources to address the problem of international food supplies and nutrition. Success here will not only lead to improved technology for adequate food supply but serve to foster worldwide stability.

Other features of the conference bill include $1.5 million for continuing education in science and engineering and language emphasizing the desirability to open upper level positions within the NSF to women, minorities, and handicapped individuals. To assist in the preparation of these latter groups to compete for career positions in science in general, the conference bill authorizes $2.5 million for experimental forums, workshops, and conferences.

Mr. Speaker, the conference bill is a sound and responsible piece of legislation. The monetary differences were resolved in a sensible manner. The qualitative provisions accepted in conference will serve to enhance the ability of the NSF to address relevant new issues as they have manifested themselves in recent years.

I urge the adoption of the conference report accompanying H.R. 12566.

Mr. Speaker, I certainly concur in support of the conference report. I know of no objection to it on this side. I have no requests for time on this side.

I urge the adoption of the conference report.

Mr. SYMINGTON. Mr. Speaker, I rise in support of H.R. 12566 as amended by the committee of conference.

For fiscal year 1977 the NSF requested a total of $610.6 million for basic research. The Committee on Science and Technology reduced this amount by $9 million in order to restore the science education budget to the level authorized and appropriated for fiscal year 1976 and still remain responsibly within the total authorization request of the NSF. We did not view this action as weakening the support for basic research in the NSF, since the original administration request provided for an increase in basic research support of nearly 20 percent over the fiscal year 1976 level. Instead we viewed our increase over fiscal year 1976 as slightly smaller—about 15 percent—but still large enough to counteract the gradual decrease of Federal support for basic research, which has declined about 23 percent in terms of constant dollars since 1968.

The Senate authorized the amounts requested for basic research by the NSF plus an additional $2 million to offset the $2 million deficit in fiscal year 1976 resulting from the increasing cost of oceanographic vessel operations. The compromise reached by the House and

Senate conferees includes $606.8 million for basic research which, although still not as large an increase as requested by the administration, will be significant in helping to stem the serious erosion of the Nation's basic research capabilities.

The committee has long been a strong supporter of the science education programs in the National Science Foundation. The agreement reached by the House and the Senate reflects this support, and contributes substantially to reversing the downward trend in the science education budget which has been underway since 1971. H.R. 12566 provides $69.4 million for the science education programs of the NSF in fiscal year 1977, $14.4 million more than originally requested by the administration.

A number of program instructions given to the NSF by the committee of conference will help to insure that the NSF science education programs will continue to remain strong and will thereby strengthen science education across the Nation and at all levels—from elementary school through graduate school, and outside of schools as well. Under the program comprehensive assistance to undergraduate science education, the conferees instructed the NSF to give priority to applications from those 4-year and 2-year colleges which do not grant doctoral degrees in science or engineering. On the graduate school level, the NSF has been instructed to allocate 40 percent of the available funds in the research initiation and support program to those institutions which, among other criteria, receive substantially less Federal support per graduate student than others.

The assessment and reappraisal studies which the NSF is to carry out in fiscal year 1977 should provide a more solid foundation for any future activities of the NSF in the controversial area of precollege science education. The NSF has been instructed to include a broad spectrum of individuals in the conduct of these studies—parents, science teachers, school administrators, school board representatives, and representatives of the publishing industry. We believe that some of the fundamental questions about the proper role of the NSF in the precollege area will be much closer to being answered upon completion of these studies.

Mr. Speaker, the compromises reached by the joint committee of conference are fully in agreement with the original broad intentions of this body last March. I urge all Members to support it.

Mr. Speaker, the conference report on this bill provides that the National Science Foundation should conduct a feasibility study of operating the peer review system used in the evaluation of grant proposals so as to assure that the identity of the proposer is not known to the reviewers of the proposal. Evaluation of this sort is generally called "blind" peer review. The Senate had a very detailed provision in its bill regarding this study, while the House had no comparable provision. The conferees agreed that the purpose of the Senate provision could be accomplished with more general language, and such language was adopted.

The lack of any provision in the House bill regarding peer review should not be taken as an indication of disinterest in peer review on the part of the Committee on Science and Technology—quite the contrary. Six days of oversight hearings regarding peer review in the National Science Foundation were held by the Subcommittee on Science, Research and Technology during the summer of 1975. Those hearings resulted in a subcommittee report containing 22 findings and recommendations concerning peer review. The principal findings and recommendations were as follows:

First. Finding: Procedures relying on peer review for evaluating applications for scientific research awards can lead to the effective advance of scientific knowledge. The National Science Foundation peer review evaluation systems appear basically sound.

Recommendation: The National Science Foundation should continue to use some form of peer review. Congress should not require major changes at this time in the methods used by the Foundation for proposal evaluation.

Second. Finding: Certain problems exist with the Foundation's peer review evaluation processes and related operations. Substantial changes in the operation of the Foundation's peer review system have been proposed which possibly could lead to improvements in the system's effectiveness for consistently selecting the best proposals, and in the acceptability of the systems to potential applicants, the scientific community, and Congress.

Recommendation: Some corrective actions should be taken immediately and certain proposals for substantial changes should be thoroughly investigated and instituted if judged worthy.

The report went on to suggest six immediate Foundation actions and to recommend that the National Science Board, which is the Foundation's policymaking body, should conduct eight studies of the operation of peer review at the Foundation.

Since the time the Peer Review Report was issued, the Foundation has made several changes in line with the recommendations of the report. Several of the recommended studies have been undertaken by the National Science Board, and an ad hoc committee of the Board has been formed to respond to the report.

The particular matter of "blind" peer review required to be studied by the conference agreement on the bill was considered in the Peer Review Report but not given high priority by the report. The Committee on Science and Technology believes that a study of "blind" peer review may produce useful information, however, and is happy to endorse the conference report's requirements in this matter.

Mr. TEAGUE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## CONFERENCE REPORT ON S. 2657, EDUCATION AMENDMENTS

Mr. PERKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 27, 1976.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER. The gentleman from Kentucky is recognized for 30 minutes.

Mr. PERKINS. Mr. Speaker, the legislative history of this conference report is somewhat unusual and initially I should like to trace its development.

In the Senate, all education issues and programs were handled in a comprehensive measure, S. 2657, which passed the Senate on August 27.

In the House, we considered three separate bills, all of which were passed by overwhelming majorities. In May, by a vote of 393 to 3, a vocational education bill, which included provisions extending and improving the National Institute for Education, was passed. Also in May, by a vote of 388 to 7, we approved our higher education bill; and in August, by a vote of 391 to 3, we passed the guaranteed student loan amendments.

The three House bills were then consolidated for our conference proceedings. The conference report before us is by any standard a comprehensive education measure, and I am pleased to report to my colleagues that it contains the principal education thrust and provisions of the three separate measures we have agreed to.

All three of our education subcommittees were involved in the development of this bill. I want to commend the distinguished chairman of the Subcommittee on Postsecondary Education, JAMES O'HARA, for the great leadership and effort he has exerted in perfecting the higher education provisions in the report. There were many higher education programs and issues to be resolved and it was no easy task this year to bring them to the satisfactory solutions contained in this report.

I should like to compliment also the distinguished chairman of the Subcommittee on Select Education, JOHN BRADEmas, for his contributions not only with respect to the National Institute for Education provisions, but also for his continuing good work on higher education programs.

Mr. Speaker, this is a bipartisan bill, and I wish to commend also the ranking minority member of the committee, Al Quie, for his many contributions and his cooperation. Members of the conference committee from both sides of the aisle have participated in this effort, and all are to be complimented for their significant input and diligence.

There were hundreds of substantive differences between the House and Senate versions of this bill which had to be resolved. We had a very brief period of time to work out the compromise, and in this difficult situation all members were most cooperative and each made a significent contribution to our activity.

I wish to mention each of the remaining House members of the conference committee and express my appreciation to them: Mr. Thompson, Mr. Hawkins, Mr. Ford, Mrs. Mink, Mr. Meeds, Mrs. Chisholm, Mr. Biaggi, Mr. Andrews, Mr. Lehman, Mr. Benitez, Mr. Blouin, Mr. Cornell, Mr. Simon, Mr. Beard, Mr. Zeferetti, Mr. Miller, Mr. Mottl, Mr. Hall, Mr. Ashbrook, Mr. Bell, Mr. Erlenborn, Mr. Esch, Mr. Eshleman, Mr. Buchanan, Mr. Jeffords, Mr. Goodling, and Mrs. Smith.

Finally, Mr. Speaker, the distinguished chairman of the Senate Education Subcommittee, Senator Pell, was most cooperative and exercised great leadership and understanding as we worked many hours to resolve the numerous differences between the two bodies. I want to extend my appreciation and congratulations to him not only for his work in the conference but for the many innovative and significant provisions in the Senate bill which have been incorporated in the conference report.

I commend also the ranking minority Member of the Senate, Senator Javits, for his work. As has always been the case, he provided the conference committee with an expertise that was invaluable in solving some of the most difficult issues before us.

The first title of the conference report contains the higher education provisions. The Senate bill proposed a 6-year extension of higher education programs; the House bill a 1-year extension.

The House extension was too short in my view, and the Senate too long. The compromise at 3 years will provide continuity and stability for these programs, while at the same time guaranteeing timely monitoring and review of their effectiveness.

I want to mention only a few of the most important substantive higher education provisions of the report.

Presently the maximum amount a student may receive in the basic grant program is $1,400. Under the conference report, that ceiling is raised to $1,800 for academic year 1978–79. The increase is badly needed to keep pace with inflationary pressures. It is delayed, however, in order to avoid a conflict with this year's budget. Increasing the ceiling will provide larger grants to the neediest students and expand eligibility further up the income ladder.

The direct student loan program and the supplemental grant program will both continue for 3 additional years despite the administration's request that they be terminated. The loan forgiveness benefits for teachers in disadvantaged areas is also continued.

The guaranteed student loan provisions are very similar to those in the House bill and will effectively curtail abuses in the program, while at the same time fostering greater lender and student participation.

We have raised the family's income level for interest subsidy from the present $15,000 to $25,000. We are all concerned about the plight of the middle-income family struggling to finance the cost of higher education for their sons and daughters. This provision will help to alleviate that problem.

With respect to defaults and abuses, the conference report contains a number of provisions. Existing State guarantee loan agencies are strengthened and encouragement is given for the establishment of such agencies in the 24 States which do not have them. The default rate in States having their own guarantee agencies is approximately one-half of what the rate is in States having only the Federal program. Home study schools are not allowed to be lenders. Restrictions as to both lending procedures and the volume of lending are placed on schools which act as lenders. And the student loans may not be discharged in bankrupty during the first 5 years of repayment.

Title I of the Higher Education Act has been greatly modified to place greater emphasis on Federal support for continuing education programs and to initiate the flow of Federal moneys for lifelong learning opportunities.

Badly needed assistance for major research libraries is authorized.

The TRIO program of Upward Bound, Special Services and Talent Search are extended and strengthened. Under the conference report special consideration will now have to be given in these programs to students who are disadvantaged because of severe rural isolation. There is also new authority for support of educational outreach centers in every State and service learning centers on college campuses.

The Teacher Corps is updated and authority is provided for the support of teacher centers to provide better inservice training and opportunities for teachers in the classroom.

And finally the facilities program is updated and expanded to focus future support for renovation and remodeling, particularly with regards to energy conservation and for improvement in the health, safety, and environmental standards of academic facilities.

Title II of the conference report deals with amendments to the Vocational Education Act of 1963.

Those amendments extend the act, basically unamended, through fiscal year 1977. Then, beginning in fiscal 1978, three major reforms in the program go into effect.

The first of these reforms requires the State boards of vocational education to open up their planning process for the use of funds to include State higher education and manpower agencies. We believe that the full participation of all of these State agencies, including regularly scheduled meetings and open decision-making, is absolutely essential if States are to make the most efficient and wisest expenditure of Federal, State, and local funds.

We rejected in conference, however, a Senate provision which would have created a separate State planning commission for the same purpose, because we believe that the State boards of vocational education ought to have the final responsibility for deciding on the contents of their State plans after they have fully involved all these other agencies. And, their final decisions are under the conference agreement subject to appeal to the Commissioner.

The second major reform in the act concerns a consolidation of programs which will give the States greater flexibility in choosing the programs they want to operate with Federal funds. We included this provision because the States will now be better able to make the wisest possible decisions on these uses of funds through the full and open decisionmaking described above.

The third major reform calls for the States to make much greater efforts to remove sex stereotyping and sex bias from vocational education programs. The States will have to achieve this goal by assigning specific personnel to this task and by taking concrete actions to assure that no sex stereotyping exists in their programs.

The amendments to the Vocational Education Act also include many other improvements and modifications. A few of these are: the creation of a new categorical program to assist local school districts in remodeling and rehabilitating school buildings so that they can have better vocational facilities; authority to the States to fund from presently available Federal funds energy-related programs in postsecondary institutions; and a mandated effort by the Federal Government to improve the collection of data in vocational education, and a mandated effort to provide better job data for the use of vocational educators and manpower trainers.

Mr. Speaker, in essence, these amendments help to update vocation education in the same fashion that the amendments in 1968 and the original act in 1963 sought to do. Vocational education has grown enormously since 1963 as a result of the passage of the Vocational Education Act. And, I am hopeful that we will see still further growth beginning this year with the enactment of these amendments.

The last three titles of the conference report deal with various technical and miscellaneous amendments to Federal education laws and with an extension of the National Institute of Education.

Regarding the National Institute of Education, the conference report extends the NIE through 1979. But I hope that the Director and the other administrators of the Institute do not understand this extension to be a full endorsement of the manner in which they are presently operating.

I, for one, have my doubts about the value of some of the work being conducted by the NIE, and wonder whether there are not better ways for the NIE to provide real assistance to States and to local school districts. I did not, and do not now, object to the extension of the authority for the NIE; but I hope that they will try much harder in the future to perform work which results in real help to local teachers and administrators.

Regarding the Emergency School Aid Act, that act is extended through fiscal year 1979 and there is a limitation placed on the amount of funds which the Assistant Secretary can use for providing title I services to children otherwise eligible who have been rendered ineligible by changes in attendance areas due to desegregation court orders or plans.

These amendments to ESAA also permit the funding of planning for, and designing of, magnet schools and planning for neutral site schools. The conferees dropped the provision regarding remodeling of magnet schools since there is already authority in the act for remodeling, and that authority can be used for magnet schools as well as for other schools.

There are also amendments permitting very limited waivers of various "maintenance of effort" requirements in Federal education laws. We very reluctantly accepted these amendments; and we intend to look at their implementation over the next 2 years very carefully because of the possibility that these amendments may in some ways encourage States and local school districts to cut back on spending for education. We hope that the Department will therefore be very prudent and cautious in using these authorities.

The conference report also includes a provision for States to plan for career education during fical year 1978, and a new authorization of appropriations for fiscal year 1977 to permit States to continue State-level guidance and counseling activities and statewide testing.

Lastly, the conference report contains amendments requiring the Secretary of HEW to initiate efforts to cut down on excessive amounts of paperwork involved in Federal education programs. We urge the Secretary to begin this task immediately, and it is our intention to carefully review his actions and possibly to enact additional amendments in this regard within the next several years.

Mr. Speaker, I am including at this point in the RECORD three charts which display the decisions reached in the conference agreement:

CHART NO. 1

S. 2657—EDUCATION AMENDMENTS OF 1976—AUTHORIZATIONS

[Fiscal years]

| Title | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 |
|---|---|---|---|---|---|---|
| **HIGHER EDUCATION** | | | | | | |
| I—Community service and continuing education | $40,000,000 | $40,000,000 | $40,000,000 | | | |
| Lifelong learning | 20,000,000 | 30,000,000 | 40,000,000 | | | |
| II—Library services | 110,000,000 | 115,000,000 | 120,000,000 | | | |
| Major research libraries (pt. C) | 10,000,000 | 15,000,000 | 20,000,000 | | | |
| III—Developing institutions | 120,000,000 | 120,000,000 | 120,000,000 | | | |
| V—Education Professions Development Act | 125,500,000 | 150,500,000 | 175,500,000 | | | |
| VI—Improvement of undergraduate instruction | 70,000,000 | 70,000,000 | 70,000,000 | | | |
| VII—Facilities grants | 380,000,000 | 380,000,000 | 380,000,000 | | | |
| Loans | 200,000,000 | 200,000,000 | 200,000,000 | | | |
| IX—Graduate programs | 50,000,000 | 50,000,000 | 50,000,000 | | | |
| X—Community colleges | 165,700,000 | 165,700,000 | 165,700,000 | | | |
| XI—Law school clinical experience | 7,500,000 | 7,500,000 | 7,500,000 | | | |
| XII—Statewide planning | Such sums | Such sums | Such sums | | | |
| NDEA VI—Foreign students and language development | 75,000,000 | 75,000,000 | 75,000,000 | | | |
| Fund for improvement of postsecondary education | 75,000,000 | 75,000,000 | 75,000,000 | | | |
| Total | 1,448,700,000 | 1,493,700,000 | 1,538,700,000 | | | |
| **STUDENT AID (HIGHER EDUCATION ACT, TITLE IV)** | | | | | | |
| Basic grants (BEOG) | Such sums | Such sums | Such sums | | | |
| Supplemental grants (SEOG) | 200,000,000 | 200,000,000 | 200,000,000 | | | |
| State student incentive grants (SSIG) | 50,000,000 | 50,000,000 | 50,000,000 | | | |
| TRIO (Upward Bound, Talent Search, Special Services) | 200,000,000 | 200,000,000 | 200,000,000 | | | |
| Educational Outreach | 20,000,000 | 30,000,000 | 40,000,000 | | | |
| College work-study program (CWSP) | 450,000,000 | 570,000,000 | 600,000,000 | $630,000,000 | $670,000,000 | $720,000,000 |
| Cooperative education | 15,500,000 | 22,500,000 | 28,000,000 | 28,000,000 | 28,000,000 | 28,000,000 |
| National direct student loans (NDSL) | 400,000,000 | 400,000,000 | 400,000,000 | | | |
| Guaranteed student loan program (GSLP) | Such sums | Such sums | Such sums | Such sums | | |
| Veterans cost of instruction | Such sums | Such sums | Such sums | | | |
| Total | 1,335,500,000 | 1,472,500,000 | 1,518,000,000 | 658,000,000 | 698,000,000 | 748,000,000 |

CHART NO. 2

S. 2657—EDUCATION AMENDMENTS OF 1976—AUTHORIZATIONS

[Fiscal years]

| | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 |
|---|---|---|---|---|---|---|
| **VOCATIONAL EDUCATION** | | | | | | |
| State grants | $500,000,000 | | | | | |
| Grants for the disadvantaged | 30,000,000 | | | | | |
| Bilingual vocational education | 40,000,000 | | | | | |
| State plans, advisory councils, dissemination | Such sums | | | | | |
| National Advisory Council | 150,000 | | | | | |
| Exemplary programs | 20,000,000 | | | | | |
| Residential schools | 0 | | | | | |
| State residential programs | 0 | | | | | |
| Construction loan subsidy program | 0 | | | | | |
| Consumer and homemaking education | 45,000,000 | | | | | |
| Cooperative education | 25,000,000 | | | | | |
| Work—*Study* | 15,000,000 | | | | | |
| Curriculum development | 5,000,000 | | | | | |
| Bilingual training projects | 10,000,000 | | | | | |
| Vocational teacher training programs | 25,000,000 | | | | | |
| Consolidation—State grant program | | $715,000,000 | $835,000,000 | $945,000,000 | $1,060,000,000 | $1,150,000,000 |
| Consolidation—Innovation and support services | | 165,000,000 | 195,000,000 | 235,000,000 | 265,000,000 | 335,000,000 |
| (Total consolidation) | | (880,000,000) | (1,030,000,000) | (1,180,000,000) | (1,325,000,000) | (1,485,000,000) |

CHART NO. 2—Continued

S. 2657—EDUCATION AMENDMENTS OF 1976—AUTHORIZATIONS

[Fiscal years]

| | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 |
|---|---|---|---|---|---|---|
| Disadvantaged | | $35,000,000 | $40,000,000 | $45,000,000 | $50,000,000 | $50,000,000 |
| Home economics | | 55,000,000 | 65,000,000 | 75,000,000 | 80,000,000 | 80,000,000 |
| Bilingual | | 60,000,000 | 70,000,000 | 80,000,000 | 90,000,000 | 80,000,000 |
| Renovation | | 25,000,000 | 50,000,000 | 75,000,000 | 100,000,000 | 0 |
| State plans, administration, evaluation, data | | 25,000,000 | 25,000,000 | 25,000,000 | 25,000,000 | 0 |
| State advisory councils | | 8,000,000 | 8,500,000 | 9,000,000 | 10,000,000 | 8,000,000 |
| National Advisory Council | | 450,000 | 475,000 | 500,000 | 500,000 | 500,000 |
| Total | $715,150,000 | 1,088,450,000 | 1,288,975,000 | 1,499,500,000 | 1,680,500,000 | 1,703,500,000 |
| MISCELLANEOUS | | | | | | |
| Emergency school aid | 1,000,0000,00 | (1) | | | | |
| Special projects | 50,000,000 | 100,000,000 | | | | |
| "Glenn amendment" | 25,000,000 | 50,000,000 | | | | |
| Ellender fellowships | 750,000 | 750,000 | 1,000,000 | 1,000,000 | 1,000,000 | 1,000,000 |
| Wayne Morse Chair of Law and Politics | 500,000 | (2) | | | | |
| National Institute of Education | 100,000,000 | 200,000,000 | 200,000,000 | | | |
| International Education Act | 10,000,000 | | | | | |
| NDEA III, Instructional Equipment | | | 130,500,000 | | | |
| Guidance and counseling | 3,000,000 | 20,000,000 | 20,000,000 | | | |
| Career education | | 10,000,000 | | | | |
| Total | 1,189,250,000 | 511,250,000 | 221,000,000 | 1,000,000 | 1,000,000 | 1,000,000 |

[1] Available through fiscal year 1979.

[2] To be available until expended.

CHART 3

STUDENT AID PROGRAMS

| | Fiscal year 1976 appropriation | Projected number of students to be aided AY 1976–77 | Conference report authorizations; fiscal years | | | |
|---|---|---|---|---|---|---|
| | | | 1977 | 1978 | 1979 | 1980 |
| Basic grants (BEOG) (family of 4 upper limit $12,000) | $1,315,000,000 | $1,500,000 | (1) | (2) | (1) | |
| Supplemental grants (95 percent of recipients from families with incomes under $12,000) | 240,000,000 | 445,000 | [3] $200,000,000 | [3] $200,000,000 | [3] $200,000,000 | |
| College work-study program (80 percent of recipients from families with incomes under $12,000) | 390,000,000 | 895,000 | 450,000,000 | 570,000,000 | 600,000,000 | [4] $630,000,000 |
| National direct student loans (75 percent of recipients from families with incomes under $12,000) | 332,000,000 | 834,000 | 400,000,000 | 400,000,000 | 400,000,000 | |
| Guaranteed student loans | (1) | 900,000 | (5) | (1) | (1) | (1) |

[1] Such sums.

[2] Such sums (ceiling raised from $1,400 to $1,800).

[3] Plus such sums.

[4] Fiscal year 1981, $670,000,000; fiscal year 1982, $720,000,000.

[5] Such sums (family income level raised from $15,000 to $25,000).

Mr. QUIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report, 94–1701, represents the culmination of at least 2 years of hearings; House passages of three bills (H.R. 12835, H.R. 12851, and H.R. 14070); and over 58 hours of conference with the Senate on the differences between the House bills and the Senate-passed S. 2657. I believe it is a good conference report. Naturally, when over 400 substantive differences are resolved in a conference committee, no one feels the bill is all he would ideally like it to be. But Members who voted for the House bills should find this conference report most acceptable. I urge a vote to pass the conference report and I fully expect the President to sign it.

It will not be necessary for me to explain each provision in the report. But before I comment on several items of special interest to me which might need further elaboration, I would like to insert at this point a brief outline of the major features of the report:

MAJOR FEATURES—EDUCATION AMENDMENTS OF 1976 (AS REPORTED BY THE COMMITTEE OF CONFERENCE, SEPTEMBER 27, 1976)

I.—AMENDMENTS TO HIGHER EDUCATION ACT

Title I—Continuing Education and Lifelong Learning:

Expands community service and continuing education program; $40 million each year through FY 79.

Creates new authority for surveys, assessments, demonstration of lifelong learning; $20–30–40 million for FY 77–79.

Title II—College Libraries:

Extends current program through FY 79.

Creates new authority for grants to major research libraries; $10–15–20 million for FY 77–79.

Title III—Developing Institutions:

Extends through FY 79 at same authorization level ($120 million).

Title IV—Student Assistance:

Basic Educational Opportunity Grants—

Increases maximum grant from $1400 to $1800 effective academic year 1978–79.

Authorizes pilot project of State processing.

Authorizes administrative costs of institutions of $10 per grant.

With other amendments, extends through FY 79.

Supplemental Educational Opportunity Grants—Extends through FY 79 without change.

State Student Incentive Grants—

Requires that all students at nonprofit institutions be eligible.

Allocates part of appropriations over $75 million to States with State guarantee agencies under the guaranteed loan program.

Extends through FY 79.

"Trio" programs—

Extends programs through FY 79 at $200 million per year.

Creates new program of service learning centers and allows training of personnel related to these programs.

Creates new subpart authorizing federal grants to States for Educational Information Centers at $20–30–40 million through FY 79.

Veterans Cost of Instruction—Extends with amendments through FY 79.

Guaranteed Student Loans—

Increases ceilings for automatic in-school interest subsidy from $15,000 to $25,000 adjusted family income.

Provides several incentives to strengthen State guarantee agencies.

Increases loan limits for graduate and professional students to $5,000 annually or $15,000 aggregate.

Puts limits on institutional and State direct lenders.

Provides $10 per loan administrative fee to educational institutions.

Prohibits students from discharging insured loans in bankruptcy proceeding for 5 years after repayment begins.

Criminal penalties are added for various illegal acts under this program.

Extends through FY 82 with increasing annual authorizations up to $720 million.

Allows greater flexibility in how employment income is treated in packaging need-based student aid.

Creates new authority for institution-run job location and development programs.

National Direct Student Loans—Extends through FY 79, with minor amendments, at the same authorization level.

General Provisions—

Increases administrative cost allowance from 3% to 4% of SEOG, NDSL and work-study.

Requires certain minimal staffing of financial aid offices.

Requires institutions to provide students and prospective students with certain information about the institution and financial aid.

Allows Commissioner to limit, suspend or terminate eligible institutions which do not comply with requirements under title IV.

Authorizes incentive grants to States for training financial aid personnel.

Title V.—Education Professions Development:

Extends Teacher Corps, with amendments giving it more flexibility; $50–75–100 million for FY 77–79.

Repeals remainder of current title V.

Creates new authorities for teacher centers and training of higher education personnel; $75 million each for FY 77–79.

Title VI.—Improvement of Undergraduate Instruction:

Extends, with a minor amendment, at a reduced level of $10 million each year through FY 79.

Title VII.—Academic Facilities:

Extends through FY 79.

Allows grants and loans to be used for renovation as well as construction, and for energy conservation.

Title VIII.—Cooperative Education:

Repeals the old title VIII (Networks for Knowledge) and replaces it with cooperative education.

Cooperative education is extended, with several amendments, through FY 82, reaching an authorization of $28 million.

Title IX.—Graduate Programs:

Extends program through FR 79; repeals Part F (General Assistance to Graduate Schools); requires annual report from the Commissioner (new Part E); makes modest amendments to current programs.

Title X.—Community Colleges:

Repeals current Part B (Occupational Education).

Expands current Part A by broadening the purpose of the grants and changing the definition to include a broader range of institutions.

Extends through FY 79 at $165.7 million authorization per year.

Title XI.—Law School Clinical Program:

Extends unchanged through FY 79.

Title XII.—General Provisions to Higher Education Act:

Changes definition of "eligible institutions" to allow them to enroll of anyone past the age of compulsory school attendance.

Creates a "trigger" for two fiscal years that could require up to $215 million for titles I, VII–C and X if the appropriation for BEOG, SEOG, NDSL and workstudy exceeded certain amounts.

Creates a new $2 million authority for interstate planning by State commissions.

### II.—VOCATIONAL EDUCATION

Section 201 extends existing programs under the Vocational Education Act for one year (through fiscal 1977) without substantive change, except that total authorizations are reduced from about $1,150 million to $715 million.

Section 202 rewrites the Vocational Education Act of 1963 with the following major changes:

Consolidates seven categorical grant authorizations into a single block grant to the State, 80 percent allocated to basic programs and 20 percent allocated to specific support services (e.g., research, curriculum development);

Continues separate categorical grant programs for Consumer and Homemaking Education, Special Programs for the Disadvantaged, and Bilingual Vocational Training, and adds one for Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities;

Revises State planning process to require active participation of State agencies and groups representing various levels of education (including junior and community colleges) and to tie programs more closely to anticipated job needs;

Requires more precise evaluation of Federally-funded programs in terms of job performance and job satisfaction of completers and reaction of employers;

Continues minimum expenditure requirements ("set asides") in each State for postsecondary vocational programs, special programs for handicapped, and special programs for disadvantaged (including bilingual instruction) and adds a new requirement that Federal funds expended for these purposes be matched 50–50 with nonfederal funds.

Creates closer ties at State and Federal levels between vocational education and CETA (manpower training) and establishes an improved system of vocational education and occupational information data collection and dissemination involving close cooperation between HEW and the Department of Labor;

Strengthens State and national advisory councils on vocational education and requires that a majority of members on such councils be non-educators;

Provides for a gradual increase in total authorization levels from $1,088 million for fiscal 1978 (below fiscal 1976 level) to $1,704 million in fiscal 1982.

### III.—EXTENSION AND REVISION OF OTHER EDUCATION PROGRAMS

Extends the Emergency School Aid Act through FY '79 and creates two new authorities in the program: the first for special program grants by the Commissioner; the second for magnet schools, university and business pairing with schools and for planning for neutral site schools.

Extends the Allen J. Ellender fellowship program.

Makes several changes in maintenance of effort provisions in Titles I, III, and IV of ESEA and the Adult Education Act.

Creates a new program of Guidance and Counseling at an authorization of $20 million for fiscal years 1978 and 1979. Grants to state and local education agencies, institutions of higher education, and to private nonprofit organizations to assist in conducting institutes, workshops and seminars to improve guidance and counseling.

Creates a new program of Career Education and Career Development with an authorization for fiscal year 1978 of $10 million. Funds are for assistance to States to enable them to plan for the development of career education and career development programs and activities for individuals and to plan for the improvement of existing programs and activities in the area of awareness, exploration, planning, and decisionmaking.

### IV.—GENERAL EDUCATIONAL PROVISIONS ACT

Extends the Fund for the Improvement of Postsecondary Education through fiscal '79.

Extends the National Institute of Education through fiscal '79 and establishes five priority areas for NIE research and development.

Directs the National Center for Education Statistics to coordinate data collection efforts of the U.S. Office of Education, the National Institute of Education, and the Office for Civil Rights, in an effort to reduce paperwork.

Provides that the members of Presidential Advisory Councils shall serve until the successors are appointed.

Permits the Department of Health, Education, and Welfare to establish day care centers for the children of its employees.

Directs the National Center for Education Statistics to undertake a survey of the availability of qualified teachers.

### V.—TECHNICAL AND MISCELLANEOUS

Authorizes the Commissioner to pay up to 50 percent of the cost of establishing the Wayne Morse Chair of Law and Politics at the University of Oregon—limits the Federal share to $500,000.

Requires various studies by the executive branch: (a) Special programs for disadvantaged students in U.S.O.E. and the High School Equivalency Program and College Assistance Migrant Program in the Department of Labor; (b) the reorganization of the Education Division of HEW; (c) vocational education programs.

NOTE.—Except where otherwise stated, the termination date for each education program would be automatically extended one additional fiscal year, unless Congress acts first, pursuant to section 414 of the General Education Provisions Act.

Mr. Speaker, most of the Higher Education Act is extended through fiscal year 1979, with the possibility of an additional 1 year automatic extension if Congress has not otherwise extended the act. Under our new budget procedures, we should have the next higher education extension reported from committee by May of 1978—or if the automatic extension is used, by May of 1979. The question of duration was a compromise between the House bill, which extended the programs only 1 year, and the Senate bill, which extended them through fiscal 1982. Exceptions to the 1979 compromise are: College work-study, through fiscal year 1982; cooperative education, through fiscal year 1982; and the guaranteed student loan program, through fiscal year 1981.

### CONTINUING EDUCATION AND LIFELONG LEARNING

Title I of the Higher Education Act is significantly amended to include continuing education as well as community services, including resource sharing programs. The State planning for this title will require a more comprehensive effort to reflect all the new possibilities for funding. I hope that more States will turn to their comprehensive statewide planning commissions, supported under section 1203, to undertake this effort rather than the old practice of some States using one institution of higher education to plan and administer a State program.

The conference accepted a substitute provision on lifelong learning as a new part B to title I. The substitute was adopted for several reasons. First, while almost everyone supports lifelong learning—even without knowing exactly what it means—the Congress has not yet looked very carefully at what is happening around the country already, nor at which of several possible Federal initiatives would be the best. The Senate had one short hearing on the subject, while it was never the focus of attention in our committee. Therefore, the substitute does not include an explicit statement of Federal policy nor a specific definition of the term "lifelong learning," both of which were part of the Senate bill.

Further, the substitute language gives the Assistant Secretary more flexibility in carrying out the various surveys, assessments and policy studies called for. I believe both NIE and the fund could successfully carry out several of the initiatives with appropriations for lifelong learning. State planning commissions, the education commission of the States, and other nonprofit organizations also appear as likely participants in the total effort.

The original Senate version provided that the first $5 million of appropriations for this effort was to be limited exclusively to planning, assessing and coordinating. Although not required by the final language, I certainly believe that the first year or two could be devoted primarily to those activities rather than making a small drop in a large bucket with scattered demonstration projects.

### BASIC EDUCATIONAL OPPORTUNITY GRANTS

The statement of the managers adequately describes the differences between the two bills and the conference resolution, except for a mistaken explanation of one agreement. The conference report stipulates that whenever 15 percent or less of the appropriated funds for BEOG are not needed in a given year the unused amount can be carried over to the next year. This gives considerable leeway in the expenditure of funds compared to current law. By including a requirement that when excess funds exceeded 15 percent, all of the excess must be reallocated to BEOG recipients as a second award for the same year, some conferees felt OMB would be less tempted to save money by developing a too stingy family contribution schedule. I feel confident we are learning enough about this $1.5 billion program so that the management nightmare of having to send checks of small amounts to students after they finish their year of school, although included as a possibility in the statute, will never happen.

I might add that I was one who felt strongly about holding to the House 1-year extension, especially for this program, the supplemental grant program and the State student incentive grant program. There is an urgent need to reevaluate these three federally funded grant programs. They are not well-coordinated in terms of need requirements, the application process, program administration, or maximum and minimum award levels. This problem should be a priority concern during the next Congress.

### STATE STUDENT INCENTIVE GRANTS

This successful program was not changed in any major way. We had hoped to eliminated the nuisance distinction between initial year and continuing year grants, which was in the House bill. But since our bill was only for 1 year, and the Senate did not include the provision, we were not able under the rules of the conference to adopt the House amendment for the full 3-year duration of the conference report. I expect everyone will agree to this change in future legislation.

Beginning next academic year, the report requires that all public and private nonprofit institutions be eligible for State grants that are federally matched. This will affect a few States which have used the program for only public or only private institutions. The vast majority of SSIG awards already comply with this feature.

The Senate bill requires that SSIG awards in many States be "portable" to any other State. Although most of the conferees believe this is how federally-matched grants should be, we did not like the Senate's exemption of some States which put up more than the required match. The effect would have been to threaten the very existence of a dozen or so of the newest State programs. This is another issue which is most certain to come up in the future. Personally, I could accept a Federal incentive approach to encourage more than the current seven or eight States to make their SSIG's portable.

The conference did accept a modified version of a bonus payment in the SSIG allotment formula that the Senate proposed as an incentive for State loan guarantee agencies. I am not sure, in light of the fact we have already added new incentives for State guarantee agencies, that this was a good provision. However, we did agree to figures in the provision which should give all current nonguaranty agency States a fair chance to benefit from these bonus payments.

### SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

The conference accepted a good number of Senate amendments to the trio programs—a term that might need changing now that there will be five programs. These programs were extended 1 year without change in the House bill because we felt they needed a careful review and update. One of the accepted new additions was a program to support service learning centers on college campuses, with up to 90 percent Federal funds. The House was reluctant to accept this new program because it so closely parallels the current special services program.

The compromise provides that this new program cannot be funded until the total appropriations for programs under section 417B exceeds last year's level of $70,331,000.

One of the features of service learning centers I like is the limit of 90 percent Federal funds. This should help get greater institutional interest and commitment on behalf of students who need special tutoring and counseling. Because special service programs allow 100 percent Federal funding, I think too many institutions neglect making them an integral part of the campus curriculum.

Another addition to this part of title IV of the Higher Education Act is training authority for the professional personnel responsible for these special programs. An investment in this area can significantly increase the effectiveness of the $70 million now being spent in this area.

### EDUCATION INFORMATION CENTERS

The conference made several modifications in another Senate proposal for assisting States in developing information networks to help all interested citizens learn about and choose further education opportunities. We cut back on the Federal share from 75 to 66⅔ percent because States should have a major self-interest in improving consumer information in education. As we move toward more and more nontraditional learning and credentialing systems, our citizens need better help in making wise decisions. This program is not focused on any one group. It is for everyone in need of information.

As these State-developed programs get into place, we will need to reevaluate whether the education opportunity centers, authorized under section 417B, should be continued. I feel that State systems have a better chance of long-term quality service to interested citizens than do projects not tied to any level of government. I hope this new program will draw the very best people together in each State to provide effective, efficient, and imaginative information systems. It is a big challenge to meet a need that grows each year in our society.

### INFORMATION FOR STUDENTS

In addition to the authority for State information systems, the conference report requires each institution to make available specified information about itself and financial aid programs. This package of information will be a type of "prospectus" about the institution that should allow better comparisons among institutions and improve student decisionmaking. Included among the items is a requirement that institutions divulge their refund policy. We did not accept the stricter House language which would have required USOE regulations on what is "fair and equitable." I believe this is a question of considerable significance to institutions and to students. It would not appear that one blanket refund policy would apply with equal fairness to students at the many types of institutions covered by the provision.

The conference did not accept a Senate proposal which would have required the hiring of college workstudy students to assist in student financial aid offices, according to a specific formula. Instead, we asked the Commissioner to survey institutional practices, report good programs, help train part-time counselors, and make recommendations to Congress. I believe the use of students, including interested and qualified workstudy students, to assist a college in providing good information to its students is a good idea. Many schools now use students with success. But the school should want to do this; the best persons available from the school or the community should be hired; and the Federal role should be one of providing technical assistance, possibly some incentive. A mandatory requirement is wrong.

### GUARANTEED STUDENT LOANS

One of the major changes incorporated in the conference report is the substantial revision of the guaranteed student loan program, part B of title IV of the Higher Education Act of 1965. Regrettably, the guaranteed student loan program has not had the advantage of a substantive oversight and rewriting since it was first enacted. Amendments have been made in a rather piecemeal fashion. This year, however, the House passed H.R. 14070, a bill making major changes in the program. The vast majority of those changes were adopted by the conference committee.

The amendments to GSL have two primary thrusts. First, the act seeks to provide incentives for States to establish insurance agencies to handle loans under the program. The emphasis on State agencies is the result of evidence which shows that States do a better job of handling the program. The incentives for new agencies should also serve to encourage existing State agencies, of which there are 26, to remain in the program.

The second thrust of the GSL changes is to provide sufficient incentives for lenders to remain in the program and, hopefully, to induce new lenders to begin making loans.

The incentives for State agencies include the authority to recoup their costs of collecting defaulted loans, up to 30 percent of the recovered amount. Currently, States often end up in a net loss position after paying collection costs and reimbursing the Federal Government. All State agencies would also receive an administrative cost allowance equal to one-half percent of the volume of loans guaranteed in the previous year.

In addition to these incentives which apply to all agencies, those agencies which sign supplemental insurance agreements, thereby agreeing to certain conditions of the Federal program, are provided additional incentives. Those State agencies which sign a supplemental agreement may receive 100 percent reinsurance provided that their default rate remains under 5 percent in any given year. Current law has only reimbursed those agencies for 80 percent of losses. The report is carefully drafted to provide incentives for those State agencies to keep defaults at the lowest possible level by inclusion of a provision whereby they will be reimbursed at lesser amounts if the default rate in any given year is greater than 5 percent. Under the provisions of the conference report, if the default rate exceeds 5 percent, State agencies will receive 90 percent of their losses on defaults in excess of 5 percent but less than 9 percent. If defaults exceed 9 percent, then the reinsurance will cover 80 percent over that excess.

The conference report also provides that those agencies which have signed a reinsurance agreement may receive an additional administrative cost allowance of one-half percent of the previous years' volume if they agree to insure loans of students who attend institutions within the State but whose legal residence is in another State. It should be very clear that this provision is not meant in any way to coerce or to force States into this latter practice. If a State chooses to insure only the loans of State residents, it may still receive 100 percent reinsurance provided defaults remain in line. If a State chooses to insure loans of out-of-State students who attend in-State institutions, as Illinois and Michigan now do, then they could receive this additional cost allowance which they would be free to use for the support and operation of the State insurance agency. None of the funds provided State agencies by the Federal Government may be used for purposes beyond the support of that agency.

States which sign supplemental agreements must as a part of that agreement, make provision for institutional lenders. The language in the conference report and the statement of managers makes clear that the standards and procedures which the State establishes for school lenders may be different from those imposed by the Federal Government in the direct insurance program. The important element here is that each State must decide how best to handle institutional lenders in that State and must do so in a way which does not have the effect of barring, or virtually barring, school lenders. In almost every State there are clear instances where the nature of the student body at some institutions and the lack of commercial lender participation make it imperative that the school function as a GSL lender. The managers were anxious to be certain that States make provisions to accommodate those institutions. States, however, will have full authority to limit, suspend or terminate the ability of a school to serve as a lender if that institution does not maintain proper administrative and fiscal procedures, or if the educational program is not being supplied.

The incentives provided financial institutions in the bill are also several in number. Perhaps the most important is that change in the special allowance paid the holders of all loans which will tie the special allowance rate to the interest rate paid by the Treasury Department on 91-day Treasury bills. The effect of this provision will be to insure lenders that they will receive a fair return on their investment, that they will be able to compute their return quickly, and that they will receive payment promptly from the U.S. Office of Education.

As an incentive to the Office of Education to improve program administration and to assure financial institutions that they will receive a return on their investment, the conference report contains two other provisions. The first provision provides that the Commissioner will pay accrued interest on default claims provided that he certifies that the claim is a valid claim and that the lender has fulfilled his obligation to exercise due diligence in the collection of the loan. The second provision requires the Commissioner to pay interest on special allowance and interest benefit payments if he has not made those payments within 31 days. It is expected that the inclusion of these provisions will assure financial institutions of an improved return on investment and assure prompter action by the Commissioner in fulfilling his obligations.

The conference report also contains a number of provisions aimed at reducing or eliminating the abuses which have plagued the guaranteed student loan program. These abuses have resulted in a number of students being deprived of the education for which they paid, and in default rates far in excess of those which are tolerable. The amendments which fall into this category include barring home study schools as lenders, requiring that no more than 75 percent of the students at an eligible institution may receive loans made by that institution, limiting school-originated loans to first year students to one-half of cost, providing that multiple disbursements must be made for school-originated loans in excess of $1,500, and requiring that the proceeds of the loan be disbursed by check made payable to the student.

In addition, a number of criminal penalties are specifically included in the guaranteed loan part of title IV. These provisions underscore and make more explicit the criminal penalties provided in title 18 of the United States Code. It is the expectation of the managers that the commission of any illegal activity under the guaranteed student loan program will be covered by these several provisions and thereby subject the perpetrator to immediate criminal prosecution.

With respect to students and their families, the amendment includes a very significant change in current law providing that 30 days after enactment of the Education Amendments of 1976, students from families with adjusted family incomes of less than $25,000 will become automatically eligible for interest subsidy benefits. This change will bring some assistance in paying the costs of college education within the reach of more than 90 percent of the families in the country.

The conference report also contains provisions providing flexibility to students who receive loans and specifically includes language allowing students to suspend payment of the principal amount of their loan during a 1-year period while the student might be unemployed and seeking employment. Clearly, the lender would have to agree in this instance to the suspension of payment, but it is my belief that such suspension of payment would be in the best interests of the borrower, the lender, and the Federal Government as would be provisions permitting the borrower and lender to negotiate different repayment periods and different annual repayment amounts. It should also be noted in connection with the student borrower that, under language contained in the report, students are required to notify the holder of the loan of any change in address.

Colleges and universities are provided benefits under the conference report through a section which grants to every institution a $10 payment for every holder of a guaranteed student loan enrolled in that college or university. It is expected that this payment will be sizable in the case of many institutions who have large enrollments of students who are borrowing and that it will permit institutions to fulfill their obligations under the law without financial penalty. The report also contains a requirement that colleges and universities notify lenders when the student graduates or leaves school and that such notification include information on the student's last known address.

Of course, the conference report also contains a number of other provisions which I have not enumerated, but which are spelled out in the statement of managers.

### NATIONAL DIRECT STUDENT LOAN PROGRAM

The conference report extends the authorization for the national direct student loan program through 1979. In addition, the report contains several provisions which conform terms and conditions under NDSL to the guaranteed student loan program. It is my hope that by including these conforming provisions, we will begin moving closer and closer to the time when we might be able to rely upon only one program rather than having the proliferation of programs which now exists.

Perhaps most importantly, the report contains language requiring that colleges and universities submit twice a year a report describing the number of loans in default and the number of loans which are delinquent. This data will give the respective committees of the two Houses some very valuable information which can be used to examine the administration of the program on college and university campuses. Some data which I have seen regarding default rates in this program lead me to believe that the program may, in fact, need extensive oversight and that in at least some instances colleges and universities are not doing a proper job in administering the program.

### TEACHER CENTERS

The conference report repeals several outdated authorities under title V of the Higher Education Act pertaining to the recruitment and training of education personnel. We continued Teacher Corps, with several improvements, and created two new teacher training authorities: one for higher education personnel and one for in-service training of elementary and secondary school personnel.

The latter, called teacher centers, is meant to stimulate and expand a concept already working in many areas of the country. Under this program, 90 percent of the money would be given to local education agencies and 10 percent to institutions of higher education to sponsor teacher centers. Once the local school boards receive the money, they can contract with outside individuals or institutions to assist them.

The conference modified the makeup of the policy board, which would give guidance to each teacher center, to include at least one representative from teacher training institutions in the area. In my mind, the school board would identify the colleges with departments of education in its region and notify them of the board's interest in having them select at least one person for the teacher center policy board.

### DUE PROCESS AMENDMENT

It had come to the attention of the committee through correspondence with numerous educational institutions throughout the United States, local educational agencies and education associations that HEW's Office for Civil Rights had been threatening the termination of Federal financial assistance to schools and school districts based on a mere allegation by the Office for Civil Rights that the school or school district was in noncompliance with Federal nondiscrimination laws. School districts and colleges receiving such notices complained that the notices they received generally did not cite specific instances of institutional failure and did not grant any right of due process of law in allowing an institution or LEA to come forward and defend itself before an impartial law judge before such funds were to be suspended.

Careful analysis of this situation revealed that pursuant to title VI of the Civil Rights Act of 1964, no Federal financial assistance could be terminated under that title unless a hearing was granted to the LEA or educational institution suspected of being in noncompliance. However, in actual practice, the Office for Civil Rights termed the suspension of Federal financial assistance as a limitation or deferral and did not use the word "termination," thus granting themselves the authority to arbitrarily cut off Federal financial assistance before they secured a judgment of noncompliance. The Office for Civil Rights claimed that although it had never attempted to defer Federal financial assistance from a higher education institution, nevertheless it had done so at the elementary and secondary level and would continue to do so without the assistance of any prior hearing before an impartial administrative law judge. HEW claims it derives its authority for this deferral from the so-called Fountain amendment, which prohibits the Department from deferring funds under certain specified elementary and secondary program statutes for a period of more than 60 days unless the time is extended by mutual consent of the parties and during which time a hearing must be held to determine the existence of noncompliance.

Because he seriously questioned the authority to defer and because as the Domestic Council has stated, "The major problem in the current use of the deferral authority is the absence of any standards under which the Department will invoke it," Representative ESHLEMAN introduced his due process amendment amending the General Education Provisions Act. This amendment provided that the Secretary of HEW would not be allowed to defer, limit, or terminate any Federal financial assistance to a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program or other educational institution through grant, loan, contract, student assistance or any other program unless the Secretary was able to secure a prior judgment of noncompliance with a specific provision of Federal law after a hearing before a duly appointed administrative law judge. Thus, institutions and LEA's would remain innocent until proven guilty by the Department.

The conference committee refused to adopt the Eshleman due process amendment as written and a substitute was introduced which differs significantly from the original Eshleman language. This substitute allows deferral in the first instance for a period not to exceed 210 days in the aggregate during which time a final determination must be made by an administrative law judge as to noncompliance. Unlike the Eshleman amendment, this substitute applies only to local education agencies. This amendment was so restricted primarily because the conferees questioned HEW's authority to limit or defer Federal assistance at any educational level and the majority of conferees did not wish to create any precedent for HEW to begin deferral or limitation at the higher education level.

Thus, the substitute for the Eshleman language should be interpreted very restrictively, and should merely serve to establish a procedure whereby the Secretary must limit the deferral of financial assistance to elementary and secondary schools if, and only if, it is determined at a subsequent time, that the Secretary does in fact possess the authority to limit or defer such assistance. In any event, the elimination of higher education from the Eshleman amendment must not be interpreted as an indication that the Secretary has any authority to defer or limit financial assistance at the postsecondary level.

### QUOTA AMENDMENT

The committee also had learned that HEW's Office for Civil Rights had been threatening institutions of higher education with the termination or deferral of Federal financial assistance based on what the Office for Civil Rights determined to be an inadequate number of women and minority students present at the institution. This threat resulted in a college or university being forced to grant preferential admissions to women and minorities in order to satisfy the often unwritten requirements of the Office for Civil Rights.

In a strong reaction to this unauthorized practice, Representative ESHLEMAN introduced his antiquota amendment which prevented HEW from imposing numerical requirements or goals or quotas on the student admission practices of higher education institutions which receive Federal funds.

A substitute was introduced in conference which was intended to attack and eliminate the same problem. However, the language was changed to prevent the Secretary from deferring or limiting Federal assistance in the event an institution failed to comply with such goals or quotas or numerical requirements. By changing this language, it should be specifically understood that the conferees were not authorizing the Secretary to defer or limit Federal financial assistance at the postsecondary level. The amendment merely addresses the fact that the Office of Civil Rights had threatened to defer or limit Federal financial assistance based on the failure to achieve goals in admissions policy. Both the Eshleman due process amendment and the Eshleman quota amendment must be read together and must be clearly interpreted to say that the conferees do not acknowledge that the Secretary has any authority whatsoever to defer Federal financial assistance to any educational institution or State or local educational agency, and in the case of higher education the Secretary may not force a graduate school, professional school, college, or university to alter its admissions practices based on what the Secretary determines would be a more preferable student mix.

### NONDISCRIMINATION AMENDMENT

The final amendment which Mr. ESHLEMAN introduced in this area was designed to prevent a foreign country from entering into a contract with any higher education institution in the United States receiving Federal financial assistance in which contract the foreign country would require that the educational institution discriminate on the basis of race, religion, sex, or national origin, in choosing those persons who would be employed to fulfill the terms of that contract. It was felt that inasmuch as most of the educational institutions in the United States do receive some Federal financial assistance, they should not be allowed to directly or indirectly use such financial assistance to undertake contracts which would violate our antidiscrimination laws. It was also recognized that several institutions in the United States were forced to turn down contracts with Arab nations who insisted upon having that institution discriminate on the basis of religion in fulfilling the terms and conditions of the contracts.

Senator JAVITS introduced a modification to the original Eshleman language in order to allow an institution to conduct an in-house study dealing with a specific race, sex, religion, or national origin. But when an institution enters into a contract with an outside party, the party may not impose and the school may not agree to follow contractual limitations which discriminate against any race, sex, religion, or national origin in employing persons to fulfill the terms of the contract.

### II. VOCATIONAL EDUCATION STRUCTURE

I think it is useful to review the structure of these amendments, as this can be confusing to those not accustomed to reading statutes. Title II of this act does two things: it extends existing authorizations under the Vocational Education Act for 1 year—although reducing the money level of the authorizations—and it amends the Vocational Education Act of 1963 by completely rewriting it—section 202(a) of this act. Thus, no substantive changes are made in existing programs for 1 year. The amended version of the act contains two titles, title I being the substantive provisions of the new act and title II being amendments to related statutes and repealers. For the most part, my remarks will be addressed to title I of the new Vocational Education Act of 1963.

### AUTHORIZATION LEVELS

The history of appropriations under the Vocational Education Act of 1963 has been one of steady growth—from about $50 million to over $565 million in fiscal 1976. The fiscal 1976 appropriation, however, was against total authorizations—including that in the vocational education part of the Education Professions Development Act—in excess of $1,100,000,000. The approach of the House bill (H.R. 12835), adopted by the conference report, was to trim authorizations more closely to appropriations levels, while leaving adequate room for expansion of Federal support for vocational education through fiscal 1982. Accordingly, the total authorizations for fiscal 1977 in this bill are trimmed to around $715 million. The figures for subsequent fiscal years are a compromise between the lower House and higher Senate amounts, moving from $1,088 million in fiscal 1978 to $1,704 million in fiscal 1982. In my judgment, these amounts are not unreasonable as upper limits on appropriations for these purposes.

### GENERAL PROVISIONS

Much of the 1963 act remains essentially undisturbed in the sense that essentially the same kinds of programs are authorized and there is no change in the basic formula for distributing grants to the States. Moreover, the role of State and national advisory councils continues to be a key one, and is somewhat strengthened; the statutory guidelines for such activities as cooperative programs, work-study programs, and vocational education personnel training remain virtually unchanged. The basic program authority under which States operate has been strengthened in a number of ways, including the use of stipends for students in acute need who cannot be served under the work-study program, day care services for the children of students, earmarked funds for improved counseling and guidance services, and increased emphasis on the elimination of sex bias in vocational programs.

The major changes in the new act, however, are the consolidation of a number of formerly categorical grants into two block grants and the restructuring and broadening of the State planning process.

### PROGRAM CONSOLIDATION

Eighty percent of the funds available to the States are allocated to the basic program which includes the former categorical grants for work-study programs, cooperative education, and construction of residential school facilities, as well as a variety of other services and activities. Among the new services added to the basic grant authority are energy education programs, support of full-time personnel to work on problems of sex bias, placement services for students, stipends, and day care services.

Twenty percent of the basic State grant is allocated to program improvement and support services, which includes the former categorical grant programs for research, curriculum development, exemplary and innovative programs, and pre- and in-service training of vocational personnel; new program authority is added for guidance and counseling services and programs to overcome sex bias. Twenty percent of the funds for these purposes—5 percent of the total State grant—is earmarked for counseling and guidance services.

Three existing categorical grant programs are retained—bilingual vocational training for persons who are out of school, consumer and homemaking education, and the special authorization for vocational programs for the disadvantaged with a requirement for the participation of nonpublic school students. One new categorical program is added—"Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities." Thus, this new act represents a major consolidation of categorical programs within the basic grant to the States, and will provide far more flexibility in the use of Federal funds, so that allocations of funding among various purposes can be tailored to individual State needs and to changing needs from year to year.

### STATE PLANNING

A serious and recurring criticism of the administration of the Vocational Education Act is that in most States planning has become somewhat a paper exercise to comply with the Federal statute, and that the State plan has become a mere compliance document. It has also most generally been a document put together without much opportunity for meaningful participation by the general public or educational groups other than vocational educators. As a result, excellent vocational programs in community colleges and State college and university systems often receive no support or encouragement under the act, there is widespread duplication of effort, and vocational education tends to be isolated from the rest of the educational enterprise as well as from related programs such as manpower training.

While State advisory councils have done much to bring a broader perspective to bear on State vocational planning, their authority has been limited to review and comment. This new act attempts to correct this fundamental deficiency without fragmenting the responsibility for vocational programs or attempting to alter State administrative structures. It does this by requiring the active participation in the planning process of the State advisory council, the State manpower service council established under CETA, various State agencies having responsibility for different levels of education—including junior colleges if they are under a separate agency—and vocational teachers and local school administrators. The act prescribes procedures to assure that the planning process will effectively involve this group, and for an appeal to the Commissioner by any party dissatisfied with the final action of the State board for vocational education. This should thoroughly ventilate the planning process.

Planning itself, if not simplified, is made more orderly. The compliance document is a general application submitted by the State and remaining on file with the Commissioner. The real State plan is one covering a 5-year period and submitted every 5 years. This is the one—together with the annual program plans and accountability reports—which involves the active participation of a wide range of interests within the State. It requires the assessment of current and projected job needs and the explicit accounting of the goals the State will seek in meeting job needs through vocational programs. The required annual plan and report must show any updating of the long-range plan, set forth the uses of Federal funds under the act, and give an accounting of results achieved. It is hoped that the results will be a genuine and genuinely effective planning process which will lead to better use of available resources and more effective vocational programs.

### "SET ASIDES" FOR NATIONAL PRIORITY PROGRAMS

The existing act requires each State to spend a percentage of its funds for special services for handicapped students, 10 percent, and for disadvantaged students, 15 percent, and for postsecondary vocational programs, 15 percent. The new act continues those minimum requirements with certain refinements and with the additional requirement that the Federal expenditures for these purposes be matched 50–50.

The principal change was to increase the "set aside" for disadvantaged to 20 percent and to include within it programs for in-school bilingual instruction formerly covered by a separate but unfunded, authorization—section 102(c)—and to refine the definition of "disadvantaged." Under the existing act disadvantaged is defined as—

> Persons [other than physically or mentally handicapped persons to whom the 10 percent minimum applies] who have academic, socioeconomic, or other handicaps that prevent them from succeeding in the regular vocational education program.

We wanted to keep the concept of academic handicap as well as economic handicap in the definition of disadvantaged because the two do not always coincide in the same person and overcoming economic disadvantage requires financial help while overcoming academic disadvantage requires other kinds of assistance. In any event, the assistance should be limited to individuals who need it in order to participate in the regular vocational program. The existing definition would appear to make those distinctions, but in practice the words "that prevent them from succeeding" was often misinterpreted to mean that students must first fail in the regular program in order to get special help. We clarified that by changing it to read—

> Persons . . . who have economic or academic handicaps and who require special services and assistance in order to enable them to succeed in vocational education programs.

### NATIONAL PROGRAMS

We have attempted in a variety of ways to strengthen the Federal administration of this act and to tie it more closely to manpower programs administered by the Department of Labor. I think that all of the conferees really expect to see the Department of Labor and the Department of Health, Education, and Welfare begin to work together much more closely in such basic tasks as developing and using a common data base and common job descriptions for manpower and vocational programs, and in pooling the special competencies of each Department. We have written into this new act the statutory authority for the Bureau of Occupational and Adult Education, which I originally authored in 1971 and which was enacted as part B of title X of the Higher Education Act in the Education Amendments of 1972.

We have also required the Department by the end of fiscal 1978 to substantially increase the number of persons employed in that Bureau to administer this act. We have enlarged and strengthened the National Advisory Council on Vocational Education and required a cross membership between it and the National Commission for Manpower Policy created under CETA. We have provided for the establishment of a national center for research in vocational education, and have authorized leadership awards for professional development of vocational education personnel.

Our obvious intent is that the development of vocation programs at the State and local level in future years will be benefited by strong support at the Federal level through programs which have a national focus.

One of these is a special program of direct grants to Indian tribes—section 103(a)(1)(B) of the new Act—which have qualified to run their own programs under the Indian Self-Determination Act, under an agreement between the Commissioner of Education and the Commissioner of the Bureau of Indian Affairs. BIA would act as a State board of vocational education with respect to these grants and accordingly would match them 50-50. This provision is the result of an amendment offered by me in subcommittee and I expect it to help improve vocational opportunities for Indians who belong to a tribe or tribal organization perfectly capable of managing its own affairs.

For the national programs the Commissioner will have 5 percent of the funds appropriated for basic grants to the States. This will initially amount to somewhat less than he has reserved for his use under the present law, but other changes made in the act will permit the Commissioner to concentrate funds more effectively at the national level; that is, none of the funds reserved for his use will be allocated among States for use in the State.

### OTHER PROVISIONS

As in any new law, there will be difficulties of interpretation. The managers in the statement have tried to clarify potentially troublesome language. For example, this act has numerous references and requirements relating to the elimination of sex bias in vocational programs. Undoubtedly that is a worthy goal, particularly in view of the changing nature of our labor force and the increased interest of women in occupations to which they traditionally have not been attracted. However, the statement of managers makes clear that while these changes in the law are to be taken seriously by the States, they do not empower the Commissioner of Education to set goals or quotas for the participation of persons by sex in vocational programs, nor to prescribe for the States the methods they will use to administer these provisions and achieve their objectives. In view of the sometimes excessive zeal of the Department in these areas of their responsibility—and by excessive I mean going beyond statutory authority and ignoring statutory limitations—it is very important that we clearly delineate the authority of the Commissioner.

We have limited funds expended by the States for research and innovation to contracts, eliminating grant authority; at the national level we have required that the Commissioner fund research projects primarily through contracts—by which we mean that substantially more than one-half the funds be for contracts—but have left authority to make grants for this purpose. The main reason for the difference in treatment is that there are national projects which ought not be held to the exacting standard we have set for research projects that they have a reasonable possibility of having an effect upon curriculum or classroom methods within 5 years of their completion.

An example of such a project which would not directly impact upon curriculum or classroom methodology is one designed to produce a definitive study of the various kinds of information needed about vocational education by various kinds of users—teachers, administrators, legislators, et cetera—across the Nation. There are any number of these kinds of national projects of this nature, and for which a grant is a much more useful funding device than a contract. The purpose of the emphasis upon the specificity necessary to contracts and upon research focused upon the classroom is to try to assure that vocational research funded under this act produces practical, observable results.

The 1963 Vocational Education Act is widely hailed as landmark Federal legislation which produced dramatic change in a critically important part of our educational system. The 1968 amendments to that act likewise have produced remarkable results. Millions of Americans today have an opportunity to obtain a saleable skill who would not have that opportunity without the change in vocational programs brought about by this legislation. We have tried in this legislation to address problems which have occurred in the administration of the act or which seem more acute today, and to do so in a manner which would not impair the progress we have made and upon which we must build. Undoubtedly, as in the earlier legislation, we have made errors. But I am confident that we shall face those and correct them as they come to light. The end result should be a more vigorous and productive vocational education program in every part of the Nation.

### NATIONAL INSTITUTE OF EDUCATION

The managers adopted a number of major changes in the authorizing statute creating the National Institute of Education. These changes are aimed at strengthening the Institute and providing needed authority to carry out certain functions. The conference report does provide that the National Council on Educational Research which is the policymaking body, shall be made representative of the general public, of the education professions, and of the various fields of education. I personally have been concerned that the Council seemed to be over-represented in areas of higher education and has not included enough practitioners and specialists in various fields related to elementary and secondary education. The incorporated language should provide some guidance in the selection of council members for appointment.

The report also contains a House provision providing that the Council may hire its own independent staff. It is certainly not my intention to force the Council into hiring staff if they do not believe that an independent staff is needed; however, having this authority in law will give them the opportunity to have that independence if it ever becomes necessary.

The conference report contains an amendment which I authored to provide that the National Institute of Education may create, for purposes of dissemination, a system of "education extension agents." I have long known and admired the work of the agriculture extension agents in improving the effectiveness and productivity of the Nation's farmers. One of the most important ingredients of their effectiveness has been the fact that agriculture extension agents are locally hired, and the cost of maintaining the agent is borne by the several levels of government. If this authority is utilized by NIE, I believe it is very important that a similar arrangement be made with respect to education extension agents. Unless the person hired knows and is respected by the local professionals and unless the local agencies and the States have some investment in the agent's success, it is very unlikely that they will, in fact, be successful. I encourage NIE to implement this section and to make adequate arrangements to insure that both local hiring and shared funding are key elements in fulfilling this charge.

The conference committee adopted many parts of the Senate language creating a panel within NIE to review the operation of laboratories and centers. The function of this panel, under the conference agreement, should be to evaluate the capabilities of research labs and development centers. I would personally expect that the panel's recommendations would include the phasing out of some institutions and the establishment of others. I would also hope that through a process of moving some existing labs or establishing others, all areas of the country could be served. I would expect that the report of the panel dealing with labs and centers would be transmitted to the Congress along with whatever comments and recommendations the NIE Director wishes to make on that report. However, the Congress expects that report would be submitted as written by the panel without alteration or amendment.

I am also hopeful that the establishment in the NIE statute of the Federal Council on Educational Research and Development will lead to greater coordination and cooperation among the various Federal agencies involved in research related to education. For example, much good work has been done on the problem of hyperactive children by the National Institute of Mental Health and the National Institute of Education. This work should be coordinated so that the best return is received on the Federal investment and so that the best minds and resources are brought to bear on particular issues. This new Council can be a most effective and important factor in bringing some coherence and cohesion to Federal efforts in education.

### MISCELLANEOUS AND TECHNICAL PROVISIONS

### EMERGENCY SCHOOL AID

The conference report extends the Emergency School Aid Act through fiscal year 1979 and includes two new authorities. The first of these is an authority giving the Commissioner $50 million in discretionary funds in fiscal 1977 and $100 million in 1978 to fund special programs and projects. This authority should provide the Commissioner latitude to deal with those areas of the country which are feeling the immediate impact of court-ordered or voluntary desegregation, but where the application of the formula for State apportionment is not adequate to provide funding.

In addition, there is added to the Emergency School Aid Act authority for planning, designing, and carrying out certain educational programs in magnet schools as well as the authority to develop plans for neutral site schools and to fund the pairing of schools with specific colleges and business corporations. As one who was concerned about the original Senate language in this provision, I would like to point out that the language accepted by the conferees deletes every reference to education parks, thereby deleting any authority to fund any programs in connection with education parks.

The agreed-upon language also strikes any language authorizing construction activities. Of course, the current law does provide authority for limited repair and remodeling.

The conference report also contains a section permitting the Commissioner to make grants to school districts to provide services to title I children who have been transferred to a nontitle I school as a result of a desegregation order or plan. It should be emphasized here that no districts are automatically entitled to these grants and that any district must meet all of the qualifications of the act to receive funding to follow the title I child. As the years have passed since the Emergency School Aid Act was enacted in 1972, I have become more and more concerned about the operation of this program and its potential overlap with title I and other ESEA programs. Inclusion of the section to follow the title I child is another indication of the need for the Education and Labor Committee to thoroughly examine ESAA, its operation, and the type and nature of programs which are funded under its authority. I will certainly do my part to urge the committee to pursue that oversight.

### OTHER AMENDMENTS

The conference report also contains a number of rather complex amendments to various sections of Federal law, dealing with elementary and secondary education, which require that schools maintain State and/or local effort as a condition of receiving Federal aid. The language included in the conference report is far stricter and more limited than that contained in the House language, and is in many ways more specific and more restrictive than that contained in the Senate bill. The language does permit States to reduce their efforts very slightly with respect to the Adult Education Act and title IV of ESEA. In addition, the Commissioner is given authority to waive maintenance of effort requirements with respect to local effort for title I of ESEA. The Commissioner is given the authority to create separate classes of waivers.

It should be emphasized that it is only in the most exceptional and unusual circumstances that the Commissioner should exercise his authority to waive requirements for maintenance of effort without imposing a proportionate reduction in the receipt of Federal aid. In turn it is expected that even the waiver which requires proportionate reduction will not be used in any but a few isolated situations. As one of the principal architects of this section, it was certainly not my intention to provide any loopholes through which numbers of school districts or States can jump. It is extremely important that States and local districts maintain their effort to the greatest extent possible. It is my feeling that with the language in this bill we have gone as far as we possibly can go in this regard. I would personally not favor any further language to loosen maintenance of effort requirements.

Another section of the bill adopted by the conference committee provides that States which have taken impact aid payments into account in computing State equalization plans will be forgiven from any repayment prior to the promulgation of final regulations. This is a very important section and deals with States like Kansas, North Dakota, New Mexico, and Maine which had acted in good faith on the basis of the inclusion of language in section 5(d)(2) of Public Law 874 as incorporated in Public Law 93–380.

In addition to the States I have named, there may be other States not yet brought to our attention who have made similar provisions in their State equalization programs. I am concerned that States which have made sincere and forthright efforts to reform their school finance programs not be penalized in that effort by a Federal law which provides benefits over and above State programs without permitting recognition of that fact. Although the Federal Government does not mandate equalization, and I don't want to see that happen, we should certainly not stand in the way of any State which chooses to provide equalization for the school districts in that State.

The Senate bill contained language permitting the Secretary of Health, Education, and Welfare to establish day care centers for departmental employees. The conference committee retained that section with an amendment which I offered to make clear that no appropriated funds may be used for operating any of the centers, and to further provide that any equipping of facilities done by the Department would have to be repaid. I have no objection at all to the provision of these centers. My only concern is that these centers not become a fringe benefit over and above those recognized by civil service laws. They should be self-supporting in every way possible. The language does permit the Secretary to provide space for those facilities.

One of the provisions contained in the House bill would have permitted States to retain up to 2 percent of the amounts they receive under part B of title IV of the Elementary and Secondary Education Act for State level programs of guidance and counseling. The conference committee deleted that provision, instead adding language providing an authorization for similar activities for fiscal year 1977 in connection with the new guidance and counseling program. I would hope that a way would be found to provide an appropriation under this new authority as quickly as possible so that those State level programs could continue without interruption. States already receive a fair share of funds under the consolidation for purposes of State level administration. Funds which they receive for that purpose might well be used to continue State programs in guidance and counseling.

The conferees incorporated provisions aimed at reducing the amount of Federal paperwork which confronts State and local school districts. I would hope that the Office of Education, the Office for Civil Rights, and the National Institute of Education, as well as the National Center for Education Statistics, will move expeditiously to reduce the paperwork burden which the Federal Government seems to continually impose on local school districts. From what I have seen in districts in my own State, there is certainly much that could be done to cut down or eliminate much of the routine reporting which is duplicated over and over again. In addition, the National Center for Education Statistics should take aggressive steps to be certain that different offices, agencies, and programs are not collecting duplicate information on program operation, recipients, and expenditures.

Mr. Speaker, I want to say that all of us on the minority side signed the conference report. In fact, when it came to the Committee on Education and Labor there were 31 of us on the conference committee, so the Members have the views of most of the members of the Committee on Education and Labor at this time. But one never gets everything that he wants. Except for a few of the real tough issues that have been bandied back and forth between these two bodies for a long time, I would say that the House came out well with the ideas they wanted to get in. Speaking for myself, I am comfortable with the legislation. So I would urge my colleagues to adopt this conference report.

Mr. Speaker, I should like to address one comment to the gentleman from Kentucky (Mr. Perkins) and get his response. In reading the conference report, there is in the statement on the part of the managers one part that was evidently inadvertently left out, which was the method of selecting the boards of the Teachers Centers. In talking with a representative of the National Education Association, who is strongly in favor of the proposal, as was the American Federation of Teachers, and in talking with the conferees on the part of the Senate, the agreement was that there would be language which would state that the local education agency, the local school board, would have the responsibility for selecting the members of the governing board of the Teachers Center; however, in the school districts where the teachers were organized, the selection of the teacher members—and the teachers would have to be a majority—would be a matter of negotiation. So I would ask the gentleman from Kentucky if he recalls the agreement in the conference. Was this the language that we had agreed to?

Mr. PERKINS. The gentleman has correctly described the agreement.

Mr. QUIE. I thank the gentleman from Kentucky.

Mr. Speaker, that concludes the remarks that I would make to the Members on the floor.

I will revise and extend most of my remarks, but I would be open to questions if any of our colleagues wants to ask questions of me on the complicated matters that are in the conference report that I think were well resolved.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I do not think the matter is too complicated, but could the gentleman just tell us what the total amount involved in the conference report is in billions of dollars?

Mr. QUIE. I yield to the gentleman from Kentucky who may have a chart in front of him on that question.

Mr. PERKINS. Mr. Speaker, if we consider the entire bill and the fact that some programs are extended over a 6-year period—for the life of the bill the total exceeds $20 billion. For fiscal year 1977 it is over $4 billion.

Mr. BAUMAN. I thank the gentleman.

Mr. QUIE. What we attempted to do in 1977, the next fiscal year, for example, is to scale down the authorizations in some of the legislation, because the present law which is due to expire in a day or two has higher authorizations than we have in 1977, so we bring it down closer to the level of what was appropriated this last year and it is well within the realm of possibility as an appropriation.

I think we have a good conference report.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Pennsylvania (Mr. Goodling).

Mr. GOODLING. Mr. Speaker, first of all I congratulate the chairman, the gentleman from Kentucky, and the ranking minority member, the gentleman from Minnesota (Mr. Quie), and the gentleman from Indiana (Mr. Brademas), and the gentleman from Michigan (Mr. Ford), and the gentleman from Illinois (Mr. Erlenborn), and the gentleman from Michigan (Mr. O'Hara) particularly because had I been a Senator I would have been very embarrassed in that conference, because it was so obvious these 4 or 5 workhorses knew exactly what they were talking about. I cannot say that for the Members of the other body and in many cases for their staff either. So it was a pleasure to see our people be so well versed.

The only thing I would like to see particularly appear in the Record is that on a couple of occasions the Senate bill had provisions to provide guidance and work that guidance counselors do. We had nothing in our bill on that, but we did make sure that if they were going to spend money to try to improve the guidance counseling, they would have to do it in such a manner that it would not be just some more of what has been going on in the past, and that is the purchasing of records and filmstrips and things of that nature.

Our provision says they can bring people in from outside to counsel, and they can take students away from the schools, and they can get teachers into the offices of professionals to see actually what they are counseling about.

I think these provisions will provide for improvement in counseling in our schools.

Mr. PERKINS. Mr. Speaker, I congratulate the distinguished gentleman from Pennsylvania (Mr. Goodling), who made a great contribution in working out the guidance and counseling provision in the report.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, I take this opportunity to commend the chairman of the committee, the gentleman from Kentucky (Mr. Perkins), and all the members of the committee, and particularly the conferees for their effort to introduce new and creative concepts into this legislation that will help us move along more effectively toward solving some of the very serious problems that are affecting our educational systems.

I am thinking particularly of the problems of the school systems that are trying to integrate and particularly those that are trying to integrate voluntarily.

I thank the gentleman for his efforts.

Mr. PERKINS. Mr. Speaker, I certainly compliment the gentleman from Ohio (Mr. Seiberling) for coming before the committee and making his views known. Much of the plan he proposed was adopted in the Seiberling amendment.

We did cut the funds down the first year, but the principle of the amendment was that we held fast to the present level.

Mr. O'HARA. My Speaker, the higher education provisions of this conference report represent, in my opinion, a very happy resolution of the large number of differences of detail which were before the committee of conference.

That conference committee worked long and hard to settle those differences. The bargaining was tough on both sides. Both sides won some and lost some, and we came to a final resolution at 4 a.m. last Friday morning, after a session that had begun early that day.

It was a long session and a difficult one, but never acrimonious, and characterized throughout, I believe, by a shared concern for the welfare of students and the needs of higher education. I cannot speak for the managers for the other body certainly, but as far as the House is concerned, I believe that we brought back from conference much of the best of what we took to it.

The report and the statement of the managers is long and complex, and there is not time in this discussion to repeat all of its complexities, so I will summarize the key points.

The House bill was a 1-year extension of the provisions of the Higher Education Act, with a few exceptions. The Senate bill was a 6-year extension of all parts. We agreed on a 3-year extension, except for three programs—

college work-study and cooperative education—which the House would have made permanent—were extended for the 6-year term proposed by the Senate, and the guaranteed student loan program was extended through fiscal year 1981, splitting the difference between the House's 4 years and the Senate's six.

Rather than looking at the new Higher Education Act title by title, let me address the amendments in three groups—student financial assistance, concern for nontraditional educational clientele, and more traditional institutional aid.

Under the heading of student assistance, the conference recommends a continuation of the existing programs, largely as they are now structured, with a few changes of importance. Because of budgetary concerns, we did not immediately increase the ceiling on basic grants, but we did provide for a hike in that ceiling from $1,400 to $1,800 in the academic year 1978–79. Next year, basic grants ought to be, assuming continued full funding, at the same level they have reached this year, and a student whose economic circumstances are the same next fall as they are now should be able to receive the same basic grant assistance. The following year, the ceiling will go up. While the actual payment schedule will, of course, rest on the foundation of how much is appropriated, the discussion in the conference assumed from the beginning that the Congress has made, and carried out, a firm commitment to full funding of this entitlement program and that this commitment will continue.

The supplemental grant and State student incentive grant programs were continued with minor changes in the latter program. The direct student loan program—NDSL—was continued with technical changes.

Work-study, which students and the members of the House committee agree, is the best of the student assistance programs, was continued for a period of 6 years, with a substantial growth in the annual authorization limit. Work-study, like basic grants, has been virtually fully funded for the last 2 years, and I at least feel that this congressional commitment should be recognized as such, and that this justly popular program should continue to be funded at the levels prescribed in the enabling act. Work-study helps the institutions, by giving them low-cost labor, and it helps the students, by giving them a kind of assistance which they can feel they have earned, and which does not leave the student with a large debt to the school or to a bank when he completes his education and is beginning to earn a living.

Cooperative education, which has been within the student aid title of the act until this year, has been designated as title VIII of the act, and I will discuss it later in these remarks.

By far the largest portion of the report is taken up in setting forth the provisions of the guaranteed student loan program, which has been hitherto the largest of the HEA programs in terms of dollars and in terms of people assisted.

We have sought in this bill to discourage the overloading of students with "loan assistance." We have not stopped schools or States from lending, but we have restricted those activities at least to the point where the existence of a school or State loan program will no longer serve as a justification for sky-high tuitions, or for an abandonment by the State or other forms of assistance or of the kind of institutional support that is necessary to hold down tuitions.

I cannot speak for all the conferees, I know, and the conference amendment does not, by a long way, adhere wholly to my own theory that low tuition is the best form of student aid ever invented. But I do believe that S. 2657, as enacted, particularly in the guaranteed loan area, is based squarely on the concept that we should not so structure our student "aid" programs so as to positively encourage the escalation of tuitions and fees. At least, S. 2657 seems to me to say, if tuitions do go up, the student loan program should not be utilized to kid the consumer into thinking he has not been hurt.

To serve this objective, we have put some limitations on the proportion of cost which may be lent to a first-year student by his school. We have put some limits on the proportion of the undergraduate student body to which a school may lend directly, and to which a State direct lender may offer assistance.

At the same time, we have clearly recognized that there must be a student loan program for the foreseeable future, and we have sought to make it one that will work. The evidence before both the House and Senate committees showed conclusively that the 26 States which have created State guarantee agencies simply have better programs than those States which have not, and which rely on the glacial processes of the U.S. Office of Education, serving as a guarantor of first instance. The two Houses sought different ways to encourage the creation of new State guarantee agencies, and while it is an oversimplification, I feel comfortable in saying that the conferees essentially adopted the initiatives of both Houses to encourage the agencies, and the initiatives of both Houses to keep these State agencies at the higher level of performance which has made them the preferred instrument of the guaranteed loan program.

State agencies were given additional monetary incentives, including a higher reinsurance rate on the default claims which they pay, administrative allowances for debt collection and lender services, and the retention of some of the moneys they collect on defaulted claims. To qualify for most of these incentives, the State agencies had to maintain, or reduce further their already low default levels, and to conform to some degree to Federal loan eligibility standards. The States are not required to match Federal eligibility standards in every case—but in general, States will not be able to be unreasonably restrictive in the clientele which they will serve if they are to benefit from the full range of the incentives provided in this legislation.

Third, in order to maintain any loan program at all, and to encourage the participation of the commercial lenders who are going to make or break this program by being in or opting out of it, we have provided for a more certain, more easily calculable and, beginning a year from now, a higher special allowance—the payments made on each loan to help narrow the gap between the 7 percent interest which the borrower must pay, and the higher rates which the banks could collect on other kinds of loans. Under present law, this special allowance is set quarterly by the Secretary of HEW, who fixes the rate wherever he thinks appropriate up to a ceiling of 3 percent. The new law ties the special allowance on the interest rate on 91-day Treasury bills, with a ceiling of 3 percent during the fiscal year about to begin, and a ceiling of 5 percent thereafter.

Judging by the correspondence and discussions we have had with bankers, this adjustment in the special allowance, the provisions we have instituted to reduce defaults, and the encouragement we have given to the creation of State agencies should help stem the exodus of bankers from the program. The key answer in this area, however, still lies in the willingness of States to create such agencies.

The Congress can encourage States to act, but we cannot force them to do so. The legislation can encourage banks to lend, but it cannot force them to do so. And in the absence of effective guarantee agencies, the banks will probably not reenter this program.

Another guaranteed loan problem area, every bit as important as those I have discussed, but the focus of a good deal more public attention, is the problem of the default rate.

To the extent that growing defaults in this program are merely symptomatic of continued economic decline, there is not much this legislation can do about them.

But to the extent that default rates find their roots in the program itself, we have sought to deal with them. The primary program-related cause of defaults, testimony before our committee has reiterated, is the kind of lending situation in which it is not made perfectly clear to the student that he is borrowing money—that it is not a gift from his generous Uncle Sam or his generous alma mater, and that he must pay it back, under prescribed conditions.

When this is clear, students by and large pay those loans back. Where it is not, and especially where the school or the State is perceived as being the lender, there is a tendency for the student who is dissatisfied with the educational product, to feel he need not repay the educational loan.

Amendment after amendment in this report seeks to make it clear to the student that he is getting a loan, that the relationship between him and the source of his funds, even when that source is his alma mater or his State government, is a financial one, not an educational one.

The loan proceeds, as one example, are directed to be paid by check, requiring the student's endorsement. The so-called "documentation" requirement provides, in the conference version, that the student must, before making his first loan from a school lender, obtain a document from a commercial lender indicating that the student sought a loan from such a lender and failed to receive it. In the unlikely case that a commercial lender refuses to provide such a document, the conference substitute allows a student to provide a sworn statement to the same effect. But the purpose remains the same. The conferees want to have the student go to a commercial lender first, so that he knows what he is getting. Failing the availability of a loan from such a source, we are willing to see the schools act as lenders of last resort.

Perhaps more inquiries have been received about the so-called "income eligibility for student loans" than about any other provision in the legislation. I call it "so-called" income eligibility because in point of fact, there is no upper level on the incomes of students eligible for guaranteed loans. The bank president's son is as entitled to have a loan, and have it guaranteed, as is the son of the bank teller or the guard or the janitor.

But there is an income level test for eligibility for interest subsidy, and this, in all too many cases, is a test for eligibility for the loan itself. Both bills raised that income level from $15,000 to $25,000—the Senate in one step, the House in two. The House accepted the Senate's one step increase. Again, this only refers to automatic eligibility for interest subsidy. Even a student who has or who comes from a family having a higher income, can undergo a needs analysis, and if the school will certify and the bank agree that such a student needs a guaranteed loan and interest subsidies, he is eligible for them. But the $25,000 adjusted family income is the new threshold for automatic eligibility for this subsidy payment.

Other amendments were made in the loan program, and I think I can sum them up by saying that the Congress has given the State guarantee agencies and the banking community an opportunity to make a success out of the guaranteed student loan program, if they wish to take that opportunity and move with it. At the same time, I believe, we have taken the first step—and a badly needed step—away from making student credit the financial mainstay of our postsecondary educational system. Under this bill, we will not finance the colleges and universities of America through a National Student Loan Bank.

The programs of special services for disadvantaged students have been extended. Special emphasis has been added in the introductory language, calling for a focus on students whose disadvantage arises from severe rural isolation. We have opened the doors of these programs to students whose educational disadvantage arises out of other factors than simply low-income and physical handicap, by providing for service learning centers to concentrate remedial and related services for students, not all of whom need be from low-income families.

There are a great many other provisions in the student aid sections of this bill, but I will refer my colleagues to the conference report, or answer questions on those provisions if there are any.

A major thrust of the bill, as it left this Chamber last May, and as it returns today, is in its concern for support for those schools who seek to serve nontraditional students.

At the risk of repetition, let me say again that one of the most important postsecondary educational phenomena of this decade has been the mushrooming of the so-called "nontraditional student" at our colleges. I refer to students who are not in the 18- to 24-year-old traditional college-age group, who are not full-time students, who are not necessarily just out of high school, who are not necessarily degree-oriented, and who are not interested in adjusting their schedules and their lives to the customs of the campus. These students are rapidly becoming the majority of college and university enrollees, and yet our Federal laws and policies are aimed at the proposition that they are a tiny handful of anomalies in a student population otherwise identical with the movie scenario campuses of the 1930's.

S. 2657 faces squarely up to the fact the "traditional college student" of the 1930's is no longer traditional. We have amended title I to recognize the importance of adjusting community service, continuing education and resources materials sharing programs, to meet the needs of the nontraditional student, and to initiate a few focus on the concept of lifelong learning, directing the Assistant Secretary for Education to carry out a program of planning, assessing, and coordinating projects relating to lifelong learning. We have also rewritten much of title X, the title dealing with community colleges, in order to focus this hitherto unfunded title more sharply on the efforts community college can make to meet the needs of nontraditional students.

Hand-in-hand with this new concentration on heightening the ability of institutions of higher education to meet these new needs, the conference substitute accepted what I believed was the most important provision in the House bill—the so-called "trigger" device, intended to assure that these nontraditional programs will have some money appropriated to them to keep pace with the growth in direct student aid appropriations.

Student financial assistance is primarily, though not exclusively, designed to meet the financial needs of "traditional" students. For the most part, the part-time student, the older student, the non-degree-oriented student, and the mid-career student is less likely to be in need of financial assistance than is the younger, full-time student. If we continue to assume that we can get all our obligations to postsecondary education through student financial aid, we assume that we have no national interest in the growing nontraditional clientele.

The "trigger" mechanism, as reported from conference, provides that if the sum available in fiscal year 1978 for BEOG, SEOG, NDSL, and work-study exceed $2.8 billion—or the total available in fiscal year 1977 for the same programs—the excess over those trigger figures shall be matched at $1 for $2, with appropriations for title I, title VII-C—of which I will speak later—and title X.

The trigger device underscores the intention of the Congress to see that institutional support, particularly support for programs which are designed to enhance our schools' abilities to meet the needs of the nontraditional student, not be ignored while we are concentrating the bulk of our Federal dollars on direct student aid.

It is, pragmatically, true, that most Federal money goes to direct student aid. Some Federal bureaucrats and some education theorists have jumped from this fact to the conclusion that direct student aid is the only acceptable form of Federal involvement in higher education. They are wrong, and the trigger device is further evidence that they are wrong.

The final set of provisions in the higher education title of this bill relates to direct institutional assistance programs of one sort or another.

We have continued the college library program, and authorized a new program of assistance to major research libraries. The term "major research libraries" means just that. We are not in the business of supporting every library at a major institution, or one in each State, or anything of the sort. We want to provide assistance for the major research libraries of the Nation—to help those libraries be of greater use to other libraries and to the public generally. The assisted libraries, of which there may not be more than 150 in any single year, may be university libraries, public libraries, State libraries, and significant independent libraries.

The bill continues the title III program of support for developing institutions and the title VI program of financial assistance for the acquisition of instructional equipment without significant amendment.

Title VII—providing grants and loans for the construction of academic facilities—is continued, and amended to provide that grants and loans and other forms of assistance as has been hitherto provided for construction, shall also be available for reconstruction and renovation. The amendments place a special emphasis on the use of title VII assistance for projects dealing with energy conservation or meeting reconstruction or renovation costs connected with compliance with socially mandated programs such as the Architectural Barriers Act, or other Federal, State, or local laws covering environmental protection, safety and health.

The American Council on Education has recently conducted a study of the impact upon institutions of socially mandated programs in these and other fields. I do not share the view that schools should not be subject to such socially mandated programs as OSHA, EPA, and the like, just because those programs raise their costs. Nor, in all fairness, does the ACE report so suggest. Those programs raise everyone's cost of doing business, but they do so in order to preserve everyone's environment and everyone's occupational safety and health. However, I do think the schools have made, and the ACE report has underscored, a very good case for using funds under title VII to help meet those costs.

If I may be permitted a personal preference, I would think it would be better for these funds to be made available in the form of loans, but I think there should be grant authority on the books in this area. The conference bill provides such authority.

The trigger device, which I described in connection with titles I and X also applies to the appropriations authority under this title for loans. Title VII–C is one of the appropriation authorities for which funds may be triggered under the new bill and this provision is particularly intended—though not in its terms limited—to the funding of loans for the new authority directed toward energy conservation, and conformity with socially mandated programs. Obviously, the fact that the trigger only applies to title VII loans in no way circumscribes the ability of the Committee on Appropriations to approve funds for title VII grants.

Title VIII of the Higher Education Act used to be a program called networks for knowledge, under which institutions could be given funds to encourage the sharing of technical and other educational resources. This program, which is a basically sound idea, has never been funded, and since there is now language in title I under which roughly similar programs can be undertaken, the existing title VIII has been repealed. However, the cooperative education program, which was a part of title IV has now been redesignated as title VIII, and will continue to form a small, but very productive, part of the institutional support mechanism.

Under the cooperative education program, Federal funds are made available to schools which wish to try to make cooperative education a part of their instructional system. Cooperative education, as the term is defined in the new bill, involves a system whereby a student will alternate periods of instruction and periods of work in the area of instruction. It is not work-study, in which job-relatedness is a happy bonus, but not a requirement, and in which making money available to students is the key. Co-op is a system of career education in which financial assistance to the student is incidental, and in which the study and the employment must be closely related.

Our subcommittee held hearings on cooperative education, and were deeply impressed by what we heard from both those who administer and those who have benefited from it.

The new amendments make a moderate increase in the authorization levels, extend the life of the program for 6 years—the House bill would have made it permanent—increase the amount of money a given institution or consortium can receive under the program, and add language emphasizing the idea that the Commissioner of Education should place particular emphasis on the evidence of the institution's own commitment of resources, talent, and time to cooperative education, when reviewing competitive applications.

In this area, I think it important that Federal funds not be frittered away in dribs and drabs to those who merely want to play at cooperative education. These funds should, of course, be concentrated where they will open up new cooperative education programs. But they should go to those schools who satisfy the Commissioner that they intend at least to try to go into co-op in a big way. Co-op is too valuable an educational device to have its scarce Federal support wasted on those who are less than serious proponents of establishing significant cooperative education undertakings on their campuses.

The conference also extended, with some amendments to make them more flexible, the provisions of title IX—assistance to graduate programs and graduate students—and title XI—the law school clinical experience program.

The Senate adopted, and the House accepted, an amendment to create a Wayne Morse Memorial Chair of Law and Politics at the University of Oregon. Certainly none of us who have served with Wayne Morse in the field of either education or labor legislation can question the appropriateness of having a memorial to this truly great American.

Finally, the conference bill contains a provision of law expressly prohibiting the Secretary of HEW from deferring or limiting the provision of any Federal financial assistance on the basis of any institution's failure to comply with any quota or other numerical goal having the effect of imposing a quota on the student admission practices of any institution of postsecondary education receiving Federal financial assistance.

Mr. Speaker, I find myself almost reluctant to bring this somewhat lengthy speech to a close. Because when the House adjourns later this week, my 18 years of active service in this House will be at an end. Those years have been rewarding and challenging ones, and I think it is fitting that they should have ended in a long and hard-fought conference which brought forth this very substantial piece of higher education legislation. I cannot, in the confines of these remarks, thank everyone who made this bill, and the other enactments of these past 18 years possible.

I do want, however, to register my thanks to those among my colleagues whose interest in this legislation, has been expressed sometimes in support for my own goals, sometimes in criticism of those goals, not infrequently in staunch opposition. I make no distinction, Mr. Speaker, between these expressions of friendship and commonality of interest. It has been an honor and a pleasure, Mr. Speaker, to have been able to be in the same legislative combats as the able gentleman from Kentucky (Mr. PERKINS), the gentleman from Minnesota (Mr. QUIE), the gentleman from New Jersey (Mr. THOMPSON), the gentleman from Pennsylvania (Mr. ESHLEMAN), the gentleman from Indiana (Mr. BRADEMAS), and the many other present and past members of the Subcommittee on Postsecondary Education with whom I have spent the past 4 years on this legislation. My memories reach across the Hill to distinguished Members of the other body, the gentleman from Rhode Island (Senator PELL), the gentleman from New York (Senator JAVITS), the gentleman from Maine (Senator HATHAWAY), and others with whom I have struggled in conference on this legislation. To the others—the lobbyists, the educators, the State officials, the parents, and above all, the students, who have guided our deliberations by their testimony, their letters and their vigilance to safeguard the interests of education as they see those interests—my thanks beyond measure.

S. 2657 is not a perfect resolution of all of the policy problems that confront postsecondary education. It is my hope and belief that in the years just ahead no one will have the temerity to suggest that S. 2657 settled major issues beyond the point of their being called up again.

It is, I suggest, the true genius of the legislative way of life, that there are no fixed and final decisions. There are embodied in the statutes, in a phrase I used several years ago, "no straw men and no revealed truths." The "truths" for which we have struggled and which are embodied in this bill can prove, in the cold light of reality, to have been poor answers to badly phrased questions. Or they may stand as public policy for years to come. I only ask whatever distinguished member of this body may chair the Subcommittee on Postsecondary Education in those years to come, that they look at whatever ideas come down the pike on their merits, and that they take the stand that there is nothing in the Higher Education Act as amended by this bill, which is unchangeable, unchallengeable, or beyond improvement. Take it from one of the authors—there is not.

Mr. GOODLING. Mr. Speaker, I rise in support of the conference report on the education amendments. The conferees spent over 60 hours deliberating this legislation and I feel that we have come up with a good bill. I would like to urge my colleagues to support it.

I realize that my colleagues Mr. PERKINS and Mr. QUIE have gone over much of this conference report, and I realize that the hour is getting late, but I would like to bring to the attention of the House some provisions of the bill dealing with guidance and counseling programs.

The Senate bill provided for an administrative unit within the Office of Education to coordinate current guidance and counseling programs and to make grants for institutes, workshops, and seminars designed to improve the professional guidance qualifications of teachers and counselors. I was pleased that the House receded on this after the Senate agreed to specify that this grant money could be used for programs to allow teachers and guidance counselors to have opportunities to gain experience in business and industry. It also allows students the opportunity to get out into the work world and provides for getting those in business and industry to come to our schools to help our young people get some guidance counseling from those in the work world.

As a former guidance counselor, I realize that it is all too easy to merely show a film about an occupation—give someone a book or kit—or give them an aptitude test. Unfortunately many guidance counselors and teachers have never done anything other than teach or be a counselor. This legislation will give them opportunity to get a little experience in the outside world in order that they can learn more about how the system operates.

Funds under this section can be used in a wide range. For example, money could even be used to pay for a substitute teacher if a teacher was going to spend the day working in a hospital or factory. The ways to get experience in the work world are left to the people at the State and local level.

The House also accepted a Senate provision dealing with funds for vocational education guidance. Similar language was added to this section to provide the same types of opportunities for guidance programs in vocational schools.

Mr. QUIE. Mr. Speaker, you know as well as anyone the tremendous amount of effort that goes into a bill of this scope. The House conferees worked hard under the skillful leadership of our distinguished chairman, Mr. PERKINS. He was the one who kept the conference working the hours necessary to get this bill through Congress before adjournment.

Mr. O'HARA, the chairman of our Subcommittee on Postsecondary Education deserves great credit for taking over this subcommittee after the 1972 amendments had passed and then organizing some of the best hearings our committee has had. I have many good memories about the dedication and intelligence JIM O'HARA has shown over the years. I will miss him and the House will miss him next Congress. We in the House and the education community can be proud of him for the leadership he has given.

Our ranking member of that subcommittee, Mr. ESHLEMAN, is also leaving the House this year. I want to thank him for our years of friendship and the interest he has taken in this legislation. The conference report has several "Eshleman amendments," including State processing of BEOG; training programs for student aid officers; due process procedures; and quotas in admission policies. All of us will miss ED ESHLEMAN.

The House had 31 conferees, but I would like to take special note of those who stayed late hours and invested tremendous energy in helping resolve the many differences.

On our side of the aisle, Mr. ERLENBORN continued his outstanding leadership in many technical areas of the guaranteed student loan program and in other programs as well. Mr. GOODLING and Mr. BUCHANAN, both finishing their first terms on our committee made significant contributions. I appreciate their interest and dedication.

No education bill becomes partisan. I gain new respect on each bill for the knowledge and leadership of my Democratic colleagues, especially this year JOHN BRADEMAS and LLOYD MEEDS. BILL FORD of Michigan also demonstrated great interest in this legislation and helped resolve several tough issues.

Finally, Mr. Speaker, anyone who attempts to read the conference report will be impressed by its scope and its complexity. With dozens of Federal programs involved, the quality of this bill is due in large part to the skill and intelligence of our staff. I want to pay special tribute to three of our minority staff whose expertise is widely known: Dr. Robert Andringa, staff director; Mr. Charles Radcliffe, counsel; and Mr. Chris Cross, senior education consultant. They have carried the burden of the staff work. Also contributing in several important ways were Mr. Richard Mosse, assistant counsel; and Miss Jenny Wysong, research assistant.

I observed that this legislation was developed much more smoothly than the last time around. That is due in no small way to the outstanding staffwork on the majority side. Through the past couple years, as we were going through the hearings and markups, we gained much respect for Mr. Jack Jennings, Mr. Jack Duncan and Mr. Jim Harrison for their staff leadership. During the conference, Mr. Bill Gaul, associate general counsel, ably assumed the responsibility of coordinating the staffwork, along with the capable legislative counsel, including Steve Cope and Kathy Montague, necessary to produce this kind of report.

My thanks to all persons who made up the House team on this legislation and all the good supporting staff behind them.

Mr. BRADEMAS. Mr. Speaker, it is with great pleasure that I join my colleagues on the Education and Labor Committee in support of the conference report on S. 2657, the Education Amendments of 1976.

Mr. Speaker, before I direct my remarks to some of the specifics of the Education Amendments of 1976, and particularly to the provisions pertaining to the National Institute of Education, I would like to thank the distinguished chairman of the Education and Labor Committee, Mr. PERKINS, for his tremendous efforts on behalf of this legislation. I would also like to thank the distinguished gentleman from Minnesota, Mr. QUIE, who, as ranking minority member of the Education and Labor Committee, has also made very valuable contributions to this bill.

I want in particular, however, to take this opportunity to pay tribute to our distinguished colleague from Michigan, the chairman of the Subcommittee on Postsecondary Education, Congressman JAMES G. O'HARA; for, Mr. Speaker, not only has JIM O'HARA done an outstanding job on the postsecondary provisions of this bill but this marks the last bill JIM will handle during his long and extraordinary career in the House of Representatives.

JIM O'HARA has been a superb legislator, a craftsman, as his retiring colleague from Michigan, the also distinguished senior Senator from that State, the Honorable PHILIP A. HART, said in the Capitol earlier today:

> Mr. Speaker, Jim O'Hara and I came to Congress on the same day, have sat next to one another on the Education and Labor Committee for 18 years, and I regard him as not only one of the ablest and most constructive legislators with whom I have had the privilege to serve but also as one of my closest friends. I wish him well in the new career that I am confident he will build.

I wish to express my gratitude as well to the majority and minority members of the Subcommittee on Select Education, which I have the honor to chair, for their conscientious efforts on behalf of legislation extending the National Institute of Education.

And finally, I would be remiss if I did not mention the members of the Senate Labor and Public Welfare Committee whose contributions have been so noteworthy: in particular, the junior Senator from Rhode Island, Mr. PELL, and the senior Senator from New York, Mr. JAVITS.

### THE NATIONAL INSTITUTE OF EDUCATION

First, Mr. Speaker, as chairman of the Subcommittee on Select Education, which has jurisdiction over the authorizing legislation for the National Institute of Education, I should like to address myself to section 403 of the bill, which pertains to the Institute. The legislation before us is similar in most respects to the measure which was passed by the House on May 11 by an overwhelmingly bipartisan vote of 390 to 3.

In summary, this legislation—

Extends the Institute for 3 years;

Gives more specific focus to the priorities of the Institute;

Strengthens the National Council on Educational Research by broadening its representation and emphasizing its policymaking role; and

Creates a Federal Council on Educational Research to help insure greater coordination of educational research efforts undertaken by Federal agencies.

### AUTHORIZATION

More specifically, Mr. Speaker, the conference agreement, as did the House-passed bill, extends for 3 more years the authorization for the National Institute of Education.

The total authorization recommended for the 3-year period is $500 million: $100 million for fiscal year 1977; $200 million for fiscal year 1978; and $200 million for fiscal year 1979.

I would like also to observe that the total authorization of $500 million is actually $50 million less than the original 3-year authorization for the Institute, which included fiscal year 1973 to fiscal year 1975.

### LABS AND CENTERS

Mr. Speaker, the bill before us also addresses itself to those laboratories and centers, funded by the Institute, which conduct basic and applied research in education and which develop curriculum materials and models. The bill establishes a panel to review the long-range plans of these laboratories and centers. In addition, the bill encourages the laboratories and centers to initiate their own research proposals and to submit them to the Institute.

### PRIORITY AREAS

Mr. Speaker, an important new provision of the conference bill more clearly defines the educational problems on which the Institute is to concentrate its resources:

First, to improving student achievement in basic educational skills;

Second, to overcoming financial and management problems in educational institutions;

Third, to improving the provision of educational opportunities for students of limited English-speaking ability, women, and those who are socially, economically, or educationally disadvantaged;

Fourth, to encouraging programs emphasizing career preparation; and

Fifth, to improving dissemination of the results of educational research and development.

### NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Mr. Speaker, the bill also embodies a number of other, perfecting amendments that will, I am certain, help insure the continuing effectiveness of the Institute.

For example, the bill strengthens the National Council on Educational Research, the policymaking body of the Institute, by directing that membership in the Council be broadly representative of the education professions, the general public, and the various fields of education. However, I should note that this provision does not mandate the assignment of specific Council seats to representatives of particular groups or organizations—therefore, when vacated, a seat need not necessarily be filled by a representative of the same group.

The bill also allows the Council to employ its own staff. While limiting the staff to a maximum of seven technical and professional employees, this new provision should allow for a degree of independence for the Council, and thereby strengthen the policymaking function of the Council—for that body was never designed to be advisory in nature.

### FEDERAL COUNCIL ON EDUCATIONAL RESEARCH

Mr. Speaker, the bill before us also establishes a Federal Council on Educational Research and Development, which is to be advisory. This Council can do much to improve communication, information sharing and the interchange of similar efforts among the numerous Federal agencies which have their own educational research and development programs. Given the extensive research and development efforts of agencies such as the Department of Defense and the Agriculture Department, the Council would help conserve precious Federal research resources by its coordinating function.

### EDUCATION EXTENSION AGENTS

Mr. Speaker, as a part of the emphasis placed on the dissemination efforts of the Institute, the conference agreement contains the House language which provides new authority to encourage the creation of a dissemination system modeled after the highly successful "agricultural extension system" of the Agriculture Department. The addition of agents who will serve as education information specialists linking educational research to the classroom can do much to make the general public more aware of research efforts being undertaken around the country.

### CONCLUSION

Mr. Speaker, I urge Members of the House to support the bill before us which, by extending and amending Federal higher education, vocational education and educational research programs, represents one of the major accomplishments of the 94th Congress.

I include the following:

[From the Education Daily, Sept. 21, 1976]

### CONFEREES DROP LAB AND CENTER EARMARK FROM NIE BILL

House-Senate conferees last Thursday agreed to drop from an omnibus education bill a Senate provision that would have required the National Institute of Education to spend 25 per cent of its appropriations in grants to and contracts with the regional educational research labs and centers.

The conferees on the Education Amendments of 1976 (S. 2657), which includes reauthorization of higher education, vocational education and NIE legislation, dropped the earmark but kept a substantial part of a package of Senate amendments to the NIE bill that insures the labs and centers won't be forgotten.

As approved by the conference, the NIE legislation now:

Says NIE "shall" give contracts and grants to regional labs established by public or private nonprofit agencies, R&D centers at colleges and universities, and interstate organizations such as the Western Interstate Compact on Higher Education.

Requires project proposals from labs and centers to assure NIE they will provide evaluation of results as well as research and development, dissemination, technical assistance, and training opportunities, especially for minorities and women.

Establishes a "Panel for the Review of Laboratory and Center Operations." The conference dropped a Senate requirement that the NIE director pick the 20 panel members from a "list of nominees" submitted by interested parties, including professional associations and the labs and centers themselves. The conference would allow the director to choose members with the "written recommendations" of these parties.

Directs the lab and center panel to review proposals submitted by the labs and centers. A Senate provision that would have required the NIE director to "report his reasons in writing" to the panel whenever he disregards its recommendations was removed but will be covered in report language.

Says that taking assistance under this special section doesn't prevent a lab or center from receiving other NIE support.

### EFDERAL COUNCIL ON EDUCATION R&D

The conferees agreed to a provision in the House bill requiring a Federal Council on Education Research and Development, made up of representatives from all Federal agencies with an interest in education research, to coordinate programs and policies under the chairmanship of the NIE director. The conference bill also calls for NIE to consult with the Federal administrator of any program NIE is researching and says the head of any Federal agency that's doing education research is also supposed to consult with NIE.

### NCER DETAILS

The conference bill specifies members of NIE's policy-making National Council on Educational Research are to be "broadly representative" of the general public, the education professions, and the various fields of education and says an NCER member would serve until his successor is appointed and confirmed by the Senate. The present council is below its full strength of fifteen members because President Ford has not named replacements for members whose terms have expired.

### HELD OVER

The conference held over the question of authorizations. The Senate would provide $500 million for the three fiscal years 1977 to 1979. The House would provide $100 million in fiscal 1977, $120 million in fiscal 1978, and $140 million in fiscal 1979.—IS, RH

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### CHANGES IN THE AUTHORIZING STATUTE OF THE NATIONAL INSTITUTE OF EDUCATION CONTAINED IN S. 2657 AS REPORTED FROM THE COMMITTEE OF CONFERENCE

Authority for the Institute is extended through 1979. Appropriations are authorized at $100 million for FY '77 and $200 million for FY 78 and $200 million for FY 79.

The Institute is given five priority areas—basic skills, finance productivity and management, disadvantaged, career education, and dissemination.

Membership in the National Council on Educational Research is made broadly representative of the educational professions, the general public, and the various fields of education.

Members of the National Council shall serve until their successors have been appointed and confirmed.

Authority is provided for the National Council to employ not more than 7 technical and professional employees.

The Institute is given specific authority to establish a system of "Education Extension Agents".

A panel is established to review the long-range plans submitted by labs and centers. In addition, labs and centers are given specific authority to submit unsolicited proposals.

A Federal Council on Educational Research and Development is established, composed of representatives of various Federal executive agencies engaged in education-related research, to coordinate Federal efforts.

### FORD VETO OF LABOR-HEW APPROPRIATIONS BILL SHAMEFUL

Mr. Speaker, I have just learned that President Ford has today for the 59th time resorted to the use of the veto with his veto of H.R. 14232, the Departments of Labor-Health, Education, and Welfare appropriations bill.

Mr. Speaker, the veto of the appropriations bill for the Departments of Labor and HEW is a shameful assault by President Ford on people least able to fend for themselves.

But then the sick, the elderly, the handicapped, the disabled and the jobless can't invite him to spend a weekend with them at their country clubs.

The programs financed by this legislation, of course, reach well beyond the unfortunate people in our country. To no one's surprise, Mr. Ford cares little about that, either.

No Rose Garden speeches can obscure his distaste for college student loan guarantees and funds for public libraries, for occupational and vocational education, for aid to local school districts, for community health centers and medical research.

Mr. Speaker, Mr. Ford, we are constantly told, is a decent man—a man of many friends. But he is no friend to the poor, the physically and mentally ill, to the aged, to the maimed or to the children who benefit from this bill.

He is no friend to the millions of middle-income Americans faced with the increasing financial burdens of educating their children, assisting their parents or coping with crippling and debilitating illness.

His veto, in fact, shows him a man of limited vision and no compassion.

Mr. Speaker, Mr. Ford is a President who does not care.

Mr. THOMPSON. Mr. Speaker, I rise with great pride and enthusiasm in support of the conference report on S. 2657, the Education Amendments of 1976. This legislation extends the basic Federal programs for student assistance, aid to colleges and universities and vocational education while making important changes and improvements in these programs.

I take particular pride in the experimental State processing of basic grant applications that is mandated. Through this experiment a limited number of States will be permitted to process the basic grant applications for State residents in coordination with the applications for grant assistance under State programs. Students will be able to fill out one form for the basic grant and State grants and receive one notice of their eligibility for assistance under both programs. I am confident that this experiment will demonstrate both the merits and the feasibility of this means of simplifying for students and their families the process of applying for financial aid. I trust that the Commissioner of Education will act expeditiously to commence this experiment with those States most interested and capable of undertaking it.

The bill recognizes the increased financial strain on students and their families of paying for a postsecondary education. The maximum basic grant will be raised from $1,400 to $1,800 providing more grant assistance to low-income students. The family income level for automatic eligibility for interest subsidy under the guaranteed student loan program is raised from $15,000 to $25,000 to give some relief to hard-pressed middle-income families.

A major initiative is a new "national strategy for lifelong learning." Upgrading the skills and enriching the lives of citizens of all ages through education is a priority that has been too long neglected. With respect to this program I would emphasize in particular that no comprehensive national strategy for lifelong learning should overlook the support to working men and women for occupational education, labor education, and intellectual development provided through collective bargaining or by labor unions independently. I hope that the Commissioner of Education will take cognizance of these programs in carrying out his responsibilities under this new program.

Substantial allowances are provided to colleges and universities to help them defray the costs of administering Federal student assistance programs and to aid them in providing better financial aid services to students. We have finally begun to both recognize and alleviate the financial burden that Federal programs and regulations impose on the colleges and universities.

Perhaps the most significant changes made by this bill in the higher education programs are the major overhaul of the guaranteed student loan program. I would call attention to the incentives for the creation of new State guarantee agencies and for the retention in the program of the already existing agencies. These State guarantee agencies are on the local scene, close to the students, the lenders, and the educational institutions. They have a proven record of getting and keeping lenders in the program, serving students and holding in check defaults and abuses. I believe that the support we have provided for these agencies is a major step in ensuring the integrity, effectiveness and public confidence in this program under which about $1 billion is being provided to one million students this year.

Mr. Speaker, I would like to most sincerely and warmly commend the gentleman from Michigan (Mr. O'HARA) for his work on the higher education provisions of this legislation. The fact that an important bill in this field is before us is testimony to his perseverance, diligence and brilliant ability as a legislator. Beyond that, the hallmark of the efforts of my dear friend from Michigan has been a unique commitment to a clear set of public policy objectives. Reducing the broad and uncontrollable discretion of the executive branch, reasserting the power of the Congress to make policy decisions, simplifying the morass of bureaucratic regulations, providing support for the nontraditional student, balancing support for students with support for selected programs that aid educational institutions, and strengthening the student loan program while protecting students from an overreliance on loans—all of these are consistent threads that run through this bill. The efforts of my friend from Michigan are thus not only largely responsible for getting a bill but more importantly he is responsible for the philosophic coherence and policy directions embodied in the bill, which I believe will guide future legislative efforts for a long time. The higher education provisions of this bill are an outstanding legislative triumph of my friend from Michigan and I congratulate him.

In addition, my chairman, the gentleman from Kentucky (Mr. PERKINS) both guided to fruition the major revisions of the vocational education programs and chaired the long and difficult conference with his usual, but not adequately recognized, consumate skill. Finally, my good friends the gentleman from Indiana (Mr. BRADEMAS) and the gentleman from Minnesota (Mr. QUIE) again demonstrated their commitment, knowledge, and legislative skill in the effort to bring educational opportunity and quality education to all our citizens.

Mr. Speaker, this bill represents a significant and constructive advance in Federal support for education, and I urge my colleagues to adopt the conference report.

Mrs. MINK. Mr. Speaker, the conference report on legislation to extend vocational education and higher education programs is undoubtedly the most significant education legislation to emerge from this Congress, and I urge my colleagues to give their support to the Education Amendments of 1976.

The bill makes major changes to the Vocational Education Act which is extended through fiscal year 1982. Effective fiscal year 1978, all current categorical programs are consolidated into a single block grant to States with the exceptions of consumer and homemaking education and bilingual vocational training which are retained as separate categorical programs. States are held harmless to their fiscal year 1976 allocations so each State is assured that it will receive no less under the block grant approach than it received in fiscal year 1976 under the separate categorical programs.

The bill contains various authorities under the block grant to permit States to carry out various programs and services to reduce and eliminate sex bias and sex stereotyping and expand vocational education opportunities for women. As the purpose of the block grant approach is to give States the flexibility in deciding how much it wants to spend on specific programs, the decision for actual implementation and funding of these programs concerning women rests with States. The bill does set aside a modest $50,000 under the block grant for full-time personnel to meet the needs of women in vocational education.

The bill addresses the needs of certain target populations by retaining minimum percentage requirements for programs for the disadvantaged, handicapped, and postsecondary and adult adult education which are incorporated into the block grant. The minimum percentage requirement for the disadvantaged is increased to 20 percent with a proportional setaside for students of limited English-speaking ability. The handicapped and postsecondary and adult education percentage requirements are continued at 10 and 15 percent, respectively.

Programs under the Higher Education Act are extended through fiscal year 1979 with the exceptions of the guaranteed student loan program which is extended through fiscal year 1981 and college work study and cooperative education which are extended through fiscal year 1982.

I am especially pleased that the income eligibility criteria for interest subsidies under the guaranteed student loan is increased from $15,000 to $25,000. As the guaranteed student loan is the primary source of financial assistance for middle-income students, we need to extend its benefits to as many of these students as possible to facilitate their accessibility for assistance under this program.

The new programs of lifelong learning, grant assistance to major research libraries, and grants to school districts for the establishment and operation of teacher centers will be of significance to our educational institutions.

For these reasons, I urge my colleagues to approve the conference report.

Mr. BRADEMAS. Mr. Speaker, the conference report extends for 3 years all of the major programs of direct Federal assistance for students attending institutions of postsecondary education.

Moreover, the conference report continues the basic structure of these programs without substantial modification.

The basic opportunity grants—BOG—will continue to be aimed principally at students from families with low or moderate incomes, and grants will continue to be limited to one-half the cost of attendance at the institution in question. Only one significant change is made in the BOG program as presently operating, and that is the provision of the conference report which increases the amount of the maximum grant from the present $1,400 to $1,800 beginning in academic year 1978–79.

The supplemental educational opportunity grants—SEOG—will continue to be administered by the educational institutions themselves, and it is the intent of the conferees that all students, including students from middle-income families who would not be eligible for BOG's continue to be eligible for SEOG's if financial need can be shown.

The college work study—CWS—and national direct student loans—NDSL—programs also will continue to be administered by the educational institutions themselves, and again it is the intent of the conferees that no significant change be made in student eligibility for assistance under either program.

Therefore, Mr. Speaker, the conference report with respect to federally funded student assistance programs continues the system now in effect: a mix of grants, work and loans for students from both low- and middle-income families, with substantial discretion vested in the financial aid officers at the various institutions of postsecondary education.

Mr. Speaker, the conference report also continues both the federally guaranteed student loan program—GSLP—and the federally insured student loan program—FISL—but here the conferees agreed that some changes of considerable magnitude were in order.

First in order of importance is the decision of the conferees to raise the automatic eligibility ceiling for interest subsidy benefits in both programs from the present family income maximum of $15,000 to $25,000, effective immediately.

Mr. Speaker, this is an extremely important change. For some years now the purchasing power of families from middle- and upper-middle-income families has been steadily eaten away by inflation, including inflation in the cost of college. But in keeping at $15,000 the maximum family income ceiling for interest subsidy eligibility, middle- and upper-middle-income families have been gradually squeezed out of even the guaranteed student loan program.

The conference report provides a remedy for these middle-income families, who, beginning immediately, will again be eligible for federally guaranteed loans.

But the conference report also contains significant provisions to remedy other defects which lately have plagued the student loan programs.

First, we provided much needed incentives for greater participation by commercial lenders, including banks, credit unions, and savings and loans institutions. The special allowance paid to lenders will henceforth be tied to the Federal funds rate rather than left to the total discretion of the Commisioner, and lenders are assured, too, that if the Government is dilatory in paying either the interest subsidy, the special allowance or default claims, interest will accrue on any late payments.

Second, we provided incentives for more States to establish their own loan guarantee agencies, with the Federal reinsurance rate under GSLP rising to 100 percent if the State agency maintains a default rate below 5 percent. States with their own loan guarantee agencies will also receive an administrative cost allowance of 1 percent on loan volume, and may retain up to 30 percent of recovered defaults provided that the funds thus obtained be used for collection activities.

Finally, several provisions are included to prevent abuses of the program by some educational lenders and others who apparently have fallen into the habit of using the loan programs as a recruiting device. Such use was never intended by Congress as the function of the student loan programs, and the amendments approved by the Conferees will put an end to such practices.

Mr. Speaker, the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Michigan (Mr. O'HARA) have adequately described the other provisions of the conference report extending the various titles of the Higher Education Act. These provisions include aid to continuing and adult education, a new program of lifelong learning, aid to libraries and developing institutions, construction loans for institutions of higher education, support for teacher training and aid to community colleges.

I shall not repeat here what my colleagues have said, but I do want to stress the point that a central feature of the Higher Education Act, as amended here, continues to be a concern on the part of Congress for the needs of both institutions of postsecondary education and for the students they serve.

Student aid will continue to be the principal focus of Federal assistance for postsecondary education in the United States. But we have paid attention, too, to the needs of the thousands of colleges and universities, both public and private, which are the backbone of our sytem of secondary education.

For it is well settled that the needs of both students and the institutions they attend are the proper concern of Federal policies affecting the financing of postsecondary education. This is a principle which includes within its compass both private and public institutions, profit and nonprofit. It is a principle supported by the evience gathered during the last two Congresses in hearings conducted by both the House and Senate committees. Its wisdom has been confirmed by studies undertaken by both private organizations and by the National Commission on the Financing of Postsecondary Education, on which I had the honor to serve.

It is a principle which, in short, I continue to support and which I expect in the 95th Congress to continue our deliberations as further refinements to the Higher Education Act are considered.

## GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 2657.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky.

There was no objection.

Mr. PERKINS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## APPOINTMENT AS MEMBERS OF COMMISSION ON POSTAL SERVICE

The SPEAKER. Pursuant to the provisions of section 7(a)(1)(C), Public Law 94–421, the Chair appoints as members of the Commission on Postal Service the following from private life: Mr. Paul J. Krebs, Livingston, N.J.; and Mr. David W. Johnson, Philadelphia, Pa.

## H.R. 14232, DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION AND WELFARE APPROPRIATIONS FOR FISCAL YEAR 1977—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–636)

The SPEAKER laid before the House the following veto message from the President of the United States:

*To the House of Representatives:*

Just before adjourning for the final weeks of the election campaign, the Congress has sent me H.R. 14232, the Departments of Labor, and Health, Education, and Welfare appropriations for fiscal year 1977 which begins October 1. This last and second largest of the major Federal appropriations bills to be considered by this Congress is a perfect example of the triumph of election-year politics over fiscal restraint and responsibility to the hard-pressed American taxpayer.

Contained in this bill are appropriations for numerous essential domestic programs which have worthy purposes. My budget for these purposes totaled $52.5 billion, $700 million more than this year. Since 1970 expenditures for these programs have increased at a rate 75 percent greater than the rate of growth in the overall Federal budget. Therefore, my 1977 proposals included substantial reforms in the major areas covered by these appropriations designed to improve their efficiency and reduce the growth of Federal bureaucracy and redtape.

The majority in control of this Congress has ignored my reform proposals and added nearly $4 billion in additional spending onto these programs.

The partisan political purpose of this bill is patently clear. It is to present me with the choice of vetoing these inflationary increases and appearing heedless of the human needs which these Federal programs were intended to meet, or to sign the measure and demonstrate inconsistency with my previous anti-inflationary vetoes on behalf of the American taxpayer.

It is to present me with the dilemma of offending the voting groups who benefit by these Government programs, or offending those primarily concerned with certain restrictions embodied in the bill.

I am sympathetic to the purposes of most of these programs. I agree with the restriction on the use of Federal funds for abortion. My objection to this legislation is based purely and simply on the issue of fiscal integrity.

I believe the American people are wiser than the Congress thinks. They know that compassion on the part of the Federal Government involves more than taking additional cash from their paychecks. They know that inflationary spending and larger deficits must be paid for not only by all Federal taxpayers but by every citizen, including the poor, the unemployed, the retired persons on fixed incomes, through the inevitable reduction in the purchasing power of their dollars.

I believe strongly in compassionate concern for those who cannot help themselves, but I have compassion for the taxpayer, too. My sense of compassion also says that we shouldn't ask the taxpayers to spend their money for a tangled mess of programs that the Congress itself has shown all too often to be wasteful and inefficient—programs which all too often fail to really help those in need.

The Congress says it cares about cutting inflation and controlling Federal spending.

The Congress says it wants to stop fraud and abuse in Federal programs.

The Congress says it wants to end duplication and overlap in Federal activities.

But when you examine this bill carefully you discover that what the Congress says has very little to do with what the Congress does.

If the Congress really cared about cutting inflation and controlling Federal spending, would it send me a bill that is $4 billion over my $52.5 billion request?

If the Congress really wanted to stop fraud and abuse in Federal programs like Medicaid, would it appropriate more money this year than it did last year without any reform?

If the Congress really wanted to end duplication and overlap in Federal activities, would it continue all of these narrow programs this year—at higher funding levels than last year?

If the Congress really wanted to cut the deficit and ease the burden on the taxpayer, would it ignore serious reform proposals?

The resounding answer to all of these question is *no*.

Our longtime ally, Great Britain, has now reached a critical point in its illustrious history. The British people must now make some very painful decisions on government spending. As Prime Minister Callaghan courageously said just yesterday, "Britain for too long has lived on borrowed time, borrowed money and borrowed ideas. We will fail if we think we can buy our way out of our present difficulties by printing confetti money and by paying ourselves more than we earn."

I cannot ask American taxpayers to accept unwarranted spending increases without a commitment to serious reform. I do not believe the people want more bureaucratic business as usual. I believe the people want the reforms I have proposed which would target the dollars on those in real need while reducing Federal interference in our daily lives and returning more decision-making freedom to State and local levels where it belongs.

I therefore return without my approval H.R. 14323, and urge the Congress to enact immediately my budget proposals and to adopt my program reforms.

GERALD R. FORD.

THE WHITE HOUSE, *September 29, 1976.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that further consideration of the veto message from the President on the bill H.R. 14232 be postponed until tomorrow, Thursday, September 30, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

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## HOUR OF MEETING ON THURSDAY, SEPTEMBER 30, 1976

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m., tomorrow, Thursday, September 30, 1976.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from California, in view of the great deal of legislative activity we have had today, could give the House any further indication about the possibility of adjournment sine die this week?

Mr. McFALL. If the gentleman will yield, I will be glad to respond.

Mr. BAUMAN. I yield.

Mr. McFALL. I can tell the gentleman what I know of. Tomorrow, we start with the veto override. We will then have revenue sharing, as I understand it, after that. I understand also that when we get the revenue sharing bill down to the President, the President then will tell us what is going to happen with two very important pieces of legislation which he has; the public works appropriations bill and CETA authorization.

If we get those back from the President, whether on a veto or whether he signs them, or whatever the fate of that legislation would be, then we would be able to determine just how we will be able to adjourn here.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I would like to proffer a question to the acting majority leader. It is my understanding that the conference report on revenue sharing is probably subject to a point of order, and the point of order will be made. Does the majority leadership have any plans as to the course of action in the event that this occurs, and it becomes necessary to get a rule or whatever would be necessary to adopt the conference report?

Mr. McFALL. If the gentleman from Maryland would yield, as I understand it, we would use the same procedure that we did for two conference reports the day before yesterday, where we presented a Senate amendment with an amendment, and then the House would pass the amendment reducing it so that it would be within our budget act, then that would go to the Senate and, hopefully, the Senate would accept it and send it to the President.

Mr. RHODES. If the gentleman from Maryland will yield further, I note the gentleman says "hopefully, the Senate would accept it." It is my understanding the Senate put the extra money in, to begin with.

Does the gentleman have any assurance the other body would actually acquiesce to the removal of those funds which, as I understand, is the point of rather severe bargaining? In fact, it is my understanding that the Senate conferees understood that some procedure would be used in the House so that the funds could remain in the bill. From what I know about the matter, I foresee more problems than have yet been divulged on the floor here.

Mr. McFALL. Mr. Speaker, if the gentleman from Maryland will yield further, as I understand it, this has been the subject of some conversation between the leadership and the chairman of the Committee on Government Operations, the gentleman from Texas (Mr. BROOKS). I cannot say with certainty—that is why I said "hopefully"—that the Senate would agree to do this. I think the minority leader would agree that we are in a position where a point of order would lie to that, and there is no alternative for the House. If we are going to have a revenue sharing bill, it will have to be in that form. I see no alternative. So if we are going to have it, I would think that the Senate would accept it, although I would not want to say upon the House floor what the other body might do.

Mr. RHODES. If the gentleman from Maryland will yield further, the other alternative is to go to the Committee on Rules and get a rule which would waive the point of order. I am not in any position to say what the attitude of the President would be, so far as this bill is concerned, with the $200 million, or $600 million over 3 years, stricken out, and I am certainly not in a position to tell what the position of the other body would be. But I think it is important that the House know that the President has said that he will definitely call the Congress back into session if this session of Congress adjourns without a revenue-sharing bill on his desk. This is something that really needs to be borne in mind by both the majority leadership and the minority leadership.

Mr. McFALL. If the gentleman from Maryland will yield further, I think it has been the position of the Speaker and the majority leader and the leadership on this side and the chairman of the committee that we would rather not bust our budget in this matter. This will be a matter which will be before the House tomorrow. I would assume that this issue would be presented by the minority leader in consideration of the conference report, and the House can work its will on this. I realize that the President of the United States would like a higher amount. But I think this can be presented to the membership of this body tomorrow and all of the facts laid out, and we will see what the Members of this House want to do.

Mr. RHODES. If the gentleman from Maryland will yield further, it appears to me that we are approaching this scenario: The conference report will be brought up. There will be a point of order made against it.

Mr. McFALL. That is correct.

Mr. RHODES. And the point of order will strike down the whole conference report. So the House will then be in the position of adopting the resolution to send the matter back to the Senate with the request that really another conference report be agreed to. We do not know whether the other body will agree to that conference report.

Mr. McFALL. No, we do not.

Mr. RHODES. So we may be in a position of coming up to Friday night without this situation having been resolved. It would just be my hope that the majority leadership would work with the leadership of the Senate so that this will not occur, so that we can actually solve this problem and do the only thing that the President has at least indicated he would insist upon before we leave.

That is to get a revenue-sharing bill which the President can sign. All I am asking is that the majority leadership do what it can to work with the leadership of the Senate to resolve this problem.

Mr. McFALL. Mr. Speaker, if the gentleman from Maryland will yield for further comment, if the House goes along with the scenario as outlined by me and the bill went to the Senate and the Senate did not accept it, then we would be in the position of taking another alternative, I would think, that it could be worked out.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I cannot understand why the Committee on Rules could not sit on the revenue sharing problem so that we could at least get some prospect of increment in the revenue sharing legislation.

The gentleman from California (Mr. McFALL) knows that I have a great deal of respect for him, but I must say that I have very little respect for the attitude that says we can bust our budget in practically every other way but we will not take any opportunity to see that revenue sharing is extended.

Let me say this as a Member of Congress: The Senate felt very strongly about trying to hold something of what they had put in, in the way of dollars and time. The Senate passed legislation that called for 5¾ years and an extension of some $200 million a year incrementally to its revenue sharing proposal, and the other body got practically nothing in compromise. They received practically nothing from us. About 98½ percent of the House position was maintained. I would have to say to the gentleman that it seems to me that for that other 1½ percent they might perhaps feel strongly enough to wonder whether or not the Committee on Rules could be bothered to take up a special rule so we could deal with the problem.

Mr. McFALL. Mr. Speaker, if the gentleman from Maryland will yield further, this matter will come up tomorrow. The gentleman from Ohio (Mr. BROWN) is a very articulate spokesman for his point of view, and the minority leader will have an opportunity to make that presentation to the House.

It is quite possible that the House will agree with that position. Then we would have to go back and get a rule, I believe.

What I am trying to say is that we are not going to decide this matter tonight. We will have an opportunity to decide it tomorrow. There is no intent to interfere with any Member's right to argue this. There are certainly alternatives that will be available in the House to permit the gentleman to accomplish his purpose.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I appreciate the gentleman's compliment concerning the articulateness of the gentleman from Ohio. However, that articulateness did not serve three-quarters of the members of the conference who would have been happy to vote for the Senate position in the face of the intransigent position of just half of the House conferees in supporting the House position.

They were very effective in supporting that position, and it seems to me that the other 1½ percent to which I made reference might be benefited by a meeting of the Committee on Rules, and I would certainly hope that the Committee on Rules will act on this matter.

Mr. McFALL. Mr. Speaker, if the gentleman will yield further, perhaps the gentleman from Ohio (Mr. BROWN) will be luckier tomorrow.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, my original inquiry prior to this rather lengthy discussion was: What is the likelihood that we will adhere to the Friday adjournment date that was suggested earlier by the majority leader? I gather from the discussion we just heard that there is no definitive opinion as to whether we will adhere to that date now.

Mr. McFALL. Mr. Speaker, if the gentleman will yield, I am optimistic that we are going to be out of here this week. I merely wanted to point out to the gentleman the problems of trying to get out of here this week. I think we can do it, but some of these problems have to be resolved by votes in the House. There is not going to be any arbitrary determination by any Member, but as far as I can determine, the Members on this side are trying diligently to get out of here this week.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## PROVIDING FOR THE FILING AND PRINTING OF CERTAIN PRIVILEGED REPORTS

Mr. BRADEMAS, from the Committee on House Administration, filed the following privileged reports: House Joint Resolution 1107 (Rept. No. 94-1730), House Concurrent Resolution 772 (Rept. No. 94-1731), and House Concurrent Resolution 664 (Rept. No. 94-1732), which were referred to the House Calendar and ordered to be printed.

## CONFERENCE REPORT ON S. 22, FOR GENERAL REVISION OF COPYRIGHT LAW

Mr. KASTENMEIER submitted the following conference report and statement on the Senate bill (S. 22) for the general revision of the copyright law under title 17 of the United States Code, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94-1733)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 22) for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

## TITLE I—GENERAL REVISION OF COPYRIGHT LAW

SEC. 101. Title 17 of the United States Code, entitled "Copyrights", is hereby amended in its entirety to read as follows:

## TITLE 17—COPYRIGHTS

| Chapter | Sec. |
|---|---|
| 1. Subject matter and scope of copyright | 101 |
| 2. Copyright ownership and transfer | 201 |
| 3. Duration of copyright | 301 |
| 4. Copyright notice, deposit, and registration | 401 |
| 5. Copyright infringement and remedies | 501 |
| 6. Manufacturing requirement and importation | 601 |
| 7. Copyright Office | 701 |
| 8. Copyright Royalty Tribunal | 801 |

## Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

Sec.
101. Definitions.
102 Subject matter of copyright: In general.
103. Subject matter of copyright: Compilations and derivative works.
104. Subject matter of copyright: National origin.
105. Subject matter of copyright: United States Government works.
106. Exclusive rights in copyrighted works.
107. Limitations on exclusive rights: Fair use.
108. Limitations on exclusive rights: Reproduction by libraries and archives.
109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord.
110. Limitations on exclusive rights: Exemption of certain performances and displays.
111. Limitations on exclusive rights: Secondary transmissions.
112. Limitations on exclusive rights: Ephemeral recordings.
113. Scope of exclusive rights in pictorial, graphic, and sculptural works.
114. Scope of exclusive rights in sound recordings.
115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords.
116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players.
117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.
118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting.

§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are that person's immediate offspring, whether legitimate or not, and any children legally adopted by that person.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner", with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work".

A "device", "machine", or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

A "pseudonymous work" is a work on the copies or phonorecords of which the author is identified under a fictitious name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribuiton, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means—

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an Act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States", when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article".

The author's "widow" or "widower" is the author's surviving spouse under the law of the author's domicile at the time of his or her death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of that person's official duties.

A "work made for hire" is—

(1) a work prepared by an employee within the scope of his or her employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the foregoing sentence, a "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work prepared for publication with the purpose of use in systematic instructional activities.

### § 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographic works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works; and

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

### § 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing preexisting material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.

### § 104. Subject matter of copyright: National origin

(a) Unpublished Works.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) Published Works.—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person, wherever that person may be domiciled; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, the President may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

### § 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

### § 106. Exclusive rights in copyrighted works

Subject to sections 107 through 118, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and

(5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

### § 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

### § 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such copy or phonorecord, under the conditions specified by this section, if—

(1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

(3) the reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose

other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises: *Provided*, That such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy or phonorecord under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy or phonorecord, if it exceeds fair use as provided by section 107;

(3) shall be construed to limit the reproduction and distribution by lending of a limited number of copies and excerpts by a library or archives of an audiovisual news program, subject to clauses (1), (2), and (3) of subsection (a); or

(4) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections.

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee—

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d): *Provided*, That nothing in this clause prevents a library or archives from participating in interlibrary arrangements that do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work.

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c), or with respect to pictorial or graphic works published as illustrations, diagrams, or similar adjuncts to works of which copies are reproduced or distributed in accordance with subsections (d) and (e).

(i) Five years from the effective date of this Act, and at five-year intervals thereafter, the Register of Copyrights, after consulting with representatives of authors, book and periodical publishers, and other owners of copyrighted materials, and with representatives of library users and librarians, shall submit to the Congress a report setting forth the extent to which this section has achieved the intended statutory balancing of the rights of creators, and the needs of users. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if—

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for—

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatico-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if—

(A) there is no direct or indirect admission charge; or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of objection to the performance under the following conditions:

(i) the notice shall be in writing and signed by the copyright owner or such owner's duly authorized agent; and

(ii) the notice shall be served on the person responsible for the performance at least seven days before the date of the performance, and shall state the reasons for the objection; and

(iii) the notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless—

(A) a direct charge is made to see or hear the transmission; or

(B) the transmission thus received is further transmitted to the public;

(6) performance of a nondramatic musical work by a governmental body or a nonprofit agricultural or horticultural organization, in the course of an agricultural or horticultural fair or exhibition conducted by such body or organization; the exemption provided by this clause shall extend to any liability for copyright infringement that would otherwise be imposed on such body or organization, under doctrines of vicarious liability or related infringement, for a performance by a concessionaire, business establishment, or other person at such fair or exhibition, but shall not excuse any such person from liability for the performance.

(7) performance of a nondramatic musical work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work, and the performance is not transmitted beyond the place where the establishment is located and is within the immediate area where the sale is occurring;

(8) performance of a nondramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, or deaf or other handicapped persons who are unable to hear the aural signals accompanying a transmission of visual signals, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of: (i) a governmental body; or (ii) a noncommercial educational broadcast station (as defined in section 397

of title 47); or (iii) a radio subcarrier authorization (as defined in 47 CFR 73.293–73.295 and 73.593–73.595); or (iv) a cable system (as defined in section 11(f)).

(9) performance on a single occasion of a dramatic literary work published at least ten years before the date of the performance, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of a radio subcarrier authorization referred to in clause (8) (iii), *Provided*, That the provisions of this clause shall not be applicable to more than one performance of the same work by the same performers or under the auspices of the same organization.

### § 111. Limitations on exclusive rights: Secondary transmissions

(a) CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if—

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmissions; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) SECONDARY TRANSMISSION OF PRIMARY TRANSMISSION TO CONTROLLED GROUP.—Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public: *Provided, however*, That such secondary transmission is not actionable as an act of infringement if—

(1) the primary transmission is made by a broadcast station licensed by the Federal Communications Commission; and

(2) the carriage of the signals comprising the secondary transmission is required under the rules, regulations, or authorizations of the Federal Communications Commission; and

(3) the signal of the primary transmitter is not altered or changed in any way by the secondary transmitter.

(c) SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) Subject to the provisions of clauses (2), (3), and (4) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, in the following cases:

(A) where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations, or authorizations of the Federal Communications Commission; or

(B) where the cable system has not recorded the notice specified by subsection (d) and deposited the statement of account and royalty fee required by subsection (d).

(3) Notwithstanding the provisions of clause (1) of this subsection and subject to the provisions of subsection (e) of this section, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcements transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the cable system through changes, deletions, or additions, except for the alteration, deletion, or substitution of commercial advertisements performed by those engaged in television commercial advertising market research: *Provided*, That the research company has obtained the prior consent of the advertiser who has purchased the original commercial advertisement, the television station broadcasting that commercial advertisement, and the cable system performing the secondary transmission: *And provided further*, That such commercial alteration, deletion, or substitution is not performed for the purpose of deriving income from the sale of that commercial time.

(4) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and section 509, if (A) with respect to Canadian signals, the community of the cable system is located more than 150 miles from the United States-Canadian border and is also located south of the forty-second parallel of latitude, or (B) with respect to Mexican signals, the secondary transmission is made by a cable system which received the primary transmission by means other than direct interception of a free space radio wave emitted by such broadcast television station, unless prior to April 15, 1976, such cable system was actually carrying, or was specifically authorized to carry, the signal of such foreign station on the system pursuant to the rules, regulations, or authorizations of the Federal Communications Commission.

(d) COMPULSORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall, at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after the enactment of this Act, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system, and thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, on a semiannual basis, deposit with the Register of Copyrights, in acordance with requirements that the Register shall, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), prescribe by regulation—

(A) a statement of account, covering the six months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further tranmitted by the cable system, the total number of subscribers, the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters. and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), from time to time prescribe by regulation. Such statement shall also include a special statement of account covering any nonnetwork television programing that was carried by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage; and

(B) except in the case of a cable system whose royalty is specified in subclause (C) or (D), a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) 0.675 of 1 per centum of such gross receipts for the privilege of further transmitting any nonnetwork programing of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to paragraphs (ii) through (iv);

(ii) 0.675 of 1 per centum of such gross receipts for the first distant signal equivalent;

(iii) 0.425 of 1 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalent;

(iv) 0.2 of 1 per centum of such gross receipts for the fifth distant signal equivalent for each additional distant signal equivalent thereafter; and

in computing the amounts payable under paragraphs (ii) through (iv), above, any fraction of a distant signal equivalent shall be computed at its fractional value and, in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located without the local service area of such primary transmitter; and

(C) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters total $80,000 or less, gross receipts of the cable system for the purpose of this subclause shall be computed by subtracting from such actual gross receipts the amount by which $80,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $3,000. The royalty fee payable under this subclause shall be 0.5 of 1 per centum, regardless of the number of distant signal equivalents, if any; and

(D) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters, are more than $80,000 but less than $160,000, the royalty fee payable under this subclause shall be (i) 0.5 of 1 per centum of any gross receipts up to $80,000; and (ii) 1 per centum of any gross receipts in excess of $80,000 but less than $160,000, regardless of the number of distant signal equivalents, if any.

(3) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing U.S. securities for later distribution with interest by the Copyright Royalty Tribunal as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on a semiannual basis, a compilation of all statements of account covering the relevant six-month period provided by clause (2) of this subsection.

(4) The royalty fees thus deposited shall, in accordance with the procedures provided by clause (5), be distributed to those among the following copyright owners who claim that their works were the subject of secondary transmissions by cable systems during the relevant semiannual period:

(A) any such owner whose work was included in a secondary transmission made by a cable system of a nonnetwork television program in whole or in part beyond the local service area of the primary transmitter; and

(B) any such owner whose work was included in a secondary transmission identified in a special statement of account deposited under clause (2)(A); and

(C) any such owner whose work was included in nonnetwork programing consisting exclusively of aural signals carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programs.

(5) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions shall file a claim with the Copyright Royalty Tribunal, in accordance with the requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws, for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) NONSIMULTANEOUS SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) Notwithstanding those provisions of the second paragraph of subsection (f) relating to nonsimultaneous secondary transmissions by a cable system, any such transmissions are actionable as an act of infringement under section 501, and are fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, unless—

(A) the program on the videotape is transmitted no more than one time to the cable system's subscribers; and

(B) the copyrighted program, episode, or motion picture videotape, including the commercials contained within such program, episode, or picture, is transmitted without deletion or editing; and

(C) an owner or officer of the cable system (i) prevents the duplication of the videotape while in the possession of the system, (ii) prevents unauthorized duplication while in the possession of the facility making the videotape for the system if the system owns or controls the facility, or takes reasonable precautions to prevent such duplication if it does not own or control the facility, (iii) takes adequate precautions to prevent duplication while the tape is being transported, and (iv) subject to clause (2), erases or destroys, or causes the erasure or destruction of, the videotape; and

(D) within forty-five days after the end of each calendar quarter, an owner or officer of the cable system executes an affidavit attesting (i) to the steps and precautions taken to prevent duplication of the videotape, and (ii) subject to clause (2), to the erasure or destruction of all videotapes made or used during such quarter; and

(E) such owner or officer places or causes each such affidavit, and affidavits received pursuant to clause (2)(C), to be placed in a file, open to public inspection, at such system's main office in the community where the transmission is made or in the nearest community where such system maintains an office; and

(F) the nonsimultaneous transmission is one that the cable system would be authorized to transmit under the rules, regulations, and authorizations of the Federal Communications Commission in effect at the time of the nonsimultaneous transmission if the transmission had been made simultaneously, except that this subclause shall not apply to inadvertent or accidental transmissions.

(2) If a cable system transfers to any person a videotape of a program nonsimultaneously transmitted by it, such transfer is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, except that, pursuant to a written, nonprofit contract providing for the equitable sharing of the costs of such videotape and its transfer, a videotape nonsimultaneously transmitted by it, in accordance with clause (1), may be transferred by one cable system in Alaska to another system in Alaska, by one cable system in Hawaii permitted to make such nonsimultaneous transmissions to another such cable system in Hawaii, or by one cable system in Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, to another cable system in any of those three territories, if—

(A) each such contract is available for public inspection in the offices of the cable systems involved, and a copy of such contract is filed, within thirty days after such contract is entered into, with the Copyright Office (which Office shall make each such contract available for public inspection); and

(B) the cable system to which the videotape is transferred complies with clause (1)(A), (B), (C)(i), (iii), and (iv), and (D) through (F); and

(C) such system provides a copy of the affidavit required to be made in accordance with clause (1)(D) to each cable system making a previous nonsimultaneous transmission of the same videotape.

(3) This subsection shall not be construed to supersede the exclusivity protection provisions of any existing agreement, or any such agreement hereafter entered into, between a cable system and a television broadcast station in the area in which the cable system is located, or a network with which such station is affiliated.

(4) As used in this subsection, the term "videotape", and each of its variant forms, means the reproduction of the images and sounds of a program or programs broadcast by a television broadcast station licensed by the Federal Communications Commission, regardless of the nature of the material objects, such as tapes or films, in which the reproduction is embodied.

(f) DEFINITIONS.—As used in this section, the following terms and their variant forms means the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission, or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico: *Provided, however,* That a nonsimultaneous further transmission by a cable system located in Hawaii of a primary transmission shall be deemed to be a secondary transmission if the carriage of the television broadcast signal comprising such further transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

A "cable system" is a facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d)(2), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter", in the case of a television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations. The "local service area of a primary transmitter", in the case of a radio broadcast station, comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.

A "distant signal equivalent" is the value assigned to the secondary transmission of any nonnetwork television programing carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programing. It is computed by assigning a value of one to each independent station and a value of one-quarter to each network station and noncommercial educational station for the nonnetwork programing so carried pursuant to the rules, regulations, and authorizations of the Federal Communications Commission. The foregoing values for independent, network, and noncommercial educational stations are subject, however, to the following exceptions and limitations. Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of enactment of this Act permit a cable system, at its election, to effect such deletion and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value *shall* be assigned for the substituted or additional program; where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of enactment of this Act permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year. In the case of a station carried pursuant to the late-night or specialty programing rules of the Federal Communications Commission, or a station carried on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth above, as the case may be, shall be multiplied by a fraction which is equal to the ratio of the broadcast hours of such station carried by the cable system to the total broadcast hours of the station.

A "network station" is a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programing supplied by such networks for a substantial part of that station's typical broadcast day.

An "independent station" is a commercial television broadcast station other than a network station.

A "noncommercial educational station" is a television station that is a noncommercial educational broadcast station as defined in section 397 of title 47.

### § 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord, for each transmitting organization specified in clause (2) of this subsection, of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance of a work under section 110(8) to make no more than ten copies or phonorecords embodying the performance, or to permit the use of any such copy or phonorecord by any governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8), if—

(1) any such copy or phonorecord is retained and used solely by the organization that made it, or by a governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8), and no further copies or phonorecords are reproduced from it; and

(2) any such copy or phonorecord is used solely for transmissions authorized under section 110(8), or for purposes of archival preservation or security; and

(3) the governmental body or nonprofit organization permitting any use of any such copy or phonorecord by any governmental body or nonprofit organization under this subsection does not make any charge for such use.

(e) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the preexisting works employed in the program.

### § 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of subsections (b) and (c) of this section, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(b) This title does not afford, to the owner of copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

### § 114. Scope of exclusive rights in sound recordings

(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (2), and (3) of section 106, and do not include any right of performance under section 106(4).

(b) The exclusive right of the owner of copyright in a sound recording under clause (1) of section 106 is limited to the right to duplicate the sound recording in the form of phonorecords, or of copies of motion pictures and other audiovisual works, that directly or indirectly recapture the actual sounds fixed in the recording. The exclusive right of the owner of copyright in a sound recording under clause (2) of section 106 is limited to the right to prepare a derivative work in which the actual sounds fixed in the sound recording are rearranged, remixed, or otherwise altered in sequence or quality. The exclusive rights of the owner of copyright in a sound recording under clauses (1) and (2) of section 106 do not extend to the making or duplication of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the coprighted sound recording. The exclusive rights of the owner of copyright in a sound recording under clauses (1), (2), and (3) of section 106 do not apply to sound recordings included in educational television and radio programs (as defined in section 397 of title 47) distributed or transmitted by or through public broadcasting entities (as defined by section 118(g)): *Provided*, That copies or phonorecords of said programs are not commercially distributed by or through public broadcasting entities to the general public.

(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).

(d) On January 3, 1978, the Register of Copyrights, after consulting with representatives of owners of copyrighted materials, representatives of the broadcasting, recording, motion picture, entertainment industries, and arts organizations, representatives of organized labor and performers of copyrighted materials, shall submit to the Congress a report setting forth recommendations as to whether this section should be amended to provide for performers and copyright owners of copyrighted material any performance rights in such material. The report should describe the status of such rights in foreign countries, the views of major interested parties, and specific legislative or other recommendations, if any.

### § 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) Availability and Scope of Compulsory License.—

(1) When phonorecords of a nondramatic musical work have been distributed to the public in the United States under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his or her primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the making of phonorecords duplicating a sound recording fixed by another, unless: (i) such sound recording was fixed lawfully; and (ii) the making of the phonorecords was authorized by the owner of copyright in the sound recording or, if the sound recording was fixed before February 15, 1972, by any person who fixed the sound recording pursuant to an express license from the owner of the copyright in the musical work or pursuant to a valid compulsory license for use of such work in a sound recording.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(b) Notice of Intention To Obtain Compulsory License.—

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) Failure to serve or file the notice required by clause (1) forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribution of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(c) Royalty Payable Under Compulsory License—

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords made and distributed after being so identified, but is not entitled to recover for any phonorecords previously made and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord made and distributed in accordance with the license. For this purpose, a phonorecord is considered "distributed" if the person exercising the compulsory license has voluntarily and permanently parted with its possession With respect to each work embodied in the phonorecord, the royalty shall be either two and three-fourth cents, or one-half of one cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.

(4) If the copyright owner does not receive the monthly payment and the monthly and annual statements of account when due, the owner may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders either the making or the distribution, or both, of all phonorecords for which the royalty had not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

### § 116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players

(a) Limitation on Executive Right.—In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless—

(A) such proprietor is the operator of the phonorecord player; or

(B) such proprietor refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by clause (1) (C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) Recordation of Coin-Operated Phonorecord Player, Affixation of Certificate, and Royalty Payable Under Compulsory License.—

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, the operator shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificates prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by such operator under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(c) DISTRIBUTION OF ROYALTIES.—

(1) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing U.S. securities for later distribution with interest by the Copyright Royalty Tribunal as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on an annual basis, a detailed statement of account covering all fees received for the relevant period provided by subsection (b).

(2) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performance during the preceding twelve-month period shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 810 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws, for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(3) After the first day of October of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If it finds that such a controversy exists, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(4) The fees to be distributed shall be divided as follows:

(A) to every copyright owner not affiliated with a performing rights society, the pro rata share of the fees to be distributed to which such copyright owner proves entitlement.

(B) to the performing rights societies, the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove entitlement.

(C) During the pendency of any proceeding under this section, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(5) The Copyright Royalty Tribunal shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he or she has been denied the access permitted under the regulations prescribed by the Copyright Royalty Tribunal may bring an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) CRIMINAL PENALTIES.—Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that—

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of coins, currency, tokens, or other monetary units or their equivalent;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.

(3)(A) "performing rights society" is in association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems

Nothwithstanding the provisions of sections 106 through 116 and 118, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

§ 118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting

(a) The exclusive rights provided by section 106 shall, with respect to the works specified by subsection (b) and the activities specified by subsection (d), be subject to the conditions and limitations prescribed by this section.

(b) Not later than thirty days after the Copyright Royalty Tribunal has been constituted in accordance with section 802, the Chairman of the Tribunal shall cause notice to be published in the Federal Register of the initiation of proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subsection (d) with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works during a period beginning as provided in clause (3) of this subsection and ending on December 31, 1982. Copyright owners and public broadcasting entities shall negotiate in good faith and cooperate fully with the Tribunal in an effort to reach reasonable and expeditious results. Notwithstanding any provision of the antitrust laws, any owners of copyright in works specified by this subsection and any public broadcasting entities, respectively, may negotiate and agree upon the terms and rates of royalty payments and the proportionate division of fees paid among various copyright owners, and may designate common agents to negotiate, agree to, pay, or receive payments.

(1) Any owner of copyright in a work specified in this subsection or any public broadcasting entity may, within one hundred and twenty days after publication of the notice specified in this subsection, submit to the Copyright Royalty Tribunal proposed licenses covering such activities with respect to such works. The Copyright Royalty Tribunal shall proceed on the basis of the proposals submitted to it as well as any other relevant information. The Copyright Royalty Tribunal shall permit any interested party to submit information relevant to such proceedings.

(2) License agreements voluntarily negotiated at any time between one or more copyright owners and one or more public broadcasting entities shall be given effect in lieu of any determination by the Tribunal: *Provided*, That copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register of Copyright shall prescribe.

(3) Within six months, but not earlier than one hundred and twenty days, from the date of publication of the notice specified in this subsection the Copyright Royalty Tribunal shall make a determination and publish in the Federal Register a schedule of rates and terms which, subject to clause (2) of this subsection, shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether or not such copy-

right owners and public broadcasting entities have submitted proposals to the Tribunal. In establishing such rates and terms the Copyright Royalty Tribunal may consider the rates for comparable circumstances under voluntary license agreements negotiated as provided in clause (2) of this subsection. The Copyright Royalty Tribunal shall also establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept by public broadcasting entities.

(4) With respect to the period beginning on the effective date of this title and ending on the date of publication of such rates and terms, this title shall not afford to owners of copyright or public broadcasting entities any greater or lesser rights with respect to the activities specified in subsection (d) as applied to works specified in this subsection than those afforded under the law in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) The initial procedure specified in subsection (b) shall be repeated and concluded between June 30 and December 31, 1982, and at five-year intervals thereafter, in accordance with regulations that the Copyright Royalty Tribunal shall prescribe.

(d) Subject to the transitional provisions of subsection (b) (4), and to the terms of any voluntary license agreements that have been negotiated as provided by subsection (b) (2), a public broadcasting entity may, upon compliance with the provisions of this section, including the rates and terms established by the Copyright Royalty Tribunal under subsection (b) (3), engage in the following activities with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works:

(1) performance or display of a work by or in the course of a transmission made by a noncommercial educational broadcast station referred to in subsection (g); and

(2) production of a transmission program, reproduction of copies or phonorecords of such a transmission program, and distribution of such copies or phonorecords, where such production, reproduction, or distribution is made by a nonprofit institution or organization solely for the purpose of transmissions specified in clause (1); and

(3) the making of reproductions by a governmental body or a nonprofit institution of a transmission program simultaneously with its transmission as specified in clause (1), and the performance or display of the contents of such program under the conditions specified by clause (1) of section 110, but only if the reproductions are used for performances or displays for a period of no more than seven days from the date of the transmission specified in clause (1), and are destroyed before or at the end of such period. No person supplying, in accordance with clause (2), a reproduction of a transmission program to governmental bodies or nonprofit institutions under this clause shall have any liability as a result of failure of such body or institution to destroy such reproduction: *Provided*, That it shall have notified such body or institution of the requirement for such destruction pursuant to this clause: *And provided further*, That if such body or institution itself fails to destroy such reproduction it shall be deemed to have infringed.

(e) Except as expressly provided in this subsection, this section shall have no applicability to works other than those specified in subsection (b).

(1) Owners of copyright in nondramatic literary works and public broadcasting entities may, during the course of voluntary negotiations, agree among themselves, respectively, as to the terms and rates of royalty payments without liability under the antitrust laws. Any such terms and rates of royalty payments shall be effective upon filing in the Copyright Office, in accordance with regulations that the Register of Copyrights shall prescribe.

(2) On January 3, 1980, the Register of Copyrights, after consulting with authors and other owners of copyright in nondramatic literary works and their representatives, and with public broadcasting entities and their representatives, shall submit to the Congress a report setting forth the extent to which voluntary licensing arrangements have been reached with respect to the use of nondramatic literary works by such broadcast stations. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

(f) Nothing in this section shall be construed to permit, beyond the limits of fair use as provided by section 107, the unauthorized dramatization of a nondramatic musical work, the production of a transmission program drawn to any substantial extent from a published compilation of pictorial, graphic, or sculptural works, or the unauthorized use of any portion of an audiovisual work.

(g) As used in this section, the term "public broadcasting entity" means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in clause (2) of subsection (d).

## Chapter 2.—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.
201. Ownership of copyright.
202. Ownership of copyright as distinct from ownership of material object.
203. Termination of transfers and licenses granted by the author.
204. Execution of transfers of copyright ownership.
205. Recordation of transfers and other documents.

### § 201. Ownership of copyright

(a) Initial Ownership.—Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a joint work are coowners of copyright in the work.

(b) Works Made for Hire.—In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) Contributions to Collective Works.—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) Transfer of Ownership.—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of interstate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) Involuntary Transfer.—When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by that individual author, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title.

### § 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

### § 203. Termination of transfers and licenses granted by the author

(a) Conditions for Termination.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if the author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, the termination interest of any such author may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by

serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or the grantee's successor in title.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) Effect of Termination.—Upon the effective date of termination, all rights under this title that were covered by the terminated grant revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

### § 204. Execution of transfers of copyright ownership

A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent.

(b) A certificate of acknowledgement is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if—

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is proved by a certificate of such an officer.

### § 205. Recordation of transfers and other documents

(a) Conditions for Recordation.—Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document.

(b) Certificate of Recordation.—The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) Recordation as Constructive Notice.—Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if—

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) Recordation as Prerequisite to Infringement Suit.—No person claiming by virtue of a transfer to be the owner of copyright or of any exclusive right under a copyright is entitled to institute an infringement action under this title until the instrument of transfer under which such person claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) Priority Between Conflicting Transfers.—As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c), within one month after its execution in the United States or within two months after its execution outside the United States, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) Priority Between Conflicting Transfer of Ownership and Nonexclusive License.—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or such owner's duly authorized agent, and if—

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

## Chapter 3.—DURATION OF COPYRIGHT

Sec.
301. Preemption with respect to other laws.
302. Duration of copyright: Works created on or after January 1, 1978.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978.
304. Duration of copyright: Subsisting copyrights.
305. Duration of copyright: Terminal date.

### § 301. Preemption with respect to other laws.

(a) On and after January 1, 1978, all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

(1) subject matter that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression; or

(2) any cause of action arising from undertakings commenced before January 1, 1978; or

(3) activities violating legal or equitable rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106.

(c) With respect to sound recordings fixed before February 15, 1972, any rights or remedies under the common law or statutes of any State shall not be annulled or limited by this title until February 15, 2047. The preemptive provisions of subsection (a) shall apply to any such rights and remedies pertaining to any cause of action arising from undertakings commenced on and after February 15, 2047. Notwithstanding the provisions of section 303, no sound recording fixed before February 15, 1972, shall be subject to copyright under this title before, on, or after February 15, 2047.

(d) Nothing in this title annuls or limits any rights or remedies under any other Federal statute.

### § 302. Duration of copyright: Works created on or after January 1, 1978

(a) In General.—Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after the author's death.

(b) Joint Works.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

(c) Anonymous Works Pseudonymous Works, and Work Made for Hire.—In the case of an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first, If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in the records provided by this subsection, the copyright in the work endures for the term specied by subsection (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in a anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of that person's interest, the source of the information recorded, and the particular work affected and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) Records Relating to Death of Authors.—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyright work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of that person's interest, and the source of the information recorded, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent the Register considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

(e) Presumption as to Author's Death.—After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefit of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

### § 303. Duration of copyright: Works created but not published or copyrighted January 1, 1978

Copyright in a work created before January 1, 1978, but not theretofore in the public domain or copyrighted, subsists from January 1, 1978, and endures for the terms provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2002; and, if the work is published on or before December 31, 2002, the term of copyright shall not expire before December 31, 2027.

### § 304. Duration of copyright: Subsisting copyrights

(a) Copyrights in Their First Term on January 1, 1978.—Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for twenty-eight years from the date it was originally secured: *Provided*, That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his or her next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) Copyrights in Their Renewal Term or Registered for Renewal Before January 1, 1978.—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1976, and December 31, 1977, inclusive, or for which renewal registration is made between December 31, 1976, and December 31, 1977, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.

(c) Termination of Transfers and Licenses Covering Extended Renewal Term.—In the case of any copyright subsisting in either its first or renewal term on January 1, 1978, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1978, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or his or her duly authorized agent or, if that author is dead, by the number and proportion of the owners of his or her termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if that author is dead, to the persons owning his or her termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where the author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this subclause.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this subsection, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

### § 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

## Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.

401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

### § 401. Notice of copyright: Visually perceptible copies

(a) General Requirement.—Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) Form of Notice.—The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), or the word "Copyright", or the abbreviation "Copr."; and

(2) the year of first publication of the work; in the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles; and

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) Position of Notice.—The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

### § 402. Notice of copyright: Phonorecords of sound recordings

(a) General Requirement.—Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) Form of Notice.—The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol (P) (the letter P in a circle); and

(2) the year of first publication of the sound recording; and

(3) the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, the producer's name shall be considered a part of the notice.

(c) Position of Notice.—The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

### § 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by sections 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

### § 404. Notice of copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

### § 405. Notice of copyright: Omission of notice

(a) Effect of Omission on Copyright.—The omission of the copyright notice prescribed by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if—

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) Effect of Omission on Innocent Infringers.—Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work has been made under section 408, if such person proves that he or she was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition for permitting the continuation of the infringing undertaking, that the infringer pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) Removal of Notice.—Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies or phonorecords.

### § 406. Notice of copyright: Error in name or date

(a) Error in Name.—Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if such person proves that he or she was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun—

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded.

The person named in the notice is liable to account to the copyright owner for all receipts from transfers or licenses purportedly made under the copyright by the person named in the notice.

(b) Error in Date.—When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) Omission of Name or Date.—Where copies or phonorecords publicly distributed by authortiy of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

### § 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), and subject to the provisions of subsection (e), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication—

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two

complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.

Neither the deposit requirements of this subsection nor the acquisition provisions of subsection (e) are conditions of copyright protection.

(b) The required copies or phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories. Such regulations shall provide either for complete exemption from the deposit requirements of this section, or for alternative forms of deposit aimed at providing a satisfactory archival record of a work without imposing practical or financial hardships on the depositor, where the individual author is the owner of copyright in a pictorial, graphic, or sculptural work and (i) less than five copies of the work have been published, or (ii) the work has been published in a limited edition consisting of numbered copies, the monetary value of which would make the mandatory deposit of two copies of the best edition of the work burdensome, unfair, or unreasonable.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable—

(1) to a fine of not more than $250 for each work; and

(2) to pay into a specially designated fund in the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no retail price has been fixed, the reasonable cost to the Library of Congress of acquiring them; and

(3) to pay a fine of $2,500, in addition to any fine or liability imposed under clauses (1) and (2), if such person willfully or repeatedly fails or refuses to comply with such a demand.

(e) With respect to transmission programs that have been fixed and transmitted to the public in the United States but have not been published, the Register of Copyrights shall, after consulting with the Librarian of Congress and other interested organizations and officials, establish regulations governing the acquisition, through deposit or otherwise, of copies or phonorecords of such programs for the collections of the Library of Congress.

(1) The Librarian of Congress shall be permitted, under the standards and conditions set forth in such regulations, to make a fixation of a transmission program directly from a transmission to the public, and to reproduce one copy or phonorecord from such fixation for archival purposes.

(2) Such regulations shall also provide standards and procedures by which the Register of Copyrights may make written demand, upon the owner of the right of transmission in the United States, for the deposit of a copy or phonorecord of a specific transmission program. Such deposit may, at the option of the owner of the right of transmission in the United States, be accomplished by gift, by loan for purposes of reproduction, or by sale at a price not to exceed the cost of reproducing and supplying the copy or phonorecord. The regulations established under this clause shall provide reasonable periods of not less than three months for compliance with a demand, and shall allow for extensions of such periods and adjustments in the scope of the demand or the methods for fulfilling it, as reasonably warranted by the circumstances. Willful failure or refusal to comply with the conditions prescribed by such regulations shall subject the owner of the right of transmission in the United States to liability for an amount, not to exceed the cost of reproducing and supplying the copy or phonorecord in question, to be paid into a specially designated fund in the Library of Congress.

(3) Nothing in this subsection shall be construed to require the making or retention, for purposes of deposit, of any copy or phonorecord of an unpublished transmission program, the transmission of which occurs before the receipt of a specific written demand as provided by clause (2).

(4) No activity undertaken in compliance with regulations prescribed under clauses (1) or (2) of this subsection shall result in liability if intended solely to assist in the acquisition of copies or phonorecords under this subsection.

### § 408. Copyright registration in general

(a) Registration Permissive.—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) Deposit for Copyright Registration.—Except as provided by subsection (c), the material deposited for registration shall include—

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published outside the United States, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require. The Register shall also prescribe regulations establishing requirements under which copies or phonorecords acquired for the Library of Congress under subsection (e) of section 407, otherwise than by deposit, may be used to satisfy the deposit provisions of this section.

(c) Administrative Classification and Optional Deposit.—

(1) The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

(2) Without prejudice to the general authority provided under clause (1), the Register of Copyrights shall establish regulations specifically permitting a single registration for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, within a twelve-month period, on the basis of a single deposit, application, and registration fees, under all of the following conditions—

(A) if each of the works as first published bore a separate copyright notice, and the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner was the same in each notice; and

(B) if the deposit consists of one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published; and

(C) if the application identifies each work separately, including the periodical containing it and its date of first publication.

(3) As an alternative to separate renewal registrations under subsection (a) of section 304, a single renewal registration may be made for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, upon the filing of a single application and fee, under all of the following conditions:

(A) the renewal claimant or claimants, and the basis of claim or claims under section 304(a), is the same for each of the works; and

(B) the works were all copyrighted upon their first publication, either through separate copyright notice and registration or by virtue of a general copyright notice in the periodical issue as a whole; and

(C) the renewal application and fee are received not more than twenty-eight or less than twenty-seven years after the thirty-first day of December of the calendar year in which all of the works were first published; and

(D) the renewal application identifies each work separately, including the periodical containing it and its date of first publication.

(d) Corrections and Amplifications.—The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplemenary registration augments but does not supersede that contained in the earlier registration.

(e) Published Edition of Previously Registered Work.—Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

### § 409. Application for copyright registration

The application for copyright registration shall be made on a form prescribed by the register of Copyrights and shall include—

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors, and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the

author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any preexisting work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

### § 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.

### § 411. Registration as prerequisite to infringement suit

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service, but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may, either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

### § 412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for—

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after the first publication of the work.

## Chapter 5.—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.
501. Infringement of copyright.
502. Remedies for infringement: Injunctions
503. Remedies for infringement: Impounding and disposition of infringing articles.
504. Remedies for infringement: Damages and profits.
505. Remedies for infringement: Costs and and attorney's fees.
506. Criminal offenses.
507. Limitations on actions.
508. Notification of filing and determination of actions.
509. Seizure and forfeiture.
510. Remedies for alteration of programing by cable systems.

### § 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 118, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205 (d) and 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. The court may require such owner to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

(d) For any secondary transmission by a cable system that is actionable as an act of infringement pursuant to section 111(c)(3), the following shall also have standing to sue: (i) the primary transmitter whose transmission has been altered by the cable system; and (ii) any broadcast station within whose local service area the secondary transmission occurs.

### § 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in such clerk's office.

### § 503. Remedies for infringement: Impounding and disposition of infringing articles

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

### § 504. Remedies for infringement: Damages and profits

(a) In General.—Except as otherwise provided by this title, an infringer of copyright is liable for either—

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) Actual Damages and Profits.—The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory Damages.—

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individu-

ally, or for which any two or more infringers are liable jointly and severally, in a sum of not less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. The court shall remit statutory damages in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under section 107, if the infringer was: (i) an employee or agent of a nonprofit educational institution, library, or archives acting within the scope of his or her employment who, or such institution, library, or archives itself, which infringed by reproducing the work in copies or phonorecords; or (ii) a public broadcasting entity which or a person who, as a regular part of the nonprofit activities of a public broadcasting entity (as defined in subsection (g) of section 118) infringed by performing a published nondramatic literary work or by reproducing a transmission program embodying a performance of such a work.

### § 505. Remedies for infringement: Costs and attorney's fees

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

### § 506. Criminal offenses

(a) Criminal Infringement.—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $10,000 or imprisoned for not more than one year, or both: *Provided, however,* That any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsections (1), (3), or (4) of section 106 shall be fined not more than $25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned for not more than two years, or both, for any subsequent offense.

(b) Forfeiture and Destruction.—When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices, or equipment used in the manufacture of such infringing copies or phonorecords.

(c) Fraudulent Copyright Notice.—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be fined not more than $2,500.

(d) Fraudulent Removal of Copyright Notice.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(e) False Rfepresentation.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

### § 507. Limitations on actions

(a) Criminal Proceedings.—No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) Civil Actions.—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

### § 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

### § 509. Seizure and forfeiture

(a) All copies of phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of section 506 (a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing, or assembling such copies or phonorecords may be seized and forfeited to the United States.

(b) The applicable procedures relating to (i) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, (ii) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (iii) the remission or mitigation of such forfeiture, (iv) the compromise of claims, and (v) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon any officer or employee of the Treasury Department or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

### § 510. Remedies for alteration of programing by cable systems

(a) In any action filed pursuant to section 111(c)(3), the following remedies shall be available:

(1) Where an action is brought by a party identified in subsections (b) or (c) of section 501, the remedies provided by sections 502 through 505, and the remedy provided by subsection (b) of this section; and

(2) Where an action is brought by a party identified in subsection (d) of section 501, the remedies provided by sections 502 and 505, together with any actual damages suffered by such party as a result of the infringement, and the remedy provided by subsection (b) of this section.

(b) In any action filed pursuant to section 111(c)(3), the court may decree that, for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a compulsory license for one or more distant signals carried by such cable system.

## Chapter 6.—MANUFACTURED REQUIREMENT AND IMPORTATION

Sec.

601. Manufacture, importation, and public distribution of certain copies.
602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

### § 601. Manufacture, importation, and public distribution of certain copies

(a) Prior to July 1, 1982, and except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply—

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if such author is a national of the United States, he or she has been domiciled outside the United States for a continuous period of at least one year immediately preceding that date; in the case of a work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the United States Custom Service is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by such owner at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the Government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought—

(A) by any person with respect to no more than one copy of any work at any one time;

(B) by any person arriving from outside the United States, with respect to copies forming part of such person's personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind; or

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States; or

(7) where, on the date when importation is sought or public distribution in the United States is made—

(A) the author of any substantial part of such material is an individual and receives compensation for the transfer or license of the right to distribute the work in the United States; and

(B) the first publication of the work has previously taken place outside the United States under a transfer or license granted by such author to a transferee or licensee who was not a national or domiciliary of the United States or a domestic corporation or enterprise; and

(C) there has been no publication of an authorized edition of the work of which the copies were manufactured in the United States; and

(D) the copies were reproduced under a transfer or license granted by such author or by the transferee or licensee of the right of first publication as mentioned in subclause (B), and the transferee or the licensee of the right of reproduction was not a national or domiciliary of the United States or a domestic corporation or enterprise.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if—

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the nondramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if the infringer proves—

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

### § 602. Infringing importation of copies or phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to—

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State, but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from outside the United States with respect to copies or phonorecords forming part of such person's personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes, unless the importation of such copies or phonorecords is part of an activity consisting of systematic reproduction or distribution, engaged in by such organization in violation of the provisions of section 108(g)(2).

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the United States Customs Service has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Customs Service of the importation of articles that appear to be copies or phonorecords of the work.

### § 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the United States Postal Service shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602—

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that the person seeking exclusion furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which such person claims an interest is valid and that the importation would violate the prohibition in section 602; the person seeking exclusion may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of law.

## Chapter 7.—COPYRIGHT OFFICE

Sec.
701. The Copyright Office: General responsibilities and organization.
702. Copyright Office regulations.
703. Effective date of actions in Copyright Office.
704. Retention and disposition of articles deposited in Copyright Office.
705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
706. Copies of Copyright Office records.
707. Copyright Office forms and publications.
708. Copyright Office fees.
709. Delay in delivery caused by disruption of postal or other services.
710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures.

### § 701. The Copyright Office: General responsibilities and organization

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under the Librarian's general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1978, to authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

(d) Except as provided by section 706(b) and the regulations issued thereunder, all actions taken by the Register of Copyrights under this title are subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, Chapter 5, Subchapter II and Chapter 7).

### § 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

### § 703. Effective date of actions in Copyright Office

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

### § 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled, under regulations that the Register of Copyrights shall prescribe, to select any deposits for its collections or for transfer to the National Archives of the United States or to a Federal records center, as defined in section 2901 of title 44.

(c) The Register of Copyrights is authorized, for specific or general categories of works, to make a fascimile reproduction of all or any part of the material deposited under section 408, and to make such reproduction a part of the Copyright Office records of the registration, before transferring such material to the Library of Congress as provided by subsection (b), or before destroying or otherwise disposing of such material as provided by subsection (d).

(d) Deposits not selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be knowingly and intentionally destroyed or otherwise disposed of during its term of copyright unless a fascimile reproduction of the entire deposit has been made a part of the Copyright Office records as provided by subsection (c).

(e) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708(a) (11) if the request is granted.

### § 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

### § 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

### § 707. Copyright Office forms and publications

(a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine, on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) OTHER PUBLICATIONS.—The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. The Register also has the authority to publish compilations of information, bibliographies, and other material he or she considers to be of value to the public.

(c) DISTRIBUTION OF PUBLICATIONS.—All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

### § 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, $10;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $6;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $10; for each page over six, and each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $6;

(6) for the recordation, under section 302 (c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, $1 additional;

(7) for the issuance, under section 601, of an import statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $4;

(9) for the issuance of any other certification, $4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $10 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

(c) The Register of Copyrights shall deposit all fees in the Treasury of the United States in such manner as the Secretary of the Treasury directs. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section; however, before making a refund in any case involving a refusal to register a claim under section 410(b), the Register may deduct all or any part of the prescribed registration fee to cover the reasonable administrative costs of processing the claim.

### §709. Delay in delivery caused by disruption of postal or other services.

In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

### §710. Reproductions for use of the blind and physically handicapped; Voluntary licensing forms and procedures

The Register of Copyrights shall, after consultation with the Chief of the Division for the Blind and Physically Handicapped and other appropriate officials of the Library of Congress, establish by regulation standardized forms and procedures by which, at the time applications covering certain specified categories of nondramatic literary works are submitted for registration under section 408 of this title, the copyright owner may voluntarily grant to the Library of Congress a license to reproduce the copyrighted work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies or phonorecords solely for the use of the blind and physically handicapped and under limited conditions to be specified in the standardized forms.

## Chapter 8.—COPYRIGHT ROYALTY TRIBUNAL

Sec.
801. Copyright Royalty Tribunal: Establishment and purpose.
802. Membership of the Tribunal.
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### §801. Copyright Royalty Tribunal: Establishment and purpose

(a) There is hereby created an independent Copyright Royalty Tribunal in the legislative branch.

(b) Subject to the provisions of this chapter, the purposes of the Tribunal shall be—

(1) to make determinations concerning the adjustment of reasonable copyright royalty rates as provided in sections 115 and 116, and to make determinations as to reasonable terms and rates of royalty payments as provided in section 118. The rates applicable under sections 115 and 116 shall be calculated to achieve the following objectives:

(A) To maximize the availability of creative works to the public;

(B) To afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions;

(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication;

(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

(2) to make determinations concerning the adjustment of the copyright royalty rates in section 111 solely in accordance with the following provisions:

(A) The rates established by section 111 (d)(2)(B) may be adjusted to reflect (i) national monetary inflation or deflation or (ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act: *Provided*, That if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(2)(B) shall be permitted: *And provided further*, That no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber. The Commission may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(2)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Tribunal shall consider, among other factors, the economic impact on copyright owners and users: *Provided*, That no adjustment in royalty rates shall be made under this subclause with respect to any distant signal equivalent or fraction thereof represented by (i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or (ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(2)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

(D) The gross receipts limitations established by section 111(a)(2) (C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and

(3) to distribute royalty fees deposited with the Register of Copyrights under sections 111 and 116, and to determine, in cases where controversy exists, the distribution of such fees.

(c) As soon as possible after the date of enactment of this Act, and no later than six months following such date, the President shall publish a notice announcing the initial appointments provided in section 802, and shall designate an order of seniority among the initially appointed commissioners for purposes of section 802(b).

### § 802. Membership of the Tribunal

(a) The Tribunal shall be composed of five commissioners appointed by the President with the advice and consent of the Senate for a term of seven years each; of the first five members appointed, three shall be designated to serve for seven years from the date of the notice specified in section 801(c), and two shall be designated to serve for five years from such date, respectively. Commissioners shall be compensated at the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

(5) Upon convening the commissioners shall elect a chairman from among the commissioners appointed for a full seven-year term. Such chairman shall serve for a term of one year. Thereafter, the most senior commissioner who had not previously served as chairman shall serve as chairman for a period of one year, except that, if all commissioners have served a full term as chairman, the most senior commissioner who has served the least number of terms as chairman shall be designated as chairman.

(c) Any vacancy in the Tribunal shall not affect its powers and shall be filled, for the unexpired term of the appointment, in the same manner as the original appointment was made.

### § 803. Procedures of the Tribunal

(a) The Tribunal shall adopt regulations, not inconsistent with law, governing its procedure and methods of operations. Except as otherwise provided in this chapter, the Tribunal shall be subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, chapter 5, subchapter II and chapter 7).

(b) Every final determination of the Tribunal shall be published in the Federal Register. It shall state in detail the criteria that the Tribunal determined to be applicable to the particular proceeding, the various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination.

### § 804. Institution and conclusion of proceedings

(a) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under section 801(b)(2)(A) and (D)—

(1) on Januray 1, 1980, the Chairman of the Tribunal shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter; and

(2) during the calendar years specified in the following schedule, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. The Tribunal shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Tribunal determines that the petitioner has a significant interest, the Chairman shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with notice of commencement of proceedings under this chapter.

(A) In proceedings under section 801(b)(2)(A) and (D), such petition may be filed during 1985 and in each subsequent fifth calendar year.

(B) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, such petition may be filed in 1987 and in each subsequent tenth calendar year.

(C) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates under section 116, such petition may be filed in 1990 and in each subsequent tenth calendar year.

(b) With respect to proceedings under subclause (B) or (C) of section 801(b)(2), following an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established by the Tribunal, may, within twelve months, file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. In this event the Tribunal shall proceed as in subsection (a)(2), above. Any change in royalty rates made by the Tribunal pursuant to this subsection may be reconsidered in 1980, 1985, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(2)(B) or (C), as the case may be.

(c) With respect to proceedings under section 801(b)(1), concerning the determination of reasonable terms and rates of royalty payments as provided in section 118, the Tribunal shall proceed when and as provided by that section.

(d) With respect to proceedings under section 801(b)(3), concerning the distribution of royalty fees in certain circumstances under sections 111 or 116, the Chairman of the Tribunal shall, upon determination by the Tribunal that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

(e) All proceedings under this chapter shall be initiated without delay following publication of the notice specified in this section, and the Tribunal shall render its final decision in any such proceeding within one year from the date of such publication.

### § 805. Staff of the Tribunal

(a) The Tribunal is authorized to appoint and fix the compensation of such employees as may be necessary to carry out the provisions of this chapter, and to prescribe their functions and duties.

(b) The Tribunal may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5.

### § 806. Administrative support of the Tribunal

(a) The Library of Congress shall provide the Tribunal with necessary administrative services, including those related to budgeting, accounting, financial reporting, travel, personnel, and procurement. The Tribunal shall pay the Library for such services, either in advance or by reimbursement from the funds of the Tribunal, at amounts to be agreed upon between the Librarian and the Tribunal.

(b) The Library of Congress is authorized to disburse funds for the Tribunal, under regulations prescribed jointly by the Librarian of Congress and the Tribunal and approved by the Comptroller General. Such regulations shall establish requirements and procedures under which every voucher certified for payment by the Library of Congress under this chapter shall be supported with a certification by a duly authorized officer or employee of the Tribunal, and shall prescribe the responsibilities and accountability of said officers and employees of the Tribunal with respect to such certifications.

### § 807. Deduction of costs of proceedings

Before any funds are distributed pursuant to a final decision in a proceeding involving distribution of royalty fees, the Tribunal shall assess the reasonable costs of such proceeding.

§ 808. Reports

In addition to its publication of the reports of all final determinations as provided in section 803(b), the Tribunal shall make an annual report to the President and the Congress concerning the Tribunal's work during the preceding fiscal year, including a detailed fiscal statement of account.

§ 809. Effective date of final determinations

Any final determination by the Tribunal under this chapter shall become effective thirty days following its publication in the Federal Register as provided in section 803 (b), unless prior to that time an appeal has been filed pursuant to section 810, to vacate, modify, or correct such determination, and notice of such appeal has been served on all parties who appeared before the Tribunal in the proceeding in question. Where the proceeding involves the distribution of royalty fees under sections 111 or 116, the Tribunal shall, upon the expiration of such thirty-day period, distribute any royalty fees not subject to an appeal filed pursuant to section 810.

§ 810. Judicial review

Any final decision of the Tribunal in a proceeding under section 801(b) may be appealed to the United States Court of Appeals, within thirty days after its publication in the Federal Register, by an aggrieved party. The judicial review of the decision shall be had, in accordance with chapter 7 of title 5, on the basis of the record before the Tribunal. No court shall have jurisdiction to review a final decision of the Tribunal except as provided in this section.

### TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

Sec. 102. This Act becomes effective on January 1, 1978, except as otherwise expressly provided by this Act, including provisions of the first section of this Act. The provisions of sections 118, 304(b), and chapter 8 of title 17, as amended by the first section of this Act, take effect upon enactment of this Act.

Sec. 103. This Act does not provide copyright protection for any work that goes into the public domain before January 1, 1978. The exclusive rights, as provided by section 106 of title 17 as amended by the first section of this Act, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

Sec. 104. All proclamations issued by the President under section 1(e) or 9(b) of title 17 as it existed on December 31, 1977, or under previous copyright statutes of the United States, shall continue in force until terminated, suspended, or revised by the President.

Sec. 105. (a)(1) Section 505 of title 44 is amended to read as follows:

"§ 505. Sale of duplicate plates

"The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed.".

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44 is amended to read as follows:

"505. Sale of duplicate plates.".

(b) Secion 2113 of title 44 is amended to read as follows:

"§ 2113. Limitation on liability

"When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes.".

(c) In section 1498(b) of title 28, the phrase "section 101(b) of title 17" is amended to read "section 504(c) of title 17".

(d) Section 543(a)(4) of the Internal Revenue Code of 1954, as amended, is amended by striking out "(other than by reason of section 2 or 6 thereof)".

(e) Section 3202(a) of title 39 is amended by striking out clause (5). Section 3206 of title 39 is amended by deleting the words "subsections (b) and (c)" and inserting "subsection (b)" in subsection (a), and by deleting subsection (c). Section 3206(d) is renumbered (c).

(f) Subsection (a) of section 209(e) of title 15 is amended by deleting the phrase "section 8" and inserting in lieu thereof the phrase "section 105".

(g) Section 131 of title 2 is amended by deleting the phrase "deposit to secure copyright,' and inserting in lieu thereof the phrase "acquisition of material under the copyright law,".

Sec. 106. In any case where, before January 1, 1978, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1977, such person may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by the first section of this Act. However, such parts made on or after January 1, 1978, constitute phonorecords and are otherwise subject to the provisions of said section 115.

Sec. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1977, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by the first section of this Act.

Sec. 108. The notice provisions of sections 401 through 403 of title 17 as amended by the first section of this Act apply to all copies or phonorecords publicly distributed on or after January 1, 1978. However, in the case of a work published before January 1, 1978, compliance with the notice provisions of title 17 either as it existed on December 31, 1977, or as amended by the first section of this Act, is adequate with respect to copies publicly distributed after December 31, 1977.

Sec. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1978, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1978, shall be made in accordance with title 17 as it existed on December 31, 1977.

Sec. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1977, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by the first section of this Act.

Sec. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

"§ 2318. Transportation, sale, or receipt of phonograph records bearing forged or counterfeit labels

"(a) Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $25,000 or imprisoned for not more than two years, or both, for any subsequent offense.

"(b) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.".

"(c) Except to the extent they are inconsistent with the provisions of this title, all provisions of section 509, title 17, United States Code, are applicable to violations of subsection (a).".

Sec. 112. All causes of action that arose under title 17 before January 1, 1978, shall be governed by title 17 as it existed when the cause of action arose.

Sec. 113. (a) The Librarian of Congress (hereinafter referred to as the "Librarian") shall establish and maintain in the Library of Congress a library to be known as the American Television and Radio Archives (hereinafter referred to as the "Archives"). The purpose of the Archives shall be to preserve a permanent record of the television and radio programs which are the heritage of the people of the United States and to provide access to such programs to historians and scholars without encouraging or causing copyright infringement.

(1) The Librarian, after consultation with interested organizations and individuals, shall determine and place in the Archives such copies and phonorecords of television and radio programs transmitted to the public in the United States and in other countries which are of present or potential public or cultural interest, historical significance, cognitive value, or otherwise worthy of preservation, including copies and phonorecords of published and unpublished transmission programs—

(A) acquired in accordance with sections 407 and 408 of title 17 as amended by the first section of this Act; and

(B) transferred from the existing collections of the Library of Congress; and

(C) given to or exchanged with the Archives by other libraries, archives, organizations, and individuals; and

(D) purchased from the owner thereof.

(2) The Librarian shall maintain and publish appropriate catalogs and indexes of the collections of the Archives, and shall make such collections available for study and research under the conditions prescribed under this section.

(b) Notwithstanding the provisions of section 106 of title 17 as amended by the first section of this Act, the Librarian is authorized with respect to a transmission program which consists of a regularly scheduled newscast or on-the-spot coverage of news events and under standards and conditions that the Librarian shall prescribe by regulation—

(1) to reproduce a fixation of such a program, in the same or another tangible form, for the purposes of preservation or security or for distribution under the conditions of clause (3) of this subsection; and

(2) to compile, without abridgment or any other editing, portions of such fixations according to subject matter, and to reproduce such compilations for the purpose of clause (1) of this subsection; and

(3) to distribute a reproduction made under clause (1) or (2) of this subsection—

(A) by loan to a person engaged in research; and

(B) for deposit in a library or archives which meets the requirements of section 108(a) of title 17 as amended by the first section of this Act,

in either case for use only in research and not for further reproduction or performance.

(c) The Librarian or any employee of the Library who is acting under the authority of this section shall not be liable in any action for copyright infringement committed by any other person unless the Librarian or such employee knowingly participated in the act of infringement committed by such person. Nothing in this section shall be construed to excuse or limit liability under title 17 as amended by the first section of this Act for any act not authorized by that title or this section, or for any act performed by a person not authorized to act under that title or this section.

(d) This section may be cited as the "American Television and Radio Archives Act".

SEC. 114. There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

SEC. 115. If any provision of title 17, as amended by the first section of this Act, is declared unconstitutional, the validity of the remainder of this title is not affected.

And the House agree to the same.

ROBERT W. KASTENMEIER,
GEORGE E. DANIELSON,
ROBERT F. DRINAN,
HERMAN BADILLO,
EDWARD W. PATTISON,
TOM RAILSBACK,
CHARLES E. WIGGINS,
*Managers on the Part of the House.*

JOHN L. MCCLELLAN,
PHILIP A. HART,
QUENTIN BURDICK,
HUGH SCOTT,
HIRAM L. FONG,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 22) for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers, and recommend in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

### COPYRIGHTABLE SUBJECT MATTER: PUBLICATIONS OF THE UNITED STATES GOVERNMENT

#### *Senate bill*

Under section 105 of the Senate bill, both published and unpublished works of the United States Government were excluded from copyright protection.

#### *House bill*

The House bill retained the general prohibition against copyright in U.S. Government works, but made one specific exception in favor of any publication of the National Technical Information Service. The Secretary of Commerce was authorized to secure copyright in such works, on behalf of the United States as author or copyright owner, for a limited term not to exceed five years.

#### *Conference substitute*

The conference substitute conforms to the Senate bill. Because of the lack of Senate hearings on the issue, the conferees recommended that the NTIS request for limited copyright in order to control foreign copying be considered at hearings early in the next session. In the interim, consideration should also be given to compensatory appropriations to NTIS in lieu of revenues lost as a result of unauthorized foreign copying.

The Department of Commerce testified on May 8, 1975, before the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice that the lack of copyright protection in publications of its National Technical Information Service (NTIS) posed special problems, since NTIS is required (15 USC 1151–7) to be self-sustaining to the fullest extent feasible. Widespread copying of NTIS publications is especially prevalent in foreign nations. In Japan it is reported that NTIS reproductions are sold having a value of $3,000,000 annually. A United Kingdom copier sells nearly twice as many copies of NTIS publications as NTIS does directly to the U.K. The USSR buys substantial volume of NTIS publications from European copiers for further copying in the USSR. The lack of copyright protection in NTIS publications also results in widespread foreign use of U.S. tax-funded research and development without any return to the U.S. U.S. organizations also sell NTIS publications to foreign buyers without recouping for the taxpayer, as represented by NTIS, monies adequately reflecting the value of the scientific, engineering, and technical information contained therein.

### FAIR USE

#### *Senate bill*

The Senate bill, in section 107, embodied express statutory recognition of the judicial doctrine that the fair use of a copyrighted work is not an infringement of copyright. It set forth the fair use doctrine, including four criteria for determining its applicability in particular cases, in general terms.

#### *House bill*

The House bill amended section 107 in two respects: in the general statement of the fair use doctrine it added a specific reference to multiple copies for classroom use, and it amplified the statement of the first of the criteria to be used in judging fair use (the purpose and character of the use) by referring to the commercial nature or nonprofit educational purpose of the use.

#### *Conference substitute*

The conference substitute adopts the House amendments. The conferees accept as part of their understanding of fair use the Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with respect to books and periodicals appearing at pp. 68–70 of the House Report (H. Rept. No. 94–1476, as corrected at p. 31676 of the *Congressional Record* for September 21, 1976), and for educational uses of music appearing at pp. 70–71 of the House report, as amended in the statement appearing at p. 31980 of the *Congressional Record* of September 22, 1976. The conferees also endorse the statement concerning the meaning of the word "teacher" in the guidelines for books and periodicals, and the application of fair use in the case of use of television programs within the confines of a nonprofit educational institution for the deaf and hearing impaired, both of which appear on p. 31980 of the *Congressional Record* of September 22, 1976.

### REPRODUCTION BY LIBRARIES AND ARCHIVES

#### *Senate bill*

Section 108 of the Senate bill dealt with a variety of situations involving photocopying and other forms of reproduction by libraries and archives. It specified the conditions under which single copies of copyrighted material can be noncommercially reproduced and distributed, but made clear that the privileges of a library or archives under the section do not apply where the reproduction or distribution is of multiple copies or is "sytematic." Under subsection (f), the section was not to be construed as limiting the reproduction and distribution, by a library or archive meeting the basic criteria of the section, of a limited number of copies and excerpts of an audiovisual news program.

#### *House bill*

The House bill amended section 108 to make clear that, in cases involving interlibrary arrangements for the exchange of photocopies, the activity would not be considered "systematic" as long as the library or archives receiving the reproductions for distribution does not do so in such aggregate quantities as to substitute for a subscription to or purchase of the work. A new subsection (i) directed the Register of Copyrights, by the end of 1982 and at five-year intervals thereafter, to report on the practical success of the section in balancing the various interests, and to make recommendations for any needed changes. With respect to audiovisual news programs, the House bill limited the scope of the distribution privilege confirmed by section 108 (f) (3) to cases where the distribution takes the form of a loan.

#### *Conference substitute*

The conference substitute adopts the provisions of section 108 as amended by the House bill. In doing so, the conferees have noted two letters dated September 22, 1976, sent respectively to John L. McClellan, Chairman of the Senate Judiciary Subcommittee and to Robert W. Kastenmeier, Chairman of the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice. The letters, from the Chairman of the National Commission on New Technological Uses of Copyrighted Works (CONTU), Stanley H. Fuld, transmitted a document consisting of "guidelines interpreting the provision in subsection 108(g) (2) of S. 22, as approved by the House Committee on the Judiciary." Chairman Fuld's letters explain that, following lengthy consultations with the parties concerned, the Commission adopted these guidelines as fair and workable and with the hope that the conferees on S. 22 may find that they merit inclusion in the conference report. The letters add that, although time did not permit securing signatures of the representatives of the principal library organizations or of the organizations representing publishers and authors on these guidelines, the Commission had received oral assurances from these representatives that the guidelines are acceptable to their organizations.

The conference committee understands that the guidelines are not intended as, and cannot be considered, explicit rules or directions governing any and all cases, now or in the future. It is recognized that their purpose is to provide guidance in the most commonly-encountered interlibrary photocopying situations, that they are not intended to be limiting or determinative in themselves or with respect to other situations, and that they deal with an evolving situation that will undoubtedly require their continuous reevaluation and adjustment. With these qualifications, the conference committee agrees that the guidelines are a reasonable interpretation of the proviso of section 108(g)(2) in the most common situations to which they apply today.

The text of the guidelines follows:

### PHOTOCOPYING—INTERLIBRARY ARRANGEMENTS

#### *Introduction*

Subsection 108(g)(2) of the bill deals, among other things, with limits on interlibrary arrangements for photocopying. It prohibits systematic photocopying of copyrighted materials but permits interlibrary arrangements "that do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work."

The National Commission on New Technological Uses of Copyrighted Works offered its good offices to the House and Senate subcommittees in bringing the interested parties together to see if agreement could be reached on what a realistic definition would be of "such aggregate quantities." The Commission consulted with the parties and suggested the interpretation which follows, on which there has been substantial agreement by the principal library, publisher, and author organizations. The Commission considers the guidelines which follow to be a workable and fair interpretation of the intent of the proviso portion of subsection 108(g)(2).

These guidelines are intended to provide guidance in the application of section 108 to the most frequently encountered interlibrary case: a library's obtaining from another library, in lieu of interlibrary loan, copies of articles from relatively recent issues of periodicals—those published within five years prior to the date of the request. The guidelines do not specify what aggregate quantity of copies of an article or articles published in a periodical, the issue date of which is more than five years prior to the date when the request for the copy thereof is made, constitutes a substitute for a subscription to such periodical. The meaning of the proviso to subsection 108(g)(2) in such case is left to future interpretation.

The point has been made that the present practice on interlibrary loans and use of photocopies in lieu of loans may be implemented or even largely replaced by a system in which one or more agencies or institutions, public or private, exist for the specific purpose of providing a central source for photocopies. Of course, these guidelines would not apply to such a situation.

#### *Guidelines for the proviso of subsection 108(g)(2)*

1. As used in the proviso of subsection 108(g)(2), the words ". . . such aggregate quantities as to substitute for a subscription to or purchase of such work" shall mean:

(a) with respect to any given periodical (as opposed to any given issue of a periodical), filled requests of a library or archieves (a "requesting entity") within any calendar year for a total of six or more copies of an article or articles published in such periodical within five years prior to the date of the request. These guidelines specifically shall not apply, directly or indirectly, to any request of a requesting entity for a copy or copies of an article or articles published in any issue of a periodical, the publication date of which is more than five years prior to the date when the request is made. These guidelines do not define the meaning, with respect to such a request, of ". . . such aggregate quantities as to substitute for a subscription to [such periodical]".

(b) With respect to any other material described in subsection 108(d), (including fiction and poetry), filled requests of a requesting entity within any calendar year for a total of six or more copies or phonorecords of or from any given work (including a collective work) during the entire period when such material shall be protected by copyright.

2. In the event that a requesting entity—

(a) shall have in force or shall have entered an order for a subscription to a periodical, or

(b) has within its collection, or shall have entered an order for, a copy or phonorecord of any other copyrighted work,

material from either category of which it desires to obtain by copy from another library or archives (the "supplying entity"), because the material to be copied is not reasonably available for use by the requesting entity itself, then the fulfillment of such request shall be treated as though the requesting entity made such copy from its own collection. A library or archives may request a copy or phonorecord from a supplying entity only under those circumstances where the requesting entity would have been able, under the other provisions of section 108, to supply such copy from materials in its own collection.

3. No request for a copy or phonorecord of any material to which these guidelines apply may be fulfilled by the supplying entity unless such request is accompanied by a representation by the requesting entity that the request was made in conformity with these guidelines.

4. The requesting entity shall maintain records of all requests made by it for copies or phonorecords of any materials to which these guidelines apply and shall maintain records of the fulfillment of such requests, which records shall be retained until the end of the third complete calendar year after the end of the calendar year in which the respective request shall have been made.

5. As part of the review provided for in subsection 108(i), these guidelines shall be reviewed not later than five years from the effective date of this bill.

The conference committe is aware that an issue has arisen as to the meaning of the phrase "audiovisual news program" in section 108(f)(3). The conferees believe that, under the provision as adopted in the conference substitute, a library or archives qualifying under section 108(a) would be free, without regard to the archival activities of the Library of Congress or any other organization, to reproduce, on videotape or any other medium of fixation or reproduction, local, regional, or network newscasts, interviews concerning current news events, and on-the-spot coverage of news events, and to distribute a limited number of reproductions of such a program on a loan basis.

Another point of interpretation involves the meaning of "indirect commercial advantage," as used in section 108(a)(1), in the case of libraries or archival collections within industrial, profit-making, or proprietary institutions. As long as the library or archives meets the criteria in section 108(a) and the other requirements of the section, including the prohibitions against multiple and systematic copying in subsection (g), the conferees consider that the isolated, spontaneous making of single photocopies by a library or archives in a for-profit organization without any commercial motivation, or participation by such a library or archives in interlibrary arrangements, would come within the scope of section 108.

### LIMITATIONS ON RIGHTS OF PERFORMANCE AND DISPLAY

#### *Senate bill*

Section 110 of the Senate bill set forth eight specific exceptions to the exclusive rights to perform and display copyrighted works. The first four exceptions were roughly the equivalent of the "for profit" limitations on performing rights under the present law. Section 110(5) provided an exemption for public communication of a transmission received on an ordinary receiving set unless a direct charge is made or the transmission "is further transmitted to the public." Section 110(6) exempted performances of nondramatic music at nonprofit annual agricultural or horticultural fairs, and section 110(7) dealt with performances in connection with the retail sale of copies of records of musical works. Clause (8) of section 110 provided an exemption for performances of literary works "in the course of a broadcast service specifically designed for broadcast on noncommercial educational radio and television stations to a print or aural handicapped audience," but did not contain, in section 112 or elsewhere, a provision allowing the making of copies or phonorecords for the purpose of such broadcasts to the blind or deaf.

#### *House bill*

The House bill amended the last four clauses of section 110. With respect to clause (5), it made the exemption inapplicable to cases where there is a further transmission "beyond the place where the receiving apparatus is located." Clause (6) was amended to make the exemption applicable only to the governmental body or nonprofit organization sponsoring the fair, and the amendment of clause (7) was merely for purposes of clarification. The House bill amended clause (8) by limiting its application to nondramatic literary works, by clarifying the audiences to which the transmissions are directed, and by more narrowly defining the types of nonprofit transmissions within the exemptions. The House bill also added a new subsection (d) to section 112 to permit the making of ten recordings of performances exempted under section 110 (8), their retention for an unlimited period, and their exchange with other nonprofit organizations.

#### *Conference substitute*

The conference substitute adopts the House amendments of clauses (6), (7), and (8) of section 110, and of section 112. It adds a new clause (9) to section 110 exempting nonprofit performances of dramatic works transmitted to audiences of the blind by radio subcarrier authorization, but only for a single performance of a dramatic work published at least ten years earlier.

With respect to section 110(5), the conference substitute conforms to the language in the Senate bill. It is the intent of the conferees that a small commercial establishment of the type involved in *Twentieth Century Music Corp.* v. *Aiken,* 422 U.S. 151 (1975), which merely augmented a home-type receiver and which was not of sufficient size to justify, as a practical matter, a subscription to a commercial background music service, would be exempt. However, where the public communication was by means of something other than a home-type receiving apparatus, or where the establishment actually makes a further transmission to the public, the exemption would not apply.

### SECONDARY TRANSMISSIONS, INCLUDING CABLE TELEVISION

#### *Senate bill*

Section 111 of the Senate bill dealt, among other secondary transmissions, with retransmissions of broadcast by cable systems to subscribers. In general effect, it created a compulsory license for any cable retransmission authorized by the Federal Communications Commission; where the cable system repeatedly or willfully carried signals not permitted by the FCC, or where it failed to follow the compulsory licensing procedure set forth in section 111, the cable system was to be fully liable. Full liability would have been imposed on the carriage of any foreign, including Mexican or Canadian, signals. The

Senate bill required cable systems to file quarterly statements of account, accompanied by payment of a royalty fee based on a sliding scale of percentages of gross receipts from subscribers (running from ½ of one percent of quarterly receipts up to $40,000 to 2½ percent of quarterly receipts up to $160,000). A special reduced fee was provided for systems with quarterly gross receipts of less than $40,000. For purposes of computing royalty fees, no distinctions were made between retransmissions of local and distant signals or between network and other signals.

Taping for nonsimultaneous transmission of broadcasts was permitted under a compulsory license for cable systems operating in certain areas outside the continental boundaries of the United States. The Senate bill contained no provisions dealing with alteration of program content or substitution of commercials by a cable operator. Section 501(c) gave a local broadcaster holding an exclusive license standing to sue for copyright infringment for cable retransmissions within its local service area. Under chapter 8 of the Senate bill, the Copyright Royalty Tribunal was mandated to review the royalty schedule, established in section 111, and its basis, in 1980 and at ten-year intervals thereafter.

#### *House bill*

In addition to certain amendments aimed at clarification and procedural simplification, the House bill retained the basic compulsory licensing scheme envisioned in section 111 but changed it in a number of important respects. The compulsory license was extended to some, but not all, cable systems carrying Mexican or Canadian signals. Payments of royalty fees, which were to be semiannual, were determined by a formula based on a computation of the number of "distant signal equivalents" carried by the system. No payments were to be made for local signals, and different values were assigned to signals from distant independent, network, and educational stations, with special provisions dealing with substitution or addition of signals under the mandatory and discretionary program deletion and substitution rules of the FCC. The special reduced royalty fee based on a percentage of gross receipts for systems with semiannual gross receipts of less than $80,000 was retained, but a similar reduction was added for systems with semiannual gross receipts of between $80,000 and $160,000.

Section 111(e) of the House bill established the conditions and limitations under which certain cable systems outside the continental United States can tape programs for nonsimultaneous retransmission under the compulsory license. The House bill also contained, in sections 111(c)(3), 501(d), and 509, provisions denying (with one exception) the compulsory license in any case where a cable system alters program content or commercials, extending standing to sue to additional classes of broadcasters, and providing the possibility of a special penalty in such cases. Under the substantially revised provisions of chapter 8 of the House bill, the Copyright Royalty Commission would review the rates established in the bill in 1980 and at five-year intervals thereafter; explicit limitations were placed on the factors the Commission could consider in making its periodic rate revisions, but rate adjustments could be made at any time if the FCC amends its rules and regulations governing the carriage of distant signals or its rules and regulations dealing with syndicated and sports program exclusivity.

#### *Conference substitute*

With one exception the conference substitute adopts the provisions of the House bill. Section 111(d)(3) is amended to require that the royalty fees held in a fund by the Secretary of the Treasury be invested in interest-bearing U.S. securities for later distribution with interest by the Tribunal. A corresponding amendment is made in subsection (c)(1) of section 116, the jukebox provision.

### EXCLUSIVE RIGHTS IN SOUND RECORDINGS

#### *Senate bill*

The Senate bill, in section 114, limited the exclusive rights of the owner of copyright in a sound recording to those specified by clauses (1), (2), and (3) of section 106—that is, the rights to reproduce the work in phonorecords, to make derivative works, and to distribute phonorecords. It expressly denied the exclusive right of public performance under section 106(4) to sound recordings.

#### *House bill*

The House amendments to section 114 clarified the scope of the exclusive right to make derivative works in relation to sound recordings, and permitted the use of copyrighted sound recordings in the audio portions of educational radio and television programs under certain conditions. The House bill also required the Register of Copyrights to submit to Congress, on January 3, 1978, a report with recommendations as to whether copyright protection for sound recordings should be expanded to include performing rights.

#### *Conference substitute*

The conference substitute adopts the House amendments of section 114.

### COMPULSORY LICENSE FOR PHONORECORDS

#### *Senate bill*

The Senate bill provided in section 115 for a compulsory licensing system governing the making and distributing of phonorecords of copyrighted musical compositions. In general, subject to certain conditions and limitations, as soon as authorized phonorecords of a work have been publicly distributed, anyone could make phonorecords and distribute them to the public by following a compulsory licensing procedure and paying to the copyright owner a specified royalty. Under the Senate bill, the royalty would be payable on each record "manufactured and distributed," and would amount to two and one-half cents per composition, or one-half cent per minute of playing time, whichever is larger.

#### *House bill*

In addition to certain technical clarifications and procedural amendments, the House bill set the royalty at two and three-fourths cents per composition or six-tenths of a cent per minute; the royalty was made payable on each phonorecord "made and distributed," and a phonorecord would be considered "distributed" if the compulsory licensee has "voluntarily and permanently parted with its possession."

#### *Conference substitute*

The conference substitute adopts the House amendments except for the royalty rate to be applied in cases where the playing time of a composition governs; the rate in such cases is set at one-half cent per minute, the rate in the Senate bill.

### NONCOMMERCIAL BROADCASTING

#### *Senate bill*

Section 118 of the Senate bill granted to public broadcasting a compulsory license for the performance or display of nondramatic musical works, pictorial, graphic, and sculptural works, and nondramatic literary works, subject to the payment of reasonable royalty fees to be set by the Copyright Royalty Tribunal. The Senate bill required that public broadcasters, at periodic intervals, file a notice with the Copyright Office containing information required by the Register of Copyrights, and deposit a statement of account and the total royalty fees for the period covered by the statement. The Register was to receive claims to payment of royalty fees, and to distribute any amounts not in dispute; controversies were to be settled by the Tribunal, which was also charged with reviewing and, if appropriate, adjusting the royalty rates in 1980 and at ten year intervals thereafter. Sec. 113 of the Transitional and Supplementary provisions would start the machinery for establishment of the initial rates immediately upon enactment of the new law. Section 118(f) also contained a provision permitting nonprofit educational institutions to record educational television and radio programs off the air, for limited use in instructional activities during a week following the broadcast.

#### *House bill*

The House bill substantially changed the provisions of section 118, retaining a different form of compulsory licensing for the use in public broadcasting and nondramatic musical works and for pictorial, graphic, and sculptural works, but not subjecting the exclusive rights in nondramatic literary works to compulsory licensing. Under the House bill, within thirty days after appointment of the Royalty Commission, the chairman was to initiate proceedings to determine "reasonable terms and rates" under the section for a period running through 1982. Copyright owners and public broadcasting entities that did not reach voluntary agreement were to be by the terms and rates established by the Commission.

In establishing those rates and terms, the Commission was to consider, among other relevant information, proposals put forward to it within specified time limits. The House bill deleted Sec. 113 of the Transitional and Supplementary Provisions of the Act, but provided in section 118(b)(4) that, during the period between the effective date of the Act and publication of the initial rates and terms, the status quo as to liability under the present law would be preserved. Payment of royalties under section 118 were to be handled among the parties without government intervention. The royalty review cycle would begin in 1982 and continue at five-year intervals thereafter. Section 118(d)(3) retained the provision permitting off-the-air taping of public broadcasts by educational institutions, but with amendments clarifying and tightening the provision.

Although nondramatic literary works were not included in the compulsory licensing scheme of section 118, subsection (e) provided an exemption from the antitrust laws with respect to voluntary negotiations aimed at licensing agreements for the public broadcasting of such works. The subsection also required the Register of Copyrights, on January 3, 1980, to report upon the extent to which such voluntary agreements had been achieved, the problems that had arisen, and any recommendations for legislation that might be appropriate.

#### *Conference substitute*

The conference substitute adopts the House amendments.

### SCOPE OF FEDERAL PREEMPTION

#### *Senate bill*

In establishing a single Federal system of copyright, section 301 of the Senate bill preempts all equivalent rights under State law in copyrightable works that have been fixed in tangible form. In stating the obverse of this proposition, section 301(b)(3) preserved rights under State law with respect to activities violating rights that are not equivalent to any of the exclusive rights within the general scope of copyright, "including rights against misappropriation not equivalent to any of such exclusive rights, breaches of contract, breaches of trust, . . . [etc.]." The Senate bill specifically excepted from the preemption "sound recordings fixed prior to February 15, 1972."

*House bill*

The House bill deleted the clause of section 301(b)(3) enumerating illustrative examples of causes of action, such as certain types of misappropriation, not preempted under section 301. It revised the provision dealing with sound recordings fixed before February 15, 1972 to make the Federal preemption of rights in such works effective on February 15, 2047.

*Conference substitute*

The conference substitute adopts the House amendment of section 301.

DEPOSIT OF RADIO AND TELEVISION PROGRAMS

*Senate bill*

The Senate bill contained no provisions for the deposit of unpublished transmission programs, or for the preservation of published and unpublished programs in a Federal archive.

*House bill*

The House bill amended section 407 to provide a basis for the Library of Congress to acquire, as a part of the copyright deposit system, copies or recordings of nonsyndicated radio and television programs. Under section 407(e) the Library would be authorized to tape programs off the air in all cases, and could under certain conditions obtain a copy or phonorecord from the copyright owner by gift, by loan for purposes of reproduction or by purchase at cost. A correlative provision in Sec. 113 of the bill's Transitional and Supplementary Provisions established an American Television and Radio Archive in the Library of Congress to provide a repository for the preservation of radio and television programs.

*Conference substitute*

The conference substitute adopts the House amendments.

REMEDIES FOR COPYRIGHT INFRINGEMENT

*Senate bill*

Chapter 5 of the Senate bill dealt with civil and criminal infringement of copyright and the remedies for both. Subsection (c) of section 504 allowed statutory damages within a stated dollar range, and clause (2) of that subsection provided for situations in which the maximum could be exceeded and the minimum lowered; the court was given discretion to reduce or remit statutory damages entirely where a teacher, librarian, or achivist believed that the infringing activity constituted fair use. Section 506 provided penalties for criminal infringement of a fine of up to $2,500 and imprisonment of up to one year for a first offense, with higher penalties for recidivism, special penalties for record and film piracy, and provision for forfeiture and destruction upon conviction. Section 509 of the Senate bill contained expanded provisions dealing with seizure and forfeiture in cases of criminal copyright infringement. Sec. 111 of the Transitional and Supplementary Provisions amended the provisions of the Criminal Code dealing with counterfeit phonograph record labels (18 U.S.C. § 2318) to provide higher criminal penalties and to make the seizure prisonment being decreased. Section 509 of the new copyright law applicable in such cases.

*House bill*

Section 504(c)(2) of the House bill required the court to remit statutory damages entirely in cases where a teacher, librarian, archivist, or public broadcaster, or the institution to which they belong, infringed in the honest belief that what they were doing constituted fair use. The general and special penalties provided by section 506(a) were changed, with the maximum terms of imprisonment being decreased. Section 509 of the Senate bill was deleted, and section 506 (b) was expanded to incorporate some, but not all, of the provisions on seizure and forfeiture previously in section 509. Conforming changes were made in the amendments to the Criminal Code provided by Sec. 111.

*Conference substitute*

The conference substitute adopts the House amendments with respect to statutory damages in section 504(c)(2) and the fines and terms of imprisonment provided by section 506(a) and Sec. 111. With respect to the provisions on seizure and forfeiture, the conference substitute adopts the Senate bill with certain modifications.

MANUFACTURING REQUIREMENTS

*Senate bill*

The Senate bill retained the manufacturing clause of the present law, but substantially narrowed its scope and ameliorated its effect. Nondramatic literary material by American authors would, as a general rule, be required to be manufactured in the United States or Canada to be entitled to full and unqualified copyright protection in the United States, but the requirement would be subject to a number of exceptions and limitations, and the sanctions for enforcement involved import restrictions and loss of remedies rather than loss of copyright.

*House bill*

The House bill adopted section 601 of the Senate bill, with an amendment further ameliorating its effect on individual American authors whose works are first published abroad. However, the requirement would be retained only through the end of 1980, and would cease to apply on January 1, 1981.

*Conference substitute*

The conference substitute adopts the House amendment of section 601, but moves the effective date of the phase-out of the manufacturing clause back to July 1, 1982.

Canada is specifically exempted from the provisions of Section 601, the so-called "manufacturing clause" of the Bill, at least until 1982. This exemption is included as a result of an agreement reached in Toronto in 1968 among representatives of American and Canadian publishers, printing trade unions, and book manufacturers. Upon addition of the Canadian exemption in American legislation, that agreement contemplates Canadian adoption of the Florence Agreement and promot joint action to remove high Canadian tariffs on printed matter and the removal of other Canadian restraints on printing and publishing trade between the two countries, as well as reciprocal prompt action by U.S. groups to remove any remaining U.S. barriers to Canadian printed matter. The Canadian exemption is included in Section 601 with the expectation that these changes will be made. If for any reason Canadian trade groups and the Canadian Government do not move promptly in reciprocation with U.S. trade groups and the United States Government to remove such tariff and other trade barriers, we would expect Congress to remove the Canadian exemption.

COPYRIGHT OFFICE

*Senate bill*

Chapter 7 of the Senate bill dealt with the administrative responsibilities of the Copyright Office. It contained no provision dealing with the applicability of the Administrative Procedure Act to the Copyright Office.

*House bill*

The House bill made the Administrative Procedure Act applicable to the Copyright Office with one exception, and adopted several technical amendments dealing with administrative matters in chapter 7.

*Conference substitute*

The conference substitute adopts the House amendments.

COPYRIGHT ROYALTY TRIBUNAL

*Senate bill*

Chapter 8 of the Senate bill established a Copyright Royalty Tribunal in the Library of Congress, for the purpose of periodically reviewing and adjusting statutory royalty rates with respect to the four compulsory licenses provided by the bill, and of resolving disputes over the distribution of royalties from cable transmissions and jukebox performances. Upon certifying the existence of a controversy concerning distribution of statutory royalty fees, or upon periodic petition for review of statutory royalty rates by an interested party, the Register of Copyright was to convene a three-member panel to constitute a Copyright Royalty Tribunal to resolve the controversy or review the rates. Determinations by the Tribunal were to be submitted to the two Houses of Congress, and were to be final unless voted upon and rejected by one of the two Houses within a specified period. Rate adjustments were not subject to judicial review, and the grounds for judicial review of royalty distributions were limited to misconduct or corruption of a Tribunal member.

*House bill*

The House bill amended chapter 8 to provide for a permanent three-member Copyright Royalty Commission, which was to be an independent body but would receive administrative support from the Library of Congress. The commissioners were to be appointed by the President for staggered five-year terms, and the Commission's proceedings were made generally subject to the Administrative Procedure Act. Any final determinations of the Commission would be reviewable by the U.S. Court of Appeals on the basis of the record before the Commission. Under sections 111, 116, and chapter 8 of the House bill, the Register of Copyrights was to perform the recording functions and do the paperwork and initial accounting connected with the compulsory licensing procedures established for cable transmissions and jukebox performances. However, after the Register had deducted the costs involved in these procedures and deposited the royalties in the U.S. Treasury, the Commission would assume all duties involved in distributing the royalties, regardless of whether or not there were a dispute.

*Conference substitute*

The conference substitute conforms in general to the House bill, but with several changes. The body established by chapter 8 is to be named the Copyright Royalty Tribunal, and is to consist of five commissioners appointed for staggered seven-year terms by the President with the advice and consent of the Senate. The Tribunal is to be an independent agency in the legislative branch; a new section defines the responsibilities of the Library of Congress to provide administrative support to the Tribunal, and establishes specific regulatory authority governing the procedures and responsibilities for disbursement of funds. The House receded on its language appearing in the last sentence of section 801 (b)(1), and the conference agreed to a substitute for that language.

ORNAMENTAL DESIGNS OF USEFUL ARTICLES AND WORKS OF APPLIED ART

*Senate bill*

Title II of the Senate bill proposed to establish a new form of protection for "original ornamental designs of useful articles." The title, which consisted of 35 sections, offered a limited short-term form of protection for designs. This protection was based on copyright principles but was provided separately from the copyright law itself.

*House amendment*

The House amendment deleted title II of the bill entirely, together with two subsections of section 113 dealing with the interrelationship between titles I and II. It revised the definition of "pictorial, graphic, and sculptural works" in section 101 to clarify the distinction between works of applied art subject to protection under the bill and industrial designs not subject to copyright protection.

*Conference substitute*

The conference substitute adopts the House amendments.

ROBERT W. KASTENMEIER,
GEORGE E. DANIELSON,
ROBERT F. DRINAN,
HERMAN BADILLO,
EDWARD W. PATTISON,
TOM RAILSBACK,
CHARLES E. WIGGINS,
*Managers on the Part of the House.*
JOHN L. MCCLELLAN,
PHILIP A. HART,
QUENTIN BURDICK,
HUGH SCOTT,
HIRAM L. FONG,
*Managers on the Part of the Senate.*

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## CONSENTING TO EXTENSION AND RENEWAL OF INTERSTATE COMPACT TO CONSERVE OIL AND GAS

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of the Senate joint resolution (S.J. Res. 126) consenting to an extension and renewal of the interstate compact to conserve oil and gas, and ask that the joint resolution be considered in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Mr. Speaker, reserving the right to object, and I shall not object, I would like to ask the gentleman from Michigan (Mr. DINGELL) whether there are any Federal funds involved in this legislation.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, the answer to that question is "no."

Mr. BROWN of Ohio. Mr. Speaker, if I may ask the gentleman another question, this Senate joint resolution merely extends existing law without significant modification; is that not correct?

Mr. DINGELL. The answer to that question is that the authority for the Interstate Oil Compact is extended for 1 additional year without any change whatsoever.

Mr. BROWN of Ohio. And there is no question of germaneness in the legislation if it were brought to the floor for consideration; is that correct?

Mr. DINGELL. I know of none.

Mr. BROWN of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

### S.J. RES. 126

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the consent of Congress is hereby given to an extension and renewal from September 1, 1974, to December 31, 1978, of the interstate compact to conserve oil and gas, as amended, which was signed in its initial form in the city of Dallas, Texas, the 16th day of February 1935, by the representatives of Oklahoma, Texas, California, and New Mexico, and at the same time and place was signed by the representatives, as a recomendation for approval to the Governors and legislatures of the States of Arkansas, Colorado, Illinois, Kansas, and Michigan, and which, prior to August 27, 1935, was presented to and approved by the legislatures and Governors of the States of New Mexico, Kansas, Oklahoma, Illinois, Colorado, and Texas, and which so approved by the six States last above named was deposited in the Department of State of the United States, and thereafter was consented to by the Congress in Public Resolution Numbered 64, Seventy-fourth Congress, approved August 27, 1935, for a period of two years, and thereafter was extended by the representatives of the compacting States and consented to by the Congress for successive periods, without interruption, the last extension being for the period from September 1, 1971, to September 1, 1974, constented to by Congress by Public Law Numbered 92-322, Ninety-second Congress, approved June 30, 1972. The agreement to amend, extend, and renew said compact effective September 1, 1971, duly executed by representatives of the States of Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming has been deposited in the Department of State of the United States, and reads as follows:

"AN AGREEMENT TO AMEND, EXTEND AND RENEW THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"WHEREAS, on the 16th day of February, 1935, in the City of Dallas, Texas, there was executed 'An Interstate Compact to Conserve Oil and Gas' which was thereafter formally ratified and approved by the States of Oklahoma, Texas, New Mexico, Illinois, Colorado and Kansas, the original of which is now on deposit with the Department of State of the United States;

"WHEREAS, effective as of September 1, 1971, the several compacting states deem it advisable to amend said compact so as to provide that upon the giving of Congressional consent thereto in its amended form, said Compact will remain in effect until Congress withdraws such consent;

"WHEREAS, the original of said Compact as so amended will, upon execution thereof, be deposited promptly with the Department of State of the United States, a true copy of which follows:

" 'AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

" 'ARTICLE I

" 'This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three of the States of Texas, Oklahoma, California, Kansas and New Mexico have ratified and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

" 'ARTICLE II

" 'The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

" 'ARTICLE III

" 'Each state bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

" '(a) The operation of any oil well with an inefficient gas-oil ratio.

" '(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.

" '(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

" '(d) The creation of unnecessary fire hazards.

" '(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultmiate recovery thereof.

" '(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

" 'The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

" 'ARTICLE IV

" 'Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

" 'ARTICLE V

" 'It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

" 'ARTICLE VI

" 'Each state joining herein shall appoint one representative to a commission hereby constituted and designated as THE INTERSTATE OIL COMPACT COMMISSION, the duty of which said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

" 'The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

" 'No action shall be taken by the Commission except: (1) By the affirmative votes of the majority of the whole number of the compacting states represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting states at said meeting, such interest to be determined as follows: Such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

" 'ARTICLE VII

" 'No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

" 'ARTICLE VIII

" 'This compact shall continue in effect until Congress withdraws its consent. But any state joining herein may, upon sixty (60) days' notice, withdraw herefrom.

"'The representatives of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the governor of each of the signatory states.

"'This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

"'Done in the City of Dallas, Texas, this sixteenth day of February, 1935.'

"WHEREAS, the said 'Interstate Compact to Conserve Oil and Gas' in its initial form has heretofore been duly renewed and extended with the consent of the Congress to September 1, 1971; and

"WHEREAS, it is desired to amend said 'Interstate Compact to Conserve Oil and Gas' effective September 1, 1971, and to renew and extend said compact as so amended:

"NOW, THEREFORE, THIS WRITING WITNESSETH:

"It is hereby agreed that effective September 1, 1971, the Compact entitled 'An Interstate Compact to Conserve Oil and Gas' executed within the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, be and the same is hereby amended by amending the first paragraph of Article VIII thereof to read as follows:

"'This compact shall continue in effect until Congress withdraws its consent. But any state joining herein may, upon sixty (60) days' notice, withdraw herefrom.'

and that said compact as so amended be, and the same is hereby renewed and extended. This agreement shall become effective when executed, ratified, and approved as provided in Article I of said compact as so amended.

"The signatory States have executed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States and a duly certified copy thereof shall be forwarded to the Governor of each of the signatory States. Any oil-producing State may become a party hereto by executing a counterpart of this agreement to be similarly deposited, certified, and ratified.

"Executed by the several undersigned States at their several State capitols, through their proper officials on the dates as shown, as duly authorized by statutes and resolutions, subject to the limitations and qualifications of the acts of the respective State Legislatures.

"THE STATE OF ALABAMA
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF ALASKA
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF ARIZONA
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF ARKANSAS
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF COLORADO
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF FLORIDA
By ---------------------------, Governor
Dated: ----------------------------------
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Secretary of State (SEAL)

"THE STATE OF ILLINOIS
By ---------------------------, Governor
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Secretary of State (SEAL)

"THE STATE OF INDIANA
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Secretary of State (SEAL)

"THE STATE OF KANSAS
By ---------------------------, Governor
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Secretary of State (SEAL)

"THE STATE OF KENTUCKY
By ---------------------------, Governor
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Secretary of State (SEAL)

"THE STATE OF LOUISIANA
By ---------------------------, Governor
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Secretary of State (SEAL)

"THE STATE OF MARYLAND
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Secretary of State (SEAL)

"THE STATE OF MICHIGAN
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"THE STATE OF MISSISSIPPI
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"THE STATE OF MONTANA
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"THE STATE OF NEBRASKA
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"THE STATE OF NEVADA
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"THE STATE OF NEW MEXICO
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Secretary of State (SEAL)

"THE STATE OF NEW YORK
By ---------------------------, Governor
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Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF NORTH DAKOTA
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF OHIO
By ---------------------------, Governor
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Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF OKLAHOMA
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE COMMONWEALTH OF PENNSYLVANIA
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF SOUTH DAKOTA
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF TENNESSEE
By ---------------------------, Governor
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Secretary of State (SEAL)

"THE STATE OF TEXAS
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF UTAH
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF WEST VIRGINIA
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

"THE STATE OF WYOMING
By ---------------------------, Governor
Dated: ----------------------------------
Attest: ---------------------------------
Secretary of State (SEAL)

SEC. 2. (a) The Attorney General of the United States shall make a biennial report to Congress, for the duration of the Interstate Compact to Conserve Oil and Gas as to whether or not the activities of the Interstate Oil Compact Commission and of the States under the provisions of such compact have been consistent with the purposes as set out in Article V of such compact.

(b) The Attorney General shall also review the activities of any advisory committees to the Commission and the States, and not later than June 30, 1978, report to Congress as to whether the activities of any such advisory committees could tend to create or maintain situations inconsistent with the antitrust laws of the United States.

SEC. 3. The right to alter, amend, or repeal the provisions of the first section of this joint resolution is hereby expressly reserved.

Mr. DINGELL. Mr. Speaker, this joint resolution would extend until December 31, 1978, the consent of the Congress to the interstate compact to conserve oil and gas.

The interstate compact in question was originated by six member States and consented to by the Congress in 1935. Its membership has now grown to include 30 oil- and gas-producing States and 6 associate member States.

Congress has exercised its authority under article I, section 10, clause 3 of the Constitution repeatedly over the course of the last 40 years to give its consent to the continuance of this compact. The most recent congressional consent expired on September 1, 1974. Thus, the compact has been without congressional consent for over 18 months. This joint resolution would repair that hiatus and permit the continuance of the compact to the end of 1978.

I know of no opposition to this proposal and, accordingly, recommend to my colleagues acceptance of the Senate joint resolution. Nevertheless, I wish to to make two qualifying statements so that the legislative history is made abundantly clear in this matter.

First, by consenting to a continuance of the interstate compact to conserve oil and gas I do not intend—nor do I believe this body should imply—approval of the various activities of the Interstate Oil Compact Commission which I believe have gone far beyond the compact's charter and stated purpose. Repeatedly, members of the committee have voiced concern with the activities of the Interstate Oil Compact Commission, particularly as those relate to Federal Government policies in the field of oil and gas. I share the opinion expressed in the report of the committee in the 92d Congress that many of these activities "appear to fall outside, or at best, have a very tenuous connection with, the limited purposes of the compact to which the Congress has consented." Let me emphasize that my concern is not with the general range of the Interstate Oil Compact Commission work or with the activities by its committees conducted in the name of the Commission. It is instead directed at the practice of adopting resolutions intended to influence current or emerging Federal policies.

While I do not question the right of any State or group of States to petition the Congress or the executive, I do not believe that the Interstate Oil Compact Commission to which the Congress must consent under article I of the Constitution should be used as an instrument for expressing policy positions of a highly political and controversial nature. It is my intention to examine further into this question in the next Congress to determine whether the activities of the Commission in the future fall within the narrow ambit of the purposes for which it was created.

Second, I would like to call my colleagues' attention to the provisions of the joint resolution relating to the activities of the advisory committees which are used by the Commission. Oil and gas industry personnel frequently—and quite properly—are invited to serve on these committees to advise the Commission and its member States. There is, however, some concern that these advisory committees may be used to provide a means whereby industry agreements may be forged, and collective positions developed, in violation of antitrust principles. To guard against this, the joint resolution calls upon the Attorney General to carefully review the activities of these advisory committees to determine if industry participation is consistent with the antitrust laws. This matter like the first will receive the close attention of the committee in the next Congress.

While the aforementioned concerns are important, I do not believe they elevate to a basis for denying congressional consent to a continuance of the interstate compact to conserve oil and gas. Indeed, I believe that these matters can best and most effectively be pursued in the context of congressional oversight of the ongoing functions of the Interstate Oil Compact Commission. Accordingly, with the qualifications that I have identified, I recommend to my colleagues in the House that they cast an affirmative vote for passage of Senate Joint Resolution 126.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

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## GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may be permited to have 5 legislative days in which to extend their remarks and to include therein extraneous material on the conference report on the bill H.R 12566, National Science Foundation authorization which was agreed to today.

The SPEAKER pro tempore. (Mr Danielson). Is there objection to the request of the gentleman from Illinois?

There was no objection.

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## A TRIBUTE TO THE HONORABLE ROY A. TAYLOR OF NORTH CAROLINA'S 11TH DISTRICT AND A TRIBUTE TO THE HONORABLE DAVID N. HENDERSON OF NORTH CAROLINA'S 3D DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Fountain) is recognized for 60 minutes.

Mr. FOUNTAIN. Mr. Speaker, it is a great pleasure always for me to declare my admiration and respect for a good friend of long standing and the second-ranking member of the North Carolina delegation, the Honorable Roy A. Taylor of North Carolina's 11th District. Roy and I served together in the North Carolina Legislature many years ago. Regrettably, this is Roy's last session as a Member of the House. We will miss him very much.

Roy is loved and respected by every Member of the Congress who knows him. His shoes will be hard to fill.

Roy Taylor has served alongside me in this Chamber since 1960, and in the intervening period has won the acclaim of all Americans with concern for the vital cause of conservation—most recently in connection with his work to save the New River which may be the oldest river in the world. He is departing Congress in the capacity of chairman of the Interior and Insular Affairs Subcommittee on National Parks and Recreation, and as ranking Democratic member of the parent committee itself.

Among his many accomplishments chairman Roy Taylor has directed the most comprehensive oversight hearings held since his subcommittee came into existence more than a decade ago. Breaking with tradition, he has invited the testimony, not only of Federal officials representing outdoor recreational agencies, but also the attention of interested individuals and organizations representing the public. In this manner he has developed important background information for future use by the Congress, and he has pointed out, in clear detail, the needs for Federal outdoor recreation programs, in which he is clearly a devout believer.

This is but one activity of Chairman Taylor, whose service to the country—as the friend of the environment—has won the admiration of everyone concerned.

In these days of frequent furor over the national ecology, it is no longer unusual for a Congressman to get up and talk about the need to protect our salt marshes and seashores, our forests, and our swamp lands in their existing condition, even at the expense of the blessings of so-called economic progress. But, when Roy Taylor started getting up and talking that way at the outset of his congressional career, it was indeed unusual, and not at all in step with the political trends of the moment.

Roy Taylor never has been one to check with the political trends in matters where his conscience is involved, and his conscience is deeply involved with the never-ending struggle between the forces of waste and destruction on the one hand, and the natural beauty of the United States of America, on the other. In that contest, his conscience invariably is on the side of nature, and on this admirable platform he has based his political fortunes, with considerable success.

Under his direction, the national parks program has thrived and flourished, winning new supporters by the thousands throughout the land. Only this year Chairman Taylor was a recipient of the National Congressional Award of the National Recreation and Park Association, in tribute to his outstanding efforts, over many years, to improve and expand park and recreation programs, facilities, and services, nationwide.

The expansion program undertaken at the urging of Chairman Taylor, has led to the establishment of such facilities as North Cascades National Park, Sawtooth National Recreation Area, and the urban park units Golden Gate and Gateway East. Chairman Taylor's work as an advocate of the land and water recreation fund, the national trailways law, and the Wild and Scenic Rivers Act have been clearly outstanding.

Also largely to his credit has been reauthorization of the Historic Preservation Act of 1966, continuing in effect a program to preserve as much as possible of the Nation's historical, archeological, and architectural environment.

In addition to this outstanding performance as defender of America's environmental wonders, Roy Taylor has served with distinction on the Committee on International Relations, where I, too, have served for many years. We have therefore been close friends and coworkers in Public Service for more years than we like to count.

I can say, without exaggeration, that

this able, dedicated man, the Honorable Roy A. Taylor, holds the respect of his associates in this Chamber to a remarkable extent. His patience, his understanding nature, his inquisitive mind, and his sense of fair play, and his ability to make close friends and influence people not only have made him an excellent subcommittee chairman, but won for him many good friends, on both sides of the aisle. I am proud to acknowledge my claim to his friendship and the friendship of his wonderful and lovely helpmate, Evelyn, and to have served as his associate both back in North Carolina and here in the House of Representatives for these many years.

He is truly one of the finest public officials of my acquaintance, and he will, indeed, be missed by those he leaves behind, here in Washington.

My own helpmate, Christine, and my daughter, Nancy, join me in wishing for Roy and Evelyn an abundance of good health and all the other blessings of life during their many years together in the future. May God bless them both and keep them wherever they go and in whatever they undertake.

I would like to take this occasion to express my profound regret over the announced retirement from Congress of the Honorable David N. Henderson of North Carolina's Third District, chairman of the Committee on Post Office and Civil Service, following 16 years' consecutive service, to the high satisfaction of the people of his district, millions of civil service workers across this land, and his colleagues here in this House.

As chairman of the Post Office and Civil Service Committee, he has revealed a knowledge of the problems of Government which has rendered him invaluable to congressional operations, and as a man of the greatest energy, he has accomplished enough to satisfy the demands of the most severe critic, on any score whatever.

In addition to being chairman of the Post Office and Civil Service Committee, he currently is chairman of the Subcommitee on Manpower and Civil Service. He is fourth-ranking member of the Committee on Public Works and Transportation and a member of several of its subcommittees—Aviation, Economic Development, and Public Buildings and Grounds. In these capacities he has contributed much to North Carolina and the Nation.

Born in Onslow County, N.C., and reared in Wallace, Duplin County, Dave Henderson identifies very strongly with the best traditions of rural America, rightfully regarding them as the backbone of American success during our two centuries of national life.

He is a graduate of Davidson College in North Carolina, and the University of North Carolina Law School. Upon graduating from Davidson at the height of World War II, he was commissioned a second lieutenant in the Army Air Corps and sent to the Pacific theater of operations, where he served with distinction, rising to the rank of major.

Following the war he secured his law degree and in 1951–52 was Assistant General Counsel of the House Committee on Education and Labor before returning to his home at Wallace, to begin a private law practice.

Entering the political arena in 1954, Dave Henderson was elected that year solicitor of the Duplin general county court and 4 years later ran successfully for judge of the same court—a position he held until his election to the 87th Congress, in 1960.

During the full length of his tenure in the Congress, Dave Henderson has been an active leader in legislation improving the civil service, especially in terms of compensation, retirement, and other fringe benefits. As a disciple of fiscal responsibility, he has defended the actuarial soundness of the civil service retirement fund, while at the same time promoting benefits to encourage continuity and stability in the career service. He has led also a determined and quietly effective campaign to halt abuses in the career civil service, exposing them where they exist and encouraging legislation to correct such practices.

He has defended the right of each Federal employee to choose to either join or refrain from joining a labor union and has been a consistent opponent of permitting Federal employees the right to strike.

His service as a ranking member of the House Public Works and Transportation Committee has centered on sensible approaches to clean water, flood control and erosion projects, air transportation, and safety.

A consistent supporter of Federal aid to education, without Federal controls, he has actively warned educators throughout North Carolina and the Nation that financial assistance from the Federal Government alone does not improve the quality of education. However, like the rest of us from North Carolina, I believe Dave feels the primary responsibility for public education is at the State and local levels of government.

In addition to his congressional service, Dave Henderson is a member of the board of trustees of Mount Olive College, and the board of presidential advisers of Campbell College.

As a testament to his leadership qualities in the Federal career service, the Federal Executive Institute Alumni Association recently announced the Henderson Fellowship at the Federal Executive Institute in Charlottesville, Va., for students to attend sessions of the senior executive education program.

To everyone familiar with his record, it is clear that David N. Henderson has served the Nation with distinction—for 16 consecutive years. He has made a noteworthy record—noteworthy in this or any era. Above all, he has accumulated a host of many friends. I am honored to be counted among them.

I would therefore like to congratulate my good friend and colleague, David N. Henderson, for his faithful public service and his many accomplishments in this great Chamber, and wish him and lovely wife, Mary, well wherever they may be, in whatever course he may wish to pursue. My wife, Christine, and my daughter, Nancy, join me in this expression of best wishes to Dave and Mary.

Dave, we will miss your wise counsel and dedication to a sound, responsible vision of what is best for our country. In many ways, I envy you, but knowing that you will not be with us during the next Congress, I am confident that the rest of us in the North Carolina delegation will work even harder to represent our State and Nation with honor and dedication.

Losing you and Roy Taylor both at the same time is not easy to take, but, as with Roy and Evelyn, may God bless you and Mary with good health and much happiness wherever you may be and in whatever you undertake during the many good years that lie ahead.

Mr. MAHON. Mr. Speaker, my colleagues have cited at some length the accomplishments of our distinguished friends from North Carolina, Roy Taylor and Dave Henderson. I shall not undertake to elaborate upon their careers. They have done a great job for their district and the Nation and it has been an honor and privilege to serve with them. I wish them the best of luck as they leave the House and every happiness in their future endeavors.

Mr. RHODES. Mr. Speaker, after 16 years of service to the 11th District of North Carolina and the Nation Roy A. Taylor will be retiring when the 94th Congress adjourns.

Roy Taylor leaves as testimony to his dedicated and diligent work as chairman of the Interior Subcommittee on National Parks and Recreation an expanded park system for the enjoyment of the American people. During his chairmanship some 4½ million acres have been added to the system.

Roy has been a fine Congressman with many friendships and high regard by Members on both sides of the aisle. During his time in Congress he has been a personal family friend. My wife, Betty, and Evelyn Taylor are good friends. We all will miss Roy Taylor in the 95th Congress.

I join my colleagues in expressing our regret that he is leaving us, our appreciation for his friendship and counsel and our very best wishes for a long and enjoyable retirement in whatever endeavor he decides to utilize his time and talent in the future.

Mr. WAGGONNER. Mr. Speaker, future generations of yet unborn Americans will owe a debt of gratitude to Roy A. Taylor that can never be fully measured or repaid. His untiring work in preserving and protecting outdoor recreation areas, national parks, monuments, historic sites and other Federal recreation areas will increase in importance in the years ahead. When he retires at the close of this session Roy will leave behind a proud legacy that few men can claim.

His position as chairman of the Interior Committee's Subcommittee on National Parks and Recreation could not have been filled by a more qualified, dedicated or worthy Member. Roy's love for the wilderness lands of this great country, and his overriding desire to see that they are preserved and protected in their original state for the enjoyment of Americans in the future is true and well founded. His own area of western North Carolina instills in its people a deep love and attachment to the land and its beauty. No one can walk those mountains without feeling a closeness to God and to wonders of His creation.

I think that Roy, among all of us who believe in conservation of natural resources, has translated his great attachment for the American outdoors and historical sites into positive action and legislation.

His chairmanship is really a stewardship. And he never lost sight of the debt this generation owes to the next and future generations. Under his wise guidance of the National Parks and Recreation Subcommittee, more than 50 new areas totaling over a half million acres have been added to the national parks system. Without his diligence in battling for the programs he holds dear and the effectiveness of his legislative ability, in my personal opinion, we would not have had the expansion of recreation areas at this pace. Using his own persuasive powers of reasoning and a large degree of North Carolina charm and hard-headed horsesense, he has won many Members over to his way of thinking. It is fortunate for the outdoor-loving public that they have had a man of Roy's ability on their side.

Last year, Roy expressed his deep-seated feelings about his responsibility, when he said:

> Next to the preservation of liberty and security, our Government's greatest responsibility is the stewardship of our natural resources. A generous Diety has richly endowed our land. This endowment must be preserved. This is something I can put my heart into with the feeling that something good is being accomplished, both for the present and for the future.

The people of North Carolina's 11th District were wise in sending a man of Roy's unique talent and dedication to Congress. I can understand his desire to return to his beloved State, but I will personally miss his presence in Congress.

Mrs. SULLIVAN. Mr. Speaker, I thank the gentleman from North Carolina (Mr. Fountain) for arranging for this special order to honor two outstanding North Carolinians retiring from Congress at the end of this term, Congressman David N. Henderson of the 3d District and Congressman Roy A. Taylor of the 11th District.

I have enjoyed my associations of the past 16 years with both gentlemen and want to thank them for many courtesies to me and the people I represent. Both have been excellent Representatives and chairmen: Mr. Henderson as chairman of the Committee on Post Office and Civil Service and Mr. Taylor as chairman of the Subcommittee on National Parks and Recreation of the House Committee on Interior and Insular Affairs.

On behalf of the many Federal employees who live in the Third Congressional District of Missouri, I want to express my appreciation to Mr. Henderson for the concern he has demonstrated as committee chairman, and before that as a long-time member of the committee, for the standards and conditions of Federal employment. He has been sympathetic to the legitimate needs of Government employees and eminently fair in the manner in which he has handled employee legislation, including health insurance, pay bills, and employee representation matters.

Mr. Taylor has been a good friend to the national park system and we appreciate that in St. Louis, site of the Jefferson National Expansion Memorial and the Gateway Arch.

I hope both Mr. Henderson and Mr. Taylor will enjoy their activities after leaving Congress as much as I know they have enjoyed their work on the Hill.

Mr. de la GARZA. Mr. Speaker, when the 94th Congress comes to an end in a few days the sound of the gavel also will bring an end to the congressional careers of two distinguished members of the North Carolina delegation—Roy Taylor and David Henderson. Both are voluntarily retiring after 16 years of dedicated service to their districts, their State, and the Nation.

I say "some 16 years" of service. They came to the House within a few months of each other. Roy was elected in June 1960 to fill a vacancy caused by the death of his predecessor. Dave was elected in the November election that year and took his seat in January 1961.

Together, then, they can mark up approximately 32 years of service. For each of them they have been highly productive years.

Roy Taylor's contributions to the Nation have extended far beyond his district. During his chairmanship of the Interior Committee's Subcommittee on National Parks and Recreation, more than 4½ million acres of land have been added to the national park system.

Dave Henderson's work also has been on a national scale. As the effective and knowledgeable chairman of the Post Office and Civil Service Committee and as a member of the Committee on Public Works and Transportation, he has faced demanding tasks and performed them admirably.

Both of these gentlemen from North Carolina will be missed here. From them I, like many of my colleagues, have often sought and received counsel and cooperation. They have helped to make this House a friendly place. I join my colleagues in good wishes for health and happiness for them in their retirement.

Mr. JONES of North Carolina. Mr. Speaker, I have always been proud of the congressional representation offered by the North Carolina delegation, and it is somewhat sad that two of our veteran Members have seen fit to retire.

Few if any men have worked harder at their assignments than has the Honorable Roy Taylor of the 11th District. I have always been impressed with his dignity and the manner in which he presented his committee bills on the House floor, and I think it a most fitting tribute to Congressman Taylor that just a few weeks ago the very controversial New River bill was enacted which many thought had little or no chance of being enacted into law.

For 16 years in the House, he has contributed much, not only to his own district, but to the Nation, and I am sure that his leadership as chairman of the Subcommittee on National Parks and Recreation will be missed.

I join with all others in wishing he and his family many years of peace and serenity in the beautiful hills of western North Carolina.

Mr. REUSS. Mr. Speaker, we salute today a Member of this body whose dedication to his country and constituents will be remembered long after he leaves us. Roy Taylor, through his vision and diligence, has helped this Nation preserve its land, its beaches, and its forests for Americans today and those of future generations.

Lead by the principle, "This land is your land; this land is my land," Roy has called for responsible stewardship of our natural resources. During his chairmanship of the House National Parks and Recreation Subcommittee more than 4½ million acres of land have been added to the national parks system.

A leader in the preservation of historic properties, scenic rivers, and all our natural assets, Roy Taylor can return to the 11th District of North Carolina with the pride and satisfaction of a job well done.

Mr. CEDERBERG. Mr. Speaker, our good friend and colleague, Roy Taylor, who is leaving us at the end of this Congress, is one of those rare individuals who has been able to leave his indelible mark on this body. Although in legislative terms his 16 years of service have been short, his achievements have outdistanced those of his peers with many more years of seniority.

Serving with distinction as the chairman of the House Interior Committee's Subcommittee on National Parks and Recreation, he has persistently advocated the protection of our scenic resources. Under his leadership, more than 4½ million acres of land have been added to the national park system. Recognized as an articulate spokesman for the esthetic and recreational needs of America, he has been at the forefront of the controversy over development and commercial utilization of our Nation's parklands.

Perhaps his greatest recognition will not be realized until many years hence. Future generations will have ample opportunity to enjoy a respite in an untainted and natural environment because Roy had the foresight to push for the preservation of unspoiled tracts of nature. In the midst of an increasingly changing and technological society, we will have an ever mounting need for situations that have not changed, that are not artificial, and that have retained their natural splendor. Roy foresaw this need and took action to accommodate it.

Not only will the House have lost an effective and competent Member, but his district will have lost a capable Congressman. He was always attentive to their needs, quick to rise to their defense. He will be sorely missed.

As a final tribute, it is only fitting that we recognize his achievements. I am sure that the years ahead will be as fulfilling as his years in the House. Therefore, I am happy to have this opportunity to wish Roy and his wife many happy years of retirement. May this time give them the opportunity to fully enjoy their family and to realize those aspirations and hopes that had to be put off due to the requirements of public service.

Mr. RONCALIO. Mr. Speaker, it is an honor and a privilege for me to rise in tribute to David Henderson and Roy Taylor, our colleagues from the State of North Carolina.

I consider myself fortunate to have had the opportunity to serve with David Henderson on the Public Works and Transportation Committee, these past few years. His good judgment and legislative abilities have contributed a great deal to the committee and its work. It also behooves us to acknowledge Mr. Henderson's work as chairman of the Post Office and Civil Service Committee. This committee has enacted much that will be meaningful and beneficial to future civil servants.

David Henderson has served his Third District well in his 16 years in Congress, as has another of his colleagues representing the lovely State of North Carolina, Congressman Roy Taylor.

I would like to address some special words to Roy Taylor. Roy Taylor is a special person. He is an exceptionally able legislator, he is the salt of the earth. As chairman of Interior Committee's National Parks Subcommittee, Roy Taylor has given much energy and study to the problems and interests of this country's national park system. He deserves a special thanks and tribute from the people of America. As chairman of the National Parks Subcommittee, Roy Taylor has made several trips to the State of Wyoming over the years. He was instrumental in creating and developing Fossil Butte National Monument near Kemmerer, Wyo. It was he who personally made the long trek to Wyoming to see this geologic treasure, and it was he who directed the legislative battle to see that Fossil Butte would be protected, as a national monument, for future generations.

He has been of tremendous help to the State of Wyoming through his dedication to the interests and concerns of Wyoming's two national parks, Yellowstone, the first national park ever created; and Teton, a splendid gift of nature. Under his guidance, the national parks system has increased its acreage by 4½ million acres.

On behalf of all Wyoming people, I would like to pay special tribute to Roy and to express our sincere gratitude and appreciation for the work he has done, not only for Wyoming, but for all of America. Roy Taylor should be long remembered and revered in the hearts of all Americans who enjoy the scenic wonders of this Nation. It was his unceasing dedication and tireless effort that helped preserve and protect this Nation's natural heritage.

Mr. MARTIN. Mr. Speaker, it is with both pleasure and sadness that I rise to join in this tribute to a great gentleman from North Carolina, the Honorable Roy A. Taylor. It is with pleasure that I do so because of the 4 years we have spent together in the House and the 2 of those years that I spent learning from him as a member of the Interior Committee. It is with sadness because these days are drawing to a close and he is retiring.

As one who takes an interest in partisan matters myself, I would here interject the fact that Roy Taylor need not retire for political reasons. He has held the 11th District as if in fee and has popularity ratings in his mountainous district which the other 434 of us should envy. It is no wonder those seeking to succeed him all seem to be running on his record. If whoever wins the seat comes even close to matching that record, the people in the 11th will be very well served indeed.

Congressman Taylor, as chairman of the Subcommittee on National Parks and Recreation, is going to be remembered for his role in sustaining an orderly growth of our park and recreation system. It has not been an easy job acting as referee between those who would preserve every pine twig and those who would log the trees on the Capitol lawn if given half a chance. He has done his best—and that is a lot—to balance conservation needs and environmental concerns with economic needs and developmental concerns. We need more people in public life who know—and admit—that everyone cannot have all the existing good things he or she wants, that there has to be a balance among competing, justifiable needs.

For the past 4 years, Roy Taylor and the rest of our delegation have been united on one issue, no matter how we have differed on others. I therefore bring up a matter of parochial concern which became a national cause, New River. I could not run the risk of it not being mentioned again in these final days. Throughout the long period our State's river was in jeopardy, there have been many more than 11 men representing North Carolina in the House. But there has been only one who has lived with, and fought for us on the Interior Committee throughout the period, and it is Roy Taylor. Twice he led the fight in committee and twice he won it, and it is great to be on the side of the angels when they win.

North Carolina and the House are losing the active service of a man who is both a statesman and a gentleman, a calm, a reasoned, and a courteous voice. We will all miss Roy Taylor and we will, if wise, envy him as he returns still vigorous to his mountains and to a lifestyle and surroundings unmatched by any other, anywhere—except, of course, by that in which one may be seeking reelection.

So, to Roy Taylor, Godspeed. Do not forget your friends here. We will not forget you.

Mr. STAGGERS. Mr. Speaker, I am pleased to join my colleagues in honoring the distinguished Member from North Carolina, the Honorable Roy A. Taylor, who will be retiring from this body at the end of this session.

I have known Roy Taylor since he first came to Congress some 18 years ago, and we have worked together harmoniously on many occasions.

Roy has done outstanding work on the Interior and Insular Affairs Committee, and he has emerged as a national leader as Chairman of that committee's Subcommittee on National Parks and Recreation.

Roy Taylor has perhaps done more to maintain and enlarge our national parks than any person in history. During his chairmanship, more than 50 new areas totaling over 4½ million acres have been added to our national park system.

In my own Second District of West Virginia Roy has been instrumental in helping to establish and develop the Harpers Ferry National Historical Park.

Roy Taylor put his heart into his work in the field of conservation and preservation and recreation. I know that he feels that next to the preservation of liberty and security, our Government's greatest responsibility is the stewardship of our natural resources. I know he feels that our grandchildren and great grandchildren must have pure air, clean water, parklands, mineral and timber resources, and rich soil.

Just recently on the floor of this House, Roy Taylor led the fight to protect the New River, and he won that fight.

Roy Taylor also led the successful fight to authorize the creation of a 13-year historic preservation fund and to have the national historic preservation program authorized at a level reflecting national trends and national needs.

Millions of Americans yet unborn will be able to enjoy the national park system and the glories of our natural wonders because of the work of Roy Taylor.

I understand that after his retirement Roy and Mrs. Taylor plan to visit many of the park areas he has helped to establish and improve. As many of us would like to do, they also plan to spend more time with their children and grandchildren, to travel and to spend more time on their family farm.

In all of these things, whatever you do, Roy, we wish you well.

Years of service together in the Congress are not quickly forgotten—if ever. They are the imprint of our lifework and the building blocks of mutual understanding and friendship. Robert Browning has put it—

> What a thing friendship is—world without end.

In bidding farewell to a respected colleague, I share pride in his past, faith in his future, friendship without end. God bless you, Roy.

Mr. BENNETT. I rise to honor Roy Taylor who is soon to retire from Congress after a constructive and great leadership here in the Congress. He has served with great distinction as chairman of the Committee on National Parks and Recreation, and he has fathered fine legislation in this field and in other fields while he has been in Congress.

All of us regret to see him go because of the knowledge that we have of his great capacity for getting good legislation on the books; but even more importantly, because of our deep love and affection for him, and the gentlemanly way in which he conducts his business.

Everyone in Congress will deeply regret his going. All of us know that he has greatly earned the retirement which he seeks, as he has done a magnificent job for his constituency and for the Nation.

Mr. HUNGATE. Mr. Speaker, today I join my many colleagues who have chosen this opportunity to honor a distinguished colleague, Roy Taylor, on his retirement from the House of Representatives.

Roy's leadership as chairman of the Subcommittee on National Parks and Recreation has assured us that Americans of future generations will be able to enjoy the land that Americans of past generations knew so well. He has helped us all see the value of national parks, and those who enjoy the outdoors owe a debt of gratitude for his tireless efforts on their behalf.

Roy's retirement is well earned and well deserved; we can all say good luck and every happiness.

Mr. FASCELL. Mr. Speaker, Roy A. Taylor is an outstanding legislator and a good friend whose presence will be greatly missed when he retires from Congress.

As chairman of the Subcommittee on National Parks and Recreation, he has compiled a remarkable record of achievements in preserving our national park and wilderness areas for future generations to enjoy. His key role in expanding the park system while providing for the proper management of these resources deserves the thanks of all Americans.

Roy Taylor has been personally involved in the successful effort to build a national park system that holds in public ownership the best of our environmentally fragile natural lands. Without his interest and his skill in translating these goals into legislative action, the loss in irreplaceable resources would have been vast.

I have worked closely with Roy on several major Florida projects that involve the preservation of public areas. The Biscayne National Monument and the Big Cypress National Preserve are just two of the accomplishments that are due in no small part to his help.

In addition, Roy has helped to lay the groundwork for further gains across the Nation with the adoption of legislation to expand the land and water conservation fund acquisition program.

While I will miss Roy and his valuable assistance, I wish him success and happiness in his future endeavors. He has won the heartfelt gratitude of all of us.

Mr. ECKHARDT. Mr. Speaker, I rise today to join in honoring a colleague, the Honorable Roy A. Taylor, for his outstanding service to the needs of the American public in the recreational and esthetic areas. While I am a relative newcomer to the House Committee on Interior and Insular Affairs, I still am cognizant of the excellent job that Mr. Taylor has done—acting on legislation which added more than 4.5 million acres to the national park system.

But I would like to speak specifically of a bill which affects my constituency—the legislation establishing a Big Thicket National Preserve in east Texas. After members of the Texas delegation were able to agree on the size of the preserve and the areas to be included, Representative Taylor's Subcommittee on National Parks and Recreation moved expeditiously to act upon the bill. As a result, this area, known as the Biological Crossroads of North America, will be preserved for those living today and for future generations to enjoy.

This 84,550-acre preserve is less than 2 percent of the total acreage added to America's parklands through Representative Taylor's efforts. However, it is not only important to the ecological systems of the area, but can and will provide hunting for the low-income and middle-income citizens from Houston, the Nation's fifth largest city.

Not only was Representative Taylor effective in getting the enacting legislation passed, but he has been most helpful since that time in supporting actions to prevent depredation of the Big Thicket before it could be acquired. He has acted quickly in getting committee approval of declarations of taking on tracts which were in imminent danger of being cut by their owners. As a result, America will have a much more beautiful Big Thicket Preserve than it would have had.

I have received a telegram from the Honorable Ralph W. Yarborough, a former U.S. Senator, an outstanding Texan, and now president of the Big Thicket Association, which I would like to have included in the Record. Senator Yarborough's telegram reads:

> Please convey to Congressman Roy Taylor and the National Parks and Recreation Subcommittee our most sincere appreciation for their work in establishing the Big Thicket National Preserves and for their continued interest in its welfare. Gratitude is particularly extended for actions in 1976 which led to protection of some 4,000 endangered acres within the preserves. Congressman Taylor's leadership was of prime importance in these accomplishments. We commend his efforts, extend best wishes, and offer a standing invitation to return to Big Thicket.

I join with Senator Yarborough and thousands of other Americans in saying thanks to Roy Taylor for his outstanding leadership in helping to preserve this unique area. We will miss his dedication, his enthusiasm, and his expertise in providing quality recreational areas so sorely needed by our citizens. Although we will miss him, we wish him the greatest enjoyment of the retirement he so richly deserves.

Mr. McFALL. Mr. Speaker, in the long sweep of history, many of the accomplishments of the Congress will be largely forgotten. But the national parks and recreation areas, the wild and scenic rivers and the national historic sites created by Congress under the leadership of Congressman Roy A. Taylor will be enjoyed by generations of Americans far into the future.

Congressman Taylor will leave a magnificent heritage for the Nation when he retires from the House at the end of this Congress.

During the 16 years that he served in the House, 10 as chairman of the National Parks and Recreation Subcommittee of Interior and Insular Affairs, the national parks areas in America virtually doubled. The number of annual visits in the national park system topped the 2 million mark.

This 94th Congress alone, by passing legislation developed by Congressman Taylor's subcommittee, acted to enlarge our national parks, wilderness and other American heritage units by 1.5 million acres.

Roy Taylor recently expressed his conservation philosophy this way:

> Next to the preservation of liberty and security, our government's greatest responsibility is the stewardship of our national resources. A generous Deity has richly endowed our land. This endowment must be preserved. Our grandchildren and great grandchildren must have pure air, clean water, parklands, mineral and timber resources, and rich soil.

And because he has backed up that philosophy with effective legislative action, this Nation has made enormous progress in the last decade and a half in the preservation of our natural heritage.

Here is just a part of the record of those 15 years: Establishment of the Cape Cod Seashore Area in Massachusetts; the Fire Island and Gateway Recreation Area in New York; Assateague in Maryland; Cape Lookout on the North Carolina coast; Cumberland Island off the coast of Georgia; Cape Canaveral National Recreation Area, Biscayne Bay Seashore Area and Big Cypress Preserve in Florida; Gulf Island Seashore Area off the Florida and Mississippi coasts; Golden Gate, Redwoods National Park and Point Reyes Seashore Area in my State of California; Oregon Dunes in Oregon; North Cascade National Park in Washington, and many others.

Because of the dedicated leadership of Roy Taylor, these and other areas will be spared from the pressures of development. They will be preserved for the enjoyment of the American people for generations to come.

Congressman Taylor has given selflessly of himself in his work on the National Parks and Recreation Subcommittee, but he has never neglected the other aspects of a Congressman's job. He has served with distinction on the International Relations Committee and he has been consistently responsive to the needs of his district and his constituents.

In his richly deserved retirement, Mr. Taylor plans to devote some of his time to legal work, to spend more time with his children and grandchildren, and to enjoy life at the family farm at Leicester. He also intends to visit some of the park areas which he did so much to create.

Roy Taylor can take rich satisfaction in his accomplishments in the House. Surely he will rank with President Theodore Roosevelt as one of the great American conservationists.

It has been a rare privilege to have served in the House with this generous and gifted man. I wish him Godspeed as he leaves us.

Mr. SCHNEEBELI. Mr. Speaker, Roy Taylor's wife, Evelyn, and my wife have been good friends for the past 10 years. Through this friendship, I have come to know Roy Taylor better than I know many of my other colleagues here in the House.

Our family has a very high respect and fond affection for the Taylors. We have very much enjoyed our friendly association with them here in Washington. In addition to the closeness of our wives, Roy Taylor and I have in common our pending retirements at the end of the 94th Congress.

Roy has been an active and effective Member of the House Interior Committee and he has done an excellent job of representing his district in southwestern North Carolina.

Roy Taylor will be missed for his good work in the Congress, and he and

Evelyn both will be missed by the Schneebelis because of our deep friendship with them and for their congeniality.

Mr. UDALL. Mr. Speaker, long before concepts like conservation or preservation of natural resources became fully ingrained in the Nation's political conscience, there were but a few good men around who understood the importance of these values. Roy Taylor was one of those men. The result of his years of dedicated service, including his service as chairman of the Parks and Recreation Subcommittee, are testimony to this fact. His accomplishments can be measured by acreage in the parks system, and the millions of acres added to that system during Roy Taylor's tenure are often alluded to. But this man's achievements must also be measured in less tangible terms.

Roy Taylor understands the link between what we call conservation or environmentalism and people. When considering his contributions I prefer to think in those terms. I think about the serenity and joy people experience when encountering the beauty of our national parks. I think about the lessons we can learn about ourselves by seeing where we came from when visiting such places as Boston National Historic Park or the many other historic sites created under Roy Taylor's leadership. The people of this Nation need places where a family can go, get to know each other and share important experiences. Roy Taylor gave such places to the people—places like Golden Gate, Gateway and Cuyahoga National Recreation Areas where urban residents can enjoy the benefits of our parks system.

All of us have Roy Taylor to thank for these experiences and generations to come will gain from his protection of our national heritage. That is quite a tribute to this man's dedication and hard work.

Roy Taylor's contribution to the work of the Congress, however, is not limited to his dedication to the Nation's park system. During his service on the Interior Committee, that body's work load has broadened and increased in complexity as we found ourselves embroiled in the critical issues of energy development and environmental protection. Roy Taylor kept up with the job. The committee benefited from his wisdom, and his conscientious assumption of the responsibilities of a full time legislator who saw his duty to cast an informed vote and participate knowledgeably in all matters before the committee.

In short, Roy Taylor is a man you can rely on. You can rely on his participation, his deep knowledge of the committee business and you can rely on his ability to find common ground between disparate views of committee members. The committee's work will go on, but after losing Roy Taylor the committee will be a considerably changed entity. Legislating is a subtle art and its success depends upon the character and talents of the people who work at it. Roy Taylor possesses all the attributes that make the process work well. He is honest, decent, conscientious and wholly uncorruptible. Congress is better for the participation of Roy Taylor and we will miss his presence.

Mr. HEFNER. Mr. Speaker, the sine die adjournment of Congress in the next few days will signal not only the end of the 94th Congress, but will also bring to a close the distinguished congressional career of our colleague and friend, Roy Taylor.

I have not had the opportunity of knowing and working with Roy Taylor as long as have many of my colleagues. This is truly my loss. However, in the 2 years that I have served with Roy I have found him to be a true friend and a source of sound advice.

First elected to the 86th Congress in June 1960, to fill the vacancy caused by the death of David M. Hall, Roy has been reelected to the succeeding Congresses by the voters of the 11th Congressional District of North Carolina.

Roy has served with great distinction and dedication as the ranking member of the House Interior and Insular Affairs Committee, and has for over 10 years served as chairman of the Subcommittee on National Parks and Recreation. In this capacity, Roy has given a great part of himself to save and promote and improve and enlarge our national park system.

As Congresman Udall, who has worked closely with Roy on behalf of our national parks, recently said in a tribute to him, "Millions of Americans yet unknown will be able to enjoy the national park system and the glories of our natural wonders because the gentleman has served in this House and in the Congress." What greater legacy could a man leave to his country.

The House is losing an effective legislator, the people of the 11th Congressional District of North Carolina are losing an able and dedicated representative, and those who enjoy our national park system and the glories of God's natural wonders are losing a true friend.

May God's richest blessings be with Roy and Evelyn as they return to the beautiful mountains of western North Carolina.

The list could go on and on for we have been privileged in having served with us in this House a man dedicated to the preservation of our Nation's heritage for our grandchildren and their grandchildren to observe and enjoy.

Roy, for many generations in the future, people of this great Nation of ours will benefit from your contributions to your fellow man as demonstrated by your dedicated service in the House of Representatives.

In behalf of the people of the State of California and our Nation, I express my thanks and appreciation for all that you have done. On a personal note, I want to say we are going to miss you. We wish you well in whatever the future holds and we who may remain here in the House of Representatives and on the Interior Committee will do our utmost to follow the fine example that you have set for us and to continue to preserve our Nation's scenic and historic areas for our people.

Mr. FORD of Michigan. Mr. Speaker, the retirement of Roy Taylor at the end of this Congress will leave a void that will be hard to fill.

Roy has been a pillar of strength in this House for the past 16 years, and his accomplishments have earned him a permanent spot in the hearts of all Americans, as well as his constituents in North Carolina.

His work as Chairman of the National Parks and Recreation Subcommittee of the Interior Committee has been outstanding. Under his able guidance, the National Park System has been increased by over 4½ million acres—a feat for which future generations will ever be grateful.

I have worked closely with Roy Taylor during my 12 years in the House, and have come to respect him highly as a legislator, and to admire him greatly as a man. I am proud to have served with him in the Congress, and I wish him success and happiness in the future.

Mr. JOHNSON of California. Mr. Speaker, since the 86th Congress I have been privileged to work with Roy Taylor on the Committee on Interior and Insular Affairs. Throughout these years we have served on many of the same subcommittees including that on national parks and recreation which he chairs.

Without minimizing his other tremendous contributions as an active member on this committee and the Committee on International Relations, I did want to single out his accomplishments in the preservation of our national heritage.

During his 10 years of leadership as chairman of the Subcommittee on National Parks and Recreation, we have witnessed one of the most dramatic expansions of national parks, recreation areas, and historic sites this Nation has ever known. Approximately 100 new areas have been set aside for posterity as places of scenic and historic value. Existing parks and recreation areas have been expanded. These are being enjoyed today by citizens of almost every State of our Nation and will be enjoyed for generations to come.

These include such diverse areas on both coasts as the Golden Gate National Recreation Area in my own State of California, the Gateway National Recreation Area on the Atlantic coast in New York State, the North Cascade National Park in the Pacific Northwest, the Voyageurs National Park in Minnesota, the Cumberland Island National Seashore in Georgia, the Buffalo National River in Arkansas, and the Redwood National Park in California. We have created the Pacific Crest Trail System and preserved the Appalachian Trail. Altogether we have seen approximately 4½ million acres added to our national park system.

Of equal importance are a host of historic sites, including the homes of President Lincoln, President Van Buren, President Eisenhower, and President Johnson, and the birthplace of President Kennedy and the Carl Sandburg home in North Carolina, which have been set aside for posterity.

Mr. DERWINSKI. Mr. Speaker, for the past 16 years, the citizens of the 11th District of North Carolina have been ably represented by Roy A. Taylor.

During this time, he has won the acclaim of conservationists for his legislative battles to protect our national parks, monuments, historic sites, and other Federal recreation areas.

As chairman of the Interior Committee's Subcommittee on National Parks and Recreation, he has been instrumental in developing extensive outdoor recreation programs, utilizing the full use of the land and water conservation fund.

His constructive efforts have assisted State and local governments in their endeavors to preserve historic properties under the authorization of the Federal historical preservation program.

His leadership and effective guidance has provided for the protection of thousands of acres for existing wild and scenic rivers systems.

Since I serve with Roy on the International Relations Committee, I know of his capability and his effective, conscientious manner as a legislator. He is truly dedicated to preserving the strong leadership of the United States in foreign relations.

He has been a true representative of his people and has dedicated his legislative life to the best interests of all Americans.

Mrs. Derwinski joins me in wishing Roy and his wife, Evelyn, the very best in the years ahead.

Mr. DON H. CLAUSEN. Mr. Speaker, the gavel will soon come down marking the close of the 94th Congress and the end of the long and outstanding career of our friend and colleague, Roy Taylor.

I have had the distinct honor of working with him on the House Interior and Insular Affairs Committee where he has served for 10 years as the chairman of the Subcommittee on National Parks and Recreation. His leadership and expertise will be missed.

I don't know of anyone in the country that has been fairer in the consideration of matters that are of importance to all members of the Congress—regardless of party.

We have worked together often on many pieces of legislation that affected our respective districts. During his term as chairman of the subcommittee, more than 4½ million acres of land have been added to the national park system. I have worked with Roy on many of these park bills.

His qualities and talents as an effective legislator are demonstrated by his handling of the demanding responsibilities of his congressional committee assignments with intelligence and insight while, at the same time, devoting long hours of hard work to understand the needs of his constituents and achieve close, personal contact with them.

We wish him the very best of happiness and good health for the years ahead.

Mr. CORMAN. Mr. Speaker, I wish to join in this tribute to my good friend and colleague, Roy Taylor, from the 11th District of North Carolina. Roy's decision to retire from the House came as a surprise to many of us who have known and worked with him. He has worked very hard serving his Nation, home State, and constituency diligently and with distinction, since coming in mid-term to the 86th Congress.

As a member of the House International Relations Committee, Roy served with a keen sense of responsibility that membership there demanded. As the distinguished ranking majority member of the House Interior and Insular Affairs Committee and chairman of its Subcommittee on National Parks and Recreation, Roy possessed a deep awareness of this committee's particular responsibilities. His critical work in the field of conservation, preservation and recreation has led to the addition of 1.5 million acres of parkland to the national park system. His efforts will long be remembered. Roy recently stated in a speech:

> This (assignment) is something I can put my heart into with a feeling that something good is being accomplished, both for the present and for the future. I believe that in the indefinite future . . . they (people) will look at these parks with a growing appreciation that years earlier Congress had had the foresight to preserve and set aside some of the beautiful, special and historic areas of our Nation.

This statement truly captures the total commitment Roy Taylor made to land preservation and beautification of America.

Mr. Speaker, Roy Taylor's retirement will create a void in the House. This fine gentleman will be missed by all of us. But, since retirement is his wish, we can only accept it, and I join with his many friends in this Chamber to wish him many years of happiness, good health, and contentment.

Mr. DRINAN. Mr. Speaker, it is a pleasure for me to join the many friends and colleagues of Congressman Roy Taylor in paying tribute to him for his many years of distinguished Government service.

Congressman Roy Taylor leaves behind him a distinguished 16 year career in the House of Representatives. During these years he has achieved the honor of serving as the chairman of the Interior Committee Subcommittee on National Parks and Recreation. During his 10-year chairmanship, more than 4½ million acres of land have been added to the national park service. As chairman of the Interior's subcommittee on National Parks and Recreation, Roy Taylor has demonstrated his unending commitment to the development of parks and scenic rivers.

He has been the recipient of a number of awards and honors for his work on behalf of the National Recreation and Parks Association. Included among these awards is the National Congressional Award of the National Recreation and Park Association and the Historic Preservation Award.

For eight terms, Congressman Taylor has proven himself a dedicated leader, an effective legislator, and a man of kindness and integrity. We shall all miss him.

Mr. SKUBITZ. Mr. Speaker, I take great pleasure in joining with the many friends of Roy Taylor in paying tribute to his record of outstanding service to the people of North Carolina and the people of this Nation.

I have had the special privilege of serving on the Interior Committee's Subcommittee chaired by Congressman Taylor. In that capacity I have developed, firsthand, an appreciation for his dedication to hard work and his ability to bring diverse points of view together in shaping progressive legislation.

Even more importantly, over the years I have grown to admire and respect Roy Taylor for his ability to exercise nonpartisan leadership in a fair and generous manner. Were it not for Chairman Taylor's dedication to that type of leadership, the national park system of this country would never have made the giant strides of the last few years.

I know of no man more dedicated to the preservation of our natural resources and the creation of recreational facilities for young and old alike.

When the books are closed, the record will show that during no period of history were more parks created or more recreational facilities authorized than during Roy Taylor's chairmanship. Being privy to the inner workings of the National Parks Subcommittee, I can say, without reservation, that a lesser man could never have achieved the bipartisan cooperation necessary to make those achievements possible.

Many Members of this House have gained the respect and admiration of the Members of their own party—and in some ways, that is in itself an accomplishment. Few, however, are the recipients of the type and quality of sincere respect that Roy Taylor is accorded from both sides of the aisle.

Roy possesses those qualities of leadership that make bipartisan accomplishments possible. His presence will be sorely missed.

I extend my most sincere wishes that he will find much happiness in retirement.

Mr. HOWE. Mr. Speaker, no one could have been more helpful to me as a new Member of the Congress and as a new member of the Interior and Insular Affairs Committee than the Honorable Roy A. Taylor, of North Carolina, who retires this year after many years of service in the House.

It has been my good fortune to serve under Roy Taylor on the Interior Committee's Subcommittee on National Parks and Recreation where his leadership has been outstanding. Coming from a district where we have an abundance of national parks and recreation lands, Roy Taylor has allowed me extraordinary courtesies and opportunities to see that my constituents' problems regarding these public lands were carefully treated. At the direction of Chairman Taylor I have been pleased to work closely with him in chairing the special work done by our subcommittee on concessions policies in the national parks. I extend to him my deep appreciation for this opportunity of additional service and leadership.

Roy Taylor will be missed greatly on the Interior Committee and in all of the work in future sessions of the Congress, but he can rest assured that his work will not be forgotten and those of us who have worked with him wish him continued good health and happiness as he looks back upon his outstanding record of service to our great country.

Mr. BROOKS. Mr. Speaker, for more than 16 years the people of the 11th District of North Carolina have been represented in this body by a distinguished gentleman, Roy A. Taylor.

It has been my privilege and pleasure to serve with him in Congress. His dedication to the Congress and the people he has represented would be diffcult to surpass.

He has been a diligent and devoted member of the International Relations Committee, and as chairman of the Subcommitee on National Parks and Recreation, he has earned the respect and admiration of all of us here in Congress.

It is with sincere personal and professional respect that I join in honoring him today. His presence in Congress will be greatly missed. I wish a most rewarding and satisfying retirement for him and his fine wife Evelyn.

Mr. DUNCAN of Oregon. Mr. Speaker, Roy Taylor and I served together years ago on the Interior Committee. As in his House service, he served with distinction.

I remember years ago visiting his district in North Carolina to better understand the problems of the area. He was extremely kind and showed me what true "Southern hospitality" was all about.

We had much in common and I benefited greatly from his deep concern for all people. He will be sorely missed.

Mr. BINGHAM. Mr. Speaker, it has been my privilege for the last 6 years to serve on the Subcommittee on Parks and Recreation under the chairmanship of the distinguished gentleman from North Carolina, Roy Taylor. I doubt if this subcommittee has ever had a more dedicated chairman. He has ably promoted the interests of all our citizenry in preserving our heritage—in terms of wilderness, natural beauty, recreation areas, and historic sites—but has also been considerate of the various Members of this House who have pressed for legislation of this type for the benefit of their constituencies.

Although coming himself from a largely rural area, Roy Taylor has understood the needs of our great cities for recreation facilities. In the course of the four year effort to enact forward-looking and constructive amendments to the Land and Water Conservation Fund Act, he was instrumental in working out a compromise formula for the distribution of funds to the States that helped to rectify some of the injustices of the past.

Roy has also been a valuable member of the Committee on International Relations, on which we have also served together.

I am sorry to see Roy Taylor retire from the House. His shoes will be hard to fill. My wife and I wish to Roy and Mrs. Taylor many years of happiness and of constructive and enjoyable activity.

I have not had the opportunity of working closely with Dave Henderson during our 12 years together in the House, but he has always been courteous to me and I am of course aware of his valuable service on the Post Office and Civil Service Committee, both as a member and as Chairman, and on the Committee on Public Works and Transportation.

I am happy to join with their many friends in the House in wishing these two North Carolinians well. We trust they will look back with pleasure on their years in the House and will come and see us frequently.

Mr. KARTH. Mr. Speaker, a very long way away from North Carolina's 11th District, the citizens of Minnesota and countless thousands of tourists, campers, hikers and fishermen, have reason to be thankful to Congressman Roy A. Taylor.

We say that, Roy, because you, as chairman of the Subcommittee on National Parks and Recreation, are chiefly responsible for all those Minnesotans and visitors today enjoying the recreational and scenic delights of both the St. Croix River and the Voyageurs National Park. Your personal interest and your vigorous help and guidance made possible the Federal legislation which developed St. Croix and Voyageurs into the superb attractions they are today for all Americans.

I am sure that a great many other sections of the country are equally indebted to your foresight, your concern and your legislative skills for the wilderness and park areas that you have helped to preserve and develop.

The nearly 5 million acres that have been added to the heritage of our national park system will be a unique and wonderful monument to your outstanding work in Congress.

We Minnesotans therefore invite you to see your handiwork in our State, to visit Minnesota as part of your retirement and observe the scenic beauties and recreational facilities you helped to bring into existence.

I have greatly valued our working friendship in the House of Representatives in the years since we both came to Washington in the 86th Congress, and equally I have admired your statesmanship and conscientiousness. Congresses to come will need more men like you.

Mr. ROYBAL. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Roy Taylor who has served so effectively in the House during his 16 years in Congress.

As chairman of the Subcommittee on National Parks and Recreation of the House Interior and Insular Affairs Committee, Congressman Taylor has made significant contribution toward preserving the face of America for the enjoyment of future generations. He may take pride in his efforts to establish a 13-year historic preservation fund, as well as the addition of over 4½ million acres to the national park system.

With the increased public interest in conservation and preservation of our environment, increased congressional action was only logical. Congressman Taylor recognized the need for action in this important area and saw to it that appropriate legislation was enacted. His work is sure to have a lasting effect on the quality and extent of public park and recreation resources throughout the entire Nation.

We will miss this dedicated Congressman who has worked so hard on behalf of the people of North Carolina and of the Nation. And I want to take this opportunity to wish Roy a long and enjoyable retirement—filled with good health and happiness.

Mr. ICHORD. Mr. Speaker, it is always with a sense of regret that I note the retirement of one of our colleagues, especially one who has contributed as much to us and to this Nation as Roy Taylor, and I welcome this opportunity to hear and pay tribute when it is so well deserved.

Roy came to this body in 1960 after serving 8 years in the North Carolina General Assembly. It is with this experience, his experience as a lieutenant in the Navy during World War II, his experience as an attorney in his home county and, most importantly, his well-known leadership and wisdom, that he served the 11th district of North Carolina so well. This district, in the westernmost area of the State, is noted for its beautiful national parks, its mountain scenery, and its natural resources.

It is therefore particularly fitting that Roy Taylor has served as chairman of the Interior Committee's Subcommittee on National Parks and Recreation during a period that has seen more than 4½ million acres of land added to the national park system. It is a period in which there has been much discussion of our environment, of the past we tend to overlook in our aim for the future, of the destructive marks we have left on our natural surroundings as we concentrated on our man-made achievements. It must be particularly satisfying for Roy Taylor to know that he, indeed, has left his mark, a mark of preservation, a mark of creativity, and increased appreciation for the natural gifts we so often take for granted.

So it is with a rare kind of poetic justice that Roy Taylor leaves Washington for North Carolina, to enjoy the State he has served so well and the surroundings he has helped to nurture. He will be sorely missed by those of us he leaves behind. But the memory of his foresight, dedication, and friendship will remain with us as we all continue to benefit from his good works and his outstanding example.

Mr. HARRIS. Mr. Speaker, I rise to pay tribute to my distinguished colleague from North Carolina, Congressman Roy A. Taylor, with whom I have had the pleasure to work in the 94th Congress.

Under his leadership as chairman of the Interior Committee's Subcommittee on National Parks and Recreation, more than 4½ million acres of land have been added to the national park system. I have worked closely with him on legislation to protect the Manassas National Battlefield Park, in my district, in Prince William County, Va. His dedication, perseverance, and vision have been critical to this bill and will mean the preservation of precious historic lands that our Nation's citizens can enjoy for years to come.

Because of his foresight and leadership we have been able to preserve the New River, part of which is located in my State of Virginia, a beautiful natural resource that is the second oldest river in the world.

Congressman Taylor has served with distinction and I salute him for his outstanding accomplishments and contributions to this great Nation.

Mr. OTTINGER. Mr. Speaker, I am pleased to have this opportunity to join my colleagues in expressing our appreciation and good wishes to Roy Taylor.

As chairman of the Subcommittee on Parks and Recreation, Roy has guided much of the important legislation governing our invaluable national parks through Congress and into law. During his term as chairman, more than 4.5 million acres of land have been added to the national park system. He has helped the constituents of my district—Westchester County, N.Y., to preserve and maintain historic St. Paul's Church, Mount Vernon, as a national monument to "freedom of the press" and the Bill of Rights. The effects of Mr. Taylor's good works in Congress have extended to the entire country and because of his work our children and grandchildren will be able to enjoy a greater share of our national heritage.

I wish Roy many healthy and peaceful years away from the Hill, and hope he will be able to find some time to enjoy the vast areas of land which he was so instrumental in preserving.

Mr. MORGAN. Mr. Speaker, much deserved praise has been accorded to Roy Taylor for his distinguished service as a Member of Congress, particularly as chairman of the Interior Committee's Subcommittee on National Parks and Recreation. I would like to add to this a commendation for his contributions in the foreign affairs field.

Roy has been a member of the International Relations Committee since 1971. His service on the Committee has spanned a period of turbulence and change in foreign affairs—including U.S. withdrawal from Southeast Asia., hostilities and peace efforts in the Middle East, newly evolving relationships with Communist powers, and increasing attention to such matters as international trade, aid to poor countries and protection of the environment.

The International Relations Committee has had to deal with all these matters and many more, and Roy Taylor throughout has been helpful and cooperative as we faced these tasks. He also has been a valuable member on subcommittees, and during the 94th Congress has been serving on the Subcommittees on International Political and Military Affairs and on International Trade and Commerce.

I regret Roy's decision not to seek reelection, and join in expressing best wishes to him and his family for the future.

Mr. O'NEILL. Mr. Speaker, I am delighted and honored to join my colleagues on this occasion to pay a special tribute to our good friend and colleague from North Carolina, Roy Taylor, who is retiring from Congress after 16 years of dedicated public service to his constituents and the Nation.

As the chairman of the Interior Subcommittee on National Parks and Recreation, Roy Taylor has led his colleagues with distinction and effectiveness. Under his aegis more than 4½ million acres of land have been added to the national park system.

Roy Taylor is a strong conservationist, and for this reason has endorsed strip mining legislation and a more efficient land-use policy. He points with great pride to the direction and guidance he gave to the land and water conservation fund and to the New Rivers bill.

Soft spoken, reserved, yet extremely well liked by his colleagues and devoted to the House of Representatives as an institution have earned for Roy Taylor the respect and support of many of his colleagues on both sides of the aisle, and the love and reverence of his friends.

Roy Taylor will be remembered by all of us who have served with him as a model of integrity and honesty, a man of high and uncompromising principle, who made the profession of public service an honorable and admirable one.

I am especially grateful to have served with such a fine gentleman as Roy Taylor and wish him much health and happiness in the years ahead.

Mrs. LLOYD of Tennessee. Mr. Speaker, it is with great pride and genuine gratitude that I rise to pay tribute to the distinguished chairman of the National Parks and Recreation Subcommittee, the Honorable Roy A. Taylor.

As a freshman Member of Congress, I shall always remember him for the advice and counsel which he has ever been ready to offer. He has been willing to pass on to more junior Members his wisdom and the fruits of his experience during his long and illustrious career in the House of Representatives.

When the final gavel falls on the House career of Roy Taylor, the superior guidance he has given as a statesman and a fine leader will be appreciated by his colleagues for years to come.

During his chairmanship he has been successful in greatly enlarging our national park system for the preservation of the beauty and greatness of our land for generations to come. I will always be grateful for the assistance he gave and the action he took in successfully adding the Obed River in my State to the Wild and Scenic Rivers System. This project was of immense importance to the people I represent and I give credit for this accomplishment to the able assistance of my dear friend, Roy Taylor.

His ability has served as a shining example for all of us to emulate, and his dedication an ideal to follow.

Our best wishes go with you on your return to your beautiful State of North Carolina.

Mr. EVINS of Tennessee. Mr. Speaker I wish to associate myself with the remarks of colleague, L. H. Fountain, and others in paying a tribute to our colleague, Roy A. Taylor, of North Carolina, who has elected not to be reelected to the 95th Congress

Roy Taylor is a lawyer, a combat veteran of World War II and a Christian gentleman. He hails from Black Mountain, N.C., an area that produces great and good and strong men.

Roy has served for a period of 16 years and has served with distinction as chairman of the Interior Committee's Subcommittee on National Parks and Recreation. I am advised that during his chairmanship, more than 4½ million acres of land have been added to our national park system. He has contributed much to preserving our land for our children in future generations.

Roy Taylor is a skilled and able legislator who has served his district, State, and Nation well. He is a man of highest integrity who has brought credit to the Congress.

I join with others in wishing for Roy Taylor the best of good luck, success, and happiness in his retirement and future endeavors.

Mr. RHODES. Mr. Speaker, the Congress will be losing one of its most dedicated and hard-working Members at the end of this session when David H. Henderson retires.

Dave Henderson came to the Congress from the Third District of North Carolina in 1960. As chairman of the House Post Office and Civil Service Committee and as a member of the Committee on Public Works and Transportation he has served this legislative body and the public with distinction. He presided over the committee during a time when our postal service was in transition from direct congressional control to an independent status. He served on the Public Works Committee at a time when our Nation was in the process of developing an overall transportation policy.

Dave Henderson has been a friend during the 16 years we have been colleagues in Congress. He has earned respect and friendship on both sides of the aisle as a diligent and effective legislator.

We will miss Dave in the 95th Congress. I join my fellow Members in expressing our appreciation for his outstanding record and extend my very best wishes for a long and enjoyable retirement.

Mr. O'NEILL. Mr. Speaker, I am deeply delighted that we are pausing to pay tribute to a distinguished Member of the House, David Henderson.

Public service is a demanding career and David Henderson has shown to the rest of us what a really fine public servant can do. David Henderson has been a Member of the House for 16 years and his service has been a tremendous asset not only to the third district of North Carolina, but also to the Nation at large.

His dedication, his ability, and his pleasant and cheerful disposition have made Dave Henderson a respected and effective Member of the House, whose compassion and willingness to help out any Member who had a problem have been highly valued by so many of his colleagues and friends.

As chairman of the Post Office and Civil Service Committee David Henderson has been fair, statesmanlike, and nonpartisan. He has given his subcommittee chairmen great flexibility in developing their own legislative potential and has firmly believed in sharing the knowledge and professional staff which were at his disposal.

Perhaps his most important legacy has been the careful, diligent and thorough political investigation of abuses within the Civil Service Commission and the problems of Civil and Federal employees who have been subjected to political coercion all too frequently over the last few years. The results of this investigation which Dave Henderson steered and directed, will be published in a report which makes specific recommendations to prevent future abuses and political misuse of power. Dave Henderson is proud to be known and remembered as a friend of the Federal employee. As vice chairman of the committee, and in this Congress, as chairman, Dave Henderson has been a successful mediator between the divergent points of view represented on the committee and has demonstrated great tactical skill in achieving a consensus within the committee before major and controversial legislation was reported to the House floor.

A kind and compassionate individual, Dave Henderson is not a headline-seeker, but he is hard-working, competent, and reliable and has been supportive of the Democratic leadership. I am proud to have had Dave Henderson on our team and proud to call him a friend. I will miss his counsel and advice in the 95th Congress.

Dave Henderson was a very good friend of every person whom he touched because he had immediate sympathy for the needs and feelings of each person with whom he conversed and worked.

I salute Dave Henderson and wish him health and happiness in the years ahead.

Mr. JONES of North Carolina. Mr. Speaker, it is difficult for me to realize that should I be returning to the Congress next session I will not have the pleasure of seeing my colleague, the Honorable David N. Henderson, as a Member of this body.

Certainly since entering the Congress in 1961 he has had a most illustrious career. During this period by sheer diligence and dedication, he has risen to the important post of chairman of the House Committee on Post Office and Civil Service, a high honor that few of us will ever be able to attain.

For the past few years, I have had the pleasure of living in the same apartment building as Congressman Henderson, and therefore, our friendship transcends that of just being a fellow Member of the House.

Certainly he has proven himself in the public arena and I am confident that he will do equally as well in his chosen profession of the practice of law.

To Dave and his family, I am sure we all join in wishing them much health and happiness in the years to come. Again, let me say I shall miss him as a colleague as well as a friend.

Mr. McFALL. Mr. Speaker, the House, the Nation and the Third Congressional District in North Carolina are losing an effective and dedicated public servant with the retirement of Congressman David N. Henderson.

As chairman of the Post Office and Civil Service Committee, David Henderson has worked tirelessly on behalf of the rights and welfare of Federal workers—the men and women who day in and day out carry out the laws we pass and deliver the services of Government to the people.

He also has waged a continuing battle to reform the U.S. Postal Service and to make it an effective and responsive instrument of service.

A major achievement for which he deserves credit in this Congress is the postal reform bill, which would authorize $1 billion to rescue the financially troubled agency, but which would also put the Postal Service on notice that it must streamline its operations.

Chairman Henderson stood up for the people in developing the bill. It puts a moratorium on postal rate increases, major service cuts and post office closings at least until next March 16. Thereafter, any proposed post office closing would require 60 days' notice and maximum opportunity for public comment. Temporary rate increases would require a 10-month waiting period. The bill also would require the Postal Service to show its budget to Congress and to testify annually.

With Chairman Henderson, the people of the country always come first. That principle was embodied in the postal act and in all the legislation that our colleague has put his hand to in his 16 years in the House.

David Henderson already had had a distinguished career when he was first elected to the Congress.

His first House experience came in the early 1950's when he served as Assistant General Counsel to the Education and Labor Committee.

Later he was elected to the post of solicitor of the Duplin General County Court, and then as judge of the same court, a position he held until his election to the 87th Congress in 1960.

Congressman Henderson brought to the House the best qualities of the judiciary—fairness and the ability to understand both sides of an issue—along with the best qualities of an effective legislator.

He retires from the House a young man in years and in outlook. He has many more years of productive service ahead of him.

I know my colleagues join me in wishing him the best in those years and thanking him for his many contributions to the House and to the Nation.

Mr. MARTIN. Mr. Speaker, I am honored to rise today to say a few words as we mark the departure from this Hall of our friend and colleague, David Henderson. His has been a welcome voice of reason and restraint here in the House during the 4 years we have worked together. His retirement will be a loss to us all and his shoes will be hard to fill.

Congressman Henderson obviously started adulthood the best way possible. He entered Davidson College, studied hard, and graduated. That, I should add, is still the order in which we do those things at Davidson. With Davidson under his belt, it is no wonder he rose to such an eminent position. He has served his district well, and the Congress well also.

I wonder why, though, a man in his prime wishes to retire, particularly from the chairmanship of a sensitive committee like that on the Post Office and Civil Service. We can all empathize of course, knowing how tough it is to go back home and explain the "1-percent kicker." Dave Henderson could either emphasize his commendable opposition to it or just explain that it must have something to do with our alma mater's football performance so far this season. Well, one thing he has never done is punt on a question. His successful efforts to cure yet another problem of governmental excess has once again earned our praise.

Losing Dave Henderson is painful for our North Carolina delegation. Speaking from across the aisle, I readily admit to having sought—and profitted—from his wise advice and counsel on matters relating to the Postal Service and the Civil Service, as well as the politics of our State. The advice and the insights have been thorough and nonpartisan, delivered without rancor. Well, usually without rancor; there was that Peanut Butter Week I asked about. Those who have sought out Dave's counsel will miss him severely. We wait now with baited breath to find who next is sentenced to having jurisdiction over commemorative resolutions.

As he leaves us—at least he knows whether or not he is doing so, while we are uncertain about our own future—we wish him well and Godspeed. It is fortunate we can do so here. Lord knows whether a letter would reach him.

Mr. CEDERBERG. Mr. Speaker, concluding a distinguished 16-year term of public service, our good friend, Dave Henderson, will shortly leave the House a better place for his presence. His gain in retirement is our loss of his continued valuable contribution. However, his respite from the heavy requirements of public life and congressional service are certainly well deserved.

As chairman of the House Post Office and Civil Service Committee, and as a member of the Committee on Public Works and Transportation, Dave provided our Nation outstanding leadership. His contributions are numerous and no matter of recounting can really do him justice. Overseeing may be two of the most problematic and controversial areas of Government, the Post Office and Civil Service, Dave has demonstrated insight and resourcefulness in coping with their special considerations.

Shouldering any burden ventured to him, he took on each task with enthusiasm and dedication. His only concern was that the American people would benefit. And benefit they did. Dave was interested in seeing the job done right without waste. Yet in his drive for efficiency, he was equally concerned about people's welfare. He was able to achieve an idealistic balance between his concern for human needs and his conscientious attention to Government effectiveness.

Our loss is shared by his district and the State of North Carolina which is witnessing the simultaneous termination of another congressional career, that of Roy Taylor. North Carolina can be proud of these native sons. They have served their constituents and their State with honor and dignity.

May Dave's retirement prove a fulfilling complement to his illustrious years in the House. Mrs. Cederberg and myself wish Dave and his wife, Mary, many enjoyable years ahead to enjoy their family and more importantly, themselves.

Mr. SIKES. Mr. Speaker, after 16 years of Service to his State and Nation, Dave Hendenson is retiring from the Congress. It is appropriate that those of us who have looked to him so often for leadership and sound counsel should now pay honor to him in this way.

It is hard to think of a Congress without Dave Henderson. During his time here he has served as an inspiration to his friends and has proven himself a worthy adversary to those who, from time to time, found themselves in opposition to his legislative proposals.

Everyone who has served with Dave Henderson knows that he is a man of honor who has placed the needs of his State and his country above all other considerations. There is no one among us who ever could say Dave was anything but fair in his relationships with his colleagues.

Our distinguished colleague has served as chairman of one of the great committees of the House, the Committee on Post Office and Civil Service. In his work on that committee he has done much to maintain the integrity of the civil service system and to improve the status of civil service employees. One of his principal tasks has been that of helping to chart a sound course for the Postal Service, which in recent years has seen some of its darkest days. He has recognized its problems. He has fought to improve the system. His efforts for betterment will continue to be felt.

These and like tasks have not been easy ones. On more than one occasion, Dave has seen efforts made to subvert the systems under the jurisdiction of his committee, take away rights of workers, and convert their mechanism into a political tool. As chairman, Dave Henderson has led the fight to halt these practices and to preserve balance and commonsense in their operations.

Dave came to the Congress well prepared to be a leader, for he had been a leader before joining us. He had a distinguished career in the Air Force during World War II and was discharged as a major. He served as assistant general counsel to the Committee on Education and Labor for 2 years, and later displayed his sense of fairness and justice as a judge in the General Court of Duplin County, N.C.

Dave Henderson was, and still is, a leader in his church and in several veterans organizations and civic clubs.

Still, he found time to be a loving husband to his wife, Mary, and to his three sons he became an inspiration and an ideal.

Those of us who have been honored to serve with him have seen him as a hard-working, able Congressman who displayed great leadership. Few have had an opportunity to see the inspiring family life of Dave Henderson, nor do we see the civic and religious leadership he provides in his native State.

It is important that we see a man who can be counted on for sound legislative endeavor, a man to whom we can turn for counsel and advice in the legislative field in which he is expert. At those times, Dave Henderson has always been where he can serve most effectively.

Now that he is leaving us, his counsel and his services will be missed. I wish he could be with us longer, because men like Dave Henderson are needed in Congress—needed at all levels of government. But he has made his decision to go home and I can fully understand that sentiment.

I wish him well as he leaves us, and I shall remember him in the years ahead as a friend and as a leader. To him, to his loving wife Mary, and to his three sons, I extend my best wishes for all they undertake in the years ahead.

Mr. EVINS of Tennessee. Mr. Speaker, I should like to join with my colleague, L. H. Fountain, and others from North Carolina in paying a brief but sincere tribute to Congressman David N. Henderson who is retiring from the Congress after many years of service.

Dave Henderson came to Congress as a soldier, veteran and lawyer, and in leaving, the House loses an able legislator and fine gentleman.

He has served as a member of the Committee on Public Works and Transportation and the Committee on Post Office and Civil Service. On the latter committee he rose to the rank of chairman. He has demonstrated his interest in people and the betterment of our civil service employees in government. As chairman of the Speaker's Committee on Personnel and Patronage, he has worked also for jobs and improvement of our career civil service people. His contributions have been immense.

He is an able, forceful, and capable legislator and a Christian gentleman.

Dave Henderson has served his district, State, and Nation well, and I join in wishing him the best of good luck and success in all his future endeavors.

Mr. ROUSSELOT. Mr. Speaker, let me express my appreciation to my good colleague, Mr. Fountain, who has most appropriately provided time today to honor David Henderson on the last week of his legislative activity in the U.S. House of Representatives where he has so faithfully served for 16 years. David Henderson well deserves this tribute from Mr. Fountain and his fellow colleagues. He has earned his position as chairman of the House Committee on Post Office and Civil Service by devotion to his duties and legislative capability. As a member of this committee, I have benefited by his guidance and example. With a patience that few can equal, David Henderson has been a strong and effective chairman. It was no easy task to serve as chairman during this time when the U.S. Postal Service has been going through growing pains and revision problems. Few other Federal or quasi-Federal agencies have experienced such criticism and change. David Henderson could always be counted on by the members of his committee to offer proper direction to the legislation that was moving through his committee's jurisdiction. Level-headed, judicious, sensible, and fair, David has provided well-balanced leadership not only to his committee but also to the House as a whole.

David tells us that he plans to return to private life to practice law and, while he will be missed in the House, we know that he will continue to serve his clients and community with the same thoughtful care and dedication with which he has served the constituents of the Third District of North Carolina and the country. It is hoped that David will return to visit Congress from time to time to bring his good counsel and share his knowledge on matters of significance to our Nation.

Mr. MURPHY of New York. Mr. Speaker, the two gentlemen who we honor here today have become virtual institutions in the House of Representatives, rising to a level of leadership usually obtained by men who have been Members of this body for a much longer period of time.

No two geographical areas could have more disparate qualities than my own New York City and the North Carolina represented by Roy Taylor and Dave Henderson. Yet their chairmanships have brought great benefits not only to their own southern constituency, but to my own New Yorkers as well. Roy Taylor's Subcommittee on National Parks and Recreation brought the Gateway National Park to my congressional district, for the benefit of all Americans; and Dave Henderson's Post Office and Civil Service Committee brought to the entire Nation a celebration of the canonization of the first American-born Saint, Mother Elizabeth Seton, who was born in my congressional district on Staten Island.

Obviously, their contributions to the legislative process are considerably more numerous and significant than just those two mentioned; but it was my particular pleasure to work directly with each of them recently in the passage of these two measures. There could be no more satisfying pursuit than to have worked with these men, and to have seen the benefits of their professional, and dedicated service to their own constituents and to all the people of this Nation. Far too many good men have chosen this year to leave the House. But we have learned from their guidance and leadership over the years; perhaps by following their example, we can make this an even better country.

Mr. REUSS. Mr. Speaker, today we honor a fellow Member whose wisdom, energy, and persistence is respected by his colleagues of this House and by those he has represented for the last 16 years.

As chairman of the Post Office and Civil Service Committee and its Subcommittee on Manpower and Civil Service, Dave Henderson lead legislative campaigns for the Federal blue collar worker. Through his authorship and with his guidance, the Federal Wage Board Policy Act was launched which established a nationwide, uniform pay scale for civilian employees.

From a farm in Wallace, N.C., he brought an understanding of honesty and fair play to Washington. A friend once described his subcommittee investigations, "he looked at 'good doing' and he looked at 'wrong doing' with the same eye—but always seeing the difference."

Dave Henderson departs for home with our friendship, our gratitude, and the knowledge that he will be missed.

Mr. WAGGONNER. Mr. Speaker, it gives me a great deal of personal satisfaction to be able to pay tribute today to a Member of the House of David Henderson's stature. The occasion is also one of personal sadness, because I hate to see this Congress and the Nation lose the talents and services of this great American.

It was my fervent hope that DAVE HENDERSON, whom I hold in the highest personal and professional esteem, could be dissuaded from retiring from the Hill. There is no doubt in my mind that at this time of challenge and crisis in the Nation's history the public can ill afford to lose the abilities, the wisdom and the example of leadership that this man has brought to these Chambers.

Inasmuch as he has chosen to retire from the strenuous duties that come from being the good and hardworking representative of his people that he is, I respect and accept DAVE's decision with much personal loss.

DAVE took the oath of office in 1961. I took the oath a little later in the 87th Congress. It didn't take long for us to realize that our people—his constituents of the Third District of North Carolina and mine of the Fourth District of Louisiana—had much in common with regard to commonly held beliefs and positions on issues. From this realization, we have worked closely together in many areas of legislation to best represent our people.

DAVE brought with him several years of experience as a Hill staffer, serving as he did as assistant general counsel for the Committee on Education and Labor. His public service as a judge aided him in his masterful ability to quickly define issues and select the wisest and most prudent path to follow in legislation. In the 15 years I have known and worked with DAVE I have admired his ability to remain calm and levelheaded in the face of challenge. But when he needs to make his positions known and to have them register he has the ability to make that deep voice of his boom with authority.

DAVE has never been one to let party labels cloud his sense of duty to his people and to his conscience. He has gained wide respect on both sides of the aisle, and from Members with widely divergent political philosophies. His services and contributions to the Democratic Research Organization have been invaluable.

DAVE, if I cannot persuade you to remain in Congress where we desperately need your talents, I can at least offer you my best wishes that whatever you choose to do in private life bring your happiness and pleasure. We are fortunate to have had you in Congress and I am proud to have been your colleague and friend.

Mr. DUNCAN of Oregon. Mr. Speaker, as a fellow member of the bar, I have grown to like, admire, and deeply respect DAVE HENDERSON.

In his chairmanship of the Cviil Service and Post Office Committee, he did everything humanely possible to contribute to the solution of the ever-vexing problems besetting our postal system. We do not have all the answers to that yet, but, he has built a firm foundation for the ultimate solution.

He will be missed. The Nation and this House owes him a great debt. I join his other friends in wishing him well as he begins a new career.

Mr. ADDABBO. Mr. Speaker, two of our distinguished colleagues from the State of North Carolina are retiring at the end of this Congress and I want to add my words of praise to those of my colleagues for their fine record of public service. The Honorable ROY A. TAYLOR and the Honorable DAVID N. HENDERSON have earned our respect during their careers in the Congress by working their way to positions of great importance in the legislative process.

ROY has been chairman of the Interior Committee's Subcommittee on National Parks and Recreation while DAVE has chaired the House Post Office and Civil Service Committee and has sat on the Public Works and Transportation Committee. Their record of accomplishment on those important posts are a matter of public record and set a fine example for future House chairmen to follow.

I will certainly miss ROY and DAVE but wish them a period of retirement marked by good health and personal happiness.

Mr. BENNETT. Mr. Speaker, I rise to honor DAVE HENDERSON who has done such an outstanding job as chairman of the House Post Office and Civil Service Committee, and his other leadership capacities here in the Congress of the United States. He has always had a warm and enthusiastic approach to his job, and he has always done his job excellently. This accounts for the outstanding legislation now on the statute books because of his authorship and leadership. All Members of Congress regret seeing him go, and particularly those of us who have known him closely and personally. He is a magnificent individual in every respect.

We wish him every happiness in his retirement, and hope that he comes back to visit us often.

Mr. KETCHUM. Mr. Speaker, I am sure that all my colleagues will say farewell only with reluctance to not just one, but two fine Members of the North Carolina delegation: ROY TAYLOR and DAVE HENDERSON. Each has contributed greatly to the workings of this Congress, as well as to the betterment of our entire Nation, and each is surely a highly respected legislator.

I was privileged to serve on the House Interior and Insular Affairs Committee with ROY TAYLOR, and can surely attest to the dedication and aggressiveness with which he tackled the tasks set before that committee. Further, his chairmanship of that committee's National Parks and Recreation Subcommittee has been of great benefit to our citizens; he has seen the national park system increased by over 4½ million acres. His nine terms as a member of this House have been clearly marked with leadership, integrity, and the responsiveness which is imperative in an outstanding legislator.

DAVE HENDERSON, throughout his eight terms in office, has been an equally effective representative of the people. His service with the Committee on Public Works and Transportation has been marked by diligence; his chairmanship of the House Post Office and Civil Service Committee has been exemplary.

I am sure it is North Carolina's hope, as well as that of this House, that those who assume the seats of these two outstanding men will follow their examples. They shall, indeed, be sorely missed, and I appreciate having this opportunity to wish them the very best in the years ahead.

Mrs. LLOYD of Tennessee. Mr. Speaker, it is with considerable pride and sincere gratitude that I rise to pay tribute to the distinguished chairman of the House Post Office and Civil Service Committee and a fellow Member of the House Public Works and Transportation Committee, the Honorable DAVID N. HENDERSON.

The strong leadership which DAVE HENDERSON has rendered during his service in the House will be remembered for years to come by his colleagues. He has proven himself to be an extremely effective Member of this body and has always been willing to lend his wisdom and enthusiasm to any job that needed to be done.

As a freshman Member of Congress, I have often been the beneficiary of the advice and counsel which DAVE HENDERSON can so ably offer. He has never failed to lend his most capable assistance in whatever capacity it might be needed.

When the final gavel falls on the 94th Congress, DAVE HENDERSON will not be forgotten, for his exemplary character and his admirable ability and dedication will continue to serve as a shining ideal for all of us to emulate.

Our best wishes go with you on your return to your beautiful State of North Carolina.

Mr. HUNGATE. Mr. Speaker, today I am pleased to join together with my colleagues to pay tribute to a Member who has served this House diligently for 16 years and who upon his retirement will be deeply missed.

DAVE HENDERSON's career in the House has been a continuous effort to improve not only the lives of the citizens of North Carolina's Third District, but the lives of all Americans as well. His fair and judicious leadership of the House Committee on Post Office and Civil Service will long be remembered by his colleagues. He has been a point of reference in troubled times and his insightful guidance will be missed by all.

As with any friend we only want the best for DAVE HENDERSON and we wish him all of God's blessings in the years to come.

Mr. UDALL. Mr. Speaker, I am pleased to join this tribute to Hon. DAVID N. HENDERSON upon his retirement from the House. His distinguished service has been marked by a grace, skill and intelligence we shall sorely miss.

For 15 years, I have sat next to DAVE HENDERSON on the Committee on Post Office and Civil Service, so I have had the opportunity to work closely and productively with him on a broad range of legislation.

DAVE HENDERSON has shown that he embodies the highest qualities of leadership. He has been willing to speak out, even when that meant taking an unpopular position. As a chairman, first of the manpower subcommittee and in this Congress of the full committeee, he has been fair, generous, and resourceful in a tough job that carries few political rewards.

The gentleman from North Carolina was a key author of the Federal pay comparability system, a vital measure to assure that the Federal Government can attract and keep talented, dedicated civil servants. His untiring efforts to modernize and upgrade Federal employment will yield great benefits to the public in future years.

While DAVE HENDERSON is leaving the House, I am confident that his State and his Nation will continue to have the benefit of his wisdom and sound judgment. For Plutarch wrote nearly two thousand years ago:

> They are wrong who think that politics is like an ocean voyage or a military campaign, something to be done with some particular end in view, something which leaves off as soon as that end is reached. It is not a public chore, to be got over with. It is a way of life. It is the life of a domesticated political and social creature who is born with a love for public life, with a desire for honor, with a feeling for his fellows; and it lasts as long as need be.

Throughout his career, DAVE HENDERSON has lived and breathed that description. I am proud to have been his colleague. I am proud to be his friend.

Mr. COLLINS of Texas. Mr. Speaker, it is with deep regret that I witness the departure of the chairman of our Post Office and Civil Service Committee, DAVID N. HENDERSON of North Carolina. DAVE HENDERSON has been a great chairman with a monumental assignment. Not only has he had 435 Members of Congress who each had a different solution for the Post Office but he has also been blessed with 220 million Americans who each and every one also have a solution for the Post Office.

I have so much admired DAVE HENDERSON's patient guidance of the Post Office Committee. The citizens write daily demanding lower rates and immediate postal service to their front door. The postal employees want higher salaries and adjusted working conditions. We have a Post Office that is half Government and half private where no one is in control. I hope that DAVE stays in Washington or stays in contact with us as his experience will be most beneficial in helping us move into a progressive program of development for the Post Office in the future.

DAVID HENDERSON is a fine gentleman. The dedication and outstanding ability of the gentleman from North Carolina have been recognized by all of his colleagues during the years that he served in the House. It was a great honor for me to serve with him on the Post Office and Civil Service Committee.

Mr. KARTH. Mr. Speaker, if the caliber of Federal employees has been raised and, therefore, the efficiency of Government improved, and I believe this has occurred in recent years, then much of the credit must go to you and your outstanding chairmanship of the House Post Office and Civil Service Committee.

The civil service policies and programs you have guided through Congress have given us a healthier and more capable Federal Government and at the same time advanced justice and employment security for scores of thousands of Government workers. Those who value competency, experience and vision in governmental performance have greatly appreciated your continuing efforts and and idealism as committee chairman.

Your contributions, also, as a member of the House Committee on Public Works and Transportation have been successful on behalf of countless cities and towns across the country. That they today enjoy more efficient transportation and public buildings is due, in large part, to your labors and legislative talents.

All your admiring colleagues wish you many, many years of fruitful and happy retirement. You take with you our esteem and affection.

Mr. HEFNER. Mr. Speaker, as a freshman Member of Congress, I have not had the opportunity of knowing and working with DAVE HENDERSON as long as have many of my colleagues. This is truly my loss. However, in the 2 years I have been in the Congress, DAVE HENDERSON has been a true friend and a source of sound advice.

DAVE HENDERSON has represented the Third District of North Carolina in the U.S. Congress since 1960. He brought to the Congress an impressive background which has enabled him to serve his constituents with distinction.

DAVE is a member of the House Public Works and Transportation Committee and has the honor of serving as chairman of the Post Office and Civil Service Committee. His legislative contributions as chairman of the Post Office and Civil Service Committee will be long remembered.

With the retirement of DAVE HENDERSON the Congress is losing a fine legislator, the people of the Third Congressional District of North Carolina are losing a great Representative, and I am losing a a good friend. He has labored long and hard and he will be sorely missed.

May God's richest blessings be with DAVE and Mary in all their future undertakings.

Mrs. SPELLMAN. Mr. Speaker, I rise to join in paying tribute to a truly distinguished Member of Congress, DAVID N. HENDERSON, whose leadership and warmhearted character will be sorely missed in the 95th Congress.

In my first term I have been most fortunate to have had the opportunity to serve on the Committee on Post Office and Civil Service, which has been so brilliantly led by Chairman HENDERSON. Under his tutelage and expert guidance I learned the legislative process and the workings of this body. The dedication, great ability and willingness to help have been the hallmark of this man.

In an era in which politicians are viewed with suspicion, his sense of fair play, his acts of good willl toward his colleagues, and his understanding of the pressures and the forces brought to bear on the member of his committee, shine forth like a beacon. I consider myself very fortunate to know DAVID HENDERSON. The people of North Carolina, and, indeed, the people of this Nation should be aware of the loss they will suffer upon his retirement after years of dedicated public service.

To my chairman, DAVID HENDERSON, I extend my sincere, heartfelt appreciation for his many kindnesses and his gentle understanding. I wish him many, many happy, fruitful years in retirement.

Mr. MORGAN. Mr. Speaker, DAVE HENDERSON has been a dedicated servant of our Nation for many years, as a member of our Armed Forces in wartime, as assistant general counsel of the Committee on Education and Labor, and since 1960 as the Representative to Congress from the Third Congressional District of North Carolina.

DAVE's wisdom and counsel have been highly valued by us during his distinguished service in this body. We are particularly indebted to him for his leadership as chairman of the Post Office and Civil Service Committee, and for his work in many other fields including public works and transportation.

I regret that DAVE has chosen not to seek reelection, for his ability and dedication will be truly missed. I join in wishing him every success in the future.

Mr. BROOKS. Mr. Speaker, the Honorable DAVID N. HENDERSON first came to Congress in 1960. It has been my privilege to serve with him in this body for 16 years.

He has been an eloquent and effective spokesman for the people of the Third Congressional District of North Carolina, who know that his presence in Congress will be a great loss to them.

He has been a hard-working and dedicated member of the Public Works and Transportation Committee, and as chairman of the House Post Office and Civil Service Committee, he has shown great leadership and earned the respect of all of us here in Congress.

A tireless leader, he will be missed by all of us here. We wish him a well-deserved rest but I doubt that he will fade into the background. It is with sincere personal affection that I join in honoring him and his wife Mary today.

Mr. JONES of Tennessee. Mr. Speaker, I want to join in paying tribute today to our colleague, DAVID HENDERSON of North Carolina, who is retiring at the end of this Congress. I regret that he is leaving us.

He has proven to be a noble friend as well as an imaginative and valuable Member of this body. His leadership as chairman of the Post Office and Civil Service Committee has been simply outstanding. He has dedicated himself to providing the best possible service to this body and to his constituents. I commend him for the tremendous work that he has done here and the achievements that he has accumulated.

I know we will all hate to see him go. But as he returns to his native North Carolina, I want to wish him and his family all the best for the years to come.

Mr. JOHNSON of California. Mr. Speaker, as we prepare to close the second session of the 94th Congress, this House will be losing some of its great public servants, DAVID N. HENDERSON. His wise counsel and leadership will be missed by us all, and will be long remembered.

DAVID HENDERSON began his service to his country as an officer in the Army Air Corps during World War II. His civilian service began here in the House of Representatives as Assistant General Counsel of our Committee on Education and Labor. His experience, I am sure, led him later to seek public office both in his native North Carolina where he served as solicitor and judge and later in the House of Representatives.

His distinguished career in Congress has covered eight terms and has culminated with the election as chairman of the House Post Office and Civil Service Committee. He has served as a subcommittee chairman and has been instrumental in the development of key legislation prepared by that committee over the last 16 years.

My association with Dave comes primarily from our joint service on the House Committee on Public Works and Transportation. I have seen his effectiveness as a legislator, his perception as a troubleshooter, and his kindness and understanding as a compromiser. Throughout his service on this committee, he has been diligent in his efforts to enact legislation to clean up our waterways, provide for better flood control protection, develop our air transportation system, and promote aviation safety.

Outside of his committee assignments, he has also maintained a key interest in other legislative areas, especially in education. It is through his broad knowledge and many contributions that so many Members of Congress have come to know Dave and his important contribution to the making of our Federal statutes.

The gentleman from North Carolina is not only a highly competent legislator, but also a very effective representative of the people in his constituency. He is known as a hard-working Congressman who listens carefully to the voices of the people.

David Henderson's contributions to this House are many and he has certainly earned a long and happy retirement. I sincerely wish he and Mary every success as they enter this new stage in their lives.

Mr. DERWINSKI. Mr. Speaker, having worked with Dave Henderson on the House Post Office and Civil Service Committee, I can attest to his tremendous legislative record. As ranking minority member of that committee. I believe that Dave has been its most effective chairman during my career in the Congress.

Dave Henderson is a great example of the strong silent type with a great sense of timing, yet forceful and effective when necessary. He is a classic Southern gentleman.

He has brought the committee stature and responsibility in its areas of legislative jurisdiction. He is, indeed, a real leader and classic Southern gentleman.

Dave has always given his very best to his constituents and to the Nation. He has distinguished himself as a man of integrity and ability. As a member of the Committee on Public Works and Transportation, he has contributed to the needs of States in river and highway improvements and flood control projects.

I am well aware of Dave's outstanding leadership and ability, and his fair, objective insight into legislative problems.

My wife, Pat, joins me in extending our best wishes to Dave and his wife, Mary. We are pleased that they will remain in Washington so we may continue our long association and friendship.

Mr. CORMAN. Mr. Speaker, today, I join my colleagues in this tribute to my old friend David Henderson. David's retirement represents the loss of one of the most respected legislators to serve in the House. His departure further provokes a personal note of regret, since David and I both joined the ranks of this great body at the beginning of the 87th Congress.

David's hard work and commitment to serve his country, home State of North Carolina, and constituency are exemplified by his distinguished 16-year service on the House Post Office and Civil Service Committee and as its chairman since 1975. He dedicated his efforts as chairman of the Subcommittee on Manpower and Civil Service to correcting the inequities encountered by civil servants employed by the Department of Defense.

He sought to secure equitable pay and job assignments for these civilians and effective and efficient utilization of their skills by the Department.

As the principle author of the Federal Wage Board Act of 1972, David led the charge to the first reform of the Federal Wage Board since the end of the Civil War. His tasks have not been easy ones, yet David persevered to accomplish significant changes and reform.

David's outstanding contributions in the fields of aviation and economic development through his assignment to the House Public Works and Transportation Committee add yet another dimension to his distinguished service record.

It has been a great honor and privilege to serve with David for the past 16 years, and to gain his respect and friendship. David will be missed by all who have known and worked with him over the years. I wish him the best of everything in his future endeavors—years of happiness, contentment, and good health.

Mr. MONTGOMERY. Mr. Speaker, I appreciate the gentleman yielding and providing me an opportunity to express in my humble way the great amount of esteem I have for two of the most conscientious Members of the House—Roy Taylor and Dave Henderson.

In their respective areas of legislative jurisdiction, both of these gentlemen have contributed to progressive legislation that has benefited their constituents and the people of America. They have never been content to simply serve as chairmen of their committees and subcommittees, but rather they have always acted and worked in a manner that has brought distinction to themselves and the Congress.

For one State to lose the services of two such dedicated public servants at the same time is indeed a blow. But the people of North Carolina must also feel a great sense of pride in the fact that they made it possible for Dave Henderson and Roy Taylor to serve their State and Nation.

Mr. Speaker, I have not envied David Henderson his position as chairman of the Post Office and Civil Service Committee because I know of the many problems and frustrations he has faced in trying to bring order to a chaotic postal system. However, because of his leadership we have seen the enactment of legislation just recently that hopefully will provide good mail service at reasonable rates. This has been no small task and we all owe Chairman Henderson a vote of thanks for his hard work in this area.

One can go to any State in this great Nation of ours to see the results of the good work and dedication of Roy Taylor. All of our people can be thankful for the vast improvement of our national park system under the guiding hand of Roy. He has not been contented to rely on staff reports on proposals to expand the Nation's parks. He has gone to the areas himself to get a firsthand feel for the situation. As a result of this personal interest, the people of America now have an additional 4½ million acres of parkland to enjoy.

Mr. Speaker, I feel quite grateful to have been able to serve with Roy Taylor and Dave Henderson. They have been an inspiration to me and I shall always be thankful for the advice they have so freely given over the years. I wish them the very best in the years to come.

Mr. FORD of Michigan. Mr. Speaker, it is with extreme sadness that I participate today in this special order paying tribute to our friend and colleague, David N. Henderson, who is retiring at the end of this Congress.

I have worked with Dave Henderson on the Post Office and Civil Service Committee for the past 10 years, the last 2 of which he has served as chairman. He has been a friend and adviser to me during this time, and I have often turned to him for counsel in our deliberation of complex issues and legislation. He has been a most effective and fair chairman of our committee, and it has been a pleasure to work under his guidance. I will miss him, and the House will miss him.

We on the Post Office and Civil Service Committee will miss his firm leadership, his extensive knowledge of the problems with which we deal almost daily, and his willingness to share this knowledge and to consider all sides of any issue.

The retirement of Dave Henderson will be a great loss to the State delegation of North Carolina, to the people of his district, and to this Congress. It will mean a great personal loss to all of us who have come to respect and admire him as a friend and colleague.

I join all my colleagues today in wishing him the best of luck and many years of contentment in his beloved North Carolina.

Mr. DRINAN. Mr. Speaker, it is indeed an honor and a privilege to join with my colleagues today in paying tribute to Congressman Dave Henderson on the occasion of his retirement from the House of Representatives.

Congressman Henderson's 16 years in the House have been characterized by bold leadership and deep concern for the people of this country.

During these years Congressman Henderson has served with great distinction as chairman of the Committee on Post Office and Civil Service and as a ranking member of the Committee on Public Works and Transportation.

Throughout his eight terms in the House, Congressman HENDERSON has demonstrated qualities of integrity, initiative, and compassion which made him a leader in the Congress. He will be missed by his friends and colleagues in the Congress.

Mr. TAYLOR of Missouri. Mr. Speaker, it is a singular pleasure for me to pay tribute today to our distinguished colleague, DAVID N. HENDERSON, who is retiring at the end of this term after 16 years of service as a Member of Congress. By his example of integrity and responsible leadership, the Congressman from North Carolina's Third District has honored this House, his State and Nation.

One of the benefits of service in the House of Representatives, for me, has been the opportunity to work with and learn from men and women of great stature. DAVID HENDERSON is one from whom I have learned a great deal. Through my membership on the Committee on Public Works and Transportation and the Committee on Post Office and Civil Service, I have had the opportunity to observe firsthand the statesmanlike quality of DAVID HENDERSON.

His service as chairman of the Committee on Post Office and Civil Service has been an example of steadfastness, fairness, integrity, and responsibility that all of us can take pride in. I am doubly proud to have served on Chairman HENDERSON's Subcommittee on Manpower and Civil Service, because he always emphasized cooperation, fairness, and negotiation.

Chairman HENDERSON had already achieved a great deal in his life when he was first elected to the Congress in 1960, and I think these experiences and achievements had a great deal to do with four of his personal qualities.

He brought to this House leadership ability, gleaned from service as a U.S. Air Force officer;

He brought to his work here an interest in and zeal for the legislative process, shaped by his service as assistant counsel to the Committee on Education and Labor;

He brought and maintained a deep sense of honesty and justice, instilled in him through his education and training as an attorney and tempered by his service as prosecutor in his home county; and

He brought and maintained a high degree of moral courage, integrity, and fairness, virtues infused in him during his service as a judge in his home county.

Mr. Speaker, I will miss DAVE HENDERSON. I will miss his wise guidance and counsel, and I am sure this House will miss his presence and influence; but we all will long remember his character and his example.

Mr. ROYBAL. Mr. Speaker, I would like to add my words of praise, as we take a moment to pay tribute to Congressman DAVID HENDERSON who will not be seeking reelection later this year. Dave has been an outstanding Member of Congress, representing the Third District of North Carolina with dedication and distinction for the past 16 years.

As chairman of the House Post Office and Civil Service Committee, Dave has been the driving force behind the Postal Reorganization Act amendments which was enacted into law only a few days ago. He has also been an active supporter of legislation benefiting the civil service career employee, both in monetary retirement and other fringe benefits. As a member of the House Public Works and Transportation Committee, he has been particularly influential in developing sensible approaches to clean water, flood control and erosion projects, air transportation and safety.

Prior to his election to Congress, Dave served as a judge on the Duplin General County Court and as Assistant General Counsel of the Committee on Education and Labor of the U.S. House of Representatives. He has distinguished himself in all his undertakings and we will certainly miss his wise counsel and expertise in the future.

It has been a pleasure to know and work with DAVE HENDERSON as a colleague in the House and I want to take this opportunity to extend my best wishes for continued success.

Mr. McCLORY. Mr. Speaker, seldom has the House Post Office and Civil Service Committee faced more controversial issues than it has in the 94th Congress. The pressing concerns of the U.S. Postal Service and the restructuring of Federal pensions are two complex problems that have required the greatest skill—and soundest judgment.

Under the leadership of Congressman DAVID HENDERSON of North Carolina, the committee has taken appropriate action in both of these areas. In his voluntary retirement from this body after 16 years of distinguished service Congressman HENDERSON merits our highest praise.

The approval of H.R. 8603 will allow Congress the opportunity to give thorough consideration to various alternative proposals for reforming the Postal Service. I anticipate that a far-reaching and comprehensive postal reorganization bill will be approved next year.

Further, the removal of the 1-percent kicker on Federal pensions—an initiative requiring a certain amount of political courage—demonstrates a strong sense of fiscal responsibility, and will save the Government some $3 billion over the next 5 years.

Mr. Speaker, responsibility and good judgment have been characteristic of DAVID HENDERSON's service in the House of Representatives. He has served his constituents well, and through his many acts of statemanship has served my constituents also. The American people owe him a debt of gratitude, and I am pleased to take this opportunity to pay tribute to him.

Mr. Speaker, let me add my best wishes to Congressman HENDERSON for a rewarding retirement from public life—and my hope that Congressman DAVE HENDERSON and his wife, Mary, will enjoy good health and happiness in the years ahead.

Mr. HARRIS. Mr. Speaker, I rise to pay tribute to my distinguished colleague from North Carolina, Congressman DAVID N. HENDERSON, with whom I have worked closely in the 94th Congress.

As a member of the House Post Office and Civil Service Committee, which Congressman HENDERSON chairs, I have had the pleasure of working with him on many issues affecting Federal employees. Mr. HENDERSON has been a leader in representing the interests of our over 2 million Federal workers. I am especially impressed with his leadership and efforts to investigate and remedy abuses of the merit system in the Federal Government. His untiring endeavors have resulted in a comprehensive investigation which will help us all in the years to come strengthen the U.S. Civil Service and insure the unbiased administration of our laws.

Mr. HENDERSON has been a fair and judicious chairman who respects the rights of all committee members and their often competing points of view. He has conducted the committee in a manner that serves as an outstanding example of the strengths of the legislative process.

I look forward to a lifelong friendship with one of the Nation's finest public servants who will be missed in the Congress, in the coming years.

Mr. ICHORD. Mr. Speaker, I am happy to join with my colleagues in the House of Representatives today in this tribute to DAVID HENDERSON, and I do so with sincere gratitude for DAVE's friendship and the association we have had for 16 years.

DAVID HENDERSON and I entered as freshmen in 1960, but DAVE's contributions to his country began long before that. He served overseas as a major in the U.S. Air Force in India, China, and Okinawa. He served his home county as solicitor and judge. As a member of the Committee on Public Works and Transportation, and as chairman of the House Post Office and Civil Service Committee, DAVID HENDERSON has worked tirelessly on much needed and long-overdue reform, and he has seen it accomplished. He can enjoy the rare triple satisfaction of having responsibility for the inception of reform, the realization of reform, and the result of reform.

It is the desire of all of us that, as we leave this Chamber, we leave with the knowledge that we have served well and contributed creatively to the growth of these United States. DAVID HENDERSON can leave with the knowledge that he has served the Third District and the country with wisdom and skill, and with the knowledge that he carries with him the admiration, respect, and esteem of all those who have served with him here. He will be sorely missed. But his spirit and contributions and example will long continue to be an integral part of this body.

Mr. PREYER. Congressmen are accustomed to talking, and talking on almost any subject. Yet when it comes time to say farewell to our retiring colleagues, we do not express ourselves adequately at all. It is hard to express friendship, respect, appreciation; it is much easier to talk about issues than about the qualities of human beings.

I wish I could do justice to our two fine North Carolina Congressmen who will be retiring this year—ROY TAYLOR and DAVID HENDERSON.

We all know that they are able and conscientious legislators. The record speaks for itself. DAVE has served with distinction as Chairman of the Post Office and Civil Service Committee, and the fact that he managed to get elected repeatedly while serving on such a controversial war department committee is a great tribute to him in itself. It has been one of those absolutely essential jobs in Congress but sometimes, a thankless one. He has performed it with skill and monumental patience and fairness. ROY has done a wonderful job on the Interior Committee, especially for our National Parks System. His crowning achievement was his handling of the New River bill, for which North Carolinians will be forever grateful to him.

It is easy to describe their records as legislators but much harder to express their qualities as human beings. ROY reflects the best of the mountains of western North Carolina, DAVE the qualities of our eastern plains. These qualities, these roots, this character is in their bones. Not a breath of scandal has ever touched either of these men. Their integrity has never been questioned. Not a man has ever questioned their word.

This is saying a lot about any man after many years in politics and in Washington. They leave here as clean as the day they first got here and much more respected.

They did not have the careers entirely on their own.

"Behind every successful man there stands a woman—telling him he is wrong." Evelyn Taylor and Mary Henderson have filled the role of congressional wives in a remarkable way. They have done their duty at innumerable receptions; most of the receptions were fun, but they were there even when they were not. They have been unswerving on the campaign trail which is fun but also very hard work. They have been equal partners with their husbands in dealing with the daily problems from their districts.

There is another North Carolina wife leaving Washington after many years and who is also retiring to North Carolina—Myrtle Alexander. Her husband, Hugh Alexander, was a distinguished Congressman from North Carolina for a number of years and has since then served ably on the staff of the Senate Rules Committee.

There are three no more wonderful ladies, who worked harder at their duties as congressional wives in their districts and in Washington, none more faithful or made more of a contribution to the Congressional Wives Club.

We will miss ROY, DAVE, Hugh and Evelyn, Mary and Myrtle. We say to them, "Well done. We love you, and as we say in North Carolina we hope in the future you will 'keep on keepin' on.'"

## GENERAL LEAVE

Mr. FOUNTAIN. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks and include extraneous material and that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today, the retirement of the Honorable ROY A. TAYLOR from the 11th District of North Carolina, and the Honorable DAVID N. HENDERSON, from the Third District of North Carolina.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## THE HONORABLE JAMES A. HALEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 50 minutes.

Mr. SIKES. Mr. Speaker, I have obtained a special order for today for the purpose of paying special tribute to our good friend and Florida colleague, the Honorable JAMES A. HALEY, who has announced his decision not to seek reelection to a 13th term in the House of Representatives. I invite my colleagues to join me in appropriately honoring Mr. HALEY at this time for his great services for our country.

I regret very much that JIM HALEY is leaving the House and I am confident this same feeling is shared by every Member of this body. Certainly, he is one of the most highly regarded Members in Congress, and the respect which he enjoys comes from both sides of the aisle. He has been my very good friend for many years and it has been a privilege and pleasure to work closely with him in the House on matters affecting the State of Florida and the Nation.

For 24 years, JIM HALEY has provided outstanding leadership to the Congress. His sound counsel and constructive efforts have proven highly beneficial to the progress of America. He has established an enviable record in the Congress and I say with full sincerity that the Congress and the Nation will miss his good work and effective service.

The biography that appears in the Congressional Directory about our distinguished Florida colleague is the shortest of any among the 15 Members of the House from our State. It shows that he was first elected to Congress in 1952 and that he has been consistently reelected since that time. It does not reveal the fact that his election as a Democrat always has demonstrated the great confidence of his constituents in his work despite the fact that he lives in a district with strongly Republican registration. JIM HALEY's constituents know the value of his services and this they wisely placed above party label. His friends in the House know the importance of his work also.

JIM HALEY has had a varied and long career. Born in Alabama, he enlisted in the Cavalry and served overseas on three major campaigns and the army of occupation. Returning to this country, he trained as an accountant, moved to Florida and ultimately became general manager, later vice president, and still later president of Ringling Brothers, Barnum and Bailey, the world's biggest circus. He began his political career in 1948 as a member of the Florida house, where 3 years later he gained great distinction as chairman of the gang-busting Haley Crime Investigation Committee. On the basis of that record he ran for Congress in 1952 and won the seat he now has held for almost a quarter of a century.

Congressman HALEY occupies the distinguished post of chairman of the Committee on Interior and Insular Affairs. This is an important assignment and one which Mr. Haley has very ably filled.

By tradition, in the Interior Committee the subcommittee chairmen were without power to draft legislation, hold hearings on proposed bills, or act on them without consent of the head of the full committee. This effectively limited the committe to the chairman's will.

One of his first official acts when he succeeded to the chairmanship at the beginning of the 93d Congress in 1973 was to diffuse his powers as chairman among his subcommittee chairmen, thereby giving up much of his power to control its affairs and turning that authority over to the subcommittee chairman. The result has been that this committee has been one more cohesive and effective among the standing committees of the House. The record has proved that JIM HALEY knew what he was about.

There were those in the House and among leaders of various organizations promoting conservation and ecological protection measures who thought that Mr. HALEY perhaps was not the man to head a committee so deeply concerned with this area of legislation. These were people who assumed that because the Florida lawmaker is an unwavering conservative, his own interest in conservation and ecology would be negative or at least limited. They overlooked his record.

Long before the intense, widespread concern for conservation that exists today, Mr. HALEY was warning that the Nation was not doing enough to preserve its natural resources and was trying to get something done about it. He now has the support of other public officials, and of conservation leaders, in this fight. A testimonial to Mr. HALEY's effectiveness in committee work was the unprecedented action of the full membership of the Interior Committee in 1964 when the committee paid a special tribute to him in a House report commending him for his undeviating perseverance in his committee work.

Congressman HALEY's activities in the Congress have not been limited to matters within the scope of the Interior and Insular Affairs Committee. He accepted an assignment to the Veterans' Affairs Committee in 1955. Prior to his service in Washington, he was an outstanding member of the Florida legislature and his leadership talents were directed in considerable measure to legislation benefiting veterans and their families. As a veteran, he had a deep and sincere interest in all veterans and their dependents. As a Floridian, he felt that Florida's rapidly growing veteran population should have representation on a committee which is so very important to his State. He served on the Hospitals Subcommittee for 18 years and was chairman of the subcommittee for the last 8 of these years. This subcommittee has oversight over the 166 VA hospitals and the entire VA medical program throughout the United States.

Mr. HALEY further evidenced his interest in the welfare of the veterans when, in 1971, he cosponsored a bill to establish a drug treatment program in VA hospitals. He was concerned over the fact that it had been reported by the VA Chief Medical Director that there was reason to believe there were some 50,000 veterans who had a drug abuse problem. He was hopeful that, through programs instituted by this bill, the Veterans' Administration, as it had done in so many health-related fields, would be able to lead the way in stemming the tide on this subject which was and continues to be one of the most pressing problems facing the people of the United States.

After becoming chairman of the Interior and Insular Affairs Committee in 1973, Mr. HALEY relinquished his seat on the Veterans' Affairs Committee. His new responsibilities would leave him but little time for any other committee assignment and, in his characteristic unselfish way, he wanted to provide an opportunity for another Member with fewer responsibilities to devote more time to the needs of the Nation's veterans.

During his service on the Hospitals Subcommittee, Mr. HALEY helped bring about the construction of three new Florida Veterans' Administration hospitals—Gainesville, Miami, and Tampa—and the modernization of the VA hospital facilities at Lake City and Bay Pines. During this same period, Florida's VA hospital beds were increased from 1,353 to 3,501. Congressman HALEY's work nationwide was equally important. He helped to build needed hospitals and to improve veteran facilities in other areas, and he was instrumental in preventing the closing of VA hospitals and regional offices in areas where their contributions appear essential.

Recently, on behalf of the entire Florida congressional delegation in the House, I introduced a bill, H.R. 12896, to name the Veterans' Administration hospital located in Tampa, Fla., the "James A. Haley Veterans Administration Hospital."

Such an honor will be a proper and fitting tribute to a man who has championed the rights of veterans all the years he has been in the Congress. Through his tireless efforts and years of dedicated service on the Veterans' Affairs Committee, the veteran population throughout the Nation now has access to greatly improved medical programs and significantly expanded hospital facilities. His years of hard work and concentrated efforts on behalf of all veterans and their dependents have earned their respect and admiration.

I am happy to state the bill passed the House on today. The hour is late, but I sincerely hope the Congress will complete action on the legislation prior to adjournment. Congress should give the name of the distinguished Floridan to a modern hospital of recognized need for veterans as proper recognition for his long years of service to the veterans.

Congressman HALEY has many legislative accomplishments to his credit.

He has given outstanding service and leadership to Florida's agricultural industries. He shared with the late Senator Spessard L. Holland, the responsibility for the passage of Public Law 86-2, which extended for 3 years the use of color additive FC & D 32 in the coloring of oranges. He was instrumental in the construction of the Winter Haven, Fla., U.S. Department of Agriculture fruit and vegetable products utilization laboratory; helped obtain funds necessary for programs for research, prevention and eradication of citrus spreading decline, Mediterranean fruit fly, screwworm and red tide; amendment of laws to assist farmers meet clean air standards for grove heaters; introduction of legislation to prevent imports of fresh fruit and vegetables from undermining domestic marketplace.

He has been honored many times by the Florida Citrus Industry, receiving commendation from agricultural oriented organizations such as the Florida Citrus Mutual, the Florida Fresh Fruit and Vegetable Association, and the Florida Cattlemen's Association.

Once when described by a national consumer advocate as being a "parochial" Congressman HALEY was not offended because his first concern has always been to the needs of his constitutency. His efforts in behalf of his constitutency have been responsible for his election and reelection to serve 12 terms in the U.S. House of Representatives and 2 terms in the Florida State House of Representatives.

I want to list what would appear to be among JIM HALEY's greatest legislative accomplishments:

The establishment of the Big Cypress National Water Preserve to protect the water supply of the Everglades National Park;

The legislation authorizing and funding the acquisition of the privately owned lands within the Everglades National Park;

The Alaskan Native Claims Settlement Act;

Assisting in establishing the saline water reseach program;

The enactment of the Blue Lake bill, restoring the sacred Blue Lake to the Taos Pueblo Indians;

The Alaskan Pipeline Act;

The legislation providing the funds and the authority for the completion of the West Coast Inland Waterway, Fla.;

The Kinzua Dam Act which provided for the compensation and relocation of the Seneca Indian Nation; and

Assisting in establishing the Spessard L. Holland National Seashore.

JIM HALEY's splendid work during the years he has been in Congress has gained national recognition and has provided significant benefits to his district, the State of Florida, and the Nation. The Florida congressional delegation and the people of our State are proud of his outstanding record. He is indeed a great legislator and a great American and I am very sorry to see him leave us. My best wishes go with him and his family in all that they undertake in the years ahead.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I would be happy to yield to the distinguished chairman of the Committee on Appropriations, my good friend, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. I thank the gentleman for yielding.

Mr. Speaker, I wish to join my colleague in paying tribute to JIM HALEY. He has done a good job and served the people of this Nation and his district well. As a fellow chairman it was always a pleasure and honor to work with him. I wish him well in his retirement.

Mr. SIKES. I appreciate the good thoughts of my good friend, the distinguished gentleman from Texas.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I am happy to yield to the distinguished majority whip, the gentleman from California.

Mr. McFALL. Mr. Speaker, I join with the gentleman in the well in expressing our friendship for JIM HALEY. He has had a great legislative career here. We are going to miss him.

He earned the title of "Mr. Economy" when he was a State legislator and he has earned it here. He has done many things for his district and many things for his country, always within the realm of fiscal responsibility.

We are going to miss JIM HALEY and the people of his district in Florida will miss his able representation. He has worked for their welfare as hard as he has worked for the legislation for the entire Nation. A national figure once described JIM HALEY as parochial. He was not offended, but I would not say he was parochial even though his first concern might be the needs of his constituency, because I know he has done great things for my district, for the West, and for this entire country.

Mr. SIKES. Mr. Speaker, I appreciate very much the appropriate and timely remarks of my good friend, the distinguished gentleman from California.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to my distinguished friend, the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to join in the tribute to JIM HALEY. Almost a quarter of a century ago when I came to the Chamber as a page I had occasion to read the biography of the gentleman from Florida and discovered he was closely connected many years ago with the Ringling Brothers-Barnum and Bailey Circus. It occurred to me this was a most interesting aspect of a career for a Congressman, and in later years I came to realize how well that training would qualify a person to be a Member of Congress.

I have worked closely with the gentleman from Florida in the last 3 years because I have had the privilege of serving closely with him on the Committee on Interior and Insular Affairs, on the subcommittee, and on the Ad Hoc Select Committee on the Outer Continental Shelf. I can say without fear of contradiction he is one of the most gentle of men in presiding over his fellows in the Congress. He is always courteous to us and gives us great leeway in expressing our views. I think that says a great deal about him as a person and as a legislator and as a true conservative whose views I share. I think it is only an accident that we happen to belong to different parties.

We will miss JIM HALEY because there are only too few who believe in principle and try to translate it into action, and JIM HALEY is one of those.

I am reminded of an occasion when Abraham Lincoln was approached by a friend and asked if he would contribute to a fund for a marble monument to be erected to a former Congressman, Irving Lovejoy, from that State.

Lincoln replied:

> Let him have his monument but the more permanent monument will be the living memory that will remain in the hearts of his countrymen.

I think that can be said of the gentleman from Florida. We wish him well in his retirement and all Godspeed.

Mr. SIKES. I thank the gentleman from Maryland.

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, I too would like to pay tribute to our colleague and friend, Chairman JIM HALEY. He has done a tremendous job in this Congress. He is such an outstanding Congressman from Florida, but I want to remind the Members he is a native of Alabama. We in Alabama are very proud of him and very proud of the record he has set here and proud that he has done so much for the future generations of this great country.

We all know JIM HALEY is going down in the records as one of the greatest in this Congress. I hate to see him leave but I do wish him and his family the very best.

Mr. SIKES. May I remind my friend that when JIM HALEY left Alabama to go to Florida he had to go through west Florida and I am sure that helped mold the man we are so proud of.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the distinguished gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I too, rise to pay tribute to an outstanding gentleman in this Congress, JIM HALEY. Many people do not know what outstanding talent this man had in his younger days when he played baseball, but he burned up the leagues back in Florida when the then Sally League was in force. He was really an outstanding baseball player in those years.

In recent years when I had the privilege and honor to know JIM HALEY, I came to know him as a true gentleman and to love him. I recall very well when he was assisting me in Andersonville on the historic site which is now a reality.

I wish for the gentleman much happiness and joy in his retiring years and should he return to the State of Georgia, I invite him to return to the Third District of Georgia, where together we might visit Andersonville and review again the spendid years we had here in Washington, D.C.

Mr. SIKES. Mr. Speaker, may I say to my distinguished friend, the gentleman from Georgia, I have some very fine friends in Florida whom I represented for many years and they are as proud of the gentleman from Georgia and I of JIM HALEY.

Mr. Speaker, I yield to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I cannot let this occasion pass without taking the opportunity here to say to the Members of this body that JIM HALEY was born in my congressional district.

Mr. Speaker, we are extremely proud of the gentleman from Florida. He finds time each year to come back and visit with his many friends there. He is able to attend church in the small community in which he was born. It has been a privilege for me to serve with him. I have watched him in the back row and any time my voting pattern fails to concur with JIM HALEY, I take another look at my vote.

I want to offer the gentleman every joy in his retirement.

Mr. SIKES. Mr. Speaker, I thank the gentleman from Alabama.

Mr. Speaker, I yield to the distinguished gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, as a newcomer to Congress, a Member of the freshman class, I would like to say that I have grown to admire and love JIM HALEY as a colleague. There have been times when I have been confused on the House floor as to how to vote and I have sought consultation from this veteran of 24 years in the House of Representatives. I admire him as one who has done a lot for our country and, indeed, for the State of Florida and one who has been helpful to several of us in the Congress, including this Member.

Mr. SIKES. Mr. Speaker, I appreciate the comments of my friend, the gentleman from Kentucky.

Mr. Speaker, I am pleased to yield to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I thank the gentleman for yielding to me on two occasions now, one on the unveiling of the figure of JIM as a portrait, which is going to hang in the Rayburn Building. It is a thing of beauty. We have had a chance to extend our good feelings about him and also to the Florida delegation recently, where JIM will be sorely missed.

I am delighted to join my colleagues on this occasion to honor our good friend and colleague from Florida, JAMES HALEY, who is retiring from Congress after 24 years of dedicated service to his constituents and the Nation.

As chairman of the Committee on Interior and Insular Affairs, JIM HALEY has given distinguished leadership to the conservation of our Nation's natural resources and environment and to its internal development.

JIM HALEY has earned the love and respect of his colleagues. Those who served with him on the Interior Committee admire his fairness and openness and his willingness to allow his subcommittee chairmen maximum input into all interior legislation. He will be remembered as a chairman of character, integrity, and decency whose word has always been good to every Member.

JIM HALEY'S devotion to duty, his commitment and his cheerful disposition helped to make him a beloved legislator. We wish him well in his retirement, though we are losing the services of a respected and dedicated colleague and one who so ably served the needs of our Nation and of his district for the past 24 years.

Mr. SIKES. Mr. Speaker, the majority leader is very kind.

Mr. Speaker, I yield to my friend, the distinguished gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. Mr. Speaker, for a moment here I thought it was going to be an all-Rebel show, with all our good friends from the Confederacy praising our friend from Florida.

Mr. SIKES. Mr. Speaker, does not the gentleman from Indiana feel a little kinship with the Rebel cause?

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield further, as the gentleman knows, Indiana was just one step away from joining the Confederacy a few years ago.

In any event, I do not want it to seem it is all self-adoration from the South, but some of us from the North love him too. I am sure JIM has been in Indiana, but many who say he was born in their district in the South, those of us in Indiana also appreciate the contribution JIM HALEY has made in making this a better place to live. We in Indiana certainly appreciate our association with him.

I have only had the privilege of serving 10 years with JIM. We appreciate his great contribution in making America a great place to live. Unfortunately, I do not know how to fill the shoes of the caliber of men like JIM HALEY. One of the sad things about sine die each year is that some great people leave. We see some people leave that really are concerned about making the country a better place to live.

Not knowing who is going to replace JIM HALEY at this particular point, it is a sad occasion that we see these great friends leave. So, it is with some sadness that we see JIM leave, but we do wish him many years of happiness and success in the future.

Do not forget us when we need your help, JIM.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I would just like to join with the others who have already spoken and congratulated JIM on his many years of service. As my committee chairman in the Committee on Interior and Insular Affairs, I would like to say—as the lowest ranking member of that committee—that he has shown incredible tolerance and flexibility for those of us who came here to expound our ideas. He has been a very, very fair chairman; one who has allowed all of us to have our say in the committee on issues that were of importance to us. He has run the committee with a firm hand, and with a very, very fair hand, and a very tolerant hand.

I am sorry to say that I will only have been able to serve one term under his stewardship, but like the other Members, I wish him well in his many years of retirement, and thank him for his help in my first year in the Congress.

Mr. RHODES. Mr. Speaker, after nearly a quarter of a century in the House, Representative JIM HALEY will retire at the end of the 94th Congress.

Throughout his career as a public servant JIM HALEY has been a staunch supporter of economy in Government. He has been a supporter of the free enterprise system, the only source of real wealth in this Nation.

He has been a strong voice in legislation to assist the veterans of America. He long has been active in the improvement of our natural resources.

Before coming to the Congress, JIM HALEY was director of the Ringling Brothers, Barnum and Bailey Circus. I am sure that he found this early experience of great value when he joined what most certainly is the "Greatest Show on Earth."

It has been my privilege to have served with JIM during his time in the House. He is a good friend, whose counsel I respect. His dedication and adherence to principles has earned him admiration on both sides of the aisle.

We most certainly will miss JIM HALEY in the 95th Congress. I join my colleagues in recognition of 24 years of service to this body, the Eighth District of Florida and the Nation. We all wish him many years of happy and fulfilling retirement.

Mrs. SULLIVAN. Mr. Speaker, JIM HALEY and I came to Congress on the same day in 1953 and will be leaving on the same day after 24 years. We have had many pleasant associations—and sometimes some good battles—over those years. The committee of which he is chairman, the Committee on Interior and Insular Affairs, and the committee of which I am chairman, the Committee on Merchant Marine and Fisheries, have shared a number of areas of common legislative interest and I think we have cooperated well while retaining our respective legislative positions.

Everyone who knows JIM HALEY knows that he loves saving the taxpayers money. When the Republicans talk about the Democrats as "big spenders"—as they delight in doing—they are certainly not talking about JIM.

I wish him the very best in everything he undertakes in the years ahead and take this means of expressing to him my thanks for many courtesies over the past 24 years.

Mr. EVINS of Tennessee. Mr. Speaker, I am pleased to join with my Colleagues in paying tribute to my good friend and colleague, the gentleman from Florida, JAMES A. HALEY.

I have greatly enjoyed my association with JIM HALEY who is a genial, able, talented, and a skilled professional legislator who has worked faithfully in the best interests of his district, his State and the country.

As chairman of the Committee on Interior and Insular Affairs, JIM HALEY has had responsibility over the Nation's park system and for the enactment of legislation to protect wilderness and wildlife, for the creation of great projects to develop this Nation and to provide for economic growth for our country.

JIM HALEY has conducted himself always as a gracious and genial Southern gentleman, being careful to avoid even the appearance of partisanship or partiality in the conduct of his chairmanship of his committee.

As JIM approaches retirement from the Congress, I cannot help recall his arrival here in January 1953. He was already a famous man. He had been first vice president of the Ringling Circus and later had been named president and manager of the combined organization known as the world's greatest circus—Ringling Brothers, Barnum and Bailey Circus of Sarasota, Fla.

On many occasions, JIM had provided the services and total receipts of that great Circus for civic contributions and causes of charity. Such was his generous nature.

Well, when JIM came to the House of Representatives in 1953, he made a remark I have since remembered.

"I have left one circus," he said, "to join another—the Congress."

And now, he is leaving Congress—this fascinating and wonderful circus—to return to Florida and assume, at last, the role of a spectator.

I join with all of you in wishing genial JIM HALEY good luck, good health and much happiness in his retirement.

Mr. BAFALIS. Mr. Speaker, I rise today with the other members of the Florida delegation to pay tribute to the Honorable JAMES HALEY upon his retirement from Congress.

JIM HALEY has had a most illustrious life. One has only to review his myriad accomplishments in business, journalism, and public service to see that his 77 years have been put to good use.

However, one has to conclude that his 24 years as a Member of the House of Representatives are the hallmark of his career. His strong conservative voting record has truly reflected the views of his constituents. His outstanding work with the veterans, the Indians and the environment has been invaluable to the people of Florida.

And, Mr. Speaker, I can testify to the fact that Mr. HALEY's service has been effective and appreciated.

When I was elected to the Congress in 1972, my newly created congressional district took in a large area that had formerly been represented by JIM HALEY. And I can tell you this—those people knew who their Representative was. During those first years, not a day went by that I did not receive a letter expressing admiration and appreciation for the work JIM HALEY had done for his constituents. I must say, it was a hard act to follow.

However, again, JIM HALEY stepped in and helped out. He sought me out as a new member and offered his assistance in any way that would be helpful. We have worked together on many special projects for the residents of Sarasota County—which we share. He is tireless, involved, and committed in his service to his constituents—an example all Congressmen should emulate.

We, of the Florida delegation, will miss JIM HALEY when 95th Congress convenes next year.

The people of Florida will miss JIM HALEY.

But his strong record of service and accomplishments will linger on long after.

Mr. ANDREWS of North Dakota. Mr. Speaker, I would like to take this opportunity to join my many colleagues in paying tribute to JIM HALEY. His retirement will be met with admiration for a job well done and a sense of sorrow at his departure.

For 24 years JIM HALEY has set an example of quiet and effective leadership. His efforts as chairman of the Interior and Insular Affairs Committee resulted in that committee being a more responsive and responsible body. With his firm but fair hand at the helm that committee has produced some of the most meaningful and germane legislation to reach this floor. His courtesy and respect for the Members rose, like the work he did, above partisan politics, resulting in getting the job done and done right.

JIM's efforts to further the rights and dignities of the American Indian are major examples of this respect and fairness for all Americans. JIM HALEY has reached beyond this body, beyond his district, and has left a legacy of compassion and concern for this country and its citizens that will stand in good stead for a long, long time.

I sincerely wish JIM as fulfilling a retirement as was his career both in this House and in the business community. I will always consider JIM HALEY a friend and colleague and one who leaves behind a tradition for leadership that will benefit us all.

Mr. McFALL. Mr. Speaker, a good friend, a great legislator and an outstanding committee chairman, Congressman JAMES A. HALEY, of Florida, will be retiring at the close of this Congress after 24 years of distinguished service in the House.

Congressman HALEY has been a member of the Interior and Insular Affairs Committee since his first term in the House in 1953. He has served as chairman since the beginning of the 93d Congress, developing major legislation reflecting a careful balancing of the Nation's need to continue its development while protecting the environment. He has succeeded admirably in that task.

When asked to list what he considered his greatest legislative accomplishments recently, Chairman HALEY enumerated the establishment of the Big Cypress National Water Preserve, the Alaskan Pipeline Act, and the Alaskan Native Claims Settlement Act among the major bills he helped steer to enactment.

I agree that those are truly major accomplishments. But JIM HALEY has made a lasting impact on the House and has saved the American taxpayers untold millions of dollars by his insistence on fiscal responsibility in the Federal Government.

As chairman of the Interior and Insular Affairs Committee, Congressman HALEY initiated the technique of preventing open-end authorization of programs by requiring that legislation setting up any new program carry a price tag or cost limitation.

What this concept, sometimes called the Haley amendment, means is that any agency coming to the committee for authority to set up a new program must give the committee a limit on the money required to establish the program. If it cannot accomplish its purpose with the funds set forth in the original authorization, it then must justify the need for additional funds and authority.

In his long legislative career, which also included two terms in the Florida House of Representatives before he came to the Congress, Mr. HALEY has collected scores of awards and honorary titles. But the title he is probably most proud of is "Mr. Economy."

He earned that title first in the Florida house for his successful efforts in keeping government spending down and his adherence to sound fiscal policies. And he has lived up to it throughout his service in the Congress.

JIM HALEY is a man of strong views on fiscal responsibility and every legislative issue. But never as a committee chairman did he seek to impose his views by fiat or stifle differing views.

One Republican Member from my State of California in leaving the committee felt so strongly about the chairman's impartiality that he wrote the Speaker:

> Chairman Haley exhibited a remarkable fairness in providing an opportunity for discussion of divergent opinions. His willingness to "sound out" all Members of the Committee in a forum void of partisan politics is a tribute to this great institution.

We will miss JIM HALEY, and the people of his district in Florida will miss his able representation. He worked for their welfare as hard as he worked on legislation for the entire Nation.

A national figure once described him as being a "parochial" Congressman. He was not offended. JIM HALEY's first concern has always been for the needs of his constituency.

Mr. SKUBITZ. Mr. Speaker, as far as I have been able to determine January 4, 1899 was like most January 4ths. The children of this country were still playing with the Christmas presents, and mom was trying to find new ways to serve leftovers, and dad—poor dad—was trying to figure out where the money was going to come from to pay off all those Christmas bills—which is what Christmas is really all about—is it not?

On January 4, 1899 the newspapers throughout this country were reporting nothing of particular earthshaking importance. I guess the world dignitaries were not yet over their New Year's hangovers. The Washington Post, for example, on that day reported such items as 3,000 people attended a reception for President McKinley—and that Kansas had passed a remarkable railroad law covering railroads over which it had supervision.

The Post additionally carried advertisements for Hood's sarsaparilla as a health restorer and announced a dollar sale on ladies corsets.

The New York Times, selling for 1¢ and priding itself for "printing all the news that is fit to print" reported to faithful readers that the editor of a Havana newspaper had for the third time accused one Zacarias Breams of blowing up the battleship Maine.

The Times also reported Gov. Theodore Roosevelt's congratulatory message to the people of New York and the Nation for driving Spain from the Western Hemisphere.

However, one piece of news "worth printing" was missed by both newspapers. That news was that on January 4, 1899, down Alabama way, Mary Lee Stevenson Haley gave birth to a fine bouncing baby boy, JAMES ANDREW HALEY. Those of us who know JIM know his career has been one based on his deep abiding dedication to serve his country and its people.

During World War I Jim joined the Armed Forces and fought for his country until it was over "over there." After returning to the United States, JIM became a certified public accountant and one of his clients was John Ringling. Later, JIM served as director and president of Ringling Brothers & Barnum and Bailey Shows.

I am sure all of us here today remember at one time or another when we were able to forget our troubles for a moment and enjoy the "Greatest Show on Earth"—made possible by men like JIM HALEY.

I first became acquainted with JIM when I came to Congress and was assigned to serve with him on the House Interior Committee. As I got to know JIM, I had a great deal of difficulty trying to determine whether he was my kind of Republican or I was his kind of Democrat—because our beliefs with respect to the free enterprise system—the freedom of individual initiative and fiscal responsibility—were nearly identical.

One thing I am sure of is that none of us who served with him will forget his insistence on knowing the cost of every proposed bill. No bill has come out of the Interior Committee without the Haley amendment attached to it.

I realize that we all must hang up our Congressional uniform someday but that realization did little to change my feeling of sadness when I read JIM's announcement about his pending retirement:

There comes a time for all men and women in public life to consider the wisdom of taking a less active role—or serving in a less active capacity. After much thought—I have made my decision and will not seek reelection to another term in the House of Representatives.

It is truly difficult for me to put into words the deep admiration, respect and affection I have for JIM HALEY. As a committee chairman, a colleague, and a personal friend, serving for these many years with JIM has been a tremendous pleasure and my only regret is that our service together must come to an end. Filling the shoes JIM wore as the chairman of the Interior Committee will be most difficult—filling the shoes he wore as a friend to us all—will be impossible.

I extend my most sincere wishes that he will find much happiness in retirement.

Mr. WAGGONNER. Mr. Speaker, I am proud to join my colleagues in paying tribute to our much admired and esteemed friend, JAMES A. HALEY.

As chairman of the Interior and Insular Affairs Committee, JIM has been important in overseeing the proper development of our country's vast mineral and petroleum resources which are found on public lands. In this crucial area of concern we are indeed fortunate to have had a man of JIM's vast knowledge and experience heading this important committee.

But there is another aspect of JIM's background and career, for which I will long remember and thank him. For 18 years, JIM served on the Veterans' Affairs Committee's Hospital Subcommittee, and for 8 of those years until 1973, served as its chairman. It is in this capacity that I am indeed grateful to have had a man of JIM's experience and understanding. A veteran himself, JIM has championed the rights of veterans and their dependents throughout his career, because of his untiring dedication to improving hospitals and medical programs for the men and women who served their country in the military. The veterans' hospital in my district has benefited and the thousands of veterans it serves each year have benefited because we have had a man like JIM HALEY looking out for their best interests in Congress.

It is a pleasure for me to pay tribute to this outstanding man and legislator. His service to his district, his State and his Nation will always be a monument to his strong leadership and great character. We shall miss this great American.

Mr. GIBBONS. Mr. Speaker, my colleage and good friend, JIM HALEY, is retiring at the close of this Congress after many years of dedicated service to Florida and the Nation. His retirement represents a loss to the Congress of one of the most beloved and widely respected Members ever to serve in the House.

When I began serving in the House, JIM was already a Member of the House and I early sought his advice and counsel. In fact, after being elected in 1962, I used his assistance in getting my office established. I found JIM HALEY to be generous with his time and unselfish in every respect. He is a great American, and a great and valued friend.

JIM served on the Hospitals Subcommittee of the House Veterans Affairs Committee for many years. As a veteran, his interest in veterans' programs was deep and sincere. Early in my congressional career, in 1963, I introduced a bill calling for the construction of a veterans' hospital in Hillsborough County, in my congressional district. JIM gave his assistance all along the way toward the goal of this new VA hospital which was greatly needed in our area. When it was dedicated in October 1972, I paid special tribute to JIM HALEY and stated:

> As we dedicate this fine VA facility, designed to serve countless numbers of veterans, it is well to think back over the years

> to those who had a part in its beginnings—who were foresighted enough to lay the plans that have culminated in this dedication today. Our own Florida Congressman Jim Haley, as a member of the House Veterans' Affairs Committee, has had an active interest in the VA Hospital. We owe him a great deal.

Besides Jim's active interest and concern for veterans, he has served the Nation well as chairman of the House Interior and Insular Affairs Committee.

Jim Haley is a modest man, but he has taught us much. He is compassionate, patient, and a man of great integrity and character. Few men have served in the Congress with more distinction, courage, and selflessness than Jim Haley.

Martha and I will miss Jim greatly, as will his many friends in the House. Florida loses a dedicated public servant when he leaves his position in the Congress.

Mr. LEHMAN. Mr. Speaker, I am happy and honored to join with my colleagues in the House of Representatives in paying tribute to one of our most distinguished and beloved Members, Congressman James Haley of Florida.

Since 1973, when I first came to this House, I have had the privilege of knowing and working with Jim Haley. Few other men or women have contributed so much of themselves to the development of our Nation.

Jim Haley has served the people of Sarasota County with firmness, vigor, and creativity since he came to the Congress in January 1953. For 18 years Jim served on the Veterans' Affairs Committee. The last 8 of these years he served as chairman of the Hospitals Subcommittee. As a member of this committee, Jim served during a period of time when the State of Florida became increasingly populated by veterans and when the needs of veterans all over the Nation became a matter of growing national concern.

Jim's subcommittee had oversight over the 166 VA hospitals and the entire VA medical program. In 1965, Jim led his subcommittee in the fight to prevent the closing of several VA hospitals and regional offices across the Nation. After extensive hearings, 6 of the 14 hospitals and all of the regional offices were removed from the shutdown list.

In his home State, Jim Haley was instrumental in bringing about the construction of three new VA hospitals and in increasing the number of VA hospital beds from 1,353 to 3,501.

In recognition of service to the veterans of our State and the Nation, I was pleased to cosponsor the legislation to name the new VA hospital in Tampa, Fla., "The James A. Haley Veterans Administration Hospital."

In 1973, Jim Haley became chairman of the Interior and Insular Affairs Committee. For 18 years prior to becoming full committee chairman, Jim served with distinction as chairman of the Indian Affairs Subcommittee.

Few other Members have been as instrumental as Jim Haley in helping our native Americans in resolving land problems, utilizing resources and developing and improving educational and health programs. Time and time again, Jim Haley has been in the forefront of the effort to restore and maintain the rights of the American Indians.

As an example of his efforts to assist the Indians, in 1966, Jim led the fight to compensate the Seneca Indian Nation for the loss of much of their lands, taken by the Federal Government for the construction of the Kinzua Dam, an action by the Federal Government which violated the oldest existing treaty of the United States.

In recognition of his efforts, the Seneca Nation, as well as other Indian Nations have made Jim Haley an honorary member.

Jim Haley's work on behalf of Indians and veterans is but one small part of his accomplishments. An equally large part of the record of Jim Haley is his concern for the improvement and preservation of our natural environment. Among Jim's accomplishments in this area are the establishment of the Big Cypress National Water Preserve to protect the water supply of the Everglades National Park; the legislation authorizing and funding the acquisition of privately held lands within the Everglades National Park; the legislation which provided the funds for the completion of the West Coast Inland Waterway in Florida; assisting in the development of legislation which established the Spessard L. Holland National Seashore; and the Alaskan Pipeline Act.

There have been many other legislative accomplishments; far too many to enumerate in the short time allowed to me today. Nevertheless, the record of achievement and service to the people of Florida and the Nation is one that Jim Haley can be proud of. He has served with candor, integrity, selflessness, and devotion to the principles of good, honest, clean and effective government for all of the people.

Upon his retirement from public office, Thomas Jefferson said:

> If, in my retirement to the humble station of a private citizen, I am accompanied with the esteem and approbation of my fellow citizens, trophies obtained by the bloodstained steel or the tattered flags of the tented field will never be envied. The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government.

Certainly, Jim retires from this House with our esteem and approbation for his long service.

Joan and I join with Jim's many friends and colleagues who wish him the very best of health, happiness and contentment in the years to come.

Mr. REUSS. Mr. Speaker, today we pay tribute to Jim Haley, a distinguished Member of this Chamber possessing great talent and leadership. His personal concern for both the people and the natural resources of our country stretches from the Everglades of Florida to the reservation of the Seneca Indians.

As chairman of the House Interior and Insular Affairs Committee and as chairman of the Indian Affairs Subcommittee, Jim helped Native Americans settle land disputes, train their young people, and obtain jobs within their community.

His legislative career is distinguished by his dedication to fiscal responsibility. Once designated the "Watchdog of the Treasury," Jim has challenged Presidents and Members alike to hold down Government spending.

Jim Haley concludes his 28-year service to the House with our best wishes and deep appreciation.

Mr. ADDABBO. Mr. Speaker, I rise to honor our good friend and distinguished colleague from Florida the Honorable Jim Haley.

Many in our body have decided to retire at the end of this session and Jim is one who leaves 24 years of active and successful public service behind as he leaves us.

Jim has been particularly active in veterans affairs and recently as chairman of the Committee on Interior and Insular Affairs where he has been an advocate for a strong policy of preserving natural resources.

Jim is one of our retirees who will be missed. In addition to his hard work he is a personable Member who has found a meaningful place in this legislative body. I wish Jim every success in his period of retirement.

Mr. de la GARZA. Mr. Speaker, good men continue to depart from among us and now the time has come to say au revoir and good luck, but I hope not goodbye, to our friend and colleague, Jim Haley of the Eighth District of Florida.

Jim Haley's service has covered not only the people of his own district. During his 24 years of membership in this House, he also has been a leader in legislation affecting all veterans of U.S. military service. Additionally, as chairman of the Committee on Interior and Insular Affairs, he has been responsible for outstanding contributions to the improvement of our natural resources and the Nation's internal development. My constituents and those of my colleagues have benefited from the dedicated work of the gentleman from Florida.

We appreciate what he has done. We will miss him. I join my colleagues in wishing all good things for Jim Haley as he heads into the retirement he has earned by his deeds for the good of our country.

Mr. FREY. Mr. Speaker, I'd like to join my colleagues from the Congress in honoring Jim Haley who has served this country for 24 years. I am especially proud that Jim is a member of the Florida delegation, from the Eighth District of Florida.

As everyone is aware, he is presently chairman of the important Committee on Interior and Insular Affairs. No one can question the fine job he has done as chairman, nor the fair way that his committee has operated.

On the personal side, we are going to miss Jim Haley, the man. Jim has always been available for advice and has been more than willing to share his experience with the newer Members. Even though I was on the other side of the aisle, that never caused the slightest problem. When it came to working for Florida, you could always count on his support.

The people of our State and the Nation will miss his intelligence, his integrity, and his devotion to this great country. He is a real gentleman.

JIM, we wish you well and wish you years and years of health and happiness. Godspeed.

Mr. BENNETT. Mr. Speaker, it is a great privilege for me to rise in honor to JIM HALEY who is presently chairman of the House Interior and Insular Affairs Committee and currently approaching retirement from the U.S. Congress.

JIM HALEY has been a real leader in the national affairs of our country in the fields of national parks, conservation, veterans' affairs and many other important aspects of our national progress. There are many laws which he authored and which have already been important to our country and will be even more so in the years to come. The quality of his leadership has been one of quiet and friendly persuasion rather than bombast and force and unnecessary friction.

He has been a mellowing influence in our congressional debates; and yet, he has done it with such spice and vigor that his points have been clear and the results certain. In addition to leaving a tremendous monument to himself in the progressive statutes which he has authored and brought to enactment, he has left a deep and good imprint upon the quality of congressional debate and in the hearts of his many friends here in Congress.

We will all miss him, and we all wish him every happiness in retirement.

Mr. NICHOLS. Mr. Speaker, I appreciate our friend, BOB SIKES', arranging for this special order to pay tribute to our friend, JIM HALEY, who is retiring from Congress after 24 years of dedicated service to his State of Florida and to his Nation.

I am especially pleased to be able to participate in this tribute because JIM HALEY was born in my congressional district in Alabama and he still visits us from time to time usually during the summer months where he mingles with old friends who knew the family and usually manages to attend church in the rural community where he was born in Calhoun County, Ala.

JIM HALEY has made many fine contributions and has been especially watchful of the Nation's natural resources as chairman of the Interior and Insular Affairs Committee. I especially appreciate the attention which Congressman HALEY has given to the Creek Indians, many of whom still live in my district. He is a man who loves our Nation's forests, our rivers, and our natural resources and has demonstrated his interest in this field many times over during his years in the Congress.

To my knowledge, JIM HALEY is the only remaining veteran of World War I still in Congress and during his tenure he has consistently supported legislation which would benefit our veterans of this country along with their widows and orphans. I take this occasion to wish for my esteemed friend, JIM HALEY, many years of health and happiness which he has more than earned as he retires to his home in Florida and with the people who have elected him and reelected him over 12 successive terms in this body.

Mr. BROOKS. Mr. Speaker, for 24 years it has been a privilege and a pleasure to serve in this body with the distinguished and able gentleman, Mr. JAMES A. HALEY.

The people of the Eighth Congressional District of Florida are deservedly proud of his many accomplishments. As chairman of the Interior and Insular Affairs Committee, he has been steadfast in his efforts to maintain and improve our natural resources. His work as chairman has contributed greatly to our internal development.

It is with sincere personal affection and respect that I join in honoring JIM HALEY today. He is a great American and I am proud that I can call him my friend, for I deeply value his friendship and his wise counsel. His presence in Congress will be greatly missed.

Mr. FORD of Michigan. Mr. Speaker, I am pleased to join today in a special order paying tribute to our colleague, JIM HALEY, who is retiring from Congress after 24 years of service to his district and the Nation.

JIM HALEY is a highly respected member of this House. As chairman of the Interior and Insular Affairs Committee, he has been a strong protector of our national resources. He has been a special friend to the American Indians, and their heritage. America's veterans owe JIM HALEY a great debt of gratitude for his work on their behalf.

Since I came to the Congress 12 years ago, I have developed a high regard for JIM HALEY and for his insight and legislative knowledge. He has been a friend and a valued counselor.

Like every Member here, I will miss JIM HALEY and I join all his friends and colleagues in wishing him well in all his future undertakings.

Mrs. MINK. Mr. Speaker, today we are honoring Interior Committee Chairman JAMES HALEY for his long service in the House and for his leadership in that committee over the past 4 years. I would like to join with my colleagues in paying tribute to this outstanding legislator.

Since coming to the House of Representatives in the 83d Congress, Chairman HALEY has taken a particular interest in the Interior Committee and has channeled energy and effort into his responsibilities there. Chairman HALEY took an early interest in the work of the Indian Affairs Subcommittee and served as its distinguished chairman from 1955 to 1973. It was during this time that Native American affairs rose from obscurity and nearly a century of neglect to become major national issues. The period was a critical one for this Nation and signified the first real attempt our Government had made to deal with the complex social, economic, education, and health needs of America's Native American population. Those needs are far from answered but it is impossible to underestimate the enormity or the importance of the transition that began in the years of Chairman HALEY's chairmanship.

For the past 4 years Chairman HALEY has presided over a House Interior Committee whose responsibilities have grown markedly in scope and importance. We have seen energy needs suddenly balloon into an issue of extraordinary consequence. What had previously been taken for granted now impinges on every aspect of our economy.

Chairman HALEY had just assumed his position when the energy crisis precipitated by the oil embrgo plunged this Nation into a serious economic crisis. Chairman HALEY's leadership was one factor in enabling Congress to respond in a timely manner and made crucial strides toward long range energy planning.

I join with my colleagues, particularly those who worked with Chairman HALEY on the Interior Committee, in expressing our appreciation for Chairman HALEY's work and wishing him all the best as he retires after this 94th Congress.

Mr. YOUNG of Florida. Mr. Speaker, it is with profound respect that I rise to pay tribute to my friend and colleague, JAMES HALEY, who retires at the conclusion of this Congress after 24 years of dedicated service to the people of his district, the State of Florida and this Nation.

As a Member of the House of Representatives, JIM has served with honor and distinction that reflects his love of country and consideration for the rights of people. He has demonstrated his qualities of leadership and powers of persuasion in his dedicated service as chairman of the important Committee on Interior and Insular Affairs, and his contributions to the improvement of our Nation's natural resources and its internal development, will stand as a monument to this service.

Those of us who have been privileged to know at firsthand the special qualities of intellect and depth of concern of this man, know how greatly his services will be missed. Perhaps the best tribute to JAMES HALEY, is the legacy he himself will leave this House, his example of high principle, devotion to duty, love of his country, and his high sense of responsibility to the people of the United States.

Mr. NIX. Mr. Speaker, I rise in order to congratulate our friend and colleague, Congressman JAMES HALEY, on retiring after 24 years of service to the United States and the people of Florida.

He has devoted himself to the study of all the issues brought before the Interior Committee during his service as a member, and as a chairman of that committee. What I remember most about our friend is his singular devotion to Indian Affairs. For many years he gave unstintingly of his time and labor to the Subcommittee on Indian Affairs.

It is in the best traditions of the House, that a Member would devote himself so completely to an issue which was in no way related to the political scene. Congressman HALEY saw people in need. He responded with his best effort. Indian citizens will long remember that effort.

The internal development of the United States has been one of Congressman HALEY's deep concerns at a time when the attention of the media and the fashionable press has concentrated the attention of many Americans on foreign affairs. We have not lagged very far behind on development issues here at home because of the concern of Congressman HALEY. The American people as a whole have benefited by this concern.

I wish our friend and his family all of the contentment and peace that comes from the full rendering of service over a lifetime. In his future career, I hope that he will find time to advise us occasionally of his concerns and views. They will receive our fullest attention and respect.

Mr. COLLINS of Texas. Mr. Speaker, I want to join my colleauges from Florida in paying a special tribute to Jim Haley. Jim has always been a staunch conservative and a strong believer in the Constitution. If Congress had followed his judgment, we would have a balanced budget and we would not be burdened with the excessive bureaucracy which now hangs so heavy on the shoulders of America.

I have always enjoyed Jim's friendly, easy smile. He has the friendly nature that expresses the warmth and sincere spirit of Florida.

As chairman of the Interior Committee, we will miss Jim Haley the most. As a great defender and exponent of the outdoors and natural resources, he has done much to strengthen the frontier of America.

Mrs. HECKLER of Massachsuetts. Mr. Speaker, it is an honor for me to join my colleagues in this tribute to Jim Haley and his long and effective contributions to the House of Representatives, which he served with devotion and dedication.

I knew him best in his leadership in legislation on veterans' affairs. He served the Veterans' Affairs Committee long and well and for 18 years was a member of the Hospitals Subcommittee—and for 8 years he chaired that subcommittee, upon which I was privileged to serve.

In his distinguished contributions to this field, Jim drew on his World War I experience for an expertise and the special kind of sympathetic concern that won the admiration and cooperation of his colleagues.

As he retires from the Congress, one of the most beloved Members ever to serve in that body, I am pleased that one deserved honor is the bill that was reported out of the Committee on Veterans' Affairs last week, and passed by the House of Representatives today, to designate the VA hospital in Tampa, Fla., the "James A. Haley Veterans' Hospital".

Mr. HUNGATE. Mr. Speaker, we have taken time today to pay tribute to our good friend and loyal colleague, Jim Haley, who has chosen to join the ranks of the retired.

Jim has contributed much to building a better Florida and a better America as well. We can be grateful for the leadership Jim has provided the Committee on Interior and Insular Affairs. We have all reaped the benefits of this man's diligent efforts to insure that America's natural resources remain plentiful in the years to come.

Jim was once an executive and served as a leader in the show that pleases "children of all ages," Barnum and Bailey-Ringling Brothers Circus—"The Greatest Show on Earth." Upon retirement he can readily claim to have served as a leader, and in an executive capacity with two of the greatest circuses in the world.

We all envy him and wish him good luck, good health, and much success in the years to come.

Mr. UDALL. Mr. Speaker, Jim Haley is an exceptional man, and I am proud to have been his colleague in my years in the House. He was one of the most sincere and conscientious members of Interior and Insular Affairs. For years, though he had few or no Indians in his district, he voluntarily assumed the chairmanship of the important Subcommittee on Indian Affairs. He tirelessly traveled about the country to learn the problems of reservations. America's first citizens had no better friend than he. Though he was a fiscal conservative and usually opposed any new legislation involving Federal spending, he was generous and helpful with the health, education, and economic development of tribes.

In this and the last Congress he served as chairman of the full Interior and Insular Committee. He was a fair presiding officer and always accessible to the Members in a time of change for the committee, and under a very heavy legislative load.

He deserves a happy and productive retirement. He is a friend whom I shall miss.

Mr. FLYNT. Mr. Speaker, as the adjournment of the 94th Congress draws near, I would like to join with my colleagues today in paying tribute to one of our most distinguished Members upon the occasion of his retirement, the Honorable James Andrew Haley.

Jim Haley began his legislative career in 1948 when he was elected to the Florida House of Representatives. Elected to the U.S. House of Representatives in 1952, he continued to serve his State and Nation with respect, honor, and dignity. During his 24 years in the U.S. House of Representatives, Jim Haley has established an unblemished record of devoted public service.

For 18 years, Mr. Haley served on the Veterans' Affairs Committee, concentrating his efforts on the medical needs and concerns of our veterans. For the 18 years he served as chairman of the Indian Affairs Subcommittee of the Interior and Insular Affairs Committee, he was instrumental in resolving many of the fiscal, territorial, and cultural problems faced by the American Indians.

James Haley is totally dedicated to the principle of fiscal responsibility of our Government. His colleagues in the Florida House of Representatives bestowed on Mr. Haley the title of "Mister Economy" for his steadfast belief in and his successful efforts in holding down Government spending. As the present chairman of the House Committee on Interior and Insular Affairs, which oversees some of the largest spending programs in the Federal Government, Jim Haley, through his gentle but firm wisdom and skillful expertise, has helped to lead this Nation toward more responsible fiscal policies. I am pleased to have this opportunity today to join with my colleagues in the House in commemorating the outstanding contributions of one of the greatest leaders and statesmen of our time, James A. Haley.

It is with mixed feelings that I say farewell to our colleague today. His presence on this floor will be missed and the wisdom and guidance of his leadership will not be easily replaced, but James Haley bestows on this body and every Member here his firm belief in the fiscal stability of this Government. I say goodby to Jim Haley and wish him every good blessing, but the man and the principles for which he stands will not be forgotten.

Mr. KETCHUM. Mr. Speaker, I deeply appreciate having the opportunity to recognize the outstanding contributions of our good friend, Jim Haley, and to pay a final tribute to him as he prepares to retire from this Congress.

As a former member of the Committee on Interior and Insular Affairs, I was privileged to enjoy Mr. Haley's outstanding leadership as chairman of that committee. During the 2½ years in which I served under that leadership, I came to know James Haley as a man of high integrity, strong principle, and firm character. Above and beyond all else, however, he set an example of leadership which is a tribute to the great institution of this House, and an outstanding example of fairness. Throughout my experiences on that committee, Chairman Haley willingly provided a forum for the discussion of divergent opinions, giving each member, regardless of his side of the aisle, an opportunity to set forth his views. It did not matter that we did not always agree—exemplifying the very best of our form of government, Mr. Haley saw to it that each member's arguments for or against an issue were thoroughly and properly aired; what is more, they were heard.

I shall remember Jim Haley not so much as a Representative from Florida who accurately defended the interests of those who sent him here, nor as a member of the House Interior Committee, nor as its chairman. Rather, I shall remember him as a dedicated man, whose every endeavor was executed with principle and fairness.

He is a big man in every sense of the word, and he has set a very big example for others to follow. I wish him all the best as he leaves this body, and can say in all sincerity that his departure will be a loss to each and every American.

Mr. HOWE. Mr. Speaker, as a fellow member of the Interior and Insular Affairs Committee with our distinguished Chairman James Haley, I am pleased to join in paying tribute to him today.

He retires from the Congress after 24 years of devoted and dedicated service. Although I only came to know him as a new Member during the 94th Congress, he has befriended me and treated me as a longtime associate, Jim Haley has conducted the affairs of the Interior Committee with great respect to the principles of fairness and equality among all of the Members. I have appreciated his recognition and patience with those of us who came to the committee this session as new Members and his leadership has helped us to accomplish our goals as committee members.

I am sure that he will have much happiness as he reflects on his great career of service and leadership in the Congress.

Mr. HUGHES. Mr. Speaker, I am honored to have served in the Congress with Representative JAMES A. HALEY. Chairman HALEY has served in this body since 1953 and for the past 4 years he has held the position of chairman of the Interior and Insular Affairs Committee.

Not only has he served as a leader in the House, but he has continued to represent his Florida district extremely well. For years he has been both an outstanding public servant and friend to his constituents.

If I may add a personal note, I am extremely grateful for the kindnesses Chairman HALEY has extended me as a newly elected Congressman, even before I was sworn in. Before I had the use of my own office, Mr. HALEY was generous enough to share his office while organizing my affairs. This is just another example of the kindnesses he and his outstanding staff have shown to colleague and constituent alike.

The House will sorely miss Chairman HALEY. Not only will I miss him as a legislator, but also as a person. I wish him all the best that life can offer as he leaves this House.

Mr. BURLESON of Texas. Mr. Speaker, I rise to join my colleagues in honoring our friend, the Honorable JIM HALEY, who is retiring from the House of Representatives after 24 years of distinguished service.

Over the years, we have all observed his effective leadership, particularly in the area of improving our Nation's natural resources. As a result, he has been a very effective chairman of the Committee on Interior and Insular Affairs.

He will be remembered with fondness by those of us who have served with him here in the Congress and his contributions to our Nation and the people he represents have been many.

I join with all of you in wishing JIM much health and happiness as he goes into a quieter life and one which he richly deserves.

Mr. DERWINSKI. Mr. Speaker, the retirement of our colleague, JIM HALEY, concludes the 24-year career of a man who has performed outstanding service to this Nation.

His steadfastness and strong leadership as chairman of the Committee on Interior and Insular Affairs have contributed greatly to maintaining our country's natural resources. He has been an emphatic advocate of the rights of the American Indian. He has also been very instrumental in developing legislation beneficial to our veterans.

He will be remembered by us for his loyalty to principles and his dedication to the interests of his constituents. His record attests to the fact that he is a diligent and skillful public servant, who has been a great asset to the Congress.

Not only the State of Florida and the House, but all Americans will lose a fine legislator, when JIM retires.

I wish him many happy and healthy years in retirement.

Mr. ECKHARDT. Mr. Speaker, it is with great enthusiasm I rise to praise and thank my chairman, Representative JAMES HALEY. As a member of the Interior and Insular Affairs Committee I have had the great pleasure of working under Chairman HALEY. He has always been a just and fair chairman. I knew I could always depend on him to graciously give me as much time as I reasonably needed to discuss my proposals or those proposals I favored. Chairman HALEY has always given each member of the Interior Committee a full opportunity to be heard and to develop his or her arguments and views. Yet when necessary, he has moved with dispatch to insure the committee completed its work. Each of us appreciates his courtesies in the chair.

Chairman HALEY has exhibited a firm knowledge and grasp of each of the complex topics which come before the Interior and Insular Affairs Committee. His knowledge, fairness and courtesy will be sorely missed on the Interior Committee. I know I join all my colleagues in wishing him a happy and prosperous retirement.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is with pleasure that I join my colleagues in this well-deserved tribute to a Member of Congress who has made such memorable contributions. We will all miss JIM HALEY. The absence of his leadership, particularly in the areas of veterans affairs, and more recently as chairman of the House Committee on Interior and Insular Affairs, will be sorely felt. But the contributions he has made over the years will not be soon forgotten, either by the Members of this House or by the thousands of citizens who have benefited by his years of public service.

Mr. WON PAT. Mr. Speaker, the 95th Congress and particularly the House Interior Committee will be at a disadvantage since it will lack the leadership of our good friend and colleague, Representative JAMES HALEY.

For the past 24 years, Congressman HALEY has provided this body with a continuous source of leadership and wisdom. He will be missed by his colleagues on the House Interior Committee where he has served as our chairman for the past 4 years.

I believe that the record will show that under his strong and able guidance, the House Interior Committee has reported out an impressive record of legislation to create or expand new national parks, call for a national land-use policy, and very important to me, pass legislation which authorizes the people of Guam and the Virgin Islands to conduct a Constitutional Convention.

As the first committee chairman I served with, JIM HALEY will be remembered by me for his patience and friendship to a freshman Member of Congress. It is always comforting to know that you have a friend like JIM HALEY around when you are new on the block.

On behalf of the people of Guam and myself, I take this opportunity to publicly thank Congressman JIM HALEY for his efforts on behalf of Guam during the past 4 years and wish him the peaceful and quiet retirement he so richly deserves.

Thank you.

Mr. ROYBAL. Mr. Speaker, at the end of this Congress our good friend JIM HALEY will be retiring following 24 years of devoted and distinguished service on behalf of the residents of Florida's Eighth Congressional District and of the Nation. While he will be missed by all of us who had the pleasure to know and work with him, he will be remembered for his outstanding work here in the House.

Early in my congressional career, I had the pleasure to serve on JIM's Subcommittee on Indian Affairs. I was most impressed by the high esteem in which he was held by his Indian friends. He helped them resolve land problems and better themselves through the development of resources on the reservations, and assisted the Indians in joining the mainstream of our economic life through the improvement of educational programs. He has since been honored many times by various tribes wishing to show appreciation for all his efforts on their behalf.

As chairman of the full Committee on Interior and Insular Affairs, JIM HALEY has been a very effective leader of one of the House's most important standing committees. He is known for his fairness in providing an opportunity for discussion of divergent opinions—which have been numerous with the increasing emphasis on environmental protection and the need to balance developmental and environmental considerations.

When JIM took over as chairman of the Interior Committee, he gave up his seat on the Veterans' Committee. He did not, however, give up his strong interest and concern for the veteran. He was instrumental in preventing the administration from closing certain VA hospitals and regional offices and deserves full recognition for all his important work in this area.

It is, indeed, a pleasure to join with my colleagues today in paying a well-deserved tribute to JIM HALEY and to wish him a long and enjoyable retirement.

Mr. FLOOD. Mr. Speaker, it can be said with accuracy that JIM HALEY has had a most distinguished and varied career—in the world of entertainment and in the world of politics.

For many years he held executive positions with the greatest show on earth—Ringling Brothers, Barnum and Bailey circus based in his hometown of Sarasota, Fla. That is really the big leagues in show business. The tops in entertainment. In order to hold the high positions which he did—general manager, first vice president, president and director—with the greatest show on earth, well, a man must have plenty on the ball. And, of course, as we all know, JIM HALEY certainly does.

Reaching pinnacles such as he did would be enough for most men, but not JIM HALEY.

He turned to politics and served with distinction for nearly a quarter century in this body, advancing to the chairmanship of the important Committee on Interior and Insular Affairs. His contributions to the improvement of the Nation's natural resources and its internal development will stand as a monument to his service in the Congress.

I shall miss JIM HALEY as a friend and effective legislator and I wish him good health and happy retirement.

Mr. MONTGOMERY. Mr. Speaker, I am pleased to be able to rise in tribute to the truly outstanding Congressional career of our retiring colleague, JIM HALEY of Florida. For 24 long and fruitful years he has served the people of Florida and the Nation in a manner which brings credit to the House.

Through my membership on the House Veterans' Affairs Committee I am well aware of his acute interest in legislation to benefit America's former servicemen and servicewomen. I have considered it a privilege to be able to work with him on various pieces of legislation to benefit our veterans.

As a long time member and more recently as chairman of the Interior and Insular Affairs Committee, JIM HALEY has contributed significantly to the improvement of the Nation's natural resources. He has been a protector of America's vast wilderness, parks, rivers and seashores and in the process helped to provide greatly increased recreational opportunities for his fellow Americans.

Mr. Speaker, we in the House will miss the leadership of JIM HALEY when the 94th Congress convenes, but we can all be thankful that we had the privilege of serving with him and benefitted from his dedicated leadership. JIM has our very best wishes as he tackles new projects in the years to come.

Mr. ROUSSELOT. Mr. Speaker, we are grateful to Mr. SIKES, of Florida, for taking the time to express appreciation for the distinctive service of our colleague, JIM HALEY. This body owes a debt of gratitude to JIM HALEY for 24 years of loyal work in the House of Representatives. Now chairman of the House Committee on Interior and Insular Affairs, JIM HALEY is retiring with the honor of being known as "the friend of the American Indian," a title earned through 13 years of dedicated effort on their behalf as chairman of the Subcommittee on Indian Affairs. JIM has done a fine job in his committee activity, and on the Floor of the House, to assure proper use of and preservation of our natural resources; but, in addition to this, JIM HALEY has been an advocate for our Nation's veterans and has made a meaningful contribution to legislation affecting veterans' affairs.

It has been known for some time that JIM HALEY has been looking forward to returning to his sunshine State of Florida where, hopefully, life will not be quite as hectic as it has been here in Washington, but the absence of his leadership will be felt. I suppose that I especially regret JIM HALEY's leaving the House of Representatives because, although he sits on the other side of the aisle, we have many times voted on the same side of the ledger with a similar philosophical approach to solving our country's problems. Thank you, JIM, for sticking it out in Congress for 24 years. Your acts and words have left a lasting impress on the United States Congress.

Mr. SISK. Mr. Speaker, I view with special sadness the retirement at the end of this 94th Congress of my good friend and colleague, JIM HALEY.

Not only because the House is losing an able and hardworking Member and great committee chairman but because my relationship with him has been especially close during the past 22 years.

I had the honor of serving next in seniority, during my first days in Congress beginning in 1955, to JIM on both the Veterans' Affairs and Interior Committees. In those positions, and indeed in all matters since, he has been a most helpful advisor and of wise counsel to me.

My State has a large Indian population. As chairman of the Indian Affairs Subcommittee for many years this great leader did as much as any other man to see that these often disadvantaged native Americans were treated fairly. And all American veterans owe him a great debt of thanks for his untiring legislative efforts on their part.

JIM retired now to a well-earned rest and my gratitude and admiration go with him.

Mr. DON H. CLAUSEN. Mr. Speaker, I wish to join my colleagues in lauding our soon to retire chairman of the Committee on Interior and Insular Affairs, the Honorable JAMES A. HALEY. Since the 88th Congress I have had the privilege to serve and work in conjunction with the distinguished gentleman from Florida. Over these years of close personal contact, my admiration for his dedicated competence has never waned.

Under his able direction, we have witnessed a significant improvement in our Nation's environment, seen great progress in Indian care, observed the development of an efficient Park Service and watched our overseas territories prosper. As an American citizen, I am deeply indebted to JIM's diligence in preserving our national heritage. As a Member of the House, I am impressed by his fair and impartial leadership, both in committee and on the floor.

JIM's efforts to maintain fiscal sanity in congressional legislation, his conviction in the free enterprise system and his championship of individual dignity are hallmarks of his public service. The principles he espoused in guiding the Interior Committee will be emulated but never surpassed. With regret, I say farewell JIM; we, who remain behind, will continue to be inspired by your high degree of integrity and public devotion.

Mr. MURPHY of New York. Mr. Speaker, the Eighth Congressional District of Florida is about to embark upon a task which it has been unable to do for the past quarter-century: find a replacement for Congressman JIM HALEY. Twenty-four years of public service in the House of Representatives is a very long time for a person to stay in any single job, but for JIM HALEY, it has not been "just another job." He has been one of the most significant legislative leaders this country has known: he has been the moving force behind such legislation as veterans affairs, improvement of the Nation's natural resources, and every phase of this Nation's internal development as the chairman of the Committee on Interior and Insular Affairs.

As such, he has been the benefactor not just of his own Florida constituents, but of every citizen in this Nation. There is very little I can add to that which has already been said by our many colleagues here today. JIM HALEY's 12 terms in Congress have seen an incredible array of legislation which has determined the course of this Nation's future, and he has been at the very heart of most of our congressional progress. The quality of leadership which he has brought to this body is one of the things we shall most greatly miss; just as his wisdom, legislative insight, and friendship will be most difficult to be without.

Mr. FASCELL. Mr. Speaker, I am happy to join with the many friends of Congressman JAMES A. HALEY in wishing him well as he retires from Congress.

During his 24 years of devoted and dedicated service, JIM HALEY has won wide respect for his many accomplishments. As chairman of the House Committee on Interior and Insular Affairs, he has had an important role in the adoption of legislation in such major fields as energy, conservation, natural resources, and the environment.

JIM's contributions to the improvement of the Nation's natural resources and its internal development are well known to his colleagues. In addition, JIM has carried out his responsibilities in a manner that has won wide respect. He has encouraged full participation by all members of the committee in the development of sound legislation that can win the confidence and approval of the entire House of Representatives.

Despite his heavy workload on the Committee on Interior and Insular Affairs, JIM has remained active in the field of veterans legislation. As a veteran himself he has been a congressional leader in the adoption of a number of important bills on veterans' affairs. I know that many veterans all across the Nation have benefited from the programs and projects which he has helped to adopt.

The wonderful veterans hospital in Miami was built primarily through JIM HALEY's efforts. Veterans throughout Florida because of other hospitals and services have benefited because of JIM HALEY's leadership and interest.

Also because of JIM HALEY the Nation has preserved many outstanding public areas. Florida is particularly indebted to him for the Biscayne National Monument and the Big Cypress National Preserve among many others.

Prior to his legislative career in Congress JIM was an outstanding member of the Florida legislature where I was privileged to also serve with him. Throughout all these years he has been a leader, counselor, and friend.

JIM is a fellow Floridian and a personal friend whose assistance and interest has been gratefully appreciated. I hope that he will enjoy much satisfaction and well-being as he departs from the halls of Congress. The country, Florida, and his friends will miss him very much.

Mr. SIKES. All right, JIM HALEY, once again it is your ship.

Mr. HALEY. Mr. Speaker, and my good

friend Bob Sikes and all of my friends who have spoken here tonight, this is very gratifying, of course. I hope that my service here of 24 years has added a little something to make this Nation a better place for my grandchildren and great-grandchildren, and your children, to live in this great Nation of ours.

I have enjoyed serving in the Congress. It is a high honor that few people attain, but to be associated with the caliber of people that make up this great legislative body has been a rewarding thing, as far as I am concerned. I know that there comes a time when a man or woman in public life, or any other endeavor, should step aside. I arrived at this proposition, as far as I was concerned, some little time ago, and I think it was a wise decision.

I hope that the person who follows me here can contribute something to this great Nation that we all love. I want to thank all the Members for their kind remarks that they have made here this evening. May I say, God bless you all.

Mr. SIKES. God bless you and thank you, Jim Haley.

Mr. Speaker, I yield to the distinguished gentleman from Indiana, the chairman of the Rules Committee (Mr. Madden).

Mr. MADDEN. Mr. Speaker, I too want to join with my colleagues this evening in paying tribute to Congressman Jim Haley. I remember when Congressman Haley came here as a freshman a little over 20 years ago, and it almost reminded me of the days when I came as a freshman 34 years ago.

Mr. SIKES. I remember.

Mr. MADDEN. I imagine that when I arrived here as a freshman, I might have been a little farther along than just graduating from high school. I think I was about 50 years old then, and when Jim arrived I had read about Jim Haley when I was a young fellow, so to speak. The thought struck me, knowing that Congressman Haley then, as a freshman, had spent many years as the owner and manager and major domo of the biggest show on earth, the Ringling Brothers Circus.

What I regretted, when I saw Jim Haley come in here as a freshman Congressman, after all those years, when every youngster and all of the elders who could afford it, when Jim's circus was close by, always visited Jim's circus, that I earlier did not get some free tickets. I used to have to pay.

But Jim has made a great record here as a Congressman. He has been a pillar to the younger Members because he had a lifetime of experience. He generally had a correct analysis of what was good for the country on legislation, just as he had always been when he was the head of the greatest show on Earth.

Mr. SIKES. Mr. Speaker, I am happy to yield to a truly great American, the distinguished Speaker of the House of Representatives, the gentleman from Oklahoma (Mr. Albert).

Mr. ALBERT. Mr. Speaker, I want to join in all of the kind words that have been directed toward the life, service and character of Jim Haley. No one with whom I have worked in this House over my years, particularly in the leadership, could possibly have been more cooperative, could possibly have gone further in trying at all times to cooperate and always still to express his own views, to maintain his own attitudes and his own convictions. His convictions are deep rooted. They belong to the man. And the fact that he has had them has been good for the House of Representatives and good for the country. I am very happy to say that under my speakership the House had the opportunity today to pass H.R. 12896, a bill to name the veterans' hospital located at 13000 North 30th Street, Tampa, Fla., the James A. Haley Veterans Administration Hospital. I hope that that hospital lasts longer than any hospital in the Veterans Administration. I am sure that the name of James Haley will last even longer than that.

Thank you, Jim, for your friendship. Thank you for your wonderful service.

## GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the service of James A. Haley.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## TRIBUTE TO SPEAKER CARL ALBERT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. Steed) is recognized for 60 minutes.

Mr. STEED. Mr. Speaker, I had hoped that because of the importance of the occasion that brings me here, a more auspicious time could have been made available, but we have been caught up in what seems to be an endless flood of legislation in these closing days of the session, so we are happy to have even this time for the purpose which brings me here.

Mr. Speaker, in all the times it has been my great privilege to stand before my colleagues and place the name of Carl Albert of Oklahoma's Third Congressional District in nomination, first as majority leader and then as Speaker, the event was a time of great pleasure and satisfaction.

Now, as we come to the time when we pay a parting tribute to our great Speaker as he prepares to put down his gavel and return to the high status of private citizen, the emotional tone is a far cry from those earlier and happier times. I know my great feeling of regret at his retirement is shared by all of my colleagues who have been privileged to serve under his leadership.

Carl Albert has earned his retirement. Demands imposed upon him in recent years as he carried on the ever increasing burdens of his office have exacted a heavy toll from him. His dedication, devotion and untiring attention to his work have marked him as one of the truly great leaders this august body has ever had.

One of the most priceless traditions of the House of Representatives has always been that the members are ruled by a fair, impartial and kindly Speaker. Only in this way can the minority and the single dissident among us be assured of his rights and day in court. Speaker Albert has maintained this tradition in its finest form and he has brought credit to our institution in doing so.

During his years in which he filled a major role in the House leadership, the country not only has passed through some trying and difficult times, but many unprecedented and important decisions have been made, and much needed and valuable legislation has been enacted. In fact, the record is so vast it almost defies detailing it here.

In a recent tribute on behalf of all the people of Oklahoma, Governor David Boren of Oklahoma described Carl Albert not as a politician but as a great teacher. Using the popular Oklahoma title frequently bestowed upon Mr. Albert—Little Giant from Little Dixie—the Governor said that the Speaker had truly proved the saying that little feet can leave big tracks when their owner is brilliant.

He said that in coming from humble beginnings to high office, Mr. Albert had taught us that America is a land of opportunity. It gave him the opportunity to obtain an education, and he scaled the heights of academic achievement attending the University of Oklahoma, and then becoming a Rhodes scholar at Oxford, where he won his law degree.

The Governor pointed out that Mr. Albert's success as a soldier during World War II, rising from private to colonel; his success as an orator, winning State and national awards and scholarships in speaking; and then his success in winning 15 consecutive elections to Congress, being the first Oklahoman ever to achieve such a record; and finally rising to leadership roles in the Congress which placed him in action in some of the most historic and difficult decisionmaking in America's history all combined to make Mr. Albert a teacher, who by his own example, taught us that America's opportunities are limited only by the desire and the talents of those who seek to use them.

My sorrow over the fact that the time of his departing from us has come is deepened by the knowledge that every hour I have been privileged to serve in this House has been with Carl Albert as my leader and my colleague. If it be granted that I may serve here in the next Congress there will be an unfilled gap in my life that his going away leaves with me.

And so it will be with his district, and with my State of Oklahoma, and with the Nation. Although we know our country constantly produces men and women of great talent and ability, it is still a certain loss when the tried and true leaders must take their leave.

Since his beginning on an Oklahoma farm more than three score years ago, many honors and great achievements have been won and done by Mr. Albert. But I doubt if any has been greater, or appreciated more, than the great love and affection his service with so many men and women of the last 30 years, has brought to him.

And so, we say to him: "Well done, faithful servant. Find peace and happiness and long life in your new endeavors."

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. STEED. I am happy to yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Speaker, the retirement of Speaker CARL ALBERT at the end of this Congress will leave this Chamber and the Nation diminished in many ways. We are all familiar with his accomplishments in this body and the extraordinary legal and educational background for which he came. While biographies chronicle the lives of great men in terms of their achievements, they are remembered by their colleagues and friends for their personal courage, their integrity and fairness and for their forthrightness.

Speaker ALBERT possessed all of these qualities in abundance. His friendship, loyalty and dedication were sources of strength to those of us who were privileged to work with him over the years of his service in the House.

Speaker ALBERT's career in the House of Representatives spanned 30 years, including one of the gravest periods in our history, and three decades in which major changes were occurring in our Nation and in the approach to national problems. First as a Congressman, then as majority whip and majority leader and finally as Speaker, CARL ALBERT never avoided an issue no matter how difficult, but faced it squarely and honestly, and with absolute fairness.

In so many ways, CARL ALBERT was a remarkable man. His life was full of enthusiasm, creativity and great courage. Unquestionably his guidance and leadership were responsible for the most creative legislative period in our history—the immortalized 93d Congress. Under CARL ALBERT's leadership the House and this Nation moved through the gravest constitutional crisis since the Civil War and emerged, not weakened, but strengthened by the ordeal.

In addition to the superlative management of the impeachment proceedings, CARL ALBERT's tenure as Speaker, the highest legislative office in the land, saw the passage and the implementation of the Budget and Impoundment Control Act, which restores to the Congress its constitutional prerogative of control over the purse strings of the Nation. CARL ALBERT initiated the first reform since 1946 of the House committees' structure and jurisdiction and went on to fashion still new legislation in War Powers Act, a measure designed to restore proper balance between the executive and legislative branches in the decision to send American troops into hostilities abroad.

Speaker CARL ALBERT's work in the Congress will long remain as a monument to his ability, integrity and his love of America. CARL ALBERT was an outstanding Speaker but more importantly he was an outstanding human being. He was a leader who knew and understood the operation of Congress who knew how to read the House, to fashion and unfashion coalitions which successfully mastered the complexities of the legislative and political processes. He was always willing to share his knowledge with every Member and is probably the most erudite individual I have ever known whose grasp of history is unsurpassed by any other Member of this House.

And so, Mr. Speaker, in bidding you farewell, I am reminded of a description of a man written by Ralph Waldo Emerson which I think describes the legacy you are leaving to those of us who aspire to follow in your noble footsteps:

> Not gold, but only men, can make
> A nation great and strong,
> Men, who for truth and honors sake,
> Stand fast and suffer long.
> Brave men who work when other
> men sleep
> Who dare while others fly,
> They build a nation's pillars deep,
> And lift them to the sky.

Mr. STEED. Mr. Speaker, I yield to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, the gentleman in the well, our distinguished colleague, the gentleman from Oklahoma (TOM STEED), was able to speak from a long personal relationship with Speaker CARL ALBERT. The distinguished majority leader was able to speak from a similarly long relationship, both in leadership and as a Member of the House.

Mr. Speaker, I speak from a more recent relationship. As one of the senior retreads, this is only my third term in the Congress. However, I can say that during those three terms I have come to know and respect this gentleman from Oklahoma, CARL ALBERT, as a very gentle, wise, and compassionate leader.

Mr. Speaker, I have watched the legislative process under his tutelage. As it ebbed and flowed and as people got angry and as people shook their finger at each other, there was always the comfort and consolation that sitting in the Speaker's chair was a man whose gentleness and sense of fairness would bail the House of Representatives out of whatever legislative morass it had fallen into.

Mr. Speaker, it is that kind of leadership which makes the legislative process a noble thing. I think it is no accident that the Congress is beginning to resume its rightful role in our trilogy of separation of powers; and I think that it is no accident that this occurred while CARL ALBERT was Speaker.

Our majority leader recited the specific pieces of legislation and the specific actions that the House took while CARL ALBERT has been Speaker. More than that, I think the dignity and grace and strength which CARL ALBERT gave to the whole House of Representatives in that chair in which he sat will go a long way toward making this a better Congress and a better country.

Mr. Speaker, we will miss his leadership; and all of us are the better for his friendship.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, if a freshman Member could add just a few words, first of pride in the fact that the forebears of Speaker ALBERT happened to come from Marion County, in southern Illinois, in my district; but my pride in having served under Speaker ALBERT really has almost nothing to do with that. I wish I could recall the words precisely that were put by a Chinese philosopher the other day, who said that real leadership is not visible leadership.

I know there are those who have wanted and said that we needed a Sam Rayburn, but times are different and a Sam Rayburn simply would not have been tolerated by the House of Representatives today and that style of leadership would not have been tolerated. We happened to have the right man for the right time who provided gentle leadership, so imperceptibly but, nevertheless, in measured terms moved this House in the right direction.

I recall that a couple of years ago Speaker ALBERT was kind enough to come and speak in my district during my campaign. In the process of the campaign, my children had met all of the candidates running for the Presidency of the United States. One of the reporters said to them who would you like to see as President? And he named all the big names. My two children said, "None of them." They wanted to see CARL ALBERT as the President of the United States. So he had won their hearts as he won the hearts of his colleagues in Congress.

But, much more important than that, the real test of that leadership is whether this Nation is a better nation because of his leadership. And I think here, unquestionably, the answer is yes.

Again I say that I am proud to have served under CARL ALBERT. I shall always be proud to have had the opportunity to have served under CARL ALBERT.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. STEED. I am happy to yield to the gentleman from Florida.

Mr. SIKES. Mr. Speaker, I appreciate very much the courtesy of my good and distinguished friend, the gentleman from Oklahoma, Mr. STEED, for yielding. I commend him for making this time available which gives us an opportunity to tell of our thoughts on CARL ALBERT on the eve of his retirement from a very distinguished public career if, indeed, we can marshal the thoughts that fully tell of our love and appreciation for this man.

Mr. Speaker, this past June witnessed a proud moment in the long history of Congress. On Thursday, June 3, a delegation from the British Parliament arrived at our Capitol Building to hand over for enjoyment and safekeeping for 1 year the Lincoln Cathedral copy of the Magna Carta. The loan of the finest existing copy of this historic document was a major part of England's commemoration of the Bicentennial of American independence. It is a greater salute to America and the American people than any purely material gift might have been.

The loan of the Magna Carta and the stately ceremony effecting the transfer were the very personal achievements of Speaker CARL ALBERT. This is one of many important things that constitute a magnificient climax to his distinguished career, a career that is now coming to an end of his own volition. As a Member of the House, he had always shown the same strength of intellect and capacity for plain hard work and distinguished leadership that had marked his entire career up to the moment he entered Congress. Here those characteristics developed into full fruition and into general recognition that here is a great man, a great leader, a great American.

CARL ALBERT was a prize-winning orator and honor student during his high school and college days. He graduated from the University of Oklahoma where he was honored by membership in Phi Beta Kappa and was the recipient of a Rhodes Scholarship. He studied at Oxford for 3 years, completing work on his degree in civil law before returning home in 1934.

In 1941, he gave up his law practice to enlist as a private in the U.S. Army. The following year, he was awarded a direct commission from the ranks, leaving the service as a lieutenant colonel at the end of the war.

Speaker ALBERT began his service in the House during the 80th Congress. His rise to leadership began in 1955, the year the Democratic Party regained control of Congress. Speaker Sam Rayburn needed a knowledgable, hard-working young member to take over as majority whip. His choice of CARL ALBERT was a fortunate one for the House of Representatives and for the entire country.

In due course, CARL ALBERT became majority leader during the speakership of John McCormick. Throughout his 9 years of service in this position, he ably guided the programs of Presidents Kennedy and Johnson through the House, smoothing the way for passage of some of the most significant legislation in our history.

At the end of the 91st Congress, Speaker McCormick retired and CARL ALBERT was elected to the third highest office in the land by his fellow members.

History will record that the past 6 years have been a time of intense turmoil and rapid change within the House of Representatives and the United States as a whole. The Speaker has been confronted with challenges that would have tried the wisdom of Solomon and the patience of Job—inflation, recession, war and the threat of war, the petroleum embargo and, most critical, the 2 years of Watergate. To his everlasting credit, he met them with the calm reasonableness and even-handedness which have characterized his entire career.

During that unhappy time, our institutions were severely tested. Twice, during the period while still bearing the immense burdens of the speakership, CARL ALBERT stood first in line of succession to the Presidency. Throughout those days of crises, he conducted the business of the House, including the process of impeaching the President, with the fairness and impartiality that have been his hallmark as Speaker. This achievement alone places him in the ranks of our great Speakers Henry Clay, Thomas Reid, Nicholas Longworth, Sam Rayburn, and John McCormick.

Speaker ALBERT saw all those crises through to their successful resolutions and has chosen at this time to lay aside the burdens of public office. He is a great American and his retirement will be a loss to the Nation, the House of Representatives, and to me, personally. CARL ALBERT has been one of my closest personal friends in Congress. I wish him and his family all the best in whatever future endeavors he undertakes.

Mr. STEED. Mr. Speaker, I now yield to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, it is with great sadness that I view the upcoming departure of the Honorable CARL ALBERT from the Halls of the House of Representatives.

The era in which he has led the House of Representatives has been one of unparalleled complexity and rapid change. Throughout this time of myriad problems, CARL has shown the way with fairness and objectivity.

People have always recognized Speaker ALBERT's ability and equally great humanity. As a college student he was a Rhodes Scholar, an achievement matched by only a tiny proportion of the Nation's top students. Speaker ALBERT served in the Army Air Corps during World War II, entering as a lieutenant and leaving as a lieutenant colonel.

He began his able representation of Oklahoma's Third District in the 80th Congress. His fellow Democrats, recognizing the great ability and responsibility with which he fulfilled his duties, selected him as the majority whip in the 84th Congress.

Speaker ALBERT became the majority leader in the second session of the 87th Congress. In this vitally important role he was instrumental in achieving the far-reaching domestic programs set forth by President Johnson. Speaker ALBERT was elected Speaker of the House in the 92nd Congress. He will retire as Speaker after fulfilling this responsibility, with his customary excellence, at the end of this 94th Congress.

This dry recital of dates and achievements reflects only a fraction of Speaker ALBERT's contribution to Congress and to the citizens of the United States. Personally I know him as a compassionate and generous man.

My sister and brother-in-law met Speaker ALBERT and Mrs. Albert in 1946 when he first came to Congress. In fact, my sister and brother-in-law took care of Mary Frances the night that David was born. My family relied on Speaker ALBERT during difficult times during the late 1940's, so I am familiar with his fairness and compassionate nature.

Speaker ALBERT will unquestionably be remembered by history as one of Congress' greatest leaders and as one of this country's most faithful servants. His achievements, and personal honesty and integrity have made an example that we, his colleagues, must attempt to emulate. My privilege was the honor of having served under his leadership.

It is with the highest possible regard that I wish Speaker ALBERT a happy, successful retirement from Congress. He can leave knowing that he has gained through his service to our country the respect of all the many individuals who have had the pleasure of working with him.

Mr. STEED. Mr. Speaker, I now yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank the gentleman for yielding. Mr. Speaker, I rise also to speak about Speaker ALBERT. Coming new to the Congress, Speaker ALBERT is the only Speaker I have ever known. If I do return here, it will be with a sense of loss to think that that familiar figure will not be here.

There are some in this room, I guess four of us altogether, who traveled with Speaker ALBERT to Russia. To see him in a foreign country—and so foreign—is perhaps to see him best—to see him never forget his home, his Oklahoma fields, his country, and its ideals. To see the way he handled our relations with those foreign governments was an example of the way this country ought to be: courteous, fair, unyielding in the unspoken but absolutely unshaken defense of our own principles, in a land that does not respect or admire them. To see him like that, to know what it means to have somebody who right from the bottom up and from the inside out is one thing and not another thing, who is what he says he is and believes in what he believes, was a wonderful experience.

As one who has newly arrived in Congress, and as a member of what the Speaker must regard as the wrong party, I welcomed such great kindness from him.

Almost from the first day we met I felt we were friends. It is very hard to say good-by to Speaker ALBERT.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

Mr. STEED. There are only a few Members remaining in the House who have served longer than Speaker ALBERT. One of these is the venerable gentleman from Indiana (Mr. MADDEN) and I am happy to yield to him now.

Mr. MADDEN. Mr. Speaker, I am happy for this opportunity to say just a few words on behalf of our retiring Speaker CARL ALBERT. Since I came here in 1943 at the time Mr. Rayburn was Speaker, I have served under Speaker Rayburn and Speaker Martin and Speaker McCormack and Speaker ALBERT. During that time I have observed that each was a quite different type of Speaker than the others and Speaker ALBERT is different than many others. We can go back over a great many of the Speakers in the history of this country, and the names of a great many still ring throughout the history of our Nation, but Speaker ALBERT, the Speaker of this House at the time the population of our country is more than 206 million people and when the personnel of this House is entirely different from what it was at the time when Speaker Rayburn and Speaker Garner and others were here over the years, has had a quite different job. But through reading the history and observing Speaker ALBERT and especially with the new Members—and I think probably there has been a higher percentage of New Members in the House than even under Speaker Rayburn when I first came—I have observed that Speaker ALBERT has done an outstanding and exceptional job as Speaker of this House of 435 Members. I have talked with many Members on both sides of this House about all the trying times and the pieces of legislation that have been presented to the House and one hears many times a repetition of the endorsement and enthusiastic recommendation of his decisions.

I honor and commend Speaker ALBERT. I think he was trained from the 8th grade on through high school and college and even through the receiving of the Rhodes Scholarship to be the Speaker, and I do not think any other Speaker in our history was better equipped educationally to make the outstanding record he has made as Speaker of this House.

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the distinguished gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, I thank the gentleman for yielding.

I would like to associate myself with the remarks that have been made here by our great Speaker. I consider it an honor and privilege to have had the opportunity to serve with our great Speaker. I have had the opportunity to serve on the Steering Committee and as a member of the whip organization and to see our great Speaker in action. I have seen him make many difficult decisions and he has always been right. He is in my judgment a great Speaker but he is above all a great American and I am delighted to have this opportunity to add these remarks.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I thank my colleague, the gentleman from Oklahoma, for yielding.

In the history of our country, which has been only 200 years, there have been few people who have attained the honor and privilege and respect that our Speaker has been able to attain in the years he has served in the House. I guess it is an honor few of us or few people ever actually may be able to experience. Certainly it does not look like anybody on this side will have the opportunity to serve as Speaker in the near future.

But I have observed in the years I have served here that it is an extremely difficult job to be partisan to the point of being selected as Speaker of the House but being able, after having attained that opportunity, to serve and undertake that responsibility and do a fair and honest job. I can say without any reservations, based on my experience, that Speaker ALBERT has certainly accepted that responsibility.

I can say without any reservation in the experience I have had with Speaker ALBERT, he certainly has proven that respectability. It has been a great honor for me to have served with CARL ALBERT of Oklahoma. In the years I have served in Congress I have found him very fair. It will be a great loss to each of us who are Members of the House of Representatives, that expect to be Members of the 95th Congress, that we will not have CARL ALBERT as Speaker and it will be a great loss to the country.

It has been a great benefit to have had a person like CARL ALBERT to make a contribution to make America a better place to live. As we bid him farewell, we wish him great happiness in the years ahead.

Mr. STEED. Mr. Speaker, I yield to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I rise to also pay tribute to our distinguished Speaker of the House, CARL ALBERT. While Mr. ALBERT and I have often disagreed on the politics of the great issues of our time, I have respected the distinguished Speaker for his courage in standing in support of the rights of all the Members of this House.

I came to this Congress in 1971, alone and lonely and steeped in controversy, very often attacked and under extraordinary suspicion, as Berkeley, Calif., is often considered the radical citadel of the West. While many of my colleagues challenged my right to oppose the Vietnam war, the illegal and insane application of that war, it was CARL ALBERT who gave me the right to speak up, to use our offices to say what we should say and he provided opportunities for me to make my statements on the floor and off the floor. I appreciate that.

He fought for my right to serve as the first black member on the Armed Services Committee. He appointed me to the Select Committee on Intelligence, when many of my colleagues thought that a member, both black and controversial and, thirdly, from Berkeley, Calif., should not serve on that committee. It was CARL ALBERT who stood up and responded and protected my rights and was willing to speak for my professionalism. I will always thank him for that.

As I said before, there were many times when the Speaker and I disagreed on the politics of the situation, but he always respected my personhood. I will miss him sorely.

Mr. STEED. Mr. Chairman, I yield to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, one of the clearest memories I cherish in my term of service in the House was on a Monday morning following the Sunday evening when we first placed our astronauts on the moon and the then majority leader, CARL ALBERT, said words to this effect:

> Though the earth should stand for a million years, men will always know that it was the greatness and the genius of America which first placed man's footprints on the Moon.

For many years CARL ALBERT himself has contributed to that greatness of our country in times of great responsibility in this House and in the body politic. He is a man who loves the House and has served it well. He is a man who has demonstrated his love toward service to the Party, to the people of his congressional district and to the House of Representatives.

Like all our colleagues, I am deeply grateful for his leadership and his service.

Mr. STEED. Mr. Speaker, I yield to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I appreciate the gentleman from Oklahoma yielding and for arranging this special order so that we might have some words to say about our distinguished Speaker.

For many years now, day in and day out, I have watched this giant of a man from Bugtussle, Okla., enter these doors, mount this podium and rap that gavel in a very impartial and fair way to both sides of this aisle. I have watched him in tough times. I have watched him when the issues were difficult, the war in Southeast Asia. He presided in a very fine and impartial manner, for which we are most appreciative.

I am grateful to the Speaker for his dedication and interest to the Flag Day ceremonies.

In the 10 years I have had a small part in making these arrangements, Speaker ALBERT has never been too busy to preside, and has never been too busy to participate in the luncheon we have had afterwards. I appreciated that, and the House appreicated it very much.

So, on this occasion, Mr. Speaker, I am reminded of the words, "The lives of great men all remind us that we too can make our lives sublime and in passing, leave behind us footprints on the sands of time."

CARL ALBERT leaves footprints—giant footprints—and I take this occasion to wish him every good wish in his retirement.

Mr. STEED. Mr. Speaker, another one of that very small group who predates Mr. ALBERT in the length of service here is the gentleman from Texas (Mr. POAGE). I now yield to the gentleman from Texas.

Mr. POAGE. Mr. Speaker, I believe that I am the only person in this room who had the privilege of serving under Speaker Bankhead. I have served under several Speakers. They were all great men, but as we have come down the list, we have expanded upon the character and greatness of those who filled the office, just as the obligations of the office have increased.

CARL ALBERT has probably faced the most difficult problems of any of the Speakers with whom I was acquainted. I think that it was well said a few moments ago by the gentleman from Indiana (Mr. MADDEN) that CARL ALBERT has presided over this House during a period of change, in which it seemed impossible to please even any large segment of the House, and yet I know that tonight we recognize that CARL has served and has pleased at least the great, overwhelming majority of our membership. Certainly, he has not done everything that every one of us wanted done, or in the way we would have done it. We would have probably plunged the country into deep trouble.

He has sought to do those things that were necessary to maintain the stability of this institution and of the United States of America. He has done it largely by being one of the people of the United States. Carl is my neighbor—at least he is just on the north side of the Red River and I am on the south side. We think of the people in Oklahoma as having many of the characteristics of the people in Texas. We hope we are right, because we know that some of our great leaders have come from Oklahoma, and we trust that we will emulate some of their characteristics.

But, Carl has been a man of the people. Oh, he went off to Oxford; he got a great education. He is way ahead of most of us, but he has never let that go to his head. Carl came on the Agriculture Committee sometime after I did, and he had a vision of service to the real people of the United States, as he did for all the people of the United States. And, he did for them that which he could at that time.

We all hated to see him leave that committee. But he moved on to where he could do more. He has done more. I think that is all we can say about any Member of this House. If he has served the people to the greatest of his abilities, he has rendered a great service.

Carl Albert has done so. He has retained the common touch. He walks with princes but he deals with the common man, and I respect him for it. We are proud of you Carl. We hate to see you leave us. This place will not function for some time as well in your absence. But we are glad you are coming back to the Southwest. Welcome home.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Kentucky (Mr. Natcher).

Mr. NATCHER. Mr. Speaker, next to my marriage and the birth of my two children, the greatest thing that has happened to me during my lifetime was the day I was elected as a Member of the Congress of the United States. One of the nicest things that has happened to me since I have been a Member of the House of Representatives has been the opportunity that I have had to serve with my friend, Carl Albert.

Mr. Speaker, I was sworn in as a Member of Congress on January 6, 1954. Since that date I have kept a journal. I have 35 bound volumes. I am proud of this journal. And I put it in there, Mr. Speaker, just as it has happened. I want the Members of the House to know that my friend Carl Albert comes out good in my journal.

Mr. Speaker, as you and I well know, giants from time to time walk the face of the Earth. Our Speaker, Carl Albert, comes in this category. He is well trained, from the standpoint of education, from the standpoint of courage, to have served as Speaker of the House of Representatives. Our friend Carl Albert has served as Speaker during a very difficult time. I know that since I have been a Member of the Congress he has always been kind and considerate to all of the Members. No new Member of the House, Mr. Speaker, ever went to Carl Albert's office to see him, to ask for assistance, when he was refused.

It has been a distinct honor and a privilege for me to serve with our Speaker. All of us will miss him, and I want my friend Carl Albert to know that from the bottom of my heart I appreciate all of the nice things he has done for me since I have been a Member.

Mr. Speaker, as the Members know, on a number of occasions our Speaker has permitted me to preside over the House, over the Committee of the Whole during general debate on a number of bills. This to me was a great honor, and I want our Speaker to know that I appreciate his kindness and his consideration all down through the years. We will all miss our friend Carl Albert, and we want him to come back and visit us at every opportunity.

Mr. STEED. Mr. Speaker, I yield to the gentleman from Washington (Mr. Foley).

Mr. FOLEY. I thank the gentleman from Oklahoma for yielding.

Mr. Speaker, I take the floor to join my colleagues in paying respect to our distinguished Speaker. Carl Albert came to the House of Representatives in 1947, a year or two after the end of the World War II period, and his career spans over a generation of time. It marks the postwar period of the United States, a time of unparalleled ascendancy of the U.S. military and economic power, a time of great significance of the United States in world affairs, but also a time that included many periods of turmoil and difficulty of our Nation. I doubt whether there is a comparable period of change in times, perhaps, that we have experienced as a Nation, other than the period before and immediately after the Civil War.

It was this period, too, that saw many changes in our political institutions. Carl Albert presided during part of this time, most recently as Speaker of the House and before that, as a Member of the House, as majority whip, and as majority leader. During all that period he had a central role to play during this time of change in our political institutions, the role of responding to the many problems facing the country and presiding in later years in very meaningful ways when changes occurred here in the House of Representatives.

Some people have complained in recent months and recent years that Congress needs strong leaders, and they harken back to some model of leadership in the past when we had the so-called czar Speakers of the 1890's and the early 1900's and even when the revered Sam Rayburn, as has been mentioned earlier, served as Speaker of the House. But those were Speakers of a different time, a different culture, and a different climate.

Carl Albert provided leadership that was firm but never harsh. His leadership was always a positive leadership, one of encouragement, persuasion, and assistance to other Members. I have in my brief career known him in that leadership to be always concentrating on what seemed to be the primary issues for the good of this House and for the good of this country and to be taking positions that were farsighted and progressive, but positions that could be achieved and could be maintained without destroying the fabric of our national life or the fabric of our common membership here in the House of Representatives.

I do not think any of us appreciate the role that Carl Albert has had, not only in the affairs of our country but in the history of the House of Representatives in these critical years during which he has served. I think it would be for another perhaps more detached observer to write that history, but when it is written, it will be written in a way that will bring nothing but credit and distinction and honor to the gentleman from Oklahoma who leaves us this week and who joins with Speaker McCormack as a past Speaker of the House and joins a body of very distinguished Americans who have held one of the highest offices in the service to our country.

He will remain here with us, of course, in our memory, in our regard, and in our affections, and we will always have reason, those of us who have had the honor to serve with him, to say proudly that we served with Carl Albert and we remember him so well.

So to him and to his family, all of us wish every happiness and success.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, on most occasions when the gentleman from Maryland rises on the floor, the Speaker of the House, to whom we are paying tribute tonight, greets him with the question, "For what purpose does the gentleman rise?" Quite often the following sequence of events is not always too pleasurable, I am sure, for the Speaker.

But tonight I do not rise to make a point of order or a point of no quorum. In fact, under our new rules I could not do that. Neither do I rise to object to anything, but, rather, to add my tribute to the words that have been said here tonight.

Ours has often been an adversary relationship, but I personally have been greatly impressed by the tolerance and patience that this great gentleman has shown. As we know, we as Members are supposed to refer to one another in the House of Representatives as the "gentleman" and then we name the State, instead of using our first names, although in recent years this practice has fallen into disuse. That bothers some of us. However, I do believe the current Speaker of the House has added a new dimension to the meaning of the words, "the gentleman from Oklahoma."

Last summer I visited Oxford University. I do not hesitate to add that it was a private trip, not paid for by the taxpayers. While there, one of the guides, upon discovering that I was there as a Member of Congress, immediately pointed out that "This was where your Speaker, Carl Albert, went to college."

It was not important that I was there. She knew that Carl Albert had been there many years before and had attended Oxford.

I personally have appreciated and have often said that I appreciated the Chair's indulgence. That is quite true. I do not know what it will be like in the next Congress. Perhaps neither of us will be here; that is for others to decide. But I can only quote another great Oklahoman, Will Rogers, who once, in offering an argument for incumbency, said:

> Every time you turn some public official out of office you seem to get a worse one.

I do not think that applies in this case, but I do think it points up the fact that future Speakers of the House will be measured against the benchmark established by the Speaker of the House of Representatives, CARL ALBERT.

Mr. Speaker, it has been a great honor for me to have served with him.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I am a new Member of Congress, as my colleagues know.

I think my first day in Washington as a new Member was my first experience really in talking with our Speaker. I have come to know CARL ALBERT in the short time I have served as well as anyone with whom I have served at any time. I have never served in any other legislative capacity, so this was a new experience altogether for me.

I want to say, Mr. Speaker, that in the time during which I have been in Congress, our Speaker, CARL ALBERT, has been of immeasurable help. He has always had the time to talk with new Members and to give them directions. He has had a tough job. This has been a particularly tough year, but he was never too busy to drop what he was doing to talk with me. I know it was not just me; I am sure that went for all of the new Members.

Mr. Speaker, when we first arrived, CARL ALBERT gave us the kind of direction that we needed insofar as committee assignments are concerned.

Mr. Speaker, I have a young son, 9 years of age, who looks upon CARL ALBERT as a giant among all giants. Mr. ALBERT has always had the time to say hello to Billy. He loves children and it shows. He is the kind of man who, I am sure, has just affected so many lives in the same way.

Mr. Speaker, I want to wish our Speaker, CARL ALBERT, the best that life holds in the years ahead. It has been an honor for me to serve, during the short time I have been in Congress, with our Speaker.

Mr. RHODES. Mr. Speaker, it is with profound regret that I bid farewell to my good friend CARL ALBERT upon his departure from the House of Representatives. The Speaker leaves with great good will from every Member of this body. We will miss his leadership, but even more we will miss his kindness, friendliness and the genuine love of his fellow man which has endeared him to all of us.

CARL ALBERT has not served as Speaker in a time which has been easy for him. He has never served with a President of his own party. Therefore he has had to try to work with the President of another party, at the same time keeping in mind the political necessities and desires of his own Party.

In such a situation it would be easy for an individual to be criticized either for being overly partisan or not being partisan enough. Speaker ALBERT has trod that fine line to the best of his ability, and in the opinion of most of us he has been quite successful. In this accomplishment he can take great pride.

The Speaker and I are close personal friends and have been for many years. I value his wisdom, his fine sense of humor, his loyalty and his generosity. We first became friends when we served on active duty at Fort Leavenworth, Kans., in the early forties. Our rooms were across the hall from each other and we spent practically every waking hour together. It was a rich experience which I shall never forget and will always cherish. As minority leader of the House I have had many occasions to consult with the Speaker on scheduling, appointments, and other legislative matters. I have always found him ready to listen, to be accommodating when he could, and understanding when he could not. I can truthfully say he has never raised his voice at me once, even though I am sure that there are occasions when he would like to have done so. I will always be grateful to him for the consideration he has shown me.

And now CARL ALBERT will go back to his beloved Oklahoma and will, I am sure, continue to contribute to his fellow man by his writings and by his speeches. He will also, I am sure, do a bit of scratching around in the fertile soils of Oklahoma as he did in his boyhood. As he goes, he can be assured of the affection and admiration of every Member of this body—an affection and admiration which will not abate, but which will increase as the years go by.

To CARL and Mary, Betty and I wish the very best of everything in the future—health, happiness and many long years to enjoy both.

Mr. McFALL. Mr. Speaker, it will be with mixed emotions that we will say farewell to CARL ALBERT at the end of this Congress following 30 years of distinguished service in the House and 6 years as a great Speaker.

It is with sadness that we accept the fact that the Speaker will be leaving us. It is with gladness that we know he will be taking his well-earned retirement in his beloved State of Oklahoma.

Speaker ALBERT will be recognized as one of the great Speakers in the history of the House and one of the ablest public servants of the 20th century.

He was marked for leadership from the time he was first elected to serve in the 80th Congress following service in World War II. A wise former Speaker, the beloved Sam Rayburn, recognized early that CARL ALBERT had that rare combination of chemistry and personal qualities to rise to the top in the House.

Speaker Rayburn gave him the opportunity to begin his leadership apprenticeship—as democratic whip in the 84th, 85th, and 86th Congresses and the first session of the 87th. He was elected majority leader in the second session of the 87th Congress and in the each succeeding Congress through the 91st.

As Speaker since 1971, CARL ALBERT has effectively led the House in a turbulent and difficult period. He has demonstrated time and again that he can get things done—not by fiat or regimentation, but by tireless work, by scrupulous fairness, by painstaking efforts behind the scenes, by reconciliation and compromise in the highest sense of those words.

The great records of achievement of the Congress he had led tell the story best.

During the difficult impeachment hearings of 1974, it was CARL ALBERT's leadership—both firm and fair—which guided the deliberations and reflected universal credit on the Judiciary Committee and the House.

He was the driving force behind our successful efforts to restore the balance of power intended by the Constitution between the executive and legislative branches of Government—efforts symbolized by enactment of such landmark measures as the War Powers Act and the Congressional Budget Control Act.

More than any Speaker in our history, he opened the channels to power, responsibility and effective action to all Members of the House, from the newest freshman to the most senior Member. He opened House procedures to a greater extent than ever before to the scrutiny of the press and the public. And he led the drive to reform internal House procedures to strengthen public accountability.

More than anyone else in the Nation, Speaker ALBERT deserves the credit for leading the 94th Congress to enactment of bold economic legislation which prevented the worst recession in four decades from becoming a depression: the largest tax cut in the Nation's history, emergency jobs and housing bills, the Public Works Employment Act, comprehensive energy legislation and much more.

Because of CARL ALBERT's leadership, the Nation has been set on a sure course of continuing economic recovery, and millions of Americans have been given new hope and security.

As majority whip these last 4 years it has been my honor and privilege to work closely with Speaker ALBERT on a day-to-day basis.

I have seen his leadership qualities up close. I have seen his courtesy, his fairness, his devotion to the House and its Members, and his love for his country.

History will remember Speaker ALBERT for his enduring achievements in the House. His colleagues will remember him for those great achievements, but also for his humanity, his warmth and his wisdom. He will be profoundly missed but never forgotten.

Mr. MAHON. Mr. Speaker, I shall not undertake to extend my remarks at length in regard to the distinguished record of service of Speaker ALBERT but I must join my colleagues in this special salute to a man who has been my warm friend through the years and who has been so helpful to me in my work in the House of Representatives.

Congratulations, Mr. Speaker, upon your record of service to the Nation.

May the Lord's blessings be upon you and your wife Mary as you return to your blessed State of Oklahoma.

Mr. FOUNTAIN. Mr. Speaker, on this occasion let me attempt to express the admiration and respect I hold for you by describing what your long public service has meant to this House, to our Nation, and to me personally.

I am privileged in that you and I were good friends years before either of us came to Congress. It was in the Army's Judge Advocate General School in Ann Arbor, Mich., back in 1942, that I first came to know you. Little did I know then that you and I would serve together in this body for a total of 24 years.

These years have changed the face of this Nation and have done much to shape its future. Throughout all of this time, your friendship has been highly valued by me. Your dedication as a servant of the people and your strength of character will be long remembered by the House of Representatives and by the American people, who have benefited so much from your efforts.

Your time as Speaker of this august body has been laced with national and international events which have made the job tough for all of us, but especially for you as our leader. Your courage and insight were indispensable in carrying the Nation through these arduous and tumultuous times. The wisdom with which you did your job made it less difficult for this House and our Nation to make it through those days. Leadership and perseverance, combined with the patience of Job, have been the hallmarks of your service as Speaker.

I particularly have appreciated the understanding you have so often exhibited in guiding the course of legislation through this Chamber. To be the leader of 435 Members, each with separate, diverse, and unique constituencies, and to be such an effective leader, is no simple task for anyone. But you, Mr. Speaker, rose admirably to the occasion and you did your job well. No higher praise for your efforts can be bestowed.

The position of Speaker of the House is a powerful one. But, as you and I both know so very well, power in and of itself does no good unless those who are being led can be persuaded that a certain position is the most desirable one. You have used logic and persuasion time and again in your leadership role and have not felt the need or inclination to resort to coercive means in exerting your influence. For that, I am deeply grateful.

It has been a real pleasure and a distinct privilege to have been associated with you for these many years. As a close personal friend and as an esteemed colleague, I wish for you all the best. Christine joins me in wishing a long and happy life for you and Mary as you return home to McAlester.

Mr. Speaker, let me end by quoting a couple of lines from Shakespeare:

> Our life, exempt from public haunt, finds tongues in trees, books in the running brooks, sermons in stones, and good in everything.

That, my friend, is my wish for you in your well-deserved retirement.

Thank you.

Mr. CEDERBERG. Mr. Speaker, when one talks about Speaker Carl Albert, one naturally engages in superlatives. For here is a man who cannot be described in any other terms. His accomplishments are enviable and truly worth noting.

Coming from a modest beginning, Carl went on to distinguish himself, both in the academic and public arenas. A Rhodes Scholar, he demonstrated an intellectual curiosity and prowess that set him apart from his peers. He was recognized early in his career as a man who had a date with destiny.

Elected to the Congress in 1946, he quickly rose to the venerable position of majority whip within 8 short years. But his star was to grow even brighter. After only 7 more years, he became the majority leader. In this capacity he acquired a reputation for fairness, objectivity, and dedication. Tough when he had to be, Carl was recognized as a cohesive and moving force within his party during sometimes trying and difficult years.

Nonetheless, he was also flexible and understanding, two qualities that in a sense were responsible for his continued success and achievements without the usual animosities that are so often created in similar situations. Carl has earned the universal respect of persons from all political persuasions. This reverence carries over into his private life. A man of great ability and demonstrated capacity, he has never let these attributes overwhelm his sense of responsibility to those around him.

He never forgot his origins and the people who elected him to office. They always came first, even after he rose to great power and position. And his constituents, in like manner, never forgot him. Overwhelmingly popular, he was returned to the Congress time and time again by them, with a mandate often unchallenged and almost unanimous.

Therefore, when Carl was elected Speaker of the House of Representatives in 1971, it met with widespread approval. The honor was only his due. Nor did the elevation to the third highest political office in the United States alter his relationship with those around him. He remained a warm individual, approachable and open.

Perhaps his greatest contribution as Speaker was his ability to put the welfare of the Nation above party politics. He was able to work with both sides of the aisle equally well. Sensitive to the overriding concerns of the people, he consulted and kept informed the legislative opposition in order that solutions to the pressing needs of the American people could be reached.

His constituency became that of the entire country, not just his own district. And he responded to their call. He refused to deal in divisive politics. Rather, he used politics to achieve equity.

At the same time, he was loyal to his party, and he used his position to further its traditional philosophies. But he always conducted himself in a dignified manner, unoffensive and reasonable.

Although on the other side of the political aisle, I salute Carl for a job well done. I wish him the best of luck in the future. And I hope that his years of retirement will be as satisfying as his years in the House have been fulfilling.

Mr. BOLAND. Mr. Speaker, I would like to join with my colleagues in paying tribute to your 30 distinguished years in Congress.

It is hard to imagine the House without Carl Albert in a leadership post. For more than 20 years of my service in Congress, you have served in a leadership position, and I have always found your judgment to be fair and honest. You have served the Nation well in 6 years as Speaker. Rarely has the Congress been blessed with a leader with such a fine understanding of the workings of government. Armed with this knowledge of government, you have pressed the Government into action.

The record of the Congress for the past 20 years is a fine one, one of which we can all be proud. In terms of social legislation, it is an era unsurpassed in our history. Without the efforts of Carl Albert, this fine record might not have been possible, and America might be a lesser place to live. Every American can be thankful for your dedication to your duties.

Mr. Speaker, we will remember your era in the leadership as an unsettled, sometimes uncertain time, but we will remember your leadership as unwavering and solid. I join here in wishing you the best of luck in all future endeavors. The Nation and the Congress will not forget you.

Mr. WAGGONNER. Mr. Speaker, many great and brilliant men have sat in the Speaker's chair and lent their guidance and wisdom to directing the course of this country. Their influence on history has extended far beyond the Chambers of the House. Carl Albert, in his three terms as Speaker of the House, has proven himself worthy of serving in the highest legislative position in the land, and of taking his place among the great Speakers of the past.

At a time when this country faced a foreign war and domestic unrest, a grave Constitutional crisis unprecedented in this century, dangerous political and philosophical polarization, and extreme pressure from all political sectors, the country has been fortunate to have a man of Speaker Albert's moderating influence in that honored chair.

His wise leadership has not bowed to the extremes; rather, he has directed an even course in troubled waters. He has lived up to his responsibility to protect the rights of all Members of the House, majority and minority Members alike—and thus he has protected the rights of the people these Members represent.

As the principal leader of his congressional party, the Speaker has shown his ability to listen to and accommodate widely divergent political views. He has wisely followed the example of the great Speaker John W. McCormack, who often said that, "the Democratic Party is like a giant umbrella, able to cover and accommodate people of all political persuasions." With the exception of Speaker McCormack and Speaker Sam Rayburn, Carl Albert has served continuously in positions of Democratic leadership longer than anyone else in the history of the party.

To bring this kind of greatness to his high office, a man must first be an individual of greatness. And Carl Albert certainly is a man of intelligence, compassion, and courage.

Despite his lofty positions as a national leader, Speaker Albert has maintained touch with his beloved people of the Third District of Oklahoma. He is, indeed, one of Oklahoma's most distinguished sons, and a grand testimonial to the State's motto, "Labor Conquers All Things." He has truly labored long and hard for his district, his State, and his Nation.

With all due respect to the people of Oklahoma, I feel that to a certain extent we in Louisiana can lay claim to Carl Albert—since Oklahoma was a part of the Louisiana Purchase long before it became a State in its own right. I can assure you, Mr. Speaker, we of the Bayou State would be proud to have you as one of our own.

You have earned a well-deserved rest from the demands of public life and the strenuous duties of being Speaker. I would be greatly surprised however, if retirement dampened your devotion to public service. For the guidance, friendship, and understanding in providing leadership to me and a generation of young Congressmen, Mr. Speaker, I thank you. I am proud to have served with so great an American as you.

Mr. HÉBERT. Mr. Speaker, Carl Albert came to Congress on January 3, 1947. It is most interesting to note that in that same class were John F. Kennedy and Richard M. Nixon.

I had the privilege of having been in the House 6 years when this distinguished group took its seat. I saw Carl Albert rise in the ranks and go up the ladder of seniority until he reached the top rung—the speakership.

He became Speaker at a difficult time, following in the footsteps of Sam Rayburn and John McCormack. Carl accepted the challenge and conducted himself in the manner and mode he believed was in the best interest of his country.

I seconded Carl Albert's nomination for the speakership when he first offered himself for that position.

He was Speaker of the House while I was chairman of the House Armed Services Committee, and I want to say very frankly and unhesitatingly that no Member of the House or any Speaker ever stood more solidly for a strong national defense than did Carl Albert.

When I was chairman of the committee, I knew I could depend upon him in every way to maintain America's position as No. 1 in the world.

The end of the road must come to all of us, as it has come for me. Carl Albert now finds himself at the end of that road. He finds himself able to look back on service to which he was dedicated and to look ahead, at still an early age, to a life I hope he enjoys.

My service with Carl Albert has been an experience—an unforgettable experience.

As I bid him this fond adieu, I wish him Godspeed on the road ahead.

Mrs. SULLIVAN. Mr. Speaker, I shall miss my daily associations with Carl Albert when I return to St. Louis at the end of this year and I know he will miss all of us, too—after so many years of having listened to our public speeches in the House and our private complaints in his office and off the floor and our unending requests for help on legislation.

As Speaker, he has been a true servant of the House of Representatives—always accessible, always willing to hear of our legislative problems, always considerate, always gracious. The second most powerful public official in the land, he has used that great power only to advance national causes, not for personal aggrandizement or the exercise of vanity. I cannot recall in all of the time he has been our Speaker a single instance in which he acted selfishly, or arrogantly, or in any way contrary to the wishes of the House.

Few people not familiar with the operations of the House have any conception of the extent of the Speaker's tremendous powers in the legislative process. By granting or withholding recognition from Members seeking to address the House or to make motions or offer amendments, he could easily influence legislative decisions in an arbitrary manner. This Carl Albert has never done. Our battles here are often highly charged with controversy and emotion, and sometimes with bitterness, but Speaker Albert has been absolutely fair in his actions and in his rulings.

I am sure members of the minority will agree with that statement. During the years when President Ford was minority leader of the House and Carl Albert was Speaker, it was obvious to all of us that they shared a mutual respect based on trust and honor. And with Minority Leader John Rhodes, we have seen the same kind of relationship.

Among the Democrats, we have had our arguments and disagreements over internal party politics and national legislative objectives—Democrats seem to do a lot of battling over issues among ourselves—but Carl Albert has managed to walk the tight rope of fairness there, too—making his own position clear but protecting the rights of anyone to disagree with him.

I was deeply impressed, as I am sure all my colleagues were, by the impeccable manner in which he conducted himself during the historic proceedings 2 years ago which were leading inexorably toward the impeachment of a President for the first time in over 100 years. With the resignation of Vice President Agnew, Carl Albert was next in line to the Presidency until a new Vice President was nominated by President Nixon and confirmed by both Houses of Congress. Most of us were convinced during those proceedings that in confirming Gerald Ford as Vice President we were actually selecting the next President of the United States.

An ambitious Speaker could have found ways to block the Ford nomination for Vice President, and thus clear the way for his own ascendancy to the Presidency. But the most effective supporter of the Ford nomination for Vice President was Speaker Albert himself.

He undoubtedly sensed that elevation of a Democratic Speaker to the Presidency through the impeachment and conviction of a Republican President by a Democratic Congress would raise serious doubts among millions of Americans as to the legitimacy of the impeachment action. Carl Albert was determined to have the people of the United States recognize that the impeachment action was based not on party politics or personal ambitions, but on profound constitutional issues and the integrity of the Office of President of the United States.

Carl Albert's role in this national crisis was one of honor, decency, integrity, and patriotism. When the definitive history of that turbulent period is written, I am convinced Carl Albert's greatness in national crisis will be fully appreciated.

Since my second term in the House beginning in 1955, Carl Albert has been a part of the leadership—first as majority whip, later as majority leader, and, since 1971 as Speaker. During all of those years, he has been responsive to the Members in our efforts to advance legislation in which we were individually interested.

I have enlisted his assistance many times and have never been disappointed in his response. As chairman of the House Committee on Merchant Marine and Fisheries for 4 years, I have been aided by him in innumerable ways in arranging for the scheduling of bills and in the management of those bills on the floor.

My wish for him is the same as the one I have for myself when this session ends—that retirement from Congress will bring an opportunity to enjoy doing some of the many things our heavy workloads prevent us from doing while serving in this body and working endless hours every day of every year.

Mr. FLOOD. Mr. Speaker, I rise tonight, Mr. Speaker, to pay tribute to you here, in your final days in this great House of Representatives.

When I first came to Washington, Mr. Speaker, it was my good fortune, and my inspiration, to sit at the knee of one of the greatest legislative giants ever to serve as Speaker, the Honorable Sam Rayburn of Texas. It was within the school of this magnificent man that I learned the legislative process. You were a vital part of that operation, Mr. Speaker, and it was under him that you first were named to a leadership post.

Your colleagues knew the mark of ability and greatness, Mr. Speaker, as you were named majority leader, when our other great Speaker, John McCormack, of Massachusetts, was moved to the highest position of honor in this House. It came as no surprise, therefore, that your colleagues deemed you to be of that same vintage of statesmanship, when they selected you as the Speaker, in 1971.

As you return to your native State of Oklahoma, you take with you the certain knowledge and the spirit of confidence which only an accomplished man such as yourself can bear. You take with you, Mr. Speaker, the gratitude of all of the Members of this House, for the role you played in guiding the House of Representatives through some of its most trying years.

To you, dear Carl, "Ave atquae Vellum," and for Catherine and myself, "Ad Multos Annos."

Mr. BURLESON of Texas. Mr. Speaker, I count it a great privilege to join with our colleagues in this round of well-deserved tributes to our friend and colleague, CARL ALBERT.

Like most of his colleagues, I deeply regret CARL's decision to leave this Chamber. I know that decision was not made lightly. It must have been an agonizing decision for him, having attained the high office of Speaker of the House of Representatives. Yet I rejoice with him, as I know all of you do, in his return to his native State, so beloved by him. We hope for him and his splendid family many fruitful and happy years ahead. As I am sure my colleagues will agree, we will be denied the great and good service that he has brought to this body. Certainly he will, I am sure, maintain that great interest that always has been his in the future of America. I count as one of the rich and rewarding experiences during my services here in the Congress as having the privilege of knowing and working with a man of his stature.

All of us wish him good luck and wish him the best of everything as he leaves the Congress.

Mr. PRICE. Mr. Speaker, with the end of the 94th Congress comes the close of the illustrious career of CARL ALBERT, Speaker of the House of Representatives for the past 6 years.

We have indeed been fortunate to have had CARL ALBERT as Speaker. Under his leadership, the House moved with honor through some of this century's most trying times. Steady leadership was the mark of CARL ALBERT, however, and was a characteristic he carried with him throughout his career, from his days at the University of Oklahoma, where he earned a Rhodes scholarship, to his service with honor in World War II, and through his service for the past 30 years to the people of Oklahoma's Third District.

During most of his years in Congress, CARL ALBERT has been a man with more constituencies than most of us. He served his district with distinction on the Agriculture Committee in his early years here, but then took on added responsibilities to his party as majority whip and majority leader. Eventually, when he took over the Speaker's chair, he added to his constituency all of the American people and his colleagues in the House.

In each of his roles of service—to his district, his party, his Nation, and his colleagues—CARL ALBERT distinguished himself through his integrity, fairness, and honesty.

It has indeed been an honor for me to have been associated with CARL ALBERT. He has been an inspiration to us all.

Mr. JONES of North Carolina. Mr. Speaker, I join with the overwhelming majority of the Members of this Congress in complimenting you on the contribution you have made to the U.S. House of Representatives as well as the entire Nation.

Your fairness and impartiality is something which we all appreciate. Certainly your 6 years as Speaker have been marked by radical changes in House procedures as well as the political philosophies of many Members. Yet, you have adjusted to these changes in a manner most becoming to your leadership.

Mr. Speaker, I can assure you you will be missed, especially your kindness and understanding of the individual Members' problems, so I join with all others in wishing you and yours many years of health and happiness in your well-deserved retirement.

Mr. COTTER. Mr. Speaker, it is an honor for me to take these few moments to express my personal appreciation for the guidance and friendship given to me and many others by our Speaker, CARL ALBERT. His influence has made my participation in the House a most gratifying experience. He became Speaker during my first term, and has dealt fairly and objectively throughout.

Speaker ALBERT's accomplishments are numerous, both within the Congress and without. We are all aware of the distinction with which he has served in the roles of majority whip, majority leader, and finally, Speaker. He has been Speaker during an extremely hectic and trying period under two Republican Presidents. The examples set will serve as an inspiration to many of us. He has been the recipient of many awards, and to enumerate all of his achievements would be a lengthy endeavor. Suffice it to say that we are losing a scholar and a gentleman, and that his absence will be most deeply felt.

I would like to extend my best wishes for a healthy and rewarding retirement. I hope we will be able to call on his wisdom and counsel in future years.

Mr. ADDABBO. Mr. Speaker, it is my pleasure to join with all of our colleagues in the Congress and your many friends and admirers in honoring you here today.

We will certainly miss our Speaker next year, but we hope your retirement from active public service in the Congress will bring you happiness and personal satisfaction in the years ahead. I know that you will continue to be a statesman out of office just as you were in the Speaker's chair of the House of Representatives.

I will always recall your concern for fairness during our years of service together. In particular, I am certain that history will record with great emphasis your leadership over a House in the process of significant procedural reforms and your refusal to inject partisan politics into the House impeachment proceedings in 1974. Our country was able to prove that constitutional democracy works with your elevation to the second highest public office on two separate occasions following the resignations of first, our Vice President and subsequently our President. Continuity of government was achieved with your help and guidance during those troubled times and America is stronger today as a result of your leadership.

During your many years in the House leadership you never forgot your responsibility to represent the people of your congressional district. I am proud to express my appreciation to you for your outstanding record of public service and to wish you every success as you prepare to retire from the Congress.

I am proud and will long remember you as colleague, leader, and friend.

Mr. CHARLES H. WILSON of California. Mr. Speaker, today I want to add my own tribute to the many that we shall hear in this Chamber to our retiring Speaker, and my esteemed colleague, CARL ALBERT.

He is a man respected and admired on both sides of the aisle for his courage, trustworthiness, and dedication. This Speaker has presided over this House during some of the most trying days in our history, and the American people have been indeed fortunate to have had such a man in a time of great crisis.

The people of Oklahoma, in particular, can be proud to have kept my distinguished colleague in office for 30 years, making his the longest tenure ever achieved by an Oklahoman.

In addition to serving as Speaker, CARL ALBERT has also led us as majority leader and majority whip, and his leadership has been highlighted by fairness and objectivity. My personal friendship with this witty, humane, and humble man will remain a treasured memory of my own tenure in the House of Representatives.

Along with all of my colleagues, I feel a great personal loss at the Speaker's departure, and so I would now like to express my gratitude to him for his leadership, his guidance, his words of wisdom and for setting the magnificent example that he has during his career in Congress.

Mr. DE LA GARZA. Mr. Speaker, not long after CARL ALBERT, of Oklahoma, entered the House of Representatives in 1947, he took his first steps on the ladder of leadership. For these last 6 years he has been at the top of the ladder. Before assuming the speakership he had served as majority whip and then as majority leader, bringing to those responsible and demanding posts the dedication to duty that is perhaps his most outstanding characteristic.

It is not enough to say that as Speaker of this House, CARL ALBERT has served with distinction, although the statement is wholly true. It must be added that his service has covered some of the most distressing times in our Nation's history. He has met every test of statesmanship.

It is a matter of pride to me that the committee on which I have served since I entered the House in 1965—the Committee on Agriculture—also was CARL ALBERT's first committee. This fact gave us a common bond from the time I came here. A further tie was that we come from neighboring states, where many of our problems and concerns are similar. We talk the same language.

I speak of CARL ALBERT the leader and the legislator, but I speak of him also as my friend, a man to whom I am indebted for many courtesies, a neighbor who understands neighborliness in the sense that is prevalent in the Southwest from which we both come.

I know that my colleagues on both sides of the aisle share my deep sense of loss in the knowledge that CARL ALBERT is departing from the House with the end of the 94th Congress. He will be missed. He will be remembered.

Mr. MATSUNAGA. Mr. Speaker, it is with great pleasure that I join my colleagues in paying tribute to Speaker CARL ALBERT before he gavels the 94th Congress into adjournment and in doing so, completes his long and distinguished career as Oklahoma's Second District Representative.

With the adjournment of the 94th Congress, CARL ALBERT concludes more than a quarter of a century of service to our Nation in the House of Representatives. As House majority whip in 1955, House majority leader in 1962, and Speaker of the House in 1972, he will follow Sam Rayburn and John McCormack as Members who have served for the longest continuous period in the leadership of the Democratic Party and the House of Representatives. By means of this incredible record of leadership, CARL ALBERT has indeed carved an indelible niche in the history of our Nation.

When America was shaken by assassinations of its greatest leaders and in the midst of a seemingly endless, bitter war in Southeast Asia which bred civil unrest and violence at home, House Majority Leader CARL ALBERT shouldered the task of guiding the Congress through those stormy years. During his tenure as Speaker of the House, which coincided with a critical period of congressional reform and perhaps the most serious crisis that has ever confronted our democratic government—Watergate—never did he falter in duties of his high office. The Speaker kept faith with the highest ideals of America, and as a result, he provided the House—and indeed the whole Nation—with an example of fairness, integrity and responsibility of which every Member of the House can be justly proud.

Mr. Speaker, this Chamber will sorely miss the presence of Speaker ALBERT; however, it will long remember his influence, his character, and his voice. Many great men have represented the people of the United States within these renowned walls, and many have occupied the same distinguished positions of leadership that CARL ALBERT has occupied during the span of his tenure in Congress. Yet history will grant few of these men greater stature than CARL ALBERT. The Speaker, upon his retirement, joins these men and I believe that his name and record, no less than his predecessors, belong to American history.

As one whose 14-year association with CARL ALBERT can be considered relatively brief as compared to his 30-year tenure in the House of Representatives, I take great pride and pleasure in joining the many friends and colleagues of CARL ALBERT in Congress, as well as millions of Americans across our land, in thanking him for the lifetime of service that he has rendered with such distinction to our great country.

May I take this opportunity, Mr. Speaker, for I think it is appropriate, to extend to CARL ALBERT and his wife Mary, the best wishes of not only my wife Helene and myself, but also of all the people of Hawaii, for many future years of good health and happiness.

Mr. EVINS of Tennessee. Mr. Speaker, I am pleased to join with my colleague, TOM STEED, from Oklahoma and others in paying tribute to our great Speaker, CARL ALBERT of Oklahoma, who has elected not to be reelected this fall and who will be retiring at the end of this term—after 30 years of distinguished service.

As a fellow Member of the freshman class of the 80th Congress I have shared every day and every development in Speaker ALBERT's 30-year service to the Congress and, like him, will be leaving the House this year.

CARL ALBERT's retirement will be a great loss not only to the State of Oklahoma, not only to the Congress, but to the Nation as well. He is a star and has been a statesmen.

CARL ALBERT has served with unswerving dedication and with great ability and distinction through years of great turmoil and change.

I view his retirement with mixed emotions. I feel a personal loss and a sense of loss to the Nation. But I can understand his wanting relief from the tremendous pressures and burdens of his high office and an opportunity to be with his family and friends in Oklahoma once again.

Looking back to those days immediately after World War II, when both of us entered politics, I recall with pride the day we were both sworn in as freshmen in the 80th Congress.

Neither of us could have anticipated that 15 elections and 30 years later we would still be here in this great House helping carrying on the people's business.

It has been a time when great decisions have been made. It has been a time of coming to grips with new world realities and meeting them head on.

It has been a time when great leadership was needed, and it was forthcoming. CARL ALBERT has provided that leadership.

While others have gone on to become President—John Kennedy and Richard Nixon—or to become Governors or Senators or distinguished judges, administrators, or ambassadors or committee chairmen, CARL ALBERT has remained right here in the House providing the guidance, direction, and leadership needed in this body.

His qualities of leadership caused him to rise rapidly in our ranks. By the time he had been here 8 years he was the Democratic whip. When Speaker Rayburn died and John McCormack succeeded him in 1962, CARL became our majority leader. In 1371, on the conclusion of Speaker MCCORMACK's service, he became our Speaker.

I also recall his distinguished service earlier as a member of the Committees on Education and Labor and Agriculture.

CARL ALBERT is both a gentleman and a scholar—a Rhodes Scholar. He has achieved many high academic honors on his way to a career in government.

He has been a great leader during some of the worst constitutional crises this nation has faced, including the resignation of both a Vice President and a President within a single year in our history.

Twice he was a heartbeat away from the Presidency—much as he abjured any thought of attaining that office.

The first time was when Vice President Agnew resigned in disgrace and the office remained vacant until confirmation of Gerald Ford nearly 2 months later.

The second time was when President Nixon resigned and President Ford took office, leaving the office of Vice President vacant until confirmation of Nelson Rockefeller more than 4 months later.

Speaker ALBERT's calm judgment and leadership during those difficult and unprecedented times played an important part in providing the continuity which was so essential to the continued functioning of government.

His has been an outstanding record of public service.

Certainly I wish for my friend CARL the best of good luck and success in his future endeavors. My wife, Ann, and I wish him and his wife, Mary, continued good health and much happiness in the years ahead.

Mr. FORD of Tennessee. Mr. Speaker, I also rise to pay tribute to our distinguished colleague, Speaker CARL ALBERT.

In 1947, when CARL ALBERT began his career in the House, he shared in the responsibility for directing the course of a Nation still reeling from the ravages of the most destructive and infamous war in all history. A colonel in the Pacific theater during those dark days, his task was now the happier but no less demanding one of joining this House in renewed efforts toward insuring a just and lasting world peace.

Although distinguished in the Army and successful in the legal profession, it was not until the beginning of his work in the Congress that this Oxford Rhodes scholar received the worthy challenge to which he would dedicate his life of service.

Rising steadily through the ranks, first a majority whip, then majority leader, then Speaker, CARL ALBERT was the logical choice for positions of leadership. Trusted and respected by his colleagues on both sides of the aisle, he was esteemed for his thoughtful, yet firm, decisions, his willing, yet evenhanded exercise of authority, his relentless, yet openminded pursuit of the best solutions to the problems which came before him.

Once a heartbeat away from the Presidency, CARL ALBERT was a reassuring figure to a perplexed and divided Nation, a man upon whom the people and their Representatives relied for fairness, wisdom, and strength. It was a time when the strength of character long known to his colleagues and constituents was recognized by the world.

While I pay tribute to CARL ALBERT because he is a great statesman, I also stand before you to echo your praises of a fine and worthy colleague. As a first-term Congressman, I sought out his advice and assistance and was warmed by his sincere and personal interest. Although pressed by duties to the people of his district, although called upon to lead the Congress in untried areas of responsibility, although increasingly responsible for providing leadership for the Nation, CARL ALBERT always found time to help.

The people of Tennessee thank CARL ALBERT for helping to preserve their valued tradition, estiblished since the time of Andrew Jackson, of providing a Democratic Representative on the House Ways and Means Committee. I share their thanks for this and for all the other opportunities Carl Albert gave me to more effectively serve my constituents.

The loss of a Speaker is not new to this body. Many celebrated figures have occupied that post, although none more reasoned and conscientious in their work than Carl Albert. Other great men will occupy that chair, but no man will be able to lay claim to the faith and respect we have for our beloved Speaker.

I stand before you to honor a man who has been showered with honors, honors as great as this House can bestow upon one of its Members. There is no further honor left for me to give; I can only say that I am proud that Carl Albert is one of my closest colleagues. I have nothing to offer in return for his help and kindness; I can only give him my deepest thanks. His career will always be an inspiration to me. May God bless this man in his retirement as He has blessed him in his career. May He reward him as we cannot.

Mr. FARY. Mr. Speaker, the distinguished career of the Speaker of the House of Representatives, Carl Albert, will come to an end with the conclusion of the 94th Congress this year.

Since the day Speaker Albert announced his intentions to retire, many Members have paid eloquent tribute to his record of distinguished achievement and have spoken with deeply felt emotion of years of service shared with him in this House. I have had to form my judgment of this great legislative leader in a much shorter time, but I have reached the same conclusions:

Where some might have used the immense power of the speakership for purely partisan ends, I have seen Carl Albert work judiciously to give the decisions of the House the broadest possible base. He has thus helped this institution function in its constitutionally envisioned role as tribune of the people.

Where another might have buckled under the strains imposed by our Nation's gravest constitutional crisis, which included for him two periods when he stood a single heartbeat from the Presidency, Carl Albert was able to rely on his inner reserves of strength and courage. He persevered and his steadiness during that crucial period helped calm the Nation.

Where a different Speaker might have acted arbitrarily, Carl Albert has been the chief servant of the House fully as much as its Presiding Officer. His unfailing warmth, consideration, and willingness to listen have meant a great deal to all new Members as they learned the ropes in the House of Representatives.

Speaker Albert's tenure has been characterized by courage, compassion, courtesy, and an ability to compromise for the good of the Nation. He possesses all these virtues in abundance, and the two greatest of his many achievements as Speaker of the House are the direct results of his attitude: First, the steadfast and judicious way he conducted the business of the House during the constitutional crisis, and second, the widespread reforms in House structure and procedures that he promoted and encouraged.

Carl Albert is a man in the greatest tradition of this House, and I know that his stewardship will rank in history with those of Clay, Reed, Longworth, and his distinguished immediate predecessors, Sam Rayburn and John McCormack. Carl Albert's record of accomplishment is all the more remarkable in light of the fact that throughout his tenure as Speaker, the White House has been occupied by Presidents of the other political party.

Finally let me say that of all his fine qualities that have impressed me in the year I have served with Carl Albert, none has more become the man and his position than the Speaker's unfailing modesty and courtesy.

Mr. Speaker, I wish to join with my colleagues on both sides of the aisle in saluting the Honorable Carl Albert as he prepares to step down. I wish him and all his family the joys of a well-earned and productive retirement.

Mr. FREY. Mr. Speaker, I want to join my colleagues in wishing our friend, Speaker Carl Albert, a long, healthy, and happy retirement. He has served for 6 years as Speaker of the House, having previously served as majority leader and majority whip. He has served for over 30 years in the Congress, having the longest tenure ever achieved by an Oklahoman.

Speaker Albert guided this House through the tough days of Watergate and the ending of Vietnam. From one in the minority, I can say that he was always fair, always considerate, and every bit a gentleman. He has been a devoted servant of the House of Representatives. We also know that he has done an outstanding job for his district, and the people of this district will miss him, just as the Members of the Congress and the people of this Nation will miss him. We wish him Godspeed and thank him for all that he has done for all of us.

Mr. ANDERSON of California. Mr. Speaker, I count it a privilege to have served in the House of Representatives during a period which has included your 6 years as Speaker of the House. You are a man of great courage, compassion, and integrity.

When you were elected to the 80th Congress with John F. Kennedy—as members of the then minority party, I was serving in the California State Assembly. When you were elected majority leader of the House in 1962, I was Lieutenant Governor of California—so our careers have not always been closely related. I am, however, pleased that I was a Member of the House of Representatives when you were chosen by your colleagues to become the Speaker of the House.

During your years of leadership, great steps have been taken to restore the constitutional balance between the powers of the President and the Congress. Under your leadership, the Congress enacted the Budget and Impoundment Control Act which restores to the Congress the proper constitutional control over spending priorities.

Under your leadership, the War Powers Act became the law of the land, resulting in the restoration of the proper balance between the President and the Congress in the conduct of foreign relations.

Also during your three terms as Speaker of the House, the entire operation and structure of the House has become a remarkably more open procedure, accessible to all of the people of this great Nation.

Historically, I believe you will be regarded as an astute and great leader of this Nation, who judiciously guided the Nation and this body through the greatest constitutional crisis since the Civil War. Twice during your tenure as Speaker, you have been a heartbeat away from the Presidency. I must say that I always felt very secure with you in that position.

Personally, you will be remembered as a friend—who treated each Member of this House with fairness and great respect. My wife, Lee, joins me in wishing you and your family the very best in your retirement years—may they be your best ever. We shall miss you.

Mr. ROBINSON. Mr. Speaker, this is an Oklahoma hour, but I know my distinguished Appropriations Committee colleague from Oklahoma (Mr. Steed) regards it as an occasion to be shared by the entire House.

I take the liberty, therefore, of adding a brief footnote to a great Oklahoma story.

In coming to the House as a member of the minority, and in continuing to serve on this side of the aisle, I have found the Speaker uniformly courteous, friendly, and considerate. Through three Congresses, he has manifested a steady striving for fairness—a commitment to his personal obligation to be truly the Speaker of the entire House.

The speakership has been the culmination of a dedicated career of public service extending over the span of three decades. He has held other posts of high honor here—majority leader and majority whip as examples—but he never has forgotten that his basic charter was given him—and renewed every 2 years—by the people of his home district in Oklahoma.

That is why the story of Speaker Albert is so much an Oklahoma chronicle of conscientious service.

As this Congress draws to a close, the Speaker approaches retirement. I am sure it will be an active one, and that he will continue to speak out, following the dictates of his patriotism and his conscience, on the issues of the times ahead as he views them.

I know that the best wishes of the entire House for his good health and contentment in his Oklahoma home go forth with him at this time, and I am glad to have the privilege of sharing in this sincere expression of regard.

Mr. BROOKS. Mr. Speaker, it is my very great privilege to join in this well-deserved tribute to one of this Nation's most distinguished, most capable, and hardest working Members of the U.S. Congress, Carl Albert.

Having had the honor of serving with you for 24 of your 30 years in the House of Representatives, I have witnessed closely your constant and outstanding service not only to your constituents in Oklahoma, but to every citizen of this country.

I will never forget your personal assistance to me over the years, not only with my legislative work, but in helping my constituents whenever the occasion arose.

If Carl Albert did not have time for Members' legislative problems due to an already overburdened schedule, somehow he made time. Your determination and drive have made life a lot easier for us Democrats, maybe not so easy for Republicans. But, in any event, you have the deep respect of all of us because you have always been fair and objective.

The Congress will not be the same without Carl Albert—you are a good man and when you retire, your leadership will be sorely missed, but your record of achievement during so many years of dedicated public service will stand firm.

While I wish you some time to relax and enjoy yourself, I hope you will remain active in service to your country which will continue to value and benefit from your wise judgment.

My wife Charlotte joins me in expressing our warmest best wishes to you and Mary.

Mr. MURPHY of New York. Mr. Speaker, it is with a great deal of sadness that I take this opportunity to bid you farewell on your retirement after 30 years of dedicated service in the Congress of the United States. Sadness not only for my personal loss of a respected friend and colleague, but for the loss to the Congress and the country of a national leader.

When I was first elected to Congress in 1962, you were one of the men I looked up to as a wise and honest statesman; a man to be emulated and listened to. My esteem for your ability as a Congressman has grown through each session that I have served with you, watching your performance as majority leader and as Speaker. It was also my distinct pleasure to work with you at the 1968 Democratic National Convention which you served as permanent chairman and I as parliamentarian. In each of these positions my confidence in your ability has never been disproven.

The people of Oklahoma must be extremely proud of their Little Giant from Little Dixie. Born in McAlester, Okla., you set your sights on the Congress of the United States early, at the age of 6, and proceeded always with that goal in mind. Distinguishing yourself throughout your academic career, especially in the field of oratory, your hard work was acknowledged with the awarding of a Rhodes scholarship to Oxford University.

Your record of service to this country began during World War II where you rose through the ranks from private to colonel, and continued after the conflict when you first ran for Congress in 1946. This first election was the last close race you have had, winning by a 400-vote margin. This, and the fact that you have run for reelection unopposed in many of the last elections, testifies to the overwhelming support you have enjoyed in your district.

Serving 30 years in the House of Representatives, 19 of which were in positions of leadership, you have most definitely left an impression on that body and the country. There is no doubt that you guided the course of history during the recent troubled years. The only Speaker ever to serve as Vice President twice, your judicious and careful actions during the events surrounding the resignation of first our Nation's Vice President; the filling of that position, and then the resignation of the President of the United States, showed you to be a most honorable and sensible leader. Setting the precedent for the implementation of the 25th amendment, the selection of the Vice Presidential successor, can certainly be counted as one of your proudest accomplishments and among the finest moments of the Congress.

There are far too many other instances of your leadership abilities to recount now. They will be remembered by those who have served with you and by those who have yet to serve in the House of Representatives. But most important, they will be remembered by the people of this country who have been able to live better lives because of your guidance in the Congress of the United States.

Again, I say it is with sadness that I say goodbye, but also with hope for the future of this country that we may build upon the examples you have set. I have read that you wish to be remembered as a "Congressman's Speaker"; liked by his colleagues and able to get cooperation without too much arm twisting. This is the way I will remember you, as a man of integrity, as a Speaker who accomplished his goals without becoming despotic.

I extend my best wishes for your and Mrs. Albert's retirement in Bugtussle. But, please remember that you always have a home in the House of Representatives and in the hearts of your colleagues.

Mr. BEVILL. Mr. Speaker, few men in this Nation's history have had the impact on our democratic system that Carl Albert has.

When he presides over his last session of the House of Representatives sometime this week, Speaker Carl Albert will bring to a close one of the most illustrious congressional careers of all time.

His role as Speaker of this House for the past 6 years represents the pinnacle of three decades of public service, which began with his election to the 80th Congress in 1946 from Oklahoma's Third Congressional District.

Carl Albert came to Washington a Rhodes scholar with fresh ideas and approaches as to how the Federal Government should operate. Looking back over his 30-year tenure in Congress, perhaps the best synonym for Carl Albert's career would be innovative.

No one could ever argue the fact that Carl Albert was an innovator.

The 6 years this House has been fortunate to have Carl Albert presiding over its work offers the perfect illustration.

His 6 years as Speaker have not been easy ones. In reality, they have been some of the most trying years in congressional history. A lesser man than Carl Albert would have unquestionably faltered.

His objective handling of the greatest constitutional crisis since the Civil War, the Watergate proceedings, strengthened and revitalized our constitutional process and proved to would-be doubters that the democratic form of government we enjoy does indeed work.

His handling of the Watergate crisis is but one of the numerous highlights of his 6-year tenure as Speaker of the House.

It was through his leadership that the Budget Control Act was written and enacted. This act represents one of the most far-reaching legislative reform proposals of our generation through its restoration to the Congress of its constitutional prerogative of control over spending priorities.

This is only one instance where Carl Albert has led the fight for reform during his years of service, as a freshman Congressman from Oklahoma to three terms as Speaker.

A Speaker cannot create reform, but he can do a great deal in the way of initiating it. Such has been the case with Carl Albert.

I think history will record Carl Albert's tenure as Speaker as one in which the House of Representatives became a more open and effective Chamber. That, to me, would be the supreme compliment that could be afforded Carl Albert.

Another area where Carl Albert has been an innovator has been in the field of economy. Under his guidance, this House has enacted legislation which has led this country out of its worst recession since the Great Depression of the 1930's. More than anyone else, Speaker Albert deserves credit for leading Congress in a direction that has triggered economic recovery.

Carl Albert's accomplishments in the U.S. Congress seem almost endless. But there is a side of Carl Albert that I have yet to mention—his character.

Carl Albert has always had time to spend with the Members he led. His warmth and availability will, like his legislative record, be a tough act to follow.

From freshman to majority whip, to majority leader to Speaker, Carl Albert has fashioned one of the most remarkable careers in the history of public service.

Carl Albert leaves an enviable record and one that will never be forgotten.

Mr. SCHNEEBELI. Mr. Speaker, out of a sense of humility, one usually would not compare oneself with the Speaker of the U.S. House of Representatives. But the gentleman from Oklahoma and I do share at least two things in common: We are about the same size, and we both are retiring at the end of the 94th Congress.

However, Carl Albert is a giant among our national legislators; he has well earned the deep affection and great respect from Members of both political parties.

I know that those who will be serving in the 95th Congress will sorely miss the Speaker's leadership. I also know that his retirement is well deserved. I wish to convey to Speaker Albert and his family my best wishes for many years filled with joy and contentment.

Mr. NIX. Mr. Speaker, it is with a full heart that I rise to congratulate the Speaker of the House, the Honorable Carl Albert, Member of Congress from Oklahoma, on his announced retirement from the U.S. House of Representatives.

Speaker Albert has served the House

and the American people with distinction. He presided over the House at a time of great change in the United States. That change has reached the House as the most responsive institution in the American society. We have successfully come through a time of great testing because of the calm and reasonableness of the guardian of the House, its Speaker.

The U.S. House of Representatives is the greatest legislative body in the world. It remains so because of the character and ability of the Speaker of the House, the Honorable CARL ALBERT.

Speaker ALBERT and I have served together for almost 20 years. During that period it has been my observation that he has justified the confidence of all those who have placed their trust in him whether constituents or colleagues in Government. The hopes of Speaker Rayburn for him have been justified from the day he arrived until the day of his leaving.

His leaving is one of personal regret to me. I will miss him as a friend. His constituents will miss him as their Representative. The House will miss his leadership and the world will miss his statesmanship.

Mr. DRINAN. Mr. Speaker, I am proud to join in this tribute to the Speaker of the House of Representatives, the Honorable CARL ALBERT, on the occasion of his retirement from the Congress after 30 years of distinguished service. The House of Representatives and the entire Nation will long be grateful for the leadership which he has provided.

During his 15 terms in the Congress, CARL ALBERT has served as majority whip, majority leader, and Speaker of the House. As Speaker during the 92d, 93d, and 94th Congresses, CARL ALBERT has presided over a historic and comprehensive reform of House procedure and a reassertion of legislative authority. The Budget Reform Act and the War Powers Act are but two of the many legislative landmarks achieved under CARL ALBERT's leadership.

CARL ALBERT's speakership was characterized by a long series of reforms in the rules and procedures of the House, making the Congress more open, more democratic, and more accountable than ever before. These essential reforms, postponed so often in the past, could not have been achieved without the tireless and imaginative leadership provided by Speaker ALBERT.

Mr. Speaker, as you prepare to enjoy your retirement, I join with my colleagues in the House in wishing you every happiness in your return to Oklahoma. The Congress and the Nation will certainly miss you.

Mr. HOWE. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to the Honorable CARL ALBERT who retires this year as a Member of the House and as its distinguished Speaker.

As a new Member of the House during the 94th Congress, it has been my great good fortune to be able to observe the fine qualities of CARL ALBERT and get to know him as a friend as well as legislative leader. He is a rare blend of the qualities which make for greatness—personal integrity, warmth of personality, humility and good judgment, and sound leadership on matters of great importance. His distinguished career as the Speaker has been marked by many great attributes, but uppermost in my mind is the way he has conducted the affairs of the House in absolute fairness, whether a Member was of his party or not, whether he agreed philosophically with the Member, or whether the Member was a long-time veteran or the newest Member in the Chamber.

We will all be better legislators and men and women for all of the challenges of life for having known and worked with CARL ALBERT. May he have health and happiness in his future pursuits as he reflects on his outstanding record in the Congress in service to our great country.

Mr. EDWARDS of Alabama. Mr. Speaker, as the 94th Congress is gaveled to adjournment, Speaker CARL ALBERT will end a long career in Washington that has been filled with many interesting chapters.

The gentleman from Oklahoma has represented the Third Congressional District of Oklahoma continuously since 1947 and has served in the House of Representatives longer than any other Oklahoman.

Speaker ALBERT served as House majority whip from the 84th Congress through the first session of the 87th, then as House majority leader from January 1962 until chosen Speaker in 1971. He served on the House Agriculture Committee for 13 years and has been a member of the standing Committees on Science and Technology, Post Office and Civil Service, House Administration, and Education and Labor, as well as the Select Committee To Investigate Lobbying Activities.

Speaker ALBERT is the 36th person in the history of our Nation to hold the office of Speaker of the House.

With such a long and eventful career, Speaker ALBERT and his wife, Mary, are deserving of a change from the hustle and bustle of Capitol Hill and the political life.

I join with my colleagues in wishing for Speaker and Mrs. Albert much happiness as they return to Oklahoma.

Mr. FASCELL. Mr. Speaker, I am happy to add to the many accolades our distinguished Speaker, CARL ALBERT, is receiving today.

His 30 years of service in the House of Representatives have brought him to the pinnacle of a proud career. As a Representative, as majority whip, as majority leader, and as Speaker, he has provided outstanding leadership to the legislative branch.

His personal qualities of warmth, integrity, and wisdom have earned him the overwhelming fondness and respect of his colleagues. As one who has benefited from his advice on many occasions, I feel a particular debt to him.

Most of the achievements of Congress in recent years bear the imprint of his efforts. Although he has often allowed credit for legislative accomplishments to be taken by others, we who have served with him are aware of his major role in maintaining the Congress as a forceful and viable branch of Government.

We know that the speakership is a demanding position, one that calls for great powers of reconciliation and persuasion. To his credit, Speaker ALBERT has not used this office in an authoritarian or selfish manner. Instead, he has attempted in all instances to permit the House to work its will so that the results of our efforts would truly reflect the workings of the constitutional process envisioned by our Nation's founders.

His dedication and long hours of work on behalf of these goals have been at the cost of much personal sacrifice. Our country is grateful and I thank him, his wife, and his family for this effort.

We will feel CARL's loss upon his retirement on a personal basis as well as on an official level. I hope that the future will bring him new fulfillment.

Mr. HALEY. Mr. Speaker, it is a rare privilege to join my colleagues today in paying tribute to our retiring Speaker of the House of Representatives, Hon. CARL ALBERT, Representative of Oklahoma's Third Congressional District.

The Constitution of the United States places a high honor and grave responsibility on the Speaker of the House of Representatives. It is a position to which many may aspire, but few achieve. It is a position requiring great commitment and tireless effort. It is a position of service to the House of Representatives and to the Nation.

Those of use who know Speaker ALBERT and who have worked with him know that he has a right to be justifiably proud of his long and illustrious career. He has served his constituents, the House, and Nation well.

For the almost quarter of a century in which I have served in the House and for the past 4 years which I have served as chairman of the Committee on Interior and Insular Affairs, it has been a privilege and pleasure to work with this fine, conscientious man. He is a great American and has my best wishes as he retires.

Mr. SISK. Mr. Speaker, it is with mixed emotions of sadness and pride that I join with my colleagues in paying this farewell tribute to our departing Speaker, CARL ALBERT.

Sadness, because the Congress and the Nation will now be deprived of the unique abilities of one of the outstanding legislators to serve in and lead the House in its history.

Pride because we both sprang from the same soil of the Southwest, separated only by the Red River and the boundary of Oklahoma and Texas.

Serving with CARL ALBERT for the past 22 years during some of the most momentous events of our history has been a truly rewarding experience.

His great grasp of the Nation's history and destiny enabled him to rise to the top in this legislative body that is closest to the people. And indeed, on two occasions at least, he could have ascended to the highest office in the land, with honor, had fate been unkind to incumbent Presidents.

We will all miss him greatly as he departs now for years of a well-earned rest and wish him Godspeed and thanks from a grateful Nation and those who served with him.

Mr. BENNETT. Mr. Speaker, on the

occasion of his retirement as Speaker and as a Member of the House of Representatives, I congratulate Speaker CARL ALBERT for his excellent service, not only to his district, State, and Nation, but to mankind everywhere. He has stood steadfastly for what was in the best public interest and has always worked tirelessly for all Americans without thought for his own private comfort. His achievements are a great public monument to himself and to the Nation. CARL ALBERT is a leader, strong and compassionate, whose counsel will be sorely missed in the halls of Congress. I wish him the best in everything in his retirement.

Mr. ST GERMAIN. Mr. Speaker, too often, we in Congress are called upon to honor a colleague who can no longer hear our words, but today we are fortunate to be paying tribute to a fellow Member who sits before us still in this great Chamber, able to hear for himself our words of praise and commendation.

CARL ALBERT, it is our honor and our privilege, on these last days of your service in the Congress of the United States, to salute you as you complete your splendid, meaningful career, and embark on another important phase of your life. It is a special privilege for me, because you have been my friend and colleague for over half the span of your career.

They say you have achieved a record by having served in Congress longer than any other Oklahoman ever, but to me the most significant statistics to emerge from your 30-year tenure in the House of Representatives have been your long hours of hard work, and especially those during which you patiently presided as Speaker of the House. Statistics to be sure, but of great importance to us all have been your many years of energetic and informed leadership, your frequent and unfailing kindnesses to your colleagues, and the expressions of wisdom and quiet confidence on which we could always depend.

You served as Speaker of the House of Representatives with all the integrity and strength that that high office demands, and as you enjoy the years of retirement that lie before you, you may be very proud of your place in our history.

For 30 years you were one of us. You will remain in our memories always, but today, Mr. Speaker, there is only this brief hour we have set aside to thank you for your devoted services to the House of Representatives, and to wish you great happiness in all the years to come.

Mr. HELSTOSKI. Mr. Speaker, in accordance with the ruling of the House, we have been granted a special order today to join in paying tribute to you, Mr. Speaker, in commemoration of your retirement. You have served this country and the citizens of the Third District of Oklahoma as a noble statesman, humanitarian, and a fine legislator. First elected to the 80th Congress, you served as the Democratic whip from the 84th to the first session of the 87th Congress. You became the majority leader in the second session of the 87th Congress and held that position until elected Speaker of the House of Representatives.

Since you came to Congress, tremendous social changes have taken place. Your strength, stamina, and expertise will best be remembered for the enactment of legislation aimed at solving those problems. You played a great part in the formation and enactment of the civil rights bill of 1964, as well as the War Powers Act, and the Budget and Impoundment Control Act. You effectively dealt with the problems of unemployment and poverty; you promoted peace for the world and equality for all; you took a major step in the advancement of civil rights. The leadership you exhibited during the summer of 1974 gave Congress the respect it greatly needed. It was your decision that the impeachment inquiry of former President Richard Nixon would continue until a final determination was made, and your endeavor to uphold the U.S. Constitution during this period of turmoil was deeply respected.

Although we will miss your leadership, Mr. Speaker, your retirement is well deserved. You performed your duties and upheld your responsibilities with dedication and integrity. I was honored to have had the opportunity to serve in the U.S. House of Representatives with you and I would like to extend my best wishes to you and your family for a happy and prosperous future.

Mr. HUGHES. Mr. Speaker, I was truly saddened to hear of your retirement plans last June 5. Although, I have only served with you during the past 2 years of your 6-year term as the Speaker, not to mention the 24 years you previously served in the House, I have come to know and admire your qualities as a leader and an individual.

The people of Oklahoma must be very proud of you, one of their sons who rose "From a Cabin in the Cotton to Congress" and then in 1971 assumed the highest national office ever attained by an Oklahoman. And the people of the remaining 49 States are no less proud of your record, guiding the Congress through the troubled times of war and the resignation of a President.

Your absence will leave a tremendous void in this House. As you leave to reenter private life, I wish you good health, happiness, and continued success in the years ahead.

Mr. FISHER. Mr. Speaker, I welcome the opportunity to add my words of praise for our Speaker, CARL ALBERT during these waning days in the 94th Congress, the last Congress over which he will preside. Mr. ALBERT's larger contributions to our country are numerous and well-known. I would like simply to add one or two more personal items.

As one of a large number of new Congressmen in this 94th Congress, I was impressed from the start by the generosity and fairness with which CARL ALBERT treated us. As a rambunctious but inexperienced group we, like all new groups, had in mind to remake the system at critical points. With the help of many returning Congressmen we did achieve several gains. Through all of this, our Speaker had the wisdom to give us enough rein so that we could run; at the same time, cautioning and restraining us occasionally lest we outrun our own capacities. He played his leadership role with us impressively. I am only now appreciating this as I gather a few thoughts to present on this occasion.

Speaker ALBERT has been approachable, always willing to listen to suggestions. I never had the feeling that he would belittle any of my suggestions, however uninformed or cockeyed they might be. The best leaders in my view are ones who, like CARL ALBERT, combine humility and a willingness to listen with the other elements necessary for leadership.

Except for his real home in Oklahoma, CARL has lived for sometime in my district of Northern Virginia. Like other alert citizens he has, from time to time, brought to my attention as his adopted Congressman, certain problems in his neighborhood: traffic congestion on the commuting highway that needed to be cleared up; inability on the part of his immediate apartment neighbors to get the landlord to repair the roof; plus one or two others. I hope Mr. and Mrs. ALBERT will continue to spend a fair portion of their time in Arlington and continue to keep all public officials representing that county on their toes.

I do wish our beloved Speaker all the best for the future.

Mr. MITCHELL of Maryland. Mr. Speaker, on more occasions than I can recount, I have taken to this well to address matters of national importance. Always I have begun my remarks, regardless of the issue, with the courtesy steeped in historical tradition of first recognizing the Speaker of the House.

Today, Mr. Speaker, that matter of national importance and significance is you and your rapidly approaching retirement. Today, that courtesy of initial recognition of our leadership is more justly than ever paid to the Honorable CARL ALBERT, Speaker of the U.S. House of Representatives—the Honorable CARL ALBERT, American Statesman—the Honorable CARL ALBERT, a uniquely fair man.

My tribute to you is a personal one. From my freshman days in the House to the present, you have shown me so many kindnesses. You have taken time out of your impossible work day schedule, to advise me; to give me good counsel; and to buoy me when my spirits were flagging a bit. Please believe me, I am most grateful for all of these things.

However, the characteristic I have most admired you for is your complete unawareness of racial, religious, or ethnic differences. In my humble opinion, you could not commit an act of discrimination or prejudice even if you tried because you simply would not know how to do it—it is simply not a part of you. God, if only all Americans were like that.

On behalf of all of those who have suffered and will continue to suffer, because of racial, religious, or ethnic differences—on behalf of all of those who will never visit this Capital City, enter this building, nor stand in this well—on behalf of those who will never know nor read your name may I offer a heartfelt thanks to you for your ability to see the right thing to do and for the courage to do it.

Mr. ROBERTS. Mr. Speaker, it is a great pleasure for me to join my colleagues in the House as we salute you today for 30 years of outstanding and dedicated service in the U.S. House of Representatives.

At a recent gathering you mentioned that geographically we are neighbors—your district in Oklahoma being just across the Red River from the Texas Fourth Congressional District. I am proud to claim you as my neighbor and my good friend. Our heritages are both rooted deeply in the great Southwest.

Mr. Speaker, we share another common bond. One of the greatest political influences in both our lives was the great late Speaker Sam Rayburn. In the tradition of Speaker Rayburn, you have been a devoted servant of the House of Representatives.

Throughout the three decades you have served in the House, you have had to deal with many of the greatest crisis our Nation has undergone. Throughout these trials, you have maintained a reputation for diligence, fairness, and objectivity. The Nation, your colleagues, and the men and women you represent will greatly miss your devoted service.

Mr. DERWINSKI. Mr. Speaker, it is a personal pleasure for me to join in commending Speaker Carl Albert for his illustrious leadership in the House of Representatives.

In his 30-year career in the Congress, Carl Albert has served his constituents in Oklahoma in the very best sense of representation. By his willingness to accept the responsibility of party leadership and the awesome duties of Speaker of the House, Carl Albert has performed a tremendous service to all the people of the United States.

I take this opportunity to express my personal appreciation for the many courtesies Carl has extended to me as a Member. As Speaker, Carl has been fair and understanding of minority rights. Carl has also been considerate in the appointments that were his prerogative to make as Speaker.

It was a special privilege for me to accompany the Speaker as a member of the U.S. congressional delegation to Great Britain in connection with the Bicentennial ceremonies and display of the Magna Carta. The Speaker represented the Congress and the country with great distinction, and demonstrated his tremendous ability to form lasting friendship with the people and Parliamentarians of Great Britain.

Speaker Albert has shown his effective leadership as House majority whip from the 84th Congress through the first session of the 87th Congress, and then as House majority leader from January 1962 until he was chosen Speaker. His service has been highlighted by his dedication, effectiveness, and oratorical ability.

His tenure as Speaker is one that he may reflect upon with much pride. I consider it a great honor to have served in the House with Speaker Carl Albert.

Pat joins me in wishing Carl and his wife, Mary, many happy years in retirement.

Mrs. MINK. Mr. Speaker, I rise to join my colleagues on both sides of the aisle in paying tribute today to the Speaker of the House Carl Albert who has announced his retirement from Congress at the end of this session.

Carl Albert has led this House conscientiously and indefatigably through three Congresses and some of the most turbulent and momentous crises in recent American history. The many tributes here today will surely agree that Carl Albert guided this body through a difficult period by virtue of his fairness and dedication. What could have been a bitter period that left lasting scars on this institution and this Nation was in fact a triumph of calm reason, justice, and steadfast adherence to principles.

First elected to the House in the 80th Congress Carl Albert rapidly demonstrated the leadership and the ability to resolve differences that have distinguished his service in the House and particularly his tenure as Speaker of the House. Chosen to serve as Democratic whip in the 84th Congress and then selected as majority leader in the 87th Congress, Carl Albert's progressively important role in Democratic House affairs can be ascribed to both natural leadership ability and a great deal of hard work. Speaker Albert's experience and his demonstrated capacity to work with both parties in developing fair compromises has been particularly invaluable through his three terms as Speaker of the House.

Throughout this period Speaker Albert has been a critical link between Republican administrations and heavily Democratic Congresses. The numerous domestic and international crises the country faced through these 6 years has required firm but fair leadership. Speaker Albert exerted just this fragile but necessary balance and these past 6 years have been characterized by Speaker Albert's search for just, positive congressional responses to very difficult problems.

In honoring Speaker Albert we do well to remember the complexity and tumultuousness of the period in which he served. Those years attest to Carl Albert's quiet but resolute leadership and provide perhaps the finest tribute to Carl Albert's dedication.

I know my colleagues join with me in wishing Carl Albert all the best as he retires. Those of us who have served with him through these past 6 years hold him in special regard.

Mr. MOAKLEY. Mr. Speaker, I rise to join my friend from Oklahoma (Mr. Steed) in paying tribute to the retiring Speaker of the House of Representatives, The Honorable Carl "Bert" Albert.

His 30 years of service to the country and to the people of Oklahoma speaks for itself.

Carl Albert will, unquestionably, go down in history as one of the great Speakers and it has been an honor and a privilege for me to serve in the House during two of the three terms he has held that high office.

From the time he was first elected to the 80th Congress, he stood out as a man destined to lead. In an era when the seniority system was still firmly in place, he became Democratic whip after only 8 years in the House, at the age of 47.

It is more than a coincidence that the 6 years he has presided over the House have marked the greatest reforms in the history of Congress.

He has not only accepted, but led, the fight for reform of the House. The Speaker has said that this is the "people's House." And he has supported every effort to make the Congress more responsive to the will of the people.

The broadening of the leadership and the increasing voice of the Democratic caucus and the membership as a whole could have been seen as a threat by a lesser man. But Carl Albert welcomed and encouraged a more democratic House. The influence of the speakership has actually been increased by his particular sensitivity to the will of the House and his willingness to work with all of us for the public good.

It is with profound sadness that I rise to the formal farewell for the Speaker. But, as he has said, Carl Albert has always considered the House of Representatives as his home. And I am sure all Members join me in hoping that he always will.

Mr. JONES of Tennessee. Mr. Speaker, I want to take this time to express to you my sincere regret at your departure from this body. It has been my greatest pleasure to serve with you here. You have served this House with great distinction and will certainly be remembered as a great Speaker and a great leader.

You have shouldered the leadership of the House of Representatives during a trying era in American history, and you have guided it well. You have insured that all of American society is truly represented by your fairness in allowing all aspects of a debate to be aired. You have been a true servant of not only this House, not only our Democratic Party, but also our Nation. You have been a champion of our democratic process.

You will be greatly missed by all of us. In the years ahead, I hope for you and your family all good wishes and health. Your retirement years are well deserved and I pay tribute to your achievements as you leave us.

Mr. ROYBAL. Mr. Speaker, as the 94th Congress comes to a close, so do the careers of many of our colleagues in the House. Most notable among those Members retiring this year is Speaker of the House Carl Albert who has led this august body for 6 years and served in the House a total of 30.

It is a pleasure and a privilege to add my words of praise today for a man who has achieved so much in his lifetime and given so generously of his time and ability. A Phi Beta Kappa member and a Rhodes scholar, Carl Albert has gone on to amass an impressive list of accomplishments over the years—least of which not being Speaker of the House of Representatives.

Mr. Speaker, the U.S. House of Representatives, in which you have served so faithfully, will certainly miss your exemplary leadership. The fairness you have shown in this most critical position must be respected by Democrats and Republicans alike and we are all grateful for the vital role you have played in meeting the challenges of these demanding times.

As you prepare to step down from your duties in the House, please take with you the best wishes and high regards of your friends and admirers here in the House. It has been a sincere pleasure to serve under your leadership in the House and to work with you to create a responsive government, sensitive to the needs of the American people. May your retirement be both long and enjoyable, and filled with good health and happiness.

Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to our Speaker of the House of Representatives, Hon. CARL ALBERT, who is retiring as the senior of the Oklahoma delegation to Congress with the longest tenure ever achieved by an Oklahoman.

Speaker ALBERT's splendid record of excellence and achievement serves as a symbol to the generations coming after him, and his three decades of outstanding public service stand as an inspiration to all Americans who share with him the ideals and values of this great land.

Since CARL ALBERT's election to the 80th Congress as the Representative of the people of the Third Congressional District of Oklahoma, he has compiled an admirable record of dedicated and devoted public service, and during those three decades, he has witnessed some of the greatest moments in the history of mankind, and has experienced, in a very real sense, the triumphs and the tragedies of our Nation.

Speaker ALBERT can retire with the assurance that through his efforts mankind has benefited, and there is no tribute higher than this. Mr. Speaker, I extend to you my best wishes for a happy and fulfilling retirement, and for many more years of good health and success.

Mr. WON PAT. Mr. Speaker, I take great pleasure in joining with you as we honor our distinguished friend, Speaker CARL ALBERT.

During his 30 years in the House, Congressman ALBERT has compiled an outstanding record of personal service to his constituents, the Congress, and the entire country. As one who has long been privileged to have known this great American and to have the benefit of his counsel and friendship, I believe that CARL ALBERT will go down in history as one of the truly effective leaders the Congress has seen.

On behalf of the people of Guam, I wish to take this occasion to honor a man who has also given unsparingly of his time to further our efforts for a greater involvement in the American way of life. Throughout his distinguished career, Speaker ALBERT has been a strong and outspoken supporter of legislation such as the Guam elective Governor's bill and the Guam congressional delegate measure.

Congressman ALBERT will be missed by many of us who have come to appreciate his gentle manner and wisdom. His way is a winning way, both with people and with key issues affecting our Nation. I am fortunate to have worked with this great American and I and the people of Guam wish him every success in the years ahead.

Thank you.

Mr. SKUBITZ. Mr. Speaker, it is with great admiration and deep respect that I join Speaker ALBERT's many friends in this House in commending him for his 30 years of service to the people of his beloved Oklahoma and the people of this Nation.

The exemplary manner in which CARL ALBERT exercised the prerogatives of leadership as Speaker of the House will serve as a model for generations to come. The ability he has consistently demonstrated to provide meaningful direction to the highly partisan deliberations of this body will be sorely missed.

The successes enjoyed by the House in meeting the social and economic needs of this country through progressive legislative action are tributes to Speaker ALBERT's objective approach to leadership. For every one of us is well aware of the large part Speaker ALBERT played in pulling rational compromise out of deliberations bound for certain deadlock. Sometimes through diplomacy—sometimes through just plain Oklahoma finesse—CARL ALBERT's leadership has provided for workable legislative compromises on issues from national parks to national defense.

Any man who possesses the ability to successfully guide the legislative proceedings of 435 highly independent, self-righteous, infallible public servants, with 435 separate opinions on every issue, is a man from whom we all could take a lesson in public relations.

CARL ALBERT will truly be remembered as the one man who, above all others, was responsible for the successes of the 92d, 93d, and 94th Congresses.

I extend my sincerest wishes that he will find much happiness in retirement.

Mr. KOCH. Mr. Speaker, it has been my pleasure to serve with the "Barefoot Boy from Bug Tussle" for 8 years, first in his capacity as majority leader and then as Speaker of the House of Representatives. He is a very kind man and went out of his way to assist me as a freshman, as he consistently did with every freshman Member of the House. His thoughtfulness has often been discussed in the cloakroom where Members have noted the kindness and courtesy which he has extended to them.

CARL ALBERT's interest in the welfare of our colleagues has continued year after year and it has given us pride to know that our Speaker has been more than a Rhodes Scholar: he has been a man of genuine warmth and compassion with whom it has been my privilege to serve. He will carry with him the friendship of those with whom he served for so many years here in the House.

Mr. QUIE. Mr. Speaker, small towns sometimes produce big men—big in personal worth and character. CARL ALBERT is one of those men.

Public life makes inordinate demands on persons who seek to provide the best possible representation to their constituents. It is trying as it is essential. CARL ALBERT has given 29 years of his life to serving his constituents in Oklahoma and the House as an institution.

So it is with special regret that I note today that the illustrious career of Congressman ALBERT, Majority Leader ALBERT, and Speaker of the House ALBERT draws to a close when the gavel falls, marking the end of the 94th Congress.

I have a personal affection for CARL ALBERT, not only because we share a similar background, but because he has always tried to take the House by the hand and lead it in the direction of fairness. His spirit of cooperation and genuine affability toward those of us in the minority assured us of a "fair shake" on matters before the House.

Both of us served together many years on the Agriculture Committee, where I came to respect and appreciate his expertise on farm legislation. He always fought for his farm constituency and has been a tenacious advocate of high price supports.

But caring for people perhaps best describes CARL ALBERT. I have always admired the way he has jumped into the forefront to promote the economic welfare of the American people. His advocacy of health, medicare, and other social programs is a symbolic measure of his concern.

During his 6 years as Speaker of the House, CARL ALBERT has presided over difficult times—impeachment hearings, the energy crises, inflation and other national problems. The dedication with which he has served provided a stabilizing influence.

In another constitutional showdown, he helped guide the House to the proper assignment of constitutional responsibility in connection with war powers.

Those of us who served with him and know him well regret the loss to Congress of so valuable a Member.

Mr. MONTGOMERY. Mr. Speaker, for the past 6 years it has been a privilege and honor to address you by that title, "Mr. Speaker." You have brought honor and respect to the highest legislative office in America and in the discharge of your duties, you have done so with fairness, which we can all appreciate.

When the 95th Congress convenes next January, it will not seem right to be lacking CARL ALBERT in the leadership of the House and Congress. For 22 years you have given untiringly and unselfishly of yourself and your abundant talents as part of the leadership structure. For this, we can all be thankful—not just the Members of Congress who have had the privilege of serving with you, but all the American people.

Your 6 years as Speaker have certainly not been easy ones and you have been forced to make many hard decisions in very trying and difficult situations. The fact that you have reached these decisions with objectivity and the fairness I mentioned earlier is a tribute to your leadership abilities. I shall always appreciate the fact that you approached the job of Speaker from the standpoint of doing what is best for the people of America as a whole.

Mr. Speaker, mere words can never fully express the great debt of gratitude I feel for your oft given words of advice and wise counsel. I shall always appreciate your willingness to meet with the individual Members and offer them encouragement in their pursuit of legislative goals. While you might not have always agreed with our legislative goal, you did always give us a fair hearing.

I consider it an honor to have been able to serve with CARL ALBERT in the House of Representatives and shall always be thankful that I had the opportunity to serve under you for the full 6 years you were Speaker. It was a rewarding experience which shall not be soon forgotten. The prayers and best wishes of all of us go with you, Mr. Speaker, as you end a very distinguished career of public service.

Mr. MEZVINSKY. Mr. Speaker, throughout a 200-year history of turmoil and constant change, our Nation's system of government has survived and remained strong because forward looking men and women helped our institutions grow and evolve with the times. As Speaker of the House during one of the most trying periods this body has ever experienced, CARL ALBERT sustained the very best in that tradition of constructive change and evolution. All of us who have served here with him and all Americans who look to our national leaders for imaginative responses to new challenges owe CARL ALBERT a very great deal.

When we experienced a constitutional test of the accountability of the Presidency, the House of Representatives played a central role. CARL ALBERT's quiet confidence in our ability to meet that test fairly and reasonably contributed immeasurably to an orderly and responsible process.

When the need for change became apparent in the structure and practices of the House, CARL ALBERT not only allowed those changes to be made, he helped to make them. In a very real sense, he made them possible.

Responsiveness to changing realities and new challenges is a test of any institution of government. No government can meet that test unless its leaders are up to the job. CARL ALBERT fit the bill. His personal leadership will be missed, but the vital changes he helped so much to implement will continue to contribute to the responsiveness and effectiveness of the House of Representatives for many years to come.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I want to add my name to the legion of friends and admirers who are honoring you for your many years of congressional service to Oklahoma and the Nation.

The House of Representatives, with you as leader, has seen some of the finest hours, especially in its response to blatant attempts by the executive branch to usurp congressional authority.

It was the Albert House of Representatives that took the initiative to cut off funds for an unpopular war that had sapped our national strength and resolve and divided our people.

It was the Albert House of Representatives that refused to concede its prerogatives and saved the Nation from the gravest constitutional threat in our history when a sitting President violated his oath of office.

It was the Albert House of Representatives that took the initiative to coordinate congressional spending and revenue raising efforts and thus allowed the Congress to gain control over the multibillion Federal budget.

For this and a multitude of other achievements, you have permanently carved a hallowed spot for yourself in the history of the Nation and the hearts of your friends.

Mr. FORD of Michigan. Mr. Speaker, I am honored to join at this time in paying tribute to our beloved speaker, CARL ALBERT, whose long and illustrious career in the House of Representatives comes to an end with the close of this Congress.

CARL ALBERT came to the Congress 30 years ago, and has served in this body during three of the most turbulent decades in our Nation's history. He was majority leader when I was elected to the House in 1964, and he has been a trusted friend and adviser to me since that time.

As Speaker for the past 6 years, he has served with skill, dignity and fairness. His knowledge of the House and its procedures is unmatched. He has guided the House with a deep awareness of history and a fine sense of tradition.

His leadership will be sorely missed in the coming years. I join our colleagues in extending best wishes for happiness and success in all his future endeavors.

Mr. McCLORY. Mr. Speaker, your impending retirement causes sadness among all your colleagues. It also causes us to reflect upon the meaning of America, because in many ways, CARL ALBERT's career is the embodiment of the American dream.

Mr. Speaker, your many achievements, outstanding in themselves, become even more impressive when we consider the road you have traveled. From the humblest beginnings in Oklahoma, you have risen to a distinguished 30-year career in the House of Representatives. Your service on the Agriculture Committee, as majority whip, majority leader, and finally as Speaker has left both a legacy of greatness and a striking example of the possibilities of American life.

For CARL ALBERT is not just a national figure; you are known and honored around the world. Your positions of prominence have brought you into consultation not only with American Presidents of both parties, but with a variety of heads of state and other national leaders from foreign lands.

Mr. Speaker, in remarks of this kind, it is often asserted that the subject served not only his own constituents, but the Nation. In your case, there is no exaggeration in my statement that you have served Oklahoma, the United States, and the entire world.

It is with great respect that I convey to you my best wishes for a rewarding retirement from public life—and good health and happiness in the years ahead for you and Mrs. Albert.

Mr. HENDERSON. Mr. Speaker, CARL ALBERT has been a wise and good leader. As the Speaker of the House he has performed in the highest traditions of his predecessors. When I became the chairman of a House Committee in this Congress, I attained an even greater appreciation of the tremendous responsibility and the difficulty of his job. Because he was there, he made my job easier, more effective, and certainly more enjoyable.

CARL always has been my friend, but more than that, his love for his country and his dedication to all of us here to serve the people has been inspiring and as warm as it has been effective.

The high office of Speaker, which is second only to the Presidency in our Government, will serve the Nation for centuries to come better because CARL ALBERT wielded the gavel and its authority as a man of great love and compassion for his country, the Members of the House, and the people of this Nation.

I wish Godspeed to him and Mary.

Mr. STARK. Mr. Speaker, we will all miss CARL ALBERT.

In these the closing days of the 94th Congress, it is difficult to imagine this House without CARL ALBERT in its lead.

I have only served here for 4 years, and in that time I have both agreed and disagreed with the Speaker. But, despite our disagreements, he has consistently been fair. For this I admire him greatly.

I would also add that on many occasions I have had the honor and pleasure of working closely with the Speaker. His commitment to the less fortunate in our society is real, and his struggle to make the future brighter is truly inspiring.

Leadership is difficult to define, but perhaps Walter Lippmann did it best when he said:

> The final test of a leader is that he leaves behind him in other men the conviction and the will to carry on . . . . The genius of a good leader is to leave behind him a situation which common sense, without the grace of genius, can deal with successfully.

I think CARL ALBERT leaves this House a far greater institution than it was before he led it. There are still changes to be made, but he has contributed greatly to its future.

We will miss him, and wish him well.

Mr. DUNCAN of Oregon. Mr. Speaker, my pride and pleasure at being one of the few to return to the Congress is tempered by the disapointment of being limited to serving only one term under Speaker CARL ALBERT. I remember with appreciation your service as majority leader and the sympathy and understanding you have always had for the problems, political and otherwise, of even the least of the newer Members. As Speaker you were faulted most for those same qualities of thoughtfulness and kindness which even your critics knew were not faults but virtues.

Your tenure has been long and distinguished, an example to those whose vision is too often clouded by parochial views. CARL ALBERT's perspective was worldwide—yet you never forgot your origins and your friends and your constituents in Oklahoma.

Your district, your State, and your Nation have been well served. I wish for you a long, pleasant, and productive "retirement."

Mr. FLYNT. Mr. Speaker, I am pleased to join with our colleagues in expressing my upmost respect and gratitude to the

Honorable CARL ALBERT upon his retirement from the U.S. Congress.

Through the 30 years which CARL ALBERT has served in the House of Representatives, he has demonstrated the dedication, sincerity, and leadership capabilities which will characterize his service to the American people and serve as an inspiration to all who will follow him in the years ahead. Through his years as Representative of the third district of Oklahoma, as democratic whip, majority leader, and Speaker, he has led not only the House of Representatives but also our Nation with the courage and determination needed to keep the faith of the American people in their representative form of government.

The friendship of CARL ALBERT has meant a great deal to me and it has been a distinct pleasure and high privilege for me to serve with him for the past 12 terms in the House of Representatives. I shall always be grateful to have had the opportunity to work with his leadership in serving our Nation.

Mr. CONTE. Mr. Speaker, I am pleased to join my colleagues on both sides of the aisle as we express bipartisan praise for the distinguished gentleman from Oklahoma, the Speaker of the House, the Honorable CARL ALBERT.

In the next several days, Speaker ALBERT not only will gavel into history the 94th Congress, he will also end a 30-year career in the House, a career that saw its pinnacle in his exemplary service as the ranking officer of the House.

The job that Speaker ALBERT undertook is, of course, not an easy one. The job he has done has brought him the respect of the American people and the affection of the entire House.

At this time, I express my regrets at the loss to this body of an able legislator, a fair and impartial mediator, a good man. I thank him for the many personal kindnesses he has shown me over the years and extend my best wishes for every good thing during his retirement.

Mr. DON H. CLAUSEN. Mr. Speaker, this body has been graced by your presence for the past 30 years. We have been privileged to know you as a man of great leadership; whose fairness, objectivity and foresight have been inspirational to us all.

You will long be remembered for your distinguished service as Speaker of the House. Those of us who have known and worked with you for several years will also remember you for your incisiveness, wit, warmth, and ability to analyze strong and weak points of opposing arguments.

Those of us in the minority have worked for years to change your status to that of minority leader. At the same time we have recognized that while you have represented the interests of the majority well, you have also recognized the requirements of the minority.

The people of the Redwood Empire join me in wishing long life and a very peaceful retirement for a great American and a great friend.

Mr. DANIELSON. Mr. Speaker, I want to join with my colleagues in paying special tribute to CARL ALBERT on the occasion of his retirement after 30 years as a Member of the House of Representatives.

All of my service in Congress has been during his 6 years as Speaker of the House. During that time I have been able to observe his leadership very closely since I have been a member of the whip organization during all of those years.

The guidance I have received from Speaker ALBERT has set a course for me that will greatly influence my actions during the remainder of my time in Congress. The House is losing a great leader and I want to extend to him my very best wishes for many happy, healthy years in whatever endeavor he chooses to pursue in the future.

Mr. KAZEN. Mr. Speaker, those two words, spoken hundreds of times to address CARL ALBERT during 6 years' service in that role, will be addressed to him for only a few more hours in his official capacity. But whether we have addressed them to Sam Rayburn, John McCormack, or CARL ALBERT, we have known that our Presiding Officer, whatever his duties and obligations, was one of us.

In his 30 years in this body, CARL ALBERT served on our Committee on Agriculture, was majority whip, then majority leader, and finally Speaker. We know, too, that twice in the recent past he has been second in the line of succession for the Presidency. In those times, as while he has been our Speaker, he has been one of us.

My hometown of Laredo knew CARL ALBERT before he had ever come to Washington. I have chuckled with him as he recalled how, as a young man without funds, returning from a trip to Mexico, he regained financial momentum by working as a dishwasher in the old Manhattan Cafe in Laredo. He went back to Oklahoma, as he had done after his Rhodes scholarship of his student days, and became Congressman from the Third District of Oklahoma, but he was to rank as one of the first citizens of our Nation.

We bid you a fond farewell as you approach well-earned retirement, Mr. Speaker, and in the other language of our hemisphere which you are proud to speak, que Dios lo bendiga.

Mr. FLOWERS. Mr. Speaker, I wish to join my colleagues in recognizing the great contributions made by Speaker CARL ALBERT during the 30 years he has served in the House of Representatives. His retirement at the end of this Congress leaves a void that will be difficult to fill.

For the past 22 years CARL ALBERT has held leadership positions in the Congress, first as majority whip, then as majority leader and, finally, as Speaker of the House. All the while he served his own district in Oklahoma with highest distinction.

During his 6-year tenure as Speaker, he helped lead the Nation through one of its most difficult periods in history—a period marked by the end of our longest war, by the resignation of a President and by our worst economic recession in 40 years.

We in the Congress should remember, too, that it was under CARL ALBERT's leadership that the House made great strides in restoring a proper balance between the legislative and executive branches of Government—a balance so fundamental to our democratic process.

We will miss him in this Chamber, but his influence will continue to be felt for many years. My family and I wish the Speaker and Mrs. Albert a healthy and happy retirement in their beloved Oklahoma.

Mr. ICHORD. It gives me great pleasure to join in tribute to my distinguished colleague, friend, and Speaker of this House, the Honorable CARL BERT ALBERT.

Speaker ALBERT was first elected by the people of Oklahoma's Third Congressional District in 1946. For the past 30 years he has dedicated his life to his work in the House, compiling a record of distinguished achievement that few will ever be able to match.

It was a great privilege to have served in this body during 16 of the 30 years that CARL ALBERT gave leadership to the House. As a legislator and as majority whip, as majority leader, and finally, as Speaker of the House, CARL ALBERT helped to guide this body through difficult and turbulent times, marking all of his actions with a grace and wisdom and fairness and objectivity that brought praise from all quarters and both sides of the aisle. CARL ALBERT was a master at obtaining consensus and union in the midst of division. His guidance and wise counsel were deeply respected by all in his own party. His skill and tact served to unify both Democrats and Republicans at those many critical times when party differences had to be laid aside and a spirit of compromise and cooperation prevail. CARL ALBERT was also a master technician when it came to dealing with the complexities of the legislative process and gave generously of his time and sound advice in sharing his masterful knowledge of the workings of the House.

Perhaps above all, however, CARL ALBERT was and is a man of integrity, a man of deep perspective, a man of compassion and yet a forceful leader, a man of reason and fairness, and a fine friend. As Speaker ALBERT retires at the end of the 94th Congress, this House will lose a great legislator, the people of Oklahoma's Third District will lose a loyal spokesman, and the Nation will lose an outstanding public servant. Carl ALBERT's guidance and sagacity will be sorely missed.

Mr. YATRON. Mr. Speaker, it is with a sense of honor and respect that I join with so many of our colleagues in paying tribute to a good and capable Member of this body, whose outstanding service in the House will culminate upon adjournment of the 94th Congress: Speaker CARL ALBERT.

I deeply regret that the Speaker will be retiring and that our Nation will not have the good fortune of his kindly and highly respected presence in the 95th Congress. Although, of course, it is my hope that the years ahead will be happy and fulfilling ones for him.

CARL ALBERT's speakership of the House has been marked by exceedingly distinguished service. He has always displayed a high degree of fairness, temperance, and moderation—qualities that are the most desirable in a Speaker and in a Representative. And, these qualities, as well as those of honesty and integrity have been so clearly visible throughout his entire tenure in the House, since he was first elected to the 80th Congress.

The high caliber of Speaker ALBERT'S character has, over the years, earned him the commendation and praise of numerous national organizations, representing many segments of American life. He has worked for the rights and welfare of people, for the elderly and for our veterans, for his own people, and for those of other groups—and for human liberties of all people.

Mr. ALBERT'S voice has been one of moderation, in what has sometimes surely been a cacophony of widely differing voices.

Our colleague from Oklahoma will be sorely missed in the new Congress.

I extend to him my most sincere good wishes for the future.

Mr. ROUSSELOT. Mr. Speaker, during this 30th year of his public service to the State of Oklahoma, and the entire Nation, I am sure that the Bicentennial celebration must take on special meaning to CARL ALBERT, Speaker of the U.S. House of Representatives. Two hundred years ago, when our Founding Fathers struggled to form our Government, they wanted to make sure that there was one body in the Federal Government where individual citizens would be fairly represented and their voice would be heard. This ideal was realized in establishing the U.S. House of Representatives, and it is an ideal that has been preserved by the will and determination of the American people to have and keep a Government of the people, by the people and for the people. To serve as Speaker of this unique elective body is one of the highest honors in our land. CARL ALBERT was elected by the people of Oklahoma to serve in the U.S. House of Representatives and through his faithful devotion to the performance of his duties as a U.S. Representative he was ultimately elected by his fellow Members to be Speaker of the House. Thus, CARL ALBERT has the distinction of having attained the highest office ever held by an Oklahoman, the highest office in the people's body, and the third highest office in the United States of America.

It is appropriate that this special order be taken today to provide an opportunity for the Members of the House to praise CARL ALBERT for his personal achievements and thank him for his many contributions to the welfare of the citizens of our Nation.

I appreciate taking part in this tribute and share in the expressions of gratitude and respect that are being extended to Speaker ALBERT on this occasion. Thank you, Mr. Speaker, for your fine service in the U.S. House of Representatives. Your life is written in history and the results of your resolve, persistence and endeavor will endure for America's future generations.

GENERAL LEAVE

Mr. STEED. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of our Speaker, CARL ALBERT, and his retirement.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. STEED. Mr. Speaker, on the 14th of this month at a dinner in Oklahoma dedicated as a salute to Speaker ALBERT, our Governor made a great talk in which he paid a very wonderful tribute to the Speaker. In commemorating that very distinguished event, the Governor issued a proclamation designating September 14, 1976, as "Carl Albert Day in Oklahoma."

Mr. Speaker, I ask unanimous consent that the text of this proclamation may be made a part of the RECORD at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PROCLAMATION

Whereas, The Honorable Carl Albert, Speaker of the United States House of Representatives, has reached a higher elective office than any other Oklahoman in state history; and,

Whereas, Speaker Albert has dedicated 29 years of service to his state and nation as a member of Congress; and,

Whereas, Speaker Carl Albert has served the people of Oklahoma's Third Congressional District with diligence and compassion; and,

Whereas, Speaker Carl Albert has been instrumental in shaping the economic, recreational, and cultural growth of not only Southeastern Oklahoma, but the entire Sooner State; and,

Whereas, Speaker Albert has brought great pride and distinction to his native state while serving at the very highest levels of our government; and,

Whereas, Speaker Carl Albert has been a leader in the Congress in both times of war and times of peace; and,

Whereas, Speaker Carl Albert has made a decision to take his well-earned retirement and to return to Oklahoma to continue making a contribution to our state as a private citizen;

Now, therefore, I, David L. Boren, Governor of the State of Oklahoma, do hereby proclaim September 14, 1976, as "Carl Albert Day in Oklahoma." I further request all citizens of our state to join me in paying public tribute to one of our state's most outstanding men—Carl Albert—in respect of his historic achievements and public service.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, I would be less than human if I had not been touched by the kind words which my colleagues have uttered about me this evening, particularly in view of the circumstances. It is late in the night of a long and hard day following a night when this House stayed in session until 3 o'clock in the morning.

Mr. Speaker, I did not intend to say anything at all at this time. I will have something to say before I leave, as is the custom of Speakers; but I cannot fail on this occasion to thank all of you, particularly those of you who have stayed here to this late hour to pay tributes to me, which I can only hope I deserve.

Mr. Speaker, I have served in a lot of places. I have worked in a lot of places. I have never loved any place in my life as much as I love this place, except for my own home.

Mr. Speaker, I have never worked with a group of men and women of higher character than those who have served with me since I have been a Member of Congress. They have all been very kind to me.

Mr. Speaker, from the bottom of a grateful heart, I thank all of you for all of the kindnesses you have shown me and for all of the good things that you have done on my behalf.

You have all been very kind to me. From the bottom of a grateful heart I thank you. I thank you for all the kindnesses you have done for me. I thank you for all the good things you have brought my way. I appreciate everything you have done. I appreciate everything you have said. I only rise this evening to say thank you one and all. Again, you are very kind.

Mr. STEED. Mr. Speaker, during the 28 years that I have been privileged to serve in this House and work in this room, I have had a great many experiences. I have engaged in a great many battles. I have won some and I have lost some. All were interesting. All were exciting. All were nice to remember. But, Mr. Speaker, the one and only event that I have had the privilege to be a part of that I truly dreaded was this one here this evening.

Because this has been such an occasion, I would like to close this program by expressing my own personal appreciation to all of my colleagues who have come here, who have participated in this Special Order and who have made an already sad event much less so. My colleagues, you have all helped me to perform this sad chore and I am very grateful to you all.

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## THE HONORABLE THOMAS M. REES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LLOYD) is recognized for 60 minutes.

Mr. LLOYD of California. Mr. Speaker, we may never be perfect again. The loss of TOM REES from these historic halls is bad enough. What is worse is losing his "Americans for Good Habits" poll on which those of us who are hard-working, honest, and intelligent—or, at least, favor good habits—won 100 percent ratings. No explanations were necessary to newspapers, party or union leaders, Common Cause, senior citizens or gun fanciers, for which we are forever grateful to our California colleague.

TOM REES has a particular genius for helping us look good, most of which—aside from the good habits poll—has to do with the fact that he is a fine man and an excellent Representative, and we all look good in his company.

California's 59th Assembly District and Los Angeles County lost an able assemblyman and State senator when TOM, after 11 years in the State legislature, left for Congress in 1965. But the 23d Congressional District got a sensitive and responsive Representative, and the country got an expert in monetary policy, urban problems and foreign trade.

Now California's calling him back, and the Congress is losing his expertise, his humor, and understanding; his delegation becomes uncharacteristically unruly without his rules; and his friends are starting to just plain miss him.

TOM never left a place that was not better, because he was there. California is better for never letting him go, the Congress is better for having had him, if only for 11 years, and we are not going to be able to replace him. Worse, we will never have another 100 percent rating. TOM REES, however, will always rate 100 percent with all of us in Congress.

Mr. Speaker, I yield to the gentleman from California, my colleague (Mr. MINETA).

Mr. MINETA. I appreciate the gentleman's yielding.

Mr. Speaker, I regretfully rise today to honor a fine legislator whom I have had the pleasure of knowing for a long time since he is soon to retire from the House of Representatives. My colleague from California, the Honorable THOMAS REES, whose father-in-law and mother-in-law live in the congressional district which I have the honor to represent, has given meritorious service to the House, his constituents, and indeed all the citizens of our country.

My colleague has a long history of public service. As a combat infantryman with the Third Army in World War II he was awarded a Bronze Star. From 1954 to 1962 he was a member of the California State Assembly, and from 1962 until his election to this body in 1965 he was a member of the California State Senate. While State senator he was the sole State senator for Los Angeles County, representing more people than any other State legislator in American history.

In his 11 years as a Member of the House of Representatives, Mr. REES has served on the Banking, Currency and Housing Committee and chaired the important Subcommittee on International Trade, Investment and Monetary Policy. My friend and colleague, Mr. REES, has always given 100 percent of himself, his time, his energy, and his devotion. We will miss his humor, his friendship, and his leadership.

Mr. O'NEILL. Mr. Speaker, I am delighted to take this opportunity to pay tribute to a distinguished colleage and friend who is retiring after 10 years of exemplary public service in the House of Representatives, THOMAS REES.

TOM REES is a national Democrat and has been a sensitive, compassionate, and dedicated Member of the House. Intelligent, competent, and resourceful. TOM has spent the last decade focusing on the main areas of his legislative interest and expertise: monetary policy, urban problems, and foreign trade.

Before TOM was elected to the 89th Congress in a special election in 1965, he served in the California Legislature, a great training ground for learning and mastering the complexities of the legislative process. First, as chairman of the assembly finance and insurance committee, and later, in the State senate revenue and taxation committee, TOM REES gained an extensive knowledge of fiscal and monetary problems, particularly as they related to the Los Angeles County. In Sacramento, TOM REES fulfilled quite a task for any man or woman. Before the "one man, one vote" era, he was the sole State senator from Los Angeles county with a population of over 7 million, thus representing more people than any other State legislator in U.S. history.

TOM REES was equal to the task at hand in the State legislature and has been equal to the legislative task in Washington. When he came to the Congress he quickly built upon what he had learned in the State legislature and has become the foremost expert in the Congress on international economic policy.

TOM REES can point with pride to his legislative achievements over the last decade. He has always been in the forefront of congressional reform and was a staunch opponent of the seniority system long before it was in vogue. He firmly believed in educating his colleagues on the intracacies of detailed and difficult subject matters on which every Congressman has to be knowledgeable. As chairman of the Subcommittee on International Monetary Policy, a subcommittee which probably deals with some of the most complicated issues in the Congress. TOM REES has held hearings and published reports which have provided incisive, educational information on the International Monetry Fund. In his capacity as chairman, TOM REES has shown great skill in negotiating settlements and compromises on complex legislative issues.

Perhaps his greatest single legislative contribution has been the Bretton Woods Agreement which proposed the first significant changes in the International Monetary Fund since World War II.

TOM REES has been the first Member of the House to take seriously the congressional oversight of the Export-Import Bank.

Jovial, charming, witty, bright, and incisive, TOM REES has earned the respect and admiration of his colleagues for his competence and ability. His generally easy-going manner has helped him win many friends among his colleagues.

TOM, we are all grateful for your important contributions to this Nation and I wish him much happiness with his lovely wife and children in the years ahead.

Mr. PATTERSON of California. Mr. Speaker, I join my colleagues in the House today in their praise of our close friend and most valued public servant, Congressman THOMAS REES of California. His record of service as a legislator spans more than two decades and includes the State Assembly and State Senate as well as the Congress. He has set an example for the rest of us both in terms of legislative skill and constituent service.

In his entire years in Congress, TOM REES was never coopted by "The System." He fought long and hard for congressional reforms and against the seniority system for his first day as a Member of Congress to his last day on the House floor. TOM REES brought a new spirit to Washington, D.C., 11 years ago and was truly the initiator of congressional reform.

I have been privileged to serve with TOM on the Committee on Banking, Currency, and Housing where his expertise in international trade and finance has left an impressive mark on many areas of Federal policy. His grasp of complex economic issues, both foreign and domestic, has made him a valuable resource for new members such as myself.

I deeply regret TOM'S decision to leave Congress for many reasons, the most important of which is that his has been a constructive voice for change in this the most important institution in our representative Government. For his many contributions to congressional reform, all Americans should be grateful.

Mr. McFALL. Mr. Speaker, not every champion retires undefeated, but my colleague from California and my good friend, Congressman TOM REES, will be doing just that when the 94th Congress adjourns.

TOM has been on the ballot in California 19 times, including primaries, since he first ran for public office in 1954, and has never been defeated. What is more, he has always received at least 60 percent of the vote and each time he has increased his margin of victory.

That is a measure of the voters' confidence in this brilliant man who has had a meteoric career in public life and is retiring from the House at the still young age of 51.

I first knew TOM when we served together in the California Legislature, where his talents and abilities were quickly recognized. Just 4 years after his election at the age of 29 he was made chairman of the Assembly Committee on Finance and Insurance, which had jurisdiction over matters involving California's savings and loan, banking, and insurance industries as well as unemployment compensation.

In 1962, TOM left the Assembly and was elected to the State Senate where he represented the most populous legislative district in the United States—Los Angeles County with 7 million people or 40 percent of the State's entire population.

It was in the California Legislature that TOM REES developed the expertise he brought to the House in a wide range of areas including banking, urban affairs, environmental protection, and rapid transit.

And based on his State legislative experience it was natural that he became an active and effective member of the House Banking, Currency and Housing Committee.

As chairman of the Subcommittee on International Trade, Investment, and Monetary Policy has made important contributions in strengthening the Export-Import Bank and the International Monetary Fund. As chairman of an ad hoc committee formed during the 93d Congress in response to the energy crisis and its international monetary effects he has done indispensable work in examining U.S. policy on oil exploration and development on the Outer Continental Shelf.

In recognition of that work, he was appointed as 1 of 2 Members of the House to the prestigous 13-member National Commission on Supplies and Shortages where he has helped in the crucial task of developing national policy on the allocation and use of the world's scarce natural resources.

Many of us will remember Tom Rees as a reformer in the House. He has never been satisfied with the status quo, and he has been a leader in a constructive effort to modernize and to make our institution more effective. Those efforts have largely succeeded, and we are a stronger, more responsive, and more responsible body, because of them.

I will miss Tom Rees. I personally wish he had decided to remain in the House where he has served with such outstanding ability. I am sure his voice will continue to be heard in our national life and that his great contributions to public policy will continue in whatever endeavors he now turns to.

Mr. BELL. Mr. Speaker, Tom Rees, besides having been a very able legislator for both California and the Nation, has long been a very dear friend of mine.

We have known each other from our early days in politics.

Tom served for many years in the California Legislature very ably, and brought that valuable expertise with him to Washington.

The U.S. Congress and the people of California and the Nation will greatly miss Tom Rees.

## GENERAL LEAVE

Mr. LLOYD of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to rivse and extend their remarks, and to include therein extraneous matter, on the subject of my special order today.

The SPEAKER pro tempore. Is their objection to the request of the gentleman from California?

There was no objection.

## TRIBUTE TO THE HONORABLE ROBERT E. JONES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. Bevill) is recognized for 60 minutes.

### GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BEVILL. Mr. Speaker, after 30 years of distinguished service, the congressional career of the dean of the Alabama delegation will end this week with the adjournment of the 94th Congress.

I am referring, of course, to my good friend and colleague Robert E. Jones.

Bob Jones came to Washington in 1947 and has faithfully served the people of North Alabama's old Eighth District and the realined Fifth District for 15 consecutive terms. That tenure represents the longest period any Alabamian has ever served in this House.

At the outset of this Congress, Bob Jones was afforded an honor that has seldom been bestowed upon a member of the Alabama delegation. His election to the chairmanship of the House Public Works and Transportation Committee mirrors the respect that Bob Jones has gained among his peers during the past three decades.

His elevation as chairman of the Public Works and Transportation Committee represents a fitting climax to a career that has been devoted to the public works cause in the United States.

In 1965, Bob Jones was elected chairman of a special House Subcommittee on Appalachian Regional Development. By virtue of that position, he became one of the primary forces behind the development of Appalachia and the formation of the Appalachian Regional Commission, which has meant so much to the economy of many poverty-stricken areas of the Eastern and Southern States.

Bob Jones was also a primary sponsor of legislation which established the Economic Development Administration. This project came to the aid of numerous depressed areas by providing new public projects and facilities.

The highway safety bill is another example of legislation which carried the Bob Jones stamp on it. He was an early and enthusiastic supporter of the Interstate Highway System and was insistent that it be financed from present revenues as opposed to bonds.

Bob Jones was the author of the Rural Housing Act which proved so important to farm and rural dwellers by giving them the same opportunities afforded urban residents in obtaining Federal loans.

The legislative accomplishments of Bob Jones are numerous, to say the least. During the past decade, all major public works legislation has been written with the expertise of Bob Jones.

I have always been an admirer of the contributions Bob Jones has made to his State and Nation, but during the time since I was elected to the House Appropriations Committee, that admiration has grown to even greater heights.

The fact that the Fourth District which I represent is the only congressional district in Alabama which borders Bob Jones' district, and the fact that our committee assignments correlate so closely, has meant that we have spent much time together in recent years concerning legislation—particularly public works—and the many problems which confront our similar constituencies.

I have come to recognize Bob Jones as a public servant in every sense of the word, and through him I have risen to a greater understanding of the meaning of service to the public.

The void left by Bob Jones' retirement will not be easy to fill. His expertise in the field of public works will be greatly missed by the entire Nation. But as Bob prepares to return to Alabama on a permanent basis, he can leave with great satisfaction for 30 well-served years in the House of Representatives.

We will all miss Bob Jones, and it is with great regret that he is leaving, but with admiration for his outstanding tenure that I wish him and his lovely wife, Christine, well in the years ahead.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the distinguished gentleman from Alabama (Mr. Nichols).

Mr. NICHOLS. Mr. Speaker, I appreciate the gentleman yielding.

I appreciate the opportunity to say a few words in behalf of the chairman of the Alabama delegation who will conclude some 30 years in service to his district in north Alabama when the Congress adjourns, hopefully by the week's end.

For many of us it is difficult to realize that Bob Jones is retiring for he is a fixture in the hearts and minds of many Members of this body and especially to those of us who represent Alabama and are pleased to call him our dean.

Bob Jones came to Washington in 1947, shortly after completing military service in the U.S. Navy and in that year he became a junior member of the House Committee on Public Works. With each passing year his influence on that committee has grown and he became chairman of the committee some 2 years ago.

His record of service for his country is illustrious and in the field of public works is without parallel. Congressman Jones has been a cosponsor of every public works bill to come out of Congress in the past three decades and time will not permit me to mention all of the edifices here in this Capital City that Bob Jones as a member of the Public Works Committee has been responsible for constructing.

Mr. Speaker, because of the deep respect which the people in north Alabama have for this great American very seldom in these 30 years has he experienced any serious competition for his House seat and he is affectionately known as "Mr. TVA" throughout our part of the country.

In his retirement Bob will be returning to his home just inside the city limits of Scottsboro where he will enjoy playing the role of gentleman farmer in the setting of his beautifully landscaped home not far from where the great Tennessee River flows through the northern rim of Alabama.

I will miss him. We will miss his expertise in the entire field of public works, transportation, highways, and the like. His friends on both sides of the aisle will miss him behind the rail where he always had a friendly smile and a joke for those of us who knew him and appreciated his stories. I shall miss visiting with him in the reading room of the House lobby which he termed as "his office," and I know I am losing a true friend and one who has been so very helpful to me in so many ways in the time I have been in Congress.

I take this means, Mr. Speaker, to wish for Bob and Christine many happy years with his son, Robert, his daughter-in-law, Patricia, and his two grandsons, Carter and Frazier. Bob is truly one of the great Congressmen of our time and I am fortunate to have had the privilege to serve with him over the years.

Mr. BEVILL. Mr. Speaker, I yield to the gentleman from Alabama (Mr. Edwards).

Mr. EDWARDS of Alabama. Mr. Speaker, I commend the gentleman for taking this time so we can comment on our good friend, Bob Jones. I knew Bob Jones a long time before I ever met him. When I was in college back in my fraternity, I thought about this when the Speaker talked about it a little earlier, I used to be president of my college fraternity and in those days the thing we tried to do was impress the freshmen with our great fraternity and the great people we had. I used to tell the freshmen about the two bright Congressmen up in Washington, Carl Albert and Bob Jones, both of whom were members of our fraternity. I guess I got a lot of people to join up, because I told them how great our graduates were.

Bob Jones has been a good man and a great man. I did not really get to know him until the early sixties, when as my colleagues from Alabama will remember, we had the 9–8 elections, where we had the odd man out and some congressional district was going to end up without a Congressman and it turned out to be the third district in my area. In theory we had nine, but in practice they all went back and represented their own districts.

Bob Jones turned out to be the great friend of the First District in Alabama, while we had no Congressman.

Bob began serving his constituents in the old Eighth Congressional District of Alabama 30 years ago, winning a special election for the seat vacated by the distinguished Senator from Alabama, John Sparkman. His tenure in the House of Representatives is the longest of any Alabamian, surpassing the record of Representative Henry B. Steagall who served from 1915 to 1943. Bob and Congressman Steagall are the only two Alabama Congressmen who have chaired full House committees—Steagall having served as chairman of the Banking Committee and Bob having headed the powerful House Public Works Committee for the past 2 years.

It is through his leadership on the Public Works Committee, both as the chairman of the full committee and as the chairman of various Public Works Subcommittees that he has made contributions that have benefited my constituency in southwest Alabama and the whole Nation. Bob has been instrumental in getting legislation passed to authorize the construction and maintenance of waterway projects that are so vital to the economy of my district and the entire country.

Among the projects in which he has played a key role are the Tennessee-Tombigbee Waterway, the Coosa-Alabama Waterway, the Warrior-Tombigbee Waterway, the Theodore Ship Channel, and various other projects in and around the Port of Mobile. All these projects will play a tremendous role in the industrial expansion and waterway transportation of our area and I want to express my great appreciation and thanks to Bob for his efforts. Bob, the people in southwest Alabama know what you have done for us in these areas and we take our hats off to you.

We can also thank Bob for our interstate highway system, for he was the author of the bill that paved the way for the development of the system as we know it today. We can also thank him for structuring the system in such a way that the system pays for itself through gasoline taxes, rather than through the general revenues which come from the Treasury. Our Treasury is tapped too much and too often these days and I commend the decision Bob made in 1956 which put this highway system on a sound fiscal basis. As a result of Bob's efforts, not one penny is drained from the Treasury to finance the system.

Mr. Speaker, I have not begun to give an exhaustive listing of the accomplishments and achievements of Bob Jones in the Congress of the United States. They are too numerous to account for here today.

I want to say in closing that Bob can look back on his record in these Halls with a great feeling of pride and a great sense of satisfaction because he has truly been one of the most outstanding, distinguished, and influential Members that this body has ever known.

The one thing that will always stand out in my mind when I think about Bob's record will be that through his service on the Public Works Committee of the House, he has literally spent his entire career building America. This is what impresses me most.

I am going to miss Bob and I will always cherish the privilege of having served with him and having him as a friend.

My wife, Jolane, and I wish for Bob and Christine the very best in the years ahead.

Mr. BEVILL. Mr. Speaker, I yield to the gentleman from Kentucky (Mr. Natcher).

Mr. NATCHER. Mr. Speaker, it is a distinct honor and privilege for me to rise at this time to pay my respects to my friend, the gentleman from Alabama (Mr. Robert E. Jones). He is one of the most influential Members in the House of Representatives at this time.

I can say quite frankly, Mr. Speaker, as we well know, he is one of the most courageous men in this House at this time. For many years he served on the Committee on Public Works and he is now the chairman of this committee. He is one of the able Members of the House to serve as chairman of one of the standing committees. In my opinion, Robert E. Jones has done more for the State of Alabama than any Member that ever served in the Congress of the United States since 1900, not only for his State but for his country.

Mr. Speaker, Kentucky has more miles of navigable streams than any State of the Union with the exception of one. Alaska has more miles of navigable streams than the Commonwealth of Kentucky. All down through the years, our friend Bob Jones has worked with the Members in the House and in the Senate to help the Commonwealth of Kentucky with all of the flood control problems that we have had.

Mr. Speaker, it is a distinct honor and privilege for me to have had the opportunity to have served in the House with our friend, Robert E. Jones. I, along with other Members of the House, will miss him. I want to wish our friend Bob Jones and his lovely wife the best of everything in the future.

Mr. RHODES. Mr. Speaker, when we adjourn the 94th Congress, three decades of service to the House and the Nation by the dean of the Alabama congressional delegational will come to an end.

Since 1947 Robert E. Jones has been a dedicated, hard-working Member of this body. He served the old Eighth District and the new Fifth District with distinction and was elected for 15 straight terms, the longest tenure of any Alabamian who has served in the House.

At the start of this Congress Bob Jones was elected chairman of the House Public Works and Transportation Committee, where his long experience and expertise earned him the respect and cooperation of Members from both sides of the aisle. His wisdom and diligence will be missed by all of us in the 95th Congress.

I have had the privilege of serving with Bob Jones during a major portion of his time in the House. He has been a friend, and I respect his judgment and have sought his counsel.

I share with my colleagues our admiration for the outstanding record Bob Jones has made and our appreciation for his friendship and advice. We all wish him a long and happy retirement as he returns to Alabama and takes up some of his own interests that have had to be set aside for the demanding job of dealing with the issues before the Congress.

Mr. McFALL. Mr. Speaker, an illustrious career filled with major legislative accomplishments will come to an end shortly with the retirement of Congressman Robert E. Jones, of Alabama, the able chairman of the Public Works and Transportation Committee.

In his 30 years in Congress, Bob Jones has been the prime sponsor and legislative leader on some of the most important measures of our time.

He is proudest, of course, of the Federal Aid Highway Act of 1956, which established the interstate highway program, the Nation's major public works endeavor.

That was the year I was elected to the Congress, and I can remember the controversy over financing the program. The administration wanted Federal bond issues. Bob Jones wanted pay-as-you-go financing with the highway system to be built from proceeds from Federal gasoline taxes paid by those who would use the system instead of the general taxpayer.

It is a tribute to the persuasiveness of

Congressman Jones that his position prevailed. And today, 11 years later, the system is 85 percent completed and carries almost one-fifth of all the daily highway traffic in the Nation.

Before becoming Public Works Committee chairman, Bob served as chairman of a number of Public Works subcommittees including those on flood control, economic development, public buildings and grounds, the Ad Hoc Committee on Appalachia, and the Special Subcommittee To Study Civil Works.

In those positions he helped steer to enactment a range of major legislation:

The Tennessee Valley Authority Self-Financing Act, enabling the TVA to construct the electric generating capacity to assure energy for homes and industry in the TVA area.

The Water Quality Act of 1972, landmark legislation to halt pollution and clean up the Nation's lakes and streams.

Others included the Omnibus Rivers and Harbors Act, the Economic Development Act of 1965, the Rural Housing Act of 1949, the Disaster Relief Act of 1970, and many more.

Persistent, persuasive and dedicated to his district, his State and the Nation. Those are the qualities I will remember best when I think of Bob Jones and his outstanding work in the House.

All three of those qualities were demonstrated in the long process of enacting the Water Quality Act, on which the House and Senate were deadlocked for months on differing versions of a bill. The House conferees were led by Bob Jones, and many of those who had followed the conference deliberations had pronounced more than once the death of the bill. But Bob persevered. And at the 42d meeting of the conferees, agreement was reached. Soon afterward the historic legislation was enacted.

Congressman Jones can be justifiably proud of his many important achievements in the House. Many Congressmen would be happy to settle for the simple praise bestowed on Bob by newsman Joseph McCaffrey, who said:

> I like to think of the gentleman from Scottsboro as a prototype of congressional responsibility because as a Member of the House he kept his head down, did his work, and knew his subject better than anyone else when he got to the floor.

I know my colleagues join me in wishing Congressman Jones many years of contentment in his well-earned retirement.

Mr. SIKES. Mr. Speaker, there are not many men who can say they have served their Nation in Congress for 30 years and in that time have made positive improvements on the face of America.

Bob Jones of Alabama is one who can say it.

He first came to Congress in 1947 after able service in the U.S. Navy. Here he quickly became expert on public works projects. At the start of this Congress, he became chairman of the Public Works and Transportation Committee. He now is considered one of the Nation's foremost experts in this field.

In every State of the Union, the work of Bob Jones can be seen. Every State is more beautiful, its waterways and transportation systems more useful. Through his contributions, people live better lives. People are better off than they might have been had not Bob Jones been in Congress always seeking to do what is right and best for America and its citizens.

I came to know Bob well when he first entered the Congress. It did not take very long for all of his colleagues to realize that he is an exceptional Member who had the capability of rising to a position of leadership and responsibility.

As a senior Member of Congress, he has acquired great power, but it is power which was never abused or misdirected. Bob Jones used his power to get done those things which would accomplish good and he used it to deter that which was bad.

Over the years since he came here, Bob Jones has given unselfishly of himself. He gave his intellect, his time, and his boundless energy to serve the people of Alabama and the Nation. The measure of appreciation for his service is shown by the fact that his constituents have returned him to Congress for 15 terms, longer than any other man from Alabama has served in this body.

There are many of us who are reluctant to see him leave the Halls of Congress. To me and to the people I represent, he has been a friend and a confidant. His mark is in my district and he will not be forgotten by me or by my constituents.

His service will be missed, but I wish him and his family the very best as he sets out on his new career which, while called retirement, will mean service in another way for the people of his State and Nation by Bob Jones of Alabama.

Mr. JONES of North Carolina. Mr. Speaker, it is a pleasure to join with others in commending Bob Jones on his outstanding congressional career of some 30 years. I have enjoyed his friendship in many ways, especially that of being next door neighbors for the last 9 years. So, my loss is perhaps greater than others, for I will not only lose a fine colleague but one of the nicest neighbors possible.

I join with others in commending him on his outstanding congressional career and wishing him many years of health and happiness as he returns to his home in Alabama.

Mrs. SULLIVAN. Mr. Speaker, it is a pleasure for me to join in the accolades to the gentleman from Alabama (Mr. Jones), chairman of the House Committee on Public Works and Transportation, now completing his 30th year in the Congress.

His deep interest in the inland waterways of the United States has been reflected in the legislation he has brought before the House which has been of immeasurable benefit to the entire country and particularly to districts like mine which border on our major rivers.

Bob Jones is one of the best liked Members of the House, a courtly gentleman and a fine human being.

Mr. EVINS of Tennessee. Mr. Speaker, I wish to join with my colleagues in paying a brief but sincere tribute to our colleague and friend, Congressman Robert E. Jones of Alabama.

Bob Jones and I came here together as classmates—it has been nearly 30 years since the two of us were sworn in as Members of the famed 80th Congress—famous for the criticism it received for lack of performance from President Truman in 1948, but also famous for the caliber and high quality of distinguished Members that composed the freshman class of the 80th Congress and who went on to great heights in public service.

Two of our number—John F. Kennedy and Richard M. Nixon—eventually were elected President. Carl Albert became Speaker and others were elected Governors, Senators, judges, administrators, and ambassadors. Many, like Bob Jones, became committee chairmen.

After this Congress, only one of our class will remain in the House. He is Omar Burleson of Texas—who endures and survives. Four of our class, including Bob Jones, Speaker Albert, and myself, are leaving the Congress at the end of this term.

I have had the special privilege of working with Bob on legislation for great public works projects and water resource and development for many years. While he served as chairman of the Committee on Public Works and Transportation—the authorizing committee—I have served as chairman of the Public Works Subcommittee on Appropriations of the Committee on Appropriations—to provide funding for needed and worthy projects in the public interest.

Bob has played a vital role in authorizing landmark legislation for flood control, navigation, recreation, and hydropower generation. He has been a great friend of the Tennessee Valley Authority. He has helped build roads, bridges, and highways, and has played a key role in establishing the landmark Appalachian Regional Development Commission Act and other major national programs.

He has served his district, the State of Alabama, and the Nation well.

As he returns to his hometown of Scottsboro, Ala., my wife, Ann, joins me in extending best wishes to Bob and his wife, Christine, for continued health and happiness.

Mr. FARY. Mr. Speaker, when you rap the gavel on sine die adjournment for this Congress you will bring an end to an illustrious career of one of the most distinguished men ever to serve in this august body. I am speaking, of course, of my colleague from Alabama's Fifth District, Hon. Robert E. Jones, who will close out an outstanding career with the conclusion of the 94th Congress.

As a freshman in this body I was named to the Public Works and Transportation Committee in the 94th Congress to fill the vacancy left in the passing of my dear friend the late Congressman John C. Kluczynski.

On my first day in committee I was greeted by a most gracious gentleman with a warm salutation, "John, I am Bob Jones, and I am most happy to have you as a member of the Public Works Committee." His warmth, friendliness, guidance, and sense of humor has never deviated as he directed the business of his committee through its most successful legislation session.

I know the members of the Committee will be sad to see Bob Jones leave, as we will lose one of the few members with a keen sense of humor. Bob showed some of that humor at an Aviation Subcommittee hearing testimony from the Secretary of Transportation, on his decision to allow the British-French Concorde aircraft, to land at Dulles International Airport in Washington, D.C., and at John F. Kennedy Airport in New York.

The Concorde issue was an emotional one with environmental groups who claimed the plane could deplete the Earth's atmospheric ozone layer, and with people who live near the two airports and contend it is noisier than subsonic jets. The hearing room was packed with supporters and opponents of the Concorde, and the question and answer session was rather intense. Bob did not chair the subcommittee conducting the hearing, but as full committee chairman was sitting in on it. Just before he left, he interrupted the hearing to make a comment.

He said:

> Mr. Secretary, I don't want to go too far afield of the subject, but we have some other forms of transportation that are also pretty noisy and for which the Department of Transportation does not have any standards. I don't live near an airport so the plane noise doesn't bother me, but I'll tell you what does bother me and that is a subsonic truck coming by my house and waking me up every morning at six o'clock.

He then wondered if DOT might not set some noise standards for trucks also as the more than 200 supporters and opponents of the supersonic airplane shared a laugh together.

Meanwhile, those "subsonic trucks" are part of the 106 million vehicles that travel the 85 percent complete interstate system which now carries almost a fifth of all the daily highway traffic in the country. But come next spring, when the flowers are blooming back in Jackson County, I know Bob plans to be more concerned with his azaleas than whether the Concorde is landing at Dulles and JFK.

Mr. Speaker, It would take too long to record the legislation accomplishments of Chairman Jones during his three decades of invaluable service to the legislative process he so devotedly served. He has written a phenomenal and constructive record of legislative works which in one way or another touches every American: flood control, TVA self-financing, water quality control, farm and home development, agricultural supports, interstate highway construction, waterways development, public building construction, environmental and economic development, aviation, Federal employment job programs, et cetera.

Bob Jones is not one of those cautious people, afraid to take a stand for fear of antagonizing this faction or that. Since 1956 he has served as sponsor of almost 400 public works measures, ranging from the construction of post offices to the building of sewage treatment plants, the Disaster Relief Act of 1970, the National Environmental Policy Act of 1969, and the House version of the water pollution control bill.

As an old-fashioned Franklin Roosevelt and Harry Truman Democrat, Bob Jones is dedicated, without reserve, to Federal programs looking to the protection of those Americans removed from the mainstream of national prosperity by the whims and vagaries of happenstance and economic change, irrespective of human need. To that extent he has been the bitter foe of the current "revenue sharing" program which, in his opinion, has failed most deplorably in meeting the needs of Americans in economic distress.

It has been noted that the political philosophy of Bob Jones is basically national in scope; for, as he has so often declared: "What is good for the country is good for the Alabama Fifth District." On that basis he has established one of the outstanding records in the Congress.

Veteran Washington political reporter Joseph McCaffrey, who has covered Congress since Bob Jones was one of its junior members, paid tribute to the Alabama Representative during one of his nightly commentaries on local Radio Station WMAL.

McCaffrey said:

> I like to think of the gentleman from Scottsboro, as a prototype of congressional responsibility because as a member of the House he kept his head down, did his work, and knew his subject better than anyone else when he got the floor. He knew how to settle differences and end various factions so that he could come up with a compromise to get results. Yet, he never sought any recognition outside the 5th District of Alabama.
>
> He leaves a number of lasting monuments around this town. He was the one responsible more than anyone else for the National Portrait Gallery and the Smithsonian Museum of History and Technology.
>
> These are just some of the things that he has contributed to making Washington a better city.

Bob states he will return to his home in Scottsboro, Ala., and plans to spend some time on the golf course, and on the river fishing, but mostly, he looks forward to his favorite hobby of raising flowers.

I am personally indebted to Chairman Jones for his wise counsel, and for the interest he has always shown me since becoming a member of his committee. I shall miss him, as will we all, but I know that my colleagues will join me in wishing Congressman Robert E. Jones a healthy, happy, and fruitful retirement.

I pass on to Chairman Jones my feeling of deepest friendship and admiration and every blessing.

Mr. FLOOD. Mr. Speaker, like all of my colleagues I am indeed sorry that the long and distinguished career in the Congress of Bob Jones is coming to an end.

For 30 years he has served his constituency in Alabama's Fifth District in a most effective way and his great abilities were recognized by his colleagues when he was elected chairman of the Public Works and Transportation Committee which, we all know, is a vital part of the House of Representatives.

He and his committee have been most helpful to me and my constituency in the matter of legislation to enable us to obtain proper protection against the terrible ravages of hurricanes and floods in our section of the State of Pennsylvania.

Without the full cooperation and assistance of Bob Jones and the legislative measures which he as chairman got through the committee and subsequently through the House, my district would stand practically defenseless against the onslaught of such catastrophies as we experienced following hurricane Agnes in June of 1972 and hurricane Eloise in September of 1975.

So, I know at first hand the fine work that Bob Jones has accomplished for his fellowmen wherever the need. This, really, is the mark of a good legislator and good American, and Bob Jones is certainly both.

As we know, the void left by his retirement will not be simple to fill. He has served his district, his State, his country, and this Congress with distinction.

We shall miss him but we certainly understand the feelings of a Member who wishes to set aside the heavy responsibilities of office after 30 years of service to his country.

I wish for him and his family all the good things in life in the future and I trust that he will fully enjoy a retirement which he has richly earned.

Mr. REUSS. Mr. Speaker, today we pay tribute to a colleague whose legislative initiatives have inspired this House and its Members for the last 30 years.

Bob Jones brought to Washington a clear vision of what America needed. He saw that Appalachia was plagued by poverty, that rural communities wanted better housing, and that our natural resources required responsible stewardship.

Bob Jones did what he set out to do. He focused our attention on the problems of Appalachia and brought its people jobs and community services through the Appalachian Regional Development Act. He attracted industry to depressed regions with the Economic Development Administration, and authored legislation to help the rural American find a decent place to live.

As chairman of the Public Works and Transportation Committee and in his other committee assignments, he guarded our air and our water.

When Bob Jones returns to his native Alabama, his work will remain, reminding us of his contribution to his country.

Mr. HUNGATE. Mr. Speaker, I proudly join with the rest of my colleagues in paying tribute to the distinguished gentleman from the heart of Dixie, Robert E. Jones.

Bob has served in the House of Representatives for 30 years; 30 years of service and tireless effort on behalf of the people from his district, his Alabama, and his Nation. He has served as the capable chairman of the Public Works and Transportation Committee and the leadership and guidance he has provided here in the House will be sadly missed.

We wish him all that we would wish ourselves, good health, good luck, and much happiness.

Mr. NOWAK. Mr. Speaker, it is a sincere pleasure to join my colleagues today in expressing warm best wishes to the distinguished chairman of the House Committee on Public Works and Transportation—the Honorable ROBERT E. JONES of Alabama—who is completing three decades of service in the House of Representatives.

Serving on this committee under the leadership of Chairman JONES has been a productive and rewarding experience. The committee's legislative accomplishments during the 94th Congress represent substantive and substantial achievements—a fitting capstone to Chairman JONES' career in the Congress and a tribute to his effectiveness as a legislator.

During these past 21 months, the committee's activities have covered a wide range of its jurisdictional concerns—the Federal Aid Highway Act, water pollution control, water resource projects, the emergency public works program, economic development, mass transit. The pace and scope of the activities during Chairman JONES' tenure have been in the committee's tradition of seeking constantly to refine and improve these program areas that affect the lives and jobs of every American.

Amid this hectic work schedule, in my dealings with him, I found Chairman JONES to be fair and congenial, willing to listen as well as willing to offer valuable and sound advice. His efforts to be genuinely helpful were particularly important to me as a new member and one participating for the first time in the legislative arena.

It is, therefore, a real pleasure for me to join in this tribute to our colleague, ROBERT E. JONES of Alabama, and to add my voice to the many wishing him a retirement that is as productive and meaningful as his career in the Congress of the United States.

Mr. NIX. Mr. Speaker, I rise to congratulate our friend and colleague, the Honorable BOB JONES, on his retirement from the Congress after 30 years of service.

He has had many honors, having served his State longer than any other Congressman in its history. He retires as an outstanding chairman of the Public Works and Transportation Committee.

The test of every congressional career is to what extent a Member of Congress has brought this country closer together. Congressman JONES, during every day of his service here, sought unity and progress for his region and for the Nation.

As Representative of a congressional district in one of our greatest cities, Philadelphia, I would like to convey on behalf of my constituents and myself thanks for a job well done to one of the greatest chairmen in the history of the Public Works Committee. The devotion of Congressman JONES to the development of the Nation as a whole, to its rural as well as its urban areas has benefited all of us.

Many civilizations neglected public works while their land turned into deserts as the result of erosion and drought. That has not happened in the United States and we have Congressman JONES, among others, to thank for that.

I wish Congressman BOB JONES an active and happy retirement in the continuing service of the American people. We will miss him in the House of Representatives.

Mr. BURLESON of Texas. Mr. Speaker, I take this opportunity to extend my congratulations and warm good wishes to the Honorable ROBERT E. JONES as he prepares to leave Congress after having faithfully served his district and his Nation for 30 years.

BOB and I came to Washington at the beginning of the 80th Congress, that is, in January of 1947. We have both observed many changes over the years and I am sure he will agree that our work here has been both challenging and most gratifying.

He will be remembered with fondness by those of us who have served with him here in the Congress. His contributions to our Nation and the people he represents have been many.

I wish BOB and his charming wife Christine the very best as he returns to Alabama and I look forward to our continued association and friendship.

Mr. FRASER. Mr. Speaker, many of us find encouragement this year in the fact that the nationalization of American politics proceeds apace. A "cotton South" southerner heads my party's national Presidential ticket—and he chose Minnesota's senior U.S. Senator as his running mate.

ROBERT E. "BOB" JONES is one of the Southern congressmen who for many years has worked to keep the lines of communication open between legislators representing all geographic sections of our immense Nation. It is ironic that we here in the House are about to lose BOB JONES as a colleague just as we are on the brink of electing a President from BOB's part of the country, an election that I believe will permanently end, if not immediately, then, soon, the distinctions that mark northern and southern Democrats.

During the years of service in this House I shared with BOB JONES, I found him a fine friend and a good person. I am sorry to see him voluntarily leave this House, but at the same time I admire and respect his decision. He has had a long, distinguished public life and BOB JONES ends his House career at the height of his powers and his effectiveness.

Mr. HOWARD. Mr. Speaker, the retirement of Congressman BOB JONES is a most unfortunate occasion for the residents of the Fifth Congressional District of Alabama, the people of this country who have long benefited from his legislative foresight and those of us who serve with him on the Committee on Public Works and Transportation. As one who works closely with Mr. JONES on the committee, I am familiar with the skill and sensitivity he exhibits in settling differences of opinion, encouraging full participation by all members of the committee and pushing valuable legislation through the committee and onto the floor of the House. His expertise and leadership will be missed.

In my role as chairman of the Surface Transportation Subcommittee, I have often consulted Chairman JONES for advice on matters relating to legislation pending in the subcommittee. Always his advice was sound—the result of years of experience in the area of public works. His keen perception of the needs of our citizens is now a part of history—written into law in almost every public works bill passed by Congress during his terms on the committee.

Chairman JONES was the author of landmark legislation dealing with interstate highways, public buildings, water resources, pollution control, and Tennessee Valley Authority bond financing. Even here in the District of Columbia he leaves behind an extraordinary record in his contributions to such buildings as the National Portrait Gallery, the Smithsonian Museum of History and Technology, and the John F. Kennedy Center for the Performing Arts.

He is the father of the concept of pay-as-you-go highway transportation which is the bedrock of the Interstate Highway System. In 1956, when President Eisenhower was suggesting the issuing of bonds to build what was then called the national defense highway network, Mr. Jones convinced the administration and Congress that the system be constructed from the proceeds of a Federal gasoline tax. What could be a more just system of financing than to have our network paid for by the people who are using it and not by the taxpayers in general.

In his long career on Capitol Hill, Chairman JONES has gained respect from his peers that is rivaled by few. He can retire to his home in Alabama, fish, play golf, and garden as he so loves to do, with the satisfaction that his last 30 years in Congress have made a mark on history.

Mr. MADDEN. Mr. Speaker, I want to join with Congressman BEVILL and the other members of the Alabama congressional delegation in paying tribute to our colleague, BOB JONES.

I have known BOB since the first day he was sworn in as a Congressman in the 80th Congress. As a member and eventually chairman of one of the most important committees in Congress, he has succeeded in making a remarkable record for participating and cooperating with the leadership and his colleagues in enacting and supporting legislation which not only benefited his congressional district and State, but also the entire Nation.

During these years, I have never heard any criticism from the leadership or any Member of Congress on either side which would pertain to Congressman JONES as to legislative or personal matters since being a Member of this body. BOB has been endowed with an outstanding personality, industry, and the ability to solve the most complex problems pertaining to the numerous involved projects connected with Federal public works, construction, and the financing thereof.

His many friends in Congress will miss him in the future and the Nation will loose a real statesman. I wish his family good health and happiness for many years to come.

Mr. OTTINGER. Mr. Speaker, I am pleased to join in saluting BOB JONES at the close of his distinguished congressional career. The Nation and the people of Alabama have been well served over the 30 years of his participation in the work of the House of Representatives.

As chairman of the Committee on Public Works and Transportation he has been responsible for the passage of legislation to provide for effective water pollution control, to support the expansion of desperately needed mass transportation systems in the Nation's urban centers, and to create hundreds of thousands of needed jobs in the construction industry. It is in this latter area where Bob's leadership and fortitude has been most evident, guiding the passage of legislation despite the continued opposition of the administration. Sometime next year we should begin to see the fruits of his labor, the completion of billions of dollars worth of public works projects, and a turnabout in the economic condition of the Nation, to pass the Public Works Employment Act of 1976.

The residents of my district in Westchester County, N.Y., no longer have to fear severe flooding whenever there is a heavy rainstorm because Bob Jones showed an interest in their problem and gave the necessary push to the Corps of Engineers to begin long-delayed flood control projects along the Long Island Sound.

Bob Jones has made the system work for the benefit of the country, and he will certainly be missed by all of us.

Mr. MONTGOMERY. Mr. Speaker, for 30 years the people of Alabama and America have benefited greatly from the outstanding public service of Robert E. Jones. During his distinguished tenure in the Congress, he has brought credit to himself and to this body.

The retirement of Bob Jones will be especially sad for me because I have come to know him as a man of the highest integrity and great intellectual capacity. Over the years it has been my privilege to profit from his wise and sage counsel. He freely gave advice based on many years of experience—advice which I often sought.

I have been most impressed by the fact that Bob Jones has always sought to make certain that this Nation's public works projects were cost effective. He has always been careful to make certain that a project was not more grandiose than needed in a local area and that the available funds went to those areas most in need. His insistence on a dollar in value for every Federal dollar spent should be appreciated by all the American taxpayers.

Coupled with the sadness of losing the services of a valued colleague is the expression of best wishes which I offer Bob as he returns to his beloved Alabama for a well-deserved retirement.

Mr. MURPHY of New York. Mr. Speaker, one can hardly condense a career which spanned 30 years in the U.S. House of Representatives into a few brief remarks of respect and admiration for such a gentleman as Bob Jones. Yet I shall add my short commentary in the hopes that, by its very brevity, I might make it known that there is simply too much to talk about to know where to begin.

Bob Jones has served the people of Alabama for 15 consecutive terms in this body, first in the old Eighth District, and later in the realined Fifth District. That is the longest period of time any man from Alabama has ever served in the House of Representatives. I am sure the people of his State would be the first to confirm that Bob Jones has, for almost a third of a century, worked to the limits of his extensive ability to bring not only to them, but to every citizen of the Nation, a better way of life. His honesty, integrity, and incredible legislative ability and insight, has been in the forefront of almost every significant piece of legislation for the past three decades.

Perhaps the name of Bob Jones is one which people find hard to remember—but I believe it is a name this Congress shall, find very difficult to forget. His leadership not only in the Public Works and Transportation Committee, but throughout the entire range of congressional activities, has set an example that those of us who stay to carry on will find difficult to match.

Ms. ABZUG. Mr. Speaker, I want to wholeheartedly join in the remarks made by our colleagues and to express my feelings both as a member of this committee, and as a friend, for the remarkable job Bob Jones has done throughout his 30 years in Congress, and most especially during his tenure as chairman of the Public Works Committee.

The description which consistently is used when discussing his work in the Congress is that he has been a "national legislator." This is certainly a high tribute, particularly in the House of Representatives, in which the comparatively small area normally represented by any Representative generates a strong tendency to look at problems with a local rather than a national viewpoint.

His concerns and priorities have reached far beyond his own State and his own region. When I came to the House and joined the Public Works Committee, I fully anticipated that the old accepted stories about Members only being concerned with their own areas would be proven true, especially on that committee, on which many people unfortunately believe parochial interests dominate. A survey of the performance of Bob Jones during his tenure as chairman would quickly put that myth to rest. He has played a critical leadership role in a broad variety of measures designed to generate economic development and promote significant public works projects throughout the country.

This continual insistence that sound policy considerations—not provincial interests—guide the distribution of funds authorized in public works legislation is largely responsible for the progress we have made and will make in the future. The landmark public works bill we passed during this session is an example of his successful efforts to have the Public Works Committee lead the efforts in the Congress to develop legislation that will overcome the economic problems faced throughout the country. Every State will benefit from this bill. Those suffering the severest economic decline will benefit the most.

On a personal note, I have always been proud to consider Bob Jones among my good friends in this House. It is often difficult when dealing with numerous pieces of legislation through a number of sessions to keep both the friendship and the respect of those to whom one cannot always say "yes." But I can say without reservation that his treatment and consideration of my views has always been fair and that Bob has always made the most strenuous efforts to accommodate my position and views, as well as those of every other Member. I am proud of what has been accomplished in the Public Works Committee while I have served on it under our chairman's leadership. I particularly am grateful to Bob Jones for working so cooperatively with me and for allowing me to accomplish what I have.

His absence from the Congress will be deeply felt by all those concerned with economic progress in our country.

Mr. FASCELL. Mr. Speaker, of all the Representatives who have served in the House from the State of Alabama, none has served longer than our colleague, Robert E. Jones.

In his 30 years of distinguished and productive work, Bob Jones has accomplished much on behalf of the people of his State and the Nation. He is widely respected as a legislative expert in the fields of public works and waterways, having been largely responsible for the successful fruition of most of the major projects which have been undertaken in these areas in recent years.

During the current Congress, Bob was elected chairman of the Committee on Public Works and Transportation, reflecting the great esteem in which he is held by other Members. In his role as chairman, as previously in other positions of responsibility on the committee, he has performed in a masterly fashion.

Bob is one of the most personable Members of the House and is well liked by all of us. We would welcome the opportunity for him to continue serving, yet I can understand why he has chosen to retire. As he leaves the demanding position which he has held, I sincerely hope that Bob will have the chance to enjoy activities with his family and friends that time may not have permitted during his tenure in Congress.

I thank Bob for the many times he has assisted my State and congressional district in matters within the jurisdiction of his committee. Without his interest and help, far less would have been accomplished. I will miss him greatly.

Mr. WALSH. Mr. Speaker, it is with deep regret that we bid farewell to our distinguished colleague Bob Jones with whom I have had the pleasure of serving with on the House Public Works and Transportation Committee.

Bob, as chairman of the committee, has capably led this vital group in its dealings with aviation, economic development, Federal buildings, surface transportation, and water resources.

As ranking minority member of the Subcommittee on Public Buildings and Grounds, I have worked closely with Bob and have the highest respect for him.

His is a long, dedicated, and enviable

career—attorney, Navy veteran, county court judge and elected to Congress in 1947 where he has served his Alabama constituents and the country for 15 consecutive terms.

I am sure that for Bob, the Congress is a place where he has seen boys become men, men become fathers, fathers become grandfathers.

It is a place where he has shared laughter, anger, sadness, excitement, and sometimes frustrations. It is a place where he has found a friend, a pat on the back when he is up, understanding when he is down. It is a place where he has formed lifetime friendships, gathered endless memories. It is a place where he has said that last goodby to old friends and welcomed new ones.

Now, as Bob prepares to retire, he will hear the last ring of the bells calling the House into session and vote on that final piece of legislation for the 94th Congress, and a little of him will die. For no matter where he goes, a part of him will always remain "on the Hill."

But even then he is not alone. For even though a part of him is gone, he knows his fellow colleagues will have left a part of themselves there too.

Mr. DUNCAN of Oregon. Mr. Speaker, I would just like to add my personal tribute to Bob Jones, dean of the Alabama delegation.

Although his leadership of the Public Works Committee was of short duration, the impact of his efforts will last beyond all in this Chamber.

We worked together years ago in this House and it has been an honor to return and continue to cooperate.

He is one heck of a guy and I, like all the rest of his colleagues, will miss him and remember him fondly as he did me during my absence from the House.

Mr. BROOKS. Mr. Speaker, for the last 30 years the citizens of Northern Alabama have been represented in the House of Representatives by our distinguished and able colleague, Robert E. Jones.

His dedication and service to his constituents and to the Nation have earned him the respect of all of us and it has been my privilege and pleasure to serve in this Body with him.

As chairman of the Public Works and Transportation Committee, he has distinguished himself for his diligence and devotion to our Nation.

I am honored to join my colleagues in paying tribute to Bob Jones and I am proud to call him my friend. Although his presence in the Congress will be deeply missed, he has earned a well-deserved rest and I wish him an enjoyable and rewarding retirement with his family.

Mr. JOHNSON of California. Mr. Speaker, I rise to join with my many friends and colleagues of Alabama's distinguished Representative Robert E. Jones in voicing the deep gratitude of the House for his many years of service to the American people and our heartfelt regret at his decision to retire from public life.

When I entered the Congress some 18 years ago, Bob Jones was already a respected and admired veteran of 12 years in the House, a legislator whose parliamentary skills were matched only by his integrity and his devotion to the national interest.

That reputation has been enhanced over the intervening years by his dedicated efforts, as a Member of the House Public Works Committee, to protect and preserve our country's irreplaceable water resources; to build, improve, and extend the world's greatest and safest highway system; to restore economic health to some of the most depressed regions of America, and to bring prompt and effective relief to our fellow-citizens when their communities and their homes have been ravaged by natural disaster.

Now, after 30 years of the most arduous and conscientious service to his constituents in the Fifth Congressional District of Alabama and to the American people everywhere, Bob Jones is returning to private life, to enjoy the years ahead at a more leisurely pace and to share more fully the companionship of his lovely wife, Christine. He retires at the very crest of his distinguished career, as chairman of the Public Works Committee to which he devoted his entire 30 years in the House. He takes with him our best wishes and he holds with him forever our friendship and affection.

Mr. Speaker, on behalf of myself and the people of my great State of California, I wish Bob Godspeed.

Mr. ABDNOR. Mr. Speaker, as I complete my fourth year in Congress, I look back not only on how instructive it has been for me, but how enjoyable it also has been. As I join in the tribute to our colleague from Alabama (Mr. Jones) I cannot help but think how strong a part he played in my service as a Member.

It was my good fortune when I came to Congress to be named a member of the Public Works Committee of which Congressman Jones is chairman. His chairmanship has provided a textbook case of good government in the legislative branch.

It has been a chairmanship of strong leadership built upon those powerful foundation stones of wit, wisdom and work.

Bob Jones will leave a massive imprint of achievement on the body politic. But he will leave an immeasurable impact for good on Members such as myself who have had the pleasure of serving with him in committee and who will benefit for the rest of our lives from this association.

I am delighted to thank our chairman for the generous help he has given me in performing my own duties, and to salute him for his many, many accomplishments for our great Nation as well as his home state of Alabama. Chairman Jones, good luck in your retirement.

Mr. ADDABBO. Mr. Speaker, I wish to join my colleagues in the House in paying tribute to Robert Jones of Alabama, who will retire from the Congress at the end of this year. A great many words of praise for Bob Jones have been said on this floor today, and that is as it ought to be, for he has always been a kindly and conscientious Member of this House. In 30 years of service to this Nation, Bob Jones has served with distinction and has brought nothing but unyielding credit to the Congress.

But I would be remiss if I did not mention that those of us from New York owe Bob Jones a special debt of thanks. Two years ago as the city's fiscal crisis was just beginning, we sought unsuccessfully to get the Congress to help the city resolve its mass transit needs.

We found all the doors shut against us until Bob Jones was interviewed. He could have read the reports that were available to the Public Works Committee. He could have sent a staff aide to make a study of New York's problem. He could have ignored the whole problem, for the problems of New York City are not a pressing problem in rural Alabama.

But Bob Jones did none of those things. He went to New York City himself. He talked with the city officials, he talked to the people who run the mass transit system, he went down in the subways and rode the city and talked to the people who must travel that way day in and day out. And he came back to Washington and he pushed through the Public Works Committee a bill that was designed to help New York and other big cities around the Nation resolve their mass transit problems.

Bob Jones went to bat for New York because he cared about the Nation's people, no matter where they reside. He took his oath of office literally and set parochialism aside when it mattered. We are not doing so well in New York today but we are far better off than we would have been had there not been a Bob Jones who cared enough to go out of his way to help those who could not help themselves. To me, that is the mark of a great Congressman, and as far as I am concerned, that is what he has always been.

Mr. ROBERTS. Mr. Speaker, I would like to take this opportunity to join my colleagues in saluting the long and distinguished career of the Honorable Robert E. Jones of Alabama.

When this Congress adjourns, Chairman Jones takes with him one of the most outstanding records of leadership and achievement ever amassed in the Halls of the U.S. House of Representatives.

During the three decades he has diligently served the people of the Fifth Congressional District of Alabama, he has earned the respect and admiration of his colleagues in the House of Representatives.

As chairman of the Public Works and Transportation Committee, Robert Jones enjoys a national reputation for expertise in the diverse areas over which the committee has jurisdiction. I, as well as the other members of the committee, will sorely miss his confidence, guidance, and leadership.

With the retirement of Robert Jones, the House has lost an outstanding Member, the people of Alabama have lost a great representative, and I will miss the counsel of a warm, personal friend.

Mr. SNYDER. Mr. Speaker, it is with the greatest respect and affection, yet with a great deal of sadness, that I speak of Bob Jones leaving the Congress. Others have spoken of his great leadership in our Committee on Public Works and Transportation. I concur in all those remarks. Bob Jones is a great chairman. Bob Jones is a fair chairman—but more than all these traits, Bob Jones is a great guy.

We have visited daily "behind the rail" or in our offices and in the committee. Bob's great ability is exceeded only by his great sense of humor. Bob is loved by all the members of his committee and all those in this body who know him well.

Mr. Speaker, I have never heard anyone in this body speak ill of him. As I said earlier, I respect Bob Jones, I am fond of Bob Jones—and I am very sad that Bob is leaving us. Pat and I wish the best of everything to Bob and Christine as they return to Route 2, Scotsboro, Ala.

Mr. DON H. CLAUSEN. Mr. Speaker, how can we describe Bob Jones? How can we briefly summarize the brilliant career of a man who has made such a profound impression on the Congress of the United States.

Bob Jones stands out as a perfect gentleman and a gracious man who has steadfastly maintained his sensitivity and his compassion in the competitive arena of the Congress.

He has a legendary reputation as a legislative craftsman, but above all he is recognized as one of the finest and most outstanding legislative strategists ever to serve in the House.

Many of the effective and successful techniques of parliamentary procedures he has developed and are unique to Bob Jones have come to be recognized for the remarkable accomplishments they are.

Bob is a leader who has never lost sight of the importance of a team. He shared his ideas and ideals with those of us who worked with him and the result has been that his thoughts and directions are included in innumerable laws that have benefited all Americans.

Bob Jones is a visionary. He thinks big. He is a totally dedicated and totally honest man who has absolutely put the Nation first at all times.

There are very few congressional districts in this Nation that do not have a standing monument to him that exists because of the work he has done on the Public Works and Transportation Committee which he has chaired so effectively.

His countless achievements can never be properly listed because the list is too long. But he has done it all while being the kind of man he is. His sense of humor never fails him nor does his common sense.

I consider the opportunity to have worked closely with him to be one of the highlights of my own service in the Congress and I know many of us feel the same way. We will miss him here, but we will try to emulate him as best we can.

Mr. BUCHANAN. Mr. Speaker, all Alabamians share the deep pride of the Alabama delegation in the rich achievements of our distinguished dean, Bob Jones. Through many years he has consistently served the people of his congressional district, our State, and our beloved country with dedication and great ability. As chairman of one of the great committees of this House, his leadership has meant much to all Americans. We shall deeply miss him here. He takes with him on his retirement our best wishes and our prayers that his future life shall be long and happy, and made richer by the memory of his outstanding service to the people of the United States.

Mr. HALEY. Mr. Speaker, I would like to add to the record today my own tribute to a great Representative from my native State of Alabama, Robert E. Jones, who is retiring at the end of this Congress.

Bob Jones long has been a personal friend and I know he will be missed. As dean of Alabama's congressional delegation, and as chairman of the Committee on Public Works and Transportation, he has provided outstanding leadership to the House, and has served his constituents and the Nation well.

I am particularly grateful for his help during this Congress in initiating work on an important beach erosion control and hurricane protection project for Anna Maria Island, a small island in my congressional district on the west coast of Florida.

He has my best wishes for a happy and productive retirement.

Mr. FLYNT. Mr. Speaker, it is with a great sense of pride that I join with my colleagues today in paying tribute to the memorable achievements of the dean of the Alabama delegation, the Honorable Robert Emmett Jones.

Upon the retirement of Bob Jones, the State of Alabama as well as the entire Nation will lose a faithful public servant who has devoted 30 years of his life to serving his State and country. Since his election to the U.S. House of Representatives in 1947, Bob Jones has dedicated his time, energies and abilities to the betterment of the people he serves.

Robert Jones' legislative contributions are renown, with Bob playing a major role in the enactment of such significant pieces of legislation as the Tennessee Valley Authority Self-Financing Act of 1959, the Water Quality Act of 1972, and the Economic Development Act of 1965, to name just a few. Since the beginning of the 94th Congress, Bob Jones has served as the chairman of the House Committee on Public Works and Transportation and the wisdom and guidance he has demonstrated in that position has earned him the admiration and respect of all.

The Fifth District of Alabama could not have chosen a finer man to represent their interests for these past 30 years. We have all benefited from Bob's knowledge and leadership, and it is with much gratitude that I bid him Godspeed.

Mr. ICHORD. Mr. Speaker, it is with a real sense of regret that I note the retirement of Bob Jones, whose distinguished career in the House of Representatives must stand as an inspiration to us all. It is with a sense of pleasure and deep gratitude, however, that I join in this well-deserved and well-earned tribute.

It may be tribute enough to cite the facts of Bob Jones' remarkable career. Bob came to Washington in 1947. His tenure of 30 years represents the longest period any Alabamian has ever served in this House. At the outset of this Congress, he was elected chairman of the House Public Works and Transportation Committee, a committee he has led with wisdom and skill. It does not take a very intensive reading-between-the-lines of these facts to recognize that Bob Jones, through faithful service, has earned the respect and loyalty of the people of Alabama's Fifth District. His election as chairman of the vital Public Works Committee is not a very subtle indication of the admiration and faith he has inspired among his peers in this House.

But we in the House of Representatives know more than the facts. We know Bob Jones. We know of his honesty, his dedication, his expertise, his friendship. We have experienced first-hand his dependability and integrity of thought and action. It is the example of these qualities, in addition to the benefit of his good works, that he leaves with us. And he leaves, in turn, with our best wishes and profound respect.

Mr. JONES of Tennessee. Mr. Speaker, I want to take this opportunity to express my deep regret at the departure of our colleague, Robert Jones of Alabama. His career in this body has been a truly distinguished one and his 30 years of dedication to his constituents, his State, and the Nation will stand as a lasting tribute to his achievements.

Chairing an important committee such as he has on the Public Works Committee requires a great deal of expertise, patience, and hard work. Bob Jones has never failed in any of those categories. He has carried out his duties in that chairmanship with integrity and with fairness. He has done his best in trying to seek answers to the grave problems that have faced the development of this Nation during the past 30 years. He has sought those answers thoroughly and in the best interest of the people. I do not think anyone can expect more of a man than Bob Jones has given to this country.

Bob will be sorely missed by all of us. But more importantly, his expertise in the field of public works and transportation will be missed by the Nation. But he leaves behind him a legacy that is readily noticed by all Americans as we utilize our Nation's system of highways, airports, waterways, and public buildings.

As Bob goes back to his home in Scottsboro, I want to wish him and his family the very best of health and happiness in the years ahead.

Mr. ANNUNZIO. Mr. Speaker, I rise today to pay tribute to the Honorable Robert E. Jones, the chairman of the House Committee on Public Works and Transportation who is retiring at the end of the 94th Congress.

Bob Jones' 15 terms of service in the House of Representatives and his diligent efforts as a member and chairman of the House Public Works and Transportation Committee have been both fruitful and beneficial to the citizens of Alabama and the United States. His outstanding dedication to high standards is an inspiration to his friends and fellow citizens and his record of excellence and creative accomplishments is most commendable.

The residents of the Fifth Congressional District of Alabama can be proud of Bob's splendid record in Congress, and I can testify that he gave to them the best of his considerable talents as their Congressman while serving for three decades, the longest tenure ever held by an Alabamian in the U.S. Congress. The Public Works and Transportation Committee plays a vital role in the prosperity and economic vitality of our Nation, and as chairman of this committee, Congressman Jones led his colleagues with courage, integrity, and common sense.

I was proud to serve with Bob Jones for 12 years in the Congress, and I extend to him my best wishes for a healthy and happy retirement.

Mr. TAYLOR of Missouri. Mr. Speaker, it is with a great sense of joy that I rise to commend my chairman and friend, the Honorable Robert E. Jones, for the great service to the Nation that he has performed in the 30 years he has spent as a Member of the House of Representatives.

However, it is also with a considerable amount of sadness that I will bid farewell to Bob Jones when this 94th session of the Congress is adjourned sine die.

In the 4 years it has been my pleasure to serve with Chairman Jones, I have appreciated the time he has spent in counseling with me and the patience he has exhibited while helping me learn the procedures of our Committee on Public Works and Transportation.

He has been a good teacher, and a kind friend. A man respected by both sides of the aisle for his great skill in leading our committee and his dedicated efforts in making these United States a better place for all.

Bob's deep appreciation and commitment to our great institutions, and to this House where the people's Representatives carry on the business of this Republic will long be remembered and appreciated by those of us who have been privileged to follow his leadership.

The gentleman from Scottsboro, Ala., has left his mark on this Nation through the great system of roads and highways he has helped authorize, the many bridges that span our rivers, the reservoirs and waterways which have generated power, provided recreation and flood control, and benefited Americans from all walk of life. What better legacy could a man from this House leave?

We will always be grateful for Congressman Robert E. Jones, there will never be another like him nor one who can ever replace him.

Mr. SKUBITZ. Mr. Speaker, I want to join with Bob Jones' many friends in paying tribute to his dedicated service on the occasion of his retirement. During the time I have served in the House I have watched a great many Members of this body come and go—but Bob came and stayed. In fact, he stayed for 30 years, and as a result, the people of Alabama and this Nation benefited tremendously from his dedication to the high ideals of public service.

Bob has truly served with great distinction in his steady rise from freshman Representative to the chairman of one of the most prestigious committees in Congress.

I first met Bob Jones 14 years ago when I was elected to serve as a Congressman. When I look back over those 14 years—the years in which I got to know and admire Bob—it is easy for me to understand how he has achieved such tremendous respect and admiration from his colleagues. Bob has developed the rare ability to exercise the prerogatives of leadership in a manner beneficial to all the people of this country.

As chairman of the Public Works and Transportation Committee, Bob has been responsible for overseeing the deliberations of a committee near and dear to all of us—for he holds the power to cut off our water, both figuratively and literally. Yet under Bob's chairmanship the benefits of public works have flowed freely to Democrats and Republicans alike—in no small part, a result of his determination to see that the needs of the American public are served above all else.

Beginning a new session of Congress without Bob Jones will be an experience for all of us—an experience that we would just as soon forgo—for the expertise, leadership, and friendship he has shared with all of us will be greatly missed.

In all the years I have served with Bob, I could never get him to pronounce "Skubitz" correctly—so far 14 years, I have been called by him, "Little Joe." So, Bob, to you and your lovely wife from "Little Joe," may your years ahead bring much happiness, prosperity, and good health.

Mr. ROYBAL. Mr. Speaker, it is my privilege to join with my colleagues today in paying a well-deserved tribute to Bob Jones who will be leaving Congress after 30 years of dedicated service on behalf of the people of Alabama and of the Nation. While Bob will be missed here in the House, I can certainly respect his wish to return home and enjoy life at a more leisurely pace.

After 30 years of service, it would be hard for anyone to leave the House without creating some type of void. In Bob Jones' case, his leadership and expertise will be especially missed. Although he has served as chairman of the Public Works and Transportation for only one term, his work in this area has been particularly important for many years.

Congressman Jones must be given credit for resolving House and Senate differences of the Water Quality Act of 1972, thereby allowing this critically important bill to be enacted into law. He has been referred to as Mr. TVA, for his part in passing the Tennessee Valley Authority Bond Financing Act, and must be considered the prime mover behind the establishment of the Economic Development Administration which assists depressed areas in providing much needed public facilities. The highway safety bill which provides for new local, State, and Federal initiatives to reduce traffic fatalities must also be mentioned in discussing legislation in which Congressman Jones has played an instrumental part.

Without making a complete listing of his achievements, let it suffice to say that he has served his district and the Nation faithfully, amassing an impressive list of accomplishments during an illustrious career. I have great admiration for Bob Jones and his outstanding work on Capitol Hill and want to be sure to take this opportunity to wish he and his wife a long and enjoyable retirement, which they so richly deserve.

Mr. HELSTOSKI. Mr. Speaker, I am glad to have the opportunity to participate in today's special order for my colleague, Robert E. Jones, Jr. After serving in the House of Representatives for 30 years, Bob announced his retirement last February.

Bob Jones came to Washington as a freshman Representative in 1947 and since that time, he has continued to serve our country and the people of the old Eighth District and the realined Fifth District of Alabama for 15 terms. As a legislator and chairman of the House Committee on Public Works and Transportation, his accomplishments are certainly worthy of a great deal of merit. He was the primary sponsor of legislation to establish the Economic Development Administration which provided new public projects and facilities. He authored the Rural Housing Act which gave farmers and rural dwellers the same opportunities afforded to urban residents in obtaining Federal loans. He also played a major role in the enactment of the highway safety bill, and the Appalachian Regional Development Act, affecting the eastern and southern portions of the United States.

Mr. Speaker, Bob Jones' presence will certainly be missed by his fellow colleagues, as will his expertise in the field of public works. I would like to commend him for a job well done and wish him and his family the best of luck in their future endeavors.

Mr. AMBRO. Mr. Speaker, many of my fellow Members have risen to pay tribute to Bob Jones, citing his distinguished career of 30 years, his expertise in the field of public works and the tremendous respect he has from his peers. I look upon this occasion with mixed feelings. While Bob has earned, a thousand-fold, a respite from the rigors of an exemplary legislative career, he will be sorely missed as a friend, a colleague, and one of the more able lawmakers this House has seen.

There are 2 former chairmen of the 82-member freshman caucus on the Public Works and Transportation Committee, Mr. Mineta and myself. I do not pretend to speak for all of them, nor do I have the authority to do so, but in my own limited experience over the last 2 years, during which I served on 11 committees and subcommittees, no chairman has ever been more helpful, not only in terms of helping toward an understanding of legislation, but more important in terms of direct aid in dealing with the bureaucracy, generally, and the many agencies that came under the aegis of the Public Works Committee. My own view of the Committee on Public Works and Transportation has changed from the less-than-efficacious characterizations of it, to the thought that, indeed, this is a great committee of the House of Representatives, seeking to build this great Nation. Many of the reasons for my change of mind were due to the leadership of Robert E. Jones.

When Bob Jones goes home to Scottsboro he can look back with great pride at the great strides made during his tenure that has spanned three decades. He will be remembered as a prime mover of items within the purview of his committee.

At once a legislator and a parliamentarian, he is also an educator, an understanding colleague and a most helpful friend. So while I do not presume to speak for all new members of the Public Works Committee and in the House, I have no doubt that each of them will join me in expressing my thanks for the opportunity of serving with Bob Jones.

I am particularly grateful to this true gentleman, in the old southern tradition, for being able to call on him in times of need, but most importantly being able to say I know him and he is a good friend.

Mr. HENDERSON. Mr. Speaker, my entire 16 years I have served in the House of Representatives with Bob Jones. As we retire this year, I know I will miss him and our close personal daily association. Bob has been the chairman of the committee I have served on; and I know, firsthand, that he is a real expert in all areas of the Public Works and Transportation jurisdiction. He is one of the most able legislators and committee chairmen that I have ever been privileged to know. There are many tangible projects that bear Bob Jones' imprint.

As close neighbors on Capitol Hill, Bob and Christine have been warm, kind and gentle people. We have come to love, admire and respect them, and we wish for them the longest and the best that life may offer.

Mr. CONTE. Mr. Speaker, I rise to join my colleagues in saluting the congressional career of the distinguished Member from Alabama, Robert E. Jones.

I want to draw particular attention to Bob Jones' sponsorship of the legislation creating the Economic Development Administration, which has proven to be of great assistance to depressed areas during these past several years. I also want to remark on his work as primary sponsor of the Local Public Works Capital Development and Investment Act. I was pleased to join him in cosponsorship of this legislation. It certainly has been a crowning accomplishment of his career that this bill has enjoyed such wide support.

The people of north Alabama, this Congress and the American people have been well served by Bob Jones since 1947. At this time, I extend my very best wishes to this able legislator on his retirement and wish him every happiness in the days ahead.

Mr. FLOWERS. Mr. Speaker, for 30 years my friend Bob Jones has represented the people of north Alabama with grace and distinction. As his retirement nears, I want to join my colleagues in recognizing his outstanding srevice to the Nation.

He is the dean of the Alabama congressional delegation and has served longer in the House than any other Alabamian. He has been a good friend and a trusted adviser to the rest of us in the delegation, and we deeply appreciate his leadership.

At the beginning of this Congress he was elected chairman of the House Public Works and Transportation Committee. That selection showed the great respect he had gained among his colleagues during his long and distinguished career.

Bob Jones—the man and the legislator—will be sorely missed by all of us in this Chamber. I do, however, have one small consolation, and that is when Bob Jones' successor takes over in January, I will no longer be the junior member of the Alabama delegation. Eight years is a long time to be considered a rookie.

My family and I want to extend to Bob Jones and his wife, Christine, every good wish for their future health and happiness. We hope to see them frequently back home in Alabama.

Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleages in pausing on this occasion to pay tribute to the dean of the Alabama delegation in the House, and the longest serving Member in the history from Alabama, Robert Jones.

Elected to the 80th Congress in 1946, Bob Jones has served his constituency and the Nation with distinction and honor. Alabama can be mighty proud of its dean and native son. While Bob Jones has been a National Democrat throughout his congressional career and has demonstrated that no Member needs to be totally provincial, he has, nevertheless, consistently placed the interests of Alabama first and has done more to help the economy of that State than any other single Member of this House.

Bob Jones can take great pride in a number of remarkable legislative achievements. He was one of the chief architects of the TVA legislation which is so crucial to his district and which is not only responsible for the economic boom in northern Alabama over the last decade, but also is considered a worldwide model for public power.

Throughout his congressional career which has spanned 30 years, Bob Jones has been a pioneer and a strong supporter of rural economic development. Bob Jones is chiefly responsible for the Appalachian regional commission legislation which has resulted in incredible economic development along the eastern mountain region. There would not be interstate highway systems today if it were not for Bob Jones, who insisted that the highway program be self-paying through gasoline taxes. Indeed, it was primarily his decision that the highway money come out of a trust fund in a kind of "pay as you go" operation rather than out of the U.S. Treasury.

Bob Jones was elected chairman of the Public Works Committee for the 94th Congress and is greatly respected by his colleagues on the committee. Bob Jones has been a fair and dedicated chairman who has given his subcommittee chairmen opportunities to develop their legislative potential and whose word has always been good to every member.

Quiet and reserved, not a headline seeker, trusted by the Democratic leadership to get the job done—these are the qualities that have made Bob Jones a highly reliable and competent member of the Democratic team in the House. Although the Public Works Committee is a tough one to chair, Bob Jones has led his colleagues with distinction and decisiveness. Under his leadership, and despite constant Presidential vetoes, the Public Works Committee of the 94th Congress has produced more legislation to create jobs for the American people than in any other Congress.

I am proud to have served with Bob Jones. I want to thank him for a job well done and wish him well in the years ahead.

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## REMEMBERING THOSE WHO DIED AT BABI YAR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. Fenwick) is recognized for 5 minutes.

Mrs. FENWICK. Mr. Speaker, 35 years ago today, in an obscure ravine at Babi Yar, near Kiev, a long murder began that lasted nearly 3 days. When it was done, over 33,000 Jews had been killed. Now a tall monument has been built there, but no mention of these dead is included in the inscription cut into the bronze. It is as though all this suffering had never been.

So it seems fitting that here, at least, in the House of Representatives of the people of America, these dead should be remembered. To quote our Iowa poet, Paul Engle—

> For memory is human resurrection, light as sun rising, or a loving hand.

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## LEGISLATION ON PRODUCT LIABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Sarasin) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, today I am reintroducing with additional cosponsors my legislation on product liability. I want to thank the following individuals for their support in resolving a most serious problem facing the manufacturing segment of our economy as well as thousands of workers: Mr. Anderson of Illinois, Mr. Ashley, Mr.

Baucus, Mr. Broomfield, Mr. Brown of Michigan, Mr. Cederberg, Mr. Cleveland, Mr. Cohen, Mr. Collins of Texas, Mr. Coughlin, Mr. Derwinski, Mrs. Fenwick, Mr. Frenzel, Mr. Gradison, Mr. Guyer, Mrs. Heckler of Massachusetts, Mr. Kemp, Mr. Ketchum, Mr. LaFalce, Mr. Lent, Mr. Madigan, Mr. McCollister, Mr. McKinney, Mr. Mikva, Mr. Milford, Mr. Mitchell of New York, Mr. Murphy of New York, Mr. Preyer, Mr. Quie, Mr. Railsback, Mr. Regula, Mr. Rostenkowski, Mr. Schneebeli, Mr. J. William Stanton, Mr. Ullman, and Mr. Vander Veen.

As a result of the widespread, bipartisan support for legislation to stem the direction of product liability suits which are threatening our Nation's manufacturers, particularly small business, the House Subcommittee on Manpower, Compensation, Health, and Safety has agreed to make product liability legislation a first priority during the 95th Congress when it renews its efforts on workers' compensation legislation.

Relief is definitely needed, as is a change in the situation which allows employers to have less-than-safe working places. Both our manufacturers and our working men and women deserve no less.

## NATO WEAPONS STANDARDIZATION BEST DEFENSE AGAINST WARSAW PACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Findley) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, I have requested time today to introduce the following House concurrent resolution. I have taken this action as a longtime supporter of NATO and European unity to encourage the Department of Defense in its efforts to respond to the strong sentiment among our NATO Allies that our best defense against Warsaw Pact solidarity is to accelerate the standardization and interoperability of the principal weapons in the alliance. As my resolution reflects, I think Secretary Rumsfeld took a major step forward when he moved on July 20, to delay the Army's program for the Main Battle Tank of the 1980's and 1990's until the contractors competing for the award priced out options for alternate configurations of the tank which could be used in common with our NATO Allies, especially the West Germans. I believe that this was the right decision. I believe it was the only decision which could have been made if we are to retain our credibility with our NATO partners who are anxious that standardization becomes a two-way street between American and European industry.

H. Con Res. —

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress approves the decision by the Department of Defense on July 20, 1976 to withhold the source selection of the contract to build the XM-1 tank pending the submission of proposals which will provide bid options on a competitive basis leading to greater standardization of components for the tank with our NATO allies. The Congress approves this concrete step toward commonality and interoperability with our NATO allies in the introduction of the Army's main battle tank of the 1980's and 1990's. This Department of Defense decision reflects the sense of the Congress expressed in Section 814(a) of Public Law 94-106.

## 84TH ANNIVERSARY OF THE FIRST SLOVAK SOKOL SOCIETY IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, October 30 is the 84th anniversary of the first Slovak Sokol Society in the United States, which was organized in my own city of Chicago in 1892, and this event will be celebrated with a banquet at the Sokol Community Center, 4855 North Elston Avenue, in Chicago, in conjunction with the year-long Bicentennial celebration of our Nation's founding.

Mr. Andrew Venglarchik, Jr., the Sokol U.S.A. national president, will give the keynote address, and there will also be a special presentation on the history and accomplishments of the Chicago Sokol during its 84-year history. The officers of the Chicago Sokol Lodge 306 include: Mr. Robert Chilla, president, 5003 North Kilbourn Avenue, Chicago; Mrs. Lillian Havel, financial secretary, 4477 North Keokuk Avenue, Chicago; Mrs. Ann Kresken, treasurer, 5330 West Sunnyside Avenue, Chicago; Mrs. Jacqueline Pracko, recording secretary, 207 North Stratton Lane, Mount Prospect, Ill.; Mr. John Washburn, Jr., physical director, 4843 North Kilpatrick Avenue, Chicago; and Miss Geraldine Friel, physical directress, Route 1, P.O. Box 119-A, Round Lake, Ill.

Mr. Speaker, this fine organization counts more than 23,000 members across the Nation and for the past 84 years, it has made an outstanding contribution toward the development of individual strength and physical fitness of all Americans through gymnastics.

In uniting the American heritage, and the Sokol ideals, in the hearts and minds of its membership, Sokol U.S.A. contributes greatly to the welfare, safety, and freedom of the United States. It was for this reason that I introduced the bill which authorized the President to proclaim October 30, 1972, as "National Sokol Day" in honor of the 80th anniversary of the first Slovak Sokol Society in the United States. I was gratified that my bill was overwhelmingly adopted by the House and Senate and became Public Law 92-486, which facilitated appropriate festivities and ceremonies across our Nation in celebration of this event.

"Sokol" means falcon—a bird that has strength, courage, agility, and a love of freedom. Sokol physical education stresses individual initiative and creativity and provides conditions for the development of the individual. Sokol gymnasiums and Sokol activities provide a training ground where each one can, according to individual strength and skill, develop oneself to higher standards of achievement in physical fitness. Self-discipline, a basic requirement for personal achievement, enables the gymnast to become a cohesive and cooperative member of the American society.

Sokol U.S.A. is composed of hundreds of lodges in the United States, which are divided into 16 districts. Administrative and gymnastic activities are directed by officers who are elected on local lodge, district, and national levels.

The culmination of the physical fitness program is the National Gymnastic Sokol Festival—Sokol Slet—which takes place every four years, usually in conjunction with the National Sokol Convention.

The festival, Slet, consists of competitions in gymnastics, sports, and calisthenics, with mass exhibitions of rhythmic calisthenics, apparatus, games, and national dances, performed by gymnasts from all the Sokol U.S.A. lodges. The mass calisthenics, which are a major part of the Sokol physical fitness programs, are performed to music, and are a beautiful part of the Slet program. Participants are children, junior boys and girls, and senior men and women. The age span is great, from 3 years of age through the sixties, and even beyond.

Mr. Speaker, it is an honor for me to join the members and officers of Sokol Lodge 306 in the 11th Congressional District of Illinois, which I am privileged to represent, and Sokol members all over the United States as they celebrate this anniversary. To the members of the Sokol U.S.A. I say, Nazdar—on to success—as you maintain your high standards of excellence and example to all Americans "that to achieve a free nation, its people must be physically and morally strong."

## THE LATE SENATOR PAUL DOUGLAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Simon) is recognized for 60 minutes.

Mr. SIMON. Mr. Speaker, I shall certainly not take all the time. I might explain very briefly to visitors in the gallery and those who are still here that I am taking just a few minutes to pay tribute to a man who greatly affected this Nation, Senator Paul Douglas.

One of the things he used to do would be to campaign on street corners. He had a little bullhorn which he would use on street corners. People would say that no one could hear him, but he would say, "Maybe someone is listening and will catch a few thoughts and might be affected by what I have to say." And perhaps in tribute to him I do that tonight, because as we meet I see that the clock right now is 3 minutes to 10. We adjourned this morning at 3:58 a.m.

I do not ordinarily prepare my remarks, but I have taken the time to sit down at a typewriter and have just a few remarks I have written out. I am going to take 2 minutes to tell the Members about this man. I will not go into detail.

Mr. Speaker, Paul Douglas' combination of idealism, candor, and practicality had appeal to youth, but perhaps no more to young people than to others. What is true is that he enjoyed being with young people. A political appearance on a campus generally turned into a Douglas lecture on whatever moved him at the time. With notes illegible to anyone but Paul, coat off, shirt tail half way out, and his wounded arm gesturing awkwardly—these physical features soon were lost in the substance of his remarks. And in that campus appearance, more than at a political rally, you received insights into the universality of his interests. If only Thomas Jefferson and Paul Douglas could have had a visit, and you and I could have been silent guests while they exchanged ideas.

Some public officials diminish in stature as you get to know them well. But for Paul Douglas respect deepened.

Part of my affection for him grew from the fact that he never forgot his moorings. We all have friends who have quietly slipped from hardship to comfort, and have found it convenient to forget those who face hardships. Not only does his record evidence that remembrance, his campaign style showed it. He felt much more at home on the streets of Tamaroa, in his adopted State of Illinois, talking with coal miners and farmers, than at a country club cocktail party in Arlington Heights. Few of us had any idea of the ruggedness of his early youth until his autobiography reached our hands. Even that does not give the full dimensions. A Paul Douglas weekend in Maine provides greater appreciation for the distance traveled from birth and early childhood to a position of prominence in the Senate. Even now the little village of Onawa is difficult to reach by car. There you see a small chapel which once served as a one-room school where young Paul sat at the feet of his remarkable stepmother, who served as the teacher. The hardships he experienced there, that he observed among others later in New York City and Ilinois, were never forgoten. And the Nation benefited from those memories.

In Senator MIKE MANSFIELD's brief farewell last week, he mentioned that he had served in the Senate with a few giants, one of them Paul Douglas. As you look over the list of Illinois Senators from 1818 to 1966, history will record as the greatest of them not Stephen A. Douglas or Orville Browning or Lyman Trumbull or Scott Lucas or Everett Dirksen, but Paul Douglas. The others contributed, but Paul Douglas contributed more.

That last sentence would have embarrassed Paul. He did not like to be called "great" or "the conscience of the Senate." He did not want to appear to be sanctimonious or professorial or distant. He loved to tell the story about meeting with a Madison County, Ill. Democratic leader, impressing him by downing two shots of whisky.

That aspect of Paul Douglas I missed in these biographies of the last few days. Paul not only had qualities of goodness and greatness, but he loved life—his hearty laugh, his stories about political characters like J. Ham Lewis, his enthusiasm for good causes, and his disgust with the phonies. Even in these last difficult months, when his voice was giving out, one of us apologized to him for talking so much politics, and he whispered, "I love it."

Paul did not hide his deep feelings. Shortly before lunch one day, word arrived that Mendes-France and other French leaders were marching down the Champs Elyssees protesting the ascendency of DeGaulle to power; they believed that democracy would die in France. As Paul told us of their march tears came to his eyes. When he felt strongly, he showed it. And he never hid his feelings about Emily, his heroine for many years who became our heroine these last years. I happened to be standing next to Paul in Woodriver, Ill., when word reached us that Emily had been in an automobile accident. That immediate cry of anguish from him I shall never forget.

The memories start to flood in as I sit at this old typewriter. Good memories. But a Paul Douglas tribute would be disloyal if it only looked back.

He made the future better and now we must do the same.

In Barbara Ward's latest book she describes humanity as Janus-like, looking both forward and backward. And in the look ahead she sees hope, and more compassion.

If she is correct, the Paul Douglases of this world have made that possible. He taught all of us, sometimes so gently we did not know we were being taught.

However inadequately we may reflect it, all of us bear an added responsibility to nurture the dreams for civilization which he conveyed to us.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. SIMON. I yield to my distinguished colleague, the gentleman from Washington, who bears a slight physical resemblance to the late Senator Paul Douglas and, much more than that, has a political and intellectual kinship with the Senator.

Mr. FOLEY. I thank my distinguished friend, the gentleman from Illinois (Mr. SIMON), for that wholesome praise, because as his eloquent tribute has just indicated, I think few in the history of the U.S. Senate or of the House of Representatives from any State in any time match the achievement and the greatness of Paul Douglas. He was a man who is a model for all who strive to serve in public life and whose whole career in public service has reflected such great credit on himself and on his State.

There will be many who will be, in the coming days, anxious to add words of tribute to the eloquent statement that has just been made by the gentleman from Illinois, and I would not seek to detract in any way from that very moving public and private reminiscence of the gentleman from Illinois.

I would like on this occasion, Mr. Speaker, to say that it was my privilege to know Senator Douglas when I was a professional staff member of the U.S. Senate. I agree wholeheartedly with the statement that my friend in the well, the gentleman from Illinois (Mr. SIMON), has just made, that the better one came to know Senator Douglas, the closer one knew him and the greater one's admiration for him developed and grew.

He was a man of great intellectual capacity, but yet he had a deep humanity and rock-like integrity, the kind of integrity that in some ways eventually led him perhaps to be willing to stand for his convictions rather than to compromise in any way in a changing political climate.

What he stood for throughout his public career, and particularly in his vision for this country, came to pass in large measure later in the years of his service. One looks back on his early strivings in the Senate and on the positions he took and realizes that the courses he charted for our country were prophetic, considering his vision and their eventual realization.

But one who has had the honor of knowing Senator Douglas always has the difficulty of dwelling too much on his public career, great as it was and monumental as it was, because somehow that does not touch the man or the humanity of the man and the warmth, the compassion, and the affection that all who knew him felt for him.

Mr. Speaker, his passing is a sad thing for his family and for his friends, but no one believes that Paul Douglas will be forgotten. His contributions, his life, and his service, public and private, will stand as a guide for all of us and as a model for service to country in the days ahead.

Mr. Speaker, I thank the gentleman from Illinois for yielding to me.

Mr. SIMON. Mr. Speaker, I thank the gentleman from Washington (Mr. FOLEY) for that tribute and for taking the time to stay here until this hour to make that tribute.

Mr. MIKVA. Mr. Speaker, it is with great sadness that I try to pay tribute to Senator Paul H. Douglas who died last Friday at his home in Washington.

Paul Douglas was a special man. He was an academe and a consummate politician, and he combined the best qualities of both disciplines. His campaigns in Illinois were like no other. To him, running for office was an opportunity to challenge them and their capacity to move with his new ideas on the great issues of the day. His style was that of a professor, describing a problem, presenting alternative solutions, and then forcefully making the case for the course which he favored. And, like a professor, one came away from a Paul Douglas campaign speech impressed not only by his intellect and energy, but also by the purity of his vision.

However, Senator Douglas was often sharp with professors and other intellectuals who, in his words, felt free to criticize politicians from the sidelines "but who never lift a finger to help the causes in which they say they believe." Few men were ever less suited to sitting on the sidelines, whether the activity on the field was politics, war, or football. Paul Douglas once said that in his first political race, for a Chicago aldermanic seat, he envisioned himself as "standing" for office. However, he soon realized that to be elected he needed to at least "walk" for office, and by the end of the campaign he was "running" for office. After that initial baptism, he ran hard on every issue, but such was his presence that even during the most hard-fought campaigns, he retained the intellectual objectivity of the professor and the emotional conviction of the orator.

In lesser men, his interests and achievements might have seemed to conflict. Paul Douglas was a professor and a politician; he was a pacifist and a decorated war hero; he was an economist and a believer in causes. He was a man devoted to the principles of justice, equality, and democracy, and the consistency of his personal convictions remained true even as the context in which he expressed them changed. Paul Douglas could stand behind a university lectern and debate labor economics with scholars, and he could sit down in a tavern and talk job security with a steelworker. He had the politician's respect for people and the professor's respect for intellectuals.

Paul Douglas possessed the best qualities of a teacher, but he also had a special quality that set him apart from even the best of teachers. Senator Douglas was involved in the action, and the way he conducted himself in the political arena, as well as the character of his ideas, stood as an example to thousands of people who earnestly believed that politics could be a noble process.

His interest in preserving the Indiana Dunes is well known, but it is significant that even his support of the dunes reflected his interest in the welfare and quality of life of people, for his fight to save the dunes was more than an effort to save a beautiful piece of land, it was also an effort to save a piece of land that was accessible to millions of people with few other outlets for experiencing the solitude and beauty of nature.

Paul Douglas closed his autobiography, "In the Fullness of Time," by quoting from a favorite poem:

Grow old with me!
The best is yet to be.
The last of life, for which the first was made.

The hope expressed in those lines, and the refusal to be apprehensive about the future, were continually reflected during the course of his life. It was that sense of courage about the future course of this Nation to which so many of us responded. At his death, we can pay him no higher honor than to rededicate ourselves to realizing his vision.

His wife, Emily, and his family have the gratitude of a nation for the generous sharing of this great man with all whose lives he touched. All who knew the Senator share the family's pride for his living, and sense of loss for his leaving.

Mr. ANDERSON of Illinois. Mr. Speaker, today I join my colleagues in paying tribute to one of America's most remarkable leaders, Senator Paul H. Douglas of Illinois, who died last Friday, September 24, 1976.

In the brief but abundant history of our great Nation, there are few who have served with such dedication, tenacity, and consistency. During his life Paul Douglas served his country in many pursuits; as a soldier during the Second World War, as a scholar and teacher in the field of economics, and finally, for 18 years as an outstanding leader in the U.S. Senate. Throughout all these endeavors, the skill, judgment, candidness, and conscious dedication which he displayed were qualities of a fine individual.

During the Second World War, Paul Douglas enlisted as a private in the Marines at the age of 50. He won the Bronze Star for his service at Peleliu, where he was injured. He was badly injured again at Okinawa, and was discharged in 1946 as a lieutenant colonel after 14 months in hospitals. Throughout his life, Paul's crippled arm served as a reminder to all of his courageous service to his country.

As an economist, Paul Douglas taught at several universities, including the University of Chicago. He gained national recognition in this field with the publication of several books and his greatest contribution is considered to be the early work he did on the production function, which ushered in the modern era of analysis of production of economists. His colleagues honored him by making him president of the American Economists Association.

Senator Douglas applied his knowledge of these often abstract and complex theories to concrete action. He is credited with drafting the first old-age pension act and unemployment insurance law of Illinois. As chairman of the Joint Economic Committee, Senator Douglas authored many pieces of legislation and was instrumental in formulating our present economic policy.

A champion of civil rights, Paul Douglas continually fought for basic human prerogatives even before it was fashionable. The Civil Rights Act of 1964 and the Voting Rights Act of 1965 incorporated many of his proposals. I think it is safe to say that his outspoken and unyielding commitment to civil rights legislation has brought America a great deal closer to realizing total equality within the 20th century.

I have had the honor of knowing and admiring Paul Douglas and will always treasure the personal moments of our acquaintance. While his presence will be sorely missed, Paul Douglas will remain in our hearts and minds as a brilliant statesman and a truly great American. My most heartfelt condolences go out to his wife Emily, and their five children.

Mr. ROSTENKOWSKI. Mr. Speaker, I am deeply grieved as I join my distinguished colleagues who today eulogize the life and accomplishments of a truly great statesman, Paul H. Douglas, of Illinois. Words alone cannot adequately express the contributions that this great man gave his constituents, as well as to all people in our country.

A unique man, a true patriot, Senator Douglas at the age of 50 volunteered to serve in the Marine Corps. His duty with the Marines in the Pacific involved him in some of the fiercest engagements of World War II. It is a well-known fact that he was twice wounded in action and was awarded two Purple Hearts and the Bronze Star. In all the years that I knew him, I never once heard him mention anything about his outstanding military record. Paul Douglas did not know how to boast.

His keen intellect, combined with his compassion for the poor and victimized, made him a man, to be certain, ahead of his time. He was a tireless advocate of civil rights legislation. He carried the standard for truth in lending, medicare, and the concept of one man, one vote. He was, also, one of the earliest and most vigorous defenders of the environment. But even with his many legislative achievements, Senator Douglas never sought publicity or fame. His modesty was only equaled by his sincerity. By any measure Paul Douglas was a great legislator and a man of rare personal qualities.

On behalf of Mrs. Rostenkowski and myself, I would like to extend my sincere condolences to Mrs. Douglas and the entire Douglas family.

Mr. Speaker, I include at this point in the RECORD an article on Senator Douglas from the September 25 issue of the Chicago Tribune. I believe this insertion is particularly noteworthy since the Chicago Tribune did not endorse Senator Douglas in any of his five races for the U.S. Senate:

### PAUL DOUGLAS DEAD AT 84

WASHINGTON.—Paul Douglas, scholar and three-term Democratic senator from Illinois, died in his Washington home at 9:50 a.m. Friday after a long illness. He was 84.

Douglas' death reportedly resulted from respiratory failure. A spokesman at W. W. Chambers Co., funeral directors, said funeral arrangements are incomplete and that Douglas had suffered three strokes in recent years.

Throughout his 18 years in the Senate, the white-maned Douglas was characterized as the epitome of the "fighting liberal."

Damned by some of his colleagues for his righteousness, the tall, bespectacled former University of Chicago economics professor was also respected for his consistency and integrity, winning grudgingly the title of "conscience of the Senate."

Douglas was a man who did things late in life—a Chicago alderman at 47, a Marine Corps private at 50, a United States senator at 56—but who always managed to bring his powerful physical and intellectual capabilities fully into play.

He had been a little-known member of the University of Chicago faculty for almost 20 years when, in 1939, he was elected Chicago's 5th Ward alderman with the reluctant support of the Kelly-Nash Democratic machine.

Douglas lost little time making the machine rue that support, joining with one other alderman to form a vocal minority bloc on many issues.

In 1942, he was the antimachine candidate for senator, and was trounced in the primary by Raymond S. McKeough, who went on to lose to his Republican foe, the late Sen. C. Wayland Brooks.

On the day after the election, the 50-year-old Douglas enlisted in the Marines as a private, pulling political strings for perhaps the only time in his career to get a waiver for his poor eyesight.

His friends expressed shock and surprise, but admitted that it was in character for Douglas to practice the same resistance to Axis aggression he had preached as a professor, an alderman, and a candidate.

At boot camp at Parris Island, S.C., Douglas won medals for his proficiency with pistol and bayonet among amazed recruits who were young enough to be his sons.

Douglas was considered to be too old to go overseas in a combat role; so he accepted a commission as captain in a noncombatant's role and joined the 1st Marine Division in the Pacific theater.

He chafed at his desk job, and finally got his wish for combat duty at Peleliu, replacing a wounded adjutant.

Douglas went through some of the toughest fighting in the Pacific, earning two Purple Hearts for wounds and a Bronze Star for transporting ammunition under fire.

His second wound, suffered on Okinawa, permanently crippled his left arm and ended his military career. He was discharged as a lieutenant colonel in 1946.

His second wife, Emily Taft Douglas, daughter of sculptor Lorado Taft, had been elected Illinois congresswoman-at-large in 1944 and then lost in the Republican landslide of 1946.

Undaunted by that, Douglas decided two years later to oppose Sen. Brooks. With the Kelly-Nash machine deciding to support him and another blue-ribbon candidate, his close friend Adlai E. Stevenson Jr., for governor, Douglas won his 1948 Senate race by a surprising 407,000 votes, helping President Harry Truman squeak through with a 33,000-vote margin in Illinois.

Although Douglas was not a member of the Senate's select "inner circle," he learned the ropes so quickly that the Washington press corps selected him as the nation's best senator in 1951, after less than three years in office.

He also mastered the Senate art of heaping praise on his adversaries so as to make them look foolish.

"He's so damn polite while he's sticking a knife into you that you don't seem to mind too much," one colleague said.

Douglas amazed congressional onlookers by adopting a firm policy of refusing all gifts worth more than $2.50 so as to avoid even the appearance of impropriety.

He also turned down fees for speeches he made to groups with any interest in pending legislation, and even went so far as to put his own meager stock holdings in a broad-based mutual fund.

The Illinois Democrat's firm convictions also put him in the forefront of Senate liberals fighting for minimum wage and civil rights legislation, federal aid to education, and a national medical program.

He was on the losing end of many legislative battles, but kept introducing and sponsoring the same bills session after session.

Among the Douglas battles that were not won until after he left the Senate were the Indiana Dunes National Lakeshore and truth-in-lending legislation.

Douglas supported Truman's intervention in Korea, and gave strong support to the Viet Nam policies of Presidents John F. Kennedy and Lyndon B. Johnson. He was a subscriber to the "domino theory," which held that Communist aggression not stopped one place would grow quickly in another.

Douglas won re-election easily the first two times, defeating Joseph Meek by 240,000 votes in 1954 and swamping Samuel Witwer by 437,000 in 1960.

But his fourth-term bid in 1966 was unsuccessful when young Charles Percy beat him by 400,000 votes.

Among the factors contributing to Douglas' loss were white backlash over his support of open housing, his advanced age [74], and sympathy over the tragic slaying of one of Percy's daughters during the campaign.

Douglas recovered quietly from this defeat, and plunged ahead with other public service activities.

He became a professor at the New School of Social Research in New York; accepted the chairmanship of the President's Commission on Urban Problems; was elected chairman of the board of Freedom House; and became the spokesman for the Citizens Committee for Peace with Freedom in Viet Nam.

In the latter capacity Douglas continued to support presidential policy so strongly that some 70 antiwar students walked out when he was given an honorary degree by the University of Illinois at Chicago Circle in 1970.

He was less active after August, 1969, when he was confined to a wheelchair after two heart attacks and a mild stroke.

His confinement led Douglas to writing, one of his favorite pastimes. He wrote his memoirs, entitled "In the Fullness of Time," in which he said his greatest frustration in the Senate was the failure of liberals to seize control of the body even when they had majorities.

Occasionally Douglas made trips out of Washington for speaking engagements. His battle for the Indiana Dunes made him a favorite of environmental groups.

Yet he and Emily Taft Douglas continued to make their home in Washington because, said Douglas: "I couldn't get a job in Illinois. I had to go where there was work for me to do."

Douglas began life as a strapping boy, eventually packing 235 pounds on his 6-foot-2½-inch frame.

He was born in New Salem, Mass., and grew up in Maine. He played football for Bowdoin College while earning a Phi Beta Kappa key. He earned his master's and doctorate degrees from Columbia University before beginning his teaching career in 1916.

Douglas taught economics and industrial relations at the University of Illinois, Reed College in Portland, Ore., and the University of Washington before going to the University of Chicago in 1920. He was a full professor by 1925.

During the 1930s, Douglas was an adviser on unemployment problems in New York, Pennsylvania, and Illinois. He also helped set up the nation's Social Security program.

His first marriage, to Dorothy S. Wolff, produced two sons and two daughters. He had a daughter, Jean, by his second marriage to Emily Taft.

Mr. DUNCAN of Oregon. Mr Speaker, I wish to add my personal tribute to the late Senator Paul Douglas of Illinois.

Like myself, Paul Douglas had his roots in the "Land of Lincoln." In this fact alone, I take pride. But it is an insignificant fact when measured against his vast contribution to our Nation.

To me, the measure of a man can be plainly seen in the little acts that show the degree of regard by his peers and friends.

I was not fortunate enough to be closely acquainted with Senator Douglas, but I do know how highly regarded he was by those who knew him well.

Several years ago, shortly after Senator Douglas and I had both lost our elections to the Senate, I was in the office of the Vice President of the United States, HUBERT HUMPHREY. The Vice President asked if I could ride to the airport with him so we could continue our discussion. I declined with thanks saying that I had already overstayed my leave. The Vice President said:

> I am sorry. But Senator Douglas is coming back to Washington today and I think someone ought to meet him.

And he did.

Even in defeat, when one is so quietly and completely forgotten, Senator Paul H. Douglas commanded respect from one of our great leaders. Those who speak today about "the man who stands tall" only serve to reinforce the greatness of Paul H. Douglas.

Mr. OTTINGER. Mr. Speaker, I wish to pause for a moment to honor the late Senator Paul Douglas and to reflect with admiration upon the man and his accomplishments. It is a rare occasion when the scolar and the politician gel in one character successfully, and Mr. Douglas serves not only as a model for us but as testimony that these traditionally opposing traits can exist similtaneously; feeding upon and enriching one another.

Serving in the Senate for 18 years, Mr. Douglas was a champion of public service and an indispensable authority in economic matters. The decorated war veteran, the minimum wage advocate, the one concerned with all aspects of those forgotten in the system, was 10 steps ahead of his time. In thought and mannerism Mr. Douglas projected the profile which most of us are trying to project now. He fought for issues which we are still resolving, and Mr. Douglas did so under the scrutinizing eye of those who were unable to comprehend his foresight.

Mr. Douglas gained the love of countless youths. As a clever mentor, he stimulated their desire to learn, and his political endeavors allowed them to gain respect for government and its members.

It is my wish that Mr. Douglas should be remembered now, for that which he has contributed to our thought, and remembered in the future as a pioneer of social legislation.

Mr. WHALEN. Mr. Speaker, just a short time ago, the country lost a great and decent human being, the Honorable Paul H. Douglas, former Senator from Illinois.

As the critical light of history illuminates the men and the deeds of our great country, certainly the life of Paul Douglas will shine brightly.

Born to poor parents in the Maine woods, the late Senator Douglas worked his way through college, first at Columbia and then at Harvard, eventually joining the staff of the University of Chicago as an assistant professor of economics. There, among some of the great minds of his time, he rose to a full professorship and in 1939 began his political career on the Chicago City Council.

It is perhaps indicative of Paul Douglas, the man, that in May of 1942, at the age of 50, he volunteered for combat service with the U.S. Marine Corps. Requesting and receiving no special treatment, Mr. Douglas completed boot camp and later was awarded the Bronze Star for service on Peleliu—an honor that he cherished all his days.

It is not possible to recount in a few short passages the many achievements, battles, and distinctions of Paul Douglas, the Senator. His fights and stands on the issues of his day read like an honor roll of legislative effort. From medicare to housing, from tax reform to civil rights, Senator Douglas stood his ground against a storm of unpopularity as he fought to make life just a little better for the poor, the aged, and the oppressed.

I first had the pleasure of meeting the late Senator when he addressed the student body at the University of Dayton where I, as he did at the University of Chicago, served as a professor of economics.

I will always remember Paul Douglas as a visionary—a man who perceived truth and justice through the haze of politics. The image of the valiant, old, silver-haired warrior, speaking in his low and deliberate style, is not one that I will soon forget.

It is not often that this great deliberative body can count as one of its Members a man of such character and pride. His loss is our loss. His work is our work.

Mr. MURPHY of Illinois. Mr. Speaker, Paul Douglas was a man who could not be physically ignored. His white hair and large frame made him easily recognizable during his 18 years in the U.S. Senate. But it will not be for his size that he will be best remembered by friends and admirers.

Paul Douglas stood for what was right but he was not a self-righteous man. It has been said many times in the last few days that he championed human rights long before the issues were acceptable and safe ones. He stood on many political limbs alone but he never complained about being lonely.

He recognized that someone had to stand up for those unable to stand up for themselves. He realized that a lot of people shied away from the political arena which could provide legislative alternatives for them. He decided he would not only speak for these people but he would get results for them as well.

Paul Douglas did not always win. In fact, in the beginning, he lost considerably more battles than he won. But he did not know what it was to give up. He knew there was too much at stake. He knew people were counting on him. And he knew there were a lot of political opponents who would have liked nothing better than for him to concede.

Paul Douglas represented my great State of Illinois but, in a very real sense, he represented all the States. His interests did not just benefit the people of one State because his interests did not stop at the State line. He thought big all his life but he knew you had to begin every struggle a few steps at a time. Today's Washington Post editorial remembered a few Douglas lines from his book "In the Fullness of Time":

> Remembering how attempts to cure or even improve (social) conditions on a wholesale or universal scale in the past had only resulted in failure, I tried to satisfy myself with taking a series of small steps.

Senator Douglas was an intellectual, a fine legislator, an economics professor, and an environmentalist. The preservation of the Indiana Dunes was special to him. But I think he would want to be remembered as a man of the people. He was sensitive to their needs and their aspirations. He fought hard for them and he loved them. Best of all, they loved him back.

Mr. FLOOD. Mr. Speaker, the passing of former Senator Paul Douglas of Illinois marks the passing from this scene of one of the true "giants" to ever serve in the Congress of the United States.

My friendship with Paul Douglas began in the mid 1950's, when we began a long association of legislative cooperation in programs designed to aid poverty stricken sections of America, chiefly in the mid-Atlantic States. Our legislative proposals generated into the 1958 enactment of the Flood-Douglas bill, which was the pace setter for one of the most successful economic assistance programs ever taken by our Government, known to all simply as "Appalachia." It was my great pleasure, and shall always remain as my sacred memory, that I was privileged to work with Paul Douglas in forming the Appalachian Regional Commission, one of the most innovative and productive projects of its type. Because of Paul Douglas and a few more like him, the scars of poverty, both personal and environmental, were removed in part from the American scene. And because Paul Douglas cared, Mr. Speaker, millions of Americans felt the end of the pain of starvation, together with job opportunities, educational opportunities, and a chance to lead a life which gave him respect with his family and his community.

Mr. Speaker, I mourn the passing of this great American. His record of service to the Senate of the United States will shine forth along with that of Webster, Calhoun, Borah, George Norris, Robert Taft, and others.

Mr. Speaker, I would like to place in the Record editorial tributes to Paul Douglas which appeared in the Washington Star and the Washington Post:

[From the Washington Star, Sept. 28, 1976]

### PAUL H. DOUGLAS

National leaders often talked about Paul H. Douglas in superlatives. President John F. Kennedy once called him "one of the most gifted figures in the Senate in this century." The NAACP's Roy Wilkins called him "rare among our senators." Hubert Humphrey called him a "giant of a man and a giant of a senator."

Paul Douglas stood out all right. At 6 feet, 2½ inches, he towered over most people. He had a national reputation as an economist and as a teacher. As a Senator, he stood tall for "people" programs long before most of his colleagues in the Congress caught up with them.

He crusaded for equal treatment and opportunity for minorities when that was an unpopular cause. During 18 years in the Senate, he fought for truth-in-lending, public housing, higher minimum wages, Medicare, federal aid to elementary and secondary education, conservation of natural resources, the vote for 18-year-olds, the concept of one-man-one-vote.

He was an independent man who followed his conscience. When opposition to the war in Vietnam became a yardstick of liberalism, Senator Douglas refused to soften his support of the policy pursued by President Johnson.

"I do not intend to shift or change (my views) as public opinion or polls shift and change," he declared in a foreign policy address during his 1966 campaign for reelection.

Mr. Douglas was not a member of the Senate's inner "club." He was too independent. He thought members of Congress ought to disclose their financial interests, a notion that did not endear him to his colleagues in the pre-Watergate era. He not only published annual accounting of his income and expenditures but refused to accept any gift worth more than $2.50.

Paul Douglas came a long way from the Maine backwoods where he grew up. He became a Phi Beta Kappa scholar, a college football player, a professor, a Chicago alderman, a Marine recruit at the age of 50 (he pulled some strings to get the Marines to take him, and was wounded twice in Pacific battles), a senator in 1948 at the age of 56.

During the 1966 campaign, Senator Douglas sat down one day in a Chicago tavern to share with several reporters the dark German beer he liked and to discuss the issues. Though his frame had become bent with age—he was 74 then—his mind still churned with the agility that helped him fashion some of the most significant legislation of the century. "My own fate is relatively insignificant in history," he said. "But what happens to civil rights and resistance to aggression is important."

That was his last campaign. In an election that turned on age as much as anything else, Illinois voters selected Republican Charles Percy, then 47, who had been one of Senator Douglas's students at the University of Chicago. After defeat, he returned to the academic world.

Mr. Douglas died last Friday at 84. His contribution to his country and his fellow man was far from insignificant.

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[From the Washington Post, Wed., Sept. 29, 1976]

### PAUL DOUGLAS

In Paul Douglas' last years, in his home on Davenport Street in Northwest Washington, the former Illinois Senator fought stubbornly against a number of physical diseases. But friends who visited him found that however weakened his body had become, the mind of Mr. Douglas remained sharp and vibrant. He had passed from power—in 1966 when he lost a reelection race—but he refused to pass from participation. Nearly all the battles in which he had soldiered as a spirited and thoughtful senator were still being fought—over great national issues like tax reform, for example, or over such back-home environmental causes as saving the Indiana dunes. On so many social issues Sen. Douglas had been ahead of his time; that being true, he saw no reason to let the times now pass him by.

As one who went into politics after years as an economics professor, Sen. Douglas brought a style of scholarship to his work that allowed him to debate the issues intellectually as well as emotionally. He could feel for the poor and the victimized, but he could effectively champion their causes because his arguments were based on clear reasoning and dispassionate reflection. In his 18 years in the Senate, his constituency became a national one, benefitting from his pioneering advocacy of civil rights, decent housing, welfare reform, economic competition, fiscal accountability in government, cooperatives, pension funds and anti-poverty programs. He called himself "a gradualist." In his book, "In the Fullness of Time," he wrote: "Remembering how attempts to cure or even improve [social] conditions on a wholesale or universal scale in the past had only resulted in failure, I tried to satisfy myself with taking a series of small steps."

Some of those steps, we now see, were larger than Sen. Douglas' gracious modesty allowed him to admit. Such a trait was found in other parts of his life. He made little of joining the Marines at age 50 (and learning how to scale a 10-foot concrete wall to graduate from boot camp). He quietly imposed a rule on himself that allowed no gifts worth more than $2.50. He understood his own mortality, but could say whimsically: "Twice the old gentleman with a scythe advanced toward me wearing his most winning smile. Then he retreated. . . ."

The political record of Sen. Douglas was marked by involvement in causes that sought to raise the quality of life for those who needed help the most. He said once, "Certainly there is much wrong with the world today. Nevertheless, I see bright spots." He was a modest man, who sought little for himself, so it must fall to others to observe that his own career, illuminated by integrity and scholarship, was one of the bright spots.

Mr. DERWINSKI. Mr. Speaker, it was with a great deal of sadness that I learned of the death of former Senator Paul H. Douglas, who passed away on Friday, September 24.

Paul Douglas served in the U.S. Senate for 18 years, and he was a very devoted public servant, most diligent in his discharge of responsibilities for the State of Illinois. Paul Douglas was a giant of a man, and a giant of a legislator.

Prior to entering Congress Paul Douglas served in the U.S. Marines during World War II, and was decorated for his outstanding service. In his early career, he joined the faculty at the University of Chicago and later joined the faculty of the University of Illinois in the economics department.

He will go down as one of the most outstanding public servants on the national scene and in Illinois history.

His expertise was in many fields, but most notably in economics. Throughout his career, his integrity in conjunction with his sensitivity to the needs of others, enabled him to command the complete respect of all.

Paul Douglas was truly dedicated to public service, and lived up to the full measure of his responsibilities. His commitment to traditional American values and principles remains as a legacy to his successors.

Mr. UDALL. Mr. Speaker, people—especially young people—need heroes. Paul Douglas was one of my heroes. From the time I was a college student, when he came on the national scene with an upset victory in the 1948 Senate race, I observed him carefully and marked him as someone I would like to emulate.

One day 20 years later, my secretary informed me that there was a Mr. Douglas waiting to see me. Expecting a lobbyist or a visiting constituent, I came out and found instead one of the giants of this century. By then a former Senator, he was literally going door to door through the House office buildings seeking help in saving the Indiana Dunes.

He explained:

> When I was young, I wanted to save the world. In my middle years I would have been satisfied to save my country. Now I'm old and I just want to save those dunes. Will you help me?

It was perhaps the most effective lobbying I have seen in my years here, and I soon became deeply involved in Paul Douglas' crusade. Few associations have given me so much satisfaction. Visiting the lakeshore with him, I came to share his passion for that wonder of nature, and I have supported every effort to extend protection, including this year's bill.

Justice Holmes once wrote:

> I think that, as life is action and passion, it is required of a man that he should share the passion and action of his time at peril of being judged not to have lived.

Paul Douglas epitomized those words. He was probably the last American public figure to have been raised in a log cabin. Like his contemporary, Justice William O. Douglas, he learned the lessons of the wilderness—that man is but a small part of nature, and that man's survival depends on an understanding of nature's demands and limits. He never confused personal identity and independence with turning one's back on others, but neither did he let his commitment to social justice and equality excuse personal responsibility for one's actions and beliefs.

Despite a deep strain of pacifism, he answered his country's call in World War II. At the age of 50, with extensive knowledge and experience in economics, he insisted on entering the Marine Corps as a private and paid the price of a crippled arm for his valiant service on Okinawa. That one act said so much about his bravery and idealism.

Through three terms in the Senate, he was a tower of integrity, fighting for civil, political, and economic justice, and maintaining the trust of the people through full disclosure of his personal finances.

In politics, class counts, and Paul Douglas showed his class in his last campaign, refusing to strike an unfair blow or to take advantage of personal tragedy in his opponent's family. In defeat as in victory, he was a man to admire.

So it was that, when I sought the office of President, nothing made me more proud than that he was one of the very first to offer help.

His superb autobiography recounts this unique life under the particularly appropriate title: "In The Fullness of Time."

We are privileged if one man like Paul Douglas comes to this city in a generation. I do not expect to see many more. To his widow, Emily, an exceptional person and partner, I extend my deep sympathy.

There is a tombstone in South Carolina on which the epitaph is written:

> Unawed by opinion
> Unseduced by flattery
> Undismayed by disaster
> He confronted life with antique courage
> And death with Christian hope.

No words better describe my friend Paul Douglas. I shall miss him.

Mr. ULLMAN. Mr. Speaker, I join my colleagues in paying tribute to Senator Paul Douglas—a great legislator whose high ideals and standards for achievement have seldom been matched in the history of the U.S. Congress.

Paul Douglas came to the Senate in 1948 as a widely respected scholar and economist, and his ability to translate his vast fund of knowledge into realistic legislative goals immediately established him as a leader in that body. The breadth of his vision carried him far beyond what was politically popular in that day, but if he was not always on the majority side when the votes came in, he was in the forefront of debate on social and economic issues, and over the years the ideas that he championed left an indelible stamp on the thinking of his colleagues and on the legislation that was finally passed.

His sense of justice and fair play for all the American people made him a tireless advocate of civil rights and tax and other economic reforms. He fought for a higher minimum wage, truth-in-lending, the vote for 18 year olds, Federal aid to elementary and higher education, and the concept of one-man, one-vote.

Senator Douglas came to Oregon, where he had once taught at Reed College, to campaign for me when I first ran for Congress, and his counsel, and his warmth and generosity as a human being, have meant a great deal to me. I shall always be indebted to him for his guidance and help, and I shall greatly miss him.

Mr. CORMAN. Mr. Speaker, I share in the tribute honoring the late distinguished Senator from Illinois, Paul H. Douglas who died on Friday at the age of 84.

As we all know, many fine men and women have served in the U.S. Congress. But every so often one individual stands out as really exceptional in terms of his public contribution and deserves special recognition by his colleagues. Our remembrance of Paul Douglas epitomizes a celebration of ideals, vision and intellect for he was one of the finest individuals ever to serve in the U.S. Senate.

An economics professor turned politician, the late Senator was elected to three full terms by the wise people of Illinois. During this 18-year period, Senator Douglas was a respected leader because he was compassionate, conscientious, and effective. He was a remarkable Senator. He fought for the underprivileged, advocated consumer protection, served as a member of the Committee for National Health Insurance and led the difficult battle for civil rights during its most crucial period. He chaired the Joint Economic Committee and long before it was fashionable, Paul Douglas revealed his financial worth and refused to accept gifts above $2.50.

Senator Douglas was a multitalented individual but one of the things that most impressed me above him was his vigor and vitality. He always was involved—forever the participant and rarely the distant spectator. A man deeply committed to a pacifist philosophy, Senator Douglas enlisted as a private in the Marine Corps during World War II at the age of 50. Because of his age, the Corps tried to keep him in the country, promoting him to corporal, then sergeant and captain. But Senator Douglas went to Secretary Knox and was assigned to the 1st Marine Division in the Pacific.

The marines tried to, understandably, keep him at headquarters away from the brutal fighting. But Senator Douglas "won out" and was in action at Peleliu where he was wounded and won the Bronze Star. On Okinawa, one of the most devastating land battles of the Pacific war, Senator Douglas was badly wounded and spent a year in Walter Reed Hospital trying to regain the use of his left arm which had been severed in combat. He was discharged as a lieutenant colonel after being hospitalized for 14 months.

As a fellow marine, I always felt proud to share the "semper fi" tradition with Senator Douglas. He was a man of action and conviction. He was a teacher and a scholar. He was honest and hardworking. In short, he was a model for all in public service.

A man of uncompromising principle, Senator Douglas represented the true spirit of liberal philosophy long before that term became hackneyed and, for some, an undesirable label. Upon coming to Congress in 1961, I came to associate myself with the fight for civil rights and joined forces with the Senator. I cannot remember a more satisfying victory in the Congress or a better ally.

Too often we get caught up with the legislative fever and fail to reflect on the contributions of our former colleagues. We need not only eulogize Paul Douglas but feel extremely privileged that his life touched ours. I know I do.

Mr. METCALFE. Mr. Speaker, I join with my colleagues today in honoring a great man, a man described by the New York Times as "a champion of liberal causes." And I might add, a champion of liberal causes at a time when such causes were unpopular.

Paul Douglas was a good and decent man. He represented the State of Illinois in the Senate of the United States for 18 years and he represented the State well.

Paul Douglas' platform in his campaign for the Senate in 1948 indicated his concern and also the fact that he was in the vanguard of issues then that are today in the foreground. His platform at that time called for Federal aid to education, inflation, and monopoly controls, expanded social security benefits and strong civil rights legislation.

Clarence Mitchell of the Washington office of the National Association for the Advancement of Colored People once said that "Without Paul Douglas, we would have no civil rights legislation as we know it today. He was the leader of the Senate team from 1949 into the early 1960's."

Paul Douglas began his political career in 1935, after a successful academic career, when he was elected to the Chicago City Council. Although a Quaker, he joined the Marines in 1942 at the age of 50 because he so abhorred the tyranny then rampant. In 1948 he was elected to the U.S. Senate.

One could enumerate the causes that Paul Douglas championed, the bills which he introduced and the laws which he ultimately authored. Others have already done this and no doubt will do so again.

What impressed me most about Paul Douglas was the fact that the man had the courage of his convictions. To wage a battle is one thing, to wage a lonely battle is another matter.

Let it be said of this man that he had the courage of his convictions. That he constantly reminded his fellow Senators and his fellow citizens that all was not right in this country.

That he attempted to meet the needs of his fellow citizens;

That he attempted to replace injustice with justice;

That he attempted to secure for all—the rights that were due to them under the Constitution. He did not know race or color.

Mr. Speaker, Senator Douglas and I were very close friends. For many years Senator Douglas had a residence in what is now part of my district. He and his wife were an effective team. Together they championed many causes in an attempt to improve the quality of life for all our citizens.

Mrs. Metcalfe joins me in extending our deepest sympathies to Emily Douglas.

The world is a better place because Paul Douglas walked with us awhile. Let us remember him. Let us continue his work.

Mr. REUSS. Mr. Speaker, today we have the great privilege of honoring the memory of Senator Paul Douglas. Our testament to his vitality, his courage, and his vision fail to describe the man. Paul was a man who spoke best for himself. In this age of "middle-of-the-roaders," he chose his path, however unpopular, and pursued that course. He championed the causes of human rights when the majority kept silent. He bore the consequences of his positions with dignity and strength.

A Phi Beta Kappa who spent as much time on the football field as he did in the classroom, Paul battled his way through Illinois politics to secure his Senate seat where he served his State for 18 years. During those years, this country boy instructed us in economics, to action housing, and later, in revenue sharing.

An aggressive statesman and a dear friend, Paul Douglas saw beyond the present and pursued new ideas for the future. He saw America's potential and helped us realize it. With his devoted wife Emily, his son John, and the other members of his family, we share the memory of a truly great man.

Mr. McCLORY. Mr. Speaker, it was with deep sorrow that I rise to note the passing of Senator Paul Douglas of Illinois, a man whose long public career uniquely combined intellect and compassion.

Paul Douglas came to Washington from academia—an unlikely source for a legislator—and quickly established himself as the conscience of a nation. But he was also schooled on the Chicago City Council on which he served as an alderman. He was among the first to focus national attention on such issues as civil rights, welfare reform, housing, and poverty. In these respects, the Senator's social conscience was ahead of that of our country. He was an avowed and articulate liberal.

Setbacks did not deter him. His concerns were a decade before they were embraced by other liberals. Paul Douglas persevered, knowing that slow, steady progress would produce results, and that the changes he inspired were essential social service to Illinois and the Nation. His accomplishments paved the way for the breakthroughs that were to come later.

Mr. Speaker, this truly great man was characterized not only by moral and political courage, but by physical courage as well. At the age of 50, he joined the Marines, and participated in major action in the Pacific theater. Later in life, he fought battles less well known but perhaps more intense. Constantly plagued by illness, Senator Douglas' body and spirit won victory after victory, until his recent passing.

Mr. Speaker, I knew Senator Paul Douglas not only from the illustrious public record he established over a long period of service in Illinois and in our Nation's Capital, but from the personal relationship I was privileged to enjoy with this giant of a man. It took only a short time for me to realize that beyond the depth of his erudition and eloquence, there reposed a gentle, friendly, and personable man. He had a keen sense of humor, and enjoyed the banter which comes from the kind of political give and take to which those of us in public life become accustomed.

Mr. Speaker, Illinois and the Nation were served honorably and capably by Paul Douglas. We are poorer for his passing.

Mr. RUSSO. Mr. Speaker, the people have lost a champion. Former Senator Paul H. Douglas, who graced this world with his presence for 84 years, died last Friday at his home in Washington. We are all diminished by his passing.

Throughout his life, Paul Douglas was consumed by a burning desire to serve his Nation and its people.

Wherever there was a good fight to be waged, Paul Douglas could be found, bearing more than his full share of the struggle.

As a professor of economics at the University of Chicago in the late 1920's, he challenged the immense economic and political power of Samuel Insull, the utilities and transit magnate.

In 1942, with his country engaged in a war for survival, Paul Douglas, at the age of 50, joined the U.S. Marine Corps. For his distinguished service in combat in the Asian theater, he was awarded the Bronze Star.

In his 18 years as a U.S. Senator from Illinois, Paul Douglas amassed a record of legislative achievement that reflected his belief that Government can, and must, serve as an instrument of justice and freedom.

The number and range of groundbreaking legislative proposals that remain as testimony to the inspirational leadership and tireless advocacy of Senator Paul Douglas leaves one awestruck. Senator Douglas played an active, vital role in the struggle to enact legislation in the fields of health, education, taxation, consumer protection, and civil rights. Those with little power and influence in our society, who often feel ignored by the political system, knew that Senator Douglas could hear their voices.

As a public figure, Senator Douglas' unyielding integrity and commitment to principle served as a shining example to those who believe that the practice of politics in a democratic society can be a noble profession.

Senator Paul H. Douglas is gone from us now, leaving a void that cannot be filled by any other single human being. But he leaves a powerful legacy, not only in our statute books, but in the hearts and minds of countless Americans whose lives have been enriched by this good and decent man.

Mr. HELSTOSKI. Mr. Speaker, today we honor the late Senator Paul Douglas, a man of rare intellectual ability and legislative skill. His 18 years of service in the Senate have had a profound effect on the lives of every one of us.

Mr. Douglas was committed to fundamental human and constitutional rights—at a time when these rights were nonexistent for many of our citizens and which are still so often abused or neglected today.

Senator Douglas was truly ahead of his time. He pushed for legislation unpopular in the 1940's and 1950's which eventually became law in the 1960's. In this regard, he advocated civil rights legislation which was not considered necessary or desirable by the majority of his colleagues. He is credited with preventing the Senate from blocking civil rights measures once they finally began moving later in his career. His actions and outspoken manner on controversial issues caused him to remain outside the "inner circle" of the Senate. His colleagues were rumored to have been annoyed, because he insisted upon disclosing his personal finances before there was any climate which demanded elected officials to do so.

Briefly, highlights of his career include working for legislation to promote economic justice, equalize the tax system, cut military waste, preserve the environment, and prevent urban blight. Mr. Douglas was considered a threat to vested interest groups and he fought many lonely battles for the public good. Many of these battles were won after he left the Senate such as the repeal of the oil depletion allowance and the reform of the Senate filibuster. Issues of concern in the 94th Congress, such as public financing of elections, Government in the sunshine, and so forth, were issues of concern to Senator Douglas 25 years ago.

Mr. Douglas possessed an incisive mind and a heart of compassion. He opposed Government waste and mismanagement but always supported measures to help the disadvantaged. He was only too aware of the few voices in Congress who address the problems of the people with the least resources and lobbying power.

Senator Douglas will always be remembered as a truly progressive legislator and human being. His actions and record will forever speak louder than any words. He will remain an inspiration to all of us in public life and the people we serve.

Mr. ROYBAL. Mr. Speaker, as the House pauses today to honor former Senator Paul Douglas, I would like to join my colleagues in paying tribute to the memory of this great American. It was with deep regret that I learned of the Senator's passing and it is, indeed, fitting that time be taken from the regular legislative business of the day to mark the passing of this outstanding legislator and human being.

Paul Douglas was an experienced economics professor and highly respected adviser in matters of social security, unemployment, and consumer affairs, when he was elected to the Senate in 1948. He was one of the first-rate economists ever to serve in the Congress, and repeatedly espoused social and economic legislation which was politically unpopular at the time, but later became part of the law of the land.

From his earliest days, he untiringly pushed for civil rights legislation. He was an advocate of public housing, truth-in-lending, the concept of one-man one-vote, the vote for 18-year-olds, a higher minimum wage, disclosure of union and management welfare and pension funds, medicare, Federal aid to elementary and higher education, and improved immigration laws. Long before military waste and excessive spending became public issues, Senator Douglas was exposing overcharge for equipment and disclosure that hundreds of retired high-ranking military officers had moved to jobs with big defense industries.

A pacifist and a man of extraordinary nonviolent convictions, Senator Douglas enlisted in the Marines during World War II and found himself on Okinawa in one of the bloodiest land battles of the Pacific war. While strongly opposed to the concept of war, he served his country valiantly and received a Bronze Star for his heroic achievement in action.

Senator Douglas served the State of Illinois and the entire Nation with unfailing distinction and dedication. He was an outstanding Senator, a man of conviction and commitment to high ideals. And he will be remembered for his fortitude and foresight, combined with a patriotism dedicated to peace.

It is with deep sorrow that we now mark the passing of this great American who repeatedly sought to raise the quality of life for those who needed help the most. My sincere sympathy is extended to his widow, Emily, and to his entire family.

Mr. POAGE. Mr. Speaker, It was my privilege to serve in the House while Hon. Paul Douglas represented the State of Illinois in the U.S. Senate. Although we were never close friends, and we ofttimes held diverging views, I came to consider Paul Douglas as one of the most dependable, conscientious and courageous Members of Congress. He was always willing to express himself and he did so without hesitation or reservation.

In the vernacular Senator Douglas looked like a Senator; and in my judgment, he acted like a Senator. I feel that he served our country well and faithfully. I deplore his passing and I extend my deepest sympathy to his family.

Mr. CONTE. Mr. Speaker, this country lost a moral leader, the Congress one of its most distinguished former Members and the State of Massachusetts one of its most illustrious native sons with the passing away last Friday of the Honorable Paul Douglas.

I want to thank the members of the Illinois delegation for taking this special order today that we might pay fitting tribute to the memory of this giant.

Not only was Paul Douglas a close and dear friend, but we shared a special love for western Massachusetts. Born in Salem, Mass. Paul Douglas returned to the Bay State in 1924 for 3 years as a visiting professor of economics at Amherst College. His brief tenure there instilled a deep regard for the people and the area that makes up the congressional district that I am privileged to represent.

That regard was reciprocated and I am proud to say that Amherst College was one of the 20 institutions of higher education to award "the Professor" an honorary doctor of laws degree.

Distinguished academician, brilliant teacher, local alderman, Marine Corps enlistee at age 50, U.S. Senator for 18 years, champion of civil rights, foe of Government waste, author of minimum wage legislation, draftsman of the first Social Security Act—he was all of these and more. But what sticks in my mind of the man is his strength of character. In 1973, when he was already fighting his losing battle with ill health, Paul Douglas conducted a gallant newspaper interview and said:

> It is never too late to fight for the things that must be done, never too late.

Paul Douglas was a fighter, a humanitarian, an inspiration to his friends. We will miss him. I salute his memory tonight and extend my deepest sympathy to his wife Emily.

At this time, I insert into the Record the very fine editorial on Paul Douglas that appeared in this morning's Washington Post:

### Paul Douglas

In Paul Douglas' last years, in his home on Davenport Street in Northwest Washington, the former Illinois senator fought stubbornly against a number of physical diseases. But friends who visited him found that however weakened his body had become, the mind of Mr. Douglas remained sharp and vibrant. He had passed from power—in 1966 when he lost a reelection race—but he refused to pass from participation. Nearly all the battles in which he had soldiered as a spirited and thoughtful senator were still being fought—over great national issues like tax reform, for example, or over such back-home environmental causes as saving the Indiana dunes. On so many social issues Sen. Douglas had been ahead of his time; that being true, he saw no reason to let the times now pass him by.

As one who went into politics after years as an economics professor, Sen. Douglas brought a style of scholarship to his work that allowed him to debate the issues intellectually as well as emotionally. He could feel for the poor and the victimized, but he could effectively champion their causes because his arguments were based on clear reasoning and dispassionate reflection. In his 18 years in the Senate, his constituency became a national one, benefitting from his pioneering advocacy of civil rights, decent housing welfare reform, economic competition, fiscal accountability in government, cooperatives, pension funds and anti-poverty programs. He called himself "a gradualist." In his book, "In the Fullness of Time," he wrote: "Remembering how attempts to cure or even improve [social] conditions on a wholesale or universal scale in the past had only resulted in failure, I tried to satisfy myself with taking a series of small steps."

Some of those steps, we now see, were larger than Sen. Douglas' gracious modesty allowed him to admit. Such a trait was found in other parts of his life. He made little of joining the Marines at age 50 (and learning how to scale a 10-foot concrete wall to graduate from boot camp). He quietly imposed a rule on himself that allowed no gifts worth more than $2.50. He understood his own mortality, but could say whimsically: "Twice the old gentleman with a scythe advanced toward me wearing his most winning smile. Then he retreated. . . ."

The political record of Sen. Douglas was marked by involvement in causes that sought to raise the quality of life for those who needed help the most. He said once, "certainly there is much wrong with the world today. Nevertheless, I see bright spots." He was a modest man, who sought little for himself, so it must fall to others to observe that his own career, illuminated by integrity and scholarship, was one of the bright spots.

Mr. DRINAN. Mr. Speaker, I wish to join my colleagues in paying tribute to one of the most important, visionary, and admirable American statesmen of the 20th century. Paul Douglas was elected to the Senate in 1948 and served three terms there, inspiring a generation of Americans with his compassion, intelligence, and personal integrity and courage. Paul Douglas died on September 24, having established a record of accomplishments which can truly serve as a model for all those who would enter public service.

Paul Douglas was a brilliant scholar whose interest in economics did not stop at the classroom, but extended to encompass a deep commitment to the well-being and individual rights of his fellow citizens. He was a pioneer in the complex field of production analysis, where his landmark books paved the way for the modern era of comprehensive analysis of production by economists. Later, he was a pioneer in the development of social and economic legislation, where his work on behalf of medicare, the minimum wage, economic assistance for areas of high unemployment, the disclosure of union and management pension funds, and Federal aid to schools and colleges paved the way for the enactment of these programs.

Paul Douglas was the model of the concerned and committed scholar. He risked the loss of his job at the University of Chicago by leading the protest against the Memorial Day massacre at the Republic Steel Plant in Chicago, where police killed 10 people. As a member of the National Recovery Administration in 1934, he suggested that the NRA, strongly oriented to the interests of manufacturers, establish a truth-in-lending program. NRA leaders suggested that he resign.

Truth-in-lending is but one example of the many issues on which Paul Douglas was considerably ahead of his time. He advocated financial disclosure by elected officials, public financing of campaigns, sunshine laws, and comprehensive public health programs when these ideas were barely forming in the minds of other legislators. His tireless battles on behalf of civil rights legislation when this was a very unpopular and politically dangerous issue were characteristic of Senator Douglas' courage. Perhaps his friend and colleague Senator HUBERT HUMPHREY best summed up Paul Douglas' legislative accomplishments when he stated that no man had his name on more major issues, major bills, and major legislation than Senator Douglas.

Paul Douglas' greatness is to be found not only in his tangible legislative achievements, but also in his strength of character, which inspired so many. Among his colleagues in the Senate, his integrity was legendary. His courageous championing of unpopular causes was a rallying point for a generation of Americans. His refusal to compromise on issues of deep principle, such as civil rights and campaign financing, inspired others to continue to fight for justice.

To the widow and family of Paul Douglas I extend my profound sympathy. I know that their grief will be tempered by the knowledge that for a generation of Americans Paul Douglas was a beacon of compassion and commitment during an era too often characterized by indifference and compromise.

## GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character, and public service of the late Hon. Paul Douglas.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

## NATIONAL HEALTH INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, I commend my colleagues for their increasing enthusiasm for national health insurance as they perceive their constituents increasingly calling for it. I, no less than they, am working for the best of health services for the people in my district. However, it is also our responsibility not to let our enthusiasm get out of hand and lead people to unrealistic expectations. National health insurance will come—it will not be tomorrow.

Recently, I was privileged to speak on the subject at the convention of Unihealth Services Corporation in New Orleans, La. My speech, reprinted below, reflects some of my thoughts on the subject of health for all Americans, based on extensive involvement with the subject during my years of service as chairman of the Appropriations Subcommittee on Labor-Health, Education, and Welfare:

### KEYNOTE ADDRESS BY THE HONORABLE DANIEL J. FLOOD

It is a great pleasure for me to be with this audience who are devoted to keeping and rehabilitating sick people at home—as close to their normal situation as possible. This fact, by itself, endears you to me. Furthermore, as Chairman of the Appropriations Committee that worries about health dollars, I recognize that keeping people at home is not only less costly but expands the availability of hospital and long-term care to other citizens who need it. These points intrigue me greatly in my role as protector of the tax dollar, aside from my concern for the best for every citizen.

I am pleased to be with you because you are part of what I consider a major health trend in America. Not that a commitment to high quality care for all is new—but because the nation is evolving and perfecting home health care as a major resource. That is new—timely—and I like it.

The American health bill is terribly high. We all know it. I see the national figures every day. You participate in the daily figures. In the more than 25 years I have been in Congress I have seen health expenditures grow from 4½% of our Gross National Product to almost 8½%.

Health care costs are rising even more rapidly than the rate of inflation. You yourselves can see how in affects the pocketbook of every American family. And there doesn't seem to be much relief ahead. It disturbs me to know that in one decade—from 1965 to 1975—the average cost of a hospital stay increased from some $300 to over $1,000—more than $700 per stay in ten years.

Total health care expenditures also tripled during that same period of time—from $39 billion to $119 billion. And the largest increase in history took place during the past year—$15 billion from 1974 to 1975. What most Americans do not know is that they are spending an average of 10% of their income on health care. This is a hard hit for American families.

What is more tragic about health costs is the fact that the individual is a passive participant. It is the physician who determines the cost of the transaction. Yet, he must do the best for his patients that he can—depending upon what local delivery systems he has to choose from. And right now the health care system is oriented primarily to the treatment of the acute phase of illness. It does not offer a complete spectrum of health care nor does it offer adequate alternatives. Preventive care is largely ignored.

This is something I have long been aware of and has also been pointed out again in a General Accounting Office report recently brought to my attentdion. This report stated that about 25%—¼—of the patient population are treated in facilities excessive to their needs.

What we need is a new kind of situation in which more efficient use of manpower and resources will do something about reducing costs and provide incentives for reducing costs. These are broad words. But your part of the health care field, your approach to the delivery of health care, is a more rational one. It includes a great many measures that can solve a variety of problems.

It keeps out of the physician's office and out of the hospital many people who can be treated appropriately at home while still under the physician's plan of care.

Your rehabilitation orientation and comprehensive team approach is a first vital step towards preventive care. With our current acute-care orientation, one of the few means we have to improve the living habits of our citizens is through rehabilitation services such as you offer. The fact that you can deliver these services in the home—where family members as well as patients can learn about nutrition, for example—has a multiplying effect that is critical.

The GAO report to which I referred talks about treatment in "the most appropriate, least costly facility and alternative medical care systems that result in less use of hospitals".

One of the best reports on home health services that I saw was published in 1972 by the Special Committee on Aging from that other body—usually referred to as the Senate. Entitled "Home Health Services in the United States," the report said:

"Home health services of good quality describes an array of services which may be brought into the home singly or in combination in order to achieve and sustain an optimum state of health, activity, and independence for individuals of all ages who require such services because of acute illness, exacerbations of chronic illness and disability. They are an essential component of any system of comprehensive health care and the absence of such services excludes the possibility of the most appropriate use of all other health resources."

We have progressed some since that time. But services are still limited. Many communities do not have them. We must work together in the coming year to improve the system.

HEW, whose budget comes before my Committee, will spend more than $125 billion this year on human services—more than ¼ of the Federal budget. The 1977 projection for Medicaid and Medicare is $36 billion. In addition, one out of every seven Americans receive a monthly Social Security check for retirement, disability, or as a life insurance benefit.

In this bicentennial year we have a great deal to be proud of. We represent 6% of the world's population.

We use 50% of its material resources. No society in history has achieved such a high standard of living. No society has done so much for its people. There are a tremendous number of superb programs. We carry out most of them with a good deal of efficiency. But, as in the health field, we still have some clumsy approaches.

Every year Congress passes programs with a great deal of fanfare to improve the health of the people. Then the next year their constituents come to me and my Committee to see to it that all the programs are fully funded. Then in financing all the programs we're confronted with vetoes. You people know about those. You and the people you serve are frequently affected.

You wonder about National Health Insurance. There is a good deal of talk about it. I support it but I should like to give you a warning. National Health Insurance, by itself, as a system to pay for health care, is not enough. By itself it will not solve either the health costs nor cope with the fact that, while the health establishment has an extraordinary record of achievement, many people are still poorly served.

Proposals made in Congress to control health costs cut services for the poor and elderly first. This is a retreat and not a solution. Our responsibility, mine and yours, is to see that any health financing scheme must discourage waste and incomplete and costly care. We need a socially useful result which produces more efficient use of resources—both manpower and financial.

Whether Carter or Ford sits in the White House in 1977, our President next year is going to have to help bring improvement in the forms of delivery of health care available to our citizens. It won't be easy. We can't quantify and package the delivery of human resources the same as we did for the delivery of military weapons systems.

There will be no panaceas for health improvement next year. We must begin by improving what we have. The Federal government both legislates and regulates. Right now we must stop legislating promises that can't be delivered. We must get our health care delivery systems more tightly knit, better organized in their accountability not only to the patient for quality of care but to the community for efficient utilization of resources—both manpower and financial. We need to start by reviewing those programs already on the books.

We need local involvement in blending the best mix of health care delivery systems. Fundamental to this however is the need for equitable certificate of need criteria by health planning areas. Vested interests should not be allowed to arbitrarily exclude those health providers who offer services desired by both the civilian and physician communities.

National Health Insurance will come. But right now we are simply not ready for a full-scale program. How can we have total National Health Insurance until we can have equal access to the system to all citizens?

Are you willing to decide who should receive care and who should have the door shut in their faces?

We have to work on making what we have better.

In a civilized society we never reach perfection—there is always a gap between promise and performance. But we have to get our health systems in better order—the regulations mess, for example, has to be squared with needs of the population and what we can afford as a nation. We have to work on raising the ceiling instead of trying to lower the floor. We have to encourage new responsible providers to enter the field.

Any widespread total insurance program in the health field will produce a demand for scarce resources which is bound to raise issues such as—Who gets served when there is not enough to go around?

The best way to avoid the dilemma of making choices for scarce health resources is to see that people stay healthy. And that doesn't mean providing acute care only. Home health has the inherent capacity for teaching preventive care. You people call it therapy—and I know therapy is only part of the disciplines required within your comprehensive team approach.

Health-care improvement demands a clear and total policy which is phased in over several years to avoid the incompleteness of Band-Aid approaches. Every individual has a right to function to the maximum of his capacity. There is no question in my mind nor in the minds of my colleagues in the Congress.

To safeguard this right, along with basic economic environmental circumstances, we need comprehensive health systems which are made up of all of the elements essential to attain and maintain optimum health and—importantly—to prevent illness. What you do is a major component in such comprehensiveness. You are safeguarding against the unnecessary and cruel displacement of people outside their homes when services are lacking. You represent the type of endeavor that guarantees the fundamental right of individuals to remain in the primary place of their choice—their homes. My conclusions are not new in this arena.

I join with you and others in your pioneering field who call for a national policy in this field that will make comprehensive in-home services available and accessible to every member of the population who needs them. Such services should be available without restrictions on diagnosis, race, religion, age, or sex. They should be based on the needs of the patient and deal equitably with all financial barriers. They should be of high quality and should be blended with all other services which are required to achieve optimum health. The physician is society's chosen arbiter. He is in charge. He decides. All systems are accountable first to him by public mandate.

We do have a health crisis in America. But money alone is not the issue. Our nation spends many times more than other nations in per capita and in total.

Of course we must continue to pursue disease—but we should pursue equally hard the quality of life rather than only the quantity of life. We need a functional approach to health. An approach which is not disease oriented alone. An approach which integrates *all* health and health-related social services with the medical ones.

Too many assume that the solution to our nation's health problems is to expand medical and hospital care; that health insurance is needed to attain easy access to medical and hospital care for all. We lean, naturally, toward the doctor and the hospital and they are important. Indeed the Federal government will mandate next year that the States come up with prospective reimbursement models appropriate to their various conditions. Developing rate-setting procedures for health is a delicate task. How does one test the efficacy of a State health planning agency regulating rates? Any potential system must be carefully examined in regard to potential abuse. Prospective reimbursement systems will be expanded to other segments in the health care delivery system. Long-term care, for example, will soon follow. But it is only recently that we began to give more attention to paying for services needed outside of the physician and hospital orbit.

The options of keeping people healthy and keeping them at home—such logical ideas—are little discussed. In fact, they are so logical that we seem to always look on them as new ideas; and until recently, we seldom discussed them.

Right now keeping people at home is called deinstitutionalization—one of the more recent American fads. There is clearly a recognition that large, impersonal, costly institutional care has been overworked in this country and, indeed, long-term care can often contribute to deterioration of a patient's condition. Our approach to deinstitutionalization has been far from successful. It is not unusual to find in a community patients that have been moved from large, impersonal institutions outside the community into equally impersonal situations within the community. People are often placed in impersonal situations without adequate oversight when we do not have appropriate home health services in every community. I am delighted to join with you in efforts to see that this is not the result of deinstitutionalization.

Few communities have a comprehensive battery of coordinated home care services available. I intend to continue to do my part to see to it that our health care arrangements for people in their own homes are extended so that people can live independent and dignified lives. I applaud Unihealth for its efforts in establishing standards and criteria for use by localities in determining the types and amount of care required by the community in the delivery of home health care. And I applaud your individual efforts, as the providers of home health care, to ensure our sick people with comprehensive care.

The very nature of the American population and its future makes home health care even more necessary. Twenty-two million Americans—over 10% of the population—are over 65 today. More than 6 million of them live alone. By the year 2000, some 30.5 million persons will be over 65.

We have a great deal to do together. Certainly the government has its share. But you professionals have your share, too. This isn't only a matter of financing. This is a question of making certain that all of the health developments, as they come along, take into consideration the new directions we must go—not to discard the old ones but to recognize that what we have built up in the great health system in the United States, the greatest in the world, should be further advanced. You in home health are on the cutting edge of that advance.

In closing, permit me to make a specific suggestion.

Go to the major corporations—the giants—like the auto companies—to the labor unions—to the major insurance carriers who have policies with these giants. Show them how to cut their costs by covering home health services. Tell your story of home health. Show them the human benefits—the improved quality of life—the improved ability to free family members to work or get back to work—results from therapy, nutrition, medical social work—in addition to the financial benefits. And don't hestitate because you think National Health Insurance is around the corner. We need home health well integrated in our functional approach to health. And that can be better accomplished if you start now—right now—to look for large private sources of support as well as to the Federal government.

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## BANNING AEROSOLS CONTAINING FLUOROCARBONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

**Ms. HOLTZMAN.** Mr. Speaker, I have introduced today a bill to ban aerosol spray containers with fluorocarbon propellants.

According to a rapidly growing body of scientific evidence, fluorocarbons are depleting the Earth's protective ozone layer. This damage to the ozone layer may lead to alarming increases in the incidence of skin cancer, destruction of certain forms of plant life, and unknown changes in Earth's climatic conditions. These dangers have recently been reconfirmed by a panel of the National Academy of Sciences.

In order to make clear the severity of this problem, I would like to outline very briefly some facts about the ozone layer. The stratospheric ozone belt absorbs 99 percent of the Sun's most lethal ultraviolet rays. Tests show that ozone concentrations fell in the years 1970–73 by 1 to 2 percent. Each percentage point decrease in the Earth's ozone concentration increases the incidence of skin cancer by 2,100 to 15,000 cases a year. Depletion of the ozone layer also causes more sunburning, earlier skin aging, eye damage, and excessive buildup of vitamin D in humans, and mutation, slowed growth, and a decrease in photosynthesis in plants.

Numerous scientists believe that fluorocarbons make a major contribution to destroying our stratospheric ozone layer. The fluorocarbon industry has grown at a rate of 13 percent per year over the last decade. Fluorocarbons now power 50 to 60 percent of the aerosol units sold in this country.

There is a 10-year lag between the moment fluorocarbons are introduced into the atmosphere and the time at which their deleterious effects, such as skin cancer, can be documented. Furthermore, fluorocarbon molecules remain in the atmosphere for 50 to 100 years. Even if fluorocarbon propellants were banned by 1980, ozone depletion could reach 15 percent by the year 2000. The Science and Technology Committee recently emphasized the dangers of even a 1 percent change in average ozone concentration.

Obviously, we must act quickly. We cannot wait until we have categorically proven that fluorocarbons are destroying the ozone layer each time we use a spray can. By that time it may be too late.

The seriousness of the threat to our ozone has been recognized by the State of Oregon, which banned fluorocarbon-propelled sprays as of March 1, 1977; by my own State of New York which required such aerosols, beginning January 1977, to carry labels indicating that use could harm the environment; by a major national company, which recently announced it was removing all fluorocarbon propellants from its U.S. production lines; and by the general public which in 1974, bought 5 to 10 percent fewer aerosol spray containers than in 1973.

Fluorocarbon propellants are not essential to American consumers. In fact, the New York Public Interest Research Group has found that the consumer pays up to 673 percent more per application of an aerosol product than per application of the same product purchased in roll-on, hand pump, bottled or squeeze tube form.

As accustomed as we have become to fluorocarbon-propelled spray cans, we can do without them. In the face of the facts we have, it would be irresponsible for us to risk allowing the Earth's atmosphere to be destroyed and human life to be endangered by a nonessential commodity.

The text of my bill follows:

### H.R. 15759

A bill to amend the Federal Hazardous Substances Act to make aerosol containers which contain fluorocarbons banned hazardous substances

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2(q)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)) is amended by inserting immediately before the colon at the end of clause (B) the following: "; or (C) any aerosol container which contains fluorocarbons".

SEC. 2 The amendment made by the first section shall take effect on the expiration of thirty days after the date of the enactment of this Act.

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## CONGRESS MUST EXERCISE ITS OVERSIGHT RESPONSIBILITIES ON ARMS SALES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 15 minutes.

**Ms. ABZUG.** Mr. Speaker, I am disappointed that Congress has failed to exercise its oversight responsibilities regarding the administration's proposed arms sales to Saudi Arabia and to other countries in the region.

There will be two major negative consequences resulting from this failure.

First, the shipment of large quantities of offensive weapons—TV-guided Maverick missiles and the laser-guided bombs—to Saudi Arabia will increase the military threat against Israel and thereby reduce the prospects for peace and stability in the Middle East. Unfortunately, these sales will permit Saudi Arabia to become an arms warehouse for the Arab confrontation states against Israel.

Second, the inability of Congress to surmount the scare tactics and delaying maneuvers of the administration sets a weak precedent for the future exercise of congressional oversight responsibilities on arms sales.

With the astronomical increase in U.S. arms sales abroad, the oversight of major government-to-government arms transfers has become one of the most important congressional duties in the conduct of our country's foreign policy. The administration's proposed sales brought to public attention that the United States may well be fueling a massive and uncontrolled arms race in the Arabian Gulf region which could have dangerous consequences for the security of Israel, the stability of the Middle East, and the nature of American commitments to Iran, Saudi Arabia, and other states in the area. These proposed sales to Saudi Arabia and Iran were an important test case for the congressional review authority.

In the past, Saudi Arabia has provided financial and military support—including the transfer to front-line confrontation states of U.S.-supplied military equipment—against Israel. Prior to these requests, Saudi Arabia had already ordered $6 billion in arms from the United States. The American role in Saudi Arabia has been not merely to provide weaponry—but also to create the armed forces. We are training the soldiers, building the infrastructure, selling the armaments and maintaining the sophisticated weapons systems.

It is not an unlikely possibilty that the creation of Saudi military power might encourage that country to move from a rear-base area into a front-line combatant against Israel. This is an implication of these sales which should have been examined by Congress in more detail.

Another implication of these massive sales which should have been examined more thoroughly is that they extend American commitments to Saudi Arabia and to Iran almost beyond our control. The implementation of these arms transfers requires large numbers of American technicians to service the creation and operations of American-sponsored military forces. The recent report by the Senate Foreign Relations Committee estimated that 60,000 Americans would be working in Iran by 1980, many of them in the arms programs. The same holds true for Saudi Arabia. The more sophisticated weaponry we sell Saudi Arabia, the more technicians are required to service it. Instead of creating a self-sufficient military force, sales of our extraordinarily sophisticated weaponry inevitably lead to a foreign military structure dependent for years to come on the United States. With so many Americans present and in control of these weapons, I am concerned that the United States would be drawn into local conflicts.

Congress has wisely acted to terminate the military assistance advisory group—but are not the technicians who service these weapons de facto MAAG groups? And whether sent in U.S. military uniforms or in the sportcoats of private companies, these technicians are bound to lead to local resentment against American domination of a country's technical apparatus. The recent killing of three American technicians in Iran is a warning of the dangerous "secondary effects," of arms sales. Certainly this would have been the time to examine this development. The congressional review process gave us the opportunity. But unfortunately, it has not been exercised in a thorough manner.

Mr. Speaker, I am concerned that unless Congress acts in the future to grapple with these serious issues, we will be abdicating our responsibilities and permitting the administration to retain the same sole discretionary authority over arms transactions which is possessed prior to the creation of congressional veto power.

The decision of the administration to delay submission of these arms sales until the last possible day—September 1—seems to have been an attempt to narrow our opportunity for review. With pressures on time so great at the end of the session, the chances were greater that these complex arms sales would become entangled in end-of-the-session constraints. In addition, the extra 20-day courtesy period for informal congressional review of proposed arms sales prior to the official notification day was ignored.

The administration used scare tactics as well as delaying manuevers. Vice President ROCKFELLER allegedly hinted that a disapproval of missile sales to Saudi Arabia might lead to restrictions on oil exports to the United States. If effect, this line of argument puts all the decisionmaking power in the hands of the Saudis to determine our arms sale policy and exposes the United States to "international blackmail," as this morning's New York Times calls it.

Congress was also told that we should not single out the sales to Saudi Arabia for disapproval while permitting arms shipments to other nations to continue. To do so would damage relations with Saudi Arabia, it was suggested. But if we accept the questionable logic of this assumption, then the administration could nullify congressional review powers in the future by lumping arms sales to several countries together at one time for submission to Congress. If the administration truly respected congressional oversight and were concerned with the problem of "singling out" any one transaction, then each country's transaction would have been sent to Congress separately with enough time for us to give it adequate consideration.

Apparently these arms transactions will now be completed by the administration. The 30-day period permitted by Public Law 94–329 for congressional veto will expire at the end of this week before action can be taken. I hope that the people of Israel and the Arabian Gulf area will not suffer from the potential effects of these weapons and that it is not too late to apply serious controls and reductions on the conventional arms traffic. Congress should act more vigorously to move toward this goal when significant arms sales are proposed next time.

Mr. Speaker, the New York Times editorial this morning on arms transactions gives strong support to congressional oversight responsibility. I believe it warrants the attention of Members concerned with this problem.

The editorial follows.

### CHAOS ON ARMS

The controversy over the sale to Saudi Arabia of 650 air-to-ground Maverick missiles illustrates the grave risks that flow from this country's reckless arms trade with the rest of the (non-Communist) world. In the absence of a carefully designed policy of restraint governing the export of sophisticated weapons, the United States is following the chaotic course that was set when President Nixon on an overnight stopover in Teheran in 1972 told Iran in a spur-of-the-moment gesture that it could buy virtually anything it wanted.

That impetuous Presidential commitment unleashed what can only be called the inundation with American arms of an unstable and inflammatory region. The latest order from Saudi Arabia, which has already bought $6 billion worth of American arms and recently has outstripped the dangerously excessive Iranian purchases, is only the latest wave in a continuing tide. The Congressional effort to block this particular missiles order could hardly be described as a move to strip a relatively friendly Middle-Eastern nation of its capacity to defend itself against outside attack; it would be more accurate to say that this was an attempt to apply some needed controls to the increasingly dangerous proliferation of American weapons in the Middle East.

Reports of behind-the-scene threats prove, despite denials from official Saudi Arabian and American sources, that uncontrolled American arms sales have exposed the United States needlessly to international blackmail. In its frantic attempts to head off the Congressional move to block the Mavericks' delivery, the Ford Administration has leaked dark hints that Saudi Arabia's displeasure (already incurred by a toughening Congressional stand against the Arabs' effort to impose an illegal secondary boycott in the United States) may trigger another oil embargo.

The spongelike American policy on arms exports effectively takes decision-making out of Washington's hands and delivers it to foreign governments in coalition with their own and American special-interest lobbies. Under such circumstances, Congressional action is a natural response to abdication by the White House of its fundamental responsibility to control the arms trade wherever it threatens to stimulate international conflict in troubled areas of the world.

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## BABI YAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, Soviet authorities are engaged in a disgraceful conspiracy of silence regarding all aspects of the Jewish contribution to the fight against Nazism. Soviet authorities even refuse to allow public recognition of Hitler's plot to exterminate the Jews.

This policy finds its latest expression in the newly erected monument at Babi Yar. Babi Yar marks the site of the Nazi massacre of between 70,000 and 100,000 Kiev Jews on September 29, 1941. Yet the Soviet memorial recently erected at Babi Yar makes no mention of Jews.

Soviet officials are well aware of the symbolic significance of Babi Yar for Jews. With this knowledge they had planned to build a sports stadium on the site. But when Soviet poet Yevgeny Yevtushenko wrote his inspiring poem "Babi Yar," the issue became a cause celebre.

To this day there is not a single major monument to the Jewish victims of Nazism anywhere in the Soviet Union. Soviet authorities must understand that free peoples cannot understand or accept their attempts to ignore Soviet Jewry out of existence.

I include the text of the Yevtushenko poem:

### BABI YAR

(By Yevgeny Yevtushenko)

No monument stands over Babi Yar.
A drop sheer as a crude gravestone.
I am afraid.
Today I am as old in years as all the Jewish people.
Now I seem to be a Jew.
Here I plod through ancient Egypt.
Here I perish crucified, on the cross, and to this day I bear the scars of nails.
I seem to be Dreyfus.
The Philistine is both informer and judge.
I am behind bars.
Beset on every side.
Hounded, spat on, slandered.
Squealing, dainty ladies in flounced Brussels lace stick their parasols into my face.
I seem to be then a young boy in Byelostok.
Blood runs, spilling over the floors.
The bar-room rabble-rousers give off a stench of vodka and onion.
A boot kicks me aside, helpless.
In vain I plead with these pogrom bullies.
While they jeer and shout, "Beat the Yids Save Russia!" some grain-marketeer beats up my mother.
O my Russian people!
I know you are international to the core.
But those with unclean hands have often made a jingle of your purest name
I know the goodness of my land.
How vile these anti-Semites—without a qualm they pompously called themselves
"The Union of the Russian People!"
I seem to be Anne Frank transparent as a branch in April.
And I love
And have no need of phrases. My need is that we gaze into each other.

How little we can see or smell!
We are denied the leaves, we are denied the sky.
Yet we can do so much—tenderly embrace each other in a dark room
They're coming here?
Be not afraid. Those are the booming sounds of spring, spring is coming here.
Come then to me.
Quick, give me your lips.
Are they smashing down the door?
No, it's the ice breaking . . .
The wild grasses rustle over Babi Yar.
The trees look ominous, like judges.
Here all things scream silently, and, baring my head, slowly I feel myself turning gray.
And I myself am one massive, soundless scream above the thousand thousand buried here.
I am each old man here shot dead.
I am every child here shot dead.
Nothing in me shall ever forget!
The "Internationale," let it thunder when the last anti-Semite on earth is buried forever.
In my blood there is no Jewish blood.
In their callous rage, all anti-Semites must hate me now as a Jew.
For that reason I am a true Russian!

## ONE MAN'S PLIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MURPHY) is recognized for 10 minutes.

Mr. MURPHY of Illinois. Mr. Speaker, an article recently appeared in the Chicago Tribune which I would like to bring to the attention of my colleagues. It is a moving story of a young man dedicated to helping others emigrate to Israel from Russia. Only the story does not stop there. The young man has a wife in Israel and has made application himself to leave Russia.

Since Leonid Tsipin first applied to leave Russia for Israel 5 years ago, he has been working for the civil rights of other Russian Jews. Their cause has become his cause. Only he still remains in Russia, waiting and hoping that his time, too, will come.

Following is the article from the Tribune:

### PROFILE: A HUMBLE HERO OF DARK SOVIET STREETS

(By James O. Jackson)

TEL AVIV.—There is nothing special about Leonid Tsipin. He is a little guy, with a scraggly blond beard and a self-effacing manner.

He is not a member of the Academy of Sciences. He does not dance in the Bolshoi Theater. He does not write books, or music, or poetry. He cannot sing well, or run fast, or paint pictures.

The only special thing about Leonid Tsipin is that he is a Jew in the Soviet Union, and he wants to join his wife here in Israel.

He also is a remarkably courageous man.

Foreign correspondents in Moscow have known Tsipin for years as the obstinately cheerful bearer of news, the messenger who does all the dirty work of the dissident underground yet never complains. He carries petitions, delivers open letters, and announces protests. For five years he has served as a self-appointed, unpaid, and unheralded public relations man for the discontented, the political outcasts, and the hopeful emigrants of Russia.

It was, and still is, considered commonplace for him to venture out to meet foreign correspondents on bitterly cold Moscow nights when no one but agents of the KGB care to be on the streets. Tsipin, his pockets crammed with the pleas and protests of others, grins through the smoke of his ever-present cigaret during those meetings, and he announces in his atrocious English, "Jeem, I got newses for you."

He discreetly hands over the dog-eared documents, passes on the latest "newses" from the political underground, and vanishes down a frozen street.

Often as not, one or more men in overcoats trail off behind him, and on about a dozen occasions they have arrested him. He has often spent nights, days, or even weeks as the uncomfortable guest of those men.

The oddest thing about Leonid is that he seldom speaks of himself. He publicizes the plights of friends, strangers, and even enemies. He carries petitions not only for his Jewish brethren, but for Ukrainians, Lithuanians, and Russians. He even has helped a hapless former German soldier who had never been allowed to go home after World War II.

But he never tried to plead his own case.

That is why the correspondents who met him so often in Moscow never knew that he was married, that his wife was in Tel Aviv, and that he has been unjustly and repeatedly denied permission to join her.

Now Mrs. Tsipin, a quiet, brown-haired woman who uses her maiden name of Anna Shmuckler, has made an effort to attract attention to him. She wrote a letter to the U.S. Congress and it was passed on to The Tribune. In Tel Aviv, she shyly told The Tribune of her husband, her life and their problems.

"Leonid is not a great scientist or anything, so people don't think much about him," she said, "He's a loader at a bread store, and he doesn't have a higher education. But he's been trying to come to Israel for five years."

She said they were married hurriedly 2½ years ago, literally on the eve of her departure for Israel.

"I got my visa unexpectedly, and we didn't have time to go through the waiting period for a civil wedding," she explained. "We couldn't get married in the synagogue either, because without a civil wedding the authorities won't allow a temple wedding. We persuaded a rabbi to marry us in an apartment. We got the witnesses together and they all crowded in, and we were married on March 24, 1974."

On March 25, she left the Soviet Union.

"I didn't want to leave without him, but I thought I could do more for him in Israel than I could in Moscow."

Now, she is beginning to lose hope that she will see her husband again. She said his parents, who are opposed to his Zionist views, have refused permission for him to leave. Under the terms of a curious Soviet law, parents of fully grown men can deny them permission to leave the country.

Meanwhile, the Tsipins communicate infrequently and awkwardly through a convoluted postal system. His telephone had been disconnected, and his mail is intercepted, so letters travel with friends and acquaintances. His wife hasn't heard from him in two months.

But Leonid is still there. Correspondents still hear his cheery voice on the telephone, pleading for a meeting. He still turns up on street corners with his petitions, and the KGB men still dog his steps. And he still doesn't talk about his own hopes, his wife, or his business.

## LEGISLATION AMENDING TRADING WITH THE ENEMY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, I am today introducing a bill, to repeal section 5(b) of the Trading With the Enemy Act.

The Trading With the Enemy Act was passed in 1917 "to define, regulate, and punish trading with the enemy." However, in 1933 section 5(b) of the act was amended to give the President vast powers to regulate international transactions during periods of declared national emergency. This was done on the first day of the 73d Congress, without hearings, with virtually no debate, and before the bill was even in print. Since the Nation has been in a declared state of emergency since that time, "emergency" authorities such as those provided in section 5(b) have in effect become routine authorities used to conduct the normal day-to-day business of Government. This unwise provision of open-ended "emergency" authority to the President has been and now threatens again to be put to mischievous use by the President to subvert the will of Congress.

The Export Administration Act of 1969 is the basic statutory authority governing the control of exports from the United States. On two previous occasions, in 1972 and 1974, that act has temporarily lapsed, and on both occasions the President has by Executive order continued his authority to regulate exports under section 5(b) of the Trading With the Enemy Act, even though that act was clearly never intended by Congress to apply to the routine regulations of exports. Now the administration is once again engaged in efforts to block the extension of the Export Administration Act by Congress, and is threatening to invoke section 5(b) of the Trading With the Enemy Act upon expiration of the Export Administration Act on September 30.

The administration would claim freedom to regulate exports entirely at its own discretion, without reference to any of the statutory guidelines provided by Congress in the Export Administration Act. It is at best seriously questionable whether this a proper use of section 5(b) of the Trading With the Enemy Act. There is no question whatever that this is a blatant attempt to thwart the will of Congress.

Mr. Speaker, it is precisely because of such abuses of emergency powers that Congress passed the National Emergencies Act, which became law on September 14 (Public Law 94–412). Pursuant to section 502 of that act, it is the responsibility of the Committee on International Relations to conduct a thorough review of section 5(b) of the Trading With the Enemy Act and to report and make recommendations to the House within 9 months. My bill, repealing that section outright, is designed to serve as a basis for discussion during the extensive hearings which presumably will be conducted next year.

In my view, Mr. Speaker, any misuse of section 5(b) to make an end run around the clear will of Congress to extend and amend the Export Administration Act would place the burden of proof squarely on the shoulders of those who contend that this ill-considered statute should remain on the books.

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## THE FEDERAL RESPONSE TO REGIONAL ECONOMIC DISPARITIES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LaFalce) is recognized for 15 minutes.

Mr. **LaFALCE**. Mr. Speaker, I rise today to outline some legislative priorities which in my judgment, should be put high on our agenda when Congress resumes in January. I refer to the issues which affect those regions of the country that have had to bear the brunt of our economic problems—the regions with higher than average rates of unemployment.

Each section of the country has affluent areas, and each has pockets of poverty. But it is clear from all the data available—and it is considerable—that the Northeastern part of the United States has gotten an unfairly low share of Federal benefits along with an unfairly high share of the taxes. These policies, whether intentional or inadvertent, have contributed greatly to the fact that unemployment is more severe in that region.

I firmly believe that Federal policy should take cognizance of unemployment and, to the extent it can, seek ways to alleviate it where the rates are the highest. This Congress has made some initial steps in that direction, with the countercyclical title II of the Public Works bill. But more, much more, can and should be done.

Because I feel strongly about this issue, and have felt that way for some time, I introduced a bill calling for a slight preference for companies from areas of high unemployment in the Government's procurement policies. That bill, originally introduced in December of 1975, would set up a formula giving 1 percent leeway for bidders for each percentage point their geographic region's rate of unemployment exceeds a competitor's area rate. That is not a particularly large preference, but it would help redirect Government procurement of supplies and services toward those regions which need that business the most, at little cost to the Government or society.

In January I was pleased to hear President Ford, in his state of the Union address, call for increasing the investment tax credit for firms that locate or expand in areas of high unemployment. This, to me, was a realistic proposal which would help in the formation of capital and, at the same time, direct the investment of that capital into those areas which have surplus labor resources. *I* have been disappointed, frankly, that the administration has taken very few steps toward getting this proposal enacted. Yet the proposal was made, and since Governor Carter has also endorsed this concept, I have hopes for its future viability.

We sometimes forget that the economic dislocation caused by the shifts of employment from one section of the country to another are very high. When people are forced to move from the areas where they were born and raised there is a real and sometimes wrenching social cost. But there are also some significant economic costs. The cost of moving itself is high; it would be avoided completely if the new jobs were encouraged in the areas where excess labor existed. And the long-term costs of having unused capacity in the housing stock, in urban infrastructure—sewer plants, school facilities, et cetera—are immense. The forced migration from areas of high unemployment causes, or contributes greatly to, neighborhood deterioration, housing abandonment, schools and other public facilities no longer justified by the population to be served, et cetera. And the Federal policies which presently discriminate against those areas which in fact, need assistance the most, play a big part in bringing this situation about.

The two ideas I mentioned earlier are just a beginning. I had the pleasure a short while ago to hear Ralph Schlosstein, an economist on the staff of the Joint Economic Committee, discussing just this situation. I felt that Mr. Schlosstein's remarks were pertinent and thoughtful. I believe that the ideas I have discussed above, and those Mr. Schlosstein addressed in his remarks on "The Federal Response to Regional Economic Disparities," warrant very serious consideration as we start to build an agenda for action in the 95th Congress. I urge my colleagues to join me in an all-out effort to rectify some of the problems which the Federal Government, actively or passively, has helped to create.

Mr. Speaker, at this time I would like to introduce the remarks of Ralph Schlosstein, to which I referred earlier, into the Record:

### The Federal Response to Regional Economic Disparities*

#### THE PROBLEM

All regional and local economies do not experience simultaneous changes in economic conditions. Some, such as the South and Southwest, approach full utilization of labor and capital resources before the national economy reaches full employment. Other regions and areas, particularly the Northeast and Midwest, lag well behind the national indicators, experiencing unacceptably high unemployment rates even as the national economy approaches full employment. These regions and areas, quite simply, are left behind.

Those regions and areas that are left behind exhibit a complex tangle of economic problems. They are characterized by exceptionally high unemployment rates, net losses of private sector jobs, rapidly declining shares of national income, growing percentages of the national poverty population, higher living costs, population out-migration, and deteriorating public services and infrastructure.

While the Northeast and Midwest experienced many of these difficulties prior to the last two years, the recent recession certainly has exacerbated their problems. Moreover, the economic recovery has not improved economic conditions in these areas to the extent that it has improved the condition of the national economy.

Unfortunately, existing macro-economic policy tools are not designed to respond to the widely varying economic conditions that individual regions experience. These monetary and fiscal policies are used to improve national measures of economic performance (i.e., the national unemployment rate, GNP, etc.), based on the assumption that all regions will respond equally. Obviously, this has not occurred in the past, and it certainly is not the case today. That is why macroeconomic policies must be supplemented by targeted policies designed to reduce unemployment in areas and regions that do not share fully in the recovery.

#### WHY SHOULD THE FEDERAL GOVERNMENT BE INVOLVED?

There are three important justifications for fine-tuning Federal economic policies, so that they can redress regional imbalances by encouraging economic development in depressed regions and areas. First, targeted economic development policies clearly are needed to achieve our national economic goal of full employment with price stability.

As the national unemployment rate approaches four to five percent, many areas—particularly metropolitan areas in the Northeast and Midwest—will continue to experience unemployment rates as high as seven and eight percent. Existing economic policies are incapable of reducing unemployment in these depressed regions and areas without creating inflationary pressures in the fully employed labor markets. In the past, this dichotomy has caused policy-makers to endure pockets of high unemployment in exchange for national price stability. A more sensible approach, however, is to develop targeted economic development policies that will permit a non-inflationary reduction in the national unemployment rate.

Second, regional economic development policies will improve the efficiency with which public and private infrastructure are utilized. Many of the areas that are not sharing fully in economic recovery have large amounts of under-utilized public and private infrastructure already in place. Public transit facilities, sewer and water facilities, housing, industrial plants, and many other capital facilities are already in existence. It certainly makes good sense to utilize these facilities fully before expending vast amounts of public resources to build new facilities in other areas.

Finally, it is sensible economic and social policy to encourage new employment opportunities to locate where the unemployed people live. Families develop social ties and economic investments in their neighborhoods that they are reluctant to abandon. Targeted economic development programs would bring new employment opportunities to these people.

#### EFFECT OF EXISTING POLICIES

Rebuilding the economies of declining regions and areas is not an easy task. Jobs and middle-income families very often are leaving for good reason, in response to real social and economic forces. The widespread availability of air-conditioning since 1960, lower wages in some areas, lower tax burdens and public service costs, relatively lower energy costs, and the widespread availability of cheap land for new plants have contributed to the movement of jobs and people. Much of the movement that has occurred in response to these factors undoubtedly has contributed to the overall efficiency and productivity in the private economy.

At the same time, however, Federal government tax, expenditure, and regulatory decisions have been an influential factor in individual and business location decisions. If Federal standards permit additional stationary source pollution in one area but limit it is another, industry will gravitate to those locations where expenditures for environmental protection can be minimized.

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*These remarks are solely those of the author, Ralph L. Schlosstein, and should not be attributed to the Members of the Joint Economic Committee or to its staff.

If energy is an important factor in production, individual industries will invest in areas that Federal regulations permit to have relatively lower energy costs. If a major Federal facility is located in an area, supportive development inevitably will ensue. In short, Federal policies have a significant, though often inadvertent, effect on regional growth patterns.

In the past fifteen years, and more significantly in the past five years, Federal economic policies have exacerbated the economic difficulties of the Northeast and Midwest. Federal government expenditures for procurement and employment have been shifted into the high growth areas that need them least. Expenditures for essential public infrastructure such as roads, power generation, etc. have been concentrated in the South, Southwest, and West. Even decisions by Federal regulatory agencies often have affected adversely the relative economic positions of the Northeast and Midwest. In essence, Federal government policies have made a significant adverse contribution to the economic plight of the Northeast and Midwest states.

### THE FEDERAL GOVERNMENT RESPONSE

In the past, both the Executive and Legislative branches of government have been somewhat insensitive to the regional economic impact of national economic policies. Never has a President's Annual Economic Report devoted more than a few dismissing sentences to regional economic disparities. Congress, often as a result of committee jurisdictions, has been unable to deal with this problem in a comprehensive fashion. The only serious congressional investigation of this problem has been undertaken by the Joint Economic Committee in response to the concerns expressed by Senator Hubert H. Humphrey, and Congressman William S. Moorhead. This investigation has involved studies (some of which will be published soon), hearings, and a chapter devoted to solving regional economic problems in the JEC's Annual Report.

These efforts, however, are only a beginning. A great deal more must be done if Federal policies are to be made responsive to the unique needs of the Northeast and Midwest regions. Generally, the actions that are necessary fall into two broad categories—(a) rationalizing and sensitizing the existing policies of the Federal government to the needs of the Northeast and Midwest, and (b) developing positive and new policies to rebuild the private sector in these regions.

The principal and initial focus of Congressmen attempting to redress regional imbalances should be to rationalize existing Federal government policies by reversing their current regional bias. Several actions will contribute to this effort:

(1) Federal government tax, expenditure, and regulatory decisions should be examined to ascertain their impact on declining regions and areas. Those government policies that inadvertently are abetting or exacerbating the economic problems of declining regions should be re-examined, and hopefully, eliminated. In addition, new legislative and executive proposals should be accompanied by a statement that assesses their impact on declining regions. This twin goal of re-examining existing policies, and analyzing new policies could be accomplished through passage of regional impact legislation similar to that proposed by Congressman Moorhead.

(2) Federal government procurement expenditures should be concentrated, whenever costs are reasonable, in regions and areas that experience chronic high unemployment. At present, procurement expenditures (particularly defense procurement expenditures) are concentrated in precisely those regions of the country with the strongest economic conditions. This flow of procurement dollars could be improved considerably if existing procurement policies were enforced. Defense Manpower Policy #4 mandates that primary and secondary contracts be let in "labor surplus areas" whenever costs are reasonable. At present, less than one-tenth of one percent of the dollar value of all procurement contracts is subjected to this provision. In essence, procurement officers have been allowed to ignore this policy. A similar policy mandating that contracts be set aside for small businesses has netted 17 percent of all procurement dollars for small business. (The SBA is an active advocate within the Executive, ensuring that this policy is carried out. No such advocate exists for high unemployment areas.)

(3) Direct Federal government employment at civilian and military institutions could be concentrated, whenever possible, in high unemployment areas. Federal payroll expenditures are often three or four times greater (as a percentage of total personal income in a state) in states in the growing regions than in the Northeast and Midwest. An equalization of Federal payroll expenditures could be accomplished through a combination of an Executive Order affecting the placement of new Federal facilities and a greater sensitivity within the Congress.

(4) Federal grant-in-aid formulae and allocation procedures should be re-examined to ascertain if they adequately meet the needs of declining regions. While the Northeast and Midwest already do quite well under existing grant-in-aid programs (per capita aid in the Northeast and Midwest is above the national average), changes in individual programs (i.e., incorporation of a cost-of-living differential), could be beneficial to the declining regions. The First National Bank of Boston, under the leadership of James Howell, is doing a great deal of work on grant-in-aid programs.

(5) Federal regulatory agencies must be made more sensitive to the burdens that their decisions place on individual States and regions. Energy policy and environmental regulations are but two examples of programs and policies that were developed to meet other objectives, but that possess major economic implications for the Northeast and Midwest.

Rationalizing the actions of the Federal Government is in many respects, far easier than attracting new private sector investments to declining areas. Nevertheless, a vigorous private economy is the real key to complete economic recovery by these regions and areas. While our experience with encouraging investment in declining areas is limited, and at best, moderately successful, there are several initiatives with which we should experiment:

(1) Establish a Development Bank that could invest in and make low-interest loans to businesses that locate in declining areas. The loans should be available to businesses that otherwise would have located elsewhere and to firms that are job-producing.

(2) Various business tax incentives, such as the investment tax credit and accelerated depreciation could be varied according to the unemployment rate within a region. As long as these incentives exist, it makes sense to use them to encourage businesses to locate in high unemployment areas.

(3) Manpower training programs should be used to upgrade the skills of the work force in high unemployment areas. These programs should be coordinated with business location decisions so that trainees are not trained for jobs that do not exist.

(4) Adequate supplies of energy at equitable prices should be made available so businesses are not threatened with curtailment of supplies, excessive prices, or other events that interrupt production.

It is important to point out that none of these suggestions imply major new Federal expenditures. Many imply a reallocation of funds available under existing legislation. Some merely imply a greater sensitivity to the impact of Federal decisions on the location of business, industry, and individuals.

## HOW LONG MUST THE HANDICAPPED WAIT FOR ACCESS TO THE CAPITOL?

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, in the summer of 1975 I exchanged several letters with Mr. George M. White, Architect of the Capitol, concerning the Capitol and Hill office buildings' accessibility to handicapped individuals confined to wheelchairs. I was particularly disturbed that there were no ramps to the House office buildings on Independence Avenue and C Street, making it virtually impossible for any person in a wheelchair to enter and leave these buildings without assistance. I was pleased at that time to learn that $2,700,000 had been appropriated for 1976 to remove barriers to the handicapped throughout the Capitol buildings and grounds.

It is now more than a year later and as I look about the Capitol I regret to say that little more than a minimal effort has been made to increase the Capitol's accessibility to the handicapped. This year, Mr. White has told me that alterations planned for in the 1976 appropriations bill will "be completed no earlier than 1978 due to the complexity and unforeseen conditions discovered in alterations to existing buildings."

Mr Speaker, I think that this delay is outrageous. How difficult and how expensive would it be to place temporary ramps on the Independence Avenue and C Street entrances to the House office buildings? And is it really too much to expect that curb cuts for wheelchairs be provided on all corners and on both sides of the street instead of on just one side? Ridiculous as it may seem, for example, at the intersection of 1st Street and Independence Avenue, SE., there is a curb cut on the Madison Library side of First Street but not on the Cannon Office Building side. It takes no more than commonsense to realize how dangerous it is for a wheelchair to be able to get onto the street from one curb but to be unable to get over the curb on the other side.

This is an intolerable situation. The handicapped members of our society face enough barriers in their day to day lives. How long must they now wait for equal access to our Nation's Capitol?

My recent correspondence with Mr. White is appended:

House of Representatives,
*Washington, D.C., September 27, 1976.*
Mr. George M. White,
*Architect of the Capitol,*
*Washington, D.C.*

Dear Mr. White: I should like to refer to the correspondence that you and I had in the summer of 1975 concerning problems encountered by handicapped visitors to the Capitol as they try to enter and leave Capitol buildings in wheelchairs. I would appreciate knowing what physical barriers you have removed in the intervening time, which exceeds a year. As I look about, I see that the entrances to the House office buildings on Independence Avenue and C Street still have no ramps and that several intersections are still missing curb cuts on one or both sides of the street. Indeed, there is the bizarre situation where there is a curb cut on one side of the street but none on the other, such as at the intersection of 1st Street and Independence Avenue, S.E.

The Congress adjourns this Friday. It is my intention to make a statement on this subject on Thursday before we adjourn, bringing the Congress up to date on what your office has done within the past year to make our Capitol more accessible to the nation's handicapped.

I would appreciate your providing me with a detailed letter setting forth your accomplishments. It would be most helpful if you would expedite this matter and provide me with the material by Wednesday noon, so that I could include your letter in the statement I place in the Congressional Record.

All the best.

Sincerely,

Edward I. Koch.

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Facilities for the Physically Handicapped—Breakdown of Estimate of Cost

| | |
|---|---|
| 1. Toilet rooms, 100 at $5,000 | $500,000 |
| 2. Elevators, 12 at $10,000 | 120,000 |
| 3. Vestibules in lieu of revolving doors, 7 at $40,000 | 280,000 |
| 4. Power-activated doors, 15 at $4,000 | 60,000 |
| 5. Ramps, 30 at various costs | 450,000 |
| 6. Drinking fountains, 75 at $1,600 | 120,000 |
| 7. Telephone booths, 50 at $1,200 | 60,000 |
| 8. Mail slots, 14 at $500 | 7,000 |
| 9. Galleries, 2 at $25,000 | 50,000 |
| 10. Counters lowered, 8 at $1,000 | 8,000 |
| 11. Subway platforms, 12 at $1,000 | 12,000 |
| 12. Tunnel handrail | 3,000 |
| 13. Curb cuts, 200 at $500 | 100,000 |
| 14. Signage | 100,000 |
| 15. Miscellaneous | 130,000 |
| Subtotal | 2,000,000 |
| Contingency at 15 percent | 300,000 |
| Administrative costs and architects' fees at 20 percent | 400,000 |
| Total | 2,700,000 |

## FIRST FAMILIES FESSING UP

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, last weekend Joan Mondale, wife of Vice Presidential candidate Walter Mondale, revealed that their children had used marihuana. Betty Ford, wife of President Gerald Ford, has already provided us with similar *information* concerning her children. And Rosalynn Carter, wife of Gov. Jimmy Carter, told us about her children having likewise used marihuana. So at the present time, the children of three of the four "First Families" are technically lawbreakers under the Federal law governing 42 of the 50 States. I have made the point before that there is something that smacks of inequality before the law when hundreds of thousands of young people in our country now have criminal arrest records and many convictions as a result of similar offenses involving marihuana usage—some currently in jail, and about 400,000 having been arrested in 1975 for personal use and possession of marihuana.

Why do I make these points? It is because I believe it to be an outrage that the lives of young people are branded with criminal arrests and convictions and that many actually go to jail—suffering irreversible damage beyond repair. Does it make sense that a young person, indeed any individual no matter the age, be denied the right to be an attorney, doctor, public accountant, or a member of any other profession, simply because they have engaged in the personal use of marihuana and been caught? That has happened in the past and is happening now. It is to prevent this enormous damage to future generations that Senator Javits and I have introduced S. 1450 and H.R. 6108 which would decriminalize the personal use and possession of marihuana by reducing all penalties for such personal use and possession to civil fines. Eight States have already done that and others are considering such legislation. The eight States are: Alaska, California, Colorado, Maine, Minnesota, Ohio, Oregon, and South Dakota. I am proud to say that Gov. Hugh Carey has recommended such decriminalization and hopefully the New York State Legislature will consider and enact such legislation next year. Gov. Jimmy Carter has stated that he would recommend and support Federal decriminalization and substitute civil fines for the personal use and possession of marihuana were he to be the next President.

Should not President Ford recognize that he is dealing with a problem which has affected his own son Jack, and had Jack been dealt with as sternly under the law as others less fortunate have been than he, Jack, might today have a criminal record or be in jail? Should not President Ford, if he were to be elected our next President, also recommend to the 95th Congress the decriminalization of marihuana?

I hesitate to comment on what Senator Dole's position should be: we have not yet heard from his wife with respect to any discussion that she may have had with their daughter, Robin.

## TOBACCO'S NEED FOR UNITY

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, the Tobacco Workers International Union represents more than 50,000 men and women from the United States and Canada. Its president, Rene Rondou, is a French-speaking Canadian who is also fluent in English. Many of the sessions at the convention are bilingual. When it comes to replying to questions about the issue of smoking and health, however, there is no language barrier to this union and its members. In the spirit of unity on this issue the Tobacco Workers invited Horace R. Kornegay, the president of the Tobacco Institute, to address their convention. Mr. Kornegay, a former Member of the House of Representatives from North Carolina, underscored the unity of all members of the tobacco community, labor, management and agriculture alike, when he said in both English and French "I, too, am a tobacco worker." Because many of us in Congress who represent tobacco growers and workers feel the same way, I insert Mr. Kornegay's remarks in the Record.

### Tobacco's Need for Unity

When our president, Rene Rondou, and your secretary-treasurer, Homer Cole, asked me to speak to your convention, I accepted with pleasure. "Avec Plaisir," as those delegates from across our Northern border say.

This is the first time a president of the Tobacco Institute has been given this opportunity and I thank you for it.

I regard it as more than an opportunity, however. I regard it as a necessity, parce que je suis aussi un travailleur du tobac . . . because I too am a tobacco worker. And never before have more forces been arrayed against our industry. And never before is the time more ripe to fight back.

This being our Bicentennial year, we have heard a lot about our Founding Fathers, the Declaration of Independence, the Constitution and the Bill of Rights.

There has been much talk about our unique form of representative democracy, our system of checks and balances, and our government of laws not men.

But one subject has been almost totally omitted.

This being the convention of the Tobacco Workers International Union, I can think of no better place to remedy this omission—and to mention the unmentionable. I refer, of course, to tobacco—which a lot of people are trying to turn into a dirty word.

Tobacco played a vital role in America 200 years ago. With your help it will play a vital role for another 200 years—and more.

Without tobacco, the Jamestown colony would not have taken root on American soil.

Without tobacco, the Chesapeake colonies would not have flourished and attracted colonists to our shores.

Without tobacco, the Continental Congress would not have had funds to equip General Washington's army, and the Revolutionary War would have been lost.

To put it very simply, without tobacco there would have been no American history, no Bicentennial to celebrate.

Now let me ask you to think about the role that anti-tobacco zealots played in American history.

In 1621, King James came close to destroying Jamestown with a proposal to ban the tobacco trade.

In 1671, King Charles drove the price of tobacco down to half a cent a pound and almost wiped out the thriving colonies of Maryland and Virginia.

To put it very plainly, the ruinous tobacco policy of these anti-tobacco monarchs converted loyal English colonists into American revolutionaries.

Two hundred years later, we can truly say, the more things change the more they stay the same.

In the early days, tobacco smoking was taken up by the people so fast that potentates feared and persecuted it. Today tobacco still provides pleasure to millions upon millions of people, and is still harassed by government bureaucrats who do not like what they cannot control.

Now, as in the past, tobacco is valued by the multitude and vilified by the elite.

The situation is unlikely to change in the near future. If anything, the attacks on tobacco will worsen. In an age dominated by science, the alleged threat to health is a powerful fuel tossed on the fires of controversy.

No longer condemned solely on moral or religious grounds, tobacco is now indicted as a menace to the health of smokers and nonsmokers.

The antismoker no longer holds himself to be only the keeper of his brother's soul, but also of his body. The right to protect a smoker from himself has always been questionable. The right to protect the nonsmoker from the smoker is a phony issue.

It is the equivalent of legislating against the mote in one fellow's eye and ignoring the beam in another's. The argument, as preposterous as it is, has nevertheless attracted headlines and support in Federal and state legislatures. Several states have restricted smoking in public places on the theory that a smoker in one corner of a room is going to affect the health of a nonsmoker in the other corner.

On this flimsy basis, many states have regulated smoking or segregated smokers in restaurants, sports arenas, supermarkets and all sorts of public places. Do not misunderstand, I do not advocate an absolute right to smoke wherever and whenever you choose. I do not advocate an absolute right to light up and puff away in total disregard of anyone else. I do, however, object to and oppose legislation that overregulates personal behavior which has always been handled by the exercise of common sense and common courtesy. And I most vigorously oppose the sacrifice of our personal freedom before the False God of Prohibition, masquerading as "public health."

As public health measures, not one of these nonsmoker bills meets the minimum standard of common sense. Not one calls for measuring the air quality in a public room before or after smoking is banned or smokers are segregated. Not one seeks to determine if the air has actually been cleared.

Not one of these bills takes any interest in the air people are forced to breathe outside of public rooms or public places. Not one is concerned about any other odors, fumes, dust, exhausts or emissions that assault the lungs, nasal passages and eyes in public places.

Why? The reason is obvious. They are not public health proposals. They are just the latest manifestation of anti-tobacco prejudice that is as old as tobacco itself. These measures are simply the latest tactic in the long crusade against the leaf. They are just the latest harassment of smoking and smokers designed to reduce millions of tobacco consumers to second-class citizens, to make them social outcasts, to get them to quit smoking. They are prohibition bills masquerading as public health bills.

These attacks will fail . . . if—and only if—tobacco workers and manufacturers and growers unite in a common struggle to resist them.

Fortunately, 1976 is not only a Bicentennial year, it is also an election year, presidential, senatorial, congressional and local. In a democracy, the best time to send a message to officials is when they need our votes. This is the year to get our message across to every candidate in every election.

This is the year to tell the politicians a few facts of life.

Tell them that nearly 70,000 production workers—including the 33,000 members of the TWIU—don't intend to lose their jobs because of overregulation by bureaucrats.

Tell them that 600,000 farm families who grow almost 3 billion pounds of tobacco don't intend to be driven off the land into big city welfare traps because of overregulation by bureaucrats.

Tell them manufacturers don't intend to close down plants that produce over 600 billion cigarettes because of overregulation by bureaucrats.

Tell them that the entire tobacco community is fed up with the constant attemps to shift the blame for industrial and environmental pollution on to the backs of tobacco workers, growers, and smokers.

Tell them that people who live in heavily industrialized parts of town have higher rates of lung cancer than people living in the affluent suburbs—and that can't be blamed on tobacco.

Tell them we are sick and tired of having tobacco made the scapegoat for unsolved health problems. Tell them that we are sick and tired of seeing tobacco used as a red herring for other suspected health hazards.

Let me tell you a true story.

Seventy-five years ago the Journal of the American Medical Association published a doctor's report. He said that every tuberculosis patient he had seen for several years was a cigarette smoker. He jumped to the familiar conclusion—eliminate cigarettes and thus eliminate tuberculosis.

As you know, cigarettes were not eliminated. They became increasingly popular. Yet TB has virtually disappeared due to the discovery and use of antibacterial drugs. What if cigarettes had been banned, factories closed, jobs eliminated, farms abandoned?

But what if the good doctor's advice had been taken instead? Do you suppose he would have come around to apologize for his terrible mistake? Would he have said "I'm sorry. I was wrong" to the hundreds of thousands of workers and growers his policy would have driven off their jobs and their land? Would he have apologized to the thousands of TB patients who would have died because the medical profession had chased the wrong rabbit . . . had eliminated cigarettes instead of TB bacteria?

Our tobacco industry still runs the same risk of having anti-smoking zealots shooting first and maybe asking questions afterward.

For as one noted medical scientist put it recently: "Most diseases, if the truth be told, cannot be prevented because we do not comprehend their mechanism."

This admission of ignorance as to what causes disease and how is rare. It is extremely rare with respect to tobacco. Nevertheless the plain truth is that after 25 years of research, the question of smoking and health is still a question. In the effort to get at the facts this industry spends—and has spent—more funds on scientific research than all of the over-zealous private health organizations combined.

Until our nation comes up with objective scientific answers, our industry and its workers and farmers will continue to be victimized by those who only want an easy answer that serves their special interests.

The gap in our knowledge about smoking and health creates a vacuum of fact which our opponents will eagerly fill with emotional charges. This intolerable state of affairs means that—

Many who are permissive about marijuana will be repressive about tobacco.

Many who are silent about environmental and industrial pollution will shout about the greater threat of tobacco smoke as so-called personal pollution.

Many who support civil rights will callously disregard smokers' rights.

It is a national scandal to see how easily some politicians are stampeded by these pressure groups.

And it is time that we as a united industry—labor, management and agriculture—unfurl that old Revolutionary War standard that bore the words "Don't Tread on Me." Let's rally around it. Let's march out behind it. In unity.

If I have succeeded in bringing our kettle of indignation to a boil, I don't have to tell you where to pour the hot water.

## TRIBUTE TO THE HONORABLE WILBUR MILLS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, for 38 years, the people of central Arkansas have been represented in this Chamber by one of the ablest legislators of this country—WILBUR DAIGH MILLS.

To have served with him so long has given me a rare opportunity to observe his energy, his intellect, his keen understanding of the American economic system, and his dedication to his country.

On this occasion when his Arkansas colleagues have taken a special order to pay tribute to WILBUR MILLS on his retirement, there is one long-overlooked fact that should be recalled—particularly by those younger Members who have known him only as one of the senior elders of the House. He has not always had those gray hairs, you know.

When he took his seat in this Chamber on January 3, 1939, he was only 29 years old. WILBUR MILLS was a freshman in those days, a fact difficult to imagine in 1976.

But as it does to everyone, time has rectified his youth. In the intervening 48 years he grew enormously in stature, experience, knowledge, and the respect of his fellow Members. It was clear from the onset that the career of WILBUR MILLS was to be a successful and influential one. His influence in the House was almost without parallel in economic matters for decades.

Now, WILBUR MILLS has heeded the call to retirement. His home in Arkansas beckons him to lay aside the burdens of a long legislative career and return to the scenes of his youth. He wants to walk again among his friends.

All of his colleagues, I am sure, wish him all of the best as he ends a long and productive career among us.

## TRIBUTE TO HONORABLE JOE L. EVINS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, Tennessee has provided the House of Representatives with many distinguished Members in the course of its 180 years of statehood. These include three Speakers—John Bell, James Knox Polk, and Joseph W. Byrns.

In my judgment, Tennessee has never given the Nation an abler, more distinguished son than JOE L. EVINS of Smithville.

It is a source of great personal loss to me to know that Joe Evins is retiring to his beautiful rolling hills of middle Tennessee at the close of this session.

He has given his district and his State 30 fruitful and progressive years of service, and leaves a legacy of accomplishment that has rarely been equaled in this House.

Joe Evins has always been sensitive to the needs of people. His long and able service as chairman of the House Committee on Small Business and its predecessor accomplished much to preserve the character of American enterprise, and to slow the headlong rush to bigness and monopoly. He has been fully aware of the price the American consumer would have to pay if all the small, home-owned businesses were engulfed in large, distant, and impersonal corporations.

And Joe Evins has been one of the most constructive statesmen in his distinguished chairmanship of the Appropriations Subcommittee on Public Works.

Thousands of American communities are better places to live because of his work, and thousands of our citizens rest safer in their homes because of his efforts in the field of flood control. Our water and soil resources have been protected and preserved for future generations, and Joe Evins deserves a great deal of credit for this.

I certainly hope, Mr. Speaker, that Joe Evins will not become too busy and occupied in his new role as "retiree" that he will not come back to visit his colleagues often.

Good luck to him as he winds up three memorable decades of distinguished congressional service.

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## TRIBUTE TO MRS. CARL THOMPSON, OF GRAHAM, TEX.

(Mr. BURLESON of Texas asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BURLESON of Texas. Mr. Speaker, the 17th District of the great State of Texas, which I am honored to represent, is famous for many reasons. Perhaps the most important is the high caliber of people that region has produced, a number of whom have gone on to become distinguished leaders in our Nation.

My purpose here today is to direct attention to a dignified lady who will be 83 years old next month. She is Mrs. Carl Thompson—"Sammye D" to her very close friends—of Graham, Tex., which is in Young County on the easternmost part of my district.

Many of you may know of Mrs. Thompson through one of her sons. Dr. Charles E. Walker served as Assistant to Secretary of the Treasury, Robert Anderson, another Texan, from 1959 to 1961, and as Deputy Secretary of the Treasury from 1969 to 1973. Dr. Pinckney C. Walker served as a member of the Federal Power Commission from 1971 to 1973.

On the occasion of Mrs. Thompson's 82d birthday, one of the fine Graham newspapers, in profiling this Texas woman, provided a brief picture of the type of pioneer that our State is famous for.

Mr. Speaker, I submit that article on Mrs. Thompson for the Record, and, in so doing, I would like to thank her for the contributions that she and her family have made to the welfare and progress of this Nation.

### Take a Memory Voyage

(By Nita Miller McAfee)

Mrs. Carl Thompson put down her knitting explaining that she was always making afghans for members of her large and growing family.

The stately woman will be celebrating her 82nd birthday Nov. 19.

Born in a log cabin, as she says, "up Salt Creek about ten miles," Mrs. Thompson is the former Sammye D. McCombs, daughter of pioneer Young County parents, William and Frances McCombs. She said her father first came to Young County with his widowed mother in 1875, but the Indians were so bad they returned to Denton County coming back two years later.

Her father was a ranch foreman for several ranchers before buying his own land from the government at a mere $3 an acre. Mrs. Thompson recalled her father making cattle drives to Dodge City and often remarking that there was not a fence or a mesquite between Texas and Kansas. She also recalled prairie fires that swept the country in the fall.

The family of three sons and a daughter lived in a two room plank house eight miles north of Graham. Mrs. Thompson attended school at Fort Belknap and Needmore, and Graham High School.

She met the late Pinkney Calvin Walker at Graham High School. He had come from Gladewater, Tex. to attend school and work at his uncle's cafe. They were married in 1912.

The young couple bought a place on Elm St. and worked at the St. Louis Cafe, west side of the square. After they became owners of the cafe they decided to move closer to their business. In 1917 they built the present two story house at 415 Third St.

Originally there was a board and bat cabin with log underpinning on the lot. This material was used in the new house and can be seen today. Hand-chissled sandstone from the old water mill on Salt Creek were used for the front porch posts and remain there today. A cistern was on the back porch and water was bought by the barrel.

The new home had no bathroom or kitchen. It was over a year before plumbing was available in Graham, and the family ate in the back of the cafe so there was no need for a kitchen, Mrs. Thompson explained.

By this time the Walkers had three children, two daughters and a son.

In 1920 the oil boom was in full swing and rooms were desperately needed. Mrs. Thompson said this was when the 60 room Walker House was built. "We rented rooms while construction was going on, without doors, windows or a bathroom," she stated. She said each night they made up the beds and next day the carpenters continued construction.

Rooms rented for $.50 a night or $3.50 by the week.

There were no paved roads before 1928, and her husband who was a great debater, used to travel around the country to debate important questions of the day. Some time he never made the debate because he bogged down along the route, had a flat, or car break down. She smiled and said, "We used to bog down on the east side of the square."

In 1928 her husband died an untimely death with lock jaw at age 42. She was left a widow with four children. The youngest, Charls, was born Dec. 24, 1923.

It was the depression and money was scarce. Mrs. Thompson made the hotel into apartments and made plans for her children's higher education. She thought her two daughters should become teachers, and she wanted her next son, P.C. to become a lawyer, and Charls perhaps a doctor. (She left the 'e' out of Charls so he would not be called Charley.)

Using borrowed money and a borrowed dress she entered her eldest daughter, Lucille, in Texas Women's College, Fort Worth. Later her daughter, Mildred, went to Texas Women's College, Denton, Texas.

By the time the boys were ready to attend college finances had eased a bit. "It didn't cost so much to go to college then," she remarked.

Both her sons received degrees from the University of Texas, Austin. She told them to "go to school and get education and then you can come home and dig ditches if you want to."

Meantime her daughter, Lucille, became Mrs. Zack Burkett, and Mildred, Mrs. Harry Newton. (She died in 1969.)

Her sons each did graduate work at Wharton School of Finance, University of Pennsylvania, receiving doctor of philosophy degrees and did interim teaching. The fact that they became prominent leaders in the world of education and finance was no surprise to Mrs. Thompson. She expected big things from her family.

Dr. P. C. Walker served as Dean of the Business School at the University of Missouri, and later was appointed to The Federal Power Commission in Washington, D.C. Presently is semi-retired and teaching in the graduate school at the University of Missouri.

Dr. Charls Walker climbed the ladder of success from banking, serving as Executive Vice President of The American Banking Association; to Under Secretary of the Treasurer, and Deputy Secretary of the Treasurer, among other positions. He is now head of Charls Walker Associates, Washington, D.C.

Mrs. Thompson says they are still just her fun-loving boys. "I tried to instill honesty and integrity while they were growing up," she said.

In 1933 Mrs. Thompson married her husband, Carl, a farmer from Jermyn, Tex. Today they live a tanquil life in the old home place right next to the fire department and a few steps from the square. They attend Chaparral Dinner Club, travel, and look forward to family gatherings.

Mrs. Thompson bakes old-fashioned pound cakes which she mails to her children and grandchildren over the United States and Okinawa. "I usually have one or two in my deep freeze, too," she said.

Mrs. Thompson is not planning any special celebration on her birthday, but no doubt there will be phone calls and best wishes from near and far from her close knit family.

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## PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, yesterday, September 28, 1976, I was unavoidably detained during the vote on rollcall 819, the motion to recommit the conference report to accompany S. 521, the Outer Continental Shelf management measure, thereby missing this vote. Had I been present, I would have voted "nay" on this motion.

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## NATIONAL EMPLOY THE HANDICAPPED WEEK

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, 31 years ago Congress, by joint resolution, called for the designation of the first week in October of each year as National Employ the Handicapped Week. This year, the observance of this occasion has been proclaimed for the week of October 3 through 10.

Mr. Speaker, the opportunity promised to all Americans to lead productive, usefull lives must not be denied to those citizens who, by reason of physical or mental handicaps, are not always able to fend for themselves. Barriers still confront handicapped people in our country—architectural and transportation barriers that deny the handicapped access to the full lives they deserve and attitudinal barriers the handicapped face in employment, housing, and education.

The 94th Congress has demonstrated its concern for the employment of the Nation's disabled with the passage of legislation to extend the Vocational Rehabilitation Act. For some 55 years, this program has been helping handicapped people with medical care and therapy, employment training and counseling, assistance in securing the tools and licenses needed to work on a job, reader services for the blind and interpreter services for the deaf, and placement assistance to help handicapped individuals secure employment.

In education, too, this Congress has been strong in its support of programs assisting handicapped people. I speak principally of the passage of the Education for All Handicapped Children Act. This measure, an historic advance in educating America's handicapped children, means new hope for millions of physically or mentally disabled youngsters and an enrichment of our society.

As chairman of the Subcommittee on Select Education, with responsibility over matters relating to the handicapped, I am pleased to cite these important legislative achievements of the 94th Congress.

At the same time, Mr. Speaker, I would be remiss if I did not express my distress with the record of the Ford administration which has, through resort to the powers of the veto and rescission, attempted to kill or seriously weaken Federal programs of assistance to the Nation's handicapped. The commitment of Congress, however, to maintaining the integrity of the important legislation already enacted is strong. Indeed, Congress has successfully overridden the vetoes of legislation affecting the handicapped and has refused to accept the President's requests for rescissions slashing funds for programs that assist disabled people.

I feel confident, Mr. Speaker, that the concern of Congress will continue to encourage an atmosphere in which all of the handicapped people of our land have an opportunity to live the full and rewarding life which must be the birthright of every American.

The President's proclamation of National Employ the Handicapped Week follows:

### PROCLAMATION

Proclamation 4462: "National Employ the Handicapped Week, 1976," by the President of the United States of America.

As we celebratee the two-hundredth anniversary of our national independence, physically and mentally handicapped Americans are seeking new opportunities to use their talents, abilities and experience. Assisting those of our citizens who are disabled are programs designed to provide equality of opportunity and equality of education. These programs place new emphasis on the needs of those with severe disabilities, and a new and growing consumer movement of and for handicapped persons.

Our forefathers promised independence and made that promise a reality. Disabled people now seek fulfillment of that promise for themselves. We are firm in our resolve to remove those barriers which still prevent handicapped citizens from making their full contribution to the Nation's economic and social health.

Next spring the White House Conference on Handicapped Individuals will serve to stimulate a national assessment of problems facing individuals with handicaps and to develop recommendations to solve those problems.

In order to enlist support for an interest in the employment of otherwise qualified but handicapped persons, the Congress, by joint resolution of August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the first week in October of each year as National Employ the Handicapped Week and has requested the President to issue a proclamation each year calling for its appropriate observance.

Now, therefore, I, Gerald R. Ford, President of the United States of America, do hereby designate the week beginning October 3, 1976, as National Employ the Handicapped Week, and call upon the people of the United States to observe that week with ceremonies designed to elicit recognition and support for the needs, contributions, and aspirations of those citizens.

I urge the Nation's Governors, Mayors, and all other public officials, as well as leaders in every area of American life, to join with disabled people in active participation in these activities.

In witness whereof, I have hereunto set my hand this twenty-first day of September, in the year of our Lord nineteen hundred seventy-six, and of the Independence of the United States of America the two hundred and first.

GERALD R. FORD.

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## CONGRESSMAN WYDLER CONTINUES FIGHT AGAINST CONCORDE SST

(Mr. WYDLER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WYDLER. Mr. Speaker, because of the experience of State and local governments who, in seeking relief from aircraft noise through legal action, have found the Federal Aviation Administration intervening against them, I have reminded the FAA that such intervention is contrary to the express intent of Congress. Specfiically, I warned Administrator John McLucas that FAA would be acting contrary to our constitutional separation of powers were it to intervene in the litigation pending between the Port Authority of New York and New Jersey and the operators of Concorde SST.

Certainly, if permitted to operate at John F. Kennedy Airport, Concorde would prove to be "the straw which breaks the camel's back." JFK neighbors have no tolerance for additional aircraft noise.

There is no more tangible example of the misuse of high technology in the civil sector than the Concorde supersonic transport. We are all aware of the efforts of our British and French friends to gain operating rights for Concorde at JFK. Indeed, the claim is made that unless JFK rights are granted the aircraft cannot achieve financial success and the United States will be blamed for its failure.

There are a number of reasons this argument is invalid, and the Concorde should not be granted landing rights in the United States. First, let us consider the plight of the British and French taxpayers who, unlike their American counterparts, have little if any voice in decisions such as those resulting in the Concorde program. Despite the depressed state of the French and United Kingdom's economies, Concorde development costs, exceeding $2.5 billion, have imposed a severe burden. Because of the poor economies of Concorde's design, operating subsidy requirements, as calculated by British Airways, amount to $1 million per aircraft per month in 1975 costs. Such massive losses were based on predicted high load factors and on a 20-percent surcharge on first-class fares.

We may well ask ourselves, would we be doing the British and French people any real service by encouraging their governments to expand Concorde operations at JFK or elsewhere?

While we would not ordinarily consider the welfare of citizens of foreign lands before our own, I have also wanted the record to reflect that Congress is aware of foreign policy considerations, including the recent notification that bilateral air transportation agreements in existence for some 30 years are being abrogated by the British.

As a result of his public hearing last January 5, and undoubtably many other deliberations, Transportation Secretary William Coleman determined that a 16-month trial period be granted Concorde to land at Kennedy. The Port Authority of New York and New Jersey announced last spring that it would base its decision on granting Concorde landing permission on the results of the first 6 months noise monitoring of Concorde operations at Dulles International Airport. This period ends November 24, 1976. Monitoring results through the end of August indicate that at Federal Air Regulations part 36 measurement points, levels from 113 to 131 effective perceived noise decibels—EPNdb—were recorded. In 1969, FAR part 36 limits which are still in effect, permit only 106 EPNdb for aircraft of Concorde weight.

In 1961, after the jet noise problem had become severe at JFK, the port authority established a single point noise monitoring limit of 112 PNdb. The JFK monitors are all inside; that is, closer to the beginning of takeoff, than the 3.5-mile part 36 measurement point. Not one single SST taking off at Dulles Airport has met the requirements to take off from JFK.

Based upon FAA Administrator McLucas' statements reported in the London press early in September and similar statements by Secretary Coleman reported in this country, I am also concerned there is an effort underway to establish new standards of noise impact acceptability. Both Dr. McLucas and Secretary Coleman have emphasized that Concorde measurements at Dulles are within the range predicted in the final environment impact statement—EIS—prepared by the FAA. Merely achieving predicted levels cannot establish any new standard nor can it infer community acceptability and I reject them out of hand.

Having served on the Committee on Science and Technology and its predecessors during 14 years in Congress, I have devoted much effort to the cause of aircraft noise control. Most of my colleagues would understand my frustration with the pace of achieving relief from excessive noise from all aircraft if they knew, as I have learned, that safe, energy efficient technology is available for immediate implementation to reduce the area of high noise impact around the Nation's civil airports, conservatively by 50 percent. Adding sound absorbent materials—SAM—retrofit at a system cost of $1.2 billion, would virtually resolve the problem for over 16 million airport neighbors. Specifically, a 90- to 95-percent reduction in the current area of exposure.

The argument is made by FAA and Concorde supporters, that since there are no standards for SST noise levels, they cannot be regulated. The lack of such regulation today illustrates the fact that FAA has deliberately avoided establishing SST noise standards. While the FAA published an advanced notice of proposed rulemaking—ANPRM—on August 20, 1970, it has failed to promulgate any final rule. This situation has misled Concorde developers to believe they would have no difficulties in receiving U.S. landing rights, while the public has been misled to believe noise standards for subsonic aircraft would also be applied to SST. I have asked the attorney general of the State of New York to take legal action to require the FAA to take action.

There appears to be inherent institutional conflict within FAA, preventing effective noise control regulation. I am convinced Congress has the responsibility to act to protect the public in this matter.

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## WE MUST END INTERNATIONAL TERRORISM

(Mr. WYDLER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WYDLER. Mr. Speaker, tomorrow at the Hewlett High School in the fabulous Fifth Congressional District in New York, there is being held an antiterrorist rally. This conference has been called to condemn international terrorism which threatens the lives of innocent men, women, and children and is a direct threat to world peace. It was called by the American-Israel Friendship League, of which I am a charter member and of which the former Congressman and my good friend, Herbert Tenzer, is president. I understand that at this conference the Antidefamation League of B'nai B'rith will introduce a resolution calling on the United States to withhold aid from foreign countries who harbor terrorists. This is a resolution I fully endorse as the Representative of the area in the U.S. Congress, and I congratulate them and those who have brought about this meeting tonight.

I wish to set forth in this CONGRESSIONAL RECORD my beliefs and actions in this area so that everyone may know exactly where their Congressman stands on this most important issue.

Acts of international terrorism such as assassinations, bombings, skyjackings, kidnapings, and seizures of conference buildings persist, causing death and serious injury to citizens of many nations, and endangering the safety, welfare, and rights of citizens of all nations.

Most recently a group of terrorists seized a plane in our own Nation which had on board American passengers and flew it to France. This act indicates that we are not immune from the international terrorists, and that our Nation must take action to end international terrorism.

The most dramatic incident was that in which terrorists acting in the name of the Palestinian Liberation Organization skyjacked an Air France Airliner on June 27 of this year, and took that plane, its passengers and crew to Entebbe Airport near Kampala, Uganda, where they were met by additional terrorists in apparently prearranged sanctuary.

The nation of Israel reacted to this incident by taking a dramatic and courageous step of rescuing the hostages. It was an act that has thrilled the entire free world for its daring and bravery. I commend the courage, skill and execution of the rescue mission, the saving of lives and the creation of deterrents arising from this act.

What happened in Uganda is no isolated affair. Over 800 persons have been killed and 1,700 injured in international terrorist incidents since 1968. These innocent victims include not only United States and foreign diplomats but also private citizens, businessmen, and tourists.

One thing is clear; the situation calls for action, and I am taking it in the Congress of the United States to help in every way possible to end the terrorism which is plaguing the world.

Last week, the House passed H.R. 1552, a bill to implement the U.N. and OAS conventions on terrorism. This bill, passed with my support, will enable the United States to become a party to both conventions, and to maintain a position of leadership in the efforts of the international community to combat terrorism.

Further action in the House took place on the foreign aid bill, which passed the House with my vote in favor of it. The bill has been sent to the Senate for action. Under that bill Israel will get $1 billion in foreign military credit sales, and half the credits will be forgiven. Israel will also get $735 million in security supporting assistance.

More importantly, however, the bill contains language which will cut off foreign aid to any nation which harbors or gives sanctuary to terrorists. This kind of dramatic action on the part of our Nation will bring to the attention of the world the need to deal with this problem severely.

In addition to these positive votes which I cast, I have sponsored original congressional resolution, House Concurrent Resolution 712, on August 10 of this year. This resolution has been referred to the Committee on International Relations and states that it is the sense of the Congress that the President should direct the Ambassador of the United States to the United Nations to take such actions as may be necessary to prompt the United Nations to establish an international policy imposing on the government of a country a duty to make every reasonable effort to free at the earliest possible moment any hostages held by international terrorists seeking sanctuary in such country and to return the hostages to their homeland. It seems clear that such an international policy is necessary and should be established without delay.

Although the United Nations apparently will not act in a meaningful way to stop terrorist activities, I believe that even the United Nations would agree to a policy of protecting innocent hostages and place that responsibility on any country to which they have been taken.

Finally, Mr. Speaker, I have taken action in recent days sending a letter to the President of Argentina expressing my deep concern about recent reports of anti-Semitic violence in that nation. I pointed out in the letter that there have been reports of a number of shootings and bombings of Jewish institutions and businesses in Argentina, as well as the kidnaping of several prominent Jews. In addition, I pointed out that the distribution of Nazi literature within Argentina was increasing sharply in recent months. The letter deplored these incidents of violent anti-Semitism, and said they were repugnant to Americans and people of good will everywhere.

I called on President Videla of Argentina to make every effort to end anti-Semitic terrorism in his country.

Mr. Speaker, terrorism must be stopped wherever it takes place in the world. I can only repeat the stirring words of the Israeli Foreign Minister Chaim Herzog in speaking before the Security Council concerning the Entebbe raid. Although the Council met to consider a complaint brought against the Government of Israel, Mr. Herzog turned the tables on his accusers. He stated:

> I stand here as an accuser of the countries that, because of evil design or lack of moral backbone, have collaborated with these bloodthirsty terrorists.
>
> I stand here as an accuser of this world organization, the United Nations, which has been unable, because of the machinations of the Arab delegates and their supporters, to coordinate effective measures against the evil of world terrorism.
>
> Yes sir, before us stands the really accused—this rotten, corrupt, brutal, cynical bloodthirsty monster of international ter-

rorism and all those who support it, whether by commission or omission.

This organization is in the accused stand today. Mankind will judge it by its behavior on this occasion because never has the issue been clearer, never has the issue been so clear-cut.

There will be no excuse in history for this body or for the constituent members of this body if it fails to condemn terrorism.

These words were challenges not only to the United Nations, but to our own Nation as well and to all the world. It is a challenge we must accept, and I pledge my full efforts to see that all actions I can take as a Member of the U.S. Congress on behalf of the people of the fabulous Fifth Congressional District and the Nation will be taken and that mankind will be cured from the curse of international terrorism.

## CONTROLLING NUCLEAR PROLIFERATION

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today's edition of the Washington Post carries an editorial contrasting the magnitude of the threat of nuclear proliferation with the efforts of Congress to restrain proliferation. Our failure to respond to the increasing danger of nuclear weapons' development around the world may someday be seen as having set through inaction the foundation for a world order based on widespread nuclear terror, where any failure of diplomacy may exact a high price in lives and centuries of human development. The indifference of Congress, at least as demonstrated by legislative accomplishments, is a result of poor leadership. The Joint Committee on Atomic Energy acted only after a number of other committees in both Houses threatened to preempt their jurisdiction; the Ford administration continues to rely on sporadic negotiations among the nuclear exporting nations, none of which are willing to foreclose future options on the nuclear market.

Our present nuclear export policy rests on the assumption that to influence the nuclear export policies of other nations we must take an active part in supplying nuclear equipment to interested buyers, requiring them to adhere to safeguards imposed by the United States. To date this policy has restrained neither the activities of other exporters nor the interest of potential nuclear weapons states in seeking the wherewithall to produce nuclear weapons. This failure can be attributed to the fact that this policy is designed to maximize opportunities for U.S. nuclear industries to sell their wares while remaining under the rubric of nonproliferation. It is, therefore, not surprising to find representatives of U.S. companies trying to underbid the sale of German nuclear equipment to Brazil at the same time the U.S. Government is trying to convince West Germany not to sell or to have the United States supplying enriched uranium to India, a nation which has shown its disregard for the dangers of proliferation and for international conventions on nuclear weapons. Certainly, these actions are going to undermine any policy which has nonproliferation and the safe use of nuclear energy as its professed goals.

Extensive hearings on nuclear proliferation were held by the Senate Committee on Government Operations and the House Committee on International Relations. Congress accepted the Symington amendment to the Arms Control Export Act, and will soon, I hope, accept the Zablocki-Findley amendment to the Export Administration Act. But these are only half-way measures. More thorough going controls, tougher measures such as those advocated by Senator Ribicoff and a change in our nuclear weapons policy as well, will be required if we are to get the nuclear gear under control and avoid destruction of our civilization. The Post editorial ably outlines the severity of these problems and I commend it to my colleagues:

### * * * And on Nuclear Proliferation

It's not just the executive branch that has failed to organize itself structurally or focus itself politically to deal well with the perils of nuclear proliferation. The Congress has scarcely been less lax. It yielded such matters decades ago to its Joint Committee on Atomic Energy, an industry-oriented group concerned chiefly with weapons manufacture and power development, and it has done too little since to ensure that this committee kept up with the new concerns—proliferation, safety—generated by technology and time. Recently, other legislators have tried moving Congress into the resulting policy vacuum. In the Senate, the joint committee has jealously, and successfully, resisted. In the House, however, committee stalwarts were outfoxed and outvoted on the floor. The result is that a pointed and decent amendment on the reprocessing of spent nuclear fuel into weapons-grade plutonium got into the Export Control Act. It's to be considered in House Senate conference today.

Now, even its chief sponsors, Mr. Zablocki and Mr. Findley, accept that it's a limited measure, addressing not much more than one approach (international accounting) to one aspect (reprocessing) of a large complex problem (the use of plutonium as a separate fuel). The United States has not even worked out the plutonium issue on its home ground. A fair case can be made that first the Congress should restructure itself, perhaps by reforming if not abolishing the joint committee, this group, with its stature diminished and its veteran chairman, Mr. Pastore, about to retire, may be fading out anyway. Then the Congress, working with a similarly restructured executive branch, could start coping systematically with the various aspects—technology, energy, politics and strategy—of nuclear spread.

But the reprocessing menace won't wait. Reprocessing gives a country so-minded the plutonium that lets it leap quickly and easily over existing international safeguards and make its own bomb. Germany and France are already marketing reprocessing facilities. Already this year Taiwan had somehow begun a secret reprocessing effort. India's bomb was the product of reprocessed nuclear fuel. Ditto the bombs that Israel is supposed to possess. The nuclear power industry is poised worldwide to start producing power from plutonium, a development that would sharply escalate the global proliferation potential.

The United States has got to get a handle on the plutonium issue, at home and abroad. While it does, the Zablocki-Findley amendment provides a useful if not a conclusive increment of safety against the possibility that the United States will inadvertently assist other nations to make their own nuclear bombs.

## SPECIAL ORDER

Mr. KOCH, for 1 hour on October 1 and to revise and extend his remarks and that all Members have 5 legislative days to revise and extend their remarks on the subject of his special order.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. O'Neill), for today, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Price and to include extraneous material, for 5 minutes, today.

(The following Members (at the request of Mr. Goodling) and to revise and extend their remarks and include extraneous matter:)

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Railsback, for 5 minutes today.

Mr. McCloskey, for 60 minutes, today.

Mrs. Fenwick. for 5 minutes, today.

Mr. Sarasin, for 5 minutes, today.

Mr. Findley, for 5 minutes, today.

Mrs. Fenwick, for 5 minutes, on September 30.

(The following Members (at the request of Mr. Simon) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Mikva, for 60 minutes, today.

Mr. Simon, for 60 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Fisher, for 5 minutes, today.

Ms. Holtzman, for 15 minutes, today.

Mr. Abzug, for 15 minutes, today.

Mr. Murphy of Illinois, for 10 minutes, today.

Mr. Bingham, for 10 minutes, today.

Mr. LaFalce, for 15 minutes, today.

Mr. Delaney, for 30 minutes, today.

Mr. Dodd, for 5 minutes, today.

Mr. Addabbo, for 60 minutes, September 30.

Mr. Rodino, for 60 minutes, October 1.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Latta and to include extraneous matter.

Ms. Abzug, prior to passage of S. 865 and H.R. 15134 in the House today.

Ms. Abzug to insert her remarks in connection with passage of S. 2228.

Mr. Findley to revise and extend remarks and include extraneous material during debate on H.R. 15636.

Mr. Eckhardt to revise and extend his remarks and to include extraneous matter during debate on H.R. 15636.

Mr. Fountain, to revise and extend his remarks on H.R. 11347, immediately following the remarks of Mr. Brooks today.

(The following Members (at the request of Mr. Goodling) and to include extraneous matter:)

Mr. Winn in two instances.

Mrs. Heckler of Massachusetts.

Mr. McClory in four instances.

Mr. Heinz in two instances.

Mr. Michel.

Mr. Young of Florida.

Mr. Wydler in three instances.

Mr. Symms.

Mr. Lagomarsino.

Mr. Kasten.

Mr. McDade.

Mr. Horton.

Mr. Bafalis.

Mr. Wylie.

Mr. McCloskey.

Mr. Paul in two instances.

Mr. Hansen in two instances.

Mr. Goodling.

Mr. Shuster.

(The following Members (at the request of Mr. Simon) and to include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Edwards of California in two instances.

Mr. de Lugo.

Mr. Pepper.

Mr. Baucus in five instances.

Mr. Clay.

Mr. Murphy of Illinois.

Mr. Biaggi in 15 instances.

Mr. Florio.

Mr. McDonald in five instances.

Mr. Downey of New York.

Ms. Keys.

Mr. Russo.

Mr. Alexander in two instances.

Mr. Dingell.

Mrs. Boggs.

Mr. Oberstar.

Mr. Rosenthal.

Ms. Abzug.

Mr. Jones of Tennessee.

Mr. Hungate in three instances.

Mr. Richmond.

Mr. Mineta in two instances.

Mr. McHugh.

Mr. Carney.

Mr. Mikva.

Mr. Drinan.

Mr. Ford of Tennessee.

Mr. Conyers.

Mr. Ambro.

Ms. Holtzman in two instances.

Mr. Vanik.

Mr. Danielson.

Mr. Ottinger.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8119. An act for the relief of Fernando Alves Macos;

H.R. 11407. An act to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy;

H.R. 12168. An act to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes;

H.R. 14260. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes; and

H.J. Res. 519. Joint resolution to provide for the appointment of George Washington to the grade of General of the Armies of the United States.

## SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2228. An act to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period;

S. 2618. An act for the relief of Chea Hyo Suk;

S. 2942 An act for the relief of Kenrick Withington Brookes (also known as Kenrick Withington Clifton);

S. 3146. An act for the relief of Leo J. Conway;

S. 3149. An act to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes;

S. 3757. An act for the relief of Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur; and

S. 3790. An act for the relief of Camilla A. Hester.

## BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On September 28, 1976:

H.R. 4583. An act for the relief of Rosina C. Beltran;

H.R. 5446. An act to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972;

H.R. 5503. An act for the relief of Divina Mamuad;

H.R. 7624. An act for the relief of Jacinto Vazquez Camacho;

H.R. 7832. An act for the relief of Mrs. Janette Flores Byrne;

H.R. 9019. An act to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations;

H.R. 10339. An act to encourage the direct marketing of agricultural commodities from farmers to consumers;

H.R. 10434. An act for the relief of Dr. Carlos Montenegro-Gorbitz, his wife, Maria Elena Olguin de Gorbitz, and their son, Carlos Gorbitz-Olguin;

H.R. 10793. An act for the relief of Afaf Yassine and her children, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine;

H.R. 11321. An act to suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions;

H.R. 11722. An act to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes;

H.R. 11890. An act for the relief of Bernard Julian Phillips;

H.R. 12831. An act for the relief of Mo Chong-Pu;

H.R. 12838. An act to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes;

H.R. 13035. An act to improve the national sea grant program and for other purposes;

H.R. 13549. An act to provide for additional income for the United States Soldiers' and Airmen's Home by requiring the Board of Commissioners of such home to collect a fee from the members of such home and by increasing deductions for the support of such home from the pay of enlisted and warrant officers, and for other purposes;

H.R. 13374. An act to provide for a national wildlife refuge in the Minnesota River Valley, and for other purposes;

H.R. 15068. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia; and

H.R. 15552. An act to amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents," and for other purposes.

On September 29, 1976:

H.R. 8119. An act for the relief of Fernando Alves Macos; and

H.R. 11407. An act to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy.

## ADJOURNMENT

Mr. SIMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, September 30, 1976, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4091. A letter from the President of the United States, transmitting a proposed supplemental appropriation and a change in appropriation language for fiscal year 1977 for the Department of State (H. Doc. No. 94-637); to the Committee on Appropriations and ordered to be printed.

4092. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1977 for the General Services Administration (H. Doc. No. 94-638); to the Committee on Appropriations and ordered to be printed.

4093. A letter from the President of the United States, transmitting a report on the United States' role in helping to maintain the security of the Republic of Korea; to the Committee on International Relations.

4094. A letter from the Attorney General, transmitting his annual report on the administration of title II (Extortionate Credit Transactions) of the Consumer Credit Protection Act of 1968, covering fiscal year 1976, pursuant to section 203 of the act; to the Committee on Banking, Currency and Housing.

4095, A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on actions taken on recommendations contained in the final report of the Commission on the Bankruptcy Laws of the United States, dated July 1973, pursuant to section 6(b) of the Federal Advisory Committee Act, to the Committee on Government Operations.

4096. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Grand Isle and vicinity, Louisiana (H. Doc. No. 94–639); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4097. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Virginia Beach Streams, Canal No. 2, Virginia (H. Doc. No. 94–640); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4098. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on New Jersey coastal inlets and beaches—Hereford Inlet to the Delaware Bay entrance to the Cape May Canal (H. Doc. No. 94–641); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4099. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on the James River Basin, Richmond, Va. (H. Doc. No. 94–642); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4100. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on the Morrison Creek Stream Group, Calif. (H. Doc. No. 94–643); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4101. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on the Minnesota River at Chaska, Minn. (H. Doc. No. 94–644); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4102. A letter from the Assistant Secretary of the Army (Civil Works) transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on the Park River Subbasin, N. Dak. (H. Doc. No. 94–645); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4103. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on the Little Calumet River, Ind. (H. Doc. No. 94–646); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4104. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on the Red River and tributaries, downstream from Denison Dam-West Agurs levee, Louisiana; Days Creek and tributaries, Arkansas and Texas; and McKinney Bayou, Ark. and Tex. (H. Doc. No. 94–647); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

### Received From the Comptroller General

4105. A letter from the Comptroller General of the United States, transmitting a report on the need to redirect Federal programs to train educators of the handicapped; jointly to the Committees on Government Operations, and Education and Labor.

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## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MELCHER: Committee of Conference. Conference report on S. 507 (Rept. No. 94–1724). Ordered to be printed.

Mr. THOMPSON: Committee on House Administration. House Resolution 1500. Resolution providing for the additional expenses of the Committee on Standards of Official Conduct for the investigation authorized by H. Res. 1042; with amendment (Rept. No. 94–1725). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1576. Resolution amending section 5 of House Resolution 1238 of the Ninety-first Congress (Rept. No. 94–1726). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1544. Resolution accepting a portrait of Leslie C. Arends of the State of Illinois; (Rept. No. 94–1727). Referred to the House Calendar.

Mr. DIGGS: Committee on the District of Columbia. H.R. 14960. A bill to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits (Rept. No. 94–1728). Referred to the Committee of the Whole House on the state of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 15557. A bill to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to members of the Armed Forces of the United States and civilian employees who are missing in action or hospitalized as a result of wounds, disease, or injury incurred in the Vietnam conflict; with amendment (Rept. No. 94–1729). Referred to the Committee of the Whole House on the state of the Union.

Mr. BRADEMAS: Committee on House Administration. House Joint Resolution 1107. Joint resolution providing for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler; with amendment (Rept. No. 94–1730). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 772. Concurrent resolution authorizing the printing of materials relating to the Presidential debates between James E. Carter and Gerald R. Ford; with amendments (Rept. No. 94–1731). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 664. Concurrent resolution providing for the printing of a booklet entitled "Women in Congress". (Rept. No. 94–1732). Referred to the House Calendar.

Mr. KASTENMEIER: Committee of conference. Conference report on S. 22 (Rept. No. 94–1733). And ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 3131 (Rept. No. 94–1734). And ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DRINAN:

H.R. 15742. A bill to amend title 28 of the United States Code to regulate the use of informers by the Justice Department and the Federal Bureau of Investigation; to the Committee on the Judiciary.

By Mr. GINN:

H.R. 15743. A bill to provide for the conveyance of the lands comprising the Harris Neck National Wildlife Refuge, McIntosh County, Ga., to the persons, or the heirs of the persons, who owned such lands prior to their condemnation by the United States in 1943; to the Committee on Merchant Marine and Fisheries.

By Mr. METCALFE:

H.R. 15744. A bill to amend the Internal Revenue Code of 1954 to provide that the Federal Government will reimburse taxpayers who prevail in court actions under the Internal Revenue laws for their litigation expenses and to require the return of certain records or documents obtained by the Federal Government in tax cases; jointly to the Committees on Ways and Means and the Judiciary.

By Mr. PRESSLER:

H.R. 15745. A bill to amend section 813 of the Agricultural Act of 1970 for the purpose of providing the Secretary of Agriculture additional authority to acquire agricultural commodities for the disaster reserve created by such section; to the Committee on Agriculture.

By Mr. RUPPE (for himself, Mr. Bingham, Mr. Carr, Mrs. Heckler of Massachusetts, Mr. Patterson of California):

H.R. 15746. A bill to provide that mining companies may not discharge certain asbestos fibers except on land and in a manner provided by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

H.R. 15747. A bill to provide that mining companies that discharge asbestos fibers into Lake Superior shall be required ot pay for the cost of removal of such fibers from water used for public drinking purposes; to the Committee on Interior and Insular Affairs.

By Mr. SARASIN (for himself, Mr. Cleveland, Mr. Collins of Texas, Mrs. Fenwick, Mrs. Heckler of Massachusetts, Mr. Kemp, Mr. LaFalce, and Mr. McCollister:

H.R. 15748. A bill to amend the Occupational Safety and Health Act of 1970 to further encourage industrial safety, and for other purposes; to the Committee on Education and Labor.

By Mr. STOKES (for himself, Mr. Jacobs, Mr. Hawkins, Ms. Collins of Illinois, Mr. Diggs, Mr. Corman, Mr. Annunzio, Mr. Solarz, Mr. Vander Veen, Mr. Murphy of Illinois, Mr. Carney, Mr. Moakley, Mr. Drinan, Mr. Won Pat, Ms. Meyner, and Mr. Roe):

H.R. 15749. A bill to require that any person holding a federally related home mortgage shall provide certain services and follow certain procedures before instituting foreclosure proceedings with respect to such mortgage; to the Committee on Banking, Currency and Housing.

By Mr. STOKES (for himself, Mr. Dodd, Mr. Rodino, Mr. de Lugo, Mr. Conyers, Ms. Collins, of Illinois, Mr. Mitchell of Maryland, Mr. Gonzalez. Mr. Hawkins, Mr. Clay, Mr. Pattison of New York, Mr. Nix, Mr. Metcalfe, Mr. Udall, Mr. Rangel, Ms. Chisholm, Mr. Pepper, Mr. Dellums. Mr. Badillo, Mr. Fauntroy, Mr. Riegle, Mr. Ford of Tenessee, Mr. Moakley, Mr. Diggs, and Mr. Carney):

H.R. 15750. A bill to provide a special program for financial assistance to opportunities industrialization centers and other nonprofit community-based organizations of demonstrated effectiveness, in order to provide 1 million new jobs and job training opportunities, and for other purposes; jointly to the Committees on Education and Labor, and Ways and Means.

By Mr. STOKES (for himself, Mr. Ottinger, Mr. Dent, Mr. Beard of Rhode Island, Mr. Drinan, Ms. Burke of California, Mr. Richmond, Mr. Won Pat, Mr. Spence, Mr. Harrington, Mr. Benitez, Mr. Roybal, Ms. Abzug, Mr. Young of Georgia, Mr. Leggett, Mr. Brodhead, Mr. Rooney, Ms. Holtzman, Mr. Coughlin, and Mr. Thompson):

H.R. 15751. A bill to provide a special program for financial assistance to opportunities industrialization centers and other nonprofit community-based organizations of demonstrated effectiveness, in order to provide 1 million new jobs and job training opportunities, and for other purposes; jointly to the Committees on Education and Labor, and Ways and Means.

By Mr. VANIK:

H.R. 15752. A bill to establish procedures and standards for the framing of relief in suits to desegregate the Nation's elementary and secondary public schools, to provide for assistance to voluntary desegregation efforts, to establish a National Community and Education Committee to provide assistance to encourage and facilitate constructive and comprehensive community involvement and planning in the desegregation of schools, and for other purposes; jointly to the Committees on the Judiciary and Education and Labor.

By Mr. AMBRO:

H.R. 15753. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for expenses paid by a taxpayer in connection with his education or the education of his spouse or any of his dependents at an institution of higher learning; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.R. 15754. A bill to repeal section 5(b) of the Trading With the Enemy Act of 1917; to the Committee on International Relations.

By Mr. BLOUIN:

H.R. 15755. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

By Mr. DANIELSON:

H.R. 15756. A bill to amend the corporate name of AMVETS (American Veterans of World War II), and for other purposes; to the Committee on the Judiciary.

By Mr. HANSEN:

H.R. 15757. A bill to provide tax relief to persons whose property was destroyed or damaged as the result of the collapse of the Teton Dam; to the Committee on Ways and Means.

By Mr. HARRINGTON (for himself, Mr. Stark, and Mr. Downey of New York):

H.R. 15758. A bill to provide for the termination of any loan guarantee made under the Emergency Loan Guarantee Act; to the Committee on Banking, Currency and Housing.

By Ms. HOLTZMAN:

H.R. 15759. A bill to amend the Federal Hazardous Substance Act to make aerosol containers which contain fluorocarbons banned hazardous substances; to the Committee on Interstate and Foreign Commerce.

By Mr. JONES of Alabama (for himself, Mr. Taylor of Missouri, Mr. Holland, Mrs. Lloyd of Tennessee, Mr. Abdnor, Mr. Hefner, Mr. Walsh, Mr. Risenhoover, and Mr. Duncan of Oregon):

H.R. 15760. A bill to increase and extend the authorization for the Federal-aid primary system, to increase the Federal share for Federal-aid primary system projects, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PEYSER:

H.R. 15761. A bill to authorize the Secretary of Health, Education, and Welfare to develop and carry out demonstration and evaluation projects to evaluate the benefits of computer-based medical information patient care systems; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. THOMPSON (for himself, Mr. Corman, Ms. Abzug, Mr. Badillo, Mr. Clay, Mr. Drinan, Mr. Eilberg, Mr. Fish, Mr. Flood, Mr. Gilman, Mr. Koch, Mr. Nix, Mr. Roybal, and Mr. Yatron):

H.R. 15762. A bill to amend the Service Contract Act of 1965 to extend its coverage to professional employees; to the Committee on Education and Labor.

By Mr. THOMPSON (for himself, Mr. Corman, and Mr. Frey):

H.R. 15763. A bill to amend the Service Contract Act of 1965 to extend its coverage to professional employees; to the Committee on Education and Labor.

By Mr. RANGEL:

H.R. 15764. A bill to strengthen the economy; to help to achieve a fuller and more effective use of clothing abundances; to provide for improved levels of clothing purchasing power among low-income households through a cooperative Federal-State program of clothing assistance to be operated through normal channels of trade: and for other purposes; to the Committee on Ways and Means.

By Mr. EILBERG (for himself, Mr. Badilllo, Mr. Flood, Mr. Gilman, Mr. Gude, Mr. Hughes, Mr. Murphy of New York, Mr. Nix, and Mr. Rodino):

H.J. Res. 1113. Joint resolution authorizing the President to proclaim October 13, 1976, as "Molly Pitcher Day"; to the Committee on Post Office and Civil Service.

By Mr. FLORIO:

H.J. Res. 1114. Joint resolution designating the second Sunday in August of each year as "My Brothers and Sisters Special Day"; to the Committee on Post Office and Civil Service.

By Mr. ROYBAL (for himself, Mr. Burke of Florida, Mr. Flood, Mr. Hannaford, Mr. Hughes, Mr. Kemp, and Mr. Vander Jagt):

H.J. Res. 1115. Joint resolution authorizing the President to proclaim September 8 of each year as "National Cancer Day"; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY:

H. Con. Res. 778. Concurrent resolution relative to the submission of contract proposals to build the XM-1 tank; to the Committee on Armed Services.

By Mr. PRESSLER:

H. Con. Res. 779. Concurrent resolution providing for import relief for honey producers in the United States; to the Committee on Ways and Means.

By Mr. ANDERSON of Illinois (for himself and Mr. Long of Maryland):

H. Res. 1585. Resolution to provide for the appointment of a delegation of members of the House of Representatives to travel to certain foreign countries to study problems of nuclear proliferation; to the Committee on Rules.

By Mr. RAILSBACK (for himself, Mr. Abdnor, Mr. Bedell, Mr. Bevill, Mr. Boland, Mr. Carter, Mr. Collins of Texas, Mr. Gude, Mr. Hannaford, Mr. Hyde, Mr. Johnson of Pennsylvania, Ms. Keys, Mr. Kindness, Mr. Patterson of California, Mr. Rees, Mr. Robinson, Mr. Simon, and Mr. Steiger of Wisconsin):

H. Res. 1586. Resolution expressing the sense of the House of Representatives that the effect on our society of the level of violence depicted on television requires more consideration and study; to the Committee on Interstate and Foreign Commerce.

By Mr. O'HARA:

H. Res. 1587. Resolution to disapprove certain regulations submitted to the House by the Commissioner of Education in accordance with section 411 of the Higher Education Act of 1965, as amended, relating to the family contribution schedule under the basic educational opportunity grant program; to the Committee on Education and Labor.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DANIELSON:

H.R. 15765. A bill for the relief of Suk Tae Hong; to the Committee on the Judiciary.

By Mr. LONG of Maryland:

H.R. 15766. A bill for the relief of Edward S. Wiley; to the Committee on the Judiciary.

By Ms. MINK:

H.R. 15767. A bill for the relief of Commander Bernard E. Hartnett, U.S. Navy; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 15768. A bill for the relief of Meda Abilay Florin; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

588. The SPEAKER presented a Petition of the City Council, New York, N.Y., reltive to requesting Federal reimbursement to cities for the cost of senior citizen rent exemption programs; to the Committee on Banking, Currency and Housing.

## FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service persuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of September 28, 1976, page 33218.

### HOUSE JOINT RESOLUTION

H.J. Res. 1091. September 10, 1976. Post Office and Civil Service. Authorizes and requests the President of the United States to designate a week during 1976 and each successive year thereafter as "National Lupus Week."

H.J. Res. 1092. September 13, 1976. Post Office and Civil Service. Designates the John Philip Sousa composition known as "The Stars and Stripes Forever" as the national march of the United States.

H.J. Res. 1093. September 13, 1976. Post Office and Civil Service. Authorizes and requests the President of the United States to designate September 28, 1976, as "Teacher's Day."

H.J. Res. 1094. September 13, 1976. International relations. Directs the Agency for International Development to devise and carry out in partnership with developing nations a multifaceted strategy designed to promote breast feeding within the context of integrated programs of nutrition and health improvement for mothers and children.

H.J. Res. 1095. September 13, 1976. International Relations. Directs the Agency for International Development to devise and carry out in partnership with developing nations a multifaceted strategy designed to promote breast feeding within the context of integrated programs of nutrition and health improvement for mothers and children.

### HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 736. Setpember 8, 1976. International Relations. Directs the President to express the request of the United States Government that the Government of the Union of Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University to join the Harvard Ukrainian Research Institute for the 1976–77 academic year.

H. Con. Res. 737. September 8, 1976. Agriculture; International Relations. Declare it the sense of Congress that every person has the right to a nutritionally adequate diet, and that the United States increase its assistance for self-help development among the worlds' poorest people.

H. Con. Res. 738. September 8, 1976. International Relations. Expresses the objection of Congress to the sale to Saudi Arabia of defense articles and services.

H. Con. Res. 739. September 8, 1976. International Relations. Expresses the objection of Congress to the sale to Saudi Arabia of defense articles and services.

H. Con. Res. 740. September 8, 1976. International Relations. Expresses the objection of Congress to the sale to Saudi Arabia of defense articles and services as described in the statement submitted by the President on September 1, 1976 (transmittal numbered 77–39).

H. Res. 1516. September 1, 1976. International Relations. Condemns North Korea for its continued acts of treachery culminating in the murders of two American officers and the wounding of five others.

H. Res. 1517. September 1, 1976. Rules. Directs the House Committee on Armed Services to make a study of recent North Korean violations of the armistice agreement.

H. Res. 1518. September 1, 1976. Judiciary. Refers H.R. 15376 to the Chief Commissioner of the United States Court of Claims.

H. Res. 1519. September 2, 1976. Sets forth the rule for consideration of H.R. 14940.

H. Res. 1520. September 2, 1976. Sets forth the rule for consideration of S. 2371.

H. Res. 1521. September 2, 1976. Rules. Amends Rule XI of the Rules of the House of Representatives to provide that committee funds shall not be used for travel unless its official nature is established by resolution approved by majority vote of the committee involved.

H. Res. 1522. September 2, 1976. Ways and Means. Directs that continuation of the 1975 United States-Romanian Trade Agreement and the most-favored-nation treatment of the Socialist Republic of Romania shall be contingent upon measures taken by the Romanian Government to ameliorate the condition of minorities in that nation.

H. Res. 1523. September 8, 1976. Rules. Amends Rule XXXII of the Rules of the House of Representatives to allow specified present and former employees and Members of the House to enter the Hall of the House.

H. Res. 1524. September 8, 1976. Rules. Amends Rule XI of the Rules of the House of Representatives to provide that committee funds shall not be used for travel unless its official nature is established by resolution approved by majority vote of the committee involved.

H. Res. 1525. September 8, 1976. International Relations. Expresses the sense of the House of Representatives that the President should instruct the United States Ambassador to the United Nations to veto any application for membership in the United Nations by the Government of Vietnam.

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# EXTENSIONS OF REMARKS

## EFFICIENCY IN URBAN GOVERNMENT

## HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. BELL. Mr. Speaker, we who deal with the Federal budget increasingly are making decisions which bear directly on the performance of urban governments.

We have a growing responsibility, therefore, for the efficiency of urban government and I believe we are not giving adequate attention to this aspect of our jobs.

By far the best commentary I have read on this subject in recent years is contained in a paper by Dr. Werner Z. Hirsch of the University of California at Los Angeles.

I hope my colleagues will carefully consider this thoughtful presentation, the text of which follows:

### TOWARD EFFICIENCY IN URBAN GOVERNMENT

(By Werner Z. Hirsch, University of California, Los Angeles)

Urban government is big, and so is its budget; both promise to become even bigger in the years to come. Thus, the Bureau of Labor Statistics projects that as a percent of total employment, state and local government (and that means mainly urban governments) will grow from the present 10.4 percent to 13.5 percent by 1980. According to these projections state and local employment will increase each year by about 450,000. Expenditures by municipal governments on education, fire protection, health and hospital services, highways, parks, police services, public welfare, and debt management rose by over 60 percent between 1967 and 1971, from $24.4 billion to $39.1 billion.

Under these circumstances we must concern ourselves with the performance of urban governments. However, the ways of government are complex and difficult to evaluate. The fact that all too often we are not very clear about the criteria by which to judge government performance further complicates matters.

This paper, therefore, will seek to advance relevant criteria and define them in a manner consistent with Neo-classical economic theory. We will differentiate between (input) productivity, (program) efficiency, and social welfare or (social) efficiency. These concepts, it is hoped, will prove an important first step toward better understanding and appraising the performance of urban governments. Then the paper will deal with how urban government decisions on different levels can be made consistent with such criteria. We will seek to show that productivity maximization should not be the ultimate goal of urban governments. Productivity is a managerial tool, and should not be taken as an end in itself; it can be inconsistent with efficiency, the ultimate goal.

Finally, we will consider the outlook for greater urban government efficiency and suggest a number of policies that could improve the performance of urban governments. Examination of these issues will proceed with reference to program budgeting, a procedure intended to clarify concepts as well as policy implications.

### GOVERNMENT DECISION LEVELS AND OBJECTIVES

All urban governments, particularly very large ones, must make a plethora of highly complex resource management decisions. To consider all these decisions centrally and simultaneously, and to do it well, would be impossible for even the most expert and elaborate decision-making body. Charles J. Hitch and Roland N. McKean pointed out in 1960 that "the number of detailed decisions that must be made in the Department of Defense would defeat even the most effective staff. How to compare a few extra maintenance men in a bomber wing with extra ammunition in the infantry, from the point of view of national security?" Although the Secretary of Defense is faced with making an exceedingly large number of highly complicated decisions, many of them involve reasonably quantifiable outputs. Many of the decisions of a mayor, or a city or county council, although involving fewer resources, involve less quantifiable outputs and are therefore less manageable.

Resource management by urban governments can be directed toward the achievement of (social) welfare, (program) efficiency, or (input) productivity. These criteria for decision making correspond with the hierarchical structure of the typical program budget as well as the managerial levels involved in decision making.

For example, at the highest level the goals being pursued by urban government can be separated into a limited number of program categories. Typically, the program categories of local government include public safety, education, recreation, cultural activities, health and welfare, sanitation, street services, and general government operations.

The highest-level decisions determine the size of the city budget and its division among the broad program categories, with the decision maker seeking a grand optimum. From such a point of view the mayor and city council seek the grand optimum, thus achieving the highest level of efficiency for the city. In theoretical terms doing so is an attempt to maximize all implicit social welfare functions for the city (sometimes called social efficiency). A similar argument holds for county and special-district governments.

These highest-level decisions involve program categories for which mainly abstract and overall goals of government can be specified. Such goals tend to represent broad statements of purpose, which ordinarily cannot be given quantifiable content and instead reflect a consensus about ultimate ends sought by specific government activities. Therefore, the allocation of the budget to different high-level program categories can be added only to a limited extent by economic analysis. It is below this highest level that programs and, below them, subprograms or program elements are so defined that they can be stated in terms of quantified objectives for which output measures can be attempted.

At the other end of the spectrum are the lowest-level decisions that often can be made in relation to tangible and quantifiable outputs. These lowest-level decisions tend to involve physical outputs associated with program elements or the performance of low-level operating units. Ordinarily the physical production of such units is readily ascertainable. These output measures make possible analysis of the productivity with which a given low-level activity is carried out, and thus the assessment of the performance of low-level operating units. Productivity measurements are often adopted for cross-sectional or temporal comparisons to facilitate assessment of work load, performance, and output differences. Operations research and production-function and cost analyses can then contribute to improved decisions.

Program budgeting can make only a limited direct contribution to the achievement of social welfare through budget allocations at the highest level. Program budgeting makes no unique contribution to the lowest-level productivity analyses. It is then to the intermediate level, where decision making is concerned with program efficiency, that program budgeting is primarily directed.

The intermediate level represents a disaggregation of program categories into programs—e.g., the public safety category can include such programs as prevention of crimes to persons and property, crime deterrence and response, and apprehension of criminals. The program also represents an aggregation of the lowest-level program elements. For example, within the crime deterrence and response program there are such elements as, for example, motorized and foot patrol or traffic enforcement for which productivity measures are feasible.

### OUTPUT MEASUREMENT

Different decision levels and objectives call for different output measures. Measuring output relevant to productivity concerns, for example, is by far the easiest. But even here we face serious difficulties, and we find that often inappropriate measures are used. There exist, for example, many efforts to measure the delivery of an urban service in physical units per man-year. One example is a study by the Urban Institute and the International City Management Association which found one city in 1971 collecting solid waste at a rate of 908 tons per man-year, while another of approximately equal circumstances just 30 miles away collected only 334 tons per man-year. But the two cities do not necessarily have identical wage scales and labor force mixes. Taking this fact into consideration, we find that the first city collected about 88 tons per $1,000 in wages, while the other collected merely 35 tons.

However, even this comparison has serious shortcomings, because it neglects capital investment. For instance, the Southern California Edison Company, a private utility, in Los Angeles county, serves many more customers per employee than does the Los Angeles Department of Water and Power. (In 1973, the former had only 62% as many employees per customer as the latter.)

Both utilities supply customers under very similar circumstances; often the private supplier has customers on one side of the street and the city department on the other. Still, since electricity rates charged by the private company are determined by the California Public Utility Commission and based on a "fair rate of return," the company has a strong incentive to be capital intensive. The same holds true to a much lesser extent for the city department.

A recent study by E. S. Sávas attempts to include all costs involved in solid waste collection. He compares the productivity of private carting operators serving the city of Bellerose, just outside New York City, with that of the New York City Department of Sanitation serving the Douglaston section of New York City. Douglaston and Bellerose, only 4 miles apart, are very similar—having mainly one-family homes. The public service of Douglaston, two-times-a-week collection from curbside, cost $207 per dwelling per year; while the private service of Bellerose, three-times-a-week collection from the back of the house, cost only $72. Thus, government garbage collection of lower quality was provided at almost three times the annual cost of the private carting operator under more or less similar circumstances.

While it is difficult to measure output relevant to productivity, the difficulties are even greater in relation to program efficiency. As a consequence there is a great temptation to emphasize productivity measurement in favor of program efficiency measurement. In many circumstances this tendency can be unfortunate. For example, it is not difficult to measure the productivity of a fire company in terms of average time needed to respond to a fire call. However, speed is only one element in the reduction of losses caused by fires, and if the fire department were to focus on speed as its sole production objective, it might ignore such other objectives as inspections to determine fire hazards and professionalism at the scene of a fire. Thus a great danger of simplistic single-valued outputs assigned to low-level operating units is that by some standard they might be very productive and yet not efficient in terms of the overall program mission.

Program efficiency is distinguished from productivity by the richness of the output measures it incorporates. The temptation to succumb to simplistic measures of program efficiency is very great. Thus the National Commission on Productivity reported to the Joint Economic Committee of Congress that it found, in studying cities of similar size and crime rate, "One city with 3,700 index crimes per 100,000 population spent less than $10 per capita for police in fiscal year 1970, while another with a similar crime rate and size spent $42." However, the study recognized some of the inadequacies of its measures, pointing to ". . . the weaknesses in the basic data on crime and police outputs and . . . the difficulty of measuring the effect of police activity as a deterrent to crime." Matters are actually much more complicated.

Police protection, as an urban government program, has not as its sole objective crime deterrence, although its measurement is difficult enough. Another output dimension is a punitive one. Once a crime has been committed society generally seeks punishment of the criminal, and the police initiates this process by using resources in making arrests. The punitive component of police output perhaps can be estimated with the use of arrest data. But how can we estimate the preventive output component? One way would be to estimate a crime production function and calculate with its help a measure of prevented crimes—defined as the ratio of predicted crimes to actual ones. After this is done we are left still with the problem of assigning weights to the preventive and punitive components.

Admittedly, the output of programs designed to prevent something from happening is the most difficult of all urban services to measure. Defining and measuring output is much less difficult if the program produces physical end-products. Water and electricity are the best examples, followed perhaps by solid waste collection and disposal, where measurement in physical units becomes possible. Matters are further helped by the imposition of user charges, particularly if they are set by competitive forces.

Defining and measuring output relevant to social welfare or social efficiency is a horrendous undertaking, most likely beyond our present capability. Social welfare differs from program efficiency primarily because the former includes the potential for trade-offs among program outputs in the achievement of society's goals. Thus, social welfare is more global than program efficiency, and one important ingredient of this greater comprehensiveness is a concern with the income redistribution consequences of program outputs and costs.

### HIERARCHICAL DECISION MAKING

Application of analytic techniques to a hierarchical decision-making structure requires defining the objective for the decision maker at each level. It would be highly desirable to give each decision maker a simple objective output that he should maximize, subject to his budget constraint. Unfortunately it is usually not possible to divide the output objective of a higher level into simple and separable categories that lower levels can easily comprehend and measure. Given this situation, it might be desirable to make each lower-level manager aware of exactly what his contribution is to maximizing "social welfare," i.e., achieving the higher-level, politically determined, objectives. However, here we would encounter the difficulty of transmitting all of the information relevant to higher-level decisions down to lower-level managers, clearly a costly procedure.

Thus, we have a tradeoff between complexity in the statement of the objective of each level and the cost of stating and interpreting complex objectives. It would then seem that one of the primary objectives of program budgeting would be to convert the complex, almost rhetorical objectives of higher levels into successively less complex, more objective output measures at lower levels.

The varying complexity of output measures is reflected in the difference between cost-effectiveness and benefit-cost studies, which are a major analytic component of program budgeting. When we can be sure of the output we are seeking to maximize, then the least-cost technique for producing this output can be identified through cost-effectiveness studies. However, when there is not a straightforward, objectively determined standard to maximize, and where outputs are multi-dimensional and difficult to aggregate, then we need cost-benefit studies that spell out the variety of costs and benefits associated with programmatic decisions.

In principle, cost-effective studies can be carried out at any decision level, provided we can be sure of the output that is being maximized at that level. In practice, however, cost-effectiveness studies are most readily made at the lowest levels. Such studies then become not only relevant for low-level decision making but also an analytic input into the higher level of decision making, an input that is used by the higher-level decision makers for cost-benefit comparisons in terms of their objectives. Sometimes such cost-benefit studies can then become cost-effectiveness studies that enter into the information received by the next higher level, and so on.

Hitch and McKean discuss the budget implications of a hierarchical approach to resource management decisions in the Defense Department: "One might divide our Military Establishment into total war or strategic forces and limited war or tactical forces. The former might then be divided into bomber systems, ICBM's active air defenses, and the like. The high level decisions would be the determination of the division of the total defense budget between total war and limited war capabilities. At a lower level, another organization would be concerned with dividing up the budget for strategic forces into sub-budgets for bombers, various missile systems, air defense, and so forth. At a still lower level, those responsible for bomber operation would decide how to base the bombers, how to maintain them, in what state of readiness, and the like."

Similarly, for urban governments, intermediate- and lower-level decision makers are generally given a budget and are charged with the responsibility of maximizing output in the light of this budget. Their output measures can be reasonably quantifiable and more or less tied to the intangible overall goals of government. Outcome measures that quantify the achievement of objectives are necessary for both benefit-cost and cost-effectiveness analyses of programs designed to maximize output if the budget level is given. Productivity represents a particular measure of cost-effectiveness for a low-level decision maker, whereas at the intermediate level efficiency relates to achievement of the correct program objective to maximize, which at the highest level becomes the social welfare objective.

Thus, returning to our earlier example, a fire station that responds to fires very quickly may have a high productivity rating, which is of interest to the station captain, but a low efficiency rating, which is of interest to the fire chief, city council, and residents. Or a sanitation department may have a work force that collects large amounts of garbage per day, but to achieve this may deliberately overlook collections from some addresses and leave spilled garbage and damaged containers behind. This may reflect high productivity but low efficiency. For such reasons proper resource management decisions require relating the output of low-level operating units to the objectives of intermediate decision-making units and to the goals of the very highest decision levels. This can be done most effectively when program efficiency considerations are handled by the intermediate-level decision makers, who are assigned a given budget, and productivity considerations are handled at the lower levels of decision making within the bounds established by efficiency decisions.

### THE OUTLOOK FOR EFFICIENCY

What is the outlook for urban government becoming more efficient and/or productive? The answer depends very much on the extent to which local urban politicians and their constituents will give a high priority to improving the efficiency of their governments and worry less about justice and income redistribution. In theory, local governments have both the incentive and the means to pursue vigorously efficiency objectives. Of the three levels of government, local governments spend more than any of the others, and if taxpayers are indeed concerned about high taxes, efficient use of funds by local government could have a very large effect. Furthermore, local governments rely much more than do other governments on user charges, and therefore they are in a better position than are the other levels of government to obtain demand signals that facilitate their efficient use of resources.

There is broad agreement in the United States about the federal government's dominating role in the redistribution of income. Since the federal government is charged with carrying out an income redistribution policy, and is being assisted in this by state governments, local governments indeed could primarily seek to attain efficiency objectives in pursuit of social welfare.

However, the question arises, can local officials afford to neglect the income redistributive consequences of their decisions? This question is often expressed in the following form, "Are not local officials, for the sake of their reelection, greatly concerned about who receives services and who pays for them?" The implication is that local officials are seeking support from interest groups necessary for their reelection, and in pursuing such objectives they redistribute real income.

There seems to be relatively little opportunity for municipal officials to reward special-interest groups through discretionary allocation of services. For example, the quality of fire services provided to neighborhoods cannot easily be manipulated, mainly because the location of fire stations was established many years ago, and those locations are quite fixed. They all have to be manned in a reasonably similar manner. With respect to the major local government expenditure item, for police protection, there is evidence that professionally determined criteria are used to assign forces to different districts, according to their crime conditions. And with respect to the third-largest expenditure item, sanitation, few favors can be awarded, since the frequency and method of collection is the same throughout the entire area.

Thus, relatively minor redistribution of income takes place at the municipal government level because of the exercise of discretion in the delivery of services. (It is acknowledged that this observation may not apply to school districts.) Also, were redistribution to take place on a large scale, much voting with one's feet would tend to occur.

Even if we accept the view that municipal officials are motivated by efficiency considerations, some serious implementation problems remain. Not only is it difficult to reach broad agreement on what services local government is to provide, but the objectives of many local government programs are multiple and intangible. Furthermore, local government officials are seldom able to carry out sharply focused policies. New public policy proposals need not only public support. They also require the approval of the city council and mayor and, to the extent that there is grant funding, they require the approval of higher levels of government as well.

### SOME PROPOSALS

We have predicted that in the coming decades, more than in the past, urban governments should and possibly will pay increasing attention to efficiency and productivity concerns. Proposals to improve efficiency and productivity cannot neglect the pragmatic interests of public officials. Today there is, for example, little reward for innovative achievements that increase government productivity, but the penalties for failure in such attempts are high. The desire to build an empire, or not to fight with employees for the sake of greater productivity, can be strong. Basing salary and status on the size of the budget and number of people managed encourages exaggerated increases in staff and budget. Introducing machines, while possibly productive, exposes managers to strained labor relations.

These are some of the impediments to improved performance that must be taken into consideration, as we advance analytical tools, management procedures and policy proposals. We continue to be in need of better ways of defining and measuring output. Furthermore, there is need for improved benefit-cost analyses together with empirical determination of producton and cost functions. and in select cases demand functions.

As output measurement improves, better productivity data can become available. The mandatory preparation of comparative annual productivity data should stimulate managers to perform well and participate in the preparation and use of an annual report on opportunities for labor-saving equipment. If timely financing is provided to exploit high-payoff capital investment opportunities, much progress can be made. Also, steps can be taken to attract the attention of the scientific and engineering community to the problems of cities and to facilitate the transfer of successful experiments.

For the sake of improved program efficiency a number of management procedures and policy steps should be considered. Program budgeting clearly could play a significant role in improved decision making by urban governments. Yet we must recognize that so far it has been less than a success on the urban scene. There is a sizable gap between our aspirations for program budgeting and its actual achievements. The failures appear to suggest that in the past we have paid insufficient attention to the placing of program budgeting into an environment in which officials have strong incentives to make it a success.

There is room for more systematic preparation and review by the executive and even more by the legislative, branch of the productivity and efficiency implications of budget proposals. Many urban governments have neither the will nor the capability to prepare legislative proposals in a manner that gives careful consideration to productivity and efficiency questions. This is even more true for legislative bodies. Perhaps the most extreme case is the Los Angeles Unified School District, serving about 750,000 students, where School Board members are given no staff whatsoever. There is much to be learned from the experience of the State of California, where finance committees of either house will not vote on a bill until the Office of the Legislative Analysis has presented a detailed review and evaluation of the bill's fiscal implications. Perhaps urban governments could make similar use of a Legislative Analyst, but in addition charge him with a review and evaluation of productivity and efficiency concerns.

Finally, let us turn to some policy opportunities. In addition to making broader use of appropriate user charges, two policies stand out—(1) further professionalization of employees and (2) governmental contracting for select services.

(1) Urban governments are not only highly labor intensive, but they are also distinguished by usually including in their charters civil service and "prevailing wages" provisions. Rapid growth of unionization in conjunction with these provisions have produced the following tendencies—government employees' performance tends to be inferior to that of their counterparts in the private sector; they tend to receive wages that are higher than their productivity warrants; and furthermore, urban government labor markets tend to be inefficient with respect to labor quality increases.

Under these conditions, efficiency of the labor force of urban governments might be improved by further "professionalization" of employees. Rewards of employees usually are both monetary and nonmonetary, with the latter including pride in professional achievement; such rewards enter positively into the urban government employee's utility function. Professionalism counteracts the desire of employees to shirk, i.e., to put forth less effort than he is capable of, in hopes of gaining more leisure. Thus a professional tends to perform well at his job without the usual motivating conditions of fear of job loss or hope of advancement. Some urban government workers, particularly teachers, museum and library employees, ambulance drivers, and health officials, have in recent years expressed concern about the output of their departments. To the extent that this concern is associated with pride in their work, granting greater autonomy to departments (subject to some central review and budgeting procedure), and providing for more participatory management, can strengthen this drive and lead to enhanced efficiency and productivity.

(2) Contracting for services with other governments or private firms provides demand signals and adds an element of competition in the production of urban government services; it should create more incentives for efficiency. Likewise, a government that supplies services under contract offers efficiency incentives to its labor force. Employees, no less than management, will often exert themselves in order to retain, if not expand, such contracts and the employment opportunities associated with them. Under contracting, if a worker performs poorly, the likelihood of job loss increases. Leibenstein has demonstrated that productivity and program efficiency improvements can result from motivational inducements in the presence of competition. Managers tend to worry more about obtaining maximum productivity when they are under competitive pressure, which he calls X-efficiency. Furthermore, since demand signals are provided, officials and their constituents can know better how much they pay for contracted services, information they seldom have when buying a bundle of services funded by taxes.

In summary, we have offered some proposals to improve the productivity and program efficiency of urban governments. As economists we have little to say about how officials can attain social efficiency; it mainly depends on wise leadership and the political process. While there are various promising ways to improve productivity, such steps should not be taken in isolation, but should be consistent with the more important goal of improved program efficiency.

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## AMERICAN POLITICS TODAY

## HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. BOLLING. Mr. Speaker, Henry Fairlie, former chief editorial writer of the London Times and longtime observer of the American scene, reflects on "American Politics Today" during a recent discussion at the Center for the Study of Democratic Institutions.

I believe our colleagues will be interested in Mr. Fairlie's observations which follow:

### A BRITON'S REFLECTIONS—AMERICAN POLITICS TODAY

(By Henry Fairlie)

The feeling of an outsider is that the United States is an improbable country. It seems too large and too heterogeneous to work. One doesn't know why it exists, yet it does. I remember an editorialist writing in the *Economist* after the 1972 elections that it "had been raining in America on election day." The European is always trying to reduce the United States to a size he can comprehend.

One British observer noted that as one moves across the country, all semblance of European structure vanishes. He was talking not solely about the geography of America, but about the physical, psychological, emotional, and intellectual experience which is totally unlike anything felt in any country of Europe.

The United States is the one great nation in the world which has not only a birthday but a birth certificate. Yet you seem—to yourselves and others—to be, in a sense, the most illegitimate of nations.

The uniqueness and exceptionalism of American life is real. Many things contribute to this uniqueness, but one of the most interesting is your Presidential election. Every four years, the election provides the occasion for a redefinition of the American nation.

There really is something genuine underneath the elections. The American people do use them to rediscover the unity of their country. That certainly takes place in that now much-despised but, to me, wonderful institution, the party convention. That is when the parties do become national parties.

People like the political columnist David Broder keep saying that the political parties are weak and that the "party is over." When were the parties ever strong? The Republican Party has never been a really strong national party. The Democratic Party was a strong national party during the New Deal period and for a short time afterward. But I do not think the parties are any weaker now than they have ever been.

Some are saying that the parties have become oligarchical and hierarchical. But that has not happened. No matter what is said in criticism of the parties, when citizens want to do anything in this country on the national level, they still turn to one of the two major parties. The American political parties are depositories of the popular, historical wisdom of the country.

I think that the strength of the Democratic Party will grow enormously in the next twenty years. The McGovern reforms of 1972, although they confused the Presidential campaign itself, have gone deep into the Democratic Party. The party has to go what, in American terms, is called radical. It has to become serious about the concentration of economic power in this country. I think it will.

Since the Republican Party does not believe in governing, I never know how one can judge whether it is strong or weak. But what is fascinating is the extraordinary weakness of the so-called liberal wing of the Republican Party. The liberals read like a roll call of failures—William Scranton, George Romney, Nelson Rockefeller. In the Ford and Reagan situation today, if one looks for a strong liberal Republican to enter the lists, there is not a single one available. No one takes Charles Percy seriously, and only Elliot Richardson takes Elliot Richardson seriously.

Since 1918, the two parties have each occupied the White House about the same number of terms. Yet no one thinks of this century as being, in a sense, made by the Republican Party, whereas we do think of it as having been made by the Democratic Party. The American people have searched and searched for the Republican Party. They have looked for that party, after eight years of Dwight Eisenhower and eight of Richard Nixon and Gerald Ford, to come up with its own definition of the nation, its own public philosophy, its own contribution to the history of the country in this century. But, again and again, the Republican Party has let it down.

Something unique in American Presidential elections is the upstart as candidate. There is no political arena in America for a Presidential candidate to gain the experience he needs to qualify for the office. Presidential elections are contests between upstarts, except, of course, when one of the candidates is an incumbent. A candidate is a *tabula rasa*. He writes his own political character during the process of a campaign and in response to what he feels the people want.

One of the things voters respond to positively in their political candidates is the attitude of the candidates themselves toward politics and government. The American people liked the fact that Franklin Roosevelt smiled a lot, that he kept his chin tilted, that he enjoyed the office and running for the office, that he enjoyed his country and the age in which he lived. That is an important part of a candidate's political appeal. It is also an important way by which voters can judge whether a candidate will have the political character needed for that office.

When you get the other kind of person, although he may be a very fine and honorable person, one senses there is something wrong. Somehow that seeps through to the voters. Morris Udall, for example, is a witty and honorable man, but he said again and again during the primaries this year that he should not be the liberal candidate, that it should be Walter Mondale. Well, if anyone enters a campaign saying that someone else should be the candidate, the voters are entitled to wonder whether such a person will be able to enjoy the exercise of power if he wins the office.

The key to Richard Nixon was that he could not bear to exercise power and so he had to reach for force which is quite a different thing. When a man has the power that comes from genuine authority, he seldom has to resort to force.

People thought John Kennedy relished politics and political fights. He certainly gave a public image that he did. But the more we learn about Kennedy and his exercise of power, the more we realize he did not like running a government. He hated the bureaucracy. He hated Congress. He was always taking shortcuts. And, of course, John Kennedy's greatest shortcut was his resort to guerrilla government, not only guerrilla warfare around the world, but guerrilla government at home.

Kennedy, like Nixon, really hated power. He was frightened of power. He created a Cabinet of yesmen. Compare Kennedy's Cabinet to those of Franklin Roosevelt. Roosevelt had a bundle of rogues and rascals in his Cabinet, and he set them fighting each other and him. He enjoyed that. He would have been greatly disappointed if he had awakened one morning in those early years of the New Deal and found that the political situation was the same as it had been the day before. One cannot imagine a Harold Ickes in Kennedy's Cabinet.

The thing I think voters are responding to in Jimmy Carter is that he seems to be a man whose power flows from his senses of authority and that, therefore, they can trust him not to resort to blatant force. I think the voters also sense that although Carter is a religious person and has his own set of values, he would not, as a Reagan-type administration, try to impose those values on others, that he would not seek laws against pot, for example, or more censorship of movies.

I saw Carter's television interview with Bill Moyers on the Public Broadcasting System and my hair curled a bit when he responded to questions about his religious background and convictions. But as he talked about his upbringing in a rural background, about his little schoolhouse, about the Naval Academy and the Navy, he was utterly convincing. Here was someone talking about self-discipline and about the values which he himself held but which he did not feel any need to impose on others. That is an authoritative man.

The thing that has been absent from Presidential party politics is the idea that the party should mandate its candidate. But the Democratic Party, especially in the last eight years, has been developing inside itself an instrument for doing just that, mandating its Presidential candidate. The party is beginning to learn how to tell its candidates what to say.

American politics tends also to be nonideological. I was amazed to find Eugene McCarthy being written and talked about as though he were a radical, simply because of his opposition to the Vietnam war. One had to take only one look at McCarthy to see that if he came into power his would have been the most conservative administration in American politics since that of Calvin Coolidge. The main reason Eugene McCarthy opposed the Vietnam war is that he does not believe a government should do anything. People looked at J. William Fulbright's opposition to the war and thought he, too, was radical. But Senator Fulbright's opposition to the war was that of a conservative who, again, does not believe government should act.

A lot of the confusion in American commentary on the elections comes from this inability to look at candidates in the ideological frame. So, one finds commentators classifying an activist like Jimmy Carter, as a conservative, whereas anyone who so clearly believes in active government as does Carter can in no way be regarded as a conservative.

The mass media, with the help of those political scientists who think you can quantify everything, often invent what they report. This year, the media say that the people of America are anti-politics, anti-politician, anti-government, and anti-Washington. Certainly, if you go out and ask someone, "Are you alienated?" he will say, "Yes." It's rather nice to feel one is alienated.

During the 1968 to 1972 period, someone announced that the American people were "polarized." The next day every political journalist went out and discovered that the American people were polarized. They weren't polarized at all. That was a creation by the media and by those political scientists who try to measure public opinion when, of course, public opinion cannot be measured.

The media and the pollsters in 1968 and 1972 built up George Wallace, called him a dangerous man and said all polls showed him moving ahead. And then, of course, by election time Wallace's vote was down to its usual ten or eleven per cent.

What happens is that between elections and during primary campaigns people do respond to what the media tell them about busing and backlash. The voters do tend to see themselves, first, as whites, forgetting for the moment that they are also workers, forgetting that they are also Catholics, that they are Democrats. Or, other voters may see themselves first, as workers, forgetting other parts of their identity.

But when these voters go into the booth on election day, all these things come together. Voting becomes a solemn act of identification of the whole human being. And that always trips up the Wallaces and all the one-issue candidates.

The media word "backlash" was used after the United States withdrawal from Vietnam. The withdrawal was indeed humiliating, and a lot of media people went around predicting a right-wing reaction against this. No doubt when Ronald Reagan plays on the Vietnam issue, he touches a nerve. But that does not mean that the American people are now going to reverse the conviction they have had since 1945, the recognition that they cannot ever again back away from the world as they did in 1918 at the end of World War I. Whatever the revisionist historians may say, the American people, despite enormous provocations, strains, and challenges, have given a most amazing demonstration of steadiness in this conviction from 1945 on.

The voters don't seem to pay attention to the media picture of a candidate. They prefer to form their own picture. The press's influence is neither as great as it sometimes claims it is nor as little as it would like to pretend when it is being attacked.

The only way you can find out how people are thinking or feeling is to go and not talk to them or ask them questions but wait until they talk. Once you ask them a question—as the pollsters do—you are already half-dictating their answer.

One thing that is absent from the media—newspapers or television—is any sense of history in political reporting, any sense, even, of recent history. There is seldom any comparison of today's political candidates with those of yesterday.

People in the offices, shops, and factories—people of different ages and generations—do have a sense of history. The older ones will tell the young people, "Ah, but you don't remember F.D.R.," or, "Let me tell you about Harry Truman. Now there's a man we could trust." But there is little of that perspective, memory, or sense of continuity in the media's reporting of politics.

And this is important to people. I remember during the 1968 Presidential campaign, when Hubert Humphrey, the labor unions, and the Democratic Party finally decided that perhaps they ought to try to win the election. On Labor Day, they put on an hour's television program which consisted primarily of old newsreels from the nineteen-twenties and nineteen-thirties on. The Republicans were criticizing "permissiveness," they said. And so they showed can-can dancers and newsreels of Hitler's Germany and said, "Here is what 'law and order' produced in Germany." There was also a lot of news film of the Depression in the United States and what the New Deal and union organization meant in those days.

I was watching that program with a young English journalist. He said, "Oh, that doesn't mean anything to the young voter these days." But, of course, it meant everything to the young voter. Hitler's Germany was hot in his own folk memory because either his parents or his grandparents had experienced it. And the Democratic Party, and the trade unions reflected a deep and profound sense of his and their country when they put on that program. This is not just nostalgia; it is a historical sense, a folk memory of the people that is evoked.

It is said that people don't really "talk politics" among themselves, in their neighborhoods, in their places of work, in social gatherings. But people are, in fact, talking politics when they seem to be talking only about how they feel, whether they feel well or happy, whether their children are happy or discontent. Politics is most deeply talked about when people discuss the behavior of their children, as, for example, so many of them were doing in the nineteen-sixties. Their children's behavior and their own responses to that constituted a profound political comment on their time and their society.

Political attitudes are to be measured not only in columns of figures and statistics on the charts of political scientists and pollsters, but also by noting how, in fact, people on the street and families in parks and restaurants look and feel and behave. They seem happier and less jaded today than they did in 1970. In 1970, everyone's life seemed to be frayed not only by the indignities of their own lives but also by those in society at large.

But, it is said, the American voters are apathetic, they are indifferent, they are rejecting the political system, as evidenced by their low turnout at election time. I think there is that, and that it is the people's response to the lack of leadership among politicians.

But there is another form of political leadership, one that should be coming from the informed and the academic and intellectual people of the country. That is where the real apathy lies. I think those people have withdrawn into ivory-tower activities. They have preferred to work in obscure corners to see how the system works rather than study and speak out on how it should work.

By contrast, look at the influence that the intellectuals and the social and legal philosophers and historians had on the reforms instituted by the New Deal. People like Oliver Wendell Holmes, John Dewey, Thorstein Veblen, and even a historian like Frederick Jackson Turner, preceded the New Deal by thirty years or so. These people were redefining the public philosophy in the United States. There was a radical change in the Harvard Law School at the beginning of this century when lawyers began to realize that the law was not some frozen or static body, but rather that it could be changed in order to change the society. These public philosophers were ultimately responsible for providing political leadership in the deepest meaning of the term. They were the people in the universities the philosophers, the economists, the legal thinkers.

Now that hasn't happened in our day, and until that kind of political leadership responsibility for the public philosophy is again undertaken by the intellectuals, by the people in the Academy, then the political parties will not be discussing real issues. And the American people will continue to recognize that the parties are not discussing real issues.

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## INTERNATIONAL ALPHA DELTA KAPPA WEEK

## HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. BREAUX. Mr. Speaker, it is fitting in this Bicentennial Year to pay tribute to the thousands of individuals who have devoted their lives to the educational profession and the instruction and betterment of this Nation's citizenry.

The Alpha Delta Kappa International Sorority for Women Educators and its Alpha Beta Chapter in Lafayette Parish will be celebrating International Alpha Delta Kappa Week from October 10 to 16 and I commend their past and future efforts in insuring that all Americans benefit from the educational process.

Contributions by the local Alpha Beta Chapter—as well as by their counterparts throughout the country—have been immeasurable. As Henry Adams once said:

> A teacher affects eternity; no one can tell where his or her influence stops.

May their influence continue to be progressive and positive.

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## OCEAN '76 FORUM—PART II

## HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. ALEXANDER. Mr. Speaker, recently I inserted in the RECORD data regarding the recent Oceans '76 Forum that convened in Washington, a gathering that brought together congressional leaders in marine-related matters, scientists, engineers, and administrators concerned with the orderly development of our ocean potential.

I would like to share with my colleagues excerpts from the program of this conference:

### OCEAN '76 FORUM

### CHAIRMAN'S MESSAGE

Welcome to Oceans '76. We hope you will join us for this great event in Washington, D.C., during this bicentennial year. Oceans '76 will be the second joint conference of the Marine Technology Society (MTS) and the Institute of Electrical and Electronics Engineers (IEEE) Council on Oceanic Engineering.

The theme of the conference—Ocean Imperatives—emphasizes the importance of the oceans and their critical impact on the quality of life on earth. Conference sessions will discuss the vital roles of the oceans, the contributions made through marine science and technology, and the need for cooperative international regimes to protect and conserve the oceans and their resources, while making possible their wise utilization and development for the benefit of mankind.

In accordance with this emphasis, the conference will open with an international plenary session in which representatives of eight nations, the world's leaders in marine science and technology, will review their nation's ocean endeavors, needs, and plans and will present their views on opportunities for international cooperation. The U.S. viewpoint will be discussed by Members of Congress and leaders from government agencies, industry and academia at the Ocean Affairs Banquet.

Complementing the carefully selected technical papers, poster presentations, and workshops, there will be a large technical exhibit highlighting recent technological developments and equipment.

In sum, the conference will provide:

A forum for far-ranging discussions of ocean programs, issues, and plans;

A technical meeting to review and discuss the latest developments in applied research in marine science and technology; and

A showcase for the most recent developments in marine technology products.

In honor of this bicentennial year, there will be a unique exhibit of artifacts borrowed from many museums, showing how far we have come in marine technological development over the years. In addition, two special bicentennial tours have been planned for your enjoyment.

The conference has been planned and coordinated by an outstanding committee of members of MTS and IEEE, with strong support from both societies and participation by other organizations with interests in ocean development. I deeply appreciate the contribution of all of them—and I look forward to seeing you at Oceans '76.

Joseph R. Vadus, *Chairman* Oceans '76.

### MONDAY, SEPTEMBER 13, 9:00 A.M.

### *Session 0. International plenary session*

#### Moderator

Dr. Robert M. White, Administrator, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, and Chairman, Interagency Committee on Marine Science and Engineering (ICMSE).

#### National Representatives

Canada—Dr. A. E. Collin, Assistant Deputy Minister, Ocean and Aquatic Sciences, Environment Canada.

Federal Republic of Germany—Professor Dr.-Ing. S. Schuster, Director, Research Institute for Marine Construction and Ship Building, Berlin, and Deputy Chairman, German Federation of Marine Science and Technology Societies.

France—Mr. Yves LaPrairie, Director, General, Centre National Pour L'Exploitation des Oceans (CNEXO).

Japan—Dr. Hidetsugu Ishikura, Director General, Japan Marine Science and Technology Center.

Netherlands—Professor W. Langeraar, Director, Netherlands Maritime Institute.

United Kingdom—Mr. Kenneth R. Haigh, Director, Admiralty Experimental Diving Unit, and Vice-President, Society for Underwater Technology.

Union of Soviet Socialist Republics—(Pending).

United States—Dr. William J. Hargis, Jr., Chairman, National Advisory Committee on Oceans and Atmosphere.

### MONDAY, SEPTEMBER 13, 2:00 P.M.

### *Session 1. Law of the Sea*

Chairmen: W. M. Nicholson, NOAA/National Ocean Survey; Don Walsh, University of Southern California.

Report on the Law of the Sea Conference—Howard Pollock, National Oceanic and Atmospheric Administration.

The Legal Status of Installations in the Marine Environment—Georgette C. Mariani, Centre National Pour L'Exploitation des Oceans.

A Legal Foundation for Usage of Three-Dimensional Ocean Space—Lawrence G. Mallon, Sea Grant—Marine Advisory Services.

Economic Perspectives on International Negotiations for Ocean Resources Development—Charles S. Pearson, School of Advanced International Studies, Johns Hopkins University.

### MONDAY, SEPTEMBER 13, 2:00 P.M.

### *Session 4. Information transfer*

Chairmen: Thomas S. Austin, Environmental Data Service, NOAA; Peter de Regt, Environmental Data Service, NOAA.

United Nations Activities in Marine Information Exchange—C. H. Sczekielda, Ocean Economic and Technology Branch, United Nations.

Teleprocessing in Scientific Information Exchange: The NSF Role in Innovative Research—L. G. Burchinol, Division of Science Information, STIA, NSF.

The MIT Industry Collegium—A Partnership of Industry and Academia. Norman Doelling, Marine Industry Advisory Service, Massachusetts Institute of Technology.

Application of Computer Image Processing to Marine Resource Exploration—Peter R. Paluzzi, Jet Propulsion Laboratory; William R. Normack, Gordon Hess, Harold Hess, and Michael J. Cruickshank, U.S. Geological Survey.

Natural Hazard Losses from Coastal and Offshore Phenomena—Milton Johnson, NOAA.

### TUESDAY, SEPTEMBER 14, 8:30 A.M.

### *Session 7. Economic potential*

Chairman: Jack Boller, Marine Board, National Academy of Engineering; John P. Craven, University of Hawaii.

Commercial Development of the Oceans—Marvin Pitkin, Maritime Administration.

Economic Impacts of Royalty and Depletion Allowance on Outer Continental Shelf Resource Development—Dennis E. Logue, Amos Tuck School of Business Administration, Dartmouth College; and Richard James Sweeney, U.S. Treasury Department.

Georges Bank Petroleum Development and the Commercial Fishing Industry—Thomas A. Grigalunas and Jon G. Sutinen, University of Rhode Island.

Deep Ocean Mining Risks/Rewards—Arnold Rothstein and Richard J. Greenwald, Deepsea Ventures, Inc.

### TUESDAY, SEPTEMBER 14, 2:30 P.M.

### *Session 13: Marine biology/fisheries*

Chairmen: M. Michael Sigel, University of Miami School of Medicine; George F. Greene, Jr., Abbott Company.

Sea-Water Agriculture Utilizing A Solar Still Greenhouse—Thomas W. Speitel, Barbara Z. Siegel, Jane Massey, Willie Cade and Anne La Rosa, University of Hawaii.

Artificial Upwelling Aquaculture in Southeast Alaska—William E. Shiels, Kramer, Chin & Mayo, Inc.

Surface Active, High Molecular Weight Organics in the Caribbean Sea—Thomas R. Tosteson, Donald K. Atwood, B. R. Zaidi, and B. Jiminez Velez, University of Puerto Rico; and Robert S. Tsai, Research and Development Department, Economic Development Administration, Commonwealth of Puerto Rico.

Initial Investigations with a Deep Ocean in Situ Sampler—Paul S. Tabor and R. R. Colwell, Department of Microbiology, University of Maryland.

A Transportable Acoustic Fish Census System—B. F. White, Engineering Services Section, Canada Centre for Inland Waters.

Development of an Automated Post-Larvae Production System for the Malaysian Giant Prawn—Jaw-Kai Wang, University of Hawaii at Manoa.

Fisheries Management with the 200-Mile Zone—Lee G. Anderson, College of Marine Studies, University of Delaware.

### WEDNESDAY, SEPTEMBER 15, 8:30 A.M.

### *Session 18. Outer Continental Shelf study program I*

Chairman: Phillip Eisenberg, HYDRONAUTICS, Incorporated.

Overview of BLM-OCS Program—Francis Monastero, Bureau of Land Management.

Mid-Atlantic Bench Mark Program—John Jacobson, Virginia Institute of Marine Science.

MAFLA (Mississippi, Alabama, Florida) Bench Mark Program—James Alexander, State University System of Florida, Institute of Oceanography (SUSIO).

South Texas OCS Programs—Henry Berryhill, U.S. Geological Survey; and Robert Jones, University of Texas.

Southern California Bench Mark Studies—Richard Callahan, Science Applications, Inc.

### WEDNESDAY, SEPTEMBER 15, 8:30 A.M.

### *Session 19. Undersea vehicles I*

Chairmen: R. Frank Busby, R. Frank Busby Associates; Ivor Lemaire, Naval Undersea Center.

Reliability and Safety Considerations in the Design of the Submersible LEO I—J. B. McBeth, International Hydrodynamics Company Ltd.

SEA PLOW IV—An Underseas Vehicle for Burying Ocean Cable—Gary S. Cobb, Bell Laboratories.

Active Towed Body Development—P. M. Ward-Whate, Engineering Services Section, Canada Centre for Inland Waters.

A Small Robot Submarine for Oceanographic Applications—Glenn J. Keller, A. Douglas Carmichael, and Stuart D. Jessup, Massachusetts Institute of Technology.

Turtle/Sea Cliff Come of Age—Comdr. J. H. Howland, U.S. Navy Group One, U.S. Pacific Fleet

Soviet Submersible Activities—Anatoly M. Sagalevitch, Senior Research Fellow of the P. P. Shirshov Institute of Oceanology, USSR Academy of Sciences, Moscow, USSR.

### WEDNESDAY, SEPTEMBER 15, 8:30 A.M.

### *Session 21. Coastal Zone Management*

Chairman: William S. Beller, Environmental Protection Agency.

Planning and Design in the Coastal Zone—(To be announced).

The Management of Urban Resources—Mitchell L. Moss, Graduate School of Public Administration, New York University.

Coastal Zone Conflicts and Their Identification—Chennat Gopalakrishnan, Department of Agricultural & Resource Economics, University of Hawaii.

### WEDNESDAY, SEPTEMBER 15, 8:30 A.M.

### *Session 22. Offshore facilities*

Chairmen: Ira Dyer, Department of Ocean Engineering, Massachusetts Institute of Technology; Ben C. Gerwick, University of California.

Limitations in Deep Water Pipe Laying—Claus F. L. Kruppa, Günther Clauss, and Erich Wolf, Technische Universität Berlin Institut für Schiffstechnik.

Drillship for Exploration of Caspian Sea—Oliver Larretgere, SERETE.

Guyed Instrument Towers—Dynamic Analysis—Wayne Gibson, Canada Centre for Inland Waters; and Yin C. Chang, Department of Structural Engineering Services.

LNG in U.S. Ports—Lt. Comdr. Fred H. Halvorsen and Alan L. Schneider, U.S. Coast Guard.

Dynamic Floating Breakwater Design Analysis and Field Test—D. J. Agerton, G. H. Savage and K. C. Stotz, Engineering Design & Analysis Laboratory, University of New Hampshire.

Statistical, Empirical Wind/Current Relationships in Coastal Waters—Terrence L. Burch and Richard L. Scarlet, EG&G, Environmental Consultants

Characteristics of North Pacific Typhoons—William T. Hodge, National Climatic Center, Environmental Data Service, NOAA.

### WEDNESDAY, SEPTEMBER 15, 2:30 P.M.

### *Session 23. Outer Continental Shelf Study Program II*

Chairman: Maurice Lynch, Virginia Institute of Marine Science.

Alaska OCS Programs—Gulf of Alaska and North Slope—Rudolf J. Engelmann, Environmental Research Laboratories, NOAA.

West Coast Birds and Mammals Study—Kenneth S. Norris, University of California at Santa Cruz.

Quality Control in Chemistry Studies—John Lassiter, University of New Orleans.

North Atlantic OCS Studies—(To be announced).

### WEDNESDAY, SEPTEMBER 15, 2:30 P.M.

### *Session 24. Undersea Vehicles II*

Chairmen: John A. Pritzlaff, Oceanic Division, Westinghouse Electric Corp.; Donald Keach, University of Southern California.

Special Design Features of the URF—A Swedish Low-Cost Submarine Rescue Vehicle—Johan Onnermark, Orsvarets Materielverk.

Magnetic Localization of AC-Driven Buried Cable by the SCARAB Submersible—Samuel H. Francis, Bell Laboratories.

Submersible and Diver Underwater Communication by Electric Current—H. Momma, Japan Marine Science and Technology Center (JAMSTEC).

RECON II—An Unmanned Remote-Operated Work Vehicle—Fred L. Hettinger, Geoffrey Nunn, and Harvey Miller, Perry Ocean Engineering, Inc.

Undersea Activities in the USSR—Lee H. Boylan, Informatics, Inc.

Recommended Safety Standards for Operation of Undersea Vehicles: A Progress Report—John A. Pritzlaff, Oceanic Division, Westinghouse Electric Corp.

WEDNESDAY, SEPTEMBER 15, 2:30 P.M.

*Session 26. Diving and Salvage*

Chairmen: W. F. Searle, Jr., Searle Consultants: Lawrence Hallanger, Naval Civil Engineering Laboratory.

Modern Explosives: An Economical Offshore Tool—John J. Ridgeway, Explo-Ridgeway Int'l. Ltd.

Digital Decompression Computer—Kirk Jennings, Naval Undersea Center.

Combined Power, Gas and Communication Umbilical Cables—L.R. Spicer, Standard Telephones and Cables Limited.

Breathing Resistance in Scuba Regulators—Peter S. Riegel, Battelle-Columbus Laboratories.

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## MEMBERS OF THE CONGRESSIONAL BLACK CAUCUS CONDEMN THE ASSASSINATION OF ORLANDO LETELIER

## HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. CONYERS. Mr. Speaker, two people died on the streets of Washington this past week, victims of what appears to be a political assassination. Orlando Letelier, former Chilean ambassador to the United States is dead, blown to bits by a terrorist bomb. He sought refuge in this country after he was released from prison by the junta which ousted in 1973 the democratically elected government of Salvador Allende. In the final days of the Allende government Ambassador Letelier had also served as foreign and defense minister. Killed with him was Ronni Karpen Moffit, a 25-year-old research associate at the Institute for Policy Studies, where Mr. Letelier had served as director of the Transnational Program. Mrs. Moffit happened to be riding in the Ambassador's car when it exploded.

There is no proof as yet that the Chilean junta ordered or carried out the assassination, but the pattern of similar politically motivated crimes against Chilean refugees strongly implicates the junta. As the Washington Star pointed out in an editorial on Thursday, September 23, 1976:

> Arrested at the collapse of the Allende government, Dr. Letelier had . . . been sent, without accusation or trial, to a bleak and debilitating island imprisonment from which the . . . government released him only after the most strenuous international representations . . Only three weeks ago, the Santiago regime had taken the extraordinary step . . . revoking Dr. Letelier's citizenship.
>
> Who then, if not the government that had so abused Dr. Letelier would be the natural suspect after the ghastly act that took his life? Nor is his assassination an isolated event. On October 3, 1974, General Carlos Prats Gonzalez, commander of the Chilean army under Allende, died in a Buenos Aires bombing. A year later . . . gunmen in Rome shot down another prominent Chilean politician, the vice president of the . . . government in exile.

The Star did not mention the fact that General Prats had been warned by a Chilean official of a death plot against him by the DINA, the secret police of the junta government; that Ambassador Letelier had become the rallying-point of resistance against the Chilean junta and was himself warned of attempts on his life; and that, according to information obtained by Representative DONALD FRASER, the FBI had been informed that on August 25 an officer of the DINA arrived in New York from Santiago, but apparently failed to investigate. These events indicate that political terrorism has found its way to the streets of this Nation, and that its victims are a respected diplomat and economist and an innocent young woman.

The United States has aided the Chilean military government even in the face of condemnation of this regime by the United Nations and the Organization of American States, and of numerous congressional reports of junta violations of human rights. The time has come to stop assistance programs to regimes such as the one in Chile.

Mr. Speaker, this past weekend Members of the Congressional Black Caucus have urged the Attorney General and the Federal Bureau of Investigation to conduct a full-scale investigation of the assassination. I want to bring to the attention of my colleagues their statement and resolution, which follows:

### STATEMENT ON THE ASSASSINATION OF ORLANDO LETELIER

The assassination of Orlando Letelier, former Chilean ambassador to the United States, on September 21, 1976 appears to be part of a pattern of politically motivated assaults upon Chilean refugees. It dramatizes not only a growing political terrorism, but also points to serious problems in American foreign policy, such as the continuation of aid to repressive regimes. The Chilean regime has been condemned by the United Nations and the Organization of American States for violations of human rights.

We, the undersigned Members of the Congressional Black Caucus, in the light of the assassination of Orlando Letelier—and the tragic death of Ronni Karpen Moffitt, who happened to be a passenger in the Ambassador's car—resolve:

To condemn the killings of Orlando Letelier and Ronni Karpen Moffitt;

To urge the Attorney General and the Federal Bureau of Investigation to conduct an immediate and complete investigation of the killings.

Yvonne B. Burke, Shirley Chisholm, William L. Clay, Cardiss R. Collins, John Conyers, Jr., Ronald V. Dellums, and Charles Diggs, Jr.

Walter E. Fauntroy, Harold E. Ford, Augustus Hawkins, Barbara Jordan, Ralph H. Metcalfe, Parren J. Mitchell, Robert N. C. Nix, Charles B. Rangel, Louis Stokes, and Andrew Young.

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## COMMUNIST POLICY ON AMERICAN PRISONERS: IN 1976 AS IN 1950

## HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. McDONALD. Mr. Speaker, on February 5 of this year I called attention to the fact that, more than 22 years ago, the New York Times published State Department estimates of some 5,000 American citizens being held prisoner in the Soviet Union and its satellites. "Détente" has not freed them; "détente" has merely silenced the State Department.

Taking up the perhaps forlorn cause of some of these prisoners is Theodore R. Grevers, a private detective in Grand Rapids, Mich. He has assembled detailed information about the Navy crewmen who were aboard a Navy patrol plane shot down back in 1950—including the testimony of persons in Soviet labor camps who had some knowledge of their fate.

Mr. Grevers' appeal is a grim reminder that Americans, too, inhabit the Gulag Archipelago. It is "détente" which silences our Government. It is "détente" which makes cowards and liars of our officials.

### AN APPEAL TO THE PEOPLE OF AMERICA

On April 8, 1950 a U.S. Navy PB4Y-2 (#59645) Privateer was fired upon near Libau, Latvia. Eight days later an inflated Life Raft from the missing aircraft was recovered from the Baltic Sea. A second MARK VII life raft (in a damaged and submerged condition) was recovered on April 21, 1950 by the Swedish Ship "Hittade". On April 25th, 1950 a Swedish fishing vessel recovered the nosewheel and strut of the missing craft which had become entangled in its seine, (Perpendicular net) about 37 miles west of Libau, Latvia.

On board were:

1. The Pilot, Lt. John N. Fette, USNR, Connellsville, Pennsylvania.
2. The Co-Pilot, Lt. Howard W. Seeschaf, USN, Fairlington, Virginia.
3. Lt. Jg. Robert D. Reynolds, USN, Danville, New York.
4. Ens. Tommy L. Burgess, Ossawatomie, Kansas.
5. AD1. Joe H. Danens Jr. USN. Cut Bank, Montana.
6. AT3. Joseph N. Rinner, USN, Philadelphia, Pennsylvania.
7. AC3. Joseph J. Bourasa, USN, Linwood, Michigan.
8. AD1 Jack W. Thomas, USN, Stillwater, New Jersey.
9. AT1 Frank J. Beckham, USN, Newport, Kentucky.
10. CT3 Edward J. Purcell, USN, Southwestville, New Jersey.

No survivors or human remains were ever recovered from the sea.

In September of 1950 a U.S. Citizen, John H. Noble of Muncy, Pennsylvania (Area 717 368-8534) arrived in the Soviet Siberian Prison camp of Vorkuta. Soon after his arrival he spoke with a Yugoslavian national prisoner who reported to Mr. Noble he had seen and spoken to American flyers who had been shot down in the Baltic Sea. He added that two of them had perished and Eight had survived the crash in the sea, further they feared they would never see America their homeland as they had been told by Soviet officials their government assumed them dead.

About the same time another American citizen by the name of William T. Marchuk, of Norristown, Pennsylvania (Area 215 631-1160), also imprisoned in Vorkuta. He reports inside the labor camp speaking to a Russian Tartar by the name of Rusin who while in service to the Soviet fleet helped rescue the flyers out of the sea and subsequently Mr. Rusin was also arrested and sentenced to Vorkuta.

Both Mr. Noble and Mr. Marchuk were released from Soviet captivity in January of 1955 at West Berlin and they have told their story many times but I have only known about this tragedy for three years and now have completely exhausted every possible means to communicate what I believe is an unbelievable story of forgotten men . . . I ask you the American people to support me in making this information known to responsible American citizens who will do something about it.

Mr. Noble reports upon his return to Freedom in America he was informed by U.S. Naval Intelligence that they have photographic evidence of the PB4Y–2 afloat in the Baltic Sea and a Soviet trawler alongside.

Please help me end this tragedy. I need your ideas, suggestions, thoughts and support, but most of all your prayers to arrange for the return of these brave men to their families, friends and loved ones in America.

"Mr. Brezhnev . . . Let Our People Go!"

Theo. R. Grevers, the Fatman International Private Detective Service, 6638 Cascade Road S.E., Grand Rapids, Michigan 49506 U.S.A. Telephone (616) 949–1790.

(Hebrews, Chapter 13, Verse 3).

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## NOMINATION OF MR. GEORGE MURPHY TO NUCLEAR REGULATORY COMMISSION SHOULD BE SUBJECT TO FURTHER HEARINGS

### HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. UDALL. Mr. Speaker, as chairman of a House subcommittee with nuclear oversight responsibilities, I would like to make known my views with regard to the nomination of Mr. George Murphy to membership on the Nuclear Regulatory Commission. Because NRC Commissioners are routinely called upon to make decisions of more far-reaching significance than are members of other regulatory commissions, and in view of the serious questions raised over Mr. Murphy's fitness for this post, I believe further hearings should be held prior to a vote on the matter. The record as it now stands does not support favorable action on the nomination.

My nuclear oversight activities have provided ample opportunity to observe the pervasive skepticism with which nuclear power is regarded. Whether or not such skepticism is warranted, its existence must be recognized. I personally doubt that expansion of our nuclear generating capacity will continue without an increase in public confidence in the abilities and even-handedness of those entrusted with nuclear regulation. It is particularly important, therefore, that persons appointed to the Nuclear Regulatory Commission be qualified in appearance as well as in fact.

Objection to Mr. Murphy's appointment is not confined to those who have tended to be critical of nuclear development. Editorials in the New York Times and Washington Post suggest that opposition to Mr. Murphy extends beyond those who oppose nuclear development. I also find significance in the absence of praise in the trade press.

The opposition to Mr. Murphy is based on several grounds. He is said to have been so closely associated with efforts to promote nuclear development that he would not be able to judge objectively the matters which come before the NRC. It is asserted that Mr. Murphy maintains a negative attitude toward nuclear critics. It is further claimed that, in his capacity of Director of the Joint Committee staff, he frequently places arbitrary and capricious demands upon the staff of the NRC. Mr. Murphy's suitability to become an NRC Commissioner depends upon the extent to which such allegations are correct.

I do not believe that inclinations to be disposed for or against nuclear power—or past activities as a promoter or critic—necessarily disqualify a person from being considered to occupy a Commissioner's post. On the other hand, prior to confirmation, there must be some assurance that past activities and predispositions will not be carried over to the new position. In Mr. Murphy's case, the current record provides little basis to formulate a belief as to whether he would assume his new position with an open mind. Further hearings would develop a record on which a much better informed judgment could be made with regard to Mr. Murphy's likely performance as Commissioner.

Another difficulty with this nomination is its unfortunate timing. It has caused suspicion by virtue of its being made in the closing days of the 94th Congress when the Commission seat in question has been vacant since April. At this late hour there has been little time for deliberate consideration of the nominee's qualifications. Since the administration has obviously assigned such a low priority to finding a replacement for the seat previously occupied by Mr. Anders, there is no particular reason to lend credence to the contention that this appointment is not based entirely on merit by expediting the confirmation process in the Congress' closing days.

In sum, I believe this is a position too crucial to be filled by a person other than one who clearly possesses the highest possible qualifications. The record developed to date has not demonstrated that Mr. Murphy, who is presumably an able Director of the Joint Committee Staff, is qualified for the more demanding and responsible position of NRC Commissioner. Mr. Murphy's appointment at this time will be an indication to many people that neither the administration nor Congress grasps either the full significance of unresolved nuclear issues or the extent of doubt among our citizens; the consequence of proceeding in haste will be a further undermining of confidence in our nuclear establishment and an intensification of the nuclear debate. I hope the Senate will, at a minimum, defer its vote pending completion of further hearings on Mr. Murphy's qualifications.

Mr. Speaker, I would like to include in the Record for the Members' information some recent editorials on this matter at this point:

#### A Hasty Nomination

Why this sudden frantic haste? On Monday, President Ford nominated George F. Murphy Jr. to a seat on the Nuclear Regulatory Commission—a seat that has been vacant since last April. The Senate members of the Joint Committee on Atomic Energy, who have jurisdiction, promptly scheduled a confirmation hearing for this morning. That's three days' notice, an astonishingly short time for consideration of a nomination of such importance. It further appears that the confirmation might be brought to the Senate floor this afternoon, immediately after the hearing.

Mr. Murphy is currently the executive director of the staff of the same Joint Committee on Atomic Energy that is now to hold the hearings on him. His long and close association with the committee raises a question that deserves more attention than it is evidently going to get. As a member of the committee's staff since 1958, Mr. Murphy can fairly be presumed to have developed a close identification with the government's present set of prevailing ideas and policies on nuclear energy. A majority of the NRC's present four members generally show a similar identification. To seat Mr. Murphy now, you could reasonably argue, might only serve to confirm the present course right before a presidential election in which nuclear policy is an issue.

But the Democratic candidate for the presidency has addressed the nuclear issue several times in this campaign. Perhaps the Democratic senators would do a possible Carter administration a better service by leaving this seat open a little longer. In any event, the Nuclear Regulatory Commission has questions of the first magnitude before it. These are questions that lie far beyond the normal regulatory purview, going to the heart of the present pattern of international proliferation and of the efforts—rather ineffectual, so far—to do something about it. Is Mr. Murphy really the right man to fill the commission's vacancy? A nomination to this crucial agency deserves far more than one brief and cursory hearing, held among friends—and on exceedingly short notice.

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[From the New York Times, Sept. 22, 1976]

#### Nuclear Haste

A number of people in Washington are engaging this morning in one of those periodic demonstrations of how not to govern the country.

The Joint Committee on Atomic Energy is scheduled to hold hearings on President Ford's nomination of its staff director, George Murphy, to the Nuclear Regulatory Commission, with the reported intention of jamming it through the Senate in these last few days of the session. Mr. Murphy, originally recommended by Joint Committee Chairman John Pastore, is the beneficiary of a Presidential nomination at the eleventh hour of this Congress when timely and reasoned consideration of the merits is virtually impossible. Despite existence of the vacancy for several months, the nomination was delayed until the Senate was thoroughly distracted by the campaign.

Even if Mr. Murphy had not given the impression during the last few years of a strong bias in favor of the nation's nuclear industry at the expense of environmental concerns, this last-minute procedure would be indefensible. The independent role the commission must play if wise judgments are to be made in such crucial areas as domestic energy development and nuclear proliferation abroad is too important to be jeopardized by a hasty and ill-considered nomination. Filling this vacancy should be put over until the next session of Congress.

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[From the Washington Post, Sept. 28, 1976]

#### A "Hold" on Mr. Murphy . . .

In the Senate last Friday the nomination of George F. Murphy Jr. to be a member of the Nuclear Regulatory Commission was passionately defended by Sens. John Pastore of Rhode Island and Howard Baker of Tennessee—respectively, the chairman and the ranking Senate minority member of the Joint Committee on Atomic Energy. Mr. Murphy's nomination by President Ford for this extremely important and sensitive job had been criticized (by us, among others) on grounds that 1) its sudden end-of-session haste seemed pretty peculiar in view of the fact that the seat had been vacant since last April; 2) the Joint Committee seemed in an awful hurry to confirm Mr. Murphy who happens to be its current staff director; and 3) Mr. Murphy's identification with those nuclear energy policies that are currently in need of the most rigorous challenge and re-examination raised questions about his suitability for the post that could hardly be resolved in a ram-through confirmation process.

Addressing himself to the haste question, Sen. Baker, in our judgment, only made matters worse. He had himself suggested to the President that Mr. Murphy (a Democrat) be nominated, Sen. Baker said, and he had done so "on May 2, 1976." Therefore, the senator reasoned, "it was not a hasty matter." The trouble with this line of argument, of course, is that the nomination was not made until September 20—so while there was all the time in the world for the President to think about it, the Senate was given practically no time at all. But compared with Sen. Pastore's remarks, Sen. Baker's argument was a model of logic.

Mr. Pastore, who is retiring from the Senate at the end of this session, seems to regard the confirmation of Mr. Murphy as some kind of personal courtesy that is owed him as chairman of the committee. He doesn't quite put it that way, but in some overwrought observations on the Senate floor, the Rhode Island senator made it plain that he regarded a move by five or six fellow Democrats to hold up the confirmation as a failure of manners, an affront to party solidarity and a reckless violation of the rules of the legislative club. His remarks are worth quoting:

"We stand in a position where there is a hold by five Democrats on a Democratic appointment, without consulting the members of that committee, on a man who has worked with that committee for 18 years. Tell me where the fairness is in that. Tell me. . . . And what have I done for some of these objectors? I have stood on this floor and pulled the chestnuts out of the fire for them time and again. And without even consulting me—and I wanted that courtesy—they have gone ahead and put a hold on this nomination."

Mr. Pastore was even more emotional on the subject of those environmentalists who had had the audacity to argue against the Murphy nomination. He called them "a group of the supposed-to-be-reformers who pretend to speak for the people of the United States." They came from "downtown"—that netherworld inhabited by people who do not inhabit Capitol Hill and therefore apparently should keep their noses out of Congress' business. But hear Mr. Pastore's summation:

"Where have we gone in this illustrious body, the greatest deliberative body in the world? What has become of us, that just somebody from downtown, who never suffered, never knew what it meant to earn a hard dollar [ed. note: people from 'downtown' are well-known never to have suffered or earned a hard dollar] comes up here and says 'We don't like this guy, put a hold on him.' If that is America, that is not the America I know. It is not the way I have been brought up. It is not what that flag means to me. . . ."

But enough. You get the general idea, and it is fairly easy to see why those senators who are trying to slow down the Murphy confirmation or put the question over until the next Congress, are not terribly eager to step out into the sunshine and risk the Pastore rhetoric and the Senate opprobrium that often goes with getting in the way of a decision a few folks thought had already been (quietly) made. Still, it is our view that the legislators who have joined in this pursuit—John Durkin of New Hampshire is one who has made his identity known—should risk the awkwardness and step forward and say out loud what is troubling them. The questions that need to be asked and authoritatively answered concern whether Mr. Murphy has the independence and detachment and perspective to bring a demanding critical judgment to bear on policies and practices he himself did much to create over nearly two decades. Those questions are not going to be asked *or* answered in any plausible way by a lightning confirmation process among good old boys and friends. The proceedings in the joint committee today and whatever occurs thereafter on the floor will be crucial. We think the objectors have a case that can and should be made in the open. There are limits to the writ of "the club."

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## A TRIBUTE TO THE MEN AND WOMEN OF CASTLE AIR FORCE BASE

### HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. SISK. Mr. Speaker, often we find that the relationship between our military bases and the surrounding civilian community is not the best, and from time to time open hostility has been known to develop. I am pleased to report that this is not the case in my district where the men and women of Castle Air Force Base work and live in harmony with the surrounding communities of Merced, Atwater, and Winton, Calif. During the more than 20 years I have been in Congress I have never known this relationship to be anything but cordial. But upon occasion we become aware of some special humanitarian effort and it is important that we recognize those responsible.

The men and women of Castle Air Force Base under the leadership of Col. Jimmy R. Williams, wing commander, have initiated programs which are the driving force behind a most successful humanitarian effort known as Project CHERISH. This project, implemented by the Merced County Community Action Agency, has a stated purpose to provide help and assistance to local senior citizens. The acronym CHERISH stands for Community, Health, Education and Recreation Improvement for Senior Happiness.

Maj. and Mrs. John J. Campbell were appointed to serve as liaison personnel between Castle Air Force Base and Project CHERISH. In that capacity they were to recruit base military and civilian personnel and dependents and to coordinate and schedule these volunteers.

Each squadron and organization at Castle has been involved in Project CHERISH. The volunteers have engaged in such projects as fence repair, plumbing, lawn care, and general home maintenance; and they have also served food, provided entertainment at daily luncheons, hosted birthday parties, and built wheelchair ramps for senior citizens, with numerous other projects still continuing.

Each squadron played an active role in the two main subprograms of Project CHERISH: The handy helper program and the check 'n' chat program. The handy helper program provides help to the elderly in solving their everyday problems. Tasks such as changing a light bulb, mowing a lawn, or painting a fence are virtually impossible for some senior citizens and dangerous for most. "Handy Helpers" from Castle Air Force Base enthusiastically answered the seniors' calls and provided these services.

The check 'n' chat program was set up primarily to alleviate the inherent loneliness of the majority of the elderly citizens. Many of them were afraid that they would have an accident or become ill and no one would know. Through the check 'n' chat program, volunteers from Castle Air Force Base call upon these seniors daily, either personally or by telephone, to see if they are in good health and to provide some most welcome companionship.

The people of Castle Air Force Base through their unselfish contributions are the prime mover which makes Project CHERISH a valuable community service project. They have provided their services without expectation of reward or recognition and are a lasting inspiration to those of us who have a very real requirement to provide for the needs of our senior citizens.

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## CONGRESSMAN HÉBERT RETIRES

### HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 27, 1976*

Mr. DAN DANIEL. Mr. Speaker, at 3:45 p.m. on August 5, Big Ben stopped.

This year, too, has seen the worst drought since records of such things have been kept, and it has also seen the greatest amount of rainfall, when 16 inches drenched the Philippines in a 24-hour period.

It should have come as no surprise to us, then, when a Washington landmark announced its intention to get up and move.

And move it will, when we complete our business for the 94th Congress, and Eddie Hébert returns to Louisiana.

It may not be totally accurate to describe this gentleman as a landmark, for landmarks, as a general rule, stay where they are put. Not so with Eddie. In the 35 years he has served in this body he has been, if not all over the place, certainly all over the floor as he fought for a strong defense, and for the best interests of those who would provide it.

We will miss Congressman Hébert in these Halls, but none of us will miss him as much as those who rely upon this body for defense, and especially the men and women who proudly wear the Nation's uniform.

## POPE FARM "CENTURY FARM" OWNED BY BROTHER AND SISTER

### HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. JONES of Tennessee. Mr. Speaker, a farm near my own hometown of Yorkville, Tenn., was designated as one of Tennessee's Century Farms. Owned by Miss Anne Pope and Mr. and Mrs. Joe Pope, the farm has been in continuous ownership of one family ever since the original owner, William Bradley began raising crops on it in 1866.

That is, in my view, a milestone, but more importantly it is symbolic of the very important role that the family farm plays in our society today. It shows, I think, the commitment that one family has passed on from one generation to the next to raise food and fiber. It also shows, in a very real sense, the ties and values that people on the farms of this country place on their particular way of life.

As a farmer myself, I know those values and I share them with all family farmers. I hold a deep and abiding respect for those like the Popes and their ancestors for the contribution they are making to our country.

I want to take this time to share with my colleagues a recent article about the Pope farm which appeared in the Tri-City Reporter of Dyer, Tenn.:

POPE FARM "CENTURY FARM" OWNED BY BROTHER AND SISTER

(By Mary Jeffries)

One hundred and ten years ago—in the fall of 1866, William M. Bradley and his wife, Martha (Barkley) Bradley, sold their property in Middle Tennessee (Rutherford county) and moved their family westward to Gibson county.

They settled near Yorkville and bought 246 acres of good farm land in the area. Mr. Bradley raised corn, small grain and cotton and—according to Goodspeed's History of Tennessee, owned and operated a steam cotton gin at Yorkville in 1887. The Bradleys were the parents of nine children but only four of them lived to adulthood. They were members of the Cumberland Presbyterian Church. He was a good farmer and respected citizen, holding membership in the International Order of Odd Fellows and the Masonic Order. Goodspeed's text also mentioned that he was a staunch Democrat.

This year—on August 27, a portion of the original Bradley tract was designated as one of Tennessee's Century Farms and honored for 100 years or more of continuous family ownership. The home place, known today as Pope Farms, is located 1.5 miles south of Yorkville on the Nebo Road. The present owners are Miss Anne Pope and Mr. and Mrs. Joe Pope. They are the great-great grandchildren of William M. Bradley and the fourth generation of Bradley descendants to farm the land.

The original Bradley acreage was divided among the four living children. The present Century Farm was part of the dowery given their only daughter, Sallie A. Bradley. Her brothers, Sam, Will and John, were also given land from the original tract.

Sallie A. Bradley and William M. Pope were married in November 1889 and records show that 46 acres of land was deeded to her on December 1, 1890. The Popes raised some of the same crops as those raised earlier but also invested in cattle, hogs and poultry. They had two sons, Bradley Wilkes, and Opie B. and one daughter, Amma Joyce (Pope) Zarecor. The first son died very young and the second son, Opie B. Pope, stayed in Gibson county and continued the farming tradition. Mrs. Sallie Pope's home was a happy place for relatives to visit—and her apple pies and home made light bread was famous in those days and is still remembered by Bradley kinfolks.

When Opie B. Pope married a neighbor girl (Juanita Baker) from Yorkville, they moved in with the older Popes for a short time. He farmed with his father and later started a family operated dairy business. They built a new home on the farm in 1920. He was well known in this area for his work in the Artificial Breeders Association and many folks will remember the fine Jersey Cattle Shows held in Yorkville, directed by the late Will Jones, Frank Vaughn and Mr. Pope.

There were two children born of this union. Miss Anne Pope lives in the beautiful old home (56 years old) that her parents built. Part of the lumber used in construction of the house was taken from the Bradley home place. Her brother built a spacious modern dwelling nearby. They share joint ownership of the 1976 Century Farm.

Joe worked with his father in the dairy industry and farming operation. He graduated from the University of Tennessee at Knoxville, receiving a B.S. in Agriculture and came home to Gibson county to continue the farming tradition.

He married a Spring Hill girl (the former Carolyn Dunagan) and their children, Joe Franklin and Carol Anne, are the 5th generation of the Bradley descendants to live on the land. Both are away this fall, Carol Anne is a Junior at UT-Knoxville and Joe Franklin attends UT at Martin.

Joe Pope gave up the dairy business but the farm still produces corn, grain, cotton and several acres of soybeans. He has a fine herd of beef cattle and is mighty proud of the registered Quarter horses at the farm. The horses actually belong to the younger Popes—Carol Anne used to show (and place) at every horse show in this area until college work interrupted and she still enjoys riding when she is home. Joe Franklin is a horse enthuasist too—and is a member of the Rodeo Team at UT-Martin.

Although Miss Anne does not actually combine beans or work with beef cattle she is a vital part of the family operation. Her education is also farm oriented—she holds a Masters degree in Home Economics and is a member of the faculty at UT-Martin. Miss Pope has a residence at Martin while classes are in sessions but weekends and summers are spent at home—on the Yorkville farm.

Recently, a Bradley cousin, (Mrs. Mattie Lawler of Dyer) came to visit and memories of yesteryear were recalled. Mrs. Lawler is the daughter of the late John Bradley and her father's homeplace is "just down the road a piece." Mrs. Lawler is 86 years young and remembers many things about early farm life at Yorkville—including a muddy old road she walked on going to school and what a wonderful cook "Aunt Sallie" was.

The John Bradley farm was sold after his death but Joe Pope and his sister have purchased the lands belonging to the late Will and Sam Bradley and this is now part of Pope Farms. Gravel and blacktop have replaced the "muddy old roads" and the farm is a modern profitable business. Close family ties are as much a part of this Century Farm as is the skilled farming procedures. This is evident in the pride Miss Anne feels in her brother's modern farm methods—and also in the love and respect shown by family members.

Agriculture is one of the state's biggest industries and the early farm families and their descendants have contributed greatly to the wealth and heritage of Tennessee.

Farming methods have changed considerably since the 1880's—but the Bradley Farm is operated by direct descendants of the first owner and their contribution is noteworthy in this year of 1976 . . . and the Popes are "staunch Democrats" too!

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## TRIBUTE TO JOHN WARNER

### HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. McDADE. Mr. Speaker, I did not have the opportunity to participate in the tributes which were paid to American Revolution Bicentennial Administrator John Warner last week.

I have worked closely with John through the Subcommittee on Interior Appropriations which oversees the American Revolution Bicentennial Administration's budget. I have come to greatly appreciate his personal qualities of perseverance, honesty, warmth, and a deep love of this great country. As Undersecretary and later Secretary of the Navy, John displayed these abilities which have served him well in the task of coordinating the greatest celebration this country has ever seen.

The celebration of our Nation's 200th birthday gave us a theme around which we could rally and work together, sorely needed after this period of disillusionment and pervasive feeling of helplessness. To this end John worked selflessly and unceasingly, traveling to every State of the Union, making 200 separate trips covering a quarter of a million miles. The ARBA created and fostered the grassroots movement which resulted in Bicentennial projects in 12,000 communities, 1,000 colleges and hundreds of military installations. This entailed the participation of nearly 90 percent of the population in the active commemoration of the Bicentennial, a figure which any country would be hard put to match and in which John and all Americans can be extremely proud.

That is the real success of the ARBA; people across the entire country were motivated and able to express their love of this Nation and respect for each other. As John Warner and the ARBA bow out, this spirit of 1976 remains and hopefully will live within each one of us as we steer the course to the Tricentennial. I sincerely thank John Warner and the American people for a job well done.

## OPERATION KEELHAUL AGAIN IN 1956—FORCIBLE REPATRIATION OF ANTI-COMMUNIST SOLDIERS

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. McDONALD. Mr. Speaker, in the closing days of World War II and in the immediate postwar period, the free world threw away a priceless asset. We turned back to the U.S.S.R. thousands of Russians, Ukrainians, and others who did not wish to return to the Soviet Union. Many of these who had donned German uniforms in order to fight Stalin were sent back at the point of bayonets and slaughtered on the spot when received by the NKVD. Those not immediately executed were sent to forced labor camps. In addition, thousands of displaced persons were bullied and harassed by UNRRA—United Nations Relief and Rehabilitation Administration—personnel in the displaced persons camps in an effort to persuade them to return—some even threatened to cut off their food rations. These sickening episodes, which took place all over Europe have not been forgiven nor forgotten by the participants and as Solzhenitsyn has said, our reputation as "the grantor of asylum for the politically oppressed" was badly tarnished as a result. And, if this record were not shameful enough, it has recently come to light that we forcibly returned some Ukrainian troops serving in Hungary who deserted during the 1956 revolt against communism there and joined the Hungarian freedom fighters. This was recently revealed in a letter to the editor of National Review on October 1, 1976, and is reproduced below. It seems we never learn:

#### UKRAINIAN "DESERTERS"

Please allow an avid reader of *NR* to make some remarks. The letter by William S. Hamma in your June 25 issue reminded me of a tragedy which I luckily survived but never will forget. Hamma says that "some of the Russian troops . . . [in Budapest in 1956] deserted and fought with the Hungarians." This is true, but the troops were Ukrainian, not Russian. It was a crack division at full strength. It was stationed in the Subcarpathian Military District near Lvov (in Horodok) and was alarmed and brought to Hatvan in Hungary at the first sign of trouble. On December 4, it was sent to Budapest. There some seven hundred men deserted to the Hungarians. The writer of this letter was among the "deserters." We fought with the Hungarians and retreated with them to Austria. There all men in Soviet uniform were separated and put into a camp in Bruck an der Leitha. Some eight hundred men from different Soviet units were assembled there. We were interviewed by U.S. Army officers, who were very kind to us. Nevertheless, after a week or two, the Soviet soldiers were put into trains (on the pretext of transfer to another camp) and brought to Hegyeshalom in Hungary where they were (*in aller Stille*, as the Austrians later said) extradited to the USSR. I avoided this fate because a few days before, I had managed with several other soldiers to escape from the camp. I went to Vienna where I luckily found some Ukrainian countrymen, who helped me and others to reach Germany and eventually the United States.

The extradition of our comrades by U.S. authorities was nothing unusual in recent history. Extraditions were frequent in the wake of World War II. This seems to be part of a sort of "organic relationship" between the United States and USSR since Roosevelt's diplomatic recognition of the USSR in 1933, i.e., exactly at the time when millions of Ukrainians were perishing from Soviet-made famine. Famine itself was not a bad business for the United States. Famine in the breadbasket of Europe destroyed the wheat-producing class of Ukraine. This serves the American farmers who now are able to sell wheat almost every year to the Soviet slave-owners.

NAME WITHHELD.

PHILADELPHIA, PA.

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## THE BALANCE(S) OF POWER: IV (XII) STRATEGIC DEFENSIVE BALANCE

### HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. BRECKINRIDGE. Mr. Speaker, as a part of my summary of the strategic offensive and defensive balances in my series on the "Balance(s) of Power." I inserted a study in the September 1976 issue of the CONGRESSIONAL RECORD by John M. Collins and John S. Chwat who assisted Congress in assessing whether or not emerging SALT II guidelines establish a strategic environment that will contribute to international stability in general and U.S. national security in particular, summarized current issues for SALT II negotiators.

Today I wish to insert the conclusions of Mr. Collins and Mr. Chwat, specialists in the field of national defense and both of the Congressional Research Service. the Library of Congress. regarding post-Vladivostok SALT II proposals and forthcoming SALT II issues for the 95th Congress dealing with conceptual, technical, and budgetary issues, as expressed in a Library of Congress issue brief, "SALT II Issues."

The study follows at this point:

#### EXCERPTS FROM SALT II ISSUES

##### POST-VLADIVOSTOK PROPOSALS

Secretary of State Kissinger, after conferring with Soviet leaders in Moscow on January 21–22, 1976, alluded publicly to new proposals that allegedly could lead to mutually acceptable SALT II agreements. The following specifics (still unconfirmed) have appeared in subsequent press reports:

Possibly reduce the overall ceiling from 2,400 to 2,100 or 2,000 launchers.

Include SS–19s within the upper limit of "light" ICBMs.

Permit the Soviets to deploy about 250 Backfire bombers without counting against the overall ceiling, provided they operate at southern bases beyond unrefueled range of the United States and are not fitted for in-flight refueling.

Permit the United States to deploy about 250 medium-range SLCMs (up to 1,500 NM) on no more than 25 surface ships without counting against the overall ceiling.

Ban all submarine-launched cruise missiles with ranges greater than 600 Km.

Permit the United States to deploy medium-range ALCMs (up to 1,500 NM) on bombers only, counting each aircraft against the total launcher and MIRV launcher ceilings, the latter remaining at 1,320.

A few implications are worth special mention.

Basing Backfire bombers in the southern U.S.S.R. would be a cosmetic concession, since the aircraft could quickly stage through northern bases, refuel, and be enroute to targets at the onset of any war.

The numbers, effective ranges, and other performance characteristics of cruise missiles deployed on any type conveyance would still be essentially unverifiable.

The United States currently has 2243 launchers, counting all B–52s. The planning acquisition of 240 B–1 bombers and 11 Trident submarines with 264 SLBM tubes would boost that total to 2,747. If the 2,400 ceiling remained in effect, this country would have to retire 256 B–52s or a combination of B–52s and Titan II ICBMs. A ceiling of 2,100 would compel us to eliminate all Titans and B–52s, plus 60 other launchers.

U.S. plans and programs call for 1,286 MIRVed missile launchers by the mid-1980s: 550 Minutemen IIIs, 496 Poseidon SLBMs, and 264 Trident missiles. A maximum of 10 B–1 bombers therefore could be fitted with medium-range ALCMs, given the 1,320 MIRV ceiling.

If bombers are accepted as the only allowable ALCM launch platform, the United States has already bargained away its option to use less expensive transports.

##### FORTHCOMING ISSUES FOR CONGRESS

Congress, during the review process which must precede formal approval of any SALT II pact, is sure to consider a wide range of conceptual, technical, and budgetary issues. The following topics are representative. Coverage in each case includes a short introduction, followed by sample questions.

###### *U.S. SALT II goals*

The primary purposes of SALT II is to safeguard American interests in survival, national security, and crisis stability. There is solid consensus in the Executive Branch, Congress, and the civilian community that deterring nuclear attacks against the United States is the prime prerequisite if we are to attain those ends, but subsidiary goals are controversial. Clarification therefore should constitute Step One in the SALT II assessment process since no effective appraisal is possible without general agreement concerning aims.

For example:

Is deterrence alone a sufficient goal to underpin U.S. purposes best?

Is a war-winning posture also imperative if (all efforts to the contrary) deterrence should collapse?

Should SALT II simply aim at arms limitations for their own sake, or actively support U.S. foreign policy?

If the latter is affirmative, to what degree should SALT II concern perceptions as well as substance?

Should the United States attempt to maximize its own advantages and minimize those of the Soviets, or seek a deliberate balance?

To what extent should U.S. desires for detente shape SALT II goals?

###### *Countervailing threats*

U.S. SALT II goals would be self-fulfilling if there were no threats. As it stands, however, assorted perils (some real, some perhaps apparent) condition this country's responses. Step two in the assessment process is to conclude which threats are cogent. Answers to questions like those below would assist that process:

Are Soviet intentions truly discernible?

What are Soviet goals compared with our own?

Are the Soviets acting independently or reacting to U.S. initiatives?

To what degree would Chinese strategic nuclear developments condition U.S./Soviet agreements?

To what extent do projected threats impinge on SALT II?

### *SALT II ceilings*

The SALT II ceilings of 2,400 delivery systems (or a few hundred less) and 1,320 MIRVed missile launchers seem simple and cleancut, but congressional approval of those levels will be complicated by some very perplexing questions:

Are the ceilings too high, as some critics indicate?

If so, what levels acceptable to Congress are also acceptable to the Soviets?

How would U.S. deterrent/defense capabilities be affected if U.S. armed forces remained at present levels instead of reaching SALT II ceilings?

What are the implications of excluding important delivery systems?

What would be the implications of including launchers, but not numbers of missiles?

What are the implications of including (or excluding) weapons whose quantities and characteristics cannot be verified?

### *Essential equivalence*

Congress approved the SALT I Interim Agreement by joint resolution (P.L. 92–448, September 30, 1972), with the express stipulation that SALT II accords should "not limit the United States to levels [lower than those] . . . provided for the Soviet Union."

U.S. and Soviet inventories need not match item-for-item, but merely be "essentially equivalent" in overall capabilities. However, determining whether that end has been attained is a very subjective matter, since there is no objective formula. To facilitate findings, Congress might consider asking the following type questions:

Is essential equivalence attainable if the Soviets are authorized many more fixed-site ICBMs than the United States?

Is it attainable if the Soviets are authorized many modern "heavy" ICBMs, while the United States is allowed none?

Is it attainable if Soviet SS–19s count as "light" ICBMs?

Is it attainable if the 600 km limitation prevails for cruise missiles? 1500 NM?

How many bombers equal the capabilities of how many ICBMs? SLBMs? Cruise missiles? How many ICBMs equal how many SLBMs? and so on.

How many "light" ICBMs equal the capabilities of how many "heavy" ones?

What values should be assigned to qualitative characteristics?

Would peacetime essential equivalence quickly translate into Soviet wartime superiority, given the U.S. second-strike strategy?

Will Soviet technological progress disrupt any apparent balance during the forthcoming decade?

If so, does essential equivalence adequately support U.S. interests in survival and national security?

If not, are any alternatives acceptable to this country also salable to the Soviets?

### *Modernization measures*

Essential equivalence is by no means a static condition. Ongoing Soviet programs indicate that modernization almost certainly will be mandatory if this country is to ensure continued equilibrium. SALT II agreements will determine how much, what sort, and how fast.

Given accords finally submitted to Congress for approval, will it be necessary to:

Develop and deploy a "heavy" ICBM complement to Minuteman?

Develop and deploy land-mobile ICBMs? ALBMs? ALCMs? SLCMs?

Develop and deploy nuclear warheads with greater yields and accuracy than those now in use?

Develop and deploy maneuverable reentry vehicles (MARV)?

Expand existing ICBM silos by the allowable 10–15%?

Modify existing silos to permit cold launch procedures?

Develop counterforce capabilities for SLBMs?

Deploy 11 Trident submarines?

Maintain Polaris A–3 submarines in active service indefinitely?

Develop and deploy B–1 bombers?

How many of each?

Will modernization contribute to or detract from U.S. goals?

### *Budgetary issues*

Force levels and modernization measures needed to attain and maintain essential equivalence (let alone strategic superiority) will demand money. Budgetary issues thus arise.

President Ford on August 19, 1975 expressed his hope (shared by Congress) "to hold down our spending on nuclear forces" during FY 1977, but predicted "an additional $2 billion to $3 billion for strategic weapons programs in current and coming fiscal years" if SALT II should crumble. Schlesinger afterwards advocated a budget of $4.5 billion for missile programs over the next five years if SALT succeeds, double that if it does not.

Costs of such magnitude cause critics to assail Secretary Kissinger's widely-quoted comment that "it was not decisively different [conceptually] whether the level was 2,400 or 2.200 or for that matter 2,000." With price tags of $1.6 billion for every Trident and $84 million for every B–1, they allege that even modest cuts in projected systems could create substantial savings. As it stands, the United States conceivably could fail to attain essential equivalence with the Soviets, not because SALT II guidelines preclude, but because costs become prohibitive.

Associated questions for the Congress stress detailed calculations for total costs that would accrue if the United States found it necessary to attain SALT II ceilings and accelerate new deployments in compensation for Soviet strengths. As a minimum, Congress could ask the Department of Defense to explain:

Future U.S. strategic nuclear force structure with and without SALT II agreements.

The difference in total estimated costs during the period FY 76 through FY 85.

Research, development, and deployment costs for each of the modernization measures itemized in the section above.

The budgetary impact on U.S. general purpose force programs.

### *The ultimate questions*

No matter how U.S. and Soviet Governments decide to resolve current issues, the compromise product will contain certain flaws. This country will profit from some tradeoffs and lose when it comes to others. The quest is for mutually acceptable agreements that serve crucial and long-term U.S. interests. In the final analysis, therefore, two questions face the Congress:

Are proposed SALT II accords better than none at all?

If not, are any attractive options open?

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## THE LAST FRONTIER

## HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. ALEXANDER. Mr. Speaker, I would like to share with my colleagues an article that appeared in August in the Washington Post which focused on our last frontier—our oceans—and the wealth that lies under our seas. It gives, I believe, much food for thought.

The article follows:

### THE LAST FRONTIER—SHARING THE WEALTH UNDER THE SEA

(By George C. Wilson)

The great Indian warrior Tecumseh was incredulous when white speculators tried to buy up the land of his people after the Revolutionary War.

*"Sell the country?"* he cried. "Why not sell the air, the clouds, the great sea?"

Tecumseh tried to hold the land for the Indians who revered it. He was killed while commanding Indian braves fighting alongside the British in the War of 1812—a war he saw as the last chance to stop the march of the white settlers.

The Indians did lose their land—with many of them unaware of what was happening. And today, 163 years after Tecumseh's death, "the great sea" he talked about is up for sale—again with many people unaware of what is happening.

Delegates from countries around the world will gather at the United Nations building in New York from tomorrow through Sept. 17 to try for the fifth time to agree on how the great sea—the last frontier—should be divided up.

This last frontier—taking up 70 per cent of the earth's surface—dwarfs the one Tecumseh lost. And it contains riches that are expected to trigger a new kind of Gold Rush before this century is out.

Already American mining companies are pushing for exclusive rights to mine vast tracts of the ocean bed for nickel, copper and other minerals. One nation's mining claims could be jumped by another country in this rush to exploit the last frontier.

Statistics can provide a dim perception of the riches out there:

The whole North American continent of 9,390,000 square miles would sink out of sight in just one corner of the Pacific Ocean, which takes up 64,186,300 square miles of the unexploited frontier. Add in the Arctic, Atlantic and Indian oceans and the frontier grows to 131,062,500 square miles—or 14 times the area of North America.

The value of the ocean riches to the United States alone will be $45 billion by the year 2000—with oil, gas and manganese nodules accounting for about $19 billion of that total and fish $4 billion, according to estimates made by Robert R. Nathan Associates for the Senate Commerce Committee.

The nickel and copper extracted from manganese nodules lying on the ocean bottom could transform the United States from an importer of these minerals to an exporter, according to the Interior Department's Ocean Mining Administration—a change that would shake up the economies of many countries.

"Today it is the oceans which suddenly are accessible to new technology and alluring to exploration," Secretary of State Henry A. Kissinger told the Foreign Policy Association in April. "Their promise may be even greater than the untapped lands of the century past. So too is their potential for conflict. The decision will be ours."

Kissinger said the United States does not want to see nations climbing all over each other in an international Gold Rush.

"The nations of the world cannot afford to indulge in another round of unrestrained struggle for the wealth of our planet when the globe is already burdened by ideological strife and thermonuclear weapons," he argued.

The delegates gathered around tables at the United Nations tomorrow are supposed to find a way to avoid that "unrestrained struggle" by writing a treaty for harvesting the riches of the ocean without leaving the sea bottom ravaged like an underwater Appalachia; for sharing the wealth among all the world's nations; for using the oceans like a world "commons."

The purpose of the Law of the Sea session, said T. Vincent Learson, the former IBM board chairman who is chairman of the American delegation, "is to bring law and order to the use of the oceans and therefore to avoid conflicts so we don't have to have battleships running around to keep peace in the world."

"Eighty per cent of the nations really want to see a treaty concluded," Learson added, predicting that differences will be narrowed in this next meeting so that a final treaty can be agreed to by the Law of the Sea Conference next year.

But the Ocean Education Project, a nonprofit, privately funded group trying to educate the public on what is at stake as diplomats divide up the wealth of the oceans, contends the people of the world have already lost much of their frontier without knowing it.

"The vision of the oceans as the common heritage of mankind whose wealth—chiefly in oil—should be used to narrow the gap between rich and poor nations has largely faded," said the Ocean Education Project in assessing what has happened to date.

### STAKING CLAIMS

Instead of sharing the 1967 vision of former Ambassador Arvid Pardo of Malta, who saw the ocean riches as common property for all the world's peoples, the United States and other coastal nations have staked out claims to all these riches from the beach to a line 200 miles out to sea.

"The oil boys got what they want," said Samuel R. Levering, a lobbyist for the privately financed U.S. Committee for the Oceans, in referring to the 200-mile economic zone now established in the draft treaty. Most of the untapped oil is believed within this 200-mile zone.

Wide agreement also has been reached among Law of the Sea delegates to consider the band extending 12 miles from shore as territorial waters. But, under language already drafted, coastal nations would alow other countries to sail into territorial waters and through straits as long as these trips constituted innocent passage.

"In the territorial sea," states one article in the draft treaty which shows the emphasis on innocent passage, "submarines and other underwater vehicles are required to navigate on the surface and to show their flag."

Since the 200-mile economic zone is virtually established worldwide and there is also agreement on rules for navigation and pollution, the big question facing diplomats in tomorrow's and future Law of the Sea sessions is how the frontier more than 200 miles from shore should be apportioned among nations of the world.

The United States hopes to avoid a "might makes right" grab of this seabed, which has billions of dollars worth of manganese nodules lying on the bottom. The U.S. government has proposed establishing a mini-United Nations to control the exploitation of this deep seabed.

### DUAL CONTROL PLAN

But American officials fear in making this proposal that the less-developed nations would outvote the United States and other industrial powers capable of mining the seabed if the voting was a straight one-country, one-vote arrangement. Said Kissinger on this dilemma:

"The United States understands the concern that the riches of the seas not be the exclusive preserve of only the most powerful and technologically advanced nations.

"What the United States cannot accept is that the right of access to seabed minerals be given exclusively to an international authority, or be so severely restricted as effectively to deny access to the firms of any individual nation including our own."

The Kissinger proposal—to be debated at the conference this week—calls for the have and have-not nations to share the wealth of the deep seabed by mining it under both international and industrial control. A mining company under his proposal would apply to an international authority for the right to mine two tracts of the seabed. The authority would keep one of the two requested tracts to develop for undeveloped nations and let the private company mine the other one on its own.

Another American offer—designed to reassure countries with economies based on selling the metals they still extract from the ground—is to enter into a world commodity agreement to control the pace of mining of the seabed to keep markets from being disrupted. Some critics have attacked this scheme as madness, since the United States would be inviting an OPEC-type cartel run by the Third World.

Despite optimistic predictions of Learson, Kissinger and other American officials about the prospects of reaching final agreement on a treaty text by next year, other members of the Law of the Sea delegation warn that the issues are so tough that resolving them may take another three years.

How should the voting within a new international seabed authority be distributed between the developed and undeveloped countries and the coastal and landlocked nations? How should the money coming out of the "common heritage" of the seabed be shared? How should disputes be settled as claims are jumped or the seabed is stripped like a West Virginia coal mine with no regard to environmental rules?

The American Mining Congress is at the forefront of organizations pressuring Congress to let American mining companies start mining the seabed without waiting for the world to agree on an international treaty. U.S. negotiators regard the pending bills to allow this go-it-alone mining as valuable leverage for them. But there is a real danger that this negotiating game may get out of hand next year as Congress runs out of patience and passes the seabed mining bills.

Leigh S. Ratiner, the administrator of the Interior Department's Ocean Mining Administration and the U.S. negotiator for the seabed-mining part of the Law of the Sea treaty, "is playing such a byzantine game with this threat of congressional legislation that we're losing our credibility with the other delegates," said one of Ratiner's critics involved with Law of the Sea diplomacy. Ratiner also has drawn fire from Deputy Defense Secretary William P. Clements, who said the negotiator "should have been fired long ago"—an indication that the Ford Administration is not going into this new round solidy behind its negotiating team. Ratiner himself has declined to comment.

Clements reviewed the administration's proposed seabed mining rules when he was a member of the Under Secretaries Committee on Law of the Sea issues. He is still a major stockholder in SEDCO, a Dallas firm which has drilled wells on land and sea for international oil companies and foreign nations. SEDCO last fall entered into a consortium to mine the seabed—a venture which Clements said prompted him to resign from the Under Secretaries Committee for fear of giving the appearance of having a conflict of interest.

"We've got plenty of time to negotiate a treaty," Clements said in warning against rushing to mine the seabed. "We in the United States are way out ahead of the rest of the world in this technology." The former drilling contractor said it is not generally realized that Japan is not waiting for the treaty, however, but is already mining the seabed on a small scale.

### WEARING TWO HATS

U.S. mining companies, under bills pending in Congress, want the federal government to grant them exclusive rights to mine tracts of the seabed and come to their aid if other nations try to interfere. If a mining company invested money in deep seabed mining and then lost it because of an international treaty coming into being, the U.S. government under pending legislation would make up the loss.

American mining executives are both sponsoring such go-it-alone legislation for the seabed and sitting in as advisers to the Law of the Sea delegation. There is no Tecumseh—in the form of a militant consumer organization or citizens group—sitting alongside industry representatives who watch the Law of the Sea deliberations on how the wealth of the ocean should be shared.

"The Law of the Sea operations," said one international lawyer who serves as an adviser to the delegation, "is a classic example of Galbraith's thesis that the real power in the industrialized United States flows from the corporations to government rather than the other way around." (He was referring to economist John Kenneth Galbraith.)

Learson is the former board chairman of IBM; Carlyle E. Maw, under secretary of state for security assistance and deeply involved in Law of the Sea policy, came from the New York law firm of Cravath, Swaine and Moore, where he served as Kissinger's personal lawyer; and the advisory committee to the Law of the Sea delegation is dominated by industry executives and international lawyers.

This establishment dominance of the advisory committee seems to be at odds with the State Department charter for the group, which states that the chairman of the U.S. Law of the Sea task force "will, after consultation with other members of the National Security Council Interagency Law of the Sea Task Force, name as public members selected individuals who can provide adequate representation of the diverse interests."

Asked why the general public is not more fully represented on the advisory group as the U.S. government decides how this last frontier shall be exploited, a State Department executive replied: "We would look with sympathy upon such applications."

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## TRIBUTE TO SPEAKER OF THE HOUSE ALBERT

### HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. WINN. Mr. Speaker, may I join your many colleagues as they honor you upon completion of 30 years of exemplary service to your State and Nation.

Your leadership has the respect of all those who served with you over the years. I was particularly pleased to have had an opportunity to know you personally when I was fortunate enough to be chosen as a member of the Korean Parliamentary delegation.

Mr. Speaker, your contributions are legion and you will be well remembered for your efforts to improve the legislative process, and dedication during some of the most trying moments in our Nation's history.

May you continue to enjoy good health, happiness and all the good things that life has to offer as you enter your retirement years. Good luck, Mr. Speaker, and Godspeed.

## "RETIREMENT": NOT IN VOCABULARY OF GREEN THUMBERS

## HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. PICKLE. Mr. Speaker, one of the most successful and beneficial programs which the Department of Labor has is the Green Thumb program. A part of the Older Americans Act, this program is run, through a contract by the Farmers Unions, and provides meaningful work for low-income citizens over 55 years of age.

I want to enclose this article from the Austin American Statesman which describes the workers of a Green Thumb crew, who range in age from 65 to 93. These ciitzens are a good commentary that the work ethic is still alive and well in this country:

### GREEN THUMBS: THEY FIGHT OLD AGE WITH HARD WORK

(By Crispin James)

Tall, good-natured Frank Williams flashes a grin and you'd swear he's not a day over 60.

But Williams is 93.

He'll proudly tell you that, although his family worries he may be too old to work, he'd rather wield a hammer and saw than "watch the four walls."

Williams and six other men—the youngest, the boss, is 65—fight old age as members of the Green Thumb Crew.

Sponsored by the consumer and housing office of the Travis County Department of Human Services, the crew members repair homes of low-income families in the county.

Consumer housing official Mary Lee Claborn says the Green Thumb Crew provides free labor for county residents who need but can't afford home repairs.

The crew works 24 hours a week. The foreman is paid $2.50 an hour; his laborers, $2.25 an hour from funds provided by the U.S. Department of Labor.

The work program was sponsored by the city Parks and Recreation Department until May, according to Willie B. Moore the 65-year-old Green Thumb foreman.

Since the county assumed jurisdiction in May, the crew has repaired two homes in Southeast Travis.

For their efforts, Travis County commissioners Monday morning will award the Green Thumb Crew certificates of appreciation.

"I love 'em," said Ellen Fuller, 72, who lives with her 92-year-old mother in a home now undergoing repair in Webberville. "They're doing the things we aren't able to do."

The men repaired the leaky roof, built a storage shed for the back yard, sealed holes in the walls and are strengthening support beams in the Fuller garage.

Besides Williams and Moore, other members of the crew include Pedro Gomez, 68, George Johnson, 68, George Fletcher, 70, Willie Franklin, 84, and Ace Harper, 70.

## WISCONSIN DOCTOR RECEIVES PRESTIGIOUS FEDERAL WOMAN'S AWARD

## HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. KASTEN. Mr. Speaker, each year, six American women from a variety of professional fields are chosen to receive the prestigious Federal Woman's Award. Founded in 1960, it is the only award program in the Federal Government exclusively for women.

I am proud that a resident of Wisconsin's Ninth Congressional District, Dr. M. Patricia Murray of Mequon, has been named to receive the Federal Woman's Award for 1976.

As a basis for judging the 147 candidates nominated for this year's award by 57 Federal agencies and congressional committees, the independent panel of judges looked for achievements having an important effect on a major Government program, or for outstanding contributions to the administrative, social, scientific, or technical progress of a Federal organization. They also judged on personal qualities of dedication, leadership, integrity and judgment.

Dr. Murray is Chief of the Kinesiology Research Laboratory at the Veterans Administration Center in Wood, Wis. A highly respected authority in her field, Dr. Murray is an internationally recognized pioneer in the study of human movement.

After a distinguished career as a physical therapist, Dr. Murray began her study of human movement in 1957 when kinesiology was a relatively new field. Because there were no adequate descriptions of normal movement for use as standards of comparison in evaluating the movement of disease-afflicted patients, Dr. Murray spent 10 years quantifying the movement patterns of normal men and women. Then, having developed the essential standards, she directed her studies to the analysis and treatment of abnormal posture and gait. Her painstaking and innovative research has produced basic data which is today standard reference material for students, researchers and clinical physicians all over the world.

Dr. Murray's work led to the establishment of one of our Nation's first kinesiology research laboratories at the Veterans Administration Center in Wood, where she has served as laboratory chief for the last 12 years. During that time, she and her research team have published more than 20 comprehensive reports of their investigations.

Today, in addition to studies of walking performance, Dr. Murray is collaborating with orthopedic surgeons and neurologists in assessing the basic mechanisms which affect a patient's ability to walk.

She is also an assistant professor at the Medical College of Wisconsin and Marquette University, where she received her graduate and doctorate degrees in anatomy. She has developed teaching aids and course outlines used by instructors throughout the country. Her work has brought her national recognition.

The respect and admiration of her colleagues and patients are an overwhelming affirmation of Dr. Murray's outstanding contributions in the field of kinesiology. The selection of Dr. Murray as a recipient of the Federal Woman's Award for 1976 is a fitting tribute to a remarkable professional career.

## TRIBUTE TO F. EDWARD HÉBERT

## HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. KEMP. Mr. Speaker, I am joining my colleagues today in a sad but well deserved testimonial. We are saying farewell to one of the most respected and beloved Members of the House of Representatives—the Honorable F. EDWARD HÉBERT of Louisiana.

By the time I entered the Congress in 1970, EDDIE HÉBERT was already established as a towering figure in the House Armed Services Committee.

He is probably best known among his colleagues as the good-humored, but tough-minded chairman of the Armed Services Committee, who put his country before politics and the Nation's defense before partisanship. He worked to eliminate waste in the military system, he firmly fought for a strong national defense system that looked realistically at our military needs in relation to the new international order. Fair-minded and painstakingly thorough, his committee was the "workhorse of the House of Representatives." His impartial advocacy of a strong defense won him the respect and admiration of all of his colleagues, and I am honored to have served 6 years in the Congress as his friend and colleague.

This Congress will long miss the staunchly patriotic voice of Congressman HÉBERT, a man who truly served his country, to the vast betterment of the United States. I join with my colleagues today in wishing him every good wish for his retirement, and for a long and fulfilling life ahead.

# SENATE—*Thursday, September 30, 1976*

The Senate met at 8:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Holy, Holy, Holy, Lord God Almighty; heaven and Earth are full of Thy glory; glory be to Thee, O Lord most high. Amen.

God of our fathers and our God, as we undertake the work of this demanding day, we beseech Thee to keep alive in us the supreme value of human personality, the power of love, the dynamism of the spirit, the invincibility of goodness. Multiply the usefulness of our lives by the intensity of our living, by sacrifice and self-giving. Whether at work here or beyond these walls keep us so close to Thee that we may reveal something of the Master's qualities in seeking first the Kingdom of God and His righteousness, assured that all else shall be added. Help us to put first things first and so fulfill Thy law. When at last the judgment of history is made on our fleeting days may we hear Thee say, "Well done good and faithful servant."

We pray in His name which is above every name. Amen.

### QUORUM CALL

The ACTING PRESIDENT pro tempore. The Senate having adjourned yesterday in the absence of a quorum the clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 59 Leg.]

Abourezk
Allen
Byrd, Robert C.
Durkin
Eagleton
Fannin
Griffin
Leahy
McClure
Metcalf
Moss
Pearson
Stennis
Stone
Young

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Rhode Island (Mr. PELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. TUNNEY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN), the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 49, nays 2, as follows:

[Rollcall Vote No. 680 Leg.]

YEAS—49

Abourezk
Bartlett
Bayh
Brooke
Byrd, Harry F., Jr.
Byrd, Robert C.
Clark
Curtis
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Hruska
Jackson
Javits
Johnston
Leahy
Mathias
McClellan
McClure
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Pearson
Percy
Proxmire
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stone
Symington
Talmadge
Tower
Williams
Young

NAYS—2

Allen
Weicker

NOT VOTING—49

Baker
Beall
Bellmon
Bentsen
Biden
Brock
Buckley
Bumpers
Burdick
Cannon
Case
Chiles
Church
Cranston
Culver
Dole
Domenici
Eastland
Glenn
Goldwater
Gravel
Hart, Philip A.
Hartke
Helms
Hollings
Huddleston
Humphrey
Inouye
Kennedy
Laxalt
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Mondale
Montoya
Packwood
Pastore
Pell
Randolph
Ribicoff
Scott, William L.
Stafford
Stevenson
Taft
Thurmond
Tunney

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. A quorum is present.

### THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of proceedings of Wednesday, September 29, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I reserve my time on the part of the majority leader until after the tributes.

The ACTING PRESIDENT pro tempore. Does the acting minority leader desire recognition?

Mr. GRIFFIN. Mr. President, I similarly reserve my time.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period not to exceed 2 hours for tributes to the Senator from Missouri (Mr. SYMINGTON) and the Senator from Michigan (Mr. PHILIP A. HART) to be equally divided and controlled by the majority and minority leaders or their designees.

Mr. ROBERT C. BYRD. Mr. President, I yield my time and I have permission to yield time that Mr. GRIFFIN controls on the Symington tributes to Mr. EAGLETON, giving him the full hour.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Missouri (Mr. EAGLETON) will have control of the time.

Mr. EAGLETON. Mr. President, I ask unanimous consent that a member of my staff, Mr. Stephen Benn, have the privilege of the floor today, Thursday, and tomorrow, Friday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EAGLETON. I ask unanimous consent that a member of my staff, Mr. Mark Abels, have the privilege of the floor today, Thursday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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## TRIBUTES TO SENATOR STUART SYMINGTON

Mr. EAGLETON. Mr. President, I very much appreciate the courtesy of our distinguished colleagues, Senator ROBERT C. BYRD from West Virginia, and Senator GRIFFIN.

Mr. President, I note with great pleasure the presence in the Chamber of my distinguished colleague, the distinguished Senator from Missouri (Mr. SYMINGTON). I have some remarks, but I will save them for later in the hour.

At this time I am pleased to yield to our distinguished colleague from Washington (Mr. JACKSON) who has served 24 years in the Senate with Senator SYMINGTON. I believe they entered the Senate on the same day.

Mr. JACKSON. I thank the Senator.

Mr. President, I join my colleagues today to pay tribute to STU SYMINGTON, loyal friend and long-time coworker in the Senate.

I am one of the Members of this body who have been privileged to work with STU during all of his 24 years in the Senate.

This occasion is for me, therefore, a particularly moving one.

In 1952 both of us tested our luck and ran for the Senate. We were among the handful of Democratic Senators surviving the Eisenhower landslide. Our favorable fortune that year has always been a special bond between us.

Beyond this, early in our Senate service, we went through the difficult and tumultuous Joe McCarthy period together, serving side by side on the committee that first took McCarthy to task. We were genuine buddies during those long days before the TV cameras—days marked by drama, tension, frustration, and final success. STU SYMINGTON and I have been buddies ever since.

Over the years, STU is one of the few Senators who has wrestled with the crucial and complicated relationships between foreign and defense policy. He came to the Senate with formidable experience on economic and defense matters, having served successively as Chairman of the Surplus Property Board, Assistant Secretary of War for Air, the first Secretary of the Air Force, Chairman of the National Security Resources Board, and Administrator of the Reconstruction Finance Corporation.

In the Senate he has been a prime mover not only on the Armed Services Committee and the Joint Committee on Atomic Energy, but he has had the unusual distinction of simultaneously serving on the Foreign Relations Committee. I predict he will be forever remembered as a pioneer in the continuing effort to forge a sensible and effective relationship between America's defense programs and its foreign economic and diplomatic policies.

Mr. President, I do not want to conclude this morning without saying a word about Evelyn Wadsworth Symington, STU's marvelous wife whom Helen and I loved as a very special person.

She was the daughter of James W. Wadsworth, distinguished Senator and Congressman from New York. She had a sturdy heritage. And we knew her as a woman of immense charm, keen intelligence, and exceptionally good sense. Throughout his long career, STU SYMINGTON had at his side an extraordinary helpmate.

I join with my colleagues this morning in wishing STU the days of rest and good fun that he has earned. But we shall still count on his counsel from time to time on the grave and challenging issues confronting the Nation. At most, he is becoming a working Senator emeritus.

Mr. EAGLETON. I thank our distinguished colleague, and I am pleased at this time to yield to a member of the opposite party. STUART SYMINGTON'S character and respectability being what it is, both parties honor him and respect him, and I yield at this time to our distinguished colleague from Maryland, Senator MATHIAS.

Mr. MATHIAS. Mr. President, I appreciate the distinguished Senator from Missouri yielding to me for just a minute or two.

In his patriotism, in his courage, and in his appearance the senior Senator from Missouri so much resembles the classic ideal of a Roman senator that it seems right to choose the classical salutation: Frater ave atque vale—hail and farewell, brother—and Marylanders do consider STUART SYMINGTON a brother. Among ourselves we regard him as the third Senator from Maryland and we are proud to claim him.

Senator SYMINGTON is a member of a distinguished Maryland family. Although he was born in Amherst, Mass., where his father was a professor, Senator SYMINGTON grew up in Baltimore and went to school there.

Senator SYMINGTON'S industry, his principles, his great success in everything he has put his hand to—all these are his own. But, I think he may owe to his Maryland ancestors his wit, his gaity, and that charm that has distinguished so many of his family.

STUART SYMINGTON'S achievements in the Senate, in the executive branch, and with the private sector are well documented and will be thoroughly reviewed in this Chamber before our final parting is taken. I will, therefore, not delineate them all but rather will limit myself to a subject of monumental importance to which he has given so much of himself.

I speak of the crucial role Senator SYMINGTON has played in efforts to prevent nuclear proliferation throughout the world. He has taken the lead in exposing the dangers of nuclear proliferation to the American people, Congress, and the executive branch and, like the gadfly of Athens, he has warned us repeatedly about the nuclear march to Armageddon.

If we finally manage to avoid nuclear holocaust and to curb nuclear proliferation, much of the credit will belong to STUART SYMINGTON. His dedication to this cause is so great that although his voice will not be heard again in this Chamber after our present session, it will surely be heard throughout the land.

I cannot conclude this tribute to Senator SYMINGTON without mentioning a chapter in his freshman term in the Senate which was among his finest hours. The time was 1954 when Senator Joseph McCarthy was at the height of his power. Few then dared raise their voices against the Senator from Wisconsin but STUART SYMINGTON did.

Senator SYMINGTON said:

> Millions of Americans have been told by Senator McCarthy that this Republican Administration has added a year of treason to our proud history. I am a Democrat, but first and foremost, I am an American. It is little comfort to me that these terrible charges are directed against a Republican Administration, Republican officials and our Republican commander-in-chief.

Senator SYMINGTON concluded:

> It would appear that some of us want to end up the country with just plain anarchy.

I am grateful to Senator SYMINGTON for the role he played then in arousing this body and the Nation to the menace of McCarthyism. STUART SYMINGTON was one of a small, infinitely fine band of men who dared to say:

> I want you to know from the bottom of my heart that I am not afraid of anything about you, or anything you've got to say, anytime, any place, anywhere.

I am proud to salute Senator SYMINGTON. I am proud to have served in this body with him. We Marylanders are proud to claim him and to wish the third Senator from Maryland a brotherly farewell.

Mr. EAGLETON. I thank the distinguished Senator from Maryland.

Mr. President, I am pleased at this time to yield to the distinguished chairman of the Committee on Foreign Relations, who has served with STUART SYMINGTON for many years on that committee, the Honorable JOHN SPARKMAN.

Mr. SPARKMAN. I thank the Senator from Missouri.

I may say, "STU," that Senator EAGLETON cautioned me that I had to be brief. I told him that I had to speak early because I have a dental appointment, and you know that when you get one of those, you had better keep it.

I have known STUART SYMINGTON for more years than he has served in the Senate. As a matter of fact, I had a very close working relationship with him while I was a Member of the House.

I recall quite well our work during the war. I was on the Military Affairs Committee of the House, and he performed very effectively the difficult job with reference to the disposal of surplus property. That was quite a problem in those days.

The next working relationship I had with him was after I had come to the Senate and he took over the very badly troubled Reconstruction Finance Corporation, which was undergoing a very heavy attack in Congress at the time. I had moved to the Senate and was on the

Senate Banking Committee, and that committee worked very closely with Senator SYMINGTON. So I know something about his work in those fields, in addition to his work on the Committee on Foreign Relations, where we both have served for many years.

For a long time, he has been chairman of the Subcommittee on Arms Control, and he has done a remarkably fine job in that field.

As does the distinguished Senator from Maryland, I regard STUART SYMINGTON as one of the real experts on nuclear matters. He has done more, I believe, than anybody else in the world to warn against the spread of nuclear power and the possibility of nuclear destruction. If I wanted to tag him for his most effective work, it would be in this field.

Of course, he is also a member of the Joint Committee on Atomic Energy and the Committee on Armed Services—the only Member of the Senate who holds membership on all three committees. He got that as a result of what we call "grandfathering in," when we put up the more strict regulations regarding committee membership. He has done an effective job throughout the years.

I wish to echo what was said by the Senator from Maryland regarding the very beautiful and charming and wonderful wife who was STUART SYMINGTON'S partner for many years and the daughter of my good friend with whom I served in the House of Representatives, James B. Wadsworth.

As I stated to "STU" yesterday, Wadsworth was such an excellent speaker, legislator, and Member of the House that all Members sat in their seats and followed him carefully when he started to speak.

STU, we hate to see you go. I have told you before that I wish you were not going. But we wish you well, wherever you go.

Mr. EAGLETON. I thank my distinguished colleague.

Mr. President, does the Senator from Mississippi wish to yield his place to the Senator from Illinois?

Mr. STENNIS. If he desires, if he has a special reason.

Mr. EAGLETON. I yield to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I appreciate very much the courtesy of the distinguished Senator from Mississippi, who was in the Chamber before I was, in yielding to me in this matter.

I shall address my comments to a beloved colleague, a dear friend, a man whom my wife and I have learned to know through the years as one of the towering men of strength, of dignity, of integrity, of courage, and of conviction in the U.S. Senate—STUART SYMINGTON.

STUART SYMINGTON and I have shared much in common. We love American enterprise. We love the free enterprise system. Both of us have worked in it for many, many years—he, the head of a great electronics company. Yet, through the years, we had a feeling of gratitude toward our country, toward that system. The temptation is always great to just stay with it—the structured, fairly comfortable, well ordered life, where you can really order your life, where you can issue a directive and it will be carried out, without any ifs, ands, or buts.

I think we both went through the experience of deciding that it was time now to start to really give back in a different way to our country.

The career of STUART SYMINGTON is an utterly dazzling one—his positions of authority and responsibility in the executive branch of Government, his service as Secretary of the Air Force at a critical time in our history. It was an opportunity that comes to very few Americans. He built and had the responsibility for building the mightiest Air Force in the world. He recognized and helped his fellow Americans recognize that the greatest bastion of defense for this country was a mighty Air Force and that it was done for defensive, peaceful purposes, not offensive purposes.

In the U.S. Senate, STUART SYMINGTON has served with great distinction. I do not think there is anyone else who serves on so many powerful committees that he does—the Committee on Foreign Relations, the Committee on Armed Services, the Joint Committee on Atomic Energy. What a triad of influence and power. And what a marvelous thing it has been to have someone of his skill and knowledge to transcend all of those fields and help focus and bring them together for us. It has been my privilege to serve on the Committee on Foreign Relations with him and to work intimately with him in his work on the Joint Atomic Energy Committee.

The bill that we have before us, on nuclear proliferation, which will be the strongest control bill we have ever had in Congress, in large measure is a tribute to his skill and his work, which continues right up to the present moment, when we are negotiating the final phases of that to insure that we do have a landmark piece of legislation. That legislation can be a great tribute to Senator PASTORE and Senator SYMINGTON, who have devoted many years of their lives to seeing that American preeminence in the field of atomic energy is preserved; and also to see that American moral leadership in the world is preserved.

Finally, I should simply like to say that you can tell a great deal about a man from his family relationships. He and his wife shared a great love, and I know no man more respected by his children. His son and daughter-in-law, whom we know well, are absolutely devoted to him.

We look upon STUART SYMINGTON as a friend, as a colleague, and we look upon our relationship with him as going into a new phase, but an exciting phase. I hope he will have even more time for his friends and colleagues in the Senate, who will need to lean on his counsel and advice, because there is no one here today who has the experience that he has. I know that experience is going to be available to his Government, to his people, and to his colleagues for many years to come.

So we just simply say, in the French term, à bientôt, j'espere. Goodby for now, we hope, but we will continue tomorrow with a whole new relationship. We are deeply grateful for the way in which STUART SYMINGTON has touched all of our lives and made us better people for knowing him.

Mr. EAGLETON. I thank our colleague from Illinois. I am pleased to yield to the distinguished chairman of the Committee on Armed Services, the junior Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. Mr. President, I thank the Senator for yielding to me. This is by no means a happy experience, to be thinking of our colleague leaving the Senate, but I think it is more of a bodily leaving of the Senate, because his influence will still be with us, certainly for the good.

I salute him, first, for a very fine, outstanding career in Government. Following a successful business career, he has given many years—many years—to his Government, that he respects and actually loves, some of those years in the executive branch and some in the legislative branch. He was always felt and heard in whatever branch he was serving in, because he acts on the merits and has knowledge and experience and wise counsel.

I pause to say, Mr. President, that more people, more citizens must have his same willingness to serve the country in these special ways, making our governmental system work. It is going to take more attention of talented people, and he is a man of talent, a man who is willing to take in stride the ups and downs of political life, a man who is really willing to stay with it, year in and year out. I say it would take more—it would take thousands and thousands more, I think, over the decades, and I hope there will be many, many other STUART SYMINGTONS, men of his talent and dedication and his willingness.

I can sum up what I have said in one word, "usefulness." That is a mighty high compliment, in my estimation. Is a person useful? Our friend has been useful. His fine energy, his other positive qualities—he has put all of it together and been useful wherever he turned.

I referred to his successful business career. I do not know the details of that, but I know it is a fact, and I have never heard one whisper of any thought or word or complaint on his part about the Government being unjust to him in taxation or in other matters. He is entirely devoid of the disposition some have to take an adverse position, more or less, to his Government. I mention that because it is another evidence, I think, of his fine qualities.

He and I have sat side by side on the Committee on Armed Services for over 20 years. That is a good long time in the lifespan of a man, 20 years on that committee. We were on the Committee on Appropriations a long, long time, and I think we sat almost side by side there.

For several years I had the experience, and it was quite a fine one, of sitting between the Senator from Missouri and the late Senator Lyndon Johnson, then the Senator from Texas. Those were stormy years. Those were the years that sputnik went up, those were the years of part of the Korean war, the Space Committee and the Space Administration were created. A great many other things happened.

I have been through a good deal of baptism of fire, so to speak, with him. He never wavered, though, in his firm purposes and his beliefs. I found him, on the Committee on Armed Services, too, well versed on procurement, a very intricate matter and difficult; well versed in weaponry, and that is something that few know much about. The average Member here does not have much chance to learn about it. I mention it with emphasis now because he made such a high contribution there.

He is well versed in foreign policy, and he served for many years as a splendid go-between, if I may use that term, a bridge between the Committee on Armed Services and the Committee on Foreign Relations. In that way, he brought us the benefit of his knowledge and experience and information and judgment in both of those fields, that are in common, in some respect.

Mr. President, I want to mention, with some feeling, an experience I had with the Senator from Missouri. Some—well, not 3 years ago, it was—I had occasion to ask him to serve as chairman of the Senate Committee on Armed Services, over a period of months—8 months, I think it was—when I was not on the Hill. I shall never forget the expression on his face when I asked him to take this responsibility and render this service. The great reward of it was his absolute faithfulness and the absolute dedication that he showed to the committee and that he showed in that fine community of interests there, between his work and his acting as chairman and the position I had as the elected chairman.

His concern, his dedication to the idea of not just doing everything I might want to do—he gave his own judgment, of course—but his obligation to that committee and the relation to the committee and to the chairman was one of the high points of the experiences I have had in the Senate. His very fine spirit all the way through was controlling.

I think there, Mr. President—and I love the Senate's committee system, and it is a great right arm of this body, it has to operate in large part through those committees—certainly he was a great soldier in that field, and his contribution was broad and long and, in that particular instance, is one that I like to remember him by, and I emphasize that today.

So I salute him again and thank him again for his fine personal service.

I yield the floor.

Mr. EAGLETON. I thank my colleague.

I am pleased indeed to yield at this time to the distinguished Senator from Arizona (Mr. GOLDWATER).

Mr. GOLDWATER. It is with some degree of sadness in my heart that I rise today to say goodbye in a senatorial way to my long time friend from Missouri, STU SYMINGTON.

We came to this body together over 20 years ago and, with the exception of my self-imposed sabbatical leave, we have served all that time, almost all of it, on the Armed Services Committee together.

But, Mr. President, my first knowledge of STU SYMINGTON goes back even before the days we came here together when he was the first Secretary of the Air Force. The Air Force has been a large part of my life. I have been in aviation actively for over 46 years, so everything he did I followed with great interest.

I remember the first part of his work with which I was acquainted was the rebuilding of the Air National Guard after World War II. It is now one of the most powerful reserve units we have, one of the most powerful in the world and, in itself, is equal to many air forces around this world.

Serving as Secretary of the Air Force, he put up the long, hard fight with the Navy for our B-36, which was the first of the large strategic bombers we built following World War II.

Mr. President, I recall it was his firm, among others, but his firm was one of the firms that made the turrets for the bombers that were used in World War II, mostly the B-24, but others, and we are indebted to him for that.

His company was one of the early leaders in electronics and in microcircuitry, and today we are benefiting because of this company's early work in the field.

As was mentioned earlier, his business background was most successful and most productive to the interests of our country.

But, on top of all that, STU SYMINGTON has what very few people, very few men, have, not only in this body but around this country and this world, and that is a very broad knowledge of many subjects. His interests are not confined to one or two matters, but there is hardly a subject that comes before this body that he cannot speak about, and there is nothing that comes before the Armed Services Committee that he does not understand and can discuss not only from the merits or demerits of the particular subject but the merits or demerits of that subject as it is related to other subjects.

I recall very vividly the many times he has related his knowledge of atomic power to our debates on weaponry; when he has related his knowledge of foreign affairs to weaponry. Often we have talked about the close relationship of foreign policy, the military, and weaponry.

So, Mr. President, we are going to miss him; somebody will take his place, but really I think his place in a chair, where we will not see another STU SYMINGTON for a long, long time in this body.

As a golfing companion of his and an occasional gin rummy companion of his, I look forward to the years when he might visit my State of Arizona or I might visit his State of Missouri and, God willing, we can continue the friendship we have enjoyed down through the years.

Mr. EAGLETON. Mr. President, I yield to the distinguished Senator from Minnesota (Mr. HUMPHREY) and then the distinguished Senator from Pennsylvania (Mr. HUGH SCOTT) and then the distinguished Senator from Arkansas (Mr. McCLELLAN), and then the distinguished Senator from Texas (Mr. TOWER).

Mr. HUMPHREY. Well, Mr. President, first of all, I want to say to our distinguished colleague, the junior Senator from Missouri, how grateful we are for his thoughtfulness in bringing us together here today to pay tribute to our good friend, the senior Senator from Missouri, STUART SYMINGTON.

All the wonderful things that have been said here today about STUART SYMINGTON in a public manner and a public forum have been said, STUART, hundreds of times privately. Sometimes in public life we are prone to hear things said about us as a matter of courtesy and kindness. But it is those things which are uttered in private conversation which are even more meaningful. And to you, sir, the words of compliments and praise, of friendship and of affection that come from your colleagues, are literally like a river flowing forth. So you should feel doubly blessed and exceedingly happy today because here in this public place we say what we have been saying in private places, and we say it here so that those who come after you may read it and may know how much we thought of you and continue to think of you throughout all of your days.

Ordinarily I do not take the time to prepare remarks. I like to just speak from the heart and from the mind. But I jotted down last night, while I had a few moments of peace and quiet, just a few thoughts which I will share with you and with my colleagues.

The closing of the 94th Congress brings to an end an official career of one of America's foremost statesmen, and that man is STUART SYMINGTON. I think it is very difficult to imagine the American political scene without STUART SYMINGTON as an active and major participant. At least it is difficult for me to do so.

It is almost impossible to remember a time in my own career here in the Senate when STUART SYMINGTON was not present, and always, may I say, as a constant source of strength, guidance, of wisdom, of judgment but, best of all and above all, of friendship.

Only a relatively small handful of Americans truly get the opportunity to serve in Congress. Even fewer have had the opportunity to serve in both the executive branch and in the legislative branch. But our distinguished colleague from Missouri has had this unusual distinction. In each of the assignments, whether it was in the executive branch of government or here in the legislative halls, the American people have been blessed and enriched by his honorable and his able service.

I have had the opportunity to know STUART SYMINGTON, as a man as well as a public official, a friend as well as a colleague, and I know that the urge to serve his country came to him very young in life.

If I am not mistaken, STUART, you enlisted in the Army at the age of 17, or somewhere around that age. A short time later you were commissioned a second lieutenant and one of the youngest ever to receive a commission in the U.S. Army. So you started out in a big way and you have continued to conduct your life in the same manner.

You went on to a great university in Yale University and later embarked on a career in business, which I have heard you talk about in our private conversations, later to become president of the Emerson Electric Manufacturing Co. of St. Louis.

I just have to tell you, because I always bring in reference to my family drugstore, we bought products from the Emerson Electric Co. You are, therefore, indebted to me in some way or another. How, I do not know. But it was a quality product. That is one thing I remember. Did you make electric fans? I knew it. This is just another one of those blessed contacts that binds us so closely.

The achievements of my friend, Senator SYMINGTON, were yet to really blossom. When Mr. Truman became President of the United States, he appointed STUART SYMINGTON Chairman of the Surplus Property Board, later Administrator of the Surplus Property Administration. It seemed that President Truman, every time he had a tough assignment, looked around for a good, tough Missourian and found STUART SYMINGTON, someone in whom he could place his trust and his faith. He nominated Senator SYMINGTON to high Government posts, I believe six times, and six times Senator SYMINGTON was confirmed by the U.S. Senate unanimously.

That is no small achievement, as my colleagues know, to get anything unanimous here. It is almost impossible—including Mother's Day. Yet, my friend from Missouri was confirmed six times by this body, unanimously.

Before coming to the Senate in January 1953, Senator SYMINGTON—was said by the distinguished Senator from Arizona and the chairman of the Armed Services Committee, our most esteemed colleague, Senator STENNIS—served as assistant Secretary of War for Air and as the first Secretary of the Air Force, thereby establishing standards and guidelines for the Air Force from that day on.

He served as chairman of the National Security Resources Board, and administrator of the Reconstruction Finance Corporation.

The interesting thing is that all of these assignments were conducted in a most exemplary fashion. Indeed, the RFC, which was first headed by the famed Jesse Jones, and later administered by our colleague from Missouri, ended up returning to the Government of the United States a profit. Now I know why the Senator from Missouri takes the stand that he does on fiscal and monetary policies.

Mr. President, plans to become involved in the business world once again were set aside in 1952 when STUART SYMINGTON was elected to the Senate. He has had reelections in 1958, 1964, and 1970. In 24 years in the Senate STUART SYMINGTON has brought his wide experience, knowledge, and understanding of government to bear in his work on the Committees on Armed Services, Foreign Relations, Aeronautical and Space Sciences, Joint Atomic Energy, as well as in his ex officio position on the Appropriations Committee. He has served as a valuable member of the Democratic Policy Committee and Steering Committee and has filled a vital role in the Democratic leadership in the Senate.

Since 1961 Senator SYMINGTON has served on the Foreign Relations and Armed Services Committees and he has been the only Senator, as has been noted here, to do so. His work on these prestigious and vital committees, along with the important assignment of the Joint Committee on Atomic Energy, has augmented what has already been a considerable expertise in the fields of national security, international diplomacy, and nuclear proliferation.

I want to say quickly that we are everlastingly indebted to Senator SYMINGTON for his leadership in alerting the world, and particularly the American Congress and the American people, to the incredible dangers that come in the spread of nuclear technology for weapons-making purposes.

You have noted that in what once was the desire for us to have what we called atoms for peace how it could be regrettably transformed into atoms for detruction.

Let me just conclude, Mr. President, by saying that Senator SYMINGTON'S service in this body has not only been in the armed services, foreign relations, and atomic energy fields, but with every measure which has been here for human rights, every measure that has come before us for education of our young, for the care of our children, for the care of our senior citizens, every measure that has come here for the improvement of our cities. Senator SYMINGTON has been in the forefront of those battles. He has always cast his vote for the people.

He served on the Committee on Agriculture with great distinction, representing the people of Missouri, one of the great agricultural States of our Union. It was there that I got to know him so well in his early days in the Congress.

I commend him for his service not only in what is known as the areas of national security, but the true national security of this country, which is the economy of our Nation; his service to prudent fiscal and monetary policy; his service to the production of food and fiber; his service to the enrichment of human beings, that is, their health and their education and their safety. All of these things Senator SYMINGTON has done.

Mr. President, our friend STUART SYMINGTON has blessed us with his service, but he was blessed, as has been noted here today, by a marvelous and beautiful woman, whom Muriel and I were privileged to know. We will always remember Evie. She was a gifted and talented lady, beautiful and gracious, and such a fine wife, mother, and friend. She gave so much to the life of STUART SYMINGTON.

To STUART, yes, and Evie, may I say that we will always be grateful for your service to our country. You should be so proud of what you have been able to accomplish, and particularly proud of your wonderful family.

I think that is the finest achievement anyone can have. God bless you.

(Mr. HARRY F. BYRD, JR., assumed the Chair at this point.)

Mr. EAGLETON. Mr. President, I thank my colleague for his remarks. I yield 2 minutes to the distinguished Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, to follow the distinguished Senator from Minnesota is as the contribution of a small tributary to the Mother of Waters.

Yet, modest as my contribution may be to these eminently well-deserved tributes to our good friend STUART SYMINGTON, I do not want the opportunity to pass without saying how amiable has been our relationship, how warm our friendship, how pleasant our association for 13 years as neighbors across N Street in Georgetown. He has been a good neighbor—I said the other night he never rattled the garbage cans in the middle of the night—and he has been a good friend.

I value the advice and counsel which I have received from him, grounded in his long experience and service on so many of the committees of the Senate, and most notably on the Committee on Foreign Relations and on the Committee on Armed Services. There he has been able to contribute the cross fertilization which comes from service on committees which supplement and compliment each other. He has helped us to evaluate legislative problems and to evolve from them legislative solutions.

He has been a good, an able, and a highly respected Senator, and I wish that the time allocation permitted me to go more into detail.

Eugene Lee-Hamilton, about 100 years ago, wrote:

> Things bygone are the only things that last:
> The present is mere grass, quick-mown away;
> The Past is stone, and stands forever fast.

That thought I leave with my colleagues by way of conclusion, because in that past which "remains forever fast," that past which is engraved in stone, will be found the ineradicable and imperishable record of our remarkable colleague, STUART SYMINGTON; and we extend to him our warm good wishes, not for retirement, but for new challenges, new futures, and new engagements for his vivid and articulate mind.

Mr. EAGLETON. I yield 2 minutes to the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I am both pleased and saddened to join in paying well-deserved tribute to our colleague, Senator STUART SYMINGTON of Missouri.

I am pleased to pay him tribute because in the 34 years of which I have been privileged to be a Member of the Senate, no man has had a more distinguished career. I am saddened because of the departure of a man whose friendship and counsel I have enjoyed and valued most highly.

No period in our history has witnessed more sweeping change in the American way of life and in our relations with the rest of the world than those that have followed World War II.

Very few men, if any, have played a more important role in this period of our national history than STUART SYMINGTON—both in the executive branch of Government and for 25 years here in the U.S. Senate.

He has had a many-faceted career in public life—one of which any of us could be proud, and one in which he has served with great distinction in each position he has filled.

Senator SYMINGTON first made a name for himself in the business world through his success in reversing the fortunes of troubled companies—a talent which brought him to the attention of President Truman, who made him his administration's troubleshooter.

There is no better symbol of the high regard with which he has been held by the Senate than the fact that upon six separate occasions, this body confirmed him to high office in the executive branch of Government without a single dissenting vote.

Among the important positions in which STUART SYMINGTON has served with great credit are Secretary of the Air Force; Chairman of the National Security Resources Board, and Administrator of the Reconstruction Finance Corporation.

In 1952, the people of Missouri sent him to the Senate and in their wisdom they have kept him here. Fully understanding the realities of the international situation, Senator SYMINGTON has always been a staunch supporter of an effective defense and deterrent capability for the United States in a world of international tension and uncertainty.

I first got to know Senator SYMINGTON well during the Army-McCarthy hearings of 1954, in which we, along with Senator JACKSON of Washington, constituted the minority of the investigating subcommittee.

Senator SYMINGTON showed himself to be a tower of strength during this trying period for both the Senate and the Nation. In the end, justice was done—and he helped to transform what could have been a bleak experience for the American people into a renaissance of faith in our democratic institutions.

Subsequent to then, Mr. President, Senator SYMINGTON has served as ex officio member of the Appropriations Committee on the defense appropriation bill. There I have worked with him, and we have worked together, as I have pointed out, to try to keep this Nation strong militarily, to try to keep it sufficiently prepared to serve as a deterrent to aggression.

I learned to rely upon his advice and wise counsel at that time and his friendship has been a source of comfort and inspiration to me. I shall always treasure it.

Fortunately, Missouri and Arkansas are neighbors, and although STU is taking leave of this body, I hope—and Mrs. McClellan joins me in this—that he will still have many happy years of fruitful endeavors together with a most pleasant and enjoyable retirement whenever he may choose to cease active participation in business and public affairs. We shall always cherish his friendship and our pleasant associations together throughout the years he has served his country here in Washington.

Mr. EAGLETON. Mr. President, I yield 2 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, I take this opportunity to pay well-deserved tribute to our highly esteemed colleague, Senator STUART SYMINGTON, who is retiring after 24 years of dedicated and outstanding service in the Senate. With his departure, the Senate will lose a distinguished and gifted statesman.

Throughout his many years of devoted public service, Senator SYMINGTON has served his State and Nation conscientiously and effectively. Throughout his life he has demonstrated his integrity, courage and candor, as well as his tremendous ability.

Senator SYMINGTON has consistently focused attention on the importance of a straightforward presentation of Government policies and programs. He has emphasized presentation of Government policies and programs. He has emphasized that for long-range benefits there are no Government programs more significant than those supporting education. He has also championed legislation securing benefits for our elderly citizens and worked vigorously for and sponsored omnibus bills extending benefits to Vietnam veterans and increasing a wide range of benefits to veterans of earlier years.

Arriving in the Senate with a national reputation as a proponent of a strong military establishment—as the first Secretary of the Air Force, his successful effort to create an efficient, effective and powerful service had earned for him the title "Mr. Air Force"—he proceeded to enhance that reputation by his work on the Senate Armed Services Committee and the Foreign Relations Committee. It is significant, and, I believe, a further tribute to Senator SYMINGTON that he is the only Member of the Senate who serves on both the Armed Services Committee and the Foreign Relations Committee.

National security to Senator SYMINGTON has meant not only military preparedness, but also a healthy economy and the trust of Americans in their Government.

Senator SYMINGTON's understanding of the complexities of military and international affairs and their impact upon and interrelationship with domestic matters has enabled him to deal effectively with national and foreign issues.

At the same time, however, he has never neglected the needs and interests of his Missouri constituents, whom he has served faithfully and well. The frequency and ease with which they returned him to the Senate clearly expresses the love and respect they have for him. As a result, he has been one of the most valuable, influential, and respected political leaders in Missouri's history.

No tribute to Senator SYMINGTON would be complete, in my judgment, without reference to the tender love and devotion that existed between him and his lovely wife of some 50 years, the late Evelyn Wadsworth Symington. You could not be around Senator SYMINGTON for many minutes—and I had the pleasure of having lunch with him literally scores of times at the Democratic table in the Senators' private dining room—without hearing from him some loving reference to Eve, whom he loved with a devotion that was a thing of beauty.

Few men in our Nation's history have achieved the great stature that Senator SYMINGTON has achieved—gracefully, confidently, and with the admiring assent of his colleagues. The departure of the distinguished Senator from Missouri will leave a void in the Senate and deprive us of a trusted colleague and friend.

I might say that I know of no Member of the Senate who better qualifies for Kipling's accolade of a real man than Senator SYMINGTON, because truly he can "walk with kings, nor lose the common touch."

We will miss Senator SYMINGTON, and Mrs. Allen and I extend our very best wishes in his years of retirement. We know he will continue to serve the best interests of his State and Nation and the free world in the years to come.

Mr. EAGLETON. I yield to the Senator from New York (Mr. JAVITS) 2 minutes.

Mr. JAVITS. Mr. President, my colleagues, I think, have dwelt at proper length and with emphasis upon the extraordinary place in history which STUART SYMINGTON properly merits and have wished him, as I do, the greatest good fortune, good health, and good fun, knowing him as I do, for the years which lie ahead of him as he seems to me in the fullest possession of his powers and in excellent physical condition.

I have been privileged to know STUART SYMINGTON as a pal as well as a coworker, and I wish to say a word about that, for this is a day of summation on one plateau. We hope that he will just go on and on and there will be many others, but this is one, and I think STUART would be interested in my own appraisal of him, and I sum it up in two findings:

One, he is a shatterer of images and, two, he is very distinctly a lover of life.

As to being the shatterer of images, I have sat with him, man and boy, for years, and he respects everything and respects nothing in this sense. Where it has to him, he could be right or wrong, quality and truth, he respects honor and will fight for it, but where it does not seem to him to have any of those qualities, he will fight it no matter who it is, the President of the United States, the Secretary General of the United Nations, the head of any government, or any shibboleth, cliche, or truth that we think is imperishably written in the annals of man.

And I think that has been his greatest service to our country, this personal feeling that without any arrogance or feeling of superiority, he is not intimidated by an idea or a person.

He has shown that here most recently in his very talented and strong fight against nuclear proliferation, handling it in a way which is very unique to him and very effective and with the country and the world deeply indebted to him.

As to his being a lover of life, one has only to know, feel, and sense STUART and Evie and the pride he took in her singing, reaching right down into the hearts and the customs of our people, in their every way, and in their recreation and affection for their own way of living, and in the joy which her achievements brought to him.

So, STUART, best of all, and continue to be a shatterer of images and a lover of life.

Mr. EAGLETON. I yield 2 minutes to the distinguished Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, it is very difficult to couch one's remarks toward STU SYMINGTON in few words. There is so much that we could speak of his business acumen, which has been of great benefit to the Armed Services Committee, and perhaps even greater benefit to Department of Defense in the conduct of its managerial affairs.

We could speak of his belief in a strong America and his recognition that strength has many components, not only military strength but economic strength as well.

But I sound a human note and express my gratitude to him for his tolerance of my own foibles and my own prejudices and for the gentle yet firm way that he has, from time to time, disagreed with me. I note the fact that during the course of my experience as the ranking minority member of the Military Construction Subcommittee, which he has chaired with great distinction, he has always consulted with me, attempted to cooperate with me, and has done perhaps a lot of the work that I should have done myself. I am grateful and I think better of myself because I had the opportunity to serve with STU SYMINGTON and I will sorely miss him.

Mr. EAGLETON. I thank my colleague.

I yield 2 minutes to the distinguished Senator from West Virginia (Mr. RANDOLPH).

### STUART SYMINGTON—THE MANLY MAN

Mr. RANDOLPH. Mr. President, one of the most imposing leaders on the legislative landscape for the past quarter century is our friend from Missouri, STUART SYMINGTON. His four terms in the U.S. Senate and his prior executive experience gives him a grasp of events and issues few men possess today.

STUART SYMINGTON's career is marked by achievement and the accomplishment of goals. He was a successful businessman before coming to Washington during World War II. STU was appointed to six high, executive positions by President Harry S Truman and always confirmed by the Senate without a single dissenting vote. He became chairman of the Surplus Property Board in July of 1945, then Administrator of the Surplus Property Administration. On January 31, 1946, he was named Assistant Secretary of War for Air, and 18 months later became the first Secretary of the Air Force.

STU SYMINGTON has received many honors and awards in his long career of public service, but I think the ones of which he is most proud came from his peers in aviation, the men who helped make the United States first in the skies. He was the first person to receive the General H. H. Arnold Award as aviation's man of the year in 1948, and was similarly honored by the Air Force Association in 1956.

Mr. President, I could speak at length in highlighting the career of STUART SYMINGTON in just this one field of aeronautics and aviation.

I recall so very well in 1948 when I saw STU standing tall, very modest but very appreciative, receiving this award. He is the only two-time recipient of this honor.

In 1957 the Veterans of Foreign Wars presented him with their General H. H. Arnold Award as the VFW man of the year, and in that same year the National Aeronautical Association selected him as recipient of the Wright Brothers Memorial Trophy "for significant public service of enduring value to aviation in the United States."

STUART SYMINGTON, whose father was a professor of languages at Amherst College, where he was born, enlisted in the Army as a private at the age of 17 at the beginning of World War I. He was one of the youngest commissioned officers ever at the age of 18. He received a degree at Yale University and entered business, rising to president of the Emerson Electric Co., of St. Louis.

His administrative skills and vast knowledge of metals and electronics were needed in Washington following World War II, but after 7 years in leadership positions, he planned to reenter private business. Instead, he was elected to the U.S. Senate in 1952, and reelected for consecutive terms in 1958, 1964, and 1970.

STU SYMINGTON's incisive mind and wise counsel has proven invaluable in his important committee assignments. He is a member of the Armed Services Committee, the Foreign Relations Committee, the Aeronautical and Space Sciences Committee, Appropriations Committee, Joint Atomic Energy Committee, as well as the Democratic policy committee and Democratic steering committee.

He leaves with us a legacy of legislative achievement which will be impossible to match, but he also leaves his colleagues with a warm and vivid remembrance of his many acts of courtesy and courage, of kindness and compassion.

In 1956, as a delegate to the Democratic National Convention, I had the privilege of voting for STUART SYMINGTON for President of the United States. Perhaps very few persons now in active life had that opportunity. STU, had he received our party nomination, would have been a worthy candidate. If elected he would have been a great leader.

STU SYMINGTON has been a man for not one season but for all seasons. And in all seasons, his contributions to the Senate of the United States, to the State of Missouri, and to the Nation, and in a very real sense his influence in the affairs of the world, have given us who have known him, the realization that here in truth is a manly man.

I recall the words of a poem, "The Manly Man," the author of which is unknown:

The world has room for the manly man,
With the spirit of manly cheer;
The world delights in the man who smiles,
When his eyes keep back the tear;
It loves the man who, when things are wrong,
Can take his place and stand;
With his face to the fight,
And his eyes to the light,
And toil with a willing hand.
Hurrah for the manly man
Who comes with sunlight on his face,
And the strength to do and the will to dare
And the courage to find his place.

I speak very earnestly when I use these words to characterize STU SYMINGTON—as with our colleagues on both sides of the aisle, they are spoken from the heart.

STU has been a man of conviction. STU has been a man of courage. STU has been a man of compassion. And these three characteristics of STUART SYMINGTON are not just mere words of praise. They characterize the every thought and action of our colleague from Missouri.

I have often felt that to be tolerant of someone or some idea is not enough. That means that you walk by, in a sense, on the other side and you fail to listen. What we need is understanding rather than tolerance as we approach any problem or any subject, in the Senate. STUART SYMINGTON has always had that quality of understanding in his being.

It is, of course, with sadness that we view the departure of STU SYMINGTON. But this is not the way to end these remarks. It is with joy that we can think, as we do, and speak of the Senator from Missouri (Mr. SYMINGTON) in this body.

I know that he takes great comfort in the two stalwart sons, sons who were born to Evie and him. It is a great heritage that he has given to these two offspring who, in public life and private profession, are making good in the sense that he would want them. They are truly men of service, as their father has been.

I repeat, Mr. President, "The world has room for the manly man, with the spirit of manly cheer; the world delights in the man who smiles, when his eyes keep back the tear; it loves the man who, when things are wrong, can take his place and stand, with his face to the fight, and his eyes to the light, and toil with a willing hand."

So, a salute to you, STU, as a manly man, who comes now at your age with sunlight on your face. You have the strength to do and the will to dare, and the courage to find a new place—and you will find it. Through the continuing grace of God there will always be a place for STUART SYMINGTON.

Mr. EAGLETON. I yield 2 minutes to the distinguished acting majority leader (Mr. ROBERT C. BYRD).

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Missouri (Mr. EAGLETON).

Mr. President, during its history, many men have achieved honor primarily as Members of the U.S. Senate. But some other men have earned the respect of their fellows in many other fields of endeavor as well as this body. Such a man as this is STUART SYMINGTON of Missouri.

Senator SYMINGTON was elected to the Senate in 1952. Prior to that, he had become a successful businessman, had been the first Secretary of the Air Force, and had served in several other positions in the executive branch.

In his first bid for the Senate from Missouri, he won by an overwhelming majority. He has been reelected three times since then.

STUART SYMINGTON is one of the genuinely great Americans of the 20th century. His service and advice have been sought by Presidents and his colleagues alike throughout his career—certainly by his colleagues in the Senate, I being one, on many occasions.

In everything that he has done, he has kept his own conscience; his actions and decisions in this body have blended courage with wisdom.

STUART SYMINGTON has consistently supported programs that would equip people for self-sufficiency and self-development. He has had a special interest in education, believing that few other areas of Government activity benefit this Nation more than support of significant educational opportunities. Moreover, he has realized that this country owes a special debt to those men and women who have defended it by their service in the Armed Forces; through his efforts, the veterans of this Nation have received widening benefits as repayment of the debt we owe them.

He has also been in the forefront of efforts to provide elderly citizens with security. In a society that places a premium on youth, STUART SYMINGTON has understood the plight facing men and women whose lives have been spent in productive work that has made this the leading Nation in the world. His support of programs for the elderly has made it possible for older people to live out their days in greater dignity and independence.

We shall miss the presence of STUART SYMINGTON in the Senate, but we shall not forget his distinguished record or the massive contributions that he has made to this Nation.

STU, on behalf of my wife and myself, we wish always that the road will rise to meet you, that the winds will always be at your back, that the Sun will shine upon your face, that the gentle rains will fall softly upon your fertile field, and that God will always hold you in the palm of His hand.

Mr. EASTLAND. Mr. President, I rise to pay tribute to my longtime colleague and valued friend, the senior Senator from Missouri, STUART SYMINGTON, who is retiring at the conclusion of this session.

In my memory few men more able have served in this Chamber, and his wise counsel will be greatly missed by all of us.

Nothing gives me more pleasure, however, than to recall the legacy of integrity, sound judgment, and hard work Senator SYMINGTON leaves behind.

I have known STUART SYMINGTON for over 30 years, ever since he first answered the call to Government service by President Harry S. Truman, himself a former occupant of the Senate seat now held by the colleague we honor today.

It was clear that this new recruit from Missouri was an extraordinarily gifted man who would bring to Government the same executive abilities that first made him a highly successful businessman in a half dozen different corporations.

As first Secretary of our Air Force, his interest in national security issues flourished, and throughout three decades his first priority as a Senator has always been to make sure that the United States can meet any challenge.

As we all know, true national security is not measured in terms of military hardware for STUART SYMINGTON. For many years he has been reminding us that all our missiles and guns are not worth much if we do not remain equally strong on the homefront.

From 1957 through 1960 I worked with him on the Senate Agriculture Committee, and for many years have served with him on the Democratic policy and steering committees, as well as in the Democratic caucus, and I know of his deep and continuing interest in sound domestic programs.

He has consistently endeavored to turn the Democratic Party's principles into reality for the American people—a job for everyone able to work, good schools for our children, health care programs, decent housing, and reasonably priced food and goods with fair return to the producers.

Hard work is not the only necessary factor for success. Knowledge of your subject is basic for sound decisionmaking, and no one would challenge STUART SYMINGTON as a first-class factfinder.

For this reason he has sought membership and has served on a variety of Senate committees in order to broaden his knowledge in as many areas as possible. He is ranking member of the Armed Services Committee, and also serves with distinction on the Foreign Relations, Space and Aeronautics and Joint Atomic Energy Committee, and formerly served on the Agriculture, Public Works and Government Operations Committees.

And when he gets the facts, he brings them out to the people, because he believes that, given correct information, the people of America are the best judges of our needs and priorities. Senator SYMINGTON has been a consistent critic of the unnecessary secrecy that so often plagues our Government policies and operations.

Throughout his 30 years in Government, STUART SYMINGTON's greatest contributions have been in the areas of defense and foreign policy. As a member of the Armed Services Committee since joining the Senate in 1953, Senator SYMINGTON has carefully analyzed the defense budget each year and supported programs which make America a military power second to none.

He early recognized the significance of atomic technology for peace as well as defense, and has long called for effective control over nuclear materials, or to paraphrase him, "We have to control the atom before it controls us."

It was this concern about nuclear matters that led him to seek membership on the Joint Atomic Energy Committee, and as a member of the Foreign Relations Committee, earlier this year he sponsored the first statutory measure, now law, aimed at curbing the growing dangerous proliferation of nuclear materials and knowledge.

Senator SYMINGTON is the only Senator serving currently on these three Committees, Armed Services, Foreign Relations, and Joint Atomic, enabling him to bring a uniquely informed perspective to security issues.

In the years ahead as we face the complex issues of the third century of our Nation, the Senate will sorely miss this wise, courageous and patriotic American, Senator STUART SYMINGTON of Missouri, and at this time we can only thank him for his years of service and dedication, his friendship and personal warmth, and wish him the very best as he enjoys the years ahead.

Mr. CULVER. Mr. President, many of us have already spoken here and at other occasions about the retirement of STUART SYMINGTON, four times elected as a U.S. Senator from Missouri. Senator SYMINGTON made his announcement a year and a half ago. It was typical of him, once he had made the decision, to announce it promptly and without fanfare—and then stick to it.

Senator SYMINGTON has not only been a most welcome and much admired presence here in the Senate. He has also been a somewhat awesome one. His service here has been long, but it was preceded by a remarkable record in the executive branch and in business. When one encounters STUART SYMINGTON, one is tempted at times to address him as "Mr. Secretary" or "Mr. President," but one quickly realizes that his closest attachments are to the Senate, its work, and his colleagues in this body. Nonetheless, the blend of experience he brings to his duties has few parallels, and there is no Member who has simultaneously served on four of the principal committees dealing with the broad span of national security policy—Foreign Relations, Armed

Services, the Joint Committee on Atomic Energy, and Space.

Yet his absorption in issues of foreign and military affairs have never distracted him from the concerns of his home State or from the economic underpinning which he has always stressed as a primary ingredient of national security policy. He has never confused military strength and national purpose with the arithmetic of hardware and weapons systems. The vitality of our economic system and the direction of its social and economic policies are inescapably linked to the Nation's security and its capacity to achieve its international objectives.

STUART SYMINGTON's voice will undoubtedly be heard for many more years. His resilient spirit, his devotion to country, and his exceptionally broad perspective will remain our national possession. All of us will also carry the happiest memories of STUART SYMINGTON and his late wife, and we are grateful for all he has done for his country and for the Senate.

Mr. CANNON. Mr. President, I wish to pay tribute to Senator SYMINGTON who, due to the march of time, has decided to retire at the end of this session. It is not unusual for men to retire nor for their associates to laud their accomplishments. My sentiments however go much deeper since I came to know him in a personal way, not only as a colleague, but also as a neighbor and a friend. To me he was everything personified that a U.S. Senator should be. He had made his mark before I ever attained elected office, having achieved the rare distinction of being the first Secretary of the Air Force which to me as a military aviator at the time, was an accomplishment indeed.

Accordingly, I viewed my coming to the Senate somewhat later as a rare privilege, particularly when I found myself working very closely with him as a member of the Senate's Armed Services Committee. We, of course, shared many other committee assignments but I hold in particular esteem our relationship in the Senate's Armed Services. His expertise in military matters came to the fore consistently as we delved into various programing matters.

He, of course, served with distinction in many other major committee assignments. He is the only Senator concurrently on the Armed Services, Foreign Relations, and Joint Atomic Energy Committees, enabling him to combine the expertise learned in these committees for significant, lasting contributions to our military security and sound foreign policies.

He was among the first Senators who realized the implications of atomic technology for military warfare, and early warned his colleagues of the grave dangers associated with the growing proliferation of nuclear know-how and materials.

In 1973 he became acting chairman of the Armed Services Committee for several months while Senator STENNIS was incapacitated. During this time he held important hearings on the U.S. bombing policy in Cambodia, bringing out facts for the American people and the Congress; the tremendous lack of communication between the military and policy planners, emphasizing the dangers of excessive secrecy in Government and criticizing the clandestine military operations authorized by the executive department without consulting the Congress.

Our shared committee assignments have given me an opportunity to note firsthand his contributions.

He has asked tough questions about our military policy, and some of the resultant answers have forced changes in those policies.

His voice has often been heard calling for an end to the U.S. military expenditures and commitments abroad and for a system to reduce the proliferation of nuclear weapons.

His philosophy has remained consistent; national security means not only the military strength to destroy an aggressor, but also a healthy economy and citizens with faith in their Government as well.

Although we have not always agreed on each and every issue, I deeply respect his wisdom, his keen insight and grasp of the facts and his foresight in grasping the threat of nuclear proliferation long before others had awakened to the possibility.

All of us, who are his colleagues realize that we are losing one of the most outstanding Senators this Nation has ever had.

Although STUART SYMINGTON is leaving the Senate I am confident that the next President will seek his counsel as other Presidents have.

His long and illustrious public career will close at the end of his congressional session but I am sure we will continue to hear from him as one of the Nation's most articulate elder statesman.

Mr. CHURCH. Mr. President, it has been my privilege to have had STUART SYMINGTON as a good friend since I first came to the Senate in 1957. It saddens me to see him leave this Chamber. I shall miss his wise counsel and his company.

No Senator has possessed a better understanding of national security matters than STUART SYMINGTON. He, alone, has served on all the committees most directly involved in this vital field: The Foreign Relations Committee, the Armed Services Committee, the Aeronautical and Space Sciences Committee, and the Joint Committee on Atomic Energy. And he has used this knowledge with great foresight and skill in legislating to keep this country strong and free.

Before I became a Member of the Senate, I can remember when Senator SYMINGTON first arrived on the national scene. I watched him on television during the McCarthy hearings, and admired the way he stood up to the demagoguery of Joe McCarthy. While many cowered before the blistering attacks of the Wisconsin Senator, STUART SYMINGTON looked him hard in the eyes and told him—and the Nation—exactly how ruinous and wrong-minded his reckless accusations had become. With courage and conviction that would characterize his entire Senate career, STUART SYMINGTON started off by helping to put down "McCarthyism," thus leading the country safely past this unhappy episode in our history.

From this beginning right up to the very end of his illustrious service in the Senate, STU SYMINGTON has been a leader and an innovator of the highest order. Just this year, his amendment to curb the spread of nuclear weapons through withholding foreign aid clarified, in typical fashion, the dimensions of a major problem faced by the United States and offered thoughtful steps to remedy the situation. STUART SYMINGTON has combined wisdom with effectiveness to a degree seldom matched by others.

I have learned much from Senator SYMINGTON and I have always been proud to serve alongside of him in this Chamber.

My wife, Bethine, and I wish him the best that life can offer in the years to come.

Mr. GRIFFIN. Mr. President, the Senate loses one of its most distinguished Members when STUART SYMINGTON retires. He completes then yet another chapter in a very productive career of Government service which has spanned 31 years—24 of them in this Senate which he loves so much.

STU SYMINGTON had already established a reputation for responsible and efficient leadership by the time he was elected to the Senate by the people of Missouri in 1952.

As President Truman's Assistant Secretary of War for Air, STUART SYMINGTON was instrumental in securing the legislation which established the Air Force as a separate service. Later, as Secretary of the Air Force, his philosophy of "maximum return for minimum investment" fostered efficient business management and helped steer the fledgling branch through its difficult early days.

STU spent the early years of his career as a businessman. His particular success came from an ability to take a business in trouble and make it productive. Over the years, he has been called upon to apply his talents to many important Government organizations, including his service on key defense and foreign policy committees here in the Senate.

A dominant thread that runs deeply through the diverse career of this talented man is his constant striving to acquire knowledge and expand his horizons. Wherever he may go from here, I am confident that he will continue to exhibit those same qualities.

I have been very fortunate to have had the opportunity to serve with STUART SYMINGTON on the Senate Foreign Relations Committee. The Senate has been fortunate to have had the benefit of his unique abilities and experience. He will be sorely missed.

I join in wishing him many satisfying retirement years.

Mr. FANNIN. Mr. President, it is well known that the people of Missouri were devastated at the news that their four-term Senator, STUART SYMINGTON, had decided to retire from the Senate. They are not alone in their sense of loss. We, his colleagues, who have known him and worked with him know how greatly he will be missed.

Senator SYMINGTON has a long and distinguished career in public service. He entered the Truman administration in June 1945 with the Surplus Property Board. He was Assistant Secretary of War for Air and later the first Secretary of the Air Force. He was also the Chairman of the National Security Resources Board and administration of the Reconstruction Finance Corporation.

He has spent 24 years in the U.S. Senate. During this time he has proven himself to be immensely popular with the people of Missouri. His persistent vote-getting ability is both admired and envied by his colleagues.

Senator SYMINGTON is widely perceived by Missourians as one of the most outstanding Senators the State of Missouri has ever had. Those of us who have served with him in the Senate and who have admired his honesty, candor, and all-around integrity can heartily agree with the judgment of the people of Missouri.

It was my good fortune to know of his leadership abilities as a national business leader heading one of our large electrical plants, and it was my privilege to participate in the dedication of one of his company plants in Arizona.

Senator SYMINGTON will continue his leadership role counseling and giving guidance to his followers all over America.

Mr. INOUYE. Mr. President, a strong and great voice from Missouri will be missed in these Chambers next year, because my dear friend and distinguished colleague, STUART SYMINGTON, is retiring from the ranks of the U.S. Senate.

We will miss the insight Senator SYMINGTON has been able to provide us through his careful work on the Armed Services, Foreign Relations, and Joint Atomic Energy Committees. Because he is the only Senator to serve concurrently on these three bodies, Senator SYMINGTON has made singular contributions to our legislative work in the critical areas of defense policy, foreign policy, and worldwide, as well as domestic, nuclear policy. If you may recall, Senator SYMINGTON was among the first Senators who realized the full implications of how atomic weaponry could be utilized in warfare, and voiced early warnings about the grave dangers associated with the proliferation of nuclear materials and know-how.

Since his election to this august body in 1952, STUART SYMINGTON has acquired a true and valuable expertise in military matters. In fact, that expertise has been built on a solid foundation of knowledge he gained as our Nation's first Secretary of the Air Force and in work with the War Department, prior to his arrival to the U.S. Senate. I am impressed by his continual search for further intellectual growth and enlightenment.

As a Senator, his views on the thorny issues of nuclear arms and of our national defense policy, though certainly viewed by some groups in our country as controversial, have been extremely thoughtful and always based on all available facts and evidence. We will miss his thinking on these issues which promise to confront the Congress long into the foreseeable future.

STUART SYMINGTON long has approached these issues realistically rather than ideologically. He has been critical of past military actions, but has not been rigid in his overall view of the military establishment. While he may not, perhaps, be properly called a "hawk," he also may not be called a "dove." He is a rare politician and policymaker who has defied convenient labels. He has been described—and I second this view—as a companionable and eminently dignified man who dislikes any appearance of extremism or eccentricity. But he is ready to challenge others if he feels they may sway policy toward an untenable and dangerous position.

He was once quoted in a magazine profile as saying that military firepower was by no means the most important element of our national security. He soundly criticized those who have maintained a traditional posture favoring big weapons, big ships and big planes, regardless of cost in dollars and resources. He once said:

> There has to be a viable economy with a strong dollar. That's slipping. And there has to be faith in the system and confidence of the people in their government. Without the second and third, military strength is not security.

There is much wisdom in his words. While few will agree with all that the distinguished Senator from Missouri has said, I can say with assurance that all of us can attest to the sincerity of this man's beliefs. Time and again he has proven himself knowledgable, independent of thought and, above all, honest. He is an exemplary American. He is a man of integrity.

Before he departs to Missouri, I would like him to know he has my very warm aloha and best wishes for much success outside the Halls of Congress.

Mr. PACKWOOD. Mr. President, STUART SYMINGTON has had three careers, any one of which would have been enough for most men. He has a remarkable record with private enterprise, with the executive branch, and with the legislative branch of the Government. This balance in his professional life is reflected in a balanced judgment, the ability to effectively weigh various alternatives.

As a relatively young man, Mr. SYMINGTON rose to become president of Emerson Electric, a major electronics manufacturing firm. When the war came, he entered Government service and served successively as chairman of the Surplus Property Board, Assistant Secretary of War for Air, Secretary of the Air Force, Chairman of the National Security Resources Board, and lastly as the Administrator of the Reconstruction Finance Corporation. In 1952, he was elected U.S. Senator from Missouri and has served continuously in the Senate since that date.

Senator SYMINGTON is the only Senator to serve concurrently on both the Armed Services Committee and the Foreign Relations Committee. These two major committees determine the course of America's foreign policy and defense posture. His influence was greatly apparent during the Vietnam war years. Only a man with equally balanced judgment would be able to fill both shoes as effectively as the senior Senator from Missouri has done.

STUART SYMINGTON retires with one of the most complete careers that one could hope for. I know that the Senate will continue to rely on the advice of one of our most distinguished colleagues, and I am certain that, as in his "three careers," Senator SYMINGTON's retirement will be active.

Mr. HATHAWAY. Mr. President, in 1960 I had the pleasure and honor of being chairman of the STUART SYMINGTON for President Committee in Maine. The impression I had at that time of this man's leadership qualities, has not been diminished in the years since that time that I have been privileged to work with him.

Although I consider him my friend as well as colleague, I find myself looking upon this colloquy with some trepidation; I fear it for I know that if I were to list his accomplishments here in this Chamber, or those of his service to this Nation before becoming a U.S. Senator, I would not be equal to the task.

But if I have learned anything from the Senator from Missouri, it is that the challenge must be met regardless of the chances of success.

STUART SYMINGTON is a veritable fount of knowledge on foreign relations and armed services. He was this Nation's first Secretary of the Air Force, one of six executive positions he was appointed to by President Harry S. Truman. It is interesting to note that he was confirmed six times by the membership of this Chamber without one single dissenting vote.

After coming to the Senate in 1953, STUART SYMINGTON was named to the Armed Forces Committee. In 1961, he joined the Foreign Relations Committee which gave him an opportunity to work toward one of his own stated goals, a secure and prosperous America in a peaceful and prosperous world.

Ten years after being named to the Foreign Relations panel, SYMINGTON was named to the Joint Committee on Atomic Energy, and is at present the only Senator serving concurrently on Armed Services, Foreign Relations, and Atomic Energy.

His expertise prior to coming to the Senate was put to use on these committees, where he made a lasting contribution to our military security and sound foreign policies.

But STUART SYMINGTON recognized there was more to being a mighty nation than military strength and diplomatic skills.

In the 1970's questions were being

raised about this Nation's involvement in Southeast Asia, and Senator SYMINGTON, who then was acting chairman of the Armed Services Committee, knew, not only that the American people and the Congress should have the answers to those questions, but how to get them.

During the hearings STUART held on this issue, the so-called Secret War in Laos was revealed. The hearings explored our bombing policy in Cambodia and the lack of communications between the military and policy planners. The hearings emphasized the dangers of excessive secrecy in government, and criticized the clandestine military operations authorized by the Executive Department without consulting Congress.

STUART SYMINGTON termed the Cambodia bombing immoral, illegal and wasteful, and helped turn the public's attention to, and consequently against, this policy.

As acting chairman of the Senate Armed Services Committee in 1973, Senator SYMINGTON also played an important role in bringing some of the Watergate activities to light. Concerned with allegations that the CIA was implicated in the bugging of the Demoratic National Headquarters, he called in then Deputy Director of the CIA, Lt. Gen. Vernon Waters, to testify.

Waters' testimony implicated Haldeman, Erlichman, Dean, and Gray in the Watergate affairs, and made clear that senior White House officials were deeply involved in attempts to unload the bugging scandal on the CIA. At the time Senator SYMINGTON was quoted as saying it was hard for him "not to believe the President didn't know about these actions."

The Senate of these United States has seen a good share of statesmen in its 200 years of existence. Giving the title statesmen to one of our colleagues is something that is not done without careful consideration of what being a statesman means. In Senator SYMINGTON's case, it means that he has made lasting contributions to our military and foreign affairs; that he has championed the American public's right to know, and pressed for changes in the way the Government kept secrets; and by his own examnle he has given his Missouri constituents and the American peonle reason to keep faith with their Government.

Senator SYMINGTON is an elegant and articulate representative of this Chamber. STUART, I wish you a long and pleasant retirement; you have earned your retirement and our respect.

Mr. McINTYRE. Mr. President, I want to join my colleagues in saying best wishes for the future to my dear friend, STUART SYMINGTON of Missouri.

It is not easy to realize that STU will not be here with us next year. He will be sorely missed.

STUART SYMINGTON came to government after a most successful career in business. He was still a young man of 44.

For the next 7 years he served successively as Chairman of the Surplus Property Board, Assistant Secretary of War for Air and then as our first Secretary of the Air Force. He moved then to the National Security Resources Board and to the Reconstruction Finance Corporation.

I take the time to mention each of these posts held by STU because they show the rich and valuable experience he brought to the Senate 24 years ago.

He has been an invaluable member of the Aeronautics and Space Sciences, Armed Services, Foreign Relations, the Joint Committee on Atomic Energy, and the Democratic policy committee. Really no Member of the Senate has a more distinguished or heavier load of committee responsibilities. No other Member of the Senate serves on both the Foreign Relations and Armed Services Committees. This service gives him a peculiarly significant impact on the strength of our Nation in the world community. His committee assignments are a reflection of the high esteem in which he is held here.

He has used his position well. He has been a strong voice in building our national defense so that it is second to none. At the same time, he has worked closely with all of us on the Armed Services Committee who have been devoted to trying to provide a strong defense without wasting the taxpayers money for unnecessary frills.

His decision to oppose continued American participation in Vietnam had especial impact on the Members of Congress and the people of the Nation because of the high regard held for the Senator. Here was a man who had been our first Secretary of the Air Force, a longtime member of the Armed Services and Foreign Relations, stating that we should not be in Vietnam. It gave heart to many who believed this same way, but often felt they were voices crying in the wilderness.

I will miss the support STU has given me in the Armed Services Committee through his chairmanship of the Subcommittee on Military Construction. This subcommittee has taken leadership in the modernization of the Portsmouth Naval Shipyard, updating this facility so that it can make a greater and greater contribution to our national defense.

STUART SYMINGTON deserves every good thing in life. I pray the years ahead of him will bring all the best as a reward for his decades of service to his community, his State, and our Nation.

Mr. PEARSON. Mr. President, at the conclusion of the 94th Congress we will bid farewell to one of our most distinguished colleagues, STUART SYMINGTON.

For myself, his retirement brings to an end a Senate relationship that has involved many hours of debate and decisions on the Senate Foreign Relations Committee. He has been a pleasure to work with and a model of reason and fairness. His sage counsel will be missed.

His work in Government has spanned a great portion of his life. Although 24 of his years have been spent among us, let us remember that he has also held positions such as Secretary of the Air Force, Chairman of the National Security Resources Board, and Administrator of the Reconstruction Finance Corporation. This is STUART SYMINGTON. Depth. Enthusiasm. Concern. He is a person who is vitally interested in the legislative process and who has contributed vastly to the education of us all.

A current example of his influence and concern are evident in his widely received opinion of nuclear proliferation. His alarm with the needless proliferation of nuclear weapons has provided the public with a new awareness as to the different questions involved and what consequences will come about without proper concern.

Mr. President, for over 14 years I have worked with this gentleman from Missouri, and a more distinguished man I have yet to meet. For my years in the Senate he has provided me wise counsel. He has been an example par excellence to the younger Members of what horizons can be reached.

I join with the rest of my colleagues in wishing him Godspeed and good cheer. And for myself, I would hope that the short distance between our respective homes brings the Senator from Missouri to visit.

Mr. KENNEDY. Mr. President, the retirement of STUART SYMINGTON deprives the people of Missouri and the Nation of one of America's finest and wisest leaders.

For a quarter of a century, he has been at the cutting edge in the Senate of every major issue in the critical areas of foreign relations, nuclear arms control, and national defense. His service as the first Secretary of the Air Force under President Truman in the aftermath of World War II made him an early national leader in the continuing debate over the proper balance of America's military forces in a changing world. Throughout his long and distinguished career in the Senate, the issues often changed but he never lost his place of leadership.

He always had the courage of his strong convictions. The high quality of leadership that brought him to challenge Joe McCarthy in the difficult cold war years of the 1950's was the same quality that made him an early opponent of the Vietnam war in the 1960's. The outstanding ability and dedication that led him to investigate and expose and finally end the secret war and bombing of Laos and Cambodia were the same qualities that made him a major figure in the investigation of the CIA's role in the cover uo of Watergate.

The high standards set by these far-reaching Symington investigations laid the groundwork for the Senate Intelligence Committee's comprehensive oversight work in this Congress, which has done so much to end the abuses of the past and bring the U.S. intelligence agencies under firm and responsible congressional control.

All of us recall, too, the extraordinary service of STU SYMINGTON, when he took over in 1973 as acting chairman of the Armed Services Committee in the wake of the shocking criminal attack on Senator STENNIS. During that difficult period, STU served brilliantly, guiding the Senate on the vital issues of national security and the strength of our defense establishment.

STU SYMINGTON knows the military budget as well as anyone in Washington. He knows the importance of a sound and strong defense for the United States. But he also knows the meaning of waste and fat in the defense budget. He understands that America cannot afford to become so musclebound with military might that we lose sight of our other basic goals in both foreign and domestic policy. His long experience and wise understanding of these vital issues have made him a respected and extremely influential leader in the Senate in our efforts to bring military spending under responsible control, and we shall miss his leadership as the debate goes on in the years ahead.

In a personal way as well, STU SYMINGTON's departure from the Senate will be a special loss to all of us who valued his friendship and advice. From the day I first arrived in the Senate 14 years ago, I remember how much time he always gave so willingly to new and junior Senators. From his vast experience and knowledge, he had so much to teach us and to give us. In so many ways, he helped to make the Senate a better and more responsible institution. He is a man of great compassion and generosity, and he left his mark on all who know and worked with him.

And I also remember his remarkable affection for the people of Missouri and his service to that State. The tangible landmarks of his achievements for Missouri are spread out over 24 years of public laws and pages of the statutes of the United States. As he told us once on the floor, he did not understand how the administration could ask $1.5 billion for Vietnam, and turn down $75,000 needed for a dam near Joplin. He was as at home in handling delicate issues of international relations as he was on basic issues like homes and schools and jobs and health. In dealing with these and many other challenges, he was a model for us all in the effective way he combined the roles of Senator from Missouri and U.S. Senator.

Mr. President, Senator STUART SYMINGTON is one of the great statesmen and public servants of his generation. We shall miss him in these Chambers, as we wish him a long and satisfying and productive retirement with his family.

Mr. YOUNG. Mr. President, I wish to associate myself with the many kind comments concerning the distinguished Senator from Missouri, Mr. SYMINGTON.

STU SYMINGTON has had a long and most commendable record in public office, both in the executive branch of the Federal Government and for 24 years as a Member of the U.S. Senate.

STU SYMINGTON and I came into Government in Washington about the same time, in early 1945. It was my good fortune to become acquainted with him soon after I came to the Senate. This was when he was Chairman of the Surplus Property Board; later, Assistant Secretary of War for Air; Secretary of the Air Force; Chairman of the National Security Resources Board, and Administrator of the RFC. In all these important assignments STU SYMINGTON conducted himself in a most commendable way.

Previous to holding top positions in the executive department, he was president of a sizable and important company. His success in the field of industry made his judgment in the Senate and the executive department very valuable. He was the kind of administrator who was able to make decisions, and important ones, expeditiously.

As a Member of the Senate STU SYMINGTON soon became recognized as a great statesman, knowledgeable in a wide range of subjects, and one who fought hard for the principles he believed so strongly in.

Few, if any, Member of the Senate or House is more knowledgeable on defense matters, particularly on weapons of warfare. He had a great interest and knowledge and understanding of many other important matters the Senate had to deal with, whether it be highly sensitive international matters or whether it be everyday-type domestic problems.

As a farmer myself, I always appreciated his knowledge and sympathetic understanding of rural America, and particularly farmers.

I have always cherished the warm friendship I have had with STU SYMINGTON during these more than 30 years. He has been one of my best friends who was always willing to help me when I had a good cause. Like every Member of the Senate, I will miss our very personable and likeable friend.

My wife, Patricia, too had a very special admiration for STU SYMINGTON and especially his late and beloved wife, Evie. Mrs. Young and I wish to express the fond hope that STU SYMINGTON will enjoy his retirement and that he will always count us among his admiring friends.

Mr. TALMADGE. Mr President, Senator SYMINGTON has had a long and distinguished career of public service, including 24 years in the U S. Senate, and we note his retirement with sadness and regret. His hard work, leadership, and expertise in the area of national defense will be greatly missed.

Senator SYMINGTON, vice chairman of the Senate Committee on Armed Services, and a top-ranking member of the Foreign Relations Committee, has distinguished himself in the Senate as an outspoken advocate of a strong and ready U.S. defense establishment, as well as one of the Senate's foremost authorities in the field of foreign affairs.

STUART SYMINGTON came to the Senate following a highly successful business career and outstanding public service in the executive branch under the administration of the late President Harry S. Truman. From 1945 through 1951, he held a number of key positions in the Truman administration, including Assistant Secretary of War for Air, and he was the first U.S. Secretary of the Air Force. He resigned as administrator of the Reconstruction Finance Corporation in January, 1952 and planned to reenter private business. But he decided to run for the Senate. His election was the Senate's gain and the private sector's loss.

I deem it a high honor and a great pleasure to have served in the Senate with STUART SYMINGTON, and I join my colleagues in wishing him every success and happiness in his retirement.

Mr. HRUSKA. Mr. President, it is with sadness that I say farewell to one of my esteemed colleagues from the American Midlands. STUART SYMINGTON has never forgotten the State which he has represented in this body since 1953. Missouri, like Nebraska, is a farm State and Senator SYMINGTON has worked hard and with great effectiveness to insure that the interests of his constituents were always given full consideration.

It has been in the areas of defense and foreign affairs that Senator SYMINGTON has made his greatest contributions. As America's first Secretary of the Air Force he worked mightily to insure this country kept its defenses strong so that it would remain free.

In the Senate he has continued his interest in foreign affairs and defense, serving with great distinction on the Armed Services Committee, the Foreign Relations Committee, and the Joint Committee on Atomic Energy. Through those influential posts, he has left an unforgettable mark on our Nation's foreign policy and on our defense posture.

The people of Missouri and of the Nation are losing a great man. We all wish STU SYMINGTON a long, fulfilling and well-deserved retirement.

Mr. BAYH. Mr. President, I want to take this opportunity today to add my voice to those who will sorely miss one of the Senate's finest and most able Members, STUART SYMINGTON.

Throughout his 24 years of dedicated service, STUART SYMINGTON symbolized the kind of dedication and self-sacrifice those of us in public life can only aspire to. President Truman, recognizing these qualities sent the name of STUART SYMINGTON to the U.S. Senate for confirmation on six separate occasions. He was confirmed without a single dissenting vote for such positions as Secretary of the Air Force, Chairman of the National Security Resources Board, and Administrator of the Reconstruction Finance Corporation.

In his home State of Missouri, he has been elected to the Senate on four occasions. I understand he is the only candidate in the history of Missouri to be elected four times.

Since 1961 STUART SYMINGTON has been the only Senator to serve on both the Armed Services Committee and the Foreign Relations Committee. He has proven to be a valuable and wise voice in the deliberations of both committees, combining a good sense of our national security needs with a judicious protection of our real national interests at home and abroad. The judgment he has brought to bear in these key committee assignments, including his tenure as chairman of the extremely important Foreign Relations Subcommittee on Arms Control, International Organizations and Security Agreements, has been instrumental in the progress toward improving the process by which decisions affecting our national security are made, and, more importantly, he has improved the decisions themselves.

Suffice it to say, Mr. President, when STUART SYMINGTON speaks on matters of national security—whether opposing a given weapons system or arguing for a change in a specific policy—the Senate and the nation benefit from good and wise counsel.

But if STU SYMINGTON's voice will be missed during the debates on national security, there is even a greater loss to this body by his retirement. Senator SYMINGTON is a gentleman of great integrity and strong commitment to public service. He is a Senator whose word is his bond, and whose friendship is to be treasured. I have found it illuminating to be STU SYMINGTON's colleague; I have found it even more valuable and instructive to be his friend. And when he stops being my colleague, I am counting on him to remain my friend, for his friendship matters a great deal to all of us who have had the good fortune to know him.

All of the just and well-deserved tributes to the career of STU SYMINGTON should not obscure his personal qualities. His stately bearing, his smile and quick wit, his well-founded pride in his son Jim are all part of the man we shall miss.

Missouri will suffer when Senator SYMINGTON retires, but the void he created will be felt as well by the Senate and the country as a whole. For while he has been a Senator for Missouri, working for his constituents, STU SYMINGTON has also been a Senator from Missouri working for all Americans and all people in the perpetual effort to achieve peace and understanding among all nations.

Mr. President, I do not blame STU SYMINGTON for retiring; he has worked long and hard and served his country well. He deserves the retirement that awaits him, although he will be sorely missed.

We wish him good luck and Godspeed, and extend to STU a sincere thank you for your service, your counsel and your friendship.

Mr. RIBICOFF. Mr. President, Senator STUART SYMINGTON is a statesman who has given much to the Senate these past 24 years. He is a talented businessman, a military manager, and an authority on national security affairs. These skills are in short supply; Senator SYMINGTON is the sort of man who should be entering the Senate today.

Few Americans have applied themselves to such diverse and substantive career accomplishments as Senator SYMINGTON. He has been the compleat manager. He has turned around failing businesses, directed a major corporation, served as Secretary of the Air Force, and held five other top level executive positions in the postwar period. His perspective and counsel on how to meet our foreign policy and military challenges have been of great value to his colleagues and to our military and diplomatic leaders.

STU SYMINGTON will be remembered in the Senate for a number of accomplishments and positions. I will especially recall his ability to apply commonsense and independent judgment to the complex problems of foreign affairs. A supporter of a strong national defense, STU has a sense of perspective which has related the need for strong defense to our other national needs. During the early 1950's when Senator McCarthy was damaging the Senate and the Nation, STU SYMINGTON faced up to McCarthy. He stood up for the principle that no man is guilty until proven so. Although Senator SYMINGTON has never looked back and boasted of having been on the right side when not enough people were, we remember where he stood and we commend him for it. Another difficult area for Senator SYMINGTON, as for all of us, was Vietnam. I have always had the utmost respect for the way in which this military man dug into the facts, took his own trips, and asked tough questions, resulting in his opposition to that war. In retrospect his position deserves commendation.

There have been many other issues which STU SYMINGTON has handled with a perceptive and farsighted view. His support of a strong defense has not been at the expense of resistance to unnecessary costs. In this respect, his efforts against the ABM system were exemplary. Although he has helped to strengthen the Nation's intelligence capacity, Senator SYMINGTON was among the first to react to misuse of our security agencies in the Watergate affair.

One of the most important legacies to the Senate is Senator SYMINGTON's work in curbing the proliferation of nuclear weapons. His realization of the importance of this problem and his legislation have begun work to restore a rational approach to the international use of nuclear energy.

I will especially miss Senator SYMINGTON's patience and sense of humor. He has been a respected colleague and good friend. And I am proud that his education at Yale in Connecticut launched him into a career of many phases—to the benefit of us all. We wish STU SYMINGTON well in the next phase of his career.

Mr. THURMOND. Mr. President, it is with distinct pleasure that I join my colleagues in recognizing the long and outstanding service rendered to our Nation by the senior Senator from Missouri, the Honorable STUART SYMINGTON.

STUART SYMINGTON is one of those rare individuals who possesses unique human qualities which enable him to work so well with the diverse groups which confront those in public life.

Always a perfect gentleman, he exudes a genuine friendliness not only toward his colleagues, but toward everyone he meets, no matter what their station in life.

The son of a distinguished professor of Amherst College, his first entry into the challenges of adulthood occurred when he entered the Army as a private at the age of 17 and was later commissioned as one of the Army's youngest second lieutenants in 1919. Following World War II he continued his education receiving a bachelor of arts degree from Yale in 1923, and the next year taking as his wife, the late Evelyn Wadsworth, daughter of U.S. Senator James W. Wadsworth of New York.

His early experience as a machine shop apprentice at age 14 led him to a successful career in iron, steel, radio, and electronic manufacturing in the 1920's and '30's. He eventually became president of Emerson Electric Manufacturing Co. of St. Louis.

His varied public service began during the administration of President Harry S. Truman who appointed him to six high executive positions. Chief among these appointments was his selection as the first Secretary of the Air Force and later as Chairman of the National Security Resources Board and Administrator of the Reconstruction Finance Corp.

In 1952, he left the executive branch and was selected to the U.S. Senate in his first attempt at high political office. He was reelected for consecutive terms in 1958, 1964, and 1970, serving with great distinction on the Senate Committees on Armed Services, Foreign Relations, Space Sciences, Appropriations, and Joint Atomic Energy.

Upon entering the Senate in 1954 as a Democrat, I served with STUART SYMINGTON on the Armed Services Committee, beginning with my appointment to that committee in 1959. Although Senator SYMINGTON had already been a member for 6 years, I remember well his gracious assistance during my apprenticeship on this important committee.

However, it was not until the unfortunate accident in 1973 when Armed Services Committee Chairman JOHN STENNIS was injured that I had the opportunity to be associated with Senator SYMINGTON on a day-to-day basis. Assuming the duties of acting chairman, Sentaor SYMINGTON was extremely considerate of my position as the ranking minority member on armed services. While our positions on key matters did not always coincide, he always consulted with me on important committee business and could not have been more gracious and generous in allowing all viewpoints on the committee to be fully expressed and carefully considered.

Certainly as one Senator, I will miss the thoughtful and gracious personality of this outstanding gentleman from Missouri. He has left the Senate a better place in which to work and his personal qualities will not be easily emulated by those of us who will be left behind. Certainly I would expect that his decision to conclude his Senate career would not mean that he is removing himself from public life as he would have much to offer in the years ahead.

Mr. President, in concluding I would simply state that throughout my public life I can recall very few persons whose strength of character, warm personality and graciousness were so universely recognized and admired by his peers.

Mr. MUSKIE. Mr. President, at the end of this session, we will lose to retirement one of our most distinguished Members, STUART SYMINGTON.

During the past 24 years, he has served the people of Missouri and of the Nation ably and faithfully. We will miss his wise counsel and advice.

For few men have been more committed, knowledgeable and articulate for the cause of national security and world peace. Time and again, STU SYMINGTON helped educate and lead this body as we prepared to make momentous and difficult decisions—decisions that not only we, but generations more must live with.

He brought to the Senate an already distinguished record in private business and service in the Truman administration, culminating as our Nation's first Secretary of the Air Force.

And it was not long after that he made a name for himself in the Senate.

That was during the depths of the McCarthy reign—when it was tempting and easy for leaders to stay silent about the irresponsible wrecking of innocent lives.

But STU SYMINGTON did not stay silent. Repeatedly during the McCarthy subcommittee hearings, he pushed for the truth. In the end, the truth prevailed, and the dark career of Joe McCarthy came to an end.

Through his example, STU SYMINGTON taught us that the real danger to this Nation lies in all threats to our personal freedom—and that courageous leadership is needed to protect that freedom.

He served ably and simultaneously in three demanding committee posts—Foreign Relations, Armed Services, and Joint Atomic Energy—a unique record.

In those posts, he was able to synthesize the policies in those areas which could best serve the interests of our country.

His public concern about the growing threat of nuclear proliferation, his early doubts about the wisdom of our involvement in Vietnam, his very instrumental opposition to the ill-advised ABM program, and his exposure of secret commitments to Thailand, Laos, and other nations were some of the hallmarks of his service.

It has been a pleasure to serve with STU SYMINGTON, few men in this body have carried out their duties with more dignity, eloquence, and diligence. We all owe him a debt of gratitude.

Mr. BIDEN. Mr. President, I would like to say just a few word about the impending retirement today of a man I have come to greatly admire since I came to the Senate 4 years ago.

Senator STUART SYMINGTON has served his State in this body for nearly a quarter of a century. But his Senate service is only one chapter in a remarkable career that spans not only Government service, but private industry as well. It is a record in which he can take great pride as he embarks upon his retirement.

As the youngest member of the Senate, Senator SYMINGTON was one of the men I came to look to for advice and counsel when I came to this body, especially in my service as a member of the Senate Foreign Relations Committee. He always gave freely of his counsel, and for that I will always grateful.

But as grateful as I am for his friendship which was so readily extended, the country as a whole owes STUART SYMINGTON a much bigger debt of gratitude, for STUART SYMINGTON brought to his service in the Senate perceptions and wisdom gained from a life of service, first in private industry, and later from his distinguished record in the Truman administration, where he served in a number of capacities, including an appointment as Assistant Secretary of War for Air, and then as Secretary of the Air Force.

It was these appointments, especially, that gave him insights which proved invaluable as a member of both the Foreign Relations and Armed Services Committees—the only Member of this body who presently serves on both of those bodies.

If I were asked to summarize this service, it would be to say that STUART SYMINGTON has brought to the Senate an abundant measure of good, old-fashioned commonsense. We are going to miss that in years to come.

Mr. President, it is a privilege to join with so many of his colleagues today in honoring Senator STUART SYMINGTON for a remarkable career, and in wishing him well in all of his future endeavors.

Mr. BAKER. Mr. President, only the more astute students of geography recognize that Missouri and Tennessee are neighboring States. Thus, in rising to salute Senator STUART SYMINGTON, I am rising not only to pay tribute to a colleague and friend, but also a trusted and respected neighbor.

Residents of the Middle South have long believed that the most praiseworthy service one can render to his country is one of contributing toward a strong national defense. STUART SYMINGTON not only has earned such praise, but his contributions as a member of the Joint Committee on Atomic Energy, as a member of the Armed Services and Foreign Relations Committees, as Secretary of the Air Force, and as Chairman of the National Security Resources Board, have been of unrivaled importance toward insuring this country a strong defense capacity. I personally have the privilege of serving with Senator SYMINGTON on the Joint Committee on Atomic Energy; and I know firsthand his many efforts in that critical and important field.

Mr. President, good neighbors often part and go their separate ways. Similarly, STUART SYMINGTON is retiring and leaving this Chamber after many years of distinguished service. I wish to express my profound appreciation for the service which he has rendered, to salute him upon his many accomplishments, and to wish STU SYMINGTON a happy and well-deserved retirement.

Mr. STEVENSON. Mr. President, I remember Senator SYMINGTON from his days as Air Force Secretary. He has been a major presence in national life for a quarter of a century. I would be presumptuous to try to sum up in a few words what this man has meant to the Nation. Words are grossly inadequate.

It has been a privilege to serve with STU SYMINGTON in this body—a privilege I could not have dreamed of many years ago. He was always the gentleman and a statesman respected on all sides. His influence was felt on many committees and in innumerable ways. He fought with no holds barred for the interests of those he represented in Missouri. He waged an incessant fight upon the largest questions before the Nation—for a sound economy and currency, against waste and war and disordered priorities—and with experience and a reputation that made him a unique advocate for a sane world. It will not be easy to fill the void he leaves behind. I wish him well, regret that he is leaving us, but know his influence will be felt for years to come. The Senate is a stronger institution for his having been a part of it.

Mr. SCHWEIKER. Mr. President, during my years of service on the House and Senate Armed Services Committees one man had the courage to challenge the briefings we were receiving on the situation in Southeast Asia. He questioned the Pentagon's and the CIA's assertions about our Nation's escalating military role there, and eventually he almost singlehandedly brought the truth about the secret war in Laos to the attention of the American people.

That man was Senator STUART SYMINGTON of Missouri, who richly deserves the accolades of his colleagues today on the occasion of his retirement.

Although he has taken the time to probe and challenge U.S. military and foreign policy in his capacity as a member of the Armed Services and Foreign Relations Committees, Senator SYMINGTON is not a proponent of the shotgun approach. He is selective; pruning those programs and weapons systems which are wasteful, and supporting those defense programs and systems which are sound.

STUART SYMINGTON has served the people of Missouri and the United States with dedication and distinction. I wish him well in all his endeavors in the years to come.

Mr. McGOVERN. Mr. President, when STUART SYMINGTON returns to private life next year, he will have completed over 30 years of distinguished service to the Nation—7 years in a series of responsible positions in the Truman administration and 24 years representing the people of Missouri in the Senate.

STUART SYMINGTON was Secretary of the Air Force in the late 1940's, a dangerously unstable period in which the threats to peace were many. His tough advocacy of military preparedness played a major role in keeping our country strong.

STUART SYMINGTON was a Senator during the dark days of McCarthyism in the early 1950's. His reasoned approach and the dignity with which he conducted himself did a great deal to bring about the eventual national revulsion against the tactics of fear and smear.

And in the 1960's, STUART SYMINGTON became one of the most persuasive critics of our disastrous policy in Southeast Asia. This hardheaded defense expert realized that we were engaged in a futile, wasteful effort in Indochina and he threw his eloquence and his enormous prestige into the balance against it.

Mr. President, I have been most fortunate over the years to have enjoyed a warm friendship with STUART SYMINGTON and his remarkable family. STUART has always been a source of invaluable counsel to me and my wife and I cherish the memory of the great lady who stood by him for so many years, the late Evelyn Wadsworth Symington. Their son. JIM, now a Congressman from Missouri, was my trusted and highly valued Deputy Director when I served as Director of the food-for-peace program during the Kennedy administration.

Mr. President, while I congratulate STUART SYMINGTON on the beginning of a well-earned retirement, I am sad for myself and for my colleagues, who will be deprived of his wisdom, his grace, and the example he gives of patriotism and integrity. He has served the Nation to the best of his great ability. He shall be sorely missed.

Mr. PELL. Mr. President, I wish to join my colleagues in paying tribute to STUART SYMINGTON who will soon be leaving the Senate after 24 distinguished and highly productive years of service to his State and to the country. I have had the great honor of serving with him for almost 16 of those years and of sitting next to him in this Chamber for the past several years.

As members of the Foreign Relations Committee—he since 1961, and I since 1965—we have shared in many great endeavors during which I have been witness to the integrity, courage, honesty, and wisdom which have characterized STU SYMINGTON's service to the Nation. I recall, for example, that during the early days of the Vietnam war he and I were among the early opponents of that tragic conflict. I often think how much America could have saved in life, treasure, and national unity if only the advice he gave in 1967 to end America's military involvement in Vietnam had been heeded.

Senator SYMINGTON has also rendered a tremendous service in warning the American people of the dangers of overextending our commitments abroad to the detriment of our economic health at home. But perhaps his most important contribution has been in calling attention to the greatest problem facing the world today, that of nuclear proliferation. As the only Member of the Senate serving concurrently as a member of the Armed Services, Foreign Relations, and Joint Atomic Energy Committees, his advice carries added weight and his position has been unique.

In these, his final days of service in and to this great Senate, I have observed STUART SYMINGTON's great concern for the future course of American foreign policy. During recent months, STU SYMINGTON has been particularly fervent in his advice that:

A sound economy is essential to national security;

America needs enough not more nuclear weaponry to deter a Soviet or Chinese attack;

The greatest threat to world peace is the weapons capability inherent in the spread of nuclear enrichment and reprocessing facilities for nuclear power reactors around the world;

More attention must be paid to problems at home; and

America cannot buy the peace.

While each of us has his own views on these vital questions, all of us ought to ponder these words carefully, for they are among the legacies of a distinguished and dedicated public servant.

I wish to extend my best wishes to STU SYMINGTON for many active and fulfilling years ahead.

Mr. HOLLINGS. Mr. President, I join with my colleagues today in saying a fond farewell to a fine American and one of the great Members of the U.S. Senate. STUART SYMINGTON, after serving his country in one capacity or another for more than 30 years, is retiring to Missouri, the State he has represented in this body since 1952.

Senator SYMINGTON will leave a void in Washington, not just in the ranks of the Democratic Party, which he has served so ably, but in Government as a whole which he has influenced so keenly.

Senator SYMINGTON brought a welcome insight into the dealings of Government when he came to this body. He had served for a number of years in the executive branch and was the first Secretary of the Air Force, guiding it through its formative years.

I subscribe to the phrase he turned some time ago that "you can't take responsibility in Government without authority or authority without responsibility." Senator SYMINGTON learned that lesson early on in a distinguished career of public service, and he applied that dictum unflinchingly in his daily work in the Senate. I have always appreciated the balance he displayed as a public man, his readiness to listen to both sides and stand for the unpopular, his intelligence in examining an issue. Most of all, I have learned a lesson in concern for our country from this man.

Missouri has been lucky to have had STUART SYMINGTON in the Senate. We have all benefited from our association with him. The Nation is better for his service to it.

I wish him God speed and good luck in the future.

Mr. PHILIP A. HART. Mr. President, this year, the senior Senator from Missouri (Mr. SYMINGTON) ends another phase of his sparkling career. He says this is it—he really will retire. But when you look at the variety of assignments he has taken on for his country in the past, it makes one suspect that—if called—he would serve again gladly.

There have been so many years of service with never a suggestion of applying less than the most demanding of public interest tests to any and all decisions. He has been extraordinary, really, in the scope and sweep of his service.

His impact, of course, has not been limited to his own works alone but includes too, the works of the hundreds of men and women who sought and made use of his good counsel.

Truly, he has been a dedicated and praiseworthy public servant—in the fullest meaning of the words.

Mr. MOSS. Mr. President, I wish to be among those honoring Senator STUART SYMINGTON who is retiring from a long and distinguished career as a U.S. Senator at the end of this Congress.

Few men in the Senate have the knowledge and expertise in military affairs and foreign relations that Senator SYMINGTON has. Because of his experience as the first Secretary of the Air Force prior to becoming a Member of the Senate, Senator SYMINGTON was in a unique position to know and understand the problems of our military and what was required to keep America prepared militarily. He followed his executive branch service with stints on the Senate Armed Services Committee, Foreign Re-continued his active interest in military and Space Sciences Committee where he technology. He is the only Senator serv-lations Committee, and Aeronautical ing concurrently on the Armed Services, Foreign Relations, and Joint Atomic Energy Committees, which enables him to combine the expertise learned in these committees for significant, lasting contributions to our military security, and sound foreign policies.

He was among the first Senators who realized the implications of atomic technology for military warfare and early warned his colleagues of the grave dangers associated with the growing proliferation of nuclear know-how and materials.

As chairman of the Subcommittee on Security Agreements and Commitments Abroad of the Foreign Relations Committee from 1969 to 1975, he exposed the United States "secret war" in Laos, and brought attention to clandestine military operations in Cambodia.

Each year he brings his expertise to bear on reviewing the military budget, concerned that we have the most cost-effective military possible to provide necessary military might without sacrificing our economic well-being at home.

Throughout his career his overriding goal has been to secure a peaceful and prosperous America in a peaceful and prosperous world. I think America is better, because of his efforts. As we honor this man who has served in this body since 1953, I think that compliment speaks for itself. The Senate and the country will miss Senator STUART SYMINGTON.

### SENATOR STUART SYMINGTON: A COURTEOUS GENTLEMAN

Mr. CRANSTON. Mr. President, STUART SYMINGTON is leaving the Senate after 24 years. A man who has been acutely involved in formulating foreign policy decisions, who has focused attention on defense and national security, who has worked for better education programs, who has championed legislation to aid our elderly and who has supported bills to increase benefits for veterans, Senator SYMINGTON deserves our recognition and gratitude for the contributions he has made to this body and to our country.

His Government career spans 31 productive and rewarding years. He was appointed the first Secretary of the Air Force by President Truman and promptly set out to end segregation in that new military service. In his 7 years as a member of the executive branch he did such an outstanding job that six times the Senate approve his various nominations for high office without a single dissenting vote.

During those early years in Washington he was an acknowledged Pentagon superhawk and was assigned to a coveted position on the Armed Services Committee when he was first elected to the Senate in 1952.

But 1961 and his assignment to the Foreign Relations Committee brought the first subtle change in his thinking about America's role in international affairs and he now considers himself a Senate dove. He has said:

> It isn't that you switch, it's that you learn.

Senator SYMINGTON, a businessman and industrialist, has represented a diverse State with a large rural constituency. He has shown a willingness over the years to learn about the problems of other segments of Missouri's population and a flexibility of mind in dealing with them.

Recently Senator SYMINGTON has focused his concern on nuclear proliferation. As chairman of the Foreign Relations Subcommittee on Arms Control he has worked tirelessly to control the most important problem facing mankind today. His subcommittee has investigated all aspects of the spiraling nuclear arms race—from the lack of adequate safeguards at nuclear facilities to urging all nations to become parties to the Nuclear Nonproliferation Treaty. I share with him his belief that we must deal quickly and decisively with the nuclear threat before it destroys us.

As an avid sports fan myself, I admired the choice of STUART SYMINGTON to be Commissioner of Baseball in the early 1950's. He turned it down, choosing to run for the Senate instead. Baseball lost, but Missouri and America gained.

A courteous gentleman who is held in high esteem by his fellow Senators, I want to wish him the very best in his retirement.

Mr. PERCY. Mr. President, the occasion of the retirement of STUART SYMINGTON, the distinguished senior Senator from Missouri, is a touching one for those of us who have worked closely with him over the years. Senator SYMINGTON has impressed us all with his integrity, his judgment, his seriousness of purpose, and his hard work. Yet we shall miss him not only because of our respect for him, but even more because he was such a fine colleague and friend, a wonderful human being with whom we enjoyed working in legislative projects large and small.

I recall that my first opportunity to work with STUART SYMINGTON came during the lengthy debates and deliberations about the proposed deployment of a massive antiballistic missile system in the late 1960's. It was instructive to me as a new Senator to be associated in opposing that unnecessary weapons system with three giants of the Senate—John Sherman Cooper, PHILIP HART, and STUART SYMINGTON. Senator SYMINGTON brought to the consideration of the ABM deployment years of experience in military matters, in which he is an expert, and years of experience in business, in which he had a brilliant career before going into Government service.

In addition to his knowledge, Senator SYMINGTON brought to the deliberations a determination to do what was right for the country, a concern for fiscal integrity, and a knack for working cooperatively with others.

More recently I have had the pleasure of working with Senator SYMINGTON on the Senate Foreign Relations Committee where he has made an immense contribution of foresight and good sense. Our most recent cooperative effort has been in the field of arms control, where we share the most serious concern about the proliferation of nuclear weapons capability. No other Senator, perhaps no one else in the Government, has so clearly assessed the dangers of nuclear proliferation as has Senator SYMINGTON.

To say that STUART SYMINGTON will be missed by those of us who have worked closely with him would be an understatement. For myself, I intend to continue to consult him on diplomatic and defense problems as long as he will put up with my questions. Senator SYMINGTON is a good man and a good friend.

Mr. CASE. Mr. President, the Senate is losing a man with a truly distinguished record of public service with the retirement of STUART SYMINGTON.

From the high point of his service in the executive branch, as Secretary of the Air Force during the administration of President Truman, to his capable acting chairmanship of the Senate Armed Services Committee during the period of Senator STENNIS' recuperation, Senator SYMINGTON has made his mark on American arms policy. His membership on both the Armed Services Committee and the Foreign Relations Committee, unique in itself, has allowed him to play a major role in overseeing our defense and policy posture around the world. It has been a pleasure to serve with him for so many years on the Foreign Relations Committee.

STUART SYMINGTON's broad overview of our foreign policy will be missed when he retires, as will his wisdom and guidance. I hope his future years can be as meaningful and productive as his decades in public life.

Mr. JOHNSTON. Mr. President, I rise to join my other colleagues in paying tribute to the splendid record of STUART SYMINGTON.

Having served as the Nation's first Secretary of the Air Force, he came to the Senate back in 1953 with a special knowledge and perspective with regard to the problems of defense and diplomacy in the atomic age. As a testament to the confidence and respect which his colleagues have in his judgment on these matters, he is the only Senator ever to sit simultaneously on the three chief defense and foreign policy committees: Armed Services, Foreign Relations, and the Joint Committee on Atomic Energy.

Many times his colleagues have sought out his advice and expertise on critical issues of national security policy. Never has he failed them. His critique of the antiballistic missile system was influential in convincing a number of his colleagues of the fatal flaws in that system. His leadership on the War Powers Act was influential in getting it enacted into law over a Presidential veto during the 93d Congress. But perhaps the most significant which he played was in pointing out the erroneous policies which successive administrations were pursuing in Vietnam. As far back as 1965, he warned the administration to "go all out or get out of Vietnam." As the years passed, the wisdom of his unheeded advice became apparent. Tragic mistakes might have been avoided had his counsel been sought out early in the course of the war.

STUART SYMINGTON will be sorely missed in this Chamber. The retirement of any Senator is always a sad time for his colleagues, but there is a particular sense of loss when a man of his enormous capacities leaves this Chamber.

Mr. HARRY F. BYRD, JR. Mr. President, I regard it as a privilege to have served alongside the senior Senator from Missouri (Mr. SYMINGTON) in both the Senate and the Committee on Armed Services.

His decision to retire at the conclusion of his term in January will cost the Congress one of its ablest and most dedicated Members.

Senator SYMINGTON was an outstanding businessman before being called to Government service by the late President Truman, under whom Senator SYMINGTON served as Secretary of the Air Force. He served in other high executive positions until his election as U.S. Senator from Missouri in 1952.

For 24 years now he has used his talent, his judgment, and his wide experience for the benefit of the State which he so ably represents and the Nation he so unselfishly serves.

I cherish my friendship with Senator SYMINGTON.

Seldom in history have father and son served simultaneously in the Congress of the United States. But such is the situation today with Senator SYMINGTON in the Senate and his attractive and able son, JAMES W. SYMINGTON, in the House of Representatives. He, too, has decided to give up his seat in the House of Representatives so the Congress, come January, will be without the service of two splendid SYMINGTONS.

I salute them both.

Mr. HASKELL. Mr. President, it is customary when a respected colleague leaves the Senate to focus on his legislative achievements. With STUART SYMINGTON it is impossible to confine oneself to his illustrious senatorial career alone. For Senator SYMINGTON has incorporated many careers in one lifetime.

After graduating from Yale, he first gained a reputation as a business genius—frequently bringing ailing companies back to health. By the age of 40, he was the president of Emerson Electric Manufacturing Co. and a millionaire. Most men would consider that sufficient achievement. But STUART SYMINGTON's abilities were recognized by a fellow Missourian, President Harry Truman, and he was called to Government service. For the next 7 years, the country benefited from his appointment to six high executive branch positions, including Secretary of the Air Force. It is a measure of the esteem with which the Senate has always held STUART SYMINGTON that not a single dissenting vote was ever cast against his appointment.

In 1952, his executive branch career ended. Again, most men would have been satisfied to have made their mark in business and in executive branch public service: STUART SYMINGTON directed his interests toward the U.S. Senate. His record as a U.S. Senator is well known to those of us who have had the privilege to serve with him. It is a record distinguished by its range and vision. STUART SYMINGTON helped shape America's defense policy for two decades through a measured balance of advocacy and criticism. He sought to educate the Senate, sometimes years in advance of a crisis, to the hazards of Vietnam, the imbalance of trade, the arms race, and lately, nuclear proliferation. His series of inquiries on American commitments overseas stand as a model of thorough and informative public hearings. He has served on both the Armed Services and Foreign Relations Committees and, though his advice was sought by Presidents and heads of state, he never forgot the constituents back home. He was Missouri's top vote getter because he attacked problems facing the residents of Viola and Shell Knob with the same verve and dedication as he brought to the national arena.

I am certain that, when Stuart Symington finished his careers in business and in the executive branch, his colleagues offered testimonials to his achievements fully expecting him to rest on his accomplishments. But his devotion to his State and his Nation led him to new challenges. Those who now intimate an end to Senator Symington's public service are advised to be cautious. The Nation and the world have benefited from his perseverance and intelligence for the past 30 years. We must continue to seek the advice and service of men of his quality. Stuart Symington has never failed to answer the call.

Mr. EAGLETON. Mr. President, before yielding to my distinguished colleague, I say with all candor that with the possible exception of members of my personal family, I know of no one who has treated me with greater kindness and greater consideration than has Senator Symington. His interest in me and his wise counsel to me will never be forgotten.

I am pleased at this time to yield 5 minutes to my distinguished colleague and my friend from the State of Missouri, Senator Symington.

Mr. SYMINGTON. Mr. President, to my colleagues, friends in the Senate who have expressed these undeserved but kind remarks, I express deep gratitude.

I am especially grateful to my colleague from Missouri, Senator Tom Eagleton. Our relationship in the 8 years he has been in the Senate, in effect, has been that of a younger brother. I could not wish for more friendship and understanding than he has given me. Together we have worked for our State and Nation.

I would also express deep gratitude to my staff, above all to Stanley Fike, possibly the most popular man in Missouri, my administrative assistant for every day of the 24 years I have been in the Senate; and to his superb wife, Mildred, for putting up with his consistent long hours in the office. Stan has brought together what is really not an organization, rather what might appropriately be called a happy family. Together, we have all done our best. The respect and admiration for Stan back in my State have made it possible for me to do much more work in committees than have been mentioned, because all Missourians knew that when they talked to him they were, in effect, talking to me.

Since the day my good friend John Snyder, my former banker, certainly one of the ablest of all Secretaries of the Treasury, told me that Mr. Truman would like me to come into his government after the death of President Roosevelt, it has been a privilege to serve for 31½ years the people of this country.

Much of the interest in continuing my political life left when I lost the gracious lady many people have been so kind as to mention this morning; and in any case, as our majority leader, Senator Mansfield, recently said, "There is a time to stay and a time to go." I feel my time has come.

In Government one invariably has both happy days and sad days, accomplishments and lack of accomplishments. But one can always leave Government with an inner feeling of satisfaction that one has done his best for his country—in this case, the greatest country the world has ever known—and also for the people of Missouri who have trusted me for so many years.

I again thank my colleagues and friends who have been so kind in commending my efforts for service; and look forward to maintaining our friendship even though I will no longer be here come next January.

Mr. EAGLETON. I thank my colleague.

Mr. President, many, many outstanding and wonderful people have written both to me and to Senator Symington on the occasion of his retirement. Their letters and statements are a magnificent tribute to Senator Symington.

I would like to read each letter so that all of our colleagues could hear what these fine people say in their letters. But time does not allow that, Mr. President.

Therefore, I ask unanimous consent that these letters, beginning with one from President Ford and one from Vice President Rockefeller and followed alphabetically by many others, be printed in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The White House,
*Washington, D.C., September 27, 1976.*
Hon. Stuart Symington,
*U.S. Senate, Washington, D.C.*

Dear Stu: Your retirement from the United States Senate brings to a close an illustrious career of public service encompassing more than three decades of our Nation's history.

In the critical era of post-World War II, you were a participant in those decisions which brought the United States to its preeminent role of world leadership. As a United States Senator, you actively shared in the debates on decisions which have involved our Nation's security and continued leadership.

The people of the United States, the citizens of the State of Missouri and those who have been privileged to serve with you in the Senate are indebted to you for your years of distinguished public service—a career marked with the wisdom, honor and integrity of a great statesman.

With warmest personal regards,
Sincerely,
Jerry Ford.

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The Vice President,
*Washington, D.C., September 28, 1976.*
Hon. Stuart Symington,
*U.S. Senate, Russell Building, Washington, D.C.*

Dear Stu: One of my pleasures as Presiding Officer of the Senate has been to witness personally the outstanding performance which has won you the respect of your colleagues on both sides of the Senate aisle and the esteem of the American nation.

You are now completing a brilliant career of public service extending over 45 years. That service has been marked by a broadness of vision which placed the national interest above narrower considerations, a long view particularly apparent in your valuable contributions to American foreign and military policy.

I am delighted to join your legion of friends and admirers as you complete this remarkable career in the Nation's service. And I wish you all the best for the future.

Sincerely,
Nelson.

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Shook, Hardy & Bacon,
*Kansas City, Mo., September 27, 1976.*
Senator Thomas F. Eagleton,
*New Senate Office Building,*
*Washington, D.C.*

My Dear Senator Eagleton: I appreciate so very much the opportunity, by this letter, to share to some degree in this fitting and most appropriate tribute which you and your distinguished colleagues pay to Senator Stuart Symington, who holds a special place in the hearts of all Missourians and who has, indeed, carved for himself a very special place in the history of his beloved country—the United States of America.

On this occasion I know that you and your colleagues are thinking of Stuart Symington, as the great Senator, who before his Senate service was appointed to six high executive positions by President Truman, and confirmed six times by the Senate without a dissenting vote. You are thinking of and paying tribute to the firm, fair and gentlemanly Stuart Symington, who, as a member of important committees of the Senate, devoted long and demanding hours of constructive service to help to promote the causes for which he was so completely dedicated.

At this particular hour in his continuing career, and having shared the ruggedness of several campaigns, I think of Stuart Symington the man, who with his devoted wife Eve, spent so many constructive hours in the work of the National Cathedral Association of Washington, D.C., and of Stuart Symington carrying out the many duties of the Presidency of that Association.

I am now thinking of a hot afternoon in August of 1952 when at his home with just a few friends, Stuart Symington wrote in longhand some of his basic beliefs as he approached his first campaign for the Senate. I treasure a copy of that work. Permit me here to give you just the first and last paragraphs:

"We Americans are not only characters in the living book of democracy. We are also its authors. And so it falls upon us to decide whether chapters that are to come will tell a story of retreat or of continued advance.

"A great international storm is now raging. A storm that makes it all the harder for the world to live in peace. Whether or not Western civilization weathers that storm may well be decided in the Senate of the United States during the years ahead.

"May God in His infinite wisdom show us the right."

These thoughts expressed by him reflect the true nature of the Stuart Symington I know as a man, a friend, and as a great United States Senator. To Senator Symington and with great appreciation for all of his accomplishments of the past and anticipating with enthusiasm his service in the future, may I say, quoting

"May the roads rise with you—may the wind be always at your back—and may God continue to hold you in the hollow of His hand."

Affectionately,
Charles L. Bacon.

U.S. District Court,
Western District of Missouri,
*Kansas City, Mo., September 24, 1976.*
Hon. Thomas F. Eagleton,
*New Senate Office Building,*
*Washington, D.C.*

My Dear Senator Eagleton: In a few days the people of this Nation and of the State of Missouri will lose the services of Stuart Symington, as United States Senator, that they have enjoyed for twenty four difficult years he has served with unmatched distinction in the Senate of the United States. The sense of the greatness of this loss is lessened by the realization that his great talents, and superior wisdom, intelligence, industry, public spirit, unquestioned integrity, and moral courage will remain at the service of the Nation and of mankind, as they were before he became a member of the United States Senate.

The retirement of Senator Symington from the Senate of the United States will not mark the end of a career of public service. It will mark the end of the second period of excellent service to this Nation and to the free nations of the world. It will also mark the beginning of a new period of public service. For the unique record of public service of Stuart Symington before he was first elected to the United States Senate warrants the conclusion that he is dedicated for life to serve the United States and its allies when his services are needed.

Time and space will not permit a statement in detail of the great contributions of Stuart Symington to the welfare and defense of the United States and its allies before 1953, when he became a United States Senator. These contributions include service at a personal sacrifice in studying aircraft armament in England during World War II, restoring public confidence in the integrity of the Surplus Property Administration while serving as Administrator, advocating a superior United States Air Force in his service as the first Secretary of the Air Force, and, as Administrator, restoring public confidence in the Reconstruction Finance Corporation. It is significant that he was chosen for two of these tasks because his unimpeachable personal reputation for integrity and moral character were necessary to restoration of public confidence in the public agencies of which he was made administrator.

When, in 1952, Senator Symington first offered himself as a candidate for United States Senator from Missouri in the Democratic primary in Missouri, he was a successful businessman with a satisfying record of public service in the executive branch of the national government. He lacked established political support, including that of the incumbent President of the United States from Missouri, whom he had served so well. His opponent was favored to win by a wide margin.

As always in his life, competition was a challenge to him. He successfully met this challenge with intelligence, hard work, fair means, and appeal based on the merits. In a few months, with the loyal cooperation of his refreshingly radiant, talented, and intelligent wife, family, friends, and citizens attracted by his character and superior abilities, he won the nomination and later was elected.

Senator Symington has contributed much to the federal judiciary on every level. He has consistently supported improvements in federal judicial machinery. He has taken very seriously his privilege to vote on judicial nominations and has voted to ensure impartiality, ability, and commitment to the Constitution of the nominees. By his example and expectations he has caused judges whose nominations he has sponsored to strive to match his excellence in their work.

Finally, his great sympathy for and support of the underprivileged, the poor, and the victims of prejudice have been reflected in courageous action as a Senator, as a businessman, and as a citizen.

In Missouri we are proud of the record of Senator Symington, grateful for his service to the Nation, sad because of his imminent retirement from the Senate, and hopeful that he will live long and have many opportunities to continue his unexcelled career of public service.

With kindest personal regards, I am

Sincerely yours,

William H. Becker.

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House of Representatives,
*Washington, D.C., September 24, 1976.*
Hon. Thomas Eagleton,
*U.S. Senate,*
*Washington, D.C.*

Dear Tom: Thank you for your thoughtfulness in affording me this opportunity to express some of my feelings about our friend and colleague, Stuart Symington.

When I think about the old-fashioned marks of character—like honor, duty, integrity—I want to add . . . you know, like Stuart Symington.

When I think of the plain marks of good behavior—like courtesy, fairness, gentleman—I want to add . . . you know, like Stuart Symington.

When I think about the distinguishing marks of a man devoted to public service—like courage, vision, persistence—I want to add . . . you know, like Stuart Symington.

Although Congress will sorely miss the invaluable and unique contributions of Stuart Symington, I count myself fortunate to be able to continue to heed his counsel as a friend.

Sincerely,

Dick Bolling.

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Los Angeles, Calif.,
*September 22, 1976.*
Senator Thomas Eagleton,
*New Senate Office Building,*
*Washington, D.C.*

Dear Senator Eagleton: I would like to join you in the September 29 tribute to Senator Stuart Symington as he takes leave of the United States Senate.

The name of Symington will forever be a legend in Missouri. No books, no monuments or scrolls can ever record what this man has meant to our state. The true measure of his legacy lies deep inside our people and will last for generations.

To the achievers, he brought opportunity. He believes in both public and private enterprise.

To the helpless, he brought a helping hand toward health and education. Genuine compassion throbs in his veins.

To Missouri and to the Nation, he brought honor. His personal code of honor is instinctive, responsive to the touch.

This little world is a little better now, because Stuart Symington is what he is and did what he did this past one score and four.

We will miss him greatly in the Senâte.

Sincerely,

Charles H. Brown,
*Former Congressman,*
*7th District—Missouri.*

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Statement by General George S. Brown on the Occasion of Senator Symington's Retirement

I am honored to pay tribute to Senator Symington on the occasion of his retirement from the United States Senate. He has long been deeply and personally involved in matters of national defense: as an enlisted man in the United States Army in 1918; as Assistant Secretary of War for Air in 1946; as the first Secretary of the Air Force in 1947, when the Air Force was established as a separate service. And of course, his unfailing interest in defense matters continues as a member of the Senate Armed Services Committee.

During his 24 years in the Senate, Senator Symington has gained the deep respect of all Americans. He earned respect as a man of strong convictions—and he has stood by those convictions in times of opposition and controversy. No matter what the national defense issue, those of us who have worked with him remained ever aware that he constantly kept the public interest foremost.

Senator Symington has served his nation extraordinarily well. On behalf of the members of the Armed Forces of the United States, I thank him and wish him many years of good health and happiness.

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September 29, 1976.
Hon. Thomas F. Eagleton,
*Dirksen Senate Office Building, U.S. Senate,*
*Washington, D.C.*

Dear Senator Eagleton: I would like to add my voice to the chorus of tributes given to Senator Stuart Symington for his distinguished career in the United States Senate. His twenty-four years of service in that body exemplify the highest standards of public service and will be an inspiration to all who aspire to the highest elective offices in our country for years to come.

Senator Symington, through his outstanding career as a business executive and as the first Secretary of the Air Force, was uniquely prepared for the Senate. He lived up to his potential for service to the highest degree. His knowledge of defense policy, international relations, and government organization has given his views an audience and authority surpassed by few.

While Senator Symington has provided a clear, incisive voice on questions of national defense and foreign affairs, he has also represented the citizens of Missouri with compassion and strength. He has been a true democratic statesman: being ever mindful of his constituents needs, while, at the same time, speaking to the nation on the most significant issues of our time.

I join his colleagues, friends, and Missouri constituents in thanking Stuart Symington for service to the nation and hoping that he will continue to give his invaluable advice and counsel to our National leaders.

Sincerely yours,

Jimmy Carter.

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House of Representatives,
*Washington, D.C., September 22, 1976.*

A Tribute to Stuart Symington From William L. Clay

Every delegation is poorer when it loses a member for whatever reason. But the departure of Senator Stuart Symington will be a very special loss for the great state of Missouri. In the years he has spent as a spokesman for the citizens of our state. he has developed a degree of expertise in the area of politics that may well be unmatched. This is no mean achievement.

I believe that retirement can be a gratifying experience when it marks the end of a brilliant and successful career of public service. It is a time when one can look in retrospect on the changes he has helped to effect.

It is with much pride and humility that I join the Missouri delegation in paying tribute to one of this country's most outstanding statesmen.

We are all fortunate to have had so bright a star in our Congressional crown.

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Washington, D.C.,
*September 27, 1976.*
Hon. Thomas F. Eagleton,
*U.S. Senate*
*Washington, D.C.*

Dear Senator Eagleton: My admiration, respect and affection for Senator Stuart Symington knows no bounds. For forty years, we have worked together and relaxed together and my regard for him has strengthened with each passing year.

The contribution he has made to our country is a profound one. During four active terms in the United States Senate, he has been involved in the great questions of our day. Through this period, his honesty and outstanding character have become recognized attributes of this fine man. How gratifying it must be for him to look back upon these years of honorable service without even one suggestion of impropriety.

Loyalty is another characteristic and is closely associated with this man's record—loyalty to principle, loyalty to country and loyalty to those fortunate enough to be his friends. Loyalty comes easily during tranquil times but, when controversies have become bitter, he has demonstrated courage and fortitude in adhering to those positions which he thinks are right.

One of his deep concerns has been the financial and monetary integrity of our country. He has striven to maintain the value of our currency and to make it respected all over the world. He has refused to be persuaded by temporarily popular social schemes which would undermine the ability of our government to conduct its financial affairs on a sound basis.

Another struggle he has waged unceasingly is his fight against unwarranted secrecy in the handling of governmental affairs. He made an invaluable contribution in bringing to the attention of the country undisclosed activities of our government in Cambodia and Laos. His leadership in this area had much to do with the final decision which our country made to extricate itself from the morass of Southeast Asia.

I am delighted to join the tribute being paid to Senator Symington. I would anticipate that his service to our country has not come to an end but is merely entering a different but important phase.

Faithfully yours,

Clark M. Clifford.

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U.S. Senate,
*Washington, D.C., September 27, 1976.*
Hon. Stuart Symington,
*Senator From the State of Missouri, Russel Office Building, Washington, D.C.*

Dear Senator Symington: Since I have the floor only for praying and not for tribute, on this day when Senators express appreciation for your long distinguished service I take this means of expressing my high esteem, admiration and thanksgiving for your great service to this nation.

As Secretary of the Air Force and throughout long and difficult days in the Senate you have been a patriot and statesman of the highest order. Early in your public career you began weighing all factors in every situation and thinking through the problem before making public declarations. You have made enduring contributions to legislation affecting every American's life. You have been a good member of your party but when honest convictions led you to a position other than that taken by others in your party you have not hesitated to uphold what you believed to be right and good for this nation.

Helen and I are especially grateful for our personal friendship with you and with Jim and his family. We had an instant feeling of identification with you and the friendship has grown in depth and richness across the years. God bless you and keep you.

With affectionate good wishes and a prayer.

Faithfully yours,

Edward L. R. Elson.

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September 24, 1976.

Hon. Thomas F. Eagleton,
*U.S. Senate,*
*Washington, D.C.*

Dear Tom: It is with deep regret that I cannot attend the luncheon on the 29th as I have to be in Houston on that day, but I do want to join you all in paying tribute to Stuart Symington.

I have known Stuart since the days when he was Secretary of the Air Force and later Administrator of the RFC. In both positions he fulfilled his responsibilities with excellent judgment and discretion.

However, it is his service as a member of the Committee on Foreign Relations which I wish especially to commend. During the very controversial period of the war in Vietnam and the antiballistic missile debate, his wise and thoughtful counsel to the Committee and to the Senate was of the highest caliber. His experience and knowledge gave his views great weight, and events have proved the validity of his opinions.

Personally, he was a tower of strength to me as the Chairman of the Committee during all those years. He is an outstanding public servant, and deserves the gratitude of the people of this country for a job well done.

I should like to add that his Evie was one of the finest and loveliest women Betty and I have every known, and as a couple, Evie and Stuart were unsurpassed.

Sincerely,

J. W. Fulbright.

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September 27, 1976.

Hon. Thomas F. Eagleton,
*U.S. Senator,*
*New Senate Office Building,*
*Washington, D.C.*

Dear Senator Eagleton: I understand that you will be presenting a tribute in the United States Senate to your colleague from Missouri, Senator Stuart Symington, this coming Wednesday, and I would appreciate the opportunity to add my comments and to pay my respects to the distinguished senior Senator from Missouri.

I have known Senator Symington since my early days in the Missouri State Senate when I joined literally thousands of Missourians in recognizing his unique capabilities as a competent leader and an unwavering advocate of representative government in a free society. His status as an inspired leader was predestined and was manifested at an early age. He enlisted in the Army at age 17 and was commissioned as a second lieutenant a year later, thus being one of the youngest persons to receive an Army commission. Subsequent to his sterling military service, he pursued a highly successful career in business. He thereafter responded to the call of public service and was appointed to several high executive posts in the administrative branch. His innumerable contributions as a public servant to our nation are well-documented in history. In 1947, he became the first person to serve as Secretary of the Air Force. His service as Secretary during the difficult years following World War II was characteristically outstanding. His knowledge of economics and the defense needs of our nation was instrumental in effecting an orderly adjustment by this country to the rigors of a post-war economy.

In 1952, Senator Symington entered into the legislative arena at the highest level—as a United States Senator from the State of Missouri. In completing 24 years of service in the world's greatest deliberative body, an honor accorded to only a select few, Senator Symington ranks among the most highly regarded statesmen of our century. He has unstintingly given of his talents and efforts to the active representation of all segments of the citizenry in Missouri and in the nation.

He has continually been in the forefront in support of projects that were beneficial to his constituency and in projects ameliorating the effects of national and local catastrophes that are an unfortunate, yet inevitable, part of our earthly existence.

As an articulate leader in the causes of national and individual freedom, his long and capable participation in the policy-making branch of our country will be sorely missed by his fellow Missourians and other citizens of our great Republic. The people of Missouri are justly proud of Senator Stuart Symington and wish for him many more fruitful years in the vineyard of life. In approaching retirement from the United States Senate, he can be justly proud and gratified with a job well done, and we fellow Missourians hope his sage counsel and advice will remain available to the State and the nation for many years.

With utmost esteem,

Floyd R. Gibson.

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### Remarks of the Hon. William L. Hungate

Everyone on the floor of this chamber understands the realities of political life. They would not be here if they did not. Everyone here understands that public service is a career as marked by its frustrations as its rewards. When he runs for office, the politician does not merely throw his hat in the ring, he throws himself in the ring, and from that moment forward he losses more privileges than he will ever gain. The public too often does not understand this, but we do.

However, if there are frustration and pressures, there are also rewards. The opportunity to author legislation, to change an unwise or outmoded law, to serve constituents who feel they have nowhere else to turn—these are great satisfactions. And that is why all of us are here.

Perhaps one of the greatest rewards is the opportunity to associate closely with men and women of distinction—with individuals of such quality and character that we profit merely from knowing them. It is one of the things which makes service in the House of Representatives and the Senate a unique experience.

Each Member of Congress can point to one or two, or if lucky, a handful of individuals he has met here over the years who have made a particular impact on his life. And it is always a sad experience when one of these special individuals leaves the Congress. Although each of us hold only a few Members in this particular esteem, I would not be surprised if many of us held the same man in this place, I refer to Missouri's senior Senator, Stuart Symington.

Senator Symington's accomplishments are well-known to most of us, and I will mention them only briefly, for they speak for themselves. Stuart Symington worked his way through Yale University and worked his way into the business world and up the ladder. As a successful business executive he demonstrated that the profit motive need not obscure human decency, and his business was noted for its progressive view of labor and racial relations.

When Stuart Symington entered public life at the insistence of President Truman, he served with distinction in a number of positions. He headed the Surplus Property Administration, served as Secretary of War for Air, and later Secretary of the Air Force. He was Chairman of the National Security Resources Board, and he reorganized and rehabilitated the Reconstruction Finance Corporation. Winning election to the Senate in 1952, Stuart turned his back on what surely would have been a lucrative business career and turned his full energies and concerns toward service to Missouri and the nation in the body from which he is about to retire, a quarter of a century later.

Stuart Symington will long be remembered for his many accomplishments in the Congress, but many of those who knew him will also remember him for two precious and rare traits. He is a man of courage. He is a gentleman.

When I speak of courage I use it in the sense that John Kennedy was fond of using it, to denote "grace under pressure". It refers not just to steady nerves, but to the steady pursuit of the truth, wherever it may lead. It refers to a man who follows his conscience, not the crowd. It refers to an attitude of sincerity, not self-righteousness. It refers to Stuart Symington. As a junior Senator, Stuart Symington was one of the first to stand up for McCarthyism and this at a time when most regarded such confrontation as political suicide. It is with the same courage that Stuart Symington served his career in the Senate, approaching difficult issues and complex situations It is a hallmark of his career.

So too is his conduct, for he represents a vanishing breed—the true gentleman. I use this in the classic sense—a man of decency and integrity and manners, a man who believes in the dignity of the individual and who treats others with sincere respect. In more than 25 years in public life there has never even been a whisper of a scandal about the Senator. And if there had been, no one would have believed it—his integrity is apparent to everyone.

During his service in the Senate, Stuart Symington has to me, and I know to many others, represented the epitome of the public official, a man who realizes that elected officials are the servants, not the masters of the public. Many espouse that ideal but few succeed in always living it. Stuart Symington is one of those few. The nation will miss his contribution to the Congress, but we are all a little better for having been privileged to serve with him.

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### Statement by Mr. Ichord

I greatly appreciate the opportunity to join in this tribute to my distinguished colleague in Congress and a great fellow Missourian, Senator Stuart Symington.

Senator Symington was first elected as Senator from Missouri on November 4, 1952. For 23 years he has dedicated his life to his work in the Senate, compiling a record of distinguished achievement that few in this august body will ever be able to match. Now, at the end of the 94th Congress, Senator Symington will retire and with that retirement Missouri will lose its older statesman and the Senate will lose one of its ablest Members.

As a Senator, Stuart Symington has been a dedicated champion of the people of Missouri, serving them in an unparalleled fashion through a unique and masterful command of the legislative processes and an untiring dedication to his State and his Nation. As dean of the Missouri Congressional delegation, Stuart Symington was a friend to us all and gave generously of his time and wise counsel as we worked together for our mutual constituents. As a public servant, Senator Symington provided a quality of leadership so soundly based in wisdom, compassion, and foresight that he could only be called a "statesman." As a member of both the Foreign Relations and Armed Services Committees, Senator Symington has played a major, and at times decisive, role in shaping America's post-war defense and foreign policies. Never a man of rigid certitude, he grew with a changing America and was not embarrassed to publicly disavow policies he had once embraced when convinced that those policies no longer served America's interests or needs. Above all, Senator Symington was characterized by adherence to the "Show Me" principle of Missouri which led him to constantly probe, to ask questions, and to seek and analyze the meaning behind events.

Missourians will remember his run for the Democratic presidential nomination in 1960, only eight years after a fellow Missourian, Harry Truman, left office. Senator Symington shared many qualities with his friend Harry Truman, beyond their roots in Missouri. Although he became a friend of Kings and a counselor to Presidents, he never forgot the constituents who elected him to four consecutive Senate terms. Bringing his management experience to bear, the staff he assembled, under the guidance of his Administrative Assistant, Stan Fike, was one of the best in Washington, and year after year proved responsive to the interests and problems of Missourians as well as the Nation as a whole.

It has been a distinct honor for me to have served in Missouri's Congressional delegation with Senator Symington, to have had his advice, to have profited from his wisdom, and to have shared the friendship of this great man.

As he retires from his long and distinguished career as the senior Senator from Missouri, his friends, his colleagues, his fellow Missourians, and a grateful Nation will deeply miss Stuart Symington's presence in the public life of this Nation. He has earned a well-deserved rest and I wish him great peace and contentment after a hectic and at times lonely career. But we are sorry to lose his voice, his integrity and his knowledge at a time when our Nation sorely needs more like him.

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Stonewall, Tex.,
*September 24, 1976.*

Dear Stu,

You have been a part of the Washington scene for so long—it is difficult for me to imagine that you are retiring from public life!

I think back to those vigorous, hard working days when Lyndon and I knew you as the Assistant Secretary of War for Air and Secretary of the Air Force, and I remember warmly and affectionately the friendship we shared during the years that followed through the Senate days and beyond. How dear you were to our little children whenever you came to our old house on 30th Place and talked with Lyndon about the heavy matters of the day!

Someone once wrote: "There is a kind of release/And a kind of sadness in every goodbye for every man." We knew, as I am sure you must, too, the measure of those words when we left the Capitol City, and I hope you will find every contentment and satisfaction, as we did, in the time ahead.

Always affectionately,
Mrs. Lyndon B. Johnson.

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Federal Bureau of Investigation,
*Washington, D.C., September 23, 1976.*
Hon. Stuart Symington,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator: I regret I cannot be among those honoring you. This is particularly troublesome to me because I honor you deeply as a man and have always been appreciative of you as a dedicated, competent and influential member of the Senate.

I remember the times I saw or was with you while I was Chief of Police of Kansas City. You always treated me with courtesy, responded to our problems and throughout it all conducted yourself as a gentleman. Then when I came to Washington I felt I could rely on you and found to my great satisfaction how truly accurate this assessment was. Missouri and the country will miss you, Senator.

May good health bless you in the days to come and may the warmth of the affection so many of us hold you in keeping you ever mindful that although you leave us you will always remain in our hearts.

God bless you, Senator.

Sincerely,
Clarence M. Kelley.

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The Secretary of State,
*Washington, D.C., September 28, 1976.*
Hon. Stuart Symington,
*U.S. Senate.*

Dear Stu: Your decision to retire lengthens the list of old friends who will be leaving Washington, and I regret that.

Your service to this country has been long, steadfast and brilliant. We have disagreed sometimes, but I have always found you a constructive and honest statesman.

Washington will miss your presence, as will I.

Warm regards,
Henry A. Kissinger.

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Washington, D.C.,
*September 24, 1976.*
Hon. Thomas F. Eagleton,
*U.S. Senate, Dirksen Senate Office Building,*
*Washington, D.C.*

Dear Tom: All of us who know and admire Stuart Symington as a warm and convivial friend, and most importantly, as a man who has given so much to the strength and spirit of our nation, are grateful to you for your leadership and assuring that his farewell from the U.S. Senate will be marked by a richly deserved recognition of his distinguished record of service.

Stu and I have been on opposite sides of the political fence, and certainly we have not always been in agreement on all issues. This fact, in a sense, makes even more dear to me the warm friendship we have enjoyed over the years. I can say that I have not always smiled when losing a golf match to him but I have enjoyed every minute of his good company and his boundless vitality.

Beyond that personal note, I have admired his indefatigable zest and dedication for public service. In all of his many posts, notably as Secretary of the Air Force, and as a member of the Armed Services and Foreign Relations Committee, Stu has fought tirelessly to assure the welfare, economic strength and military readiness of our country.

All of us who are interested in the affairs of government owe him a great debt. I know that in his "retirement" he will remain active, for that is his way.

With best wishes and kindest personal regards, I am

Sincerely,
Melvin R. Laird.

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South Harpswell, Maine,
*September 25, 1976.*
Hon. Thomas F. Eagleton,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Eagleton: I have just learned that Senator Symington's colleagues are planning to honor him during the Senate session September 30.

During the third of a century I have known the Senator, worked with him and valued his friendship, I have been repeatedly amazed at his capacity as a true patriot. The honor being done him by his colleagues honors them as well.

I first met Stuart Symington in 1943 when he was President of Emerson Electric in St. Louis. The company was then producing armament for our B-24 bombers, and I was an emergency First Lieutenant assigned by the Chief of Staff's Office to the Truman Committee staff monitoring the war effort. The Emerson operation was fast-paced but organized, and clearly was meeting the urgent needs of the day. I so reported.

Three years later, after I had returned to newspaper work in Maine, President Truman nominated Mr. Symington to serve as Assistant Secretary of War for Air and to work on unification of the armed services. My service with the Truman Committee and overseas combat duty in the Southwest Pacific and China-Burma-India theaters had given me some experience in the need for unification, and Mr. Symington suggested I help him for a "few months" in 1946.

The "few months" turned into four years of close working relationship in which I served as Special Assistant to the Secretary and also Director of Public and Congressional Relations, Department of the Air Force. It was a privilege and an opportunity. Through the tensions and the difficulties my respect and affection for Stuart Symington grew during those years.

He is a unique person. In public and private life he has combined the ideal and the practical to build a record of accomplishment which speaks eloquently of what is best in this country. In the more than thirty years I have known him, his actions have consistently been evidence of a head and a heart working in balance.

In private industry, in executive office and in elective office his strides have always been remarkably sure toward successes of which he and his co-workers could be proud.

His decision not to seek to return to the Senate leaves to his successor a challenging role to be filled. For the friends of Senator Symington his record of accomplishment is a thing to be cherished.

He is truly the complete American at his best.

Sincerely,

Stephen F. Leo.

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Office of the Majority Leader,
*Washington, D.C., September 17, 1976.*
Hon. Thomas F. Eagleton,
*U.S. Senate,*
*Washington, D.C.*

Dear Tom: It is with personal regret that I will not be in Washington when the Senate pays tribute to my good friend and colleague of many years, Stuart Symington.

Stuart Symington is a truly dedicated American and we all have benefited from his many years of wise counsel and experience. Stuart Symington and I came to the Senate at the same time and we both leave this august body at the end of the year. During these twenty-four years, there is no one that I have depended upon more for advice and counsel in matters of national security, business and agriculture. It is with fondness that I think back on the Truman years; Stuart Symington was one of the great troubleshooters of our time. The Senate has benefited greatly as a result of his varied experience in business and government. As one of the few Senators in history to serve on both the Armed Services and Foreign Relations Committees, he has been a key figure in formulating our Nation's foreign policy and defense postures.

As we leave the United States Senate, I think back on this fine association and both Maureen and I wish Stuart Symington good health and a happy, well-deserved retirement.

With best personal wishes, I am

Sincerely yours,

Mike Mansfield.

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### STATEMENT BY MR. MCGEE

Mr. President, with the adjournment sine die of the 94th Congress, the United States Senate will lose a valuable colleague and friend with the retirement of the distinguished senior Senator from Missouri (Mr. Symington).

For 24 years, Stuart Symington has served this body with distinction and dedicated public service. He has been indefatigable in his pursuit of seeking solutions to some of the most complicated issues facing a nation which emerged from World War II as a global leader.

A successful businessman who demonstrated a penchant for turning failing enterprises into sound and profitable operations, Stuart came to Washington at the behest of President Harry S Truman to head the Surplus Properties Administration. As one of the Truman Administration's top troubleshooters, he moved on to serve as Secretary of the Air Force; Chairman of the National Security Resources Board; and Administrator for the Reconstruction Finance Corporation. In 1952 he was elected to his first term as United States Senator from Missouri.

Mr. President, as one who has had the good fortune to serve with Stuart Symington on the Senate Committee on Foreign Relations, I can attest to the exceptional diligence and wisdom he brought to Committee deliberations on a wide variety of issues. As Chairman of the Subcommittee on Security Agreements and Commitments Abroad and his service on the Armed Services Committee combined to give the Senate one of the most articulate and knowledgeable individuals in the area of nuclear arms proliferation—a serious problem he has pursued with a steadfast purpose. It has been primarily through his efforts that the Congress and the nation have been alerted to the "pandora's box" of problems associated with uncontrolled nuclear arms proliferation.

It was also Stuart Symington who focused the attention of us all on the question of "how much is enough." This is in reference to the spiraling nuclear arms race engaged in by both the United States and the Soviet Union giving both the capability to destroy the world many times over. Recognizing the seriousness of the problem, both the United States and the Soviet Union have been negotiating in recent years in an effort to place a limitation on nuclear armaments.

It is this leadership and expertise which we will miss when the next Congress convenes. It has been a privilege and an honor to have been associated with a man of Stuart's integrity and knowledge and we will sorely miss these attributes. Loraine and I wish him the very best in his retirement.

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International Bank for
Reconstruction and Development,
*Washington, D.C., September 24, 1976.*
Hon. Stuart Symington,
*U.S. Senate.*

Dear Stu: Before leaving tonight for Manila to attend the Annual Meeting of the Governors of the World Bank and the International Monetary Fund, I want to join with others in paying tribute to you for a lifetime of service to our nation. As business leader, governmental executive and, for the past 24 years a source of enlightenment in the Senate, you have been an inspiration to me and to countless other Americans.

You are so young in heart, both in action and spirit, that I know we will all continue to benefit from your wisdom for many years to come. I, in particular, am grateful for the help I have received from you in the past and I know I can count on similar assistance in the future.

With best wishes,

Sincerely,

Robert S. McNamara.

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St. Louis, Mo., *September 24, 1976.*
Senator Thomas F. Eagleton,
*New Senate Office Building,*
*Washington, D.C.*

Dear Senator Eagleton: I understand that Senator Symington's colleagues plan to honor him during the Senate session of September 29th. I have known the Senator since 1950 and was active in his campaigns for the Senate in 1952, 1958 and the Presidency in 1960. During the years, I have been proud to have played a small part in helping him become a Senator from Missouri. He has been such an outstanding citizen and a great Senator that all of us who helped in our small way are proud of him.

In 1962, I was appointed to the Federal District Bench in the Eastern District of Missouri. Senator Symington played a substantial part in that decision. He has played a substantial part in the appointment or confirmation of all of the active judges on this Court. During the years when this Court has faced problems in the Congress, the Senator has been most helpful in helping us solve those problems. All of us on the Court respect and admire Senator Symington. When he retires, we will say it has been a job well done.

Sincerely,

Jim Meredith,
*Chief United States District Judge.*

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U.S. Senate,
*Washington, D.C., September 28, 1976.*
Hon. Thomas F. Eagleton,
*U.S. Senator, Dirksen Senate Office Building,*
*Washington, D.C.*

Dear Tom: I regret very much that I will not be able to participate in the floor discussion when our colleagues pay tribute to Stuart Symington.

When I came to the Senate in 1964, I inquired around as to which senators I should pay very close attention. One name that appeared on almost every list was Stuart Symington. It goes without saying that his has been an outstanding, almost quarter of a century career in the Senate. His influence has been brought to bear in the most important and vital areas of foreign policy and defense.

All of us will miss him as a person and all of us will miss his good and wise counsel.

Sincerely,

Walter F. Mondale.

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Washington, D.C., *September 23, 1976.*
Hon. Stuart Symington,
*U.S. Senate,*
*Washington, D.C.*

Dear Stu: Our friendship of more than three decades is a valued treasure. Among the many benefits that have been enjoyed is my good fortune to observe, at close range, and at times intimately, the dedicated service that characterized your many public duties.

Your decision to retire from the U.S. Senate aroused mixed emotions. The nation's loss and my sadness is softened by the knowledge that you have borne more than your share of public trust and have done so with distinction. It is my fondest hope that you will enjoy forever the satisfaction that you so richly deserve. Your friends, of which I am one of many, are well aware of the integrity and devotion that you brought to public life. We are immensely grateful.

The affection that Kate Davis and I have always held for you and Evie cannot be measured. Our lives have been made richer by it. We are comforted by the hope that your shedding of Senatorial duties will permit that bond to grow. We are looking forward, with sincere joy, to being with you more and more as time goes on. It is with these heartfelt thoughts that we wish for you a happy and contented twilight that we wish to share.

Sincerely,

Pete Quesada.

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Rogers & Wells,
*New York, N.Y., September 23, 1976.*
Hon. Thomas F. Eagleton,
*U.S. Senate, Washington, D.C.*

Dear Senator Eagleton: It is a pleasure for me to join with many other friends and admirers in paying tribute to Senator Stuart Symington and his outstanding record of public service.

I first met Senator Symington in 1948 when he was Secretary of the Air Force and I was counsel for a Senate Investigating Committee which was investigating the efficiency and integrity of expenditures during World War II. That investigation revealed that a

Major General was involved in corrupt activities in procurement for the Air Force. When he learned of the facts in the case Senator Symington took immediate and effective action in condemning the corruption and cooperating with the Committee, but more importantly, in bringing about a major overhaul in the Air Force and its investigating procedures which, I believe, has resulted in preventing any repetition of such corruption since that time.

Thereafter, during the eight years I served in the administration of President Eisenhower I had many opportunities to know and to work with Senator Symington as a member of the United States Senate. I dealt with Senator Symington on many matters involving civil rights, law enforcement and integrity in government and my respect and admiration for him continued to grow.

During the four and one-half years when I was Secretary of State, Senator Symington served with great distinction as a member of the Senate Foreign Relations Committee. Although from time to time we differed on foreign policy matters, I never doubted his sincere and constant dedication to the country's best interests or his effectiveness in preserving his points of view.

Having served as a young lawyer as counsel for a Senate Committee, I gained great respect for the Senate of the United States and having known and worked with Senator Symington for so many years I know and admire the important role he has played in that distinguished body.

Now that the Senator is retiring from public life I hope he will be rewarded with public recognition of his long and successful contribution to the public good and with the health and happiness that he so richly deserves.

Please convey to Senator Symington my warm regards and respect.

Sincerely,

WILLIAM P. ROGERS.

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THE SECRETARY OF DEFENSE,
*Washington, D.C.*

Hon. STUART SYMINGTON,
*U.S. Senate,*
*Washington, D.C.*

DEAR STU: As you approach retirement from a long and exceptionally distinguished career in public service, I join hundreds of thousands of Department of Defense employees, active and retired, military and civilian, in thanking you for the more than thirty-two years you have devoted to the Legislative and Executive Branches of government.

An Assistant Secretary of War for Air and as the first Secretary of the Air Force, you set the course for our youngest Service to become the finest fighting force of its kind ever. And, subsequently during four terms in the United States Senate, your work on the Aeronautical and Space Science, Joint Committee on Atomic Energy, Foreign Relations and Armed Services Committees has resulted in your active and intimate involvement in the national security needs of our country.

While you will be greatly missed in the 95th Congress and beyond, the Department of Defense and the nation will continue to benefit from the results of your leadership and direction.

I have been honored to know and work with you, will continue to value your friendship, and wish you good health and every happiness in retirement.

Sincerely,

DONALD H. RUMSFELD.

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UNIVERSITY OF GEORGIA,
*Athens, Ga., September 23, 1976.*

Hon. THOMAS F. EAGLETON,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR EAGLETON: I wish very much that I could be with you for the tribute to our mutual friend and colleague Stuart Symington. It was my privilege to serve with him in the Executive branch of the Government during the Truman Administration and throughout much of his distinguished service in the Senate.

We shall greatly miss Stuart Symington in our public life, but he takes away with him a full measure of respect, admiration and affection of all those who have served with him. When he was in agreement, he worked toward common goals with tireless energy and effective advocacy. When he was not in agreement, he was civilized but an equally effective opponent who did not let controversy inflict personal wounds or erode friendships.

Please express to him one citizen's deepest appreciation for what he has done for both the people of Missouri and the people of this beloved country of ours.

Sincerely yours,

DEAN RUSK.

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ST. LOUIS, MO., *September 27, 1976.*

Senator THOMAS EAGLETON,
*U.S. Senate,*
*Washington, D.C.*

Only prior commitments here in St. Louis make it impossible for me to join you and a few close friends of Senator Symington for a luncheon on Wednesday, September 29. It is with mixed emotion that I write this note. I am saddened that the Senator is terminating his days in the United State Senate, but happy that he has performed his many duties in such an exemplary manner, not only his outstanding work as one of the best of a long line of distinguished Senators who have come from Missouri, but his entire record of Government service will have a prominent place in the annals of history. It was my good fortune to have known Stuart and his beloved Eve for many years prior to 1952 when Stuart announced his candidacy for United States Senate. I was proud to be with him at the recent press conference when he announced that he would not run for reelection. The name of Symington is synonymous with good government, hard work, and integrity. I along with hundreds of thousands of fellow Missourians will miss him in the Senate, but all of us know he will continue to work to make America a finer place for generations to come.

Warmest regards,

SID SALMON, JR.,

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AMERICAN UNIVERSITY,
*Washington, D.C., September 23, 1976.*

Hon. THOMAS F. EAGLETON,
*U.S. Senate, New Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR EAGLETON: I welcome the opportunity to join with you and your colleagues to pay tribute to a great American, a great Senator, and a dear friend of long standing, Senator Stuart Symington.

In the last decade I have had an opportunity to work particularly closely with Senator Symington on foreign policy matters. As a key member of the Senate Foreign Relations Committee, he has reflected a deep interest and understanding of the issues involved. His understanding of the relationship between foreign policy and the security interests of the United States has been a profound one. His contributions to this end merit the deep gratitude of the American people.

I am sure that Senator Symington will continue to make his contribution to the welfare of our country in the days and years ahead.

Sincerely,

JOSEPH J. SISCO.

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SMATHERS, MERRIGAN & HERLONG,
*Washington, D.C., September 24, 1976.*

Hon. THOMAS EAGLETON,
*U.S. Senate,*
*Washington, D.C.*

DEAR TOM: I appreciate the opportunity of joining with you and your colleagues as well as the many friends of Stuart Symington in paying him this high and deserved tribute on the occasion of his voluntary retirement from the United States Senate. Having retired myself from the Senate in 1969 I cannot really say that I feel a great personal loss at Stuart's retirement from the Senate for in truth I expect to see more of him in the future than in the recent past. I do however stoutly aver that the retirement of Stuart is a great loss to the United States Senate, to the state of Missouri, and the United States of America. To state that Stuart has been a great statesman, patriot and a great benefactor to his state and nation is to repeat the obvious. Everyone who reads and follows the activities of their government know of his many and significant contributions.

The real loss will be felt by those colleagues who remain in the Senate and who will daily miss his wise counsel, his courageous and lucid statements and most of all his warm and valuable friendship. Stuart has as many friends as any man I know and I know of no man who is more deserving of a host of friends. I know Stuart will miss the United States Senate just as all of us who have proceeded him in retiring from the Senate miss it. But knowing of Stuart's boundless energy, his keen and sharp interest in efforts of the day and his overpowering desire to be of service will constitute the element which will make him a happy and useful man outside the Senate long into the future.

Again my thanks for this opportunity to again publicly express my admiration and affection for Stuart Symington.

Very sincerely,

GEORGE A. SMATHERS.

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WASHINGTON, D.C., *September 27, 1976.*

Hon. STUART SYMINGTON,
*U.S. Senate,*
*Washington, D.C.*

DEAR STUART: During the thirty-five years since I first had the good fortune to meet you, I have grown to value increasingly our treasured friendship that has developed and endured.

Yes, Stuart, as I recall the many occasions in which we have been so closely associated in matters of national and international concern, I more fully realize the extent to which we have collaborated through the years.

You have been an outstanding citizen and have taken an active and skillful part in affairs of great importance, beginning with your productive industrial leadership, continuing through your national participation in the executive activities for President Truman and the superb Congressional work that you have done as Senator. You have truly set a record of which you and all of us are justly proud.

I cannot adequately describe my heartfelt appreciation for the tremendous help that you have been in the organization and development of the Truman Scholarship Program.

My sincerest regret lies in the circumstances that lead you to decide not to continue your sorely needed good judgment and guidance in the Congress.

I am deeply grateful that it has been my privilege to have had and still have your unfailing friendship.

With warmest wishes for your continued health and wellbeing, I am

Faithfully,

JOHN W. SNYDER.

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### STATEMENT BY CONGRESSWOMAN LEONOR K. SULLIVAN

I am grateful to Senator Thomas F. Eagleton for permitting me as a Member of the House to participate in this manner in the tributes being given in the United States Senate to one of the greatest senators Missouri has ever had, Senator Stuart Symington.

We campaigned together as novice candidates for public office in 1952 and, after 24 years in our respective Houses of Congress, are retiring at the same time. During those years, I have called upon him many times to use his great influence and ability in the Senate to advance legislation important to the people of the Third Congressional District of Missouri, or to help right wrongs to constituents, and he never failed to respond to those requests with great energy and effectiveness.

Despite the demands upon his time as a leader of the Senate on defense and foreign policy issues, he has never been too busy or lacking in interest to pursue on the Senate side the consumer causes on which I frequently enlisted his support and for this, too, I am most grateful. He was one of the earliest and most persistent Senate supporters of the Food Stamp plan, along with Senators Hubert H. Humphrey, George Aiken, and the late Robert F. Kerr, during the years when the Eisenhower Administration fought the idea with all of its strength. He later played a major role in the enactment of the legislation to "outlaw hunger in the United States."

The Gateway Arch which dominates the St. Louis skyline as part of the Jefferson National Expansion Memorial could not have been built without the work of Stuart Symington in pushing the legislation through the Senate.

These are just a few of the many, many issues over the past 24 years on which Senator Symington's efforts and hard work I personally know to have been crucial to a successful outcome.

One of the proudest moments of my life was in 1960 at the Democratic National Convention when I was privileged to address the convention on behalf of Stuart Symington's candidacy for the Democratic nomination for President. I felt then, and have felt ever since, that he would have made one of the best Presidents in our history. He is a man of such unusual courage and integrity that, with his experience in business, government, and Congress, he would have provided us with the kind of leadership this country always needs in its President.

In four terms in the United States Senate he has won the respect of the entire Congress. He has also earned the thanks of every Missourian for a career of public service which has brought honor to the citizens of our State.

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### TRIBUTE TO SENATOR STUART SYMINGTON BY CONGRESSMAN GENE TAYLOR

Senator Stuart Symington's decision not to return to the Congress next year is sad news not only to the nation but the residents of the State of Missouri as well.

Our Senior Senator has been held in high regard by his constituents and colleagues. It has been my great pleasure to have worked constructively with the Senator on many projects for our state, in particular Prosperity Dam and Reservoir near Carthage, Missouri; the effort to prevent the closing of Richards-Gebaur Air Force Base in which he has displayed excellent leadership; and our joint effort to prevent the closing of Lambert Field in St. Louis.

It has also been my high honor to serve with Stuart on the Board of the Harry S. Truman Scholarship Foundation, which he was instrumental in creating as a living memorial to our former President in which young Americans desiring to prepare themselves for public service will receive financial assistance to the college of their choice.

But Stu Symington was also a man with a national view, having served successfully as Chairman of the Surplus Property Board; Assistant Secretary of War for Air; Secretary of the Air Force; Chairman of the National Security Resources Board and Administrator; Reconstruction Finance Corporation.

In Washington, he earned a reputation for hard work, honesty, and a most effective legislator, receiving the respect and commendation of seven Presidents.

Personally, I knew him as a kind and generous friend to whom I can give my utmost respect. I sincerely believe both the Congress and the Country will miss his services, which extended through four Administrations.

He was first, last, and always a public servant. All of us owe him a vote of thanks. I surely wish him well in whatever the future holds for him.

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WASHINGTON, D.C., *September 28, 1976.*

HON. THOMAS F. EAGLETON,
*U.S. Senate.*

DEAR SENATOR EAGLETON: Your kindness in inviting me to participate in the tribute to Senator Symington is greatly appreciated.

I have been privileged to know Stuart as a friend for over thirty years. I owe him a great debt of gratitude for his part in the shaping of my own career.

Undoubtedly, he will be remembered most for his long and effective service in the Senate. But I hope it is understandable that my most vivid recollections of Stuart are as an administrator in the Pentagon during the five years I worked for him. As I look back at those years the number and magnitude of his accomplishments are remarkable.

His leadership was effective in bringing to the Air Force maturity and management skills badly needed by the young organization. He led the fight for the creation of a unified Defense Department and an Air Force co-equal with the older services. He played a key role in rebuilding the Air Force as a fighting arm after the havoc of demobilization following World War II. And, characteristically, he worked to better the life of the people of the Air Force. He fought for and achieved better housing. And—perhaps one of his most lasting accomplishments—he insisted upon and achieved racial integration in the Air Force against the advice of so many who said it was impossible.

Working with Stuart as an administrator was an exciting and educating experience. He made things happen through his skills as a leader, his complete understanding of the working of government, his personality and, above all, his character and integrity.

These, of course, are the qualities that have brought him such distinction throughout his career. It is a source of real regret that he has decided to leave the Senate. I hope that as he undertakes new activities, he will derive merited satisfaction from the esteem and affection in which he is held by so many.

My every good wish to Stuart and, again, my appreciation to you. With high regard.

Sincerely,

EUGENE M. ZUKERT.

Mr. EAGLETON. Mr. President, I thank all my colleagues for their participation here this morning.

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## TRIBUTE TO SENATOR SYMINGTON AND SENATOR PHILIP A. HART

Mr. PASTORE. Mr. President, I had to visit Rhode Island last evening and returned by plane this morning and arrived at the Capitol after the time allotted for the tributes to STUART SYMINGTON and PHIL HART. That time already had expired.

I realize that we are authorized to place in the RECORD within 10 days tributes that we desire to make. But in this particular case, I would never forgive myself and I would regret the passing of this moment if I did not rise and say a word spontaneously, from my heart, for two men whom I have grown to love, admire, and respect, not only as colleagues in the Senate of the United States but also as great men.

The question may be asked: How do you measure the greatness of a man? That question can have a myriad of answers. However, to me, the great men are those who love and respect their families, who live in decency and integrity, and have the facility and the faculty of making warm friends, friendships which endure as long as we have the breath of life in our bodies.

I talk first of STUART SYMINGTON. STUART SYMINGTON came to this Government after his success in business and served this Nation in the administration in various capacities, especially as a Cabinet member to Harry Truman, who was a fellow Missourian.

To me, STUART SYMINGTON is a close and intimate friend. He serves with me on the Joint Committee on Atomic Energy. He and I have been concerned over the years in the unconscionable proliferation of atomic weapons and what this might do to mankind should a holocaust take place. I know of his intimate knowledge with reference to nuclear matters. I respect his advice and his judgment on all occasions.

However, the one thing about STUART SYMINGTON that I will carry with me as long as I live is his love and his devotion to his dear, beloved late wife, Evie. I have on my desk a booklet of things that were written by his wife before they were married and after they were married, sayings which were put together by his two sons, intimate sayings. It demonstrates in one breath the depth of this man's love for his family and his dear wife.

I know that he leaves the Senate together with me at the end of this session, and as he does so, I want STUART SYMINGTON to know that I shall always remember him as a dear friend and wish him many, many more years of good health and happiness.

Now I turn to my dear friend PHIL HART. I often have wondered why PHIL HART did not pursue the ministry. To me, he is a pious man. There is something about PHIL HART that has an element of intellectual purity that is hard to find in most individuals.

I know that this a rather strong description, Mr. President, but I am motivated in doing so because I have such a strong, warm feeling for this man, who has served in the Senate for many years and has done so honorably. He has been characterized as being the conscience of the Senate, which typifies the character of this great man.

He is suffering from an illness now, and we all are apprehensive. I recall meeting him not too long ago, and he said:

> John, say a prayer for me.

From that day forward, I have been praying for him every night. I hope that some miracle will take place so that the Lord will spare him for a longer period of time.

PHIL HART, to me, is the personification of a noble person, and I want him to know that I shall remember him, too, as long as I shall live.

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## TRIBUTE TO SENATORS PHILIP A. HART, FANNIN, FONG, HRUSKA, SYMINGTON, PASTORE, HUGH SCOTT, AND MANSFIELD

Mr. MORGAN. Mr. President, I would like to add a few words of tribute to those that have been spoken in regard to our retiring colleagues. As one of the newest Members of the Senate, I have not enjoyed the benefits of their wisdom for as long as others, but I feel that I can call each of them a friend since they did so much to make me feel welcome from my very first day in the Senate.

HART, FANNIN, FONG, HRUSKA, SYMINGTON, PASTORE, HUGH SCOTT, and MANSFIELD. These are names that have become more than just names.

Somewhere along the way, they became national monuments. To those of us who arrived in the Senate after greatness had already chosen these men, they were a bit intimidating. To my surprise, I found that national monuments could also be very warm and kind gentlemen. They soon became to me, PHIL, PAUL, HIRAM, ROMAN, STU, JOHN, HUGH, and MIKE.

The Nation, I look to them as examples to be emulated—in their politeness, their understanding, and their genuine concern for the American people.

It is interesting to notice that among these retiring Senators, there is a microcosm of the diversity that made this country great.

Here we have two adversaries, HUGH SCOTT and MANSFIELD, leaders of the opposing political parties, whose personal respect for each other is a reflection of the cherished American principle that men of reason have a right to disagree, and that from disagreement, consensus and compromise can be forged.

Here we have STUART SYMINGTON, who has stood so strongly for the defense strength of America—a man who rose from private to lieutenant in 1 year during World War I, and later served as our first Secretary of the Air Force. He started his career as a machinist's apprentice, and continued it to become a master of the machinery of government.

My good friend, PHIL HART, was wounded at Utah Beach during the D-Day invasion and later fought in the Senate just as gallantly for civil rights and for the rights of American businesses to be free of the unfair restraints of trusts and monopolies.

ROMAN HRUSKA, whose parents were Czechs, HIRAM FONG, the first Chinese-American, and JOHN PASTORE, the first Italian-American in the Senate, represent the inclusion of the diverse peoples and those of humble beginnings into the American system of government.

And PAUL FANNIN, who was born in Kentucky, but grew up in Arizona in the days before it was a State, is a reminder of the pioneering spirit that made America great.

I have learned a lot from these men, and the Nation owes much to their labors. They are an example to our children, and an inspiration for our third century of freedom. Their leadership will be missed, their humor, candor, and gentility are already legendary.

Like our other national monuments, however, their greatness lies not in themselves, but in what they represent: devotion to their country, service to the people, and a legacy to history.

When they are gone from our debates, and absent from our deliberations, their example as statesmen will live on.

I am grateful to have had the opportunity to serve with them, and I will miss them.

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## TRIBUTES TO SENATOR PHILIP A. HART

Mr. GRIFFIN. Mr. President, as we say our "farewells" this week to colleagues who are retiring from service in this body, I find there is none more difficult for me than to say farewell to our friend and my senior colleague, Senator PHILIP A. HART.

When I think of PHIL HART, words come to mind like gentleness, kindness, compassion, integrity, intelligence, dedication, modesty—and, above all, courage.

Being of different political parties, PHIL HART and I, to be sure, have had our political and philosophical differences over the years. But I can say, Mr. President, that never have we had a personal difference.

The relationship between us has been among the best of any pair of Senators from any State. This has been a pleasant relationship for the two of us—and it has also been a good relationship for the State of Michigan. Of course, that is what each of us came here to do—to do the best that we can in our own way for the people of our State.

Sometimes, I have kidded PHIL HART about his only "fault"—being a Democrat—and how, single-handedly, he set back the cause of women's rights in Michigan by 12 years when he twice trounced able, well-qualified Republican women candidates who ran against him in 1964 and 1970.

But it was no accident that Michigan voters, three times, by substantial margins, sent PHIL HART to the Senate.

In his tenure here, he has left a lasting mark, both on this body and on the Nation.

His work—often done quietly and behind the scenes—has touched the lives of every American. Whether in civil rights, consumerism, antitrust, or the issues of war and peace, he has provided leadership that has well earned him his undisputed place as the conscience of the Senate.

We pay tribute to PHIL HART because we love and admire him. Above all, we admire his courage—not just the courage of his political convictions over a quarter-century, but for his personal courage over this past year.

As a mark of the esteem of his colleagues in this body, the Senate has taken two actions in recent weeks to name buildings in his honor: One, our own New Senate Office Building here in Washington; and the other, even closer to his heart, the Visitors Center Building at the Sleeping Bear Dunes National Lakeshore in northern Michigan, for which he worked so tirelessly to make certain that future generations will enjoy the beauty of that area.

Mr. President, I do not know how many colleagues will be able to come to the floor this morning. I do know, however, that many of them, in their own way, paid tribute in a direct and personal way last week. I refer to a gathering initiated by his seatmate, Senator ED MUSKIE. Initially, it was to be a small gathering of the members of the Committee on Public Works and the leadership with PHIL HART. Then, as word spread through the corridors such a meeting was to be held, more and more Senators stopped by. As a result, the meeting grew larger and larger, and had to be transferred from its original place, the majority leader's office, to a larger area on the third floor.

The room filled to capacity. It got to the point where there were not enough seats, many Senators were standing and some sat on the floor at this unannounced meeting for PHIL HART. The occasion was originally arranged in order to show PHIL the architects' drawings and various pictures of the Senate office building-to-be that will bear his name.

It was a very friendly, informal meeting. It was a moving experience; a wonderful opportunity for many of his friends and colleagues to speak from their hearts to PHIL.

Will Rogers once observed that, "Heroes are made every little while, but only one in a million conducts himself afterwards so that it makes us proud that we honored him at the time."

PHIL HART is such a hero. We are proud to know him, and to have had the opportunity to honor him. Indeed, it is he who has honored us by his friendship and inspiration.

Needless to say, PHIL HART will be missed very much in this body. I extend to him and his wife, Janey, and their fine family, my very, very warm best wishes.

I yield now to the distinguished minority leader.

Mr. HUGH SCOTT. Mr. President, I thank the distinguished assistant minority leader. It is no coincidence, I think, that the beginning of what will be many tributes to our beloved colleague, PHIL HART, comes from the leadership on the minority side of the aisle, because admiration for PHIL HART knows neither bounds nor boundaries. Our efforts will always fall short of the full expression of the regard in which PHIL HART is held within and outside this body.

I am sure that if he were sitting here, it would be a matter of acute embarrassment for him to listen to us, because he has always been generous in his praise of others and has tended to avoid similar praise of himself. I think we have all been emotionally enormously moved by his courage and by his unconquerable placidity in a time of trial for him, by the way in which he has steadily and courteously and considerately, and with total application to objective, pursued those legislative goals to which he has been committed by reason of the warm sensitivity of his nature; by reason, too, of his long-held commitment to his concept of what is just and right and fair and beneficial to the people of this Nation.

I have worked with him in the Committee on the Judiciary and on other matters of legislation for a number of years. It has been a joy to work with him because, whenever there was a disagreement, there has always been a sense of an attempt at a meeting of the minds and of an understanding of the views of others. In the long effort to enact the Hart-Scott antitrust legislation, he has been patient almost beyond understanding in working out the great complexities of that type of legislation.

I speak without knowing whether the President today will sign or veto that measure. Obviously, I hope, not only for the sake of PHIL HART and myself as authors of it, but for the sake of those who can benefit from its provisions, that the President will determine to sign it.

I can only speak for myself, and yet, in the same sense, I speak, I think, for all of us: We wish for PHIL HART to know and to feel, as I am sure he does, the warmth, the devotion, and the genuine love which goes from us to this remarkable man, for whom accolades are not routine, for whom praise is sincerely meant, for whom recognition of his character is universal, for this unique person who has exemplified all that is best in the legislative world and all that is best in the great institution of the Senate. We regret his retirement. We honor his decision. We wish for him the very best which Providence may grant.

I close with the words of Richard LeGalliene, of perhaps 50 years ago:

> I would make a list against the evil days of lovely things to hold in memory.

All of us will hold in memory so many lovely things about PHIL HART.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. GRIFFIN. Yes; I yield.

Mr. JAVITS. Mr. President, I speak this morning with deep feeling and with some emotion about the imminent termination of the career in the Senate of PHIL HART, a three-term Senator, an unbelievably wonderful human being and a man of really priceless value to his country. He has been marked as one of those in the Senate whose honesty is simply beyond question or challenge, and I would like to subscribe to that.

His passion for our country and its best in terms of its quality and character is legendary, and his service to our country, especially in the field of civil rights and civil liberties, is truly historic and of truly grand proportions.

I can testify as a witness to the worth of PHIL HART in a rather unusual way. From the moment I came here, and from the moment he came here when I was already here in the Senate session of 1959, I worked very closely with him, first under the aegis of the joint activity of the beloved, indeed revered, Senator Paul Douglas in heading sort of an informal, bipartisan steering committee in the civil rights struggles of the late fifties and sixties, characterized by what was done about rule XXII, the so-called filibuster rule of the Senate, and what was done about civil rights laws, which started just about the time PHIL HART came here to the Senate.

I found him a man of extraordinary devotion to the Constitution; a man of deep compassion and understanding, whose understanding encompassed in a most unusual way and a warm and human way the feeling of those who were violently—sometimes violently—but generally strongly against us in respect of the civil rights laws and revision of rule XXII.

I think it was that which made him so effective because you did not have to have a diagram from PHIL HART about how he felt. You knew when you dealt with him he understood your point of view as well as you did, and that he accommodated his understanding in his advocacy, which was again the mark of a man of rare wisdom as well as rare personal character.

We all know the deep feelings that PHIL has on leaving the Senate. Senator HUGH SCOTT so tastefully and so graciously, as did Senator GRIFFIN, his colleague in the Senate from Michigan, spoke about our most recent meeting in connection with presentations to him to commemorate the honor of naming our new Senate office building for PHIL HART.

I would like to emphasize I think there must have been a minimum of 35 Senators there. I have rarely seen such emotion displayed by men under any circumstances, let alone these particular circumstances, and certainly of sophisticated and seasoned public leaders like Senators.

PHIL drew this out of us by his own attitude and the great humility which he shows in the face of his own affliction, the unbelievable understanding of himself, and the unwillingness to put his own emotions on parade, which is so utterly characteristic of the man, so that all one can say is here is truly a man who is himself as he looks at himself in any mirror. He is what he knows himself to be, which is probably the highest tribute one can pay to personal character.

If the Greek expression "Know thyself" has validity, and I believe it has, I know of no greater exemplar of his validity than PHILIP HART of Michigan.

Mrs. Javits and I bespeak for him and Jane, and for his wonderful family, every good wish for the future. He has truly earned any reward our country can give him, the thanks and appreciation of every American, indeed of every member of the human race.

(Mr. CULVER assumed the chair at this point.)

Mr. EAGLETON. Mr. President, I ask for 2 minutes with respect to the tributes to Senator PHIL HART.

Mr. President, I came to the Senate in December of 1968.

I think it was, perhaps, in mid-1969, if I recall the time correctly, when I was interviewed by a journalist for one of the national newspapers. In the course of that interview the journalist asked me, "How would you like to be judged as a U.S. Senator?"

I said—it just came off the top of my head—"Well, if they would say of me I was half as good a Senator as John Sherman Cooper of Kentucky or PHIL HART of Michigan I would consider myself to be a damn good Senator."

That was in 1969, and here we are in 1976, and my judgment insofar as how I would like to be judged—not that I will ever be so judged—remains the same. John Sherman Cooper, of course, has retired from this body and is the distinguished U.S. Ambassador to East Germany. At the end of this year PHIL HART will retire from this body.

Senator JAVITS has just spoken very movingly of the ceremony that was held a few days ago in which 30 or more Senators presented an artist's drawing of the proposed Phil Hart Senate Office Building to our beloved colleague.

At that lovely ceremony and again here in this tribute ceremony today, words are so terribly inadequate to describe PHIL HART.

PHIL HART—his character and his spirit—are so above the traditional norm that it is almost impossible to put one's thoughts into language. I do not think any of us in this body will ever forget this man. I think all of us have been very, very lucky men to have been here in the time of PHIL HART. He is a man of quiet grace. He is a compassionate man. He is a man who sees only the very best in people, including people he may oppose or with whom he may philosophically disagree.

So I say to my colleagues would that it could be said of us *x* years from now when our senatorial careers are coming to a conclusion that we were half, a third, even a tenth the person of PHIL HART of Michigan.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may require to the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, after 34 years as a Member of this body, I have accumulated many memories of former colleagues. The passing years invariably dim the recollection even of those with whom one had special bonds of regional origin, political philosophy, or legislative goals. No such links have existed between PHIL HART and myself. Yet I shall not require seeing his name on a building plaque to recall his illustrious career in the Senate.

The many legislative achievements of the senior Senator from Michigan have already been recited by others. But perhaps PHIL HART's greatest contribution has been the personal qualities he brought to our proceedings.

Some of those exceptional qualities are reflected in the rocklike commitment to his convictions, tempered by respect for the opinions of those who have disagreed with him;

By the infinite patience that we all admire in him and yet find so difficult to emulate;

He is one of the most gentle and considerate men I have ever known;

By the compassion that he has displayed in his consideration of public issues and in personal relationships;

By the attention to detail which he manifested in the operations of the legislative process, particularly in the work of the Committee on the Judiciary;

And finally, in the example of personal courage in adversity that he has given to all of us. He shall be remembered by all of us for these and other marvelous qualities.

Mrs. McClellan joins with me in wishing PHIL and Jane comforting contentment and continuing happiness in their retirement years.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 2 minutes.

Mr. President, few men in the history of the United States have gained the affection and personal regard PHILIP HART of Michigan has received as a Member of the U.S. Senate.

His idealism, compassion, personal courage and graciousness have justly obtained for him the designation which is often referred to as the conscience of the Senate. He will be sorely missed when he leaves this body.

PHIL HART received his education at two of our finest universities, Georgetown and Michigan. After serving in the Army in World War II, he returned to Michigan to pursue a career of public service at the State and local levels. After serving as the lieutenant governor of Michigan he was elected to the Senate in 1958 and has been reelected twice since then.

He has achieved an enviable record for legislation while serving as a Senator. He has impressed a deep confidence in our system of Government and in our economic system. As a result, he has sought actions that would curb unfair competition in business and would promote the interests of consumers in the market. He, more than anyone else, is responsible for the antitrust legislation which passed the Congress this year. That legislation is the first antitrust legislation of considerable moment to pass the Congress in a generation.

He has supported efforts that would protect the rights of majorities as well as the rights of minorities. He has been active in promoting civil rights legislation as well as those bills which would make citizens safer from crime and disorder. He has been especially active in supporting legislation to solve the urban crises that have confronted this Nation in recent generations.

His judgments have been characterized by vision, compassion, and experience.

The Senate has already acted, deservedly and appropriately, to honor PHIL HART by naming a major new building after him. But the monument that he himself has built in our hearts and in the minds of the people of the United States is one of the most prominent ever erected.

Mr. President, it is not within the capacity of every man to engrave his name upon a plate of bronze, but it is within the capacity of every man to so live and to so deal with his fellow men as to plant an ever-blooming flower in the hearts and breasts of those who know him. Such a man is PHIL HART. He retires from this body with our respect, our admiration and our love.

Mr. ALLEN. Will the Senator yield me 3 minutes?

Mr. ROBERT C. BYRD. I yield 3 minutes to the Senator from Alabama.

Mr. ALLEN. Mr. President, news of the impending retirement of the Honorable PHILIP A. HART of Michigan, at the close of the current session, has been received with mixed emotions by his many friends and admirers. There is a sadness over the imminent loss of a great Senator, yet a sadness mingled with understanding.

In the manner of the conscientious citizen he so clearly is, Senator HART has chosen to step down in the belief that younger blood may better serve the very purposes to which he has devoted his political and physical energies over the past 18 years.

Senator HART started his career in public service in 1949 when he became Michigan Corporation and Securities Commissioner. In 1951 he became Director of the Office of Price Stabilization of Michigan and in 1952 was appointed U.S. District Attorney of eastern Michigan. He was legal adviser to Gov. Mennen G. Williams from 1953 to 1954. In 1954 he was elected lieutenant governor and was reelected in 1956. He was elected U.S. Senator in 1958 and was reelected in 1964 and 1970, and unquestionably would have been reelected again had he chosen to offer himself for another term in the U.S. Senate.

The peak of Senator HART's career has been achieved as chairman of the Judiciary Subcommittee on Antitrust and Monopoly, from which vantage point he has been able to dedicate his energies to working for America's consumers. Perhaps his most cherished achievement is authorship of the Antitrust Amendments Act of 1976 just passed by the Congress.

I might state parenthetically that I opposed with all the vigor at my command the enactment of this law. Unquestionably, without Senator HART's leadership and the high regard of the membership of the Senate for Senator HART, this bill would not have passed the Senate and would not have been enacted into law.

Also well known as a friend of the national ecology, he has on two separate occasions served as chairman of Commerce Subcommittees on the Environment and the Great Lakes Transportation System.

I was privileged to sponsor a resolution passed recently by the Senate designating the extension of the Senate Office Building as the "Philip A. Hart Office Building." At that time I expressed my admiration for Senator HART, noting that he is a gentle, loveable, and loving man. At the same time he is dedicated and determined and strong, certainly a man of unquestioned honor and integrity, and a man who is admired and loved by his colleagues and by all who know him. He has reflected credit upon his State and upon the Nation and he is, I believe, one of the most beloved Members of the U.S. Senate.

While I have often disagreed with Senator HART on many issues which have come before the Senate, I am in 100-percent agreement with those who contend that he is one of the most articulate, effective, and successful Senators ever to serve in this body. He has represented his State in a wise and energetic manner and he will be greatly missed by the people of his State, the Members of the Senate, and the Government in general.

It gives me much satisfaction, at this time, to express my heartfelt admiration for the remarkable Senator PHILIP A. HART of Michigan, whose ideals and performance in office merit the respect of everyone concerned for our success as a nation and the fulfillment of our destiny as a people.

Mr. BUMPERS. Mr. President, like the Senator from Rhode Island (Mr. PASTORE), I was not able to be on the floor while the tributes to our distinguished colleague, Senator HART of Michigan, were being delivered. First, I thank the Senator from Florida for relieving me in the Chair to allow me to make a few extemporaneous remarks about Senator HART.

When I came to the Senate, I replaced a man who had been revered and held in great esteem by many people in this Chamber, and, I sometimes think, especially by Senator HART. Further, my observations of Senator HART at a distance, and without knowing him, had led me to believe that, completely aside from that, we would not be friends. That, of course, shows how far from the real mark perceptions of people, who do not have the opportunity to know personally Members of this body and Members of the House, can be.

I am not an intimate, close friend of PHILIP HART. I have known him here almost totally professionally and as a colleague. But my observations of him and in that relationship tell me that he is one of the greatest men ever to serve in this body.

I heard our distinguished majority leader in the Democratic conference say one day, over a year ago, that he was probably the best Senator in the U.S. Senate. Everything I had observed up to that time, certainly everything I have observed since that time, would bear out what the majority leader said.

Like Senator PASTORE, I pray for my good friend. I hope he will be spared, for his name, which has been used so much in the last few months, is the personification of what he is, a man of great heart.

I do not believe Senator HART ever cast a vote that was not in keeping with his conscience. I have heard it said in the cloakroom that he never walked to the well of the Chamber to see how the vote was going, that he made up his mind before he got here. There are those, perhaps, in this body and in Congress, who are justifiably accused of voting their mail, who count the number of letters pro and the number of letters con and vote accordingly.

But PHIL HART, a man of immense conscience and heart, I believe, never cast a vote except in keeping with his conscience and his heart.

Mr. HOLLINGS. Mr. President, on the

occasion of Senator PHIL HART's retirement from public service, I am going to do something I think my colleague from Michigan would like. I am going to be brief.

I will not comment on his long service to his country, his impact on Government, his effectiveness in Washington for his constituents. That story is well known to all of us.

I would, however, like to remind this body for a moment of the remarkable person that PHIL HART has been. He has been a gentle and sincere man in a town where those qualities are not abundantly in supply. He has been genuine in his concern for others, at a time when such a trait of character has often been greeted with cynicism. He has shown warmth and love, at a time when many among us are too self-conscious to display those feelings.

We are all better people today for having known PHIL HART.

And I thank him for that.

Mr. CANNON. Mr. President, I am pleased to have this moment in which to share in the tributes being paid to Senator HART who is retiring at the end of the 94th Congress.

PHIL HART and I came together to the Senate in the class of 1958. Since that time we have served together on the Commerce Committee. In our work together there, I have especially valued our association on the Subcommittees on Aviation and Consumer Affairs.

He has been the author or cosponsor of almost every major piece of consumer legislation enacted by Congress, beginning with the Drug Safety Act of 1962. He wrote the Truth-in-Packaging Act of 1965, and was cosponsor of the Truth-in-Lending Act, enacted the following year.

Other consumer items first brought to national attention by PHILIP HART include:

The fragility of the modern auto, with designs that allow a 5-mile-an-hour crash to do an average of $200 in damages.

The health hazards of diet pills.

The threat to patients' pocketbooks when doctors have a financial interest in pharmacies.

The unreasonably high cost of our present auto insurance system and the inequities of sudden cancellations.

The fact that little-known Government restrictions on the importation of cheap foreign oil was adding about 5 cents to the price of a gallon of gasoline.

As chairman of the Senate Environmental Subcommittee, PHIL HART's talents and understanding of one of the 20th century's most pervasive problems have been invaluable. His research into an almost obscure law, the Refuse Act of 1899 has had a positive effect upon our Nation's ability to keep our waters clean.

Senator HART has led in efforts to lick the problems of racial bigotry and the onslaught against our civil liberties. He helped insure the open housing section in the Civil Rights Act and worked hard for passage of the Voting Rights Act as floor manager and chief strategist.

I have been particularly impressed by his work on the Select Committee on Nutrition, when he consistently fought to expand the Nation's school lunch program to provide young students with the nutrition they need to keep their minds and bodies active and alert.

These are but a few notable examples of the reasons we in the Senate shall miss the presence of this man of humanitarian concern, environmental sensitivity, and world outlook.

While we have not been in complete agreement on each and every issue facing this Nation, I know that our colleagues are united in respect and friendship for PHIL HART.

Mr. McGOVERN. Mr. President, I wish to associate myself with the expressions of praise we have heard today for the wise, gentle, and fearless man from Michigan, Senator PHILIP A. HART. Upon his retirement, the Senate will lose one of its most thoughtful, decent Members and the American people will lose a powerful advocate for the rights of the ordinary citizen against the claims of entrenched privilege.

Many remarkable individuals have served in the Senate in the time I have been privileged to be a Member. But I can think of few in this or any other body who can match PHIL HART in his quiet passion for simple justice and fundamental human rights—what Walter Lippmann once called the elemental virtues which "alone can guide us through the complications of our days."

Mr. President, for 18 years, PHIL HART has brought these elemental virtues to bear in his legislative work and in his dealings with his colleagues. He is the kind of man who will examine all sides of an issue and carefully evaluate the arguments of those with whom he does not agree. When he reaches a conclusion, however, he pursues what he believes to be the right with steely tenacity. This quiet, conscientious man is the architect of major changes in antitrust law, which will play an important role in shaping our economy for years to come. For years, he has spoken out for the disenfranchised and the friendless, against arrogant corporate and government power and against attempts to make outcasts of our young people and to punish the poor for the fact of their poverty.

Mr. President, PHIL HART is one of the great and noble men of our time. I am proud to have had the opportunity to know him, to work with him, and to benefit from his wise and generous spirit.

Mr. PELL. Mr. President, when the Senate passed Senate Resolution 525 on August 30, 1976, designating the extension of the Senate Office Building presently under construction as the "Philip A. Hart Office Building," I was proud to join with so many of my colleagues in cosponsorship. That day was a proud one indeed for the U.S. Senate, because it enshrined the memory of a man future generations will seek to emulate for his courage, his honesty and, of course, his kindness.

Those who look back over these times will remember PHIL HART regardless of whether his name adorns a Senate office building. His legislative record speaks for itself. He was the leading Senate proponent in the important area of civil rights back in the days when civil rights legislation was just beginning to gain public backing. His arduous labors for effective antitrust enforcement have come very close to fulfillment as H.R. 8532 now sits on the President's desk awaiting signature. His efforts on behalf of American consumers are legion. Environmental legislation would not be where it is today without PHIL HART.

As we can see from this impressive list of legislative triumphs, involving some of the most controversial and important questions of the day, PHIL HART has not shied away from issues because they were difficult. He has met them head on and he has prevailed. Yet for all his active involvement, he has not sought the publicity or exposure attendant to such involvement. I know how much I shall miss him and his excellent judgment and warm friendship. He is a quiet man who by the sheer force of his character is a truly great man.

I am deeply pleased that the Senate has seen fit to memorialize one of its Members for his character, honesty, courage, and integrity. Let us hope that this act serves as a precedent for future years. PHIL HART could have no finer tribute.

Mr. SYMINGTON. Mr. President, we know the importance of integrity in any public servant. No official in our history ever had more than PHIL HART.

We hear much about the importance of faith. PHIL HART is faith.

Wise, extraordinarily courageous, but withal courteous and tolerant, respected by everyone who knows him, not only the Senate but all people of all nations will miss the quiet expression of PHIL's thinking and convictions. They have meant a very great deal to Michigan, to this country, and to the world.

Mr. PERCY. Mr. President, this week will mark the end of an active and distinguished Senate career for our good friend, PHIL HART. In the 18 years he has spent in the Congress, this Nation—and the world—have experienced profound change. Of those changes which we have been fortunate to have within our control, many bear the distinctive marks of the Senator from Michigan.

His work in antitrust matters is well known. As a midwestern Senator, he has long shared with me an interest in the future of the Great Lakes. Together we consponsored a package of bills to make public buildings more accessible to the handicapped, and to enhance the employment opportunities for our handicapped citizens. In short, his interests and achievements span a multitude of issues, a reflection of his intellectual dexterity and genuine grasp of the most complex of ideas. In particular, I shall remember him for his judicious guidance and characteristic eloquence during the very difficult debate in the Senate several years ago concerning capital punishment. The calmed and reasoned influence he brought to that discussion will be missed in future Congresses as we tackle other emotional and far-reaching questions.

No commentary on Senator PHIL HART can be closed without mention of his strength of character and devotion to principle. He was not afraid to be in the minority nor did he allow the shifting winds of day-to-day politics to cloud his perceptions of what was right. I shall remember him to the end of my days as a man of conscience, and as the embodiment of the words of Winston Churchill:

> The only guide to a man is his conscience; the only shield to his memory is the rectitude and sincerity of his actions.

He has left us a legacy of honor whose preservation is the only tribute he would want.

Mr. INOUYE. Mr. President, the sense of fellowship I share with Senator PHILIP A. HART extends far beyond our service together in the U.S. Senate. I first met Senator HART at Percy Jones Army Hospital in Battle Creek, Mich., where we were both recuperating from World War II injuries.

Although I knew him only slightly at the time and certainly did not realize that we held similar political aspirations, a bond of mutual respect and understanding developed from this common experience in the hospital which the years have not erased.

Senator HART's career of public service is long and distinguished. Trained as an attorney, he has used his legal skills to improve the quality of life and protect the civil liberties of the average citizen. His first position in Government was an appointive office, that of State Corporations and Securities Commissioner. He also served as lieutenant governor of Michigan under his mentor G. Mennen Williams before being elected to the U.S. Senate in 1958. Since first coming to Washington, D.C., Senator HART has been concerned with consumer protection issues; he has authored or cosponsored almost every major piece of consumer legislation passed by Congress. The Drug Safety Act of 1962, the landmark Truth-In-Packaging Act of 1965 and the Truth-In-Lending Act of 1966 are among his credits.

Senator HART has also fought untiringly for antitrust reform. As chairman of the Antitrust and Monopoly Subcommittee of the Judiciary Committee, he organized hearings to take a thorough look into the pricing of such important consumer items as drugs, school books, and automobile insurance and repairs. His investigations uncovered the health hazards of diet pills, exposed an international cartel that was illegally rigging the price of the heart drug quinidine, and brought to light a national, price-rigging conspiracy in school books. In each instance, Senator HART's work to focus public and Government attention on the situation has all but eliminated the problem.

As chairman of the Senate Environmental Subcommittee of the Commerce Committee, Senator HART's contribution has been equally outstanding. For example, in company with Congressman HENRY S. REUSS, he resurrected the Refuse Act of 1899, an all but forgotten law that prohibits the dumping of industrial wastes and most other solids without a permit. The Refuse Act is today one of the most powerful weapons in our antipollution arsenal.

Senator HART has been a leader in the field of civil rights legislation as well. Beginning with his work as one of Senator HUMPHREY's four lieutenants during passage of the 1964 omnibus civil rights bill, Senator HART has worked to help our Nation's minorities receive the equal treatment under the law which they deserve, especially in the areas of housing and voting rights.

Our venerable majority leader Senator MIKE MANSFIELD has been quoted as saying that he hopes historians will take note of Senator HART's achievements because the Michigan Senator "so often prefers to leave the glamour and glory to others as long as the result is right." I, for one, do not believe that Senator MANSFIELD has to worry. For not only will history remember Senator HART as a champion of the people, but the people themselves are aware of the debt they owe to this extraordinary man's dedication to the humanitarian ideals embodied in our Constitution.

We in the Senate paid our own small tribute to Senator HART when we voted earlier this month to name our new office building for him. His gentle, self-effacing manner and ironclad integrity set the highest of standards which all of us could admire and hope to emulate.

As father of eight, I have heard that Senator HART told his children simply, "Follow your conscience." It is no accident that Senator HART's admiring colleagues refer to him as the "conscience of the Senate."

Mr. FANNIN. Mr. President, PHILIP HART's departure from the Senate is a loss to his colleagues as well as to his country. He is one of the Senate's gentlemen in a truly old-fashioned way, a believer in the institution of the Senate and a loyal defender of its traditions.

Although over the years Senator HART and I have differed on some issues, I have always respected his integrity and his resolute adherence to what he believes to be right.

Those of us who have observed him conducting hearings have expressed admiration at his low-key, dignified, and effective leadership.

His leadership ability can also be seen in his efforts to preserve the natural beauty of his home State of Michigan. Principally through his endeavors, 142,000 acres of Federal parkland have been created there. Also, through his efforts, the 63,000-acre Pictured Rocks National Lakeshore and the 61,000-acre Sleeping Bear Dunes Lakeshore were made into national parks by Congress.

Senator HART was also a key figure in the move to obtain Federal matching funds for the Coho salmon planting program that is restoring the Great Lakes for sports fishing. Surely, the people of Michigan, travelers from other States, and all those of us who enjoy the great outdoors, feel gratitude for his efforts each time they camp out or merely meander through one of these preserves of natural beauty.

Let me, Mr. President, express my deep hope that Senator HART is aware of the respect he has earned from all his colleagues over the years. We have all felt privileged to have had the opportunity to work with him.

Mr. PEARSON. Mr. President, when the Senate convenes for its next session, it will be without one of its most respected and most inspiring Members. After 18 years of service, Senator PHILIP A. HART is leaving the Senate. But we can be sure that his talent and energy will continue to wage war on the important social problems of our time. For Senator HART, only the battleground is changing.

We all shall miss the inspiration of his dedicated service and his humanistic approach to Government, where the concerns of the citizen are paramount. His reasoned activism has spanned some of the stormiest years of America's recent history, and his accomplishments reflect his determination to quell the turbulence. From his efforts in support of the Voting Rights Act of 1965, to his advocacy of consumer-oriented legislation, to his involvement in the preservation of our environment, Senator HART has demonstrated an effective blend of morality, humanity, and practical politics. We have not always agreed. But I have never doubted that fairness and honesty are his tools of leadership.

In the last analysis it must be said of Senator HART that through his gentle, often understated style he has raised the level of the art of governing. In my opinion, a politician can make no greater contribution.

In saying farewell to my friend and colleague, I am reminded of something once said by a man both Senator HART and I respected very highly. Robert Kennedy said:

> An honorable profession calls forth the chance for responsibility and the opportunity for achievement; against these measures politics is a truly exciting adventure.

I take this opportunity to thank Senator HART for making the adventure a more meaningful one for us all.

Mr. HATHAWAY. Mr. President, PHILIP A. HART, the senior Senator from the State of Michigan will be retiring from the Senate—and public life—at the end of this session of Congress.

His accomplishments here are many and significant, but the one of which he is proudest—the Voting Rights Act of 1965—says the most about PHIL HART, and the kind of person and Senator he is.

The rights of people have always been foremost in his mind. Every piece of legislation on which PHIL HART has added his support, and in many cases—his leadership—has had as it focus the eradication of inequality.

The Voting Rights Act of 1965 is really where the whole civil rights movement began, and is an accomplishment that PHIL HART looks on with pride.

The disenfranchised citizens, those discriminated against, and the cheated consumer all find in PHIL HART a compassionate and powerful ally, and his legislative accomplishments since coming to this Chamber reflect his concern of the human problems of his Michigan constituents, as well as those of all other Americans.

The Voting Rights Act was the first of what was to be a series of legislative proposals authored or amended by PHIL HART to reflect the needs of those Americans who had somehow been left behind.

The Truth-in-Packaging Act in 1966;

The Fair Housing Act in 1968;

The extension of the Voting Rights Act in 1970;

The Motor Vehicle Information and Cost Saving Act of 1972; and

The Antitrust Procedures and Penalties Act of 1974 are a few of the bills which bear the mark of Michigan's senior Senator.

These are tangible things that we can see and use that have been provided for all the people under the direction of PHILIP HART. What we do not see in any of this legislation is the invisible mark PHILIP HART leaves behind in this Chamber. A mark of compassion; of understanding; of patience and tolerance, and of course that goes far beyond the abilities of most people.

PHILIP HART sees beyond the borders of his State—his vision encompasses unfairness and discrimination in every form, and he has worked here to end their influences on the people of this Nation.

Such vision is important in a democratic chamber, and although it is not the sole property of any single Senator, there is no question in my mind that since 1959, one of its leading practitioners has been PHIL HART.

It is no secret that our colleague is leaving here for reasons of health.

I wish him well, and a long retirement. If courage is a measurement of a man, then this Chamber is losing one hell of a man in addition to a well-respected Senator.

Mr. PACKWOOD. Mr. President, when I was elected to Congress, PHIL HART was already known as "the conscience of the Senate." From what I have seen, I must concur that this honorary title fits him. Senator HART represents the spirit and determination which makes the Congress more responsive to the needs of all Americans.

Ever since he was first elected to the Senate in 1958, PHIL HART has championed the cause of the consumer and was one of the earliest advocates of this long-neglected group. Whether as a member of the Commerce Committee or the Judiciary Committee, through his leadership and perseverence the cause of the consumer rose to national importance.

Senator HART's retirement will be a great loss to the Nation. An able Senator from the State of Michigan, he never forgot that his responsibilities affected all Americans.

Mr. KENNEDY. Mr. President, I am proud to join my colleagues at this time to express my deep feeling of admiration, respect and friendship for Senator PHIL HART on the occasion of his retirement from the Senate. Having served alongside Senator HART since my arrival in 1962, and having worked closely with him on countless occasions—especially in our work together on the Judiciary Committee—I feel we are losing one of the finest Senators who ever graced this Chamber. His departure is an immense loss to the Senate, to the causes he served so well, and to all his colleagues who hold him in such high affection and regard.

In debate, his voice almost never shook the rafters here. He prefered to use his words to shake our conscience and our votes. He never had an ax to grind, but he always cut through every issue to find the truth and open it up for all of us to see. Above all, for a generation in the Senate, he was Mr. Civil Rights, skillfully and successfully guiding every major civil rights bill through the gauntlet of filibusters in the Senate.

A few weeks ago, as a mark of our respect for the courage and dedication and achievements of this man, we passed a Senate resolution naming the Senate office building now under construction the "Philip A. Hart Senate Office Building." The House of Representatives has the Cannon, Longworth, and Rayburn Buildings as tributes to their past great leaders. And the Senate will have the Russell, Dirksen, and Hart Buildings, standing side by side as concrete monuments to the finest Senators we have served with.

We know the courage of his positions. We know the leadership he demonstrated so many times on so many basic issues, especially in the field of civil rights and civil liberties. But in these recent months of illness, he has given us a fresh meaning of courage and shown us a new dimension of his extraordinary character and devotion to the causes he believes in.

Again and again, he has been here on the Senate floor, when no doctor in his right mind would have advised him to be at work. He led the recent fight to break the filibuster and secure Senate passage of his own major legislation to reform the antitrust laws, the most far-reaching changes in those laws in many years. And last Thursday, he helped again to break the filibuster on the pending bill to allow the courts to award attorney's fees in civil rights cases, as a further important guarantee that these basic laws we have written on the statute books will have genuine meaning for those whose rights and opportunities are still denied.

Mr. President, I would also like to speak at this time in more detail of PHIL HART's long and brilliant career, and then to close by including in the RECORD a copy of the tribute I gave to Senator HART last January at the testimonial dinner given for him in Washington by the Leadership Conference on Civil Rights.

As a political leader, PHIL HART was part of the great liberal tradition of Franklin D. Roosevelt in the Democratic Party. The first vote he ever cast in a Presidential election went to Roosevelt in 1936, in support of the vigorous New Deal attack against the ravages of the Great Depression. When President Roosevelt called upon the American people to resist the Axis Powers in 1941, PHIL HART joined the Army. He served with distinction, and on D-day, at Normandy, he was wounded in action.

Upon returning home to Michigan, he took up the practice of law and became more active in the life of politics. He was a strong supporter of Harry Truman in the Presidential campaign of 1948. In the following year, he received an appointment as Federal Corporation and Securities Commissioner for the State of Michigan. His duties included the approving of stock issues of corporations in the State, licensing real estate brokers and builders, and collecting real estate taxes.

When the national economy was shaken by the Korean war and the Federal Office of Price Stabilization was established to fight inflation, PHIL HART was appointed Director of the Michigan Office of OPA. For his skill in implementing the price control program for the benefit of Michigan producers and consumers alike, he was named Outstanding Federal Administrator of 1952 by the Federal Business Association.

Later that year, he was appointed U.S. attorney for the Eastern District of Michigan. On the strength of his fine performance as U.S. attorney, he became legal adviser to Gov. G. Mennen Williams of Michigan, and in 1954 he received the Democratic nomination for Lieutenant Governor. He was elected and became at once an influential figure in the Michigan Democratic Party. In 1958 he received the nomination for U.S. Senator and won the election with a sizable majority.

Assigned to the Committee on the Judiciary, he is now the third-ranking member, as well as chairman of the Subcommittee on Antitrust and Monopoly, where he has done so much to serve the interests of the American consumer and promote genuine competition in the marketplace.

On the Commerce Committee, he has also served with great distinction, as chairman of the Subcommittee on Environment, providing constant leadership for the Senate in helping to redress the balance that had tilted so heavily against the environment in recent years.

As a member of the Judiciary Committee, he quickly joined the civil rights coalition, which was then working to enact the bill that later became the Voting Rights Act of 1960. In the struggle for this measure, PHIL HART's contribution was unflagging and determined. By the time the fight was won, he had already established himself as a preeminent leader in the Senate for the cause of civil rights.

Under Presidents Kennedy and Johnson, Senator HART skillfully guided the constant struggle in the Senate for progress on civil rights. He was floor manager for the 1965 Voting Rights Act and for the 1968 open housing legislation. He led the battle of 1970 to extend the Voting Rights Act for another 5 years.

As chairman of the Judiciary Subcommittee on Antitrust and Monopoly, PHIL HART entered vigorously into the consumer movement, sponsoring consumer legislation of great importance, including the truth-in-lending and truth-in-packaging bills. In this same capacity, he has also led the fight for greater protections for consumers in areas like the automobile repair industry, the insurance industry, and the drug industry.

Mr. President, these are just a few of the highlights of PHIL HART's long and brilliant Senate career. Words cannot do his achievements justice. Every cause he touched, he left better than he found it. We shall remember not just his fine achievements, but his unparallelled decency and integrity as well. We are proud to honor him now, even as we wish him a long and happy retirement with his family.

Mr. President, I ask unanimous consent that the tribute to which I referred may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR EDWARD M. KENNEDY AT THE TESTIMONIAL DINNER FOR SENATOR PHILIP HART OF THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS, JANUARY 26, 1976

I am pleased to join with so many distinguished Americans this evening to pay tribute and to express our deep personal regard for Phil Hart.

First let me thank Roy Wilkins for his kind words of introduction. For so many years and through so many battles, Roy Wilkins has stood above the crowd leading both black and white America toward the vision of a just society. The NAACP and the Leadership Conference will miss his guidance and inspiration. And the nation can never repay him for a lifetime of dedication and commitment to equality in this land.

Those who have spoken before me—Andy Biemiller, Clarence Mitchell, Joe Rauh and Leonard Woodcock—already have expressed the admiration, the respect, and the affection that we feel toward Phil Hart.

Many of them, and many of the people in this room walked with him as Lieutenant Governor and have known his courage. Many of you in this room have walked with him as U.S. Attorney and have known his commitment to justice. And many of you were at his side in the Senate before I came to Washington and have known his determination to awaken this land to its own ideals.

But I yield to no one in affection and respect for Phil Hart and the mark he has made on the conscience of the Senate and the conscience of America.

The Poet Keats wrote of those "who feel the giant agony of the world. And more, like slaves of poor humanity, Labor for mortal good . . ."

And that has been the labor of Phil Hart for 18 years in the Senate and throughout his career of public service.

So many times and in so many ways, Phil Hart has called out to the best within us. He has not spoken for his state alone. He has not spoken for his nation alone. He has spoken for the finest dreams of the human spirit.

While Phil Hart led the struggle to enact the great civil rights landmarks of the past decade—the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Open Housing Act of 1968—he was not doing it only for black America. He was doing it because he believes that this nation cannot fulfill its destiny divided against itself.

He felt the deep hurt within this land—the searing wound on America's conscience of segregation, the bitter contradiction between the Fourteenth Amendment and Jim Crow laws and the distortion of our nation's ideals by racism.

Those who rode the buses into the South, those who were being arrested marching into Birmingham, those who walked hand-in-hand before armed troopers in Selma—they were the true descendants of Jefferson, the bearers of our heritage and our future.

I remember how Phil Hart spoke in the Senate. He spoke for the young men and women who dared to challenge a system of fear. He spoke for Medgar Evers, for four young girls in Birmingham, whose names never made the front pages or the nightly news programs.

He said, "This is not a proposal to take basic rights away from anybody; but, it is to insure that basic rights are accorded to those, who, for a hundred years, have been promised them and to this moment find themselves denied . . ."

President Kennedy had turned to Phil Hart to help manage the drive for the first Omnibus Civil Rights Act and Lyndon Johnson turned to him to complete that work in 1964. And he turned again to Phil Hart to direct the struggle that yielded the Voting Rights Act of 1965.

We cannot forget those years and the revolution they marked in this land.

More than any one person in Congress in those years, Phil Hart was a missionary for Civil Rights. And he fulfilled his mission well. Phil Hart was the one to interpret those years to this colleagues, to help us understand the depth of unrest in this land, to translate the demand of President Kennedy that "the time has come for this nation to fulfill its promise," to bring us nearer to the cry of the Reverend Martin Luthur King "free at last, free at last . . ."

He understood too that passing a law was not the final answer. Just before the first major bill was passed in the Senate, he said: ". . . the verdict ultimately is with the people of this country. It is the day-to-day conduct of each of us which will write the final chapter to the Civil Rights Act of 1964.

"Every American should be judged as an individual, by our individual merits—and not, while we are still 50 feet away, by the color God gave us."

And so Phil Hart helped lead the march to help black Americans check into this country's hotels. But that's not all he did. Since then, he has kept us marching, to make sure that black Americans have enough in their pocketbooks when its time to check out of those hotels.

Phil knows it makes no sense to enact laws to safeguard personal and civil rights unless we also move vigorously to enforce those laws.

What sense does it make to have affirmative action programs on equal job opportunities, when there are no jobs for blacks, and when the skills for those jobs lie far outside their reach.

Phil Hart quietly demanded of his colleagues that they look at the nation, that they look and that they ask themselves, "Is it fair?"

Is it fair that a child growing up black in the ghettos of our cities is more likely to drop out of high school than to graduate from college?

Is it fair that any young child should know no home except the next migrant camp?

Is it fair that a child born on an Indian reservation may not see a doctor for the first six years of his life?

Is it fair that a white child's future in Appalachia is limited to the hollows his father, and his father before him, have struggled to escape.

Is it fair that any child's future should be limited by the color of his skin, or a Spanish lilt to his name or to the sharing of an Indian heritage?

Phil Hart asks those questions. He asks them softly. But he asks them with irresistible logic and persistence. And he asks them with quiet force, with understanding and with compassion. And more than any other Senator in my time, he has been listened to.

For two centuries, civil rights in America rested on the elimination of laws and policies that were deliberately engineered to discriminate, to oppress and to deprive. For the third century of American history, civil rights for the minority will be the only way to guarantee protection of human rights for everyone in this nation.

America's heritage rests upon the noble vision that all men are created equal.

Historians of the future will wonder about the years we have just passed through. They will ask how it could be, a century after the Civil War, that black and white had not yet learned to live together in the promise of this land. They will ask, what sort of country was it, that drove a great and sensitive black American named Paul Robeson, to think he could find greater freedom in the Soviet Union than in the nation of his birth?

Phil Hart has carried high the banner of civil rights throughout his long tenure in the Senate. He has carried equally high the banner of civil liberties.

This is a nation of dissenters—from the earliest religious outcasts our security and our freedom depend on how well we protect the right of individual dissent.

Phil Hart understood that cause. He would be found on the mall in Washington listening to the Viet Nam veterans who protested a country engaged in an immoral war and therefore at war with itself.

His was a voice calling for an end to the war before it was the popular course. His was a voice calling for recognition of conscientious objection to that war—so that an individual could be true to himself and his beliefs. His was a voice asking that those who suffered from a decade of war—veterans and exiles alike—be enabled to contribute to this society. For, they are all victims.

Phil Hart has challenged those who would use the instruments of illegal force, even though they wear the uniforms of the law. FBI and CIA illegal excesses endanger the liberty of us all. Phil Hart knows it, and he is working now to defend the individual against the unbridled use of state power.

Young Blacks in the South and Chicanos in the Southwest who will go to the polls this November—and many of the several thousand black elected officials and the several hundred Latino-elected officials—let them know the debt owed to Phil Hart.

Others who break through the barriers of housing discrimination—let them know the debt.

Children who obtain a decent education they could never have had before—let them know the debt as well.

The advances for black and brown Americans over the years that Phil Hart was in the Senate are large. They are the product of tears and suffering and pain—men and women and children who each gave of themselves—sometimes giving their lives—in the struggle for freedom and equality.

Phil Hart was there too. Not alone and not by his efforts unassisted, but Phil Hart was there. And it was important that he was there, because he was irreplaceable.

However, while we can see landmarks along the course of the civil rights struggle and the great distance travelled, we have not yet reached our destination.

There is a continuing crisis in America today, a crisis measured by the gulf between the minorities and the majority culture in education, in jobs, in housing, in health, in income.

We cannot fail the challenge to provide economic security to 8 million jobless workers, 12 million welfare mothers and their children and hundreds of thousands of inner city youngsters who have never had a decent job.

We cannot turn away from the challenge for equal education and quality education. Phil Hart did not turn away when that challenge came to Detroit. I will not turn away in Boston. Nor can we turn from that commitment anywhere in this land.

In an early draft of the Declaration of Independence, Thomas Jefferson wrote a section condemning the violation of liberty and human dignity of persons captured in the slave trade—the ancestors of black Americans. The Continental Congress struck this section from the final draft.

And so those words were not proclaimed on July 4, two hundred years ago. But now we can put it back, at least in practice, and in our hearts, as we celebrate the document that began our Revolution.

For if we seek justice for ourselves, then we must demand it for others. If we seek equality for ourselves, then we must demand it for others. For none of us shall enjoy those precious fruits of our heritage in the future—unless all of us enjoy them together.

Carl Sandburg wrote: "To the question, 'What will the story be of the Family of Man across the near or far future?'" Some would reply . . .

" 'There is only one man in the world,  
and his name is All Men.  
There is only one woman in the world  
and her name is All Women.  
There is only one child in the world,  
and the child's name is All Children.' "

Phil Hart understood those words. He has lived them in the Senate for the past 18 years. I know he will live them in private life as well. And we stand in his shadow and in gratitude for the vision of justice he has given us. For all that and much more, we honor him this evening.

ROBERT C. BYRD. Mr. President, few men in the history of the United States have earned the affection and personal regard that PHILIP HART of Michigan has received as a Member of the Senate. His idealism, his compassion, his personal courage, and his graciousness have justly obtained for him the designation as "the conscience of the Senate." He will be sorely missed when he leaves this body.

Senator HART received his education at two of our finest universities—Georgetown and Michigan. After serving in the Army in World War II, he returned to Michigan to pursue a career of public service at the State and local levels. After serving as the Lieutenant Governor of Michigan, he was elected to the Senate in 1958 and has been reelected twice since then.

He has achieved an enviable record for legislation while serving as a Senator. He has possessed a deep confidence in our system of government and economics. As a result, he has sought actions that would curb unfair competition in business and would promote the interests of the consumer in the marketplace. He has supported efforts that would protect the rights of majorities as well as minorities among our citizens. He has been active in promoting civil rights legislation as well as those bills that would make our citizens safer from crime and disorder. He has also been especially active in supporting legislation to solve the urban crises that have confronted this Nation in recent generations. His judgments have been characterized by vision, compassion, and experience.

The Senate has already committed itself to honoring Senator HART by naming a major new building after him. But the monument that he himself has created in our hearts and in the minds of the people of the United States is one of the most prominent ever erected. PHILIP HART retires from this body with our respect, our admiration, and our love.

Mr. WEICKER. Mr. President, with the retirement of Senator HART, the Senate is losing one of its most beloved and respected Members. During my limited tenure in this great body, I have not met a more decent and compassionate man.

This decency and concern for the human condition is illustrated by his fight for civil rights legislation. His quiet and firm leadership was instrumental toward the enactment of this landmark legislation.

Mr. President, I am particularly proud to have served with Senator HART on the Commerce Committee. Of course, my colleagues are well aware of Senator HART's intense interest, dedication, and skillful advocacy in the areas of environmental and consumer protection legislation.

Senator HART, though too modest to take credit for all his legislative influence, was instrumental in securing enactment of the Safe Drinking Water Act of 1974, and in guiding the soon-to-be-enacted Toxic Substances Control Act. In addition to landmark environmental legislation, Senator HART has focused attention on urban environmental problems, and has worked to strengthen fish and wildlife programs.

Further, on the issues of consumer protection and antitrust enforcement, no Senator can match the record of Senator HART. As chairman of the Anti-Trust Subcommittee, he has fought to insure a competitive economic environment.

Senator PHILIP HART is the kind of man Americans want as leaders. No more could be asked by any nation than that there be more such men in her future.

Mr. BAYH. Mr. President, under ideal circumstances the Senate would be, at all times, a body of unchallenged integrity, deep compassion, thoughtful deliberation, balanced judgment and great intellect.

Sadly, the 95th Congress will be without one Senator who has met every one of these standards throughout his 18 years in the Senate. I speak of my esteemed colleague and dear friend, Senator PHILIP HART of Michigan.

In an era when politicians sometimes fell afoul of the error of having relief conservative responses to issues or reflex liberal responses to those same issues, PHIL HART has always had a reflex response of reason.

In an era when the American people came to doubt whether officeholders really cared for the well-being of their constituents, PHIL HART has always demonstrated sensitivity and compassion for the problems of individuals.

In an era when too many officials crossed the line into illegal or unethical conduct, PHIL HART has always drawn a hard line setting a standard of personal and professional conduct that every Senator would do well to emulate.

All of us who have served in the Senate during the tenure of PHIL HART are indeed fortunate. I have been especially privileged to also serve with him on the Judiciary Committee throughout my 14 years in the Senate, and I have thus been lucky enough to work closely with this unique individual on many important issues.

As chairman of the Judiciary Subcommittee on Antitrust and Monopoly, Senator HART has directed highly valuable, exhaustive studies into the structure of American business and industry. He has provided useful insights into the behavior of the American economy, and I am confident that in the years ahead PHIL HART's hard work in years past will bear fruit in the form of major legislation.

One such piece of legislation, the Antitrust Improvements Act, the first major antitrust legislation in many years, is now at the White House following final congressional action. This important measure is an example of the thoughtful product of PHIL HART's labors and I am hopeful the President will resist the pressure to veto this bill. However, PHIL HART may be assured that if the President unwisely exercises his veto that those of us who understand the need for the legislation he formulated will see that it is passed again early in the 95th Congress.

While PHIL HART has distinguished himself as chairman of the Antitrust and Monopoly Subcommittee, I think that perhaps his greatest effort as a member of the Judiciary Committee has been in the area of civil rights. When historians seek to measure the Senatorial career of PHIL HART, I am confident he will be placed among the great Senators in history. I am also confident that one reason he will be accorded his rightful role in the first rank of Senators is the outstanding, persistent and courageous work he did on all the major civil rights legislation of the 1960's.

Senator HART's leadership in the area of civil rights has been part of a broad concern for the protection of individual liberties for all Americans. That concern has been manifest in many ways, including highly valuable efforts by Senator HART to maintain the highest standards in the Federal judiciary.

While I have been fortunate to work closely with Senator HART in the Judiciary Committee, developing a friendship I hold most dear, it can be fairly said that the entire country and the entire world has been witness to Senator HART's exemplary Senate career. Every time this special individual rose to speak on the floor of the Senate we could count on relevant, important, and thoughtful comments, whether on pending legislation or some other issue of importance.

Perhaps one of the most important things that needs to be said about PHIL HART is that he always kept a careful perspective on himself, his colleagues and the issues with which we were dealing. Never afflicted by an overgrown ego, PHIL HART commanded great respect for his interest decency and self-effacing nature. It is ironic that in a world where one encounters some individuals who are a bit too self-important or a bit too impressed with themselves, that PHIL HART—so important to the Senate and so impressive an individual—has never fallen victim to those Washington maladies.

Mr. President, it would be a bit dishonest to pay tribute to PHIL HART on his retirement and to fail to mention that his retirement has been clouded by illness. The Lord works in mysterious ways, and I find it particularly sad that when PHIL HART decided to step down to spend time with his family and to pursue his interests outside the Senate that he has had to do battle with illness.

Phil deserves better, but in typical fashion he has played the stoic throughout the illness, attending to Senate duties when lesser men would have been engulfed with self-pity. Here again we have an important measure of the man.

Mr. President, it is difficult to sum up in a simple statement the importance of Phil Hart's service to the Senate, his State, his country, and the world. It is difficult to find words to say that here is a man who, by example, has given us our best hope for the future. It is difficult to express adequately the admiration and respect one holds for so special an individual as Phil Hart. My greatest fear is that the Senate and the Nation will best understand the importance and meaning of Phil Hart's Senate career when it comes to an end in a few short days. For the void he leaves here is one that will not be filled; it will not be filled because it cannot be filled.

I only hope that in the years ahead that all of us in the Senate will strive to achieve the standard of performance and personal conduct which Phil Hart has set. That, after all, would be our greatest tribute to this special human being.

Mr. TALMADGE. Mr. President, we here in the U.S. Senate will miss Phil Hart when he retires at the end of this session of Congress.

We all know Phil as a good and honest man who has distinguished himself and brought honor to his State by his 18 years of service here in the Senate. He has always fought hard for the rights of the consumer in America. He was a leader in the protection of our Nation's environment and natural beauty. And, as a member of the Senate Judiciary Committee, he was endlessly champion of the cause for human rights and dignity for all.

We know Phil as a gentle sort of man, quiet in his ways, and courtly in his manner. But we know him as well as a man who possesses a mind of steel, that always drives hard and never gives up. Any Senator who has had the misfortune to find himself on the opposite side of an issue knew he would face a worthy adversary in Phil Hart.

On many occasions, I had this experience first hand. And, as many of us know, it is not the most comfortable feeling in the world. But that is the essence of the U.S. Senate—good debate and thoughtful discussion. Phil was expert at both, and I am certain that we will greatly miss his insight and quick analysis.

Mr. President, when a superb athlete leaves the sporting world, it is customary to retire his jersey number as an indication of endless admiration and respect.

We do not wear numbers in the Senate, of course, but if we did, Phil Hart's is one which surely should be retired. He is most deserving of our admiration, respect, and good wishes, and I join my colleagues in extending my best wishes and godspeed to a great Senator, and a fine man.

Mr. HRUSKA. Mr. President, my colleague and good friend, Philip Hart and I have served for many years together on the Judiciary Committee's Subcommittee on Antitrust. I have come to know him well in that time and to respect and admire him. We have worked together on many issues and we have disagreed many times. But through it all, Senator Hart has always remained a thorough gentleman, tolerant of viewpoints other than his own, forbearing and accommodating of honestly held positions with which he could not agree.

As we pay tribute today to the Senator from Michigan, let us remember his many great contributions to the Nation. His courageous commitment to the law and his dedication to the presentation of individual freedoms will be remembered for years to come.

He has always been a fair man dedicated to the principle that those in the minority have the right to be heard. As ranking minority member on Senator Hart's Antitrust Subcommittee, I can testify to his fairness in that regard. I thank him for that.

May Philip Hart have a long and happy retirement. The people of America, his constituents in Michigan and his colleagues in this body will miss him greatly as he steps down after a truly distinguished career.

Mr. RIBICOFF. Mr. President, it is often said that a man is known by his deeds. In no case can this be more true than that of our beloved colleague and good friend, Phil Hart.

It would be difficult, if not impossible, to catalog those issues with which Phil has been associated and on whose behalf he has so effectively worked during his 18 years in this body. In the consumer protection field, for example, he has been the author or cosponsor of virtually every major piece of consumer legislation enacted by the Congress.

Phil Hart has been in the forefront of the effort to preserve and protect our environment and to prevent the despoilation of the air and water. He has actively fought to stem the tide of pollution wherever it might exist and has worked to insure that future generations can have access to and enjoy the land and waters of our country.

Throughout his distinguished career, Phil Hart has sought to reorder our Nation's priorities and to guarantee full and equal rights for all citizens. During his entire service in the Senate he played a leading role on every major civil rights and human liberties measure. He worked for the passage of the Omnibus Civil Rights Act of 1964 and 1967 and was the floor manager of the Voting Rights Act of 1965. He was also an early and constructive opponent of our military misadventure in Southeast Asia and led efforts to reduce or terminate needless and wasteful defense spending. He sought to redirect these funds to needed health, housing, education and jobs programs.

Beyond these and many other accomplishments, however, is the manner in which Phil Hart operates. He is a thoughtful, gentle, self-effacing and truly lovable person. He never seeks to be in the limelight or to receive the credit which he so frequently deserves. Rather, he usually works quietly but most ably behind the scenes.

Mr. President, Phil Hart will end his Senate service after the 94th Congress adjourns. It would be a gross understatement to say that he will be missed. We have benefited from his wisdom, his professional skill and capability and from his counsel. We are better men for having had the privilege to know and work with Phil Hart, for persons of his caliber are rare. He has left his mark on this body and on each one of us. As Phil Hart brings his Senate career to an end, Casey and I wish him and Janey our warmest wishes and Godspeed in retirement. They take with them our deep affection and I am hopeful our paths will cross frequently in the future.

Mr. HUMPHREY. Mr. President, since Senator McGee is necessarily absent and unable to be here in person to participate in paying tribute to our colleague Phil Hart he has asked me to insert his statement in the Record on his behalf.

I ask unanimous consent that Senator McGee's statement be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. M'GEE

It is a privilege for me to join with my colleagues in paying tribute to a man whom the New York Times appropriately characterized in an editorial earlier this month as being "a gentle legend in his own time." I am referring to Phil Hart who retires at the end of this Congress.

Phil Hart will be remembered not only as a public servant of impeccable integrity, but also as a man who devoted immense time and energy in championing causes to bring equity to all citizens in our society. Although gentle in nature, he has been a forceful advocate in seeking remedies for those in our society who have found themselves out of the economic, cultural, or social mainstream of our country. It has been his fervant belief that all Americans should enjoy the benefits and fruits of our system of government—not just a privileged few.

Thus, it is not surprising that it was Phil Hart who was in the forefront of environmental and consumer protection measures long before they became popular issues in the eyes of the Congress or the American voter. Antitrust reform, civil liberties, full employment, the independence of Watergate Special Prosecutor are but a few of the multitude of contributions he has made to the welfare of each and every American citizen. As floor manager of the Voting Rights Act of 1965, he achieved a landmark breakthrough bringing the most fundamental right guaranteed under our Constitution to all peoples.

Phil Hart's public career began in 1949 when he was appointed Michigan's Corporation and Securities Commissioner. He also served as U.S. attorney for eastern Michigan before becoming legal advisor to Governor G. Mennen Williams in 1953. He was elected to two terms as Lieutenant Governor before his election to the Senate in 1958.

Phil Hart's retirement is particularly sad for me in light of the fact that we both came to the Senate in the same year. He has always commanded my utmost respect as an exceptional legislator and human being. These qualities have endeared him to us all and the fact that we have named the new Senate Office Building in his honor is emblematic of the esteem and affection with which we all hold him.

Loraine and I wish Phil, his wife Jane and their fine children the very best.

Mr. THURMOND. Mr. Speaker, today, I join with many of my colleagues in saluting a great Senator and true

American. PHILIP A. HART, the senior Senator from Michigan, is retiring next January after serving 18 years as a Member of this august body.

Although PHILIP HART and I were not in agreement on many issues, I never doubted his devotion to his country and his determination to carry out what he believed to be the right thing no matter what effort was required.

Mr. President, PHILIP HART has served his State and Nation for over 30 years. He was a soldier, a U.S. attorney for eastern Michigan and commissioner for the Michigan Corporation and Securities Commission. Prior to his election to the U.S. Senate, PHILIP HART served two terms as Lieutenant Governor of his native State of Michigan. In all his service, PHILIP HART has practiced the qualities of character, integrity, capacity, and dedication.

PHILIP HART is a great believer in this wonderful country of ours and what it has to offer to its people. He is a man of great vitality and enthusiasm; a man fashioned by the New Deal and the Great Society and still trying to put those ideas into effective programs. He has been the author or cosponsor of almost every major piece of consumer legislation enacted by Congress since the early 1960's. He has made a reputation largely in the fields of civil rights, antitrust and environmental issues.

Mr. President, this Nation will miss the experience and strength which PHILIP HART gave to the U.S. Senate. As he leaves this body in which he has spent many years, I wish him the best in his retirement.

Mr. CHURCH. Mr. President, the Old Testament tells us "To everything there is a season, and a time for every purpose under Heaven." As the 94th Congress draws to a close, we have come to the end of another season and a time for saying farewell to a number of colleagues. This task is never easy, and it is especially difficult today as we pay tribute to PHIL HART.

Without recounting the many fine legislative achievements in PHIL HART'S career, I want only to attempt to express my feelings of good fortune in having known and worked with him. Mention the name PHIL HART, and one immediately thinks of an earnest, wise, and compassionate man who often has been called the conscience of the Senate. His calm, deliberative approach to law-making represents the Senate at its best.

PHIL HART has set a standard to which every Senator should aspire. No other Member of this body has expressed a greater moral force throughout his years of service here. PHIL HART'S success, I believe, should be measured by his good influence on each of us, and by his example of rectitude in political affairs.

One of the most human and endearing traits of PHIL HART is his natural inclination to assume the best in the behavior of others. Remember his frank and refreshing confession of error, when he said that members of his family had tried unsuccessfully to persuade him that our intelligence agencies were engaged in illegal and improper practices. When the evidence later proved them right, PHIL HART was unstinting in his efforts to expose the wrongdoing and to advocate remedies designed to better protect the liberties of the people in the future.

This is the man we honor today. And if words fail us, it is because words cannot convey what is in our hearts. We can only hope for many more men and women in public life who will try their best to emulate PHIL HART.

Mr. MUSKIE. Mr. President, of all the retirement tributes I have made during my Senate career, this is the most difficult.

For the retirement of PHIL HART is both a public and personal event for me.

He leaves us after 18 years of service. With him goes the respect and admiration that few other Senators have earned.

We will long remember the courage and determination he has displayed with a rare combination of gentleness and steel.

For years, he pursued the improvement of our antitrust laws to break up the concentration of wealth that has continued in recent decades. That culminated in legislation just sent this month to the President for his signature.

He has consistently championed the rights of consumers in such areas as energy and insurance.

He has been a leading spokesman for the rights of the individual, whether it concerned privacy, freedom of the press, wiretapping, intelligence, or any other area. He was probably the most formidable opponent of the ill-considered S. 1.

And when the times called for an unpopular stand, he took it. In 1972, at the height of antibusing sentiment in his home State, he helped lead the successful Senate fight against enactment of antibusing legislation.

But the public record of PHIL HART does little to explain the effect he has had on all of us.

For his greatness will always lie in a spirit that was always gentle, compassionate, courageous, and decent.

He has consistently helped to quiet the rancor, to soothe the bitterness during some very turbulent years of this Senate.

He has taught us the value of the gentle word.

He has helped remind us of the meaning of public service—that duty, honor and sensitivity must always be foremost—that service to our country is a personal, as well as public commitment.

I have known PHIL HART more than 20 years, longer than we have been in Washington.

He is my closest friend in the Senate.

And as I contemplate his retirement, I am reminded of these words from Shakespeare:

> His life was gentle, and the elements so mixed in him that nature might stand up and say to all the world, "this was a man!"

Mr. JACKSON. Mr. President, I am glad to be able to join this morning in paying a very special tribute to PHIL HART.

My colleagues will be recalling the highlights of his Senate career and enumerating the legislative victories in which he played a decisive part.

But I want to make another point.

To put it quite bluntly:

PHIL HART is a very rare person—one without any flaws of character; in short "pure gold."

Not that he is not a hard fighter and a shrewd defender on behalf of causes and positions he believes in. We have all had the experience of facing him in the rough and tumble of Senate argument and finding him a formidable adversary.

But he is always a fair adversary, a gracious opponent. At the height of controversy, he can manage a twinkle in the eye. There is no mean streak in him.

And when one has been lucky enough to be on the same side with PHIL on an issue, what a wonderful, reliable, gallant, and adroit ally.

I suppose the right word for it is integrity—moral soundness and essential uprightness.

There is no Senator who has ever retired from this body who is more respected and beloved.

### PHILIP A. HART—CRUSADER FOR JUSTICE

Mr. RANDOLPH. Mr. President, today we honor a man who is not only a friend and colleague, but a source of inspiration and guidance—a crusader for justice. PHILIP A. HART is a kind, compassionate humanitarian. His passion for truth is coupled with an intellect and legislative acumen which has, in many cases, translated his dreams into reality. His accomplishments in the fields of consumer protection, antitrust and environmental issues, and civil rights are well documented. His service and tangible contributions to the Committees on Commerce, Judiciary, and the Democratic Policy Committee have resulted in important legislation. He has the courage to act in defense of his principles.

PHIL HART was enlisted into politics by a former classmate at the University of Michigan Law School, then Gov. G. Mennen Williams. He was appointed State corporations and securities commisioner in 1949. Over the next 27 years, he served the State of Michigan and the Nation in administrative, legislative, and judicial positions. He was director of the office of price stabilization in Michigan during the Korean war, after having served as a combat officer in World War II. In 1952, he became U.S. district attorney, and was elected Lieutenant Governor in 1954 and reelected to a second term in 1956. PHIL HART came to the U.S. Senate in 1958 and was reelected to two more terms with ever-increasing margins by the people of Michigan.

Now he is leaving the Senate. We will miss this man of integrity and interest in people problems, with his quick wit and sagacious observations on national problems.

To PHIL and his wife Janey, Mary and I extend heartfelt wishes for a contentment that is so justly earned, and so truly deserved.

Mr. CULVER. Mr. President, during the past weeks the Senate has given a rare expression of its collective respect and affection for the public career and personal gallantry of PHIL HART. Some of us and many of our successors will be working in a buliding bearing the name of our colleague.

But today is a time for indivdual expression of gratitude to PHIL HART—for his rare vision, his unparalleled understanding of human needs, for his capacity to transform his personal convictions with widely shared national commitments. No one in our midst commands as much trust as PHIL HART, and no one has held before us such unwaveringly high standards of performance. Yet he avoids always the temptations of self-righteousness or false perfectionisms. He is well aware of the frailties and imperfections of both human nature and the political system. But he knows that there is room for narrowing the gap between our ideals and reality—in human rights, in economic opportunity, in the quality and tone of our national life.

PHIL HART has not achieved all the objectives he set for himself. But he leaves with us who remain in the Senate a set of goals and an agenda of enduring meaning. The Senator from Michigan has never lost sight of the transcendent issues which affect us all. He has never sought or expected total victory. For that spirit he has reason to hope that we will carry on in the many causes for which he has labored with such conscientiousness and self-effacement during his three terms in the Senate. We owe it to him—and to ourselves—to persevere in those tasks.

Mr. EASTLAND. Mr. President, it is a high privilege to join my colleagues in honoring the genteel senior Senator from Michigan (PHILIP A. HART), my close friend and companion on the Senate Committee on the Judiciary since 1959.

I have never known a man I have been more apart from philosophically, but closer to personally. He is a man of principle, courage, and intellectual honesty. Occasionally, there comes to the Senate a leader who embodies all of the best traits of character and ability which symbolized the civilized men of the 18th century who founded this Republic.

The deep and genuine respect for PHIL HART as a Senator and a statesman is not unique with me. He is universally admired and respected in this Chamber. He is regarded as a gentleman by all of his colleagues, whether they hail from North, South, East, or West. PHIL HART is well known for his fairness, whether presiding over a subcommittee or in his assessment of myriad pieces of legislation during the last 18 years. But while he is invariably fair, I can tell you that on occasion he can be tough, firm, and where deeply held principles are involved, unbending.

I read in this morning's newspaper—with great interest—the result of a study of what leadership groups want from their leaders and from their country.

This study showed very clearly that the ideal for the people of this great Nation is a combination of toughness and compassion.

I sincerely believe that the people of Michigan—and all of us in this body—recognize the happy fact that PHIL HART epitomizes that combination.

Yes, PHIL and I have found ourselves on the opposite sides of various issues—but I have never had a more honorable or worthy opponent.

It was through our membership on the Judiciary Committee that he and I had our closest association.

Senator HART has a fine legal mind. His great ability and his willingness to master the mundane tasks of legislation contributed greatly to the work of the committee. His gentle Irish wit was always a welcome break in the proceedings—and on many occasions smoothed ruffled feelings and expedited the business of the committee.

In 1963 he became the chairman of the highly important Antitrust and Monopoly Subcommittee. This is a position of considerable influence having legislative jurisdiction over practically every commercial enterprise in the Nation.

Quietly, without fanfare, avoiding the Klieg lights and headlines, he committed himself to the unglamorous but vital work of the hearing room. His long series of hearings on the problems of economic concentration at home and abroad are recognized by many law professors and other scholars as the best source material for the growing interest in improved antitrust laws and enforcement.

Others on this occasion, I am certain, will outline in detail the other legislative victories which have crowned Senator HART's three terms here. I have no fear for his place in the history of both the committee on the Judiciary and the U.S. Senate.

In February of this year Colman McCarthy in the Washington Post wrote these words:

> For the rest of this session, news reports will tell of other Members of Congress retiring. Careers will be reviewed and testimonies given. It is likely to be different for Philip Hart. The public won't fully know how valuable and towering he has been in the Senate until next year when he is not there.

Mr. MATHIAS. Mr. President, PHILIP HART is a man of so many distinctions that he may not be aware of all of them. In fact, he may not be aware of any of them. One he almost certainly does not know about is the fact that he is only the fourth member of the Senate in the history of the Republic to reside in Frederick County, Md. This may not mean much to Senator HART, but, since it is an honor I share with him, it means a great deal to me.

My father was always impressed with the strong bond of affection within adoptive families which, he felt, arose from the fact that they had chosen each other. PHIL HART chose Maryland as his second home and we love him for it.

I have had the rare good fortune to serve with PHIL HART on the Judiciary Committee and on the Senate Select Committee on Intelligence. His moral strength has illuminated our deliberations and has been an inspiration to us all.

I can think of no more fitting tribute to PHIL HART than those matchless words spoken by Marc Anthony of Brutus in Shakespeare's "Julius Caesar":

> His life was gentle and the elements
> So mixed in him that nature might stand
> Up and say to all the world "this was a man".

Indeed, PHIL HART is a man the like of whom will not soon come this way. This Chamber was ennobled by his presence. It will be diminished by his absence.

### PHIL HART—AN UNCOMMON SENATOR

Mr. McINTYRE. Mr. President, this body will never be the same when our colleague from Michigan leaves us at the end of this session.

PHIL HART is an uncommon man and an uncommon Senator. When he takes his conscience, his inspiration, and dedication to service from us, we will be the lesser by his leaving.

Mr. President, the polls tell us that politicians and the Congress do not have the highest esteem in our history. We rank near the bottom of the list.

I believe we are being unjustly charged with the mistakes and peccadillos of some, when the vast majority of those in Government and politics perform well and honorably.

Serving in public life, I believe, is one of the highest and finest callings an individual can aspire to and in PHIL HART we have a man who stands for everything good about serving one's fellowman.

He has a record of great leadership and achievement in the Senate in behalf of some of the most fundamental and hard-fought issues of our time. When he felt he was right and the cause just he was a hard fighter without regard for the political cost.

The people of his State and the Nation recognized his willingness to be heard and counted and they called upon him to be their spokesman in many areas—civil liberties, human rights, antitrust and monopoly, and so many other important issues.

We are going to miss our friend, and those personal qualities which so many feel are missing from our national political life: Honesty, honor, humility, courage, unfailing civility, and gentle courtesy which endeared him to the "little guy."

When PHIL HART addressed this body, we knew that we would hear a thoughtful, compassionate statement of conviction. And the quiet and reason of that voice was a strong contrast to the shrillness and bombast of some current political dialog. Perhaps it sums up what PHIL HART has been to all of us, and to the Nation, when we realize that his name has become synonymous in the public mind with what a Senator ought to be.

In the words of one of the most popular hits of this country: "You've gotta have Hart!"

We have had him, but we are going to wish he was here in the years ahead.

Our very best to PHIL and Jane for a happy and long future together.

Mr. BIDEN. Mr. President, in honoring Senator PHILIP A. HART on his retirement today, we are honoring a man who may well be the most universally admired man in the U.S. Senate.

A decent, gentle person, PHIL HART represents everything that is right in America—and right in the United States.

In his quiet way, PHIL HART has been a fighter. He led the battle for civil rights, particularly the enactment of the Voting Rights Act of 1965, which may be the most effective civil rights statute we have ever enacted.

PHIL HART has fought for economic

rights for those less fortunate. He has fought the monopolistic power of giant corporations. Most recently, we enacted legislation strengthening the antitrust laws. Although the bill was not as strong as Phil Hart would have liked, it represents an impressive step forward and the culmination of several years of work on his part.

In the sometimes frenetic debate that often occurred on these controversial issues, it was often Phil Hart's quiet, logical remark that brought things back down to earth so that we could enact the legislation.

Those of us in the U.S. Senate who worked with Phil Hart are also suffering a great loss today. Phil Hart's career is one to be emulated. He is a living definition of what a U.S. Senator should be.

Congress has come under much criticism lately from all corners. And yes, there are many things wrong with Congress. But there must also be something very right with a Congress which contains a man like Phil Hart. We shall all miss him.

Mr. BAKER. Mr. President, I am pleased to join today in honoring one of the most widely respected members of this body, Senator Philip A. Hart, who is retiring from the Senate this year after 19 years of service.

Senator Hart is a distinguished attorney who served as U.S. attorney for eastern Michigan and as Lieutenant Governor of that State prior to his election to the Senate in 1958. As chairman of the Senate Subcommittee on Antitrust and Monopoly, he has become a leader in legislative efforts to root out antitrust abuses which cause economic damage to consumers and small businesses. I have had the privilege of working with Senator Hart for almost 8 years on the Committee on Commerce, where he is chairman of the Environment Subcommittee and vice chairman of the Consumer Subcommittee. In this capacity, Senator Hart has championed a number of consumer and environmental protection measures which have been enacted into law. His legislative efforts are characterized by an attention to detail and a willingness to hear all points of view on complex issues which I have greatly admired, even when I find myself in disagreement with his final conclusions.

I have also served with Senator Hart on the Select Committee on Intelligence Activities, where his deeply-felt concern for individual liberties has greatly contributed to our efforts to uncover and protect against illegal activities of intelligence and law enforcement agencies.

Phil Hart's integrity, his fairness, his gentleness and civility, will remain an example for all Members of Congress of the qualities which the American people have a right to expect from their elected representatives. I regret that he is leaving us now, and I know that he will be missed by his colleagues on both sides of the aisle. His legislative achievements will remain with us, however; and I wish him well in his retirement.

Mr. BURDICK. Mr. President, I am very pleased to pay tribute to my friend and colleague, Senator Philip Hart of Michigan. I am sure this entire Chamber views Senator Hart's decision to retire with emotions, sadness, and admiration.

The Senator from Michigan has served the people of his State and Nation with great distinction since 1958. There is no question that this man who championed human rights has truly been "the conscience of the Senate." Phil Hart is an exceptional, dedicated public servant, who has vision and compassion. It was, without any doubt at all, his character that brought this man to a position where he is one of the most loved and respected individuals ever to serve in the U.S. Senate.

The senior Senator from Michigan has distinguished himself as a brilliant legislator. He has had a tremendous impact, as chairman of the Judiciary Subcommittee on Antitrust and Monopoly, working in opposition to the concentrated wealth of this country.

The favorable impact of this man's life will long be felt, not only in Michigan but in the entire country as well. Mr. Colman McCarthy, a columnist for the Washington Post, best sums up the Senate's love for this most eminent individual:

> A few years ago, a Washington journalist wrote a book in which he called Senator Philip Hart "a man widely regarded as the gentlest and kindest in the Senate." The galleys of the book were sent to then Senator Paul Douglas of Illinois, who had been asked to review the book for the Washington Post. He read the reference to Hart but was troubled. It took Douglas several phone calls to track down the author, who was at his vacation retreat. Talking with him, Douglas explained that he knew it was unusual for a reviewer to call an author before the book came out, but he had a suggestion for a galley change. Must it say that Senator Hart is "widely regarded" as the Senate's gentlest and kindest man? Couldn't the book just state "he is," and avoid the cop-out qualifier?

I wish the very best to this fine man. As realists, we all recognize that what Mr. McCarthy wrote is true: "The seat will be replaced, but not the man."

Mr. STEVENSON. Mr. President, no words of mine could add sentiments to those already expressed about Senator Hart, nor do him justice. Our words are not the equals of our feelings. And yet I feel bound to say something about this uncommon man.

The Senate will soon be poorer. A gentle spirit and a quiet conscience will be gone from this place. But I do not believe Phil Hart's presence is likely to disappear with him. He made an indelible impression on us. He was unfailingly good humored, thoughtful and wise—not the stuff of sensation and media attention. He attended to the work of the country. He was firm and persistent in the struggle for social justice, peace in Southeast Asia, a system of enterprise that is free.

The good fights are long ones. He never shrank from one, never abandoned one for some flash in the pan or because it was politically expedient to back off. That gentle man was tough. And he was effective, effective because, above all else, he was principled, completely honest. He never compromised a principle, never compromised his high standards of conduct or his commitment to the welfare of the people he represented. We will all miss Phil Hart. The Senate will be poorer. But the character of Phil Hart is not likely to be forgotten by any who had the privilege of knowing him.

Mr. BROOKE. Mr. President, one of my greatest privileges in the Senate has been the opportunity to serve with Phil Hart, the distinguished senior Senator from Michigan. When he retires at the end of the 94th Congress, we will lose one of our most respected colleagues.

For 18 years Phil Hart has made outstanding contributions to the Senate and to the Nation. His legislative accomplishments are many. As a member of the Senate Judiciary and Commerce Committees, he has been an active, innovative and influential legislator.

But I believe that, more than anything else, we will remember Phil Hart for the type of man that he is and the brand of leadership that he has consistently demonstrated. For no Senator commands more respect than Phil Hart. He is a man of unquestioned integrity, commitment and compassion. He has rightly been characterized as the "conscience of the Senate."

While by nature a soft-spoken gentleman, Phil Hart has never been reticent about expressing his views on the great issues of the day. On civil rights, on the Vietnam war, on Watergate, on amnesty and a host of other controversial issues, Phil Hart has always clearly articulated his convictions.

It has been in the area of civil rights where I have been most familiar with Phil Hart's courageous leadership. He was, of course, instrumental in the passage of the major civil rights legislation of the 1960's. But in recent years Phil Hart has been even more invaluable to the cause of civil rights. For today is a time when civil rights no longer commands the popularity it did a decade ago. And many supporters are reluctant to speak out on the issues. But not Phil Hart. Never wavering in his commitment to equal rights for all Americans, he has been an able, articulate, and effective ally.

Mr. President, I am proud that I have had the opportunity to work with such a man. And I am prouder still to call Phil Hart a friend.

Mr. CASE. Mr. President, one ability that is usually attributed to Senators, and, in fact, to almost every other elected official, is the ability to speak with force, or with eloquence, or with ease, or with conviction, on almost any subject within their purview.

But it would not be right to speak with force on the retirement of Senator Phil Hart, because he is a gentleman and would not want to hear forceful words. He is a man who appeals, quietly, to what is good and decent in people.

I would not try to speak with eloquence on the retirement of Phil Hart, because it would probably embarrass him. He is an unpretentious man, a modest man.

Certainly, I cannot speak with ease on the retirement of Phil Hart, because it is difficult for me to express the tremendous respect and admiration that I have for him.

But I can indeed speak with conviction on this matter. I am truly sorry that PHIL HART will be retiring from the Senate this year.

During the decade of the 1960's, PHIL HART and I worked together on major civil rights legislation, and it was then that I came to know him well.

He is a man of integrity.

He is a man with a keen sense of fairness and justice.

He is a man who tries to listen to both sides, who can ask incisive questions, who goes beyond the black and white to look at the gray, and who considers not just the immediate practical effect of a policy or a piece of legislation but the philosophical element as well.

The Senate will miss these special attributes. And I will miss PHIL HART.

Mr. SCHWEIKER. Mr. President, the Senate will lose one of its great moral leaders with the retirement of the distinguished senior Senator from Michigan, PHILIP A. HART.

A native Pennsylvanian, Senator HART has served the people of Michigan as U.S. attorney for eastern Michigan, Lieutenant Governor for two terms, and U.S. Senator since 1958.

I had the honor of working with Senator HART on the Senate Select Intelligence Committee. It was there that I came to fully appreciate his high sense of morality and ethics. PHIL HART believes in a strong intelligence capability, but he wants it on the right terms: without excessive secrecy and with utmost recognition of the Bill of Rights and our legitimate ties abroad.

Mr. President, I am pleased to join with my colleagues who pause today to honor this great U.S. Senator.

Mr. MOSS. Mr. President, PHILIP HART belies political charges and public suspicions that politics is a dishonorable profession. He is a symbol of personal integrity and responsible representation; and so as an advocate of public service, he is not only convincing, but also inspiring. His most lasting influence, and perhaps his greatest, will be his encouragement of young people with intelligence and compassion to follow his example. PHILIP HART is a model U.S. Senator.

That is a sufficient accomplishment for any man or woman, but it is not his only one. PHILIP HART has made life better for all Americans, particularly disadvantaged Americans. The poor, blacks, and consumers have had no more persistent or effective a champion. As a member of the Judiciary Committee he fought for strong civil rights legislation. As chairman of the Antitrust Subcommittee, he has exposed the victimization of consumers and small business enterprises. And as chairman of the Environment Subcommittee he has helped to remove threats to public health and to the natural environment.

I entered the Senate with PHILIP HART in the class of 1958. I have served with him on the Commerce Committee. I feel a special affection for him, as does the entire Senate. We will miss him; but more importantly, the country will miss him.

Mr. STENNIS. Mr. President, we have known for over a year that the distinguished gentleman from Michigan, Senator PHILIP HART, will retire at the end of this session. As the time approaches, however, and I rise to voice my high regard for him as a person and as a Senator, I realize even more strongly how much he will be missed here in the Senate.

I have just used the words "distinguished gentleman" in referring to PHILIP HART. They describe him admirably. He is a gentleman in every sense of the word. It is a part of his character as well as his personality. His service here has been distinguished, and a great asset to his State and to the Senate.

I think all my colleagues would agree that he stands among the very top round of Senators. He is a man of very high standards, a man who has strong convictions and follows them. His personal qualities are so highly regarded, and his counsel is so wise, that he has much influence among other Senators. He has a quality of being both right and just in his judgments.

Senator HART has had a strong interest in environmental and consumer issues, and his efforts have been reflected in the legislation he sponsored and pursued to enactment. He was a leader in antitrust matters, and in health programs and social problems and issues.

I am personally indebted to PHILIP for many courtesies over the past 18 years. He is a very kind man, and a very wise man, and I have enjoyed and appreciated his quiet and effective counsel.

Mr. President, as PHILIP HART leaves the Senate I hope that he realizes that he takes with him the respect and affection of all Senators. He has my full admiration, as a man and as a Senator. Mrs. Stennis joins with me in every good wish to him and to his personable and charming wife Jane in the days and years ahead.

### PHILIP A. HART—THE QUIET KIND OF COURAGE

Mr. HASKELL. Mr. President, this morning's Washington Post contains the last in a series of articles discussing the results of a study on leadership conducted jointly by the Post and the Harvard University Center for International Affairs. The study attempts to discern "what it is, after all is said and done, that Americans want from their Government." The study concludes that among a broad cross-section of the American people—cutting across normal divisions of age, party affiliation, and ideological leanings—there exists a remarkable consensus on this question. Americans want qualities of personal strength and compassion in their leaders and public officials.

Mr. President, we know all too well the difficulty of describing in a few words a man as extraordinary as our much loved colleague, PHIL HART. But perhaps those two widely admired qualities—strength and compassion—do convey something of the essence of this good man.

The word "strength" conveys in part the integrity, conviction, and courage which have characterized PHIL HART's career.

The word "compassion" communicates some small measure of the simple decency and of the capacity to care which have so marked PHIL HART's life.

Two decades ago John Kennedy wrote eloquently of examples of political courage demonstrated by U.S. Senators throughout the history of our Republic. He wrote, too, of the quality of courage. The courage he described was not the bravery of the battlefield or the arena but the quiet, consistent kind of courage which men and women manifest throughout their lives. In his approach to life and to the service of his fellow human beings PHIL HART has shown that special kind of courage. It flows from his basic nature—strong, gentle, determined, and compassionate.

PHIL HART is a rare man, and it has been a deep personal honor to serve with him in the U.S. Senate.

Mr. CRANSTON. Mr. President, Sigmund Freud once wrote:

> The voice of intellect is a soft one, but it does not rest until it has gained a hearing. Ultimately, after endlessly repeated rebuffs, it succeeds. This is one of the few points in which one may be optimistic about the future of mankind, but in itself it signifies not a little.

The quiet intelligence of PHILIP A. HART has graced this Chamber since 1959, when he began the first of his three successive terms of Senate service—after 10 years of public service in Michigan, which culminated with his election and then reelection as Lieutenant Governor of Michigan.

Gentleness, noncontentiousness, and courtliness characterize our colleague from Michigan—whose campaigns for office have consisted of praising the character and integrity of his opponents, while expressing differences on the issues. In keeping with his character, he has said about these campaigns:

> Since I have never had an ill-mannered opponent, my sense of restraint has never been put to any serious test.

And, on the Senate floor, PHIL HART has usually tried to find merit in the positions of his opponents, even while perceiving with distress the misguided consequences of their views.

Yet, restraint of character has never kept him from taking serious and bold positions: PHIL HART has authored or cosponsored almost every major piece of consumer legislation enacted by Congress from the Drug Safety Act of 1952 to the Antitrust Parens Patriae Act of 1976, which marks a fitting end to his tireless crusade for more expeditious and effective enforcement of the antitrust laws.

He has championed the causes of consumer protection and antitrust, of civil rights and civil liberties, and of environmental preservation and protection.

He has been the foremost Senate voice for national no-fault insurance, for truth-in-packaging, and for truth-in-lending.

And he has exposed monopolistic practices wherever he has found them.

Nor has his gentle character signified any want of courage: His vigorous stands against antibusing legislation provide ample proof of that.

Now, at age 63 and fighting incapacitating illness, our colleague has chosen to bring his distinguished career of public service to an end, and retire to the beauty of his home on Michigan's Mackinac Island, with his wife Janey—whose own political courage and dedication to our national well-being have often been demonstrated.

I join my colleagues in wishing Phil and Janey Hart the best of everything. It has been a privilege to know them. They will be remembered here with pleasure and deep affection.

Mr. JOHNSTON. Mr. President, I would like to join my colleagues in paying tribute to my distinguished colleague from Michigan, Philip A. Hart.

As chairman of the Antitrust and Monopoly Subcommittee of the Judiciary Committee, Philip Hart has proven himself to be one of the true champions of the consumer. Indeed, he was a pioneer in consumer protection long before it became a fashionable cause. As cosponsor, he can be justifiably proud of the Truth in Lending Act, which stands as a landmark in its field.

For almost two decades he has been a leader in the fight for civil rights, protection of the small businessman, urban mass transit, and insurance reform. While not agreeing with him on every point, I have been impressed by the depth of his knowledge and commitment to these great causes. The force of his arguments has marked him as one of the truly great legislators of his time.

The Senate will sorely miss Philip Hart's wise counsel, his eloquence, his wit. He has enriched the lives of all those who have been lucky enough to come into contact with him. And he leaves behind him a legislative legacy which will enrich the lives of all Americans.

Mr. PERCY. Mr. President, this week will mark the end of an active and distinguished Senate career for our good friend, Phil Hart. In the 18 years he has spent in the Congress, this Nation—and the world—have experienced profound change. Of those changes which we have been fortunate to have within our control, many bear the distinctive marks of the Senator from Michigan.

His work in antitrust matters is well known. As a Midwestern Senator, he has long shared with me an interest in the future of the Great Lakes. Together we cosponsored a package of bills to make public buildings more accessible to the handicapped, and to enhance the employment opportunities for our handicapped citizens. In short, his interests and achievements span a multitude of issues, a reflection of his intellectual dexterity and genuine grasp of the most complex of ideas. In particular, I shall remember him for his judicious guidance and characteristic eloquence during the very difficult debate in the Senate several years ago concerning capital punishment. The calmed and reasoned influence he brought to that discussion will be missed in future Congresses as we tackle other emotional and far-reaching questions.

No commentary on Senator Phil Hart can be closed without mention of his strength of character and devotion to principle. He was not afraid to be in the minority nor did he allow the shifting winds of day-to-day politics to cloud his perceptions of what was right. I shall remember him to the end of my days as a man of conscience, and as the embodiment of the words of Winston Churchill:

> The only guide to a man is his conscience; the only shield to his memory is the rectitude and sincerity of his actions.

He has left us a legacy of honor whose preservation is the only tribute he would want.

## THANK YOU OF SENATOR PHILIP A. HART FOR TRIBUTES

Mr. PHILIP A. HART. Mr. President, my debt is great to you all—especially to the junior Senator from Michigan (Mr. Griffin) for his kindness in shepherding this event.

There are no word combinations to express my appreciation—an appreciation that goes back to a father and mother who encouraged me to prepare, and to a State which welcomed me as a stranger and gave me the opportunity to serve and permitted me to sit with those here today and those who preceded us. It is an experience I will treasure and more than anything else, it is what I would have chosen.

I leave as I arrived, understanding clearly the complexity of the world into which we were born and optimistic that if we give it our best shot, we will come close to achieving the goals set for us 200 years ago.

Mr. ROBERT C. BYRD. Mr. President, I yield back the time that I had reserved. Does the acting Republican leader yield back the time he had reserved?

Mr. GRIFFIN. I yield back the remainder of the time.

## BLACK LUNG COAL TAX

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of H.R. 10760, the black lung benefits bill.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, is the motion before the Senate?

The PRESIDING OFFICER. The motion is now before the Senate.

Mr. ROBERT C. BYRD. If Senators will withhold their quorums, I would like to let Mr. McClellan and Mr. Randolph be recognized. Is the motion before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. GRIFFIN. Then, Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. No; just so the motion is pending.

The PRESIDING OFFICER. The motion is pending before the Senate.

## COPYRIGHT LAW REVISION—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on S. 22 and ask for its immediate consideration.

The PRESIDING OFFICER. (Mr. Culver). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

The Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Record of Sept. 30, 1976.)

Mr. McCLELLAN. Mr. President, the conference report has been signed by all the conferees on the part of the Senate and the House of Representatives.

The long journey of this legislation in the Senate began on August 18, 1965, when the Subcommittee on Patents, Trademarks, and Copyrights commenced hearings on a bill for the general revision of the copyright law. I said at that time that my sole objective "was to devise a modern copyright statute that would encourage creativity and protect the interests which the public has in the subject matter of this legislation." I believe these goals have been substantially accomplished in the conference report.

This is not the proper occasion to review the protracted and, at times, acrimonious history of this legislation. Much will be written on that subject in the future. Rather, I believe it is appropriate today to take satisfaction in the successful completion of this monumental legislative project, which is entirely the work product of the legislative branch. Considering the controversies that existed on certain issues in the past, it is gratifying that S. 22 passed the Senate in this Congress by a vote of 97 to 0.

I believe that the final version of this legislation is just and equitable between the creators of copyrighted materials and the users thereof.

Mr. President, I wish to thank all of my colleagues on the Judiciary Committee and others who have worked with us in developing and processing this legislation. There were many issues that had to be resolved, there were differing opinions that had to be discussed, and a lot of give and take had to occur in order for this bill to emerge; but everyone worked in good faith, with a purpose to revise the copyright laws of this country, which had not been revised since 1909, and we do believe, now, that we have a good bill. In accomplishing that purpose, we were greatly aided by the committee staff; and, Mr. President, I would be greatly remiss in meeting my responsibilities as chairman of the subcommittee that processed this legislation if I did not acknowledge and express deep gratification for the staff assistance we were so fortunate to have throughout our drafting, revising and processing of this measure. The subcommittee staff, under the able direction of Mr. Tom Brennan, gave expert counsel and advice at every stage of work and consideration of this bill—counsel and advice of such quality as guided the committee unerringly to a successful conclusion of the stupendous task that was involved in this important legislative undertaking. We are indeed grateful to Tom and his loyal assistants.

Again, Mr. President, I express my deepest gratitude for the assistance given to me by my colleagues who served on the committee with me.

Mr. President, I move the adoption of the conference report.

Mr. GRIFFIN. Mr. President, if there are no other Senators who wish to address themselves to the conference report, I would like, if the Senator from Arkansas does not object, to have a quorum call so that we can alert Senators to the fact that this conference report is before the Senate. I have had several Senators mention the importance of this matter. And I think we might want to have a rollcall vote; it is a very historic and important piece of legislation.

Mr. McCLELLAN. I would be very happy to. As I pointed out, it passed the Senate by a vote of 97 to 0, but it is a historic bill of great importance, as the Senator says, and the conferees were able to iron out the differences, I think, most satisfactorily to everyone.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I join in support of the conference report on S. 22, the first general revision of the copyright law since 1909. This is an historic day and one that would not have been possible without the leadership and support of the distinguished chairman of the Subcommittee on Patents, Trademarks, and Copyrights. I particularly commend the Senator from Arkansas for his dedication to resolving the complex issues presented by this legislation.

S. 22 contains a number of important provisions which have far-reaching implications for our society. I address myself to several of those provisions.

During Senate debate on S. 22, an amendment was proposed that would have removed the compulsory license fee for juke boxes from periodic review by the Copyright Royalty Tribunal. That amendment was defeated. It is my understanding that under the review provisions of chapter 8 of S. 22, as agreed upon by the Senate-House conferees, it will be possible to have full-periodic review of the juke box performance royalty by the Copyright Royalty Tribunal.

Section 108 of the bill is also of particular interest to me. In 1974, during Senate debate on S. 1361, I proposed an amendment to section 108 which was intended to permit libraries and archives, subject to the general conditions of that section, to make off-the-air videotape recordings of television news programs. The purpose of that clause was to prevent the copyright law from precluding such operations as the Vanderbilt University Television News Archive, which makes videotape recordings of television news programs, prepare indexes of the contents, and leases copies of complete broadcasts or compilations of coverage of specified subjects for limited periods upon request from scholars and researchers.

Mr. President, the House accepted the Senate language with reference to this matter except for the addition of the words "by lending." However, I found the reference to this clause in the House report to be confusing. As the original sponsor, my understanding of section 108(f)(3) is that it is not intended to limit the types of programs that can be reproduced or distributed under this clause to daily network newscasts. Programs that would come within the scope of the clause include local, regional, or network newscasts, interviews concerning current news events, and on-the-spot coverage of news events. Furthermore, it is not intended to limit in any way the means or physical form a library or archives may chose in which to fix or reproduce programs under the clause.

Mr. President, I bring one other section of this bill to the attention of my colleagues. During the last three sessions of Congress, I introduced legislation that would have required the Librarian of Congress to establish and maintain a repository for radio and television programs of historic importance. My purpose in proposing such legislation was to insure that historians and other scholars studying our society have the opportunity to review the product of our electronic communications media.

Although such institutions as Vanderbilt University compile and maintain collections of various kinds of programs, there is no national repository for the preservation of news and entertainment programs.

I am, therefore, gratified that S. 22 contains authorization for the Librarian of Congress to establish the American Television and Radio Archives as a repository for the preservation of our television and radio heritage. The Librarian is authorized to obtain both entertainment and news programs and most importantly to publish catalogs and indexes of the collections and compile programs by subject matter without abridgment or editing, and distribute these compilations by loan to any person engaged in research.

Establishment of the American Television and Radio Archives will correct a serious deficiency existing in the historical records of our society. In a year when the United States is celebrating its 200th birthday, it is fitting that we should dedicate ourselves to the preservation of the material that will illuminate our Nation's performance in the next 200 years.

In closing, I commend Tom Brennan, counsel to the Patents, Trademarks, and Copyrights Subcommittee, and Barbara Ringer, Registrar of Copyrights, for their untiring efforts on behalf of copyright revision.

I urge the Senate to approve the conference report on S. 22.

Mr. HUGH SCOTT. Mr. President, last February we passed the copyright bill by a vote of 97 to 0. This unanimous vote was a tribute to the skill, wisdom, and leadership of the chairman of the Patents, Trademarks and Copyright Subcommittee, the distinguished senior Senator from Arkansas (Mr. McCLELLAN). I hope and expect that he will again achieve such fitting unanimity in the upcoming vote on the conference report.

The bill in its final form represents a fair balancing of the various interests. We have protected the interests of the consuming public—the viewers, the readers, and the listeners—without encroaching on the rights of the creators—the writers, the composers, and the actors and directors. The intermediaries also have been fairly considered.

My one regret is that we failed to enact in my last year in the Senate my performers' rights bill. I have championed this concept for my entire career in the House and Senate. The performing artist is the only contributor on the recording scene who has suffered neglect under the bill we are called upon to approve today.

I take some satisfaction, however, in pointing out that the copyright revision bill reported by the conference committee contains a provision directing the Register of Copyrights to prepare a report setting forth recommendations on a performance right for performers and owners of copyrighted sound recordings. After advocating such legislation for more than 30 years, I am heartened to see that serious and deliberate consideration will finally be given to this issue.

Extensive hearings have already been held on my performance rights proposal during this last session, and the testimony received convinced me more than ever of the equity of, and the need for, this legislation. The United States has long been out of step with prevailing practices in most nations of the Western World with respect to performance rights in sound recordings. The impact on those who oppose it should be minimal. What is significant to the fundamental system of copyright will be enormous. It will establish once and for all that those who exploit for commercial gain the creative works of others have a legal as well as a moral obligation to compensate the creators of those works.

I earnestly hope, and urge, that the report of the Register of Copyrights will provide the vehicle for the performance rights issue to be addressed on its merits in the next Congress.

Another issue that was subject to controversy was the so-called manufacturing clause. The Senate bill had preserved this provision to safeguard the U.S. printing industry. The House, however, chose to delete it, while agreeing to an extension of the phaseout date. The extra time will enable Congress to take a close look at the dangers faced by the printing industry in this country.

To insure that Congress has adequate and accurate information on which to base its reassessment before the phaseout takes place, Senator McClellan and I have written to the Register of Copyrights requesting that such a study be timely undertaken. We have received assurances that the Register would direct that such a study be undertaken.

I ask unanimous consent, Mr. President, that the text of the letter from Senator McClellan and myself be reprinted in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Washington, D.C., *September 30, 1976.*

Ms. Barbara Ringer,
*Register of Copyrights,*
*Washington, D.C.*

Dear Ms. Ringer: We have discussed with you the necessity of making a thorough study of the ramifications of removal of the so-called manufacturing clause of the Copyright Bill before July 1, 1982, the phaseout date established in S. 22.

As you know, the Senate proposed that Section 601 remain in the law and not be phased out. Our position is well-developed in the Senate Judiciary Committee Report (No. 94–473) dated November 20, 1975, at pages 146 to 151.

Our conclusion appears in two paragraphs at page 148 which read as follows:

"On balance it appears that, although there is no justification on principle for a manufacturing requirement in the copyright statute, there may still be some economic justification for it. Section 601 represents a substantial liberalization that will remove many of the inequities of the present manufacturing requirement. The real issue that lies between Section 601 and complete repeal is an economic one, and on purely economic grounds the possible dangers to the American printing industry in removing all restrictions on foreign manufacture outweigh the possible benefits repeal would bring to American authors and publishers.

"The committee is aware that the concern on both sides is not so much with the present but with the future; and, because the machines and devices for reproducing copyrighted text matter are in a state of rapid development, the future in this area is unpredictable. Outright repeal of the manufacturing requirement should be accomplished as soon as it can be shown convincingly that the effects on the U.S. printing industry as a whole would not be serious. Meanwhile the best approach lies in the compromise embodied in Section 601 of the present bill."

In the course of our conversations, we were gratified to learn of your willingness to undertake a study of the economic ramifications and possible dangers to the U.S. printing and book manufacturing industry if this protection were ended. Further, we were pleased to note that you intended to report to Congress on your conclusions in sufficient time prior to July 1, 1982 to allow the Congress to amend the Copyright law to retain the manufacturing clause if your conclusions suggest that such were appropriate. Your formal recommendations to the Congress would of course be given great weight.

We would suggest the parameters of such a study to be roughly as follow:

(a) Participants: Printing and book manufacturing industry, graphic arts unions, publishers and other interested parties.

(b) Subject Matter: Economic impact on U.S. book manufacturing industry; U.S. labor rates compared with those abroad; industry health, import on jobs in U.S. and U.S. industry; advances in printing technology that are relevant; progress on implementation of the Toronto Agreement of 1968; ramifications of granting copyright monopoly on book manufacturing industry; and other relevant factors that you should deem appropriate.

(c) Procedure: It would appear appropriate to have informal discussions with the parties in a relaxed atmosphere and attempt to marshal all the facts and statistics without resorting to formal hearings. Adequate public records and minutes can be kept to keep all parties apprised of what information has been furnished.

(d) Timetable: The study would be launched about January 1, 1981, and would continue for approximately four months until April 30, 1981. The Copyright Office could then prepare its final findings and recommendations for the Congress to be filed on or about July 1, 1981. This would allow the Congress approximately one year to analyze the report, conduct hearings, and make its decision whether the manufacturing clause protection should be continued beyond 1982.

We would appreciate your views on this matter at your earliest convenience.

With kind regards,
Sincerely,

Hugh Scott,
*U.S. Senator.*
John L. McClellan,
*U.S. Senator.*

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTERNAL REVENUE CODE OF 1954, AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 3605, which has been cleared on all sides and will not take any time; that it be considered as having had its first and second readings; and that the Senate proceed to its immediate consideration.

Mr. ALLEN. Mr. President, reserving the right to object, and I do not think I shall—I withdraw my reservation.

The PRESIDING OFFICER laid before the Senate H.R. 3605, an act to amend section 5051 of the Internal Revenue Code of 1954 relating to the Federal excise tax on beer.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title, and the Senate will proceed to its immediate consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MID-DECADE CENSUS—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, is the mid-decade census conference report at the desk?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I ask for its consideration. I call it up on behalf of the present occupant of the chair, the Senator from Florida (Mr. Stone). I understand that it has been cleared all around.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of the House of Representatives.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## EPA RESEARCH AUTHORIZATION FOR APPROPRIATIONS, 1976—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, in talking with Mr. Randolph and Mr. Baker, I understand that they have a conference report which has been cleared on both sides; and I ask now that the conference report on H.R. 7108 be laid before the Senate.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7108) to authorize appropriations for environmental research, development, and demonstration, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

## ORDER FOR H.R. 10133 TO BE PLACED ON THE CALENDAR

Mr. ALLEN. Mr. President, I ask permission to report H.R. 10133 from the Committee on Agriculture and Forestry.

Mr. DURKIN. Mr. President, reserving the right to object——

Mr. ALLEN. This is a bill having to do with upgrading the position of the Assistant Secretary of Agriculture to Deputy Secretary of Agriculture. It has no hidden features to it.

Mr. DURKIN. Very well.

Mr. ALLEN. I just ask that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RESOURCE CONSERVATION AND RECOVERY ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, in talking to Mr. Randolph and Mr. Baker, I understand that they have cleared and want called up for immediate consideration a message from the House of Representatives on S. 2150, and I so request.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2150) to amend the Solid Waste Disposal Act to authorize State program and implementation grants, to provide incentives for the recovery of resources from solid wastes, to control the disposal of hazardous wastes, and for other purposes.

(The amendment of the House is printed in the Record of the House of Representatives.)

Mr. RANDOLPH. Mr. President, for more than 13 years, the Congress diligently worked to develop national programs to abate air and water pollution. Because of concern for land pollution the Congress also enacted the Solid Waste Disposal Act of 1965 and the Resource Recovery Act of 1970. These statutes addressed the resource depletion and environmental problems accompanying the land disposal of solid waste.

However, solid waste has long been the stepchild of the environmental movement. Substantial attention has been given to the problems of air and water pollution. Major and effective programs have been implemented—and properly so—to address these problems.

But we neglected to fully recognize the implications of haphazard solid waste disposal practices. As consumers increasingly adopted a use-and-discard philosophy, it became imperative that we examine our attitudes toward the consumption of materials. Depletion of resources and higher prices dictate that we change our individual attitudes and our collective public policy.

With these thoughts in mind, I introduced S. 2150, then the Solid Waste Utilization Act. Extensive hearings were conducted on the measure culminating on June 30 of this year, with Senate passage of this measure by a vote of 88 to 3.

This action emphasized a national policy of resource recovery and reuse. The legislation now before the Senate was approved by the House on September 27. It is the result of a merger of my Senate bill and the one reported by the House Committee on Interstate and Foreign Commerce, a bill that was itself drafted as a refinement to S. 2150. I am gratified by the cooperative approach of the House in combining the features of our two bills in this manner. This avoids the need for a conference resolution of differences at this late date in the congressional year.

This comprehensive legislative measure addresses the full range of issues that I perceived when I introduced the Solid Waste Utilization Act in 1975. The measure incorporates the policies of the bill passed by the Senate 3 months ago. Its final approval today by the Senate will advance our country toward more environmentally sound solid waste programs and practices.

The Resource Conservation and Recovery Act of 1976 extends previous Federal assistance to State and local government efforts to meet solid waste problems in a comprehensive and effective manner. This measure is the culmination of a 3-year legislative effort begun in the 93d Congress with the establishment of the Panel on Materials Policy in the Committee on Public Works. Extensive oversight and legislative hearings were conducted in 1974 by the panel which has continued in the 94th Congress.

The Resource Conservation and Recovery Act of 1976 addresses several major areas of concern. The first is research on the environmental problems associated with the disposal of wastes on land. Several provisions are designed to increase the effectiveness of research, development, and demonstration activities—these are:

A management program to insure that promising innovations move speedily from research through development into demonstration;

Mandatory cooperation between the Environmental Protection Agency and the Energy Research and Development Administration on energy recovery from solid waste;

A research information program to make results rapidly available;

Eleven special studies; and

Limits on full-scale demonstration projects.

To carry out these research provisions $8 million are authorized in fiscal years 1978 and 1979 for the 11 special studies, and $35 million in fiscal year 1978 for the other activities. In addition, $2 million are authorized for the Cabinet level resource conservation study.

The research provisions also emphasize certain areas of need such as small-scale resource recovery systems for smaller cities.

Second, S. 2150 provides authority for EPA to assist communities to carry out solid waste programs. The legislation continues Federal support for the development of effective solid waste management. It authorizes activities in four areas: Comprehensive solid waste management, regulation of hazardous waste disposal, assistance for resource recovery and utilization and assistance for resource conservation.

The bill also authorizes technical and financial assistance to States and local governments to demonstrate and stimulate more cost effective and environmentally sound solid waste management practices.

Federal financial assistance is provided for facility planning and feasibility studies; expert consultation, surveys and analyses of market needs; marketing of recovered resources; technology assessments; legal expenses; construction feasibility studies; source separation projects; and fiscal or economic investigations or studies.

This legislation recognizes that solid waste is a uniquely local problem and that programs in this area should be developed and managed by State and local governments and regional groups.

For the purpose of regionalization of solid waste management programs and systems, S. 2150 encourages the designation of existing regional or municipal agencies to plan and implement programs. Where feasible, the designation of the agency designated under section 208 of the Federal Water Pollution Control Act is recommended. In the designation process the record of an agency or organization should be reviewed with respect to:

Its capability to carry out areawide environmental planning, including planning for solid waste management, resource recovery, resource conservation, and hazardous waste management services;

Its technical, economic, and fiscal expertise; and

The availability of fiscal, manpower, data, and other resources.

Solid waste management is not an area which lends itself to extensive planning and operation from the Federal level. The role of the Federal Government in solid waste activities should be one primarily of providing financial and technical assistance. In addition, provision is made for technical assistance on solid waste management by furnishing teams or panels of experts in such areas as resource recovery and conservation available to State and local government agencies.

Subtitle D of the bill limits the Administrator's plan approval authority to compliance with the minimum requirement for establishing a planning process and implementing the plan on open dumping. The Congress thus intends that States and areawide solid waste management planning agencies have free choice in selecting the elements of their solid waste management plans. The Administrator's review of plans and work programs for support grant funding decisions is not intended to convey any power to require compliance with guidelines or to otherwise dictate the content of State or areawide solid waste management plans. The suggested guidelines are prepared for informational purposes only; any attempt to use those guidelines for regulatory purposes, particularly in directing the activities of State or local governments, would be inconsistent with the intent of this legislation.

Under the bill, however, State plans must provide for elimination of open dumps within a period of 5 years and control of hazardous wastes disposal.

The ban on open dumping is intended primarily to deal with municipal and industrial disposal practices. In drafting the criteria for defining open dumping, the Administrator should address such disposal before addressing agricultural or mining waste management practices.

Section 1008 of the new act replaces section 209 of existing law. This section directs the Administrator to publish suggested guidelines descriptive of solid waste management. The Congress intends that the guidelines are to be descriptive of alternative solid waste management practices rather than prescriptive. The guidelines should provide the States and areawide planning agencies with maximum flexibility, while assuring that such agencies or organizations have adequate information to effectively implement planning provisions.

The Administrator also is required to implement a program for the dissemination of information on solid waste management, resource recovery, resource conservation, and hazardous waste management. This general information is to include the results of research on new and improved solid waste management practices and should be reflected in the guidelines as they are revised. While guidelines compare alternative solid waste management practices, information documents should describe individual processes.

State and local decisions to implement resource recovery or resource conservation approaches to solid waste problems are often highly controversial. The Environmental Protection Agency's effectiveness may be compromised if it advocates specific policy alternatives at the State or local level. These matters are best left to local choice since they involve substantial regional variation and it is not appropriate for the Environmental Protection Agency to do more than provide technical assistance upon request.

To assure that the Federal Government adopts a proper place in this program, the Administrator of the Environmental Protection Agency is required to notify the Congress before the publication of guidelines, information or model codes, ordinances or statutes.

One of the most urgent solid waste needs is a uniform approach to the handling of potentially hazardous materials. This bill establishes a Federal permit program for the management of hazardous waste disposal and provides specific direction for its implementation. Where possible, this program will be administered by the States.

S. 2150 also directs Federal agencies to review their procurement specifications and to establish a preference for recovered materials where their use will not affect product performance.

To administer these programs there is created in EPA an Office of Solid Waste Management, headed by a Deputy Assistant Administrator. The Officer also is given power to provide assistance to State, regional, and local government agencies and to issue regulations.

As approved by the House, S. 2150 contains several provisions for the Senate bill which were not included in the measure reported by the House Committee on Interstate and Foreign Commerce:

The Senate's "solid waste" terminology was adopted instead of the House's "discarded materials" terminology.

The Senate definitions of resource conservation, solid waste, and solid waste management also were included.

Although the basic House mechanism for State plans and financial assistance were retained, the States were given 5 years to close all open dumps.

An additional authorization of $25 million was included for each of fiscal years 1978 and 1979 for equipment and construction in rural areas.

Antitrust exemptions were dropped from the House committee measure.

Federal facilities will be subject to State law and regulation, as under the Senate-passed bill.

An interagency committee to conduct a resource conservation study was added to S. 2150 by the House.

This legislation authorizes $35 million for fiscal year 1977 to carry out the entire act during a phasing in of the new authorities, and $38 million for fiscal year 1978 and $42 million for fiscal year 1979 for general authorizations in addition to several specific authorizations.

State program grant authorizations of $25 million is provided for fiscal years 1978 and 1979. An additional authorization of $30 million and $40 million for fiscal years 1978 and 1979 would be distributed to the States to support planning requirements of the bill on the basis of a formula set out in the bill. The implementation grants are funded at a level of $15 million per year. Research and demonstration grants are funded at a level of $35 million for fiscal year 1978. A special studies authorization of $8 million for fiscal years 1978 and 1979 also is provided.

An additional $25 million in each of the 2 fiscal years is authorized to aid rural communities in complying with the ban on open dumping. An authorization of $2.5 million for 1978 and 1979 also is authorized for special assistance to communities.

These amounts are sufficient to carry forward the activities authorized by this measure. The full amount should be appropriated so that adequate solid waste programs can be implemented.

This legislation brings to the solid waste problem the attention it deserves and I urge approval of S. 2150 with the House amendment.

Mr. HATFIELD. Mr. President, I appreciate having this opportunity to briefly discuss one aspect of this solid waste legislation which my colleagues know is of concern to me, and which I think is of importance to the Nation in terms of sound solid waste management.

On June 30 of this year, I introduced the Beverage Container Reuse and Recycling Act as an amendment to the Solid Waste Utilization Act. It was defeated. I then introduced an amendment calling for Presidentially coordinated interagency study of returnable beverage container legislation. This passed 85 to 1. The purpose of this amendment was to satisfy those of my colleagues who argued that more information in this area was needed before any laws were passed. While I believe the experiences in Oregon and Vermont as well as studies already available to us are proof enough of this program's effectiveness, nevertheless I had hoped to provide more information on this matter to my colleagues with this amendment.

It is now my understanding that the House decided not to include this study language in their bill. It is also my understanding that this is the only significant difference between the two versions. This leaves me in the rather difficult position of having to decide whether or not to insist on the study amendment as so many of my colleagues had indicated was necessary during debate on this issue last June.

The bill apparently does contain, however, general language concerning the need for Federal studies of various solid waste management alternatives, including resource conservation and resource recovery. For this reason I do not intend to do anything that will unnecessarily compromise this bill's chances of passage. There are too many other sound provisions to jeopardize this bill now.

For purposes of legislative history, however, I would like to urge that any studies in this area include a review of the impact of a nationwide system of returnable beverage containers in terms of litter reduction, energy conservation, resource conservation, and any other related matters. The use of returnable cans and bottles has been very effective in my State of Oregon, and should be considered as a solid waste management alternative.

Many of my colleagues wanted additional information on this issue, and I hope that this bill will insure that it is provided to them.

Mr. RANDOLPH. I have long been aware of the interest of the Senator from Oregon (Mr. HATFIELD) in this kind of legislation, and was glad to have the opportunity to discuss it with him during debate on the Solid Waste Utilization Act in June. At that time the Senate almost unanimously passed his amendment calling for a study on the bottle bill issue to be completed by March 1, 1977.

The bill that we will send to the President does not contain specific language regarding this study, but it does recognize the need for further study in several areas of solid waste management. I would like to echo Senator HATFIELD's concern that in implementing this law, the Federal agencies involved will evaluate a national returnable beverage container system in their review of possible solid waste management methodologies. The Senate has already expressed its sentiments on the need for study of such a system which can be evaluated within the scope of the studies provided for in this bill.

Mr. HATFIELD. I thank the distinguished chairman of the Public Works Committee, and congratulate him on his leadership in gaining passage of this legislation, which I intend to support—keeping in mind the concerns which we have just discussed.

Mr. BAKER. Mr. President, I supported passage of S. 2150, the Solid Waste Utilization Act, when it was before the Senate in June. I said then that although I was not convinced of the need for an expanded Federal program in this area, I believed there were enough useful features in the legisation to justify passage of the bill.

I am of the same opinion today. S. 2150

as sent back to the Senate from the House is very similar to the bill we passed. It minimizes Federal requirements except in the control of hazardous wastes. It provides needed technical and financial assistance to States and their political subdivisions. It continues Federal activities in research and development areas.

The bill before us today also retains two provisions which I felt were important in the Senate bill. One requires EPA to give advance notice to the appropriate congressional committees before publishing any information or guidelines. This is not a provision for congressional approval or veto. It simply assures that Congress will be informed of EPA's intentions and activities.

The second provision requires EPA to describe the full range of technological and nontechnological alternatives likely to meet solid waste management needs of a State or community. It prohibits any EPA employee in an official capacity from advocating resource recovery or resource conservation as the policy basis for ordinances, codes, regulations, or law. The modification of Senate language by the House clarifies that the provision is not intended to hamper the Agency's ability to provide technical assistance, advice, and information to States or local communities.

Mr. President, because of the similarity of the House and Senate-passed version of S. 2150, I believe it advisable to enact the bill before us. The House Interstate and Foreign Commerce Committee worked very closely with the Senate Public Works Committee to arrive at the measure we will vote on. The text was substituted on the floor for the bill reported by the House committee.

I believe the bill is modest and worthwhile and support its passage.

Mr. STAFFORD. Mr. President, it is indeed gratifying at this time of year to see agreement reached on issues carefully considered over many months. S. 2150, the Resource Recovery and Resource Conservation Act now before the Senate is the result of such agreement.

The Senate passed S. 2150 last June, after many days of hearings and markup by the Public Works Committee. I was pleased with the substance of that legislation as, I believe, were all the members of the committee.

The bill provided needed Federal encouragement and assistance to State and community solid waste programs without establishing a new regulatory program. A Federal program to control hazardous wastes was set up, but States were given the chance to plan for and implement its requirements.

Open dumps, which pose threats to drinking water and are breeding grounds for disease were banned, and assistance was provided for finding alternative means of disposal.

Most important, in my opinion, was establishment of the principle that the Federal Government will support and encourage all promising approaches to solid waste management in an evenhanded manner. The bill made clear that methods to reduce the amounts of waste generated as well as technologies to recycle used material were to be pursued.

States and communities were to be on notice that they could select methods best suited to their disposal needs and look to the Federal Government for technical and financial assistance in planning and implementing a system.

I am pleased to say that S. 2150 as passed by the other body and returned to the Senate includes all of the features I have mentioned. While the form of some of the sections and mechanisms to achieve certain goals may vary, the substance of the House-passed bill is very close to the Senate version.

Cooperation between the House Interstate and Foreign Commerce Committee and the Senate Public Works Committee has made possible enactment of responsible solid waste legislation by this Congress.

The bill now before the Senate is evenhanded in dealing with various approaches to solid waste management. It encourages better State and local planning. It supports Federal research and demonstration, and it provides for a national program to control disposal of hazardous wastes.

S. 2150 makes clear that the Federal Government should play a leading role in using recycled resources and demonstrating promising technological and nontechnological methods of reducing amounts of solid waste which must ultimately be disposed of.

Mr. President, I should comment at this point that I think it most appropriate that the Environmental Protection Agency on September 21 issued final guidelines for beverage containers used on Federal facilities. I believe the experience from regulations of this sort will be valuable in determining the practicality of adopting similar programs on a broader scale.

In closing, I would like to point out that cooperation between the House Interstate and Foreign Commerce Committee and the Senate Public Works Committee has made possible enactment of responsible solid waste legislation by this Congress. I am pleased that we were able to reach so satisfactory an accommodation with our colleagues in the other body.

I also want to repeat for the record that the chairman of the Public Works Committee, the distinguished senior Senator from West Virginia, is largely responsible for bringing this legislation into being. His untiring efforts, his patience, and his willingness to accommodate divergent views has made this bill possible.

I am pleased to join with my chairman in giving full support to Senate passage of S. 2150, the Resource Recovery and Resource Conservation Act of 1976.

Mr. RANDOLPH. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

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## COPYRIGHT LAW REVISION—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (S. 22) for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on the adoption of the conference report on the copyright bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Florida (Mr. Chiles), the Senator from Idaho (Mr. Church), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Louisana (Mr. Long), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), and the Senator from Hawaii (Mr. Inouye) are absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Vermont (Mr. Stafford), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I also announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The result was announced—yeas 75, nays 0, as follows:

[Rollcall Vote No. 681 Leg.]

YEAS—75

Abourezk
Allen
Baker
Bartlett
Bayh
Biden
Brock
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Leahy
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Stennis
Stevenson
Stone
Symington
Talmadge
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—25

Beall
Bellmon
Bentsen
Buckley
Chiles
Church
Dole
Glenn
Hart, Philip A.
Hartke
Inouye
Kennedy
Long
Mansfield
McGee
McGovern
Mondale
Montoya
Ribicoff
Scott, William L.
Sparkman
Stafford
Stevens
Taft
Thurmond

So the conference report was agreed to.

(During the preceding vote, the following occurred:)

Mr. GOLDWATER. Regular order, Mr. President.

Mr. HELMS. Mr. President, before the Chair announces the vote, let us have order in the Senate, because the Senator from North Carolina is going to seek recognition.

The PRESIDING OFFICER (Mr. FORD). The Senator's point is well taken. The Senate will please come to order.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD and Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, with respect to——

The PRESIDING OFFICER. Will the Senator suspend. I ask the Senate to come to order. Will the Senators please clear the well. The Senator is entitled to be heard. If the Senators care to carry on a conversation the cloakrooms can be used.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, without losing my right to the floor I yield to the distinguished Senator from Alabama (Mr. ALLEN) for not to exceed 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized. Without objection, it is so ordered.

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## MINE SAFETY AND HEALTH ACT OF 1976

Mr. ALLEN. Mr. President, I am pleased that the distinguished majority leader has moved to proceed to the black lung bill.

The distinguished Senator from West Virginia (Mr. RANDOLPH) chaired lengthy and comprehensive hearings on this bill. He has been the chief advocate and sponsor of black lung legislation in the past and he strongly supports this bill and his views carry much weight with me and other Members of the Senate.

I believe this is the bill the distinguished majority leader should have selected for the next item of business to be considered by the Senate. I support this legislation as being important to the Nation, certainly important to the people of Alabama and to thousands of miners and their friends, and I am hopeful that we will move quickly to a consideration of the bill and that the bill will be passed by the Senate.

So I join with the distinguished Senator from West Virginia in moving that the Senate proceed to the consideration of the black lung bill. In order not to delay action on this motion, I will have no remarks to make in connection with the motion other than this.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank my distinguished friend from Alabama, Mr. ALLEN.

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## ORDER FOR AN ADDITIONAL CONFEREE—H.R. 10210

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. ROTH—and I make this request because Senator LONG is not on the floor—be added as a conferee on the unemployment tax bill which passed the Senate yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## LABOR/HEW APPROPRIATIONS VETO—ORDER FOR DEBATE AND VOTE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that with respect to the vote on the veto override of the Labor/HEW appropriations bill, which veto has been overridden in the other body, that beginning at 3:40 p.m. today there be a 30-minute time limitation for debate to be equally divided between Mr. MAGNUSON and Mr. YOUNG.

Mr. GOLDWATER. Mr. President, will the Senator yield? Can he make that at 3:30?

Mr. ROBERT C. BYRD. The debate?

Mr. GOLDWATER. No, the vote.

Mr. ROBERT C. BYRD. I am talking about the debate.

Mr. GOLDWATER. I thought the Senator was asking unanimous consent that the vote be at 3:40.

Mr. ROBERT C. BYRD. No, I was going to ask that there be 30 minutes of debate beginning at 3:40, and that the rollcall begin at the hour of 4:10 p.m. and that it last for 1 hour, this being a constitutional matter, a matter of the highest privilege, and that it last for 1 hour, to wit, to the hour of 5:10 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Reserving the right to object, and I shall not object, there are matters pending that have been favorably acted upon by committees, and I refer primarily to the Finance Committee. They are bills that should not take a great deal of time, but they are exceedingly important to rather broad segments of our economy, and I just want to express the hope that the request of the chairman of the Finance Committee be given every consideration because there is great need. I shall not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, it is agreed that the vote on the override will begin at 4:10 and last for 1 hour, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. GRIFFIN. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Will Senators please take their seats and curtail their conversations? May we have order in the Senate? Will Senators please take their seats and end their conversations so the Senate may proceed?

Mr. ROBERT C. BYRD. I thank the Presiding Officer and compliment him on his efforts to get order in the Senate, which, under the rules, he is bound to do.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ROBERT C. BYRD. Mr. President, I have yielded to him.

Mr. GRIFFIN. Mr. President, I share the feelings of the Senator from Nebraska, that this is not a very good procedure. We are agreeing to this 1 hour for a vote trying to accommodate as many Senators as possible on both sides. I think it should be noted that we have not been able to accommodate everybody. Senator GOLDWATER will miss the vote under this arrangement. If we tried to stretch it out to accommodate him, the vote would go on for an hour and a half or so. He understands this. I hope we will not have this repeated too many times. I do not think it looks good as far as the Senate is concerned.

Mr. ROBERT C. BYRD. Mr. President I share the hope. I hope we will not have to vote on too many veto overrides.

### PROGRESS REPORT

Mr. President, may I at this time, as a Member of the Senate, state that we are making good progress, in my judgment, under the very difficult and trying circumstances of the times. I recognize the urgency in the minds of many Senators with respect to measures in which they are particularly interested. I recognize the urgency of getting action on those measures.

There are some measures that perhaps the Senate will be able to consider and some it will not be able to consider. Every effort is being made by the leadership on this side to cooperate with the leadership on the House side, and with the leadership on the other side of the aisle, to transact business on those measures which have to be taken care of before adjournment sine die. That is our plan, it has been our plan, and I hope it will be achieved, that the Senate will adjourn sine die at the close of business tomorrow.

But it is entirely possible, depending upon circumstances that are not under the control of the Senator, that we might have to go into Saturday. And it is possible, depending upon what could happen with respect to a veto of the CETA, Public Service jobs bill, and the Public Works Employment appropriations bill, that the Senate would have to come back at some point in order to prevent a pocket veto.

I have talked with the President, as has the leadership on the other side of the aisle and the leadership in the other body, in an effort to get assurance from the President that if he does not sign those bills this week, he will not pocket veto them. He has indicated he will let us know. He has this under consideration. He talked with me about it again yesterday.

I believe if the Congress can transact action on the revenue-sharing measure and get that to the President, we will get our answer from the President in response to the questions we have raised.

At this point, the situation is on track. I thank all Senators for their forbearance and patience. I hope we may continue to have the cooperation and understanding of everyone.

Mr. DURKIN. Will the Senator yield?

Mr. HELMS. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from North Carolina.

Mr. HELMS. I defer to the Senator from New Hampshire for a question.

Mr. DURKIN. I thank the Senator. My question is this: Does the leadership intend to call up S. 969, Calendar No. 1179, the extension of the GI bill? I am quite concerned that if we do not enact S. 969 very quickly and send it to the House, the 8-percent increase for current students will lapse and all attempts to extend it to those who were interrupted on May 31 will be lost in the shuffle. I have been concerned for some time that we get an up and down vote and extend the GI bill benefits to those who lost them on May 31.

Mr. ROBERT C. BYRD. Mr. President, I understand the concern of the Senator. He has spoken with me privately about this measure more than once. I am glad he asked the question as the same response will have to be made to many Senators about many bills.

There are certain measures which I am bound to try to get before the Senate prior to the measure to which the Senator has alluded. I hope at some point it will be possible to take up S. 969. In the meantime, may I say to my friend, if he could talk with other Senators who are interested in that measure and see if he can reach some agreement whereby we can pass it by unanimous consent, or can pass it under a very brief time limitation, that would iron the way for action on the measure.

Mr. DURKIN. I am in favor of any time limit, just to get it before the body.

Mr. ROBERT C. BYRD. The Senator would help a great deal if he would work with those Senators who are principally interested in it to see if he can work out a time limit. This would help immensely. Otherwise, I am afraid that, because of the constraints, of time with only 2 days left, including today, there will be many very meritorious measures upon which we will not be able to act.

Mr. DURKIN. I am willing to accept any limitation. I thank the Senator.

Mr. PASTORE. I want to join my colleague from New Hampshire in urging a vote on this particular bill. As a matter of fact, we have many veterans in my State who are quite disturbed at the fact that this legislation might expire and these benefits will not be extended. I would hope that all of us would more or less cooperate with the leadership. I think if we all cooperate, if we get away from the dilatory tactics, we will not only take care of this bill but practically run through the entire calendar. I have found, after 26 years, this Senate can do anything it sets out to do. If we all join hands together and forget all of our grievances, our animosities, our parochialism, if we forget all that and look at the country and look at our responsibility, I think we can do the whole job.

The PRESIDING OFFICER. The Senator from West Virginia has the floor. He has yielded to the Senator from North Carolina.

Mr. ROBERT C. BYRD. I yield to the Senator for a parliamentary inquiry.

Mr. HELMS. I thank the Senator.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Will Senators please take their seats and eliminate the conversations? May we have order in the Senate?

The Senator from North Carolina may proceed.

Mr. HELMS. I thank the Chair.

Mr. President a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. What is the pending business?

The PRESIDING OFFICER. The motion to proceed to the consideration of H.R. 10760.

Mr. HELMS. H.R. 10760?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Has the budget waiver been approved on this measure?

The PRESIDING OFFICER. There is a budget waiver which has been reported from the Budget Committee on this legislation.

Mr. HELMS. That is not the question. I want to know if it has been approved.

The PRESIDING OFFICER. It has not been accepted by the Senate but it has been recommended to the Senate. I gave the Senator the total impact of the waiver.

Mr. HELMS. I make a point of order, Mr. President. I object to the calling up of H.R. 10760 until there is a Budget Act waiver resolution approved.

Mr. ROBERT C. BYRD. Mr. President, I do not yield further at this time.

The PRESIDING OFFICER. The point of order will not lie. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

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## CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measuers that have been cleared on both sides that, if we take care of them, would relieve questions in many Senators' minds, at least as to those particular bills.

So I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1259.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, reserving the right to object, I suggest that perhaps we should go one at a time. I will indicate to the distinguished acting majority leader that in each case, an inquiry will be made as to whether there has been a Budget Act waiver.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. JOHNSTON. Mr. President, reserving the right to object, this is, as a matter of fact, a question about the proper form of procedure and the parliamentary situation, if anything.

I have a matter I would like to call up, Calendar No. 935, H.R. 6852, which is a private bill for the relief of Col. John T. Knight. I realize there may be some objection to it.

First, is unanimous consent required to bring up any bill, including this bill; and second, at what time would it be appropriate to make such a motion?

The PRESIDING OFFICER. The Chair would advise the Senator from Louisiana that that bill is not on the calendar. There is no Calendar No. 935.

Mr. JOHNSTON. It is a matter under "Subjects on the Table."

The PRESIDING OFFICER. Is the Senator directing a question to the acting majority leader?

Mr. JOHNSTON. Yes, to the acting majority leader.

Mr. ROBERT C. BYRD. Yes, it would require unanimous consent to call that up on a motion. If I do not misunderstand the status of the bill, it could be called up by motion, but at the present time there is a motion to proceed before the Senate, and another motion would not displace the motion that is now before the Senate.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. JOHNSTON. So a Senator would either have to have unanimous consent or make a motion to proceed; and would the motion to proceed receive an up or down vote?

Mr. ROBERT C. BYRD. The motion to proceed would be debatable. It would not be called up right now. But as I say, once the motion to proceed with the consideration of the black lung bill—if that should be tabled, withdrawn, or postponed and be out of the way, a motion to proceed to the bill the Senator is talking about would be in order if he could get recognition. But I say to my friend with the utmost respect that in these last 2 days I will be constrained to move to table any motion that is made by any Senator that has not been cleared with me. I hope that does not sound dictatorial; it is a necessity, and rather than have another Senator make a motion to proceed to the consideration of a matter that could rule the Senate and keep the Senate from acting on measures that are absolutely necessary and have been cleared by the policy committee, and cleared unanimously, I would have to move to table such a motion immediately. I say this regardless of what Senator would stand in the shoes of the Senator from Louisiana.

Mr. JOHNSTON. I appreciate what my good friend the acting majority leader is saying, but my situation is this: This man is 83 years of age. He has been seeking for some 20 years to get some justice. He has been sent to the House, to the Senate, to the Court of Claims, and all over this Federal Government, and each time he is told, "No, you are not doing it right; go to the House, not to the Senate," and the House says, "No, don't get a bill waiving jurisdiction, get one fixing the judgment," and the Senate says, "No, don't get a bill fixing the judgment, get a bill waiving the jurisdiction."

I think this man is entitled to just a few minutes of the Senate's time. He may get voted down, but this is the kind of thing, the kind of injustice, in my view, that just demands someone to stand up for him.

Mr. ROBERT C. BYRD. Will the Senator allow me to interrupt him at that point? Perhaps the Senator could get clearance for this matter to be handled by unanimous consent. I am pretty positive that he cannot. Second, could he work out an arrangement whereby we take the matter up for 10 minutes and discuss it, 5 minutes on a side, and then have a vote?

Mr. JOHNSTON. That would be perfectly agreeable with me. I see the Senator from Arizona (Mr. Fannin) is present. If he would give it clearance, that would be perfectly fine with me.

Mr. ROBERT C. BYRD. I must say the vote might be on my motion to table, but at least it would be a vote. And I am not saying at this moment that I would move to table, if the Senator can get such an order, to debate it 10 minutes and let the Senate work its will. But do not try to get the unanimous consent right now.

Will the Senator personally talk with the other parties, so we can move ahead with this other matter?

Mr. JOHNSTON. Yes. I have chatted with them about it on an informal basis. They are willing to make the concession.

Mr. ROBERT C. BYRD. Try to get unanimous consent without my losing the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Wait a minute, no.

Mr. GRIFFIN. Mr. President, I object to that procedure.

Mr. ROBERT C. BYRD. For the time being, anyway.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President I yield to the Senator from New York so that he may make a routine request.

### PRIVILEGE OF THE FLOOR

Mr. JAVITS. Mr. President, I ask unanimous consent that Don Zimmerman and Don Rosenthal may be permitted on the floor to assist me with the black lung bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if we could proceed with those measures that have been cleared on both sides of the aisle, the first one is Calendar No. 1259.

## WAIVER OF SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 14886

The resolution (S. Res. 563) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 14886 was considered and agreed to, as follows:

*Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402 (a) are waived with respect to the consideration of H.R. 14886. Such waiver is necessary because the present authorized amount of $900,000 to facilitate Presidential transitions, pursuant to the Presidential Transition Act of 1963, has been found to be inadequate and unrealistic, although it appeared reasonable in 1963. H.R. 14883 would increase the authorization to $3 million, of which $1 million would be available to outgoing Presidents and Vice Presidents and $2 million for incoming Presidents and Vice Presidents. Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1976, because the inflationary impact upon the existing level of authorization was not highlighted until recently, and because the Federal Elections Commission issued regulations, after that date, which would prohibit campaign funds from being used for transition purposes.

## WAIVER OF SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 10073

The resolution (S. Res. 552) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 10073 was considered and agreed to, as follows:

*Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(c) are waived with respect to the consideration of H.R. 10073, a bill to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes. Such waiver is necessary in order to permit consideration of statutory authority for the implementation during fiscal year 1977 of a mandatory inspection program to assure consumers of the wholesomeness of rabbit products.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the votes by which both of those resolutions were agreed to, and I move to lay those motions on the table, en bloc.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

## WAIVER OF SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 14360

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1261.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 560) waiving section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to the consideration of H.R. 14360, an Act amending the John F. Kennedy Center Act to authorize funds for repairs.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. HELMS. Mr. President, reserving the right to object, I wonder if Senator Morgan is in the Chamber. I think some discussion of what the taxpayers are paying just to repair the roof of the Kennedy Center would be in order.

Mr. ROBERT C. BYRD. Mr. President, if I am not mistaken, I thought the Senator from Oregon asked me earlier in the day—I may have misunderstood him—to move forward with this matter. As I say, I may have misunderstood him.

Mr. HELMS. I think there ought to be some information in the Record, I will say to the able Senator, as to the cost of this white elephant we have over there. I would ask to withhold that.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee report be printed in the Record. Will this be satisfactory to the Senator?

Mr. HELMS. That will be satisfactory.

There being no objection, the committee report was ordered to be printed in the Record, as follows:

### PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Since H.R. 14360, which authorizes the enactment of new budget authority for fiscal 1977 was reported by the Committee on Public Works on September 17, a resolution waiving section 402(a) of the Budget Act with respect to the consideration of H.R. 14360 must be adopted before this bill can be considered by the Senate.

### *Committee criteria*

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the First Concurrent Resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of seven days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the delayed reporting of the authorization, whether the authorization was contemplated in the First Concurrent Resolution on the Budget, and whether the enactment of the authorization will significantly affect the Congressional budget.

### BUDGET IMPLICATIONS

According to the Committee on Public Works, H.R. 14360 authorizes $3.3 million to repair the Kennedy Center. The serious water leakage through the roof and terrace of the Kennedy Center has created an emergency because of the structural damages to the building, the entrance plaza, and paved roadways. Interior damage from the saturation must also be repaired.

H.R. 14360 is intended to authorize appropriations for repairs to the Kennedy Center to prevent further deterioration which would result in greater costs.

Any funds recovered from the pending litigation concerning the Center will offset the cost to the Treasury of these emergency repairs.

If consideration of H.R. 14360 is prevented, deterioration of the Center due to leakage will continue, and even more serious and costly damage could result, according to the Committee on Public Works. Consideration will not delay the regular appropriations process inasmuch as the amounts of the authorization at this time have already been included in a supplemental appropriation. The amount of this authorization is small and can be easily accommodated within the relevant Second Concurrent Resolution function ceilings.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 560) was agreed to, as follows:

*Resolved*, That the prohibition of section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 as to the consideration by the Senate of legislation authorizing the enactment of new budget authority for a fiscal year if such legislation is not reported to the Senate on or before May 15 preceding the beginning of such fiscal year be waived with respect to the bill to amend the John F. Kennedy Center Act (H.R. 14360) reported by the Committee on Public Works on September 17, 1976. The waiver is necessary for the Senate to complete action on legislation which provides an authorization of $3,000,000 to the Secretary of Interior for repairs to the roof and terrace areas of the Kennedy Center.

The authorization of funds in H.R. 14360 was not taken into consideration in the March 15 report to the Senate Budget Committee by the Public Works Committee because such funding was not anticipated at that time. This reported bill provides for emergency funding for repairs to the roof and other areas at the Kennedy Center which need repair to prevent substantial damage to the interior of the building.

Mr. ROBERT C. BYRD. Mr. President, I believe that takes care of the first budget waiver resolution.

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## DAY'S SPORTSWEAR, INC.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1183.

The PRESIDING OFFICER. The bill will be stated by title.

Mr. GRIFFIN. Mr. President, reserving the right to object, one of the resolutions from the Budget Committee that we just passed relates to this bill, does it not? Could we establish that as we go along? Or is there no budget waiver required?

Mr. ROBERT C. BYRD. Mr. President, yes. We adopted Calendar Order No. 1260, and I believe that according to my calendar has to do with H.R. 10073.

Mr. GRIFFIN. I believe the Senate proceeded to the consideration of Calendar No. 1183, as I recall.

Mr. ROBERT C. BYRD. Yes. I beg the Senator's pardon.

I understand no waiver is required on this.

Mr. GRIFFIN. Is the Chair in position to advise whether that is the case?

The PRESIDING OFFICER. The Chair is studying it. The Chair is not in a position to advise on Calendar No. 1183.

Mr. ROBERT C. BYRD. Mr. President, the Budget Committee has reviewed all of these measures that we are calling up by unanimous consent, and they have been cleared.

Mr. GRIFFIN. I do not know that is an adequate answer.

The PRESIDING OFFICER. The Chair will be sure that we can proceed orderly. Is it the Senator's question that Calendar No. 1183 needs a budget waiver?

Mr. GRIFFIN. The question is, is the budget waiver required in order to proceed to the consideration of that measure?

The PRESIDING OFFICER. The Chair has no way at this moment to advise the Senator from Michigan that the waiver is required.

Mr. GRIFFIN. In the interim, I wonder if the acting majority leader will withhold it because I have a letter here from the ranking member of the Budget Committee, Senator BELLMON, who asked me to be very meticulous on these points and be sure that if a waiver is required that it is there before we proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request for the time being.

The PRESIDING OFFICER. This is a private relief bill as we read it. That amounts only to $23,000. The Budget Committee does not even consider those amounts that small.

Mr. GRIFFIN. If that is the advice of the Chair——

The PRESIDING OFFICER. That is the advice of the Chair.

Mr. GRIFFIN. That a relief bill in that amount of money does not require waiver under the——

The PRESIDING OFFICER. The Chair advises the Senator that the Budget Committee will not consider that amount.

(The following subsequently occurred:)

The PRESIDING OFFICER. Will the Senator from West Virginia suspend just a moment for a clarification from the Chair?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The Chair has been advised by the Budget Committee that they are considering amounts this small but the private relief legislation does not fall under any of the prohibitions of that legislation.

Mr. GRIFFIN. I thank the Chair.

The PRESIDING OFFICER. The Chair wanted to be sure he was correct and the Senator from Michigan was not under the wrong impression.

Mr. GRIFFIN. Under those circumstances then why do we not proceed?

Mr. ROBERT C. BYRD. Then I renew my request.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4654) for the relief of Day's Sportswear, Incorporated.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill (H.R. 4654).

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

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## INSPECTION OF DOMESTICATED RABBITS FOR FOOD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1188.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10073) to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H.R. 10073).

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

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## REPAIR AND RECONSTRUCTION AT JOHN F. KENNEDY CENTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1191.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14360) to amend the John F. Kennedy Center Act to authorize funds for repair, construction, and for other purposes, reported with amendments.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H.R. 14360) which had been reported from the Committee on Public Works.

The PRESIDING OFFICER. The first amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 1, line 6, strike out "No action of the Board which is within the powers conferred on it by this Act shall personally obligate any trustee or any agent of the Board." and insert "Trustees of the Kennedy Center and their agents shall be immune from suit to the same extent as are Federal officials for discretionary actions undertaken within the scope of their authority.";

On page 2, line 5, strike "Board" and insert "Secretary of the Interior, acting through the National Park Service,";

On page 2, line 8, after "Arts" insert "necessary to correct water leaks on the roof, the terraces, and the East Plaza Drive.";

On page 2, strike out beginning with line 10 through page 3, line 9.

Mr. MORGAN. H.R. 14360 authorizing an appropriation to the John F. Kennedy Center for the Performing Arts, for repairs and reconstruction necessary to correct water leaks in the roof, terraces, the entrance plaza, and for other purposes, was considered by the Buildings and Grounds Subcommittee of the Public Works Committee which I chair. In my opinion it is imperative that the repairs authorized be made without delay.

As introduced, the bill provided for a $3.3 million authorization to the Center for repairs, and correction of numerous water-related problems which have caused serious damage to the building. It further authorized appointment of a comptroller to disburse these funds, and also introduced language to clarify and reconfirm the intent of the original Kennedy Center Act, exempting Board of Trustee members from personal liability for actions taken by the Board.

As reported by the Senate Public Works Committee, H.R. 14360 authorizes $3.3 million to the National Park Service, Department of Interior for these much needed repairs, to avoid the complexities of dual administrative responsibility and better facilitate expediting of the work. It also contains language to clarify and sustain the exemption of individual Board members from personal liability due to actions taken by the Board.

The John F. Kennedy Center has been designated by legislation as the sole memorial to our late President in the Nation's Capital. Millions of visitors come here each year to view this magnificent structure and pay their respects. Like the Lincoln and Jefferson Memorials, it is a building which reflects national pride in our Government, and commands respect. It must be kept in good repair.

During recent months, serious water leaks have developed and caused extensive damage to the building. Repairs must be made soon if further deterioration is to be prevented, and this legislation is intended to provide funds for the Park Service to perform the necessary work without delay. In addition, because litigation is underway involving technical matters of interest to the Board, language is contained in the legislation which exempts individual members from personal liability due to actions of the Board, insuring immunity to the same extent as are Federal officials for discretionary actions undertaken within the scope of their authority.

I commend this legislation to you and urge your favorable consideration.

Mr. McCLURE. Mr. President, I wish to express my support for this legislation, which authorizes the National Park Service to go ahead with repair on the roof of the Center. This is an emergency situation, and I am convinced that it is justified.

But I would also like to add several words of caution, concerning the present financial status of the Kennedy Center for the Performing Arts. This project, when initiated, was to be a privately financed center. Subsequent acts renamed the Center in honor of President John F. Kennedy, and $23,000,000 was authorized and appropriated toward the construction of the Center. In addition, the Board of Trustees of the Center was authorized to borrow $20,400,000 to finance the construction of the underground parking facilities, using the parking revenues to repay the cost and interest on those parking bonds.

In what I consider an unfortunate decision, the Trustees committed a major portion of those parking revenues to a private company in return for a loan. While this may have enabled the Center to be finished more rapidly, circumventing any need for additional donations or appropriations at the time, it was a decision that undermined the Center's ability to repay the parking bonds.

Now the Trustees talk of coming back to the Congress for relief of this parking bond commitment, which involves $14.6 million in accrued interest by 1978. Officials of the Center state that existing revenue sources, because of the way in which parking revenues were siphoned off are unlikely to yield sufficient funds to pay the interest. Their testimony has indicated that the Kennedy Center would be seeking relief from this obligation in the near future.

When the Senate last year adopted a bill to provide funds for the nonperforming arts functions of the Center, the Committee on Public Works, in its report, 94-352, stated as follows:

> The Committee is greatly concerned over indications from the recent General Accounting Office report and hearings on this bill that the Center may be unable to meet its accumulated debt and to make necessary repairs, both outside the memorial aspects of the Center. This question will come into focus by 1978 when unpaid debts on the parking-garage bonds fall due; the interest due in 1978 is estimated at $14.6 million.
>
> The Committee urges that the Center and the Department of the Interior recognize what might be termed the precarious financial position of the Center and report, within one year, to the Congress on what efforts are and will be made by the Center to raise the funds needed to meet this debt, as well as to meet any costs of major repairs that may be necessary. Such a report should contain a detailed analysis of the Center's efforts to raise additional capital funds to cover such debts in order that the taxpayers will not be forced to assume the burden of such added and unnecessary costs.

No such report has been made, other than the Center's indications that it wants relief from the bonds.

In response to a question regarding the parking bonds, Mr. Roger Stevens of the Center answered as follows:

> The contract with APCOA was entered into on February 21, 1969, after competitive proposals were submitted by several parking companies. These proposals were reviewed at length by the General Accounting Office in their August 8, 1972 Report, pages 24-34, and the agreement with APCOA is described in detail in that Report. That contract was entered into and a substantial advance against parking revenues was sought because, by 1969, it was evident that the original cost estimates for construction of the Kennedy Center building had been underestimated by the General Services Administration and other consultants retained by Kennedy Center and the Government. (GSA was the Kennedy Center's agent for design and construction.) Accordingly, the advances were necessary in order to assist in providing adequate funds to cover the cost of construction of the building.
>
> While it has always been the objective of the Congress as well as of the Kennedy Center and other Government agencies, to establish a cost limit on the Kennedy Center, the objective has not been easily obtainable, because of, among other things, cost escalation and deficiencies in design and construction. One of the principal reasons for underestimation by GSA and the architect was the unanticipated increase in construction costs during the years 1966-1971, which affected not only the Kennedy Center but also many other construction projects.
>
> A detailed report concerning all the factors involved in cost escalation was given to the House Subcommittee in 1972 and GAO considered the matter at the request of the Senate Committee. In January, 1964, the estimate for the cost of the building was $46.4 million. The cost today is in excess of $72 million. Of this amount $16 million has been attributable to cost escalation; $1.5 million has been attributable to timing of subcontract awards to avoid overcommitment of funds; $4.9 million has been attributable to approved change orders necessary as a result of job conditions, design corrections, and Trustee directed changes; and $6 million has been attributable to acts beyond the control of the Government, including strikes and procedures necessary to avoid the effects of jet noise. Finally, $3.5 million of the underestimation has been attributed to inaccurate cost estimates, $2.7 million of which is attributable to underestimation of the amount of structural steel required for the building.
>
> Notwithstanding this escalation in costs, it has been recognized that the Kennedy Center, which is a "public building" dedicated to use as a memorial by the American people, was constructed at a cost per square and cubic foot which is one-third less than the cost of Lincoln Center. This lesser cost for the Kennedy Center is particularly significant because the memorial was constructed several years after its New York counterpart and after substantial inflation in construction costs.
>
> While it was originally anticipated in 1964 that the parking revenues alone would be sufficient to meet the obligation under the Treasury Revenue Bonds, subsequent developments have proven this to be incorrect. First, the cost of construction was far more than was anticipated by the Congress or the Board of Trustees. Second, it was necessary to make arrangements with APCOA as related above in order to cover a portion of this increase. With rapidly escalating costs, any workstoppage because of nonpayment would have resulted in substantial cost increases and damage to the building which was incomplete. Third, the number of parking spaces had to be reduced for design reasons. Fourth, revenue bond interest rates, averaging around 6 percent, are substantially higher than the 3 percent anticipated at the time of the 1964 authorization of the bonds under section 9 of the John F. Kennedy Center Act.
>
> In view of the above and the fact that the Act does not require that revenues from the operation of the parking garage be used to repay the Revenue Bonds with interest, the Kennedy Center does not consider that it has violated the intent of Congress which in establishing the Kennedy Center provided for partial federal funding. The Board of Trustees undertook this obligation to repay the Treasury Revenue Bonds in good faith and is meeting its obligation under the Kennedy Center Act and the mandate of Congress to construct and operate a living memorial. Now that it appears improbable that the Trustees will be able to raise or

generate the funds necessary to repay the bonds, remedial legislation is to be requested.

I do not believe that such an answer conforms to the committee's request for information "on what efforts are and will be made by the Center to raise the funds needed to meet this debt," and the language that states the report "should contain a detailed analysis of the Center's efforts to raise additional capital funds to cover such debts in order that the taxpayers will not be forced to assume the burdens of such added and unnecessary costs."

While I am, of course, sympathetic with anyone caught in an inflationary bind, as all Americans have been, I am far more sympathetic if the person or group makes some effort on its own to solve its problems, rather than throw up its hands in despair and ask the Federal taxpayers to bail them out. I am not convinced the Kennedy Center has made any such effort to date. I urge them to do so.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

## AMENDMENT OF THE CENTRAL INTELLIGENCE RETIREMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 1237.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13615) to amend the Central Intelligence Agency Retirement Act of 1964 for certain employees, as amended, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. GRIFFIN. Mr. President, reserving the right to object, I must ask this question again: Has there been a budget clearance for this?

The PRESIDING OFFICER. The Chair is checking.

Mr. ROBERT C. BYRD. I am advised that there has been specific clearance by the Budget Committee of this legislation.

Mr. GRIFFIN. Is that it at the desk?

The PRESIDING OFFICER. This is an entitlement bill, advises the Budget Committee, and does not need a waiver.

Mr. GRIFFIN. Then I withdraw my reservation, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan has withdrawn his suggestion.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Hawaii (Mr. INOUYE).

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT OF SENATOR INOUYE

H.R. 13615 as reported by the Senate Select Committee on Intelligence without amendment, would amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as Amended.

The Committee Report No. 94–1304, which accompanies H.R. 13615, gives a full and detailed explanation of the actions of your Committee. This measure is a legislative proposal of the Executive branch which was favorably considered and unanimously reported by both the House Armed Services Committee and your Select Committee on Intelligence. It passed the House of Representatives by roll call vote after only minor debate and submission of Statements for the Record.

In effect, this legislation, which is comprised of two titles, accomplishes an equalization of retirement systems in the Executive branch conforming the CIA Retirement System to the Civil Service Retirement System and to recent enactments concerning the Foreign Service Officer Retirement System. Additionally, this legislation takes a first step towards annual replenishment of the deficit of the CIA retirement fund, in order that it may remain actuarially sound.

The authorization for appropriations contained in H.R. 13615 is in such amount as is necessary to meet the amount of normal cost for FY 1977 which is not met by contributions under Sec. 211(a) of the CIA Retirement Act. This cost was estimated to be $52.2 million.

However, a recently enacted Department of Defense appropriations bill contains in Title VIII an appropriation of only $28.3 million. Your Committee was aware of this lesser appropriation at the time it reported H.R. 13615, however, since this is only a one-year appropriation for FY 1977 your Committee elected not to change the language adopted by the House in its authorization action. This prevents the need for conference between the House and Senate on H.R. 13615. Your Committee has discussed this matter with both the Senate Appropriations Committee and the Congressional Budget Office, both of whom agreed that the procedure, if adopted, would cause no problems.

I am prepared to answer any questions any Member might have at this time and I urge passage of this important measure.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

## FOREIGN SERVICE IMMUNITIES ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1243.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3553) to define the jurisdiction of the United States courts in suits against foreign states, the circumstances in which foreign states are immune from suit and in which execution may not be levied on their property, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments.

The PRESIDING OFFICER. The first amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 3, after line 11, under "sec.", strike "1606. Claims involving the public debt." and insert "1606. Extent of liability.";

On page 3, after line 11, under "sec.", strike "1608. Service of process; time to answer; default." and insert "1608. Service; time to answer; default.";

On page 4, line 11, strike "sections 1601 and" and insert "section.";

On page 5, line 16, after "party", insert "at the time of enactment of this Act";

On page 8, line 1, strike "service" and insert "delivery";

On page 8, line 5, strike "served" and insert "delivered";

On page 8, line 6, strike "served" and insert "delivered";

On page 8, line 11, strike "service" and insert "delivery";

On page 8, line 15, after "days" insert "either";

On page 8, line 15, strike "service of process" and insert "delivery of notice";

On page 8, line 17, after "section" insert "or in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest";

On page 8, line 21, strike "served" and insert "delivered";

On page 9, line 6, strike "(c)";

On page 9, line 7, strike "this section or under section 1606" and insert "section 1605";

On page 9, line 11, strike "itself, as distinguished from a political subdivision thereof or from" and insert "except for";

On page 9, line 13, after "instrumentality" insert "thereof";

On page 9, line 13, strike "of a foreign state, shall not be liable in tort for interest prior to judgment" and insert "shall not be liable";

On page 9, beginning with line 23, strike through page 10, line 16;

On page 10, line 23, strike "sections 1605 and 1606" and insert "section 1605";

On page 14, line 7, strike "of process";

On page 14, beginning with line 8, strike through page 16, line 8, and insert in lieu thereof:

"(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

"(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivisions; or

"(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial subdivision; or

"(3) if service cannot be made under paragraphs (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

"(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a 'notice of suit' shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of State by regulation.

"(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

"(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

"(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process in the United States; or in accordance with an applicable international convention on service of judicial documents; or

"(3) if service cannot be made under paragraphs (1) or (2), and if reasonably calculated to give actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

"(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

"(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

"(C) as directed by order of the court consistent with the law of the place where service is to be made.

"(c) Service shall be deemed to have been made—

"(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

"(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

"(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

"(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section.

On page 19, line 21, strike "and future";

On page 19, line 22, after "party" insert "at the time of enactment of this Act";

On page 19, line 24, strike "and from" and insert "arrest and";

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Foreign Sovereign Immunities Act of 1976".

SEC. 2. (a) That chapter 85 of title 28, United States Code, is amended by inserting immediately before section 1331 the following new section:

"§ 1330. Actions against foreign states

"(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personam with respect to which the foreign state is not entitled to immunity either under section 1605–1607 of this title or under any applicable international agreement.

"(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title.

"(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605–1607 of this title.".

(b) By inserting in the chapter analysis of that chapter before—

"1331. Federal question; amount in controversy; costs."

the following new item:

"1330. Actions against foreign states.".

SEC. 3. That section 1332 of title 28, United States Code, is amended by striking subsections (a) (2) and (3) and substituting in their place the following:

"(2) citizens of a State and citizens or subjects of a foreign state;

"(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and

"(4) a foreign state, defined in section 1603 (a) of this title, as plaintiff and citizens of a State or of different States.".

SEC. 4. (a) That title 28, United States Code, is amended by inserting after chapter 95 the following new chapter:

"Chapter 97.—JURISDICTIONAL IMMUNITIES OF FOREIGN STATES

"Sec.
"1602. Findings and declaration of purpose.
"1603. Definitions.
"1604. Immunity of a foreign state from jurisdiction.
"1605. General exceptions to the jurisdictional immunity of a foreign state.
"1606. Extent of liability.
"1607. Counterclaims.
"1608. Service; time to answer; default.
"1609. Immunity from attachment and execution of property of a foreign state.
"1610. Exceptions to the immunity from attachment or execution.
"1611. Certain types of property immune from execution.

"§ 1602. Findings and declaration of purpose

"The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decded by courts of the United States and of the States in conformity with the principles set forth in this chapter.

"§ 1603. Definitions

"For purposes of this chapter—

"(a) A 'foreign state', except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

"(b) An 'agency or instrumentality of a foreign state' means any entity—

"(1) which is a separate legal person, corporate or otherwise, and

"(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

"(3) which is neither a citizen of a State of the United States as defined in sections 1332 (c) and (d) of this title, nor created under the laws of any third country.

"(c) The 'United States' includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

"(d) A 'commercial activity' means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

"(e) A 'commercial activity carried on in the United States by a foreign state' means commercial activity carried on by such state and having substantial contact with the United States.

"§ 1604. Immunity of a foreign state from jurisdiction

"Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605-1607 of this chapter.

"§ 1605. General exceptions to the jurisdictional immunity of a foreign state

"(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

"(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

"(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

"(3) in which rights in property taken in violation of international law are in issue and that property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

"(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue; or

"(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

"(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

"(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

"(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state, provided that—

"(1) notice of the suit is given by delivery of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; but such notice shall not be deemed to have been delivered, nor may it thereafter be delivered, if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit—unless the party was unaware that the vessel or cargo of a foreign state was involved, in which event the service of process of arrest shall be deemed to constitute valid delivery of such notice; and

"(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days either of the delivery of notice as provided in subsection (b)(1) of this section or in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest.

Whenever notice is delivered under subsection (b)(1) of this section, the maritime lien shall thereafter be deemed to be an in personam claim against the foreign state which at that time owns the vessel or cargo involved: *Provided*, That a court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose, such value to be determined as of the time notice is served under subsection (b)(1) of this section.

"§ 1606. Extent of liability

"As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages;

"If, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

"§ 1607. Counterclaims

"In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

"(a) for which a foreign state would not be entitled to immunity under section 1605 of this chapter had such claim been brought in a separate action against the foreign state; or

"(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

"(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

"§ 1608. Service; time to answer; default

"(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

"(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

"(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

"(3) if service cannot be made under paragraphs (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

"(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a 'notice of suit' shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of State by regulation.

"(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

"(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

"(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process in the United States; or in accordance with an applicable international convention on service of judicial documents; or

"(3) if service cannot be made under paragraphs (1) or (2), and if reasonably calculated to give actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

"(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

"(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

"(C) as directed by order of the court consistent with the law of the place where service is to be made.

"(c) Service shall be deemed to have been made—

"(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

"(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

"(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

"(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section.

"§ 1609. Immunity from attachment and execution of property of a foreign state

"Subject to existing international agreements to which the United States is a party at the time of enactment of this Act, the property in the United States of a foreign state shall be immune from attachment arrest and execution except as provided in sections 1610 and 1611 of this chapter.

"§ 1610. Exceptions to the immunity from attachment of execution

"(a) The property in the United States of a foreign state, as defined in section 1603 (a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

"(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

"(2) the property is or was used for the commercial activity upon which the claim is based, or

"(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

"(4) the execution relates to a judgment establishing rights in property—

"(A) which is acquired by succession or gift, or

"(B) which is immovable and situated in the United States: *Provided*, That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

"(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment.

"(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

"(1) the agency or instrumentality has waived its immunity from attachment in aid of execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

"(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of sections 1605(a) (2), (3) or (5), or 1605(b) of this chapter, regardless of whether the property is or was used for the activity upon which the claim is based.

"(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

"(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section if—

"(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

"(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

"§ 1611. Certain types of property immune from execution

"(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

"(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution, if—

"(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution, notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

"(2) the property is, or is intended to be, used in connection with a military activity and

"(A) is of a military character, or

"(B) is under the control of a military authority or defense agency.".

(b) That the analysis of "PART IV.—JURISDICTION AND VENUE" of title 28, United States Code, is amended by inserting after—

"95. Customs Court.",

the following new item:

"97. Jurisdictional Immunities of Foreign States.".

SEC. 5. That section 1391 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) A civil action against a foreign state as defined in section 1603(a) of this title may be brought—

"(1) in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated;

"(2) in any judicial district in which the vessel or cargo of a foreign state is situated, if the claim is asserted under section 1605(b) of this title;

"(3) in any judicial district in which the agency or instrumentality is licensed to do business or is doing business, if the action is brought against an agency or instrumentality of a foreign state as defined in section 1603(b) of this title; or

"(4) in the United States District Court for the District of Columbia if the action is brought against a foreign state or political subdivision thereof.".

SEC. 6. That section 1441 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown.".

SEC. 7. If any provision of this Act or the application thereof to any foreign state is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SEC. 8. This Act shall take effect ninety days after the date of its enactment.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

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## RURAL ELECTRIFICATION ADMINISTRATION TECHNICAL AMENDMENTS ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1244.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12207) to amend the Rural Electrification Act of 1936, as amended, to correct unintended inequities in the interest rate criteria for borrowers from the Rural Electrification Administration, and to make other technical amendments,

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill (H.R. 12207) which had been reported from the Committee on Agriculture and Forestry with an amendment on page 3, line 14, insert the following:

SEC. 4. This Act shall take effect upon enactment, except that insured loans made pursuant to applications for such loans which would otherwise lose eligibility for special rate financing upon such enactment, received by the Rural Electrification Administration and still pending on the date of enactment of this Act, shall bear interest as determined under section 305(b) of the Rural Electrification Act of 1936 before its amendment by this Act.

Mr. HUMPHREY. H.R. 12207 makes two changes in the Rural Electrification Act of 1936. First, it eliminates the revenue per mile criteria and substitutes revised criteria to be used as a basis for making insured loans to both electric and telephone borrowers at the special rate of 2 percent and, second, it transfers the unobligated balance of the REA appropriation for fiscal year 1973 to the rural electrification and telephone revolving fund.

At the time of enactment of the 1973 amendment to the Rural Electrification Act, under the density and gross revenue per mile test there were eligible for 2 percent financing 181 or 19.5 percent of all electric borrowers and 191 or 23.4 percent of all telephone borrowers. In calendar year 1975, 373 or 40.3 percent of all electric borrowers and 422 or 48.7 percent of all telephone borrowers were eligible for 2 percent loans. H.R. 12207 would stabilize the number of borrowers eligible for 2 percent loans at or near the level that Congress envisioned when the present Rural Electrification Act was passed.

This committee adopted an amendment, a so-called grandfather clause, that would remove the possibility that any electric or telephone borrower with a pending loan application will be adversely affected by the changes in the special rate criteria contained in the bill.

I request unanimous consent that a section-by-section analysis of H.R. 12207 be inserted in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

### SENATE COMMITTEE ON AGRICULTURE AND FORESTRY—STAFF EXPLANATION OF H.R. 12207

H.R. 12207 makes two changes in the Rural Electrification Act of 1936. First, it eliminates the revenue per mile criteria and substitutes revised criteria to be used as a basis for making insured loans to both electric and telephone borrowers at the special rate of 2 percent and, secondly, it transfers the unobligated balance of the REA appropriation for fiscal year 1973 to the Rural Electrification and Telephone Revolving Fund.

### SECTION-BY-SECTION ANALYSIS

Section 1. Short title—

Section 1 provides that the bill may be cited as the "Rural Electrification Administration Technical Amendments Act of 1976".

Section 2. Transfer of unobligated appropriation to the Rural Electrification Telephone Revolving Fund—

Section 2 provides for the transfer to the Rural Electrification and Telephone Revolving Fund of unobligated balances of the Rural Electrification Administration appropriation for fiscal year 1973, which—according to the Department of Agriculture—total $455,634,525. The revolving fund is used, among other things, for making insured loans and advances.

Section 3. Special rate criteria—

Section 3 changes the criteria for determining whether an electric or telephone borrower is eligible for an insured loan at the special rate of 2 percent per year. A telephone borrower would qualify for 2 percent financing if it had an average subscriber density of three or fewer per mile at the end of the most recent calendar year ending at least six months before approval of the loan. An electric borrower would qualify for such financing if it had, at the end of the most recent calendar year ending at least six months before approval of the loan, an average consumer density of two or fewer per mile or an average adjusted plant revenue ratio of over 9.0. The ratio used for this purpose would be a single average of the ratios obtained by dividing the sum of the borrower's distribution plant and general plant by its annual gross revenue less cost of power for the calendar year described above and the two immediately preceding calendar years.

Section 4. No adverse effect on pending applications—

Section 4 of the bill provides that insured loans made pursuant to applications for such loans which would otherwise lose eligibility for special rate financing upon enactment of the bill, received by the Rural Electrification Administration and still pending on the date of enactment, shall bear interest as determined under section 305(b) of the Rural Electrification Act of 1936 before its amendment by the bill. Section 4, therefore, insures that no electric or telephone borrower which filed an application prior to the date of enactment of the bill will be adversely affected. However, the Committee expects the Administrator of the Rural Electrification Administration to develop procedures under which loan applicants with pending applications and otherwise eligible for the "special rate" on the date of enactment of the bill may have their applications considered under the new criteria.

Mr. HUMPHREY. H.R. 12207 will save significant amounts of money. The Congressional Budget Office estimates that in fiscal year 1977, the savings will amount to $0.9 million. For fiscal years 1977 through 1981, the total savings are estimated by the CBO at $40.8 million.

This bill is necessary legislation that will not adversely affect borrowers and which will bring the loan program back into line with the original congressional intent in passing the 1973 act.

I urge my colleagues to join me in supporting passage of H.R. 12207.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

### FARM DISASTER PAYMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1246, S. Res. 565, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 565) relating to disaster payments made to farmers under the Agriculture and Consumer Protection Act of 1973.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. GRIFFIN. Mr. President, reserving the right to object, what about the Budget Committee requirements?

Mr. HUMPHREY. This does not relate to budget matters.

Mr. ROBERT C. BYRD. I am advised that this resolution has been cleared by the Budget Committee.

Mr. GRIFFIN. I withdraw my reservation.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 565) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the Department of Agriculture, in the administration of the disaster payment program authorized by the Agriculture and Consumer Protection Act of 1973, pursued until August 31, 1976, a general policy of reducing by a minimum of 10 per centum the amount of the disaster payment made to any farmer who uses disaster-affected corn and grain sorghum for silage or other nongrain use; and

Whereas many farmers in areas of the Upper Great Plains designated as major disaster or emergency areas because of catastrophic drought were forced, because of the Department's policy, to forego salvaging disaster-damaged corn and grain sorghum as forage when they were in desperate need of emergency feed for their foundation livestock herds; and

Whereas drought conditions in the Upper Great Plains area and other parts of the Nation this year have been so severe that substantial numbers of farmers have already suffered great losses to their farm operations and are in continued need of additional assistance and support; and

Whereas the indiscriminate application of a reduced payment policy with respect to disaster payments works undue additional hardship on farmers who suffer losses to their crops due to droughts or other natural disasters: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the Department of Agriculture—

(1) should not indiscriminately reduce disaster payments made under the Agriculture and Consumer Protection Act of 1973 with respect to farmers who use disaster-affected corn and grain sorghum for silage or other nongrain use; and

(2) should develop regulations governing the disaster payment program which will accord fair and reasonable treatment to all producers suffering crop losses because of a natural disaster.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of Agriculture.

### ADDITIONAL AUTHORIZATIONS FOR THE INDEPENDENT SAFETY BOARD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1262.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12118) to amend the Independent Safety Board Act of 1974 to authorize additional appropriations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. GRIFFIN. Mr. President, I reserve the right to object, and ask the similar question concerning the need for a Budget Committee waiver.

Mr. ROBERT C. BYRD. It is my understanding that this measure has been specifically cleared by the Budget Committee.

Mr. GRIFFIN. Then I withdraw my reservation.

The bill was considered, ordered to a third reading, read the third time, and passed.

### PRESIDENTIAL TRANSITION AUTHORIZATION REVISION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1253.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14886) to revise the appropriation authorization for the Presidential Transition Act of 1963, and for other purposes.

The bill was considered, ordered to a third reading, read the third time, and passed.

### TINICUM NATIONAL ENVIRONMENTAL CENTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1263.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5682) to extend the boundary of the Tinicum National Environmental Center, and for other purposes,

Mr. ROBERT C. BYRD. Mr. President, I offer a technical amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 510.

The amendment is as follows:

On page 2, strike lines 3 and 4 and insert in lieu thereof the following:

"(2) by amending section 7 to read as follows:

" 'SEC. 7. (a) There are authorized to be appropriated $2,250,000 to carry out the provisions of this Act.

" '(b) Beginning with fiscal year 1978, there are authorized to be appropriated, in addition to the authorization appropriated under subsection (a), $3,650,000 to carry out the purposes of this Act.' "

Mr. ROBERT C. BYRD. Mr. President, the amendment is a technical one. Although it was the intent of both the Senate Commerce Committee and the House Merchant Marine Committee that the increased authorization should not begin until fiscal year 1978, this is not specified in the bill. Thus, in order to avoid possible noncompliance with the Budget Act, the amendment makes clear that the new money will not be authorized for appropriation until fiscal year 1978.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

### ADMINISTRATION OF FISH AND WILDLIFE PROGRAMS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1264.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5523) to improve the administration of fish and wildlife programs, and for other purposes,

Mr. GRIFFIN. Mr. President, I reserve the right to object, and I ask the Chair whether or not Budget Committee clearance is required in this instance.

Mr. ROBERT C. BYRD. If the Chair will allow me, I have an amendment which I offer on behalf of the Budget Committee, which will take care of that aspect. I offer such an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 511, in the nature of a substitute.

Mr. GRIFFIN. Mr. President, I object temporarily.

Mr. ROBERT C. BYRD. I will go to the next bill.

## SONG CHAN KI

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1265. This is a measure by Mr. Abourezk.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3667) for the relief of Song Chan Ki.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3667

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in the administration of the Immigration and Nationality Act, Song Chan Ki may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. George J. Cook, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. I thank the Chair, and I thank all Senators for their patience.

The PRESIDING OFFICER. The Chair advises that there is one bill that the Senator from Michigan objected to. Action on that was withdrawn.

## "DELTA QUEEN"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1270. I understand that there is no objection on either side.

The PRESIDING OFFICER. The bill will be stated by title.

Mr. GRIFFIN. Mr. President, reserving the right to object, I have a request by a Senator on this side that it not be called up without his having the opportunity to be in the Chamber.

Mr. MAGNUSON. I cannot hear the Senator.

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard.

## NATIONAL RAILROAD PASSENGER CORPORATION

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3131.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting upon its amendments to the bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PASTORE. I move that the Senate disagree to the amendments of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Magnuson, Mr. Pastore, Mr. Hartke, Mr. Stevenson, Mr. Ford, Mr. Weicker, and Mr. Beall conferees on the part of the Senate.

## JEANETTE GREEN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 13964——

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD (continuing). And that the Senate proceed to its immediate consideration.

I understand that this has been cleared on all sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make this request at the behest of Mr. Allen, and he informed me that it has been cleared on all sides and with the chairman of the Committee on the Judiciary.

The PRESIDING OFFICER. We do not have a copy of the bill.

Mr. ALLEN. I have a copy of the bill and the report.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13964) for the relief of Jeanette Green, as mother of the minor child, Ricky Baker, deceased, and as widow and administratrix of the estate of Enoch Odell Baker, deceased; and for the relief of Mary Jane Baker Nolan, individually, and as widow and administratrix of the estate of John William Baker, deceased.

The bill was considered, ordered to a third reading, read a third time, and passed.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1509), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

### PURPOSE

The purpose of the proposed legislation is to waive the limitations of section 745 of title 46 of the United States Code, or any other statute of limitations for suits filed within one year of the effective date of this Act in the United States District Court for the Middle District of Georgia by Jeanette Green as mother of the minor child, Ricky Baker, deceased, and as widow and administratrix of the estate of Enoch Odell Baker, deceased, for the deaths of Ricky Baker, a minor, and Enoch Odell Baker, and by Mary Jane Baker Nolan, individually, and as administratrix of the estate of John William Baker for the death of John William Baker and for injuries to Mary Jane Baker Nolan, arising from a boating accident that occurred on or about June 24, 1972, near the George Andrews Dam on the Chattahoochee River, near Columbia, Alabama. The bill further provides that suits will then be considered as timely suits and will be subject to the otherwise applicable provisions of sections 741 through 752 of title 46 of the United States Code. The bill specifies that jurisdiction would be conferred upon the United States District Court for the Middle District of Georgia to receive, hear, and render judgment upon any suits filed with that court under the Act. Nothing in the Act is to be construed as inference of liability on the part of the United States.

### STATEMENT

This bill was the subject of a subcommittee hearing on August 6, 1976. At that hearing, the witnesses appearing in support of the bill outlined the facts which resulted in a situation in which the parties are barred from asserting their claims based upon the deaths and injuries referred to in the bill. At that hearing the facts presented were that on July 24, 1972, a small fishing boat on the Chattahoochee River, below the George Andrews Dam, was occupied by Enoch Odell Baker, his sons, Rickey Baker, a minor, and John William Baker, and John William Baker's wife, Mary Jean Baker Nolen. The Army Corps of Engineers who were in charge of the lock and dam at that time, opened one of the gates to allow some trash and debris through the dam. When the gate was opened, a chain of events took place which caused the boat which these persons were occupying to be swamped, resulting in the death of Enoch Odell Baker and his sons, Rickey Baker and John William Baker. Mary Jane Baker Nolen survived the incident, but did receive some personal injury.

Within two years from the date of the accident, administrative claims were filed for these deaths and personal injury, in accordance with the provisions of the Federal Tort Claims Act. [The Federal Tort Claims Act bars the filing of a lawsuit against the Government until after the administrative claims have been filed and denied (28 U.S.C. § 2675)]. The filing of an administrative claim suspends the running of the statute of limitations under the Federal Tort Claims Act. If these claims had come within the provisions of the Federal Tort Claims Act, claims would have been properly prepared and filed with the prescribed period of time.

After the filing of the claims, it was stated that all persons involved in the matter felt that the claims were properly filed and that the claims fell within the provisions of the Federal Tort Claims Act. The claimant's attorneys asserted that these assumptions were held by not only the attorneys representing the claimants, but the attorneys for the Department of the Army as well, and referred to letters written by Judge Advocate Attorney James D. Wilson dated July 17, 1974, and Army memorandum dated November 8, 1974 furnished to the committee in behalf of the claimants and which are appended to this report.

It was stated at the hearing that after several months of handling the claims under the Federal Tort Claims Act, the Government attorneys from the Maritime Division of the Judge Advocate General's Office reviewed the file and for the first time, stated on opinion that the claims fell not under the Federal Tort Claims Act, but under the Suits in Admiralty Statute. This opinion was based upon the Maritime Division's opinion that a 1960 Amendment to the Suits in Admiralty Statute exempted these particular claims from the Federal Tort Claims Act and placed then within the provisions of the Suits in Admiralty Statute. It appears that the 1960 Amendment to the Suits in Admiralty Statute did in effect broaden that act to include the type of claims presented in this matter, thereby taking them out from under the application of the Federal Tort Claims Act.

The committee has been advised that the Suits in Admiralty Statute requires that lawsuits, not administrative claims, be filed within the period of two years from the date of the accident. The facts of this case emphasized the fact that the filing of an administrative claim under the Federal Tort Claims Act does not stop the running of the Statute of Limitations under the Suits in Admiralty Statute.

Although administrative claims were properly prepared and filed within the two years of the date of the incident, and although initially both sides of the matter may have felt that the claims were properly under the Federal Tort Claims Act, the Statute of Limitations was not suspended by the filing of the claims and the Statute of Limitations ran against these claimants under the Suits in Admiralty Statute.

The relief provided in this bill for the Administratrixes of the Estates of these deceased persons, as well as for the individual personal injury received by Mary Jane Baker Nolen, would only be that the Government waive the Statute of Limitations for the bringing of these claims under the Suits in Admiralty Statute. It further provides that the U.S. District Court which would hear the Federal Tort Claims Act suit would have jurisdiction to hear these claims under the Suits in Admiralty Statute as well. The bill specifically states that nothing in the Act should be construed as an inference of liability on the part of the United States and makes no gift of any money. Thus its sole purpose is to give these persons an opportunity for fair trial on the merits of their claims arising out of the boating accident.

In support of the general confusion on the appropriate remedy in this case, the claimants pointed out that after claims were filed, the Government attorneys wrote a letter to the claimants' counsel in which the Government attorney states as follows:

"Therefore, it appears from a statute of limitations standpoint, the claims have been appropriately filed and this office is satisfied in that regard."

At the hearing, the witness appearing in behalf of the claimants called attention to the memorandum prepared by the Government attorneys which discusses both the facts and the uncertainties in the law in regard to this application to this fact situation. That memorandum contains the following quotation:

"It must be conceded that it is often difficult to determine whether a claim falls under the Federal Tort Claims Act or the Suits in Admiralty Act. In case of doubt, this service is required to advise a claimant or potential claimant that he should file both an administrative claim with the Army and a protective complaint in an appropriate Federal District Court within two years of the date the cause of action occurred."

The committee feels that in this matter the Government received notice before the two years ran out that the claims were going to be filed and the manner in which they would be filed. Thus the government would not actually be prejudiced by the delay. The committee feels that as a matter of equity this relief is appropriate. The bill would not indicate any approval of the claims, rather it would merely permit their consideration under appropriate law and in the appropriate forum. It is recommended that the bill be considered favorably.

Department of the Army,
U.S. Army Claims Service,
Office of the Judge Advocate General,
*Fort Meade, Md., July 17, 1974.*

Mr. Donald D. Lusk,
*McDaniel, Hall, Parsons and Conerly,*
*Birmingham, Ala.*

Dear Mr. Lusk: I refer to the claims of Jeanette Green on behalf of the estates of Ricky Baker and Enoch Odell Baker, and to the claims of Mary Jane Baker Nolan on behalf of herself and the estate of John William Baker. All of these claims have been filed against the United States under the provisions of the Federal Tort Claims Act as the result of a boating accident on the Chattahoochee River near George Andrews Dam on 24 June 1972

As stated in your letter of 1 July 1974, I have ascertained that on 21 June 1974, copies of each claim were received by the U.S. Army Corps of Engineers, District Engineer's Office, Mobile, Alabama. I have been advised by Mr. Alfred Holmes, Jr., the District Counsel, that the claims have been recorded as received by his office on that date. Therefore, it appears that from a statute of limitations standpoint, the claims have been appropriately filed and this office is satisfied in that regard.

In the event you have not handled a Federal Tort Claims matter before, I shall briefly explain the procedures to you. The U.S. Army Claims Service has sole responsibility for settlement and/or disposition of claims in an amount less than $25,000. Though we handle claims in excess of that amount, any settlement in excess of $25,000 must be submitted to the Department of Justice for the approval. In most instances, it approves such settlements.

Once a claim is received by an appropriate administrative agency, that agency has six months in which to make a determination on the claim. If a determination has not been made at the end of the six month period, suit may be filed in the appropriate United States District Court. However, there is no requirement that you file after the six month period, and one usually continues to negotiate with this Service until the claim has been settled, assuming, of course, that there is liability on the part of the United States. If a claim has been administratively denied, the claimant must file suit in an appropriate United States District Court within six months from the date of denial or his remedy is forever barred. Furthermore, if the claim is not settled administratively and suit is filed, there is no jury trial under the Federal Tort Claims Act and trial is by judge alone. The authority for these procedures and information is in Chapter 4 of Army Regulation 27–20 and the Federal Tort Claims Act (60 Stat. 842, 28 U.S.C. 2671–2680, as amended by The Act of 18 July 1966).

As you are aware after our conversation of 1 July, the Federal Tort Claims Act specifically makes the law of the place where the act or omission occurred the controlling law of each case [28 U.S.C. 1346(b)]. Therefore, the laws of Georgia would apply since it appears, both from my discussion with you and with Mr. Holmes, that the entire bed of the Chattahoochee River is a part of the State of Georgia. Accordingly, the Georgia wrongful death act will be controlling (Title 105 of Georgia Code Annotated, §§ 105–1301, et. seq.)). You may note that with regard to the Nolan and Green claims, § 105–1302 provides that where the husband has died, a widow, or if no widow, a child or children, minor or sui juris, may recover. Also, with regard to the Green claims, § 105–1307 provides that a mother, or if no mother, a father may recover for the homicide of a child, minor or sui juris, unless said child shall leave a wife, husband or child. Since Mrs. Green and Mrs. Nolan now bear names different from those of the deceased, I will have to assume that they have remarried and were, in fact, the wives and mothers of the deceased at the time of the incident, and thus are the proper party claimants here. However, I wish that you would clarify their relationships before we next speak. Furthermore, I would also appreciate a copy of Mr. Enoch Odell Baker's death certificate, since one was not attached to the claim when I received it.

Finally, any application of the Georgia wrongful death statute will necessarily involve the application of *Hartz* v. *United States*, 415 F.2d 259 (1969). There, the U.S. Court of Appeals for the Fifth Circuit interpreted that statute to be punitive in nature insofar as it permits recovery of more than the loss to the survivor. The court pointedly allowed the reduction of the full value of the decedent's life by necessary or other personnel expenses and by income taxes. In essence, the court was confining the effect of the statute, as applied in Federal Tort Claims actions, to the financial loss of the survivor. Beyond that, damages would be punitive in nature, which is prohibited by the Act itself (28 U.S.C. § 2674). I strongly recommend your reading of this case since any approach to the damages question, assuming government liability, will be controlled by it.

I am hopeful of receiving a preliminary report from the District Engineer's Office within the next few weeks. After I do, I shall be in touch with you regarding the future disposition of this matter. I look forward to working with you, also, and I appreciate your intent to make your clients available for an interview.

Sincerely yours,
James D. Wilson,
*Captain, JAGC, Claims Judge Advocate, General Claims Division.*

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HQDA (DAEN–GCK),
*Washington, D.C., November 8, 1975.*

CLAIMS OF JEANETT GREEN AND MARY JANE BAKER NOLAN

1. The problem is to determine appropriate action on subject claims which are, in our opinion, barred by the statute of limitations. It appears that all persons who initially handled the claims believed that they fell under the Federal Tort Claims Act (28 U.S.C. 2671–2680) instead of the Suits in Admiralty Act (46 U.S.C. 741–752). As you know, the latter act, when applicable, preempts the former and the two year time limitations provisions of the latter are not tolled by the filing of an administrative claim or any negotiations thereon. The cause of action accrued on 24 June 1972, the claims were hand-carried to the office of the District Engineer on 21 June 1974, were mailed to this Service and date stamped showing receipt on 25 June 1974 at which time the claims were barred by limitations.

2. The facts are set forth in section 9, DA Form 1208 and may be very briefly summarized as follows: At about 2130 hours on 24 June 1972, the U.S. Army Corps of Engineers lock operator at the George W. Andrews Lock and Dam on the Chattahoochee River in Early County, Georgia, raised a gate to let a dead cow and some other objects pass on down the river. The resulting turbulence capsized a small boat, drowned claimants' decedents and dumped claimant Mary Jane Baker Nolan into the river.

3. It is asserted that the dead and injured persons were contributively negligent in failing to heed warning signs and the like. The question of liability on the merits is fraught with considerable doubt. For the purposes of this letter, however, a discussion of the merits of these claims may be deferred until the statute of limitations problem is resolved. Our opinion that claims, such as these, generated by operation of a lock and dam on navigable waters of the United States, involving injury to or death of persons in a boat on such waters, are cognizable in Admiralty is supported by case law arising after the 1960 amendment to the Suits in Admiralty Act (See *Beeler* v. *United States*, 224 F. Supp. 973 (W.D. Pa. 1964); *Hess* v. *United States*, 259 F.2d 285 (9th Cir. 1598); *Rebel Towing Co.* v. *United States*, Admiralty No. 64–H–67 (S.D. Tex. 1965) reported in 1968 A.M.C. 2526). In considering the Hess case, one must be mindful of the fact that subsequent to Hess the Supreme Court announced that a wrongful death action will lie under general maritime law for a death

upon navigable waters of the United States (*Moragne* v. *States Marine*, 398 U.S. 375 (1970)).

We are mindful of the problems generated by the maritime nexus test of jurisdiction announced by the Supreme Court in *Executive Jet Aviation* v. *City of Cleveland* (409 U.S. 249 (1972)) (see also *Richards* v. *Blake Builders Supply* and *Blake*, Civil No. 1616–A (E.D. N.C. 1974)), however, it is our opinion that these claims have the required maritime nexus.

4. A letter from claimants' attorney, copy inclosed, alleges that prior to the filing of the administrative claims, he consulted with U.S. Corps of Engineers personnel who advised him that he should not file a complaint within the two year period from the date of the incident as the government had six months from the date of the filing of the claim within which to consider and attempt to administratively handle the claims. If our opinion that the claims are cognizable only in Admiralty is correct, the advice not to sue was incorrect and resulted in barring claimants' cause of action.

5. It must be conceded that it is often difficult to determine whether a claim falls under the Federal Tort Claims Act or the Suits in Admiralty Act. In case of doubt, this Service is required to advise a claimant or potential claimant that he should file both an administrative claim with the Army and a protective complaint in an appropriate federal district court within two years of the date the cause of action accrued (within 18 months, if the claims are for injury or damage done and consummated on land) (see paragraphs 2–11b(5) and 8–8, AR 27–20; pp. 19, 20, DA Pam 27–50–17, The Army Lawyer, copy inclosed). We request your assistance in advising division and district counsel and claims officers promptly to notify the Maritime Claims Branch of this Service of claims or potential claims which might be cognizable under the Suits in Admiralty Act supra, or the so-called Extension of Admiralty Act (46 U.S.C. 740), so that we can render appropriate advice concerning any statute of limitations problem.

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## ORDER OF BUSINESS

The PRESIDING OFFICER. The Chair asks that, in order to try to keep track of what is going on, the well be cleared.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor for the time being.

The PRESIDING OFFICER. Who seeks recognition?

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## NATIONAL RAILROAD PASSENGER CORPORATION—CONFERENCE REPORT

Mr. PASTORE. Mr. President, I submit a report of the committee of conference on S. 3131, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD.)

Mr. DURKIN. Mr. President, may we ask Senators to use microphones today? It is impossible to hear without the use of microphones.

The PRESIDING OFFICER. The Chair will do the best it can. There is a great deal of confusion, but I think we can hear the Senator from Rhode Island without a microphone.

Mr. PASTORE. Mr. President, the Rail Transportation Improvement Act incorporates amendments to the Rail Passenger Service Act, including the Amtrak authorization, and amendments to the Railroad Revitalization and Regulatory Reform Act of 1976, which implemented the Northeast railroad reorganization. The conference report is the result of considerable compromise between the House and the Senate and eliminates many of the earlier objections of the administration to the House and Senate bills.

The most important features of this bill are the Amtrak authorization, improvements in the funding program for railroad rehabilitation outside the Northeast, improvements in the program to insure speedy settlement of the millions of dollars of private claims against the estates of the bankrupt railroads in the Northeast, and provisions to speed the implementation of the Northeast corridor high speed passenger rail service project.

I think it is important to note that most of the changes between the House and Senate bills reflect the conferees interest in improved railroad freight and passenger service at the lowest possible costs to the Government. Thus for example, the conferees approved a 2-year capital authorization to permit Amtrak to set up a long term capital acquisition program that will allow them to purchase equipment at lower costs. Giving Amtrak certainty in these areas allowed us to cut the House capital authorization from $140 to $130 million.

The report reflects Congress concern for the claimants of the bankrupt railroad, such as pensioners and injured parties with claims against the estates. Because of the reorganization process demanded by the administration the payment of these claims could be delayed as much as 10 years. The Congress therefore approved a program whereby it would loan the money to pay off the claims against the estates to ConRail which, in turn, would sue the bankrupts and get the money to pay back the loans. There is little or no risk to the Government in this program, however, the additional $130 million in loans approved under this program was opposed by the administration. However, we are confident that the administration's concerns for these claimants will overcome their objections to a program which will have no effect on the Federal budget.

I would like to submit for the RECORD a copy of a letter from the Secretary of Transportation outlining the administration's primary concerns about this bill. This letter was sent to conferees prior to the conference. It is interesting to note that with respect to all but one of the primary problems listed by the Secretary, the conferees were able to accommodate the Secretary's concerns. This one issue, which I just mentioned, is over the amount to be used to permit the speedy resolution of the claims of individuals against the bankrupt estates. Here we differ with the administration over $50 million of loan guarantees which are not budget items, which require no expenditure of Federal funds and cannot be made without clear indication that all loans guaranteed will be repaid from the assets of the bankrupt estates. I think we have fully accommodated the administration.

Mr. President, this has been the year of the railroads. Congress has effected the greatest industrial reorganization in history and assured the success of that reorganization. This bill, by perfecting that process and improving the Nation's rail passenger system fulfills our obligation to maintain the highest quality rail transportation system in the world. I urge the immediate adoption of this conference report.

I ask unanimous consent to have printed in the RECORD the letter from the Secretary of Transportation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
*Washington, D.C., September 29, 1976.*

MEMORANDUM TO THE CONFEREES

Subject House and Senate Versions of S. 3131.

The purpose of this memorandum is to provide the Conference Committee with the views of the Department of Transportation on the House and Senate versions of S. 3131.

There are a number of provisions of these bills which are of serious concern to the Administration. Among these provisions, any one of the following would result in my strong recommendation to the President that he veto the bill.

(1) Certain portions of Sections 204 and 210 of the House version and of Section 14 of S. 3131. These sections, among other things, provide for an increase in the authorization for loans under section 211(h) of the Regional Rail Reorganization Act of 1973, as amended ("RRR Act"), from $230 million to $300 million in the House version and to $450 million in the Senate version and allow those funds to be recommitted on a continuous basis as they are repaid.

It has always been recognized that section 211(h) authority alone would not cover all of the claims described in section 211(h)(1), but that the assets of the bankrupt railroads that could be made available would, together with the loan funds provided under section 211(h), meet these obligations. The estates have, or could have, at their disposal sufficient funds and assets to meet the needs of all such claimants within a reasonable time. However, the effect of various orders entered by reorganization courts under section 211(h)(3) has been to protect the assets of the estates from the claims of these current creditors. The United States Railway Association is appealing those court orders. The increase in loan authority made by these amendments reduces the likelihood of success in making more estate assets available for the purpose of paying these claims since there would not then be any need to free up available estate assets. The result will be that the government, which has provided more than $680 million over the past few years to the bankrupts in addition to the section 211(h) funds, much of it on a grant basis, will once again provide the funding and litigate later with the secured creditors to realize on its claims.

The increase of $70 million in section 211(h) authority is minimally acceptable in an otherwise satisfactory bill. Any higher figure will not be acceptable, particularly when such authority is revolving, thereby resulting in the government pursuing its claims against an ever-smaller asset base of the bankrupts while all other parties get paid in full.

A related concern is with respect to inclusion of vacation pay as a claim which can be funded under section 211(h). While the Department does not oppose such inclusion, it strongly objects to the manner in which these claims would be treated. With the adoption of the amendment to section 504 (e) of the RRR Act (section 210 of the House version) and with an amendment to section 211(h) that would allow payment of vacation benefits (section 14 of the Senate version) from loan proceeds, the result would be that ConRail could reimburse itself for all vacation benefits it pays by means of a loan under section 211(h) and without any determination that such benefits are a valid claim against the bankrupt estates. To the extent such benefits were later determined not to be a claim against the estates, the corresponding section 211 (h) loan would in all likelihood become a grant, and the United States would not have any claim against anyone. This result is totally unwarranted. Accordingly, the Department strongly recommends the adoption of the clarifying amendment set forth in Attachment B.

(2) Sections 3(2) and (3) and 4(b) of the Senate version. These three provisions each result in substantial hidden subsidies to Amtrak that are totally unwarranted, particularly in light of the inflated amounts authorized for Amtrak by both versions. Accordingly, the Department opposes each of these provisions and would find their inclusion a compelling reason for recommending a veto.

Subsection 3(2) would eliminate the existing restriction upon Amtrak's use of appropriated funds which requires that the funds be expended by Amtrak "in accordance with spending plans approved by Congress at the time of appropriation". This change would eliminate the sole requirement for Amtrak to justify its expenditures to Congress and would eliminate the Administration's ability to ensure accountability in the use of appropriated funds by the Corporation.

Subsection 3(3) would require the Secretary to provide Amtrak with its appropriated capital grant funds so it can pay down outstanding balances on its guaranteed loans, thus providing a saving on interest expense. However, interest saving to Amtrak is at the direct expense of the Federal Government which will have to borrow the funds earlier than would otherwise be necessary. Thus, there is absolutely no saving to the taxpayer, while Amtrak is given another hidden subsidy. At a time when the size of Amtrak's subsidies is becoming a matter of public attention, it is unconscionable to create additional hidden subsidies.

Subsection 4(b) would amend section 602 of the Rail Passenger Service Act ("Passenger Act") to require the Secretary of Transportation and the Secretary of the Treasury to approve a guarantee related to a lease transaction, including a leverage lease transaction. The advantages that may accrue to Amtrak by financing through leverage leasing are less than half the cost to the taxpayer in the form of lost revenues to the Treasury. Amtrak should not be permitted to use such an expensive cosmetic device to improve its apparent financial condition at the expense of the taxpayers. Moreover, to permit a lender to avail himself of Amtrak's government guarantee in addition to both the investment tax credit and accelerated depreciation is to permit a wholly unjustified abuse of tax shelters.

In short, like section 3(3), this section would result in Amtrak's concealing true subsidy, and would in addition confer wholly unjustified benefits on owner-lessors of Amtrak capital equipment.

(3) Section 4 of Senate version. Subsection (a) of this section would require the Secretary of Transportaion to approve any application by Amtrak for a loan guarantee to be used for the purchase from ConRail of properties designated in accordance with either section 206(c)(1)(C) or (D) of the RRR Act. The Department would recommend a veto if this provision were included because it would result in Amtrak's owning the Northeast Corridor properties while leaving the Federal Government's investment of $1.75 billion in improvements subject to the claims of Amtrak's common stockholders—four privately-owned railroads including Penn Central.

Moreover, this amendment is unnecessary in view of the fact that the Department and Amtrak have now resolved their differences concerning the conditions and arrangements under which Amtrak should purchase the Corridor. Sections 26 and 27 of the Senate version are designed to implement the parties' agreement regarding the Corridor and these sections are supported by the Department. Failure to enact sections 26 and 27 would jeopardize not only the improvement work on the Corridor but also continued operations by Amtrak.

(4) Sections 15(c) and (d) of Senate version. Subsection (c) would modify section 506(a)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 ("RRRR Act"), which presently requires that the redeemable preference shares repay the fund at least 150 percent of the aggregate par value of the shares over the scheduled life of the issue, to provide for a flat 150 percent payback. This change is unnecessary and would result either in the program being unduly costly to the taxpayers, or funding projects of relatively low public benefits—an unacceptable result. Section 506(a)(3), as presently worded, would enable the Secretary to tailor the cost of the redeemable preference share program to each applicant taking into consideration the public benefits of the project being funded and the financial condition of the applicant, and the program will be run in a manner that is consistent with that rate flexibility.

Subsection (d) would amend section 506 (a)(4) to require that mandatory redemption of the redeemable preference shares shall be over a period of at least 15 years. This, coupled with the existing provision restricting the commencement of the redemption period to start not earlier than the sixth anniversary of the date of its original issue, means that the minimum period for redemption will be 21 years. This change would preclude railroads from making prepayments in situations in which prepayments would be in the railroad's interests.

The effect of subsections (c) and (d) is the establishment of a floor of 150 percent repayment with an effective interest ceiling of 3.24 percent over the life of the security. The Department feels that such limitations on a program that could involve profitable railroads and projects that result in a high rate of return represent an irresponsible waste of public funds.

The following provisions of these bills are also strongly opposed by the Department. While any single provision when added to an otherwise acceptable bill may not result in a veto recommendation, inclusion of more than one of these provisions will very likely result in such a recommendation.

(1) Section 211(a) of House version. Subsection (a) would change the base period for computation of the monthly displacement allowance from the year preceding February 26, 1975, to the year preceding January 1, 1975. This change will result in having the average monthly compensation used to determine that allowance adjusted by the full 10 percent general wage increase that became effective January 1, 1975. This will increase both the number of claimants and the aggregate amount of claims under title V. It is not warranted either by need or by equity, and the Department strongly opposes it.

(2) Section 3 of Senate version and Section 102 of House version. These sections provide funding authorizations for Amtrak that in DOT's view are excessive.

The bill's proposed operating authorizations for FY 77 are $52 million greater than the amount proposed by the Department and are $75 million greater than the authorization presently contained in the statute for FY 77 operations, a provision passed just last year. The Senate FY 78 operating authorizations are $60 million in excess of the amounts recommended by DOT. The Department's recommended levels for operating assistance of $378 million for FY 77 and $410 million for FY 78 reflect an awareness of the limited demand of the traveling public for intercity passenger services, as well as an increasing awareness of the necessary limits on Federal spending. The capital authorizations contained in the bill are likewise excessive by $10 million to $30 million.

As for the Northeast Corridor operations, DOT believes that this authorization should be limited to $63 million rather than the $68 million requested by Amtrak since H.J. Res. 801 provided $26.5 million to Amtrak for additional NEC operating costs in the remainder of FY 76 and the Transition Quarter.

Both bills provide for a FY 78 authorization of $25 million for debt repayment. The House provision, which reduces the current $900 million maximum amount that can be guaranteed by the Secretary by an amount equal to the amount of loan principal repaid by Amtrak from appropriations made for this purpose, should be adopted. Without such a provision, Amtrak's authorized level will never be reduced.

(3) Section 206 of House version. This section would amend section 303(b)(6) of the RRR Act to provide that if the Consolidated Rail Corporation ("ConRail") terminates pension plans transferred to it, the benefits of which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974, ConRail shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. ConRail would in turn be entitled to a loan pursuant to section 211 (h). The Department strongly objects to this provision as being an unnecessary cost addition to the section 211(h) program. Under the RRR Act, as presently written, all liabilities as an employer shall be imposed solely upon the railroad in reorganization in the event the plan is terminated by ConRail. This liability should properly be paid out of the assets of the estates and not out of section 211(h) funds.

(4) A portion of Section 2 of Senate version. Under section 403(b) of the Passenger Act as amended by the RRRR Act, Amtrak must institute rail service "if a State, regional, or local agency agrees to reimburse the Corporation for 50 percent of total operating losses and associated capital costs of such service", provided Amtrak has the resources to provide the service, and provided the State or agency assures Amtrak that it has the money to pay its share of the costs for the period of the contract (two years) and that an acceptable market analysis has been conducted to ensure that there is adequate demand for such service.

The amendment proposed by this section would, in part, change the cost base for calculating the deficit of the service from "total" cost to "incremental" cost. The Department vigorously opposes this proposed change because it would prevent Amtrak from allocating a fair proportion of its overhead costs to the section 403(b) services, a prohibition which is not only inconsistent with sound management practice for firms operated on commercial principles but also unfair to the general taxpayer who must support the overhead costs being incurred solely to support services being offered in an intrastate market. As the system of services operated by Amtrak under section 403(b) continues to grow, it will require an increasingly more significant contribution of effort and expense from Amtrak's management structure.

In addition, to the extent that this amendment was occasioned by increases in the costs to States and agencies for their share of the costs of services provided under section 403(b), those increases reflect in large part the general massive increase in Amtrak's operating deficit, and thus they justly apply to those bodies' contributions to the section 403(b) deficit as well.

(5) Section 205 of House version. This section would amend section 213 of the RRR Act to permit grants to the bankrupt estates for payment of non-employee personal injury claims. These claims are presently the obligations of the estates and are being treated differently from all other such obligations. We strongly oppose this section because there is no reason why these claims should be paid with government grants leaving the government without any claim against the estate.

(6) Section 23 of Senate version. This section would amend section 508(a)(1) of the RRR Act to provide that, in the event a carrier participating in a supplemental transaction under section 305 of the RRR Act was unable to reach agreement on work rules and conditions and labor protection, it shall be accorded the protection provided under section 505 of the RRR Act and take the existing work rules and conditions applicable to affected employees. The Department strongly opposes this change. While ostensibly designed to facilitate such transactions, the amendment would in fact block them and negate the whole value of section 305 since carriers would never be able to bargain effectively under these conditions and would always have to accept the most unfavorable work rules and conditions. Thus, they would not enter into any such transaction.

In addition to the above items, the Department objects to several other provisions of the two bills which are listed and discussed in Attachment A to this memorandum. The extent to which these items are included in the final bill will be an important consideration in determining whether to recommend signing an otherwise marginally acceptable bill.

The Office of Management and Budget advises that there is no objection to the submission of these views for your consideration, and enactment of the bill with any of the first set of items discussed above would not be in accord with the President's program.

William T. Coleman, Jr.

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### Additional Provisions of House and Senate Versions of S. 3131 Which the Department of Transportation Finds Objectionable

1. Section 204 of House Version.

One of the amendments to section 211(h)(1) of the RRR Act would require that the reimbursement procedures agreement between ConRail and the Finance Committee provide first for ConRail to receive reimbursement from the Association for any expenses incurred in seeking reimbursement from the railroads in reorganization for obligations paid on their behalf under this subsection, and second for a joint stipulation of the exact procedures ConRail must undertake to avoid the finding specified in paragraph (6)(A)(i) of this subsection that it has not exercised "due diligence". The Department opposes both of these changes. The latter change adds nothing of substance to the section and should be deleted. The former change should also be deleted. Since ConRail has realized and will continue to realize substantial benefits from section 211(h) program, it should reasonably bear the costs associated with seeking reimbursement of the loans from the debtor's estates.

Subsection (d) of section 204, which provides for use of funds which are presently held in escrow accounts by railroads in reorganization and are hereafter determined to be "cash and other current assets of the estate" for purposes of section 211(h), was amended on the House floor to assure that such funds would not have to be so used if it was necessary to use them differently in the context of a reorganization plan that is acceptable to the Secretary. The Department now strongly supports section 204(d).

2. Sections 214 (b)(2) and (c) of House Version and Section 16(b)(2) of Senate Version.

Section 511(h)(5) of the RRRR Act requires as a prerequisite to any guarantee that the Secretary make a written finding that "the probable value of any equipment or facilities to be improved, rehabilitated, or acquired is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor, in the case of repossession by the holder of the obligation or in the case of possession or purchase by the Secretary".

Both versions expand the section 511(h)(5) security test. The Senate version would allow the Secretary, in making the finding of reasonable security, to consider "any other security offered". The House version would amend the test to include consideration of the value of prospective earning power of the equipment or facilities being financed and the prospective earning power of the applicant. Under the House version, the Secretary may not, because of the lack of prospective earning power of the applicant, find that the United States will not be provided with reasonable security if the value or prospective earning power of such equipment or facilities is equal to or greater than the amount of the obligation to be guaranteed.

The Department supports the need for expansion of the types of security which can be offered in order to make section 511 more workable for fixed facility financing. However, we feel that the emphasis of the expanded security finding should be on the adequacy of the security in light of the earning power of the applicant rather than on the security provided the Government in the event of a default. Furthermore, we feel that the amendment proposed by the House version in particular fails to provide adequate protection to the United States. Under this proposal the Secretary could not reject an application for lack of security even in cases where it was clear that the applicant could not service the obligation to be guaranteed. We suggest that the following amendment to section 511(h)(5) would provide the necessary flexibility to the section 511 program while still ensuring that the Government will be adequately protected:

"(5) the prospective earning power of the applicant, together with the value of the security pledged, furnish reasonable assurance that the applicant will be able to service the obligation in accordance with its terms and afford reasonable protection to the United States."

Subsection 214(c) would amend section 511(j) of the RRRR Act to provide new conditions governing the payment of dividends and use of funds or assets derived from railroad operations. The Department feels that the existing provisions of section 511(j) are not flexible enough to deal with the variety of past dividend policies and current corporate holding company practices that exist in the rail industry. It is for these reasons that the Department supports the amendment proposed by section 214(c), with the exception of the proposed (j)(2)(B). This provision provides that the dividend restriction provisions do not apply in situations in which the obligor defaults and the Secretary is subrogated to the rights of the lender pursuant to section 77(j) of the Bankruptcy Act. There is no basis for eliminating the dividend restrictions in such cases since the dividend restrictions would tend to ensure that the obligor would have sufficient funds to make the United States whole on any payments which the United States makes to the holder of the obligation because of the default.

3. Cleveland Terminal Provision of Section 3(l) of Senate Version.

This provision authorizes $10 million to be appropriated in FY 77 to be used for the relocation of ConRail's rail passenger operations in the City of Cleveland, Ohio into the Cleveland Union Terminal. Amtrak's Board of Directors has already decided to develop an alternative facility because in their judgment the cost of maintaining the Cleveland Union Terminal is too high. Since they clearly believed that the investment is not offset by reduced operating costs, the Department opposes this provision.

4. Section 6 of Senate Version.

The Department opposes this amendment. We see no reason for changing the current statutory makeup of the Board. Amtrak is essentially a public corporation and the President of the United States should retain full authority to appoint the nine Public members of the Board, with the advice and consent of the Senate. The President of Amtrak is always eligible for such an appointment, but should not be an ex officio member.

5. Section 7 of Senate Version.

The Department opposes this amendment. Amtrak is having a difficult enough time with its mission without removing from that mission the clear mandate to operate on commercial principles. The proposed amendment would substitute for a comprehensible and measurable standard, that is, "for profit", an ill-defined and unmeasurable one.

6. Section 24 of Senate Version.

This section is designed to enable States who have acquired rail properties under section 208(d)(2) of the RRR Act to operate or select an operator other than ConRail and to transfer the ConRail employees presently operating the lines, together with their existing labor protection, to the State or the newly designated operator. The State or newly designated operator could then seek reimbursement for the labor protection costs under section 509. While the Department has no objection to the goal of section 24, it does object to the manner in which it is attempted to be accomplished because it would unnecessarily provide labor protection to any adversely affected employees of the operator. This would result in a depletion of section 509 funds to the detriment of ConRail and the acquiring railroads.

7. Section 25 of Senate Version.

The Department opposes this change as being undesirable. The heads of the departments involved are ultimately responsible for the decisions made by their duly authorized representatives and would not select someone to act in their place who was not highly qualified and totally familiar with their position on all major issues.

8. Section 28 of Senate Version.

This section requires the Federal Railroad Administration to conduct a study on the relative costs of parlor, sleeping, slumbercouch and coach services provided by Amtrak. The Department views this provision as an unwarranted interference in the functions of Amtrak's Board of Directors. In the process of making investment decisions, the Board is responsible for requiring Amtrak management to develop the information necessary to evaluate all alternatives. As a member of the Board, the Secretary may direct Departmental attention to any aspect of Amtrak operation which he feels requires attention. Therefore, the Department feels this provision is unnecessary and should be stricken.

### AMENDMENT TO SECTION 210 OF HOUSE VERSION OF S. 3131

1. In subsection (a) insert the following after "amended":

"(1) by inserting immediately after the word 'employees' in the first sentence the following: 'that are determined by the Association to be the obligation of a railroad in reorganization in the region;' and (2)".

2. In subsection (b) insert the following after "amended":

"by inserting immediately after 'Act,' in the first sentence the following: 'that are determined by the Association to be the obligation of such railroad' ".

Mr. CASE. Mr. President, I would like to ask the Senator from Rhode Island to clarify one of the provisions of the conference report.

In particular, I am concerned about the status of the health and life insurance benefits of noncontract retirees. In passing the 4R Act, Congress inadvertently omitted the necessary protection to insure that these benefits are continued. Many retired railroad employees currently find themselves in a position where they will have to assume payments of the premiums in order to continue their health and life policies. Such a situation places a heavy economic burden on a group of people forced to live within a fixed income.

I was happy to see that both the Senate and the House versions contained the provisions to protect these retired railroad employees. It is my understanding that the conferees intend that the legislation would provide for the continuation of these benefits.

Mr. PASTORE. That is correct. The conference report permits ConRail to assume the responsibility for these benefits in the event that the bankruptcy court finds them to be an obligation of the estates. The conferees certainly intend to protect the benefits of these retired employees by correcting the initial oversight in the 4R Act.

Mr. CASE. I thank the Senator for his explanation of this provision of the conference report and I ask unanimous consent to have printed in the RECORD a letter from a constituent indicating the severity of this problem.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. CLIFFORD P. CASE,
*Senate Building,*
*Washington, D.C.*

DEAR SENATOR: I am a retired employe of the Central Railroad Company of New Jersey and yesterday I received a notice from them that due to Conrail taking over the operations as of 12:01 a.m. April 1, that most of the present CNJ employees will become employees of Conrail.

Under the terms of the "Act" that created this transfer of operations, the existing Pension Plans of the CNJ will be preserved by Conrail for at least a year.

Also existing "Fringe benefits" of the Central Railroad Company of New Jersey would not be in place subsequent to March 31.

These fringe benefits are Hospitalization with Hartford Insurance Co. and a life insurance policy with Aetna Life and Casuality Co., both are contributing plans by the employe.

The CNJ will carry these two plans to April 30. And in the meantime we are obliged to try and make suitable arrangements direct with both Companies for subsequent coverage.

This is a most shocking experience to say the least, for a small group of retirees or Senior Citizens to be obliged to live through. I never gave a moments thought that my government for one day would ever perpetrate such an unfair labor practice by taking away our retirement rights, privileges and benefits that we had worked so hard for and earned all down through the years of faithful service to the Carrier.

I hope that you will do all you possibly can to have Conrail restore our Hospitalization and life insurance policies and to continue paying our pensions for the balance of our few remaining days.

Thanking you for your kind and prompt attention.

Very truly yours,

——— ———.

Mr. STONE. Mr. President, earlier today, the Senate passed the conference report on S. 3131, the Rail Passenger Service Act authorizations by a voice vote. When this bill was originally before the Senate, it was also passed by a voice vote. Given the speed with which bills and reports can be passed in this manner, I had no advance warning and thus was not able to ask for a rollcall vote on either the bill or the conference report. Had a rollcall vote been taken I would have voted against the bill and against the conference report for two reasons. The first reason is that I am opposed to any attempt by the Federal Government to bail out bankrupt railroad companies. I have serious doubts about Amtrak's ability to become a self-sustaining and economically viable enterprise. Pouring public money into mismanaged companies is not the solution.

I have even less faith in ConRail which is overseen by the U.S. Railway Association. My doubts are increased by the treatment that one of the USRA's board members has received at the hands of his fellow board members and at the hands of the U.S. Congress.

One small, seemingly innocuous provision of S. 3131 will have the effect of removing one of the most conscientious members of the board, Undersecretary of the Treasury, Jerry Thomas. Earlier this year, Mr. Thomas had a team of auditors examine some of the financial records of USRA. The auditors uncovered a number of irresponsible, wasteful practices such as taxpayers' money being used to pay the country club dues of some of the directors and other officials of the USRA.

Incredibly, the other board members, after accepting some token reforms, then voted to censure Thomas because of the audit he had conducted which exposed these questionable expenditures, and now the Congress has voted to remove Thomas from the board—though perhaps unwittingly—by stating that the Secretary of the Treasury can delegate his representation on the USRA board only to the deputy secretary. Thomas, as an undersecretary, would not be eligible to serve on the board.

Regrettable, it will thereby remove from the association board one of the too few practicng champions against waste that the taxpayers have in the Federal Government.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

## NATIONAL FOREST MANAGEMENT ACT OF 1976—CONFERENCE REPORT

Mr. HUMPHREY. Mr. President, I submit a conference report on S. 3091, the National Forest Management Act of 1976, and ask for its immediate consideration.

Mr. GRIFFIN. Mr. President, reserving the right to object, everybody wants to be cooperative and everybody wants to get out of here; but we cannot, so far as their side is concerned, have Senators popping up and offering conference reports without any notice at all as to who on this side is the ranking member. I just want to know so I can get in touch with him.

Mr. HUMPHREY. I thought the Senator and I had discussed this matter.

Mr. GRIFFIN. Maybe we had.

Mr. HUMPHREY. The ranking member on the Republican side is Senator DOLE, who was in the conference, and Senator HELMS. It is unanimous.

Mr. GRIFFIN. I thank the Senator from Minnesota.

Mr. HUMPHREY. I assure the Senator I would not bring it up without that.

Mr. GRIFFIN. I am sure that is the case.

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## NATIONAL FOREST MANAGEMENT ACT OF 1976—CONFERENCE REPORT

Mr. HUMPHREY. Mr. President, I submit a report of the committee of conference on S. 3091, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FORD). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3091) to amend the Forest and Rangeland Renewable Planning Act of 1974, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of the House of Representatives.)

Mr. HUMPHREY. Mr. President, it is with a tremendous amount of pride and satisfaction that I offer this measure for the consideration of the Senate. It is a product of 3 years of work by four committees of this Congress, as well as more than a dozen public interest groups and business interests.

It represents a milestone in Federal policy toward management of our vast national forest system, presenting a sound balance between protection of the environment on the one hand, and assuring adequate supplies of wood and wood products on the other.

House and Senate conferees worked on this bill through three long sessions, and I believe all participants are pleased with the final outcome.

This is an act designed to build our forests as a bulwark of renewable resources. It is a full storehouse, providing a perpetual high yield of multiple use benefits. It is a managed system of forest and rangeland with the water, wildlife, soil, and beauty maintained. This is an act that assures that our public forests are managed with advice from the several publics, and managed in a framework that makes ecological and environmental sense.

It is an act that recognizes the role of economic analysis but puts that topic in the perspective of the long term, not being submerged to short-term objectives.

This is a sound conservation act. It places on the professional resource manager the obligation and the opportunity to do a better job than has been done in the past by giving him better tools and policy guidance to exercise effectively the expertise that he has.

It creates the policy machinery for making certain that professional expertise and public desires are brought together in the public interest.

In short, this bill is designed to get the practice of forestry out of the courts and back to the forests.

Mr. President I am proud to commend this conference report to the Senate, and I urge its unanimous passage.

Mr. President, I ask unanimous consent that a summary of the major provisions of the conference committee substitute be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

### SUMMARY OF MAJOR PROVISIONS OF THE CONFERENCE COMMITTEE SUBSTITUTE FOR S. 3091

### FINDINGS

Findings are added to the Forest and Rangeland Renewable Resources Planning Act of 1974 placing emphasis on the complexity of management of the Nation's renewable resources and the need for a comprehensive Renewable Resource Assessment and a Renewable Resource Program. The findings further emphasize the role of research, the role of private as well as public lands in meeting national needs, and the responsibility and opportunity for the Forest Service to provide leadership in managing and conserving natural resources. (Sec. 2)

### REPORT ON FIBER POTENTIAL, WOOD UTILIZATION BY MILLS, WOOD WASTES AND WOOD PRODUCT RECYCLING

The Secretary of Agriculture is required to report in the 1979 and subsequent Assessments required by the Forest and Rangeland Renewable Resources Planning Act of 1974 on additional fiber potential in the National Forest System, on the milling and other wood fibre product fabrication facilities in the United States, and on the potential for increased utilization of forest and wood produce wastes in the National Forest System and on other lands, and of urban wood wastes and wood product recycling. (Sec. 3)

### REFORESTATION

The Secretary of Agriculture is required to establish a program by which lands within the National Forest System currently in need of reforestation and timber stand improvement will be treated within eight years. The Secretary is directed to treat and maintain planned timber production on Forest Service land after this eight-year period has elapsed so as to prevent a backlog of needed work. This provision contains an annual authorization for appropriations of $200 million beginning October 1, 1977 (FY 1978) which will be available until expended. (Sec. 4)

### RENEWABLE RESOURCE PROGRAM

The Secretary is required to include in the Renewable Resource Program (required by the Forest and Rangeland Renewable Resources Planning Act of 1974) program recommendations which:

(1) evaluate major Forest Service program objectives to determine multiple-use and sustained-yield relationships of renewable resources;

(2) explain opportunities for forest and rangeland owners to improve their land;

(3) recognize the need to protect and, where appropriate, improve soil, water, and air resources;

(4) state national goals that recognize the interrelationship and interdependence of all renewable resources; and

(5) evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices. (Sec. 5)

### NATIONAL FOREST SYSTEM RESOURCE PLANNING

The Secretary of Agriculture is to provide for public participation in the development, review, and revision of land management plans. (Sec. 6)

The Secretary is to incorporate standards set forth in this section into plans for units of Forest System as soon as practicable after enactment but in no event later than September 30, 1985. The management of units may continue under existing plans pending incorporation of these standards.

Section 6 sets forth requirements of land management plans:

(1) that it form one integrated plan for each Forest System unit, incorporating in one document or one series of documents, all aspects of the plan;

(2) that it be embodied in written material and contain certain information including the planned timber sale program and proportions of probable methods of timber harvest within the unit;

(3) that it be prepared by an interdisciplinary team based on inventories of the appropriate resources of the forest;

(4) that it permit increases in harvest levels based on intensified management practices and that it provide for a decrease in harvest levels if such practices cannot be successfully implemented;

(5) that it be amended only in accordance with the same requirements as apply to adoption of plans, however, if the amendment is for a minor change only public notice is required; and

(6) that it be revised only when conditions change but at least every 15 years in accordance with the requirements that apply to adoption of plans. (Sec. 6)

As soon as practicable, but not later than two years after enactment of the bill, the Secretary is to issue regulations setting out the process for the development and revision of land management plans, and guidelines and standards. (Sec. 6)

The regulations are to include (but not be limited to) the types of land management plans and the relationship of the plans to the Program developed under the Forest and Rangeland Resources Planning Act of 1974. (Sec. 6)

The management guidelines are to take several forms.

a. One set of guidelines dealing with overall National Forest System land management will require that lands be identified on the basis of their suitability for resource management; that inventory data be obtained; and that methods be provided for identifying special conditions or hazards to various resources and their relationship to alternative activities. (Sec. 6)

b. Guidelines are also required which will relate land management to the goals of the Renewable Resource Program. The guidelines are to:

(1) insure that the economic and environmental aspects of various methods of renewable resources management are consistent with the purposes of the Multiple-Use Sustained-Yield Act and 1974 Resources Planning Act;

(2) provide for the diversity of plant and animal comunities based on land suitability and capability, and where appropriate to take steps to preserve the diversity of tree species similar to that in the region controlled by the unit plan.

(3) insure research and appropriate monitoring and evaluation of management systems to the end that it will not produce substantial and permanent impairment of the productivity of the land. (Sec. 6)

c. Other required guidelines for land management plans to achieve the goals of the Renewable Resources Program relating to timber management are to—insure that timber will be harvested from National Forest lands only where:

(a) irreversible damage to soil, slope, or watershed conditions will not occur;

(b) there is assurance that the lands can be adequately restocked within five years of harvest;

(c) protections is afforded bodies of water with respect to detrimental water conditions and fish habitat; and

(d) the harvesting system to be used is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber. (Sec. 6)

d. In addition, the required guidelines for land measurement plans to achieve the goals of the Renewable Resource Program relating to timber management are to insure that clearcutting and seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-aged stand of timber are used as a cutting method on National Forest System lands only where:

(1) in the instance of clearcutting is determined to be the optimum cutting method and for the other cuts it is determined to be appropriate under the relevant land management plan;

(2) a comprehensive interdisciplinary review as determined by the Secretary has been made;

(3) provisions are made to blend the cuts with the terrain to the maximum extent practicable;

(4) cutting areas meet size limits, which will be set to meet conditions of specific regions and situations; and

(5) the cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and regeneration of the timber resource. (Sec. 5)

The Secretary is to appoint a temporary committee of scientists who are not officers or employees of the Forest Service. The Committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted. (Sec. 6)

Provision is made for the revision of plans, permits, contracts, and other instruments for the use and occupancy of National Forest System lands consistent with the guidelines and subject to valid existing rights. (Sec. 6)

### SUITABILITY OF LANDS FOR TIMBER PRODUCTION

a. The Secretary, in developing land management plans, is to identify and analyze those areas of the National Forest System which are not suited for timber production. He is to consider physical, economic, and other pertinent factors in the identification process. Once so identified, these areas are not to be harvested for a period of ten years except that unsuitable areas that continue to be managed, including reforestation treatment, to protect other multiple-use values. Salvage sales and sales needed to protect and enhance other multiple-use values may be made on these areas. Unsuitable lands shall be reviewed periodically and when found suitable shall be returned to timber production. (Sec. 6)

b. The Secretary is directed to formulate and implement a process for estimating long-term costs and benefits to support on a representative sample basis the program evaluations requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, including a comparison of expenditures associated with the timber management program with the return to the Government resulting from the sale of timber. Further, the Secretary must include a summary of the findings resulting from these estimates in the annual report required by section 8(c) of the 1974 Act, including identification of a representative sample basis of those advertised timber sales made for prices below estimated expenditures. (Sec. 6)

### CULMINATION OF MEAN ANNUAL INCREMENT OF GROWTH

Section 6 directs the Secretary to establish standards to provide that stands of timber be harvested at maturity, at the time of the culmination of mean annual increment of growth, with exceptions to provide for sound silvicultural practices such as thinning or other stand improvements or for the harvestings of timber in imminent danger from insect infestations or disease.

### TRANSPORTATION SYSTEM

Except for needed permanent roads, roads constructed on National Forest System lands are to be designed with the goal of reestablishing vegetative cover within ten years. All roads are to be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources. (Sec. 8)

### NATIONAL FOREST SYSTEM

National Forest System lands are to be returned to public domain status only by an Act of Congress. (Sec. 9)

### PUBLIC PARTICIPATION AND ADVISORY BOARDS

Procedures are to be established for public participation and comment on standards, criteria, and guidelines applicable to Forest Service programs. Advisory boards are to be established, representing a cross section of interested individuals and groups, as the Secretary deems necessary to secure full information and advice on the execution of his responsibilities. (Sec. 11)

### LIMITATIONS ON TIMBER REMOVAL

The Secretary is required to limit the annual allowable harvest from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually on perpetuity on a sustained yield basis. However, the Secretary may depart from projected long-term average timber sale quantity in order to meet overall multiple use objectives provided that such planned departures are consistent with the multiple use management objectives of the land management plan. Planned departures in the allowable sale quantity are to be made with public participation. Within any decade a quantity of timber in excess of the annual allowable sale quantity may be sold so long as the average sale quantities of timber from a national forest over the decade do not exceed the established quantity limitation. The limitation on allowable sale quantity will not apply to salvage or sanitation sales for timber substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack. The Secretary may either substitute salvage sale timber for timber which would be sold under the management plan or sell such timber over and above the allowed volume. (Sec. 11)

### ROADS

For timber sales where permanent road costs will result in inability of the purchaser to use full purchaser credit, the Secretary is to provide in the notice of sale the right of the small timber operator to have the Secretary construct the permanent road. To accomplish the requested work, the Secretary is authorized to use from any receipts from the sale of timber a sum equal to the purchaser credit, and such additional sums as may be appropriated for road construction. These funds are to be available until expended to construct the road to the standards specified in the sale notice. The effective date of this amendment is October 1, 1976. It is our intent that the Forest Service timber sale program continue while this process is being developed. The Secretary must develop promptly new procedures and promulgate regulations to implement this new direction (Sec. 14)

### TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS

The provision of the Act of June 7, 1897, as amended, dealing with the authority for timber sales on National Forest System lands is repealed and new provisions are added.

Under the new provisions:

(1) the Secretary of Agriculture may sell (at not less than appraised value) trees, portions of trees, or forest products located on National Forest System lands;

(2) all advertised timber sales are to be designated on maps and described in an available prospectus;

(3) timber sales contracts are to be for a period not to exceed ten years, unless the Secretary finds that better utilization of the various forest resources, consistent with the Multiple-Use Sustained-Yield Act, will result from allowing longer contract period;

(4) in general, all timber sales are to be advertised;

(5) designation, marking of trees when necessary, and supervision of tree harvesting are to be conducted by USDA employees;

(6) standards are to be established for the removal of trees and forest products to provide for the optimum practical use of wood material (including provisions for the salvage of insect-infested, deal, damaged, or down timber);

(7) the Secretary shall require action to alleviate collusive practices in bidding for timber or forest products from National Forest System lands and to establish adequate monitoring systems to promptly identify patterns of noncompetitive bidding; and

(8) require sealed bids on all timber sales except where the Secretary determines otherwise by regulation. (Sec. 14)

### VALIDATION OF TIMBER SALES CONTRACTS

Timber sales made under existing law are validated. However, the Secretary of Agriculture is required to review the three 50-year contracts in Alaska and make them consistent with the purposes of the bill. (Sec. 15)

### PAYMENTS TO STATES FOR SCHOOLS AND ROADS

The formula for paying a 25 percent share of National Forest revenues to counties in which National Forest System lands are located is adjusted to minimize adverse impacts on the counties. The adjustment will result in the Forest Service rebating to the counties 25 percent of the total income from timber sales. Presently, deduction is made for collections for reforestation and allowances in timber contracts for permanent roads to be built by timber purchasers. (Sec. 16)

### ACQUISITION OF NATIONAL FOREST SYSTEM LANDS

The National Forest Reservation Commission is abolished and its functions transferred to the Secretary of Agriculture. The Secretary will submit to Congress each proposed land purchase or exchange, formerly approved by the Commission, which exceeds $25,000 prior to entering into such transaction. (Sec. 17)

### AMENDMENT TO THE KNUTSON-VANDENBERG ACT

The formula for allocating revenue for reforestation on harvested lands is changed to reflect current costs and to assure better multiple-resource treatment. (Sec. 18)

The PRESIDING OFFICER. Without objection, the conference report is——

Mr. HATFIELD. No, Mr. President, I am not about ready to agree to this report until I have a little colloquy with the Senator from Minnesota.

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. The Senator from Minnesota offered some language to be placed in the RECORD.

Mr. HUMPHREY. I merely offered a summary of the major provisions to be placed in the RECORD.

The PRESIDING OFFICER. Without objection, it has been printed in the RECORD.

Mr. HUMPHREY. I say to the Senator from Oregon, go ahead.

Mr. HATFIELD. Mr. President, I asked the Senator from Minnesota to engage in a little colloquy with me, because, as I have read this report, it is not at all what was intended and what was agreed to when I was a part of the conference and a conferee. We had worked very diligently on one section relating to a nondeclining yield. I go back to that agreement that was made very clear in the conference, that in the report language, we would include and incorporate some of the criteria that had been proposed in my initial compromise language.

Mr. HUMPHREY. The Senator is correct.

Mr. HATFIELD. I read the report language; it is not included at all. I refer specifically to the matter of variation from the nondeclining yield—in the report language—the Secretary may take into consideration the economic impact upon local communities.

Mr. HUMPHREY. The Senator is correct. That was an understanding that both the economic and the physical considerations were to be included.

Mr. HATFIELD. Yes, and the coordination with other Federal agencies and State and local agencies. That does not appear anywhere that I have seen in the report language of the committee.

Mr. HUMPHREY. In the latter part of the conference, we finally decided that we would not include specific examples of instances such as the economic impact on local communities.

Mr. HATFIELD. I think the Senator, when he says, "in the latter part," might say that is like the situation in which we are here today. There was confusion in the wrapup of that committee. The Senator from Oregon had understood the decisions had been made and had left the committee. When this language was first proposed—the Senator from Minnesota has already acknowledged that there was full agreement to the compromise language that I proposed to that one section of the bill. This decision was made by the conference committee on the part of both the House and Senate conferees. In the wrapup confusion, a change was made, but that was not made with this Senator's knowledge. I think it is very poor procedure, once we make a decision in the conference, to reverse that decision and not tell the rest of the conferees. Perhaps the Senator would be willing to make an explanation on the floor.

Mr. HUMPHREY. Will the Senator

permit me to read language in the statement of managers that relates to that?

Mr. HATFIELD. Yes.

Mr. HUMPHREY [reading]:

> The Conference substitute modifies the language of the Senate bill (1) to permit the Secretary in planning for achievement of long-term sustained yield management, when consistent with the multiple use management objectives of the land management plan and after public participation.

All of which, by the way, is language that the Senator from Oregon wanted—

Mr. HATFIELD. And it was agreed to, yes.

Mr. HUMPHREY [continuing].

> to establish an allowable sale quantity for any decade which departs from the projected long-term average sale that would otherwise be established; (2) to permit the Secretary to sell salvage timber over and above the volume called for by the unit plan if it is not feasible to substitute salvage timber for timber that would otherwise be sold under the plan; and (3) to incorporate the provisions of the House amendment which authorize thinning or other stand improvement measures, salvage sales, including the salvaging of timber stands which are in imminent danger from insect or disease attack, and require that generally stands of timber must have reached the period of culmination of mean annual increment of growth prior to harvest.
>
> This section gives the Secretary discretion to vary the allowable sale quantity where he determines that so doing would meet multiple use management objectives and would be consistent with the basic directives of the Multiple-Use Sustained-Yield Act of 1960. The Conferees understand that the Secretary may choose to exercise this discretion for a number of reasons, including, but not limited to, such things as the desirability of improving the age-class distribution on a forest to facilitate future sustained yield management, or the desirability of reducing high mortality losses.

Mr. HATFIELD. The Senator will recall, as he indicated earlier in this colloquy, that the language was not to be limited to, but would include the economic impact on local communities. This was part of the original proposed compromise language, which was then modified by the conference committee. It was voted on by the full committee. That is part of the conference record.

Mr. HUMPHREY. The point was made in conference, and I regret the Senator was not there at the particular moment—we are not always there at the same time.

Mr. HATFIELD. The Senator from Minnesota acknowledged that the decision had been made by the conference and it was in the wrap-up time when the staff moved in and took advantage of this whole situation.

Mr. HUMPHREY. That is not the case at all, because the Senator from Minnesota along with Chairman FOLEY of the House Agriculture Committee moved that in the report, we should make it clear that this matter was not to be cited as a special example of the kinds of considerations that the Secretary was to take into account. The Secretary has wide flexibility. We can establish here, in this colloquy, that in that flexibility, one of the points that he should take into consideration is the economic impact upon a community.

Mr. HATFIELD. Does the Senator from Minnesota deny the simple fact that I am making here; that is, that the conference committee had agreed on inclusion of that language in the report?

Mr. HUMPHREY. It is my judgment, I say to the Senator from Oregon, that the conference committee had agreed to it.

Mr. HATFIELD. Yes, that is correct. Now, my point is that the conference committee had agreed to it. In the confusion of the wrap-up, when all the decisions had been made and the conferees were removed from the room, then this new addition, or this reversal occurred. Why was it reversed?

Mr. HUMPHREY. What was decided was not to list all the different things the Secretary might take into consideration, but to give him considerable flexibility.

Mr. HATFIELD. Who voted on the reversal of policy?

Mr. HUMPHREY. I did, for one.

Mr. HATFIELD. Who else?

Mr. HUMPHREY. Senator TALMADGE was there. Senator BUMPERS was there. I do not know what other Senators were there.

Mr. HATFIELD. May I ask the Senator why a reversal was made?

Mr. HUMPHREY. Simply because we did not want to list all the different items the Secretary should take into consideration.

Mr. HATFIELD. Does the Senator from Minnesota admit that this language was a part of the consideration?

Mr. HUMPHREY. The Senator said so. That should be a part of the consideration, that economic impact is one of the features that the Secretary should take into consideration.

Mr. HATFIELD. The Senator recognizes that it is not limited to nor is it an exclusive list, because that is in the preliminary language. I think the Senator from Washington, whom I see in the Chamber, and other Senators from the Northwest, realize that in the Organic Act, this is an implied consideration. In the Sustained Yield Act of 1944, it is a specific consideration. All we are asking is that this be included in the record.

Mr. HUMPHREY. We tried to eliminate the specificity because we ran into innumerable examples. I say now, for the purpose of the legislative history that we are making here, that the economic impact is surely one consideration that may be taken into consideration by the Secretary.

Mr. HATFIELD. I appreciate the Senator's acclamation of the decision that was originally made by the conference committee. I just want to make sure that in this legislative record, it is not excluded from the consideration the Secretary may make.

Mr. HUMPHREY. It was not excluded, it was not intended to be excluded.

Mr. HATFIELD. And it is to be included as well.

Mr. HUMPHREY. And it is to be among one of the many considerations the Secretary takes into consideration.

Mr. HATFIELD. It should be included and should not be excluded from the considerations.

Mr. HUMPHREY. It is in there.

Mr. HATFIELD. I thank the Senator from Minnesota.

Mr. HUMPHREY. I thank the Senator from Oregon.

I wish to point out that this bill reflects the hard and dedicated work of Senator BUMPERS, Senator METCALF, Senator MCCLURE, Senator TALMADGE, Senator STONE, Senator CHURCH, Senator JACKSON, Senator JOHNSTON, Senator BELLMON, Senator HATFIELD, Senator HELMS, Senator ALLEN, Senator LEAHY, Senator HUDDLESTON, Senator GRAVEL, Senator HASKELL, Senator RANDOLPH, and others.

I would also like to pay tribute to the hard work of Representative THOMAS FOLEY and the other House conferees.

The staff also deserves credit for helping to develop this legislation. I would like to recognize the major contributions of Robert Wolf of Congressional Research Service of the Library of Congress. Also, Mike McLeod, Carl Rose, Steve Storch, Jim Giltmier of the Committee on Agriculture and Forestry; Mike Harvey and Steve Quarles, of the Interior and Insular Affairs Committee; Nelson Denfinger of my staff, and Sam Thompson of Senator EASTLAND's staff deserve thanks for the final product.

Mr. JACKSON. Mr. President, I strongly support adoption of the conference report on the National Forest Management Act of 1976 (S. 3091). It strikes a reasonable compromise between the Senate and House passed versions of the bill. Its enactment will provide the most comprehensive set of policy guidelines for management of our national forests which Congress has ever adopted. It will assure that only the best forest management practices are used and that land use plans for the national forests are prepared using all the many and varied skills applicable to forest resources.

At the same time, it will alleviate the adverse impact of recent interpretations of existing law which if applied nationwide would have reduced by 50 percent the volume of timber sold from national forest lands. This would have been disastrous for workers in the timber and construction industries and for consumers.

I believe that the conference report balances the many values of our national forests so that they can continue to supply a significant portion of the forest products needed by our economy without permanent damage to outdoor recreation, wildlife, watershed and other important uses.

Mr. President, I believe the Senate should be aware of the outstanding leadership provided to the conference committee by Chairman TALMADGE of our Committee on Agriculture and Forestry and by Chairman FOLEY of the House Committee on Agriculture. The spirit of cooperation and compromise which they fostered and which was exhibited by all of the conferees enabled us to reach this constructive agreement.

I urge the Senate to adopt the conference report on S. 3091.

Mr. RANDOLPH. Mr. President, the Senate today passed by a voice vote the conference report amending the Forest and Rangeland Renewable Resources Planning Act of 1974, known as the timber management bill. Members have not been provided with the conference report and do not have the benefit of the language contained therein.

The Senate version of the legislation was far superior to that of the House but both bills failed to adequately cope with the issues involved in the continuing controversy surrounding management of this Nation's national forest lands. There were only two major provisions with any substance in the Senate version—the multiple-use, sustained-yield and the marginal lands provisions and they were substantially altered which rendered them virtually meaningless in the conference passed bill.

The Congress has not adequately addressed a needed remedy to respond to the impact of the Monongahela decision. Instead, this legislation will be the subject of intense litigation. We provided the Forest Service with the complete authority to harvest timber in any manner it desires with little or no protection for soil, nutrients, aesthetics, wildlife, watershed protection, or slope condition. We have relegated the multiple-use concept to a secondary position while placing timber harvest on a pedestal.

Citizens will demand a redress in the courts and in the Congress and their collective appeal will eventually be heard. West Virginians are against the continued abuses of the past which include a policy of even-aged management and the harvest of immature timber.

People own the national forest lands and have had too little impact with the Congress on the management of these lands. I emphasized during Senate debate, that I would be back to remedy this inattention of basic issues. We will continue the struggle, even against heavy odds, until justice is done.

**Mr. PACKWOOD.** Mr. President, I am pleased to give my support to the conference report on S. 3091, the National Forest Management Act of 1976. This is the culmination of one of the major legislative projects of the 94th Congress and, as such, it embodies many of the strong points of a number of earlier proposals.

There is an impending crisis over our national forests, Mr. President, that makes action on this bill imperative. This crisis results not from some natural disaster. Nor does it result from our bottomless appetite for consuming natural resources. Rather, it is the result of two Federal court actions that threaten to take management of our forests away from professional foresters.

The first court decision occurred on August 1, 1975, when the Fourth Circuit Court of Appeals upheld a district court decision pertaining to planned timber sales on West Virginia's Monongahela National Forest. The decision raised a strict interpretation of the 1897 National Forest Organic Act which allows the sale of only dead, large or physiologically mature trees that have been individually marked. This decision has the potential for drastically limiting the practice of clearcutting in our national forests.

On December 23, 1965, the Federal District Court of Alaska applied the same standards as the fourth circuit court to an ongoing timber sale which was sold in 1951 to the Ketchikan Pulp Co. If the decision is upheld on appeal, clearcutting restrictions would disrupt effective, responsible forest management throughout the entire ninth circuit. As one State whose economy is founded on a healthy forest products industry, Oregon would suffer immensely and needlessly under such restrictions.

Arguments in favor of clearcutting have not been contrived to justify the status quo, Mr. President. Rather, they are based on a progressive environmental understanding:

One. That clearcutting is essential for the regeneration of Douglas fir and other shade intolerant species;

Two. That clearcutting is used as an effective means of controlling destructive diseases and insect infestations; and

Three. That clearcutting enriches the food supply for wildlife within a short period of time.

Furthermore, without the use of clearcutting, there would be no reasonable way to meet the growing demands for forest products. According to a Department of Commerce study, the allowable cut on our national forests could decrease as much as 40 to 50 percent. In real terms, this means an average loss of 3.9 billion board feet of softwood timber over each of the next 5 years.

The same study shows that if the Monongahela and Tongass decisions were applied throughout the Western States, job losses in that area would average 27,000 per year. Of that total, Mr. President, 34 percent live and work in the State of Oregon. Over 9,000 employees in the forest products industry would be added to an unemployment rate which already exceeds 9 percent in my State.

And, if that were not enough, mills with 20 percent of the western lumber capacity—4.7 billion board feet—would be forced to shut down.

You can be sure that repercussions from this situation would not be limited to the West. The price of softwood lumber could be expected to rise 30 percent across the country. Plywood would be up at least 21 percent. The average cost of a single family home, which is already $48,000 by Commerce Department figures, would increase another $2,000 as the result of higher lumber prices.

Mr. President, by repealing language of the 1897 Organic Act, the problem of unrealistic and unworkable restrictions on clearcutting is resolved. And, by including constructive guidelines, we are assured that it will be practiced in an environmentally sound manner.

But it is not for this reason alone that I urge my colleagues to support this act.

I think the conference committee has met the essential objectives for good forest management legislation. We have a bill designed to cover a broad range of forest conditions and management practices. Yet, this is accomplished without the Congress tying the hands of the Forest Service. Invariably, it seems to me, Congress finds itself prescribing rules and regulations as if everybody and everything were the same; as if every situation needed the same treatment. Instead, here we have a bill that mandates planning for each Forest System unit on an individual basis. It is a recognition that no two forests are alike, and that prescriptive legislation is more often a handicap than a help to forest management professionals.

S. 3091 is a welcome contrast to some of the original Senate proposals, Mr. President, particularly those for limiting clearcuts to a maximum of 25 acres, or preventing separate clearcuts from being closer than 1,000 feet apart, regardless of forest conditions.

Under the compromise worked out in conference, the Forest Service will be able to work creatively within the sustained yield principle established in the Multiple-Use Sustained-Yield Act of 1960. I see no need to carve into firm statute an inflexible standard of nondeclining yield as the Senate-passed legislation would have done. I am also satisfied with the modifications that were made to provisions dealing with "marginal lands" and the building of roads by timber purchasers. These provisions now allow the flexibility essential to good forest management.

Mr. President, I find one of the most positive accomplishments of this bill to be the language which commits us to a policy of intensive reforestation and timber stand improvement. It authorizes $200 million annually for a program to return all previously cutover or denuded acreage to its original productive capacity within 8 years. After this backlog is treated, reforestation will be maintained on a current basis.

Estimates indicate that as many as 570,000 acres of land managed by the U.S. Forest Service are in need of reforestation or improvement in the States of Oregon and Washington alone. I urge the Senate to endorse this program today as progress toward a sound model for the continued use and development of a truly renewable resource. Not only does it have the potential for increasing timber yields to help meet the growing demand for forest products, but its value is immeasurable in the improvement of watershed protection, recreational use and wildlife habitat in the national forests.

There is, however, one provision about which I am deeply concerned. This is the requirement that henceforth we will give a preference to sealed bids rather than open bids.

In many areas of Oregon there is only one lumbermill in a town. The town depends upon the mill for employment. When the mill owner knows that he is going to be short of timber, he will go out and bid to the sky, if necessary, to keep that mill going. And so long as the bidding is open, he knows how high he has to go. But when the bids are sealed, that owner may put in what he regards as a very high bid, but if for some reason somebody bids higher, that owner does not get the timber and the mill shuts down.

What you end up with is a mill out of timber and a town out of jobs solely because sealed bids rather than open bids are used.

Mr. President, it has been a long road toward final passage of the National Forest Management Act of 1976, and I urge my colleagues to give S. 3091 their full support. Once it is enacted, this bill will dispel the dark cloud of uncertainty that looms over Oregon and other timber-producing States. Our environment and our economy depend on it.

**Mr. METCALF.** Mr. President, I am pleased to support the conference version of S. 3091, the National Forest Management Act of 1976. It contains numerous provisions which will strengthen effective renewable resource management with firm adherence to multiple-use, sustained-yield principles. It will raise the level of environmental and ecological awareness in applying management practices on the national forests. It will assure effective participation by all of the public in the formulation of regulations, guidelines and management plans for the 187 million acres of national forests.

There is one provision in the conference version which I shall address because it is the heart of the reforms that this bill will institute. The provision is known as "sustained yield" as it applies to the rates and ways in which timber is sold. The conference version is on all fours with the original Senate language but it has been improved by the discussion of the conferees on this vital topic.

Henceforth, the Secretary of Agriculture will limit the sale of timber from each and every national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. This is language which I proposed for the Senate bill and which was adopted.

The concept had the full support of our colleagues in the House although their version of the bill did not contain the language. When conference was reached and the matter jointly discussed, it became apparent to all that the language was a desirable addition.

At the same time there was concern that the language we had adopted in the Senate might be somewhat more restrictive than was intended. Frankly I was concerned that in some limited cases, despite the flexibility that we had included, we had not provided for unusual situations that congressional policy should give latitude to cover. A number of useful alternatives were considered. In the House, my colleague, Congressman Max Baucus offered a proposal that was consistent with the added flexibility I thought we intended. It was not adopted—but for procedural reasons and not for lack of merit.

As the conference proceeded, a number of other alternatives were under consideration and the language that emerged seems to me to meet the sort of situation that effective policy requires.

Section 6(g)(3)(D) and this section 11 make a package. The goal of the sustained yield policy is not only to direct a system of sales that prevents any decline in future years being designed into planning, but also and of great importance, seeks to raise sales levels via the plan, step by step, carefully to the full potential growth level that a well-managed forest can provide. It is clear from the testimony that we received that the current growth levels are well below the wood-growing potential of the national forests. It is clear that the only way that these levels can be permanently raised to the higher perpetual supply level is by adequate levels of investment.

It is clear that the species of trees vary in sale attractiveness and that costs to operate in some areas present formidable obstacles to conversion to a managed high-yielding forest. It is true that overcutting the favored species and leaving those less attractive will compound rather than complement efforts to achieve a well-managed forest. It is true that we have stands with a low rate of growth, as well as stands with a high mortality rate, that could benefit from careful silviculturally sound cutting of the trees in danger of loss through death and old age. It is true that for a future high sustained yield that respects multiple-use values, the various stands that compose the management unit must be arranged in a manageable order.

The forest resource manager must keep a number of independent and dependent variables in focus if the forest management equation is going to yield the policy answer that is directed—a perpetual sustained yield.

Therefore, the provision "that in order to meet overall multiple-use objectives, the Secretary may establish allowable sales levels for any decade which depart from the projected long-term average sales that would otherwise be established" constitutes a reasonable but circumscribed amount of flexibility. It is limited by the basic goal. It will be circumscribed by the realities on each national forest.

The term "depart" is certainly not a command only to exceed. It also permits and in fact requires if conditions so require, that sales be less than some higher amount that theoretically could be applied. Obviously, in terms of the pressures, there was no need for the Committee to decree that less be sold. However, there are situations where selling more now would only induce a reduction later. Clearly what we wanted at any time was to avoid planned declines in output.

Montana is in Forest Service region 1. In fiscal year 1976 the allowable cut as set by the agency was 2.2 billion board feet. Actual sales were 1.3 billion board feet. The actual volume cut by purchasers was 0.9 billion board feet. Sales were barely half the allowable cut and the amount actually harvested was less than half the allowable cut. In fact actual cut was 70 percent of the volume sold, and this was largely due to market conditions. The annual growth in the region 1 forests was 1.7 billion board feet.

This is below the allowable cut level but well above the actual sales level. Thus to suggest as a general rule that the allowable cut should be raised in region 1 might well fly in the face of commonsense forestry. With actual sales so far below allowables and cut even lower, raising the paper figure for the allowable from 2.2 to 5.4 billion board feet, which represents the current best estimate of the potential growth level in region 1 would make little sense when actual sales are less than 1.3 billion board feet.

Clearly what is needed is a realistic action plan that permits selling the mixture of forest species that comprise the current 2.2 billion board feet allowable cut level.

However, when one gets down to specific national forests, a case might be made with all the facts on display, that would justify a short-term increase. But this would only make sense if the basic sale program and the additional volume were made up of the proper quantities of the species that needed to be cut. The language that has been adopted takes these matters into account by permitting the Secretary, using full public participation, to advance a plan that goes before the Advisory Board and meets all the tests set forth in the act.

The proposal to sell additional timber would have to be developed by an interdisciplinary team. It would have to be publicly reviewed. It would have to chart the actions that would increase growth. The increases in harvest levels would have to be justified under the 1960 act terms. Funding would have to be scheduled and they would have to take hold and show they were working. While the minimum requirement is that without exception, at the end of the 10-year planning period, reductions must be made if the work is not funded, clearly we do not intend that the Forest Service will move ahead with a higher level of cutting if early in the period funding is not received or work is not successful.

At the same time we have developed a planning mechanism that permits putting fund requests with plans in a way that shows that a proposal not only promises to be effective but also that it will be effective.

The bill we have before us is largely the Senate bill because, when we came down to considering the various provisions, we concluded that we wanted to provide flexibility to the professional managers. On issue after issue, as the conferees discussed the topic, it was jointly agreed that what we wanted was a bill that encouraged the resource managers to use commonsense in achieving multiple use and sustained yield goals. In many provisions, the two bills were identical; thus while the House gracefully acceded to the Senate provisions, the two bills were identical in purpose. The reforms, therefore, can clearly be said to be congressional reforms that have been designed to assure effective executive administration.

There is wide controversy over the issue of how to compute the proper sustained yield level of sales on the national forests. The bill does not prescribe the methods but it does set the policy. The reason we did not take the advice of many is that this is not a matter which ought to be set into law. In the course of the markup of the bill in the Senate, we had the advice of both the Chief of the Forest Service, John McGuire, and Mr. Robert Wolf, Assistant Chief of the Environmental Policy Division, Congressional Research Service. The explanations that they gave demonstrated clearly that a rigid statutory formula might be undesirable and that no statutory expression could leave a dangerous situation.

I ask unanimous consent that a paper from Senate report No. 893 on S. 3091 outlining the various factors that are weighed in moving from the unmanaged to the managed forest, prepared by Mr. Wolf, be printed in the Record at the conclusion of my remarks. This paper was prepared, with review by Dr. Richard McArdle, who served as Chief of the Forest Service. He worked in every facet of forestry in a long career.

All three of these professional foresters know policy and program, as well as theory and practice. And what is even more important is that all three of these men know what the public interest requires.

Throughout the deliberations on this issue, the members of the concerned committees were agreed that they wanted the public interest to be the test for public policy on all matters pertaining to the public's forest resources. S. 3091, in my opinion, meets this test.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

[Appendix]

### ANALYSIS OF TIMBER GROWTH PATTERNS

[Prepared by Robert E. Wolf, Assistant Chief, Environment and Natural Resources Policy Division, Congressional Research Service, Library of Congress]

The forests of the United States are extremely heterogeneous in species composition and age classes. This is why forest managers face complex, on-the-ground considerations in selecting appropriate harvesting levels, rates, timing, and systems in order to achieve sustained yield management.

#### TIME AS A FACTOR

The concept of sustained yield management is based on adopting growth cycles, for example, of 50 years, 100 years or 200 years, and the forest is managed so that relatively equal periodic harvests are made throughout the cycle. In those instances of a small ownership of 100 acres, 5 or 10 harvests may occur in a century. In larger properties, of perhaps 100,000 or 1,000,000 acres, harvests would be made annually on several parts of the ownership. The National Forest System is composed of these large management units and the Committee is therefore, dealing with the management of large areas.

In the United States, neither the natural forests nor the managed forests contain the combination of age classes of pattern of distribution that makes it simple to chart a regular annual harvest level, sustaining yields and multiple uses. The natural forest is seldom found this way and the managed forest has not existed long enough to contain these distributions.

#### TIMBER MANAGEMENT SYSTEMS

Forest management decisions are complicated by other considerations. For example, there are two basic forest management systems. In an even-aged system, the property is formed into a series of blocks, each of which contain trees of approximately the same decadal age. The total forest is all-aged, but the trees in any one block are essentially of one age. Conversely, the all-aged forest is one where the entire property is made up of stands with trees of many ages.

Another aspect which requires attention is the forest situation created for multiple-use management goals. This may require adjustments between composition of species, age distribution, or tree condition to achieve water, wildlife or wood goals.

Activities in the first rotation cycle must not only accommodate multiple-use and sustained-yield objectives, but also must assist the transition to the next cycle so that composition and distribution of species and age classes will not adversely affect management objectives.

Most National Forest management units are in their first rotation cycle and thus are not in the pattern proposed for long-term sustained-yield multiple-use management.

#### ROADS, MANPOWER, FUNDING

Further complicating factors are the frequent absence of early construction of the planned basic road network which inhibits management flexibility, and funding levels and allocations. Still another consideration that must be taken into account in renewable resource management on forested land is site capability, which is a major determinant of growth capacity. Unless there is relatively even distribution throughout the forest of lands by site capability in age classes, future decadal yields will be affected.

Thus, even before one considers some of the economic and related ecological consequences of possible actions, the issue of regulation of yields requires consideration of a number of factors.

Sustained yield is a goal that is attained only by good, basic data, well planned actions and timely execution.

#### FORESTS VARY WIDELY

In many of the Eastern National Forests, for example, the lands were acquired in a cut-over condition following decades of abuse. Their composition is far different from the original cover, both in ecologic and economic utility. Soils are depleted, output levels are far below site potential, and species are ecologically inferior. The land manager faces the challenge of increasing these outputs and realizing the inherent potential of the land.

In contrast, in many of the Western National Forests, natural stands prevail. While in the main their condition and distribution and composition have been affected more by natural events than by man, there has already been sufficient intervention by man so that securing a sustained yield presents another set of complications. Some of these Western forests are immature, while others are in a state of decay. Conifers and single species are dominant. Insects, disease, fire, and natural mortality complicate management.

The managed forest concept is not based on growing the majority of trees to a state of physiological maturity. Forests management programs, in general, are conceived using management cycles that span one-half or less the time required to have a tree reach physiological maturity. But in this period with well executed choices overall, an increased yield of all benefits can be realized.

#### OPPORTUNITIES TO INCREASE YIELDS

East or west, north or south, there are a series of management options—planting genetically superior stock, thinnings, stand improvement, and intermediate cuttings—when applied wisely in the managed forest can increase yields of usable material in shorter cycles of management—enhance species and tree quality and enhance socially desirable and environmentally needed multiple-use benefits.

As the above graphs show, the shift from an unmanaged to a managed forest presents complex problems when the goal is a perpetual and continuous supply of timber. The difficulties are large, whether dealing with young or old, previously unmanaged forests.

The other issue is level of output. Obviously, if the first constraint of continuity of supply is going to be observed, increased yields are possible. However, the time of its effective attainment will be affected by when one can effectively increase growth.

An early bunching of rapid growth will not aid the continuity of future supply. If output levels are set too low, however, achieving feasible increases will be delayed.

#### SUPPLY CONTINUITY

In practical terms over time, timber removals cannot exceed growth and sustain a high rate of removal. A forest owner starting with a zero inventory who planned a 100 year forest rotation would not harvest the first finished crop until the 10th decade. Where an owner has an existing stand of older timber and is converting the forest to a 100 year rotation, he has two basic alternatives: (1) rapidly liquidate the present stand but in the future have a gap in output; or (2) plan the removal of the present stand over 10 decades, choosing the rate and location of removals so that at the 10th decade the forest is so arranged that in each decade thereafter he will have the opportunity to cut one-tenth of the forest. The level of growth planned and attained in each decade will control the future harvest level 10 decades hence.

The closer one gets to the point where the existing stand is removed, the less flexibility one has to make adjustments for the next cycle, since reserves will be made up mainly of young immature stands growing for the future.

Forest Service survey data in the Pacific Northwest demonstrate the problems emerging in that region. These problems account for the pressures to rapidly increase National Forest harvest levels.

DOUGLAS FIR REGION=WASHINGTON AND OREGON[1] COM. FOR ACREAGE, VOLUME, GROWTH AND REMOVALS

[Per acre—board feet]

| Owner classes | Acres millions | Volume | Volume | Growth | Removals | Removal growth ratio | Growth on volumes percent | Decades to cut vol. excl. of growth |
|---|---|---|---|---|---|---|---|---|
| Bill b.f.[2] | | | | | | | | |
| Washington: | | | | | | | | |
| Nat. for | 2.3 | 90.2 | 39,200 | 195 | 435 | 2.24 | 0.5 | 10 |
| Other pub | 1.8 | 42.5 | 23,600 | 550 | 820 | 1.49 | 2.3 | 3 |
| For ind | 3.6 | 67.3 | 18,700 | 445 | 1,100 | 2.47 | 2.4 | 2 |
| Farm and miscellaneous | 2.2 | 21.8 | 9,900 | 430 | 375 | .87 | 4.4 | |
| Total | 9.9 | 221.9 | 22,400 | 400 | 735 | 1.85 | 1.8 | 3 |
| Oregon: | | | | | | | | |
| Nat. for | 4.6 | 165.6 | 36,000 | 230 | 600 | 2.60 | .7 | 6 |
| Other pub | 2.9 | 64.5 | 22,200 | 255 | 550 | 2.15 | 1.1 | 4 |
| For ind | 3.6 | 52.5 | 14,600 | 175 | 890 | 5.10 | 1.2 | 2 |
| Farm and miscellaneous | 3.2 | 28.9 | 9,000 | 250 | 150 | .60 | 2.8 | |
| Total | 14.4 | 311.6 | 21,600 | 225 | 560 | 2.50 | 1.0 | 4 |

[1] Source: "Timber Resource Statistics for Washington," Jan. 1, 1973, USDA FS. Pnnbul 53, "Timber Resource Statistics for Oregon, Jan. 1, 1973, USDA FS. Pnnbul 56.

[2] International ¼-in rule.

The sustained yield practicalities for each class of owner is thus affected by the various age class relationships. They are also conditioned by present stocking, inventories, cutting rates and by what happened in the past.

The generally held notion is that the lands in small holdings have the lowest order of management and thus growth, while it is said industry lands have the highest order of management and growth. Yet when one looks at growth rate data, both as a percentage of volume and per acre growth in the Pacific northwest, this does not appear to be true. The farm lands in Washington compare very favorably with industry lands, and in Oregon their rate of growth and per cent of growth on the farm lands substantially exceeds that on industry lands. Another factor of significant impact is that the rate of harvest on industry lands is the highest, far above growth rates. Also this is more so in Oregon than in Washington. Further, the rate of growth on industry lands does not appear to be as great as one would expect, especially in Oregon, given the point in the liquidation process that has been reached.

The significance is that a rate of cutting that liquidates the inventory is acceptable, in sustained yield terms, if the time span is long enough to permit the in-growth to replace it.

On farm lands in the Pacific Northwest, the inventory is low, the rate of growth is low, and the sustained yield is low. This demonstrates, by comparison with the industry lands, that sustained yield can mean many things. The data on industry lands show removals in excess of growth and a low rate of growth. The same condition exists on the public forests, thus emphasizing the need to rapidly enhance productivity on lands previously cutover. A more effective picture would be revealed if the growth rates were depicted by decadal periods, thus permitting better evaluation of future sustained-yield levels. However, on a regional basis, the data is revealing because it demonstrates the reason for urging more rapid cutting of remaining old-growth timber on the National Forests. The long range regional impacts, however, would be to adversely affect outputs since neither the farm or industry groups of lands, half the production area and more than half of the productivity base, are being positioned rapidly enough to increase their outputs 2 to 5 decades ahead.

Mr. HUMPHREY. What is the action on our conference report?

The PRESIDING OFFICER. The Senator from Minnesota has the floor. The conference report is up.

Mr. GRIFFIN. Mr. President, action has been taken on the conference report, is that correct?

The PRESIDING OFFICER. No, we have not completed action on the conerence report.

The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Banking, Housing and Urban Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

## APPROVAL OF BILLS

A message from the President of the United States announced that on September 28, 1976, he approved and signed the following bills:

S. 2004, an act to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Oklahoma.

S. 2184, an act to authorize appropriations for the winter Olympic games, and for other purposes.

S. 2286, an act to amend the Act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, New Mexico.

S. 2371, an act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has passed without amendment Senate Joint Resolution 126 consenting to an extension and renewal of the interstate compact to conserve oil and gas.

The House has passed the following Senate bills with amendments in which it requests the concurrence of the Senate:

S. 3051. An act to amend the Commodity Exchange Act, and for other purposes;

S. 2923. An act to amend title 28 of the United States Code to provide that full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates;

S. 865. An act to promote more efficient use of the Nation's construction resources, to foster the preservation of buildings of historic, architectural, or cultural significance, and to enhance the social and economic environment within and surrounding Federal office buildings;

S. 12. An Act to amend section 376 of title 28, United States Code, in order to reform and update the existing program for annuities to survivors of Federal Justices and judges.

The Speaker has appointed as members of the Commission on Postal Service Mr. Paul J. Krebs, Livingston, N.J.; and Mr. David W. Johnson, Philadelphia, Pa.

The House insists upon its amendment to the bill (S. 3823) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JONES of Alabama, Mr. WRIGHT, Mr. JOHNSON of California, Mr. ROBERTS, Mr. HOWARD, Mr. ROE, Mr. OBERSTAR, Mr. HARSHA, Mr. DON H. CLAUSEN, and Mr. SNYDER were appointed managers of the conference on the part of the House.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 12896. An act to name the Veterans' Administration hospital located at 13000 North 30th Street, Tampa, Fla., the "James A. Haley Veterans' Hospital";

H.R. 14535. An act to amend the Immigration and Nationality Act, and for other purposes;

H.R. 15059. An act to amend the Emergency Livestock Credit Act of 1974; and

H.R. 15671. An act to name the Veterans' Administration hospital located at 200 Springs Road, Bedford, Mass., the "Edith Nourse Rogers Memorial Veterans' Hospital."

The House agrees to the amendments of the Senate Nos. 1 through 8, inclusive, 10, 12 through 20, inclusive, to the bill (H.R. 13713) to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes; and that the House agrees to the amendment of the Senate No. 9 with an amendment in which it requests the concurrence of the Senate.

### ENROLLED BILLS SIGNED

The Speaker has signed the following enrolled bills:

H.R. 3954. An act to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of medical personnel of the armed forces, the Defense Department, the Central Intelligence Agency, and the National Aeronautics and Space Administration, and for other purposes.

H.R. 11199. An act for the relief of Hollis Anthony Millet.

S. 2981. An act to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

The message also announced that, on reconsideration by the House, and two-thirds of the Members voting in the affirmative, the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes was passed, notwithstanding the objections of the President.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 30, 1976, he presented to the President of the United States the following enrolled bills:

S. 2228. An act to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a three-year period.

S. 2618. An act for the relief of Chea Hyo Suk.

S. 2942. An act for the relief of Kenrick Withington Brookes (also known as Kenrick Withington Clifton).

S. 3146. An act for the relief of Leo J. Conway.

S. 3757. An act for the relief of Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur.

S. 3790. An act for the relief of Camilla A. Hester.

## DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1977—VETO

The PRESIDING OFFICER. A message from the House of Representatives relating to the veto of H.R. 14232, the Departments of Labor and Health, Education, and Welfare appropriation bill, having been received, it will be spread on the Journal, and, pursuant to the previous order, the Senate will proceed to reconsider the bill at 3:40 p.m., this afternoon.

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. I yield to Mr. Griffin.

Mr. GRIFFIN. Mr. President, I think we have had, and with all the best of intentions I say to the Senator from Minnesota, a demonstration here of the need for a little more orderly procedure.

I want to make a parliamentary inquiry of the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. While the motion to proceed to a bill such as the black lung bill is pending, even though a conference report is a privileged matter, does it require unanimous consent to proceed to the consideration of a conference report?

The PRESIDING OFFICER. It does require unanimous consent to proceed. A motion to proceed is not amendable.

Mr. GRIFFIN. I want to indicate to all Senators I will object to any unanimous consent for taking up a conference report unless we have had at least 15 minutes' notice over here of a Senator's intention to make such request. That will give us time to contact people on our side of the committee who should know something about that conference report and to be sure we are in a position to consider it.

Mr. ROBERT C. BYRD. Mr. President, I join in the statement of position that has just been made by the distinguished Republican leader.

I am sure he would not take this position were we operating in normal times, but we are in the last hours of the session, hopefully and, under these extenuating circumstances and abnormal circumstances, the leadership is constrained to at least try to get Senators to come to the leadership and notify them of what they have in mind so we can at least try to keep this whole thing on the track. So I join the Senator.

Mr. GRIFFIN. I thank the distinguished majority leader.

## UPGRADING THE POSITION OF UNDER SECRETARY OF AGRICULTURE TO DEPUTY SECRETARY OF AGRICULTURE, AND FOR OTHER PURPOSES

Mr. ROBERT C. BYRD. Mr. President, I understand a bill, H.R. 10133, I am told by Mr. Allen, that that bill has been cleared on both sides of the aisle, and I ask unanimous consent that the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. CRANSTON. Reserving the right to object, what is that bill?

Mr. ALLEN. It is a bill having to do with the Department of Agriculture, upgrading some of the positions there, and it also has an amendment having to do with chicken pluckers and debeakers. They have been put under the migratory labor law. They are residents of the communities, they are not migratory laborers, and it takes them out from under that law.

Mr. CRANSTON. I have no objection. I thank the Senator.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I yield the floor.

The PRESIDING OFFICER. The question is on the motion to proceed.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Bumpers). Without objection, it is so ordered.

## ORDER FOR STAR PRINT—S. 3723

Mr. HELMS. Mr. President, I ask unanimous consent that S. 3723 be reprinted to correct some clerical errors which were made when the bill was initially printed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SERVICE EMPLOYEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of a measure which has been cleared on both sides, H.R. 15246.

Mr. ABOUREZK. Mr. President, reserving the right to object, what is it?

Mr. STONE. It is the Service Contract Act.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

> H.R. 15246, a bill to amend the Service Contract Act of 1965 to provide that all employees other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STONE. Mr. President, this amendment to the Service Contract Act of 1965, is necessary to restore coverage of that act to 70,000 to 100,000 blue and white collar contract employees. These workers lost their coverage because of a March 1975 ruling by the U.S. District Court in Florida in the case of Federal Electric against Dunlop. That court decision was contrary to the Labor Department's policy since 1965 to include white collar employees under the definition of service employees. And that decision was contrary to the 1972 amendments to act which were intended to make this coverage clear.

This amendment before us today, which is supported by the administration, would simply restore coverage of the act to those who lost it through the court ruling. If we fail to act, thousands of workers across the country would likely receive substantial pay reductions as their contracts came up for recompetition.

Senator Chiles held hearings May 17, 1976, which documented the serious and devasting impact the court ruling would have on the lives of the affected workers.

He found that "wage busting competitions have completely disrupted the financial stability of these workers' families and in the aggregate, undercut the whole economy of localities heavily dependent on service contracts with major Federal installations."

Representative Thompson held hearings in his Labor Management Relations Subcommittee, July 20, 1976, and on September 21, the House passed this bill by a vote of 395 to 3.

Mr. President, we have the opportunity today to right a terrible wrong, to restore the confidence of 100,000 workers and families in the legislative process and to make clear that we intend to give the working person a fair chance to earn a living and be rewarded for his efforts.

In closing, I should add that no additional costs are involved with this amendment since the Labor Department has continued to include white collar workers in its interpretation of service employees pending our action and the administration's appeal of the Florida court ruling.

I would like to thank the distinguished senior Senator from Florida, Senator Chiles, for his diligent work on this bill as well as my distinguished colleagues, Senator Williams and Senator Javits, for their courteous assistance. Also Representative Thompson and Representative Frey did a tremendous job clearing this measure through committee and House passage.

Mr. WILLIAMS. Mr. President, the Service Contract Act was enacted in 1965 to provide protection for employees working under Government contracts in excess of $25,000, "the principal purpose of which is to furnish services in the United States."

Under the act, contractors and subcontractors performing work under Government contracts must specify the minimum wages and fringe benefits for service employees as determined by the Secretary of Labor to be prevailing for such employees in the community. In addition contractors are required to provide safe and sanitary working conditions.

The act was a reflection of congressional concern with the low wage level of unskilled and semiskilled workers in the service contract industry.

Up until that time Government service contracts were the only remaining category of Federal contracts to which no labor standards protections applied.

Since the time of its enactment there have been a series of oversight hearings and resulting amendments which have dealt with a variety of problems arising in the administration and functioning of the act. The most recent of these amendments is the bill we are considering today—H.R. 15246, "a bill to amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such act."

H.R. 15246 is a bill which is strictly remedial in effect. It seeks only to redress the effects of two recent Federal District Court decisions which have cut a hole in what was thought to be an act that would close the last big gap in labor standards protection. The bill was unanimously reported by the House Committee on Education and Labor and was passed by the House by a vote of 395 to 3.

The two decisions in question, *Descomp* v. *Sampson,* 377 F. Supp. 254 (D.C. Del. 1974) and *Federal Electric Corporation* v. *Dunlop,* F. Supp. 22 WH Cases 996 (M.D. Fla. 1976) interpreted the language of the Service Contract Act so as to extend its protections only to so-called "blue-collar" workers—thus cutting off from coverage several thousand "white collar" service workers who have received protection under the act since its inception. Both courts held that since certain classes of employees performing various computer operations were "white collar" workers, they were not within the class of employees which the Service Contract Act was intended to protect.

The impact of these two decisions is a most dramatic one. As a direct result of the Federal Electric decision alone, up to 3,400 service workers in Florida—that is, 40 percent of all service contract workers in the area—stand to lose the protections they formerly had under the act. The Department of Labor projects that if the holdings in Descomp and Federal Electric are followed on a nationwide basis, between 70,000 and 100,000 "white collar" serivce workers will be excluded.

And as the Senator from Florida, Mr. CHILES, pointed out in his testimony before the House subcommittee, the "human dimension of the problem and the urgency to take corrective action cannot be emphasized strongly enough." The "white collar" service workers whose lives are affected by the manipulation of statutory language are not an affluent group who have no need for labor standards protection as the court decisions in Descomp and Federal Electric would seem to suggest.

Keypunch operators, an example of one classification held not to be covered, earn an average of $7,149 per year under the Federal Service general schedule rates; clerk-typists, $7,091, and messengers, $6,088.

As the legislative history to the original act revealed, an unregulated service contract market means cutthroat competitive bidding by contractors and subcontractors at the expense of the wages and fringe benefits of their employees.

The pre-act history is replete with examples of the resulting underbidding cycle which led to a wage level hovering around the minimum wage rate and the deprivation of job security and seniority rights. Furthermore, to deprive workers of the act's coverage is to destroy the impact and protection of collective bargaining contracts. Such agreements will become meaningless to workers who fought hard for their protections because nonunion contractors will be able to underbid competitors who provide decent wages and benefits which are collectively bargained.

Up until the Descomp and Federal Electric decisions, the Department of Labor had applied the Service Contract Act on a nationwide basis to "white collar" service workers under Government contracts as well as to "blue collar" workers. The Department has continued this posture subsequent to the court rulings in all jurisdictions, except the judicial district for Delaware.

The Department of Labor shares the opinion of the House Committee that "white collar" service workers were not intended to be excluded form the Service Contract Act. The Department urges the prompt adoption of the amendments in order to avert a potential deluge of additional district court cases and attendant problems in administration of the act on a nationwide basis.

The amendments to the Service Contract Act which we are considering today seek only to clarify the original intent of Congress by restoring to "white collar" service workers the protections they received prior to the Descomp and Federal Electric decisions. The purpose of H.R. 15246, as the House Committee report states,

> Is to preserve the status quo prior to (these) decisions by clarifying what was meant by the term "service employee."

In keeping with the "status quo" purpose of the bill, the changes made by H.R. 15246 are few and simple. The major change in the act effected by H.R. 15246 is in the section 8(b) definition of "service employees." The revisions eliminate the descriptive examples of the types of service workers covered by the act. The classifications enumerated were characterized by the courts as "blue collar," and led to a restrictive interpretation of the scope of the act so as to exclude "white collar" service workers from coverage.

The new language of section 8(b) is inclusive in nature. It defines the term "service employee" solely in terms of whether or not the person is "engaged in the performance" of a government service contract * * * regardless of whether they would be classified as "wage board" or "general schedule" employees if they worked for the Government. In other words, the color of a service worker's collar will no longer determine whether or not he or she is entitled to the protection of the Service Contract Act and thus to a decent standard of living.

The amendments impose upon the Secretary of Labor the obligation to give due consideration to the general schedule or "white collar" pay rates as well as to the Wage Board or "blue collar" rates in determining the prevailing wages under a given service contract. Timing is critical to the plight of the excluded service workers. Service contracts exceeding $500 million were scheduled for recompetition during the middle and latter half of this year.

Agreements to delay recompetitions on eight major contracts have been secured from NASA and the Air Force in order to allow time for clarification of the legal uncertainties created by these decisions. Both agencies, however, have indicated that delays in planned procurements beyond the end of this year cannot be contemplated due to program requirements.

It is apparent that until the issue of the scope of coverage of the Service Contract Act is clarified and resolved, there will continue to be serious problems with its interpretation and administration. The supportive legislative history; the position of the Department of Labor; and the simplicity and "status quo" nature of the proposed amendments together with the overwhelming bipartisan support of the House mandate the rapid consideration and passage of H.R. 15246 by the Senate.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to a third reading, was read the third time, and passed.

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## FEDERAL BOAT SAFETY ACT OF 1971

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 13585, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 13585) to amend the Federal Boat Safety Act of 1971.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

### UP AMENDMENT 511

Mr. ROBERT C. BYRD. Mr. President, I offer certain amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment No. 511.

The amendment is as follows:

(1) Page 4, strike lines 10 through 18.

(2) Page 4, line 19, delete the number

"(12)" and insert in lieu thereof the number "(11)".

(3) Page 5, line 1, delete the number "(13)" and insert in lieu thereof the number "(12)".

Mr. ROBERT C. BYRD. Mr. President, the amendment would strike the provision in the House bill which authorizes the Secretary of Transportation to allocate not more than 1 percent of appropriated funds under the Federal Boat Safety Act for support of a national association of State boating law administrators. This provision would make not more than $70,000 of Federal funds available for running a voluntary association seeking to further State and not national interests. For this reason the Commerce Committee feels it is entirely inappropriate to enact such a provision. The support of this association is by no means critical to the functioning of the Federal boat safety program. The committee believes that the individual States, if they feel the association is important, would find in their interests to contribute the money to run the association.

Consequently, the Commerce Committee proposes to drop this provision from the House bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DURKIN. Mr. President, H.R. 13585 is a bill to make certain "housekeeping" amendments to the Federal Boat Safety Act of 1971. The bill contains 13 amendments to the act. The Commerce Committee believes all, except one, would bring about necessary changes in the act. The committee does not believe that the amendment to fund the activities of a national association of State boating law administrators makes proper use of Federal funds and I will offer an amendment to delete this provision from the bill.

I ask unanimous consent that the section-by-section analysis contained in the House Report (No. 94–1578) be printed at this point in the Record.

I believe these passages of the report adequately explain the provisions of the bill. I would also like to point out that there would be no additional cost to the Federal Government if this bill were enacted.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Section-by-Section Analysis

1. This clause amends section 4 of the Act, by providing that, until there is a final judicial determination that certain waters in the State of New Hampshire are "navigable waters of the United States", they are declared not to be waters subject to the jurisdiction of the United States with respect to section 4 of the basic Act. Section 4 of the Federal Boat Safety Act makes the Act applicable to vessels and associated equipment used or to be used or carried in vessels to be used on the "waters subject to the jurisdiction of the United States" and on the high seas for vessels owned in the United States. The basic Act is also applicable to boats moving or intended to be moved in interstate commerce. This amendment preserves, for the time being, the status quo on the waters in question. It does not have any effect on the "high seas" or "interstate commerce" aspects of the Federal Boat Safety Act.

This amendment resulted from a disagreement between the State of New Hampshire and the Coast Guard, a disagreement which has not yet been resolved. As a result of a consideration by the Coast Guard of a collateral matter, the Coast Guard made an administrative determination that the waters in question are navigable waters of the United States, based upon all facts available to the Coast Guard of the historical status of those waters. Upon receipt of a protest by the State of New Hampshire that all the facts had not been considered, the administrative determination of the Coast Guard was withdrawn and no new determination has yet been issued. The Committee believes that, in view of this continuing difference of opinion between the Federal Government and the State, the Coast Guard should not, by administrative determination, now begin the enforcement of the Federal Boat Safety Act as if the waters in question are in actuality "waters subject to the jurisdiction of the United States", as that phrase is used in section 4 of the basic Act. It rather believes, and so provides in this amendment, that those waters should be considered as "non-navigable", as they have been as long as the Act has been in force, until a final judicial determination is made to the contrary.

2. This clause amends section 5 of the Act, to increase the time authorized in the Act for delay in establishing the effective date of standards requiring major redesign on the part of manufacturers.

The Act directs the Secretary, in issuing a regulation with respect to safety standards for boats or associated equipment, to specify an effective date for such standard no earlier than 180 days from the date of issuance, with a provision that the delay could be increased to 18 months in a case involving major product design, retooling, or major change in manufacturing process, in the absence of a finding that a critical hazard exists requiring an earlier effective date. The Coast Guard and the industry agreed that the 18 months maximum time is not always sufficient, and this amendment extends that possible maximum from 18 months to 24 months, because of a conclusion that better safety standards can be developed and implemented if the effective date of major changes coincides with industry retooling cycles. The amendment should also result in a reduction of product costs flowing from modifications coincidental with existing cycles.

3. This clause amends section 8 of the Act, by adding a new subsection to specifically authorize research, testing, and development necessary to carry out the purposes of the Act. It also authorizes the Secretary to sell the research boats and equipment, once the research purposes have been served. This amendment places in specific statutory language a research and testing program which is, at present, implicit in the Act, but not explicitly stated.

4. This clause amends section 15 of the Act, by limiting the manufacturers' notification obligations under the Act. It makes the notification duty to purchasers applicable only to defects or failures of compliance discovered within five years from the date of certification or, in the absence of a certification date, within five years of the date of manufacture. This amendment will remove an onerous requirement under the present language of the Act, with respect to a requirement that manufacturers maintain a list of purchasers of their boats and equipment, without time limitation. The new five year time limit is consistent with testimony received that most defects become manifest within the first three years from date of manufacture and that practically all should become manifest within a five year period. Maintenance of purchaser identification information in manufacturers' records beyond five years is considered to be an unnecessary burden without a demonstrable benefit.

The amendment makes no change in the manufacturers' notification duty to dealers or distributors to whom the boat or associated equipment was delivered. This duty will continue without any limiting date.

5. This clause amends section 15 of the Act, relating to defects or failures of compliance discovered by the Secretary and relayed to the manufacturer for notification. It conditions the manufacturer's duty of notification upon receipt of the notice from the Secretary within the time in which he would have been required to make notification, had he himself discovered the defect or failure of compliance.

6. This clause amends section 15 of the Act, relating to the manufacturer's duty of notification by authorizing the Secretary to establish procedures to be followed by dealers and distributors in assisting manufacturers in obtaining information as to defects or failures of compliance by boats or associated equipment. The Committee recognizes that manufacturers, in many instances, rely on dealers and distributors for purchaser information and can be materially assisted in carrying out their own obligations if dealers and distributors are required to cooperate with them. It should be clear, however, that any additional duty imposed upon dealers and distributors will not serve to relieve manufacturers of their duties, as imposed by the basic section.

7. This clause amends section 18 of the Act, by requiring States, in the implementation of their numbering systems, to follow consistent practices relating to relevant terms, as those terms are defined in the regulations of the Secretary. Under the basic section, for instance, the Coast Guard has established a hull identification number and specifies that one method of indicating a date of certification of compliance with applicable standards involves the model year of a boat hull. By definition, the model year for hull identification purposes, commences August 1 and continues through July of the succeeding year. To the extent that a State adopts a different definition for "model year", unnecessary confusion is created for the boat purchaser. The Committee believes that it is desirable, for purposes of uniformity and general understanding that relevant terms should be uniformly defined.

8. This clause amends section 20 of the Act, by changing from one day to seven days the period of time during which vessels of less than 26 feet may be rented to another for noncommercial use and the certificate of number may be retained onshore by the lessor, contrary to the usual requirement that a certificate of number shall at all times be available for inspection on the vessel when the vessel is in use. This amendment does not change the present provision of law that a vessel which does not have a certificate of number on board shall be identified while in use and comply with other proper regulatory requirements. Present regulations accomplish this purpose by requiring such a vessel to have on board a copy of the lease or rental agreement, signed by the owner or his authorized representative, and containing information as to the vessel number and the time period for which the vessel is leased or rented.

9. This clause amends section 23 of the Act, by requiring that fees established in connection with vessel numbering shall apply equally to residents and nonresidents of a State in which the vessel is numbered. This amendment will prohibit State discriminatory measures, which have been proposed, but thus far not enacted, in several States.

10. This clause amends section 27 of the Act, by requiring that allocations to the several States shall be made as soon as possible after October 1, consistent with the change of fiscal year, instead of the July 1 now required in the Act.

11. This clause amends section 27 of the

Act, by authorizing the Secretary to allocate one per centum of funds appropriated in any fiscal year for the support of the activities of a national association of State boating law administrators, with such allocation in any fiscal year to be not less than $70,000. In providing for such an allocation, the Committee does not intend that this support will be an open-ended grant, without regard to the purposes for which the funding is used. The activities to be supported must be activities which serve to carry out the basic purposes of the Federal Boat Safety Act.

It is intended that, within this allocation, the Secretary based upon his evaluation, shall furnish direct support for all the activities conducted on behalf of boating safety and State coordination through a national association of State boating law administrators. The Committee believes that this solution for the support of such activities is much to be preferred to the existing practice through which the Secretary has allocated a part of the funds authorized for support of "national nonprofit-public service organizations". While the Committee believes that Federal support of a State boating law administrator coordinating mechanism is warranted, it does not consider that its support should compete for funds for support for such public service organizations as the American National Red Cross, the National Safety Council, the National Water Safety Congress, or other similar organizations. In effect, this amendment authorizes the Secretary to support directly a coordinating mechanism of State officials who would otherwise have to look solely to funding or fees from their individual State governments, a mechanism which, in some cases, may bog down in State bureaucratic mazes.

At the same time, the Committee recognizes that this is a somewhat unusual arrangement and intends that the Secretary carefully review the activities which are being supported and assure himself that they are contributing to the overall purpose of the Act. The Committee expects to be informed on a regular basis of the allocations made under this new authority, as well as under the existing authority for the support of public service organizations. This is particularly important in view of the "floor" which is provided for in the allocation. In establishing the minimum support to be extended, the Secretary must assure himself that the funds are being extended for legitimate purposes, and if he determines that the requested funding does not meet the purposes of the basic Act, he is expected to notify the Committee of that determination promptly.

12. This clause amends section 28 of the Act, to provide that henceforth Federal funds allocated to a State in any fiscal year may not exceed 50 percent of the total cost of that State's boating safety program for that year. This is a change in the original concept of the Act, under which the maximum share began at 75 percent in fiscal year 1972, and was gradually reduced to 33⅓ percent in fiscal year 1976. By amendment of the Senate to H.R. 5630, this 33⅓ percent maximum was continued for fiscal year 1977 and 1978. The amendment in this clause would change that provision to a maximum of 50 percent, without any limitation as to fiscal year, effective upon enactment of this bill.

This amendment, permanent in nature, would avoid the necessity of continuing to amend the allocation ratios by relating them to a particular fiscal year each time a new fiscal year authorization is provided.

13. This clause would amend section 28 of the Act, by providing that the transition period of July 1, 1976 to September 30, 1976, shall be treated as a fiscal year in relation to unobligated or unallocated funds. This means that amounts allocated during the transition period will be available for obligation by the State involved for a period of three years following the date of allocation and that funds available which have not been allocated at the end of the transition period may be carried forward as a part of the total allocation funds for fiscal year 1977.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 13585), as amended, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## BLACK LUNG COAL TAX

Mr. HELMS. Mr. President, the Senator from North Carolina commends the leadership on both sides for the cooperation which is so manifest in moving legislation along in these last days of the session. I know it is frustrating for the distinguished Senator from West Virginia, but he is doing an excellent job, as is the distinguished Senator from Michigan.

Concerning the pending business, the motion to consider H.R. 10760, the Senator from North Carolina wants to make it clear that he has no desire to delay consideration of this bill. I do want to make certain, however, that the Senate understands what it is doing.

In the first place, as I understand it, this bill will cost about $130 million, to be provided equally by additional taxes on the product and the other $65 million by direct appropriation. But that does not take into consideration, Mr. President, the fact that the Federal Government is the single largest consumer of coal. The estimates available to the Senator from North Carolina indicate that this will be an additional cost of $20 million to the taxpayers of this country, which is in fact an indirect appropriation.

The Senator from North Carolina feels that this bill should be referred to the Appropriations Committee to consider that fact.

Mr. DURKIN. Will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. DURKIN. Has the Senator given any though to what lung cancer and other cancer-related problems cost the Government as a result of the personal hardships suffered by the miners?

Mr. HELMS. Of course, I have, and will direct comments to that in my discussion later. The fact that someone has black lung as a direct result of his employment is one thing and he has my sympathy and my genuine interest in being of assistance. However, if the Senator will take the time to read the bill, he will see the potential for defrauding the taxpayers—who, after all, will be footing a substantial part of the cost. I assure the Senator that these aspects of this bill will be discussed in some detail before this measure is finally disposed of.

Mr. DURKIN. Does the Senator agree that black lung is a serious affliction these days?

Mr. HELMS. Unquestionably. The Senator from North Carolina, like the Senator from New Hampshire, is also in favor of motherhood and against sin. But that happens not to be the question before us. We are talking about the taxpayers' money and how it shall be spent.

Mr. RANDOLPH. Mr. President, who has the floor?

Mr. HELMS. The Senator from North Carolina has the floor.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator that the Committee on the Budget has submitted a report and I read the first paragraph as follows:

> The Committee on the Budget to which was referred the resolution S. 559, waiving section 402(a) of the Congressional Budget Impoundment Control Act of 1974 with respect to the consideration of H.R. 10760, the Black Lung Benefit Reform Act, having considered the same reports favorably thereon and recommends that the resolution be adopted.

So this is the budget waiver and it was entered yesterday.

Mr. HELMS. It has not been voted upon.

Mr. ROBERT C. BYRD. That is correct.

Mr. HELMS. And only 9 Senators voted out of the 16; is that correct?

Mr. ROBERT C. BYRD. I do not know that.

Mr. HELMS. I do. And I think it is also a fact that the Budget Committee has tried to operate on a unanimous basis heretofore. Here we have a measure which, if my information is correct and I believe it is, had 8 Senators favoring it and 1 switched his vote and made it 9 of the 16 Senators on the Budget Committee who voted to approve the waiver. A pretty close situation, Mr. President. But that is neither here nor there. We will get to that later.

Mr. ROBERT C. BYRD. I see no portion of the report that is dedicated to any objections.

Mr. HELMS. I understand that, but the facts I recited are accurate.

Mr. RANDOLPH. Will my colleague from North Carolina yield for the briefest of comments?

Mr. HELMS. I am delighted to yield.

Mr. RANDOLPH. I in no wise would attempt to indicate that a statement made about the legislation from the standpoint of its consideration should be withdrawn, but I do want to say that I conducted the hearings in the Subcommittee on Labor of the Labor and Public Welfare Committee. They were very thorough hearings. Some 35 witnesses were heard. I would remind my able colleague that the House bill took approximately 2 years in its consideration before that body acted on the measure. This legislation is not new. We first passed it in 1969; then later in 1972, and now, hopefully, again in 1976.

The first legislation was passed 1 year

before we gave attention to the broader problems of occupational health and safety for industry generally in the country.

We believe that the nature of the mining of coal is such that pneumoconiosis, known as black lung, had taken a toll of those persons who had labored to supply the energy necessary for America to achieve preeminence among the countries of the world.

Mr. HELMS. Mr. President, will the Senator indulge me just one observation?

Mr. RANDOLPH. Oh, yes.

Mr. HELMS. I have no disagreement with the Senator about people who have worked underground to mine our coal and who have become ill with black lung. I have the deepest sympathy for them, and interest in them. The Senator from North Carolina is not an incompassionate man. I just want to make sure that we are not setting up another ripoff of the taxpayer in our efforts to help those who are worthy.

Mr. RANDOLPH. I know that.

Mr. HELMS. But I would ask the Senator, is it true, as has been reported to me, that under the provisions of this bill, X-rays of the chest are not even to be made available to the Labor Department?

Mr. RANDOLPH. No; that is not correct. During the debate those matters would certainly be considered. I shall not keep the Senator long, because if the bill comes to the floor there will be, of course, a factual discussion of the provisions of the bill, and a determination by Senators as to how they will vote. I respect the convictions of any Senator who, after debate, makes his determination.

But after the first bill was passed, I would say to the Senator, we came to the realization, over a long series of hearings, that the Social Security Administration was not taking into account the pulmonary and respiratory diseases that afflict coal miners in a determination of the establishment of black lung, pneumoconiosis.

We thought, in the original bill, that as well as the X-rays, these ailments I have just mentioned would be considered; but it was indicated that they would not. So the Senator from West Virginia now speaking proposed that second bill which came in 1972, which in a sense made it obligatory that those types of ailments be included in determining eligibility for benefits; that they be, of course, given the weight that they should be given by those making the decisions as to entitlement to benefits.

Now, the House of Representatives—I shall not discuss their measure, but the House measure is very different from the Senate measure. We changed the House measure. I will not go into the details of the House measure except to say that its so-called entitlement feature, with which the Senator from North Carolina is familiar, the blanket payment, as it were, after a certain number of years working in the mines, has been changed in the Senate version, which I hope we shall have the opportunity to discuss here.

I know the concern of my diligent colleague from North Carolina. Our concerns in the overall are both on the same level, and that is, insofar as possible, to bring the benefits to miners and their widows and their children that should come to them.

The costs, very frankly, have been very, very much more than we anticipated at the beginning of our studies and the passage of the first bill. I readily acknowledge that. We were working in a new field, as it were, and the estimates were wrong. I say that now as I have said it in the past. But the Federal payments will go down rather than go up, we think, under the provisions of this bill, if we are able to have the opportunity to explain it in detail as the debate will take place.

I only appeal to the Senator from North Carolina to give the bill the opportunity for consideration within the Senate. Then what happens, of course, is within the determination of the Senator from North Carolina and the other Senators who will be called on to cast their votes.

Having said this, there is no criticism by the Senator from West Virginia of the Senator from North Carolina; I want him to know that.

Mr. HELMS. I thank the Senator. He knows of my affection and respect for him. Mr. President, I am going to reserve further comment until this matter is actually before the Senate.

Mr. DURKIN. Mr. President, will the Senator yield for a brief unanimous-consent request?

Mr. HELMS. I yield the floor to the able Senator.

### PRIVILEGE OF THE FLOOR

Mr. DURKIN. I ask unanimous consent that Steve Gordon and Mike Coven of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that during the consideration of H.R. 10760, Donald Elisburg, Mike Goldberg, Eileen Mayer, Robert Humphreys, Martin Jensen, and Nik Edes be given the privilege of the floor, during both the debate and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, I ask unanimous consent that Don Ubben of my staff be granted the privilege of the floor.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. HELMS. Mr. President, may I——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. LAXALT. I am happy to yield; I have only a unanimous-consent request that Don Ubben, of my staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President. I ask unanimous consent that Dr. James P. Lucier, of my staff, be granted the privilege of the floor during the consideration of H.R. 10760 and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I ask unanimous consent that Gordon Gilman, of my staff, and Lynne Davis, of the staff of Senator BAKER, be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistanst legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## ORDER FOR VOTE AT 2 P.M. ON MOTION TO PROCEED ON BLACK LUNG LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote on the motion to proceed to consideration of the black lung bill occur at 2 p.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. What is the unanimous consent?

Mr. ROBERT C. BYRD. That a vote on the motion to proceed to the black lung bill occur at the hour of 2 p.m. today.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from West Virginia on a matter that has been cleared on both sides, I am advised.

The PRESIDING OFFICER. The Senator from West Virginia.

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## OMNIBUS RIVERS AND HARBORS ACT

Mr. RANDOLPH. Yes. The acting majority leader is correct. It has been cleared.

Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3823.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, reserving the right to object, what is that?

Mr. RANDOLPH. This is the rivers and harbors bill, the water resources bill.

Mr. DURKIN. No objection.

The PRESIDING OFFICER. The Chair hears no objection.

The PRESIDING OFFICER (Mr. BUMPERS) laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 3823) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. RANDOLPH. I move that the Senate disagree to the amendment of the

House and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. GRAVEL, Mr. RANDOLPH, Mr. BURDICK, Mr. CULVER, Mr. DOMENICI, Mr. BUCKLEY, and Mr. BAKER conferees on the part of the Senate.

(Later the following occurred:)

Mr. McCLURE. Mr. President, I ask unanimous consent that the list of conferees on the Omnibus Rivers and Harbors Act be corrected by the deletion of the Senator from New York (Mr. BUCKLEY) and the substitution of the Senator from Idaho (Mr. McCLURE).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR—H.R. 10760

Mr. HELMS. Mr. President, I ask unanimous consent that Gordon Jones of Senator GARN's staff, Mr. Dick Bryant of my staff, and Mrs. Margo Carlisle of Senator WILLIAM L. SCOTT's staff be accorded the privilege of the floor during consideration of the pending measure and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BLACK LUNG COAL TAX

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion to proceed to the consideration of the black lung bill which vote will occur at 2 p.m. today.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, is is so ordered.

## PRIVILEGE OF THE FLOOR—H.R. 10760

Mr. HANSEN. Mr. President, I ask unanimous consent that my staff member, Linda Goold may be accorded the privilege of the floor during the debate and all votes on this bill under consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR—H.R. 10760

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ed King of my staff be accorded the privilege of the floor during the debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR—H.R. 10760

Mr. FANNIN. Mr. President, I ask unanimous consent that Al Toppelberg of Senator HUGH SCOTT's office be granted the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I ask unanimous consent that Mr. Don Moorehead of the staff of the Committee on Finance be accorded the privilege of the floor during debate and vote on H.R. 10760.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR HUGH SCOTT FOLLOWING THE VOTE ON H.R. 10760

Mr. GRIFFIN. Mr. President, I ask unanimous consent that, following the vote, which is scheduled for 2 p.m., Senator HUGH SCOTT of Pennsylvania be recognized for 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

Mr. GRIFFIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. DURKIN. Mr. President, I ask that Steve Pearlstein be granted the privilege of the floor during consideration and vote on H.R. 10760.

Mr. ROBERT C. BYRD. Reserving the right to object, what was the request?

Mr. DURKIN. I am asking the privilege of the floor for staff.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

## BLACK LUNG COAL TAX

The Senate continued with the consideration of the motion to proceed to consideration of the bill (H.R. 10760) to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes.

### ADDITIONAL STATEMENT

Mr. CULVER. Mr. President, only recently has our country recognized the debilitating effects of black lung disease. The Black Lung Reform Act of 1969 was our country's initial legislative effort to provide relief for the hundreds of thousands of miners who suffer from this dread illness.

Mr. President, coal worker's pneumoconiosis is a disease of the present and not just the past. Over 5,000 active miners die annually from this insidious and devastating disease.

Of course, the ideal solution to black lung would be to remove its cause and, to that end, the Coal Mine Health and Safety Act of 1969 requires that since December 30, 1972, the average concentration of respirable dust to which a miner is exposed cannot exceed 2 milligrams per cubic meter of air. Undeniably, since the health and safety bill was enacted and the Mining Enforcement and Safety Administration's dust sampling and enforcement program was implemented, the amount of respirable dust in coal mines has been substantially reduced. The plain fact is, though, that every year thousands of miners are still crippled despite improvements in efforts and techniques to control coal dust in the mines. In addition, a recent General Accounting Office study found many weaknesses in the dust sampling program, making determinations on the dust count virtually impossible.

The full scope of illness and disability experienced by the miners of this country will never be fully recognized. We do know that currently benefits are being paid monthly to 500,000 miners, their widows and dependents. In my home State of Iowa, 3,280 benefits are currently being paid; 1,200 miners receive benefits as of December 30, 1975, while another 1,042 widows and 1,038 dependents also receive some compensation.

But the fact that the program has thus far benefited many is no consolation to those whose benefits were denied. In Iowa, for example, approximately one-third of the claims filed by miners were denied; and based on recent evidence, it is apparent that there are many denied claims which should have been allowed under the 1972 amendments to title IV of the Federal Coal Mine Health and Safety Act of 1969.

The 1972 amendments attempted to redress the unforeseen inadequacies of the 1969 act. For example, denial of a claim based solely on a negative chest X-ray—one that did not exhibit pneumoconiosis—was prohibited. Respiratory and pulmonary impairment in coal miners other than coal worker's pneumoconiosis per se, were for the first time brought into the program as compensable under certain conditions. But there are still strong indications that there were many disabled miners and their widows whose claims continued to be delayed or denied. It is obvious that the present black lung benefits program contains serious inequities. As a result, thousands of coal miners and their survivors are unable to qualify for benefits and will be unable to qualify in the future even though they are precisely the victims of the disease whom the Congress intended to assist by this program.

H.R. 10760 will do much to help miners and their families deal with the scourges of black lung. It will expand the definitions of "miner" to include workers around a coal mine. It will improve benefits. Miners who have worked 25 years or more in the mines and have partially or totally disabling respiratory or pulmonary impairment are entitled to benefits. A working miner may file claims for benefits if eligible to transfer to less dusty mine conditions, or if there is X-ray evidence of black lung.

Affidavits of survivors may be sufficient to establish eligibility where there is no medical evidence, or where such evidence is insufficient.

A Government trust fund is established, to be supported by a periodic assessment against coal operators, to finance the cost of claims for which no responsible operator has been identified, and for administration expenses. Operators of current coal mining operations who have acquired a coal mine or its assets subsequent to January 1, 1959 will be responsible for black lung claims which arise with respect to the acquired predecessor operator.

We cannot do away with the problems immediately; they are insurmountable. But we can make great headway with the implementation of this legislation.

The PRESIDING OFFICER (Mr. BUMPERS). The hour of 2 o'clock having arrived, the Senate will now proceed to vote on the motion to take up H.R. 10760.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Florida (Mr. CHILES), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Ohio (Mr. GLENN), the Senator from Hawaii (Mr. INOUYE), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 68, nays 10, as follows:

[Rollcall Vote No. 682 Leg.]

YEAS—68

Abourezk
Allen
Baker
Bartlett
Bayh
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Garn
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mathias
McClellan
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Talmadge
Weicker
Williams
Young

NAYS—10

Curtis
Fannin
Goldwater
Griffin
Hansen
Helms
Hruska
Laxalt
McClure
Tower

NOT VOTING—22

Beall
Bellmon
Bentsen
Buckley
Chiles
Dole
Glenn
Hart, Philip A.
Hartke
Inouye
Kennedy
Mansfield
McGee
McGovern
Mondale
Montoya
Ribicoff
Scott, William L.
Stevens
Taft
Thurmond
Tunney

So the motion to proceed to the consideration of H.R. 10760 was agreed to.

## ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HANSEN). Under the previous order, the Senator from Pennsylvania is recognized for not to exceed 10 minutes.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield for one moment, without losing his right to the floor?

Mr. HUGH SCOTT. I am glad to yield.

Mr. ROBERT C. BYRD. Mr. President, I understand that Senator EAGLETON and Senator JACKSON have a bill that has been cleared on both sides of the aisle and that the matter can be taken care of in 1 minute. If that be the case, I would ask unanimous consent that they be allowed to proceed.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Reserving the right to object——

Mr. ROBERT C. BYRD. I yield the time back to the Senator from Pennsylvania.

## CONSERVATION OF NATURAL RESOURCES, WATER

Mr. JACKSON. Mr. President, I call up H.R. 15563.

Mr. HUGH SCOTT. I yield 1 minute to the distinguished Senator.

The PRESIDING OFFICER. The bill will be stated by title.

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard.

## OF SUNSETS AND SHAKESPEARE—SCOTT WAXES PHILOSOPHICAL

Mr. HUGH SCOTT. Mr. President, I am about to be philosophical.

The PRESIDING OFFICER. The Senate will be in order. Will Senators please take their seats?

Mr. HUGH SCOTT. I would like the Senate to be in order when I am philosophical.

The PRESIDING OFFICER. The Senator will suspend until order is restored in the Chamber. Senators will please take their seats.

The Senator from Pennsylvania may proceed.

Mr. HUGH SCOTT. Mr. President, when did you last enjoy a sunset?

Sunrises, yes. How many, many sunrises have happened to candidates on the road, in the campaign, en route to the podium. The pale gray sunrise at a cold and lonely airport, the suddenly humid red sunrise at a hotel remote from home. Sunrises which were only part of the harried scenery because we had not taken the time to glance upward at God's grand gift of a new morning.

Sunrise and sunset: predictable; no news there. Daily episodes. Yet, what we in public life might glean if we only paused to measure the possibilities for enrichment of our lives which lie within the day's boundaries.

We have always been too busy to notice. While we have served others we have always been too busy for the small episodes which enrich the soul.

I sometimes think that if we established a week's vacation every month for the Congress, the Members would promptly head for the hustings instead of the hearth. In choosing a public career we have forfeited so much of family life.

People in public life should take time out for those small episodes from which could come uplifting, enriching experiences, perhaps the greatest experiences of our sojourn through life.

Have you ever taken the time to go down to see the resplendent Magna Carta in the Capitol?

When was the last time you read the Bill of Rights, alone and very quietly?

When did you last see a sunset, and did you see it with your family?

As with most people in public life, my life has been over-eventfully crowded. It has been overcrowded with action, filled with recollection, accorded some degree of achievement, hounded by frustrations, harassed by trivia, uplifted by personal contact, aroused by sensations of injustice. My greatest regret, in common with so many others, has been the time not spent with wife and family.

But there has been so little time to do so many things. There has been so little time for reflection, and almost no time for those smaller episodes, those timeouts for sunsets.

For example: When I suddenly exploded upon the national scene by my altogether unexpected selection as Republican National Chairman, I was kept incommunicado in a hotel room all night for perhaps the salutary reason that a secret known to other than one's self is not a secret. At sunrise, I slipped out of the hotel and walked eight city blocks to Independence Hall for a visit with a friend, the Liberty Bell.

A small episode? If so, then why do I remember it first of all when I think of myself as past national chairman?

Another time, personally saddening. It is ironic that as a naval officer during the occupation of Japan, with a jeep of my own and time on my hands, I had more opportunities to get to know and make friends with Japanese children than I was ever able to manage, over the same period of time, with my own family.

So I ask, when was the last time you visited the Lincoln Memorial by night?

At the end of this 94th Congress I will have served for 34 years and 10 days—eight terms in the House of Representatives and three terms in the Senate. For these I thank the people of Pennsylvania with all my heart. For them I have always tried to do my very best. I hope the years will establish that we on historic Jenkins Hill have all tried to do our best over this time and have often helped to move the wheel of government creditably onward.

I shall also be retiring as minority leader of the Senate, a position to which my colleagues have elected me four times. This service has been a great privilege. I thank them all, and may God bless them every one.

I think politicians are the most severely judged and the most severely misjudged people in any profession because they work in the full light of public and press examination. Their shortcomings are measured far beyond their virtues.

Yet I know it is the experience of the people who write to us, who come to Washington to meet with us, who work with us, that they find the Congress is sensitive to their needs. They find that the Congress is dedicated to doing the very best we can. The people read the papers but they also read our records, and those who do, believe we deserve a higher standing.

By and large, I believe the press has treated me fairly.

There has been an adversary relationship, but so it is because journalists must secure their livelihood by holding public officials strictly to account, by pursuing legitimate inquiries. By and large, I have no overall cause for complaint, but numerous causes for disagreement.

I will miss the Senate. I will miss the work we do here and the friendships made and kept over the years; and I shall have more to say about that in my final report as minority leader tomorrow.

In leaving this Chamber, I hope to make room for the new episodes of new days. I will have more time for my family. I shall make the time to commune of an evening with old Will Shakespeare, who always has a good word. I shall visit, or revisit, places with the time to really see them (E. E. Cummings speaks so aptly of somewhere I have never traveled). I shall watch the morning glory and the glory of the morning. I shall find refreshment in reading anew the lessons of our Founding Fathers; the verities. I shall take the time to notice the wonderment of it all.

And, with my beloved wife Marian at my side, I shall see as many sunsets as God grants to us.

Thank you, Mr. President.

[Prolonged applause, Senators rising.]

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives, delivered by Mr. Hackney, one of its clerks, announced that the House agree to the amendment of the Senate to the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

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## BLACK LUNG COAL TAX

Mr. RANDOLPH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 10760, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 10760) to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes.

Mr. RANDOLPH. Mr. President, what is the situation as to the time allotted on this bill for general debate?

The PRESIDING OFFICER. There is no time limitation.

Mr. RANDOLPH. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. There is no time limitation.

Mr. RANDOLPH. Well, I am going to do that anyway, if I may.

Mr. President, the Members of the Senate have, in the last few minutes, by a vote of 68 to 10, decided that the so-called black lung legislation would be brought before the Senate for consideration, and hopefully for determination.

I think it is important for all of us to realize that this measure, as reported from the Committee on Labor and Public Welfare and by the Committee on Finance, is a worthwhile, timely, and necessary measure. It is not as strong a bill as some persons would prefer, but it does provide, in my opinion, a number of constructive changes which will result in a more just and equitable benefit program for coal miners and their widows.

I think that Senators will be interested in these changes to which I make reference.

First, a trust fund managed by the Secretary of the Treasury and supported by a per ton tax on coal to pay claims for benefits for which there is no last responsible operator.

For example, there are coal companies that came into existence. They were operated for a period of years and then the mine or mines were closed and no successor operator is available to undertake the liabilities of the prior operator.

Two, chest X-rays must be accepted as evidence and not be reread by the Federal Government or interpreted by qualified radiologists.

Mr. NUNN. Will the Senator from West Virginia yield for about 20 seconds for a unanimous-consent request for another Senator who left the Chamber?

Mr. RANDOLPH. Yes, I am delighted to yield.

Mr. NUNN. Mr. President, I ask unanimous consent that Mr. John Cevette of Senator HASKELL's staff be accorded privileges of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Senator from West Virginia.

Mr. CANNON. Will the Senator yield to me for a unanimous-consent request?

Mr. RANDOLPH. I am happy to yield.

Mr. CANNON. I ask unanimous consent that Bill Kroger of my staff be permitted the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Three, the term "total disability" is redefined to provide that in the case of a deceased miner the fact that a miner was employed at the time of his death is not conclusive evidence that he was not totally disabled.

Four, an entitlement to benefits for miners with 25 years in the mine if they are partially or totally disabled due to pneumoconiosis and a similar entitlement for eligible survivors.

Five, part C of the Black Lung Benefits Act is made permanent.

Six, a widow or other survivor of a disabled miner may file a claim at any time after the miner's death. Currently, the widow must file within 3 years or lose her eligibility.

Seven, the time limitation on years of work for purposes of the 15-year rebuttable presumption is eliminated.

Mr. President, these are some of the principal changes in the present law and contemplated hopefully in the passage of this bill.

H.R. 10760 would impose a net initial cost to the Federal Government. I think we have to be very candid and frank as we quote the figures. The first year the cost to the Federal Government will be approximately $70.5 million. There was a discussion before we brought the bill up today, as I have had colloquy with the able Senator from North Carolina (Mr. HELMS).

But those amounts, I stress now, would be repayable from the trust fund with interest within 5 years.

In subsequent years no additional costs would accrue to the Federal Government as a result of the provisions of this bill and, in fact, the Congressional Budget Office estimates that there would be a substantial reduction in the Federal obligation in future years below that which would be required under current law.

Under the bill, as reported by the Finance Committee, the tax is imposed on the first sale or use of each ton of coal production.

The rate is 15 cents per ton for anthracite coal and 10 cents per ton for coal other than anthracite.

Mr. President, these amounts represent a very small increase for coal companies and their customers since the current carlot price for coal, FOB the mine, ranges from $27 to $47 per ton.

These normal market fluctuations, market changes, have a far greater impact on coal operators than will the taxes imposed in this measure. Costs for the transportation of coal are 40 times more expensive than the tax contemplated in this bill.

Mr. President, I know that many Members are concerned about this legislation. Frankly they were concerned again in 1972 when they made these improvements to the initial legislation. They are concerned today.

We do not automatically bring these bills to the floor. We bring them because there has been a need proven for changes, as I have indicated, in the prior legislation.

So, I think it is important that I stress the fact that I believe the time has come when the industry itself must absorb a portion of the cost of providing the benefits for disabled coal miners and their widows.

The coal companies have not voluntarily assumed this burden. It is not an easy burden, and they have not yet assumed it. The coal industry in the United States is presently supporting a total of only 100 claims for benefits. To place this figure in perspective, the Federal Government has assumed liability for the payment of about 360,000 claims, representing over 500,000 beneficiaries.

The industry has contested the allowance of 97 percent of the claims for which the Secretary of Labor of the United States has determined operator liability.

Someone might say: "Senator RANDOLPH, you are Representative of a great coal State."

And I am, and I have labored through the years for the coal industry as well as for those who mine the coal. I have tried always to be very fair in these matters. Often I have stood when there were not many persons around me fighting for the rights of coal and the industry that has the obligation to develop the mines.

But think of this in 1974, there were only 73 mines in the United States that produced more than 1 million tons of coal annually, out of a total of about 600 million tons that year. By comparison, between 700,000 and 1 million tons were produced by 28 mines, of which 10 were deep mines. Between 500,000 and 700,000 tons were produced by 31 mines.

For between 400,000 and 500,000 tons there were 43 mines. Between 300,000 and 400,000 tons, there were 59 mines. Between 200,000 and 300,000 tons produced, the number is listed at 101 mines. And, between 100,000 and 200,000 tons, there were 262 mines. In 1974, there were 524 mines producing between 100,000 and 1 million tons of coal annually. About one-half of these mines, according to the best information we can secure, are underground operations.

In my State of West Virginia a modern deep mine might cost $100 million to be brought into being. This very heavy outlay of money also is a very big risk.

So when I speak of the industry I speak of a lot of small companies. I am not a carping critic of coal companies, because they deserve, frankly, the understanding of Members of this body.

But today I speak as I have on the two prior occasions in 1969 and 1972, as did my colleagues Senator ROBERT C. BYRD from West Virginia, and others in this body, for that which is right from the standpoint of benefits to those who provide the energy and oftentimes contract tragic pneumoconiosis as a result of their labors.

One might say that these figures do not reflect favorably on the coal industry. But it is imperative that we impose a responsibility that has not been undertaken to date.

The pending bill would create a trust fund to support these claims for which there is no identifiable, responsible operator.

Taking into account the changes made in the bill, about 40 percent of the claims would fall in this category. The remaining 60 percent of the claims would be the responsibility of the individual employer.

Thus, the Federal Government, under this legislation, finally will be relieved, as the Federal Government should be relieved, of the cost burden that equitably rests with the coal mines, the operators in whose mines thousands of miners have contracted disabling black lung disease and other pulmonary and respiratory ailments. By their work they aided the consuming public of America through supplying coal. There have been some very unsatisfactory strikes, wildcat in nature, which slowed down production, but miners have been on the job.

Has the Nation benefited? Yes, it has, directly and indirectly, from those who have mined the coal as well as those who have put up the investments for the companies.

In coal, we have America's most abundant energy resource. This is not the time to speak only for coal. Coal will someday be recognized—I hope very soon—as providing the opportunity for development of greater independence from the petroleum, which flows into the United States in increasing amounts. Perhaps this is not the time to speak of it, but I think there is danger of another oil embargo in the next 60 or 90 days. There are reasons why the thinking leaders of Saudi Arabia might feel that the United States has not always met commitments to meet their weapons needs, and other aids from the United States. A cut back in production or an embargo by Saudi Arabia, the greatest producer, could occur again, such as the embargo of 3 years ago.

Coal can be mined only by men who go beneath the Earth. It does not just happen. Of course, we have labor-saving devices which have reduced the actual number of miners. But in a State like West Virginia there are some 45,000 coal miners who are making their contribution toward energy supplies in the United States.

There has been no cutting the corners. There has been no attempt to bring this legislation into this body, even at this last hour, because there was a feeling that perhaps, because Members would be leaving or might not be giving attention to what is taking place on the floor. There is no thought that those who bring it here might be attempting to move other than in the light of this Chamber.

I remind my colleagues that on March 2 of this year, the House of Representatives passed H.R. 10760. In several respects, the pending bill is similar to the House-passed bill. The House took some 2 years in the preparation and passage of that measure.

Certain aspects of the House bill have raised serious concerns among a number of Senators, and I recognize that as a fact. Chief among those was a section which provided an automatic entitlement to benefits for miners who worked in one or more mines for a specific number of years. It was difficult for certain Senators, and understandably so, to support a provision based solely on years of service, with no showing of disability.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. HELMS. The Senator is addressing one of the points to which the Senator from North Carolina was referring a while ago, when he stated his concerns about this measure. I am delighted that he is going into this in the depth that he is.

Mr. RANDOLPH. I appreciate the comment of the Senator from North Carolina, who I know considers measures—not only this one but others as well—very carefully in making his decisions in this body.

There is, I say to my colleagues, according to a substantial body of medical authority, a relationship between pneumoconiosis and the number of years worked in a coal mine. The longer a man works in the mine, the more that miner is exposed to the coal dust. The relationship between years of mining and disabling pneumoconiosis is a different matter, however. As is the case with most diseases, people do not always react the same way. They do not always respond with the same intensity. There is a variance to the same exposure. There are different degrees—or even no showing, perhaps—of pneumoconiosis.

It is important, I say to the Senator from North Carolina and other Senators, that this bill which we have brought to the floor substantially modifies the entitlement provision in the House bill. In addition to the years of service requirement, there must be a showing of partial or total disability due to pneumoconiosis which, as I said earlier today in colloquy with the able Senator, include respiratory and pulmonary impairments arising from employment in the coal mines.

In my view, the reason for opposing this provision, in a sense, has lessened. The pending measure is a measure of justice. It has much to commend it. I wish particularly to identify at this point those provisions which will be of special benefit to the widows of disabled coal miners.

First, I remind my colleagues that the definition of "total disability" in the law has been modified to state that in the case of the deceased miner, the fact that he was employed in a mine at the time he died may not be used as conclusive evidence that the miner was not totally disabled. Many, many widows write to me, as they do to other Senators. They implore me to assist them in obtaining benefits. Their husbands, they write, were employed in the coal mines at the time their husbands died. Their claims were disallowed for that reason.

Often I have heard it said that miners work long beyond the time they should work because of poor health. They actually should cease working. But these miners worked many times because they had no alternative. They had to support their wives and their children in the only way that they actually knew how to make a living in those hills and valleys of the many States with which the Senator from North Carolina is familiar. We call it Appalachia. This provision will, at last, bring relief to those widows. The only obstacle to the collection of benefits was the fact that their husbands were working at the time of death.

Second, an arbitrary time limitation on the filing of part C claims by widows and other survivors has been eliminated. Existing law requires that a widow file a claim within 3 years after the death of her miner husband. This impediment resulted in real hardship to many widows whose claims would have been allowed but for the passage of time. In our committee bill, reported on the floor, we believe that this limitation is unreasonable and unnecessary.

Third, the committee bill provides that, in the case of a deceased miner, where there is no relevant medical evidence, or where such evidence is insufficient, affidavits may be sufficient to establish a claim. Although by inference, existing law permits claims to be established through affidavit evidence only, the pending bill provides for and spells it out clearly. In many cases, particularly where a miner died several years ago, there is little, if any, medical evidence available to substantiate a claim. Often, an attending physician or a coroner, who is unfamiliar with pneumoconiosis, or simply because the immediate cause of death was heart failure, did not indicate in diagnostic sheets or death certificates the words that would trigger the allowance of a claim.

Fourth, there is a 25-year entitlement for widows. If the widow or other eligible survivor can show that the miner worked for that period prior to the enactment of this bill, such survivor would be entitled to benefits lest the Secretary of Labor would be able to show that the miner was not partially or totally disabled by pneumoconiosis when he died.

Mr. President, these are the major provisions of the bill as they apply specifically to the benefits for widows. Widows, of course, will benefit from other provisions of the measure, along with disabled miner claimants who are living. I am taking the time this afternoon to detail the provisions of the bill that the record may be very clear regardless of what happens on this measure. We spell it out. We know there is justice in what we are doing. We hope the Senate and, later, the two bodies can agree and the President can sign the measure.

One of the primary provisions in H.R. 10760, both as it passed the House and now is pending before the Senate, is that, in shorthand vernacular, it prohibits the "rereading of X-rays."

This is the most expensive feature in both bills. It is my understanding that an amendment to strike this provision will be proposed. Then we can address the issue in greater detail if and when the amendment is actually brought to us for debate. I point out, however, that the Black Lung Benefits Act of 1972 prohibits the denial of a claim solely on the basis of the results of a chest X-ray. I also note that neither the Committee on Labor and Public Welfare, nor the Senate, nor the House of Representatives, intended in the first act in 1969 or the second act in 1972, to permit the wholesale rereading of miners' X-rays. There must be some type of quality control—that is essential. This should be limited to occasions when unreadable or fraudulent X-rays are submitted to support a claim. The use of Government contract rereaders to review X-rays and their interpretations is, to coal miners and miners' widows, one of the most objectionable features—and it is objectionable to me—of the administration of the black lung benefits program as it now is operating.

Mr. President, it is my understanding that more than 60 percent—I hope my colleagues will listen to these words—more than 60 percent of the X-rays submitted as positive for pneumoconiosis to the Department of Labor are reread by the contract radiologists as negative. As we have said in the committee report on the pending bill—and listen to these words—there is little reason, as a matter of policy, for the Government to interpose panels of second guessers, particularly where the original interpreter of a claimant's X-ray was a qualified radiologist.

There are several other provisions in H.R. 10760, as amended, which are important as we restructure the black lung program. Under section 4 of the bill, as the chairman of our Committee on Labor and Public Welfare understands, a miner may file a claim for benefits while he is still at work in a coal mine if he has had 10 years at work within the mines, or if he has X-ray evidence of pneumoconiosis, or if he is ineligible to transfer to what we call less dusty mine conditions pursuant to section 203 of the Coal Act. This will permit the ill miner to determine whether he is entitled to benefits without the necessity of endangering his livelihood or placing his family on welfare or public assistance. The definition of total disability is modified to require the Secretary of Labor to establish medical test criteria which accurately reflect total disability to coal miners.

At the present time, the Secretary is required by HEW to use the social security disability standards, although HEW, under part B of the black lung program, was less restrictive and used what we call interim standards. The International Labor Organization has, for some time, used another set of standards, still less restrictive, which are applied to those who engage in strenuous, heavy work. There is no question, no Member of this body would question that coal mining is strenuous work. It is often very, very heavy work. It is my hope that the Secretary will adopt disability standards that relate to the coal miners' capacity to do this heavy work.

Section 3(b) of the bill requires that every miner claimant be given an opportunity to do what? To take a complete pulmonary evaluation, to include arterial blood gas tests, at exercise. Ventilatory studies in coal mines often do not show any impairment.

I realize that we deal with a very complex subject. We understand that. That is the reason we are trying to build in here, not layer on layer, but trying, as best we can, to be appreciative of the problems and to have the very best of component parts in the establishment of the black lung or the failure to prove pneumoconiosis.

Now, studies sometimes show that the miners do not show impairment. Impairment is often demonstrated in the miner's inability to adequately transfer oxygen from the lungs into the bloodstream. This medical characteristic is quite common among the disabled coal miners, and blood gas testing, therefore, is often the only way to qualify for disability. The test is highly important in establishing claims for benefits.

I refer to the Committee on Finance because it has considered the trust fund and the tax aspects of this bill, as amended. A hearing was held on September 21, 1976. Then the committee, after that session, held an executive meeting the next day, and the committee filed its report on September 24.

Although the Committee on Labor and Public Welfare and the Committee on Finance differ in approach to the trust fund concept, and although I am not wholly satisfied that the changes that were made to the bill by the Finance Committee are necessary, I, as one Member of the Senate and as a member of the Labor and Public Welfare Committee, as a Senator who conducted the hearings on this bill, am willing—and I say this to the chairman of the Finance Committee, the able Senator from Louisiana (Mr. Long)—to accept these changes that the Finance Committee has made.

In the interest of the passage of the bill, Mr. President—and I have talked about the major provisions of the bill as reported, the amendments, to the Senate, now, Senators, I want to emphasize that you have had the opportunity to review the bill in greater detail in the Committee on Labor and Public Welfare and in the report of the Committee on Finance. This opportunity has been given to you and to your staffs.

The pending bill is sound, the pending measure is responsible. The features in the House bill—we have removed many of those or modified them which we believe to be objectionable, and what remains is, in my judgment, measure on which the Senate can place its stamp of approval because it does resolve many of the inequities and injustices of the existing program.

Now, it will have very little impact on Federal expenditures. Most of the appropriating contemplated in the bill will be repaid with interest, and the bill will actually reduce Federal spending with the existing law. The pending bill will not be excessively costly to the coal companies. Yet it will help thousands of disabled coal miners and widows.

Mr. President, this is not a perfect bill, but this is a good bill. This is a needed bill and one deserving, in my opinion, of the substantial support of the Senators at the present time.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, was the Senator wanting time?

Mr. HUDDLESTON. Yes; 2 minutes.

## ORDER FOR THE CONSIDERATION OF H.R. 13367

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that the leadership already has consent at any time to call up the message from the House on the revenue sharing measure, I ask unanimous consent that following Mr. Huddleston's remarks, which would not consume more than 2 minutes—3 minutes—that the Senator from Louisiana (Mr. Long) be recognized to proceed with that message.

The PRESIDING OFFICER (Mr. Packwood). Without objection, it is so ordered.

## BLACK LUNG COAL TAX

The Senate continued with the consideration of the bill (H.R. 10760) to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes.

Mr. HUDDLESTON. I thank the distinguished majority leader.

I just want to associate myself with the remarks of the distinguished Senator from West Virginia (Mr. Randolph).

I, too, come from a coal-producing State. As a matter of fact, my State has produced more coal than any other during the past few years.

We recognize the problems that have developed in the black lung program as it has been administered in recent years.

The bill that is before us is one that will correct many of the deficiencies of the present program. There is no need for me to reiterate the points that have been made so well and so eloquently by the distinguished Senator from West Virginia (Mr. Randolph).

However, I do want to express my support for the position he has indicated, and my hope that the Senate will give careful consideration to this bill with all of its important implications, and all it means in a human way to the people who have devoted their lifetimes to the extracting of our coal which means so much to this country in meeting our energy needs.

I thank the distinguished Senator.

## ORDER OF BUSINESS

The PRESIDING OFFICER. What is the Senate's pleasure?

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. Long.

## STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on revenue sharing.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

(The amendment of the House is printed in the House proceedings of today's Record).

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, this bill, from the Senate's point of view, can be regarded as a matter of splitting the difference between the House bill and the Senate bill.

As one who has enthusiastically supported the Senate amendments, I feel that the bill is not as good as the Senate bill, and it is not as bad as the House bill. I feel the House provisions on public hearings had to be accepted in part, and I believe that needlessly imposed a burden on local government to hold two hearings rather than one hearing with regard to what they propose to do with their revenue sharing money. But at least that is a great reduction from the steps the House bill would have required people to go through in the name of citizen participation in revenue sharing.

I feel that the so-called antidiscrimination provisions are going to be objectionable to local governments. But the Senate itself had voted to go pretty far along that line. I hope the time will come when we will not feel the need for a Federal law to tell local communities what they can do and what they cannot do in the way of discrimination. But at least we did provide that only where revenue money is used directly in a program need there be the burden to comply with the antidiscrimination provisions of the bill.

Furthermore, Mr. President, with regard to the annual increment that the Senate had provided, the measure as voted by the House would provide about half as much increase by indexing this matter and, therefore, Mr. President, I believe this is about par for the course between a Senate and House bill on disagreeing votes.

The House agreed to the Senate revisions updating the rules as to State maintenance of effort, the Senate provision as to the adjustments involving Alaska and Hawaii, the Senate provision that if an Indian tribe waives its entitlement then that amount of money goes to the government of the county where the tribe is located, the Senate provision dealing with currency of tax data to avoid some technical problems that have existed in the administration of the present revenue sharing provisions when the numbers are changed in the middle of an entitlement period, the Senate provision of especial interest to Virginia dealing with situations where the

Federal Government tries to get back some of the revenue sharing money it has already paid out to county governments, and the Senate provision authorizing the Treasury Department to set up small reserves for each State to take care of adjustments in amounts paid during an entitlement period. In addition to these essentially technical changes to make the present revenue sharing system work more smoothly, the House has agreed to much of the Senate revision of the antidiscrimination procedures and the accounting and auditing procedures. In the area of citizen participation and reports, the conferees moved part of the way in the direction that we felt to be very important—that is, fewer reports and other pieces of paper that have to be sent to Washington.

Mr. President, in connection with this paperwork matter, let me note two specific points: One was raised on this floor by the senior Senator from Pennsylvania, Mr. HUGH SCOTT. Under both present law and this extension of the revenue sharing program, several units of local government served by the same newspaper of general circulation can combine and consolidate the information they have to publish to their citizens in a single joint advertisement if that ad clearly identifies what information relates to which local government. The second point relates to the requirement that the Treasury has to send to the State Governors copies of each of the local government reports. We felt that each Governor ought to be kept informed of what is going on in his or her State. But, obviously, we do not mean to force this material on the Governors if they do not want it. So, any Governor who wants to can cut down on the paperwork still further by telling the Treasury not to send him or her those local reports.

In addition, the conferees agreed to most of the provisions in the Senate bill that the ACIR—the Advisory Commission on Intergovernmental Relations—should study the American Federal fiscal system in terms of the allocation and coordination of public resources among the different levels of government.

In the area of the length of the renewal period for revenue sharing and the level of funding for this renewal period, we reached a compromise with the House conferees. The revenue sharing program is to be extended for 3¾ years, until September 30, 1980. You will notice that this means that the program will come up for renewal again in the middle of the next Presidential election campaign and I am quite sure that the friends of the revenue sharing program will be happy with this aspect of the compromise agreement. As to the amount of money authorized, the conferees reached an agreement that splits the difference between the House bill and the Senate bill. The effect of the Senate bill was to provide increases above the fiscal 1977 level which totaled $1.2 billion for the 3 fiscal years 1978, 1979, and 1980. The House bill provided no increases at all during this time. The conferees agreed to increases totaling $600 million for this period, just half way between the House and the Senate bill on this point.

Mr. President, I ask permission to include in the RECORD a table which sets forth the amounts authorized for aid to the States and localities by the conferees by fiscal years.

[In thousands of dollars]

| Entitlement period | Conference substitute | | |
|---|---|---|---|
| | Basic | Noncontiguous [1] | Total [1] |
| (8) Jan. 1, to Sept. 30, 1977 | 4,987.5 | 3.59 | 4,991.09 |
| (9) Oct. 1, 1977 to Sept. 30, 1978 | 6,850.0 | 4.92 | 6,854.92 |
| (10) Oct. 1, 1978 to Sept. 30, 1979 | 6,850.0 | 4.92 | 6,854.92 |
| (11) Oct. 1, 1979 to Sept. 30, 1980 | 6,850.0 | 4.92 | 6,854.92 |
| Total | 25,537.5 | [1] 18.35 | [1] 25,555.85 |

[1] Rounded to the nearest 10,000's.

Mr. President, the table shows that this extension will provide more than $25 billion to the State, county, city, and township governments of the Nation during the next 3¾ years. This money is of great significance to most of these governments.

Mr. President, I have discussed the differences between the House and Senate bills and described how the conferees resolved those differences. Let me note one area in which both bills were the same and which represents the final agreement, 4 years later, of the position that the Senate had taken in 1972. As I pointed out in 1972, the Senate bill did not provide any limitations on the local governments in how they are to spend the aid funds. Local governments, like the State governments, were left free to determine how they should spend this money. This was in accord with the theory that they would know better than people in Washington what their needs are and could make more efficient use of these funds if they were not hampered by restrictions.

The House, in 1972, did not agree with us on this point. Their bill required the local governments to spend the revenue-sharing funds on a specified list of high priority categories. In 1972 we finally compromised with the House in this area. I am happy to report that the House has finally come around to our way of thinking on this matter and has agreed that these priority category requirements should be removed and that the local governments should be free to spend their funds as the local communities want, and not be restricted to those categories that Washington wants.

Mr. President, note a clerical error in the statement of managers, omitting the description of the decision of the conferees on section 6(e) of the bill, dealing with separate law enforcement officers in Louisiana. The dropped material is as follows:

CONFERENCE SUBSTITUTE

The conference substitute follows the Senate amendment with two technical modifications. In the case of East Baton Rouge Parish, which has a combined city-parish government, the entitlement for the office of sheriff is to be equal to 7.5 percent of the entitlement of each of the units of local government—Baton Rouse, Baker, and Zachary—within the parish. The entitlement for the office of sheriff is to be funded in the same manner as the amounts going to the other sheriffs under the Senate amendment. In the case of Orleans Parish, consistent treatment is achieved by providing an additional amount equal to 7.5 percent of its entitlement, funded out of the State entitlement.

In conclusion, I want to state again what I said in 1972 and what remains appropriate today in connection with revenue sharing. This has not been an easy bill to develop. However, in this case we started from a pretty good base—the legislation that Congress enacted in 1972. Probably none of us is completely satisfied with every aspect of this bill. However, we have tried to reach as good a balance in dealing with these problems as possible. In my opinion, the legislation that we now have before us achieves such a balance. It will provide urgently needed assistance to State and local governments.

I urge the Senate to accept it because I believe it is about the best we could work out under the circumstances.

The PRESIDING OFFICER. The question is on agreeing to the motion——

Mr. FANNIN. Mr. President, will the Chair withhold? The Senator from Delaware desires to ask some questions.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, I would like to ask the distinguished Senator from Louisiana a question with respect to the concern that was expressed on the Senate floor as to whether or not the new language, including the word "religion" would prevent the use of these funds for providing services by religious-affiliated organizations.

Mr. LONG. The exemptions that are provided by the civil rights law and laws on that subject are here in this bill as the compromise was worked out. It does preserve and protect the exceptions that Congress had wisely worked out in the civil rights bills.

Therefore, I believe that those who are very critical of the adverse effect of the language which the House sent about religious discrimination will find that it relates to what the law is now and follows the same bill in that regard.

Mr. ROTH. Will the Senator say that the discussions in the Senate Chamber apply to the conference report as well as to the Senate bill?

Mr. LONG. Yes; I believe they do, because what we have agreed to here is what the Senate did.

Mr. ROTH. I thank the Senator.

Mr. LONG. Mr. President, I believe we should have the yeas and nays on this conference report.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the motion to concur in the House amendment to the amendment of the Senate. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Hawaii (Mr. INOUYE), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 77, nays 4, as follows:

[Rollcall Vote No. 683 Leg.]

YEAS—77

Allen
Baker
Bartlett
Bayh
Beall
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Talmadge
Tower
Tunney
Weicker
Williams
Young

NAYS—4

Abourezk
Curtis
Helms
Proxmire

NOT VOTING—19

Bellmon
Bentsen
Brock
Buckley
Dole
Glenn
Hart, Philip A.
Hartke
Inouye
Kennedy
Mansfield
McGee
Mondale
Montoya
Ribicoff
Scott, William L.
Stevens
Taft
Thurmond

So the motion to concur in the House amendment to the amendment of the Senate was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may I be protected while I am calling up matters?

The PRESIDING OFFICER. The Senate is not in order. The Senator from West Virgina will withhold for a moment.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The Senator will proceed.

Mr. ROBERT C. BYRD. Mr. President, may I be protected while I am calling up certain measures which have been cleared on both sides and concerning which I have talked with the Republican leadership?

## EXTENSION OF TIME FOR FILING REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the continuing resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## PUBLIC HEALTH SERVICE ACT AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5546.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. What calendar order is it?

Mr. DURKIN. What is that?

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. This has to do with health manpower.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I will make it very easy on Senators. If Senators feel constrained to stay in the Chamber, and I respect them for this, to object or to be in a position to object, if they will let me know what it is that they are watching for, then I will let them know and they will not be put to the trouble of having to reserve their objections so often.

I do not say this in a complaining way or a critical way.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House.

There is no objection raised, and the clerk will report.

The assistant legislative clerk read as follows:

*Resolved*, That the House recede from its disagreement to the amendment of the Senate to the bill H.R. 5546, entitled an Act to amend the Public Health Service Act, and so forth, and for other purposes, with an amendment.

Mr. ROBERT C. BYRD. Mr. President, is this a technical amendment, House Concurrent Resolution 767?

The PRESIDING OFFICER. These are amendments in disagreement.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment with an amendment which is at the desk.

Mr. HUGH SCOTT. Mr. President, if the Senator will yield, this has been cleared with the chairman and ranking member.

Mr. ROBERT C. BYRD. It has been cleared on both sides.

The PRESIDING OFFICER. The amendment does not appear to be at the desk.

Mr. ROBERT C. BYRD. The amendment is not at the desk. It is House Concurrent Resolution 767. All right.

Mr. President, I withdraw this request for the time being.

## GAO AUDITS OF INTERNAL REVENUE SERVICE AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed now to the consideration of Calendar Order No. 865.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, I simply wish to make it clear that we are not overlooking the Budget Committee clearance requirement but, in this instance, the distinguished acting majority leader has gone over these with me in advance and we have ascertained that there is no Budget Committee clearance problem in each case.

I withdraw the reservation.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8948) to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms,

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill (H.R. 8948) which had been reported from the Committee on Finance with amendments.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

There being no objection, the amendments were considered en bloc as follows:

On page 2, line 4, strike out "Tobacco," and insert "Tobacco";

On page 2, line 13, after the word "Code" insert "and the provisions of any other law";

On page 2, line 16, after "6103" insert the following: "with the written approval, and under the supervision of, the Committee on

Ways and Means of the House of Representatives, the Committee on Finance of the Senate, or the Joint Committee on Internal Revenue Taxation;"

On page 2, line 21, strike the word "shall" and insert "shall, notwithstanding the provisions of any other law,";

On page 3, line 1, strike the word "Tobacco," and insert "Tobacco";

On page 3, line 23, strike out:

"(3) The Comptroller General shall, as frequently as may be practicable, make reports to the Congress on the results of audit work performed.";

And insert in lieu thereof:

"(3) The Comptroller General shall, from time to time, but not less often than once every six months, designate in writing the name and title of each officer and employee of the General Accounting Office, who, pursuant to the provisions of paragraph (2) of this subsection, is to have access to tax returns and tax return information, or any information described in clause (B) of such paragraph (2), in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer. Each such written designation, or a certified copy thereof, promptly shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Internal Revenue Taxation, the Government Operations Committees of the House of Representatives and the Senate, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco and Firearms.

"(4) The Comptroller General shall, as frequently as may be practicable, make reports to the Congress on the results of audit work performed. In addition, the Comptroller General shall submit an annual written report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Internal Revenue Taxation, and the Government Operations Committees of the House of Representatives and the Senate, which report shall include, but shall not be limited to, the following:

"(A) the procedures and requirements which the General Accounting Office, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco and Firearms have established for protecting the confidentiality of tax returns and tax return information made available to the Comptroller General under this subsection;

"(B) the scope and subject matter of any audit or other examination or review authorized under paragraph (1) of this subsection; and

"(C) any findings, conclusions, or recommendations developed by the Comptroller General as a result of any audit or other examination or review authorized under paragraph (1) of this subsection including any significant evidence of inefficiency or mismanagement.".

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

The title was amended so as to read: "An Act to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms."

## UNAUTHORIZED USE OF MOTOR VEHICLE OBTAINED UNDER RENTAL AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1274, which is on page 16 of the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I must say I find it very difficult to follow unless the Senator will state when he calls a number what it is about. The Senator says number so-and-so; the Chair says without objection, and you are finished.

We ought to know what each is about and then one knows whether one needs to object or not.

The PRESIDING OFFICER. Is objection heard?

Mr. GRIFFIN. Mr. President, as I understand it, the request is not agreed to until the clerk has read the title of the bill. Is that not correct?

The PRESIDING OFFICER. The clerk reports the bill first.

Mr. JAVITS. That is fine.

Mr. GRIFFIN. That is what we wish. It appears as though there is a consent being agreed to before the title is read. If we can avoid that it will help a lot.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10826) to amend the act establishing a code of law for the District of Columbia to prohibit the unauthorized use of a motor vehicle obtained under a written rental or other agreement.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

## NATIVE AMERICAN AWARENESS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1292, on page 18 of the calendar.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 209) authorizing the President to proclaim the week of October 10 through 16, 1976, as "Native American Awareness Week."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S.J. Res. 209

Whereas native American people, both on and off the reservations, are receiving too little recognition for their contributions to society;

Whereas to the extent there has been oppression of all Indian tribes and people, many non-Indians have lost or have never fully understood the true image of the native American;

Whereas there is a strong and renewed interest in the self-preservation of all aspects of Indian culture and heritage;

Whereas there is urgency to promote a unified effort of all for the common good, and to bring about a more wholesome relationship among native Americans;

Whereas the native American population is working for a better future, for a revival of participation in the tribal affairs, and for a revival of moral support for the tribal councils;

Whereas the opportunity exists for an improved understanding regarding how the peoples' needs and desires are reflected in the programs and policies of the tribal governments and Federal agencies;

Whereas the native American communities are voicing greater self-expression and exposure of their values to surrounding communities, and are taking a more active role in the use and development of their skills and resources;

Whereas the native American people made significant historical contributions to the welfare and survival of early pioneers and explorers who ultimately founded the Republic of the United States of America: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and directed to issue a proclamation designating the week of October 10 through 16, 1976, as "Native American Awareness Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

## MICHAEL J. KIRWAN POST OFFICE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1294, on page 18 of the calendar.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14503) to name the new Post Office in Youngstown, Ohio, the "Michael J. Kirwan Post Office."

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

## ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1295, on page 18 of the calendar.

The PRESIDENT OFFICER. The resoulation will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 548) authorizing additional expenditures by the Committee on Armed Services for routine purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

*Resolved*, That the Committee on Armed Services is authorized to expend from the contingent fund of the Senate, during the Ninety-fourth Congress, $5,000 in addition to the amount, and for the same purpose specified in section 134(a) of the Legislative Reorganization Act of 1946, and S. Res. 88, Ninety-fourth Congress, agreed to April 14, 1975.

## CALENDARS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1297, on page 18 of the calendar.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 567) relating to the purchase of calendars.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

*Resolved*, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $21,580 for the purchase of fifty-two thousand calendars. The calendars shall be distributed as prescribed by the committee.

## ORDER OF BUSINESS

Mr. MAGNUSON. Mr. President, I wish Senators would take their own seats. We cannot hear. It is impossible for me to take my seat because somebody is always sitting in it. I can do it now because I see it is vacant. Some of us cannot hear what the clerk is saying.

## APPROPRIATIONS, DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES—VETO

Mr. ROBERT C. BYRD. Mr. President, the time of 3:40 p.m. has now arrived, has it not?

The PRESIDING OFFICER. The hour of 3:40 p.m. having arrived, the Senate will now consider the veto message on H.R. 14232.

The Presiding Officer (Mr. PACKWOOD) laid before the Senate a message from the House of Representatives, which was read, as follows:

The House of Representatives having proceeded to reconsider the bill (H.R. 14232) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

*Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I inquire of the Chair as to the unanimous-consent request that was made earlier today with respect to the time situation on this very important bill. I know that we are to take it up now, at 20 minutes to 4, but I do not think many Senators are aware of the procedure to be followed. What is the unanimous-consent agreement?

The PRESIDING OFFICER. The agreement is for 15 minutes to a side, to be followed by a 1-hour vote.

Mr. MAGNUSON. The vote itself will take 1 hour?

The PRESIDING OFFICER. One hour.

Mr. MAGNUSON. Mr. President, I shall be very brief.

On the whole, this governmental process of ours has worked well. Very few changes have been necessary since our democratic system was first established. One of the best elements written into this process is the system of checks and balances.

Unfortunately, the system, I believe, is being abused. That is a strong word, I know, but if we stop and think, since 1970, seven Labor-HEW appropriations bills have been vetoed.

Congress has spoken its mind. The Members has gone home and have returned after elections, after talking to their people, and voted their best judgment as to what part of the budget should go for this needy purpose, and seven times this has happened. There comes a time when we should stand up and take care of the vetoes on this particular bill.

With each veto, the American people are given a lot of rhetoric about the size of this bill. They are told it is too big, too expensive. This annual confrontation has become historical. I do not know who is doing the advising downtown, but it does not take much to see that if we do not support most of these programs now, it will only cost us more in the long run. Is the price tag really too expensive when we are working toward the full power of this country's potential—when people are put on jobs, not on unemployment? Does it cost too much to educate a child who will someday be expected to carry on the work and progress that has been made so far? Can anyone say it is too expensive to cut down the barriers which cast a shadow on our poor, the handicapped, and the elderly? Maybe someone downtown thinks we are idealists because we want to get the best medical care for the people, because we want to combat the diseases that strike so hard at young and old alike.

The President's veto message talks about sympathy and compassion. Perhaps we could tell 6.5 million disadvantaged children helped by this bill that Congress has enacted that they have the President's sympathy; we could tell 300,000 elderly people served that the President feels badly for them; or we could ask those families who have been stricken by cancer or heart disease to remember that the President has compassion for them. If Presidential rhetoric made a difference to these people, we would not need a Labor-HEW money bill.

Mr. President, I believe that the priorities of the Congress are clear. They have been made clear time and time again. Congress has felt that this great Nation can afford what we are doing for the social and medical needs and the education of the people of this country.

We have not changed those goals which we have set—the goals I believe America stands for. Yes, they can be subject to some adjustment. I do not see anybody coming around here and suggesting that we repeal some of the things Congress has passed in the field of health, education, and welfare. No. But we can take all the goals we set, all the programs in this bill, and say it all in one word—"justice," because justice requires that we do what we can to improve the lot and maintain the hopes of people in need.

I believe everyone here is familiar enough with this bill and what it stands for in terms of meeting needs—of reducing human suffering. We in the Congress, at least, have held out our hand to the needy. Let us not pull it back now. We are talking about a difference of $4 billion in the country that has 210 million people and a gross national product of $1.5 trillion. If we can't afford this amount—what can we afford?

I urge my colleagues to join with the House in voting to override this veto.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. PASTORE. And this is a country that already has appropriated more than $5 billion in foreign aid, to help other people.

Mr. MAGNUSON. And not to do anything for ourselves. I would like to do both. I think we can.

We talk here about this amount. I think we have a modest bill. The budget that was sent up from downtown was wholly inadequate, a miserable budget, creating more misery in this particular field than any budget I have seen come up. It does not even keep alive at the present level many of these programs in health research and mental health communities, job retraining.

Oh, yes, Mr. President, the Senator from Massachusetts and I have already appropriated $9 billion for unemployment insurance, and it looks like, for the coming year, we are going to have to appropriate again or suggest to the Senate $9 billion more. That is $18 billion.

These are the things we ought to be hitting at, and this will help that. This affects every person in the United States—every person.

I did not hear anybody, when the bill was up, object to the amendments. Those who voted to sustain the President never stood up and said one thing about the amounts in the bill, not one thing. They did not appear in front of the committee.

The President's veto message talks

about sympathy and compassion. Let us have some for the people in this country who need it.

I yield the rest of my time to the Senator from Massachusetts.

**Mr. BROOKE.** Mr. President, I yield myself 8 minutes.

I regret very much the President's decision to veto the fiscal year 1977 Labor-HEW bill. I am, however, pleased that the House has overridden the veto by a solid vote of 312-93 and recommend that the Senate follow suit.

In making this recommendation, I am fully aware that this generally excellent bill does have an important defect. I refer, of course, to the restrictive Hyde language on abortions. That language has no place in this bill, and I fought hard to have it removed completely. I am convinced that the Hyde amendment is unconstitutional and that the Supreme Court will so rule.

**The PRESIDING OFFICER.** May I interrupt the Senator for just a moment to inform him that the Senator from Washington already used 10 minutes of his time? If he yielded time to the Senator from Massachusetts, there was only 5 minutes remaining at the time the Senator from Massachusetts started.

**Mr. BROOKE.** Then I have 15 minutes of my own.

**The PRESIDING OFFICER.** The order was that the Senator from Washington controlled the time——

**Mr. HANSEN.** A parliamentary inquiry, Mr. President.

**The PRESIDING OFFICER.** The Senator will state it.

**Mr. HANSEN.** I understand that the time of those in opposition to the bill, then, will be under the direction of the distinguished Senator from Massachusetts. Am I right about that?

**Mr. BROOKE.** I shall certainly allow time to the opposition. I have already agreed to 5 minutes to the Senator from Nebraska (Mr. CURTIS). If the Senator from Wyoming wants some time, I shall gladly yield him some.

**The PRESIDING OFFICER.** The order entered at the desk is that the time is under the control of the Senator from Washington and the Senator from North Dakota.

**Mr. YOUNG.** Mr. President, I yield my time to the ranking minority member.

**The PRESIDING OFFICER.** Very well.

**Mr. BROOKE.** I thank the Senator from North Dakota.

**Mr. HANSEN.** May I ask, Mr. President, is the Senator from Massachusetts speaking in support of the override? I understand that he is.

**Mr. BROOKE.** I am, yes.

**Mr. HANSEN.** It seems rather strange that the two persons controlling the time are both in favor of overriding the President's veto.

**Mr. BROOKE.** That is nothing unusual. I shall certainly give time to the opposition. I am speaking on my own personal behalf.

**The PRESIDING OFFICER.** The Chair understood that the Senator from North Dakota is ceding his time to the Senator from Massachusetts.

**Mr. BROOKE.** I assure my distinguished colleague from Wyoming that he will be given ample time to express his views.

However, we were able to get the language of Hyde amended to permit Federal funding for abortions where the life of the mother would be endangered if she carried the fetus to term. Further, I was pleased that the conferees accepted my conference report language which makes additional exceptions to the effect of the Hyde amendment.

In my September 17 floor statement I spelled out how HEW should interpret both the bill and the conference report language, particularly during the interim period between the effective date of this bill, should it become law, and the rendering of a Supreme Court decision on the Hyde amendment. It is vital that HEW understand the intent of the conference action on the Hyde amendment so that it does not, in the interim period, administer the abortion language to the detriment of those who would be most directly affected.

I urge HEW to read carefully my September 17 floor statement for guidance on this important matter.

With the battle over Hyde behind us, at least for the moment, it now is important that we move ahead and enact the Labor-HEW bill with its important funds for badly needed social programs.

The bill as it presently stands totals $56.6 billion. It is $3.9 billion over what must be called the low and unrealistic budget requests submitted to Congress in January.

### AUTHORIZATION FOR THE LEADERSHIP TO CALL UP THE ADJOURNMENT RESOLUTION AT ANY TIME

**Mr. ROBERT C. BYRD.** Mr. President, will the Senator yield for a request?

**Mr. BROOKE.** Yes.

**Mr. ROBERT C. BYRD.** I ask unanimous consent that the leadership be authorized to call up at any time the adjournment resolution.

**The PRESIDING OFFICER.** Is there objection?

**Mr. FANNIN.** Reserving the right to object, what was the request?

**Mr. ROBERT C. BYRD.** That the leadership be authorized at any time to call up the adjournment resolution.

**Mr. FANNIN.** I have no objection.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. BROOKE.** Mr. President, even the conference agreement represents a reduction of more than a half-billion dollars from the level of funding provided by the Senate.

Moreover, the level of funding has been—and continues to be—well within the budget ceilings established by Congress. Those budget ceilings were arrived at only after long study and careful consideration.

**Mr. JAVITS.** Will the Senator yield for one inquiry?

**Mr. BROOKE.** Yes, I yield.

**Mr. JAVITS.** I feel as keenly about the matter of abortion as does the Senator. First, I call attention to the broadness of his view, as he was the strongest opponent among the conferees on the abortion matter. I, too, shall vote to override, notwithstanding the ceiling. I think the clincher for me is what the Senator just said about the budget figures. That was our design as to what was just, fair, and honorable in discharge of these tremendous duties that we have to the poor, the unfortunate, and the ill. I shall join the Senator in this vote.

**Mr. BROOKE.** I thank my distinguished colleague from New York.

The Labor-HEW bill, even without its massive trust funds, is one of the largest bills the Congress must handle each year. It often has been called a people bill because of its focus on human problems and human needs. It is a measure that in one way or another touches the lives of every American.

Consider, for example, the programs it covers.

Through this bill, we provide money for jobs, job retraining, and unemployment benefits. We fund programs to improve the health and safety conditions in which people work. We attack and seek cures for disease; strengthen health care for people at all stages of life; assist the handicapped and broaden and strengthen education at all levels.

In addition this bill must provide for the poor, the near poor, and the aged. I could go on and on.

The bill before us is designed to continue the progress already made in many areas. But we also will step up our efforts in a number of important fields. In health, for example, we plan expanded research into cancer, diabetes, multiple sclerosis, spinal cord regeneration, disease control, and nutrition. We also are beginning new, expanded, and more extensive efforts in the areas of education of the handicapped and assistance to older Americans.

Let me briefly discuss a few of the specifics of this bill:

In labor, we provide more than $2.2 billion for CETA training programs, including $400 million for public service jobs. We also provide more than a half-billion dollars for 1 million summer jobs for youth in 1977. Our bill includes $90.6 million—the highest level ever—for the program of jobs for people 55 years of age and older, the so-called older worker. These are the last hired and the first fired. Many have skills that can be used by our society and would like to work. We need to give as many of them as possible the opportunity and can do so through the increased funds in this bill.

In health, in addition to appropriating funds for a variety of important health programs, including direct care and training, our bill also provides $2.4 billion for the vital research carried out by the National Institutes of Health, NIH. Our level of funding is $90 million more than the amount provided by the House.

One of the most significant decisions by our two bodies was to substantially increase funds for cancer research. Almost half of the budget increase over the House for NIH—some $41.5 million—will go to the National Cancer Institute which will receive $815 million in fiscal 1977.

Cancer continues to be the leading cause of death after heart disease and one of the leading causes of death in children. We must step up our effort to combat it. With the funds we have provided, this will be possible.

### EDUCATION

The conference agreement provides some $2.2 billion for the education of disadvantaged children. We also provide almost a half-billion dollars for education of the handicapped; $242 million for emergency school aid, including $35.7 million for targeted assistance for school districts under court order to desegregate; and additional funds for adult education and library resources. In addition we provide advance funding of State grants for the first time for vocational education.

### RELATED AGENCIES

The bill also provides badly needed funds for the antipoverty program, for the Corporation for Public Broadcasting, the ACTION agency, and the National Labor Relations Board, among other agencies and programs.

I could go on for quite a while discussing all the essential programs in this bill, but it should be clear that this is a significant measure which has a significant impact upon the lives of our people.

The bill has already been delayed too long by extraneous legislative provisions that had no place in it to begin with. It is time to enact the Labor-HEW bill and to get the billions of dollars it contains to the people who need these funds.

I urge the Senate to override the veto.

I yield 5 minutes to the distinguished Senator from Nebraska.

Mr. MAGNUSON. Mr. President, will the Senator yield 30 seconds?

Mr. BROOKE. I yield.

Mr. MAGNUSON. I think it should be pointed out before we sit down that we are under the congressional budget ceiling allocation.

Mr. BROOKE. Considerably. About $10 billion below the congressional budget ceiling allocation.

I thank my colleague.

I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I am fully aware of the problems facing the committee, and while I differ in my conclusion I respect their views. To have an item go beyond the President's budget by $4 billion is quite significant. It is not a small matter.

Mr. President, I hold in my hand a chart taken from the inside page of the Budget-In-Brief, United States—this one happens to be for fiscal 1977. It shows where the money goes.

The money does not go, the big money does not go, for research; it does not go to bring about cures for diseases that at the present time they have no cure for. Some money goes there, yes, but not the big money in the budget of the United States.

This chart, prepared by the Office of Budget and Management, shows that of every dollar spent in Washington, 40 cents of it goes for benefits to individuals. Much of that is handled by the Department of HEW. I think Congress needs to change some authorization laws.

Why is it when we have a deficit in problems like that, we are paying the hospital medical bill of everybody over 65 regardless of their wealth? There is not any reserve to it. None of them contributed a dime because they were all blanketed in. Yet the workers, the self-employed and the employers, have their social security tax increased in order to pay benefits to people by reason of the accident of the date of their birth and not because they are in need.

Some people over 65 need medical care, and I want them to have it. But I raise the question about the individual who is better off at 65 than at any time in his life, who is taking three or four vacations a year, and is on charity for his hospital medical care, and that is what it is, being paid by somebody else.

We have rent subsidies, housing subsidies; 40 cents out of every dollar goes for benefits to individuals; 15 cents out of every dollar goes to State and local governments. They pass on to individuals 5 cents of that, 45 cents goes for supporting people. It does not cost much to govern. It does not cost so much to do the research that no other entity can. It is mailing out checks, and Congress as a whole is to blame, not this committee; 40 cents and 15 cents make 55 cents. The interest on the national debt is 8 cents. That is 63 cents. Our defense program costs 26 cents. A couple of years ago it was 28 cents; 10 years ago it was 40 cents. It is not enough now, but that adds up to 89 cents.

All of the other expenses of Government only cost 11 cents.

An educator appeared in Washington, an educator from my State, not long ago and pointed out that the taxpayers of Nebraska paid 93 cents of the cost of every dollar for education. She said Washington is paying 7 cents and they are running the show, and everybody knows that Washington is interfering with every school board, every principal, every superintendent, looking down over their shoulders, increasing their costs, telling them what they can do and what they cannot do.

It is time for us to get our financial house in order, and there is not any chance of doing it by shaving a little bit here, shaving a little bit there, denying a needed tax reform because we do not have the money. We have the welfare state not threatening us, we have it here.

One of the direct payments to individuals is in the form of food stamps. It started in 1964, and cost about $300 million. Today it is $6 billion.

I stood on the floor and offered 10 amendments, not meat ax amendments but specific amendments, that would have reduced it by $2 billion. I offered 10 amendments and I only lost 10.

Now we cannot deal with our budget problems by using our carbon paper a little longer, if they still use carbon paper, or by squeezing something here or squeezing something there.

We have too much government. Mr. President, it took us 185 years to reach expenditures of $100 billion. In 9 more years we went to $200 billion; in 3 more years we went to $300 billion, and before we could turn around it is $400 billion. Where is it going to be 5 years from now?

I am going to support the President's veto.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. CURTIS. I would be happy to yield.

Mr. DURKIN. Were not these years the Nixon-Ford years?

Mr. CURTIS. Oh, yes. The President does not make laws. He does not appropriate money.

Mr. BROOKE. How much time remains?

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. FANNIN). Four minutes remain to the Senator from Massachusetts.

Mr. BROOKE. I yield to the Senator from North Carolina for a statement, and then the remainder of the time to the Senator from Wyoming.

Mr. HELMS. Mr. President, this is a $56 billion appropriation bill that is more than $4 billion over the administration requests, and it contains no provisions for reforming and making more effective the programs it would finance. Unfortunately, there are some Members in this body, and also in the other body, who labor under the mistaken notion that the way to solve our human problems is simply to spend more and more of the taxpayers' money, without any perceivable consideration of how well the money is spent, or for what purposes.

In any human endeavor, there is always a tension between the desire to accomplish the goals involved and the resources available to do so. There is also the question of whether monetary resources can ever be equated with human needs. There is something fundamentally mistaken about the tendency to equate a politician's level of human compassion with his readiness to spend other people's money to alleviate human ignorance and misfortune.

Indeed, there are fundamental moral questions which should cause us to reconsider the gross materialism that is at the root of much welfare spending, namely, the idea that money solves problems. Problems are only solved when people solve problems, when both benefactor and recipient are joined together in charitable and mutual actions. Otherwise, human nature is such that resentment is generated among those whose funds are spent, and hostility is aroused among those who receive benefits without having earned them. Although some material difficulties may be alleviated for some individuals temporarily, the long-term result is the degeneration of the moral character of all levels of society. And no society can long maintain itself when both the "haves" and "have-nots" no longer feel any responsibility to support moral values.

A case in point is the use of Federal funds to pay for abortions, an action which has never been approved by Congress, but which has been initiated by bureaucrats through their own interpretation of court decisions. It is highly offensive to millions of our citizens that their money should be used for the calculated taking of innocent human life. Yet others, supposedly out of human compassion, are advocating the taking of innocent human life because it will be cheaper to kill a child before the child becomes a continuing tax burden. Meanwhile, the easy availability of tax-paid abortions removes one of the last sanctions against immoral activity in our society.

This is just a typical example of the distortion of social and moral values that takes place when we attempt to throw money at a problem instead of solving the basic issues. After a long fight, Congress finally succeeded in banning the use of taxpayers' funds for abortions through the addition of the so-called Hyde amendment. I supported the Hyde amendment, and I did what I could to see that the Hyde amendment was retained. The inclusion of the Hyde amendment is a step forward in the reform of HEW programs.

But the same kind of moral distortion that the Hyde amendment seeks to correct in just one small area of the bill is rampant throughout all of HEW's programs to a greater or lesser degree. The Hyde amendment presents the issues of reform to us in a stark contrast that is immediately evident to everyone. Yet the same moral problems that confront us here confront us everywhere we turn.

I am proud that the President, in vetoing this bill, supported the Hyde amendment at the same time he criticized the overspending that characterizes the approach of the majority party to HEW. I am confident that, should the veto be sustained, the supporters of this legislation will quickly revise the bill to make it more acceptable from a fiscal standpoint, but leave the Hyde amendment intact. Moreover, they will act quickly to rush such a bill through before we adjourn tomorrow—and that being the case, they would not wish to jeopardize final passage by tampering with the carefully constructed compromise in the Hyde amendment.

Those who think that it is incumbent upon supporters of the Hyde amendment to vote for excessive and irresponible appropriations just to get the Hyde amendment enacted into law immediately should understand that the dynamic of legislative activity at the end of a session will not permit HEW appropriations to fail. Moreover, the slight chance that it could do so must be weighed against every Senator's overall obligation to promote fiscal responsibility, and against the critical fiscal situation in which we are presently operating. We must not allow the big spenders to hold the Hyde amendment hostage while they attempt to pass exorbitant appropriations. The Senator from North Carolina will not succumb to that kind of blackmail, because nothing can vitiate a moral issue more quickly than to allow it to become a bargaining chip in cynical political dealings.

I congratulate the Presdent for his courage and his political wisdom in vetoing what is a blatant political maneuver by those seeking to auction Government benefits for votes. I congratulate him also for his support of the Hyde amendment, and I expect that, should the veto be sustained, any new appropriations or resolutions for continuing appropriations will include Hyde amendment language in its structure.

Mr. HANSEN. Mr. President, I appreciate the courtesy of my good friend from Massachusetts for yielding me some time to speak in support of the President in vetoing the bill.

Let me first observe to my good friend from New Hampshire that Presidents do not appropriate funds. It is very true that the period of time which the Senator from New Hampshire inquired about was the period of time during which Nixon and Ford have been in the White House. But it is Congress not the President of the United States that appropriates money.

Let me say that no one I know of is opposed to the problems that are being addressed by this bill now before us, which has been vetoed. Everyone wants to help the sick, the ill, and those unable to work, and those whose illness calls for further research.

The President pointed out so very wisely in his veto message that he was sympathetic with the purposes of most of these programs. He did say that he agreed with the restriction on the use of Federal funds for abortion.

In that regard, I misunderstood what the issue was before the Senate. Had I been better informed I would have supported my good friend from Massachusetts. I have said on more than one occasion I would support a constitutional amendment to limit abortions to those cases wherein rape, incest, or the saving of the mother's life was at stake. Absent that consideration, I support my good friend from Massachusetts insofar as his stand on abortion is concerned.

Let me say further, Mr. President, that the trouble with the tack we are taking now is it is always popular to get up and tell people what you are going to do for them, to say that we will address all of the problems of mankind. The facts are, as they understand more clearly in England than we do over here, that the system does not work; that it is a phony idea. We may not find it out in this year or in the next five annual budgets to come before the Congress. But sooner or later, and mark my words, we are going to be coming to the same conclusion reached by the Prime Minister of England when he said just a few days ago:

> Britain for too long has lived on borrowed time, borrowed money, and borrowed ideas. We will fail if we think we can buy our way out of our present difficulties by printing confetti money and by paying ourselves more than we earn.

Not too many months ago we had a very distinguished Member of Parliament who happened to attend a breakfast meeting which is held in this Capitol every Wednesday morning. He said, "We are bankrupt in England." Everybody knows they are bankrupt in England. We did not seem to be too impressed with that. He said, "I do not mean bankrupt philosophically and financially. You know that. We are bankrupt for ideas. We have tried every cockeyed idea that anyone has suggested and not one has worked yet."

Mr. TUNNEY. Mr. President, the Labor-HEW appropriations bill, which was vetoed by President Ford last night, is a bill of major importance to the Nation. Not only is it a measure which tries to tackle many human needs, but it also does some very important practical things. It provides funds for jobs for the unemployed, training to those who can achieve better jobs; it provides funds for medical research and care and education at all levels. It is a bill which we must again approve today in the Senate by overriding the President's veto. There are a few specific areas I would like to address myself to.

### EDUCATION

In education, I was extremely pleased that the conferees agreed to the $115 million amount which the Senate committee recommended for bilingual education. I was dismayed with the administration request and suggested to the committee that an increase of $25 million be made for this vital assistance that the Federal Government must offer.

I was also pleased to see that the conference agreed to necessary increases in environmental and health education. With inflation over the last year, the additional money for these programs will not cause an increase to the inflation rate—but merely keeps up with the inflation occurring in all sectors of the economy.

Never has an education appropriations bill included such a commitment to the handicapped children of this country. Because I was a cosponsor of the handicapped education bill, I am pleased that we can now attempt to override this veto and provide the States with educational services to nearly 7 million handicapped children.

Also, for the bastions of knowledge and education in this country, the Senate conferees were able to secure an additional $3 million for the public libraries, and an additional $7 million over the House allowance for school library resources. We must make a commitment to keep our libraries open, and if this veto by the President is not overridden, the libraries of our Nation will suffer right along with our children who will find it harder to use the libraries.

### HEALTH

Preventive medicine programs remain an important congressional priority and over $5 billion has been provided for research, community programs, and preventive services. The National Institutes of Health will continue to study preventive programs and treatment techniques with $2.5 billion, if the veto is overridden. The NIH will also continue their important study of nearly every disease. In the communities, treatment and prevention centers will also be financed by the bill. The nearly $750 million provided for drug programs, community mental health and health programs must reach the communities as soon as possible and not be delayed because of a veto or continuing resolution.

I urged the Senate Appropriations Committee for additional moneys to be made available for family planning programs—so I was pleased to see that family planning services will be increased by $13 million—which is the first time in 13 years that this budget has been raised. In Los Angeles County alone, some 150,000 women could be served under last year's appropriations, but there is an estimated 300,000 more which need to be served. In the same area, there has been a 19-percent increase in the number of single women giving birth—a clear demonstration that there is an urgent need for planning services in the community.

The Senate committee report language also suggested that not enough emphasis has been placed on research for sickle cell anemia. They wisely advised the National Institute of General Medical Sciences to use increased funds within research appropriations for the research and prevention of sickle cell. I must concur and again emphasize the need to expand our efforts with this hereditary disease.

### OLDER AMERICANS

In vetoing this legislation, President Ford once again has demonstrated his callous unconcern for the elderly of this Nation. The vital programs which operate at the Federal, State, and local levels, as a result of the Older Americans Act, have again been jeopardized, by this capricious act. Over 2 million of my constituents might be forced to lose the benefits of a hot meal program, lose the income they could receive from a community service job program, and lose hope and dignity.

My vote to override the President's veto will also be cast on behalf of the older citizens of this country, whose daily lives are touched by the programs we have established to meet their needs. We will be able to provide 22,600 jobs for the older citizens under the title IX community service employment program with the appropriation of $90.6 million. This is not excessive. The Older Americans Act programs, I believe, are funded at the appropriate levels: $12 million for model projects which includes the legal services program which I helped launch; $17 million for State agencies on aging; $123 million for area agencies on aging which is the very link to the isolated older citizens who are in need of services. The title VII nutrition program, which provides a hot meal in a congregate setting, is funded at $203.5 million with a spending limit of $225 million. To Californians this means almost 30,000 meals per day being delivered to the needy. Lastly, $20 million has been appropriated for the multipurpose senior centers—a concept whose time has finally come.

There is a myriad of services programs and research projects which will be stymied if we are not successful in letting the President know we think his veto was an act against compassion. For the President to say that the bill is inflationary is for him to also say that it does not cost more every year to provide the same services to those hurt the most by inflation. Mr. Ford has stated that the cost of this bill is far above his requested budget—but I must remind those who vote with the President that he had specifically requested, for many titles, an appropriations amount which was far below the appropriated amount for fiscal year 1976.

Mr. President, with great urgency I urge all my colleagues to vote to override the veto the President made last night on these Labor-HEW appropriations. The money in this bill is scheduled for the fiscal year beginning tomorrow. With his veto, the President stated that this bill was "a perfect example of the triumph of election-year politics over fiscal restraint and responsibility." I do not think Americans appreciate the President playing politics with appropriations for critical human needs. I will vote to override this veto because I believe helping to make the citizens of this country healthier and more educated, also makes for a healthier Nation and a healthier economy.

Mr. ROTH. Mr. President, I had originally voted against the Senate version of the Labor-HEW appropriations to show my extreme concern that no action was taken to curb the serious issue of racial quotas being forced upon schools by the courts and by HEW. I was also concerned that the overall spending level in the Senate bill was too high.

I am today voting to override the President's veto of the conference bill. Although I am still disappointed that no action is being taken to curb court-ordered busing, the final version of the bill does reduce the spending level by $548 million. Most importantly, it is so late in the session that I believe a veto would have a disruptive impact on the many important programs in the bill. If the veto is upheld, important health, education, and senior citizen programs would have to be funded at last year's level. This would mean that no allowance would be made for inflation. I do not think this would be fair to our schools at home which are also faced with inflation, and I think it would seriously hamper our efforts in the fields of cancer, heart and lung research, mental retardation, and education for the handicapped.

Mr. MATHIAS. Mr. President, I rise in support of the effort to override the President's veto of H.R. 14232, the Labor-HEW appropriations bill for fiscal year 1977. As a member of the Senate Appropriations Committee, I know that my colleagues worked extremely hard to keep the HEW appropriations level as low as possible and still achieve some degree of adequacy in meeting the demands for HEW programs. This bill may be $4 billion over the President's budget request, but it is $10 billion under the congressional budget ceiling for fiscal year 1977. Although a large portion of this $10 billion surplus will be required for higher education, vocational education and health manpower programs which will be funded in a supplemental appropriations bill next year, I am confident that Congress will be able to stay within the budget ceiling without rejecting the funding levels contained in H.R. 14232.

When the administration presented the Labor-HEW budget for fiscal year 1977 in January of this year, the economy appeared to be improving with unemployment slowly decreasing and inflation holding steady. These conditions, had they continued, may have eased the demands for Federal assistance programs, many of which are funded by this bill. However, unemployment did not continue to decrease. It has risen in the last few months. Inflation is still 6 percent, and now we have reports of the economic indicators forecasting a decline in the economy. These economic conditions hurt the greatest those who are least able to cope with them—the poor, the elderly, the disabled, the unemployed. H.R. 14232 contains funding for job training, community services for the elderly, and rehabilitation programs for the disabled. The needs for these programs have increased since the administration's budget was proposed, and while Congress has attempted to meet those needs, the administration has demonstrated insensitivity to them and the people they serve.

Our Nation's health care system has come under attack from several directions. Stories of medicaid abuses have hit the front pages of newspapers across the country. Health care providers are under fire for high fees and inadequate services. Health care costs increase each year several times more than the average cost of living. Yet, we in Congress cannot allow these problems to reduce our support for the vital health research and manpower programs contained in H.R. 14232. In this bill are funds for maternal and child health programs, alcohol and drug abuse research and facilities, cancer, heart and other potentially lifesaving research programs, and a significant increase in support for the National Institute of Environmental Health Sciences which is exploring the relationships between where we live and work and disease. I believe that this country can and must provide adequate health care to all people at a reasonable cost. Reducing Federal support for the research and delivery programs contained in this bill will not help us to achieve that goal.

This year, we have been besieged with reports that children leaving our school systems today are less prepared to "make it" in today's society than ever before. Some testing results indicate that many children cannot read, write, or do math adequately to buy food, read maps, or understand application forms. I believe, however, that the vast majority of State and local school systems are trying their best to reverse this trend with increased emphasis on basic skills and new and innovative testing programs to identify those students who need special assistance and evaluate the performance of the school system.

Failure to enact H.R. 14232 will have a severe impact on State and local school systems' ability to cope with the increasing demands placed on them. State and local budgets are strained to the limit now, and a reduction in Federal support for education programs could easily break many of them—with the victims being not just the children currently in school, but the entire Nation.

I ask unanimous consent that a September 24 letter to the Maryland congressional delegation from Dr. James A. Sensenbaugh, State Superintendent of Schools, Maryland Department of Education, which fully outlines the possible impact of this veto on the State of Maryland be printed in the RECORD at the end of my remarks.

Of particular concern to me is the impact this veto would have on education for handicapped children. Every child in America has the right to a free and appropriate public education. Millions of handicapped children across the country have not been given that right. Over the past few years, many States, some under pressure by court order, have made great strides to reach the handicapped children within their borders, while facing the significant costs involved and inadequate and uncertain Federal funding. I am proud of my sponsorship of the amendment to the Education Act Amendments of 1974 which provided grants to States for education of handicapped children in public schools. I was pleased with the enactment of the Education for All Handicapped Children Act of 1975 which insures the right of every handicapped child to a free, appropriate education. The Federal Government has now made a commitment to these children.

The appropriations bill contains $467,625,000 for education for the handicapped programs, including $315 million for State grants. This funding is vital if the States are to provide the special teaching and facilities needed for our 8 million handicapped children. Sustaining this veto would be a default on Congress commitment to these children.

I ask unanimous consent that a September 27 letter from Mrs. Doris Francis, legislative coordinator for the Maryland State Federation of Chapters of the Council for Exceptional Children detailing the impact of this veto on education for the handicapped programs be printed in the Record at the end of my remarks.

The HEW appropriations bill contains $1.9 billion for the Older Americans Act and vocational rehabilitation programs. These programs help elderly and disabled individuals increase their social and economical independence. The programs for the aging include recreation, nutrition, and home services—all of which ease the pressures on the elderly to enter nursing homes. Rehabilitation programs help disabled people to acquire self-reliance and marketable job skills so that instead of the Government supporting the disabled with welfare payments, the disabled will support the Government with income taxes deducted from salaries.

Mr. President, both the education and regular HEW appropriations bills for fiscal year 1976 were vetoed, and the vetoes were overridden by Congress. Now, the Labor-HEW appropriations bill for fiscal year 1977 has been vetoed, and the House of Representatives has overridden that veto by a vote of 312 to 91. I believe that America's greatness has grown from our compassion as individuals and as a nation for those less fortunate and unable to cope with the demands of a complex world. The Senate can reaffirm our commitment to the health, education, and welfare needs of our people by overriding this veto.

Mr. President, I ask unanimous consent to have printed in the Record certain correspondence in connection with this matter.

There being no objection, the material was ordered to be printed in the Record, as follows:

MARYLAND STATE DEPARTMENT OF EDUCATION,
*Baltimore, Md., September 24, 1976.*

Re H.R. 14232.

*To the Maryland Congressional Delegation:*

This letter is to support H.R. 14232, the F.Y. '77 Labor-H.E.W. Appropriation Act. If the President vetoes this bill, we urge you to vote to override the veto.

Attached is a brief analysis of the major programs of federal aid which benefit the public schools, libraries and vocational rehabilitation services of Maryland. In many instances Congress has provided for advanced funding of these programs which means that our teachers, librarians and administrators have one year to plan for the most effective use of federal aid before implementing the program. This significant improvement, for which you are responsible, would be damaged by a successful veto.

For the disadvantaged and the handicapped, the funds in this bill are essential. For example, funds for the disadvantaged would increase to $37,700,000 from $33,700,000 in the Elementary and Secondary Education Act if the veto is overridden. Funds for the handicapped would increase to $6,000,000 from $3,800,000 under Part B of the Education of the Handicapped Act if the veto is overridden.

Your continued support of education is very much appreciated.

Sincerely yours,
JAMES A. SENSEBAUGH,
*State Superintendent of Schools.*

Attachment.

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### WHAT H.R. 14232 MEANS TO MARYLAND PUBLIC SCHOOLS, VOCATIONAL REHABILITATION AND LIBRARIES

Educationally Deprived Children.—The Maryland allocation for the 1976–77 school year for programs under Title I of the Elementary and Secondary Education Act is $33,700,000. These programs currently serve 67,000 children identified as having special educational needs out of an estimated 200,000 educationally disadvantaged children in the State. The 1977 Labor-HEW Appropriations bill, H.R. 14232, would increase the funding of Title I programs in Maryland to $37,700,000, an amount which would provide educational services to approximately 75,000 children with special educational needs during the 1977–78 school year. On the other hand, the President's budget would allocate to Maryland only $31,500,000 for these programs, sufficient to serve only 63,000 children. If Congress is unable to override an expected Presidential veto, 12,000 children would not receive the extra help they need to fulfill their potential as students and citizens.

It would be untimely to cut a program which is designed to improve achievement in the basic skills at a time when there is growing evidence and public concern about low student achievement. Standardized tests show that the percentage of third grade Title I participants in Maryland who achieved a year's growth in reading skill for a year of instruction increased from 31 percent in 1974 to 42 percent in 1975. During this same period, the average rate of yearly growth in reading skill for third grade Title I students increased from seven to nine months, thus approaching the growth rate of their more advantaged peers. It is clear that the Title I program is becoming more effective in closing the achievement gap.

Reducing the funds as proposed by the President would not only slow this progress but would prevent the necessary expansion to include those children identified as disadvantaged but not being served. For these reasons, it is essential that Congress override the President's veto.

Impact Aid.—Impact aid is money paid by the federal government to local school systems to help with the cost of providing programs for all children in school districts where a substantial portion of the public population comes from families where parents live or work on federal property. Local schools are supported largely through local property taxes, yet federal installations are not subject to this tax.

Maryland is scheduled to receive $31,800,000 in impact aid funds in FY 1977 if H.R. 14232 becomes law. Without H.R. 14232, Maryland will only receive $6,800,000. Thus, Maryland will lose about $25,000,000 if the veto is not overridden. The loss of these monies would mean that local taxes would have to be raised or services cut in the regular education program.

Public Libraries.—H.R. 14232 means that for public library services under the Library Services and Construction Act Maryland would receive approximately $1,100,000. These funds will provide for the further development of services to the disadvantaged and other persons with special needs such as the blind and physically handicapped and homebound and those who need information and referral to the services and resources of other community agencies. Funds also provide greater access to the resources of all libraries through interlibrary cooperation, network and delivery systems. The financial resources of local and State government need to be augmented by Federal funds for these services to meet special user needs. Last year, Maryland received $900,000 under LSCA Title I. Unfortunately, the President requested no funds for this program in 1977.

School Libraries.—Funds for school libraries and instructional resources available under Title IV, Part B of the Elementary and Secondary Education Act are needed in Maryland to provide the materials and the guidance and counseling services needed to address the critical educational needs of students with reading deficiencies and other problems that lead to lack of achievement in school. H.R. 14232 means that Maryland would receive $3,000,000 for this program. Last year Congress appropriated $2,900,000 for ESEA IV–B. Under the President's requested budget, only $2,700,000 would be available.

Vocational Education.—Maryland is scheduled to receive approximately $8,900,000 in H.R. 14232 to maintain programs under the Vocational Education Act.

Even though vocational enrollment at the secondary, postsecondary, and adult levels continues to show a pronounced growth (from 31,000 pupils in 1962 to 253,000 pupils in 1976), there needs to be served an additional 15% at each level in order to adequately prepare Maryland's students to enter an occupation in which their skills will be saleable.

If the President vetoes H.R. 14232, Maryland will lose more than $1,000,000 compared to its 1976 allocations for this program. At an average allocation of $40 of federal funds per student, in Maryland this would mean that over 24,000 individuals would be denied the option of choosing vocational education services. If Congress overrides the expected Presidential veto of H.R. 14232, Maryland would be able to just maintain, if not increase, its present vocational education programs.

The minimum maintenance level provided in H.R. 14232 cannot, of course, provide for the needs expressed by thousands of Maryland students who seek enrollment in prevocational exploratory programs, apprenticeship programs, or who need specific and concentrated vocational guidance services. Any reduction in appropriations for Vocational Education therefore means that thousands of students of all ages, abilities and circumstances will be denied the opportunity to discover that they can succeed in acquiring the skills necessary for economic self-sufficiency.

Adult Education.—Maryland's allocation in H.R. 14232 amounts to $1,500,000. This amount represents a modest $200,000 increase over the grant of $1,300,000 received in the current year.

During 1976, we were able to serve a statewide total of 23,858 adults from the counties of Maryland, Baltimore City, and the correctional institutions. The number of program participants represents a 26.7% increase over the previous year's registration.

Undereducated adults are hard to reach without the use of non-traditional recruitment techniques. The 26.7 percent increase is a testimony in itself to applaud the efforts across the State to attack a major social, economic, and psychological problem affecting family and community life in our state and nation.

Vocational Rehabilitation.—Maryland is scheduled to receive more than $11,000,000 in H.R. 14232 for vocational rehabilitation of the handicapped. This is a non-inflationary increase at approximately $300,000 or 2.8% over 1976 funds. Last year it cost $1,800 to rehabilitate one client. These additional funds will enable Maryland to rehabilitate 166 more people, who will become workers and tax payers.

Advance funding is essential for good planning and proper expenditure of funds. Failure to override the veto will result in less service to the handicapped citizens of this State.

Handicapped Children.—Maryland is scheduled to receive more than $6,000,000 in H.R. 14232 for handicapped children. The infusion of federal moneys has enabled the establishment of needed educational programs for handicapped children in the State and assisted in the increase from 81,000 handicapped children served in 1976 to over 90,000 in 1977. Through federal and state legislation, the full services goal for all handicapped children must be met by 1980. An increase in federal funds in fiscal year 1978 will assist Maryland in reaching that goal by training special education and regular teachers, developing programs for unserved severely and profoundly handicapped children, implementing programs for the severely handicapped inadequately served and establishing programs for unserved preschool handicapped children age three and four. Failure to override the veto would reduce Maryland's funds by over $2,100,000.

Innovation and Support.—Maryland would receive $3,610,000 for Educational Innovation and Support programs under Title IV, Part C of the Elementary and Secondary Education Act for the 1977–78 school year if H.R. 14232 is enacted. This is $200,000 more than the allocation for the 1976–77 school year. The President's budget request would maintain the current funding level for the State while reducing the national amount for this program by $12,000,000 according to figures compiled by the U.S. Office of Education.

These funds provide programs in areas established as educational priorities by the Maryland State Board of Education: basic skills, disruptive youth, dropout prevention, early childhood education, and education of the handicapped. Currently, approximately 45,000 students are served directly in these programs, which also provide training for thousands of teachers in all regions of the State. In addition, some funds are used for assisting the State and the local education agencies in performing their leadership functions related to the project areas.

The additional funds which would be provided by the 1977 Labor-HEW Appropriation bill would enable local school systems to increase their efforts to find effective methods of solving the most difficult problems in education today. Compared to the President's budget request, the Conference Committee amount would enable four more school systems to develop projects in areas identified as critical in those localities.

MARYLAND STATE DEPARTMENT
OF EDUCATION
*Office of Federal-State Liaison.*
SEPTEMBER 24, 1976.

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THE COUNCIL FOR EXCEPTIONAL
CHILDREN, MARYLAND STATE FEDERATION OF CHAPTERS,
*September 27, 1976.*

Hon. CHARLES McC. MATHIAS, Jr.,
*Russell Senate Office Building,*
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR MATHIAS: I am writing you with regard to the forthcoming Presidential action on H.R. 14232, the Departments of Labor and HEW Appropriations Act, for fiscal 1977. In the event of a Presidential veto of H.R. 14232, I urge that you cast your vote to override this veto for the following reasons:

The current provisions of P.L. 94–142, the Education of All Handicapped Act, are contained in this vital appropriation bill. It is only in the past few years that federal appropriations for the education of the handicapped have been of sufficient amounts for the states to realize any significant impact on such educational programs. In the State of Maryland alone, the federal appropriations in the Grants portion of the Act has risen from $910,216 in 1974 to $1,910,231 in Fiscal 1976, and under the allocation provided for in H.R. 14232 would increase to approximately $3,883,122 in fiscal 1977.

Additionally, the State of Maryland receives approximately $4,000,000 in the discretionary funds under P.L. 94–142, the Education of All Handicapped Act, to provide for the training of professional personnel, including the severely and profoundly handicapped; programs and services for the deaf-blind; model demonstration programs for the severely and profoundly retarded and for the severely auditorily impaired; training models for assisting regular classroom teachers to work with the handicapped; and Regional Direction Services, only to enumerate some examples.

As you are clearly aware, the State of Maryland is under mandate by the laws of both the federal and state governments, as well as by the Court Decree handed down by Judge Raine in the case of MARC vs. the State of Maryland to provide appropriate educational programs for the handicapped whether this be in public schools or in the back wards of Rosewood Hospital Center.

We are making the ultimate efforts to provide these programs. Local and State financial efforts have increased significantly. However, we are greatly dependent on the funds contained in H.R. 14232 to maintain, expand, and improve educational programs for the handicapped children and youth in the State of Maryland. Programs for which they are entitled to humanely and constitutionally.

Don't let the momentum stop at this very crucial stage in providing educational programs for all the handicapped children not only in the State of Maryland but also throughout the nation. Vote to override a Presidential veto of H.R. 14232 should such occur.

Thank you for supporting educational programs for the handicapped.

Sincerely,

(Mrs.) DORIS P. FRANCIS,
*Legislative Coordinator.*

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## PRESIDENT'S VETO OF LABOR-HEW FUNDS REJECTS WELL-BEING OF MILLIONS OF AMERICANS AS A NATIONAL PRIORITY

Mr. HUMPHREY. Mr. President, yesterday, President Ford vetoed one of the most important measures passed by this Congress, the Labor-HEW appropriations bill, H.R. 14232.

I am appalled at such blatant indifference to the basic needs of millions of Americans, especially those who most deserve our compassion and care.

This veto confirms the low priority the Ford administration has consistently assigned to the well-being of the citizens of this country.

This veto summarily dismisses months of consultation, study, and effort by the people's representatives in these two great bodies, and the consensus of the majority that a good and effective bill had been forged.

This bill challenges congressional efforts to act promptly and responsibly so that vital programs can be planned ahead and operated efficiently and economically. If this veto stands, dozens of vital programs will be disrupted and thrown into uncertainty, undermining their ability to deliver essential services—and this disruption itself will cause an extensive waste of taxpayers' money previously invested in these programs.

In the face of the tremendous needs for job training and safety, for support to health and education programs, for medical research and aid to the aged, the ill and the poor, this bill is austere. Guided by firm and tight congressional budget resolution, Members of both Houses made many difficult decisions, in an attempt to make every dollar buy the best possible package of goods and services for the most Americans.

What are the programs that would be jeopardized, crippled or killed by President Ford's veto?

Maternal and child health care is one. This program has demonstrated its ability to reduce an infant mortality rate that remains shockingly high in large geographical areas and population groups. Reducing this rate is the very definition of a developed nation. The prenatal and infant care supported by this bill will prevent thousands of tragic birth defects and brain damaged children. Is this a cost or an investment? And can it be optional for a civilized nation?

The NIH research institutes, funded under this bill, are the spearhead of our battle against the major killers and disablers of Americans. Is this item dispensable?

What are some of the other programs that this veto would cut and cripple?

They include carefully thought out efforts in preventive health care, including funds to support immunizations, control venereal disease, and conduct health education programs.

They support elementary and secondary education, including aid to disadvantaged children, vocational education, aid to school districts beleaguered by rising costs, and they extend to handicapped youngsters the special help they need to find personal and social fulfillment.

This bill is a positive program painstaking developed by a Congress that cares about the problems that blight and destroy millions of lives yearly, that waste precious and irreplaceable human resources, that deny millions of children and adults the opportunity to enjoy a full, rich, and productive life.

This bill assigns human beings top

priority, and says that within our limited means, we will not write off and discard the aged or distressed who need our help.

It says we are one nation, indivisible, not just a haven for the rich and fortunate, but a nation responsible and responsive to every citizen.

It says a measure of our national success is the care and the education we provide to the youngsters who will be our future citizens and leaders.

The Ford administration has repeatedly tried to justify, or compensate for, its economic mismanagement by shifting the budgetary burden to those who can least afford it and who are least able to speak for themselves and influence Government decisions.

Congress rejects this evasion as irresponsible and dishonest, as it has rejected the President's previous vetoes of essential appropriations. And while President Ford congratulates himself on his efforts to save money, we can congratulate ourselves on our efforts to save lives, and enrich the quality of our national health and education, and yes, save money.

Because we will be saving money that otherwise would be spent on untreated illness, lost in unnecessary work absences, never earned by youngsters who grow up untrained and ill-educated, or spent in trying to cure illnesses and disabilities that could have been prevented if mothers and children received timely care and attention.

I urge my colleagues to act again to undo the harm and the havoc that could result from this ill-considered action by President Ford, and to reaffirm our strong support for this Nation's needy, and for a quality of health, research, welfare, and education worthy of a great and humane nation.

**Mr. MUSKIE.** Mr. President, once again we have been presented with a veto of a Labor-HEW appropriations bill. And once again the message claims that the veto is needed to control Federal spending and dampen the fires of inflation.

Mr. President, these arguments did not hold water last January when we overrode the veto of the 1976 Labor-HEW bill, and they make even less sense today. Only last week I placed a statement in the Record detailing congressional performance in management of the economy and the Federal budget. I think the record is clear that Congress has successfully stimulated the beginning of economic recovery, while at the same time keeping a tight rein on the budget. There has been no sign of a renewed upward surge in prices at the rates experienced in 1974 and 1975, but there has been an upsurge in unemployment to 7.9 percent in August.

I think my colleagues should consider the real meaning of President Ford's veto as they decide how to vote on the override attempt. The President's message masks the real issue—the issue of budget priorities.

If you look at overall budget totals, the congressional budget is not much larger than the President's. The deficit is only $3.1 billion higher, a gap that is more than accounted for by spending for temporary job creating programs which the Congress proposes and the President rejects. Moreover, the difference is less than 1 percent of Federal spending, which is below OMB's threshold of accuracy in estimating based on their performance in gaging spending for fiscal 1976 and the transition quarter.

What President Ford really objects to is not the level of the budget adopted but the priorities within that budget. He states that the Labor-HEW bill provides $4 billion more for these programs than he requested. As my colleagues know, we adopted a budget based on congressional priorities for each of the functions of Government. The $56 billion Labor-HEW bill is in accord with those priorities. This means that we have chosen to spend more than the President wants for biomedical research, for training and rehabilitation, and for elementary and secondary education grants. I know of no reason for Congress to turn away from these priorities, and I urge my colleagues to uphold them with a vote to override this veto.

**Mr. PASTORE.** Mr. President, I associate myself with the remarks of the manager of the bill, the distinguished senior Senator from Washington (Mr. Magnuson), who again has put in so much time and energy over the past 7 months into this very important bill. The staff, under the direction of Harley Dirks, also deserves our thanks for their very fine efforts.

Mr. President, this bill provides for the most helpless of our citizens—the handicapped, the aged, the infirm, the sick, the crippled, the unemployed, and the little children who will someday be standing in our place and who will provide the future leadership of this country.

It is simply wrong to shortchange these, our less fortunate fellow citizens.

We hear from the other end of Pennsylvania Avenue that the country cannot afford a $3.2 billion increase in these programs that provide for the health and education of our citizens.

We are told that this bill is inflationary and that we should accede to the administration's demands that the 1977 Labor-HEW budget be cut below the 1976 level.

Where were these same people who now cry inflation—where were they earlier this month when we voted a $12 billion increase over last year for the Defense Department? We did not hear a word then about inflation. In fact, all we heard were squeals of anguish from the other end of Pennsylvania Avenue, because we did not give them the full $15 billion increase they wanted.

It seems to me that since we shaved $3 billion from the defense budget, we should put the savings back into the HEW budget.

This is not inflation. This is a reordering of priorities. That is our job. That is why we are sent here.

I hope my colleagues will vote to override the veto and send a message to the White House and to the people of this Nation that we in the Congress care.

**Mr. PACKWOOD.** Mr. President, I regret that I must vote to sustain President Ford's veto of the Labor-HEW appropriation bill. While I had originally supported this piece of legislation and still support most of the programs in it and the appropriations for those programs, I cannot in good conscience support this bill because of the provision added in the conference with the House prohibiting the use of Federal funds for abortion.

Many times when we vote for or against bills, or for or against sustaining vetoes, we weigh the good against the bad and cast our votes in accordance with whether we think there is more good than bad in the bill. In this particular case I regard the addition of the prohibition on the use of Federal funds for abortion as so immoral, so distasteful, and so clearly unconstitutional that I cannot support the entire bill. It is my hope the veto will be sustained and a new bill will be passed with the bulk of the appropriations intact but that the unconscionable limitation on the use of Federal funds for abortion will be eliminated.

**The PRESIDING OFFICER.** All time has expired.

The hour of 4:10 p.m. has arrived.

The question is, Shall the bill (H.R. 14232) pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory under the Constitution.

The clerk will call the roll.

**Mr. MAGNUSON.** Mr. President, a parliamentary inquiry.

**The PRESIDING OFFICER.** The Senator will state it.

**Mr. MAGNUSON.** The rollcall will go on for 1 hour, is that correct?

**The PRESIDING OFFICER.** The Senator is correct.

**Mr. MAGNUSON.** And at 5:10 the Chair will be able to announce the result?

**The PRESIDING OFFICER.** At 5:12 the Chair will announce the vote.

**Mr. MAGNUSON.** Any Senator may cast his vote between now and 10 minutes after 5?

**The PRESIDING OFFICER.** The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

**Mr. McCLELLAN.** (After having voted in the negative.) Mr. President, on this vote, I have a live pair with the Senator from Wyoming (Mr. McGee) and the Senator from New Mexico (Mr. Montoya). If present and voting, they would vote "aye." If I were free to vote, I would vote "nay;" therefore, I withdraw my vote.

**Mr. ROBERT C. BYRD.** I announce that the Senator from Texas (Mr. Bentsen), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), and the Senator from New Mexico (Mr. Montoya) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Hawaii (Mr. Inouye), and the Senator from Montana (Mr. Mansfield) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from Alaska (Mr. Stevens), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I also announce that the Senator from Virginia (Mr. Scott) is absent on official business.

On this vote, the Senator from Tennessee (Mr. Brock) is paired with the Senator from South Carolina (Mr. Thurmond).

If present and voting, the Senator from Tennessee would vote "yea" and the Senator from South Carolina would vote "nay."

The yeas and nays resulted—yeas 67, nays 15, as follows:

[Rollcall Vote No. 684 Leg.]

YEAS—67

Abourezk
Baker
Bartlett
Bayh
Beall
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Ford
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mathias
McClure
McGovern
McIntyre
Metcalf
Mondale
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Tunney
Weicker
Williams
Young

NAYS—15

Allen
Byrd, Harry F., Jr.
Curtis
Fannin
Garn
Goldwater
Griffin
Hansen
Helms
Hruska
Laxalt
Packwood
Proxmire
Ribicoff
Tower

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClellan, against

NOT VOTING—17

Bellmon
Bentsen
Brock
Buckley
Dole
Fong
Glenn
Hart, Philip A.
Hartke
Inouye
Kennedy
Mansfield
McGee
Montoya
Scott, William L.
Stevens
Thurmond

The PRESIDING OFFICER (Mr. Gary Hart). On this vote the yeas are 67, the nays are 15. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Washington (Mr. Magnuson) without losing my right to the floor.

Mr. MAGNUSON. Mr. President, the Senator from Washington is naturally pleased with the result of this vote on the veto. After seven vetoes of the HEW bill, it is high time the Senate and the Congress did something about establishing priorities in this country on how we use our money.

I want to state that the Senator from Massachusetts (Mr. Kennedy) and the Senator from Indiana (Mr. Hartke) made every effort to be here for this vote. Unfortunately, they were fogged in, both in Massachusetts and in Indiana. If they were here, they would have voted to override the veto.

The PRESIDING OFFICER. The Senator from West Virginia.

## COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the District of Columbia be authorized to meet on October 1 to consider a nomination; and that the Permanent Subcommittee on Investigations be authorized to meet on October 1, concerning their investigation into health mismanagement fraud and abuse.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its clerks, announced that:

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3557) to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

The House disagrees to the amendments of the Senate to the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Ullman, Mr. Corman, Mr. Burleson of Texas, Mr. Burke of Massachusetts, Mr. Rangel, Mr. Steiger of Wisconsin, and Mr. Frenzel were appointed managers of the conference on the part of the House.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 1096) making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 14, 16, 17, 18, and 19 and concurs therein; and that the House recedes from its disagreement to the amendment of the Senate numbered 5 and concurs therein with an amendment in which it requests the concurrence of the Senate.

The House has passed without amendment the Senate bill (S. 3621) to amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic.

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Connecticut with the understanding that I retain my right to the floor.

## PUBLIC DISCLOSURE LOBBYING ACT OF 1976

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Senate discharge the Committee on Government Operations from consideration of H.R. 15, the Public Disclosure Lobbying Act of 1976, and that the bill be immediately placed on the calendar.

Mr. HRUSKA. Objection.

Mr. RIBICOFF. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, I yield again to the Senator from Connecticut, without losing my right to the floor.

Mr. RIBICOFF. Mr. President, it is most unfortunate that we have reached the stage when one of the most important bills facing this Congress should be placed in limbo by this objection.

Two years ago the GAO issued a highly critical report concerning the present lobbying law. It emphasized the present law's unenforcibility. It stressed the need for a total revision of the law. The GAO reported that in one quarterly filing period, 48 percent of the forms filed under the present law were incomplete, and 61 percent were filed late. Since 1946 there has been only one criminal prosecution under the present law. Since March 1972 only 5 cases have been referred to Justice.

The Government Operations Committee held 6 days of hearings in 1975, hearing from 26 witnesses, including representatives of business, labor, consumer groups, environmental organizations, charitable organizations, and the administration.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order? The Senate is not in order. Will the staff members stop their discussions?

Mr. RIBICOFF. There was generally widespread support for the revision of existing law, the Federal Regulation of Lobbying Act of 1946, which is just not working. Testimony received at the hearings suggested that only 2,000 or 20 percent to 40 percent of the 5,000 to 10,000 persons who should register as lobbyists actually do so under the present law. The testimony suggested that more than $1 billion a year may be spent on lobbying, yet only a fraction of 1 percent of this is actually reported.

S. 2477 was drafted by the committee to provide a fair, workable substitute. It was reported by the Government Operations Committee in March 1976. It passed the Senate 82 to 9 on June 15.

In the House, the Judiciary Committee did not act on the lobbying bill until early this month. The House Ethics Committee then considered the bill for about 2 weeks. The Rules Committee voted a rule about a week ago and the House passed a bill, after 12 hours of debate, Tuesday night by an overwhelming vote of 307 to 34.

So both Houses approved legislation by large votes. I do not like everything in the House bill, I think the definition of a lobbyist in the House bill would not work out in practice to be evenhanded. It causes problems of interpretation. The recordkeeping burdens it would have placed on organizations would have been serious. There were other things that I did not like. But the bill has many good features.

During the time both bills have been under consideration, many groups have put up constant obstacles to passage of a new act. They sought delay, weakening amendments and special treatment. Efforts to achieve a fair, even-handed bill were constantly undermined by these various groups.

This year we came the closest we have for years to achieve genuine lobbying reform. Since 1913 committees in 24 separate Congresses have investigated allegations of lobbying abuses. On 12 occasions since 1946, special, joint, or select committees of Congress have examined lobbying abuses and recommended either amending the 1946 law or replacing it with an entirely new act.

This year both Houses approved comprehensive lobbying reform. But it appears that Congress and the public, after 30 years, will still not have a comprehensive effective lobbying law to replace the present act.

The Congress had a chance today to enact effective reform, but there are groups in this city who do not want any reform. They prefer the present law, which is little better than no law at all. A few special interests are denying the public the right to know about the lobbyists, which seek to influence the decisions of this body. It is an outrage that the people's business can fail in Congress because of the work of special interest groups.

When I talk about special interest groups, I talk about groups such as the National Manufacturers Association and the U.S. Chamber of Commerce. But they have an important ally in Ralph Nader. Mr. Nader, who, in my opinion, is the most effective single lobbyist in this country, did not want to be identified as someone who lobbies, and the House went along with Mr. Nader. So we have the ironical situation that Ralph Nader and the National Association of Manufacturers are in the same bed together to deny the people of America the right to know who is influencing the public's business. We reached the stage in the last 2 days of complete frustration because of the coalescence of such groups.

To me, and I think to the entire Government Operations Committee, it was our feeling that every group in America—public interest groups, business, and other special interest groups—should be treated the same. Lobbyists have a right to lobby, but the public also has a right to know who is bringing influence to bear on the duly elected representatives of our Nation. But lobbyists wanted no part of it.

This issue apparently is dead for this year but it will not go away. I can say right here and now that the first order of business when the Government Operations Committee returns next January will be this same lobbying bill.

We are going to have hearings, we are going to vote it out early in the session, and then let the special interests, the public interest groups, the National Association of Manufacturers, the AFL–CIO, the U.S. Chamber of Commerce, let them come up and stand up and be counted, and let Congress then say by their vote whether they will listen to every special-interest group in this country.

I think it is a shame that Congress has capitulated, and I feel very bad, in the closing days of this session, that an objection has been raised, so that we will not be enabled to take the House bill, put amendments on the House bill, and send it back to the House.

I think it is too bad, because we have had other bills before us that have met the same end. I see my colleague from Connecticut (Mr. Weicker). We have passed the Watergate Reform Act; it has been over in the House of Representatives for a long, long time. We sought to establish a special prosecutor and other reforms that came about as a result of the Ervin committee. The Senate acted on that legislation, and, again, there were dilatory tactics brought to bear on the House. Again this week the House Judiciary Committee could not get a quorum. Next year the Watergate bill, too, will have priority in the Government Operations Committee.

So we are faced this year with a great opportunity to enact basic reforms that are absolutely essential to assure the people of America that they will know exactly what is going on. But I feel very bad for this Congress and this country that these measures of reform have gone down the drain as a result of what has happened in the other body, and on the floor of the Senate.

## CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures that have been cleared on both sides. Mr. Griffin is here, and we will proceed, now, one by one, to attempt to transact business on those measures before proceeding to any other matter.

## REPAIR OF TYPHOON DAMAGE, GUAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1242, on page 13 of the calendar.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15136) to authorize appropriations for construction of facilities on Guam, and for other purposes,

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with amendments.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk certain amendments on behalf of Senators Symington and Tower.

The PRESIDING OFFICER. The committee amendments are to be disposed of first.

Mr. ROBERT C. BYRD. I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 1, line 11, strike "$71,400,000" and insert "$55,935,000";

On page 2, line 1, strike "$24,400,000" and insert "$22,565,000";

On page 2, line 4, strike "$95,800,000" and insert "$78,500,000";

On page 2, beginning with line 12, strike through line 18, and insert the following:

for demolition, construction, improvements, minor construction, and planning of family housing facilities on Guam an amount not to exceed $27,924,000.

On page 3, line 1, after "GENERAL" insert "AND MISCELLANEOUS";

On page 3, beginning with line 8, insert the following:

Sec. 302. (a) Chapter 516 of title 10, United States Code, is repealed.

(b) The table of chapters at the beginning of subtitle C and at the beginning of part I of subtitle C of title 10, United States Code, are each amended by striking out

"516. Naval Districts________________ 5221".

On page 3, line 13, strike "302." and insert "303.".

### UP AMENDMENT NO. 514

Mr. ROBERT C. BYRD. Mr. President, I now send to the desk an amendment on behalf of Senators Symington and Tower.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), on behalf of Senators Symington and Tower, proposes an unprinted amendment numbered 514.

The amendment is as follows:

Strike out all of section 302.

Redesignate section 303 as section 302.

Mr. SYMINGTON. Mr. President, these amendments, cosponsored by Senator Tower, reflect final authorization totals that have been informally worked out with our House counterparts. As I said in my opening comments we are pressed for time and what we have done is to reach a compromise figure which would normally be done in conference.

We want to assure our colleagues that this was done carefully and logically. The House passed authorization total was $136,173,000. The total figure reported by the Senate Armed Services Committee was $106,424,000. The compromise total reflected in this amendment is $114,312,000—an increase of $7,888,000 over the Senate Armed Services Committee recommendation and $21,861,000 less than the House passed total.

Details of the increase over the Senate Armed Services Committee recommendation are contained in the table which I ask unanimous consent be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BASIS OF SYMINGTON-TOWER AMENDMENT TO H.R. 15136

[Dollar amounts in thousands]

| Project | Budget request | Senate Armed Services Committee rec. | Amended amount |
|---|---|---|---|
| Navy: | | | |
| Berthing wharf reconstruction (P-313) | $2,450 | $500 | $1,450 |
| Wharf restoration (P-144) | 300 | 50 | 190 |
| Supply wharf restoration (P-102) | 2,460 | 500 | 1,760 |
| Foundry shop replacement (P-095) | 950 | 0 | 950 |
| Navy exchange replacement (P-161) | 1,400 | 775 | 1,000 |
| Hobby shop replacement (P-185) | 1,430 | 1,260 | 1,430 |
| Youth center (P-187) | 550 | 380 | 550 |
| Enlisted men's club (P-036) | 800 | 650 | 800 |
| Subtotal | | 4,115 | 8,130 |
| Subtotal increases over SASC figure | | 4,015 | |
| Air Force: Electrical distribution | 2,485 | 400 | 1,706 |
| Subtotal | | 400 | 1,706 |
| Subtotal increase over SASC figure | | 1,306 | |
| Navy housing: Design | 603 | 0 | 603 |
| Subtotal | | 0 | 603 |
| Subtotal increase over SASC figure | | 603 | |
| Air Force housing: | | | |
| Electrical distribution | 3,728 | 650 | 2,000 |
| S10H | 752 | 550 | 600 |
| Design | 564 | 0 | 564 |
| Subtotal | | 1,200 | 3,164 |
| Subtotal increase over SASC figure | | 1,964 | |
| Total increase over SASC figure | | 7,888 | |

| | Amount |
|---|---|
| SASC figures | $106,424,000 |
| Amendment adds | 7,888,000 |
| Revised total | 114,312,000 |
| Summary tables: | |
| Budget request | 144,864,000 |
| House allowed | 136,173,000 |
| SASC allowed | 106,424,000 |
| Amendment allows | 114,312,000 |

The amendments were agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

### WAIVER OF SECTION 402(A) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO H.R. 15136

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 566, which is the Budget Committee waiver at the desk.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 566) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 15136.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The resolution was considered and agreed to, as follows:

*Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) are waived with respect to the consideration of H.R. 15136.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

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### AMENDMENT OF 79 STAT. 213

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1283 on page 17 of the Calendar.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

An act (H.R. 15563) to amend the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601-17 (c)), and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request temporarily on that.

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### UNITED STATES AND SOVIET DEFENSE—CONSIDERATIONS FOR CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1298, on page 18 of the Calendar.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

The resolution (S. Res. 562) authorizing the printing of the compilation entitled "U.S. and Soviet City Defense—Considerations for Congress" as a Senate document.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to, as follows:

*Resolved*, That the compilation entitled "U.S. and Soviet City Defense—Considerations for Congress", prepared by the Congressional Research Service, Library of Congress, be printed with illustrations as a Senate document.

### SOVIET ECONOMY IN A NEW PERSPECTIVE

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1299, on page 19 of the calendar.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 208) authorizing the printing of additional copies of the Joint Economic Committee print entitled "Soviet Economy in a New Perspective".

The concurrent resolution was considered and agreed to, as follows:

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed for the use of the Joint Economic Committee five thousand additional copies of its joint committee print of the Ninety-fourth Congress, second session, entitled "Soviet Economy in a New Perspective".

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### UPGRADING THE POSITION OF THE UNDER SECRETARY OF AGRICULTURE TO DEPUTY SECRETARY OF AGRICULTURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 10133, which has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10133) to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional Assistant Secretary of Agriculture, to increase the compensation of certain officials of the Department of Agriculture and provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments.

Mr. ALLEN. Mr. President, I send to the desk a modification of the first committee amendment.

On behalf of the committee, I am modifying the first committee amendment to H.R. 10133 by striking therefrom any reference to the Administrator, Food and Nutrition Service, Department of Agriculture. I send to the desk the first committee amendment, as modified.

Mr. ROBERT C. BYRD. I understand the amendment has been cleared on both sides.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes as a modification of the first committee amendment an unprinted amendment numbered 515.

The amendment is as follows:

On page 2, beginning with line 23, strike out all down through line 6 on page 3, and insert in lieu thereof the following:

"SEC. 3. (a) Section 5315 of title 5 of the

United States Code is amended by striking out '(4)' at the end of paragraph (11) and by inserting in lieu thereof '(5)'.

(b) Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (55); and

(2) by adding at the end thereof a new paragraph (137) as follows:

'(137) Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.'."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. ALLEN. I ask unanimous consent that the other committee amendments be considered en bloc.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment, as amended.

The amendment, as amended, was agreed to.

Mr. ALLEN. I ask unanimous consent that the other amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the other committee amendments are considered and agreed to en bloc. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 10133) was read the third time, and passed.

## LJUDEVIT PREVIC

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 11809, that the bill be considered as having been read the first time, and that the Senate proceed to its immediate consideration. I understand this has been cleared all the way around by Mr. Stone.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11809) for the relief of Ljudevit Previc.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered. The question is on the third reading of the bill.

The bill was read the third time, and passed.

## HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5546.

The PRESIDING OFFICER (Mr. GARY HART) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 5546) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program, and the National Health Service Corps scholarship training program, and for other purposes.

(The amendment of the House is printed in the House proceedings of the RECORD of September 27, 1976.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 767, which directs the enrolling clerk to make technical changes in H.R. 5546.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 767) directing the clerk of the House of Representatives to make corrections in the enrollment of H.R. 5546.

The concurrent resolution (H. Con. Res. 767) was agreed to.

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Utah (Mr. GARN) with the understanding that I retain my right to the floor.

## PRIVILEGE OF THE FLOOR

Mr. GARN. Mr. President, I ask unanimous consent that Gordon Jones and Dan Wall of my staff be accorded the privilege of the floor during debate and vote on the Clean Air Act when it comes up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the same conditions, I yield to the distinguished Senator from North Carolina (Mr. MORGAN).

Mr. MORGAN. Mr. President, I ask unanimous consent that Bill Smith of my staff have the privilege of the floor during the debate and vote on the clean air conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the same conditions, I yield to the Senator from Illinois (Mr. STEVENSON).

Mr. STEVENSON. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order. There is much too much noise on the floor of the Senate. Staff members take their places. The Senate will be in order.

The Senator from Illinois.

Mr. STEVENSON. Mr. President, I thank the Senator for yielding.

## AUTHORIZATION FOR SELECT COMMITTEE TO STUDY SENATE COMMITTEE SYSTEM TO FILE REPORT BY NOVEMBER 15, 1976

Mr. STEVENSON. Mr. President, I ask unanimous consent that the Temporary Select Committee To Study the Senate Committee System, pursuant to Senate Resolution 109, be authorized to file a first report embodying recommendations, not later than November 15, 1976, and that, within the same time period, the chairman and cochairman, together with any cosponsors, be authorized to submit a Senate resolution embodying those recommendations, and that the resolution be referred to the Committee on Rules and Administration.

This has been cleared with both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER DISCHARGING COMMITTEE ON COMMERCE FROM FURTHER CONSIDERATION OF H.R. 10841

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 10841, a bill to amend the Intercoastal Shipping Act, 1933, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTERCOASTAL SHIPPING ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to consider H.R. 10841.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10841) to amend the Intercoastal Shipping Act of 1933, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, there is an amendment to the bill in the nature of a substitute, and I send that amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. LONG, proposes an unprinted amendment numbered 516.

The amendment is as follows:

That this Act may be cited as the "Shipping Regulatory Reform Act of 1976".

SEC. 2. The first section of the Intercoastal Shipping Act, 1933 (46 U.S.C. 843) is amended to read as follows:

"SECTION 1. (a) This Act may be cited as the 'Domestic Offshore Shipping Act'.

"(b) As used in this Act—

"(1) the Term 'Commission' means the Federal Maritime Commission.

"(2) The term 'common carrier by water in domestic offshore commerce' means any common carrier engaged in the transportation by water of passengers or property on the high seas or the Great Lakes on regular routes from port to port in noncontiguous trade. As used in this paragraph, the term 'noncontiguous trade' means any trade, traffic, transportation, or commerce—

"(A) between (i) a place in any of the contiguous 48 States of the United States and (ii) Alaska, Hawaii, or any Commonwealth, territory, or possession of the United States; or

"(B) between (i) a place in Alaska, Hawaii, or any Commonwealth, territory, or possession of the United States and (ii) any other place in Alaska, Hawaii, or any Commonwealth, territory, or possession of the United States other than a place in the same State.

"(3) The term 'general increase or decrease in rates' means any tariff change that involves increases or decreases, as the case may be, in not less than 50 percent of the rates, fares, or charges in the tariffs per trade of any common carrier by water in domestic offshore commerce if, as a direct result of such increases or decreases, the gross revenues of such carrier will increase or decrease by any amount equal to not less than 3 percent of the gross revenues of such carrier.".

Sec. 3. Section 2 of such Act (46 U.S.C. 844) is amended by—

(1) inserting "(a)", "(b)", "(c)", "(d)", and "(f)" immediately before the first, second, third, fourth, and fifth paragraphs thereof;

(2) striking out "Federal Maritime Board" and "board" at each place where such terms appear and inserting in lieu thereof at each such place "Commission";

(3) striking out in the first sentence of subsection (a) (as so designated by paragraph (1)) "That every common carrier by water in intercoastal commerce" and inserting in lieu thereof "Every common carrier by water in domestic offshore commerce";

(4) striking out in subsection (b) (as so designated by paragraph (1)) "No change shall be made" and inserting in lieu thereof the following: "Except as otherwise provided in this subsection, no change shall be made";

(5) striking out in subsection (b) (as so designated by paragraph (1)) ": *Provided,*" and all that follows through the end of such subsection and inserting in lieu thereof a period and the followiing new sentences: "No general increase or decrease in rates shall take effect before the close of the 60th day after the date on which such general increase or decrease is posted and filed with the Commission. The Commission may, in its discretion and for good cause, allow any such change to become effective and any such general increase or decrease to take effect prior to the expiration of the applicable time period specified in this subsection. Any schedule or change which provides for the extension of actual service to any additional port, at the rates of the carrier involved for similar service already in effect at the nearest port of call to such additional port, shall take effect immediately upon the submission of notice thereof to the Commission."; and

(6) inserting immediately after subsection (d) (as so designated by paragraph (1)) the following new subsection:

"(e) The Commission shall, by regulation, require each common carrier by water in domestic offshore commerce to maintain such records and to submit to the Commission such reports, as the Commission may reasonably require, including annual reports which give an account of the affairs of such carrier in such form and detail as the Commission prescribes. The statistics, tables, and figures contained in any such reports shall be preserved as public records in the custody of the Secretary of the Commission and shall be received as prima facie evidence of what they purport to be.".

Sec. 4. Section 3 of such Act (46 U.S.C. 845) is amended by—

(1) striking out "board" at each place where such term appears and inserting in lieu thereof at each such place "Commission";

(2) inserting "(a)" immediately before "Whenever" at the beginning of the first paragraph thereof;

(3) amending subsection (a) (as so designated by paragraph (1)) by—

(A) striking out "complaint" each place it appears therein and inserting in lieu thereof "protest";

(B) striking out the colon after "practice" and inserting in lieu thereof a period; and

(C) striking out *"Provided, however,"* and all that follows through the end of such subsection and inserting in lieu thereof the following new sentences: "The Commission shall not order a hearing pursuant to this subsection—

"(1) upon its own initiative unless the Commission publishes in the Federal Register the reasons, in detail, why it considers such a hearing to be necessary; or

"(2) upon protest unless the Commission finds, on the basis of the facts set forth in the verified protest, that the protestant has established that—

"(A) the proposed rate, fare, charge, regulation, or practice (or part thereof) may cause substantial injury to the protestant, and

"(B) it will likely prevail on the merits.

For purposes of facilitating the administration of this Act, the Commission shall, within 540 days after the date of enactment of the Shipping Regulatory Reform Act of 1976, by regulation, prescribe guidelines for the determination of what constitutes a just and reasonable rate of return or profit for a common carrier or common carriers by water in domestic offshore commerce. The Commission shall, thereafter, periodically review such guidelines and prescribe such amendments thereto as may be appropriate.";

(4) by striking out the second paragraph thereof and inserting in lieu thereof the following two new subsections:

"(b) Pending a hearing and decision under subsection (a), the Commission may, except as otherwise provided in this subsection, suspend, in whole or in part to the extent that a protestant has made a showing pursuant to (subsection (a)(2)), the operation of the schedule involved and defer, in whole or in part, the use of any new rate, fare, charge, classification, regulation, or practice. Any such suspension shall not be for a longer period than 180 days beyond the time when such charge would otherwise have gone into effect. The Commission may not, at any time, suspend—

"(1) any tariff schedule or change which provides for the extension of actual service to any additional port, at the rates of the carrier involved for similar service already in effect at the nearest port of call to such additional port; or

"(2) the operation of that portion of any changed rate, fare, or charge representing an increase or decrease of 5 percent or less and filed as part of a general increase or decrease in rates,

except that the aggregate of such changes exempt from suspension shall not exceed 5 percent during each period of 12 consecutive months following the date of the enactment of the Shipping Regulatory Reform Act of 1976.

Nothing in this subparagraph shall be construed as establishing a presumption that any increase or decrease in excess of 5 percent is not just and reasonable, or that any increase or decrease of less than 5 percent is just and reasonable.

"(c)(1) At any hearing under this section, the burden of proving that a rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the carrier involved. The Commission shall give such hearing and decision preference over all other matters pending before the Commission and shall make its decision at the earliest practicable time. The Commission shall complete any hearing under this section within 60 days; the initial decision resulting therefrom, if any, shall be submitted in writing to the Commission within 120 days; and the Commission shall issue a final decision thereon within 180 days. The 60-day, 120-day, and 180-day periods referred to in the preceding sentence shall each begin on the day on which such rate, fare, charge, classification, regulation, or practice first takes effect or, in the case of suspended matter, on the day on which such matter would have otherwise gone into effect. The Commission may, in its discretion and for good cause, extend any such time period or suspension period for a period of not more than 60 days, if three or more Commissioners agree to such an extension. If any such extension is granted, the Commission shall report thereon in writing to the Congress within 10 days after the granting of such extension. Each such report shall include—

"(A) a full explanation of the reasons for such extension,

"(B) a statement of the issues involved in the matter before the Commission,

"(C) the names of the personnel of the Commission working on such matter, and

"(D) a record of how each Commissioner voted with respect to such extension.

If a final decision is not issued by the Commission within the 180-day period, or by the end of any extension period, such rate, fare, charge, classification, regulation, or practice shall, for purposes of this section, thereafter be deemed to be just and reasonable; except that, (i) if the Commission finds that it is unable to issue a final decision within such period or within such extension, due to delays which are directly attributable to the proponent of such rate, charge, classification, regulation, or practice, the Commission may disapprove such rate, fare, charge, classification, regulation, or practice, upon the expiration of such period of extension, and (ii) this provision shall not preclude any remedies available pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. 801 et seq.). Notwithstanding any other provision of law, in providing a hearing for the purposes of this section, it shall be adequate to provide an opportunity for the submission of all evidence in written form, followed by an opportunity for briefs, written statements, or conferences of the parties. Any such conference may be chaired by an individual Commissioner, an administrative law judge, or any designated employee of the Commission.

"(2) If the Commission finds, as a result of any proceeding under this section, that any unsuspended portion of any increase in the operating revenues of a carrier resulting from a new rate, fare, charge, classification, regulation, or practice is not just and reasonable, the Commission shall order such carrier to refund to any person, who was charged on the basis of such increase before the date of the decision by the Commission thereon, an amount equal to that portion thereof found to be not just and reasonable plus interest on such amount computed on the basis of the average yield, in effect on the date such general increase was filed, of marketable securities of the United States having a duration of 90 days.".

Sec. 5. Section 5 of such Act (46 U.S.C. (b)) is amended by striking out "are extended" and all that follows through "Shipping Act, 1916, and".

Sec. 6. Section 7 of such Act (46 U.S.C. 847) is redesignated as section 6 thereof.

Sec. 7. Section 8 of such Act (46 U.S.C. 848) is repealed.

Sec. 8. (a) Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding at the end of part I thereof the following new section:

"Sec. 106. Congressional Access to Information.—(a) Whenever the Commission submits any written budget estimate, budget request, or related information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(b) Whenever the Commission submits any legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the

United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(c) Whenever the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce of the Senate makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee. Whenever the Commission transfers any document in its possession or subject to its control to any person or any other governmental entity, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission so that the Commission can comply with the requirements of this paragraph. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, or any copy thereof.".

(b)(1) The Federal Maritime Commission (hereafter in this subsection referred to as the "Commission") shall, in cooperation with the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, and any other interested department, agency, or instrumentality of the Federal Government—

(A) make a full and complete review and study of the law of the United States relating to the Commission for the purpose of formulating and recommending to the Congress legislation that would better achieve the purposes for which the Commission was established by reorganization plan; and

(B) review, study, and make recommendations for revision and codification of the statutes and other lawful authorities administered by or applicable to the Commission or otherwise set forth in title 46 of the United States Code, including the review of any existing proposals relating to the codification of such title 46; the repeal, transfer, consolidation, and modification of any particular provisions and portions thereof; any changes and modifications in the organization and structure of such title 46 and in the technical presentation of matters included therein; and such changes in the authorities delegated, the functions prescribed, and the structure and procedures mandated or authorized as the Commission believes may coordinate, make more understandable, and modernize the laws of the United States relating to shipping in order to facilitate effective and fair administration thereof and to enhance commerce and protect consumers.

(2) The Chairman of the Commission, if three or more Commissioners agree, may appoint and compensate a qualified individual to serve as the director of the Commission's law revision activity under this subsection. Such person shall be appointed without regard to the provision of title 5, United States Code, governing appointments in the competitive service, but at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title. The director shall serve as the Commission's reporter and shall, subject to the direction of the Commission, supervise the preparation of reports and the activities of applicable personnel. Individuals may be employed by the Commission on a full- or part-time basis for purposes of assisting in, or contributing to, law revision activity provided for under this subsection, without regard to the civil service laws. Any department, agency, or other instrumentality of the Federal Government shall, to the extent of available resources and upon a written request from the Chairman of the Commission, make available to the Commission such qualified personnel (with their consent and without prejudice to their position and rating), services, facilities and information as may be necessary or appropriate to assist in achieving the purposes of this subsection.

(3) The Commission shall establish an Advisory Committee on Law Revision to advise and consult with the Chairman and other Commissioners and with its law revision staff. Except as otherwise provided in this paragraph, the members of such Advisory Committee shall be appointed by the Chairman of the Commission and shall be individuals who are especially qualified, by reason of knowledge, experience, or training, to assist in law revision activity under this subsection. The Chairman of the Commission, the Secretary of Commerce, and the Secretary of the department in which the Coast Guard is operating (or their duly designated representatives) shall be members of such Advisory Committee ex officio.

(4) The Commission shall invite, and afford interested persons and other governmental entities an opportunity to submit, comments and recommendations with respect to some or all of the law revision activity described in subparagraphs (A) and (B) of paragraph (1). The Commission shall evaluate and consider all responses and submissions received by it with respect to such law revision activity. The Commission shall coordinate its law revision activity under this subsection with any such activity conducted by the Office of the Law Revision Counsel of the House of Representatives or the Congressional Research Service of the Library of Congress. Each department, agency, and independent instrumentality of the Federal Government shall cooperate with, assist, and make appropriate presentations, to and reviews for, the Commission.

(5) The Chairman of the Commission shall submit to the Congress and the President—

(A) a preliminary report with respect to law revision activity under this subsection, including a statement indicating what, if any, additional legislative or other action is necessary to implement this subsection, not later than 6 months after the date of the enactment of this Act; and

(B) a final report with respect to law revision activity under this subsection, not later than 2 years after the date of the enactment of this Act. The final report shall include the text of the proposed revision and codification; an explanation of each significant provision proposed for inclusion therein; an analysis of the economic and other consequences of such revision and codification; a discussion of significant alternatives considered but not recommended; and such other information as may be useful to the Congress. If any member of the Advisory Committee established under paragraph (3) disagrees with any matter included in the final report, such member may submit a statement setting forth the reasons for such disagreement, which the Chairman of the Commission shall include in an appendix to such report. The final report shall be designed to facilitate congressional consideration of matters relating to regulatory reform and shall be consistent with the purpose of the Congress in this subsection to clarify, simplify, and improve (both substantively and technically) the laws of the United States relating to shipping.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

The bill (H.R. 10841), as amended, was passed.

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## AMENDMENT TO THE ACT OF JULY 9, 1965

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 15563.

The PRESIDING OFFICER. The Chair states that that message from the House is not at the desk.

Mr. ROBERT C. BYRD. Mr. President, is it on the calendar? It may be on the calendar.

Mr. JACKSON. It is a bill on the calendar. It is not a message. It is on the calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair's pardon. It is not a message from the House.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1283.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15563), to amend the Act of July 9, 1965, 79 Stat. 213, 16 U.S.C. 4601–17 (c), and for other purposes.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard to its consideration.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to indulge me momentarily.

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## THE EMERGENCY LIVESTOCK CREDIT ACT AMENDMENT—H.R. 15059

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 15059.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, we will try a little later once these matters can be cleared. We hope to be able to try again on some of them.

I yield to the distinguished Senator from Arkansas (Mr. McCLELLAN), to call up the continuing resolution for which an order has already been entered, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

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### CONTINUING APPROPRIATIONS, 1977

Mr. McCLELLAN. Mr. President, I call up House Joint Resolution 1105, and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 1105, which will be considered as having been read twice, and which the clerk will state by title.

The assistant legislative clerk read as follows:

> A resolution (H.J. Res. 1105) making continuing appropriations for the fiscal year 1977, and for other purposes.

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations, with amendments.

Mr. McCLELLAN. Mr. President, House Joint Resolution 1105 makes continuing appropriations for the fiscal year 1977 for a number of programs for which authorizations and appropriations have not been enacted. Although the House and Senate have passed all 13 of the regular annual appropriation bills for fiscal year 1977, it is necessary to have a modified continuing resolution to provide interim financing authority for certain programs traditionally funded under the appropriation bill for the Department of Labor and Health, Education, and Welfare and related agencies. This is required because certain authorizations were not completed in time for inclusion in the regular HEW bill which cleared the Congress on September 17. I repeat that these programs which are specified in the continuing resolution were not included in the Labor-HEW bill for fiscal year 1977. Therefore, a continuing resolution is necessary regardless of the action on the vetoed Labor-HEW bill. The resolution provides continuing authority for these programs until March 31, 1977. Unless provision is made for continuing appropriations, no funds will be available for these programs when the new fiscal year begins on October 1

The resolution provides for continuing these programs at the current rate which is the rate for operation during fiscal year 1976 and the transition period.

The resolution as passed by the House also included an appropriation of $12 million as a supplemental appropriation to the Soil Conservation Service for emergency assistance to repair damage to watersheds as a result of major storms or forest fires. This appropriation has been concurred in by the committee and the report provides the breakdown by State of the latest estimates for which this appropriation would partially cover.

The amendments recommended by the committee to the continuing resolution are as follows: First, an amendment to continue projects, programs, and activities which were contained in the vetoed Labor-HEW appropriation bill. These activities would be continued at the current rate of operations as established in the fiscal year 1976 Labor-HEW appropriations bill, the education and related agencies bill, and various supplemental appropriations bills. In addition, committee amendments which provide authority to authorize payments to meet mandatory, noncontrollable cost of programs such as public assistance, black lung benefits, and so forth, which would otherwise be funded through the Labor-HEW appropriations bill, are recommended. These amendments add sections 110 and 111 to the resolution. Section 111 would extend the availability of appropriations for education for the handicapped and special benefits for disabled coal miners through fiscal year 1977. This provision was likewise included in the vetoed Labor-HEW bill.

Additionally, a committee amendment is recommended to continue the President's Commission on Olympic Sports at the current rate of operation in order to provide for the completion of that Commission's work.

A committee amendment is also recommended to include a provision which would be section 112 making the appropriations for the Energy Research and Development Administration contained in the Public Works for Water and Power Development and Energy Research Appropriations Act, 1977 (Public Law 94–355) and the Department of Interior and Related Agencies Appropriation Act, 1977 (Public Law 94–373) available, notwithstanding the present provisions in Public Law 94–355 and Public Law 94–373 which make the funds available upon enactment into law of authorizing legislation. This section would set aside the present provisions until the date set forth in section 102(c) of this joint resolution, which is March 31, 1977, or in the enactment of the ERDA authorizing legislation, whichever first occurs. This provision is needed as a contingency to provide ERDA authority to continue its programs should the authorizing legislation not be enacted into law.

Another amendment recommended by the committee which would be section 113, provides for an urgently needed appropriation of $30 million to enable the Secretary of the Treasury to subscribe and pay for capital stock of the Federal Crop Insurance Corporation, as provided in section 504 of the Federal Crop Insurance Act. The President submitted a budget estimate on September 28 for this urgently needed additional authorization due to the greatly increased crop losses in the Midwest as a result of drought conditions in that area. The budget request would provide for $40 million as contained in House Document No. 94– . The committee amendment would provide for $30 million, a reduction from the budget estimate of $10 million. The committee is of the opinion that this will be sufficient until the next session, at which time the committee can examine the aspects of this situation.

Mr. President, those are the committee amendments which the committee recommends. Additionally, an amendment will be offered on the floor to provide for an additional appropriation of $5.1 million to pay for claims and judgments rendered against the United States. It has always been the tradition to pay these claims and judgments promptly upon their transmittal to the Congress and the President submitted a budget estimate which was received in the Senate on yesterday for this item. The request is contained in Senate Document No. 94–260. The committee, of course, has no objection to this request.

Mr. President, this is the first full year of complete operation under the Congressional Budget Act, and it was the committee's hope that a continuing resolution could be avoided. Unfortunately, the lack of timely authorization legislation has required this continuing resolution. If we are to avoid continuing resolutions in the future, it is imperative that authorizing legislation be processed and completed so as to give sufficient time to the appropriation process to complete its work.

Mr. President, I yield to the distinguished Senator from North Dakota.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to protect my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia has the floor and, without objection, will get back recognition.

Mr. YOUNG. Mr. President, I support the position of the distinguished chairman of the Committee on Appropriations, Mr. McCLELLAN. He has provided the details included in this continuing resolution.

This bill's primary purpose is to provide funding for those ongoing programs that were not authorized in time to be incorporated in the annual appropriations bills. Most of these programs are under the responsibility of the Department of Health, Education, and Welfare.

However, Mr. President, the continuing resolution also provides $12 million for urgently needed watershed repair work authorized by section 216 of the Flood Control Act of 1950. This represents a partial funding of an estimated $19.8 million backlog of projects and will allow work to proceed on the most critical needs until we can consider the full request next spring.

I think all the items in this bill are necessary. Part of them are due to a lack of authorization. There is one that might be controversial. This one is the payment of crop insurance losses.

The distinguished Senator from Oklahoma, Mr. BELLMON, has no objection to the payments, but I understand he does object to the operation of the Federal crop insurance program.

There was a budget estimate of $40 million for the program, and we cut it to $30 million, which I believe will result in the payment of the losses caused by the severe drought throughout the upper Midwest and other States.

If funding were denied these programs, it would create hardships for people involved and funding would most likely be provided in the next supplemental which the Congress will probably take up in January.

It is unfortunate that these programs were not requested or authorized in time to be included in their regular appropriations bill, but under the circumstances the only prudent thing left for the Congress to do is to provide for their continuation in this bill.

I urge my colleagues to support this bill as reported by the committee.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments, except for the first committee amendment and the committee amendments provided for in sections 110 and 111, be agreed to en bloc, and that the joint resolution be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that those committee amendments be laid on the table. I make this request in view of the fact that Congress has overridden the President's veto on the Labor, HEW appropriation bill.

The PRESIDING OFFICER. Is the Senator referring to the remaining committee amendments, other than those he has just had adopted en bloc?

Mr. McCLELLAN. The remaining amendments.

The PRESIDING OFFICER. Is there objection to moving to table those amendments en bloc? Without objection, the motion is in order.

The question is on agreeing to the motion.

The motion was agreed to.

#### UP AMENDMENT NO. 517

Mr. McCLELLAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. McClellan) proposes an unprinted amendment numbered 517.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the proper place, insert the following new section:

Sec. 114. For payment of claims settled and determined by departments and agencies in accord with law and judgments rendered against the United States by the United States Court of Claims and United States district courts, as set forth in Senate Document Numbered 94–260, Ninety-fourth Congress, $5,147,921, together with such amounts as may be necessary to pay interest (as and when specified in such judgments or provided by law) and such additional sums due to increases in rates of exchange as may be necessary to pay claims in foreign currency: *Provided*, That no judgment herein appropriated for shall be paid until it shall become final and conclusive against the United States by failure of the parties to appeal or otherwise: *Provided further*, That unless otherwise specifically required by law or by judgment, payment of interest wherever appropriated for herein shall not continue for more than thirty days after the date of approval of the act.

Mr. McCLELLAN. Mr. President, this is an amendment for $5.1 million to pay for claims against the Federal Government. The request for it came yesterday, after the committee had considered this resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

#### UP AMENDMENT NO. 518

Mr. McCLELLAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. McClellan) proposes an unprinted amendment numbered 518:

On page 2 after line 5 insert the following:

Projects or activities for which appropriations, funds, or other authority would be available in the Legislative Branch Appropriations Act for fiscal year 1977;

Mr. McCLELLAN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to renumber the sections of the continuing resolution, inasmuch as sections 110 and 111 have been tabled.

The PRESIDING OFFICER. Without objection, it is so ordered.

Are there further amendments?

Mr. McCLELLAN. Mr. President, I ask for third reading.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

Mr. McCLELLAN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Stone) appointed Mr. McClellan, Mr. Magnuson, Mr. Stennis, Mr. Robert C. Byrd, Mr. Hollings, Mr. Young, Mr. Hruska, Mr. Brooke, and Mr. Bellmon conferees on the part of the Senate.

## DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.J. Res. 1096, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Stone). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 1096) making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of today.)

Mr. McCLELLAN. Mr. President, House Joint Resolution 1096 makes supplemental appropriations for the Department of Defense, for the repair and replacement of facilities on Guam damaged or destroyed by a typhoon, and for other purposes. The Senate amended this joint resolution to provide urgent supplemental appropriations for which budget estimates had been submitted by the President. These amendments included $200 million for the payment of claims for damages to or loss of property, personal injury, or death resulting from the failure of the Teton River Dam structure; $46.9 million for claims and judgments rendered against the United States; $500 million for payment to the Postal Service fund for the transition quarter; $1 million for refunds under the Renegotiation Act; and $2.1 million for expenses of Presidential transition if required.

The conference agreement provides for all of these amounts as passed by the Senate.

The only difference in the conference agreement from the bill as it passed the Senate is in connection with the Defense appropriation for restoration of facilities on Guam. The agreement provides $6,721,000 in new budget authority above the Senate allowance for the transition period. Additionally, the agreement provides $12,261,000 more in transfer authority than the Senate bill.

The conference report has been printed in the Congressional Record and the House has agreed to this conference report. Overall, the agreement is $66,967,000 below the budget estimates for the transition period and $2.1 million over the budget estimates for fiscal year 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair protect my rights to the floor.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia will have the right to the floor.

Mr. YOUNG. Mr. President, the conference report figure is almost exactly the same as the amount passed by the Senate, and there was no disagreement by any of the conferees on the part of the Senate. I hope the Senate will approve it.

Mr. McCLELLAN. Mr. President, if there is no further amendment or discussion, I move that the conference report be adopted.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

"and in addition, $30,900,000, of which $20,861,000 shall be derived by transfer from 'Military Personnel, Navy, 1976', $3,700,000 shall be derived by transfer from 'Military Personnel, Army, 1976' and $6,339,000 shall be derived by transfer from 'Military Personnel, Air Force, 1976' ".

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $25,843,000

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 5 and 9 en bloc.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was adopted.

Mr. McCLELLAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to continue to protect my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PUBLIC RECREATION USES OF CERTAIN FEDERAL RESERVOIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1283, which has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 15563) to amend the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601–17 (c)), and for other purposes.

### UP AMENDMENT NO. 519

Mr. JACKSON. Mr. President, the distinguished Senator from Missouri has an amendment at the desk.

Mr. EAGLETON. It is an amendment on behalf of myself, Senator JACKSON, and Mr. MAGNUSON.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. GRIFFIN. Mr. President, may we have order?

I want to apologize that there has been so much difficulty and mixup on this. I think it would be well if the clerk would read enough of the amendment so the Senate can be aware of what it is doing. I think it is an important action we are taking.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) for himself, Mr. JACKSON, and Mr. MAGNUSON, proposes Unprinted Amendment No. 519.

At the end of the bill insert a new section as follows:

SEC. 2. The canal and towpath of the Chesapeake and Ohio Canal National Historical Park are hereby dedicated to Justice William O. Douglas in honor of the role Justice Douglas played in preventing such Canal from being made into a highway and in grateful recognition of his long and outstanding service as a preeminent American conservationist. In order to properly carry out the provisions of this section the Secretary of the Interior shall (1) have the words "C. & O. Canal and Towpath dedicated to Justice William O. Douglas" prominently displayed on all existing and future signs bearing the name "Chesapeake and Ohio Canal National Historical Park" or any abbreviation thereof, (2) incorporate into the interpretive programs of the Canal Park Justice Douglas' role in preserving the Canal, (3) provide that all maps of such Canal, and other such appropriate materials relating to such Canal and Park, which are prepared after the date of enactment of this section bear the words "C. & O. Canal and Towpath dedicated to Justice William O. Douglas", and (4) install signs bearing the words "C. & O. Canal and Towpath dedicated to Justice William O. Douglas" at appropriate points in the Canal Park to call to the attention of the public that the towpath has been so dedicated.

Mr. EAGLETON. Mr. President, I regretfully will give up my effort to dedicate—not rename—the entire Chesapeake and Ohio National Historical Park to retired Supreme Court Justice William O. Douglas. It is becoming increasingly apparent that a compromise with the House of Representatives is the only way to enact a bill before this session ends and the measure is postponed for yet another year.

The House Interior and Insular Affairs Committee members who objected to the Senate bill said that they did not want to set a precedent by dedicating an entire national park to an individual. House Interior Committee members who opposed the Senate bill indicated that they have no objection to naming or dedicating a prominent feature of the C. & O. Canal to the man who saved it from becoming a highway.

The amendment I offer today meets all of the stated requisites of the House of Representatives. This amendment would dedicate, not rename, the C. & O. Canal and Towpath, not the entire national park, to the prominent American conservationist William O. Douglas.

The national conservation organizations and the local C. & O. Canal Associations endorsed the proposal to dedicate the entire canal park to Douglas. I am confident that they would also support this proposal.

A large island in the C. & O. Canal National Historical Park has already been renamed, not dedicated, for Fredrick Law Olmstead. And, the mile and a half long gorge in the park along the Potomac River is named, not dedicated, for Steven T. Mather. Although both of these men were outstanding conservationists, neither of them was as intimately connected to the C. & O. Canal as is William O. Douglas.

The existence of C. & O. Canal today is but one of the many manifestations of Justice Douglas' love for our environment. When Justice Douglas retired with the longest tenure on the Supreme Court in the history of the Nation he was asked how he would like to be remembered. He answered "I would like to be remembered as someone who made the Earth a little more beautiful."

Mr. President, I move adoption of the amendment.

Mr. JACKSON. Mr. President, I know of no one who is more deserving of this honor than Justice William O. Douglas. For years and years, as those of us who have been in Washington over a period of time know, he led the annual hike to save the Chesapeake & Ohio Canal. That event has national significance. I commend the distinguished Senator from Missouri for proposing the amendment in honor of Justice William O. Douglas.

Mr. EAGLETON. I thank my distinguished colleague.

Mr President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 15563) was read a third time and passed.

Mr. EAGLETON. I move to reconsider the vote by which the bill passed.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## DESIGNATION OF CERTAIN LANDS AS WILDERNESS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1026.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1026) to designate certain lands as wilderness.

(The amendment of the House is printed in the House proceedings of the RECORD of September 27, 1976).

Mr. HASKELL. Mr. President, the House amendment would designate 19 areas in 13 States as components of the national wilderness preservation system. In addition eight areas would be designated for study to determine whether they should be included in the system. In total, approximately 388,000 acres would be designated as wilderness under the provisions of the House amendment and an additional 587,350 acres would be designated for study.

Mr. President, for the most part, I find this amendment on the part of the House very acceptable. There are in fact few differences between this proposal and the companion Senate passed bills. At this point I ask that a summary of the differences between the two versions be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

### SUMMARY OF DIFFERENCE BETWEEN HOUSE AND SENATE WILDERNESS PROPOSALS

(1) The House amendment would delete the proposed Oregon Islands wilderness from the Senate passed bill;

(2) The House amendment would add 446 acres to the proposed Lacassine Wilderness, Louisiana, not included in the Senate bill;

(3) The House amendment would add 1,000 acres to the proposed Mingo, Missouri, not included in the Senate passed proposal;

(4) The House amendment would designate a 22,500 acre Kaiser Ridge wilderness instead of the Senate passed 28,000 study area;

(5) The House amendment would delete 10 acres from the proposed Hercules Glades Wilderness, Missouri, included in the Senate bill;

(6) The House amendment would include a five year study limitation to all four Missouri Study areas, whereas the Senate bill only has a five year time limitation on two of the areas;

(7) The House amendment would delete 20,000 acres of the Blackfeet Indian land in the proposed Great Bear Wilderness study area but would add some contiguous land not in the Senate bill. Similarly, the House deleted management language in the Senate bill regarding the Blackfeet land;

(8) The House amendment would include the "Elkhorn" area in Montana as a wilderness study area. This area is one of the ten areas included in the Senate passed "Montana Wilderness Study Bill";

(9) The House amendment would designate the "Tom Fitzpatrick" wilderness, Wyoming. This area has not been considered by Senate but the Interior Committee has conducted hearings;

(10) The House amendment contains blanket interim management language for all 8 study areas:

(a) Under the House amendment, the study areas are to be managed so as to maintain their presently existing wilderness character for not longer than four years from the date of submission to the Congress of the President's recommendation concerning a particular area; and

(b) already established uses may continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same was being conducted on the date of enactment of this Act.

Mr. HASKELL. On balance these are minor differences and I urge my colleagues to adopt the House amendment.

Mr. President, I know that the distinguished Senator from Wyoming has an amendment to this bill.

Mr. ROBERT C. BYRD. Mr. President, there is just too much activity in the well. Would the Chair please get order?

The PRESIDING OFFICER. The Senators will kindly clear the well. If they will do that, the Chair would appreciate it.

Mr. METCALF. Mr. President, before the Senator from Colorado proceeds, will the Senator yield to me for a brief statement?

Mr. HASKELL. I certainly will.

Mr. METCALF. Mr. President, we have a list of wilderness areas in this bill that are significant in every part of the United States. Has the Senator put a list of the areas in the RECORD?

Mr. HASKELL. I have a summary of the differences between the two bills.

Mr. METCALF. I ask unanimous consent to put a list of the various areas into the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

### STATE, NAME, INSTANT OR STUDY, AND ACRES

Alaska: Simeonof National Refuge, Alaska; instant; 25,141.

Arkansas: Big Lake National Wildlife Refuge; instant; 23,360.

Florida: Chassahowitzka National Wildlife Refuge; instant; 23,360.

Florida: J. N. "Ding" Darling National Wildlife Refuge; instant; 2,825.

Florida: Lake Woodruff National Wildlife Range; instant; 1,146.

Illinois: Crab Orchard National Wildlife Refuge; instant; 4,050.

Louisiana: Lacassine National Wildlife Range; instant; 3,300.

Minnesota: Agassiz National Wildlife Refuge; instant; 4,000.

Minnesota: Tamarac National Wildlife Range; instant; 2,138.

Missouri: Mingo National Wildlife Range; instant; 8,000.

Montana: Medicine Lake National Wildlife Refuge; instant; 11,366.

Montana: Red Rock Lakes National Wildlife Range; instant; 32,350.

Montana: UL Bend National Wildlife Refuge; instant; 20,890.

Nebraska: Ft. Niobrara National Wildlife Range; instant; 4,635.

N. Carolina: Swanquarter National Wildlife Range; instant; 9,000.

Washington: San Juan Islands National Wildlife Range; instant; 355.

Wyoming: Shoshone National Forest/Glacier Wilderness Proposal/Fitzpatrick Wilderness; instant; 197,600.

California: Sierra National Forest, "Kaiser Wilderness Proposal"; instant; 22,500.

Missouri: Mark Twain National Forest, "Hercules' Glades Wilderness"; instant; 12,315.

California: Angeles and San Bernardino National Forests, "Sheep Mt. Wilderness Study Area"; study; 52,000.

California: Mendocino National Forest, "Snow Mt. Wilderness Proposal"; study; 37,000.

Missouri: Mark Twain National Forest, "Bell Mt. Wilderness Study Area"; study; 8,530.

Missouri: Mark Twain National Forest, "Paddy Creek Wilderness Study Area"; study; 6,888.

Missouri: Mark Twain National Forest, "Piney Creek Wilderness Study Area"; study; 8,430.

Missouri: Mark Twain National Forest, "Rockpile Mt. Wilderness Study Area"; study; 4,170.

Montana: Flathead and Lewis and Clark National Forest, "Great Bear Wilderness Proposed"; study; 393,000.

Montana: Deer Lodge and Helena National Forests, "Elkhorn Wilderness Study Area"; study; 77,346.

Mr. METCALF. A couple of these areas are significant in Montana. We have five areas that are substantial: Perhaps the most well-known area is the 393,000 acre Great Bear Wilderness Study Area. Another area is the 77,300 acre Elk Horn Wilderness Study Area, which is going to be logged if this bill is not passed.

I have considered offering some amendments to this bill. I have proposed S. 393, which would designate 10 wilderness study areas in Montana. We had long hearings, and the Senator from Colorado (Mr. HASKELL) participated in those hearings, S. 393, with the 10 areas, passed the Senate unanimously.

We also had a provision in the Senate-passed Great Bear Wilderness bill which would require only a 12 month study. This area has been studied and studied and studied over again. Twelve months is plenty of time. The House made it 19 months.

I had thought that, perhaps, I would add the additional nine wilderness study areas in S. 393 which had passed the Senate unanimously, and change Great Bear study period back to 12 months. But I am concerned about sending the bill back to the House of Representatives. So, at this late hour, closing hours really, of the session, I have refrained from adding the matters that were agreed to unanimously by the Senate.

I know the Senator from Colorado would assist me in bringing them up again early next year. But I want to make the record clear today that it was the House that removed these provisions from the various Senate bills, and sent us an omnibus bill at this late date—too late to add amendments the Senate has unanimously agreed to.

Mr. HASKELL. Mr. President, I thank the Senator from Montana for his comments. I certainly will do everything I can to assist him in passing the Montana areas that went through the Senate and are not in this omnibus bill.

I, too, would prefer to have the bill go straight to the President or be sent to the House of Representatives with the amendments the Senator has considered but I understand the position of our friend from Wyoming that he must send the bill back to the House with his perfecting amendment. Senator METCALF and I believe his amendment is a good one and have agreed to accept his amendment even though we do not know the bill's fate if it is returned to the House. I thank the Senator from Montana for withholding his worthy amendments so as to change the bill as little as possible. We can only hope the House will find the minor, worthy change of the Senator from Wyoming acceptable.

Mr. HANSEN. Mr. President, first of all, I greatly appreciate the loyalty, the honesty, and the spirit of cooperation that are continuously presented to me by my good friend from Colorado and my good friend from Montana.

The amendment I have deals with an area slightly in excess of 6,000 acres.

In part of the proposal to make wilderness out of what is presently primitive area was included an area we refer to as the Whiskey Mountain area, and that has a nice tang to it, I might say. [Laughter.] It is where the biggest herd of bighorn sheep, Rocky Mountain sheep, are found in North America. From that herd, this location, transplants to other parts of the country have been made.

The Forest Service has testified, we have been in touch with the Governor, the game and fish commission, and a number of representatives of State government, and it is my considered judgment, based upon what we can learn, that this area should be kept out of the wilderness system but should be retained in the primitive status which it presently has.

I point that out because there may be those who would think that by keeping it out of the wilderness system there could be a degradation to occur in this very unique area, and it is because of that——

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. HANSEN. I would be happy to yield.

Mr. HASKELL. I would like to join the Senator from Wyoming in making it clear that the Senator's amendment would maintain this area as a primitive area.

Mr. HANSEN. Mr. President, that is one of the provisions in my amendment.

Before we take a vote I hope we might delay things—first of all, may I ask, is there objection to the amendment which, I think, is familiar to the Senator from Colorado and the Senator from Montana?

Mr. HASKELL. The Senator from Colorado has no objection to it.

Mr. METCALF. The Senator from Montana, the Senator from Wyoming knows, participated in the hearings where the consensus among us was that we delete this area. However, for the purposes of the record, this will continue to be protected as a primitive area.

Mr. HANSEN. That is right.

Mr. METCALF. And a primitive area is a de facto wilderness.

Mr. HANSEN. That is right.

Mr. METCALF. As long as it is operated and administered as a primitive area.

Mr. HANSEN. That is right.

Mr. METCALF. So there will be, as the Senator says, no degradation, no administration other than as if it were actually a wilderness area, except it is not incorporated in the wilderness system.

Mr. HANSEN. That is my understanding, and that is my desire and intention.

Mr. METCALF. I thank the Senator from Wyoming.

### CRAB ORCHARD WILDERNESS

Mr. PERCY. Mr. President, today, with the passage of S. 1026, designating certain lands as wilderness and wilderness study areas, Illinois for the first time will have a designated wilderness area within its boundaries. The area involved is 4,050 acres in the Crab Orchard National Wildlife Refuge in southern Illinois.

As time goes by fewer and fewer tracts of land remain in our country that are suitable for preservation. And Illinois, by having a component in the National Wilderness Preservation System, will be preserving land worthy of protection for present and future generations.

Earlier this year, I testified before the Senate Subcommittee on Environment and Land Resources in support of the measure designating 4,050 acres in the Crab Orchard National Wildlife Refuge as wilderness.

Mr. President, I ask unanimous consent that my testimony before the committee be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD as follows:

### TESTIMONY OF SENATOR CHARLES H. PERCY

Mr. Chairman, it is a pleasure to be able to testify in support of S. 1027, a bill designating 4,050 acres in the Crab Orchard National Wildlife Refuge as wilderness. If the bill is enacted during this session of Congress, Illinois would have its first established wilderness area.

In a state widely known for its industrial developments and agricultural activities, the preservation of land has not always been one of its priorities. Thus, Illinois has suffered from a chronic shortage of adequate recreational lands for its residents. The passage of S. 1027 would help to improve this situation by protecting and preserving an area representative not only of Illinois' natural heritage, but of the Nation's as well.

In 1974 Congress established the Crab Orchard National Wildlife Refuge, located in southern Illinois, for wildlife, recreational, agricultural and industrial purposes. It is a haven for migratory waterfowl. Descending on the refuge each winter are more than 80,000 migrating Canada geese. An additional 8,000 ducks use the haven during the fall months. And the millions of visitors to the area have a good chance of encountering many other kinds of wildlife, such as bald and golden eagles, red-tailed hawks, osprey, white-tailed deer and mink.

Through the healing hand of nature some lands once homesteaded, farmed and logged on the refuge have been restored to their natural state. The wilderness boundaries are modest. Some 4,050 acres would be designated as national wilderness out of a total refuge acreage of 42.970. Since the areas to be designated, the Little Grassy Unit and the Devils Kitchen Unit, are located not only in the most southern portion of the refuge, but in the most isolated area, wilderness designation would protect a rugged area representative of southern Illinois' native habitat. This designation would add a new dimension to the Crab Orchard's role of protecting our national wildlife resources by assuring an area undisturbed by agricultural, commercial, industrial and other developments. These areas convey a sense of quiet and the untouched beauty which Thoreau perceived when he said, "I want to speak a word for Nature, for absolute freedom and wildness."

With the passage of time, fewer and fewer tracts of land across the Nation are suitable for preservation. Illinois has an area deserving of wilderness designation, it should be protected for present and future generations. Therefore, I respectfully urge the Committee to report favorably this legislation so that the Senate may have the opportunity of voting on it this session.

### UP AMENDMENT NO. 520

Mr. HANSEN. Mr. President, I move that the Senate concur in the amendment of the House with an amendment.

The PRESIDING OFFICER (Mr. STONE). Will the Senator send a copy of his amendment to the desk.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes unprinted amendment numbered 520.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 5, strike lines 23 through 25 and insert in lieu thereof: "one hundred and ninety-one thousand and one hundred and three acres as generally depicted on a map entitled 'Proposed Glacier Wilderness and Glacier Primitive Area' dated September 23, 1976, is".

(2) On page 6, line 3, after "System" insert the following: "The previous classification of the Glacier Primitive Area is hereby abolished for that portion of the primitive area designated as wilderness by this Act but not for the lands known as the Whiskey Mountain area, comprising approximately six thousand four hundred and ninety-seven acres, and depicted on said map as the 'Whiskey Mountain Area—Glacier Primitive Area'."

Mr. HANSEN. Mr. President, I rise to offer a necessary amendment to the Fitzpatrick Wilderness, formerly the Glacier Primitive Area, a part of the Shoshoni National Forest in my home State of Wyoming. I have reviewed this bill very carefully and have gone through the corresponding testimony that was presented to the Parks and Recreation Subcommittee when hearings were held recently in the Senate on the proposed Fitzpatrick area.

Taking into account this testimony and coupling that with my concern for protecting the integrity of the Wilderness Act, I believe on balance that the Whiskey Mountain area should not be included within this bill.

The proposed name, Fitzpatrick, is complementary to the adjacent wilderness—the Bridger Wilderness in the Bridger-Teton National Forest—and is a fitting new name as Tom Fitzpatrick was a sidekick of the famous mountainman, Jim Bridger. The combined acreage of both of these adjacent areas is over a half million acres.

I am fully supportive of placing into wilderness the 190,000 acres more or less in the Fitzpatrick Wilderness proposal. It is the epitome of a wilderness designation. It includes the highest point in Wyoming. It has many active glaciers of magnificent proportions and, most importantly, the world's largest bighorn sheep herd ranges are located in the Whiskey Mountain area.

The bulk of the bighorn sheep habitat contained in these areas was not recommended by the Forest Service for designation as wilderness. Yet, it is my belief that the untrampled natural quality of the habitat in these areas is required by bighorn sheep for survival. Biologists confirm this, and in my way of thinking the welfare of the bighorn sheep is a primary management consideration throughout the northern portion of the Fitzpatrick Wilderness.

The fact that the Whiskey Mountain area may not become a part of the designated wilderness area does not mean the area will not be properly managed. My amendment retains its designation as a primitive area, and it would be managed by the Forest Service in such a way as to protect and enhance that bighorn sheep population.

The placing of a great number of important wilderness bills, covering a number of States with a complexity of issues in an omnibus bill and forcing consideration en bloc does disservice to the fine areas they represent.

By its action, at this late date and hour in the final moments of the 94th Congress, the obvious desirability of discussing and resolving these issues seems likely to be denied the Congress insofar as conference action is concerned.

I urge my colleagues to support this amendment and to expedite this omnibus wilderness legislation so it may be returned to the House for consideration and hopeful passage.

Actually, what the amendment does is essentially two things: It points out that some 6,490 acres or whatever the figures are—and they are included in the amendment—would remain in primitive status, as has been pointed out by the distinguished Senator from Montana (Mr. METCALF); and, further, that that much of the bill coming from the House would be—perhaps I am repeating, would be—removed from the wilderness portion of the Fitzpatrick wilderness area to be established in Wyoming, and would be kept as primitive area.

I ask that the amendment be accepted.

I would be willing, as I said before, Mr. President, to accept it.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, with the Chair's protecting my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I wanted to speak in regard to this amendment. Let me say to the Senator from Wyoming—he and I have discussed this at considerable length today—I think he understands my position.

I have sought to avoid having to object to the amendment of the Senator from Wyoming. I do not know the merits or demerits of that particular amendment, and I frankly tend to feel it may be a good amendment from the point of view of the situation in Wyoming. I just do not know that.

The problem is if we amend the bill that is now before the Senate that will mean the House either has to take it with our amendment as we send it over or reject it and want a conference. Obviously, given the time situation, there will be almost no likelihood there can be a conference, the matter to be ironed out, and the bill sent back to both bodies for final action.

I am very much afraid that because of controversy over something other than the Wyoming aspect of the bill, and it is frankly, in California, part of the bill, there will be an objection on the House floor if we send the bill back there with an amendment. That objection which, I think, would come, although, of course, I do not know—there are 435 Members of the House and it is very hard to know who may not be in an objecting mood for one reason or another—and we have seen in this body, where we only have 100 Senators, at one time one Senator has been objecting to everything for reasons unrelated to what has been before the body, and then it has gone on to the other side of the aisle and some other Senator is objecting to everything, every unanimous consent, and then the tide shifted back to this side for awhile and a couple of the Senators over here have been objecting to virtually everything that requires unanimous consent.

I very much fear the same situation will prevail in the House if we send this bill back, and not necessarily for the reason that there may be some Member objecting to everything that comes up that provides an opportunity for objection to unanimous-consent request, and I fear that because of matters in this bill other than the Wyoming matter that is proposed by the Senator from Wyoming, there will be objections to taking the bill and that, therefore, the whole bill will go down the drain—every wilderness provision in this bill in California, every wilderness provision in the State of Missouri, in the State of Montana, in the State of Washington, in the State of Florida, every wilderness provision in any other State that has anything in this bill. And it is for those reasons that I feel, much to my regret, and particularly I apologize to the Senator from Wyoming for having voted for these reasons, I am constrained to have to object.

I want to say to the Senator from Colorado that earlier this afternoon I felt that it would be possible to accept the amendment of the Senator from Wyoming, which I hoped we could do, and I felt the odds were that we would not have an objection on the House side. I have since come to other conclusions. I did not have a chance to state that to the Senator from Colorado, although the Senator from Montana did know and I think the Senator from Wyoming knew, because we have had a frank exchange.

Mr. HASKELL. Will the Senator yield for a moment?

Mr. CRANSTON. Yes.

Mr. HASKELL. I should say to the distinguished Senator from California that we have come to the point where we can no longer be Hamlet-like in this. It is to be or not to be. Therefore, I think we have to just go to a vote and either accept the amendment of the Senator from Wyoming or reject it. But we should come to a vote.

Mr. CRANSTON. I agree, absolutely.

Mr. EAGLETON. Will the Senator yield 2 minutes?

Mr. ROBERT C. BYRD. Mr. President, I ask that I be protected in my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. I find myself in the same dilemma as the Senator from California. There are two States most involved in this bill, California on the one hand and Missouri on the other. By a curious twist of fate, exactly 2 years ago at this time, in a similar measure in which Missouri had a large stake in the bill, Missouri got caught at that time in a crossfire on a peripheral matter. Missouri matters were not in dispute. It was unanimous. Everybody loved everybody. But we went down the tube on a last-minute shootout on another matter.

Of course, I have no objection whatsoever to the matter raised by the distinguished Senator from Wyoming. I share the same views as my distinguished friend from California, however, that by adding the Hansen amendment, albeit a fine amendment, when it goes back to the House that is the end of the bill. Rest in peace, RIP. It would put me back in the same position I was 2 years ago. I daresay in 1978, in October or November of that year, as we are wrapping up that session we will have another wilderness bill and the Missouri section will be agreed to but something will happen. I hate to see history repeat itself in this instance.

Mr. HANSEN. Mr. President, I think two things should be observed. No. 1, because there are so many wilderness areas in this bill which are important to a great number of people, it occurs to me that the action in the House will be quite compelling to see that this amendment is agreed to.

This is not just trying to nitpick on an area, but the trapping that is essential in making transplants of mountain sheep to other parts of the United States occurs in this particular mountain area. They have a feeding program going up there. In fact, Wyoming is the State which has supplied Rocky Mountain sheep for the rest of the country. This is not a frivolous amendment.

I would hope very much that we could join together, as I now pledge myself to do, in persuading our friends on the other side of the Capitol that this is a good amendment; that the amendment and the bill that I hope we will be sending back to them, so amended, must be given the stamp of approval by the House.

I will do my best, and I pledge that to my good friend from Missouri, to see that there shall be no objection raised.

Mr. ROBERT C. BYRD. May I yield 2 minutes to the distinguished senior Senator from Missouri?

Mr. SYMINGTON. Mr. President, I appreciate the able majority leader yielding to me. May I say that it is very seldom that I disagree with my good friend from Wyoming. I will not be here next year, but I would promise that inasmuch as I have heard from the House that it would be possible to pass this bill, and I am sure he is not against things that affect my State, if he would be good enough to waive it I will be his leading lobbyist next year and that is all I could be, in getting whatever he wants for Wyoming from the Senate. I thank my friend for granting that consideration.

Mr. CRANSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, might I ask how much longer we will be on this? I am not pushing. I was told it was all cleared and it would take no time. I am sure that was the understanding of the Senator who told me that.

Mr. CRANSTON. I would like to ask for the yeas and nays.

Mr. METCALF. I would like to have a few moments' time.

Mr. ROBERT C. BYRD. I yield to the Senator from Montana.

Mr. METCALF. Mr. President, there are 27 wilderness areas and wilderness study areas in this bill. These areas are all over America. Many of the Senators have worked hard and long, testifying before the committees, bringing in witnesses and developing the need for the establishment of these wilderness areas.

The Senators from Missouri have both told you about what happened 2 years ago. These same bills came up and were lost in a situation analogous to the one.

No one complains about the wilderness areas in Missouri. They are needed, they are wanted, and they should be adopted.

They should have been adopted 2 years ago. We were caught in a trap.

I hope when we send this bill back with 27 wilderness areas and wilderness study areas with the amendment of the Senator from Wyoming, the House of Representatives—and my very distinguished colleague is chairman of the subcommittee with jurisdiction over national forest and wildlife refuge wildernesses in the Interior Committee—will remember that there are wilderness areas that have been developed and worked out over 2 years of hearings and 2 years of conferences, after visitations by members of the Interior Committee. These areas are very much needed. Some are so urgent that if we do not adopt them in this Congress there will be logging and cutting which will destroy the whole wilderness attractiveness.

I hope that the only question which is raised in the House of Representatives will be the Senator's amendment and we will get this bill back early and have an opportunity to pass the other areas that are so needed, so wanted, so desirable, in this session of the Congress.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to continue to protect my right to the floor. I have been intending to announce for quite some time, and I forgot to do so, that the President called me to inform me that it is his intention to sign the CETA public services jobs bill and the public works employment appropriation bill.

Now, Mr. President, I understand that this matter has been cleared on both sides and it will only take a few seconds. I ask the Chair to continue to protect my rights to the floor.

Mr. RANDOLPH. Mr. President, will the able acting majority leader yield?

Mr. ROBERT C. BYRD. Mr. President, I am pleased to yield to my colleague from West Virginia.

Mr. RANDOLPH. Mr. President, the statement of the acting majority leader contains welcome news. I am gratified over the President's response to the well-reasoned judgment of the Congress.

In connection with the decision on the public works employment appropriations bill, I ask unanimous consent that a telegram I sent to the President on yesterday urging him to sign this vital measure be inserted in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

SEPTEMBER 29, 1976.

The PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: You have before you H.R. 15194, the appropriations bill to fund the local Public Works Employment Act of 1976.

I believe that the appropriations recommended in the conference report are reasonable. The national unemployment rate is 7.9 percent. National unemployment has remained higher over a longer period than at any time since World War II.

The Construction industry has been especially hard hit with unemployment rates more than double the national average. This act will provide jobs for some of the 17.7 percent construction workers now drawing unemployment benefits. These workers will construct public facilities of lasting value and essential public services to the communities of this Nation.

I urge you to act positively on a measure of vital concern to the unemployed of this country.

Truly,

JENNINGS RANDOLPH,
*Chairman, Committee on Public Works.*

## MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has passed the bill (S. 1437) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The House has passed the bill (H.R. 15571) to amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate, in which it requests the concurrence of the Senate.

### ENROLLED BILL SIGNED

The Speaker has signed the following enrolled bill:

H.R. 12566. An act authorizing appropriations to the National Science Foundation for fiscal year 1977.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 30, 1976, he presented the following enrolled bill to the President of the United States:

S. 2981. An act to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes.

## EMERGENCY LIVESTOCK CREDIT ACT AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 15059, the extension of the Emergency Livestock Credit Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 15059) to amend the Emergency Livestock Credit Act of 1974.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its immediate consideration.

Mr. McGOVERN. Mr. President, as the acting majority leader said, this measure has been cleared on both sides of the aisle. It has been requested by the administration. It is a simple extension of existing law, the Emergency Livestock Credit Act. This measure would have the effect of extending that authority through September 30, 1978, the end of the fiscal year.

I move the adoption of the bill.

Mr. HANSEN. Mr. President, I do not think Senator CURTIS is in the Chamber, but I believe I am free to say that he will support the bill. I support it. I think it is very necessary legislation. I compliment the distinguished Senator from South Dakota and the distinguished acting majority leader for calling it up now. I am told that Senator CURTIS has given his approval.

Mr. TUNNEY. Mr. President, I urge prompt enactment of H.R. 13160, omnibus wilderness legislation which will incorporate into the National Wilderness Preservation System several fine new additions.

Lands within the Point Reyes National Seashore, the Joshua Tree National Monument and the Pinnacles National Monument are designated as wilderness by this bill. Senate approval of this legislation will insure that these areas remain in a natural state, free from development and improper use.

I would like to thank the members of the Senate Interior Committee for their cooperation, and my special thanks go to my distinguished colleague from Louisiana, BENNETT JOHNSTON. As Chairman of the Subcommittee on Parks and Recreation, he has demonstrated a sensitive awareness of the need for preserving alternatives to our congested cityscapes.

Also, I would like to recognize the contribution of my colleague from California, ALAN CRANSTON, who has again demonstrated his commitment to conservation in our native State.

Only 35 miles north of San Francisco, the Point Reyes National Seashore is one of the few areas where the national grandeur of the ocean shore is not scarred by paved highway. This legislation designates 25,370 acres within Point Reyes as wilderness. Another 8,003 acres are designated as potential wilderness.

The value of the natural, historic, and scenic resources of Point Reyes National Seashore is remarkable. The proximity of the parklands to the residents of the San Francisco Bay region greatly increase the opportunity for many to experience this unique area.

Point Reyes will remain as natural and open lands and water—open to a broad and diverse range of public recreational and educational pursuits for many millions of visitors each year, but closed to any invasion by motor vehicles or highways.

Quite appropriately, the principal environmental education center within the seashore shall be designated as "the Clem Miller Environmental Education Center." The late Representative Clem Miller had the vision and leadership to begin the movement to create and preserve the Point Reyes National Seashore, and it is quite fitting that his work be commemorated and remembered.

In striking contrast to Point Reyes is the desert environ of the Joshua Tree National Monument. Wilderness comprising 429,690 acres is authorized by the omnibus bill, with a potential wilderness addition of 37,550 acres.

The delicate landforms and the large assembly of curious desert plants and animals in the southern California Mojave Desert will make an excellent addition to our national wilderness lands. This new wilderness area within the Joshua Tree National Monument will preserve a fine example of this high desert, as well as some of the low desert areas of the Colorado desert ecosystem.

The desert environment is harsh on many forms of wildlife, but the desert bighorn sheep and the rare and unusual kit fox find refuge here. The monument provides habitat for many small animals, and also for larger predators like the badger, coyote, and bobcat. The unique flora and fauna sharing this parched land depend upon one another for survival.

The undeveloped lands of the monument offer spectacular scenery. Volcanic eruptions and massive faulting have created mountain ranges rising to over 5,000 feet. Heavy rainfalls have carved deep valleys and deposited extensive alluvial fans outward from canyon mouths. The result of these rugged physical processes is one of the most spectacular displays of geology in the Southwestern United States.

With Senator CRANSTON as cosponsor, I introduced in the Senate the two bills which have been included in the omnibus wilderness bill, to provide wilderness designation for Point Reyes and Joshua Tree. Also, I joined in cosponsoring Senator CRANSTON's bill to provide wilderness designation for lands within the Pinnacles National Monument.

Wilderness comprising 12,952 acres, with potential wilderness addition of 990 acres, is authorized for Pinnacles in the omnibus bill. Wilderness designation for this national monument, which lies about 125 miles south of San Francisco was first proposed in the 90th Congress.

In prehistoric times this area was the site of an enormous volcano. The new semiarid land has remained virtually unaltered since that time except as a result of wind and water erosion and the effects of the movement of two large faults. Man now has the opportunity to enjoy the solitude and seclusion of the area interrupted only by the activities of the golden eagle, the peregrine falcon, and other forms of wildlife that now roam freely throughout the monument.

We all share a fragile environment, and it is most important that steps be taken to preserve these unique outdoor areas. I urge my colleagues to pass this much needed conservation measure.

Mr. McGOVERN. Mr. President, H.R. 15059, which was passed by the House of Representatives yesterday, would extend the Emergency Livestock Credit Act of 1974 through September 30, 1978.

The bill is identical to section 1 of S. 3713, which was reported to the Senate on September 20, 1976.

The report of the Committee on Agriculture and Forestry on S. 3713 contains a letter from the Under Secretary of Agriculture recommending the extension of the act through December 31, 1977. Extending the act through September 30, 1978, would, of course, make it expire at the end of the 1979 fiscal year.

The Emergency Livestock Credit Act is now scheduled to expire on December 31, 1976. The 21-month extension, as provided in H.R. 15059, would permit the Secretary of Agriculture to provide additional loan guarantees to livestock producers in need of assistance because of disastrous drought conditions occurring this year.

The Emergency Livestock Credit Act of 1974 authorizes the Secretary of Agriculture to guarantee loans to eligible livestock producers in temporary financial difficulties who are unable to obtain financing necessary to permit continuation of their livestock operation without a guarantee. Farmers eligible are those who were in operation prior to July 25, 1974, and who are engaged in agricultural production and have substantial operations in the breeding, raising, fattening, or marketing of livestock—including dairy operations. The Secretary may guarantee loans in amounts necessary to permit continuation of the livestock operation, but the total amount of loans guaranteed for any one borrower cannot exceed $350,000 at any one time.

Loan funds may be used for agricultural production purposes essential to conducting livestock operations, such as replacing livestock, providing feed, grazing fees, moving livestock, providing farm machinery, building or repairing pens and fences, or for essential family living expenses. They may also be used for refinancing debts which the applicant is unable to pay and would cause the livestock operation to be discontinued if they are not paid.

The emergency livestock credit program has worked well. It has met with wide acceptance and substantially helped many of the Nation's livestock producers survive the disastrous economic conditions of 1974 and the crop shortfall in the 1974–75 crop year.

It should be noted that the purpose of the program is not to bail out livestock producers who unfortunately bought high and are forced to sell low. It is simply a method to assist producers on family-sized farms through periods of economic adjustment to situations beyond their control as businessmen to prevent, and provide necessary financial stability to and preserve this basic food supply industry. The failure rate on these loans to date has been extremely low—much less than 1 percent.

However, another threat to the health of the livestock industry has arisen this year as a result of crisis drought conditions in the Upper Great Plains, making it necessary that the act be extended. The Upper Great Plains, in which a substantial percentage of the Nation's dairy and livestock farmers live, is suffering from the most devastating drought in 40 years; 64 of 67 counties in South Dakota, 60 counties in Minnesota, 43 counties in Wisconsin, and 21 counties in North Dakota have been declared as drought disaster areas this year.

Livestock producers in these States affected by the drought are faced with almost insurmountable problems in keping their operations going.

Due to the lack of moisture, grain crops and, more importantly, the hay crop needed to feed cattle will be drastically below normal levels this year. With livestock producers unable to grow sufficient feed on their own farms, feed available in the marketplace is selling at premium prices. As a result, foundation dairy and beef herds that may have taken years to build up are going to market in unprecedented numbers in this area.

As these foundation herds are lost in great numbers today, not only are many livestock producers' operations seriously debilitated, if not destroyed, but the stage is set for shortages of beef for the consumer in the long run. And with shortages, the price of beef can be anticipated to rise next year, which will benefit neither the consumer nor the livestock farmer forced to liquidate his cattle herd this year.

To avoid irreparable harm to the cattle business because of drought, additional forced liquidation sales of foundation herds must be prevented. To prevent such forced sales, producers clearly need additional operating funds to see their herds through the approaching winter. There is no question that producers want to stay in business if they possibly can; but the drought conditions and the failed crops have placed a great strain on normal lending sources.

Therefore, the successful emergency livestock credit program already in place should be extended. Although this step is not, in itself, the full answer to the plight of livestock producers, it is an important step. It will give them access to additional operating funds to see their stay in operation until the drought passes.

Mr. President, I move the adoption.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and passed.

## AUTHORITY TO CALL UP UNEMPLOYMENT TAX MEASURE

Mr. ROBERT C. BYRD. Mr. President, before we vote, I ask unanimous consent that the leadership be authorized at any time to call up the conference report on the unemployment tax, if there be such, or a message from the House of Representatives thereon, whichever it be.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## DESIGNATION OF CERTAIN LANDS AS WILDERNESS

The Senate continued with the consideration of the amendment of the House of Representatives to the bill (S.

1026) to designate certain lands as wilderness.

Mr. ROBERT C. BYRD. Mr. President, what is the question on which the Senate is about to vote?

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment with an amendment offered by the Senator from Wyoming.

Mr. ROBERT C. BYRD. I thank the Chair. I ask unanimous consent that I may be recognized after the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to concur in the House amendment with an amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), the Senator from Mississippi (Mr. Eastland), the Senator from Florida (Mr. Chiles), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Louisiana (Mr. Long), the Senator from Rhode Island (Mr. Pell), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Hawaii (Mr. Inouye), and the Senator from Montana (Mr. Mansfield) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Massachusetts (Mr. Brooke), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), the Senator from Kansas (Mr. Pearson), the Senator from Alaska (Mr. Stevens), the Senator from South Carolina (Mr. Thurmond), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

Mr. BUMPERS. Regular order, Mr. President.

The result was announced—yeas 32, nays 38, as follows:

[Rollcall Vote No. 685 Leg.]

YEAS—32

Allen
Baker
Bartlett
Bayh
Byrd,
  Harry F., Jr.
Cannon
Curtis
Domenici
Fannin
Garn
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Helms
Hruska
Jackson
Laxalt
McClellan
McClure
Metcalf
Moss
Nunn
Percy
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Tower
Young

NAYS—38

Abourezk
Biden
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Gravel
Hathaway
Hollings
Huddleston
Humphrey
Javits
Johnston
Leahy
Magnuson
McGovern
McIntyre
Morgan
Muskie
Nelson
Packwood
Pastore
Proxmire
Randolph
Ribicoff
Stafford
Stevenson
Stone
Symington
Taft
Williams

NOT VOTING—30

Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Chiles
Dole
Eastland
Fong
Glenn
Goldwater
Hart, Philip A.
Hartke
Inouye
Kennedy
Long
Mansfield
Mathias
McGee
Mondale
Montoya
Pearson
Pell
Scott,
  William L.
Stevens
Talmadge
Thurmond
Tunney
Weicker

So the motion to concur in the amendment of the House of Representatives with an amendment by the Senator from Wyoming (Mr. Hansen) was rejected.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, there is further action on this matter, is there not?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair protect my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. I move to concur.

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. Is there a motion now to agree to the House amendments without the Haskell amendment in order?

The PRESIDING OFFICER. Yes.

Mr. MOSS. So move.

Mr. HASKELL. I move that the Senate concur in the House amendments.

Mr. HANSEN. Mr. President, I will not object to the bill or to the motion made by the distinguished Senator from Colorado, but I apprise Members of this body as to what has been happening.

We have had a series of hearings on the wilderness areas. For those who may not have been in the Chamber when I spoke earlier, let me now observe that in the area that I sought to have excluded from the Fitzpatrick Wilderness Park of that system, which is in Wyoming, is found the biggest Rocky Mountain sheep herd or the Big Horn sheep herd anywhere in the world.

It is from this area that transplants have been made all around the world. This was not a frivolous amendment. We have had hearings. We have had testimony from the governor, from the game and fish department, from every agency of State government, from the Forest Service, from all interested Federal agencies that I know of that were involved. On the basis of that testimony, I sought to have excluded from wilderness, and to continue to be preserved under the primitive area status which it has had and would have had had my amendment prevailed, this area from which mountain sheep have been caught and transplants made all over the world.

A good many people came to me while we were voting and said, "Why didn't you bring this up earlier?" It was brought up earlier, and the Committee on Interior and Insular Affairs adopted the amendment that I then proposed. My good friend the Senator from Montana (Mr. Metcalf) and my good friend the Senator from Colorado (Mr. Hatfield), both of whom voted to support me in the amendment I offered, could not have been fairer, and they know what the background is.

The reason we are caught in the jam we are in now is that we seemingly are unable to resist a tactic that the House engages in, which I think is not very good. They bring together a whole cluster of bills, just as they did here, and then at the last minute they say to the Senate, "Take it or leave it."

I knew as quickly as the vote started that I was going to get clobbered, despite the fact that I think right is on my side. Sometime, somebody is going to discover that we should not have done what we have just done by rejecting this amendment. That, of course, is a matter of judgment. I do not argue at all about the importance of the establishment of all these wilderness areas, but the argument is a California argument. Two Representatives, or perhaps three out there, do not agree on the Kaiser's Ridge area. It is a timbered area which has very valuable timber resources.

I am told on the one side that at least one of the Representatives from California thinks that the area should not be made part of the wilderness system.

I understand that one of the important unions out there opposes it, because if this timber were to be withdrawn from cutting and be protected, as indeed it would be and likely will be under the Wilderness Act, the carpenters union out there would expect that there might not be as much building.

Mr. JOHNSTON. Mr. President, will the Senator from Wyoming yield?

Mr. ROBERT C. BYRD. Mr. President, I have the floor, but I have yielded to the Senator.

The PRESIDING OFFICER. The Senator from West Virginia has the floor; that is correct.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. HANSEN. I am happy to yield.

Mr. JOHNSTON. I am very sympathetic to the plight of the Senator from Wyoming. He has a good amendment which everyone supports.

Mr. HANSEN. Only 32 supported it, I say to the Senator. Thirty-seven did not support it.

Mr. JOHNSTON. The only reason it could not be supported on that particular piece of legislation is that there were within other parts of that omnibus bill provisions from California which were, in fact, very controversial, which would, I am advised, have caused an objection on the floor of the House.

But I believe that we have another vehicle which can accomplish the same purpose, by attaching it to the Eugene O'Neill bill, which is presently cleared on both sides for action in this body.

I just mention that to the Senator and ask if there is any objection at all in the Chamber to attaching it to the Eugene O'Neill bill. I do not believe there is. I have cleared it with the Senators from California.

Mr. EAGLETON. I would support it attached to that bill. I opposed the Senator's amendment, because of the reasons aforesaid.

Mr. JOHNSTON. I simply say that to the Senator from Wyoming, because I think we can get that accomplished right now.

Mr. HANSEN. I express my appreciation to the Senator from Louisiana.

The point I wanted to make, which I think is important and should be understood by Members of the Senate, is that we do not put together a whole package of bills as the House has done and throw them over there and say, "Take them or leave them." That is the choice we had. There are very good, compelling, persuasive arguments for making the modification in the boundary of the wilderness area, just as I have said. I hope that the Senate very shortly will say to the House, "We are not going to be treated this way any longer."

Frankly, I question whether any Member of the House would be willing to bring down upon him the antipathy of all those people who are interested in this whole package of wilderness bills, to raise an objection. That is speculation.

The Senator from Louisiana says that objection would be raised. Personally, I doubt that it would have been, but that is a matter of personal judgment; and certainly the Senator from Louisiana is every bit as entitled to be presumed right as I would be.

However, since this failed to be adopted, I welcome and appreciate his support to attach the provision I had to the Eugene O'Neill bill. If we may have his support, I hope that can come about.

Frankly, I am not sure what may happen on the other side, but at least this is the approach we should take—I mean, to consider these things separately. While there is not really that much in common between the Eugene O'Neill bill on the one hand and this wilderness bill on the other, I think that is the best we can hope for.

I say to the Senator from Louisiana that I think the staff is in the process of preparing an appropriate amendment. If the majority whip will be willing to consider the Eugene O'Neill bill a little later, I think we can be given enough time to get the necessary paperwork done.

Mr. ROBERT C. BYRD. Mr. President, while the staff is working on the matter, I——

Mr. HASKELL. Mr. President, if I may suggest it, the staff is working on a completely unrelated bill. I think the motion now is to concur in the House amendments on 1026.

The PRESIDING OFFICER. That is correct. There is a motion to concur.

Mr. ROBERT C. BYRD. I ask the Chair to protect my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to concur.

The motion was agreed to.

Mr. METCALF. I move to reconsider the vote by which the motion to concur was agreed to.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I cannot continue to yield much longer. I must go on. But I yield to the Senator from Arkansas to call up a conference report, for which unanimous consent has already been granted.

I ask that the Chair protect my rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## CRIME CONTROL ACT OF 1976—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on S. 2212, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today.)

Mr. ABOUREZK. Mr. President, may I ask the chairman what that conference report involves? What is the conference report?

Mr. McCLELLAN. An extension of the LEAA Act.

The conference report was signed, Mr. President, on the part of the Senate by all of the members of the conference, with the exception of Senator HART of Michigan, who was unable to attend the conference, and by all but one of the conferees on the part of the House. It has passed the House.

The report recommends that the Senate recede from its disagreement to the amendments of the House to the text of the bill and agree to the same with an amendment.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, on July 26, 1976, the Senate overwhelmingly passed the Crime Control Act of 1976, S. 2212. The principal purpose of the bill was to authorize appropriations for the Law Enforcement Assistance Administration in the next 3 fiscal years. The bill also made a number of amendments to title I of the Omnibus Crime Control and Safe Streets Act of 1968 which were designed to strengthen the LEAA program.

The Senate bill differed significantly from the bill passed by the House. Despite these differences and despite the very strong insistence of the House conferees on provisions of the House bill, I believe we have been successful in preserving the essential character of the Senate bill.

I would like now to review some of the major points in the Senate bill which the Senate conferees were able to insist upon and retain. I would also like to discuss a few of the House provisions which were accepted in conference.

### AUTHORIZATIONS AND APPROPRIATIONS

Mr. President the Senate bill authorized appropriations for LEAA of up to $1 billion for the fiscal year 1977 and $1.1 billion for the 4 succeeding fiscal years. The House bill authorized $880 million for fiscal year 1977.

The conference provision authorizes appropriations of $880 million for fiscal year 1977, $800 million for fiscal year 1978, and $800 million for fiscal year 1979. An additional $15 million is authorized and earmarked for community anticrime programs and an additional $10 million is authorized and earmarked for antitrust programs under a new section 309 of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

In addition to these authorizations, the Senate bill increased the minimum amount of planning funds available to each State under part B of the LEAA Act to $250,000. The Senate bill specified that $50,000 of these part B funds were to be made available to judicial planning committees in each State.

The appropriations bill for LEAA for fiscal year 1977 has already been enacted into law and LEAA has already distributed a significant amount of these appropriated funds to the States and units of local government. It does not have the funds necessary to provide each State with a minimum of $250,000 and to provide $50,000 to judicial planning committees in each State without supplemental appropriations. It is anticipated that LEAA will discuss this issue with its appropriations committees in an effort to determine the amount of funds that can be obtained for judicial planning committees in this coming fiscal year.

### MAINTENANCE OF EFFORT FOR JUVENILE DELINQUENCY

Mr. President, the conferees agreed to a Senate provision which specifies that the administration shall maintain from the LEAA appropriation each fiscal year at least the same level of financial assistance for juvenile delinquency programs as such assistnace bore to total appropriation for the programs funded pursuant to Parts C and E of this title during fiscal year 1972.

The effect of this provision is to require that LEAA assure that of the total appropriated funds for the purpose of implementing the Omnibus Crime Control and Safe Streets Act of 1968, 19.15 per centum be expended for juvenile delinquency programs. The amendment, however, does not specify that LEAA expend exactly 19.15 per centum of each of its budget categories for juvenile delinquency control and prevention.

### ANTI-FENCING PROGRAM

The conferees also agreed to a Senate amendment establishing a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such goods and property. The amendment applies to income from new grants as well as to income from current LEAA grants for such projects.

### REGIONAL PLANNING UNITS

The conferees rejected the House amendments which provided that the definition of local elected officials include only elected legislative and executive officials. This provision would have required a restructuring of many regional boards which oversee the LEAA program at the sub-State level. Under section 203 of the LEAA Act, these boards must include a majority of local elected officials. The amendments rejected by the conferees would have prohibited States from counting local elected judges, prosecutors, and sheriffs in determining if regional planning units include a majority of local elected officials.

### CIVIL RIGHTS

The conferees agreed to a House amendment which significantly alters the civil rights compliance program now followed by the Law Enforcement Assistance Administration. The House amendment deletes the present section 518(c) of the LEAA Act and substitutes a new procedure which would be applicable to future actions taken by LEAA and by the Attorney General under the LEAA Act.

This act, when enacted, will require the Administrator, each time the Administrator receives actual notice of a finding of noncompliance with the antidiscrimination provisions of the LEAA Act, made by another Federal agency or court, a State agency or a State court, to notify within 10 days of the receipt of the notice the Governer of the noncompliance and ask the Governor to secure compliance. LEAA must also notify the Governor 10 days after it makes its own finding of noncompliance based on a complete and thorough investigation of a matter.

LEAA funds to a particular program or project in which the alleged discrimination occurred must be suspended 90 days after the Governor receives the notice from the Administrator unless, first, unless compliance is secured; and second, a hearing examiner in a preliminary hearing determines that the Governor is likely to prevail at a full hearing on the noncompliance issue.

Funding can resume only when compliance is achieved.

The act will also require LEAA to suspend funds 45 days after the Attorney General files a lawsuit against a recipient of LEAA funds and alleges that the recipient is engaging in a pattern or practice of discriminatory conduct. The suspension will occur unless either the Attorney General or the party sued by the Attorney General has been granted a motion to stay the suspension of the funds.

Finally, Mr. President, the act authorizes private parties to initiate civil actions in Federal or State courts against a State government or unit of local government or any officer or employee thereof acting in an official capacity whenever such government employee or officer has engaged or is engaging in any discriminatory act or practice prohibited by the LEAA Act. This provision is an analogy to title 42, section 1938, United States Code, which authorizes action in Federal court against State or local officials acting under color of law.

### SECTION 518(b) AND GOALS AND TIMETABLES

In accepting this new provision, there is no intent to authorize the Administrator of LEAA to impose racial or sexual quotas on recipients of LEAA funds.

Section 518(b) of the act prohibits the setting of quotas. This provision was unchanged, and this provision will still bind the Administration.

LEAA does have an affirmative obligation under this law to seek to eliminate discriminatory practices, voluntarily, if possible, prior to resorting to fund termination. LEAA can request that a recipient eliminate the effect of past discrimination by requiring the recipient to commit itself to goals and timetables. The formulation of goals is not a quota prohibited by section 518(b) of the act. A goal is a numerical objective fixed realistically in terms of the number of vacancies expected and the number of qualified applicants available. Factors such as a lower attrition rate than expected, bona fide fiscal restraints, or a lack of qualified applicants would be acceptable reasons for not meeting a goal that has been established and no sanctions would accrue under the program.

### CIVIL DISORDERS

The conferees agreed to the House provision which deleted the special emphasis provided in section 307 of the LEAA Act for funding of riots and other violent disorder programs. The authority to fund such programs, of course, remains in part C of the act. However, the special emphasis to such programs borne out of the riots and disorders of the 1960's is no longer deemed to be warranted.

### DEFINITION OF COURTS

The inclusion in the conference report of the term "courts" of tribunals or judicial systems having either criminal or juvenile jurisdiction, as adopted from the House bill, makes it clear that, regardless of the classification of juvenile courts having jurisdiction over juvenile offenders as civil in nature, the conference considers juvenile courts to be an integral part of a State's law enforcement and criminal justice system. As such, I expect that judicial planning committees will include representation of juvenile court interests and that the annual State judicial plan will address the improvement of the State's juvenile court system.

### TITLE II

Mr. President, the conferees agreed to title II of the House bill. Title II specifies that no sums shall be deemed to be authorized to be appropriated for any fiscal year beginning on or after October 1, 1978, for any bureau, agency, or similar subdivision of the Department of Justice "except as specifically authorized by act of Congress with respect to such fiscal year." This exception is intended to apply to LEAA programs which, as I noted above, will be authorized for fiscal years 1977, 1978, and 1979 and the programs of the Office of Juvenile Justice and Delinquency Prevention which are authorized by the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974. The authorization for the Office of Juvenile Justice and Delinquency Prevention expires at the end of fiscal year 1977 and the Senate Judiciary Committee is currently considering legislation to extend the authorization of that program. The limitations imposed by title II thus do not apply to the LEAA program or the program of the LEAA's Office of Juvenile Justice and Delinquency Prevention.

Mr. President, if I may be indulged a personal word, I have watched with great interest and some pride the growth and development of the Law Enforcement Assistance Administration since its inception in 1969.

Because of my retirement from the Senate at the end of my current term, my official interest in this remarkable agency will end, but not my interest as a private citizen concerned with the problem of crime in America.

Because LEAA is a unique agency, it has had its share of attention, along with what seems to me more than its share of criticism. No function of Government should be above criticism, but there is a responsibility on the critics to be informed, accurate, and wherever possible, constructive.

I regret to say that relatively little of the criticism of LEAA has been blessed with those qualities.

To cite a single example: The LEAA program is administered as a block grant system of Federal assistance. It was conceived as a form of special revenue sharing with 85 percent of its action funds going to States and localities to be used as those units of Government determined, free from the redtape and over regulation of categorical grant programs and subject only to the requirement that the activities be consonant with a comprehensive State criminal justice improvement plan.

Too many of those who are opposed to this concept have used LEAA as a whipping boy and have sought to judge it as a categorical grant program.

There have been shortcomings in the program. No one denies it. It is, after all, administered by mortals who are subject to error.

But even in those cases where there was less than full agreement on the use of LEAA funds, my own close study of the matter persuades me that the fault, if any, lies not with LEAA but necessarily with local police, courts, and corrections officials who actually are in charge of administering and operating the law enforcement activities.

There is no doubt in my mind that the LEAA has already achieved one major accomplishment which no amount of criticism can ever take from it. It has established for the first time in our two centuries of existence as a nation, a true criminal justice system, in which the various components are working together. Criminal justice is akin to a three-legged stool with police, courts, and corrections making up each of its legs. If any one of those legs is weak or missing, the stool will collapse.

So, Mr. President, I expect there will be more discussion of shortcomings during the 3-year life we are granting this agency. But we should look at the whole picture and not strain at the relatively few flaws.

LEAA has unusually competent leadership in Richard Velde, its able Administrator. He has a first-rate staff, many of whom I know personally and with whom I have frequent and searching discussions.

I count it a privilege to have played a major role in the development of the LEAA and shall always regard it as one of the most important achievements of my career in the Senate.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed in the Record at the proper place a statement on behalf of the distinguished Senator from Massachusetts (Mr. Kennedy) regarding this conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

### Statement by Senator Kennedy

I am pleased that the House and Senate conferees have reached agreement on a three year extension of the federal LEAA program. Major structural and administrative changes will occur in the program as a result of the agreement reached in conference, and both the chairman of the conference, Mr. Rodino, and the distinguished senior Senator from Arkansas, Mr. McClellan, have my deep thanks and appreciation.

One of the most important changes called for in this LEAA reauthorization bill relates to the courts. During the course of the Senate Subcommittee hearings concerning this legislation, it became apparent that the courts were being shortchanged in terms of input and benefits. This bill hopefully changes all of that. Court related problems are given a funding priority, and statutory provisions guarantee better judicial representation on the state planning agency. Most importantly, the bill calls for the voluntary establishing of judicial planning committees in each state to plan for the needs of State and local courts.

Under this bill, members of such judicial planning committees shall be selected in the overwhelming majority of cases by the court of last resort. The court has complete discretion in selecting the members of this committee, as long as a majority are court officials. Membership may, at the discretion of the court, encompass judges, court administrators, prosecutors and public defenders. This gives the various State courts of last resort sufficient flexibility and leeway to decide how to staff these new committees.

If the court of last resort decides that membership should be limited only to judges and court administrators, the language so provides. The salient fact is that this legislation for the first time gives to the State and local courts a federal vehicle for judicial planning. The extent to which the judiciary wants to open up membership on the judicial planning committee to non-judicial members rests entirely with the judiciary. The other branches of government have no say as to this matter of membership.

I view this legislation as a substantial improvement over current law and urge its prompt enactment.

Mr. BAYH. Will the Senator permit me 1 minute?

Mr. McCLELLAN. Yes.

Mr. ROBERT C. BYRD. My rights are being protected?

The PRESIDING OFFICER. The Senator from West Virginia is correct.

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## NEED TO FURTHER ASSESS DRUG ABUSE AND CRIME RELATIONSHIP

Mr. BAYH. Mr. President, as chairman of the Subcommittee to Investigate Juvenile Delinquency, I am pleased that the conference version of S. 2212 includes provisions that authorize the National Institute on Law Enforcement and Criminal Justice to conduct studies and to undertake programs of research, to determine the relationship between drug abuse and crime. My subcommittee is mandated by the Senate to review and assess Federal drug control statutes and Federal drug control policy and one of the long ignored presumptions of much of the drug control policy is that predatory, revenue-generating crime is the primary source of income for drug abusers. President Ford in his drug message to Congress confidently asserts, as he did again on Monday to the International Association of Chiefs of Police in Miami, that as much as one-half of all street crime is committed by drug addicts to support their habits. Such assumptions, whether valid or not, obviously have broad impact when reflected in executive and legislative policy. There is currently legitimate debate and difference of opinion, however, regarding this particular assumption. In fact, a soon to be released report from the Panel on Drug Use and Criminal Behavior, sponsored by the National Institute on Drug Abuse, reflects grave concern about the veracity of this cornerstone of most Federal drug control policy.

As was the case with "Marihuana: A Signal of Misunderstanding" developed by the "Shafer" Commission on Marijuana and Drug Abuse which was created by our subcommittee amendment in 1970, I am certain that the NIDA "Drug Use and Crime" report will stimulate and enlighten those of us who are responsible for setting Federal drug control policy.

Similarly, the involvement of NIDA with the NILECJ in an effort to further evaluate the relationship between drug abuse and crime as well as the impact of drug treatment on crime, will help assure that the information gap in this vital area of public policy is filled. I am personally encouraged by the thrust of these provisions and will anxiously await the receipt of relevant reports to the Judiciary Committee.

Mr. President, my subcommittee heard important testimony last month on this new NIDA "Drug Use and Crime" report from the head of the panel, Dr. Robert Shellow, and I ask unanimous consent that his statement and a thoughtful article on the panel's assessment by Ms. Susan Fogg be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Statement of Robert Shellow, Visiting Scientist, National Institute on Drug Abuse, to the Subcommittee to Investigate Juvenile Delinquency, of the Committee of the Judiciary, U.S. Senate, August 5, 1976

Without question, crime and drug abuse are major problems in the United States. Both the numbers and rates of crime are rising. Illicit drug use is widespread. The belief that a large share of crime is caused by illicit drug use underlies many of the policies and strategies geared to reducing crime. However, this belief is based more on the logic of conventional wisdom than on a careful scrutiny of hard evidence. To evaluate current policy on drug abuse and crime and to develop more effective policy in the future, we need facts, not assumptions or suspicions. From the point of view of social management, research serves two distinct and important functions: To develop knowledge so as to inform policy decisions, and to evaluate policy alternatives both before and after those decisions have been made.

Last October the National Institute on Drug Abuse convened a panel on Drug Use and Criminal Behavior. The membership consisted of 23 experts (15 from outside of government and eight from within) drawn from the fields of economics, law, political science, psychology, sociology, statistics, and systems analysis. The spectrum of substantive expertise covered drug-crime research, measurement of criminality, program evaluation, policy development, evaluation and implementation. Panel members represented academic and research organizations, local programs, federal executive agencies, and congressional committees with responsibility for either national crime or drug policy. Individual panel members, sub-panels along with the group as a whole, generated state-of-the-art positions on the drug-crime relationship and identified what further work is needed to firm up our understanding of that complicated matter. It is the purpose of the report of that Panel to suggest a direction for further research into drug abuse and criminal behavior, a direction which will fulfill both of these functions.

The state of the art reviews included in this report should be considered as a beginning attempt (1) to find out what we really know about the relationship between criminal behavior and drug use, (2) to identify what we still need to know, and (3) to recommend ways to secure the knowledge we need. The report itself, with its appendix of specially selected or commissioned studies, constitutes the work of the Panel on Drug Use and Criminal Behavior in pursuing these goals.

It might well be asked how any examination of the effects of drugs could possibly exclude alcohol as a drug. It is without question the most popular of consciousness altering and abused substances in our society. Its use is also intimately associated with criminal behavior, the very reason for the widespread alarm over dependency on other drugs. Unfortunately, governmental responsibility for social problems tends to be arbitrarily assigned in a categorical fashion—with the territory of drug abuse, at least for the moment, not to encompass the broad domain of alcohol. Interestingly little research has been devoted to the role alcohol use, alcoholism (addiction) or alcohol intoxication plays in the generation of criminal acts. There is no question that the role is a sizable one, different from other drugs, but perhaps greater in its impact. We catch a glimpse of what the relative contribution of alcohol to crime might be in the recent Law Enforcement Assistance Administration survey of prisoners in state correctional facilities. Sixty-five percent claimed to be under the influence of some substance at the time they committed their offense, but it was almost 2 to 1, alcohol to other drugs (Barton). For these reasons, we must regard the work of the NIDA Panel on Drug Use and Criminal Behavior to be only part of what the full effort should be; the remainder perhaps commissioned at a later time by Nida's sister institute, the National Institute on Alcohol Abuse and Alcoholism. It is with grave reservations that we have omitted alcohol's contribution to crime.

As for the relationship between the use of other drugs and crime, the problem is partly a conceptual one. One way of putting it is: what would happen to crime rates in the United States if by some miracle the drug problem were to be eliminated? More realistically: what would happen to those rates if the supply of expensive drugs were effectively interrupted or if demand for those drugs were significantly reduced, or both? If we were to attempt an answer to either of those questions at the moment, we would have to rely on a very limited data base plus a series of unsubstantiated assumptions. Currently available studies, more often than not, are limited to a particular subgroup of the population, a single geographic area, possess some crucial methodological weakness, or in no way can be made comparable to other studies.

Consequently, in the absence of convincing data, the major assumptions underlying policy, as articulated in the recent White Paper on Drug Abuse (1975), are open to serious debate. Several key assumptions are as follows:

As supply is curtailed, street price and hence habit costs increase, thus driving regular users into treatment or alternatives in the form of other drugs. Marginal users are discouraged from entering the market. High price drives people out and prevents people from coming in. On the other side, as treatment becomes more available it attracts those who find it difficult to maintain their habits or who wish to overcome or reduce their addiction for other reasons. Furthermore, treatment may remove users permanently from the market since treatment may come at a critical time, often described as the time a user hits "rock bottom," with increased likelihood that lasting changes may be effected. Simultaneously curtailing supply and making treatment more available is assumed to produce an augmented effect.

Since its early sessions the panel has been struggling to test the validity of those very assumptions and the line of reasoning which flows from them. But before discussing the three crime-drug issues, which we might label (1) causality, the effects of (2) treatment and (3) supply reduction, we'd like to offer some definitions of drug-related crime, definitions which we believe are essential to understanding our line of thought.

To date we have considered four types of crime:

The first type is criminal behavior which is directly and primarily attributable to taking a particular drug. One aspect of this type of criminality would include any behavior which is directly patterned as a specific pharmacological effect of a substance. Although most researchers agree that there is no "robbery capsule' or "assault discette," we mention this category because some people still believe drugs can act in this way. It's not very far removed from the Anslinger era contention that marihuana leads directly and irreversibly to "reefer madness" and even to axe murders.

There is little evidence that any widely used substance produecs such highly patterned criminal behavior. General reactions, yes! Amphetamines may produce a state of general agitation in which assault on another may become more likely; and high dosages of hallucinogens may engender suspiciousness to the point of precipitating violent acts. But these are much closer to another aspect of this type of criminal behavior, namely behavior which is a direct consequence of being intoxicated with a substance. Judgment may be effected, so also coordination and emotion, but in a generalized way similar to the highly personal and conditional effects of alcohol and may similarly result in a number of individual or situation specific behaviors such as traffic offenses, aggravated assaults, or negligent homicide and other forms of violent person-directed offenses. However, isolating even these general patterns of behavior is difficult when drugs are used in combination or with alcohol (Preble & Miller, 1976).

The second type consists of the drug-defined crimes: possession, trafficking or sharing the same space as persons engaging in same. Despite their high volume, these "crimes" are not the ones that worry the panel the most because they are not crimes against property or other persons. Their importance lies primarily in serving as an indicator of the acceptance or rejection of specific legal sanctions dealing with prohibited substances.

The third type consists of criminal acts carried out in the service of maintaining drug distribution channels or networks, and insuring an uninterrupted flow of goods to wholesale and retail markets. Such crimes include hijacking, piracy, arms thefts, and bribery of public officials. Unfortunately the full scope of these crimes remains largely unknown. Information on distribution networks is ordinarily developed by law enforcement investigators who gather evidence, not at all for scientific purposes, but for the indictment and conviction of individuals as a means for curtailing supply. Though their methods may be akin to the social scientists', the criminal investigators' information is narrowly selective and confidential. It is rarely available to the scientist. Few scientists choose to gather their own data of this sort, exposing themselves to the risks but not enjoying the protections afforded law enforcement officers.

Finally, the fourth type embraces those crimes that the panel, the policy-makers, and the general public are most concerned about. They are the income generating crimes that drug users commit, both against persons and property, in order to support their personal habits. It is seen most often in people who must maintain habits involving expensive drugs, almost exclusively now the addictive narcotics. Indeed, in attempts to estimate the social costs of drug abuse, the greatest weight is given to addict crimes. In one such exercise, such crimes accounted for six of the estimated 10 billion dollars social cost of drug abuse (A D. Little, 1974 & Johns Hopkins, 1975).

Now back to the issues of casuality and the effects of treatment and supply reduction. In discussing the various aspects of the crime-drug problem, we really are talking about heroin as the drug and property offenses as the crime. For the moment this serves as the most useful model—and will most probably continue to do so until some other drug becomes so widely used and expensive to purchase as to require large amounts of cash for habit support. Whether attacking crime by reducing drug supply, drug demand and drug abuse makes sense depends on the degree to which drug abuse actually drives crime rates.

There is no question that drug abuse, most particularly heroin addiction, is statistically associated with crime. Known addicts or drug abusers commit or have committed a large amount of crime, particularly property crime. How much crime they commit is open to conjecture. There are lots of answers offered mostly in the press and to some extent in the scientific literature. There seems to be a permanent open season on estimating the amount of property crime addicts commit. Though a number of police administrators have come up with estimates between 30% and 70% (Pomeroy, 1974), it is not clear where they get their figures.

One source, of course, are the tallies of heroin users or addicts on arrest dockets or in jail. Kozel, DuPont and Brown (1972) identified 45% of a sample of those arrested in Washington in 1969 as heroin users. Forty-seven percent were identified in 1971 and 22% in 1973, (Bass, Brock & DuPont, 1976). But Washington may not be typical. The 1971 Eckerman, et al. study of central jail intakes in six cities revealed that 60% of all property crime arrests in New York involved current heroin users. However, the percentages of heroin users among arrested property offenders in St. Louis, New Orleans, Chicago, San Antonio and Los Angeles ranged only from 20–25%. A more recent study in Miami in 1974 by McBride (1976) yielded a 19% rate of current opiate use by those arrested for property offenses. These figures indicate considerable intercity variability. The differences were even more dramatic for the quite serious offense of robbery, ranging from 80% in New York to only 17% in St. Louis in the 1971 Eckerman study. A recent LEAA survey of 10,000 inmates in state correctional facilities (Barton, 1976) found 13% to have used heroin at the time of the arrest leading to the current incarceration.

Head counts of heroin users in jails and prisons, therefore, give us about the same range—13%–60%—as seat of the pants guesses by police administrators—30%–70%. Neither approach is very helpful in coming up with a single number, but perhaps to do so would be inappropriate, if not misleading.

The reason is that there will always be problems of accepting estimates based on data from the criminal justice system. In this instance, the problem lies in the fact that we know that less than 20% of all known property crimes are closed by arrest (Crime in the United States, 1974). Many of the locked up heroin users in the cities mentioned earlier came from that 20%. Whether the remaining 80% of all property crimes were committed by drug users in the same proportion as they appear on the arrest dockets is a problem which cannot be easily dealt with by making assumptions. Those who are arrested or jailed are not likely to be a random or representative sample of everyone committing property crimes. It may be that high percentages of addicts appearing in the criminal justice apparatus may simply mean that heroin addiction is dangerous to one's freedom. That is, it may affect one's criminal competence. Addicts may also be more visible to authorities and more easily caught. Conversely, the habit may disproportionately attract the criminally inept. James (1976) provides some corroboration in reporting that prostitutes with fewer arrests generally score higher on measures of competence and ability than their more frequently arrested colleagues.

As long as these hypotheses cannot be discarded, estimates of drug-induced crime based on arrest or prisoner data must remain suspect.

There is, however, a way of using this arrest or imprisonment information; but it requires some additional research, heretofore not attempted. Take, for example, the arrest studies. If drug users are more likely to get arrested than their non-using fellow criminals, the proportion of them in the arrested population will *overestimate* the drug-users' share of all crime. If they are less likely to get arrested, the arrest data will produce underestimates. To get beyond the limitations of arrest data we need to very carefully carry out a research program in which a population of both drug-using and non-drug using criminals are repeatedly interviewed throughout their careers on the street. This sensitive research must be able to determine the rate of crimes committed to each arrest for every practicing criminal in the sample. It is only in this way that the arrest data, on which we have spent so much frustrating research effort over the years, will be given real meaning and utility. The same would hold for conviction and incarceration data.

There is a similar problem in extrapolating from studies of criminal behavior of drug abusers in treatment. The DARP Data (Sells, 1974) shows that 80% had been arrested prior to entering treatment. Almost 60% had been convicted or served time before treatment, and over one-third reported illegal income as their major source of support in the two months prior to enrollment in treatment. Nash's look at 34 New Jersey programs came up with pre-treatment arrest histories for 70% of clients in drug-free programs and 80% in methadone maintenance. Again the question comes up as to how well those in treatment reflect the entire population of users and addicts.

Granting that there is a statistical relationship between drug abuse and crime, though its magnitude must still be considered elusive, the question now arises as to what is the causal relationship between the two. Is drug abuse a principal cause of crime? Attempts to answer this question have for the most part followed the line of determining whether drug abusers engage in more criminal activities following initiation of drug abuse as opposed to before.

Results of previous studies on this issue are well summarized by Greenberg and Adler (1973). They point out that since 1950 those who end up regularly using heroin were in fact committing crimes and being caught before they started on the drug. Once addicted, however, their criminal involvement became intensified.

The panel, however, felt that some key issues were overlooked in this line of inquiry. They have now rephrased the question to read, "How are changes in *patterns* of drug use related to changes in *patterns* of criminality?" or more specifically, "At what level of drug use does an individual need to engage in crime as a major source of income to support drug use?"

We don't, at present, have the answer to that question, though there is some early evidence that drug use, and perhaps addiction itself, occur episodically (Robins, 1974; Winick, 1974; Waldorf, 1970; Nurco, 1975). The panel is presently carrying out analyses on several data sets to determine whether type and amount of crime differ within and between episodes of drug abuse. However, few researchers have collected data in a way that permits a clear examination of this episodic relationship.

Other possible alternative explanations must be considered. Unemployment or law enforcement emphasis certainly could be factors having a substantial impact on both drug abuse and crime. But the relative impact of all of these factors will have to be traced out through fairly sophisticated analytic techniques, not as yet applied to reliable data in the drug-crime area.

In many ways the answer to one of the fundamental questions facing policy-makers hinges on the outcome of such analyses. What proportion of all crime, principally property crime, can be attributed specifically to the financial requirements of drug habits?

So much for how far we've come on the question of causality. Now let's look at the next question: Do treatment programs reduce the criminality of participants? Here, a somewhat consistent picture seems to be emerging. Illegal income generating activity and involvement with the law (arrests, convictions, imprisonment) drop off dramatically once somebody enters treatment whether it be methadone maintenance or a drug free program.

In his study of 17 New Jersey treatment programs, Nash found one-fourth of those in drug free and one-third in methadone maintenance were arrested within 17 months of starting treatment. In another study, Long and Demaree (1974) followed almost 3,500 outpatients in 31 DARP programs throughout the nation for up to 12 months. About 7% were arrested within the first six months of treatment. If we stop right there, it looks pretty good; even very good.

However, longer follow-up studies show a less dramatic effect. A recent TCU study selected a sample of 1853 former DARP clients and interviewed them up to six years following termination of treatment. By that time about one-fifth claimed that most of their income was coming from illegal sources. Almost 50% had actually spent time in jail since starting treatment. Nash too extended his study of over 34 New Jersey programs with arrest record checks occurring 20–22 months after enrollment. In the additional three to five months since the first New Jersey follow-up, the arrest figure moved from 33 up to 40%.

We feel that the most plausible interpretation of these results from diverse studies is that involvement with the criminal justice system, and possibly involvement in criminal behavior itself, doesn't entirely disappear but gets suppressed while in treatment. Actually official arrest records and DARP follow-ups are likely to underestimate criminality, both during and after treatment. As time goes on, criminality begins to return to pre-treatment levels, especially after treatment stops.

We do feel, however, that it is important to remind ourselves that heroin addiction appears to intensify already established patterns of criminal behavior. If we can accept this, it then becomes clear that treatment programs, as they are presently constituted, cannot realistically be expected to eliminate criminal behavior. We might, however, expect a reduction in criminal behavior over the short run. That is, treatment may impede an accelerating trend in criminality; a trend which would have continued had it not been checked by some form of intervention, and that may be worth the investment. In the long run, save for those who may "mature-out" of both drugs and crime, criminality may never drop below the pre-addiction level.

One way to get at the ability of treatment to check user crime is to compare persons in treatment with similar individuals accepted for treatment, but unable to follow through on it, or with a criminal-user group not in contact with treatment programs. The very limited data along these lines suggests the need for more well designed evaluation or quasi-experimental studies addressing these issues. An opportunity for doing so has been presented in LEAA's recent decision to evaluate its TASC (Treatment Alternatives to Street Crime) program.

The important thing to keep in mind is that treatment rather than consisting of a single regimen, comes in many forms and serves a wide array of clients many of whom have precious little in common with each other. For this reason real changes in the criminal behavior of some clients might well become buried, especially if the nature of the treatment, voluntary versus coerced for example, or of the clients themselves, highly criminal or marginally so, have not been taken into account.

Now let's turn to the supply side. Here, the impact of rising prices on consumption is the central question; both in terms of individual consumption and the recruitment of new consumers. It is not at all clear that gradually rising prices are inevitably accompanied by a decrease in consumption. Indeed, street ethnographers like Preble tell us that like everything else in an inflationary economy, the consumer appears to absorb gradual increases without balking and perhaps without even noticing. Dramatic and exorbitant jumps in price, however, may very well begin to empty the marketplace or force consumers to use available substitutes. Regular buyers may have to forego their use, while would-be recruits are discouraged away from experimentation. Recreational chippers may be least affected, as they pay the stiff prices for a one-shot party. Curtailment efforts which are only half-effective may produce entirely different results; possibly sharp prices but not so sharp as to reduce consumption. Just how these market mechanisms actually do work at the street level needs to be much more thoroughly studied first hand; not implied from easily obtained aggregated data. Such research must have major importance relative to federal enforcement policy and demand reduction strategies.

Despite the couple of hundred studies in the crime-drug area, the field lacks coherence and badly needs an overall program design. In the course of developing its state-of-the-art summaries, the panel was continually impressed by how little we acually know. There is no question that we lack specifically focused research in all three areas: the extent of the drug use-crime association, the impact of drug treatment on criminality, and the actual market behavior of drug consumers.

With regard to the first, three research strategies should be employed. First, we need to find out more about the drug-related criminal behavior of untreated drug users and the drug use of undetected criminals. Second, we need better data on the types and amounts of crime during different episodes of drug use. Nurco's limited study of registered Baltimore addicts is one of the few studies with reliable data of this kind. Finally, we must encourage researchers to employ more sophisticated analytic techniques to assess the impact of drug abuse on crime relative to other factors such as unemployment, social environment, law enforcement, etc. Brenner's proposed aggregate analysis of drug use, crime, and unemployment represents this approach.

In the area of treatment, we need more follow-up studies and studies designed to assess the impact of treatment on criminality. The DARP and Nash studies are two of the few long-term follow-up studies investigating post-treatment criminality. One of the key elements of treatment studies should be an estimate of the extent of criminality that would have occurred in the absence of treatment. Control group and quasi-experimental designs are mandatory for such an effort. The New Haven treatment study was one of the few that included a control group (Kleber, Harford).

Finally, so little is known about the nature of the consumer behavior of drug users that we may still be operating on insights Preble and Casey gave us almost 10 years ago; basing our social cost estimates and even our supply curtailment strategies on possibly obsolete formulations. What is known is based on ethnographic studies of particuar neighborhoods. Although such data appears to be of high quality, thus providing compelling insights, its localness makes it difficult to generalize to the country as a whole. To overcome this limitation, we would propose a loose confederation of field workers in 10–12 major cities who would collect similar data on drug consumption behavior directly from street users. This could be compared to market behavior surveys of arrestees and treatment patients. In this way we could develop better data on the price of particular drugs, the switching of drug preferences and the reactions to changes in price or availability. Only with this improved data will the power of sophisticated econometric techniques, as displayed in the Goldman study of Phoenix House clients and the Public Research Institute's Detroit Study, be fully realized.

Before concluding, however, it is important to put this attempt on the part of the Panel into proper perspective. To date, very little of the federal research effort has gone into answering questions or testing beliefs regarding the role drug use plays in criminal activity. Since 1972, less than 1 percent of all federal drug abuse dollars have been directed towards this vital policy-related issue. For this reason the Panel was faced with constructing state of the art summaries built on a rather spare substructure. It is no wonder that the Panel concludes that there is a pressing need for research. It does so, not because it chose to duck the responsibility for deriving policy implications from previous research; but because, in many instances, that previous research did not permit the Panel to draw valid conclusions. To make more than was warranted of what little it had was judged by the Panel to be irresponsible. Consequently, what I sketched out earlier constitutes the Panel's best effort at doing what it could with what it had in hand.

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[From the Boston Evening Globe, Aug. 31, 1976]

### United States Study Finds No Supportive Evidence—Heroin-Crime Tie Challenge

(By Susan Fogg)

(The assumption that crime—predatory, revenue-generating crime—is the primary source of income for drug abusers, was found to be questionable.)

Washington.—A report that challenges a fundamental underpinning of national drug abuse policy—that heroin addiction leads to crime—is in the final drafting stages at the National Institute of Drug Abuse (NIDA).

A preliminary copy of the NIDA report prepared ever eight months by a 23-member panel of experts on drug abuse and crime, is due to be published in late September or October.

Despite the almost unquestioned conventional wisdom that assumes drug abusers are forced into a life of crime to support their narcotics habits, the report found no conclusive evidence to support the drug-crime connection.

The accepted idea that heroin is, in the words of former President Richard Nixon, "public enemy number one . . . breeding lawlessness, violence and death," is based on a number of faulty notions about the behavior of drug users and criminals, the report found.

The report focused mainly on heroin and what it termed income-generating, predatory crimes against persons and property—larceny, burglary, and robbery. Criminal behavior such as gambling, prostitution and trafficking in illicit drugs—while sources of income for drug users—were not treated in depth in the report.

The report noted that in 1975, Federal drug abuse officials estimated there was $6.3 billion in heroin-related property crimes. The assumption of an enormous social cost of drug abuse is the rationale behind current drug abuse policy, the report said.

Law enforcement agencies try to cut the supply of heroin at every level, from street-corner distributors to international smugglers, in an effort to force users into treatment.

Such a policy makes several assumptions about the behavior of drug users.

One is that the demand for heroin is inelastic—that users cannot cut down on their habit or turn to alternatives such as methadone, barbiturates or alcohol. The report found that, in fact, drug users go through periods of voluntary or involuntary abstinence and that they find alternatives to heroin when it is scarce. In at least some areas, users have come to regard methadone, rather than heroin, as the drug of choice.

The assumption that crime—predatory, revenue-generating crime—is the primary source of income for drug abusers, was found to be questionable.

What the report found is that based on the available evidence up to 50 percent of drug habit income comes from distribution and sale of drugs on the streets

A significant number of users are employed at levels comparable to non-users of the same social, economic, age and racial status, the report said.

It may be a general need for income, rather than the need of money to buy drugs, that lies behind the criminal behavior of those users who commit crimes against persons and property, the report said.

In fact the causal relationship may be the other way around: Criminality may in fact lead to drug use, as the successful criminal begins to use drugs as a luxury or status symbol, the report said.

The report found that only 20 percent of those arrested for the three pertinent categories of theft have a history of drug use, and called for studies to compare the criminal motives of users and non-users.

Dr. Robert Shellow, head of the NIDA panel that produced the report, said that heroin use "may be hazardous to freedom," because addicts are more likely to have come into contact with the police before—through narcotics busts, for example—and therefore are more likely to be picked up as suspects for other crimes.

Prevention has been the most neglected aspect of drug programs, Shellow said.

Jobs for 18- to 25-year-old, inner city males are the key to a prevention program, he said. With unemployment rates among these youths running at 61 percent, according to the Labor Department's Bureau of Labor Statistics, there is little to offset the temptation "to engage in dangerous and disturbing behavior, namely crime and narcotics addiction," Shellow said.

"People keep going after the problems, not the causes of the problems," he said. "They want more money for treatment programs and law enforcement, stiffer penalties and mandatory sentences.

"What's needed are jobs, and not just any old jobs. We've never had a real youth employment program in this country—a massive program of meaningful youth employment."

Without it, Shellow said, criminal behavior and drug abuse among inner city youth is not going to decline with the passing of the 1950s baby boom, as some social scientists have assumed, because in urban ghettos the youth population will continue to grow for years.

The report said that most treatment programs for drug abusers have as one of their goals elimination of the criminal behavior of their clients through elimination of the need to commit crimes to acquire drugs.

But the effectiveness of this strategy can be challenged on several grounds, the report found. For example, only about half of those entering treatment programs have a history of criminal behavior, the report said.

Studies of users who have left treatment programs suggest strongly that criminal behavior is suppressed among user-criminals while they are being treated, but recurs after they leave the programs.

The one factor that has been associated with successful rehabilitation of treatment program clients—both those who only used drugs and those who also engaged in crime—has been holding a job, the report said. However, vocational rehabilitation and job placement services are a feature of only a limited number of treatment programs.

To clarify the association between drugs and crime, the report called for a major research program into the behavior of drug users and criminals.

The actual cost of a daily habit should be determined, assessing it according to the actual money spent by users to purchase drugs, rather than estimating it, the report said. This is necessary because of evidence that users may be given drugs in exchange for serving in a distribution network, and that users share drugs with friends.

The price of drugs should be determined by what users, rather than undercover agents, pay for the drugs, the report said.

Through the use of professional street researchers who establish close, personal and confidential rapport with drug users, it should be possible to gauge the extent of crime committed by users, the report said.

The researchers could also determine the impact of drug policies—on both the enforcement and treatment sides—on the drug-taking and criminal behavior of users.

The report recommended that other factors—unemployment, availability or treatment and social programs, health, welfare, housing, education and job training—be assessed for their influence on drug use and crime rates, in addition to the impact of the supply of heroin.

The report recommended that a limited, experimental heroin maintenance program be established to find out whether a legal source of the drug would have beneficial effects—in drawing users into treatment who spurn methadone maintenance programs, and in reducing criminal activities of users.

The report also recommended that the reasons for the episodic nature of both drug use and criminal behavior be explored to find out what motivates individuals to give up these activities, at least for brief periods.

Shellow is a psychologist whose expertise lies in the field of criminology. He is currently on leave from Carnegie-Mellon University of Pittsburgh.

**Mr. BAYH.** Mr. President, as one of those involved in one of the substantive amendments which was accepted on the floor, I thank the chairman and the other conferees for the diligent way in which they fought for and sustained the Senate position on the juvenile justice portion of that bill. I know it was a tough one. My friend from Arkansas was not in complete agreement, nor was my friend from Nebraska, but they sustained the Senate position. I want to tell them how much I appreciate it.

**Mr. McCLELLAN.** I thank the distinguished Senator.

Mr. President, I move the adoption of the conference report.

**The PRESIDING OFFICER.** The question is on agreeing to the conference report.

The conference report was agreed to.

**Mr. McCLELLAN.** I move to reconsider the vote by which the conference report was adopted.

**Mr. MOSS.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**The PRESIDING OFFICER.** The Senator from West Virginia is recognized.

**Mr. ROBERT C. BYRD.** Mr. President I ask that the Chair continue to protect my rights.

## ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, if it completes its business today, it stand in recess until the hour of 9 o'clock tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. For the information of all Senators, Mr. President, this will be a very long day.

My understanding is that the Bible records a long day in the Book of Joshua. This will be a long day and it may be so long that it will be tomorrow morning before it ends. I do not wish it that way. I hope it will not turn out that way. But I think it appropriate to alert Senators to my concerns in that regard.

Mr. President, I understand that there are two or three other little matters that are cleared for unanimous-consent action. I would like to get those done.

## SENATE RESOLUTION 572—REFERRAL OF A BILL TO THE COURT OF CLAIMS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JOHNSTON, I send to the desk a resolution and ask for its immediate consideration. I understand that it has been cleared all the way around. Am I correct?

Mr. JOHNSTON. That is correct.

Mr. GRIFFIN. Reserving the right to object, I did not get the number.

Mr. ROBERT C. BYRD. I ask that the Chair have the resolution read.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

> A resolution (S. Res. 572) to refer the bill (H.R. 6852) entitled "A bill for the relief of Colonel John T. Knight" to the Chief Commissioner of the United States Court of Claims for a report thereon.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the Senate resolution?

Mr. GRIFFIN. Reserving the right to object.

Mr. JOHNSTON. Mr. President, this is a substitute matter I wanted to get consideration on earlier today. All this resolution does is refer the matter to the Court of Claims to get their advice on a dollar amount. It does not adjudicate anything. Their advice that they give back to the Senate will be advisory only.

I would prefer the bill I had earlier today, which would give the Court of Claims jurisdiction to grant a money judgment, but we cannot get consent on that bill, so we are simply sending it down on the advice of the Committee on the Judiciary, both sides, so that they will advise as to what the money amount of the judgment should be. That would have to come back to Congress to be acted on one way or the other and would have no enforceable effect.

Mr. GRIFFIN. Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. The question is on agreement to the resolution.

The resolution (S. Res. 572) was agreed to, as follows:

> *Resolved*, That the bill (H.R. 6852) entitled "A bill for the relief of Colonel John T. Knight", now pending in the Senate, together with all accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner, having previously considered such case (Congressional Reference Case No. 2–71) and having determined that the relevant statute of limitations should be waived and that the claimant should prevail on the merits, shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the amount, if any, legally or equitably due from the United States to the claimant.

## PUBLIC DISCLOSURE LOBBYING ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I just cannot continue to yield much longer. I want to get rid of this place I am holding down here for a while.

I yield 2 minutes to the distinguished Senator from Connecticut.

Mr. RIBICOFF. Mr. President. I move that the Senate discharge the Committee on Government Operations from consideration of H.R. 15, the Public Disclosure of Lobbying Act of 1976.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. That motion is not in order.

Mr. HRUSKA. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. Could we be informed as to when it will be timely for this body to consider and vote on the motion just made?

Mr. RIBICOFF. Mr. President, do I understand correctly that the ruling that that motion was not in order? Under rule XXVI of section 2?

The PRESIDING OFFICER. That motion would be in order during morning business.

Mr. RIBICOFF. There is nothing in rule XXVI that indicates that that is only in order during morning business.

The PRESIDING OFFICER. By precedent.

Mr. RIBICOFF (reading):

> 2. All reports of committtees and motions to discharge a committee from the consideration of a subject, and all subjects from which a committee shall be discharged, shall lie over one day for consideration, unless by unanimous consent the Senate shall otherwise direct.—Jefferson's Manual, Sec. XXVII.

Mr. HRUSKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HRUSKA. Is it not true that the motion must lay over 1 day after having been submitted in writing?

The PRESIDING OFFICER. The Senator is correct.

Mr. HRUSKA. The vote will not occur before the next calendar day, which would be Friday, October 1.

The PRESIDING OFFICER. The Chair will read from Senate Procedure, page 453:

> A motion or a resolution to discharge a committee from a matter may be submitted only under the order of presentation of concurrent and other resolutions, except by unanimous consent,

and that would be during morning business.

The Senator from West Virginia.

Mr. CRANSTON. Mr. President, will the Senator from West Virginia yield to me briefly?

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from California.

## PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that Michael Burns and John Steinberg have the privilege of the floor from now until we deal with the GI bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from North Dakota.

## MAGISTRATE SALARIES AND POSITIONS FOR VIRGIN ISLANDS

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2923.

Mr. GRIFFIN. Mr. President, I have not agreed to this.

The PRESIDING OFFICER. The clerk is required to report and then at that point we will decide or not decide to proceed to the immediate consideration, at which time the Chair will answer the objection.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2923) to amend title 28 of the United States Code to provide that full-time U.S. magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates.

(The amendment of the House is printed in the RECORD of September 29, 1976.)

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. This has been approved on our side, and there is no objection.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. BURDICK. Mr. President, S. 2923 which passed the Senate on February 5 of this year, provides that full-time U.S. magistrates shall receive the same compensation as full-time referees in bankruptcy. The bill authorizes the Judicial Conference of the United States to make corresponding adjustments in the salary of part-time magistrates.

While the House accepted the provisions of the bill in the form in which it passed the Senate, the House added a new section 2 to the bill which has the effect of authorizing the appointment of a U.S. magistrate for the U.S. district court in the Virgin Islands. When Congress enacted the Magistrates Act in 1968, the Congress authorized each U.S. district court to appoint magistrates as authorized in the act. Since the court in the Virgin Islands exists by reason of the Organic Act for the territory of the Virgin Islands, it is technically not a U.S. district court and thus there is a need for an amendment as contained in the House bill expressly authorizing the appointment of a magistrate in the Virgin Islands.

The record made in numerous hearings held by committees of the Senate establishes that the office of U.S. magistrate is of great assistance to the judges of the district court in handling the variety of cases and variety of issues which come before our Federal courts. This is no less true in the Virgin Islands where the district court performs practically all of the judicial work for that territory. The district court for the Virgin Islands has the highest caseload per judge of any of the Federal courts. In fiscal year 1975 there were a total of 2,168 filings which for the two judges averaged over 1,000 cases for each judge. There can be no doubt that the need for such an office in the Virgin Islands is clearly established.

Mr. President, I move that the Senate concur in the House amendment to S. 2923.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Dakota.

The motion was agreed to.

## PRIVILEGE OF THE FLOOR—CLEAN AIR ACT

Mr. ROBERT C. BYRD. Mr. President, without losing my right to the floor, I ask unanimous consent that Mr. Joseph Platt and Mary Jane Due have the privileges of the floor during the consideration of the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOMINATION OF GEORGE F. MURPHY, JR.

Mr. ROBERT C. BYRD. Mr. President, I shall shortly move that the Senate go into executive session—and that motion is not debatable—and it will be my purpose, after the Senate is in executive session, to move to proceed to the consideration of Mr. George F. Murphy, Jr., of Maryland, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1981.

I now make that motion that the Senate go into executive session.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

### QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 60 Leg.]

Abourezk
Allen
Baker
Bayh
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Domenici
Durkin
Fannin
Garn
Griffin
Hart, Gary
Helms
Hruska
Jackson
Johnston
Leahy
McClure
McGovern
McIntyre
Muskie
Nunn
Pastore
Percy
Proxmire
Randolph
Ribicoff
Stafford
Stone
Williams

The PRESIDING OFFICER (Mr. STONE). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays were ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Hawaii (Mr. INOUYE), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 66, nays 2, as follows:

[Rollcall Vote No. 686 Leg.]

YEAS—66

Abourezk
Baker
Bartlett
Bayh
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Fannin
Ford
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Leahy
Magnuson
McClellan
McClure
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Symington
Tower
Williams
Young

NAYS—2

Allen
Biden

NOT VOTING—32

Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Chiles
Dole
Eastland
Fong
Glenn
Goldwater
Hart, Philip A.
Hartke
Inouye
Kennedy
Long
Mansfield
Mathias
McGee
Mondale
Montoya
Pearson
Pell
Scott,
  William L.
Stennis
Stevens
Taft
Talmadge
Thurmond
Tunney
Weicker

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

### PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Oregon (Mr. PACWOOD), I ask unanimous consent that Terry Kay of his staff have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

### MOTION TO PROCEED TO EXECUTIVE SESSION

The Senate resumed the consideration of the motion to go into executive session for action on a nomination.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion to proceed.

Mr. ABOUREZK. I move to reconsider the last vote.

Mr. DURKIN. I move to lay that motion on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from West Virginia was recognized.

Mr. ROBERT C. BYRD. I ask for the yeas and nays on the motion to go into executive session.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

**Mr. DURKIN.** Mr. President, I move to lay the motion on the table, and I ask for the yeas and nays.

**Mr. ABOUREZK.** I move to reconsider the last vote.

**Mr. ALLEN.** Mr. President, a point of order. Since a quorum is present, that would be a moot question.

**The PRESIDING OFFICER.** The Senator from Alabama is correct. The point of order is sustained. The question is on agreeing to the motion to proceed to executive session.

**Mr. ABOUREZK.** Mr. President, I move to lay on the table the motion to proceed to executive business.

**Mr. ROBERT C. BYRD.** Mr. President, that motion is not in order.

**The PRESIDING OFFICER.** Under rule XXII, the motion is not in order. It takes a lower precedence than a motion to proceed. The question is on agreeing to the motion to proceed to executive session. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

**Mr. ROBERT C. BYRD.** I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Hawaii (Mr. INOUYE), and the Senator from Ohio (Mr. GLENN) are absent on official business.

**Mr. GRIFFIN.** I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 57, nays 9, as follows:

[Rollcall Vote No. 687 Leg.]

YEAS—57

Abourezk
Allen
Baker
Bartlett
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Culver
Curtis
Domenici
Durkin
Eagleton
Fannin
Garn
Griffin
Hansen
Hart, Gary
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
McClellan
McClure
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stone
Symington
Tower
Williams
Young

NAYS—9

Biden
Clark
Cranston
Ford
Gravel
Haskell
Metcalf
Proxmire
Stevenson

NOT VOTING—34

Bayh
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Bumpers
Chiles
Dole
Eastland
Fong
Glenn
Goldwater
Hart, Philip A.
Hartke
Inouye
Kennedy
Mansfield
Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Pearson
Scott, William L.
Stennis
Stevens
Taft
Talmadge
Thurmond
Tunney
Weicker

So the motion was agreed to.

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## NUCLEAR REGULATORY COMMISSION

**Mr. ROBERT C. BYRD.** Mr. President——

**Mr. ABOUREZK.** Mr. President——

**Mr. ROBERT C. BYRD.** I move that the Senate proceed to the consideration of the nomination of Mr. George F. Murphy, Jr., of Maryland.

**Mr. ABOUREZK.** Mr. President, I move to reconsider the vote.

**Mr. DURKIN.** I move to lay that motion on the table.

**Mr. ABOUREZK.** I ask for the yeas and nays.

**The PRESIDING OFFICER.** The motion comes too late because business intervened.

**Mr. ABOUREZK.** A point of order.

**The PRESIDING OFFICER.** The Senator will state it.

**Mr. ABOUREZK.** I was seeking recognition before the majority leader.

**The PRESIDING OFFICER.** The Senator is not correct. The Senator from West Virginia did seek recognition just before the Senator from South Dakota.

**Mr. FORD.** Mr. President, a parliamentary inquiry.

**Mr. ROBERT C. BYRD.** Mr. President, I ask for the yeas and nays on the motion to proceed.

**Mr. DURKIN.** I appeal the ruling of the Chair and ask for the yeas and nays.

**The PRESIDING OFFICER.** Which ruling is the Senator talking about?

**Mr. ABOUREZK.** I made a point of order, Mr. President, that I was on my feet seeking recognition before the majority leader.

**The PRESIDING OFFICER.** Recognition is not the subject of a point of order or appeal.

**Mr. ABOUREZK.** I appeal the ruling of the Chair, and I ask for the yeas and nays.

**Mr. ROBERT C. BYRD.** Mr. President, I ask for the regular order.

**The PRESIDING OFFICER.** The Senator from West Virginia has moved——

**Mr. ROBERT C. BYRD.** Moved to proceed to the nomination.

**The PRESIDING OFFICER.** Moved to proceed to the consideration of the Murphy nomination, and requested the yeas and nays.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

**Mr. FORD.** Mr. President, a point of information.

Is the motion of the Senator debatable?

**The PRESIDING OFFICER.** Yes; it is.

**Mr. FORD.** So, then, the Senate is in debate or can be in debate.

**The PRESIDING OFFICER.** The Senator is correct, and the Senator from Rhode Island is recognized.

**Mr. DURKIN.** I advise anyone who has not had supper to go ahead, because we will be here for a while.

**Mr. ABOUREZK.** Mr. President, a parliamentary inquiry.

**The PRESIDING OFFICER.** The Senator will state it.

**Mr. ABOUREZK.** What was the motion made by the Senator from West Virginia?

**The PRESIDING OFFICER.** To proceed to the Murphy nomination.

**Mr. ABOUREZK.** Mr. President, is that No. 1 on the executive calendar?

**The PRESIDING OFFICER.** No, it is not.

**Mr. ABOUREZK.** Can the Chair advise the Senate how many nominations precede the Murphy nomination on the calendar? How many items, I should say.

**The PRESIDING OFFICER.** Including a treaty, there are 24 items preceding the Murphy item.

**Mr. ABOUREZK.** A further parliamentary inquiry.

**The PRESIDING OFFICER.** The Senator will state it.

**Mr. ABOUREZK.** Is moving out of order to a nomination subject to a motion or must that be done by unanimous consent?

**The PRESIDING OFFICER.** It is subject to a motion.

**Mr. ABOUREZK.** Did I understand the Chair to say that the motion was debatable?

**The PRESIDING OFFICER.** That is correct.

**Mr. PASTORE** addressed the Chair.

**The PRESIDING OFFICER.** The Senator from Rhode Island.

**Mr. PASTORE.** I need not tell this body how much this fiasco or this spectacle grieves me. It almost begins to look like an action of vendetta, and I do not know why.

I had nothing to do with this appointment. Bill Anders, who is the Chairman of the Nuclear Regulatory Commission, was appointed Ambassador. That created a vacancy in the month of May.

Without consulting me, the Senator from Tennessee (Mr. BAKER) saw fit to recommend George Murphy to the President of the United States. I have not used the telephone once in calling anyone. I have not written one letter. I have not even asked one Senator to vote for George Murphy. Yet, a tremendous effort has been afoot in trying to convince the Members of this body that we have to repudiate this nomination.

Mr. President, we have nine members from the Senate side on the Joint Committee on Atomic Energy, and we have nine members on the House side. When an appointment is made by the President of the United States in the field of atomic energy and it is subject to confirmation, it is referred to the joint committee and only the Senate side, because under the Constitution we are the ones who have the responsibility to advise and consent. We had a hearing on George Murphy.

George Murphy came to this committee on the third echelon. Then, because those who were superior to him either left the committee or chose not to be on it, George Murphy gradually rose to become the staff director of the committee.

He does not come from my State. His family lives in Newton, Mass. He lives with his family in Maryland. He is married and has two young men who are in college. He has worked with us on the committee for 18 years.

When we were consulted by the negotiators of the Nuclear Test Ban Treaty, it was George Murphy who did the draft work. We held the meeting behind closed doors because it was in the process of negotiation, and naturally, of course, we could not reveal our hand to our adversaries.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. PASTORE. May I finish, please? Then I will yield.

When the question of proliferation came up, I introduced the resolution on proliferation, and it was passed in this body by a vote of 84 to 0. I did it because I was disturbed about proliferation of nuclear weapons. I received a letter from Lyndon Johnson, the President of the United States, commending me and telling me that that was the impetus for the nonproliferation treaty which was finally achieved.

I know that we have problems in nuclear energy, and I am one of those who are beginning to wonder whether this was a boon or a curse to mankind. Because I felt that way, I led the crusade on the floor of the Senate in 1954 to develop the peaceful atom. I said at that time that if my responsibility on that committee was only to make a bigger and a better bomb, I did not want the committee and I would resign.

I say that unless we can give to the world the bounty of this tremendous natural power for peace, then I hope we will do without it completely, because it would have been a curse to mankind.

When I became concerned about the depository of our nuclear weapons in Europe, and we have 7,000 nuclear weapons in Europe and we have over 30,000 nuclear weapons in our own stockpile—we met the new dimension of terrorism, and I became concerned. Just imagine—just imagine: If an adversary or a terrorist broke into one of those igloos and sat on a bomb. He could not explode the bomb, but he could do tremendous damage with a stick of dynamite. He would have to kill himself, of course. But he could spray the atmosphere with plutonium. We are all worried about plutonium, and nobody talks about the plutonium that is in our nuclear weapons.

I sent him to Europe to make an investigation. And this man, that you say is disqualified because he is a patsy of the Joint Committee on Atomic Energy, is the man who went there and made a critical inspection. He came back with a very terse report that we were being negligent in supervising and maintaining these depositories. Many of them were depositories that were used during World II, when all we had were conventional weapons, outside—ouside—of the enclosure of some of our bases. That is how desperate it was.

He came back with that report and I sat down with Mr. BAKER and I said to him, "In order to give this report credibility, let us, you and I, go." We left on a Monday morning. We got up at 8 o'clock in the morning, we went to bed at 8 o'clock at night in the barracks—in the barracks.

We did not go on any junket. We did not land up in the Riviera. We did not bring our swimming trunks along. We went there to do our work. And we did our work.

Then everything that he found was true. So we took our case to the President of the United States. And as a result of it, they closed down one installation, they removed the bombs from the cellar in another installation, and they began to make certain corrections that needed to be made.

Now, who did all this for the committee? This man that everybody is now criticizing. Do you know why? They came before our committee.

Mr. Cubie who represents Ralph Nader—and Ralph Nader has taken the position that there should be a moratorium on nuclear reactors. If that is his opinion, he is perfectly at liberty to feel that way. But when you realize that 35 percent of the energy grid in Illinois is nuclear power, when you realize that more than 25 percent of the energy grid in New England is nuclear power—how do they expect PASTORE, who is being criticized by these so-called reformers, who think that I should shut down every reactor—how can I do that and put the lights out on 28 percent of the people in New England and 25 percent in Illinois, and put people out of work? And, gentlemen, not one individual yet, in the 25 years that we have had nuclear reactors, can point to one fatality. Not one fatality, all over the world. All over the world, not alone in the United States of America.

Yet, of course, there have been some mistakes made. There have been some deficiencies. We had them at Browns Ferry, we had them at Calvert Cliffs. We have had that. But for every one of those, and we are being very attentive, we have never had a catastrophic accident. We have the best industrial record of any industry in the country.

I know we are dealing with something that is very dangerous. And the phenomenon is the care that is taken; sometimes you would think that by force of habit people would become rather reckless and negligent. That has not happened.

I repeat—not one fatality, not one injury to a third party because of a civilian nuclear reactor.

When I put that up to the people that come before our committee and say, "What can you say to that?" they say, "Ah, but how do you know it is not possible?"

Well, my goodness gracious, anything is possible. It is possible that some of us will not come back tomorrow. Who knows? Who knows? But the fact still remains that we did try our best.

Now, the nomination came up late, by the President of the United States; it was sent up here a little late. Can I help that? Can the committee help that?

So when it did come up, I called the hearings as I should.

After all, I have been with this man for 18 years. I slept in the same room with him because we slept in the barracks. His nomination is before my committee. What do I do? What would you do with it, Mr. ABOUREZK? What would you do with it, Mr. DURKIN?

Mr. ABOUREZK. May I respond?

Mr. PASTORE. I will allow the Senator from South Dakota to answer the question in just a minute.

I shall yield to them first. They have a perfect right to ask their questions.

So we held our hearings and we were to mark up the bill on the following Tuesday. I understand that on a Monday, a letter was written stating a hold on the nomination. Mind you, we had not even considered it in executive session. All we had done was hold hearings.

But you know, a phenomenon has developed here, and this, some day, is going to happen to you Senators, too. There is a group of people on the outside, who, if they cannot get their way before one committee, will contrive in some way to introduce a bill with a different title that will go to the committee where they think they have friends. That has been going on. I tell you very frankly, if this continues, I think we ought to dissolve the Joint Committee on Atomic Energy. We ought to take the weaponry and give it to the Committee on Armed Services and take the energy feature of it and either give it to the Interior Committee or create new energy committees. I would recommend that if this is going to persist.

Well, to make a long story short, we took a vote before the committee. What is the vote? Shall the committee report this nomination out favorably?

SCOOP JACKSON votes "yea." I think SCOOP JACKSON knows George Murphy better than some of the people on the outside. I think Scoop Jackson is responsible enough to have independent judgment and to judge the man. We called off the names: Stuart Symington. He votes "yea." We called off the name of Montoya: "yea." He sent me his proxy. Pastore, "yea."

Now we come to the Republicans: Baker, "yea;" Cliff Case, "yea." So we got a unanimous vote.

Now, gentlemen, what you are doing here is of little consequence to me. I have had my day for 26 years and I want to thank all of my colleagues for the fine tributes that they paid me. But I want to tell them right here and now: what you are doing is, you are rebuking a committee, a constituted committee of Congress that voted unanimously, with your colleagues on both sides of the aisle.

I am not saying that that should sway you to vote for this man. I am not asking that at all. All I am saying is, "Don't you think, in common decency, that you owe us the courtesy of at least letting this body vote?"

I voted to reduce cloture down to three-fifths instead of two-thirds because I thought we were thwarting the will of the majority. Now I find a motion to reconsider, a motion to lay on the table even before you can catch your breath.

This was not said in a gentle way, but it was said in such an angry way as though somebody was trying to push somebody around. Nobody is trying to push anybody around. Do you want George Murphy? You can have him. You do not want George Murphy? You do not have to take him. All we are saying, here it is 8 o'clock tonight. Tomorrow is October 1, 1976. All I am saying is we have got important legislation here we have to act upon, very important legislation.

I am not saying to you fellows, "Look, you have got to vote for George Murphy." All I am saying is, do not prevent a vote. If you feel you want to kill this, get up and move to lay the nomination on the table and we will take a test vote.

But, in common decency, all I am asking is for the courtesy of a vote.

How many times have you people said that? How many times have you said that, "All we want is a vote."?

I will tell you right now there are no brownie points in this for me. But I feel it in here, in my heart. This is where I feel it. I feel that here is a human being who has been a dedicated public servant. Here we are, we are pushing him around and kicking him around on the floor of the Senate as though he was made of dirt. That is not right. Do not treat humanity that way.

This was a Presidential appointment. Why he ever appointed a Democrat I will never know, but he did, and I am not saying that he ought to be confirmed because he is a Democrat. All I am saying is that all of this fuss is coming from the Democratic side, and certainly it is. All I am asking you fellows is, "Look, I will not be here either to commend you, to have reprisals against you. Whatever you do tonight is all right with me."

But I would like to leave the Senate of the United States tomorrow feeling that this is a body of decent men who deal with compassion for a human being.

If they feel he is incompetent they will say so. I would hate to see George Murphy go home to his wife and two sons tonight and say, "They would not even give me a chance." That is not the American way.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. SYMINGTON. Mr. President, I was going to a dinner tonight in honor of a distinguished colleague on the other side of the aisle who is being decorated by the German Government. But to me this matter is so important that I took the liberty of staying, and I would like to add a few comments about this nomination.

When I came from the Pentagon Building into the Senate, I felt the most important single matter that would come up in future years was the question of the nuclear position in armaments. To my disappointment, in fact to my dismay, the chairman of the Senate Armed Services Committee at that time, one of the finest Senators it was ever my privilege to serve with, Leverett Saltonstall, stated, as he used to say, "I say to you with a smile," and you all remember that observation, "I think this matter is so important it should not be discussed even in the Armed Services Committee."

Now, to be frank, that was like the President of a bank saying, "I think the current net position of this bank is so important I do not want to look into it and I do not want to discuss it."

But over the years it was very difficult for me to flush any interest of any kind in the Armed Services Committee as to the rapidly growing problem of nuclear arms and nuclear proliferation.

As a member of the Foreign Relations Committee I tried to find out matters that had to do with the proliferation of weaponry all over the world which is now going on. Unfortunately, the Arms for Peace plan, which was originally conceived in all good faith, has now turned into an arms-for-possible-war plan which means around the world today that nuclear proliferation is becoming a serious matter indeed.

Not being able to get full information on either the Armed Services Committee or the Foreign Relations Committee, I gave up membership on the Joint Economic Committee, of which I would be chairman, in order to find out more about the facts respecting nuclear power.

Under the law, you must keep the Joint Atomic Energy Committee informed. They do not even have to ask. You are supposed to be told.

The one person who was willing to divulge all the information which, for many years I had been anxious to have, was George Murphy. No doubt, John Pastore and Scoop Jackson had a lot to do with that because they trusted this man, and they probably said to him, "Cut him in, cut anybody in who really wants to know on the basis of where we stand today in the nuclear field."

What I do not understand is why there is so much talk, editorials against this man. He is a decent, honorable person. He has been tremendously cooperative with me in getting me into one of the more complex problems in not only this country but a problem which the world faces.

He has a wonderful family, he is a decent human being.

Is the reason they do not want him on the Nuclear Regulatory Commission the fact that he knows a great deal about the subject? There has never been, to the best of my knowledge, any criticism of him from the standpoint of a position he has taken, except under the instructions of the chairman of the Joint Atomic Energy Committee, and he is the one who has made it possible for us to begin to get the information out, and it is now coming out which, for years, has been long overdue.

He has been a great asset to me in that regard and, therefore, I respectfully urge the Senate to allow a vote to be taken.

It takes a long time for a man to build a reputation. We all know that, it takes a long time. Many times it takes a lifetime. You can destroy a man by one vote or by one objection. You destroy his entire career. To me that does not seem quite fair.

I thank the Senator from Rhode Island for yielding to me.

Mr. JACKSON. Mr. President, will the Senator yield to me?

Mr. PASTORE. Yes.

Mr. JACKSON. During the 24 years I have been in the Senate—and I have had the great, good fortune of listening to the distinguished Senator from Rhode Island as an advocate of many causes, and effectively so over the years—I must say that his presentation here this evening is among the finest I have ever heard. It was totally logical and totally sensible. As always, he showed great compassion and understanding of what is involved in a personal situation such as this. The distinguished Senator from Missouri has properly alluded to it. I want to associate myself with everything the Senator from Rhode Island has said and everything the Senator from Missouri has said.

Mr. President, this man does not come from my State. I have watched him for over 18 years. What better testimony can you have before a committee than to watch him day in and day out? Are they against him because he graduated from Harvard? Are they against him because he has got a distinguished record in World War II; because he also served for a short time with the CIA?

I want to say to you that this man, over the years, has played a key role on the staff of the Joint Atomic Energy Committee—on what? Security. If there is any one danger that faces not just America but freedom-loving people everywhere it is the danger of terrorists. It can happen, and it may happen tomorrow, terrorists may get possession of nuclear weapons.

Those who oppose him can say all they want to, about George Murphy. But George Murphy, Mr. President, was concerned about the security of nuclear weapons and fissionable material long before it became a matter of public interest and discussion. His concern goes back 18 years.

I thought at times he was overly security conscious. But we know now, and Senator PASTORE has pointed out, that there have been mistakes made in the management of our nuclear weapons as far as possession and custody are concerned. The man who found that out was George Murphy. If he does nothing else on the Nuclear Regulatory Commission than to help make our nuclear weapons more secure so they do not fall into the hands of terrorists, I say we will have accomplished a great deal in approving his nomination.

I also want to say that it goes without discussion that I have found him to be a man of integrity, a man of honor, and a man of decency, who deserves the support of this body. When I came to this body, I watched the operations of Joe McCarthy. Senator SYMINGTON, Senator MCCLELLAN, and myself were the three on our side. Over and over again I watched good men and women destroyed by innuendo, the inference that there was something disloyal, dishonorable, or disreputable about them.

I say it gets down to a matter of decency to George Murphy and his family to give this body a chance to say "yes" or "no" on a recommendation that comes unanimously from the Joint Committee on Atomic Energy.

I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I thank my colleague for yielding so that I may speak to the motion now pending before the Senate.

As the Senator from Rhode Island pointed out, it was my privilege to recommend to the President of the United States that George Murphy be appointed to the Nuclear Regulatory Commission.

The distinguished chairman of the Joint Committee on Atomic Energy is entirely correct when he says that it was my initiative to the President without prior consultation with him as a Senator, as the chairman of the Joint Committee on Atomic Energy, or otherwise.

Mr. President, it is not an easy matter when you must take account of the responsibility to recommend men and women to important positions in the Government of the United States, particularly positions of such sensitivity as this. The recommendation of George Murphy was not one that I made lightly. George, it is true, has been a loyal and dedicated staff member of the Joint Committee for more than 18 years. It is true that George Murphy, in the course of my service on the Joint Committee on Atomic Energy, has been extraordinarily helpful, extremely competent, and totally reliable as a staff man.

It is entirely true that he comes to public service in this capacity well qualified by education, and I believe by temperament to handle this difficult assignment.

But there is something else, Mr. President, that led me to make this recommendation to the President. In the course of 10 years of service in the Senate and 17 years before that as a practicing lawyer, I believe I came to realize something of fundamental importance. That is that staff members, in a congressional sense, associates in the practice of law and in business, come in many shapes, forms, and varieties. Some are superbly helpful as assistants. Some are extraordinarily capable as researchers. Others are good administrators. But there are a few, Mr. President, there are a select few, who have a combination of those talents and something that is much, much more important, commonsense, sound judgment.

It is a sense of fair play, of impartiality, of the wisdom and the courage to understand that one's own personal views and prejudices may sometimes, if not indeed often, be wrong; that it is just as important to recognize the points of view and the attitudes of others, and to have a decent respect for the disagreeing viewpoints of others, as it is to aid and assist your superior, your partner, your Senator, your Congressman, your employer, your staff director, or even your President of the United States.

I believe, Mr. President, George Murphy has that particular, unique, special competence to serve in this extraordinarily sensitive and very important position in the Government of the United States.

There are those among us who wonder from time to time if the nuclear era should ever have dawned. But it did. I am sure there are many among us, some who wonder on occasion if the detonations of the Japanese nuclear weapons might have been avoided. But they were not.

Who is to judge the circumstance now, so many years after the event? The nuclear age did dawn, born of warfare and nurtured in the hope that it could serve suffering humanity.

The point of the matter is, Mr. President, that the nuclear era is here, born of warfare, and still with the nurtured hope that it may realize a greater potential and effective service to humanity. The point of the matter is that as it has grown and matured; as it has come of age, it has produced problems that seem on occasion to be as great and challenges an extraordinary as its promise and potential. But we cannot go back. We cannot "uninvent" the hydrogen bomb or the atom bomb or the fission reactor. We cannot make them go away.

What we can do, Mr. President, is find men and women of good conscience, capable, dedicated, impartial, and understanding, to face facts and to try, to the best of their ability and ours, to learn how you live with nuclear power, with nuclear weapons.

That is the responsibility of the Nuclear Regulatory Commission I believe more than any other agency of Government, excepting only the presidency itself. That is why I believe we need a man with that extra competence, that extra qualification, beyond that ordinarily expected of a staff man who serves on this Commission.

That, Mr. President, is why I was privileged to recommend George Murphy for appointment to this position to succeed a distinguished member, our former Chairman of this Commission, Bill Anders.

Mr. President, the Senate of the United States is universally revered by those around the world who respect the concept of the exchange and consideration of adverse opinions and ideas. It is, indeed, the greatest debating forum on Earth. I sometimes think we have lost sight of that in part and on occasion we have delegated our opportunities and our responsibility as Senators to other forums, to committees, to conference committees, to staff. But the Senate still is the fundamental arena for debate of significant issues, particularly those dealing with foreign policy, and the advise and consent responsibility to the appointing power of the President of the United States.

The Senate is still the premier legislative group in the entire free world. It is historic in its perspective and traditions, and still promising in its opportunities for the future.

But, Mr. President, if we choke off the appointment to an important regulatory commission by the President of the United States of a man who is so eminently qualified to serve, we are demeaning and we are eroding the greatness of this body, and we are changing in a marked degree the character and the nature of the Senate itself.

Mr. President, it is our responsibility, in my view, and it is my fervent hope, that we will proceed to a vote on the merits of this nomination.

Mr. President, I thank the Senator for yielding.

Mr. PASTORE. I yield the floor.

Mr. PROXMIRE. Mr. President, we have just heard from some of the most eminent and highly respected Members of the U.S. Senate. And we have heard Senator PASTORE, whom all of us greatly respect and admire, say that those of us who are opposed to proceeding with this nomination at this point are rebuking the committee.

Let me first make it very clear that, speaking for myself and I am sure for others who take the position I take, that I hold Senator PASTORE, Senator SYMINGTON, Senator JACKSON, Senator CASE, and Senator BAKER, the Senators who were named by Senator PASTORE, in the highest esteem. These are the best Senators we have, certainly among the best, among the best that I have served with in the 20 years I have been a Member of the U.S. Senate.

But the fact is that we have a right, in fact we have a duty, when we oppose a nomination, to use whatever we can use to convince our fellows to go along with us, or to use whatever we can use to stop the nomination.

I have been trying, Mr. President, for this entire week, day after day, simply to get conferees appointed to go to conference, and I have been blocked from being able to do that. It seems to me that under the circumstances, if other Senators want to prevent that simple kind of an action, just to go to conference so that we can discuss a bill, we certainly have a right at any stage in the procedure here to take whatever action the rules permit us to take to stop a nomination which some of us feel would be a mistake.

Mr. President, it is very, very important that this nominee be independent—independent in a number of senses that I would like to delineate now.

On October 11, 1974, 2 years ago, the President signed into law the Energy Reorganization Act. That act established ERDA, the Energy Research and Development Administration, and the Nuclear Regulatory Commission.

Now, at that time, the intent of Congress was to divorce, to separate the promotional and regulatory functions of the old Atomic Energy Commission, so that the inherent conflicts of interest arising from the marriage of these two functions in one agency would be eliminated. The Nuclear Regulatory Commission was envisioned as an independent regulatory agency, "charged with protecting the Nation's health and environment, by insuring the safety and security of the nuclear industry and the weapons grade, and other radioactive materials used to fuel it."

This Senator strongly supported the Energy Reorganization Act in 1974, because I thought it was essential to strengthen the Federal Government's ability to oversee the development of nuclear energy in a dispassionate and objective manner.

For these same reasons, I must regretfully oppose the nomination of George Murphy, Jr., to be a Commissioner of the Nuclear Regulatory Commission. One of the standing criticisms of the Government is that revolving-door policies seem to spring up time and again between agencies which have regulatory authority and those entities which are regulated by them. Legislation has been enacted which attempts to restrain such Government-industry exchanges to a limited degree. Title 18 of the United States Code, section 207, says that a regular or special employee of the Federal Government may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest, and which lies within the boundaries of his official responsibilities during the last year of his Government service.

If the matter is one in which he participated personally and substantively, then the 1-year restriction gives way to a permanent restriction.

Mr. President, that law does not apply to transfers within the Government between two different branches. Nevertheless, the principle addressed by the law is the same in both cases. The public interest is not well served by a cozy relationship between the regulator and the regulated. A creative tension between the two is essential to the integrity of both parties in an adversary relationship.

That principle would be violated in three ways if the Senate consents to George Murphy's nomination.

First, the fact that Mr. Murphy has served on the professional staff of the Joint Committee on Atomic Energy for 18 years makes it virtually impossible for that same committee to review objectively his suitability to serve on the Nuclear Regulatory Commission.

I do not, as I say, mean in any way to rebuke or to question these men I admire so much on the committee. But I understand my feeling about my staff director, Ken McLean. It is not objective; I have worked with him now for almost all the years I have been on the committee, and my attitude toward him is not as objective as it would be if he came before the committee for the first time, as if he had not worked with me day in and day out. It is an entirely different relationship.

I think, Mr. President, this interdependence, this relationship that has gone on for 18 years is hard for us to see, because it is close to our interests. I do not mean in any way, as I say, to imply that the committee has not made its best effort and used its best judgment, but there is just no way that the committee can so thoroughly overlook an 18-year relationship with one of its own staff as to be able to make a wholly unbiased and emotionally independent evaluation of his qualifications.

The point has been made that if the committee were to reject the nominee on this basis, on the question of qualifications, then there would be an implied self-criticism, a criticism of the committee itself, because, after all, why would they hire a man and keep him on the staff for 18 years, and put him in a position of great responsibility, if they would not approve him? It puts the committee in an extraordinarily difficult position to exercise unbiased and objective judgment; I think we all recognize that.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield for a question. I do not want to lose my right to the floor.

Mr. PASTORE. Oh, no, no. I am not that kind of a Senator.

Mr. PROXMIRE. I yield to the Senator from Rhode Island, provided I do not lose my right to the floor.

Mr. PASTORE. I am going to ask you a question. What would be the alternative? Here is a nomination made by the President of the United States, which comes before our committee. You say our committee is not objective enough to consider that nomination. Who is going to consider it? Who has the responsibility under the Constitution to consider it?

Mr. PROXMIRE. May I say to my good friend from Rhode Island, it is very easy: The President should not make that kind of a nomination.

Mr. PASTORE. Are you going to hold me responsible for that?

Mr. PROXMIRE. I am not going to hold you responsible, but I say the President of the United States should not nominate a staff man who has worked for many years with a committee to a position that committee is going to have to oversee.

Mr. PASTORE. That may be so, but he has done it.

Mr. PROXMIRE. I know he has done it.

Mr. PASTORE. The question before us is, Is he qualified? That is the only question before us.

Mr. PROXMIRE. No, sir, I do not think that is the only question before us. As I say, this committee is made up of people. Senators, members I have the greatest trust in and admiration for, who are in a position to know; but as they know and as you and I know, they are bound to have a biased attitude. There is no way to deny that. I would have it if the President appointed a member of the staff of my committee whom I had worked with for many years.

Mr. PASTORE. Would you do it? Would you do it? Would you repudiate him?

Mr. PROXMIRE. No, I hope under those circumstances——

Mr. PASTORE. You would go along with it?

Mr. PROXMIRE. No. I would hope I would not.

Mr. PASTORE. But you did. You did.

Mr. PROXMIRE. What is the Senator talking about? When has the President appointed anyone who has worked with me?

Mr. PASTORE. You talk about the fact that they would not allow you to appoint conferees. Who made the objection?

Mr. PROXMIRE. The objection was made by another Senator.

Mr. PASTORE. Yes; by Mr. ABOUREZK; was it not?

Mr. PROXMIRE. Yes, by Mr. ABOUREZK and four or five other Senators.

Mr. PASTORE. Who is objecting now?

Mr. PROXMIRE. Well, Mr. ABOUREZK did not make the final and definitive objection. It was made by Senator TOWER and Senator GRIFFIN.

What I am saying is that we have the same right as other Senators have. We are operating under the rules. There is nothing demeaning, repudiating, or insulting about it.

Mr. PASTORE. I am not saying that. Of course, you have the right. All I am saying is that a committee that unanimously reports out a nomination at least ought to be given the courtesy of a vote. I am not talking about rights; of course you are within your right. I am talking about courtesy.

Mr. PROXMIRE. Well, I am talking about something else. This is an unusual situation. Here we are, we hope about 24 hours, or a little less, we hope, away from adjournment.

We do not really have the opportunity to consider this nominee as carefully as we wish. I have not seen hearings on this nomination. I have been asking for them. I have not seen them. As I say, this is an unusual situation because we do have to second-guess a committee under the circumstances. The committee has a bias, as the Senator from Rhode Island has pointed out, there is no way in the world they could avoid, and that is why we have to be very careful about this nomination.

Mr. President, this is a situation similar to that of a judge who would have to disqualify himself from hearing a case in which his own brother is involved.

Second, this nomination, while not unique, does narrow to an uncomfortable degree the constitutionally designed separation of powers between the legislative and executive branches of Government. It is not unusual for individuals to transfer from one branch to another, or even to serve with all three branches in the course of his or her career. However, the functional interplay between the Joint Committee on Atomic Energy and the Nuclear Regulatory Commission, between the two agencies on which this man will serve—having served 18 years on one, he now goes to the other—that relationship is such that a transfer of this man, in this case the transfer of personnel at the highest levels, would unacceptably undermine the separateness intended by our Founding Fathers.

Finally, the Murphy nomination violates the adversary principle in its most fundamental sense. The Joint Committee has contributed significantly to the present atomic energy program, a program which is now being challenged and reevaluated to an unprecedented degree. George Murphy has served with that committee through nearly two decades of its evolution. He has helped to formulate many of the policies in place today. It is no personal criticism of Mr. Murphy to suggest that it could very well prove impossible for him now to serve as a critical, objective, and open-minded regulator of the nuclear power industry.

Mr. President, this concept of the importance of maintaining an adversary relationship, a separation of powers, is not based on any notion that there is something inherently dishonest or unethical about people. It is, rather, predicated on the observation that it is in part of human nature to develop biases and convictions about issues to which we are committed that makes it very difficult to view the other side of those issues objectively. That does not mean we cannot come to understand the other side, but that is different from being able to judge fairly between the other side and the side to which we are committed. In an adversary relationship, there is an opportunity for two or more viewpoints to confront head-on, and a final decision can be made by a presumably independent judge with no personal or professional investment in either side.

Mr. President, I wish to make it clear that I do not for 1 minute doubt that George Murphy is a highly regarded, experienced professional. I think that I am sure in the course of this debate that no other judgment of George Murphy will be made. I repeat, he is a highly regarded, experienced professional.

Mr. PASTORE. Then why crucify him?

Mr. PROXMIRE. Nothing in this debate should in any way demean George Murphy and the good service that he has given his country as well as Congress and this committee for many years.

What I do doubt is the wisdom of appointing an individual, any individual, who has worked so intimately with the Joint Committee on Atomic Energy to be a Commissioner of the body which is charged with regulating atomic energy.

The credibility of the Nuclear Regulatory Commission is important. It must not only be completely impartial and independent, but its impartiality and independence must have credibility with the American people as well.

The distinguished Senator from Missouri said he could not understand why these editorials are being written critical of such a fine man, and I can understand how difficult it is, having worked with George Murphy all these years. Mr. President, this is the point. It is the credibility of that Commission, even if the committee is correct, that he can be unbiased, and the committee will be critical of him in his role on the Commission. It certainly will be the perception in this highly controversial field. One of the most controversial policies we have in the country is nuclear policy.

It is going to be extremely difficult to win public acceptance under circumstances in which the man who has served the Atomic Energy Committee of Congress for 18 years then moves over to take over as a Commissioner.

The Nuclear Regulatory Commission must not only be completely impartial and independent but, as I say, its impartiality and independence must have a credibility with the American people as well.

I do not believe that the transfer of the executive director of the Joint Committee to the Commission will encourage the confidence of the American people in the Commission's objectivity, and I think that any Senator who thinks about this carefully must concede at least that point, that it will be much harder for the people to feel that the committee can be as objective as it would be otherwise in reviewing the activities of the Commission.

In fact, I believe that it will have the positively detrimental effect of undermining public credibility in this institution.

Mr. President, I do sincerely hope that my distinguished colleague from Rhode Island can appreciate the reasons for my opposition to the nominee, even though I know he has spoken affectionately and eloquently on behalf of the nominee. And I agree with Senator JACKSON. It was a superlative speech.

Perhaps it will be helpful to conclude on a common note of agreement.

On April 1 of last year, the Senator from Rhode Island testified before the Committee on Commerce on the nomination of John Byington to the Consumer Safety Commission. In opposing that nomination, Senator PASTORE, the Senator from Rhode Island, said:

> And that's the thing that's puzzling to me. And the fact here is, and I've said this to Mr. Byington and this is no reflection on him I think I'm a little worried about every time we have an important position in an independent agency, the guy has got to come from the White House staff.

And I am quoting Senator PASTORE:

> Now I don't know where we're going to promote the independence of the agency if we keep this up. All this gobbledygook about what who said here and who said that, why that's all irrelevant at this point. I don't think there's any question about this young man's integrity, you see.

Mr. President, this is precisely my point here.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. Before I yield to the Senator from Rhode Island, let me say that I think the White House staff does represent a situation in which, as Senator PASTORE pointed out, there are serious problems when we make appointments in this way, coming from the White House staff, for obvious reasons.

But let me say it is much more obvious when the committee that will have the oversight jurisdiction; that is, the principal agency of Congress, to oversee, supervise, correct, criticize, and reverse the Commission, has moving on to it a man who has worked with them so closely and so intimately.

With that, I yield to the Senator from Rhode Island for a question.

Mr. PASTORE. I merely want to state to the Senator from Wisconsin that Mr. Byington came into my office, and I sized this young man up. I realized certain accusations and innuendos had been leveled at him that affected his integrity. Realizing that he was a human being, I asked the committee to reopen the hearings and go into the nomination in further depth.

I voted for Mr. Byington. He wrote me a letter thanking me for what I had done and that he had hoped that he would live up to that confidence and trust. When I deal with a human being I do not deal too loosely. I was the appointing authority myself when I was Governor of the State.

I had nothing at all to do with the President appointing Mr. Murphy. But I was confronted with fait accompli.

Essentially, what the Senator from Wisconsin is saying is this: That he does not feel that the President of the United States should have appointed George Murphy but in fact he did, that George Murphy, because he is a member of that committee, will lack the objectivity that might be necessary to exercise an independent judgment.

If the Senator feels that, he ought to vote against Murphy. But you are missing my point. The only point that I am making here tonight is this: The President did send up the nomination, we had to consider it because it was our responsibility under the Constitution; we reached a decision, and we got it to the floor. All I am saying is if you do not want to vote for this nomination do not vote for it.

But why do you deny the people who want to vote for it the right to vote for it? That is all I am saying. That is just it, pure and simple. Why are you trying to block a vote? Are you afraid that the majority disagrees with you? Is that why this delay is taking place?

I would not expect that from some of my colleagues, but I am realistic. I know it is a fact of life. It is taking place.

I do not know what is going to happen here tonight. It is almost 9 o'clock, and I think we could go on ad infinitum.

I understand that the other two fellows are out there resting. I suppose they will be in here ready to go when the bell rings. I suppose the only guy who could help us out of this mess would be Muhammad Ali. [Laughter.]

I repeat: If you do, you do; if you do not, you do not.

I say very frankly that when I go home after January and I am in that rocking chair and I pick up the newspaper, I am going to have a big laugh, just a big laugh.

Mr. PROXMIRE. We are going to miss the Senator from Rhode Island when he goes home; all of us are. I know he is not going to be in a rocking chair.

I say to my friend from Rhode Island that it is not a matter of the objectivity of Mr. Murphy alone. It is a matter of the objectivity of the committee that oversees Mr. Murphy.

Mr. PASTORE. That is where the rebuke comes in. That is why I said "rebuke." The Senator is telling us that we do not have the objectivity to give a fair judgment in recommending a nominee to this body.

Mr. PROXMIRE. I am talking about the objectivity of the committee in overseeing the Commission on which Murphy would serve. Obviously the committee would not, could not be objective. That does not rebuke the committee. It states a matter of fact.

Mr. PASTORE. The Senator kisses me on both cheeks and then he gives me a boot in——

[Laughter.]

I have gone through that before. In our State, any time you went to the Supreme Court and the supreme court fell all over you, you could rest assured you were going to lose the case. [Laughter.]

What I need now is not a compliment or flattery. What I need tonight is a vote That is all I want.

Mr. PROXMIRE. Many of us need votes. I need votes on two bills that are pending, and I am not too optimistic about my opportunity to get them.

This nomination comes in about 24 hours before we adjourn sine die for the year. They say, "Let it go through." I do not have the record. I do not have the hearings. We do not have an opportunity to go over this. The Senate should give this matter extraordinary review.

As we pointed out, this is something that has greatly concerned the critics outside the Senate, not simply those who disagree on nuclear policy with the position taken by the Senator from Rhode Island and Mr. Murphy. The newspapers, which have been objective and fair, by and large, in this matter, have not taken sides on more nuclear policies but have said that this appointment does violate the separation of powers, violates the kind of objectivity the Senate should have.

Unfortunately, it does suggest that we are following too much of an old boy, old school tie, old friend, old buddy policy.

Mr. President, I point out that one of the reasons why this is a hasty action just before a Presidential election is that the nuclear power issue—let us face it—is an issue in this campaign.

The Republican platform says: "Uranium offers the best intermediate solution to America's energy crisis. We support accelerated use of nuclear energy through processes that have been proved safe." The Democratic platform says our dependence on nuclear power should be kept to the necessary minimum. This is an election year. The new President, whoever he may be, will have a mandate from the public on the issue, and will have an obligation to carry out the mandate in part through appointments to the Nuclear Regulatory Commission. This is not just a partisan matter. Mr. Murphy is, in fact, a Democrat.

Mr. President, the Senate, for years, has followed a policy of being very careful about approving nominees of a President just before the election. It is not as if this nomination occurred in July or came to the Senate in July or even in August. It is coming before us 24 hours before we go out and less than 5 weeks before the election. Under those circumstances, almost any other nomination, controversial nomination, nomination opposed by a number of Senators, a nomination that has been opposed by some of the outstanding newspapers in the country, a nomination that is opposed by some of the environmental groups and others that have been critical, would automatically go over. We would not consider putting through a nomination at that point.

Many nominations, as we know, have been before committees since May or June and have not advanced because of the likelihood—or the prospect, at least—that there may be a new President.

Senator BAKER, who recommended this nomination to President Ford, in opposing the Fortas nomination to the Supreme Court in 1968, a full 4 months before the election, made the same kind of argument when he was on another side of the issue. I quote from that argument. He said on the floor of the Senate on July 11, 1968, long before Congress adjourned and, as I say, 4 months before the election, not 1 month:

> I say—and this is in part a reply to the queries put by the senior Senator from Tennessee—that, in my judgment, no one really doubts the constitutional authority of this or any President to make this nomination to the office of Chief Justice of the United States. The President has the unquestioned authority to do it in the last minute of his term.
>
> On the other hand, the Senate of the United States has the unquestioned authority to advise and consent on the propriety or even the desirability of that appointment even until the last minute of this session of the 90th Congress.
>
> The point I make is this. There are a thousand things the President could do between now and January that I fervently hope he does not do. To use my colleague's example, he could unilaterally escalate the war in Vietnam in massive proportions. I prayerfully hope he does not. He could go a long way to proceed to unilaterally disarm this Nation. I prayerfully hope he does not.
>
> The question is not the legalism, "Can the President do these things?" It is a question of the respective judgments of the President of the United States and the Senate of the United States, as to whether it is the best thing to do under the circumstances.

I skip over part of his argument and quote a little further from Senator BAKER, speaking on July 11 in opposition to permitting President Johnson to appoint a Supreme Court Justice 4 months before the election and a couple of months before Congress adjourned. He said:

> The people cannot do one single thing about one-third of the coordinate governing authority prescribed by the Constitution of the United States, except by indirection as the Constitution prescribes, to make sure that the popularly elected President and popularly elected Senate of the United States set out and determine the attitudes, the viewpoints he demands, and the dissent of the people of this Nation, in the course of the exercise of their constitutional authority to make this and other appointments.

He goes on to say:

> We must let the appointment of the next Chief Justice of the United States and one or more Associate Justices respond to the mandate of the people in November, with the confirmation of the Senate of the 91st Congress on the recommendation of the next President.

That was the argument, as I say, made by the distinguished senior Senator from Tennessee on July 11, 1968, and that argument seems to me to be very logical now.

As I say, it is not as if we are talking about a policy that is not front and center in the Presidential campaign. It is. The kind of regulatory body that one possible President, President Ford, might have is quite different from the kind of nuclear policy that Governor Carter would pursue. I think we all know that they differ on this issue and differ strongly.

I think that if this were not a nominee who has come from a committee where the members have worked with him day in and day out, year after year after year, and if that nominee were not a Democrat, there would be every likelihood that the Senate would put the nomination over.

I quote further from the distinguished Senator from Tennessee. He went on to say:

> Consonant with this logic, I am prepared to say that in January 1969, if the new President of the United States chooses to send these nominations to the Senate, after the voice of the people has been heard in November 1968, I very much doubt whether the junior Senator from Tennessee will object. But I do object in July 1968, because I feel that this is a remarkable opportunity to exercise not a legal right, but good-conscience judgment on what should and what should not be done in this time of turbulence, in this time when the Court has fallen to low esteem, and in this time when we must restore it to its former high esteem.

Now, Mr. President, we have the same point tonight on this nomination except that the argument is far stronger, because we are only 24 hours from adjournment, because we are only 5 weeks—only a month, as a matter of fact—from the election. As I say, the difference is because the nominee is a Democrat, who is well-known and well-liked and served for years as a staff member on the Joint Atomic Energy Committee.

Mr. President, let me quote a little further, and I am almost through.

On a personal basis, is George Murphy, Jr., qualified? I would like to quote from the testimony in this area by James

Cubie, Mr. Nader's man, in Congress Watch:

> Finally, I question whether Mr. Murphy has the professional competence to serve as a commissioner of the Nuclear Regulatory Commission. Since I realize that this is a serious statement it is necessary to cite specifically several instances involving the contractural negotiations at the Clinch River Breeder Reactor Demonstration Project. Extensive negotiations were necessary at the CRBR because of the complexities of a private industry-ERDA joint venture.
>
> Termination Pressure Clause. In its April 1975 report GAO warned that the contract between the private participants and ERDA permitted the private participants to terminate participation in the project if there were a major divergence from the basic design. The GAO report also noted that the private participants were opposed to one basic safety-related design called a "core catcher." The Report warned that a threatened termination by the utilities if a core catcher was required would put great pressure on the NRC not to require this important safety device. The Report stated that: The possible consequences of a decision by the Nuclear Regulatory Commission that could make a core catcher necessary, could place tremendous pressure on this regulatory agency in arriving at a decision. (p. 9)
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> In Mr. Murphy's September 3, 1975 memorandum to the Committee on this matter he essentially said there was nothing to worry about.
>
> He stated, a pertinent point in this regard is that the independent Nuclear Regulatory Commission will decide what design changes are needed and there is no reason to believe that its decision would be influenced by the utilities termination option.
>
> Five months later, Mr. Murphy completely reversed his position on the issue. He stated in a February 4, 1976 memorandum to the Committee, the very existence of this termination provision could conceivably place the Nuclear Regulatory Commission under extreme pressure to take account of matters extraneous to the central question of safety of the Clinch River Plant.
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> This is a complete reversal of his earlier statement that the termination pressure on NRC was not a problem. This raises the question of whether Mr. Murphy competently advised the committee in his first memorandum.
>
> Mr. Murphy made a second serious error of judgment related to the termination criteria. He informed the Committee in his September 3, 1975 memorandum that even though the GAO objected to the termination provision because it could place tremendous pressure on the Nuclear Regulatory Commission on an important safety matter, the committee had no choice but to accept the nuclear industry's terms. He stated, Inasmuch as the utilities have insisted on the termination option, there does not appear to be anything which the Committee, as a practical matter, could require to the contrary.
>
> In fact, after certain members of the Joint Committee requested that these termination criteria be changed, they were changed. (Letter of Richard Roberts, ERDA Assistant Administrator for Nuclear Energy to Senator John Pastore, February 4, 1976.) Mr. Murphy advised the Committee that nothing could be done about an important safety related matter when in fact all that was needed was an objection from the Committee. It is also disturbing to note that between the lines in this September 3 memorandum Mr. Murphy is saying that he is so committed to building the Clinch River Breeder Reactor that he is willing to sacrifice public safety to the demands of the private participants in this venture. Can a person with such attitudes be trusted to protect the public health and safety at the Nuclear Regulatory Commission?
>
> GAO Accommodation. In his September 3, 1975 memorandum concerning the contractual arrangements at the Clinch River Breeder Reactor Mr. Murphy also misinformed or misled the Committee concerning the GAO's evaluation of the contractual arrangements. This is an especially sensitive matter because Congressional Committees have long relied on GAO to evaluate complex transactions such as the Clinch River Cooperative Project. In its April 4, 1975 Report the GAO had criticized the contractual arrangements existing at that time because "the various documents submitted to the Joint Committee do not clearly delineate the manner in which the program will be managed." Mr. Murphy, in his September 3, 1975 memorandum informs JCAE members that GAO's concerns have been taken care of. He states . . . the comments of GAO (Report RED–75–36, April 4, 1975) have been largely accommodated by language revisions in the supporting justification data for changes in the arrangement which ERDA has accepted.
>
> GAO, however, still had major objections to the contract. In its letter of March 26, 1976 to Representative John Moss the GAO stated that the management relations were not clear and that a violation of Federal law might be involved.
>
> On the lack of clarity in management structure, the GAO stated: The proposed modified contract clarified some of the ambiguities we were concerned about; however, the role that the corporation's board of directors will have in managing the project is still subject to interpretation.
>
> The GAO concluded that the arrangements were so unclear that further negotiation was necessary. The GAO stated, We recommend that the Administrator of the Energy Research and Development Administration negotiate with the other parties to the contract to revise the proposed modified contract so that it (1) more clearly states the extent of the corporation's involvement in managing the project.
>
> The GAO further stated that the energy agency's inability to obtain certain agreements during the negotiation process "foreshadows even more serious problems if the energy agency attempts to exercise its management prerogative during performance of the contract."
>
> GAO was also concerned that the management structure could lead to violations of Federal law. GAO stated, In addition, we are concerned that the project's integrated management organization could lead to a situation where private individuals would function under the supervision of Federal employees in a manner inconsistent with the Federal personnel laws. (p. 2, B–164105)
>
> In summary, although Mr. Murphy had informed the Joint Committee members that the comments of GAO "have been largely accommodated," GAO still had major problems with the management structure.
>
> In three important instances Mr. Murphy gave poor advice or misinformed the JCAE concerning important aspects of the safety and management of the Clinch River Breeder Reactor Project.
>
> Finally, a comment concerning Mr. Murphy's personal prejudice toward persons with whom he disagrees is necessary. During the first year of his term as Executive Director of the Committee Mr. Murphy made significant efforts to communicate with persons, such as myself, who are critical of the present atomic program. However, during this year Mr. Murphy stopped returning telephone calls or answering correspondence. I finally stopped him in the hall outside this room and asked him why he now refused to take calls. He informed me that it was because I had stated in a newspaper article that the Joint Committee on Atomic Energy should be abolished. He informed me that we were going to play the game according to his rules or we were not going to play the game at all.
>
> Should an NRC commissioner, who will be making decisions affecting millions of people, refuse to communicate with persons who do not play the game by his rules?

Mr. President, as I said, I was reading from Mr. Cubie. I think that this does raise a serious question as to the judgment of the respective commissioner. I believe that this is something that is particularly important, because, as I say, we have an unusually difficult situation here.

The committee was put in a difficult position, as the Senator from Rhode Island agrees, when the President nominated the executive director of the committee to this position. As he said, what do they do? Did they turn their back? No. They acted as, perhaps, other Senators might have acted, and approved him. What that does is put the burden not on the committee but on the Senate to carefully and thoughtfully in detail explore this matter on the basis of the record. All night I have been calling for the hearings. If the hearings are available I would like to see them. They have not been made available.

For that reason, Mr. President, I think we have every right to act as we have acted, and to insist that before we proceed further on this nomination we have an opportunity to explore it further.

As I say also, I made the point tonight, and I think it is a point that all Senators should consider, that nuclear policy is right at the heart of this Presidential campaign. If we elect President Ford it will take one course. If we elect Governor Carter it will take another course.

For that reason, it is very important that we give whoever is President of the United States a free hand to make appointments of this great significance.

Mr. President, I suggest the absence of a quorum, and I yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will Senators kindly clear the well? The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, it is late in the evening, but not too late, and I have had the experience of being in this Chamber all night long and on my feet all night long. On one occasion I sat in the chair for 22 hours without stopping. But I am not interested in any marathon races at this point.

I want to ask the Senators who oppose this nomination what their intentions are. We have an adjournment resolution which is on my desk. We have told the President of the United States it is our intention to adjourn tomorrow, or no later than Saturday. I have not offered the resolution yet, and I am not sure when I will offer it. But I expect to offer it before the week is out.

There is a good bit of legislation that still is awaiting action. Some of it will not get action. Some of the measures on the calendar and some of the conference reports probably will not receive action. We do not expect to pass everything on this calendar, but we do expect to do the best we can.

There are some very important conference reports hanging around yet. There is a black lung payments bill before this Senate right now. I come from a State that, as everyone knows, is a great coal mining State, and I am very interested in that bill. There is a clear air conference report awaiting action. There is a payments in lieu bill which is very important.

There are numerous matters that are cleared for unanimous consent if we can ever get to them.

Senators who are opposing this nomination are within their rights. What I say is no criticism of them. I am not even complaining. But as the acting majority leader I want to know what their plans are. I want to know what their plan is, in view of the fact that this Senate is going out tomorrow or Saturday. I have worked too hard and too long with the leadership in the House and the leadership on the other side of the aisle, and I have said without any doubt before Mr. Mansfield left here, in the presence of the Speaker and the majority leader, "We are going out in that Senate." I think I am entitled to know what the definite plans are of those who oppose this nomination.

Is it their plan to continue to oppose it at the expense of bringing about the failure of important legislation that is awaiting passage here, or is it their intent just to talk for a while and let this matter come to a vote, to at least let us proceed with a vote on the motion to proceed. We have not even had a vote on the motion to proceed.

I think the responsibility is on my shoulders to know what their intentions are. I know they realize the cost of holding up this nomination. I am not speaking for the nomination or against it. Frankly, I could not care less either way it goes. But we are going to have to know where we are going. If they intend to hold the Senate in session all night on this nomination, I am ready to stay here. If it is their intention to hold up other legislation, I am ready to stay, if they want to stay, and see how things go. I am willing to wait it out.

I think I have made my position clear. I just want to know what the position of those who oppose this nomination is. As I say, I respect them for their viewpoints. I do not fault them. I am not complaining. I am not criticizing. I want to know.

Mr. ABOUREZK. Mr. President, first of all I ask unanimous consent that what response I give to the acting leader's questions not be counted against the number of speeches I am allowed under the ruling.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ABOUREZK. If I might respond to the distinguished acting leader, on behalf of the number of colleagues who have indicated to me that they oppose the nomination of Mr. Murphy, I am authorized to say that there will be a great deal of debate on this matter, on the motion to proceed. It will probably be a very long time before any vote ever comes about on the motion to proceed to the nomination.

I would like to also make it clear on behalf of my colleagues and myself that we do not intend to hold up any legislation. We would just as soon the acting leader would withdraw the motion and thereby withdraw the nomination. I think in that regard then the Senate could get on with important business.

There is a reason for wanting to do it this way. A number of us believe that this nomination was done in a very hasty manner. We think it should have been considered at greater length by the Senate. All of us, and I speak for all of us, do not wish anything personal on our colleague (Mr. Pastore) who is retiring this year. I certainly hope he does not take anything personal by it because it is not intended to be any derogation of him or his service in the Senate.

I noticed in his speech it was detectable. He talked a great deal about the inference was the attack was being made on him. It is not. We just want him to know that, that all of us respect him very much. It has nothing to do with that.

Mr. PASTORE. Will the Senator yield on that point?

Mr. ABOUREZK. Under the same conditions.

Mr. PASTORE. I am sorry that the Senator draws that inference.

I did not say it was an attack on me. It was an attack on the committee. After all, Mr. Murphy is not my brother; he is my friend. He is not a Rhode Islander. He lives in Maryland and his family comes from Massachusetts. I did not have anything to do with the appointment. The President sent it down. When he sent it down, it was our duty to hold a hearing on it and to make a determination. That is all I did.

If the Senator really wants to know what I resented it was the clandestine way that the hold was put on even before our committee considered the nomination. That has never been done before. Parochially, some Senators told our committee, "We do not care what the devil you do. We are going to stop this anyway." If that is not an impingement upon the integrity of the committee, please tell me what it is.

Senators could have come to me and said, "Look, we do not like the idea of this nomination. It has come in too soon. We are going to put a hold on it." That would have been the right thing to do. When I tried to find out who the people were who had the hold on it, I was told it was a secret matter. That is not the way to run this body.

Mr. ROBERT C. BYRD. Mr. President, the Senate has not been permitted to proceed even with a vote on the motion to proceed. Would not the Senators allow the Senate to have a vote on the motion to proceed, at least to get the nomination before the body? That does not prejudice them. They can still speak as long as they wish to speak. Will they allow us to vote on the motion to proceed?

Mr. ABOUREZK. Not at this time, no.

Mr. DURKIN. I would like to underscore that, Mr. President, I ask the same unanimous-consent request as the Senator from South Dakota, under the same conditions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DURKIN. I would like to underscore the remarks of the Senator from South Dakota. We are prepared to stay all night if need be to thoroughly discuss this and give it the airing that was not given it in the hearing.

Mr. JOHNSTON. Will the Senator yield?

The PRESIDING OFFICER. Will the Senator from West Virginia yield to the Senator from Louisiana?

Mr. ROBERT C. BYRD. Reserving my right to the floor, I will yield to the Senator from Louisiana and then I will put the quorum call back in.

Mr. JOHNSTON. Mr. President, I would like to seize this moment of amicable feeling to press a motion, a unanimous-consent motion, to approve a bipartisan matter, a matter relating to a park at Eugene, Oreg., a park in California, one in Kansas which is strongly supported by Representative Skubitz——

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to say we are in executive session? He is speaking of a legislative matter which would not be in order at this time.

Mr. JOHNSTON. Is it possible by unanimous consent?

Mr. ROBERT C. BYRD. Well, it is possible by unanimous consent, but I do not think he can get it now.

If I may put back in the quorum call, because I assured Senators I would put the quorum call back in when they let me call it off, I know of the Senator's interest in that matter and I want to try to help him.

Mr. PASTORE. Mr. President, will the Senator yield for an observation?

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. I have served in this body for 26 years. I have always been opposed to dilatory tactics. However, I have fought changing the rules. I opposed the reduction of two-thirds to three-fifths on cloture, because I thought we ought to have more freedom in voting on matters where a Member of this body might have been vitally interested.

When we met on the policy committee, the acting majority leader was very gracious. He assured me that he would call this matter up, but that he would retain, not only on this matter but on all matters, the prerogative to set it aside if he thought that it in some way would prevent the adjournment sine die by Friday evening.

It is with that in mind that I say to the distinguished Senator from West Virginia that, regardless of how anyone else feels, I certainly do not want to stay here all night, as the Senator from New Hampshire has indicated, to fight an exercise in futility. They are determined, it strikes me, to carry on a filibuster on this nomination. They call it a long debate, but it is going to be a filibuster.

That being the case, we leave our case

in the hands and lap of the acting majority leader. Whatever he does will be satisfactory, in the interests of the Senate.

Mr. ROBERT C. BYRD. I thank the Senator. May I say it is my intention to vote for this nomination. What I said a moment ago about not caring which way it went did not mean I would not vote for it. My main interest at this point is to keep the Senate on the track, get whatever is capable of accomplishment accomplished, and adjourn.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield to the Senator from Tennessee.

Mr. BAKER. I thank the acting majority leader for yielding.

I spoke earlier tonight in favor of George Murphy's nomination, citing as one of the aspects or qualities that qualified him for this position the ability to face reality.

I think all of us have to face reality, especially as we near adjournment. One of the realities we have to face is that we are on the brink of adjournment, and the leverage for extended debate or filibuster is enormously greater than it was 6 months or even a month ago.

I think the record ought to show that George Murphy is the victim of that leverage on the eve of adjournment. I suspect that the earlier vote we had to go into executive session is a truer measure of the Senate's assessment of George Murphy as a man than the fact that we have to face reality; so I agree that the Senator from Rhode Island and the acting majority leader are entirely within their rights to take whatever action they feel appropriate in the interest of the Senate at this time.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I suggest the absence of a quorum—I assure the Senate the quorum call will not be long—in order to talk with the principals on both sides in this matter.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DURKIN. Mr. President, reserving the right to object.

I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will the Senate be in order?

Senators kindly take their seats.

Mr. ROBERT C. BYRD. Mr. President, I appreciate the very gracious attitude that has been expressed by Mr. PASTORE, Mr. BAKER, and others, who have spoken in support of the nomination of Mr. Murphy.

I find the responsibility which they have placed on me to be a heavy one, one that I do not desire to carry. But in view of the very frank statements that have been made by those Senators who oppose the nomination to the effect that they intend to talk all night if need be and apparently the Senate will not be able even to proceed to vote on the motion that is now pending to proceed to the nomination, I am constrained, in the light of the instructions that have been given to me by the Democratic Policy Committee, and after consultation with the Senators who have spoken in support of the nomination, and after consultation with the leadership on the other side, to face reality and to ask unanimous consent that I may withdraw the motion to proceed.

I believe the yeas and nays have been ordered, have they not?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. Reserving the right to object, Mr. President—and I shall not object—there are other nominations on the Executive Calendar, and one that Senators are particularly interested in is that of Richard M. Bilby, of Arizona, to be a U.S. circuit judge.

The Senate is now in executive session. There are other nominations, I would think, that might not be controversial. I ask the acting majority leader's intention concerning other nominations that are on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, there are other nominations on the executive calendar.

I ask the unanimous consent that the following nominations be considered and agreed to en bloc. I ask Senators to take their executive calendar and follow me. Nominations for the U.S. Army, on page 1 of the executive calendar; nominations for the U.S. Navy.

The PRESIDING OFFICER. The Chair inquires whether the Senator presses his original unanimous-consent request to recede from proceeding to the specific nomination that has been debated.

Mr. ROBERT C. BYRD. I had asked unanimous consent that I withdraw the nomination.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry. The nomination has never come up, and my question to the Chair is this: Is it the intention of the Chair to totally wipe out the motion that was made by the Senator?

Mr. ROBERT C. BYRD. I can answer the question. The motion has been wiped out. I have asked unanimous consent that it be withdrawn. I do not intend to make it again.

The PRESIDING OFFICER. The Senator's response is accurate.

Mr. ROBERT C. BYRD. We are still in executive session. I do not intend to press that one.

I ask unanimous consent that the Senate proceed to the following nominations, which have been cleared, and I ask unanimous consent that they be confirmed en bloc: Nominations under "U.S. Army," nominations under "U.S. Navy," nominations under "Export-Import Bank of the United States," "National Center for Productivity and Quality of Working Life," down to "Nuclear Regulatory Commission," going over on Mr. Murphy; beginning with "Department of State," all nominations on page 3 under "Department of State," all nominations on page 4, from top to bottom, all nominations on page 5, and all nominations on page 6.

This would mean that the only nominations remaining on the calendar, if the request is granted, will be Mr. Halleck, Mr. Bilby, and Mr. Murphy.

Mr. GRIFFIN. Mr. President, will the acting majority leader yield, and will he amend his request to also exclude Mr. Olson, the first nomination under "Department of State," because there is a hold on the nomination on this side?

Mr. ROBERT C. BYRD. Yes, I so amend to exclude Mr. Olson from confirmation tonight.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations confirmed today are printed at the conclusion of the Senate proceedings.)

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## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

Mr. ALLEN. Mr. President, will the Senator yield? What about the nominations on the Secretary's desk?

Mr. ROBERT C. BYRD. I said all nominations on that page.

I ask the Chair, am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, will the Chair protect my rights to the floor?

The PRESIDING OFFICER. Without objection, it is so ordered.

### NOMINATION OF RICHARD BILBY

Mr. FANNIN. Mr. President, will the acting majority leader yield for a question on the nomination of Richard Bilby to the ninth circuit court?

Mr. ROBERT C. BYRD. Yes. It is my desire to at least attempt to take that up tomorrow. I would proceed this evening, but a Senator who is interested in that nomination is not here and could not be here, and I feel honor bound not to proceed in his absence today.

Mr. FANNIN. Can the acting majority leader assure the Senator from Arizona that the acting majority leader realizes that the two Senators from Arizona have been working diligently to obtain consideration of the nomination of Richard M. Bilby? That this nomination is tremendously important to the Senators from Arizona. I hope that rather than the acting majority leader saying he will try, he will assure us that it will be considered tomorrow.

**Mr. ROBERT C. BYRD.** I cannot assure the Senator that the nomination will be considered. The Senator saw what happened tonight. I could not even get a motion dropped to proceed to the nomination.

I assure the Senator that I will do everything I can—and that will include talking with Senators on my side—to see if it is possible to get a unanimous-consent agreement to take up the nomination. That failing, I will attempt to move as I have today on this nomination. I will go as far as is reasonable and possible to go.

**Mr. FANNIN.** At an early time tomorrow, so that it will not be the last item on the agenda and so that we will have an opportunity to have the nomination voted upon?

**Mr. ROBERT C. BYRD.** It would be difficult for me, and I should not say that I will proceed "early" tomorrow. I will, if I can. I do not know whether I will be able to move early tomorrow.

**Mr. FANNIN.** The Senator will move at the earliest possible time?

**Mr. ROBERT C. BYRD.** At the earliest possible time.

**Mr. FANNIN.** I thank the Senator.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry announced that:

The House has passed the bill (S. 3521) to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The House has passed the bill (H.R. 15813) to amend the act of June 3, 1976, relating to the Commission on Security and Cooperation in Europe.

The House has agreed, without amendment, to the concurrent resolution (S. Con. Res. 47) authorizing the proclamation of U.S. Space Observance.

### ENROLLED BILL SIGNED

The SPEAKER has signed the following enrolled bill:

H.R. 13367. An act to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13350) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7108) to authorize appropriations for environmental research, development, and demonstration.

## ORDER OF BUSINESS

**Mr. ROBERT C. BYRD.** Mr. President, I hope to proceed with two other matters this evening. One is the payments in lieu and the other is the conference report on the Clean Air Act. I have already stated to Senators that, so far as I am concerned, we can be here all night in order to get our work done.

**Mr. MUSKIE.** Mr. President, will the Senator yield?

**Mr. ROBERT C. BYRD.** I yield, with the understanding that I keep my right to the floor.

## CLEAN AIR ACT—CONFERENCE REPORT

**Mr. MUSKIE.** Mr. President, the conference report on the Clean Air Act has been pending since 3 o'clock this afternoon, and I have been assured since that time that we would move to it very soon, and it is now almost 10 o'clock.

It is no secret in this body that every effort is going to be made to defeat the Clean Air Act by extended debate, if necessary. It is my firm conviction that if we are to have any chance at all to act finally on this vital piece of legislation, which represents 2 years of hard work in each of the two bodies of Congress, we must get to it and get to it immediately.

I understand that a conference report is a privileged matter, and I am going to insist—to the extent that my insistence has any effect—that we proceed to it at this time. I have been assured that I could. Every time I have checked that reassurance, I have been told, "There is another matter, Senator, that ought to be taken up." I have lost my patience with the other matters.

I will object to any unanimous-consent requests to consider other matters. We are going to decide this one, one way or another, if I can get it before the Senate.

So I would like to know what the assistant majority leader's intentions are at this point, with reference to this matter.

**Mr. GARN.** Mr. President, will the Senator yield, without losing his right to the floor?

**Mr. ROBERT C. BYRD.** If the Chair will protect me, yes.

**Mr. GARN.** A few moments ago, the acting majority leader asked what the realistic situation was on the nomination. So that there is no doubt in the Senate, we know what is going to go on if the Clean Air Act is brought up tonight. I guarantee that we will be here all night, and we will talk for a long time; and it does not make any difference to the junior Senator from Utah whether that is all night tonight or tomorrow or Friday night or next week.

So that everybody understands what is going on—and the assistant majority leader does—we do intend to be here as long as necessary to kill the bill.

**Mr. MUSKIE.** And I am prepared to stay here all night, I say to the acting majority leader. I am not about to let 2 years' hard work go down the drain because one Senator thinks his will must prevail over that of two Houses, clearly stated. If the Senator wants that to be the result, I can assure him that the record will be very clear as to whose responsibility it is to sabotage the careful work that has gone into this matter for 2 years.

All I want at the moment is the starting gun, and I am prepared to go; and I am prepared to go tonight, tomorrow, and tomorrow night, until the record is clear.

**Mr. MOSS.** Mr. President, will the Senator yield?

**Mr. ROBERT C. BYRD.** I yield, with the same understanding.

**Mr. MOSS.** Just for the purpose of saying, it is not one Senator. There are a lot of Senators here who are going to resist the conference report on the Clean Air Act amendments. We stood on this floor for 4 or 5 days, when it was here earlier. Now that it has been through the House and is back here again, we are still trying to make the point we made then. We shall make it, in view of the time frame that we have, with whatever resources we have.

I support my junior colleague in his statement that, if it takes 2 days, 3 days, whatever it takes, we shall be here.

**Mr. ROBERT C. BYRD.** Mr. President, if I may respond to the question that was asked of me by the distinguished Senator from Maine, I fully understand the feelings of my distinguished friend from Maine. He has waited patiently all afternoon. He canceled a trip to his native State, with the understanding that at some time this afternoon, he would be able to bring up the conference report.

**Mr. MUSKIE.** Precisely, and the affair in Maine, which involved a visit by our party's Presidential candidate, that I had to cancel to be here, is now over.

**Mr. ROBERT C. BYRD.** Exactly.

Now, Mr. President, I am between the rock and the hard place. The Policy Committee instructed me to proceed for a reasonable length of time on several measures, among which are black lung—as I have indicated, that is before the Senate now, and it is a measure that is of very great interest and concern to my State—mine safety, payments in lieu, and water pollution control authorization, conference reports, and so on. So I am going to do this: I am going to payments in lieu for no longer than 20 minutes. The issue will have to rise or fall, once we get on it, within 20 minutes.

I ask the Chair to protect my rights so that, in 20 minutes, if this matter is not disposed of, I can yield the floor to the Senator from Maine so that he can call up the Clean Air Act conference report.

**Mr. MUSKIE.** What matter does the assistant majority leader have reference to?

**Mr. ROBERT C. BYRD.** Twenty minutes on the payments in lieu.

**Mr. MUSKIE.** Let me make my position clear: A lot of those Senators who are going to filibuster the Clean Air Act are interested in that piece of legislation. I see no reason why I should just roll over and play dead so they can get their goodies while they reserve the right to sabotage the Clean Air Act without any opportunity for the Senate to vote on it.

Let us be explicit about this. I know where the payments in lieu of taxes legislation comes from. I know what States are interested in it. And, as a matter of fact, I think it is a bad piece of legislation, although I did enable the committee to clear the Budget Committee so that they could bring it to the floor. But I am not going to go the next step and give these Senators who are going to try to torpedo the Clean Air Act their goodies in advance so that they can filibuster indefinitely without price. I refuse.

Have I made it clear enough?

Mr. ROBERT C. BYRD. Oh, the Senator has made it clear.

Now, Mr. President, with the understanding that if we get on the payments in lieu, once we get on it, if 20 minutes pass and it is not disposed of——

Mr. MUSKIE. Does the Senator propose to move the payments in lieu?

Mr. ROBERT C. BYRD. I am going to take it down. I stated my position earlier.

Mr. MUSKIE. A parliamentary inquiry.

Mr. ROBERT C. BYRD. I have the floor.

Mr. MUSKIE. Regular order, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I yielded for that purpose, but I have the floor.

Mr. MUSKIE. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. Is a conference report a privileged matter?

The PRESIDING OFFICER. A conference report is a privileged matter. The Senator from West Virginia has the floor.

Mr. MUSKIE. Mr. President, I want to submit the conference report on S. 3219, the Clean Air Act amendments, and move its consideration.

The PRESIDING OFFICER. The Senator from West Virginia yielded for the purpose of the parliamentary inquiry. The Senator from West Virginia has the floor and the Senator from Maine may not move unless he is yielded to for that purpose.

Mr. MUSKIE. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. What does the privilege relating to conference reports mean? Will the Chair advise me?

The PRESIDING OFFICER. It means that, if the Senator can get the floor for that purpose, he may move to proceed to the conference report and then it is a privileged matter. But the Senator from West Virginia has the floor.

Mr. MUSKIE. Is it the intention of the assistant majority leader to deprive the Senator from Maine of the opportunity to raise a privileged matter, a conference report, on a plea of congressional priority?

Mr. ROBERT C. BYRD. No, it is not my intention to deprive the Senator of the right which he has, when I give up the floor, to call up his conference report. I stated that, in view of the fact that I was in between two very difficult propositions here, I would go to the other matter for 20 minutes only.

Mr. MUSKIE. Well, why go to the other matter instead of to my matter?

I shall tell the Senator from West Virginia this, that if he brings up the payments in lieu, I shall not permit it to come to a vote.

Mr. ROBERT C. BYRD. Well, that is all right.

Mr. MUSKIE. So why is he wasting this time?

Mr. ROBERT C. BYRD. Because the Senator asked me what I intended to do.

Mr. MUSKIE. But he assured me earlier, may I say to the Senator, he gave me none of this dilemma earlier, the dilemma between this and payments in lieu.

Mr. ROBERT C. BYRD. What did I give the Senator?

Mr. MUSKIE. He told me several times earlier, "Just a few minutes," "in just a moment," "We will get to the Clean Air Act after this next matter." I have been waiting since 3 o'clock this afternoon.

Mr. ROBERT C. BYRD. Mr. President, I cannot recall having said, "After we get to this next matter."

Mr. MUSKIE. Well, the Senator cannot recall it. I am certainly not going to challenge his recollection. But I sat on this floor from 3 o'clock this afternoon until we got to the George Murphy matter, in full expectation that at some point in that 3-hour period, the Clean Air Act conference report would be called up and the Senator from West Virginia never disabused me of that impression at any time in that 3-hour period. I finally left because it was clear that the Murphy matter was involved in extended debate. I left. I had just ordered my dinner when I was told that the assistant majority leader wanted me to rush to the floor, and I did. So I have been available constantly, on the impression, if not the explicit promise, that my matter was going to be called up that would involve extended debate——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MUSKIE. The position of the Senator from Utah was made eminently clear at that point. If it is the desire of the assistant majority leader for us just to play dead on the Clean Air Act, I would like to know.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to answer the question?

Mr. MUSKIE. I yield—it is the Senator's floor, of course.

Mr. ROBERT C. BYRD. Mr. President, the Senator knows that I have said all afternoon that it is my intention at some point to get to the Clean Air Act conference report.

Mr. MUSKIE. I shall desist until the Senator finishes.

Mr. ROBERT C. BYRD. That is the best I could say to the Senator, because that is the best I could promise. I would not promise more than I knew I could carry out.

I have said if we can move to payments in lieu for 20 minutes—and we have consumed 10 minutes now just discussing this—if we could move to payments in lieu for 20 minutes, because that is also on the instructions from the Policy Committee to me, after 20 minutes I would then, if that is not disposed of, move to set it aside and we would go to the Clean Air Act amendments, and I will be willing to stay with the Senator all night on the Clean Air Act amendments.

I have been here since 8:30 this morning right here, and I will be here.

Mr. MUSKIE. So have I, may I say to the Senator. I left the clean air conference at midnight last night after 3 solid days and 14 hours yesterday to bring this product to this floor.

Mr. ROBERT C. BYRD. Well, I am simply saying in good faith I want to get both matters up tonight. We will only spend 20 minutes on that matter, and then we will go to this other matter, and I will stay with the Senator as long as he stays. I will be here trying to help.

Mr. MUSKIE. I promise you you will not get a vote on the other matter.

Mr. GRIFFIN addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I still have the floor. I yield to the Senator without losing my right to the floor.

Mr. GRIFFIN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Has there been any kind of an agreement, unanimous consent agreement, with respect to any other legislation or what is the pending question?

The PRESIDING OFFICER. The black lung bill, so-called black lung bill, is the pending question.

The Senator from West Virginia.

## PAYMENTS TO LOCAL GOVERNMENTS

Mr. ROBERT C. BYRD. Mr. President, without losing my right to the floor and, of course, I do not lose my right to the floor by asking unanimous consent, I ask unanimous consent that the Senate now proceed to consideration of H.R. 9719.

Mr. GRIFFIN. Mr. President, reserving the right to object, this is the payment in lieu of taxes bill?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. There is a lot of support on both sides of the aisle for the basic legislation included in H.R. 9719, the payments in lieu of taxes provisions. However, as reported this bill is very controversial because an extraneous special amendment to benefit Louisiana was added in committee. It is an amendment which has nothing to do with payments in lieu of taxes but relates instead to the Coastal Zone Management Act.

In addition, another very costly

amendment was added in the Interior Committee which would bring Indian lands under the scope of this bill. So, it is controversial. I will not object to a motion to take up the bill, but if the acting majority leader expects to deal with this subject under a 20-minute time limit, I would be forced to object.

Mr. ROBERT C. BYRD. Well, does the Senator care to object?

Mr. GRIFFIN. Is the request to proceed to consideration of the bill? If so, I will not object. But if the Senator expects a 20-minute time limit for consideration there will be an objection.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed for not more than 20 minutes to the consideration of H.R. 9719.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I believe the distinguished Senator from Michigan has in mind that these 20 minutes would guarantee there would be a vote at that time. The Senator is not asking that.

Mr. ROBERT C. BYRD. I did not ask for a vote. I merely asked that we proceed for 20 minutes on this measure. Is there objection?

Mr. GRIFFIN. To the 20-minute time limit, yes.

Mr. ALLEN. It is not a time limit when it comes to a vote. It is just to devote 20 minutes to it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—let me put it this way—I ask unanimous consent that the Senate proceed to the consideration of S. 9718, and that a vote thereon occur at 10:30 tonight.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 9719.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. HUGH SCOTT. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. ROBERT C. BYRD. Yes; I yield for that purpose.

Mr. HUGH SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUGH SCOTT. Is anything happening? [Laughter] Obviously, nothing is happening.

Mr. ROBERT C. BYRD. Very well, Mr. President, I have attempted to get a unanimous-consent reouest to proceed for 20 minutes. That failed. I attempted to get a unanimous-consent agreement to vote by 10:30 and that failed. For the time being I think it would be futile to move in the face of what I have been told because the Senate would be wasting its time. I have a feeling that we will not even be able to get to a vote for a considerable length of time on a motion to proceed. That being the case——

Mr. GRIFFIN. Will the Senator, Mr. President, yield for a comment? Perhaps I misunderstood an earlier request, let me make it clear that if the Senator moves to proceed to consideration of this bill I will support it—or if he asks unanimous consent to proceed to it, consideration of it, I will not object. I object only to the time limit suggested.

Mr. ROBERT C. BYRD. Mr. President, I will put the request like this: I ask unanimous consent that the Senate proceed to the consideration of H.R. 9719, and that at the end of 25 minutes I be recognized.

Mr. GRIFFIN. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE. Mr. President, will the Senator yield? What is the pending business?

The PRESIDING OFFICER. The pending business is black lung.

Mr. ROBERT C. BYRD. Black lung.

Now, Mr. President, I yield to the Senator from Maine that he may call up the conference report.

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## CLEAN AIR ACT AMENDMENTS—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on S. 3219 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3219) to amend the Clean Air Act, as amended, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

Mr. GARN. Mr. President, I ask that the conference report on S. 3219 be read in its entirety.

The PRESIDING OFFICER. A request has been made that the conference report be read in its entirety. The clerk will read the conference report.

The legislative clerk proceeded to read the conference report.

The PRESIDING OFFICER. The clerk will suspend momentarily. The Senate will be in order. The Senate staff will kindly take their seats. Conversations will withdraw to the cloakroom. Senators will kindly be in order.

The clerk will resume reading the report.

The legislative clerk resumed the reading of the conference report.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Is a conference report being read subject to a division or consideration in terms of the titles that it may have or the subject matter?

The PRESIDING OFFICER. If by the question the Senator asks if the reading can be terminated, that can only be done by a unanimous-consent request and a unanimous-consent order. Once the reading commences it proceeds.

Mr. HUMPHREY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. It is my understanding that the conference report deals with specific provisions of the bill as finally agreed on by the conferees; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. All right. Is it subject to division?

The PRESIDING OFFICER. No, it is not.

Mr. HUMPHREY. It is not subject to division?

The PRESIDING OFFICER. What he said. [Laughter.]

Mr. HUMPHREY. Will the Chair repeat that?

The PRESIDING OFFICER. The conference report is not divisible or amendable. It has to be voted up or down in its entirety, and the reading is not interruptible by debate.

The clerk will continue to read.

The legislative clerk continued with the reading of the conference report.

Mr. MUSKIE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. Is the clerk reading the statement of the managers or the conference report?

The PRESIDING OFFICER. The clerk is reading the conference report. The clerk will proceed.

The legislative clerk continued with the reading of the conference report.

Mr. HUMPHREY. Mr. President, parliamentary inquiry.

Mr. GRIFFIN. Regular order

Mr. HUMPHREY. I am entitled to make a parliamentary inquiry.

The PRESIDING OFFICER. The Chair will no longer entertain any parliamentary inquiry after this one.

Mr. HUMPHREY. All right. [Laughter.]

Mr. President, I want to know what relief there is for the clerk of the Senate who is called upon to read this report, who has been in this body for 14 hours. There is such a thing as cruel and inhumane treatment and there are also certain rules of public health. There is also the OSHA that we have, the Occupational Safety and Health Act. I want to know what is going to happen to our clerk, the poor soul. Look at him up there. [Laughter.]

The PRESIDING OFFICER. The Senator cannot include the staff of the Senate.

Mr. HUMPHREY. I would hope that the Chair would give the clerk a little relaxation. There are those in the Senate who want the report read. Since we have from time to time people become Presiding Officers in the Senate, we might even have people become readers. Senators become readers, I might say.

Mr. GARN. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for. The clerk will proceed.

The legislative clerk continued the reading of the conference report.

Mr. GARN. Mr. President, may we have regular order so we can hear the clerk?

The PRESIDING OFFICER. The Senate will be in order. Will Senators who wish to converse kindly withdraw to the cloakroom? Will the Senate staff kindly take their seats? The clerk will proceed.

The legislative clerk continued the reading of the conference report.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Staff members will take their seats.

The clerk will proceed.

The legislative clerk continued the reading of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate be in order.

The PRESIDING OFFICER (Mr. WILLIAMS). The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the conference report be dispensed with.

Mr. GARN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued reading the conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate be in order and I ask that the staff people be asked to take seats. The clerk is trying to read. The Senate is in session. Some Senators are on the floor. I suppose they are listening. At least, if they want to listen, they should be able to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCHWEIKER. Mr. President, I want the RECORD to show that I want to listen.

The legislative clerk continued reading the conference report.

Mr. HELMS. Mr. President, I move we adjourn.

The PRESIDING OFFICER (Mr. MORGAN). The motion is not in order.

Mr. HELMS. I appeal the ruling of the Chair, and I ask for the yeas and nays.

Mr. BAYH. Mr. President, point of order or inquiry. How can a Senator propose a motion unless he has gotten the right to make the motion by being recognized?

Mr. HELMS. The Chair recognized the Senator from North Carolina.

The PRESIDING OFFICER. Under the precedents of the Senate, the reading of the conference report can only be suspended by the unanimous consent of the Senate.

Mr. HELMS. Very well. I thank the Chair.

The PRESIDING OFFICER. The clerk will continue reading.

The assistant legislative clerk continued with the reading of the conference report.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the conference report be suspended temporarily for the purpose of ascertaining the presence of a quorum.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object, Mr. President, I object.

The PRESIDING OFFICER. Debate is not in order.

Mr. ABOUREZK. I object.

Mr. EAGLETON. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will proceed.

The second assistant legislative clerk continued the reading of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. Reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President——

Mr. GARN. The majority leader has not finished his statement. I understood that the Senator was going to propound all components of the unanimous-consent agreement.

Mr. ROBERT C. BYRD. I intend to do that but I wanted to have the reading stopped.

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## ADDITIONAL STATEMENTS

### ESTATE AND GIFT TAX PROVISIONS OF THE TAX REFORM ACT OF 1976

Mr. MATHIAS. Mr. President, for a long time I have been troubled by a change in America that we can see happening before our very eyes. I am referring to the abandonment of farmland, the sight of farm buildings in decay and the gradual absorption of that farmland into urban and suburban areas, and into paving for shopping centers and highways. This abandonment is occurring without any regard to what is the best land to be kept for agricultural purposes and without much regard of the future of the country with respect to feeding the people at home and doing our share in feeding people abroad.

One of the reasons that this change has been taking place is because of our tax laws. As the value of real estate has increased, the effect of the estate tax is to force the average farm family to sell its property upon the death of the head of the household. This means that the family that would like to continue to be farmers—families who want to continue to produce crops and livestock to feed our people and the rest of the world—find that they just simply cannot do it because at the death of the head of the household they have to raise cash to pay the Federal estate tax. And that kind of cash simply is not available in the average farm family.

I have been concerned about this for many years. Five years ago I took positive action by introducing a bill which would provide that while property is kept in agricultural production it should be entitled to valuation at agricultural level, rather than appraising it at its potential development use which often results in the imposition of a much higher tax. Under my bill this agricultural valuation would be available unless the property is put back into the speculative real estate market, and, for example, is sold for a development or shopping center or a highway. If such a sale is made, the full estate tax should and ought to be paid. But while it is farmland, while it is kept for agricultural use, then it should be entitled to different valuation rules.

I am pleased that a majority in the Congress has finally agreed with that point of view, and that we have provided for this kind of tax relief in the current tax reform bill which the Congress has just approved and which the President has indicated he will sign. In addition to the new valuation procedures, the tax bill also replaces the present $60,000 estate tax exemption with a tax credit that will be the equivalent of a $175,000 exemption when it is entirely phased in, in 1981. Under the bill, farmers and owners of closely held businesses will benefit from an extension of time in which estate taxes must be paid.

These changes will be an enormous help to farm families who want to stay on the land and who want to preserve not only the natural environment of their farms but want to preserve a way of life which is very closely associated with bedrock American principles. I do not think the Tax Reform Act of 1976 went far enough to achieve reform in the tax laws. But this is one of the cases where I think equity and fairness were enhanced and improved. I believe that this is a step forward. not only in our tax system but I think it is a step forward in the preservation of farm values, which are important for all time and, if lost now, will be lost forever.

Mr. President, I ask unanimous consent that an editorial from the Star Democrat, September 21, 1976, and a memorandum prepared by the Library of Congress dealing with the treatment of farms under the Tax Reform Act of 1976, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### A LONG-NEEDED REVISION

Congress did something important last week, important especially for our agricultural area. The federal lawmakers finally revised the estate tax law, which in its present form, has had some disastrous effects on small, family farms.

Too many times, when a farmer died, his family had to sell the land he left to pay the inheritance taxes. The farmland was then developed, not always in the most attractive or practical way, and another bit of our dwindling agricultural acreage was lost.

The congressional revision converts the $60,000 estate tax exemption to a combined estate and gift tax credit against total taxes owed, meaning that the estate tax exemption will climb immediately to $120,666 and by 1981 to $175,625.

Another important provision of the revision is one allowing for the evaluation of farm land for estate tax purposes on the basis of its present farm use instead of its potential developed use. A farmer's heirs will also be allowed 15 years to pay off any estate tax rather than the 10 now allowed, and at an interest rate of four percent, not seven.

With more and more of the Eastern Shore being converted from farm land to housing projects, and the numbers of farming families decreasing drastically, Congress has acted none too soon.

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THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
*September 21, 1976.*

## ESTATE TAX TREATMENT OF FARMS UNDER THE TAX REFORM ACT OF 1976

This memorandum is prepared pursuant to your inquiry of September 20, 1976, requesting an analysis of the impact of the estate and gift tax provisions of the Tax Reform Act of 1976, as passed by the Congress on September 17, 1976, on farms. A number of the estate and gift tax provisions will have notable impact on the problems of farms, including the unified estate and gift tax credit, the new valuation methods for farms, the increased marital deduction, the joint interest rules, and the new extension of time for payment of estate taxes.

One of the principal problems of farms in the estate tax area has been illiquidity. A farm's principal asset is usually the real estate on which it stands and, if the farm is to be continued, this cannot be liquidated to pay estate taxes. Consequently, farms have been required to resort to various estate planning techniques to avoid dissolution upon death of the principal owners. Such techniques included incorporation of the farm and inter vivos disposition of the stock to the family of the primary owner, and purchase of large life insurance policies designed to fund the estate tax liabilities. See, e.g., Statement of National Association of Wheat Growers in Public Hearings and Panel Discussions before the House Committee on Ways and Means, on Federal Estate and Gift Taxes, 94th Cong., 2d Sess. 14–17 (1976). This problem is addressed in three different ways under the new law.

First, the new unified estate and gift tax transfer credit is higher in tax value than the former estate tax exemption or gift tax exemption. The former exemptions amounted to a $30,000 lifetime gift tax exemption and a $60,000 estate tax exemption. Int. Rev. Code, section 2052, 2521. The new, unified credit is equivalent to an exemption of about $175,000 when it is entirely phased in, in 1981. H.R. 10612, section 2505. Therefore, a larger amount of farm land and other farm assets may be left by a decedent without imposition of an estate tax, or given away without imposition of a gift tax, than under prior law.

Second, the new, higher marital deduction will permit a farmer to leave more property to a surviving spouse without imposition of an estate tax. Prior law permitted a decedent's estate to take a deduction for the value of all property left to a surviving spouse, subject to a limitation of one-half of the adjusted gross estate (the gross estate, less taxes, expenses and losses). Int. Rev. Code, section 2056. The small estate, be it farmland or otherwise, received far less marital deduction than the larger estate, because its adjusted gross estate was lower. However, the new estate and gift tax laws, under the Tax Reform Act of 1976, permit an estate to deduct the value of property passing to a surviving spouse subject to a limitation of the greater of $250,000 or one-half of the adjusted gross estate. H.R. 10612, section 2202(a). This will permit a farmer leaving a substantial portion of his or her estate to a surviving spouse to leave an estate of up to $425,000 (after 1981) without imposition of any estate taxes at all. This figure is computed as follows:

| | |
|---|---|
| Gross Estate | $425,000 |
| Marital Deduction | 250,000 |
| Taxable Estate | 175,000 |
| Tax Liability | 46,800 |
| Unified Estate Tax Credit | 47,000 |
| Taxes Owed after Credit | 0 |

Third, the new estate and gift tax provisions also provide for special valuation of farm lands in certain circumstances. Under present law, all properties are included in the gross estate at their "highest and best" use valuation on the date of decedent's death, or an alternate valuation date. If, therefore, a farm is situated near an urban area and has a greater value for urban use than farm uses, the property will be included in the gross estate at the former valuation. This is changed in many instances, under the new estate and gift tax reforms of the Tax Reform Act of 1976.

Under the new estate and gift tax rules, the executor of the estate may elect to have the real estate used in a family farm valued at its current use, rather than the "highest and best use." In order to qualify for this alternate valuation, the farm or closely-held business must (1) constitute at least 50 percent of the decedent's gross estate, adjusted for debts, taxes and losses (this includes both the realty and personalty used in the farm or closely-held business); (2) constitute at least 25 percent of the adjusted gross estate (this includes only the realty); (3) pass to a qualified heir (lineal descendant, parent, spouse, aunt, uncle or their descendants); and (4) have been used as a farm or closely-held business, and operated by the decedent or his or her family, for five of the last eight years.

The valuation for a farm is determined by dividing the average annual rental of comparable farm lands by the average effective interest rate for new loans by the Federal land bank, taking an average over the five most recent calendar years. If there is no comparable land or if the executor so elects, the farm may be valued under an alternate method.

The alternate method for valuing farms and closely-held businesses is an appraisal of the value of the land, considering all relevant factors. Specifically, the factors must include the capitalization of the income yielded as a farm or closely-held business, the fair rental value of the property as a farm or closely-held business, also capitalized, the assessed value of the real estate for State tax purposes as long as the State assesses at current use, and comparable sales prices of similar land also situated away from locations in which they would be used for other, "higher" uses. In no event may the alternate valuation reduce the gross estate by more than $500,000.

The property must be continued in its use as a farm or closely-held business by the decedent's family for at least fifteen years after his or her death. If the property is either disposed of, or the use changed within this period, the Government may recapture the tax benefits realized by alternate valuation. If the change or sale occurs within 10 years of the death of the decedent, the entire tax benefit will be paid by the successors to the Government. If the change occurs between the tenth and fifteenth years after death of the decedent, there is a phase-in of the tax benefit. H.R. 10612, section 2203.

Fourth, the farms will benefit from the new extensions for time within which estate taxes must be paid. Under current law, the estate tax must be paid nine months after the decedent's death. However, if the value of the closely-held business of the decedent is greater than 35 percent of the value of the gross estate, or 50 percent of the taxable estate, then a 10 year extension is afforded. Int. Rev. Code, section 6166. If, secondly, the executor can show that there would be "undue hardship" caused by the payment at the due date, the Government may extend the time for payment for up to 10 years. Int. Rev. Code, section 6161(a).

The new Tax Reform Act would substitute a "reasonable cause" standard for the current standard of "undue hardship," in order to obtain a discretionary extension of up to ten years for payment of estate taxes. In addition, if a family farm or closely-held business constitutes at least 65 percent of the adjusted gross estate, an extension of up to 15 years is granted, with no tax payable during the first five years and the rest paid over the last ten years. A special 4 percent interest rate, rather than the normal 7 percent, would apply in these cases. The new law would also contain the current ten year extension where the farm or closely-held business constitutes over 35 percent of the gross estate or 50 percent of the taxable estate.

The impact of these changes will be to reduce the over-all burden of estate taxes on farms and small businesses, and to make it more simplified for such a farm or business to be passed from one generation to another within the same family. It will also facilitate extension of the time for payment of estate taxes.

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## CRONYISM APPOINTMENTS

Mr. DURKIN. Mr. President, if there is one message that we are hearing from the people who elected us, it is that they are fed up with business as usual in Washington—especially with the cronyism that has come to be the hallmark of appointment to high public office in the Federal Government.

President Ford has himself attacked the bureaucracy as running out of control.

But when President Ford has the opportunity to name key policymaking officials to positions in which they could control runaway bureaucracy, who does he appoint?

Let us take one recent case, the nomination of Richard G. Quick to the ICC. Nobody in the Senate appears anxious or eager to discuss this nomination, at least in public. The fact is that Richard Quick was nominated to the ICC solely because of his relationship to the minority leader. Mr. Quick serves as Administrative Assistant to the minority leader.

I do not personally know Mr. Quick. I do know that nothing in his background or in the record of the hearings which the Commerce Committee held last week on his nomination gives evidence of any significant expertise in the field of transportation or of commitment to reform of the transportation regulatory mess which President Ford has criticized time and again. Let me quote from an article which appeared in the Philadelphia Inquirer this week. I ask unanimous consent that an article printed in the Philadelphia Inquirer and another in the Washington Star be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### ATTEMPTING TO PUT HIS TOP AIDE ON THE ICC

WASHINGTON.—Retiring Sen. Hugh Scott (R., Pa.) is attempting to have his top aide, who has no background in transportation, appointed to a six-year term on the Interstate Commerce Commission (ICC).

Scott, the Senate minority leader, persuaded President Ford to nominate Richard G. Quick, 34, to the ICC last month. He is having a more difficult time persuading his Senate colleagues to approve the nomination.

Quick's present job as Scott's administrative assistant will end when Scott retires in January after 18 years in the Senate. Scott has a reputation for placing loyal staff members in choice jobs and is trying to do the same for Quick while there is still time.

When it appeared that the Senate Commerce Committee might ignore the nomination—standard practice this late in a presidential election year—Scott began what Senate sources called an intensive lobbying campaign among his colleagues.

Successful at last in arranging a confirmation hearing yesterday, Scott told a Commerce subcommittee that Quick, as his senior aide, had gained considerable "knowledge and expertise" in the fields of railroad reorganization and regulatory reform.

When it was Quick's turn to talk, however, he seemed ill-prepared for the committee's interrogation. He stumbled over some basic transportation policy questions from the subcommittee's acting chairman, Wendell Ford (D., Ky.), prompting Ford to say that Quick's confirmation is "an open question."

Ford was particularly upset when Quick could not tell him how the 1976 rail act would eliminate delays in ICC decision-making. The act imposes strict new time limits on ICC action.

"You said you had acquired expertise," Ford told Quick. "I was disappointed that you didn't relate to (provisions of) the act to cut down these time delays."

At one point, he startled Ford with a staunchly pro-industry view of rail rate regulation. The exchange went this way:

Ford: You expressed a knowledge of rail regulations. When a railroad proposes a new rate, do you know who has the burden of proving that it is just and reasonable?

Quick: The railroad.

Ford: Do you think that's a proper system?

Quick: Yes.

Ford: Why?

Quick: The railroads should have all the information that is needed. It is not the intent of the ICC to manage the railroads . . . We have to place some trust in the railroads. I think if we could rely totally on (the railroads) it would be in our best interest.

Ford: Totally? Did I hear you say totally?

Sen. Lowell P. Weicker (R., Conn.), who favors Quick's appointment, posed what he conceded was "a softball question" to clear up reports that "this is a super-political appointment" and that "you are some kind of hack." Weicker asked how would Quick respond to these "perceptions."

"I don't like to think of myself as a political hack," Quick said. He outlined his background, which includes four years in Scott's office, five years as a computer technician and systems analyst for government agencies, and a master's degree in public administration.

"I think of myself as a manager . . . with the ability to get the job done and make positive things happen," Quick said.

Scott, who came to the hearing bearing testimonials for Quick from both Democrats and Republicans in the Senate and the House, sought at that point to disclaim credit for Quick's nomination.

Although the White House has told reporters that Scott submitted Quick's name for the ICC job in July, Scott said that "the name was under consideration at the White House personnel office before I became aware of it."

Scott, whose acceptance of corporate contributions from Gulf Oil remains under investigation by the Watergate prosecutor's office and the IRS, also volunteered that Quick was not a money man in his office.

"He has never raised a cent of money for me in any campaign," Scott said.

Commerce Committee Chairman Warren G. Magnuson (D., Wash.), who said he scheduled the hearing as "a courtesy," was not sure whether the committee would act on the nomination before the Senate's scheduled adjournment Oct. 2.

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[From the Washington Star, Sept. 23, 1976]

### EXITING SENATORS USING PULL TO GET JOBS FOR AIDES

(By Stephen M. Aug)

Several outgoing senators apparently have been calling in some political IOUs recently, trying—with some success—to convince their long-time colleagues to place key aides in long-term federal jobs.

So far, an aide to one retiring senator has won a term on the U.S. Parole Commission, another's aide is to undergo hearings on his nomination to the Interstate Commerce Commission, and one aide to a third has won a term on the Federal Communications Commission, while another—who enjoys somewhat wider backing—is to be considered today for a seat on the Nuclear Regulatory Commission.

About a month ago, for example, Sen. Hiram L. Fong, R-Hawaii, second-ranking member of the Judiciary Committee who is retiring managed to win for his appointed staff member on the committee, Dorothy Parker, a $37,900-a-year six-year appointment to the Parole Commission.

Much of the activity involving some of the controversial appointees, however, is taking place at the Senate Commerce Committee, which usually doesn't even consider nominees for fixed-term appointments this late in an election year, much less approve them. The purpose is to wait until after the election to give the incoming president the opportunity to make his own appointments.

As a consequence of this year's activity, however, the committee has found itself in the unusual position of approving three Republicans to terms on the board of the Corporation for Public Broadcasting, while rejecting three Democrats.

As is usually the case with last-minute appointments to regulatory agencies, there are reports of cloak-room deals being made—but those who are involved in the current spate of appointments say there are no deals; much of the activity is a result of senatorial courtesy among colleagues.

Take the Case of Howard G. Quick, 33 a Republican, administrative assistant to Senate Minority Leader Hugh Scott of Pennsylvania, and a member of the minority leader's staff for five years. Quick has no background in transportation, but has been nominated to fill the six years remaining of a seven-year term on the ICC.

The nomination was made after considerable urging by Scott, who is leaving the Senate this year. When there appeared to be no rush by the Senate Commerce Committee to hold hearings, Scott began what some observers say was a considerable lobbying campaign.

According to one report, he tried to pressure Commerce Committee Chairman Sen. Warren G. Magnuson, D-Wash., into holding hearings. And, by this same report, Scott sought to offer his support for a proposed nominee of Sen. John Pastore, D-R.I., to the NRC (George Murphy, a long-time member of the Joint Atomic Energy Committee staff) if Pastore would intervene on his behalf.

Scott could not be reached for comment despite several attempts yesterday.

Magnuson, however, said Scott had talked to him on the Senate floor a couple of times urging him to hold hearings on the Quick nomination.

Magnuson conceded that holding such hearings this late in an election-year session is unusual.

"Normally, the Commerce Committee might in certain cases" hold hearings, Magnuson said, citing recent hearings held on the nomination of Joseph Fogarty, long-time aide to Pastore. (Fogarty, a Democrat, was approved for a seven-year term on the FCC, while Margita White, a Republican and White House press agent, was given a two-year term as part of an arrangement with President Ford.)

Magnuson termed the hearings on Fogarty—and the hearings to be held tomorrow morning on Quick—"a matter of courtesy to a fellow senator."

But Magnuson emphasized, "It's just a hearing . . . It's pretty hard to deny a hearing for a fellow senator who has that personal interest . . . but I seriously doubt whether the committee will act next week on nominations any more. As a matter of fact, I don't know how we can." (The Senate is scheduled to adjourn at the end of next week).

Magnuson said that the Murphy nomination to the NRC—a nomination over which his committee has no control—also came up in discussions with Pastore. The Rhode Island senator, Magnuson said, "mentioned to me that they had a guy called Murphy up there that he wanted on the commission," and asked him to hold the hearings on Quick. "That's why he asked me to go ahead with a hearing on this other, putting the two together," Magnuson added.

The meaning was clear: Scott had asked Pastore to use his influence with Magnuson to win a hearing for Quick, and Scott in return would use his influence to aid Murphy.

Pastore says he didn't win the nomination to the NRC for Murphy, that Sen. Howard H. Baker Jr., R.-Tenn., won the nomination from the White House—a fact confirmed by Baker's staff.

Nevertheless, Pastore said, "Of course, I know George Murphy like the palm of my hand. He's very knowledgeable in the field of atomic energy. I think he'd make a fine person on that regulatory agency."

Pastore said that Scott did contact him regarding Quick, but he said no deals were made. "He talked to me on the floor and he told me his AA has been appointed by the President, he'd very much like to have it heard and considered. After the hearing, if I think he's qualified, I'll vote for him," Pastore said.

He added that he didn't believe it was necessarily too late in the session to approve presidential nominees. "It is the duty of an incumbent, when there's a vacancy, to carry out his responsibility. What you're asking me is 'why aren't you playing politics?'. . . . . The point is the law's the law, and when a man has a term, the incumbent has a perfect right to send up a name."

Pastore, who is chairman of a Commerce communications subcommittee, pointed out that he is indeed "not going to bother with" certain nominations sent up by Ford. These are three Democrats for terms on the board of the Corporation for Public Broadcasting: Charles H. Crutchfield, a Charlotte, N.C., broadcaster; Paul M. Stevens, president of the Radio and Television Commission of the Southern Baptist Commission; and Leslie N. Shaw, vice president for Great Western Financial Corp. of Los Angeles.

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## THE NEED FOR DEEP SEA MINING LEGISLATION

Mr. GOLDWATER. Mr. President, the United Nations Law of the Sea Conference recessed on September 17 in a state of complete disarray insofar as America's vital interests in mineral resources are concerned. At the break in sessions, the only agreement conceivably in sight was one that would lodge the control of seabed copper, manganese, nickel and cobalt in the hands of a supergovernment and its government mining company, and reduce the private mining industry to the subservient or nonexistent role that it occupies on land in the countries that would dominate the new supergovernment.

Now, I would remind my colleagues that the Interior Department has estimated that seabed minerals, within 15 years, could make the United States wholly independent of foreign sources of copper, cobalt, and nickel. What is more, recovering the resources of the seabed would reduce our dependence on foreign manganese from 100 percent to less than 25 percent.

American companies have already developed the technology to accomplish this. And I must point out that existing international law, as one of the freedoms of the seas, already permits any nation and its people to freely use the seabeds and mine these resources, so long as they do not injure other users of the sea in doing so. So this is not a matter of gaining some right which never existed, but of preserving a right which already exists.

It is common knowledge that American mining companies are perfectly willing to accept a domestic law which would require all minerals which they recover to be processed in the United States, be subject to U.S. export controls, be subject to U.S. income taxation, be subject to whatever proper environmental controls which Congress might establish, and be subject to U.S. laws protecting the American merchant marine and American labor.

As I understand it, the only help our mining industry seeks from the Government is first, that it be given the traditional diplomatic protection of the United States in the exercise of the freedom of the seas, and, second that it be assured against the destruction of their industry's investments by the catastrophic sort of treaty that I regret to say our negotiators have been gradually sliding into relative to ocean mineral resources. Legislation has been introduced in both Houses of Congress to achieve these aims and has been reported out of committee in each House, S. 713 in the Senate and H.R. 11879 in the House. I take this occasion to reaffirm my hope that Congress will act favorably on this type of legislation.

Now, the barrier to deep sea mining, with or without U.S. legislation on the subject, has been and still is the political barrier reflected at the interminable U.N. Law of the Sea negotiations. The barrier is reinforced by the determination of our Government to pursue the U.N. forum to the total exclusion of all other alternative, and even temporary, solutions, and the steady deterioration of the U.S. negotiating position in these negotiations due to the growing Third World pressures generated by their quest for an idealistic, socialist "New World Economic Order."

Mr. President, the Law of the Sea negotiations have been going on for 8 years now. Congressional committees have been told repeatedly, in 1973, 1974, 1975 and again in 1976, that if we would just postpone legislation for a few more months, and give our negotiators one more chance, it would bring us a treaty that the Senate would accept. This has not happened, and it is becoming all too plain that our negotiators may be capitulating to the demands of the Third World countries to such an extent that the situation is irretrievable.

Let me be more specific.

The gut question in committee I of the ocean space negotiations is one of control—economic control and political control—of the seabed's mineral resources. Shall the historic freedom of the seas, the international rule of law among nations which now gives free access to these minerals to all nations and all people, be ended, and control of seabed resources pass to a new political organization? I regret to say this—and hope that I am wrong—but our negotiators seem to have conceded the gut issue, and to be debating now about the kind and degree of control that will be turned over to some form of international body.

This policy actually has been in the making for the last 7 years. It was in 1970 that the State Department first took the initiative in offering a draft treaty which would establish a new International Seabed Resource Authority, with power to license the development of the seabed beyond the limits of national jurisdiction—that is, seaward of the continental margins. The draft was shown to members of the Senate Committee on Interior and Insular Affairs, just 3 days before it was to be released. I can recall that ranking members of that committee joined in a letter to the Secretary of State, protesting vigorously. As we know, the State Department sponsored the scheme at the United Nations anyhow.

Now, the folly of turning over the control, in any degree whatever, of mineral resources on which our country is dependent, to a world organization made up of exactly the same countries that dominate the United Nations ought to be self-apparent. In the last 3 years, in the General Assembly of the United Nations, there have been at least 30 occasions when 100 votes or more have been cast against the position of the United States. For example, we might recall the resolution that condemned U.S. military presence in Guam, on which the vote was 107 to 1 against us. Or we might remember resolution 3281 of January 15, 1975, in which the General Assembly promulgated the "Charter of Economic Rights and Duties of States." This document declares, among other things, the right of developing nations to form producer cartels, and the duty of industrialized nations not to interfere with such cartels. This resolution also declares the right to nationalize foreign investment and to determine compensation therefor under domestic law, rather than by international law. The vote against us was 120 to 6, with 10 abstentions.

With these numbers in mind, it is useful to remember that in the law of the sea negotiations, a bloc of 110 nations already has been formed against us. It is euphemistically called the "Group of 77," that being the number of charter members.

We can see a general trend to a hardening of the position of these 110 countries at the formal sessions of the Law of the Sea Conference over the past years, just as there has been a hardening of the position of Third World countries against the United States in the General Assembly of the United Nations on so many occasions. Unfortunately, this trend is accompanied by a softening of the American position.

As evidence of what I see happening to the American position regarding our deep sea mining rights, I must point to speeches made by the Secretary of State in New York, in April, during the spring meeting, and in September, during the summer meeting. In my opinion, both speeches offered major concessions of our Nation's mining interests, to get agreement on a seabed treaty.

On April 7, Dr. Kissinger said that the United States was prepared to agree to limitations on production of seabed minerals—something we had heretofore strongly opposed. Also, he stated we would agree to a system of compensation to land-based producing countries for the adverse effects of seabed production and agree to creation of an international "enterprise," an experiment in international socialism much beloved by the bloc of 110. The enterprise is to be a mining company owned by the Authority, a world body set up to control the ocean's mineral resources. Moreover, our Government agreed to a scheme by which a private mining company could only operate under a contract with the World Authority; and, to get a contract, would have to discover and offer two mine sites to the Authority, which would keep one—the best, naturally—free of several million dollars of prospecting expense borne by the private company.

One of the most significant concessions of all, in terms of principle, was thrown in almost casually. This is the royalty or profitsharing scheme, which Secretary Kissinger said, would "give reality to the designation of the seabeds as the common heritage of all mankind." This notion traces back to the 1970 General Assembly of the United Nations which had adopted a set of "principles" declaring, among other things, the utopian idea that the seabeds are the "common heritage of all mankind." Now, the group of 110 has contended all along that the seabeds would be owned not by mankind, but by a Third World front, an International Seabed Authority. This Authority, naturally, would set the terms for use of the seabed.

Although this concept of Third World domination of the ocean mineral resources had been emphatically rejected by the State Department in past appearances before congressional committees, it now appears to have been incorporated into official State Department policy. When Secretary Kissinger said on April 7 that the royalty, or profit-sharing scheme, he proposed would "give reality to the designation of the seabeds as the common heritage of all mankind," this seems to be the signal that the United States has given in on what the Third World regards as a "revolutionary" concept. And most remarkable of all, this does not appear to be something we traded in hard bargaining, as a quid pro quo for getting something else valuable to us, but simply a unilateral concession on our part.

As my colleagues know, the phase of the conference which adjourned on May 7 of this year, put out what was called a "Revised Single Negotiating Text." It incorporated all of the concessions offered by our Government and added language to nail down control by the World Authority of access to the seabeds. Private companies would have to stipulate to accept "full control" by the Authority. The Authority would have exclusive jurisdiction over seabed resources, to be exercised by itself, or by other entities working "in association" with the Authority and under its direction. In the latter case, if the other entities were not mere service contractors, then profits are to be shared between the Authority and the miner, percentages left blank.

Of particular significance, the miner must accept the principle of production controls to prevent economic damage to Third World producing countries. A production control formula proposed by our Government was written into a negotiating "annex," but no one is certain what it means. It limits seabed production of all minerals to correspond to the rate of growth of the nickel demand, at 6 percent compounded annually. By one interpretation, this results in a number so huge as to impose no limitation at all. By another interpretation, it would result in such small numbers, especially for copper production, as to leave room for only two or three seabed mining companies in the whole free world.

In August, the Conference reconvened. The group of 110 wanted more. It appears our negotiators gave it to them. On September 1, Secretary Kissinger offered to help fund the "Enterprise," so that it could go into business right away; to transfer technology to the "Enterprise," presumably from the American companies which have spent millions of dollars to develop it; and to review the method of operations at the end of 25 years.

As to the funding, experts tell me that a deep seabed mining operation involves capital expenditures of some $400 million, about half at sea, half in processing plants on shore. It would be interesting to know what the Office of Management and Budget thinks about this commitment. I also wonder what our share would be? Would it be the 20 percent that we contribute to U.N. expenses, or even higher?

As to the transfer of American companies' technology, there is nothing to suggest how this would be taken from them. To the best of my knowledge, none of them were consulted before this offer of their assets was made.

As to reviewing the method of operating seabed mining at the end of 25 years—I must ask whether this may indicate that private industry should have only a temporary lease on life? Is private enterprise to be succeeded by the Third World enterprise, as a global seabed monopoly, as soon as it can digest the technology taken from private companies and find funds? This had been, and still is, a major goal of the Group of 110.

Our Government apparently means these new concessions, like those of April, to be signals of a softening of the American negotiating position. But, they seem to be regarded by the Third World merely as confessions of past error on our part, not as grants of something new. For nothing at all was forthcoming in return.

Mr. President, none of our negotiating team's repeated concessions has succeeded in producing an agreement. Instead, as the chairman of Committee I of the conference, Ambassador Paul B. Engo of Cameroon, is reported to have said when the September session adjourned, the Law of the Sea negotiations had finally come to:

> . . . confront the central and most difficult problem of all and it is this: should the new system of exploitation provide for a guaranteed permanent role in sea-bed mineral exploitation for States Parties and private firms? Or should such a role for State Parties and private firms be considered only at the option of and subject to conditions negotiated by the Authority? Or again, should their role be conceived of as essentially temporary, to be phased out over a defined period agreed to beforehand?

That is a fair statement of the problem which confronts the Senate, too. After all, if any treaty is signed, it cannot be ratified by this country without the advice and consent of the Senate. And, it is high time, in my opinion, that the Senate, now that it knows the course down which the negotiations have been traveling, should state plainly that it will not tolerate a treaty which fails to provide for guaranteed permanent access to the seabeds by American firms.

A proper treaty should be free of production controls, free of controls by cartels, free of price controls, free of area quota systems, free of double taxation by both the Authority and our own Government, free of all discrimination in favor of the World Enterprise, if there is to be one, free of any U.S. financial commitment to put the Enterprise into business, free of any commitment to seize technology and know-how from American firms and turn it over to the Authority, free of any compensation scheme to burden American consumers with the cost of keeping foreign producers protected from the economic effects of competition from seabed minerals, and free of political harassments, administrative discretion, and bureaucratic delays. In short, I reject absolutely—and I believe the Senate would reject—the notion insisted upon by the Group of 110 that deep seabed mining by private firms—indeed, by particular nations—"be considered only at the option of and subject to conditions negotiated by the Authority."

Mr. President, there is not middle ground here, no refuge in ambiguities. We either preserve the freedom of the seas now giving us access to seabed minerals, or we do not. We either reject socialization of 70 percent of the Earth's surface, or we do not.

It must be remembered that this treaty contains no escape hatches—no right to withdraw, no right of American veto as in the U.N. Security Council. We might challenge actions of the Seabed Authority in the Authority's own Tribunal, of course, but the Tribunal's decision can be predicted in advance with no effort at all.

If such a treaty as the Third World wants should become binding on the United States, you can be sure that there will be no deep seabed mining, at least by American companies. Only governments could take such financial and political risks. And that, I believe, is the whole purpose of the Group of 110, its Enterprise would be the exclusive operator. Yet our negotiators have publicly agreed to provide American taxpayers' money to put this competitor of private business into operation.

Mr. President, the question now is, what should be done? The Law of the Sea Conference is in an obvious stalemate, even with concession following concession on our part. Our national interest is clear. We should encourage the exploration and development of seabed resources by Americans. We should require that seabed minerals that U.S. companies recover be processed in the United States and brought here in U.S. ships. The industry should be subject to U.S. tax laws and environmental controls, not foreign controls.

True, it is fair that we restrict, by licensing, the area that any one company can mine. In return, we should guarantee that U.S. nationals engaged in seabed mining in conformity with U.S. law will have the diplomatic protection of our Government. It is fair that our laws promise that if our country ever should ratify a treaty of the sort that our negotiators have proposed—and I do not think such a treaty would be given the advice and consent of the Senate—that since it is the affirmative conduct of the Government which will reduce the miner's investment, the miner should have a right to compensation.

Our Nation could encourage reciprocal legislation by other countries, so that we all respect one another's operations. There is plenty of room; in the Pacific alone, some 300 mine sites are said to exist, capable of supplying all the world's needs of minerals for centuries.

If this course is followed, we would not destroy private enterprise. We would not destroy our country's opportunity for controlling our own destiny in the realm of self-sufficiency of certain strategically important minerals. And we may, within a few years, have the makings of a de facto treaty in operation, in the form of reciprocal legislation of other nations that have the means, and will soon have the technology, to match our own. We will be free of political domination of this resource by countries whose interests are hostile to our own.

Even should the Law of the Sea Conference be resumed and still be running its long course, we will be dealing from a position of negotiating strength. Moreover, even if a Law of the Sea Treaty should be signed and sent to the Senate, we must take account of the fact that a long period of chaos—up to a decade—might occur before the Senate reaches a final decision on whether or not to give its consent to ratification, and, if so, what conditions to attach.

Let us remember that fully 6 years elapsed between signature of the four 1958 Law of the Sea Conventions and the date when the last of them secured the necessary number of ratifications to be placed in effect. If a similar situation occurs in the case of a Law of the Sea Treaty, there would be no deep sea mining in the meantime. Even if the treaty is rejected, we will have lost that many years in making our country self-sufficient in the essential minerals which the seabed can supply.

In other words, Mr. President, I believe that Congress should get to work now to enact a constructive deep sea mining bill without further delay.

## OVERPACKAGING CREATES ENVIRONMENTAL HARMS

Mr. DURKIN. Mr. President, while I principally address myself to the issue of overpackaging and the deceit it plays on the consumer, I will also briefly touch upon the environmental harms created by overpackaging.

Mr. President, four basic and fundamental harms result from overpackaging. First, overpackaging increases the cost the consumer must pay for his goods. Second, it deceives the consumer into thinking that he is getting something more than he actually is. Third, it dramatically adds to our ever-mounting piles of garbage and compounds the problems of solid waste disposal. Fourth, it causes a reckless and abysmal waste of valuable natural resources.

The staggering effects of overpackaging are not new. In March of 1974, Russell Train, on behalf of the U.S. Environmental Protection Agency, submitted a report to President Nixon warning him about the environmental and economic dangers of overpackaging. The report through a barrage of statistics showed that overpackaging was an uncontrolled pestilence gobbling up our Nation's precious resources and our consumers' precious dollars. The report warned that that packaging waste was the largest and one of the fastest growing product classes in the municipal solid waste stream and that something had to be done. Despite these dire warnings and the continual deception overpackaging foists on the public, the Nixon-Ford administration to this day has done nothing to prevent these abuses.

Let us look at the facts. When a consumer walks down a drug store aisle seeking to purchase a ball point pen—a bottle of mouthwash—or an antiperspirant—the powers of Madison Avenue are competing for his eye and wallet. Subtle psychological tricks and devices are utilized to trigger a consumer's impulse to buy. Many of these tricks are downright deceitful. Deception through overpackaging abounds in the marketplace. These tricks are designed to hoodwink the consumer. They lead him to believe his product is much larger than it actually is, and they prevent him from closely examining the product to make meaningful value comparisons. There are various techniques by which this foolery takes place.

Some manufacturers try to fool the public directly. What they do is place the product in a box proportionally larger than the product being sold while showing some or all of the commodity. This creates the direct impression that the product is proportionally larger than it actually is. Other manufacturers are a little trickier and they use optical illusions to create the erroneous impression that the product is larger than it is. No matter what trick is used, it is the consumer who suffers. He is the one who is deceived. He is the one who is surprised when he opens the package to find little more than excess cardboard and plastic. He is the one who pays the extra costs inherent in overpackaging.

It is quite ironic that the consumer is forced to pay for the packaging that is used to dupe him.

When a manufacturer carefully dresses up its product with cardboard frills and eye-catching colors and slogans, the consumer pays for it. And let me tell you, these costs are quite substantial.

For some beauty aids, approximately 30 cents out of every $1 the consumer spends pays for the packaging. Can you imagine that approximately one-third of the cost of the product is for waste? There is no reason why the consumer should pay for this. To make matters even worse, the costs of packaging and thereby the price of consumer goods are rising.

A recent study by the EPA concluded that the cost of all packaging, as a percentage of the cost of the consumer product, has doubled since 1958. We are not talking here about nickles and dimes, Mr. President. We are talking about big bucks. During 1970, approximately $317 billion was spent on personal expenditures. If we take a very conservative estimate, and say that approximately 1 cent on every dollar spent by the consumer could be saved by the elimination of deceptive overpackaging—then the total saving to the consuming public would be approximately $3.17 billion.

The costs to the environment are just as great. Let us just take a brief look at the environmental side of overpackaging.

Packaging is the single largest product in the municipal waste stream. In 1958, packaging was consumed at a rate of 405 pounds per capita. Today it is 661 pounds. And while the consumer may not be aware that his extra packaging burdens the municipal waste system to a tune of about $373 million a year, he does see the visual remnants of overpackaging defiling our landscape.

More important, in our resource conscious and energy shortage, the continuing waste of our natural resources as a result of overpackaging is deplorable.

But despite these alarming environmental and economic costs, the Ford-Nixon administration has done nothing. It is an administration that speaks about consumer issues—but if there has ever been consumer fraud it is when the Nixon-Ford administration tells us what they have done for the consumer.

The EPA 2 years ago told the Nixon-Ford administration that overpackaging was a blight—a blight to both the consumer and the environment. Congress responded to the EPA study.

One of the first things I did when I came to the U.S. Senate was to introduce a bill to eliminate overpackaging. This bill is presently in the Commerce Committee. When the committee sought inquiries from the President, you know what his comment was—he had nothing to say at this time.

Consumer costs are skyrocketing as a result of overpackaging, and yet the President has nothing to say.

Overpackaging deceives the unwary consumer into thinking he is getting something more than he actually is and the President has nothing to say.

Landfills are filling up with useless and excess remnants of overpackaging and yet the President has nothing to say.

And finally, our natural resources are disappearing and being squandered on these deceptive practices and still the President has nothing to say.

The evidence is overwhelming. Overpackaging must be eliminated. The Nixon-Ford administration has chosen a do-nothing course. Looking at their administration, I think that maybe they have become accustomed to the practices of inflated and deceitful overpackaging.

But I think the American people are getting fed up. I think the American people seek leadership from the White House. I think the American people want a decisive President who can make decisive decisions. In November the American people will be given an opportunity to vote for a man who will be able to lead America once again. To return to her her dignity and sense of values.

## UNITED STATES AND WORLD POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census approximations, the total population of the United States as of October 1, 1976, reached 216,006,070. This represents an increase of 1,436,470 since October 1 of last year. It also represents an increase of 144,903 since September 1 of this year, that is, in just 1 short month.

Thus, in this last year, we have added enough additional people to our population to fill the combined cities of Miami, Fla.; Tulsa, Okla.; San Jose, Calif.; Alexandria, Va.; and Allentown, Pa. And in 1 month our population has grown enough to more than fill the city of Paterson, N.J.

May 21 of this year, I placed in the CONGRESSIONAL RECORD world population figures. The Environmental Fund, a private, nonprofit, independent population and environment group in Washington, D.C., has for the past 3 years, published similar population figures, along with illustrations of the impact of world population growth on the environment. The Environmental Fund's mid-1976 population estimates contain some interesting figures. I request unanimous consent to have these figures printed in the RECORD at this point:

### POPULATION GROWTH: 25 YEARS AND 25 FACTS

#### WORLD POPULATION

1. The world's population is now over 4¼ billion people.

2. In the past twenty five years, 1.7 billion people have been added to this small planet.

3. It will double to 8.5 billion—at present growth rates—in 32 years.

4. Each year, 94 million people are added to this planet.

5. This is a population equal to that of Bangladesh and Malaysia combined.

7. Death rates in many countries are dropping due to improved public health, while death rates in others are rising due to malnutrition.

#### THE U.S. POPULATION

8. The U.S. population is 222.2 million people, larger than generally published.

9. The U.S. population will double—at present growth rates—in 53 years.

10. Over 40% of the U.S. annual population growth is due to illegal immigration.

11. The U.S. population increased by over 2½ million people in the past year.

12. The U.S. population is growing faster each year.

#### AFRICA, LATIN AMERICA AND ASIA

13. Africa's population of 432 million people grew by 2.8% last year, adding nearly 12 million people to a population that will double in 25 years.

14. Asia's population of 334 million people grew by 2.5% last year, adding 68 million people to a population which will double in 28 years.

15. Latin America's population of 334 million grew by 2.6% last year, adding 6 million people to a population which will double in 27 years.

#### FOOD FOR THOUGHT

16. In the past 2 years, world grain consumption per capita has dropped by more than 10%—from 311 kilos to 274 per year.

17. The 9 most populous, poor nations are all major importers of grain, importing 330% more grain today than 25 years ago.

18. 25 years ago, 35 nations exported grain. Today, there are only 17. 25 years ago, there were 88 net importers of grain; today there are 134. 25 years ago, 8 nations imported more than 1 million tons of grain annually; today, 31 nations do so.

19. Asian grain deficits in 1974 were 8 times larger than they were 25 years before.

African grain deficits in 1974 were 21 times larger than they were 25 years before.

Latin American grain deficits are nearing half-a-million tons; 25 years ago, this region exported over 1 million tons.

20. The world's most populous less-developed nations—China, Indonesia, India, Bangladesh, Pakistan, Nigeria, Mexico, Brazil and the Philippines—are growing, in general, faster today than 25 years ago and will double every 19 to 32 years.

21. These 9 poor, populous nations grow by almost 65 million people a year.

22. 25 years ago, the amount of arable land available to support each person on the globe was 1.4 acres. Today, it is about half that: 0.8 acres and decreasing.

#### SUMMARY

23. Only 12 nations are winning the battle between population growth and food supplies. Ten of them have population growth rates below 1.5%.

24. In general, the nations already least able to feed themselves are growing the fastest.

25. The world is adding more people each year than at any other time in world history.

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## B'NAI B'RITH HUMANITARIAN AWARD

Mr. HARRY F. BYRD, JR. Mr. President, on October 31, 1976, B'nai B'rith, the world's oldest and largest Jewish service organization, along with the citizens of Richmond, Va., and many of their neighbors throughout the State, will gather to honor a distinguished friend, James C. Wheat, Jr., as he receives the national B'nai B'rith Humanitarian Award.

Jim Wheat is a man of extraordinary talents and accomplishments. He is a man of deep faith who has served his fellow man in countless ways.

Blind since the age of 24, he did not permit this handicap to inhibit a full, successful career.

Having a deep concern about the future of America and its people, Mr. Wheat is a man of action, a leader in the world of finance, government, education, health, and religion.

A former city councilman of Richmond, Mr. Wheat has served its people through a multitude of community endeavors. A leading advocate of urban progress, he helped his city become a strong, diversified community.

In addition, Mr. Wheat's leadership has helped strengthen and perpetuate the Richmond Eye Hospital, the Virginia Commission of the Visually Handicapped, Richmond Memorial Hospital, Greater Richmond Chamber of Commerce, and VMI Foundation.

E'nai B'rith does not stand alone in recognizing Mr. Wheat's contributions to his fellow man. He is the recipient of numerous awards, including "The Man and Boy Award," from the Boys Club of America and the Thomas Jefferson Award for Public Service, presented by the Public Relations Society of America.

A man of compassion and commitment, James C. Wheat stands as a magnificent example for all our young people. His philosophy, "When the going gets tough, the tough get going," is evident in all that he does.

I know I speak for the people of Virginia, in whose behalf he works so tirelessly, in extending congratulations and best wishes to Jim Wheat as he is most deservedly cited by B'nai B'rith with its Outstanding Citizen Award. He is an outstanding Virginian and a dear friend.

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## THE COMMUNIST PARTY OF CHINA AND MAO TSE-TUNG

Mr. HELMS. Mr. President, although some experts have been saying that the death of Mao Tse-tung may usher in a period of stability and external cooperation under Premier Hua Kuo-feng, the history of Mao's regime has been one of internal instability, purges of high leadership, and the massacre of millions of Chinese. Although Mao himself remained in the position of leadership until the declining days of his senility, the sacrifice of hundreds of key leaders, the purges of the Cultural Revolution, and the disruption of the military commands have left the Chinese Communist Party without any clear-cut lines of succession and responsibility. No second-level leadership holds unchallenged authority. No single figure holds power officially sanctioned and conferred by the party.

Indeed, there has been no party congress since August 1973. The much-publicized changes in high party and government leadership have not been sanctioned by the party, as required by the constitution. It is reasonable to assume that the period of apparent quiet and stability is a screen for an internal power struggle whose results will be ratified at the next party congress.

In the past year, the five most important Chinese leaders have all died in the space of a few months—Mao Tse-tung, Chou En-lai, Kang Sheng, Tung Pi-wu, and Chu Te. These men were the builders of Communist China, and they have left no confirmed successors. It would be wise for the United States, therefore, to refrain from becoming involved in the rivalry which is certain to come. We must not take sides in an internal power struggle, the results of which will merely confirm Communist rule in mainland China.

Although Hua Kuo-Feng today has the trappings of power and appears to some Western eyes to be the confirmed successor, we must not forget that as recently as last December, President Ford met with Teng Hsiao-ping, who also was presented to the world as Mao's successor. But Teng was arrested, and he disappeared as though by some sleight-of-hand the moment the world's attention was diverted elsewhere.

Any steps we take with regard to China must bear in mind the violent revolutionary doctrine of Mao and of the party under Mao. It is a violence which does not hesitate to turn upon the party structure itself, and upon its people. Experts who have testified before congressional committees have estimated that Mao killed 63 million Chinese in order to impose Communism upon China. Mao himself estimated in 1957 that 800,000 Chinese were executed between 1949 and 1954 and it was once stated on Peking radio that 2 million were executed in a single month. So it is not surprising that party leaders themselves should become victims of the revolution, as is evident from Mao's own career.

### MAO TSE-TUNG AND THE ORGANIZATION OF THE COMMUNIST PARTY OF CHINA

The Communist Party of China was formed in Shanghai in 1920, with the young, 27-year-old Mao Tse-tung present at the meeting—but not one of the organizers and founders of the party as he subsequently claimed.

Shortly after this historic meeting, Mao returned to his native Hunan Province and started his regular party activities, organizing, plotting, and intriguing on behalf of the Communist Party of China and on behalf of himself. These are the very same activities in which he would be engaged for the remaining 56 years of his life.

In principle, Mao wanted to create a China of hard work, mass participation, equality, and basic self-reliance. But he was frustrated in his goals and purposes by the need for constant. destructive infighting with his enemies. The latter group included not only actual and potential enemies, but even imaginary rivals inside the Party and outside of it. Mao had very little strength left over from these intraparty battles to expend on constructive efforts in building the power and economy of the country. For the same reason, his attention was diverted from preparing for a regular and peaceful transition of power after his death, of the sort that was accomplished by his rival, Chiang Kai-shek, on Taiwan.

The fundamental organizational principles of Mao were derived from his belief in the "perpetual revolution," in the constructive revolutionary force of the Chinese peasantry, and in the military drive for power. His notorious statement that "political power grows out of the barrel of a gun" came from his conviction that only through violence and physical power can the revolutionary movement succeed in its confrontation with the rest of the world. At the very beginning, he organized his Communist Party operation in Hunan into peasant-army units, and was fighting for several years for the control of the territory, while all the time increasing internal party discipline and his personal control over all elements of his command.

In 1934, surrounded and almost annihilated by the Nationalist Forces, Mao broke through with an army of 100,000 people and began the famous Long March of 6,000 miles to Yenan. The Long March destroyed 30,000 of his troops, but the survivors became part of Mao's legend.

### RUTHLESS DICTATOR

In his command and control of the Communist Party of China, Mao displayed undisputed dictatorial force and a ruthlessness unmatched by any other dictator-leader in history, including even Stalin. Throughout his 50 years of chairmanship over the party, and particularly during his 27 years as ruler of China since 1949, Mao purged and "consolidated" party ranks, eliminating his potential and imaginary rivals and their supporters, thus maintaining his own grip over the party until the very last days of his life.

Mao never trusted his surrounding party circles, never even his closest friends and associates from many years of mutual struggles. Time after time he designated his successors, and then eliminated them in bloody purges. Liu Shao-chi and Lin Piao both had the supreme power only an inch from their grasp, and bore the apparent trust and confidence of Mao himself up until the moment before the ax fell.

### FIRST PERIOD OF CONSOLIDATION, 1949–54

In the period following his victory over the Nationalist Forces in 1949, Mao consolidated his grip over the country by massive executions of anti-Communists and millions of innocent people who were considered by his followers to be potentially dangerous elements. It was in this first period of consolidation, 1949–54, that the mass executions of the resisting populace first took place, as mentioned earlier. Many Chinese Communists who hesitated to participate in this ruthless elimination were punished in the planned process of intimidation. Mao believed in a system that he called replacement of cadres in a continuous revolutionary process. He demanded that the new leadership be better, step by step; each new cadre replacing the old would be more hardened and more dedicated to the cause of revolution and to the personal leadership of Mao Tse-tung.

This process of "improvement" of the party cadres has moved in phases which do not coincide with the official party congresses and plenary sessions of the party, but which have the periodic purges by Mao as their benchmark.

### SECOND PERIOD, 1954–65

In 1954, a new constitution was offered to the country by Mao Tse-tung. This constitution established the supremacy of the Communist Party over all aspects of life in the country, and it marked the end of Mao's first period of consolidation. During the second period, Mao concentrated on reorganizing the party's control of the Government and of the military.

During this period, the country was reorganized into 28 provinces and 11 military zones with the power of the party-Government and of the military forces separated into two relatively parallel levels. Marshal Peng Te-huai, the Minister of Defense, was permitted to create a professional armed force commanded by him without any excessive interference from inexperienced party functionaries.

By 1959, Mao Tse-tung became suspicious of Marshal Peng's military power structure. This resulted in the removal of his old friend Peng, who was accused of "antiparty" activities. The new Minister of Defense, Lin Piao, dismantled the independence of the armed forces. Commissars from the party organizations were reintroduced on key levels of army command.

The integration of the party commissars with the army was done in preparation for the ambitious programs that were to be introduced in 1960 as the "Great Leap Forward." But where this step really served its purpose was in the great cultural revolution of the late 1960's and 1970's.

### CULTURAL REVOLUTION, 1965–73

In November 1965, a new cleanup operation in the Communist Party ranks started under the overall name of the "Great Cultural People's Revolution." The main thrust of the purge in the Party was directed against Liu Shao-chi, who several years before that attack against him had been designated by Mao as his successor. All his life, Mao was distrustful of expert administrators, economists, and "over-educated zealots." So Mao unleashed against them the Red Guard youngsters who rampaged the streets and neighborhoods all over China hunting for and eliminating "the revisionists" and anybody in the party who could be accused of associating or plotting with them.

This purge lasted for about 3 years. By 1968, it threatened to create complete chaos. Lin Piao, whose Army system remained the only intact organizational unit, was given permission to intervene with the overactive Red Guards and to restore order. By 1970, the position of Lin Piao—who by now had also been designated as Mao's successor—had become so strong that the devious Mao was ready to act against him. Many provincial governors were then either current or former military commanders, while commanders of military zones were often acting as civilian administrators of their zones. All were under the effective command of Lin Piao. Then Mao realized what he had created. On September 12, 1971, Lin Piao died suddenly in a plane crash on his escape flight to the Soviet Union. The great cultural revolution continued on its course, but now without Lin Piao and his military forces.

### THE STRUGGLE FOR POWER BEGINS, 1972–76

Mao had succeeded in his purposes. But now the controlling offices of the Politburo were entirely in the hands of party veterans, including Mao, Chou En-lai, Chu Te, Tung Pi-wu, Kang Sheng, and Yeh Chien-ying. They were all close friends of Mao, and wielded immense power. Chou as Premier, Chu Te as the developer of the Red Army, Tung as Mao's chief advisor, Yeh as Minister of Defense, and Kang Sheng as chief of security. But the average age of this group of veterans was around 80, and it was clear that none of them, including Mao Tse-tung, would last very long.

Under these conditions, the group of cultural revolutionaries, under the authority of Mao's wife, Chiang Ching, struck for power: At Chiang Ching's instigation, the army was again subjected to more direct party supervision, with party commissars appearing on all levels of command, and some previously purged "revisionists" returning back to prominence in the system. The commanders of the 11 military districts were reassigned to deprive them of their power bases built up over the years. The time for the forces for the post-Mao confrontation had begun.

Chiang Ching's group attempted to retain their official positions in the provinces and at the same time take over the central controlling posts in the Politburo. The most prominent members of this group were Chang Chun-chiao, Secretary of the Shanghai City Committee, who became a member of the Standing Committee of the Politburo in August 1973; Hua Kuo-feng, First Secretary of Hunan Province, who became Vice Chairman, later First Vice Chairman, that is, successor to Mao, Minister of Public Security, after January, 1975, and Prime Minister, on April 7, 1976; and Wang Hung-wen, who until August, 1973, was a mere party-secretary in a Shanghai textile shop, but was suddenly elevated to Vice Chairman of the party and member of the Standing Committee of the Politburo.

### THE PARTY TODAY

Within a space of 10 months, five of the veterans died, including Mao Tse-tung. Only Yeh Chien-ying, Minister of Defense and little known in the West, remains. This sudden departure of the veterans left the Standing Committee of the Politburo with only three members—assuming that no substitute nominations have been made and not openly revealed to the West. These three are Chang Chun-chiao, Wang Hung-wen, and the old and ailing Defense Minister, Yeh.

The Chairmanship office formerly occupied by Mao and five vice chairmen is now filled by only three people: Hua Kuo-feng, as First Vice Chairman, Prime Minister, and Minister of Public Security; Wang Hung-wen, and old Marshal Yeh.

In addition, the same people run the most important departments of the Central Politburo. Chang Chun-chiao is head of the organization department, responsible for high party personnel and organization, while Wang Hung-wen is head of the military department. In charge of the security department, after the death of Kang Shen, is the former of Mao's bodyguards, Wang Tung-hsing. He had acted as Mao's personal bodyguard since 1935. In his present capacity, he also controls a small army of 30,000 security agents, called the "8341 unit," which is responsible for the protection of the central party offices and the Politburo. Thus the group has its own defensive system, independent of the Army, should an internal conflict arise.

But the fall of Teng in April is not a conclusive point. Teng was the protege of Chou En-lai, and was the rallying point for the hundreds of "Chou's men"—the so-called "old cadres"—who have been appointed over the years, and are lying low in the bureaucracy. Teng himself is believed to be imprisoned, but not dead, and could come forth again just as he was once before submerged in the Cultural Revolution.

Moreover, the Army is by no means necessarily a docile element. Hua Kuo-feng is not an Army man, even though he is Minister of Security, and it is not known whether he commands the Army's loyalty. If the party is unable to impose discipline on the Army, the possibility of a commander or commanders setting themselves up as independent war lords remains a plausible possibility.

Until the expected 11th Party Congress takes place to confirm the results of the power struggle, we will have no way of knowing the outcome. It would be very unwise for U.S. policy to try to outguess the fortunes of China or the struggle for power of the Chinese Communist Party.

Mr. President, an article in this morning's Washington Post indicates that the stresses of the power struggle in China are already beginning to become evident on the outside, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### FOUR CHINESE PROVINCES REPORT "SABOTAGE"

(By Jay Mathews)

HONG KONG, September 29.—Four provinces of China have reported "sabotage" in their areas in recent days, and government authorities have issued repeated orders against factional activities, according to provincial radio broadcasts monitored here.

The broadcasts coincided with the theoretical journal Red Flag's publication, in its first issue since the death of Chairman Mao Tse-tung *Sept. 9, of a* report of sabotage, "divisive activities, conspiracy and intrigues carried out by class enemies at home and abroad."

The reports all suggest rumbling disagreements and discontent among Peking and provincial leaders, and a possible weakening of the apparent compromises made between ideological rivals in Peking when Mao died. For the last three weeks there has been an emphasis on party unity and economic production and a softening of calls for action against unnamed party officials who oppose Mao's thought.

A broadcast from Nanchang, the Kiangsi provincial capital, said: "The central authorities have repeatedly issued orders and instructions" against factionalism. It was the first word of such a direct move against political squabbling in the provinces since a People's Daily editorial published just before Mao died.

Three of the provinces reporting "sabotage" by "class enemies"—Chekiang, Kiangsi and Kiangsu—form a chain through eastern and south-central China. All three have had well documented histories of factional strife since the tumultuous Cultural Revolution 10 years ago. Less is known about recent events in the fourth province, Tsinghai, which is located on a sparsely populated plateau in the far west.

Reports of factionalism and sabotage have appeared occasionally this year as Peking leaders have debated what direction the country should take after Mao. But for two weeks after Mao's death reports of trouble apparently ceased, and provincial broadcasts confined themselves to eulogies to Mao and calls for increased production.

Each Chinese province has its own radio station, supervised by the local party authorities and designed to disseminate announcements from Peking as well as items of more local interest. Sometimes local leaders transmit Peking policy statements verbatim, sometimes they chose to give them their own special emphasis and sometimes they do not transmit them at all. The provincial differences reflected in the broadcasts have been a boon to Hong Kong China-watchers, who can eavesdrop on the radio waves but find it much harder to secure provincial newspapers.

From time to time, the provincial authorities' broadcasts have reported embarrassing trouble sports, apparently both as a warning to wrongdoers that official action was being taken and as an incentive to citizens to take a hand in solving the problem referred to.

The Kiangsi broadcast, monitored Sunday, said "we must pay close attention to the new trends of class struggle and constantly analyze them. We must guard against the sabotage activities by the bourgeoisie inside and outside the party. We must resolutely suppress the counterrevolutionaries and those who engage in beating, smashing and looting. We must deal hard blows at the class enemies who spread rumors to confuse and poison people's minds and who disrupt social order."

Kiangsi, like Chekiang and Kiangsu, is officially headed by a veteran party cadre thought to have had close relations with former Vice Premier Teng Hsiao-ping before he was forced out of office by Peking radicals in April.

Kiangsi's first party secretary, Chiang Wei-Ching, did not appear in public for a while after Teng's dismissal but is now back in the limelight. In a speech delivered after Mao's death, he spoke glowingly of Mao's widow, Chiang Ching (no relation), a leader of the Peking radicals.

The Kiangsi broadcast, which said it was reporting decisions made by the provincial party committee, cited central authority instructions "stipulating that it is not allowed to establish ties, to build mountain strongholds or to organize fighting groups in any form."

The terms all refer to factions that were born during the Cultural Revolution, when radicals inspired by Mao's criticism of entrenched bureaucrats in the government organized groups to oust their local leaders, and the leaders in turn organized groups to fight them off.

After two years the conflict became so disruptive and confused that Peking brought it to an uneasy halt, but personal bitterness between members of rival local groups appears to remain and has flared up occasionally when Peking leaders themselves have begun arguing over policy.

"Leading cadres at all levels must remain firm and calm," the Kiangsi broadcast said, "stand fast at their posts and fight in unity . . . At the same time, they should patiently carry out mass work and persuade the masses that if they have opinions about leading cadres, they may express them and that they should not get so entangled with one another as to affect their work."

The Chekiang broadcast concerned a general membership meeting of the Communist Party in the provincial capital, Hangchow, which was so torn by factional disputes a year ago that army troops had to restore order. "We must sternly deal blows at the class enemies' sabotage activities and strengthen the dictatorship of the proletariat," the broadcast quoted municipal party committee first secretary Chang Tzu-shih as saying. "Party organizations at all levels and the vast numbers of Communist Party members must strengthen their sense of class struggle and take the initiative in attacking the class enemies."

The Chekiang provincial leader, Tan Chi-lung, did not appear before the 40,000 party members who gathered in the rain Saturday in the municipal provincial stadium, although the three officials directly below Tan were there. Tan, who had been rehabilitated after being purged during the Cultural Revolution, has not been reported in public since three weeks before Teng's dismissal.

The broadcast from Kiangsu, which encompasses a key industrial area just north of Shanghai, focused on activities at the Nantung No. 1 state-run cotton plant.

"Under the leadership of the plant party committee, all the staff and workers have raised the iron fist of the dictatorship of the proletariat and launched a strong offensive against the class enemies," the broadcast said. "While doing a good job in protecting the plant, the worker-militiamen have persistently carried out patrol and sentry duties day and night in the neighborhoods and resident areas to which they are assigned, keeping vigilance against the sabotage by the class enemies. They have inflicted a powerful blow on the rumors disseminated and the current undermining activities carried out by the class enemies and are fighting valiantly to defend the socialist motherland founded by Chairman Mao himself."

The Tsinghai broadcast said: "It is essential to resolutely suppress counterrevolutionaries and those who engage in beating, smashing and looting. It is necessary to resolutely expose and deal blows at a tiny group of class enemies who spread rumors to create confusion, disrupt public order, instigate a stoppage of work and production and engage in other sabotage."

Tsinghai is in the unusual position of having no first party secretary. An army officer, Chang Chiang-lin, commands the province but only as second party secretary. Half of the province's 2 million people are non-Chinese minorities, and Peking seems to prefer to have army leaders oversee such areas.

Red Flag, a party journal edited in Peking, published its own attack on "conspiracies and intrigue" by "class enemies" in an article entitled "Turning Grief Into Strength," a persistent theme since Mao died. The report was reprinted in the People's Daily yesterday and sent out over the New China News Agency's Chinese-language wire, but as of late today had not been transmitted in English.

Analysts here noticed that the article resurrected a slogan, "Going Against the Tide," that has been rarely seen in the public media in the last year. It has been identified with radicals in the leadership who wish to counteract the Chinese bureaucracy's preference for ordered economic growth through technical improvements with less emphasis on politics.

## SENATOR CHURCH RECEIVES HIGHEST HONOR OF NCOA

Mr. STEVENSON. Mr. President, in Chicago this week Senator FRANK CHURCH received the Ollie A. Randall Award from the National Council on the Aging.

That award was established by the NCOA in 1963 to recognize Ollie Randall's "exemplary vision, pioneering efforts and devotion to the conservation of human resources." It has recognized outstanding efforts by nationally known leaders and lesser known patient pioneers who have worked directly with the elderly.

Ollie Randall, as active as ever at age 86, can look back upon a career which began 60 years ago when she went to work in New York City for an organization called Association for Improving the Condition of the Poor. Since then she has been at the forefront of major advances in aging and has had great impact on housing for the elderly, better care for older persons, and the delivery of services in a manner acceptable to elderly persons in need of them. She is one of the founders of the National Council on the Aging and one of the great leaders in the field. She has expressed her own personal satisfaction at the fact that the award which bears her name is going to Senator FRANK CHURCH this year, and it is easy to understand why.

He is more than the chairman of the Senate Special Committee on Aging, important as that role may be. He is also a compassionate legislator and a skillful one, and he has won action on a large number of proposals of direct importance to older persons.

Mr. President, I ask unanimous consent that a press release from the NCOA be printed in the RECORD. It expresses a few of the reasons for the award and it also provides an excerpt from Senator DICK CLARK's nominating letter which add additional insights to this event.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

### SENATOR FRANK CHURCH RECEIVES HIGHEST AWARD OF THE NATIONAL COUNCIL ON THE AGING, INC.

CHICAGO, ILL.—During a special evening program "praising age" at the 26th annual conference of the National Council on the Aging (NCOA) in Chicago, Senator Frank Church today was presented the highest award of the Council in recognition of his outstanding service on behalf of the elderly.

Church, a member of the Senate Special Committee on Aging since 1961, has served as Committee Chairman since 1971.

His record of accomplishments for the aged, and the aging, in America, cited by Dr. Inabel Linsay, NCOA board member and Awards Chairperson, include:

Sponsorship of the 20-percent Social Security increase in 1972 and the provision to link, automatically, future benefits with changes in the cost-of-living index;

Leading the fight for the two-step Social Security increase in 1974;

Initiating the legislation to provide an increase in the level of funding for widows;

Sponsoring the legislation to provide disability coverage for disabled Social Security beneficiaries;

Sponsorship of the Age Discrimination in Employment Act legislation in 1967.

Senator Richard Clark of Iowa, who nominated Senator Church for the 1976 Ollie A. Randall Award, said in his sponsoring letter: "Senator Church has won enactment of important legislation while at the same time illuminating issues of concern to the Congress and older Americans. He is an advocate and a policy maker who has had a profound effect upon public policy on aging in the United States."

The Ollie A. Randall Award was established in 1963 by the NCOA Board of Directors to recognize those who lead in advancing the cause of aging, enabling the older person to live a dignified, healthy and productive life.

Following the award presentation, four outstanding older Americans—The Honorable Richard J. Daley; consumer specialist, Esther Peterson; theatrical producer and director, John Houseman; gospel singer, Gertrude Ward—who are still active in their respective fields participated in a discussion on society's and their own views toward aging. Columnist Irving Kupcinet moderated the panel.

The National Council on the Aging (NCOA) is the nation's leading organization for professionals in the field of aging. It serves as the central national resource for planning, information, technical consultation and materials on older persons.

## LABOR'S TOP 20 MONEY RECIPIENTS AMONG THE HOUSE OF REPRESENTATIVES AND NONINCUMBENT CANDIDATES FOR THE HOUSE

Mr. GOLDWATER. Mr. President, from time to time I have placed in the RECORD information as to the enormous sums of money which big labor is pumping into this year's elections. I have just obtained tables showing the top 20 recipients of labor money in the House of Representatives and the top 20 House-hopeful recipients of labor contributions in 1976. While keeping in mind that the major contributions to candidates for the House of Representatives will likely come during October, this data is nevertheless significant.

It reveals that labor bosses have a big stake in the election of their chosen candidates for this year's elections, and I am certain the American public will welcome the opportunity to know the identity of those House candidates who have received the largest sums from organized labor. Since the self-proclaimed public interest groups such as Common Cause, have dismally failed to bring this information to the public and can only lament about the contributions which come from people in business, I feel it is necessary for someone to put this on the public record. Therefore, I ask unanimous consent that the top 20 recipients of labor money among incumbent Members of the House of Representatives and the top 20 recipients of labor money among nonincumbents who are running for House seats be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### INCUMBENT MEMBERS OF HOUSE OF REPRESENTATIVES

1. Tip O'Neill (D-Mass.) 8th CD, $59,550.
2. Stanley Lundine (D–N.Y.) 39th CD,* $48,800.
3. Ralph Metcalfe (D-Ill.) 1st CD, $36,873.
4. Martin Russo (D-Ill.) 3rd CD, $34,150.
5. John Dent (D-Pa.) 21st CD, $30,150.
6. Leo Zeferetti (D–N.Y.) 15th CD, $29,243.
7. Ray Madden (D-Ind.) 1st CD, $29,050.
8. William Lehman (D-Fla.) 13th CD, $28,990.
9. M. Robert Carr (D-Mich.) 6th CD, $28,488.26.
10. Phil Burton (D-Calif.) 6th CD, $27,400.
11. Richard Nolan (D-Minn.) 6th CD, $26,765.
12. Lloyd Meeds (D-Wash.) 2nd CD, $25,600.
13. James Florio (D–N.J.) 1st CD, $25,374.
14. Tim Wirth (D-Colo.) 2nd CD, $25,222.71.
15. Michael Blouin (D-Iowa) 2nd CD, $25,145.
16. Charles Clancy (D-Ohio) 19th CD, $24,300.
17. James Blanchard (D-Mich.) 18th CD, $24,235.
18. James Lloyd (D-Calif.) 35th CD, $23,025.
19. Richard VanderVeen (D-Mich.) 5th CD, $22,514.
20. Robert Edgar (D-Pa.) 7th CD, $21,9100.

Total, $586,785.63.

### NONINCUMBENT RECIPIENTS RUNNING FOR HOUSE OF REPRESENTATIVES

Nonincumbents; incumbent; and amount:

1. Bob Gammage (D-Tex.) 22nd CD,* Cong. Ron Paul (R), $41,648.50.
2. Jim Mattox (D-Tex.) 5th CD, Steelman retiring (R,) $37,112.00.
3. Norm Dicks (D-Wash.) 6th CD, Hicks retiring (D), $25,990.00.
4. Robert Young (D-Mo.) 2nd CD, Symington retiring (D), $23,776.42.
5. Bruce Vento (D-Minn.) 4th CD, Karth retiring (D), $23,249.70.
6. Lanny Davis (D-Md.) 8th CD, Gude retiring (R), $21,747.82.
7. John McDonald (D-Ohio) 17th CD, Cong. Ashbrook (R), 18,421.89.
8. Stan Kress (D-Idaho) 2nd CD, Cong. Hansen (R,) $16,775.00.
9. Richard Tonry (D-La.) 1st CD, Runoff 10/2/76, Hébert retiring (D), $16,250.00.
10. Howard Wolpe (D-Mich.) 3rd CD, Cong. Brown (R), $16,065.00.
11. Fran Ryan (D-Ohio) 12th CD, Cong. Devine (R), $14,800.00.
12. Barbara Mikulski (D-Md.) 3rd CD, Sarbanes retiring (D), $14,450.00.
13. Francis Brouillette (D-Mich.) 11th CD, Cong. Ruppe (R), $13,650.00.
14. Charles Friedman (D-Fla.) 12th CD, Cong. Burke (R), $13,300.00.
15. Robert Washington (D-Va.) 2nd CD, Cong. Whiteburst (R), $13,067.55.
16. Leon Panetta (D.-Calif.) 16th CD, Cong. Talcott (R), $12,950.00.
17. Don Pease (D-Ohio) 13th CD, Mosher retiring (R), $12,812.50.
18. Tom Luken (D-Ohio 2nd CD, Cong. Clancy (R), $11,550.00.
19. Jim Guy Tucker (D-Ark.) 2nd CD, Mills retiring (D), $11,525.00.
20. Ron Flippo (D-Ala.) 5th CD, Jones retiring (D), $11,150.00.

Subtotal, $380,281.38.

## KEPONE

Mr. LEAHY. Mr. President, a great deal has been written about the Kepone disaster at Hopewell, Va. Moreover the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture and Forestry of the U.S. Senate held hearings on Kepone contamination in Hopewell, Va., earlier this year. That committee has printed a transcript of the hearings.

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*Includes contributions to special election.

Unfortunately, because of legislative duties of various kinds and other considerations, no formal report was ever made to the Senate regarding Kepone.

I have recently reread that transcript. I was also a member of the subcommittee that took testimony in that case under the chairmanship of the distinguished Senator from Alabama (Mr. Allen).

In my estimation the testimony shows a pattern ranging from ineptitude to callous indifference to criminal conduct. The State authorities, the local authorities, the Federal authorities, the parent company, and the manufacturing company all showed either amazing ineptitude—or criminal indifference—to the safety and lives of others.

After the tragedy of Kepone at Hopewell, Va., was revealed, each of the ones responsible for the problem and safety tried to blame the other. Each was right in saying the other was at fault—but the conduct of each belied their attempt to claim innocence.

The States blames laxity in the Federal Government, the Federal Government blames an oversight on a complaint, the local authorities blame lack of expertise, the local manufacturer blames each of lack of training and facilities and Allied Chemical—which began the whole disasterous chain—blames lack of knowledge. I cannot help but blame a combination of greed, incompetence, and insensitivity to the needs and safety of others.

All the laws, regulations and good intentions of the Congress came to naught if those charged with their enforcement do not realize people are involved—not numbers and printed forms. All the laws, regulations, and good intentions of the Congress cannot substitute for the sense of corporate responsibility so sadly lacking here.

After the millions of dollars and thousands of hours spent on their care I have to remember the child—born several months after her father stopped work at the Kepone producing company—who will be afflicted with Kepone poisoning for life.

Mr. President, it is unfortunate that the Senate did not have more time to delve into the breakdown of laws, governmental action and corporate responsibility involved here. Had we been able to do so, we could have performed the kind of service for the country so sorely needed. Instead of acting just today or yesterday we could have shown our responsibility to those—like my own children—who will live the majority of their lives in the next century.

Mr. President, much of the story of Kepone has been spelled out in a perceptive indepth analysis by Brian Kelly of the Washington Star. I have not read a better or more thorough analysis.

I ask unanimous consent to print his review, to date, in the Record. I also intend, either in this Congress or the next, to speak further on this subject.

There being no objection, the review was ordered to be printed in the Record, as follows:

[From the Washington Star, Sept. 19, 1976]

### How Kepone Became a Name for Environmental Disaster

The Star today begins a series on Kepone. Call it KEY-pone. A name unknown when a pair of chemists at Allied Chemical Corp. filed the patent papers for their new pesticide a quarter-century ago.

A name, now, that poses uncertain health problems for scores of people. A name for economic disruption affecting thousands. A name—the name—for environmental disaster.

It's a compound similar to the chlorinated hydrocarbons that persist for years in the environment and in animal tissue.

It's a compound orally more toxic than DDT. And like DDT, its residues turn up in the bloodstream of an ever-widening circle of people somehow exposed to it: production workers, their families, neighbors of the production facility, fish eaters.

It's a fine gray powder that was produced in Hopewell, Va., from 1966 to mid-1975, first by Allied, then by a newly formed subcontractor, Life Science Products.

It's a fine dust that gave the Life Science production workers "Kepone shakes" and left them severely ill with neurological and liver disorders.

It's a possible cancer-producing agent, but we may have to wait 15 or 20 years to find out for sure.

Its a contaminant that poured into Virginia's James River for years. It flew through the air at the Life Science plant site, sometimes as a blinding cloud. It saturated the soil around the plant. It knocked out the city's solid waste sewage digesters.

Now, the environmentalists tell us, it has been in James River marine life since 1968 at least. Although Kepone production was stopped more than a year ago, they also tell us, Kepone levels in aquatic life have not abated. They tell us there may be as much as 100,000 pounds of the stuff in the river's muddy sediment.

It's the cause of a river fishing ban disrupting the livelihood of an estimated 3,500 watermen and others who make their living from the water or from seafood.

It's a threat, of unknown proportions as yet, to the marine life in the vast Chesapeake Bay, one of the greatest seafood repositories in the world.

Yet, the ominous warning signs were there. They were there for years, and no one in industry or government did anything to stop Kepone production.

Now, with hindsight, a federal safety expert can say, "The city of Hopewell was sitting there with an unexploded bomb in their midst."

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[From the Washington Star, Sept. 20, 1976]

### Life Among the Smoking Stacks: Poison Isn't All Bad

(By Brian Kelly)

Kepone Maker for the World,
Boom Town, City of Stacks,
Player with Munitions and the Nation's Fertilizer;
Stormy, husky, brawling,
City of the Blue Collars,

This is Hopewell, Va., "city that munitions built," "chemical capital of the South," horizon of smokestacks, home of a blue collar army working round-the-clock shifts that leave the downtown shopping district strangely deserted day or night.

But somebody's around. Fresh off the graveyard shift, they're sitting at plastic-topped tables in a beery restaurant in the lobby of a dim hotel. Roughly 40 guys with the same kind of all-night look on their faces have got Marie the waitress dashing back and forth with trays of cold, cold Pabst, and they're all slugging it down at 9 a.m., before going home for sleep.

"Peons" of the chemical industry, they say, and damn proud of it. And they have their own views on this "overblown Kepone business.

"There would be a lot of starving sons of bitches in this town if them stacks weren't smoking," says Hugh Brown, an instrument mechanic at Allied Chemical Corp, biggest outfit in town and original makers of the pesticide Kepone.

"It's a damn fine town to live in. The economy is good. It may seem like a baddy to some people, but them stacks make money.

"The plants here pay on Tuesday, Wednesday and Thursday because they can't haul this much money in town on one day."

As for Allied utility man Charles Gill: "I don't feel the chemicals are any more dangerous than any other stuff we're exposed to. We smoke, we drink. It's all bad for our health. It's a great place to work. We're required to wear safety clothing. There are very rigid safety programs.

"If you have to have industry, you have to put up with certain things."

Steve Gorkiewicz, who makes sulphuric acid for Allied, earned $700 for the week with fat overtime. "Why should we bite the hand that feeds us?" he says. "A bunch of EPA nit-s—— that don't know their a— from a hole in the ground come down here and drive us crazy.

"This environmental stuff is driving me up the wall."

All three—and many of their fellow Hopewell residents—say the media has blown this Kepone thing out of proportion.

Environment. Who ever heard of it way back when?

When Hopewell, the munitions town that sprang from a cornfield in 1912, reached a dizzying population of 45,000 by the middle of World War I. When workers wore wool clothing on the hottest summer day because cotton might spark off and blow the place up. When the wrong chemical-bearing wind would turn garments hanging on a clothesline into rags.

"Wonder City" it was called then, even "Wizard City," a boom town boasting the world's largest gun cotton plant, populated by an international medley of hard-fisted, pistolpacking workers who whored, drank, gambled and slept in a hasty, tarpaper city with wooden sidewalks built over mudholes and quicksand.

It was Dodge City all over again, with steam-driven trains instead of wagon trains pulling into town by the hour. From three dozen nations, the workers poured into Hopewell, stepping off 37 trains a day.

The result was a brawling, lawless town so notorious the Detroit News later dispatched one of its top writers to recap it all. And he wrote:

"Never will there be . . . such an amazingly unreal, bizarre, screamingly funning, gloriously optimistic town as Hopewell.

"Fortunes that turned men's heads were made there in a few days simply by buying and selling lots. Fire swept the town, and it sprang up again from its ashes; no one can even say how many were shot in brawls; martial law was proclaimed because Hopewell just could not be good."

As he also noted, Hopewell was a hardened sinner with "a rich background of crime and disaster, of glod, of lawlessness, of perilous work and perilous play." Its riches were so amazing, "for miles around, men thought and talked and dreamed of Hopewell, where the day laborer of today was the M days of tomorrow."

Money was the magnet for the mobs crammed into the few square blocks that were Hopewell.

Tarpaper shacks with corrugated roofs sat on land that leaped in value from $12 an acre to $100 a frontal foot. Some entrepreneurs rented out beds—three men a day to a single bed.

It was duPont that established a dynamite plant at the sleepy river town (population less than 1,000) in 1912. It was the great war in Europe that turned duPont's gun cotton plant into the world's largest, one that handed out a daily payroll of $75,000, and at its peak produced 1.5 million pounds of explosives a day.

Hard on the heels of immigrant workers hungry for the town's big dollar came a second wave of card sharks, prostitutes, strongarm men and various sharpies after the same dollar. Adding to the brew was Prohibition, which took effect in 1916 and quickly made bootlegging Hopewell's second major industry. And the Army's Camp Lee (now Ft. Lee) next door, with its young soldiers made wild and reckless by the prospect of fighting in the trenches overseas. And sporadic racial violence.

They say the only law and order in town was behind the duPont gates, an area patrolled by a small army of 90 armed guards. They say duPont bought land for churches in an effort to quiet the labor force. They say duPont built three villages for its employes, replete with schools and playgrounds. But it all happened so fast, they also say.

DuPont had 230 bunkhouses within its gates, housing 15,305 workers. They say that in the first election for city council in 1916, 32 people out of the city's thousands were eligible to vote.

And they say a local laundry became a still operation, turning out 1,000 gallons of illegal booze a day.

Heady, heady times. Daily pay by duPont, and everybody thinking—with some justification—his work was winning the war against the dirty Hun, too. Then, on Nov. 11, 1918, came the Armistice ending the war. In one week, duPont closed.

Hopewell literally died in one week.

In 1920 Camp Lee closed its doors (until 1940), too. Hopewell's population plummeted to 1,397. By 1925, they say, Hopewell had only 23 citizens with taxable incomes to report.

Today, with a steadier population of 26,000, Hopewell still is conspicuous for the boom town shacks. Many are still there. In places they still call "A Village" or "B Village." They're nicely spruced up now with window shutters, shrubbery and siding. Yet, they're still arguing over ownership of property the World War I workers left behind in their pell-mell exodus.

On a smaller scale, Hopewell went through economic disaster once again, in the Great Depression. Tubize Artificial Silk Co., pioneers in rayon, had settled in town. At its peak, Tubize employed 4,200 workers.

But disaster struck in the form of a strike in 1934. One morning, at 4 o'clock, 200 to 300 men scaled the fences and drove 200 other workers off the production line. Tubize laid off 1,900 workers the very next day, then left town.

That was bad enough, and Hopewell today still hasn't forgotten the impact of the Tubize and duPont departures. By Depression years, however, Hopewell had some solace. Allied Chemical Corp., formed in 1920, had arrived, and it was big business, too.

Allied began production of nitrate of soda, a fertilizer that revolutionized corn yields and helped pull the American farmer out of the Depression.

Best of all, Allied stayed. Operating two large plants in Hopewell today, it still is the biggest employer with some 3,500 workers. Today's big industry also includes Continental Can, Firestone and Hercules Powder, and all four together occupy 1,100 acres within city limits, employ 7,000 persons and hand out $97 million annually in payroll checks.

Their stacks—at the confluence of the James and Appomattox Rivers, 18 miles southeast of Richmond—smoke and fume and spew out smells that Hopewell has known for years. Hopewell doesn't even notice.

When Life Science Products took over Kepone production from Allied early in 1974 as a subcontractor, apparently it was just one more of the same, despite the clouds of Kepone dust from Life Science that occasionally stopped passing traffic and drove some neighbors indoors.

"There would be no Hopewell, period, without these chemical plants," explains Gus Robbins, retired editor of the Hopewell News. "They're our bread and butter. Almost everyone benefits in one way or another from the industry here. It's a way of life with us."

Robbins calls it "essentially a working man's town," and back in the beery restaurant favored by the gang from the graveyard shift at Allied, working man Gorkiewicz pronounces his motto—"Kepone truck-in'."

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[From the Washington Star, Sept. 21, 1976]

## THE DEVELOPMENT OF KEPONE: "IT WAS A GOOD INSECTICIDE"

(By Brian Kelly)

"For me, it was a routine accomplishment," says Silvio L. Giolito, one of the two chemists at Allied Chemical Corp. who created the pesticide Kepone more than 25 years ago. But he adds, "Chemically, it was a good insecticide."

Indeed, in those days of less environmental awareness, it look great on paper when inventors Giolito and Everett E. Gilbert, his supervisor at Allied, filed the documents needed to obtain a U.S. patent for Allied's new insect-killer and its production process back in 1950.

The new compound would be "useful," their patent application said, "in combating a wide variety of noxious organisms." That is, insects such as flies, moths, beetles or grasshoppers, along with vegetable fungi.

As one added benefit, the new compound "has a highly residual insecticidal activity." Further, "it is considerably more resistant in dry cleaning than DDT."

The papers cited tests showing Kepone was more effective against DDT-resistant houseflies, against army worms and bean beetle larvae and against carpet beetles than DDT itself. The compound proved highly effective in other tests, too, one of them on grasshoppers on a Montana "range" and another against bugs in New Hampshire potato fields.

Chemically speaking, their compound's name is a real tongue-twister: Decachloro-octahydro-1,3,4-metheno - 2H - clobuta(cd) pentalen-2-one. As another tongue-twister, modern-day Kepone is the product of a chemical reaction involving hexachlorocyclopentadiene (HCP), sulfur trioxide, sodium hydroxide, sulfuric trioxide, sodium hydroxide, sulfuric acid and antimony pentachloride catalyst.

As chemicals go, what is it? Allied calls it a "chlorinated organic chemical." Some scientists, among them co-inventor Giolito, call Kepone a chlorinated hydrocarbon; some don't. In fact, there appears to be wide scientific dispute over its proper classification.

In any case, it is at least similar to the chlorinated hydrocarbons such as DDT and its sister compounds so widely noted for their persistence in the environment or in animal tissue—the same chemical family that Rachel Carson flagged in her environmental classic, "Silent Spring."

According to co-inventor Giolito, he and Gilbert created Kepone on the basis of earlier academic research by a chemist at Purdue University. "All we were trying to do was to duplicate . . . (his) work. I could see the structure. It showed potential insecticidal activity. The structure we got was a little different."

And Giolito, who began his professional career at Allied after a Word War II stint in the Army chemical warfare service, doesn't feel personally responsible for Virginia's environmental monster.

"All this could have been prevented if people had taken proper precautions," he said the other day. "It's very distressing to keep reading about it in the newspapers, about the after-effects and damage done to the environment."

For company chemists like Gilbert and himself, he also explained, their work in 1950 was nothing unusual.

"An organic chemist makes umpty-umpt chemicals. He designs them, and then they're screened. One in a thousand is an active (commercially successful) chemical."

Giolito, now a researcher for Stauffer Chemical in Dobbs Ferry, N.Y., left Allied before the Kepone patent was granted in 1952. "I never got a nickel out of it, and Allied Chemical has been making money for years and years and years."

Actually, for some time after the pesticide's development, Kepone production was limited, with Allied and two subcontractors making it only sporadically. In time, as we shall see, there was a growing European demand for the toxic powder.

Still, when Kepone's combined toxic and environmental threat first surfaced at Hopewell, Va., last year, it appears the insect-killer remained small potatoes for Allied, the nation's sixth largest chemical-industry firm, a $2.33 billion operation with 180 plants, labs, mines, quarries and other facilities world-wide, with investments ranging from North Sea oil explorations to gas liquification processing in Indonesia.

The world's largest maker of auto seat belts, with diverse interests not only in chemicals, but also in energy development, fibers, fertilizers and plastics, Allied never cleared more than $200,000 in net profits on Kepone, according to one company spokesman. And it now has dropped the insect-killer from its product inventory.

As for Allied's own origin, the company traces its birth to a post-war merger in 1920 of five major chemical concerns, each with its own specialty: General Chemical (industrial acids), Solvay Process (alkalies and nitrogens), Semet-Solvay (coke), Barrett (coal-tar chemicals) and National Aniline (dyes).

As an official company history notes, the American industrialists pooling their resources wanted to "end the foreign (i.e., German) domination of the chemical industry."

Indeed, in the world war just ended, America and its allies had been stung by drastic shortages of dyes, pharmaceuticals and related products long supplied by the German chemical industry.

"Motivated by the idea that a pooling of effort might give the United States a significant start toward strengthening domestic production, a group of men heading five chemical enterprises decided to set up a business of allied chemicals," explains the company's historical brochure.

By some published accounts, the merger and the new conglomerate that evolved can be attributed chiefly to two men, Orlando Franklin Weber, a trouble-shooting management genius who stayed on as head of Allied for the next 15 years, and Eugene Meyer, the late publisher of the Washington Post.

But a Meyer biography written by Merlo J. Pusey, a former associate editor of the Post, depicts Meyer himself as the moving force in the merger agreement.

The way Pusey reconstructed the merger events, National Aniline, represented by Weber and Meyer, initially was at odds with the remaining four companies on financial details of the merger. In time, however, after threats of legal action against the holdouts, Meyer hammered out an agreement with his original proposal barely altered.

As a result, Weber took over as head of the new corporation. And major stockholder Meyer was assured a fortune.

Within 10 years, the new firm earned more than $211 million and gave its stockholders $134 million in dividends.

Eleven years (1931) after he pushed through the merger, Meyer's holdings in Allied stock were worth an estimated $43 million.

"His rich dividends from Allied Chemical would enable him in later years to cover the heavy losses he was to suffer in rehabilitating the Washington Post," Pusey added.

Years later, in 1950, Meyer went on the giant chemical firm's board of directors. When he died in 1959, he left 93,938 shares of Allied stock, then valued at nearly $11 million.

His daughter, Katharine Graham, currently publisher of the Post, has been on Allied's board for the last three years and was re-elected to a one-year term as a director earlier this year. About that time, according to an Allied proxy statement, she owned 3,401 shares of Allied common stock, valued at yesterday's stock market closing at $39 a share.

With nearly 28 million shares outstanding, her $132,639 holding would be a small slice of the Allied pie. And, according to records at the Securities and Exchange Commission, no individual owns 10 percent or more of the company's stock.

Noting her own shareholdings were a matter of public record, she would not discuss whether other family members held any Allied stock.

Prior to Graham's election to the Allied board in 1973, the Post's board chairman, Frederick S. Beebe, was a director of the chemical firm, as well.

Today, two former secretaries of Commerce, John T. Connor and Alexander B. Trowbridge, serve as the blue-chip firm's chairman and vice chairman, respectively, while other directors include top-ranking executives from several of the nation's major cooperations. Among them are John P. Fishwick, head of the Norfolk & Western railway, G. William Miller, head of Textron, and Richard R. Shinn, head of Metropolitan Life Insurance.

Graham said she viewed the Kepone affair as "a great tragedy" which she would not want "to minimize." At the same time, she said Kepone production was a minimal part of Allied's wide-flung interests. As such, she said, Kepone did not come to the board's attention until it became a "company problem."

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[From the Washington Star, Sept. 22, 1976]

## THE "INSIDE" STORY OF A KEPONE PLANT, WITH VARYING OPINIONS

(By Brian Kelly)

"There was no way in the world you could possibly duck it. I got it on the lips, and your lips get dry and you lick them, you know, you eat it. It had a kind of bitter, hot taste—it ought to be hot, it's made out of sulfuric acid."

So says Ernest Raley, a 56-year-old former employee of Allied Chemical Corp., original developers of the toxic pesticide Kepone and for several years producers of the fine gray powder in Hopewell, Va.

According to Raley, Kepone dust was "on the ground and around in the building" when he worked on Kepone production runs in Allied's "Semi-Works" facility in about 1968 and 1969.

"The wind blew Kepone and you get it all over your clothes and all around in your mouth . . . My clothes got so contaminated with this Kepone that you could pull them off and stand them in the corner."

Raley also says he became ill. "I was getting sick from a sickness I could not understand."

A public health physician who looked into Raley's case last year says the former chemical worker had Kepone in his blood and "some very mild symptoms that could be consistent with Kepone exposure, but could be something else too."

An entirely different account of Allied's working conditions comes from Jameil Ameen, who was "area supervisor" at the Semi-Works facility from 1966 to 1969. All told, Allied turned out intermittent batches of the pesticide product at its Semi-Works from 1966 until early 1974, when it turned Kepone production over to its newly formed subcontractor, Life Science Products.

According to Ameen, Allied personnel working with Kepone knew its toxic dangers and ran a clean shop.

"I made sure that each employee was familiar with the safety instructions," Ameen told a Senate subcommittee last winter. "My office was about 100 feet from the area of the plant where Kepone was produced, and I observed that area practically every day. I can tell you from my own observations that the Kepone area was kept neat and clean."

So, Raley calls working conditions at the Semi-Works "just about as filthy as they could be." And Ameen, asserting his men were required to wear respirators and other safety equipment, says it was "neat and clean."

Either way, it appears, Allied ran off 1,500 to 2,500 pounds of Kepone a day in its intermittent "batch" runs of Kepone during those eight years at the Semi-Works, which also turned from time to time to batch production of other chemical product, among them THEIC and TAIC, both used in electrical wiring coatings.

Trouble is, according to recent federal trial testimony, unfiltered Kepone, THEIC and TAIC production wastes ran from the pilot plant through a drainage pipe (or "outfall") that ended in Gravelly Run, a stream that fed into the nearby James River.

By prosecution account, Allied reported two outfalls—Nos. .001 and .002—in an application for a newly required discharge permit in 1971, but never mentioned the Semi-Works pipe, known as .003.

Allied did say it was manufacturing Kepone at Hopewell, but indicating that production was only temporary. Its applications to the Army Corps of Engineers failed to mention a pesticide discharge was going into the James.

He and other company personnel justified the omission, Allied's former Agricultural plant manager Virgil A. Hundtofte said, on grounds the discharges from .003 were only intermittent and temporary.

Why temporary? Because of plans to divert the Semi-Works effluents to a new regional waste water treatment plant projected for Hopewell. That was five years ago, and today the regional plant is still under construction.

Meanwhile, the government also contends an Allied response to a 1972 query from the Federal Environmental Protection Agency again failed to mention a pesticide discharge from the .003 pipeline. Hundtofte testified that omisson stemmed from hopes of "buying time" to make improvements in the Semi-Works discharges before government environmentalists realized what was going into the historic river.

The other two outfalls, carrying discharges from other buildings at Allied's Hopewell complex, were properly described. It was the Semi-Works effluent, containing all three toxic chemicals produced in the pilot plant, that led to federal indictments and a recent Allied plea of no contest to 940 counts (one for each day involved) of violating federal water pollution laws.

The charges, on which Allied still faces sentencing, stem from discharges occurring after mid-1971, when the federal government's permit program first went into effect.

Yet, Virginia marine scientists say they have found traces of the pesticide in frozen James River oysters dating back to 1968 and in fish taken from the river as early as 1970.

Former Allied workers have told state and federal investigators that shovelfuls of Kepone wastes were thrown into the drainage pipes at Semi-Works leading to the unregistered outfall at Gravelly Run. Ameen, in his Senate testimony, said any spills were cleaned up immediately. And in routine clean-ups after a production run in the Semi-Works, his workers would gather one to several shovelfuls of waste Kepone dust from the floor.

He wasn't asked what they did with the leftover dust.

Meanwhile, the day came when Allied moved Kepone production out of Semi-Works. As one reason, Allied cites a growing demand in Europe for Kepone. And that development, by the giant chemical firm's account, followed a decades-long period of small demand for Kepone, first developed in about 1950.

For years, Allied either made its own Kepone or subcontracted the job to two outside firms. "Nease Chemical (Pennsylvania) processed it for us in 1959 and 1960, and Hooker Chemical (New York) in the early 1960s," according to G. C. Matthiesen, head of the firm's agricultural division. Then, in 1966, Allied shifted production to the Semi-Works, a minor facet of the company's huge complex at Hopewell.

From there, pure, "technical" Kepone was trucked to an Allied plant in Baltimore, with the bulk going overseas to a West German firm for conversion into other pesticide products. Here in this country, drastically reduced concentrations went into ant and roach baits.

At Hopewell, however, production of both Kepone and THEIC gradually increased in the batch facility, to the point that Allied, by its own account, was forced to move one or the other out of Semi-Works.

"Allied Chemical had placed little emphasis on the development of sales of Kepone in the domestic market," Matthiesen explained in Senate testimony last January. "However, in the late 1960s we received reports from our International Division of favorable research in Europe on pesticides derived from Kepone for control of the Colorado potato beetle.

"In addition, we received reports from the Caribbean and Central America on the use of Kepone materials in the control of the banana rootborer."

Thus, Allied says, its Semi-Works operation no longer would suffice. And so it was that Life Science Products Inc., a subcontracting firm formed by Hundtofte and another former Allied executive, took over Kepone production early in 1974—an arrangement with two interesting results.

First, unlike Allied, Life Science would not be emptying its production effluent directly into a James River tributary, but instead would dump into the city's sewage treatment plant, which in turn did discharge its treated wastes into a tributary known as Bailey's Creek.

Moreover, Life Science, assembling a production line behind an old gas station structure next door to the Allied complex, was prepared for greater production capacity at the outset—an average of 3,000 pounds a day. As it turned out, the subcontractor later averaged 3,000 to 4,000 pounds a day and often hit peak levels of 6,000 pounds.

Outside the plant, which was located at a busy, industrial intersection, few realized what this might mean. As one measure, consider the pronouncement of a federal safety expert involved in decisions on what to do with the Kepone surplus after Life Science's closure last year. Even with that relatively small amount still in the pipeline, he said, "the city of Hopewell was sitting there with an unexploded bomb in their midst."

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[From the Washington Star, Sept. 23, 1976]

### A CALL, AN ACCEPTANCE AND THEY WERE IN THE KEPONE BUSINESS

(By Brian Kelly)

"I got started in the Kepone business by contact that was initiated by my partner Bill Moore." Speaking is Virgil Hundtofte, one of two men who started the Life Science Products Co. in Hopewell, Va.

"I first received a call from Bill Moore sometime in September 1973, as I recall, and he indicated that there was a possibility of producing Kepone and asked me if I was interested in looking at such a venture with him.

"I indicated that I was certainly interested in discussing it with him, and did discuss it with him shortly after that. And it was like, I guess, less than two months from that time that I was contacted until we had drawn up an agreement with Allied Chemical (Corp.) and incorporated the company of Life Science Products."

Meanwhile, Moore says, an Allied official initiated the proposal during one of his trips to company headquarters at Morristown, N.J. Moore, a researcher with about 50 inventions to his credit, was about to take his retirement from the firm in June 1973, but remain as a consultant to Allied.

"I discussed my plans about leaving the company with the gentleman who was—head of obtaining pesticides, I guess—I do not recall his title—and he suggested that I might like to consider the possibility of producing it (Kepone)."

Moore says he wasn't overly "enthused" at the prospect. "Being the production man is not my forte. So that nothing was really concretely done until I had talked with Mr. Hundtofte somewhat later, perhaps three or four months."

The way Allied's agricultural division chief, G. C. Matthiesen, tells the story, however, "I think our records show we received a spontaneous inquiry from a representative of that group . . . ." For the record, Allied has produced a letter from Ben B. Wilson of Wilson Enterprises Inc., in nearby Colonial Heights, Va., dated Jan. 29, 1973. The letter rather clearly proposes taking over Allied's Kepone needs.

Allied also has an in-house memo from the man Moore saw in Morristown saying Moore and Wilson called (on May 29, 1973) "to discuss possible Kepone tolling." According to the memo from A. O. Feigin, "they stated they are interested in early 1974 Kepone production."

Apparently, the two men, both with Allied research backgrounds, were planning on Moore joining Wilson's newly formed agricultural chemical firm. But Wilson later decided against going into the Kepone business.

"I just decided it wasn't for me," he says. "My background didn't fit. Initially, I was interested, and after more thought and investigation, I felt we didn't want to do it. After I evaluated it, I decided I'd better stick to a field closer to my background."

In any case, after deciding its own Semi-Works facility at Hopewell no longer could contain Kepone production, it seems Allied contacted "several outside prospective processors," among them two companies that did the job for Allied in previous years. Two firms turned down the offer, while Hooker Chemical one of the former processors, and Life Science quoted proposed terms. Says Matthiesen: "Life Science's low bid was accepted."

The result was what the chemical industry calls a "tolling agreement." Life Science, with Moore as its president, would make the pesticide Kepone for exclusive marketing by Allied, originators of the compound. Allied would supply the raw materials.

Depending upon various production levels, Allied would pay certain rates by the pound of Kepone produced. The arrangement called for Allied to reimburse Life Science, again by the pound, for capital needed to install environmental controls.

Moore and Hundtofte, both former executives at the Allied complex in Hopewell, borrowed $175,000 as their start-up capital. They chipped in $500 to $1,000 each in personal funds. They found a plant site right next to the Allied complex and its railroad supply tracks. It was a former gas station lot. They took over the low white building in front as office space. They installed production equipment to the rear, and an open area and in a corrugated metal shed. In March 1974, they began operations.

By the time illnesses among their production workers forced them out of business in July 1975, they had paid off the $175,000 loan. They had spent $400,000 or $800,000 on environmenetal controls—Hundtofte and Moore give different estimates. And they had drawn an annual salary of about $30,000 each.

Their new firm, originally having a production capacity of 3,000 pounds a day, managed to turn out a daily 3,000 to 4,000 pounds on the average and often reached 6,000 pounds, as Allied's production demands steadily increased.

In 16 months, the small subcontractor turned out 1.7 million pounds altogether. Allied's major Kepone customer, a West German firm using pure Kepone as a raw material for its own pesticide products, wanted more and more of the powdery stuff.

Says Hundtofte: "We were told by Allied that they could take all the product that we could produce."

For business entrepreneurs Moore and Hundtofte, the future was looking rosy.

They claim they had no idea what their toxic product was doing to their workers. Moore subsequently said: "Somebody would have to be dumb to run a plant where they were running in the face of people getting sick, where the plant is going to end up having to stop operation."

They deny Allied's later claims that they were experts on Kepone. And how expert is that? According to Allied spokesman Matthiesen, "The principals of Life Science, Mr. Moore and Mr. Hundtofte, knew as much or more about Kepone production than anyone in Allied Chemical, or probably in the country."

Chemical engineer Moore was "in charge of Kepone" during the first three years of the pesticide's production in Allied's Semi-Works facility at Hopewell, added Matthiesen in an appearance before a Senate subcommittee last January. "And I believe he was familiar with . . . the safety procedures for the process.

After those three years, Matthiesen also said, Moore still gave Allied "technical guidance" on Kepone production and worked out design modifications stepping up production capacity in the Semi-Works.

Hundtofte, in the meantime, had been the agricultural division's plant manager at Hopewell. "As plant manager, he was also responsible for several years for the production of Kepone in the Semi-Works," says Matthiesen.

But Moore and Hundtofte deny they were the experts as depicted by Allied. They claim they were several steps removed from actual production line familiarity with Kepone. Hundtofte, also a chemical engineer, says he was so inexpert that he didn't know the four production steps involved in Kepone processing until he joined the Life Science venture.

And Moore, calling himself "just a simple technical man," insists he was so far removed from the production process that reports reached him only "through an organization which included general foreman, foreman, Semi-Works superintendent, pilot plant manager, and so forth."

Moore and Hundtofte also say they did not know just how dangerous their product was. They certainly knew it was a poison, Hundtofte says, but they did not have "access" to existing studies showing the extent of the pesticide's toxicity.

MEANWHILE, Moore was asked a pointed question in that Senate subcommittee hearing early this year:

Q. Did you ever get the feeling that Allied was seeking to get rid of a hot potato in the production of Kepone and farming it out to your company?

A. Well. . . .

Q. They are the ones who suggested that you go into the Kepone business, weren't they?

A. They were suggesting that we consider it.

Q. It wasn't your own idea?

A. No; it was our idea in that we wrote them after a discussion and said that we were interested, yes.

Q. Again, do you feel as if they were getting rid of a hot potato and tossed it over to you? They would still be in the Kepone business, but not operate it itself.

A. As it turned out, they sure did. I had my hands burned from the potatoes.

Allied's Matthiesen in his Senate testimony denied any suggestion that his company "farmed out" Kepone production to avoid possible liabilities. He said the decision was made for economic and business reasons with the expectation that Hundtofte and Moore had the necessary expertise to handle Kepone production.

"Life Science Products was an independent concern with all the expertise, knowledge and access to resources to process and handle Kepone as safely as Allied Chemical had itself for a quarter of a century," Matthiesen asserted.

As for his "expertise," Hundtofte says he himself worked on the production line when Life Science first began operations. He sometimes worked around the clock, and in order to see him, his wife and two sons, one an infant, sometimes came to the Kepone plant and slept there on cots.

In his own subcommittee appearance, Hundtofte was asked if he knew that his employes at Life Science packed Kepone into barrels bare-handed.

"Unfortunately," he replied, "I am one of those employees."

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[From the Washington Star, Sept. 24, 1976]

### THE RED FLAG WENT UP LONG BEFORE THE KEPONE CRISIS STRUCK

(By Brian Kelly)

Peanut butter laced with Kepone may sound awful, but quail in an Alabama flatland 14 years ago loved the stuff and gobbled it up. They got a .125 percent concentration of the pesticide at the rate of 3.5 grams of Kepone inserted in six pounds of peanut butter per acre.

Kepone-poisoned crickets also were available, and some of the quail may have eaten some of the crickets. But researchers conducting the quail tests felt the popular game birds consumed more peanut butter than crickets.

Whatever the case, the death rate among the birds was "heavy," according to one published report. "Tremors and other symptoms of poisoning implicated Kepone as the cause of death."

As indicated, that was in 1962. The point is, long before Kepone poisoning struck workers in Hopewell, Va., one to two years ago, long before the environmentalists discovered they were knee-deep in still another ecological crisis, a slew of previously published studies on the compound's toxicology were out in the public domain and available for reading.

"Physiological and Endocrinologic Effects of the Insecticide Kepone in the Japanese Quail (1963)" cited "whole-body tremor," liver enlargement, and death. "Chemical Inhibitors of Ovulation in the Pigeon (1964)" described "heavy tremors" but no apparent ovultory effects in pigeons.

However, "Effect of Kepone and Mirex on Reproductive Performance in the Laying Hen (1964)" said Kepone "reduced" egg production, resulted in weight loss and left newly hatched chicks with "quivering extremities" and barely able to stand.

Moving on, "Effects of Insecticides on Reproduction in the Laboratory Mouse (1964)" reported smaller, less frequent litter among mice fed Kepone. A second-generation experiment with their "children" also showed "decreased reproductive success."

Once, when Kepone was under consideration for use against the fire ant in the southeastern U. S., the American Chemical Society's news service reported presentation of a paper calling Kepone "moderately toxic to quail and pheasants."

According to that 1961 statement, "Birds will survive for extended periods when fed diets containing 100 parts per million (about 3 ounces per ton of feed), but die when fed diets containing higher concentrations or when the daily intake of Kepone exceeds 25 mg/kg (milligrams per kilogram)."

The same release noted aberrant sexual and reproductive results. Males of both gamebird species lost their distinctively colorful plumage, while reproductive rates dipped markedly.

What all this adds up to is a red flag aptly expressed in "Cellular Changes in the Gonads, Livers and Adrenal Glands of Japanese Quail as Affected by the Insecticide Kepone (1974)," and that is: "Kepone . . . interferes with the reproduction of birds and mammals and affects various organs of the body."

As some experts will tell you, these findings have been available for some years. And in some circles, they were well known. Even more, Allied Chemical Corp., developer of the pesticide, itself came up with early toxicological studies of Kepone effects in dogs, rats and rabbits—all mammals.

One finding: "The characteristic effect of this compound is the development of DDT-like tremors, the severity of which depends upon dosage level and duration of exposure."

Not all the findings were negative, but the studies do mention depressed growth, Kepone's characteristic fat-seeking property, kidney lesions in female rats and atrophy of the testes in males as unpleasant side effects under some dosage levels.

They also cite various liver abnormalities—liver enlargement, liver "congestion," liver lesions.

"In rats surviving for between one and two years on (the test) diet, two tissues, liver and kidney, presented lesions that were subjected to special study and interpretation," says one Allied report.

Why special study? "In the liver, the problem concerned a possible carcinomatous nature of the lesions seen in six rats."

There it was, 15 years ago, the most ominous red flag of all, possible carcinoma—or cancer.

The six rats had been fed diets ranging from 10 parts per million (ppm) Kepone to 25 ppm for two years. Other rats, fed at levels of 50 and 80 ppm, long since had died off. Another group, eating only 1 ppm, had raised no cause for alarm. And now, after 104 weeks on diets of 10 or 25 ppm, six suspect rats had these strange liver lesions.

Faced with that question, Allied's researchers farmed out liver sections from five of the rats to three experts, among them a scientist at the National Cancer Institute (NCI) here. With its own research pathologist also contributing his evaluation, Allied got these results:

One doctor consistently defined his analysis as hyperplasia, or proliferation of cell growth. This can be a warning of possible cancer development, but it also can signal other problems. Another of the outside experts defined four of the five samples as carcinoma, or cancer. As for Sample Five, he commented, "atypical areas not quite enough to call cancer."

The NCI scientist weighed in with two noes, two "suspects" and one positive for carcinoma. Allied's pathologist, looking at all six anmials, rated five as "evolving carcinoma" and one as suspect.

Although the layman might consider the consensus leaned more heavily towards a positive cancer risk, the study's conclusion was: "From the lack of uniformity of interpretation it would appear that the question of whether or not Kepone has potential hepatocarcinogenic (liver cancer) properties remains equivocal. However, its hepatotoxic (liver toxic) potency at these concentrations appears clear."

Also clear, no matter how inconclusive one might call the study, is the fact that questions about the possibility of Kepone's cancer potential were raised more than a decade before production workers in Hopewell, Va., were exposed to the stuff.

The question was raised by researchers for the company that created and marketed Kepone. Ironically, too, the research involved a staffer at the same National Cancer Institute that found Kepone to be a cancer agent in laboratory rodents just last year.

In addition, some of Allied's toxicological data were gathered by researchers at the Medical College of Virginia, the same institution that wound up treating the sickened workers from Hopewell 15 years later.

Not surprisingly, the toxic effects the Kepone workers suffered echoed symptoms reported in many of the early studies among birds and mammals. For instance, tremors and sterility problems.

As for the cancer risk, Virginia's state epidemiologist, Dr. Robert S. Jackson, says, "We know that the cancer that was caused in animals was caused by very small amounts, compared to the amounts these people were exposed to."

Then there is the environmental threat posed by Kepone contamination of the James River and its marine life. Low Kepone levels have turned up in the blood of about 20 people who consistently ate fish from the river, became worried after learning about the pesticide's presence and went to their doctors for blood tests.

Thus, for now the most obvious "food chain" threat to humans stems from contaminated marine life—fish. As state epidemiologist Jackson explains it: "Kepone is cumulative in the body. The body has no mechanism for ridding itself of it. Consequently, if you get a little bit today, a little bit tomorrow, and a little bit the next day, you end up on Saturday with the accumulation of those three doses."

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[From the Washington Star, Sept. 25, 1976]

## PRODUCERS DISCUSSED KEPONE'S POISON POTENTIAL OVER DINNER

(By Brian Kelly)

A lunch and a dinner, both in 1974, figure as a pair of revealing bench-marks in the unfolding Kepone tragedy at Hopewell, Va. On the dinner occasion, very early in the year, conversation among the men preparing to start up production of the fine gray powder turned at one point to its poison potential.

By one principal's account, they referred to a "producer data sheet" indicating it would take a lot of Kepone to be harmful—"it would take maybe five cupfuls or more to be fatal to a small child."

Months later, in October of 1974, Wolfram Spiess from the West German firm of Spiess & Sohne dropped in on officials at Allied Chemical Corp., developer of the pesticide, had lunch with them and talked about his company's growing production needs.

Producing around the clock, his firm wanted more and more Kepone. The only source in the world, of course, was Allied's new subcontractor in Hopewell, Life Science Products.

By Allied's account, the pesticide that triggered environmental disaster in Virginia was a minor item in any accounting of the giant firm's wide interests. It never kicked in more than $200,000 in net profits, according to one Allied official.

Yet, even as Life Science workers were showing the first signs of Kepone poisoning, the European market for Allied's little-known pesticide was growing by leaps and bounds. And the pressure was being felt back in Hopewell.

In its brief lifetime of 16 months, Life Science often was achieving production runs of 6,000 pounds a day, double its initial design capacity. The two entrepreneur-chemists running the newly formed Life Science operation have made it clear they probably could have sold even more than the 1.7 million pounds of Kepone they turned out from early 1974 until illnesses among their production workers forced the subcontracting plant to close down in July of last year.

"We were not getting it produced as rapidly as I think it might have been sold," says William Moore, co-owner of the small Hopewell firm.

And it's no wonder, considering what Wolfram Spiess reported at his luncheon meeting with Allied personnel two years ago.

Spiess and Sohne relied upon Kepone for production of its own pesticide product Despirol, which was used on potato fields throughout Eastern Europe, Spain and Portugal. And Despirol was going over big.

As Spiess was telling his luncheon companions from Allied, his firm had experienced a three-fold increase in its Kepone needs from 1971 to 1974.

By now, too, Spiess was operating from a newly expanded plant. The German firm was running off its product 24 hours a day with replacement equipment standing in reserve and ready to be thrown into the line in case of any breakdowns.

Further, they were looking at test data showing their Kepone-based pesticide would be effective in protecting corn, rape seed and sugar beet croplands, as well as potatoes.

The firm's Kepone demand for 1974 doubled from the previous year, reaching 1.2 million pounds. And Spiess anticipated buying 2.2 million pounds in the following year, just for the potato field market.

One reason was a new Russian interest in Despirol. By 1974, Soviet agricultural experts had tested the Spiess firm's pesticide, and reportedly were happy with the results. Spiess was looking for a big order from the USSR the following year.

He said the firm would like to sell in Red China, too. His Allied friends promised an effort to develop a Chinese contact for him when their people visited an upcoming trade fair at Canton.

At Hopewell, however, not all was going so well on the production line behind the one-time gas station building that served as a front office for Life Science. By overwhelming eyewitness accounts, the Kepone operation was an incredible mess—dust flying through the air, the floor of a seldom-used shower caked with Kepone and powdery residues covering everything, saturating the workers' clothing, getting into their hair, even into sandwiches they munched in production areas.

"My hair, you couldn't comb your hair after you got the dust from an eight hour shift," says Thurman Dykes, who worked at the plant from November 1974 to February 1975. "It would stick to your body."

Considering the real toxicity of Kepone, such worker exposure was bad enough. But the subcontract operation was having effects on its surrounding community, as well. The city sewage treatment plant's solid waste digesters were dead—kaput. Within weeks of Spiess' conference with Allied officials, investigators determined Kepone discharges from Life Science had killed the bacteria in the digesters.

And there were discharges of dust into air.

The Kepone dust sometimes blew, people say, in clouds. A gas station operator across the street says it obscured his view of the Life Science plant. The former operator of an icehouse, across another street, says the discharge left a visible film of white dust in his office and once drove him and a colleague off their loading dock and into the freezer room. Two firemen stationed behind Life Science say there were times when they wondered if they could see well enough to wheel their engines out in response to a fire alarm.

In defense of Life Science, it should be noted the firm did work with federal, state and city officials to correct the discharge deficencies. Over a period of time, the firm did install costly environmental controls designed to end or to reduce both the air and water pollution.

But apparently no one thought to correct working conditions inside the Kepone plant. Or to warn workers against carrying the dust home in their clothing for laundering.

The wife of Thurman Dykes conceived a child while her husband spent his four months at Life Science. Later, when the boy was born in September 1975, he exhibited a liver malfunction. Medical tests showed he had a low level of Kepone is his blood.

* * * * *

"Mr. William Moore insisted that we do everything by the book, and he insisted on careful attention to detail," former Allied supervisor Jameil Ameen reported early this year. "He also insisted that the plant be kept clean at all times. He made frequent inspections of the plant and was impatient with sloppiness."

But Moore contends he seldom visited the Life Science production area. He left the physical operation to the charge of his partner and secretary of the firm, Virgil Hundtofte, also a former Allied executive.

And Hundtofte has acknowledged, in a Senate subcommittee appearance: "I insisted on a standard of what we were capable of, and that happened to be not keeping it clean at all times, because we did have material on the equipment and on the working surface."

As for safety equipment for Life Science workers, Hundtofte said it was there, but acknowledged that rules calling for respirators in particular were "not always enforced."

Both owners say they didn't know Kepone was making their workers sick. They didn't connect the plant's high employe turnover with working conditions. Although they kept a "black binder" containing toxicity information on Kepone, they say, they didn't know how dangerous it really was.

By Hundtofte's description, the black binder largely contained material on Kepone's use as a pesticide, with short, allegedly inconclusive articles giving toxicity data on dosages fatal to pheasant or other animal populations.

According to him, Allied never furnished the Life Science entrepreneurs old (1960 and 1961) studies reporting damaging Kepone side effects in mammals given less than fatal dosages. In one 1961 study, researchers for Allied raised the question of possible liver cancer in six suspect rats, in addition to noting more prevalent symptoms seen in test animals, such as tremors.

"The real tragic thing in this is that we did not know the degree of toxicity that we were really coping with," he contends.

When all this was discussed before that Senate subcommittee last January, Hundtofte was asked why he didn't make more of an effort to investigate the real danger of the product "you were working with.".

Saying he had no reason to suspect Kepone's true "insidiousness," Hundtofte also cited the production pressures. He blamed "an operation where we were struggling to make the production, which was increasing even from the outset of the venture."

The "stress" was so "overwhelming," Hundtofte said, he didn't "have an opportunity to really review too much of that consideration."

And at that early 1974 dinner meeting, there was that product data sheet that "indicated it would take maybe five cupfuls or more to be fatal to a small child."

At the same time, Hundtofte admitted he was aware perhaps "half" of the production force broke out in skin rashes, but he claimed he didn't know many also had the so-called "Kepone shakes."

He and Moore both recall the time plant supervisor Del White came to them in the fall of 1974 with a physical complaint and to ask if it could be blamed on Kepone. By their account, White complained of a shaky, nervous feeling, and Hundtofte advised White to see a doctor, but he didn't.

Hundtofte recalls, "We sat down and went over the very meager amount of information that we had regarding (Kepone) toxicology." * * *

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[From the Washington Star, Sept. 27, 1976]

### SHAKY AND CLEARLY ILL, HE NEEDED THAT JOB IN KEPONE PLANT

(By Brian Kelly)

Then there was the Kepone production worker who became ill, was hospitalized for a week, returned to work, allegedly was refused payment for the week he missed, again became sick and entered another hospital.

This time, he ran up a bill of $1,800. And one of the doctors checking him out said his working conditions might have something to do with his illness.

Find a job somewhere else, the production worker was told.

He tried. But appearing shaky, unsteady and clearly ill, he couldn't get another job. He still owed the $1,800, and he was falling behind on his child-support payments.

So he went back to work at Life Science Products in Hopewell, Va., makers of the toxic pesticide Kepone.

Finally, according to Virginia's state epidemiologist Bob Jackson, "this man, a very unfortunate fellow, got sick one morning at 5 o'clock he literally could not stand up. He shut down the equipment and left, as he was the senior person there."

But that's not the end of the story.

When state and federal health officials began tracking down the Kepone plant's former workers, they found this man close by—in the Hopewell jail where he had been placed on non-support charges. And he did have Kepone poisoning.

Actually, says Jackson, Kepone workers displayed their first symptoms within three weeks of production "start-up" at Life Science in March 1974. And 75 evidently came down with at least mild symptoms of Kepone poisoning before Life Science agreed to close down in July 1975, some 16 months after start-up.

During those 16 months, it now appears, two dozen or so workers had carried complaints to physicians or hospitals emergency rooms in Hopewell or nearby communities. During that time, many Life Science workers speculated that their growing health problems came from the little-known compound they were making. They joked openly in their plant about the "Kepone shakes."

Why didn't somebody catch on? Where were the doctors? Why did the men keep on working?

A puzzle all right, but some of the pieces seem to be these: Workers making good money. Workers who needed the job. Workers with a certain machismo attitude toward the hazards of their job. Workers with no union and relying upon management—and their impression that nothing could be wrong because "The Government" wouldn't allow it. Government agencies asleep at the switch. Doctors nodding off on their job. Workers whose symptoms, similar to those of an alcoholic or drug addict, made it tough to get other jobs.

Then there was the case of a man who worked at Life Science for a month, quit and went to work for a trucking firm. Fellow production worker Don Fitzgerald tells the rest of the story.

"He got laid off there because he shook so bad, and came back and went to work at Life Science."

Those "Kepone Shakes"—the constant, prevailing symptom that all the workers apparently knew about, that many suffered.

"Everyone I seen had the shakes," says Thurman Dykes, who worked at Life Science for four months. When he first joined the production line: "They said, wait until you get the shakes. I thought it was a joke They ran around and said you are going to get them—what they called them was 'the shakes.'

And indeed, Dykes did. But the only time he went to a doctor during his four months at Life Science was for treatment of his eyes after Kepone-laden dust blew into them. He didn't seek medical help for his growing shakes, but many of his co-workers did. And they were diagnosed as nervous, as hypertension cases, as overworked and so on. Often, they were sent home with tranquilizers.

But Jackson says, "the symptoms of Kepone poisoning, now easily recognizable, begin in a non-specific pattern, and those who sought medical assistance were misdiagnosed and mistreated because of the lack of suspicion of the possibility this was related to a toxic substance."

Also, "where there are multiple doctors in town, many times the workers will not all go to the same one, and consequently, should a pattern of unusual illness develop . . . it might not be picked up because it would in fact be an isolated case to the physician who was seeing it."

Then there was the case of the very first Life Science worker public health official Jackson saw in Hopewell last year. "The first man was so sick he literally could not sit up by himself. He had to support himself on an examining table with both hands, with his head against the wall, and with his bottom sitting on it in order to stay upright."

As Jackson says, there was nothing "subtle" about those symptoms.

Yet, "he had been in and out of the doctor's office over the past week without anybody apparently giving any thought to the fact that this was a toxic substance that caused neurological illness."

More generally, Jackson also says industries, "which purport to have a medical program" often employ "a semi-retired physician or part-time physician . . . who is not by training, nor by motivation, particularly concerned or interested in the problems of occupational health."

Sometimes, such doctors "work for industry because of the improved hours, the adequate compensation for a less busy life."

And in health officer Jackson's view, "it's generally not the most aggressive and well-educated physicians available." Often untrained in occupational medicine or unfamiliar with their plant's production process, he says, such physicians "primarily spend their time filling out Workmen's Compensation forms for ankle injuries, burns, conjunctivitis and what-have-you."

In the case of Life Science, Jackson adds, the firm had an "informal arrangement" with three general practitioners treating employes for job-related injuries. A review of Workmen's Compensation claims for Life Science employes showed "not one single reference to any of the Kepone symptoms which are now so well defined and clearly were present in many of the workers," Jackson says.

Then there was the case of Dale Gilbert, a shift supervisor who had been suffering the shakes for months, who by June of 1975 also began having severe chest pains. "I fought it out until July." Then, he says, he went to the "company doctors."

The doctor he saw, "told me he thought it was hypertension." Afterwards, in the car with his wife Janice, Gilbert said, "that's not my problem."

So he went to Dr. Yi-nan Chou, a young, new internist in town who was puzzled "by all his problems." It was Chou's first session with any Kepone worker. He asked Gilbert about his workplace and what they made there.

"I couldn't put anything together on the patient's symptoms," says Chou. He sent a blood sample to the federal Center for Disease Control at Atlanta, Ga., for analysis. The CDC found Kepone in Gilbert's blood. The whistle finally was blown. In days, Life Science no longer was in the Kepone business.

Still, one must ask why the workers kept on working all that time?

According to Dr. Sidney Houff, who later treated the pesticide victims at the Medical College of Virginia, the Kepone workers "were a group of men, most of which were at the high school education level, who believed in their employers and, as one stated to me, believed that the government and the state would never allow something like this to occur.

"They believed them when their employers told them it would not hurt them. They went back to work."

Some of course did not. Life Science had a high turnover. In 16 months, about 150 persons worked at the small plant, which normally operated three shifts a day with a 25-man staff. Dykes recalls, "They hired just about every day . . . like a lot of guys came . . . and they were back there in the dust and they said they could not take it. They quit."

But many stayed on. There was the case of Del White, the plant superintendent who once told Don Fitzgerald, "If I was you I'd get the hell out of this stuff."

White had the shakes for a long time, Fitzgerald recalls. "He used himself as an example. He did not state it was not harmful. He used himself only as an example and said that he had been there for over a year; he had the shakes continuously, but it did not seem to have any other harmful effect, he did not think there was anything to worry about."

Then there was the time—he says it was in the fall of 1974—that White complained to Life Science owners William Moore and Virgil Hundtofte, both of them former executives with Allied Chemical Corp., original developer of Kepone—and both, according to Allied, experiencd in the giant chemical firm's own production of the pesticide in earlier years.

By their account, White complained of a "nervous" feeling, and asked if Kepone could be the problem. All three men then went over the toxicity information Life Science kept in a "black binder."

Hundtofte calls it "very meager" information and complains that Allied failed to give the Life Science subcontractors adequate toxicity material.

Early this year, he said he only became aware of "some shakiness" among his workers in about June 1975, adding, "I am puzzled as to why I was never approached."

White's story is different. "I noticed in October of 1974 I started shaking. My wife noticed and was real concerned."

Adds White: "I called Mr. Hundtofte and told him: 'We got a problem. There's just too many people that are shaking.' He said we'd discuss it in the morning."

They had the meeting. As a result, says Moore, White appeared satisfied that Kepone was a stomach poison that wouldn't account for his problems. And Hundtofte says their foreman didn't follow advice to see a doctor.

Declaring, "I trusted these two men," White says they suggested he might have been working too hard, and he thought they might have been right. As for the information in the black binder:

"He (Moore) showed me that black book. He said there was absolutely nothing out there (in the production area) that could hurt a human being."

Moore strongly denies making such a statement. "I say this is absolutely not true," he said in a congressional appearance early this year.

But Hundtofte, in the same Senate subcommittee hearing, suggests they did give White some kind of explanation. If Life Science had been given toxicological studies that MCV performed for Allied years earlier, Hundtofte said, "I have to feel that . . . at last we would have been able to consider some of the side effects . . . that maybe he (White) would not have accepted my explanation and Bill Moore's explanation."

As for information available on Kepone, Arthur R. Paterson, head of Allied's chemical physics department, says the compound was not "some sort of new Andromeda Strain." Citing various toxicity studies conducted from 1958 to 1974 he also says Kepone is not "particularly toxic" compared to other pesticides.

"As the many reports submitted to government agencies over the years make clear, however, Kepone is not a toy," Paterson told the Senate subcommittee, "It is, as its name suggests, a pesticide designed to kill pests, and like most pesticides it will injure and perhaps kill humans if mishandled."

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[From the Washington Star, Sept. 28, 1976]

### A Dead Man's Secret: How Much Did He Know About Kepone?

(By Brian Kelly)

Back in January 1962, someone at Allied Chemical Corp. wrote someone else at Allied a little note reporting word of some tests at Ohio State University showing that Allied's pesticide, Kepone, "affects the human reproductive system similarly to the way it affects quail and other birds."

The in-house memo gave a "Dr. DeWitt" of the U.S. Fish and Wildlife Service at Laurel, Md., as source of the information. The memo also said DeWitt was very "closed-mouthed" and would volunteer no more, "except to say that nothing has been published on this subject as yet."

And one other thing: In response to a request from the National Cancer Institute, DeWitt already had supplied the federal government's cancer researchers a sample of Kepone.

That was all. A mysterious footnote to the baffling disorder discovered among Kepone production workers in Hopewell, Va., in July 1975—nearly 15 years later.

Doctors treating those men at the Medical College of Virginia got wind of the memo, which turned up in the files of Allied's subcontractor and Kepone-maker at Hopewell, Life Science Products. And neurologist, Sidney Houff pounced on the sheet of paper.

As he explains, if someone suffered Kepone poisoning so long ago, it could be important today.

"If, in 1962, if by chance, there were people who were sterile, then we have, what, 13 years, that we can project and tell these patients what is going to happen to them.

"I do not know how you test the human reproductive system without having a human ingest the material. I doubt seriously in 1962 the material was given to the people experimentally.

"This concerns me . . . I would like to know more. I would like to know if there were any human intoxications and what the outcome was."

But Houff and his medical colleagues at MCV never were able to track down the mysterious reference.

Of course, it may only be that DeWitt—apparently the same James B. DeWitt of the Fish and Wildlife Service who conducted early toxicity studies on Kepone, DDT and other pesticides—was extrapolating the discovery of Kepone's adverse effects on bird reproduction as a warning that the same could happen to human beings. However, he can't tell us, because he is dead.

Meanwhile, Dr. Tony Peterle, head of Ohio State's zoology department, says he knows of no early evidence of Kepone's effects on humans. And a former Ohio State researcher who took part in Kepone studies there in the early 1960s asserts the Allied memo must be a mistake.

"That could not possibly be correct, because we never worked with humans," says Dr. George W. Ware, now of the University of Arizona. "And I know of no one who did . . . We had no way to test humans. Good heavens, no!"

As Houff notes, "Kepone poisoning" in humans was brand new to the staff at MCV, although some of the medical school's researchers performed Kepone toxicity tests on animals for Allied in the early 1960s.

"We've searched the literature repeatedly for human intoxications, and we have not been able to find one case that I know of in the medical literature that we have available to us.

"Our patients ask us over and over again, 'What is going to happen to me?' " Houff said in congressional testimony last winter. "This fear is predominant in their minds, and the fear is one that is justified, one that we would like to be able to at least bring out of the dark into some type of light."

Of course, it turns out Kepone does have an impact on human sex organs—and a lot more. Attacking the central nervous system, it is best known for the "Kepone shakes" that workers joked about on the production line. In the human victims exposed more than a decade after the mysterious DeWitt warning, the pesticide produced acute toxic effects demanding—and defying—treatment, with the ultimate outcome still unknown.

In addition to the "shakes," other problems include weight loss, liver tenderness and enlargement, possible brain damage, unexplained pains in the chest, memory loss, personality changes, tremors of the eye and, in extreme cases, a "gait" loss rendering the patient unable to walk or stand.

And then, too, based upon a report from the National Cancer Institute late last year, there is the fear of cancer.

Neurologically, many of the Kepone-induced problems were understandable, the doctors say, but some symptoms and their cause were a mystery.

According to a report last January from Dr. John Taylor, assistant professor of neurology at MCV and the physician in charge of Kepone treatment, "Our patients had pain in their chest, and they complained of pain on breathing." Yet X-rays, stethoscope readings and "fairly sophisticated" studies revealed no abnormalities of the lungs.

In addition, two patients displayed signs of "pseudotumor" in the brain, or unexplained intracranial pressure. Meanwhile, sterility studies among 14 men showed "all 14 are abnormal," with seven of them having a reduced sperm count.

"Sterility, in this particular instance, is a relative thing," Taylor told a Senate subcommittee last winter. "As long as you have any sperm, it is possible to have a woman conceive, but it becomes relatively unlikely with these particular counts."

And Taylor still says the future fertility of the victims remains an unknown.

Then there are the "personality and mental problems." All but one of the victims under treatment at MCV had "definite complaints," Taylor told the subcommittee. "We have several able psychologists, and they confirm that they truly have problems."

According to the neurologist, "there has been some of what we would call sociopathic behavior on the part of several individuals who had no such prior history." In addition, depression also has been a reaction seen among the young victims aware of their uncertain health future.

One patient twice has attempted suicide—once by taking an overdose of his medication, and another time by attempting to leap from an MCV window. Another patient spent two weeks in a private mental hospital. Still another, said to have been calm and easygoing before his exposure, threw a hammer through his car window.

What Kepone does, metabolically, is circulate through the body in the blood stream, gathering in the brain, liver and spleen, but also seeking out the fatty tissue as a threatening storage bank—threatening because even if Kepone in the blood could be filtered out, more is bound to seep back from the fat.

* * * * *

In other words, the medical profession still hasn't found the answer, "We're in the process of investigating various treatments," said MCV's Dr. Philip Guzelian just the other day. Guzelian, an assistant professor of medicine, heads up the medical school's Kepone research program, which incidentally is the recipient not only of federal funding but also of a study grant from Allied.

As Guzelian explains it, the doctors have two choices: First, find an antidote for Kepone poisoning. Figure out what the compound is doing to body cells to produce toxic effects and attack the stuff at that level.

Or, dismissing the mechanics of toxicity as too complicated to deal with, simply find a way to flush Kepone from the body. And this is the course MCV has chosen to pursue.

Working with a group of 35 to 40 patients, the MCV team has embarked on clinical drug trials and research aimed at defining, then speeding up, natural routes of elimination. According to Guzelian, one problem is a lack of knowledge about the role of organochlorine pesticides such as Kepone in the body's metabolism. But he said the doctors are hopeful that the drugs they now are testing will produce an excretion route, probably involving the liver.

Meanwhile, has there been improvement?

Last January, Taylor reported: "There was an initial improvement in all the patients. We were quite elated.

"However, they showed periods of regression rather rapidly, as a matter of fact, and as it turned out, after several months, their improvement has slowed to virtually a halt, and they have remained at kind of a steady state since then."

Now, eight months later, Taylor can say "there's been some improvement in some of the patients," but he adds it's too early to say if that progress will be lasting. Symptoms could persist even if the doctors do manage to flush out the Kepone.

"Even if we get every bit out," Taylor now says, "some patients still might have residual symptoms."

And no wonder. The Kepone victims have had what one doctor called "enormous" levels in their blood. Liver counts in eight patients ran from 13,330 nanograms per gram (a nanogram is one billionth of a gram) to 173,000 nanograms per gram—"astronomical" figures, by Houff's terminology.

Even worse than the immediate toxicological effects is the cancer threat cited by Taylor and Houff last January. "We feel that there is a significant risk of cancer in these patients in the future," said Houff, who now is a researcher at the National Institutes of Health here. "We feel we should watch them very closely over the next 10 or 15 years."

Which is the main reason he still would like to see that mysterious, 14-year-old reference to "the human reproductive system" explained away.

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[From the Washington Star, Sept. 29, 1976]

### Why Governmental Agencies Didn't Respond to Kepone Threat

(By Brian Kelly)

From the air board to the water board; from state health to the federal EPA; on to federal occupational safety; to the big state medical college in Richmond; to the city engineers and other officials in Hopewell—believe it or not, Kepone-related inquiries or problems repeatedly bounced around various governmental agencies long before the pesticide's dangers came to public light in 1975.

The fumbling and bumbling now known make up a sad record of missed opportunities that allowed Kepone production to continue—as both a health menace and an environmental pollutant.

One clear-cut case, perhaps the biggest fumble of them all, was the federal Occupational Safety and Health Administration's handling of a complaint from a Kepone production employe in September 1974 about his working conditions.

The safety warning came from Orben R. DuBose, a worker—yet not exactly a worker, it turns out—in the dryer room of the Life Science Products plant at Hopewell, makers of the toxic powder. Lapsley Ewing, head of OSHA's field office in Richmond, tells what happened when DuBose showed up.

"Mr. DuBose was a walk-in." Which means the Life Science worker walked into OSHA's Richmond office with the complaint that Kepone dust was blowing into his face on the job. "He was directed back to a compliance officer, a Mr. Prochaska.

"Mr. Prochaska asked him what his problem was and he said, 'I wish to complain about the safety conditions at the plant'—Life Science Products.

"So Mr. Pochaska, following a normal procedure, gave him an OSHA complaint form to fill out.

"He said, 'Fill this out, and as soon as you get this filled out, I will talk to you . . .'

"When Mr. Prochaska sat down with Mr. DuBose, he learned that Mr. DuBose was not currently a member of Life Science Products. Mr. Prochaska said, 'We can't process this as a regular safety complaint because you are not an employe there anymore, but we will see what we can do in another area.'

"Mr. Prochaska asked, 'Why were you fired?'

"And Mr. DuBose explained then that he had gotten into a controversy with the supervisor at the plant on the night of Sept. 10, 1974, concerning a job that he was instructed to do. That job was to clean some gears in a drawer. He said that made dust come up in his face, and that Mr. Hundtofte and Mr. Moore (the firm's two owners) had told him previously that he didn't have to do that job with the dryer running.

"I talked with Mr. Prochaska just the other day, and he said at that time Mr. DuBose said that they had respirators, but he wasn't wearing one.

"He had a dust mask of some sort.

"So Mr. Prochaska said: 'Well, if you were fired because you complained about safety, maybe you have a case of discrimination here. Maybe we can investigate it and get you your job back. There is a provision in the act for that. Were there any witnesses?' "

According to DuBose, there was a witness to his argument with his foreman over the dust issue. So, OSHA's case worker told the dryer operator they would get in touch with the witness to corroborate the story because the burden of proof in any proceeding against Life Science would rest on OSHA.

As it turns out, OSHA was unable to find the witness. The federal work-safety agency then wrote Life Science a letter—on October 17, 1974—reporting DuBose's complaint that he was fired for following proper work-safety procedures. OSHA asked Life Science to submit "a statement of your position in this matter" by Nov. 11.

On December 9, Virgil Hundtofte, one of the small firm's two owners, replied with a letter disputing the former worker's account, and criticizing his prior job performance. Hundtofte's letter said that on the night of DuBose's argument with his foreman, proper procedure was being followed.

By Hundtofte's account, DuBose "ignored" his foreman's verbal instructions, declared he "was not required to work under these conditions," and started to leave. He also told a second worker to leave, too.

As a result, adds the Hundtofte letter, DuBose's supervisor "then advised Mr. DuBose that if this was his position, he should proceed to the locker room."

Armed with this information—the worker's complaint, the company's reply and no witness—OSHA next suggested to DuBose that he himself try to locate the co-worker who witnessed the argument. Otherwise, OSHA let the matter drop.

When he heard this story at a subcommittee hearing last winter, Vermont's Sen. Patrick Leahy jumped on the agency's inaction.

"Too often we get carried away with the federal government with everything being in proper form," he declared.

"If it is not on form No. 5, we can't consider. If you are found murdered, sorry, it has to be form 6. There is a section in the paper called 'Gobbledygook.' I could make a fortune from the ones that come across my desk in the Senate. . . .

"Let us not lose sight of what the (DuBose) complaint said.

"The date received was 9-20-74. Here they have the employer's name: Life Science. Kind of business, pesticide. Where alleged violation is located—dryer, top of dryer. . .

"Kind of business—pesticide.

"Complaint—fumes and dust coming up in your face."

In addition, Leahy noted the OSHA form reporting DuBose's complaint had a section asking, "Does the hazard threaten death or immediate physical harm?" The answer marked was, "Yes."

Meanwhile, with pointed prodding by Leahy and Chairman James Allen of Alabama, OSHA's Ewing continued the DuBose story at their subcommittee hearing last winter:

Question: "He wasn't making any discrimination complaint when he went there, was he?"

Answer: "He said he wanted his job back. He said he was out of work."

Q. "I understood you to say that he came in and said he wanted to report the safety conditions there, was it not . . . he wanted a report on the safety conditions?"

A. "Yes."

Q. "Yet you (OSHA), in effect, twisted his complaint around and told him he might have some rights on the discrimination charge?"

A. "Well, at the same time we did pursue the safety complaint aspect of it."

Q. "How did you pursue it?"

A. "Prochaska called the industrial hygienist over who happened to be in the office at the time and had him sit in on part of the discussion with Mr. DuBose. Neither Prochaska nor the industrial hygienist knew at that time what Kepone was. He (DuBose) said it was a pesticide. In order to pursue the safety and health side of it, he (Prochaska) turned the safety or health aspect of the case to Mr. (Bob) Starkey, the industrial hygienist.

"He said something to the effect that, Bob, we have a pesticide here. How about checking it out and seeing how dangerous it is and so forth?

"Starkey looked up what meager literature he had available to him—in fact, it wasn't provided by OSHA—he brought it with him, and he determined that Kepone did not have the high toxicity rating that we know it has today. He looked at it particularly in its application dilution, and that is all the literature he had on Kepone.

"Bob told me that Kepone is known as one of the safest pesticides in the application stage that we have for humans."

Q. "We are talking about manufacture (rather than pesticide usage)?"

A. "That is right, sir, but we had to use what literature we had on it."

Q. "You didn't have much of a library on it?"

A. "Bob's personal library is all we had."

Q. "Didn't you have access to the dozens of articles on the toxicity of Kepone? Dozens and dozens of articles appeared."

A. "There is no formal procedure for transmitting such information to an area office."

Q. "Don't you think it would be well to seek to gain access in your various area offices to some of the information about the chemicals that you are to inspect?"

A. "Yes, sir.

"Bob did call the Virginia Department of Industrial Hygiene (a bureau, actually, within the state health department), because he used to work there. He talked to some of his friends who also were industrial hygienists and asked them if they had any information on Kepone. He said they weren't able to provide him with anything more than he had in his own files."

Q. "The best way to have reached it would have been to go down and check on it, wouldn't it?"

A. "In hindsight, that would have been the best way, sir."

Q. "How far is it from Richmond to Hopewell?"

A. "About 30 miles."

Actually, by speedometer, it is only 18 miles.

## TRIBUTE TO RITA BUCKINGHAM, PERSONAL SECRETARY

Mr. FONG. Mr. President, in view of the impending final adjournment of Congress and my forthcoming retirement from the Senate, I rise to pay well-deserved tribute to my excellent personal secretary, Mrs. Rita Peine Buckingham, who has served me so faithfully and so outstandingly since the very day on which I took the oath of office in this Chamber—August 24, 1959—as one of the first two statehood Senators from the new State of Hawaii.

Before joining my staff, Rita had served for 3 years with the Senate Republican Policy Committee and, before that, 4 years with the Federal Bureau of Investigation. This prior training made Rita an unusually valuable staff member for me because I took office in midsession of the Congress as a freshman Senator from the 50th State. Her knowledge of office procedures, legislative procedures, and countless other matters helped me immeasurably to fulfill promptly the many duties of a U.S. Senator.

After Congress adjourned in 1959, my wife Ellyn and I journeyed at our expense to 14 nations of the Far East. I selected Rita to accompany us and she proved of inestimable value.

Rita is a top-notch secretary of executive caliber. She is not only highly proficient in secretarial skills, but she is also highly intelligent and possesses both an amazing memory and a great capacity for good judgment.

Over the past 17 years, Rita has handled a myriad of details and a variety of assignments I have given her with great efficiency and dedication.

She has been particularly diligent in making sure that—whether I was in my office, or in a committee meeting, at the White House, or wherever—I was informed of any rollcall vote in progress, so that I could go to the Chamber and cast my vote.

I owe a deep debt of gratitude to Rita for her conscientious, skillful, and dedicated service and her undivided loyalty to me all these years. She has given unstintingly of her time and energy and talent in my behalf and in behalf of the people of Hawaii.

I have indeed been fortunate to have such a capable and diligent person in the key post of personal secretary.

I want also to thank her husband, Bob, for his patience and understanding on all those occasions when dinner was delayed or their weekends shortened because Rita was needed on the job.

Ellyn and I wish both Rita and Bob and their children, Andrew and Angela, every happiness in the years to come, and we say "May your blessings be as full as the Eastern Ocean and your life as everlasting as the Southern Hills."

Mahalo, Rita, thank you for a job well done and aloha.

## NEW FARM LEGISLATION NEXT YEAR

Mr. HUMPHREY. Mr. President, I am happy to associate myself with the recent remarks of Senator TALMADGE, chairman of the Committee on Agriculture and Forestry, calling for "a substantial increase in price supports" in our farm legislation next year.

Senator TALMADGE directed the committee staff to begin work as soon as Congress adjourns early next month on a bill which would extend the principal features of the present farm program.

He suggested the need to increase the loan rate for the basic crops—feed grains, wheat and upland cotton—to about 80 percent of the cost of production, and to provide a target price approximating 100 percent of the cost of production.

In 1975, Congress passed the 1-year emergency farm bill to provide modest increases in the target prices and loan levels for basic crops.

That bill was vetoed by the President, but there were not sufficient votes in the House of Representatives to override President Ford's veto.

Our farmers do not need to be told that they are almost totally without price protection under the presently existing target prices and loan levels.

For wheat, the target price is $2.29 per bushel, while the loan level is $1.50 per bushel. The target price for corn is $1.57 per bushel, with the loan level at $1.25 per bushel.

This translates into a target price for wheat and corn of about 47 percent of parity. The loan level for wheat is the equivalent of 31 percent of parity, and for corn it is 38 percent of parity.

The story is the same in other commodities, with a loan program of $2.50 per bushel for soybeans.

These levels are an insult, and our farm prices have only been slightly above 70 percent of parity in recent years.

Apparently President Ford and Secretary Butz have learned little from the lessons of the 1920's and the days of Ezra Taft Benson in the 1950's.

I applaud the increase in our export markets, and we can, with modest investments encourage further increases in the years ahead.

Growing world demand for our food has helped save our farmers from overproduction and low prices. But the policies of the present administration have left farmers to carry all of the risk.

The only thing that has saved our farmers from calamity has been poor weather in the Soviet Union, with resultant crop failures that have necessitated large-scale imports of commodities. But I do not believe the security of American agriculture should be placed in the hands of the leaders of the Soviet Union.

Our dairy farmers have faced three Ford vetoes in the space of just over a year—bills which would have set supports at 80 or 85 percent of parity and provided for a quarterly adjustment in prices paid to farmers.

As usual, the administration answer was that these bills would cost too much.

Of course, this should come as no surprise. As a Member of Congress, Gerald Ford voted against crucial farm bills in 1955, 1958 and 1973.

To make matters worse, in the fall of 1975 the administration cut off our agricultural exports for the third time in 3 years.

With production costs having increased sharply in recent years, action is urgent. The existing Agriculture and Consumer Protection Act of 1973 will expire at the end of the 1977 crop year.

The congressional budget control legislation requires the committee to complete action by May 15 on bills which affect the budget in the fiscal year which begins the following October 1. Thus, we will need to begin hearings soon after Congress convenes.

## MAO TSE-TUNG AND THE MILITARY

Mr. HARRY F. BYRD, JR. Mr. President, I have seen an interesting analysis of the potential role of the military in post-Mao Tse-tung China, prepared by the Institute of American Relations. This scholarly occasional paper provides a brief but cogent analysis of the role of the military in post-World War II China and sheds some light on the ongoing power struggle within China today.

I ask unanimous consent that the text of this study be printed in the RECORD.

There being no objetcion, the study was ordered to be printed in the RECORD, as follows:

### MAO TSE-TUNG AND THE MILITARY

The success of Communism in China was based to a great degree on the personality and organizational talents of Mao Tse-tung and on his unusual semi-military armed forces.

Mao's theory of "permanent revolution" called for a "peasant" army, flexible guerrilla fighter units which could be used for both para-military and military operations during the struggle for power. Mao also realized that such units especially would be useful in crowd control and police duty whenever needed after taking control of the country.

The growth of Mao's movement in the late 20's and early 30's required a strong internal discipline in the command structure of these units, with the unchallenged authority and personal power of Mao being the backbone of this structure. In order to maintain such political control the professional military cadres always were paralleled at each command level by political agents (commissars), who could countermand the orders of their military counterparts and whose countersignature was required for major action commands. At all levels of command, in addition, the elements of intelligence and counter-intelligence provided for an extended system of checks and double checks. In time, the professional military and political control components of the Communist forces blended into the unique command structure of the Communist army, which survived the Long March in 1934 (which decimated it by 80%), World War II, and the civil war of 1945 to 1949.

After taking control over the country in 1949, Mao Tse-tung proceeded immediately to curtail the direct power of the military and thereby assure his own personal supremacy over all elements of administration and the executive force. For this purpose, in addition to regular armed forces commanded through the system of territorial military zones and centrally controlled by the Ministry of Defense, Mao also created a system of people's police and the worker-militia units, the control and command of which has been placed in the Ministry of Interior and the Ministry of Public Security.

Mao defined this operational setup very explicitly when he said in 1938 that "the Party should command the gun and that the gun must never be allowed to command the Party."

While the supremacy of the Party was generally maintained throughout the period that Mao Tse-tung served as Chairman of the Party—at the top of the command system—nonetheless, at different periods of time, Mao used the military in his schemes of political confrontation with real and potential rivals.

During the consolidation period of 1949 to 1954, for example, the Army was "under the command of the People's Revolutionary Military Commission of the Central People's Government." Mao Tse-tung as head of both the Party and the government exercised supreme command over the entire system of armed forces. This period of continuous purge was very significant in establishing the personal rule of Mao, whose dictatorial and undisputed power over the large territory of Mainland China was secured only by ruthless executions. Mao himself later admitted that about 800,000 anti-Communists were executed in this initial period.

Purges of government officials, mass migrations and the effects of the civil war led to a scarcity of administrative personnel in Communist China in the initial period of the Maoist government. Because of that, the Army cadres often assumed a considerable part of the responsibility for regional administration during this period, from 1949 to 1954.

With the 1954 Constitution of China, the Party was given the leading role in the affairs of the nation—directly in control of all other elements of power—government, army and all other sections of administration.

Under this arrangement, the Army was under the direct supervision of the Party: all commanders of central Army headquarters and all military zone commanders were always prominent communists.

This reorganization additionally abolished former administrative areas and introduced a territorial division based on twenty-eight separate provinces; this process separated the civilian party machine from the Army cadres thus taking from the hands of the Army the administration of local areas.

After 1954, the Army under the leadership of Defense Minister Marshal Peng Tehuai started a period of professionalization. Marshal Peng attempted for five years to create a modern professional armed force, with the best available technical equipment and a chain of command independent from outside interference. In 1959, the suspicious Mao Tse-tung stopped this process. His old friend Marshal Peng was accused as leader of the "anti-Party elements" and in an extensive purge the entire command system of the armed forces was readjusted.

Under the new leadership of the Defense Minister Lin Piao, the political commissar network in the Army was reactivated. New commissars directly from the civilian Party machine were sent into the military to regain domination over the military professionals. By 1965, Mao was ready for the next move, which was based in his new "strength" in the Army.

It was now necessary to overcome the growth of influence of Liu Chao-chi and his ever-expanding administrative system in the entire country. Lin Piao and his new politicized Army were used for this purpose.

This was the beginning of the "Great Cultural Revolution" which was initiated in November 1965. This time the attack of Mao was directed against civilian and Party administrators. Liu Shao-chi and Teng Hsiao-ping were declared leaders of the "revisionist" groups and the civilian and administrative Party machine was almost entirely demolished by the fervent Red Guard cadres. Under the onslaught of the Red Guards only the army under Lin Piao remained organizationally intact. When by 1968 the Red Guard threatened to lead the country into chaos, the Army intervened and re-established order.

But that made the position of the Army and Lin Piao dangerously strong. By 1969, twenty-one governors of the provinces were heading territorial party offices at the same time, and all twenty-one of them had Army background. The Politburo of the party with twenty-one full members had twelve Army representatives, including Lin Piao, by then believed by many China specialists to be the designated successor to Mao. Mao saw that he must put a stop to the Army's potential challenge to his power.

This was suddenly stopped on September 12, 1971, when Lin Piao died in a plane crash during an attempt, it was alleged, to escape to the Soviet Union. Lin Piao's death started a new chain of events. The power of the military drastically declined and the newly reconstituted civilian Party machine once again was placed in power over the military; during this period, many commanders retired or were just plainly dismissed. Veterans Party cadres who had been purged during the Cultural Revolution were now rehabilitated and returned to their previous positions.

During this process the elements of the Party from Shanghai province—the power base of Mao's wife Chiang Ching—moved strongly into a leadership position in the central Party organization. Chang Chun-chiao, formerly secretary of the Shanghai City Party organization, became Director of the Army General Political Department, or in other words top commissar of the armed forces. Today, he is also one of three surviving members of the Standing Committee of the Politburo (after the deaths of Mao Tse-tung, Chou En-lai, Kang Sheng, Tang Pi-wu and Chu Te). The Minister of Defense and another surviving member of the Politburo Standing Committee is the eighty-three-year-old Marshal Yeh-Chien-ying, who is ill and hardly a forceful contender in the current political confrontation in Peking.

Therefore, it may be that the military commanders of the eleven military zones might provide the only hope for resistance to the current radical political power structure in Peking consisting of Prime Minister Hua Kuo-feng, Chang Chun-chiao and others. Some of them, like Han Hsien-chu, commander of distant Lanchow Military Zone, have shown reluctance to accept orders from Hua Kuo-feng in the past and may strive for more independence in the future.

Thus, after the death of Mao, China is facing the prospect of serious internal turmoil, brought on by an intense power struggle and potential deterioration of public order. It will be important for all observers to keep a close watch not only on the power struggle among factions in Peking, but also to watch the military in the provinces for clues to the outcome of the pending turmoil.

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## UPDATED COMPILATION OF UNION CONTRIBUTIONS TO 14 SENATE CANDIDATES

Mr. GOLDWATER. Mr. President, last week I placed in the RECORD the amounts of money donated by organized labor to 14 senatorial candidates. That compilation included data available as of September 10. Today, I have an updated list of the liberal amounts which these candidates are receiving from union bosses, which is current to September 27.

In the interest of having available to the wide public that reads the RECORD the most up-to-date compilation that is possible before adjournment, I ask unanimous consent that a table of organized labor contributions to Senate candidates in 14 different States be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ORGANIZED LABOR CONTRIBUTIONS TO DEMOCRAT SENATE CANDIDATES (INCLUDES ALL CONTRIBUTIONS TOWARD 1976 CAMPAIGNS)

[Updated: September 27, 1976]

| | Indiana, Senator Hartke (D) | New Jersey, Senator Williams (D) | California, Senator Tunney (D) | Utah, Senator Moss (D) | Massachusetts, Senator Kennedy (D) | Arizona, DeConcini (D) | Wyoming, Senator McGee (D) | Texas, Senator Bentsen (D) | Pennsylvania, Green (D) | Minnesota, Senator Humphrey (D) | New Mexico, Senator Montoya (D) | Maryland, Sarbanes (D) | Virginia, Zumwalt (D) | Montana, Melcher (D) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Active Ballot Club (Retail Clerks) | $7,050 | $7,000 | $5,950 | $5,000 | | $5,000 | | $2,000 | $10,000 | $9,546 | | $2,150 | | |
| AFL-CIO COPE | 10,000 | 5,000 | 10,000 | 5,000 | $5,000 | 5,000 | $5,000 | 5,000 | 5,000 | | $15,000 | 10,000 | $10,000 | $5,000 |
| AFT (Amer. Fed. of Teachers COPE) | 525 | 2,250 | | | | 100 | | | 100 | 700 | | | | |
| Amalgamated PEC (Clothing Workers) and affiliates | 1,000 | 2,500 | 500 | | 1,000 | | | | 2,500 | 2,200 | | 5,000 | | |
| AMCOPE (Meat Cutters) | 500 | 500 | 1,000 | | | | | | | | | 2,000 | | |
| Amer. Postal Workers | 500 | 500 | 200 | 450 | 200 | | 1,300 | | 100 | 900 | 200 | 100 | | 100 |
| ATU-COPE (Transit) | 3,500 | 500 | 500 | 500 | 500 | | | | 500 | 500 | | 550 | 250 | 500 |
| Boilermakers P.L. | | | | | 1,000 | | | | | | | | | |
| Bricklayers PEL | 25 | | | | 500 | | | | | 500 | | 200 | | |
| Building & Construction Trades Dept. | | 2,000 | | | | | [1] 194 | | | 600 | | | | 100 |
| Carpenters LIC | 1,000 | 2,500 | 7,000 | 1,300 | 500 | | 1,600 | | 1,000 | 1,250 | 1,500 | 750 | 1,500 | 800 |
| Coal Miners PAC | | 800 | | | | | | | | | | | | |
| Comm. on Federal Employees | 600 | 650 | | 800 | 1,500 | | 2,600 | 50 | 300 | 650 | 200 | | | |
| Comm. on Letter Carriers | | 300 | 250 | 600 | | | | | | | | | | |
| CWA-COPE (Communications Workers) and affiliates | 2,600 | 1,500 | 4,070 | | 1,000 | | | 500 | 1,100 | 3,350 | 500 | 4,120 | 1,000 | |
| DRIVE (Teamsters) | 2,000 | 1,000 | 11,200 | 1,500 | 150 | | | | 250 | 7,700 | 1,000 | 2,100 | | |
| Engineers PEC | 4,000 | 4,650 | [1] 8,593 | 625 | 500 | | | 250 | 1,000 | 2,675 | 2,500 | 500 | 5,000 | 1,400 |
| Firefighters COPE (F.I.R.E.-P.A.C.) | 50 | 500 | 200 | 300 | 500 | | 300 | | 100 | 100 | | 2,500 | 100 | 100 |
| Firemen-Oilers P.L. | 200 | | | | 200 | | | | 100 | 175 | | | | |
| Fur, Leather & Machine Workers | | | | | | | | | | | | | | |
| Glass Blowers P.L. | | | | | | | | | | | | | | |
| Graphic Arts PCC | | 500 | | | 500 | | | | 300 | 1,250 | | | | |
| H & RE & BIU-TIP (Hotel Employees) | 2,700 | 5,000 | 1,250 | 1,000 | 1,000 | | | 1,000 | | 7,000 | | | 500 | |
| IBEW-COPE (Electrical Workers) | 2,000 | 2,625 | 1,250 | 1,500 | 1,000 | 500 | 800 | | 2,000 | 600 | 500 | 2,000 | 1,000 | 1,250 |
| ILGWU (Garment Workers) | 3,900 | 2,750 | 5,100 | 2,000 | 5,500 | | 600 | 275 | 3,500 | 8,850 | 1,600 | 4,500 | 5,000 | 1,100 |
| Industrial Union Dept. | 1,000 | 1,000 | 1,000 | 2,000 | | | | | 1,000 | 1,000 | | | 1,000 | |
| Ironworkers PEL | | | 200 | | | | | | | 625 | | 300 | 100 | |
| IUE-COPE (Electrical, Radio & Machine Workers) | 300 | | 100 | | 1,000 | | | | | 300 | | | | |
| Laborers P.L. | 3,000 | 4,500 | 3,000 | 3,000 | 2,000 | 1,000 | 3,000 | 1,000 | 2,000 | 3,000 | 3,000 | 1,000 | 2,000 | 800 |
| Chemical Workers | 100 | 250 | | | | | | | | | | | | |
| Locomotive Engineers | 200 | | | | | | | | | | | | | |
| Longshoremen | | | | | 200 | | | | | 200 | | | | |
| Machinists NPPL | 5,200 | 3,800 | 7,900 | 2,900 | 1,000 | 2,500 | 2,400 | 1,000 | 7,000 | 4,650 | 1,400 | 7,200 | 2,000 | 400 |
| Maintenance of Way P.L. | 1,000 | 500 | 6,300 | 300 | | | | | | 1,000 | | | | 200 |
| Marine Cooks & Stewards | | | 1,000 | 600 | | | | | | 2,000 | | | 1,000 | |
| Marine Firemens Union | | | 500 | | | | | | | | | | | |
| Masters, Mates & Pilots | | | | | | | | | | | | | | |
| MEBA-PAF (Marine Engineers) | 6,000 | 6,000 | 3,000 | 5,000 | 5,000 | | 5,000 | 5,000 | 5,000 | 7,850 | 2,500 | 10,000 | 10,000 | 2,500 |
| Molders & Allied Trades | | | | | 200 | | | | | | | | | |
| NEA-PAF (Teachers) | 200 | 6,125 | 4,850 | 1,300 | | | 700 | 2,275 | 500 | 300 | 500 | 200 | 100 | 200 |
| State Affiliates | | 250 | 500 | 3,250 | | | 500 | | | 6,000 | | | | |
| OCAW (Oil, Chemical Workers) | 25 | 250 | | | 1,000 | | | | | | | | | |
| National Maritime Union-P.L.O.W. | | 750 | | | | | | | | | | | | |
| Painters & Allied Trades | 250 | 500 | 400 | 200 | 1,000 | | | | 100 | 2,050 | | 200 | 100 | 250 |
| PEOPLE (AFSCME) | 1,200 | 3,000 | 2,000 | 500 | 1,000 | | 900 | 1,000 | 2,200 | 4,400 | 100 | 500 | | 1,100 |
| Railway Clerks P.L. | 17,250 | 10,500 | 4,500 | 2,500 | 5,000 | | 1,500 | 3,000 | 6,000 | 5,000 | 2,000 | 1,500 | | 500 |
| Railway Labor Executives Association | 2,000 | 1,500 | | 800 | | | 500 | | | 3,100 | 3,000 | | | 600 |
| Seafarers SPAD | 5,000 | 2,500 | 6,000 | 4,500 | 1,000 | | 500 | 4,375 | 4,000 | 5,000 | | 1,500 | 5,000 | 500 |
| SEIU-COPE (Service Employees) | | 1,000 | | | 500 | | 700 | | | | | 200 | 530 | |
| Sheetmeatal Workers | 1,000 | 400 | 1,000 | 1,000 | 1,250 | | | | 1,025 | 300 | 300 | 300 | 300 | 700 |
| Signalmens P.L. | 200 | 800 | | 100 | | | | | | 150 | | | | |
| Transport Workers | 1,400 | 1,250 | | | | | | | | | | | | |
| Transportation PEL | 12,950 | 5,850 | 7,500 | 2,750 | 1,000 | | 2,500 | 2,550 | 6,000 | 5,025 | 3,000 | 1,500 | 1,500 | 1,000 |
| TWUA (Textile Workers) | | | | | 1,000 | | | | 250 | 300 | | | 250 | |
| UA-PAL (Plumbers) | | | 2,000 | | 1,000 | | | | | | | | | |
| UAW Voluntary CAP (Auto Workers) | 5,200 | 15,800 | 5,100 | 5,200 | 5,050 | | 300 | 2,500 | 5,000 | 5,350 | 4,000 | 10,000 | 100 | 350 |
| United Rubber Workers | 350 | | | | 200 | | | 1,000 | | 200 | | | | |
| United Steelworkers | 5,400 | 5,000 | 5,000 | 7,500 | 5,000 | 5,000 | 5,000 | 2,400 | 2,100 | 5,000 | 5,000 | 7,500 | 5,000 | |
| Miscellaneous | 600 | 5,775 | 1,200 | 1,000 | 1,250 | | 1,100 | 800 | 150 | 2,550 | 100 | 100 | 230 | |
| United Paperworkers | | | | | 1,000 | | | | | | | | | |
| T.E.M.P.O. (United Fed. of Musicians) | | | | | 1,000 | | | | | | | | | |
| Letter Carriers Political League | | 250 | | 200 | 300 | | 2,600 | | 100 | 300 | | | | |
| P.A.T.C.O. (Air Traffic Controllers) | | | 4,000 | | | | 1,200 | | 200 | | | | 500 | |
| United Plant Guards | | | | | | | | | | | | 125 | | |
| Total | 106,975 | 120,575 | [1] 124,113 | 65,175 | 57,450 | 19,100 | [1] 41,793 | 35,975 | 71,075 | 114,196 | 47,900 | 78,595 | 54,060 | 19,450 |

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[1] Rounded to nearest dollar.

## THE POLITICAL MUSCLE OF PUBLIC SECTOR UNIONS

**Mr. GOLDWATER.** Mr. President, with the growth of public sector unions in this country, there arises the very real possibility that in the not-too-distant future the United States could be shut down by a nationwide strike of public employees. It has happened in other countries where organized labor has become the dominant political force and it could happen here.

Now, our current laws prohibit strikes, or any other delaying work action, by Federal employees. Yet, I note that the American Federation of Government Employees, in its convention last week, gave their national officers the power to call strikes or job actions as they see fit.

The delegates at the convention also authorized the union to organize members of the Armed Forces, a truly disastrous proposition.

It is obvious that walkouts and slowdowns are being utilized more and more by the public sector unions as a tool to obtain their objectives.

The public sector unions are feeling their oats, so to speak, because of their new-found political muscle.

For example, an article in the Washington Star of September 26 by Joseph Young, discussing the Convention of Federal Employees, stated:

> And on Wednesday, an almost incredible scene occurred.
>
> A perfunctory telegram from the White House was read to the delegates in which a lower-echelon official said Ford regretted he could not accept the union's invitation to speak. The telegram was short and brusque, to the point that the delegates felt it was insulting.
>
> Almost every word of the telegram was interrupted by thunderous boos, catcalls and hisses.
>
> "Tell him to go to hell," shouted the delegates, as well as some unprintable epithets. One of the printable ones was "dipsy Ford."
>
> Finally, the enraged delegates approved a

resolution to "veto' Ford's telegram and sent it back to him at the White House.

During all this uproar not one of the delegates took to the mike to defend Ford.

One of the hotel staff, witnessing all this, said in bewilderment, "But he's their boss."

Mr. President, one gets an idea of the political clout which the labor bosses in the government union area have by the following chart showing their dollar and cent political activity this year. I ask unanimous consent to print the chart in the RECORD.

There being no objection, the chart was ordered to be printed in the Record, as follows:

PUBLIC SECTOR UNIONS

| Name | 1976 receipts[1] | 1976 expenditures | Cash on hand | Last FEC report |
|---|---|---|---|---|
| American Federation of State, County, and Municipal Employees, PEOPLE | $79, 375. 59 | $65, 384. 95 | $4, 990. 64 | July 31, 1976 |
| AFSCME-PEOPLE-QCC | 35, 376. 89 | 29, 450. 00 | 5, 926. 89 | July 31, 1976 |
| American Postal Union Political Fund | 57, 944. 17 | 15, 320. 00 | 42, 624. 17 | June 30, 1976 |
| Federal Employees PEC | 35, 403. 07 | 15, 135. 00 | 20, 268. 07 | Aug. 31, 1976 |
| Letter Carriers PEC | 53, 947. 56 | 31, 868. 00 | 8, 490. 10 | June 30, 1976 |
| Firefighters Political Action Committee | 20, 143. 61 | 18, 168. 00 | 1, 975. 61 | Aug. 25, 1976 |
| Government Employees Political Research Institute | 2, 495. 70 | 700. 00 | 1, 343. 45 | Apr. 10, 1976 |
| Service Employees International Union-COPE | 73, 670. 33 | 60, 410. 34 | 13, 259. 99 | Aug. 31, 1976 |
| District 1199 PAF (Service Employees N.Y.) | 56, 730. 00 | 24, 760. 00 | 31, 970. 00 | Aug. 30, 1976 |
| Subtotal | 406, 086. 92 | 261, 196. 29 | 130, 848. 92 | |
| Subtotal, teachers' political action groups | 1, 797, 564. 53 | 685, 158. 64 | 960, 897. 70 | |
| Total | 2, 203, 651. 45 | 946, 354. 93 | 1, 091, 746. 62 | |

[1] Includes cash on hand Jan. 1, 1976.

Mr. President, now there is no secret as to what the public employee unions are going to do with this money. They are going to use it to try to get control over as much of the political system as they can.

The potential of their influence also is seen in the numbers of their membership, as well as in the numbers of their political campaign coffers. As the U.S. News and World Report of December 4, 1975, states:

> More than a million federal government employees are now covered by labor agreements. Half of the state and local government workers now belong to unions, too. Almost a fourth of total union membership in the U.S. is made up of public employees.

Public worker unions have already achieved part of their goals. The Democrat platform calls for Federal legislation to allow all public employees the right to organize and engage in collective bargaining. Public employees unions interpret this as giving them the right to strike. The unions also got the Democrats to endorse revision of the Hatch Act so that the nearly 3 million Federal workers can engage in partisan political activity. Unless the American people wake up to the dangers of these proposals, we may find ourselves in the same position as New York City, where everyone now works for the union.

Mr. President, in order to put into better perspective the prospect which government unions represent for turning America into a public worker state, I ask unanimous consent that an article by Ernest Conine in the Los Angeles Times of August 13 and an article bv Neil Pierce from the Washington Post of September 8, on this very subject be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### PUBLIC EMPLOYEES VIEW CARTER WITH HOPE

(By Ernest Conine)

Whether Jerry Ford or Ronald Reagan wins the Republican presidential nomination next week, the GOP has one campaign issue that cries out for exploitation: Does Jimmy Carter have the guts to stand up against Jerry Wurf and other union leaders who represent multitudes of government workers?

Carter faces a real dilemma.

He owes his nomination, in large part, to the perception among millions of Americans that here is a politician who is not part of the Washington establishment, who understands their rebellion against the high cost and low performance of government, and who is prepared to do something about it.

Yet the Democratic nominee, if elected, cannot do much about the bigness, arrogance and inefficiency of government without running afoul of union leaders who will have contributed significantly to his victory.

In his primary campaigns, for example, Carter made plain his intention to streamline the federal bureaucracy along functional lines, much as he did as governor of Georgia.

But the fact is that he cannot reorganize the Transportation Department, the Department of Health, Education and Welfare or the Labor Department without incurring the wrath of the teachers' unions and AFL-CIO President George Meany and others who like things as they are.

Similarly, Carter is depending heavily on New York Mayor Abraham Beame and union leaders with whom he is allied to help carry the Empire State for the Democrats. In return, Beame and friends are counting on Carter to ease the federal pressure on the near-bankrupt city for austerity in wage and pension arrangements and other areas of municipal spending.

The real focal point of the Democratic nominee's dilemma, however, is Wurf, president of the American Federation of State, County and Municipal Employes.

In the last 10 years the number of people working for all levels of government has multiplied four times as fast as the growth in the general population.

These local, state and federal employes collect paychecks almost 15% higher, on the average, than does the averge worker in private industry. By and large, they don't work as hard, yet can retire at an earlier age with higher pensions than can the great majority of taxpayers who foot the bill for their salaries and benefits.

There was a time when simple justice called for public servants to receive unusually good fringe benefits to compensate for their substandard pay. But, as the figures cited above indicate, government employes are, if anything, overpaid nowadays.

Under these circumstances, why should soldiers, sailors, cops and firemen be entitled to retire after 20 years—even if they are only 40 years old—while electricians, bookkeepers, secretaries and other workers in private industry have to stick it out until they are 65?

Why should government workers get more holidays per year than other people, get all of Election Day off from work and, unlike most employes in private industry, have their pensions automatically increased to compensate for inflation?

Why should professors in tax-supported universities receive paid, periodic sabbaticals in an era when higher education is under severe budgetary strain?

All these fringe benefits are nice, of course; it would be a jolly world if everybody had them. But they add billions upon billions to the cost of government—money that must be paid largely by people not so blessed.

Then there is the general surliness and screw-the-public attitude of all too many government workers toward the citizens whose taxes pay their salaries.

There is no question that the American people are doing a not-so-slow burn, but the message has not fully registered in Washington. Early this month, the House voted down a bill to repeal a special "kicker" that boosts federal pensions even faster than the cost of living—a provision that has been adding almost $1 billion a year to pension costs.

At the local level, however, the politicians are beginning to fear the public backlash more than they fear the public employes' unions.

San Francisco, for example, has historically been one of the most pro-union cities in the country. But now some municipal workers are actually being forced to take pay cuts.

In some cities officials are showing new interest in farming out certain functions to private enterprise in order to save money. For the first time in memory, city and county officials are seriously studying how they can increase productivity among public employes.

In Los Angeles, where a tax rebellion is in full swing, Mayor Tom Bradley has tried to veto pay increases for senior officials, and has warned that the city faces a period of "enlightened stinginess."

As Wurf remarked a few weeks ago, "It is the season of darkness for our union." But the head of the large government employes' union thinks he sees a ray of light in the darkness—and his name is Jimmy Carter.

At a point when most other union leaders were still scheming to stop Carter and land the Democratic nomination for Hubert Humphrey, Wurf was already working for the Georgian. Between now and November, Carter will get a lot of help not only from Wurf but also from other unions representing teachers, postal workers and other public employes.

It is predictable that Carter, if elected, will come under tremendous pressure from his benefactors to go easy on his plans for streamlining the federal government, and to support an additional flow of federal funds to take the heat off local government.

If he is too accommodating, however, he will have broken faith with the people who voted for him.

Obviously, the American people can't wish away the need for a strong government role in their lives. Our society, to survive, must have teachers, policemen, soldiers, postmen, tax collectors, welfare workers and people who pick up garbage.

But the voters have a right to expect them to do their jobs diligently and with civility—and to give up the idea that they are a privileged class, entitled to better pay and benefits than are people who don't happen to work for government.

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### THE SPECTER OF AMERICA'S FIRST LABOR STATE

(By Neal R. Pierce)

Could 1976 signal the emergence of a "public worker state" in America?

Are government employees, their ranks swollen to record highs in the 1970s and now led by increasingly militant unions, gaining so much power within a dominant Democratic Party that no political force could be their match for years to come?

Could a President Jimmy Carter, heavily backed for election by public unions, hope to carry out his government reorganization plans where they threaten the prerogatives of federal workers?

Far-fetched as some of these questions may sound, they deserve our careful examination in this fall's campaign. A Democratic President, a Democratic Congress, overwhelmingly Democratic controlled governorships, mayoralities and city, and county councils—all are likely following the November elections. And now it is public unions, rather than private sector unions, that may swing the greatest power with that Democratic monolith.

There are presently 15 million public workers in the nation—6 million more than in 1960. Well-informed and politically sophisticated, they have a direct, personal interest in the pay, pensions and other fringe benefits financed through public taxes.

Public sector unionization has grown by leaps and bounds—by an estimated 66 per cent, 16 times the growth rate of private sector unions—since the Democrats last held the White House. More than half the country's public labor force is now represented by employee labor organizations. Now there's even serious talk of unionizing the armed forces.

Once-timid public unions have become politically aggressive. While the ALF-CIO sat on its official hands in the contest for the Democratic presidential nomination, unions such as the American Federation of State, County and Municipal Employees (AFSCME) and National Education (NEA) played a key role in the Labor Coalition of nine liberal unions that elected more than 400 Democratic Convention delegates.

In the only minority platform report carried to the Democratic Convention floor, the unions got the party to endorse revision of the Hatch Act to let the 2.8 million federal workers engage in partisan political activity—part of a bill recently passed by the Democratic-controlled Congress but vetoed by President Ford.

This raised the possibility—if not probability—that the next Congress will set federal workers "free" politically, and that a new army of political operatives could be at work for the party in power—providing it accedes to federal worker union demands—in future elections.

Some aspects of federal retirement systems "are definitely a concern of mine," Carter recently told me. He sees general pay comparability with private workers—"not excessively superior, and certainly not inferior." But he could find himself under unbearably heavy pressure to continue the high, inflation-proof federal pension plans now in effect and to sweeten pay plans that already compare quite favorably with private industry.

Carter might face an even greater problem in convincing the federal unions, fearful for the seniority and status of their members, to cooperate with his plans for radical reorganization of the federal government. Last spring the public relations director of the National Federation of Federal Employees was quoted as saying: "We object to politicians lying. Carter knows he can't cut the bureaucracy from 2,000 agencies to 200. He couldn't find the bathroom if he did."

Civil service reforms and radical changes in federal policies for hiring, transferring and firing employees would have to be an essential ingredient of any meaningful reorganization plan. But would Carter, as manager of the federal bureaucracy, make decisions affecting labor relations that conflicted with his role as party leader?

Most state and local worker unions, unhampered by the Hatch Act, are already four-square in Carter's corner. They hope for increased federal grants to state and city governments that translate into job protection and increased salaries.

AFSCME, now 750,000 members strong, endorsed Carter for the presidency before the Democratic Convention. The 475,000-member American Federation of Teachers endorsed him in August. The NEA, with 1.8 million teacher members, is expected to back Carter this month in the first presidential endorsement of its history. The NEA has budgeted about $700,000 to support its friendly candidates in 335 congressional races.

The NEA's purpose is clear enough: to persuade a friendly Congress and President to increase the federal share of local school funding from the current 8 per cent to 33.3 per cent of all school costs—$22 billion in all.

The NEA says that with local property taxes strained to their limits, federal funding is needed to reduce classroom sizes and preserve quality local education. Critics reply that the added $16 billion is nothing but a teachers' "save our jobs" measure in an era of reduced school enrollments and that much of the money would go into higher salaries and top-heavy school administrations, with minimal local accountability or improved education.

It's possible that the ties between public unions, Carter and the Democratic party will never again be as close as they now appear. Carter is expert at garnering commitments without pledging himself to specifics. As Georgia's governor, he let nothing stand in the way of his reorganization goals (though he didn't fire any workers in the process). Pledged to economy and tight government organization, Carter could prove as tough a negotiator with the unions as any Republican President—just as many Democratic mayors and governors, elected with union support, have shown their toughness at the bargaining table.

All that, however, doesn't alter the fact that the public unions, having immersed themselves in Democratic politics and proven their muscle in internal party operations, will expect and fight vigorously for the sweet fruits of victory.

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## CONSUMERS, BUSINESS, AND ANTITRUST ENFORCEMENT

Mr. MORGAN. Mr. President, today there is a bill on President Ford's desk, awaiting his decision to sign it into law, or veto it. We will know by the end of the day what he decides. He is getting contradictory advice. I have written him a letter myself, as a former attorney general of North Carolina, urging him to sign the bill into law. But others have also written him letters, urging a veto. Those letters are coming from citizens who are sincerely alarmed—yet they have been alarmed by one of the most preposterous campaigns of distortion we have seen during this Congress.

Opponents of the bill, the Hart-Scott-Rodino Antitrust Act, are for the most part organizations representing big business in fact if not in appearance. They claim the bill is "antibusiness." Yet it would increase enforcement of the law against those whose illegal act would ruin the climate of free enterprise in this country.

Those who oppose the bill claim it will ruin the small businessman. Yet the chances of its use against small business are so remote as to render the argument absurd. If antitrust law were really enforced in this country, one of the first groups to benefit would be the small businessmen.

And—most important for our colloquy today—the bill is depicted by its opponents as something which will cost the consumers money. The reasoning is that when "dishonest" state attorneys general begin to "attack" small businessmen, "for political gain," the costs of defending the suits will be passed on to the consumer. But the fact is that well-placed antitrust suits will benefit the budgets of any American householder.

Mr. President, only ignorance of the facts of antitrust law enforcement practices could permit such a reversal of the truth. People just do not understand antitrust law, and the reason they do not is that they have never seen it work.

Antitrust law is the most potent weapon we have at our immediate disposal to champion the cause of the consumer when his cause is just. Antitrust enforcement could, if it were practiced with more zeal, keep alive the chance for anyone who has dreamed of an independent business of his own to live that dream. Antitrust law ought to be the central issue over which the honest businessman and the consumer activist could shake hands in complete agreement. Yet it is not so, because the remedies available to any administration go largely unused. They are ineffective and, therefore, the consumer and the businessman who could benefit from them have seldom seen their possible results.

How can we continue to look for complex causes of inflation, and wring our hands for a remedy, when the facts are clear? It takes very little to be able to see that during the recent inflationary crisis, prices in industries with near-monopoly control went up an average of 23 percent. But in industries in which competition thrives, prices stayed pretty much the same.

What does this mean? It means that the consumer suffered needlessly during the recession. It means the honest businessman out there competing for his share of the market had to swallow the price increases from monopolists who are his suppliers, and not pass them on in toto. And it means that those who do business in violation of the laws got richer.

I know consumers benefit from antitrust law enforcement. When State attorneys general sued the drug companies fixing the price of tetracycline, the overcharge on that item—an overcharge of several thousand percent—disappeared. Small businessmen having a hard time making it against the giants, also benefit when antitrust laws are enforced.

For example, recently a man in the linen supply business in my State appealed for help. A national giant in linen supply was moving into his area, undercutting his prices. They were charging far less than they charged in other areas in which they had the market sewed up. Such tactics can only drive the small businessman out of business. Once that is done, the big company can charge what it wants.

Where is the help for this man? Because I had seen to it we had an antitrust enforcement capability in North Carolina, he could turn to them. But in other States he would have no protection, and, to be sure, the Department of Justice in Washington could not help him. They do not have the resources.

The fact is, the same climate of ignorance which has permitted the Hart-Scott-Rodino bill to be smeared has allowed those who oppose antitrust enforcement to paint a mythical picture. The myth is that big government attacks helpless businesses ill-prepared to defend suits. The fact is that the few giants who do get sued have legal staffs which dwarf the antitrust staffs of the Department of Justice. When I addressed the antitrust lawyers at Justice, I did not have to raise my voice—they all got together in a small restaurant. Government is the underdog, not the monopolist.

The myth is that federal antitrust laws are discriminatory against business. The fact is that businesses have been afforded unusual protections of the law, especially at the Federal level. The Hart-Scott-Rodino bill would extend to the Department of Justice—for the first time—investigative powers available to attorneys general in a conservative State like my own North Carolina since 1913. When a business has pleaded nolo contendere in an antitrust suit, that plea could not be then used as evidence of guilt. Yet the same plea by a man accused of criminal acts is commonly taken as an admission of guilt, and can put him behind bars.

The administration has available to it laws which could, if put to use, go far to revitalize the economy of the United States, far more than Federal spending. We must hope the President will see fit to sign into law today a bill which would strengthen enforcement of laws on the books since 1890.

The consumers of America deserve such a revitalization. Lax enforcement of the law has led to faster and faster deterioration of our free market. In 1968, just 10 years ago, an advocate of antitrust could rise on the floor of the Senate and complain that 200 companies own 60 percent of all manufacturing assets in this country. Now, in 1976, he could complain the figure has grown to 75 percent.

This means, to the shopper, that in each case four manufacturers control 90 percent of the market for toothpaste, for camera film, for canned soup, and for chocolate candy. It means there is a real choice of only three manufacturers of soap and detergent, four makers of electric light bulbs, three packers of breakfast cereals. Things are just as bad if you want an American car—there are four manufacturers and one union.

What does all this cost the consumer? The administration itself has estimated economic concentration costs the average family $2,000 a year—and that is even more than the Federal Government collects from them in taxes. That ought to really put it in perspective.

Mr. President, the Federal Government is being called upon by one group or another to take sides in a battle between consumers and business. The tragic thing is that Government could avoid this kind of confrontation, and act to the good of all parties, if it would enforce the law against those who will not play by the rules of a free market. There is nothing new or radical about this. The oldest antitrust case I know of happened in the Middle Ages, when three tailors went to jail for plotting to put a fourth tailor out of business.

We could, if we put our resources into antitrust instead of regulation, stop the kind of situation we had in the last recession, when giant corporations with little competition raised prices at will, and at the same time bought out the small operator for the price of his inventory.

During that recession, members of the Middle Eastern cartel which fixes the price of oil declared economic warfare on the United States, agreeing among themselves not to compete with each other. In this country that would be illegal under the antitrust laws. We cannot haul a foreign cartel into court. But we can sue the domestic attacker of free enterprise.

There would be far less reason for militant consumerism in this Nation, if we did. And if we did, the destructive adversary relationship now worsening among business, Government, and consumer groups would have greater reason to cease. We owe it to both consumers and competitive businessmen, to do so.

## TRIBUTE TO ALYCE THOMPSON, ADMINISTRATIVE ASSISTANT TO SENATOR HIRAM L. FONG

Mr. FONG. Mr. President, as I am retiring when my term of office expires next January 2, and as Congress is nearing final adjournment, I rise to pay tribute to my administrative assistant, Mrs. Alyce M. Thompson, who has been an outstanding chief of staff for me and a career employee of the Senate for nearly 30 years.

Through her consistently superb performance, she has earned the respect of Senators of both major parties; of executive branch personnel with whom she has worked, including Cabinet members, Deputy Secretaries, Under Secretaries, Assistant Secretaries, generals, admirals, and other high-ranking officials; of the Governor, mayors, State legislators, and other State and local government officers in Hawaii; and of many top business, medical, legal, educational, scientific, and agricultural persons not only in Hawaii, but in the U.S. mainland as well.

Alyce is one of the most versatile and capable Senate staffers I have known, able to handle speechwriting, research, legislative, administrative, and political assignments with equal ease and effectiveness.

When I first hired Alyce in April 1960, I selected her because she had wide knowledge and experience in handling national and international issues. As a freshman Senator from the new State of Hawaii in August 1959, I soon discovered I needed not only staff assistants from Hawaii, who knew the State, its people, and problems, but also experienced personnel who knew the legislative process in Congress and how to work with executive departments and agencies. I needed someone to research speech topics indepth and to perform a wide range of writing tasks.

Alyce proved to have all these qualifications and many more. She had had 13 years' experience as a professional staff member on the Senate Republican policy committee, where she handled an unusual variety of legislative, political, and writing assignments.

As a matter of fact, Alyce served under four policy committee chairmen: Senators Robert A. Taft, Sr., of Ohio; William F. Knowland of California; Homer Ferguson of Michigan; and Styles Bridges of New Hampshire. She also served under two Republican conference committee chairmen: Senators Eugene Millikin of Colorado and Leverett Saltonstall of Massachusetts.

During her tenure with the Senate Republican policy committee, Alyce wrote a number of documents which received wide circulation, including "Platform Pledges and Performance," which President Eisenhower used in his campaign for reelection in 1956.

I understand the "Style Manual—Rollcall Vote Synopses," which she wrote 15 years ago, is still the basic instructional document for policy committee staff members who prepare the rollcall vote synopses distributed to all Republican Senators.

In 1957, a few weeks after the Soviets had launched Sputnik I, the first manmade satellite to orbit the Earth, Alyce was assigned to research the Soviet missile and space programs and to brief Senator Styles Bridges, the ranking Republican on the Armed Services Committee.

As a result of her research, she formally proposed to Senator Bridges in mid-December 1957, that Congress set up a joint congressional board or committee, patterned after the 1946 Joint Aviation Policy Board, to examine the broad implications of the space age and recommend long-range national policies for the guidance of the Congress, where space-related matters were fragmented among a number of committees. She drafted legislation to accomplish this, pointing out how space issues cut across the jurisdiction of many existing Senate committees.

Senator Bridges discussed the proposal with Senator Lyndon B. Johnson, then majority leader, and the two Senators agreed that a new entity was required to handle space matters. They decided to move directly to set up a Senate Special Committee on Space and Astronautics, which was the forerunner of the present Senate standing Committee on Aeronautical and Space Sciences.

In 1956, Alyce was selected by Senate Republican leaders to be the minority research assistant for the newly created Special Air Power Subcommittee of the Senate Armed Services Committee, which was charged with looking into America's air combat and defense readiness, including missiles and rockets. The only other minority staffer was a part-time counsel.

As a result of her work during the airpower inquiry, Alyce was chosen by the senior Republicans on the Senate Armed Services Committee and the Appropriations Committee to be the minority professional staff member to handle the Department of Defense appropriations bill for Republican Senators. She was detailed from the Senate Republican policy committee for the defense appropriations assignment in 1957 and every year thereafter through 1960, when she entered my employ.

Alyce is the first and only woman ever to handle the Defense Department appropriations bill, then the largest bill of all, and she handled it all alone for the minority Senators. She earned a reputation throughout the Senate, the Pentagon, and the White House as a defense expert.

Her professional competence, efficiency, intelligence, high standards of conduct, integrity, loyalty, and outstanding devotion to duty helped blaze a trail for other qualified women to work in the Senate.

Alyce earned a bachelor of arts degree from the University of Toledo, Ohio, where she graduated summa cum laude, and she was a postgraduate fellow at the University of Syracuse, New York, where she earned the degree of master of science in public administration.

Before coming to the Senate in 1947, Alyce was employed in the Office of Budget and Finance, U.S. Department of Agriculture; the Bureau of Census, U.S. Department of Commerce; and the Governments Unit of the U.S. Chamber of Commerce. Alyce was one of the first professional staffers employed after the Senate, during debate on the Legislative Reorganization Act of 1946, approved professional staffs for the majority and minority policy committees.

Joining my staff as research assistant in 1960, Alyce soon began learning about Hawaii—its geography, its people, its problems, its customs, its politics—all the many facets of life in our islands. Thousands of people in Hawaii, without being aware of it, are indebted to Alyce for her effective efforts in their behalf. No native-born citizen or "kamaaina" could have been more diligent in trying to assist Hawaii.

Alyce has been particularly effective in helping to maintain important industries in Hawaii such as tourism, sugar, and pineapple as viable, taxpaying, job-creating industries. Since the energy crisis began, she has worked very hard to assure equitable treatment under the Federal oil allocation program for Hawaii, an island State almost totally dependent upon imported petroleum for its energy needs. She has expended great effort to safeguard Hawaii whenever our shipping and air transportation lifelines with mainland United States have been threatened.

Alyce has that rare ability to perceive issues or problems in their total perspective, while at the same time she is meticulously careful about details. She has a keenly analytical mind and is very quick to grasp the essence of the most complex matters.

She can perform widely varied writing assignments, from straightforward exposition, such as committee reports, explanations of bills and amendments, to commencement addresses and political speeches.

She excels in expressing difficult and complex matters with clarity, preciseness, and persuasiveness.

She does not seek the limelight for herself, but has always deferred to the Senator or committee by whom she has been employed.

Her watchword is "service" and she devotes many extra hours every week in order to render the service to which she believes the people are entitled. She is a public servant in the true and classic sense.

So highly do I regard her capabilities and performance that I nominated her this year for the Federal Women's Award. Unfortunately, the board of trustees deems ineligible anyone on the personal staff of any elected Federal officials. This is most regrettable, in my judgment.

It is too bad the board will not even consider for the award women like Alyce who have proven their competency, earned the top position in a Senator's office, and made significant contributions to better government, particularly inasmuch as the top professional positions in congressional offices were for so long almost exclusively reserved for men.

So I take this occasion and this means to pay tribute to Alyce Thompson, my administrative assistant for the past 4 years and a professional staff member under my direction for more than 16 years.

Alyce will be able to retire at the same time I do. Whether she actually retires or whether she accepts any of the jobs offered her in Government or private enterprise is a decision she has yet to make. Irrespective of what she decides, she has my warmest mahalo—thanks—for her many years of outstanding service to me and to Hawaii and our Nation.

My wife, Ellyn, and I extend to Alyce—and to her husband, Hank—our very best wishes for happiness and fulfillment.

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### BICENTENNIAL

Mr. HARRY F. BYRD, JR. Mr. President, one of the Nation's most impressive Bicentennial ceremonies was held the morning of September 25, 1976, at "Mt. Airy" in Richmond County, Va.

This historic residence and grounds is now the home of Col. and Mrs. Gwynne Tayloe.

Last Saturday was a special day for many reasons, one being that it was the last official Bicentennial celebration for John W. Warner, a distinguished Virginian, who has had the responsibility for the Nation's Bicentennial observance for the past 2½ years.

Virginians can take great pride in the excellent way in which Mr. Warner handled his responsibilities. He was hard working and dedicated in his efforts. He personally and officially visited each of the 50 States and U.S. territories.

I am happy to salute John Warner on his work as Bicentennial chairman and to say to the former Secretary of the Navy: Well done, sir.

At the same ceremony at "Mt. Airy" the Governor of Virginia, the Honorable Mills E. Godwin, Jr., delivered an excellent address, as he always does. He is, in my opinion, the finest public speaker in our State.

At the end of my remarks I shall ask that his address be printed in the RECORD.

The third speaker delivered one of the finest historical addresses on the subject of the Revolution, its cause, and its results, that it has ever been my pleasure to hear.

Charles H. Ryland is a top-notch historian and that fact came through eloquently in his Richmond County address. I was greatly impressed with it.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD the addresses by Governor Godwin and Mr. Ryland.

There being no objection, the addresses were ordered to be printed in the RECORD, as follows:

### AN ADDRESS DELIVERED BY CHARLES H. RYLAND AT "MT. AIRY," SEPTEMBER 25, 1976, IN CONNECTION WITH THE OBSERVANCE BY RICHMOND COUNTY, VA., OF THE BICENTENNIAL OF THE INDEPENDENCE OF THE UNITED STATES OF AMERICA

Mr. Chairman, Governor Godwin, distinguished guests and friends: I was highly honored when the Committee invited me to present today an historical address on the occasion of the celebration here at Mt. Airy of the bicentennial of our independence.

My father was old enough to recall the celebrations of one hundred years ago, and his descriptions have remained fresh in my memory. All of us are fortunate to be able to participate in honoring the events of two centuries ago.

The keynote of this celebration should be revolution that brought liberty and independence.

As was his custom, the Clerk of Accomack County inscribed on the fly-leaf of his Order Books, in a bold hand the words "God Save the King". The Revolution came and the Clerk went back and inscribed beneath those words in the same bold hand the words "God Damn the King".

And that's the way it was—two hundred years ago!

Who was this King who was so hated by the people of this colony that they would first praise and then condemn him? We know him by the name of George III. He was of German origin; he was the fourth generation of his family in England and the third to sit on its throne; he was the first of the George's to speak English with any facility and it is highly doubtful that he could comprehend the forces at work in the world of his day and time which brought about the loss of his principal colonies in the Western World. But, to the people of these colonies, George III represented domination by a foreign government over the three areas of their greatest concern.

The first of these areas of concern was economic. For over a century and a half the entire economy of the colony had been dependent upon rules and regulations governing trade and commerce made in London. These rules were principally for the benefit of English merchants, and Virginians were enslaved to a plantation economy. They were allowed to produce only raw products which were shipped across the Atlantic in return for manufactured goods at a rate of exchange which had caused most of them to become heavily indebted to the merchant princes of England. There were no banks, and, in the year 1776, there was little credit. Virginia currency had been inflated and depreciated to such an extent it was almost worthless, a process hastened by scandal in government. There was virtually no English sterling in circulation because, as Sir Thomas Gresham of the Royal Exchange in London had noted, "Bad money drives good money out of circulation." Sailing vessels carried the produce of the colony to English ports, tobacco to England, returning with essential manufactured goods and grain to the West Indies, the vessels returning with molasses, sugar and rum. This West Indies trade brought the Spanish dollar which was actually clipped into eight pieces, or bits as they were called, to fill the need for small change. Virginians of that time were fully conscious of the economic facts of life and they were no longer willing to become bankrupt at the expense of foreign merchants.

The second area of concern was political. The people of this colony, for a number of generations, had grown accustomed to local self-government on a scale unknown even at that time in England. Richmond County was ably represented in the House of Burgesses two hundred years ago by Robert Wormeley Carter and Francis Lightfoot Lee.

For purposes of local government, the County was divided into two parishes: The area lying East of Totuskey Creek being North Farnham and the area West of this Creek being Lunenburg. Local government consisted of an efficient and respected County Court presided over by gentlemen justices and the vestry of each Parish took care of most local matters. The justices were referred to as "Gentlemen" since the members of this Court usually represented the most important men of the county.

And so it happened that in this atmosphere of independence in governmental matters, the Mother Country felt compelled to call upon her colonies to help carry the financial burden of wars without giving them a voice in Parliament, and our people, so long accustomed to local autonomy, would not consider turning back the clock, but were determined to free themselves once and for all from a political system three thousand miles away in which they had no voice.

The third, and I believe the most important, of these concerns at that time was that of liberty of conscience. The Church and State in the colony of Virginia were one. The Church was the Church of England. Every person was required to belong to this Church which was supported by taxes levied by the vestry. It was unlawful to preach or conduct divine services outside of this religious establishment. Penalties for violation of these laws were severe. Remember, that two hundred years ago there was no such thing as a democracy or even a Republic, except in the writings of Plato. There was no Constitution or Bill of Rights to protect the citizenry; there was no freedom, either religious or intellectual, and there was no civil rights. The people of Virginia were rebelling against a pattern of domination of their thoughts, their minds and their religious concerns; a system that was legally entwined with civil government; a system that brooked no opposition; that allowed no freedom of expression; and that had lost its ability to serve its constituency or minister to their religious and moral needs.

And so came our Revolution, the intent and purpose of which was to destroy colonial America and all that it stood for in the minds of the people, for they had had enough and were willing—to paraphrase the words of Thomas Jefferson, in his Declaration of Independence—to "mutually pledge to each other" their Lives, their Fortunes, and their sacred Honor.

Then followed THREE of the most unusual documents in the history of mankind, proving once again that the pen is mightier than the sword. UNIQUE in their time, ENDURING in their quality, they have survived these two centuries as lighthouses in man's quest to set himself free.

The first of these came from the pen of George Mason. At his desk, in his home, Gunston Hall on the Potomac in Fairfax County, he authored the Virginia Declaration of Rights adopted by the Virginia Convention in 1776. This Declaration, as Mason himself later noted, was afterward closely imitated and this Virginia model of the rights of man, providing for the protection of personal liberties, became the basis of the French Declaration of 1789 and the first ten amendments to the Constitution of the United States in 1791.

The second of these documents is known throughout the civilized world from the pen of Thomas Jefferson—the Declaration of Independence—for it has for all time been the polar star of all who loved liberty. It ranks today with the Magna Carta as a milestone in man's effort to preserve for himself the basic liberties intended for him by his maker.

Also from the pen of Jefferson which he valued, along with the Declaration of Independence, as his most valuable contribution to the rights of man, is the Virginia Statute of Religious Freedom. For the first time in history, there is enunciated in this document—quoting from Jefferson's words:

". . . that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments, or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion, . . ."

These three documents—unparalleled in their unique and enduring quality—have set apart this Nation in a way that few of us can understand unless we have lived under the heel of oppression.

Today, two centuries later, we look upon ourselves and marvel at the accomplishments of our founding fathers and those of their descendants who have struggled against overwhelming odds to carry out the purposes of their revolution and to preserve liberty and freedom for us today. Benjamin Franklin, recognizing the awesome responsibility of future generations to preserve and make the system work, said that he and his colleagues were passing to posterity "A Republic, if you can keep it."

The world views us today with envy—not of the military might of this land or its economic wealth—so much as in the area of the freedom of man to think and to speak and to write and to believe as the dictates of his own conscience directs. Our shores have been the haven for those who, like our founding fathers, have been willing to risk all that they possessed for the opportunity of living in the land of the free. In a time when three-fourths of the people of this world live under the oppression of dictatorships, our land remains the shining beacon light of freedom and liberty.

History teaches us that true liberty is a precious jewel. It is costly to win; it is costly to keep; but it is even more costly to lose—and once lost is rarely, if ever, regained. It requires unusual courage to stand and be counted as an adherent of true liberty.

In September of 1800, Thomas Jefferson was running for the office of President of the United States. He was running against John Adams who was seeking a second term. Jefferson was being criticized by certain clergy and others because he was unwilling to agree to restrictions upon individual liberties in matters of conscience. In his letter to Dr. Benjamin Rush of Philadelphia, he stated for all time the understanding of true liberty, which each of us should memorize and engrave upon our minds, and which is inscribed around the Rotunda of the Jefferson Memorial in the Nation's Capital, these words:

"I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

Alexander Solzhenitsyn, a true disciple of liberty, who has a keen perception of the world of today, has warned us that oppression, by whatever name it is called, is not simply something happening in some foreign country but is a foreboding of the future of man. He chides us of the Western World when he warns that we have grown too accustomed to the material luxuries of life to be willing to acknowledge our dangers, but that we exhibit an emotional preference for a desire not to know, for fear it will disturb our ease.

And so, Mr. Chairman, this is the lesson for us today. Will we endure the hardships? Will we suffer the pain? Will we pay the price?—to preserve for our posterity the ultimate of all freedoms—the freedom of the mind of mankind.

All over the world the stars and stripes represent Freedom and Liberty to the oppressed. Our flag represents our commitment to defend liberty as a fundamental tenet of our faith.

We have kept this faith—
Our system does work—
In good time and bad, through wars and
depressions,
And through the agonies of divisions
among us—
Our flag still flies—long may it wave!

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### Remarks by Mills E. Godwin, Governor of Virginia, Richmond County Bicentennial Celebration, Warsaw, Va., September 25, 1976

I would confess to you that I approached this nation's bicentennial year with some trepidation.

My fear was that our people in their frustration and their apathy might observe this historic event only with empty gestures and pointless gatherings and even more pointless speeches.

But again today in Richmond County, I am reassured, as I have been so many times during this calendar year, by the genuine outpouring of spirit, of patriotism and of love of country that has been expressed in so many ways and in so many places.

This past 4th of July, I was fortunate enough to be in Philadelphia where nearly half a million people gathered from many states on the anniversary of the Declaration of Independence.

Shortly after, thousands upon thousands of Virginins turned out to greet Queen Elizabeth II on her visit to Charlottesville and Monticello, expressing again their deep reverence for their British traditions.

Yet, again within that short span of a few days, Virginia played host to the President of the United States at the swearing-in ceremony for some of our new citizens at

Monticello, and again there was a spontaneous outpouring of both our citizens and the emotions that the bicentennial itself and this great country of ours brought forth.

But here at Mt. Airey, and at the other river plantations in the Northern Neck, our bicentennial takes on a dimension all its own.

Here in this Georgian mansion, and others like it, there was born and tested the concept of government and of each man's responsibilities to it that found its way into our foundation documents and our Virginia and national constitutions.

Here the men, and the women too, of an earlier day, were by force of necessity responsible for the health and the well being of every living thing on this oasis at the edge of a great wilderness.

There were no great highways to take them to the town or the city, but only muddy paths that were passable only on horseback or in coach, and in the winter time, hardly passable at all.

Their contact was down the great rivers and through the Chesapeake Bay and across the sea to the Mother Country, from whence came their arts and their architecture and the necessities of life that could not be produced here on the plantation itself.

To these great homes came artisans and artists of every kind and today we see the results in Virginia's support of such things as the Barter Theatre, the Virginia Museum of Fine Arts, with chapters around the Commonwealth.

But more important of all, we see still a philosophy of government that demands fiscal stability and financial integrity that somehow do not seem so important in other areas, particularly across the Potomac.

And we are reminded also that it was the planters of Virginia, men of wealth and prominence. businessmen if you will, who went to Williamsburg and on to Philadelphia and carried with them the principles of government they had learned and practiced in homes and lands such as those that surround us.

They carried with them their own principles of freedom that they had practiced so long in their own homes. But they carried with them something else, something that is often forgotten in our bicentennial observances.

Among the freedoms they cherished was the freedom to do business in free and open competition.

They were concerned and were willing to fight over the restrictions on their right as businessmen to trade wherever they could across the seas.

They remind us today that economic freedom—freedom of enterprise—was the handmaiden of the individual freedom and the political freedom they built into the new government they brought into being.

I say to you, Ladies and Gentlemen today, if we lose one of those freedoms then the other is surely in dire jeopardy.

I say to you that it was profit from the sale of tobacco and other products that made Virginia the largest and the wealthiest of the early colonies and made her statesmen listened to in Philadelphia.

I say to you that it was profits that clothed and fed and provided for the welfare for every soul on this plantation and others two centuries ago.

And I say to you that even today it is profits that make possible the jobs and the homes and the families and the education of Virginians in our day.

It is profits from business and industry that supports our professsions and our service jobs in every sort of endeavor.

Here in the Northern Neck, it is the profit from small industry and small business, the profit from the waters that surround these counties, profits that flow from the people who have come here to build second homes or to make this their permanent residence, and profits from the innumerable businesses and professions that have flourished as a result.

It is the hope of profit that has brought so many new idustries to Virginia from other states and even from across the seas.

And thus it is profit that is the prime mover of the resurgence of the South in which Virginia has been a leader. This too, is a part of our bicentennial celebration, if indeed it is to have any meaning at all.

But perhaps the greatest lesson of all for us from this plantation and the events we celebrate is that our forebears of two centuries ago had a great faith, a faith in an idea, a faith in the principles grounded in their plantation homes and in their small farms, and most of all faith in themselves.

If I had one towering hope for our bicentennial observance here in Virginia, it would be that the events we plan, the emotions that are stirred, will help us to renew our own faith—a faith in this counrty and our own ability to govern it, a faith in the institutions that those before us have built and that we can change if we will, a faith in our leaders, a mighty faith in ourselves, and last but far from least, a faith in the Divine Providence whose purpose for mankind this great country of ours has tried so hard to promote.

## A TREE AT PANMUNJOM

Mr. STEVENS. Mr. President, the recent tragedy experienced by our two American officers on the Korean truce line was the subject of a recent article which appeared in the September, 1976 publication printed by the American Cause, a bipartisan, tax exempt, political education organization whose director is the Honorable George Murphy, the former Senator from California.

The article points out the seriousness of this event to the United States and provides some insight into the circumstances surrounding that incident.

I ask unanimous consent that the article entitled, "A Tree at Panmunjom", by James Angleton and C. J. V. Murphy, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### A Tree at Panmunjom

(By James Angleton and C. J. V. Murphy)

(Mr. Angleton spent 31 years with the Office of Strategic Services (OSS) and the Central Intelligence Agency, and through the last 20 years was Chief of Counterintelligence for the CIA. Mr. Murphy is a retired writer, Time-Life and Fortune magazine.)

In the whole sorry sequence of recent American failures to cope with communist challenges in Africa and Asia, no single event has given more serious cause for concern over the Government's capacity for effective action than its singularly evasive response to the axe-murder in midsummer of two young American Army officers by North Korean troops on the truce line at Panmunjom.

The offense itself was certainly plain enough in its elementary brutality. A mixed work party of South Korean and American officers and men entered the so-called "Demilitarized Zone," better known these past 23 years by its acronym, DMZ, on the innocent chore of pruning an intrinsically valueless poplar tree, the branches of which were conveniently obscuring the view of the communist line from a watchtower on the United Nations' side. For no apparent reason, other than to humiliate the United States Army, a larger body of North Korean soldiers fell upon the work force and bludgeoned the two officers to death with axes wrested from their own men. President Ford rightly charged the communists with having perpetrated "vicious and unprovoked murder" in an attack both "brutal and cowardly." But in their hasty settlement of accounts with the perpetrators of the outrage, the terms devised by him and Secretary of State Kissinger are likely to be celebrated in the history of our times much more for their ingenuity than for their moral character.

#### MURDERERS NOT PUNISHED

Instead of insisting that the murderers be punished, the command decision was to punish the tree itself. The mute, unoffending poplar that had offered welcome shade to travellers on the old road that runs from Kaesong to Seoul was struck down. It was annihilated, root and branch.

It's a long way, as human experience is measured, from the Garden of Eden to the rude compound of Quonset huts and wooden shacks that form the village of Panmunjom. But the way our highly placed public servants in Washington conducted themselves in the test of character raised by the grisly incident under the poplar is an uncomfortable reminder that ordinary men are still far from ever achieving the state of eternal grace that Adam lost for use in an earlier arboreal incident.

Adam, we know, failed a test of character under a fruit tree in the Garden of Eden. In their own hour of testing under the poplar at Panmunjom, the relatively small but extremely influential body of politicians, scholars, lawyers, executives, bureaucrats and technipols* inside the National Security Council who as the Washington Special Action Group advise the President in crisis situations showed themselves, under circumstances far less seductive, to be no nobler than the unfortunate Adam. Instead of grappling with evil, they feasted on the drugged fruit of detente. They took out their frustrations on the poplar, rather than exact satisfaction and respect from a bold enemy.

#### O! WOODMAN, DO NOT SPARE THAT TREE

In the humiliating aftermath, the rest of us Americans would do well to reflect long and hard on the implications attaching to that challenge at far-off Panmunjom. There's a saying that people are sometimes unable to see the forest for the trees. What that gentle aphorism argues is that some of us can usually be depended upon to lose sight of a main issue because we let ourselves be diverted by the minor pieces. But in the confusion and doubt that now prevail in the American attitude toward our responsibilities, risks and true interests abroad, a thoughtful assessment of the circumstances that brought on that bloody swirl of aggression at Panmunjom may give us a clearer comprehension of the forest of trouble and vexation that meets our gaze in Pacific Asia, on the horn of Africa, in the Indian Ocean and on the approaches to the Persian Gulf. Understanding what happened over the tree may, in other words, enable us better to judge what's going on in the forest itself.

How mixed up we really are is indicated by a poll of American opinions on current defense and foreign policy matters taken by the Gallup Organization of Princeton for Potomac Associates, a liberal political research group recently settled in Washington, D.C. The results were published in Foreign Policy, another liberal quarterly, also based in the capital. They show that most Americans no longer expect much to be gained by our seeking closer relations with the Soviet Union and so have lost confidence in the magic of detente. Most Americans are also dubious about the wisdom of wasting too much effort on trying to improve our relations with communist China. Instead, they favor staying close to our present allies, seeing to it that American rights are treated with "respect" by other nations, and (rating 81 on a scale of 100) "keeping our military and defense forces strong." More than half—52 percent, in fact—believe that we should set about becoming "the world's most powerful nation." The bewildering aspect of these findings is that strong as was the feeling about the necessity for a powerful defense establishment, as an issue of urgent concern it was rated behind ten other national problems, all of a domestic nature, all of a materialistic interest.

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*Technicians, such as political, physical and social scientists, who conduct themselves as politicians, thereby achieving more influence and a higher status than their precursors, the technocrats.

Still, this peculiar anomaly in the American scale of values is not really as baffling as at first it may seem. Most of us find it all but impossible to make much sense of the arithmetic that goes into those awesome tables citing the ranges, the throwweights, the number of MIRVs associated with the strategic missile systems now drawn up on the two sides. Even more incomprehensive are the esoteric factors which will eventually determine the relative weights which the emerging Soviet supersonic Backfire, the American Cruise Missile, the controversial B-1 bomber and the huge and costly Trident submarine will each in its turn contribute to one side or the other of the military balance. These are all immensely complicated weapon systems that operate in the ocean deeps, or in upper space, or are based far back in the hinterlands, and so are but rarely seen by the populances they are meant to defend.

Because so much of the new military technologies are over our heads, Secretary Kissinger can count on applause and cheers when he assures the rest of us, as he did in Phoenix in April, that we have no cause to "delude ourselves with fairy tales of America being second best." And that same month at Bossier City, in Louisiana, President Ford could promise, as indeed he did, that "as long as I hold this honored office I intend to see to it that the United States will never become second to anybody. Period."

That was office-seeking rhetoric. The President could not in truth supply a truly resounding, a wholly convincing period to his pledge. How far the balance has tilted against us, and in precisely which decisive elements of power, are matters that hover obscurely in the many imponderables affecting the weaponry and politics involved in the SALT process, beyond question the most confusing of all the urgent matters before us. The weapons being bargained over in the murky diplomacy of the Strategic Arms Limitation Talks have never been tried in war. No one really knows how precisely they can be controlled in a battle situation, or how they can best be foiled or countered. And at this stage our planners can only hypothesize just how our communist enemies intend to fit their ever-enlarging panoply of mass destruction weaponry alongside their huge conventional military establishments, and how it is all to be used in their broad strategy for isolating and diminishing the United States.

Even so, one does not have to master all these technical factors in order to form some reasonable idea of how we stand. The manner in which our communist adversaries conduct themselves toward us at various pressure points around the globe provides a set of measures for judging their intentions toward us and, even more, their confidence in being able to bring off whatever enterprise they may have in the making. That is a good reason for taking a close look at what happened at Panmunjom. That tree may tell us something important about the forest.

### HOW PRESIDENT EISENHOWER STABILIZED THE LINE

We had best begin by refreshing our knowledge of how the truce line came to be fixed in the first place. When General Eisenhower entered the White House in January 1953, a provisional truce had been in force on the Korean battlefield for a year and a half. The armies faced each other across a zizzag line that ran across the waist of Korea a bit north, for the most part, of the 38th Parallel, the original partition boundary. In the Truman year, the war, which that decent man had carelessly described as "a police action," had cost 31,000 American dead, 91,000 wounded and some 13,000 missing who proved to be mostly dead. Throughout the exhausting haggle of the truce, the North Koreans and the far stronger Red Chinese forces in the line never stopped trying to improve their positions and to wear down American will. They did this by staging an interminable series of fierce local clashes that did not materially affect the main dispositions but did have the useful political effect of presenting the American people with an ever lenthening list of casualties.

Eisenhower's decision was the sensible one of a soldier turned President. It was to force the communist powers—the North Koreans, along with their Soviet and Chinese patrons—to bow to a formal armistice forthwith or face a dramatic enlargement of the war. He sent a fairly explicit warning through the Indian Government and various other channels that unless the fighting was stopped, he was prepared to break open the "sanctuary" in Manchuria from which the communist powers had supplied their field forces and to carry the war to whatever ports, air bases, railway systems and industrial areas in China and Manchuria that were supporting the communist armies. He warned, too, that the United States would no longer be self-constrained in having resort to tactical nuclear weapons, if that was a quick way to end the war. And to show that the threat was not a hollow one, he ordered two first-class Army divisions in Japan and a Marine division in reserve to be prepared for rapid deployment in Korea. A nuclear bomb wing was moved into the western Pacific.

That was the last clear-cut decision by an American president in a make-or-break political-military situation. Kennedy's blockade of Cuba in 1962 after the Soviet missiles were discovered there was not of the same soul-trying order of magnitude. Only a relative handful of Soviet troops had been risked in Cuba. The missiles themselves were not even operational. Eisenhower's decision, had he been obliged to execute it, would have put the United States in head-on collision with the Soviet Union and Red China, then locked together in fraternal alliance.

It was no bluff. Eisenhower was dead earnest. The Russians took him at his word. Stalin had armed the North Koreans and unleashed them in June 1950, when Soviet intelligence, supported by the British traitors Philby and Burgess who were then liaison officials in Washington, mistakenly concluded that the Americans no longer felt bound to honor the UN pledge to maintain the independence of South Korea. Then, as the North Koreans were reeling back to the Yalu River in defeat at the onset of the first winter, he persuaded Chairman Mao Tse-tung to launch the Red army south from Manchuria, with the object of turning the tide of battle and driving the United States from the rim of Asia. Then, at the start of the second summer, in June 1951, with the Chinese in their turn falling back in in defeat to the old UN line, the Russians deftly reentered the situation and rescued the Chinese armies by engineering a cease-fire that allowed them to hold where they stood. And, finally, as the fourth summer wore on, with Stalin now dead, a formidable soldier strategist in the White House and the American military buildup in full swing, the Russians and the Chinese concluded they had not only lost the war but also any hope of retrieving the loss by undermining the American will to persevere.

On July 27, 1953, six months after Eisenhower took office, the Armistice was signed at Panmunjom. It established a No Man's zone two and a half miles wide and 151 miles long that extends from the Yellow Sea to the Sea of Japan, ascending bitter mountains and coasting down steep and narrow valleys. The hope—a forlorn one, at best—was that eventually the dividing barrier of barbed wire would be dismantled and the Koreans on both sides would themselves reunite in independence under the UN's sheltering hand. Today, some 23 years later, a force of 41,000 Americans is still there, standing watch with a South Korean Army of 560,000. Facing them is the communist Marshal Kim Il Sung's first-class Army of at least 410,000 men, bountifully supported by Soviet-supplied air, artillery and tanks. The line at Panmunjom remains the most sensitive flashpoint of all the geography where United States and communist interests intersect.

### PROVOCATIONS PART OF SOVIET STRATEGY

It remains only because it serves the long-range strategy of Soviet-bloc policy to keep it so. The murder of the two officers is but the last of a continuing series of ambushes, bombings, snipings and assaults that have taken 49 American lives since the Armistice supposedly began. Add the casualties inflicted by the Koreans on each other, and the dead number more than 1,000. Eight years ago, six American soldiers were slain in an ambush near Panmunjom and last year an American major was all but beaten to death by North Korean guards at the truce site itself.

The August incident was of a piece with these provocations. A spad of 11 American and South Korean officers and men accompanied five South Korean tree-pruners to the poplars. As they made ready to proceed with the branch cutting, a group of North Korean guards came up and ordered them to desist. When the Americans stood their ground, a truck load of North Korean soldiers bore down upon them, and one of the officers was heard to shout an order to "kill." At the end of the melee, only minutes later, Captain Arthur G. Bonifas and Lieutenant Mark T. Barrett lay dead, their heads crushed by the blunt heads of the axes wrested from their workmen.

The survivors, five of whom were also stabbed or badly hurt, fell back. Reluctant to retaliate on his own, the American General in command notified our Embassy in Seoul and the Joint Chiefs of Staff at the Pentagon of the attack and waited for instructions.

They were two fretful days in coming from Vail, Colorado, where the President was vacationing. All they called for was exercising a handful of fighters and a few B-52s in formation within eyeshot of the communist delegation at Panmunjom, but cautiously and unprovocatively inside the South Korean frontier. They also called for sending another and bigger party of workmen back to the poplar with orders not just to prune it but to cut it down. The tree was felled, expeditiously, with power saws.

The North Koreans did not interfere this time. There was hardly reason for them to do so. They had already made their point. All that President-Marshal Kim Il Sung felt called upon to do by way of amends was to toss off a note which termed the first incident "regretful" but artfully implied that the Americans had brought it on themselves. The note was gingerly received by Dr. Kissinger who first deemed it "unsatisfactory" only to "flip-flop" (a term which has been sharply honed by the presidential speechwriters for use against Governor Carter) into the opposite conclusion a day later that American honor had somehow been requited in ways perceptible only to himself and, perhaps, President Ford.

### UNITED STATES A "PAPER TIGER"

What was the point that President Kim Il Sung had made? It stands to reason that when his soldiers sallied forth to repel the tree-pruners, he was not seeking a casus belli. A big war with the United States is the last thing either the Soviet Union or communist China wants at this point in time. But neither was the attack the "looney" and "unpremeditated" action which some apologists such as the CBS man Kalb would have us believe. The point that the North Koreans were out to make under the poplar was the same one they seek to drive home whenever they goad, harass, or waylay an American patrol. It is the one that was in their minds eight years ago when they crippled and boarded the Pueblo in international waters. Their point is to demonstrate to our allies and third-world countries that the United States is losing the moral fortitude for struggle. It can be chivvied into slipping out from under its world commitments. It is becoming the "paper tiger" that Mao Tse-tung once said it was, a judgment reinforced at his own bier by the kow-towing not only by the President but also by a cortege led by a former Secretary of Defense who was fired by the President himself.

There is no mystery about the long-term objectives which Kim Il Sung shares with his Moscow suppliers and with his fellow Asians and war comrades in Peking. It is to finish the task of driving the United States off its last remaining stronghold on the Asian mainland that was begun under Soviet-Chinese auspices 16 years ago.

Three years ago, the negotiations that were proclaimed to produce the "peaceful reunification" of the Korean peninsula broke down. Since then the North Koreans have concentrated on further enlarging their already huge military establishments. The Russians have supplied them with more tanks and aircraft than we have given the South Koreans. They have added greatly to the many artillery battalions deployed behind the truce zone. The Russians have further strengthened them with missiles capable of striking Seoul from forward positions. And what is even more ominous as regards the ability of the South Koreans to arrest another invasion, the North Koreans have been busy as moles driving tunnels under the DMZ. The South Koreans have already uncovered two that are wide and high enough to pass trucks and tanks and even deliver a division of infantry behind their forward positions in an hour or two. From intelligence sources, it has been determined that as many as 12 such tunnels have been dug. This massive effort underlines the communist intent and determinations to wipe the slate clean of the remaining American presence in Asia and it further reminds us of the high value which communists strategy places on surprise.

### THE DIFFICULT QUESTION OF SELF-INTEREST

Why are we Americans still in that distant, dangerous place? Communist propaganda and our liberal-left journalism would have the rest of the world believe—and unfortunately, too many Americans as well—that it is only to maintain the less-than-democratic regime of President Park Chung Hee and to cling to the remnants of imperialism. In truth, we remain in Korea because of the acute vulnerability of an unarmed, still largely pacifist Japan, now recently awakened by two events to the need for applying its own mind to its peril: The shattering revelations leaked by Senator Church, defeated in his own ambitions, and by the stalwart Soviet pilot, who sought sanctuary and freedom in a democratic Japan exposed to predatory communism. We fought there in 1950 primarily to keep that talented and industrious society from passing in its helplessness under the hegemony of either communist China or the Soviet Union.

The pity is that too few among us remember that it is the promise to protect a Japan which we defeated and disarmed three decades ago that binds us to the defense of South Korea. A reality governs our presence there that the incalculably influential organs of our journalism—the networks, The New York Times, the Washington Post, the liberal weeklies—have deliberately ignored in their obsession with the alleged inequities of President Park. The attack which they have lately and simultaneously mounted on him is almost identical in its rationale with the ones these same organs used to bring down President Thieu in Vietnam and are now contriving for the downfall of the Shah of Iran. If we intend to maintain a working position on the western Pacific, the United States cannot back out of Korea merely because a mischief-making handful of liberal-leftist journalists do not like the way Park governs. A pull-out would leave Japan naked and the islands of the western Pacific—the Philippines, Okinawa, eventually even Australia—as strategic counters to be swept up by the ascendant power.

### SELF-INTEREST AND POLITICAL MORALITY

The hard lesson that we should have learned from the American experience in the Cold War is that to draw a line in strategy and foreign policy which attempts to take in both self-interest and political morality can't help but be tortuous and a slithering exercise. As The Economist of London pointed out in a characteristically well-reasoned leader in its issue of 28 August, if self-interest is now to govern American strategy Israel would wholly be eliminated as an object of concern. So would Europe, for that matter. Indeed, by that standard, only the energy-yielding kingdoms of the Persian Gulf would be absolutely indispensable to American action, and none of them qualifies as a model of democratic pluralism.

How is either self-interest or morality to be served by "normalizing" relations with the Peking communists (who have little to exchange with us of practical value) if the process is to be at the expense of our pledge to defend Taiwan, a stout ally and a fruitful and fair trade partner to boot? Where is either self-interest or morality, let alone wisdom, to be found in an African policy that is prepared to sacrifice the material and political rights of white minorities in Africa to blacks after the squalid events in Uganda, Kenya and Angola have shown that black majorities, once in power, sweep minorities, including Indians, aside?

And, finally, do their people really have sound legal grounds for their pitiless attack on the Park government? Seoul, Korea is in a state of war. It is surrounded North and West by enemies. To suspend a few rights, as it has done, is not unnatural for democratic societies in similar peril. In fact, Israel has done so because it, too, is in peril. In fact, given the pathetic American performance at Panmunjom, we could wish that our leaders had drawn upon the same moral design that inspired Prime Minister Rabin to redeem Israel honor at Entebbe.

### A HOUSE OF MANY MANSIONS

Equal with the oil, natural resources, and the political elements are the intangibles—the worth of stout-minded and independent societies ready to help Americans and their allies hold a crucial line; friends who will stand alongside us in defense of the vital moral interest. In the real world the only sensible system of alliance is one that is itself a house of many mansions. That was what the containment policy started out to be.

Everywhere the lines are shortening. The weakness of the United States is essentially an inner one. Americans of the liberal left, especially in politics and journalism, are more passionately devoted to confounding the American public than in facing up to the communist threat. For them, the real enemy in Korea is our ally, a stubborn President Park who must be responsive to the perils of his nation. In their view, executing the tree at Panmunjom was a safe way of a bad situation in which no one in authority wanted to consult our immediate self-interest, let alone our moral responsibility to the tenets of the nation.

We have a proposal for honoring the trophies from that inglorious action. If it has not been done already, let the logs of the poplar be flown in Air Force One back home and racked alongside the fireplace in the Secretary of State's Reception Room at Foggy Bottom. There, when he delights himself in tete-a-tete confidences with envoys from the other camp, the men of detente can warm their hands, if not their souls, over the dying embers of what only 23 years ago was the American and Korean sacrifice for Panmunjom.

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## FIGHT LIKE TIGERS FOR PRESS FREEDOM

**Mr. PROXMIRE.** Mr. President, Paul Ringler, formerly chief editorial writer for the Milwaukee Journal and past chairman of the executive board of the International Press Institute, knows something about freedom of the press.

In a recent address to the Milwaukee chapter of the Society of Professional Journalists, Sigma Delta Chi, Mr. Ringler outlined the state of the free press around the world. There were some bright spots, but more bad news for freedom. He told his audience:

> Keep in mind that press freedom is indivisible, that what diminishes it in one country tends to diminish it in all, that tyranny knows no borders, that the foes of freedom learn from each other, that press freedom is the guardian of all freedoms, and is ever the very first victim of the tyrant.

So far in our beloved country, we have not had to fear a tyrant that would snuff out freedom's fires. But we do have abroad in this land that has protected freedom in other lands with our sons' blood a misunderstanding of freedom of the press. That misunderstanding could some day lead to consequences that could prove dangerous to our form of government.

We came close just recently to opening the door to an unconstitutional precedent. But, fortunately, members of a House of Representatives committee thought twice and did not press to find the source of a reporter's information.

Yet constantly, every minute of every day, we tolerate what I believe is an unconstitutional abridgment of the free press. I refer to the existence of the so-called fairness doctrine and the equal time rule that prevents broadcast journalists from doing their jobs freely.

One of the words used in the dictionary definition of "abridge" is "diminish." Mr. Ringler chose well when he selected the word "diminish" in warning of dangers to press freedom around the world.

If we continue to permit the freedom of broadcast journalists to be diminished we are asking for would-be tyrants to exercise their judgment for our collective judgment of information about our Government available in the press—and not just the broadcast press. When the day comes that the power of government can be put behind a complaint about the way news is told—in newspapers as well as over the air—we will be in the same position as the citizens of countries Mr. Ringler tells about.

Our first amendment is premised on the faith that as long as the government cannot influence what is published about it, there will be no need to fear for freedom. That means that each citizen is able to think for himself, to make his own judgments. We dare not forget that.

Mr. President, I ask unanimous consent that Mr. Ringler's remarks as published in the Milwaukee Journal last Sunday be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### FREE PRESS ON RETREAT WORLDWIDE

The kind of free journalism that you and I believe in is in trouble around the globe. And the darkness is growing.

The press freedom picture is depressing. The heart sinks when you read of developments in India, in the Philippines, in many nations of Africa and Asia.

In the latest International Press Institute review of world press freedom, Director Peter Galliner wrote that more than half the "free world" had no free press. Freedom House of New York, which uses press freedom as the measure of all freedom in a nation, states in its latest study that no more than 30 nations have a meaningful press freedom.

Writing of 1975, Freedom House said that 743 million persons suffered significant reduction of freedom and that today only 19% of the world's population lives in free societies.

It noted that in 1975 India went from the list of free nations to that of the partly free; South Vietnam fell to "not free"; internal violence hampered freedom in Lebanon, Colombia and Mayalsia and there were declines in freedom in Pakistan, Bangladesh, Dahomey, Ethiopia and the Malagasy Republic. Oppression increased in Brazil, Nigeria, Liberia, Zaire and Kenya.

### BAD NEWS FOR PRESS

Here is a sample of the reports coming into IPI headquarters in recent months:

Mexico City—Excelsior, the only daily that has dared to criticize the government, has been silenced by an internal coup that could not have been carried out without the encouragement and support of President Echeverria. Julio Sheria Garcia, world famous editor-in-chief, and six leading executives were expelled from the paper.

Seoul, South Korea—LeePu Yong, the journalist who led the struggle for press freedom at Dong-a-Ilbo, has been sentenced to eight years imprisonment, charged with trying to overthrow the regime of President Park.

New Delhi, India—Parliament is considering constitutional amendments that will solidify the already imposing power of the executive and dramatically reduce that of the judiciary. The government of Mrs. Gandhi is enforcing increased self-censorship by the press and is tightening control of the biggest and best newspapers. The Times of India now has a third of its directors named by the government.

The Hindustan Times has a new industrialist owner and follows the government line faithfully. The Statesman is being harrassed on all fronts. Its editor, Cushrow Irani, was refused a passport to come to the US in May to speak to the IPI Assembly.

The general managers of the Press Trust of India and United News of India, respected agencies, have been ousted at government orders. The chairman of both agencies has been told that from now on the Information Ministry will decide on policies.

Manila, Philippines—An order has gone out to the media that there must be no criticism of the president, of his wife or of the government. Mrs. Marcos and members of her family are rapidly increasing their direct ownership and control of newspaper and television interests.

Another problem goes to the heart of our crisis. We in journalism do not stick together. We get outraged and fight valiantly for press freedom in our own circulation area, or sometimes in our own lands. We show little concern about what happens to press freedom, or to fellow journalists, in far places.

IPI's director put it well in his 1975 review. He noted what Mrs. Gandhi had done to press freedom—indeed, all freedom—in India, as she decreed that the world's largest democracy should become a dictatorship.

Wrote Galliner: "The press of Western democracies reacted to the Indian events as it would to a volcanic eruption in the Maldives. Interested but impersonal. But the fallout may one day influence their own future."

I can offer an example closer to home. Before Ferdinand Marcos declared martial law, shut down press, television and radio and jailed many journalists, the Philippines had one of the freest presses in the world. Many of its editors were educated in this country and were close friends of American journalists. The Filipino democracy was "our baby"; the US had fought for it and freed it. If there was anywhere that American press and public opinion could have been effective in slowing and possibly reversing dictatorial excesses it would be in the Philippines.

Was there powerful editorial campaigning? There was not. Oh, yes, our better papers had ringing editorials. Some had two or three. But overall it was little more than a reaction to "a volcanic eruption in the Maldives." And it had just about as much influence in Manila.

You may be interested to know that the US is still contributing around $110 million in economic and military aid to the Marcos government every year. This is another subject—how the US government supports the foes of press freedom around the globe. No wonder that the American people are reported to believe that current American foreign policy lacks idealism and moral content.

But I want to note a few important victories for press freedom—a few reasons for hope, if not optimism.

Press freedom has been restored in Greece, after the overthrow of the government of the colonels. Press freedom has been restored in Portugal, after the sad decades of Salazar. There is press freedom—still a bit uneasy—in Spain. Some worrisome efforts at governmental press control in Europe have been frustrated.

### THE YUYITUNG CASE

There is inspiration in letters that come to Zurich. I'll tell you of one:

"My wife and children join in expressing my gratitude to IPI for its continued interest in my case. If not for the vigorous intervention of IPI, a graver injustice would certainly have befallen us. Your moral support sustained me during my years in prison."

This came from Rizal Yuyitung and marked the successful conclusion of one of IPI's most memorable campaigns. Yuyitung was a distinguished editor in Manila. He was of Chinese ancestry, but his family had lived in the Philippines for generations. His father had been killed by invading Japanese in World War II.

Yuyitung and his brother Quentin had found the displeasure of President Marcos. False charges were brought against them—several courts threw out the charges.

One night the Yuyitungs were shanghaied from the parking lot of the Manila Press Club, driven to a military airfield and flown to Taiwan. In Taipai it was announced that they would be tried as Chinese, under military law, for being supporters of the Communist Chinese—a lot of nonsense.

With the help of practically all the outstanding journalists in Manila, IPI started a worldwide campaign in behalf of the Yuyitung brothers. A distinguished delegation of world journalists attended the trial in Taiwan. Some European governments, I understand, were persuaded to press for leniency. The Yuyitungs were given three years in corrective custody—which meant living in their own quarters, eating well, being given pro-Chiang literature to read.

Rizal Yuyitung and his family are now in Canada, where he is taking out Canadian citizenship. His brother is in this country.

The Manila newsmen who supported the Yuyitungs? Marcos has seen to it that none of them have jobs in journalism today.

Keep in mind that press freedom is indivisible, that what diminishes it in one country tends to diminish it in all, that tyranny knows no borders, that the foes of freedom learn from each other, that press freedom is the guardian of all freedoms, and is ever the very first victim of the tyrant.

Lastly—whenever you confront efforts to muzzle or limit the rights of free press or free speech, follow the recent counsel of Federal Judge Harold R. Medina: "Fight like tigers every inch of the way."

## WOMEN'S EQUAL EDUCATIONAL OPPORTUNITY

Mr. PERCY. Mr. President, earlier this week Congress approved the conference report on S. 2657, the Education Amendments of 1976. I supported the conference report as did an overwhelming majoritiy of my colleagues because the enactment of S. 2657 is critical to continued Federal support for higher education, vocational education and educational research. The improvements made in the student financial aid programs were particularly important and noteworthy.

This conference report, however, was a great disappointment to me in one respect. S. 2657 went to conference with a number of amendments which I had worked on since 1974, to integrate girls and women more fully as equal participants and beneficiaries of our education system. Although these women's equal educational opportunity amendments were cosponsored by 10 Senators and had the warm support of a number of other Senators, including Senator Pell, chairman of the Education Subcommittee and Senator Javits, ranking member of the full Labor and Public Welfare Committee, the conferees saw fit to delete the amendments from the final conference report.

I express this disappointment not only for myself but also for the many individual women and women's organizations who have worked with me through the years on this issue. This disappointment is heightened by the knowledge that the rejection of the amendments was prompted by active opposition from the

American Library Association and the Association of American Publishers. This opposition is particularly disappointing, as my office cooperated fully with the representatives of the associations to work out the problem that the associations had had with the amendments. As much as I do not understand why this opposition continued after the association's problem was resolved and agreement amicably reached, I venture to suggest that there was an oversight somewhere along the line.

My statement today is to give notice that the associations will have another opportunity to consider the women's equal educational opportunity amendments. Neither the women who worked on this nor I have given up. We intend to move forward on this important issue with renewed vigor in the next Congress when the library services and the elementary and secondary education bills come before the Senate for consideration. We sincerely hope that the American Library Association and the Association of American Publishers will actively and fully support equal educational opportunity for women the next time around.

## FARMERS HOME ADMINISTRATION PROBLEMS IN ALLOCATION OF FUNDS

Mr. BIDEN. Mr. President, many of us have been concerned about the bureaucractic decisions which have prevented the Farmers Home Administration from allocating all of the housing assistance funds which Congress has authorized and appropriated.

As of September 28, 1976, 2 working days before the end of the transition quarter and the start of a new fiscal year, FmHA had about $480 million in loan authority left unobligated for homeownership and rental housing. Any loan authority which was not obligated by today, and obviously not all of it could be.

It is disturbing that this sizable amount of loan authority may be lost when financing for low and moderate income housing is so difficult to secure and the need for FmHA's loan authority very great, at least according to the huge FmHA loan backlog reported to my office.

Much of this delay in allocating funds is due, pure and simple, to administrative decisions made by FmHA.

Several months after the start of fiscal year 1976, it became clear that the loan authority for the fiscal year for FmHA programs would not meet the demand. The national FmFA office notified its State offices that the allocation for the rural housing programs for the first half of the fiscal year would be used up by October 10, 1975. In the meantime, the number of applications for rural housing loans has continued to increase.

To control this deluge of applications, FmHA set up a monthly allocation system for each State. Field offices were instructed to limit the homeownership applications to the FmHA finance office, despite the growing backlog in some offices.

With a backlog of $200 million in approved applications for 502 homeownership loans in the National Finance Office and with the backlog growing at the rate of $10 million a day, the national FmHA office instructed its field offices stop submitting 502 homeownership loan applications to the Finance Office. As a result, the applications in the field offices continued to pile up and, consequently, applicants had a longer waiting period before their applications could be processed. It is difficult to estimate how many eligible families were discouraged by the waiting period from applying for FmHA assistance.

Congress recognized that the appropriations for 1976 were not sufficient to meet the demand, and provided a supplemental $500 million in loan authority for the homeownership and rental housing programs. The supplemental appropriations was signed into law on December 18, 1975, but because the funds were rescinded by the President, they did not become available for about 3½ months.

When the funds were available, FmHA continued to implement the allocation system with the additional funds. Through its allocation process, FmHA inexplicably provided more funds to States which had been unable to spend their previous allocations and less to States which were overextended. Ten Senators and I sent FmHA a letter dated April 29, 1976, objecting to FmHA's method of allocating the $500 million. My colleagues and I contended that FmHA was "punishing those States which have used their allocations while providing funds to other States which may have serious problems in fully utilizing what they have previously been allocated, let alone the increases provided from the $500 million."

My State of Delaware was one of the States which had obligated all its previous allocations and was in need of additional allocation to fulfill further obligations. In the letter mentioned above, I expressed my concern about this issue.

> The monthly allocation system not only is not causing the backlog to balloon, it is also causing people not to apply. If you are an applicant and told that you are number 600 on a waiting list, you tend to be discouraged. We certainly hope that this is not your intent. The result has been economic catastrophe for many home buyers and homebuilders alike. The $500 million was intended to provide substantial relief for this critical situation.
>
> Unfortunately, we perceive a continuance of past policies calculated to restrain, delay, and frustrate housing activity. In looking at how the $500 million in additional loan authority has been allocated, this is the only conclusion which can be reached. We would have thought that activity in the previous three quarters of the fiscal year would have been a reasonable and appropriate basis for allocating those funds. It is obvious that this is not your procedure.

On July 2, 1976, FmHA pooled the unused 502 homeownership funds. Eight States, however, were precluded from using pooled funds and were limited to previous allocations because of delinquency problems. My State of Delaware was again on that list. The effect of the exclusion of these States was that low- and moderate-income families living there were being penalized. It was clear then, as it has been for sometime, that more FmHA staff was required to properly process and service rural housing loans. However, nowhere have we seen any action on FmHA's part to request more staff to carry out these critical tasks.

To cap off the fiscal year, FmHA instructed its field offices to submit its rural rental loans to the finance office by September 10, 1976. This deadline was subsequently moved to September 20, the same deadline as for the homeownership loans. Fifty Senators and I sent FmHA a letter urging that the early cutoff of FmHA obligations be extended to the last day of the fiscal year, because about $800 million in homeownership and rental housing loan authority of fiscal year 1976 funds were still not obligated as of September 10.

If FmHA is unable to expend several hundred million dollars of the total available, FmHA may cite the reduced levels of fiscal year 1976 obligations to justify requests for reduced levels for fiscal year 1978. In other words, FmHA may well suggest, as it did before the supplemental was passed, that it could not use and does not need a higher funding level. However, this would fly in the face of need for over 9 million units—to be built, repaired, or replaced—in rural areas and demand based on applications.

A related concern is, of course, how to prevent a similar situation from arising next year. As a member of the Committee on Banking, Housing and Urban Affairs, I am hopeful that next year we can hold oversight hearings and investigate why this money was not spent this year and how it can be spent next year to insure that our rural housing program is not stifled by bureaucratic decisions.

## ERDA CONFERENCE AND THE FORD ADMINISTRATION RECORD ON SOLAR ENERGY

Mr. FANNIN. Mr. President, at long last, the House-Senate conferees were able to meet and resolve the differences on the fiscal year 1977 ERDA authorizations. May I commend Chairmen TEAGUE and JACKSON for the leadership they displayed in our sessions, and for the efficient manner in which the conference was conducted.

In the never-ending congressional struggle to achieve agreement on certain energy policy options, this legislation makes several contributions. Besides emphasizing conservation and solar energy technology, this legislation underscores our interest in demonstration of all new technologies and the near-term application of synthetic fuels. The loan guarantee possibilities encompassed in H.R. 13350 will offer yet another form of incentive to the private sector for energy development.

Two other programs established in this legislation which should be noted for their direct responsiveness to this Nation's energy needs are:

First. The Energy Extension Service to enhance public knowledge about conservation technologies, and;

Second. A small grants program to offer opportunities to small-scale technology efforts geared to local and specific energy situations. Both programs should accomplish our objective of assisting in local energy solutions and combating the notion that we are attempting to solve the energy crisis with some laboratory panacea alone.

I would finally like to call to the attention of my colleagues the recommendations we made concerning solar energy construction projects. An ocean thermal sea test facility, two wind energy projects, a total energy pilot plant, a 5 megawatt solar thermal plant and a biomass conversion facility were all included in a $10 million authorization for solar demonstrations. This list should prove a challenging addition to the strong program already underway on inexhaustible resources.

Many of us have watched with strong and an often critical interest the progress of solar development since enactment of the Solar Heating and Cooling Demonstration Act and the Solar Research, Development, and Demonstration Act of 1974. Judging from the accomplishments to date, President Ford's opponents certainly have no grounds for claims of inactivity in the development of this vital resource.

I ask unanimous consent to have printed in the Record an impressive list of solar accomplishments which I recently received from Dr. Robert L. Hirsch, the Assistant Administrator for Solar, Geothermal and Advanced Energy Systems. My colleagues who have been active in support of this program will find this a most useful benchmark in assessing progress toward our goal of solar commercialization.

There being no objection, the list was ordered to be printed in the Record, as follows:

## Major Accomplishments of the ERDA Solar Energy Program

Prepared and Published the "Definition Report—National Solar Energy Research, Development and Demonstration Program" (ERDA–49) in June, 1975.

### SOLAR HEATING AND COOLING

Selected 263 buildings throughout the United States for demonstrations of solar heating and cooling, including 136 residential housing units by the Department of Housing and Urban Development (HUD), 50 military housing units by the Department of Defense (DOD), 68 non-residential buildings by ERDA and 9 Government buildings by five Federal agencies. Demonstration highlights are:

Demonstrated solar heating systems in schools in Boston, Mass.; Warrenton, Va.; and Minneapolis, Minn.

Demonstrated solar heating *and* cooling systems in schools in Timonium, Maryland, and Atlanta, Georgia. The solar system on the Atlanta school is the largest array of collectors yet assembled to provide space heating and cooling and hot water.

Monitoring and evaluating the Solar Assisted Gas Energy (SAGE) project in Los Angeles, sponsored by ERDA, the National Science Foundation, Federal Energy Administration and the Southern California Gas Company. Solar water heating systems have been installed on apartment rental units to conserve natural gas.

Announced plans to install solar heating and cooling on two Air Force shopping centers, one at Randolph Air Force Base in San Antonio, Texas, and the other at Kirtland Air Force Base in Albuquerque, New Mexico.

Selected the U.S. Post Office Building at Boulder, Colorado, for retrofitting with a solar heating and cooling system.

November is the target for operation of solar systems on two General Service Administration commercial-sized buildings: One in Saginaw, Michigan, and the other in Manchester, New Hampshire.

Published the "National Plan for Solar Heating and Cooling" (ERDA–23A) in October, 1975, currently being updated.

Designated 36 solar systems as technically acceptable for use in the Federal heating and cooling demonstration program. The evaluations were based on information submitted by the manufacturers in response to a Program Opportunity Announcement issued by the Division of Solar Energy in September 1975.

Published a "Catalog on Solar Energy Heating and Cooling Products," (ERDA–75) now available from the Government Printing Office. The catalog resulted from a Division of Solar Energy "Request for Information" to the solar industry. The Solar Energy Industries Association is preparing the second, updated catalog.

Preparing to issue the second Program Opportunity Notice (PON) inviting proposals for solar heating and cooling demonstration projects on commercial buildings. This summer, over thirty projects were selected for award from the 308 proposals submitted in response to the first PON.

Supported the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) in the development of two testing standards now under review by the industry. One standard is for testing solar collectors, and the other for storage systems.

Announced intermediate Minimum Property Standards for Space Heating and Domestic Hot Water Systems in the Federal Register on July 12. (Comments were due to HUD August 27, 1976.)

Initiated the Solar Barriers and Incentives program to identify major legal, technological, economic, institutional and other barriers to the widespread introduction and use of different types of solar energy systems, and to recommend incentives to overcome these barriers. Research projects in this area include the analysis of land use, zoning and shading constraints, and examination of appropriate Federal tax incentives for the stimulation of solar energy utilization. Results should be available in early 1977.

### AGRICULTURAL AND INDUSTRIAL PROCESS HEAT

Established the economic viability of a solar green house and a tobacco drying building.

Demonstrated experimental applications of solar energy for the drying of grain, fruit and other crops and for a variety of industrial hot water processes and uses.

Completed construction and now operating experimental shallow solar ponds as prototypes to heat large quantities of water to 140 degrees F for use in a uranium mining complex and ore refinery. This project is being conducted by ERDA's Lawrence Livermore Laboratory and Standard of Ohio.

### PHOTOVOLTAIC

Expanded the project for developing low-cost silicon photovoltaic cells by awarding 43 contracts, managed for ERDA by the Jet Propulsion Laboratory of Pasadena, California.

Completed selection of the awardees for a 130 kilowatt solar cell buy. It appears that the average price will be around $15 per peak watt as compared to the last buy average of over $20 per peak watt.

Stimulated terrestrial photovoltaic market growth from less than 50 kilowatts to approximately 300 kilowatts.

Installed a photovoltaic-operated refrigerator for medical supplies at Isle Royale Michigan National Park.

### SOLAR THERMAL

Issued a Program Opportunity Notice inviting proposals for location and operation of the Nation's first solar thermal electric plant which will have an electrical generating capacity of 10 megawatts. Proposals are due to ERDA by September 15, 1976.

Initiated construction of a 5 megawatt solar thermal facility at Albuquerque, New Mexico, within the boundary of ERDA's Sandia Laboratories. This facility will not produce electricity, but will test components and systems developed by private contractors to convert solar energy to superheated steam or other gases for driving turbines.

Generated 32 kilowatts of electric power at a demonstration marking the start of operation of the Solar Total Energy Test Facility at ERDA's Sandia Laboratories in Albuquerque. This was the largest amount of electricity ever produced by a solar thermal electric process.

Broke ground for a 400-kilowatt Solar Thermal Test Facility at the Georgia Institute of Technology in Atlanta.

Tested the first U.S. built power plant boiler designed to be heated by sunlight in the large solar furnace at Odeillo, France. this summer.

Work is proceeding on total energy systems that can meet the load requirements of urban, rural, military base, and industrial applications. Conceptual design is underway on the first total solar thermal energy large scale experiment which is to be located at Fort Hood, Killeen, Texas.

Selected a site in the Southwest for a cooperative irrigation experiment with New Mexico State University.

### WIND

Achieved initial operation of an experimental 100 kilowatt wind energy turbine at a NASA facility in Sandusky, Ohio, the largest machine now in existence.

Awarded a contract to design and construct a 1.5 megawatt machine, the largest ever built, that will be connected to a public utility network.

Selected 17 sites from which 4 will be identified for installation and testing of large experimental wind power electrical generating systems.

Began testing on several innovative wind energy concepts, such as the vertical-axis "Darrieus" rotor, which have the potential for improved capability over conventional designs.

### OCEAN THERMAL ENERGY CONVERSION

Completed two independent engineering evaluations on the technical and economic feasibility of ocean thermal energy conversion. Results indicate that commercial-scale ocean thermal power plants are within the capabilities of existing technology and that no significant environmental problems will be encountered.

### TECHNOLOGY UTILIZATION

Promulgated a new standardized magnetic tape format for solar radiation (insolation) and meterological data. The new format, known as SOLMET, will be used by ERDA, the National Oceanic and Atmospheric Administration and the states to record and archive insolation data.

Sponsored many other workshops covering such varied solar areas as waves and salinity gradients, solar energy utilization in cold climates, and passive heating and cooling systems.

Supported a joint ERDA–HUD–FEA solar energy and conservation outdoor exhibit on the Mall for Bicentennial visitors to Washington, D.C. this summer. The exhibit features a full-scale model house with rooftop solar collecting panels, and a visitor's rest area cooled with solar energy, a Darrieus windmill, and a revolving "sun fountain" sculpture driven by sun power captured in photovoltaic cells.

Published several educational and semitechnical documents on solar energy utilization to meet the public clamor for such information.

Toured communities in the United States with the Solar Energy Mobile Laboratory.

Received 20 proposals for a manager-operator for the Solar Energy Research Institute (SERI). The proposals are under competitive evaluation, with initial SERI operations scheduled for January 1977.

### FUELS FROM BIOMASS

Anaerobic digestion is a well-established process that offers great potential for conversion of organic wastes to methane. An experimental unit on a cattle feedlot will be followed by a pilot plant next year to demonstrate technical and economic feasibility.

Another conversion process offering significant near-term potential is catalytic gasification, acting with hydrogen and/or carbon monoxide. The U.S. Bureau of Mines has pioneered this process, which is currently being evaluated by the wood-waste-to-oil pilot plant at Albany, Oregon.

## WHAT THE GENOCIDE CONVENTION DOES NOT DO

Mr. PROXMIRE. Mr. President, in their report to the Senate early this year, the Committee on Foreign Relations wrote:

> At the risk of being repetitious, the committee emphasizes again what the Genocide Convention does not do . . .
>
> It does not apply to civil wars as such.
>
> It does not apply to persecutions such as the Soviet treatment of Jews.
>
> It does not apply to discrimination, racial slurs, insults, and the like.
>
> It does not apply to voluntary population control measures.
>
> It does not apply to the past.

The acts which constitute genocide are clearly and unambiguously defined in the convention. Charges that any of these actions might be correctly labeled genocide are shown to be untenable. There is no factual evidence to support the emotional objections which have hindered passage of this important human rights treaty.

Mr. President, we should put aside these groundless allegations concerning the Genocide Convention. It is time to reaffirm our commitment to the right of survival for all ethnic, national, and religious groups. I urge swift ratification of the Genocide Convention.

## CHINA'S ECONOMIC FAILURE UNDER MAO TSE-TUNG

Mr. GARN. Mr. President, the 27-year rule of Mao Tse-tung over Communist China ended with his death on September 9, 1976. With Mao's death, a period of economic experimentation on a scale unparalleled in the world's history came to a turning point. Will mainland China, a country of 800 million people, continue to follow the Maoist economic line, or will there be a new beginning?

For over a quarter of a century the Chinese economy has suffered under the strain of radical and impractical theories for the operation of industry and agriculture. The result has been an erratic course in economic life, coupled with periodic disasters.

In 1949, with the victory of the Communist forces in China and the retreat of the nationalists to the island of Taiwan, two Chinas were created—Communist China on the mainland and the Republic of China on Taiwan. The latter inherited a backward agricultural island, neglected and mismanaged by Japan during its 50 years of occupation.

Twenty-seven years of a free economy on Taiwan provided the incentive to the 16 million people of the Republic to create new industries, modernize agriculture and elevate the level of import-export trade and daily life until it is second only to Japan in the Far East. By comparison, the economy of Communist China remained in permanent difficulty through the entire time and periodically came to complete stagnation.

Mao's military success in 1949 gave him control over a large country and the responsibility for its administration. During the period of consolidation of his power, Mao, among other things, implemented his "agrarian reform." This so-called reform, in reality the large-scale execution of real and imaginary opposition, created turmoil in the countryside and added to the economic woes of the country. According to Mao's own admission, in a speech on February 27, 1957, about 800,000 anti-Communists were executed in the 4 years between 1949 and 1954. A French source estimated that in 1951 and 1952 alone, some 3 million people were killed; and Peking radio once reported that some 2 million Chinese had been liquidated in only 1 month during the consolidation period.

Mao Tse-tung firmly believed that this policy of massive execution would release from the bottom of society new, fresh forces which would energize the production of industry and agriculture and lead the nation to new levels of excellence. He said:

> A revolution is not a dinner party . . . It cannot be so refined, so leisurely and gentle, so temperate, kind, courteous, restrained and magnanimous. A revolution is an insurrection, an act of violence.

According to a September 1971 report of the U.S. Senate Committee on the Judiciary, the overall sacrifice of human life during the Mao Tse-tung period of Chinese history reached the level of between 32 to 61 million people.

This massive loss of life was planned by Mao Tse-tung to eliminate any existing or future opposition and to promote his "permanent revolution," the basic concept of his life.

Therefore, the pressures of the political purges of the early years seriously disrupted agricultural output in China. To increase production in the agricultural sector of the economy, in 1955 Mao launched a drive under the slogan of "intelligent youth go to the rural area." About 8 million people were moved at that time from the universities, schools, and city occupations to the farm and rural areas. This program disrupted the educational process and affected seriously the production of industries and at the same time increased the confusion and mismanagement of the newly collectivized agriculture. This measure was also partially motivated by an attempt by Mao to punish university students for their disturbances and demonstrations against the regime.

Moving from one revolutionary measure to another the Communist Government announced in 1958 a new program of economic development, the great leap forward. Under this program all forces of the economy were directed into critical production fields, in particular iron ore, steel, and agriculture. All rights of employment in Government service were suspended, giving the Government authorities full power to shift the population from one employment to another.

Thousands of people were then moved suddenly from one occupation and from one geographic area to another. The consequence of this massive enforced resettlement was a further reduction in industrial and agricultural output and increased mismanagement of the entire economy.

By 1960 the agricultural crisis reached disastrous proportions. To salvage agriculture, the government conscripted 40 million people of various professions and trades, including millions of high school graduates and university students, for work on the farms, mostly in parts of the country distant from their original place of residence. The economic dislocation and disruption was so great that many long-time friends of Mao and senior Communist leaders critcized the economic policies of the government and advised a change of course.

Mao responded with purges and repressions. In 1959 Mao's friend, Minister of Defense Marshal Peng Teh-huai, was purged and with him many military and party leaders. Lin Piao became Minister of Defense and the policies of the Great Leap Forward continued to be enforced. To avoid hunger the government was forced to purchase great quantities of food in Austria, Canada, and Argentina.

In November 1965, new policies were launched, the "great cultural revolution." In the first phase of these new policies—1965–69—Mao attacked the political group of Liu Shao-chi who had been designated personally by Mao as his successor. In July 1966, Lin Piao's military troops occupied Peking and paralyzed the militia and police forces in the city. The Red Guards roamed the streets of the cities and towns arresting and intimidating followers of Liu Shao-chi and his group. Lin Piao officially became successor of Mao in 1969. Economic dislocation was widespread.

In the second phase of the Great Cultural Revolution—1969–73—Mao Tse-tung and Chou En-lai turned against Lin Piao and his military power. On September 13, 1971, Lin Piao was killed in an airplane crash, removing him from the political struggles.

As the result of these two periods of the cultural revolution, Communist China lost many administrators with at least some degree of experience. The over-level of management and organizational skill fell down considerably. The economy of the country—never strong—was in constant turmoil because of the unstable internal political situation.

The country came to be ruled by the faction of relative newcomers, the cultural revolutionists, headed by the current Prime Minister, Hua Kuo-feng, who retained his position as Minister of Public Security—which provides for a degree of personal security for the group—Wang Hung-wen, an uneducated textile worker who was elevated to the highest party offices in 1973, and Mao's widow, Chiang Ching.

The struggle for political control and administration of the economy of China after the death of Mao already has begun.

But, the outcome of this confrontation for power notwithstanding, one thing is clear—the economy of this agricultural country—with about 80 percent of the population of China employed in agriculture—is such that it cannot produce enough food to support its population; China, therefore, is forced to purchase grain and rice from abroad, from such nations as Canada, Australia, the United States and Argentina.

Mr. President, we should be careful, in light of the current unstable political situation in the People's Republic of China, about moving too fast toward diplomatic recognition of that country, especially now, in this period of unrest.

For those, Mr. President, who see diplomatic recognition the only basis for mutually advantageous trade, I urge a careful consideration of the economic history of the People's Republic of China. Such an unstable economic base offers little concrete hope for large-scale trading opportunities in the foreseeable future.

## BUREAU OF RECLAMATION LAND ACQUISITION POLICIES

**Mr. ABOUREZK.** Mr. President, I shall ask to have printed in the RECORD the following letter I have sent to the Honorable Gilbert G. Stamm, Commissioner of Reclamation. The letter concerns recommendations made by the House Committee on Government Operations in chapter XII of their report "A Review of the Environmental, Economic and International Aspects of the Garrison Unit, North Dakota." The chapter concerns Bureau land acquisition and relocation policies. Many of the recommendations of the committee have already been implemented, but there is much left to do. I believe that all of these recommendations could be very usefully implemented in South Dakota for the Oahe project. I am pleased to report that such a distinguished and knowledgeable colleague as Congressman MARK ANDREWS agrees with me that while commending the Bureau for its action to date, we should urge it most strongly to follow all the proposals made by the committee on this matter.

Essentially, the report recommends that landowners be fully appraised of their right under the law, that they be provided with complete information on the appraisal of their land by the Bureau, that the Government assume or avoid all unnecessary costs arising from forced relocation, and that landowners should receive the best possible assistance in finding replacement land. These recommendations would go a long way toward making the painful, uprooting process of relocation more fair and more compassionate.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 5, 1976.

Hon. GILBERT G. STAMM,
*Commissioner, Bureau of Reclamation, Department of the Interior, Washington, D.C.*

DEAR COMMISSIONER STAMM: I have recently had the opportunity to read the report of the House Committee on Government Operations entitled "A Review of the Environmental, Economic and International Aspects of the Garrison Unit, North Dakota" (House Report No. 94–1335). I was especially interested in Chapter XII, "Bureau Land Acquisition and Relocation Policies." The findings and recommendations reported here, I believe, also have a significant relevance to the Oahe project in South Dakota, and I would like to request, by this letter, that the recommendations of that report be implemented by Oahe as quickly as possible.

Essentially, I believe the report raises four important areas of concern: (1) insuring that landowners are fully and clearly appraised of their rights under the Uniform Relocation and Real Property Acquisition Policies Act of 1970; (2) supplying landowners with all information relevant to the expeditious and fair processing of their negotiations and/or litigation concerning the sale of their property; (3) reducing all unnecessary costs for landowners being relocated, both through the avoidance of litigation where at all possible and through the reduction or elimination of capital gains taxes on property sold; and (4) providing the best possible assistance in relocating those who must sell their land.

I realize that the Bureau has already acted to deal with some of the problems raised in the report, and this deserves the highest commendation. I also realize that some of the proposals are not within the power of the Bureau to act on. Having said this, however, the fact remains that there is much left to be done. The landowner who must sell his land, or face the possibility of condemnation, is in an extremely disadvantaged position with respect to a government agency, with all the powers of condemnation plus the legal capability and sophistication to fight a court battle. The landowner often must give up a lifetime's commitment to his land and his workplace. I believe that the government must handle relocation, therefore, with the greatest sensitivity and compassion towards the landowners' situation, and above all, must do everything possible to be sure that landowners are capable of presenting their case effectively.

A first step in this direction would be the publication and distribution of a landowner's bill of rights, which would clearly spell out all rights enumerated in the Relocation Act. The committee report details the rights it believes are currently not always being implemented, such as adequate notice before eviction, the right to accompany the appraiser, the right to negotiate a fair price and prompt payment, and the right to refuse a government's price offer.

All of the rights should be listed in clear and simple language. It would also be useful, I think, if the Bureau would include an explanation of what events are likely to occur during the relocation process, list and answer commonly asked questions, and give names, addresses and phone numbers of people to contact for further information.

A second area concerns the appraisal of property. First, the landowner should be allowed to accompany the appraiser, so that he can be able to negotiate intelligently. Secondly, landowners should be able to receive detailed breakdowns of the appraisals during the negotiation process. The report indicates that the Bureau has denied such breakdowns in the past, contending that they are not required to do so under the Freedom of Information Act. Without this information the landowner must either accept the Bureau's judgment or pay for his own appraisal. Neither alternative is acceptable. The Parks Service has provided the detailed information, and I believe the Bureau should follow their lead, as much information would make it easier to reach a negotiated settlement acceptable to both parties. Within complete information both parties can negotiate on a more equal basis, and such equality is essential if a negotiated settlement at fair market value is to be approximated (in a real fair market proceeding, both parties are equal; in this situation, there is an unwilling seller facing a buyer with condemnation power). Negotiated settlements, of course, are the goal of the Relocation Act.

In this vein, I would also stress the report's recommendation that condemnation and litigation must only proceed after all efforts to arrive at a negotiated settlement have failed. These procedures are too drastic and too costly for farmers to be expected to undertake.

A third area of concern is that of costs. The report correctly points out that, in addition to possible court costs, landowners often must pay capital gains taxes on the property they sell, and then are forced to pay a much higher price for comparable land. Although I recognize that it is not within the Bureau's power to compensate landowners for these costs, I would support such legislation, and I hope the Bureau will join me in that support.

Finally, many landowners believed that they were not given adequate assistance in efforts to relocate. While the committee did not pass judgment on the validity of these criticisms, they were very common, and that fact, in itself, indicates that the Bureau could do a better job in easing the relocation transition.

It is my understanding that the Bureau is required to respond to the recommendations in the Garrison report. I would like to add my voice in support of the recommendations in this chapter and urge that you adopt them as quickly as possible.

With best regards,
Sincerely,

JAMES ABOUREZK,
*U.S. Senate.*

## IMPROVED FEDERAL REGULATIONS

**Mr. CURTIS.** Mr. President, for many years now I have been one of a handful of Members of the Senate that has argued against the excesses of Government, against the expansion of Government controls and regulations over the lives and activities of the citizens, and for reform of and reductions in the Federal Government.

One would think that with the growing public opposition to Federal controls, regulations, and restrictions, the elected representatives of the people in the Congress would get the message. It may be that the message is beginning to be noticed. I have heard considerable rhetoric in this election year about the oppression of the public by overregulation, the insensitivity in the administration of the massive bureaucracy, and the unmanageability of the expansive Federal Government.

Just as hope was mounting that the public message would bring about some responsive action in the next Congress, I was startled out of my wishful thoughts with the revelation by a member of my staff that some real concrete steps had been taken in recent years and months to solve the dilemma.

I am sure my colleagues will understand my consternation at learning that I had lost faith in American ingenuity. I was told that science and technology would once again come to the rescue. As a matter of fact, science and technology have already been applied to problems in several areas.

The Congress and the administration have recently undertaken vast improvements in Government with the use of the computer. We now have Federal information systems by which citizens can call toll-free telephone numbers to find out about possible Federal programs.

In Congress we have recently installed bill status offices from which we can find out the up-to-date status of a bill by simply dialing a phone number. We also have installed a complex computer system for instant reference use in locating papers, research works, articles, and virtually any information on any subject.

I understand it will be just a matter of time before we have sophisticated equipment that will enable us to dial-an-article or dial-a-book when it will appear in seconds.

The most recent significant advancement that has come to my attention is a service to inform us of new Federal regulations and proposals before they have even been published. The new service is called dial-a-reg, and enables citizens anywhere in the country to find out a day in advance what new regulations and proposals will be published in the Federal Register the following day.

Imagine how important Federal regulation has become, that the public has clamored for a more speedy notification process for learning of new Government restrictions. I must say, this latest service will do much in the eyes of the citizens to help solve the problem of Government overregulation and excess.

Mr. President, I think the achievements in recent months are highly commendable, and I think we should consider speeding up the technology advances in the Federal system in the interest of making the Federal Government more responsive to the people. I would like to offer some suggestions for improvements that would be readily visible to the public.

We have heard for years about the backlog of cases awaiting court action. I suggest that the judicial system adopt *a dial-a-decision* for judges whose courtrooms are overflowing. Such a system could vastly speed up our judicial process.

Here in the Congress we have many opportunities for improvement by technological means. I suggest that we set up a dial-a-bill computer system which would save on the thousands of man-hours spent by legislative counsel and the committees in drafting the thousands of bills introduced each year in the Congress.

Of course with any dial-a-bill system we should also have a dial-an-amendment system for those Members who do not like a particular bill and want to add to or alter it.

We could also establish an instant-decision telephone system for those Members who cannot make up their minds about which way to vote on a bill.

Perhaps one of the best savers of time and money would be an automatic-hearings system to save the time of committee staffs and Members in otherwise having to schedule around so many committee meetings.

Another improvement could be realized in an instant-mark-up system to save the time of committee staffs and Members in having to draft lengthy reports and rewrite bills. This system would pick up directly on the automatic-hearings system.

I would also suggest that we install a telephonic dial-a-vote system to save Members precious time in having to get to the floor to vote. This would greatly improve on our last technological advancement in the Congress of subway cars to speed the Members over to the floor to vote. It will also free up much needed elevators to handle the increasing numbers of Senate employees and visitors to the Capitol.

Of course if we had a dial-a-vote system, I suppose that under the rules of the Senate we should also have a dial-a-filibuster. When the number for dial-a-filibuster is dialed by a Senator, it would automatically jam the system and stop any dial-a-vote in process.

Mr. President, I realize that we are in a hectic schedule to conclude the 94th Congress, but I thought my colleagues would appreciate having the information I have provided here for use in the general election campaign. Surely the further revelation of these improvements will make the American citizens aware of the real efforts and achievement of the Congress in solving the problems of excessive Government and expansive Federal regulations.

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## INTERNATIONAL BROADCASTING: A NEW DIMENSION OF WESTERN DIPLOMACY

Mr. STONE. Mr. President, the Commission on Security and Cooperation in Europe, of which I am a member, has been established to monitor and report upon compliance with the provisions of the Helsinki accords. One of those provisions signed by both the United States and the Soviet Union was an agreement to further the international flow of information. As the Commission begins its study of the effectiveness of these accords, I wish to call to the attention of my colleagues a new study of international broadcasting published by the Georgetown Center for Strategic and International Studies, CSIS. This study, entitled "International Broadcasting: A New Dimension of Western Diplomacy," was written by David M. Abshire, chairman of CSIS. He also serves as the first Chairman of the U.S. Board for International Broadcasting established by Congress in 1973. Mr. Abshire is continuing a most distinguished career in the area of foreign affairs. He was an Assistant Secretary of State, 1970–73, and served on the congressional Commission on the Organization of the Government for the Conduct of Foreign Policy, 1973–75.

I would like to insert into the Record at this time two reviews of this study which appeared in the Guardian Weekly, on September 12, 1976, and in the London Times, August 30, 1976. These favorable critiques aptly point out the need for a clearer understanding by the West of the values of international broadcasting as an instrument of diplomacy. As the Soviet Union continues to spend large sums of money on jamming Russian language broadcasts from Radio Liberty and Radio Free Europe it is worth noting that these activities certainly appear contrary to the spirit of the Helsinki accords.

Dr. Abshire's study is an excellent presentation of the opportunities which we have to provide an alternative source of domestic news within a Communist State which can reach a potentially vast audience of politically curious persons. I ask unanimous consent that these editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Guardian Weekly, Sept. 12, 1976]

### As Free As Air

On the morning the Bolsheviks seized power in Petrograd, Lenin's first message to the citizens of the new Russia was broadcast from the cruiser Aurora. By 1922 he had established in Moscow what was then the most powerful radio transmitter in the world.

He and his successors were never in any doubt that in radio they had found an immensely effective medium of communication, and hence indoctrination. But even in those early days he was well aware that for a totalitarian state broadcasting was a double-edged political weapon. He described radio as "a newspaper without paper—and without boundaries."

Today, when almost everyone in Russia has access to a cheap, transistorised short wave receiver and its Government is committed—at least on the bit of paper it signed in Helsinki last year—to further the international flow of information, its dilemma is acute and irreconcilable. Broadcasting is still a basic instrument of domestic political control, yet the unsatisfied appetite for foreign news has produced an audience for Western broadcasts estimated at 60 million people.

Unless one has lived in a country where information is the monopoly of the ruling dictatorial regime, David Abshire writes in a new study of international broadcasting published by the Washington Center for Strategic and International Studies, it is difficult to conceive "with what eagerness one turns constantly to radio broadcasts from abroad to learn what the rest of the world is saying and thinking, even what is going on in the country itself." Russians even hand round tape recordings of particularly interesting foreign broadcasts among their circle of friends.

The significance the Russian authorities themselves attach to Western influence through the transmitters of the BBC's external service, the Voice of America, Deutsche Welle, Kol Israel and the rest, can be judged by its massive expenditure on jamming transmissions. There is admittedly a lot less jamming than there was, but since Helsinki this physical disruption has been to some extent replaced by efforts to discredit as well as compete with Western "propaganda."

Mr. Abshire acknowledges that in the broadest sense Western broadcasting to the Soviet Union and Eastern Europe will always be propaganda. But whether the broadcasts set out to represent a national Western view of the world—like the Voice of America—or provide an alternative source of domestic news within a Communist state—which Radio Liberty and Radio Free Europe try to do—their propaganda is committed to the principle of open public debate and a free exchange of information.

In Mr. Abshire's view the unique influence of Western broadcasting is so powerful, so fundamental, it amounts to a new dimension in diplomacy—even if many traditionally trained members of the diplomatic corps cannot understand its importance. He is "astonished" that a Western alliance that spends such vast sums on military deterrence should devote comparatively few financial and intellectual resources to speaking direct to Communist citizens in their own homes. As one would expect, he has a quite word of sympathy for the BBC external services' current budgetary problems and discreet admonition for a French Government that decided to abandon all its Eastern broadcasts temporarily at the end of 1974.

The Voice of America, he suggests, should be reorganised along BBC lines, under its own board "where it would be buffered from the oversensitised restraints and requirements of official foreign policy." It should then be linked through an executive committee with Radio Liberty and Radio Free Europe (which might usefully be renamed to confirm their long standing rejection of their original subversive role), and to some greater extent with similar broadcasting organisations in other Western countries.

He sees their key audience in the Soviet Union divided into the "politically curious"—not necessarily intellectual dissidents, but those aware that their own officially controlled sources of information provide only an incomplete, self-serving view of the world—the managerial and professional classes who need objective information for their own efficiency, and the younger generation.

Their collective role, he suggests, is both positive and negative. By keeping Communist audiences informed, their leaders' freedom of totalitarian manoeuvre is vitally restricted. At the same time the formal efforts to find some common ground between the Communist and democratic systems at least reduce the risk of military clashes.

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[From the London Times, Aug. 30, 1976]

## Why the Kremlin Pours Out Millions To Jam the Voices of Freedom

(By Lord Chalfont)

Long ago—indeed it seems now that it was in another world—I had a Russian tutor in Paris. Like all good language teachers, he would converse with me in no other language but his own, and among his many idiosyncrasies was the habit of making obscure and incomprehensible puns in Russian.

As this is a form of humour which brings me out in a rash even when it is perpetrated in English, I gradually began to experience sensations of homicidal rage whenever he rapped the side of his nose with his right forefinger—the unmistakable sign of an approaching piece of tortuous word-play. However, one of his less mind-boggling *jeux d'esprit* remains even today in my mind, possibly because he repeated it relentlessly every morning as we sat at a pavement café, drinking lemon tea out of tumblers and reading the latest newspapers from Moscow.

As most readers of *The Times* will know, the two main official Russian newspapers are called *Pravda* and *Isvestia*, meaning respectively Truth and News. Having read through the two papers, he would deliver the familiar nasal premonition, take a sip of tea and announce, in his ineradicably pre-revolutionary Russian: "In *Truth* there is no news and in *News* there is no truth." He would then utter a mirthless and peculiarly Russian laugh, consisting of the monosyllable "ha" repeated exactly three times on precisely the same note.

I have recently been reminded of these apparently irrelevant exchanges by two experiences involving *Pravda*, and if I may hold you for a moment with my glittering eye, I would like to tell you about them.

The first occurred a few weeks ago, when there appeared in *Pravda*, an article on the military balance between East and West. Its salient points were that Soviet military expenditure for 1975 was half that of the United States; that the Soviet Union, alone among the great powers, is making no increase in its military budget, while that of the United States is growing every year; that there are very good reasons why the Soviet Union should have larger conventional armed forces than America; and that the number of "units of strategic nuclear weapons" had increased between 1970 and 1975 by 112.5 per cent in the United States and by 38.8 per cent in the Soviet Union.

The article was well written and persuasively argued; and it is the only version of the facts which Russian newspaper readers will ever be allowed to read.

Then, on August 16, a British national daily newspaper printed a story stating categorically that the American Government had asked for permission to build a new radio station in Britain "to beam news and propaganda behind the Iron Curtain." The station, according to this report, was to be linked to the Radio Free Europe network "largely financed by the Central Intelligence Agency."

The story was, in fact, an irresponsible fabrication. No such request has been made; and in any case the Central Intelligence Agency has had no connection with Radio Free Europe since June 1971. Predictably, however, the Russians seized upon the story and on August 20 Pravda repeated it as clear evidence of the efforts of the CIA to obstruct the process of détente. On August 24, the British newspaper concerned published a retraction admitting that it had got its facts wrong. This has, also predictably, not been repeated in Pravda.

I mention these two events simply to underline the fact, now reasonably well known in the West, that there is no free press in the Soviet Union. The Russian people are insulated from the rest of the world by a state-managed information service which tells them what the state wants them to know—no more and no less. This, of course, has a direct bearing on the reality or otherwise of that somewhat dubious element in international relations known as détente, since there can be no close relationship of trust between political groupings where there is no free exchange of information.

At the Helsinki Conference last year this truth was presumably recognized by all the signatories of the Final Act which referred to "the essential and influential role of the press, radio, television, cinema and news agencies, and of the journalists working in these fields".

Furthermore it included a specific reference to radio communications: The participating states note the expansion in the dissemination of information broadcast by radio, and express the hope for the continuation of this process, so as to meet the interest of mutual understanding among peoples. . . .

Since the expression of these unexceptionable sentiments, not much has happened. It has become no easier to buy western newspapers in the Soviet Union; nor has the Soviet Government shown any signs of relaxing its rigid control over the information which appears in its own press.

What is even more important is that foreign radio transmissions, which are capable of functioning as a substitute for a free press in closed societies, are also the subject of massive consorship. This has recently been one of the subjects of a study by Dr. David Abshire, in which he calls for a clearer understanding by the West of the value of international broadcasting as an instrument of diplomacy.

Dr. Abshire is chairman of the Centre for Strategic and International Studies at the University of Georgetown in Washington. He is also chairman of the Board for International Broadcasting, which supervises the activities of Radio Free Europe and Radio Liberty. He points out that the Soviet Union continues to spend large sums of money (something like £150m a year) on jamming Russian language broadcasts from Radio Liberty as well as those from China, Albania and Israel. There is also persistent interference with the Czechoslovak, Bulgarian and Polish services of Radio Free Europe.

It is, I think, worth pointing out that these jamming activities are not only contrary to the celebrated "spirit of Helsinki". They are also contrary to the Montreux International Telecommunications Convention, of which the Soviet Union is a signatory and, just in case any of the signatories of Helsinki still care, they are in direct breach of Article 19 of the Universal Declaration of Human Rights.

I think it worthwhile to dwell on these facts as there seems to be a tendency in some quarters in the West to forget the background to the Helsinki Declaration.

It was the culmination of Mr. Brezhnev's campaign to achieve international recognition for "the territorial changes that took place in Europe as a result of the Second World War"; and the argument in the West for agreeing to a conference which was clearly designed by the Soviet Union as a means of ratifying its East European frontiers was that, these frontiers would be opened to the free exchange of ideas and the free movement of people—the essential elements of that part of the Helsinki agreements which dealt with humanitarian cooperation and which came to be known as Basket III.

The Soviet failure to fulfill its side of the Helsinki bargain is more than a simple breach of faith; it casts doubt on the whole concept of the Conference on Security and Cooperation in Europe, and on the theory that the Helsinki Declaration has any value at all.

For, as Alexander Solzhenitsyn said in his Nobel Prize lecture: "Blocking of information makes international signatures and treaties unreal; within the zone of muffled silence any treaty can easily be reinterpreted at will."

No one in his right mind would want to obstruct the relaxation of tension or the development of good relations between the Soviet Union and the West, provided that they are based on a common body of information without which mutual trust is quite simply impossible.

It is therefore vitally important that between now and June 1977, when the next East-West conference is to be held in Belgrade, the Western powers should make clear to the Soviet Union beyond any possibility of doubt or misinterpretation, that further pursuit of detente is conditional upon genuine improvement in the free flow of information and the fulfillment of the Helsinki undertakings on cooperation in the field of human rights.

This applies, with especial urgency to the matter of broadcasting; for, as long as the Soviet Union continues to interfere with the right of its citizens and those of East European countries to receive information and ideas "through any media and without regard to frontiers" the Helsinki Declaration is worth considerably less than the large amount of paper it was written on.

## MOST-FAVORED-NATION STATUS OF ROMANIA—SEPTEMBER 30, 1976

Mr. BROOKE. Mr. President, the Senate has considered this past year a Presidential recommendation to extend for another year under the waiver provisions of the Trade Reform Act of 1974 the MFN status of the Socialist Republic of Romania.

In determining our attitude, we must face the facts as far as Romanian policies are concerned. We find much to recommend in Romania's foreign policies despite her continued membership in the Warsaw Pact, and we would like to encourage her attempts to become increasingly independent.

Yet, in doing so, we should not forget the onerous internal policies of the Romanian Government in regard to human rights, particularly toward reuniting separated families where one member had fled abroad and wants his family to join him or her, and with regard to the 2.5 million Hungarians and 500,000 Germans of the Province of Transylvania.

The dedication of the United States to the cause and furtherance of human rights everywhere is too well-known to be repeated. We are concerned about discrimination against minorities everywhere, including those in the Socialist Republic of Romania.

Their complaints have been often documented not only by American-Hungarian organizations, including the American Hungarian Federation on the national level, but by many internationally renowned newspapers and periodicals in the United States and Western Europe. They include the slow but steady decrease in school sections where the majority of the subjects are still taught in Hungarian, especially on the secondary, technical, and vocational levels. They include local pressures against the free use of the mother tongue and sign in Hungarian in the cities with even more than 40 to 50 percent Hungarian population, and a complete ignoring of the history of Transylvania because before 1920 the area belonged to Hungary or was under Hungarian rule.

In addition, denationalization pressures include dispersal by job assignment of the leadership of the Hungarian community: That is, the professional school and university graduates into purely Romanian provinces and counties while settling Romanian professionals and university graduates into the Hungarian regions.

May I call the attention of the Senate to this state of affairs and ask the administration to consider these issues in talking with the Romanian Government, and my colleagues to consider them carefully in making up our minds about the extension of the MFN status, lest possible approval be misunderstood for a blanket approval of the policies of the Romanian Government toward human rights, especially of those of the more disadvantaged national minorities.

## JUVENILE JUSTICE STANDARDS REFORM

Mr. BAYH. Mr. President, the failure of our Nation's juvenile justice system to effectively deal with crime and delinquency has been frequently documented by knowledgeable commentators as well as by the incessant escalation in the rate of juvenile crime, especially violent crime. Though only devised within the last hundred years the juvenile justice system is badly in need of reform. The 1974 Juvenile Justice and Delinquency Prevention Act was a congressional initiative designed to help provide leadership and incentives to encourage a more humane and economical social response to juvenile delinquency and crime. We hoped to help assure that our communities would be protected from the terror and fear generated by the violence of a few and that other youth in trouble would be treated in a manner more consistent with the nature of their action.

For example, we provided incentives to prevent the detention and incarceration of truants, runaways and other youth committing noncriminal acts, while acknowledging and endorsing the need to incarcerate serious multiple offenders. Much work remains to be done. It is unquestionably clear as Judge Irving Kaufman, chief judge of the U.S. Court of Appeals for the Second Circuit has recently emphasized that "a searching re-evaluation and fundamental overhaul of procedures for dealing with the problems of youth" is imperative.

A major component of the juvenile justice reform movement is the development of sound uniform standards to guarantee that indeed justice prevails for those juveniles in the system and for the community at large. Sadly, today in many instances there is no justice or equity for either the accused or the offended. The 1974 Juvenile Justice Act required the Justice Department to submit to Congress recommendations for improving the administration of juvenile justice at the Federal, State, and local levels. Similarly, the Juvenile Justice Standards Project jointly sponsored by the American Bar Association and the Institute of Judicial Administration will soon publish its recommendations based on an unprecedented detailed evaluation of these important matters. The American Bar Association will consider the project's proposals at its February 1977, midyear meeting in Seattle.

Thus, the coming year will be one which will witness considerable discussion and debate regarding serious proposals for basic changes in the collective array of methods whereby our States, localities, and the Federal Government respond to juvenile crime and delinquency—commonly designated a "system" of juvenile justice.

As chairman of the Senate Subcommittee to Investigate Juvenile Delinquency I bear a heavy responsibility to advise my colleagues and our citizens about these important reforms and to make responsible recommendations for action. Consistent with our subcommittee mandate I intend in the coming year to work even more closely with the American Bar Association, the Standards Project, the National Advisory Committee on Juvenile Justice and Delinquency Prevention, the Department of Justice and other interested organizations and individuals, including the National Council of Juvenile Court Judges, to whom we are especially indebted for helping to plan, draft, and seek approval of the landmark 1974 Juvenile Justice Act. I intend, through subcommittee activities, including public hearings, to help assure that these important reforms are properly assessed and refined to provide a model for our communities to assist in assuring justice for all of our citizens, but especially our youth.

Mr. President, I ask unanimous consent that an excellent article on these important matters, "Of Juvenile Justice and Injustice," by Judge Kaufman, the distinguished chairperson of the ABA-IJA Commission on Juvenile Justice Standards, which appeared in the American Bar Association Journal, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### OF JUVENILE JUSTICE AND INJUSTICE

(By Irving R. Kaufman)

The five-year Juvenile Justice Standards Project will present its blueprint for reform to the American Bar Association's House of Delegates in August. The project, a joint undertaking of the Association and the Institute of Judicial Administration, offers a comprehensive set of standards for the system of juvenile justice.

It has become increasingly apparent that our traditional system of juvenile justice is a failure. It neither safeguards society from violent juveniles nor provides adequate protection for the alarmingly large number of children reared in brutal environments.

Since 1960 arrests of juveniles for violent crimes have increased by 246 percent, more than double the comparable figure for adults. Indeed, children between the ages of ten and seventeen—a mere 16 percent of the population—now account for almost 50 percent of all arrests for theft and criminal violence. Other statistics reflect the distressing magnitude of violent conduct directed against children. For example, roughly thirty thousand official reports of parental abuse or neglect, involving almost sixty thousand children, were filed last year in New York State alone.

These figures, shocking as they are, are symptomatic of even more serious and widespread problems. Millions of children grow up in home atmospheres of hate and squalor that breed hostility and failure. In a recent article in the New York Times, Kenneth Keniston, Mellon Professor of Human Development at Massachusetts Institute of Technology, estimated that today one quarter of all American children are "born in the cellar of our society [and are] systematically brought up to remain there."

I. The Juvenile Justice Standards Project—

The crisis underlying these bleak and ever-worsening statistics has not developed overnight. The imperative need for a searching re-evaluation and fundamental overhaul of procedures for dealing with the problems of youth has long been clear. Accordingly, the Juvenile Justice Standards Project (J.J.S.P.) was created in 1971 to develop a comprehensive set of recommendations or standards. Its goal was to write guidelines that would improve all branches of what we loosely refer to as the "system of juvenile justice." The project was originated by the Institute of Judicial Administration, a nonprofit research organization founded by the late Arthur T. Vanderbilt, former chief justice of the New Jersey Supreme Court. In 1964 the I.J.A. had initiated the American Bar Association Project on Standards for Criminal Justice, the J.J.S.P.'s adult counterpart. As the members of the "adult" project concluded their assigned task, they realized that their recommendations would be of limited value unless an inclusive and coherent set of standards was developed to govern the path the adult criminal treads in his youth. This view proved persuasive, and in 1973 the American Bar Association joined the I.J.A. as a cosponsor of the J.J.S.P.

A. The Goal: Reform. From its inception the project has been directed toward constructive, concrete, and comprehensive reform. We realized that, if we were to seek cures rather than palliatives, our investigation could not be confined merely to procedural aspects of delinquency proceedings. Indeed, our focus could not logically be restricted to the delinquent. To reach the underlying causes of delinquency, a broader view would be necessary. Accordingly, the J.J.S.P.'s recommendations consider how to deal with youths in trouble but who have not yet broken the law and methods to protect children abused or neglected by their own parents. We have undertaken to investigate the entire spectrum of problems that impinge on the world of the child.

Our desire for constructive reform is also reflected by the diversity of the membership of the project's governing body, the Commission on Juvenile Justice Standards appointed jointly by the American Bar Association and the Institute of Judicial Administration. The commission is composed of leading psychiatrists, sociologists, penologists and youth workers, as well as family court judges, law professors, and practicing lawyers. Two former presidents of the Association are members; a third, Orison S. Marden, was cochairman until his untimely death last year.

This breadth of background and experience enabled us to profit from the diverse viewpoints of many disciplines and brought to our deliberations the expertise of participants from all phases of the juvenile justice process. Equally important, it both impelled and enabled us to adopt a highly pragmatic orientation in our proposals—avoiding an ivory-tower approach. All too often, proposals in a field as emotionally charged as that of juvenile problems have reflected little more than the speculations or political predilections of their proponents. But the commission's members were too diverse to be swayed by any single ideological viewpoint and too experienced to tolerate guesswork.

Our hard look at juvenile justice is, as far as possible, bottomed on hard data. To cite but one example, our recommendation that "persons in need of supervision"—that is, children in trouble who have committed no crime—be diverted from the courts' jurisdiction is premised on empirical studies showing that judicially ordered confinement of these children increases the likelihood of future criminal behavior. It was also grounded on the absence of any evidence that past judicial supervision over these youths reaped any substantial benefits for a significant number of children.

B. The Drafting Process. To ensure quality and accuracy in our standards, the drafting procedures adopted were unusually thorough. Each topic was assigned to a reporter—an academic expert in the field—whose task was to prepare a first draft of standards and accompanying commentary. The reporter was supervised by one of four drafting committees that provided guidance as the reporter prepared his initial formulation and then reviewed the finished volume, often directing extensive revisions.

After each volume received the imprimatur of a drafting committee, it was presented to the commission. My recollection of the formal commission meetings, which continued on each occasion for about three days, is one of unusually stimulating intellectual ferment. Each day debate began promptly at nine in the morning and continued, sometimes right through a sandwich luncheon at our seats, into the evening. The commission members had studied the volumes in advance and freely voiced their views in lively and open debate. Amendments to specific standards often were adopted in the course of the meetings. The commission frequently directed the reporter to undertake extensive revisions. Changes were made by the reporter under the direction of a three-member editorial committee. A final review and an opportunity to dissent were available to all commission members before the manuscript was sent to the publisher.

By the end of April eighteen volumes of standards had received official commission approval and will be printed and made available to the bench and bar and other concerned citizens in the near future. These, plus a few remaining volumes to be considered at the commission's May, 1976, final session, will be presented for adoption by the American Bar Association House of Delegates in the near future. President Walsh has appointed Tom C. Clark, retired justice of the United States Supreme Court, as liaison chairman to aid in co-ordinating that presentation. Since undue delay in ratifying and implementing these critically needed reforms would impose great costs on countless youths and on our society as a whole, prompt action is desirable.

II. What the Proposed Standards Do—

I could not hope within the space of this short summary to do justice to the broad scope of the project's intricately delineated proposals. I shall merely attempt to focus on some of the more important recommendations. The volumes may be roughly divided into three major areas: (1) the juvenile delinquent, (2) children in trouble who have not broken the law, and (3) matters that concern all children.

A. Delinquency. The standards proposed in this difficult area are designed to make delinquency proceedings as fair and humane as possible. It was the view of the commission that these proceedings, in some instances, would achieve little and even be counterproductive. For example, to impose the label "delinquent" on a child with a previously spotless record simply because he scrawled graffiti may be painful, unnecessarily stigmatizing overkill, as well as a burden on the judicial system. The volumes *Intake* and *Youth Services Agencies* map out guidelines and procedures for the diversion of certain juveniles from the formal court process. A first offender accused of a misdemeanor, for example, must be referred to a youth service agency rather than subjected to judicial proceedings.

If the youth is not diverted from the judicial system, it is often necessary to determine whether detention in custody pending trial is appropriate. The experts on the commission were of the view that pretrial detention can be extraordinarily destructive to the child, who will be removed from the familiar school and home environment and often confined under harsh conditions with hardened juvenile delinquents. Indeed, the net effect of this detention frequently has been to provide the youth with expert training in crime. Our volume on *Interim Status* seeks to eliminate unnecessary confinement by establishing specific criteria before a youth may be detained in custody.

Our recommendations relating to courtroom procedures follow the traditional approach that procedural regularity is the best safeguard against error and abuse. Proceedings in juvenile courts by custom and usage have been informal, reflecting the heretofore prevalent view that the child does not need protection against a court whose primary function is to serve his best interests. But, as the Supreme Court recognized in Application of Gault, 387 U.S. 1 (1967), and its progeny, procedural laxity has too often resulted in faulty findings of fact and inaccurate—albeit well-intentioned—prescriptions of remedy. It is equally apparent that procedural regularity need neither impair the court's flexibility nor detract from its concern for the child's welfare.

The standards for Pretrial Court Proceedings provide for a probable cause hearing and for pretrial disclosure by the prosecutor of the identity and statements of his prospective witnesses. Similarly, the volume on Adjudication accords the child, in addition to those procedures guaranteed by the Supreme Court decisions in Gault and In re Winship, 397 U.S. 358 (1970), the right to trial by a jury of six. If the youth chooses to admit the allegations and forgo trial, the judge must determine that the child understands his rights, the charges against him, and the possible penalty, before giving effect to the child's decision. The court must also satisfy itself, through evidence presented by the prosecutor, that the child is indeed guilty.

Perhaps the most crucial element of this procedural scheme, without which safeguards as pretrial disclosure would have little meaning, is the provision for counsel for the youth. The Supreme Court's determination in Gault that children faced with delinquency proceedings must be afforded counsel recognized that the central role of the adversary system in our legal process applies with equal force to the juvenile justice system. Our standards on Counsel for Private Parties provide that, unless the child-client is incapable of judgment, his or her attorney must advocate the child's interest as determined by the child after full consultation. Provision is made for the appointment of a guardian ad litem for children who cannot adequately comprehend the choices facing them.

The standards envisage the lawyer's active participation at all stages of the delinquency process. If the client consents, the standards permit the attorney to explore the possibilities of diversion of a plea bargain. If the child goes to trial and is found delinquent, the lawyer is admonished to propose sentencing alternatives to the court and to be prepared to present all relevant background information to aid the court in arriving at an enlightened disposition.

Recent studies of adult sentencing procedures—for example, the Second Circuit's proposed sentencing rules—have deplored the inadequacy of the data provided the judge, as well as the lack of any substantive criteria to guide them. Our standards concerning Dispositional Procedures seek to improve the amount and equality of relevant presentence information on the juvenile, to provide sentencing guidelines, and to increase the visibility of the entire process. Finally, the judge who sentences will be required to state for the record the reasons for electing to impose that disposition rather than a less onerous alternative. (This requirement, I note parenthetically, epitomizes a theme that runs through all the standards: the least drastic alternative is utilized as a guide to all intervention in the lives of juveniles.)

A separate volume on Dispositions will be published to guide the judge in determining appropriate sentences. In contrast to prior practice, the court is directed, in selecting a disposition, to focus primarily on the gravity of the offense and the age and prior record of the offender. The individual child's "need" is no longer made the principal determinant of the sentence, for "need" has been found well-nigh impossible to ascertain. Experience taught us, moreover, that a standard based solely on "need" imposes in many cases unnecessary suffering in the name of treatment and may even have provided the basis for harsh punitive sanctions under the guise of benevolence. Concern with the gravity of the offense and the juvenile's prior record, however, also was believed to be essential because society itself has a right (independent of the child's interest) to be protected from the violence of serious recidivists.

Rehabilitative goals and the child's needs are not ignored by the standards. Disposition is viewed as an opportunity to help the child, not merely to punish him. Delinquents who are confined must be given access to services required for individual growth and development, including educational and vocational training programs. Moreover, the standards encourage, where appropriate, a wide variety of creative, constructive dispositions, such as restitution to crime victims and mandatory community service, as alternatives to the more restricted options traditionally available.

The standards profit from another unhappy experience: they recommend that all sentences must be for fixed terms. Any subsequent change of sentence may be only by the court—and then upon a showing of good cause. We were of the view that indeterminate sentencing, however attractive as a theoretical matter, had been proved to be little more than a game of chance or a lottery. The length of a juvenile's actual incarceration was all too often determined by factors as potentially arbitrary as the intuitive inclinations of parole boards and administrators of reformatories. We learned that violent offenders frequently are released after only a few months of incarceration because the institution's space is too limited, its budget inadequate, or, ironically, because the youth is found too difficult to control. For these reasons, the standards recommend removal of the power to determine a juvenile's actual length of confinement from the hands of correctional authorities. We believe that these important sentencing decisions will be best made by the judges of the family court. To encourage good behavior, however, the reformatory administrators are allowed to reduce a youth's sentence by no more than 5 per cent.

The use of determinate sentences also is related to our proposal that the maximum term of incarceration for juvenile delinquents should not exceed two years for any offense. Longer maximums, while meted out in the past, rarely have been served, and under the new standards serious offenders will receive longer periods of actual incarceration. We believe legislatures should not authorize more severe terms for youths. Studies have established that excessive periods of imprisonment have been counterproductive.

B. Children in Trouble. The delinquent is only one relatively small problem with which the juvenile justice system has been concerned. Most children "in trouble" have not become delinquent, and most delinquents cry out for help long before they break the law. The current system's attempt to deal with these problems is the amorphous jurisdiction known as "persons in need of supervision" ("P.I.N.S."). Children considered in this category are brought before the juvenile court, thus invoking the judicial processes. Usually these youths are placed in the custody of a youth agency or reform school. Studies have shown that this supposedly benevolent incarceration for trivial offenses has done more harm than good. In New York, for example, most of the children now confined under P.I.N.S. were guilty of nothing more than truancy or being away from the home until late hours. It is increasingly apparent, moreover, that P.I.N.S. programs are as likely to breed crime as to prevent it. And, decisions to confine often are based on race or economic status rather than behavior.

For these and related reasons, the volume on *Non-Criminal Misbehavior* recommends that P.I.N.S. jurisdiction be removed from the court system. The standards, of course, do not throw these children to the wind. They provide facilities to hold temporarily children found in circumstances endangering their safety—such as twelve-year-old children discovered aimlessly prowling the subways at 3 A.M.—while their parents are notified. Guidelines are established to deal with and shelter runaways on a voluntary, short-term basis. Our volume on *Youth Service Agencies*, moreover, recommends the creation of community-based youth agencies to provide, among other things, crisis intervention, therapy, and job training. Participation in the agencies' programs, of course, would be voluntary and available to all youths (and parents), not merely those who formerly would have been classified as P.I.N.S. Our detailed recommendations for the organization of these agencies are based on studies of numerous youth agencies both in this country and abroad.

These programs, needless to say, will not provide sufficient aid for those children whose problems are caused by abusive or assaultive parents. The *Abuse and Neglect* volume sets forth guidelines for judicial action in these cases. Court intervention, under the standards, will occur only when substanial harm has resulted to the child. Examples are serious physical assaults, neglect that threatens to cause death or grievous injury, or grave emotional damage evidenced by severe anxiety, depression or withdrawal. The court will be required to find that intervention is necessary to safeguard the child from future danger. The intervention ordered in any case may not be more drastic than required to achieve the desired protection.

The standards provide comprehensive procedures by which the court's determination whether to intervene is to be made, including reporting of child abuse, filing of neglect petitions, probable cause hearings, agency investigation of the petitions, and court hearings. Separate counsel are to be provided for child and parent. Provision is also made for periodic review by the court of children under its "neglect" jurisdiction and (in extreme circumstances) for termination of parental rights. These procedures and guidelines seek to strike a balance between the danger of overintervention and the need to prevent the parents' problems from irreparably scarring the child.

C. All Children. To prevent children from becoming delinquents or P.I.N.S., the scope of the project's standards extends beyond youths in need of assistance. They define the rights of all children and delineate the responsibilities of the institutions that deal with them. Our standards on the Rights of Minors, for example, attempt to bring order to issues currently dealt with under the confused—and confusing—doctrine of emancipation. This volume promulgates detailed standards outlining the scope of a minor's rights to support, to receive some medical care without parental consent, to seek employment, and to sign contracts.

The volume on Schools and Education focuses on the public schools. Methods of limiting and rationalizing the schools' disciplinary process are proposed in the belief that fairness will foster the students' self-reliance and sense of justice. Following the lead of the Supreme Court's recent decision in *Goss* v. *Lopez*, 419 U.S. 565 (1975), which required students to be accorded a hearing before a short-term suspension, the standards set forth procedures to be followed, including some form of notice and hearing, before any substantial disciplinary sanction may be imposed. The extent of the procedural protections will vary in each instance with the gravity of the possible penalty. The realities of operating a school system are, of course, fully recognized, and overcomplex procedures are not recommended. We do suggest, however, that the severe penalty of suspension for a period longer than one month be preceded by a full hearing before a board of education. Since explusion or suspension for more than one year—occurring at a time when many jobs are geared to at least a high school diploma—may be, in effect, a life sentence to menial labor, the recommendations prohibit them.

The *Schools* volume also defines students' rights of expression, imposes realistic and reasonable limitations on searches and interrogations of students by school officials and police, and sets forth procedures for dealing with truancy.

The standards governing schools and youth agencies are complemented by a volume on *Records and Information*, which recommends limitations on the gathering and dissemination by those bodies of private information. Perhaps the central tenet underlying these standards is that more information is not necessarily better information. Under these proposals, the youth may, with certain exceptions, see the contents of his or her files and challenge their accuracy. The child's consent generally must be obtained before files may be shown to anyone outside the agency which has compiled that information.

I would be remiss were I not to mention at this point one final volume. Although it does not, strictly speaking, affect all children, it deals with perhaps the most vital institution in our juvenile justice scheme: the family court. In many states the juvenile court unfortunately has been ranked below the courts of general jurisdiction. Under our standards on *Court Organization*, however, the family court will be a division of the highest trial court of the state. It will have jurisdiction over all family matters, including juvenile offenses, child abuse, adoption, divorce, and offenses against children.

### JUVENILE JUSTICE REFORM IS URGENTLY NEEDED

This brief and necessarily incomplete summary cannot fully describe the voluminous standards and commentaries that have taken five years to produce and will consume approximately twenty comprehensive volumes. Little more is intended than to convey some notion of the scope and thrust of these recommendations. But of this we can be sure: no other study on youth and their problems has ever been so comprehensive and so thorough.

The grave problems that led to the project's formation also demonstrate the urgency of promptly adopting its proposals for reform. In the coming year six hundred thousand P.I.N.S. petitions will be filed, and an equal number of youths will be incarcerated pending trial. Approximately one million juveniles will be arrested, and untold harm will be caused by violent youths. Each year that implementation of these standards is delayed, millions of children—and society as a whole—will pay the price of an outmoded, capricious, and inadequate system of juvenile justice.

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## THE REPUBLIC OF CHINA STANDS BY THE NONPROLIFERATION TREATY

**Mr. GOLDWATER.** Mr. President, the vile campaign of parts of the liberal press to destroy the Republic of China on Taiwan and promote the Communist dictatorship on the mainland of China was visible again recently when totally unfounded accusations were leveled against Free China for supposedly reprocessing spent nuclear fuel with the design of developing an atomic bomb or weapon. The flagrant propaganda taint to this false report was visible to any fair-minded observer who may have compared the charges made against the Republic of China with the absence of any criticism of Communist China when it exploded at least its second nuclear test of the year. These two stories fell almost upon the heels of each other and the difference in the tone of reporting is remarkable. The setting off of a nuclear explosive device by the Communists on the continent was almost welcomed as a sign of technological progress under the late Chairman Mao, while the erroneous reports about the nuclear capability on Taiwan made the Republic of China appear to be a monstrous threat to world peace.

Now, Mr. President, the American public is used to the double standard which the liberal media applies to leftist societies as compared with the free world, but I am particularly disturbed that the unequivocal denial by the Republic of China of the charges leveled against it were not presented adequately to the country. Although it was reported that the Government on Taiwan had pledged not to reprocess nuclear fuel, this was made to seem as a grudging concession which corrected past errors. But it was nothing of the sort. The American people should have been told as clearly as possible that the Republic of China insists that it never has had any intention of developing nuclear weapons or a nuclear explosive device and that its latest statement merely reconfirms what its policy has been all along.

Now, the Republic of China did not simply make a statement. It backed its words up with facts. Where in the liberal press will you find that the Republic of China was among the first nations of the world to sign and ratify the treaty of nonproliferation of nuclear weapons? Yet, this is a fact.

Where in the liberal press will you find that the Premier of the Republic of China, Chiang Ching-kuo, has on several occasions previously declared the decision of his government not to manufacture any nuclear weapons? Yet this, too, is a fact.

Where in the liberal press has it been explained fully to the public that all the Republic of China's nuclear reactors, facilities and materials are subject to the regular inspection and surveillance of the International Atomic Energy Agency under a tripartite agreement between Taiwan covering U.S. plant and material and a separate agreement with the IAEA covering a Canadian-supplied reactor and its fuel and material? Yet what could be more pertinent to the accusations?

Why is the liberal press apparently afraid to tell the American public that in addition to the semiannual reports which are submitted to the International Atomic Energy Agency in which every bit of imported uranium, even tiny scraps, is accounted for, there are on-the-spot inspections which are frequently made by the safeguard agency's experts? In fact, the last such inspection took place in July and the Republic of China has requested the International Atomic Energy Agency to publish its latest findings as soon as possible so that the whole world will know the truth.

This inspection team consisted of experts from Great Britain, France, Portugal, Italy, and Norway. It made a thorough inventory and found everything to be proper.

Not only have the competent agencies of the Republic of China cooperated with officials of the IAEA since 1955, but the Republic welcomes nuclear scientists of friendly nations to come to Taiwan to work jointly with Chinese scientists in research and development for peaceful uses of nuclear energy. The Republic of China has even invited the United States to recommend three American nuclear scientists, who would serve as advisers to Chinese agencies and work jointly in all of their nuclear facilities projects. These advisers would obviously be able to oversee exactly what is occurring.

Mr. President, this episode is merely the latest in a long line of efforts by the liberal news media to injure the reputation of the Republic of China and to cast doubt in the minds of the American public on our national commitments to her. In the process, confidence in the IAEA itself has been undermined. I will only repeat what I have said on many occasions in the past: Free China is the real China. All the reasons, from the strategic importance of the Island of Taiwan to sharing common values of human freedoms and dignity, argue for the retention of our friendship, diplomatic and defense ties with the Republic of China as serving our best national interests. I am confident that the American people will apply their usual sound judgment to these facts and not be misled by the misrepresentation contained in certain news coverage.

My confidence stems from the people. The voice of the American people has been heard on the matter of our ties with the Republic of China and it is not reflected in the writings of liberal journalists. Rather, it is seen in the forceful letter which 28 U.S. Senators sent to President Ford last November reaffirming their support for Free China. It is seen in the Gallup poll of last November which revealed that 70 percent of Americans favor continuing our formal diplomatic relations with the Republic of China and that the same large majority of 70 percent oppose diplomatic relations with Communist China on the terms demanded by the so-called People's Republic. It is seen in the legislation introduced by a majority of the House of Representatives, who signed a resolution urging the executive branch to do nothing to compromise the freedom of the Republic of China.

And the true voice of the people is seen in the numerous petitions and official statements adopted by local governments throughout the United States which uphold continued diplomatic relations with the Republic of China. Communications of this type, which have been a traditional means of influencing American affairs since the Committees of Correspondence helped to mobilize American opinion of the War of Independence, have been approved by the State governments of Alabama, Arizona, Georgia, Illinois, Indiana, Louisiana, Michigan, Mississippi, Missouri, New Hampshire, and South Carolina in support of the Republic of China. In addition, several local governments, including those of Chicago, Dallas, Houston, Los Angeles, Pasadena, Tempe, and Cook County, have expressed their concern for preserving United States commitments to the Republic of China.

Here is the real will of the people. And the apologists for Communist dictator states had better not forget it.

## ORLANDO LETELIER

Mr. ABOUREZK. Mr. President, on behalf of my colleague, Senator McGOVERN, the recent tragic assassination of former Chilean Foreign Minister Orlando Letelier in Washington should remind us all of the risks which political exiles incur when they seek to represent their legitimate concerns about human freedoms and social justice after having been driven from their homelands. Political exiles serve often as the conscience of their own countries but they function, as the case of Orlando Letelier shows, at high personal risks.

Our country has been a haven to many other political refugees, some of whom have faced similar risks to those which killed Mr. Letelier. Eighteen months ago, I asked the Senate Intelligence Committee to investigate the case of Elias Demetracopoulos where American intelligence agencies were allegedly involved in what I described as the bizarre efforts of the Greek junta to kidnap Mr. Demetracopoulos.

So that Members of Congress may appreciate the role that Mr. Demetracopoulos played in Washington during his years of exile here, I include below a recent interview he gave to John Kapsis, the editor of Ta Nea, the largest newspaper of Greece and its leading liberal voice. Mr. Kapsis, himself a victim of the Greek junta which imprisoned him for a long time for his journalistic efforts, has carefully drawn in this interview the outline of Mr. Demetracopoulos' efforts to speak for a free Greece while his country was occupied by a military dictatorship. I ask unanimous consent that Mr. Kapsis' interview with Elias Demetracopoulos be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

[From the Athens Daily, Ta Nea,
Jan. 7, 1976]

### A FRONT PAGE EXCLUSIVE INTERVIEW WITH ELIAS DEMETRACOPOULOS

(EDITOR'S NOTE.—Mr. Elias Demetracopoulos was born in Athens, Greece on December 1, 1928. He was arrested by the Germans during the Nazi occupation and was sentenced to death. Since 1950, he has been a journalist with the newspapers Kathimerini, Ethnos, Makedonia, and a foreign correspondent for Greece and the Mediterranean area with the Herald Tribune, Time-Life, and the North American Newspaper Alliance. He escaped from Greece five months after the April 1967 coup and finally settled in Washington. The junta deprived him of his citizenship, and, in 1970, he was not permitted to return to Greece even for the funeral of his father. He returned to a free Greece only in April of 1975. Today, based in Washington, he represents and is associated with a number of Wall Street banks and firms).

### BEHIND ENEMY LINES

Q. During the years of the dictatorship you found yourself abroad. Was this part of a thought-out plan?

A. I did not "find myself" abroad, as you put it. I decided to go abroad because I realized that from there I could be more effective in the resistance against the dictatorship. It was not all that easy to leave Greece. The junta, for reasons of its own, tried to prevent my departure and limited my freedom in Athens. A few days before the military coup of April 21, 1967, I had published a book which warned of the imminent danger of a coup. That book was one of the first to be taken out of circulation by the junta, and constituted only one of the reasons why the junta initiated this war against me from the very start.

Finally, on September 13, 1967, after many adventures I managed to leave Greece, thanks only to the intervention of the Secretary General of the U.N., Mr. U Thant, who threatened countermeasures if the dictators continued to obstruct my departure. The dictator, George Papadopoulos, as Minister to the Prime Minister, had personally ordered the denial of my exit from Greece. I had been officially invited by the United Nations to represent the Greek press at the Sixth Annual U.N. Editors Roundtable Conference scheduled in Poland. The junta had confiscated my regular passport, but was finally forced by the United Nations to issue me a special passport, valid only for Poland and only for the duration of the Conference of the United Nations. Having thus left Greece, I oriented myself from the beginning to work in Washington, since I was more familiar with the political scene there, from frequent journalistic assignments I had had throughout the U.S. in the past 20 years. Besides, having been a correspondent in Greece for American newspapers, magazines, and news services, I had connections with outstanding personalities of the American political life and its news media who honored me with their friendship. Still, the decisive factor for choosing Washington as my base was the following: the military coup in Greece was the work of certain Americans, or at least had their support. Therefore, I concluded, this link between Athens and Washington ought to be fought at its very roots, i.e., in Washington.

It was for these reasons that I came to Washington in early October 1967, after having been officially denied permission to enter the U.S. by the State Department through the U.S. Embassy in Denmark. It took the active support and mobilization of the American Congress and the American press in appeals to President Johnson to override this denial. Later, of course, it was technically and logically impossible for me to return to Greece: the junta had deprived me of my citizenship for "anti-national activities," and refused to let me return to Athens even when my father died and I wanted to attend his funeral.

### THE INSECURITY

Q. Tell us about how you entered the resistance movement. What stands out from that time—did you feel you were operating from safety in Washington whereas your friends in Greece were in constant danger?

A. A principal feeling I had throughout my years in Washington was insecurity. I had daily evidence and demonstrations which justified this feeling. To be precise, I felt that I was indeed behind enemy lines. Fortunately or not, the knowledge that the junta had proscribed me, and that the FBI and the CIA took a strong, insistent and continuing interest in my case, was too definite to be ignored.

I could not under the circumstances feel that I was in "safety," while my friends in Greece were in danger day in and day out. Naturally, when I heard that one or the other of my friends, this or that of my colleagues and collaborators in Greece had been arrested by the military police, or the security forces, every time I learned that one of them had been threatened or undergone interrogation by Roufogalis (the Chief of the junta's "CIA") and his bravos, then, of course, I thought that I was in relative safety and they were not. Ultimately, however, I succumbed to the thought, "you are next, Elias." This, in turn, increased my determination to work more effectively so as to help those very friends and promote the cause of the democratic resistance. It is safer by broad consensus to be in New York, Los Angeles, or any other big city in America rather than in Washington, which is the powerful center of the American establishment and where a large percentage of the people work for the Government, in one or the other of its numerous agencies. Furthermore, as has been proven by documents of the dictatorship that came to light, as well as by U.S. Government information, the colonels attempted or at least had decided to have me killed or kidnapped, in collaboration with certain U.S. intelligence agencies.

### THE CONGRESS

Q. What were the main difficulties you encountered and how did you try to maintain interest in the Greek question abroad?

A. My goal, in general, was to set the Congress in motion so that the policy of the White House, the State Department, the Pentagon, and the CIA on Greece would not be applied. This policy, to the disgrace of United States tradition, aimed at strengthening the junta and stabilizing the military dictatorship in Greece.

Specifically, I tried to create situations which would present problems to Papadopoulos and his clique. I tried this by working always through Congress which generally maintained a positive attitude, favoring democracy in Greece, boycotting and by delaying or even cancelling out pro-junta decisions taken by Johnson, Rusk, Nixon and Kissinger.

At the same time, through the media and with the help of top people in the American press, radio and T.V., to whom I would pass on as much information as came into my hands, including all information received from occupied Greece, I sought to influence the U.S. Congress and to inform American and world public opinion on the Greek issue. My purpose was to reveal the crimes of the junta, and to demonstrate the degree of American involvement with the colonels. I must underline here, that the American press almost unanimously ignored the pressures of their Government and the offers for sizeable deals from the junta. The American press, by and large, consistently supported the cause of Greek democracy.

The task, of course, was not an easy one. Often the Greek issue ran the risk of not being among the questions of immediate concern to the Congress. It is easy today to talk about the mobilization of the Greek-Americans for Cyprus. Let us not forget, however, that in the dark years of the dictatorship, not only the Embassy and the consular offices of Greece in the U.S.A., not only the Archdiocese under Iakovos, but all the organizations of Greek-Americans, first and foremost the AHEPA, and the overwhelming majority of the Greek-American newspapers and the radio broadcasts in Greek were supporting the dictatorship. They were jointly exerting pressures on the Congress, on each and every Congressman and Senator, were bombarding the American columnists with resolutions and letters, were trying to persuade them to ignore the information I was providing not to take into account the revealed abhorrent actions of the junta, but, on the contrary, to persuade them to support the junta. And it took a great deal of courage on the part of Rep. Benjamin Rosenthal, D-N.Y. to ignore the organized campaign of the pro-junta Greek-American element in New York, which threatened Rosenthal with political extermination in his own Congressional district because of his strong opposition to the dictatorship. It took a great deal of moral fortitude on the part of Senator George McGovern, D-S.D. to ignore the sarcasm and the threats as well as actual hostility from the Supreme President of AHEPA, Sam Nakis. And all this because the Senator supported the return of democracy to Greece "under the tutelage of the anti-Hellene Demetracopoulos", according to Nakis's statement as printed in The National Herald, Atlantis, The Hellenic Chronicle, and other pro-junta Greek-American publications throughout the U.S. Sam Nakis, regretfully, is today associated with and given shelter by an Institution which recently surfaced in Washington.

Responsible sources in the Congress had estimated that by March 1969, 80% of the organized Greek-Americans in the United States were in favor of the regime in Athens. The following example is characteristic. When Messrs. Max Van der Stoehl and Peter Kirk came to Washington, representing the Council of Europe, I arranged for them, among other interviews, a meeting with Sen. Jacob Javits, R-N.Y. During that meeting Sen. Javits promised to assist in all possible ways the struggle for the return of democracy to Greece. However, he also asked his visitors whether it would be possible for the Council of Europe to send a special mission to America to inform and turn about Americans of Greek descent who, by and large, favored the regime in Athens and greatly inhibited the efforts of those in Congress wanting to help restore democracy in its birthplace.

### THE CONTACT

What was the relationship between your work abroad and other similar efforts within Greece?

A. The resistance against the dictatorship within Greece, was not only a source of inspiration, but also a valuable source of information for me, especially in matters concerning the terror deployed by the dictatorship, the tortures and the students' struggle against the junta. It is not yet time to reveal how this contact, cooperation and coordination were established and maintained between me and my comrades in Greece. After all, those who were in Greece or elsewhere in Europe and were communicating with me, those who took part in these "contacts" are really the ones to speak on the matter.

### PUBLIC OPINION IN THE UNITED STATES

Q. From your experience abroad, can you tell us whether the public dissemination of certain actions or some particular for of resistance in Greece had an adverse effect on world public opinion?

A. If you are referring to the possible negative reaction of the American public when a bomb exploded in Athens, or when a car belonging to an American military officer was destroyed, I can assure you that the American public to a great extent understood very well the meaning of both the crocodile tears of the colonels and the inanities of the spokesmen of the State Department. All this which the junta called "terroristic activities" created little, if any, reaction in the U.S., that could be detrimental to the cause of democracy. On the contrary, I would say that sympathetic Americans and members of Congress who knew of the glorious and effective armed resistance against the Nazi occupation were expecting at any moment something analogous to happen in Greece against the junta. In fact, I can go further and state that they thought this was imminent. When mutiny broke out on the Greek destroyer *Velos*, many in Congress actually believed that this was only the prelude to a more dynamic resistance against the colonels.

### THE INVASION OF CYPRUS

Q. You are the only one of those Greeks who fought actively against the junta abroad, who has not yet returned to Greece for good. Can you explain why?

A. Gladly. The first reason was the fact that the brutal Turkish invasion of Cyprus and the creation of the huge problem af almost 200 thousand Greek-Cypriot refugees dictated to me to stay on in Washington and continue to fight. My aims in this respect are threefold: to work for congressional cutoff of the military aid to Turkey; to try for whatever relief is possible of the tragic conditions of these refugees; and to keep the American public informed on the Cyprus question. Developments proved the accuracy of my predictions as to the devastating consequences of official American support for the cruel Athens junta. The fact that those gloomy predictions were later proven greatly facilitates my new efforts, at present.

### MOUSTAKLIS

The second reason for my staying behind in Washington was the urgent need to get the heroic colonel Sypros Moustaklis to the U.S. at any cost, and have him admitted to the famous Walter Reed Hospital in Washington, against the strong objections of the Pentagon. This was necessary not only for humanitarian and medical purposes, but also because his presence here was the best proof for Congress of the lies told by all the Administrations since April 1967 to refute our charges of torture under the junta in Greece. Officials of these Administrations stated that they did not know, were in no position to know, and that our accusations were exaggerated and lacking proof. Now, when I present to them a mute and paralyzed hero like Spyros Moustaklis, none of of those U.S. officials alleging for seven years that I was lying when I was disclosing to the Congress the horrors of the tortures of the junta can give back to the hero Spyros Moustaklis his voice, his mental or physical well-being.

From this point of view, Spyros Moustaklis' arrival and stay in Washington helped considerably our efforts regarding the Cyprus issue in the Congress. Because, just as our arguments against the dictatorship were tragically proven to have been correct, so will the future justify our present arguments about Cyprus. Of this we are certain.

### THE ROLE OF THE CIA

The third reason is that at this moment two committees of the U.S. Congress are investigating in depth the role of the CIA and the various intelligence agencies. I have made for a very long time strong efforts so that the Congress of the United States will investigate the Greek question. These efforts can be traced back to October 1967, when I first arrived in Washington after my escape from the tyranny in Athens. Consequently, it is natural that I should want these congressional investigations to go deeply and in detail into the role and activities that these intelligence agencies played as regards Greece. It is the first time in American history that these committees have the legal means and the power not only for an in-depth investigation, but also to demand and subpoena from the Executive Branch all those documents needed for the exposure of all aspects of the case under consideration. They can call witnesses to testify under oath, regardless of the office they now hold or have held in the past.

In this connection, I can now disclose that these committees have already, in secret sessions, questioned Mr. Phillips Talbot, American Ambassador to Greece during the events in April 1967 (when the military coup succeeded), and December 1967 (when King Constantine's counter coup failed), as well as Mr. John M. Maury, chief of the CIA station in Greece from 1962 until 1968, and currently Assistant Secretary of Defense for Legislative Affairs at the Pentagon. I have already submitted evidence to these two committees of Congress regarding Greece. And I continue to hope that in the course of the crucial taks undertaken by the Congress, i.e., investigation of the covert operations of the CIA and the other intelligence agencies of the U.S., I continue to hope that during these investigations both the Greek question and the evidence which I have submitted will be the subject of congressional scrutiny before they conclude their task. And this, despite the violent reaction of the Secretary of State, Dr. Kissinger, and of the agencies directly involved. These quarters went so far as to try, in the last few days, to exploit in a provocative and misleading manner even the death before Christmas of CIA Station Chief Richard Welch in Athens in order to achieve the previously stated goal. I am in a position to know that this exploitation has caused strong reaction among several members of the two investigating committees of Congress.

I am prepared to submit this evidence in Greece as well. Provided, of course, that the investigation of the role of foreign agencies in the coup of April 1967 gets decisively under way in Athens. This investigation, as I understand it, is dying of "cancer." It is strange that even though it was time and again mentioned during the last few months, in both the Greek and the American press that I would be called upon to testify as a witness in Athens—and indeed, even the nature of my evidence was speculated upon in the press reports—that I have not yet been contacted by any Greek official authority regarding this matter.

Naturally, the total and unreserved cooperation of the present Greek government is a sine qua non for completion of the investigation in question. I want to believe that the Greek government will not submit to political considerations or pressures regardless of their origin, and will want to make available to these two congressional committees all the relevant evidence it possesses from the files of the Greek Intelligence Agency (KYP), or other Greek state agencies.

This is an absolute must for the Greek government if it really wants to avoid the repetition of the April 21, 1967 coup under whatever form and pretext, and the destruction, anew, of the democratic freedoms by means of the latest methods of Western technology, so eloquently and dramatically described recently by Sen. Frank Church, the chairman of the Select Committee to Study Governmental Operations with respect to Intelligence Activities.

### THE FILES OF THE GREEK CIA AND THE GREEK MILITARY POLICE

The first step of the Greek government in this direction should, in my opinion, be to immediately recover and safeguard at all cost the records of KYP (the Greek CIA) and ESA (the Greek Military Police) which various Greek and alien agencies managed to remove during the Critical days before and after July 23, 1974, the day the junta collapsed.

I have studiously avoided making public my views and the evidence I possess regarding this critical issue. This was done in order to help the efforts of the two Congressional committees and preempt possible use of procedural excuses by the powerful agencies which could have been invoked in order that the Greek question should not have been investigated. However, I believe that the American role in the coup of the generals which was being planned since early 1965, and in the coup of the colonels which actually took place in 1967, must be uncovered. I also think it necessary that a thorough examination be made of a series of activities critical of the Greek question, which took place in the U.S. in the spring and summer of 1966 and early 1967.

Characteristically, I will only mention that the American Admiral Arleigh Burke, chief of the Naval Operations, advisor to Presidents Eisenhower and Nixon on matters of defense, and long-time friend of the former royal family of Greece, in a signed, detailed journalistic interview he gave me in the summer of 1966 in Washington, said the following: "I know that you have been unhappy with certain unfortunate activities of the CIA operatives in Greece."

Finally, I do hope that my country will never again need in the future services of the sort I had to offer during the years of the junta.

But if, against all hope, there should again appear "senseless men" like those of April 21, 1967 and February 1975, then in my opinion, the major front, will once again be here in Washington.

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## FEDERAL REGULATION OF TELECOMMUNICATIONS COMMON CARRIERS

Mr. **BAKER**. Mr. President, for some time the Committee on Commerce has followed the issues raised by the decisions of the Federal Communications Commission and the courts allowing competition in the production and delivery of telecommunications services. There have been various studies done by the Office of Telecommunications Policy, the telephone industry and others on the impact of competition on residential subscribers, on the established carriers and on the nationwide telephone network, and more are underway. Last week, the FCC adopted its first report regarding the economic effects of competition in the private line and terminal equipment markets on the telephone industry. However, in a separate statement on that report, Commissioner Joseph R. Fogarty, formerly Senate communications counsel, observed that—

> It seems likely that both the Senate and the House of Representatives will in the 95th Congress, initiate their own independent studies of the so-called "Consumer Communications Reform Act."

Commissioner Fogarty correctly inferred that despite substantial efforts to develop a factual base for the resolution of the issues presented by FCC regulation of telecommunications common carriers, there is still a lack of complete and reliable information as to all the relevant features of the present telephone rate structure.

For that reason, on June 21, 1976, in remarks contained in the CONGRESSIONAL RECORD, the senior Senator from Indiana (Mr. HARTKE) and I recommended that the Commerce Committee undertake an independent study to supply the information necessary to make an intelligent judgment on these issues. Specifically, we proposed that the Commerce Committee:

First, conduct a preliminary analysis of relevant issues and review the available information on those issues; second, determine the appropriate means to obtain additional data if it is necessary to do so; third, identify those issues that might be developed through written comments; and fourth, specify issues which would properly be the subject of public hearings in the next session of Congress without further study.

No action has yet been taken on our recommendation, however, I am hopeful that Commissioner Fogarty's prediction will prove to be accurate and that the Committee on Commerce will, as one of its legislative priorities during the first session of the 95th Congress, authorize an indepth study of certain aspects of the telephone rate structure.

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## ESTES KEFAUVER—LET THE FACTS SPEAK

**Mr. McINTYRE.** Mr. President, one of my dearest friends and earliest political mentors was our late colleague, the former distinguished Senator from Tennessee, Estes Kefauver.

Estes passed away more than a decade ago but from time to time it seems that someone has to drag up new allegations about Estes, his life, and his reputation.

The most recent was a series which appeared in the New York Times purporting to be the story of one, Sidney R. Korshak, identified as a labor lawyer in Chicago. According to these articles, Mr. Korshak reports that Estes Kefauver and his Senate Crime Committee was "stopped cold in its tracks" when Korshak revealed a picture allegedly showing Estes in some sort of compromising picture with a young lady "supplied by the Chicago underworld."

Well, I say shame on the Times and shame on Mr. Korshak, whoever he may be.

The Times reports that when this alleged photograph was revealed, Kefauver and his staff held a few days of secret hearings in Chicago and then suddenly departed.

Nothing could be further from the truth. The Kefauver Crime Committee held at least 6 days of public hearings in Chicago and elsewhere on Chicago crime activities and the public transcript of Chicago related witnesses covers nearly 1,500 pages.

Estes did so many great things in his life that he hardly needs further defense at this time, but when these Times' articles came to my attention, I just could not let them pass without comment.

And, I would like to bring expert witness to bear on this matter. Downey Rice, former associate counsel and George Martin, former staff investigator of the Kefauver Crime Committee, have written the Times regarding the Korshak matter. These two men who were there and know the truth, have stated the facts with great clarity.

Mr. President, I ask unanimous consent that the letter from Mr. Rice and Mr. Martin be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *August 16, 1976.*

THE EDITOR,
*The New York Times,*
*New York, N.Y.*

DEAR SIR: It has come to the attention of the undersigned that The New York Times and its news service published a series of articles in June relating to Sidney R. Korshak.

Korshak is identified in the articles as a prominent labor counsel in Chicago and California who, in years past, enjoyed "great power and influence" within the old Capone crime syndicate in Chicago, where Korshak was raised. With the death of "Scarface Al" Capone the organization was designated the Accardo-Guzik-Fischetti syndicate.

An article in the series implies that Korshak, back in 1950, enhanced his standing with the syndicate by blackmailing the late U.S. Senator Estes Kefauver (D., Tenn.), then Chairman of the Senate Crime Committee, at the time the Committee moved its investigation of organized crime into Chicago.

The article further recited that, after a few days of secret meetings, "Kefauver and his staff suddenly departed without holding the public hearings which had been promised."

The article quotes a "trusted Korshak friend and business associate" as claiming that Korshak showed him an infra-red photograph of Kefauver in a compromising position with a young woman "supplied by the Chicago underworld," allegedly obtained by a camera planted in the Senator's room at The Drake Hotel.

The unidentified Korshak "friend" is then quoted in the article as saying "Sid showed it to me. That was the end of the hearings, and this also made Sid a very big man with the boys. Sid was the guy responsible."

The New York Times knew, or should have known, from material in its own files, that the passages quoted above were devoid of truth. Furthermore, let the record show that a month before publication of the article in question a Times writer, Jeff Gerth, seeking verification of the Korshak story, was bluntly informed by a former Committee counsel that nobody, including Korshak, forced either termination or curtailment of the all-encompassing Chicago phase of this celebrated nation-wide probe of organized crime.

Gerth, who described himself as an associate of Seymour M. Hersh of The New York Times, was also advised that the transcript of the Chicago hearings embraced some 1,500 printed pages of testimony and pertinent exhibits, including the testimony of Chicago-related witnesses taken elsewhere.

The Chicago transcript itself gives the lie to the specious assertion that "Kefauver and his staff" suddenly departed from Chicago "after a few days of secret meetings". It shows that executive sessions were conducted in Chicago on October 5, 6, and 7, 1950, and again on October 17, 18, and 19, and that the Committee returned to Chicago for public hearings on December 18, 19, and 20. More public hearings followed in Washington on January 5, 1951; in Cleveland on January 19, 1951; and in Washington again on March 22, 1951, at which Chicago-based witnesses were examined.

Concurrently the Committee also was conducting hearings in many other metropolitan centers, including Detroit, Kansas City, St. Louis, Los Angeles, San Francisco, New Orleans, Miami and Tampa, Philadelphia, and, finally, New York and Washington. Originally scheduled to complete its work and file its report with the Senate by February 28, 1951, the Committee was compelled to request extensions, first to March 31 and then to May 1, 1951.

The statements in the Times article that Korshak's machinations ended Kefauver's hearings in Chicago and made Korshak a "big man" with the syndicate have been proven to be palpably false. Moreover, they impute to the syndicate an incredible naivete and unbelievable gullibility.

Does the New York Times believe Korshak was asked no questions when Ralph and John Capone, brothers of Al, were summoned to testify on December 20, 1950, along with other Chicago gangland notables?

Does The New York Times believe "the boys" accepted with equanimity the summons to a public Washington appearance on January 5, 1951, of Anthony Accardo, who exercised more than a little control over syndicate affairs after Al Capone's death?

And does The New York Times believe that Jacob "Greasy Thumb" Guzik, so-called elder statesman of the syndicate, was overjoyed to find himself staring back at the Committee from the witness chair in Washington on March 22, 1951?

Guzik was one of many of the criminal elite who, months earlier, either fled the country or retreated to secret hideouts to evade Committee subpoenas. They were rounded up and hustled into Washington as they emerged from hiding, or came back into the States mistakenly believing the Committee's life had ended or was about to end. Guzik invoked fifth Amendment protection against self-incrimination and posted $20,000 bail awaiting disposition of contempt charges.

Some of the results directly traceable to the Kefauver Committee's hearings were:

1. The nation-wide illegal bookmakers wire services providing fast race results from the headquarters in Chicago was forced to close up shop, never to reopen.

2. In Florida the tourists were being victimized by the notorious S&G syndicate. Committee witnesses explained how the Chicago mob had muscled into that crime syndicate with Anthony "Big Tuna" Accardo emerging as a "partner". The exposures resulted in prosecution and the permanent demise of the lucrative S&G syndicate.

3. Without exception, then-ranking Chicago mobsters were brought in and interrogated under oath. Many of them were thankful that their Fifth Amendment umbrella could be raised.

4. Across the country, crooked sheriffs, police, corrupt prosecutors and officeholders were ousted. In Illinois a U.S. Senator attributed his defeat to the Kefauver Crime Committee.

Do these facts square with a claim that Kefauver was hindered by blackmail?

It also seems strange to us that the purported dalliance of the late Tennessee Senator with the woman "supplied by the Chicago underworld" has taken nearly 26 years to surface. Before he died in 1963, Kefauver had campaigned for his party's 1952 presidential nomination, and he was the party's vice presidential nominee in 1956.

He won re-election to his Senate seat in 1954 and again in 1960. The publication The Nation, on August 6, 1960, catalogued the interests actively arrayed against Kefauver as "racial bigots, super-patriots, big-time crooks and corrupt politicians still angry about the Senator's crime investigations, professional instigators of "right-to-work" campaigns, interests incensed by his investigations of pricing policies in the drug, auto and steel industries, enemies of TVA, and other political miscreants."

Any of the foregoing would have been delighted to exploit evidence of illicit sexual proclivities and the Chicago mob obviously was not overburdened with scruples about possible political use of such material. To us, this is just another manifestation of the present-day phenomenon of ascribing to political leaders, now dead, all the attributes of a libertine during the time they were personages high in the councils of our government. Even former presidents of the United States are not immune to such slander, in which the sole objective seems to be to disparage, distort, denigrate and defame.

There is just one more thing: It is our understanding that the Times has devoted six months to an investigation of Korshak. On the basis of your findings, what rating do you give to his credibility?

We regret the length of this letter. It was necessary because the Times introduced ingredients requiring restatement of facts to impart proper perspective. We trust the Times will do the proper thing in correcting the record for the benefit of surviving members of the Kefauver family who have suffered because of the June articles.

Very truly yours,

DOWNEY RICE

*Former Associate Counsel, U.S. Senate Committee to Investigate Crime in Interstate Commerce.*

GEORGE H. MARTIN,

*Former Staff Investigator, U.S. Senate Committee to Investigate Crime in Interstate Commerce.*

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## TAX REFORM

Mr. BARTLETT. Mr. President, among the many factors that caused me to vote against H.R. 10612, the tax reform bill, was the change it made in the tax treatment of U.S. citizens employed abroad. All of the changes will increase the U.S. tax burden of the American employee and will cause U.S. companies to hire more local nationals in their foreign operations. The provision is a very effective way of discouraging the expansion of American industry into foreign markets. As an example of the effects of this provision I ask unanimous consent to have printed in the record the estimates of the Halliburton Services Co. of Duncan, Okla. These estimates clearly reveal that the results of this provision may well be devastating for Americans working overseas for American companies, because the companies will not be able to afford to compensate them sufficiently to overcome the increased taxes.

There being no objection, the estimates were ordered to be printed in the RECORD, as follows:

The attached computations are based on the following assumptions:

1. The employee in the foreign country will incur additional expenses living in the foreign country equal to the allowances paid to him.

2. Housing furnished the employee is usually inferior to housing in the United States and the rentals paid are greatly in excess of rentals on comparable housing in the U.S. Also employees sometimes keep a house in the U.S., therefore, all rentals paid abroad constitute additional expense to him.

3. Tuition for dependents paid by or on behalf of the employee is an additional expense, since such schooling is offered free in the U.S.

4. Vacation expense is the airfare of an employee and his family usually to a more developed country.

5. Based on the above assumptions, the take home pay of the employee while in the foreign country is equal to his base salary plus the overseas differential. The overseas differential is generally $150 per month increase in pay given an employee to induce him to go abroad.

COMPARISON OF U.S. INCOME TAX ON FIELD SUPERVISOR IN QATAR TO FIELD SUPERVISOR IN UNITED STATES

| | Computation of U.S. tax | | |
|---|---|---|---|
| | If in United States | If in Qatar | Increase in tax |
| Base salary in United States | $17,400 | $17,400 | |
| Overseas differential | 1,800 | 1,800 | |
| Base salary in Abu Dhabi | 19,200 | 19,200 | |
| Add: | | | |
| Living allowance | | 2,800 | |
| Furniture allowance | | 750 | |
| Revaluation of currency allowance | | 1,350 | |
| Fair market value of housing | | 12,000 | |
| Tuition paid | | 3,000 | |
| Vacation paid | | 2,000 | |
| Total compensation | 19,200 | 41,100 | |
| Less IRC sec. 911 exclusion | 0 | 20,000 | |
| Adjusted gross income | 19,200 | 21,100 | |
| Less: | | | |
| Standard deduction | 2,600 | 2,600 | |
| Personal exemptions (4) | 3,000 | 3,000 | |
| Taxable income | 13,600 | 15,500 | |
| Tax (based on joint return rates): | | | |
| Present law | 2,660 | 3,135 | $475 |
| Proposed law | 2,660 | 5,750 | 3,090 |

COMPUTATION OF U.S. INCOME TAX ON ASSISTANT DISTRICT MANAGER IN SAUDI ARABIA AS COMPARED TO ASSISTANT DISTRICT MANAGER IN UNITED STATES

| | Computation of U.S. tax | | |
|---|---|---|---|
| | If in United States | If in Saudi Arabia | Increase in tax |
| Base Salary in United States | $19,370 | $19,370 | |
| Overseas differential | 1,800 | 1,800 | |
| Base salary in Saudi Arabia | 21,170 | 21,170 | |
| Add: | | | |
| Living allowance | | 3,000 | |
| Furniture allowance | | 750 | |
| Revaluation of currency allowance | | 2,381 | |
| Fair market value of housing | | 12,000 | |
| Tuition paid | | 3,000 | |
| Vacation paid | | 2,000 | |
| Total compensation | 21,170 | 44,301 | |
| Less IRC sec. 911 exclusion | 0 | 20,000 | |
| Adjusted gross income | 21,170 | 24,301 | |
| Less: | | | |
| Standard deduction | 2,600 | 2,600 | |
| Personal exemptions (4) | 3,000 | 3,000 | |
| Taxable income | 15,570 | 18,701 | |
| Tax (based on joint return rates): | | | |
| Present law | 3,152 | 4,016 | $864 |
| Proposed law | 3,152 | 7,175 | 4,023 |

COMPUTATION OF U.S. INCOME TAX EFFECT ON DISTRICT MANAGER IN ABU DHABI AS COMPARED TO DISTRICT MANAGER IN UNITED STATES

| | Computation of U.S. tax | | |
|---|---|---|---|
| | If in United States | If in Abu Dhabi | Increase in tax |
| Base salary in United States | $21,465 | $21,465 | |
| Overseas differential | 1,800 | 1,800 | |
| Base salary in Abu Dhabi | 23,265 | 23,265 | |
| Add: | | | |
| Living allowance | | 3,076 | |
| Furniture allowance | | 750 | |
| Revaluation of currency allowance | | 1,572 | |
| Fair market value of housing | | 12,000 | |
| Tuition paid | | 3,000 | |
| Vacation paid | | 2,000 | |
| Total compensation | 23,265 | 45,663 | |
| Less IRC sec. 911 exclusion | 0 | 20,000 | |
| Adjusted gross income | 23,265 | 25,663 | |
| Less: | | | |
| Standard deduction | 2,600 | 2,600 | |
| Personal exemptions (4) | 3,000 | 3,000 | |
| Taxable income | 17,665 | 20,063 | |
| Tax (based on joint return rates): | | | |
| Present law | 3,726 | 4,400 | $674 |
| Proposed law | 3,726 | 7,790 | 4,064 |

COMPARISON OF U.S. INCOME TAX EFFECT ON CEMENTER IN DUBAI TO CEMENTER IN UNITED STATES

| | Computation of U.S. tax | | |
|---|---|---|---|
| | If in United States | If in Dubai | Increase in tax |
| Base salary in United States | $11,260 | $11,260 | |
| Overseas differential | 1,800 | 1,800 | |
| Base salary in Dubai | 13,060 | 13,060 | |
| Add: | | | |
| Living allowance | | 3,000 | |
| Furniture allowance | | 1,000 | |
| Revaluation of currency allowance | | 1,572 | |
| Fair market value of housing | | 12,000 | |
| Tuition paid | | 3,000 | |
| Vacation paid | | 2,000 | |
| Total compensation | 13,060 | 35,632 | |
| Less IRC sec. 911 exclusion | 0 | 20,000 | |
| Adjusted gross income | 13,060 | 15,632 | |
| Less: | | | |
| Standard deduction | 2,090 | 2,600 | |
| Personal exemptions (4) | 3,000 | 3,000 | |
| Taxable income | 7,970 | 10,032 | |
| Tax (based on joint return rates): | | | |
| Under present law | 1,374 | 1,827 | $453 |
| Under proposed law | 1,374 | 3,512 | 2,138 |

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## INTERNATIONAL WOMEN'S YEAR COMMISSION REPORT

Mr. BAYH. Mr. President, during the last week I have inserted portions of the International Women's Year Commission report covering the current status of women, their problems, and recommendations for remedying these problems. The two chapters I am inserting today, however, focus on the future of women.

The results of a poll taken in 1975 by Market Opinion Research of 1,522 women are contained in a chapter entitled "Where Women Are Heading." And, in the "Third Century," five young women discuss their expectations for the future.

Mr. President, I ask unanimous consent that these two chapters be printed in the RECORD for the use of my colleagues and their constituents.

There being no objection, the chapters were ordered to be printed in the RECORD, as follows:

### WHERE WOMEN ARE HEADING

### SUMMARY, MARKET OPINION RESEARCH POLL OF 1,522 U.S. WOMEN—1975

What are American women doing, and what do they want to do? How satisfied are they with their lives? Do they welcome or resist change in the roles women fill? Where are they now in U.S. society, and where does it appear they may be heading?

These are the kinds of questions to which the Commission sought answers when it commissioned Market Opinion Research to design and conduct a study on American women. The report of the findings is based on interviews made in August and September 1975 with a stratified probability sample of 1,522 adult women in the United States.

Among the findings of significance to public policy were the following:

Among women 18–34, over three-fourths said a lifestyle they would prefer is a combination of homemaking and career, with a majority wanting to stay home when their children were small. Only 9 percent would prefer being mainly a homemaker.

Three-fourths of all women favor governmental assistance for those in need of child care on an ability-to-pay basis. Ninety-one percent of women 18–24 favor such assistance.

Forty-five percent of mothers with less than high school education and 44 percent of those with incomes less than $5,000 reported that all their pregnancies were unplanned. Fifty-two percent of women 18–24 reported that all their pregnancies were planned and 46 percent of those 25–34 so reported.

Only 14 percent of divorced women were awarded alimony, and of these only 46 percent collected regularly.

Only 44 percent of the divorced mothers had been awarded child support, and of these only 47 percent were collecting regularly.

Forty-eight percent of the women wanted additional training or education and over half of these were interested in college or university training.

Forty-seven percent of the women desiring further education said they could afford it; the rest responded "no" or "don't know."

Only 53 percent of the women had heard of the Equal Rights Amendment; of those aware of it, only 20 percent felt they knew enough to have an informed opinion.

An assessment of American adult women must start with the basics about them:

Four out of 10 are under 35 years of age, three out of 10 are 35–54, and the remaining three out of 10 are 55 or older.

One-third have graduated from high school, slightly less than one-third have less education, and slightly more than one-third have gone on to post-high school education.

Two-thirds are currently married and living with their husbands, 15 percent have never married, and the rest are divorced, separated, or widowed.

Three-fourths have given birth to one or more children, but because some of these children are grown, only 43 percent have minor children in their households now.

Forty-two percent are currently in the labor force—31 percent working full time and another 11 percent working part time. However, 9 out of 10 adult American women have had paid employment at some time in their lives.

Eight out of 10 live in urban/suburban areas, and only 2 out of 10 in smalltown and rural areas.

Eighty-three percent are white, 11 percent are black, 3 percent are of Spanish-speaking backgrounds, and 3 percent are of other races, including 2 percent Native American (American Indian).

American women no longer choose whether to be homemakers or career/job holders. They want lives which combine homemaking and paid employment and most of them have lived such lives. Nearly one-half think the ideal life would be to stay at home with young children to combine homemaking with a job and career during the balance of the working years.

The actual pattern of working and being a homemaker in the adult years is affected very greatly by age, education, and marital status. Women are much more apt to have worked continuously if they are young, have education beyond high school, and are single or divorced. They are much more apt to have been homemakers continuously if the opposites are true, i.e., they are older, have less than high school graduate education, and are married or widowed.

Those in the 35–54 age group show the highest proportions (40 percent) of having combined working and being a homemaker at the same time for the major portion of their adult lives. Another quarter of this age group have alternated working and being a full-time homemaker. This pattern of combination or alternation is stronger in the middle-year age group than is the cycle of having worked, then dropped out of the labor force to become and remain a full-time homemaker.

The group showing the highest proportions of having worked but now staying home are those age 25–34, who also have the highest proportions now out of the labor force because of minor children.

Women with low family incomes opt less for returning to work as children get older and show the most preference for a career mainly as a housewife. This may be because of the elderly among the low income group. The desire to spend life mainly as a homemaker increases markedly with age. Only 9 percent of those under age 35 want to be mainly homemakers, but 39 percent of senior citizens 65 and over think this the best option for life.

The importance of being a homemaker is demonstrated by the fact that only 5 percent of American women—similar among all age groups—think the most satisfying life would be one mainly as a job/career woman. They want homemaking as part of their careers, but not the whole part. One reason they don't want homemaking as the sole activity is that two-thirds don't think homemakers are as interesting people as those who work outside the home for pay.

When the work/homemaker patterns today's women have actually lived are matched against the career lifestyles they would choose, it appears that 29 percent have lived their chosen pattern and 36 percent have a possible match to it. Thirty-five percent have led lives unlike their ideal.

The importance of job opportunities for American women is underscored by the finding that 91 percent have worked, at least part time, at some time in their lives. Of the 9 percent who have never worked outside the home in paid employment, only 6 percent are certain they will not work in the future.

These findings include the entire age spectrum, from students in the 18–24 age group to retired senior citizens. The present labor force participation of women is 31 percent employed full time, 11 percent part time, and 58 percent not employed. Forty-nine percent are not now employed but have worked in the past. Twenty-one percent are not now employed but plan to return or to enter the labor force in the future. Another 6 percent think they might seek paid employment, depending upon future circumstances. Thirty-one percent are not now employed and have no intention of working in the future. This group includes the retired.

Looking at women's occupations, the most striking findings are:

There are no great differences in the occupations of white and minority women. The only exceptions to this are more whites in clerical jobs and slightly more black unemployed.

Occupational categories are similar across most age groups between 25 and 64.

Occupational categories are different according to the marital status of women. These differences are because fewer single and divorced women are full-time homemakers.

These three findings make an occupational distribution of women very different from that of men. Occupations for men differ by race and age, but not by marital status.

Besides marital status, the one factor which makes a difference in occupation for women is education (a factor which also affects the occupations of men). However, for women, increased education makes possible jobs as teachers and nurses but does not increase the proportions in management positions.

The finding that occupations of women differ very little by age suggests that no great change has occurred despite recent pressures for promotion of women. In fact, the age differences for women in managerial and administrative jobs show increased proportions from seniority rather than from the young going into areas that were not formerly open to women. Manager/administrator proportions are 3 percent among those 25–34, rising to 6 percent among those 55–64.

Women's occupational roles remain traditional. Half consider their principal occupation as homemaker, 9 perent are retired, 5 percent are students, and 3 percent are currently unemployed or laid off. That leaves only one-third of women to name another occupation, and the biggest proportion of these (38 percent of those with other occupations and 13 percent of all women) are in clerical or office occupations. Twelve percent of all woman are in professional/technical/managerial jobs, of whom half are either teachers or nurses.

In the area of individual income, 37 percent of women have no income of their own. This includes 38 percent of white women and 35 percent of Spanish-heritage women, but only 24 percent of black women. The "no income" difference is explained largely by the fact that six out of 10 white women have husbands' wages or salaries as part of family income while only 35 percent of black women have.

Including the women who have no income of their own, three-fourths of all women have individual incomes of less than $6,000, and this proportion is the same for white and minority women. Looking only at the individual income of women who report some, two-thirds make less than $6,000 (61 percent of white and 70 percent of minority women). Only 14 percent make more than $10,000 (14 percent white; 9 percent minority). Only 9 percent of women are union members.

Rating the tasks and work activities they do on a scale from very satisfied to very dissatisfied, half of women are very satisfied and another one-third are somewhat satisfied. American women also feel confident they can manage their personal lives. Eight out of 10 consider themselves very capable and most of the rest think they are at least somewhat capable.

However, only 37 percent feel very capable of their ability to buy a home on their own. Two-thirds think they are very capable of managing the family's finances and another 20 percent are somewhat capable. Three-fourths think they have at least some capability for financially supporting themselves and dependents, raising children on their own, or buying a car by themselves.

About 85 percent of adult women have been married at some time in their lives, but only two-thirds are currently married and living with their husbands. The differences are because of death, divorce, or separation from spouse. Seven out of 10 women have been married once, 11 percent twice, and 3 percent three times or more.

Among those currently married, one out of 10 couples has celebrated their golden anniversary and 28 percent are past their 25th anniversary but have not yet reached the 50-year mark.

Although only 6 percent of all women are divorced at present, 16 percent of those who were ever married have been divorced at some time in their lives. The rate is even higher among black women, where 24 percent of those ever married have been divorced, compared to 15 percent among white and Spanish-heritage women.

The highest incidence of divorce is among those now in the middle-year age group of 35–54. Twenty-two percent of these women who were married also divorced.

Do those women now married think their marriages will last? Three-fourths say they are absolutely certain their present marriage will last until they or their husbands die. However ony one-half of married black women are absolutely certain their marriages will last. Among women who worked and then quit to become full-time homemakers, 84 percent express certainty their marriages will last.

Is marriage necessary? Two-thirds think a woman can live a full and happy life without marriage and nearly the same proportions think a man can.

Ideas on the appropriate relationship with respect to careers, husbands, and earnings are changing markedly. This is demonstrated by the difference between young women and their elders on achievement, on a woman earning more than her husband, and on whether it is more important for a wife to help husband than have a career of her own.

Those under 45 disagree that "it is better for everyone involved if the man is the achiever outside the home and the woman takes care of the home and family." But those over 45 agree with the statement.

Those under 45 disagreed that "if a wife earns more than her husband, the marriage is headed for trouble," while those over 45 agree.

Those over 45 agree that "it is more important for a wife to help her husband than have a career of her own," but those under 45 have mixed feelings.

Divorce is still in reality the experience of only a small percentage of all American women (14 percent) and the present status of only 6 percent. Among those women who have ever been divorced or separated from their husbands, only 14 percent indicate they were awarded alimony or maintenance payments from their ex-spouses. While a plurality (46 percent) of the women report they regularly received their payments, 50 percent report at least some irregularity. Two-thirds of those with irregular payments took legal steps to collect their alimony.

Only 44 percent of the mothers divorced or separated report receiving child support awards. While this 44 percent figure is consistent across other subgroups, it drops to 25 percent among black mothers. Half the mothers who were awarded support report some irregularity in receiving their payments, and two-thirds have resorted to legal means to collect.

Where minor children are involved in a divorce, 37 percent of women say that both parents should be considered equally for custody and 45 percent say that custody placement should depend upon the circumstances. Only 17 percent are automatically saying that custody of minor children should be given to the woman.

On the question of child support, American women are again diverting from the traditional view. Forty-eight percent say child support should be a concern for both parents, and 30 percent say it should be based on the circumstances. One-fifth of all women continue to feel that support should rest with the father alone, regardless of whether the mother is working.

Women are looking at alimony with the new view that it is not a right, but should be awarded only if one party in the marriage needs it. Thus two-thirds say a women should not get alimony if she can support herself, and 42 percent think the woman should pay alimony to the man if he is unable to support himself.

One-fifth of women have children who are now age 5 or under, but only one-third of these women use child care on a regular basis. Only 7 percent of those with minor children of any age are using after-school cr vacation child care services.

Among those women who have worked continuously throughout their adult life and have minor children now, 57 percent of those with preschool children use child care and 13 percent of those with minor children use after-school or vacation care. In 1975, women with minor children were still using the traditional methods of child care services. The babysitter predominates, with relatives second and private nursery schools third.

Among women who have never worked (only 27 percent of whom think they will or might work in the future), 13 percent of those with preschoolers would need child care and 11 percent of those with children of any age would need after-school care to do so. Most of these are young women under 35.

There is overwhelming agreement among women of all ages that the government should assist those in need of child care on an ability-to-pay basis. Three-fourths of women favor government assistance. Among singles this figure rises to 84 percent, among blacks to 85 percent, and among the young (18–24 years) to 91 percent.

American women agree, by a 55 percent to 38 percent margin, that a working mother can establish as warm and secure relationship with her children as a mother who does not work. And an imaginary line can be drawn to divide women on this question. Women in the 18–44 year group agree by a two-thirds majority that a working mother can establish rapport with her children, while those over 45 are less likely to agree.

One-quarter of all women in America presently use some form of birth control, and this is true whether they are married, single, or divorced. Half of women under 35 currently are practicing birth control; one-fourth of those 35–44 and one-tenth of those 45–54. Twenty-nine percent of singles of all ages use one method or another.

Education and income make the difference in usage of birth control. As education and income rise, usage more than doubles, from 13 percent among the poorer; lower educated women, up to 35 percent among those with high school educations and family incomes over $10,000. Usage peaks in the 25–34 year age group. Spanish-American women practice birth control at a lower rate than do other whites.

Only 5 percent of the women who are not using any method of birth control say they would like to be doing so. This demand rises to 16 percent among 18–24 year olds and among singles. Although young, single women are presently practicing birth control at fairly high levels, more want to do so. This gives some indication of levels of premarital sex and the desire of the young (single and married) to control their lives and plan their pregnancies.

Three-fourths of adult women have given birth to a child, and, among these natural mothers, the largest group has had two children. Twenty percent have had one child, 32 percent, two children; 20 percent, three children; and 12 percent, four children.

Only one-third of mothers planned all their pregnancies and another one-third planned some but not all. This leaves one-third who had all their children unplanned.

Among the 25–34 year olds, 22 percent of the pregnancies were unplanned, while among those over 35, more than 40 percent of their pregnancies were unplanned.

Black and Spanish-American women report more unplanned pregnancies than others. And the higher the education and income, the less likelihood was found among all women of having an unplanned pregnancy.

Four percent of American women admit to having had an abortion. Divorced or separated women report this slightly more frequently (9 percent). The vast majority of abortions were performed under medical supervision, except in rural areas where 30 percent were not done under medical conditions.

Although many did not plan their own pregnancies, women agree that the decision about when to have children should be made jointly by the man and the woman.

And 77 percent of American women feel that teenagers should receive information about birth control methods and practices. Support for this idea varies with age. A 92 percent level of support among younger women declines to 53 percent support among older women.

Parents, school teachers, and private doctors were mentioned as the sources that should provide sex education for teenagers. The choices were parents, 67 percent; school teachers, 40 percent; and private doctors, 29 percent.

Today's American women are women with education. Seven out of 10 have graduated from high school, and 37 percent have had at least some college. Furthermore, the college experience has grown since the end of World War II. Among women over 45 (those who reached college age prior to the mid-1940's) only one-quarter have any college education, while today attending college or university has become a near majority experience for young women.

Forty-eight percent would like to continue their education in some form and a majority (56 percent) of divorced and/or separated women indicate their desire for further education. Most of these women want more education at the university level (52 percent), but there is also a demand for vocational training (22 percent) and noncredit enrichment courses (17 percent). Forty-seven percent of all women wanting more education think they can afford it, but almost one-fourth say they cannot. The rest cannot judge whether they can afford it.

In leisure activities, participation in tennis, skiing, and water sports dominate the interest of the young but not the elderly. The next largest category of interests are in the art and needlework crafts—everything from sewing to ceramics and painting. This interest peaks in the 25–45 age group. Reading, studying, and education-related activities are the third-largest group, favorites of one-quarter of women. Home-related activities such as cooking, interior decorating, and gardening/house plants, form the fourth major category.

Only one-fourth of women belong to organizations whose memberships are predominantly female, and the largest type of women's organizations is those that are church-related. Women's rights organizations attract only small proportions and their memberships are made up of educated, fairly young, white women.

When the American woman reads or sees the mass media, does she see herself—or the women she knows—reflected there?

Magazine and newspaper articles and stories are more apt to show women an image of themselves that they recognize than are TV shows and ads. The widow and the Spanish-heritage woman sees herself less often than other women see themselves. Highly educated women read more about the kinds of women they know in the newspaper. But other than these groups, most women share the same perceptions of their reflections in the media.

Forty to 50 percent say their own reflection is never there. About 40 percent find theirs sometimes, but only 5 to 6 percent find theirs often.

Newspaper readership is highest among women with better education, higher incomes, currently married or widowed, and whites over the age of 30. It is lowest among those with the least education, minorities, and among young adults under 25.

Young women under 25 are less in the audience for TV news programs than women 25 and over. Older women and blacks—especially blacks—watch soap opera type serials in greater proportions than other women do—so do those women with less than a high school graduate education.

The top 10 magazines among American women—according to what they report reading in the past 2 months—are, in order: *Reader's Digest, Ladies' Home Journal, Good Housekeeping, McCall's, Time, Better Homes & Gardens, Redbook, Newsweek, Woman's Day*, and *Family Circle*. Only 5 percent of those women with post-high school education have read no magazines in a 2-month period, while 43 percent of those who did not finish high school read none.

*Ebony* is read by 19 percent of black women but by virtually none from other racial groups. *Ebony* is the number one magazine among black women, who generally read magazines less than white women do.

Over one-third of American women have not read a book in the last 2 months, and 58 percent have not gone to a theatre to attend a movie. In contrast, one-fifth of women have read more than six books in the same period. For most women, the merits of a book are not based on the sex of its author, and only 14 percent think they would be more likely to read a book if it were written by a woman than a man.

American women support the concepts that women should be more politically active than they are today (69 percent agree) and that women should be encouraged to seek elective and appointive posts at local, State, and national levels of government (72 percent agree). But they are less sure of the capabilities of women. Only 57 percent think there is a woman in the United States presently qualified to be appointed to the U.S. Supreme Court, 26 percent have no opinion, and 17 percent do not think such a qualified woman exists at this time.

Three-fourths of women are registered to vote and about two-thirds voted in the past two major elections (69 percent in the 1972 Presidential election and 64 percent in 1974). Only 52 percent of 18–24 year old women are registered to vote; the highest number (87 percent) is in the 55–64 age group.

Majorities of American women (59–60 percent), regardless of whether they have worked continuously throughout their lives or have been in and out of the job market, do not feel they have been discriminated against in the pay they have received for their work. Among the currently employed, 18 percent of those who have worked continuously and 14 percent who have been in and out of the job market feel they have not been paid equally with men for the same job performed. Divorced and separated women by significantly greater proportions say they have not received equal pay.

Most working women also do not feel that they have been slighted in the job world and had less qualified men promoted ahead of them. However, one-fourth of women who have worked continuously and one-third of divorcees say men who were less qualified were promoted ahead of them. Two-thirds of women in the labor force say they are aware that there are means by which they can report job discrimination based on sex.

In 28 percent of homes with women, both the wife and her husband contribute wages or salaries to the family income. But in only 19 percent of these households does the woman earn at least 50 percent of the two incomes. This proportion is slightly higher (25 percent) among women who have worked continuously. Among the husbands in such homes, only 10 percent contribute less than 50 percent of the combined total.

Two-thirds of women feel that boys and girls have the same educational opportunities available to them, but they are in somewhat less agreement (44 percent) that girls and boys receive the same vocational and occupational training. In fact, 38 percent disagree that such is the case. And 53 percent say they do not think the same opportunities exist for girls as for boys in the area of sports participation.

In their attitudes on the women's movement, 57 percent of women have positive comments as opposed to 28 percent making negative comments. Half the women favor the efforts being made to change women's status, 29 percent oppose the changes, and the rest are undecided.

As age increases, support for the changes decreases. Sixty-six percent of 18–24 year olds favor present efforts for change, but the figure drops to 30 percent among those 65 and over. Only one-third of women who have always been homemakers support the movement, while their counterparts who have worked continuously are much more enthusiastic, with 68 percent favoring societal changes.

One-third of the women feel that the movement for women's rights has helped them personally, while 60 percent say it has not. Among women who have always been homemakers, 22 percent say the movement has helped them personally, as do half of those who have always been in the work force.

A bare majority of 53 percent of American women are aware of the Equal Rights Amendment, despite the discussion, publicity, and controversy that have surrounded this amendment issue. And only 24 percent can correctly identify whether the ERA has been ratified by their own State legislatures. No large group of women shares any one idea of what the effect of ERA will be. And the lack of knowledge is further borne out by the fact that even among women aware of the ERA, 74 percent say they do not know enough about it to have an informed opinion.

The report concludes:

Today's young adult women are very unlike their grandmothers, though the break with their mothers is not as sharp. The trend is apparent—toward a lifestyle in which women will play a larger role in the ranks of the employed and a more equal role in the division of responsiblities within the family. The move is toward a lifestyle in which women will share with men the provision of financial and emotional support of children and their physical care, and a lifestyle in which who supports the family or pays alimony or obtains child custody if the family breaks up will depend upon who is best able to do so. The trend is also towards a lifestyle that provides more options for the woman who never marries.

Before such lifestyles are possible, however, women will need to overcome some handicaps. Their in-and-out-and-back-in pattern in the labor force serves to hold their wages and salaries down. They are not making major inroads into administration, management, or the skilled trades. However, today's young women have prepared themselves with far more education than their grandmothers had, and this will be one route to better jobs and pay.

The same types of differences exist in education, income, and marital status between black women and white women as exist in the total population, but the gaps in income, education and occupation are not as great among women as among all adults. Attitudinally, minority women are as ready for change—or more so—than their white counterparts.

Women are changing. The attitudinal evidence is here. The behavioral evidence should follow in the years after International Women's Year 1975.

### THE THIRD CENTURY

Have you listened to the voices of young American women of 1976? The young women who are changing the course of American life, more quietly, but just as certainly as the framers of the Declaration of Independence did in 1776?

It is not strange that their goals are the same as those of 200 years ago—justice and freedom for all.

Have you heard their vibrant, strong words? So caring, so full of high resolve for themselves, their husbands, their children, their community, and their country?

Shaped by a changing America, these are the new American women. Among the voices are those of young wives and mothers of toddlers, who in 2 decades, when their children are grown, will be in the halls of Congress, the board rooms of business or at the bargaining tables of industry. Or, if they are not sitting in seats of influence, they will be wielding power because this is a democracy and they have the vote.

They are secure in the knowledge that more of them than in any previous generation of American women can choose what they shall do, and be, and become. They are clear-eyed as they decide their future goals. Some are taking longer before they marry; some may decide not to marry, because that alternative has become more acceptable. If they do marry, they are very serious about making their marriages successful.[1]

They already have more education than American women before them and they want more. They are conscious that their own opportunities for fulfillment are wide, and they are determined that life will offer even greater freedom of choice for their daughters and sons.

Many have husbands who have adopted new lifestyles within the home and who are supportive, even initiators, of their wives' goals.

"If I don't want to be shoved into a stereotyped role, why should my husband?" asks Mrs. Frances Porter of Alpena, Michigan.[2]

"Yes, I work in a department store as a salesperson. And I probably will work the rest of my life. After the children are older I want to get my bachelor's degree. Working gives me the independence that is important. We have a sitter and my son [6½] is doing well in school. My daughter [3½] is well adjusted and loving; so is my son.

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[1] Information here is based on a study done by Market Opinion Research in 1975 for the National Commission and on personal telephone interviews done by Commission staff members.

[2] Mrs. Porter and the four other women quoted in this section were interviewed by telephone Apr. 10 and 13, 1976. Their stories personalize the major findings of the study done by Market Opinion Research (MOR) in 1975 as related to women in the 25–35 age group. (See summary of MOR study in Part III.) Seven names have been chosen at random from a group of women polled by MOR. Of the seven, one woman could not be reached because her phone was no longer listed; one did not answer. The five remaining responses remarkably illustrated the statistical findings.

"My husband is exceptional and a very giving person. We share both the things we like to do and those we don't like to do. He has always helped and shared with the children. They go to him equally.

"I want my daughter to have all the advantages of any person. We don't discriminate between boys' and girls' roles. I don't say, 'Girls don't do this, or boys don't do that.'

"The most important thing in life? My children; letting them grow to be themselves, whatever they can be."

Like Mrs. Porter, Mrs. Susan Hartman of State College, Pennsylvania, is raising her children without sex stereotyping. She says,

"I don't say 'fireman,' I say 'firefighter.' My husband, a registered nurse and a student, has taken 3-year-old Sarah to the nursing home where he works to see the doctor because she is a woman. In this way Sarah knows that women can be doctors; they don't all stay home like me.

"I plan to go back to school when the children are about 10 and I'd like a job which would let me be home at 3 when the children come from school.

"My family is more important to me now, but in 10 years, a career will be equally as important."

Mrs. Marty Knoche of Seattle, Washington, at 28, is divorced and has remarried. She is intensely interested in the women's movement and says because of it she has made a "180 degree turn around."

"It has opened up a lot of options and alternatives for me. Just the other night I was reading my eighth grade diary in which I had written about all the children I would have and how I would stay home taking care of them in my neat little suburban house. But I don't think like that anymore. My husband and I have decided not to have children and I am starting back to school.

In 10 years I hope to have my own business, maybe a little publishing company or a weekly newspaper. I want to be in charge of what is going on.

"My husband, who thinks my plan is super, also wants to go back to school but he is willing to wait until I finish. I quit college earlier to put my first husband through school. This is a new experience to have someone really supportive of me.

"My husband is the housekeeper. I don't really care if a house is clean, but he is a perfectionist so we decided he would do that work plus his job. He is really a super person.

"And now I'm thinking about getting into politics. This year I'll work in a friend's campaign and by the time I'm 35 I want to hold office. I may start by running for our State legislature."

These true stories of Mary Knoche, Mrs. Porter, and Mrs. Hartman give clues to the quality of the personal lives of those under 35.

There are also indications that these young women and others like them may one day demand a greater share in the problem solving of the United States, both on a national and international level.

Mrs. Allen Jacquet of Melville, New Jersey, a 31-year-old mother of two, works shifts making glass soda bottles, a job she has held for 12 years and which does not please her much because, she says, there's no chance for advancement.

Mrs. Jacquet's personal wish is to become a teacher someday. Her wish for the starving and underfed people of the world is that the United States will do something for them.

"We have so much. We should share. People complain about sending grain to the Soviet Union and about the high price of our bread. If bread went up 3 cents a loaf, I would not mind if the money went to help someone who is hungry.

"Perhaps free sterilization should be provided for the overpopulated countries. I have read about the program in India.

"I don't know how women can get into these issues, but I see more and more women on television who are involved and I believe it is good."

Mrs. Walter Shafer of Newkirk, Oklahoma, says the United States has problems and she lists crime, deviant behavior, and emotional illness as among them.

"Despite these things, America is the best place to live. It is far superior to any place else in the world. I would like to see American women more involved in world problems, though I am sure it would be difficult.

"Our State representative is a woman—a housewife, mother, and widow. I am impressed with her. Women can deal with problems without worrying about their image; they are not as political as men."

Mrs. Porter agrees: "When we send a woman overseas she goes as a woman, not as a politician. Women around the world have a bond deeper than politics. Despite cultural differences women have much in common."

Finland's Helvi Sipila, who is in the midst of international problems in her role as a U.N. Assistant Secretary General for Social Development and Humanitarian Affairs, looks at this issue and calls it tragic that more women are not involved.

"The critical problems that confront the world today—including shortages of food and fuel, out-of-control inflation and a general deterioration in conditions of daily life—often bear down especially hard on women. Thus it is particularly ironic that women are still largely denied the right and the opportunity to play a full role in dealing with these problems. Considering the waste of talent and energy involved, that is a truly tragic paradox for the whole human race."

It is this paradox that the women of the world will be dealing with when they meet again for a second World Conference of Women in 1980.

This second conference has been called for by the United Nations to "review and evaluate the progress made in implementing" the World Plan of Action agreed upon at the IWY Conference in Mexico City in June 1975.

The General Assembly, at its 30th session, in accepting the World Plan of Action also adopted resolutions calling on both individual nations and members of the U.N. family, especially the Secretary General, to act on the recommendations of the World Plan. (See Part VI.)

The United Nations designated 1976–85 as the United Nations Decade for Women, and it authorized the creation of an Institute for Research and Training for the Advancement of Women. Succeeding General Assemblies are asked to review the progress achieved in promoting full equality for women.

As the Center of Concern in Washington, D.C. points out,[3] the potential for change embodied in these resolutions must be examined carefully. Among factors the center cites:

"The full and equal integration of women into all aspects of societal life is not a high priority for the United Nations. This fact accurately reflects the reality that there are few nations in which the full and equal integration of women into decision-making and similar positions of influence is a goal of present power holders. Other concerns, the pace of development, agricultural output, domestic order, etc., are much more pressing.

"Policy-makers at the United Nations, the majority of them men, hold these same views. They see little if any connection between the claim of women that they have a significant role to play in their countries' lives which should be supported and the need, for example, to increase food production in Asia and Africa.

"U.N. leadership is deeply skeptical of the assertion that the process of creating a new world order must have significant input from women if in fact that order is to lead to a just, humanly developed world.

"More often, looking at the numerous crises facing the world, these men judge the Women's Movement to be the current plaything of a minority of Western or Western-oriented, affluent women, a distraction rather than a real issue.

"Some among the male leadership do recognize that women throughout the world bear heavy burdens. They believe that when other problems are solved, the lives of women will automatically be better. Many of these same men also continue to believe that women are limited, probably inferior persons. Thus, the changes in women's living conditions that they predict do not necessarily include women being accepted as equal to men in personhood or as having functions other than those of wife and mother . . ."

Women of the United States will have an unusual opportunity to inform themselves and to make their views heard, on these international problems, as well as national problems, in a series of State and territorial conferences that will culminate in a national conference in 1977. These conferences set up under Public Law 94–167 (see Part VI) will identify the special problems and needs of women in every station of life.

As the Center of Concern says:[4]

"It is . . . essential that global issues be included on the local and national programs. The conferences present an ideal opportunity for women to identify links between their own domestic concerns and those of a global nature. This concrete exploring of linkages and the meaning of interdependence will facilitate women's active participation in the structuring of a more human world.

"U.S. women, like women elsewhere, are uninformed about global issues and the implications of international policies, especially as they relate to women. Most women have not been given the resources to see the relationships that exist between many domestic concerns and world-wide problems. As a result they remain uninvolved and the values, interests, and insights they could bring to issues are marginalized . . ."

Since the State and national conferences will include women from low-income, diverse racial, ethnic, and religious groups, there will be an opportunity to involve women who could be America's best communicators with the women of underdeveloped countries.

However, occasions will have to be created so that such women can participate in cross-cultural international exchange.

It is expected that the conferences will also provide a kind of town-meeting forum in which women will not only inform themselves but will initiate action. And that this action will lead inevitably to change for the betterment of humankind.

Thus American women will be taking advantage of the unique system the United States provides, a system that is responsive to the needs of a responsible citizenry.

As the first functions of the National Commission on the Observance of International Women's Year come to a close with the publication of this report, members of the Commission view the next century of American life as a great opportunity to achieve constructive change.

A few years back a U.S. leader[5] pointed out that women have a way of moving from the general to the particular, from the abstract to the tangible, and that this talent could be applied to public affairs. Women are skeptical, he said, about the artificial and dangerous games they suspect men play and they are deeply interested "in the building of a decent world order, in arrangements which could make life tolerable for individuals and families, homes and local communities."

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[3] Memorandum 4, Apr. 1976; Center of Concern, 3700 13th St., N.E. Wash., D.C. 20017.

[4] *Ibid.*

1961.

[5] Speech by Secretary of State Dean Rusk.

Will women make this appraisal a reality during America's Third Century? The fact that women might participate more fully in national and global decisions does not guarantee that these decisions will be upgraded and improved. But it could.

There are critical choices to be made. And the Commission believes that women in the United States and in the world can, if they will, change the course of history for "a more perfect union" and a better world.

("Each individual, man, woman and young adult, must achieve independence before he or she can attain interdependence. And interdependence is the ideal relationship . . . All . . . try to . . . break away from a master-slave relationship and define themselves. They declare the dignity of their own identity."—Jacqueline Grennan Wexler, President of Hunter College, at Institute for Psychoanalysis.)

("When we examine the relationship of Jesus to women, we realize that he at all times and all places regarded them as fully human beings just like anyone else . . . He disregarded the social customs of his times in order to show that a new heaven and a new earth were dawning upon history."—The Rev. Eva Zabolai-Czekme of Geneva, at the 5th Assembly of the World Council of Churches in Nairobi, Kenya, November, 1975.)

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## HONOR CODE SYSTEM

Mr. GOLDWATER. Mr. President, the attacks on the honor code system at West Point have caused a great deal of concern to many people. I have stated my own belief that if the honor system is tampered with or destroyed, we might as well close the whole school. I would like to share with my colleagues a letter from Lt. Col. Burdette A. Shannon, retired, who currently serves as executive director of the Douglas, Ariz., chamber of commerce. His letter reflects the concern not of a man who graduated from West Point, but who served with West Point graduates throughout his 20-year career in the military. I ask unanimous consent that Colonel Shannon's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

*Douglas, Ariz.,*
*September 21, 1976.*

Hon. BARRY M. GOLDWATER,
*U.S. Senate, Russell Office Building, Washington, D.C.*

DEAR SENATOR GOLDWATER: It is shocking to read in the news media of the backing being given to some malcontents at the finest military academy in the World—West Point.

I am not a West Point graduate but I have worked with many both in peace time and in the combat arena—an officer has one attribute that sets he or she apart from the herd, and that is integrity. Without integrity he or she has nothing and you can't command respect—you earn it.

I have held all grades, except line sergeant, from private in 1936 until I retired as a Lieutenant Colonel in 1956.

I am asking you to see that the Honor Code System at West Point, that has worked so well for 193 years, in producing some of our finest leaders, is not changed but enforced.

Throw out those who want the prestige of being a West Point graduate but who do not wish to abide by its traditions and management. How can their classmates trust them in a serious civil or military situation when honor and integrity are all that's between success or failure.

How can you as a Congressional leader trust them to the defense of our country!

Please read this into the CONGRESSIONAL RECORD.

Very sincerely yours,
BURDETTE A. (PAT) SHANNON,
*Lieutenant Colonel, Retired.*

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## LAND AND WATER FOR OUR FUTURE

Mr. TALMADGE. Mr. President, the task of providing enough food and fiber for a rapidly growing population is becoming ever more complex.

While the world's population continues to grow, the world's supply of land and water to produce food and fiber remains the same.

Thus it is an ever greater challenge to our people to protect and enhance the land and water resource base that gives us the means to sustain life and health on this planet.

This year, the Committee on Agriculture and Forestry developed, and the Senate passed, S. 2081, the Land and Water Resource Conservation Act.

This bill would create a long-range process which would enhance our conservation efforts to make certain that our children and their children will have the same benefits of abundant food production resources that our generation has enjoyed.

The leadership in this landmark legislative effort has come from one of the newer members of my committee, the gentleman from Kentucky (Mr. HUDDLESTON), who, in less than 4 years, has made important contributions to the work of the committee and the Senate.

In an address this week to the Kentucky Association of Conservation Districts, the Senator makes some points on land and water conservation which deserve wide readership. Therefore, I ask unanimous consent that the text of his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### CONSERVATION: EVERYBODY'S BUSINESS

(Speech by Senator WALTER D. HUDDLESTON at the Annual Meeting of the Kentucky Association of Conservation Districts, September 27, 1976)

Some people have an idea that the conservation job is about done . . . and that even where it isn't finished, conservation is usually the concern of farmers and ranchers.

Most of us know better. For those who don't, a growing concern about environmental quality should point up a basic fact of modern life: *Conservation is everybody's business.*

Farmers worry when erosion skims off their rich topsoil. Homeowners, businessmen, and local officials worry when sediment—about 50 percent of it from agricultural land—clogs waterways, lakes, and reservoirs.

Farmers reach for the aspirin when adverse weather and a bad crop year hit them in the wallet. Processors, shippers, and the monetary experts head for the medicine cabinet when these same conditions reduce food exports and throw world markets into a tailspin.

It's the farmers' concern when floodwaters sweep across his cornfield. It's a concern of landowners and developers when these same floodwaters hit housing developments and commercial areas.

The list could go on almost indefinitely. Its point is that conservation isn't just an agricultural affair. It isn't just the concern of conservation districts. It involves everyone.

Because districts have first-hand contact with landowners and land users, you shoulder much of the conservation responsibility. But the total job continues to get bigger and more complicated. Increasingly, it requires a strong program, a strong effort, and strong leadership. These you offer.

You can meet the challenge of the future by building on the accomplishments of the past. You will need to continue to attract capable people into district work. You will require more technical assistance. And you will need to be backed up by a strong public education program that continues to inform people of conservation benefits while alerting them to the consequences of resource neglect.

I'm sure that none of this comes as news to you. You already have made good progress in helping Kentuckians make the most effective use of their resource assets. You have done it in spite of public apathy and strong crosscurrents of conflicting interests.

One of the foremost conservationists of the 19th and 20th centuries, Gifford Pinchot, observed that "The noblest task that confronts us . . . is to leave this country unspotted in honor and unexhausted in resources." He was right. It makes good sense to equate conservation with patriotism. Without a healthy and viable resource base, our country would face an uncertain future.

But conservation issues are no longer as simple as they might have seemed in Pinchot's day. Look at some of today's biggest challenges:

American agriculture is under increasing pressure to boost its productivity. Can this be accomplished without causing permanent damage to the soil and water base?

Urban and industrial development often compete strongly with agriculture for some of our most productive resources—like land. Will the result be a net loss of much of our prime farmland?

Competition also is growing for a second basic resource—water. Is it possible to allocate limited water resources fairly to urban, industrial, and agricultural needs?

Public outcries against environmental degradation are getting louder. Can agriculture, industry, and urban interests control pollution effectively and still continue to provide the goods and services that our people now take for granted?

These are not the only important conservation issues today, but they are among the most basic. And they all have some interesting characteristics in common:

They are broad in scope and long-term in character.

They are not restricted by geography.

They produce "ripple" effects, making waves in other areas such as economics, social progress, and even government organization.

They require that action be initiated now if future crises of much more serious proportions are to be avoided.

They deeply involve conservation districts.

Look at what is currently American agriculture's No. 1 priority: increasing production. Twenty years ago, our farmers were more than successful in meeting demands for food and fiber—and in doing it without undue strain on the soil and water base. There are a number of reasons why this was possible, and two of the biggest were technology and improved conservation techniques. But the surpluses of the fifties made a lot of us wonder whether production and conservation programs hadn't gotten just a little too efficient. As surpluses grew, farmers watched their profit margins dwindle.

What no one could forsee at the time were developments that would turn the situation upside down. Population growth . . . adverse weather conditions in some of the world's productive agricultural areas . . . rising competition for soil and water resources between agriculture and other interests:

All became ingredients in a very volatile mix. By the 1970's the surpluses vanished.

Probably the single most potent element in the situation was the speed of population growth. In the 1930's the experts were telling us that our population would level off at about 150 million. Today it has reached 215 million. Now they say there will be 264 million Americans by the year 2000. As astounding as this seems, it's not much in terms of world population, which now exceeds 4 billion and may reach 7 billion by the end of this century.

Unfortunately, the highest birth rates seem to occur in those countries least able to support larger populations. In the past, Uncle Sam usually made up the agricultural deficit in those countries. Requests for food and fiber are still coming in, and they're getting more numerous and more frequent.

The ability of American farmers to "produce more" could become the key to survival in many other parts of the world.

As any farmer knows, there are only two ways to raise production: (1) farming more intensively, and (2) planting additional acreage.

The first approach—farming more intensively—can create serious hazards for soil and water resources. Given trends in today's farming operations, it may be difficult to impress on land users just how vital soil and water conservation can be.

For one thing, the practice of renting or leasing large tracts of land is becoming increasingly widespread. A tenant or land renter may not be interested in conservation. And even if he is, he may not have any economic or moral incentive to adopt such practices. Still another complication: landowners do not always write into the leasing arrangement any requirement for conservation.

Some landowners may be reluctant to cooperate for other reasons. In Kentucky as elsewhere, new farming methods and larger farm equipment are making some traditional conservation practices obsolete.

Secondary problems, such as larger fields and the proliferation of some noxious weeds, have caused some farmers to turn away from minimum tillage practices.

The second pathway to higher production—planting more acreage—is no easier to take. How much more acreage is suitable and available for agriculture?

The U.S. Department of Agriculture, through its Soil Conservation Service, is looking closely at this question. A recently completed SCS study indicates that our country has about 111 million acres that are not now in crops, but that could be converted to cropland if needed. This is roughly equivalent to all the U.S. acreage planted in corn, oats, and sorghum last year. Total acres planted in all crops last year totaled 400 million. While the 111 million figure is impressive, it is considerably lower than previous estimates, which have run as high as 266 million acres.

Yet much additional acreage is obviously out there, ready to be brought into production when needed. At the same time, however, some rich and productive agricultural land already under cultivation is threatened with conversion to other uses.

The SCS found that about 2 million acres of farmland are lost "irreversibly" each year to urban buildup. Another one million acres are submerged annually under water in ponds, lakes, and reservoirs.

Will the continued loss of good farmland slow—or even reverse—projected increases in agricultural production? That's a 64-billion dollar question! To answer it sensibly, you've got to know how much "prime" farmland exists and where it is located.

This is the subject of another SCS study—to inventory important farmland throughout the country. When completed, this inventory will be invaluable to local decisionmakers who are trying to allocate their area's land and water resources most effectively.

An inventory of the important farmlands within a community or region is obviously a significant element to plug into the overall decisionmaking process.

The first steps to gather this data have already been taken, with the findings of a pilot study already coming in. The pilot study concentrated on counties that are under intense pressure from urban development.

Three Kentucky Counties—Fayette, Henderson, and Jefferson—were among the 122 inventories across the country. Maps for these counties should be published later this year. Four more counties in our state are among the 154 selected for inventory in 1977. The SCS indicates that it hopes to complete inventories and publish color maps for each of 1,200 counties—more than one-third of the nation—by 1980.

Even with all of this basic data, it won't be easy to decide how we want to use our land.

Any decisions will be weighed in the larger context of economic growth, social equity, and environmental quality. It won't be easy, either, to decide how we want to use our water resources. Most decisions regarding water resources will reflect the impact of two basic issues: quantity and quality.

The quantity issue, simply stated, is that there may not be enough water to satisfy every need. Agriculture, industry, and municipalities want it. Energy development requires large quantities of it. Recreational activities make extensive use of it.

Will there be enough to go around? Maybe not. Wasting water in our country has almost become a way of life. The efficiency of water use in agriculture alone is often only about 40 percent. Those who observe the trends will not find it difficult to predict the results. I am told that in some Nevada counties the water table has gone down over 1,200 feet. It may not be long before realistic water requirements—not necessarily water "demands" or trends—will determine how water gets used.

Because of their multi-purpose character, watershed projects planned, developed, and installed under P.L. 566 could set a basic pattern for future water use. Flood protection . . . municipal water supplies . . . recreation . . . fish and wildlife facilities—many of these needs are now combined within a single watershed.

The other side of the water resource coin is quality. This is what usually gets most of the public's attention and generates most of the public controversy. Right now, the focus of water quality interest is Section 208 of Public Law 92–500. The intent of this legislation is to reduce water pollutants from all sources, including agriculture.

Looking back, it should have been predictable that something like Section 208 would be written at this point in our country's development. More people than ever are concerned about their environment, and they know that erosion and pollution affect water quality. They can observe the effects of these forces on the landscape.

But I'm not telling you anything you don't already know. Conservation districts have been in the pollution control business from the beginning. What Section 208 should demonstrate is that this part of your job is moving up the priority ladder.

It should demonstrate, too, the impact of legislation on the way you do your job. As I see it, the prime function of legislation should be to provide you support in those areas where you need it most. That's why I introduced Senate Bill 2081, the Land and Water Resource Conservation Act. This would be a companion bill to the Forest and Rangeland Renewable Resource Act and would place into statutory legislation the relationship between the districts and the federal government. To date, S. 2081 has been passed by the Senate, hearings have been held in the House and the bill has been ordered reported by the House Committee on Agriculture and Forestry.

Generally, S. 2081:

Calls for a continuous appraisal of water- and land-related resources;

Directs the Secretary of Agriculture, through the SCS, to develop and direct a 5-year Soil and Water Conservation Program for *furthering* land and water conservation; and

Requires a report to Congress on the appraisal program and its effectiveness in reaching the objectives set by Congress.

The National Association of Conservation Districts assisted in drafting the bill. It currently represents NACD's No. 1 legislative priority.

I have also amended the revisions that Congress made in P.L. 92–500. My amendment eliminates the necessity for obtaining a Section 404 permit for agricultural, silvicultural, or ranching purposes, and eliminates the need for a section 404 permit when new land is brought into the production of food, fiber, or forest products.

So legislation can be supportive. But you'll need more than that.

You'll need to learn how to do more with less—to fulfill growing conservation commitments, while respecting current needs to make one tax dollar do the work of two. For both SCS and districts, there will be fewer hands with which to accomplish a larger task: a task that long ago expanded beyond its agricultural orientation.

You've got to continue to attract competent and dedicated people into district work—from supervisors to staff people to association leaders to just plain active helpers. You need people who are able and willing to take on a more demanding job.

You also need more technical assistance in handling a greatly expanded and much more complex workload. Part of my job is to help you get that assistance, and I will make every effort to assure that it will be available.

You need, too, a stronger information program to convince more people that conservation is a job that needs doing. Ninety percent of Americans have no connection with agriculture. Your message to them is that conservation is just as vital in our towns and cities as it is down on the farm.

If you can fulfill these needs, you will help assure the kind of future that our children have a right to expect: a future that offers a bountiful supply of food and fiber, a quality environment, and economic growth.

These are not unrealistic goals. Your challenge is to apply your talent and resources toward achieving them.

## SITUATION IN SOUTHERN AFRICA

Mr. BROOKE. Mr. President, for the past 2 weeks the news headlines have been dominated by efforts of Secretary of State Henry Kissinger to seek a peaceful solution to the Rhodesian problem. While the prospects for a peaceful transition to majority rule in Rhodesia remain unclear at the present, the Secretary deserves significant credit for what has turned out to be an extraordinary diplomatic achievement.

The Secretary's achievement is extraordinary if for no other reason than it forced Rhodesian Prime Minister Ian Smith and his ruling white party to accept the reality of majority rule within a 2-year time period. For 11 years the colony had resisted the pressures of international isolation, a United Nations economic embargo, and a recently escalating guerrilla war conducted by black nationalist movements. For 11 years 270,000 white Rhodesians stubbornly opposed any alteration of a system which completely dominated the political and economic lives of more than 6 million blacks.

The news headlines are still dominated by the reactions of the five-frontline Presidents of Zambia, Tanzania, Mozambique, Angola, and Botswana who have questioned less the substance of these delicate negotiations, than the mechanism for achieving majority rule in Rhodesia. Few people gave the Secretary much chance of achieving anything when he first launched his mission 2 weeks ago.

It is apparent the road to majority rule in both Rhodesia and Namibia is on an unalterable course. While a violent solution may still be in the offing, the path is irreversible.

The role of South African Prime Minister John Vorster in convincing the Smith regime to come to terms with the issue of majority rule was not only significant, but was also motivated out of a sense of pragmatism on the Prime Minister's part. Vorster is attempting to buy time for the Republic of South Africa which is facing growing internal racial conflict. For the past 3 months we have been getting daily reports of the escalation of racial violence and confrontation in South Africa. Racial disturbances have resulted in at least 300 blacks and coloreds being killed and some 2,000 others being injured. Both are conservative estimates at best. Some sources put the death toll as high as 1,500.

The initial rioting in the township of Soweto outside of Johannesburg, which stemmed from the imposition of Afrikaans as the official language in black schools, was not an isolated incident or temporary aberration. We have received news reports of firebombs going off in downtown stores in Johannesburg; apparent arson in several factory fires; two strikes of black workers hitting the South African economy; colored school children fighting street battles with police in downtown Cape Town; violent demonstrations of black students in the heart of Johannesburg; and reports of growing numbers of young blacks filtering into guerrilla training camps in Botswana and Lesotho.

The white backlash has been swift. Adults are carrying guns to work and arms dealers are doing a booming business. Vigilante groups have been formed by whites bent upon taking the law into their own hands.

South Africa is fast becoming polarized between the 4.2 million whites on the one hand, and 18 million blacks, 2.4 million coloreds, and 750,000 Indians—all victims of a harsh apartheid system—on the other. While Vorster's role in the negotiations with Smith may have been instrumental in the final capitulation of the Rhodesian Prime Minister on the point of majority rule, the South African Prime Minister himself has very little time left to buy for the last and most powerful bastion of white minority rule on the African Continent.

In light of the accelerating confrontation in the Republic of South Africa, there is concern—and it is legitimate concern—over any price the United States might have had to pay in exchange for Vorster's assistance in dealing with the Rhodesian problem. We must not forget that South Africa has by far the most pervasive, thorough, and oppressive system of racial dominance in southern Africa. The United States should not, and cannot, make any new, long-term commitments to South Africa. We must not relax our opposition to apartheid. Quite the contrary, we must intensify our efforts to encourage rapid change. The path to racial equality in South Africa is unalterable and growing in momentum. Whether it will be one strewn with violence or one of peaceful change will be dependent upon not only a rapid shift in the Afrikaans' attitudes, but also an unequivocal articulation of a U.S. policy which recognizes the inevitably of racial equality.

The problem of South Africa is much more complex than either Namibia or Rhodesia. More than 300 U.S. corporations—including most major companies—operate subsidiaries in South Africa. Some 6,000 different American companies operate in that country through agents. The total U.S. investment is approximately $1.7 billion and growing. South Africa is a nation blessed with an abundance of critical minerals. It is a nation which straddles the strategically important sea lanes between the Indian and Atlantic Oceans.

In light of these factors, the temptations will be great to protect what some might view as important economic and strategic interests the United States might have in South Africa. Yet, it would be a fatal mistake to choose this course. We would delude ourselves. We would delude the South African Government. We would be facilitating a tragedy of immense proportions.

Therefore, we should make it unequivocally clear, as the Secretary of State made it unequivocally clear to Ian Smith of Rhodesia, that the United States will not intervene in South Africa militarily, either directly or indirectly, or give psychological support to a system which is already in the throes of collapse.

We must support a mandatory arms embargo against South Africa if it is raised again in the United Nations. We must fastidiously comply with the present voluntary arms embargo.

We must not recognize the Transkei or the South African bantustan policy—a policy aimed at reserving 13 percent of the land for the black 80 percent of the population—which would lend international legitimacy to apartheid.

In light of the size of U.S. private investment in South Africa, we will be confronted with even greater pressures from corporate interests than we experienced when a handful of U.S. companies were instrumental in successful congressional efforts 5 years ago to place the United States in violation of U.N. economic sanctions against Rhodesia. We should have learned the lessons of Rhodesia, for it was this one action which deluded Ian Smith into believing the United States would not abandon him in the crunch. The folly of this corporate intervention is now all too apparent and even the Secretary of State's 11th-hour intervention may not be enough to prevent a military rather than a peaceful solution to the Rhodesian problem.

The corporations themselves have to reexamine their investment policies with these realities in mind. They must assess whether their employment practices provide equal pay for equal work and equal opportunity for advancement of blacks, coloreds, Indians and whites alike. Or do their employment policies only reinforce South Africa's economic disparities.

On a government-to-government level, the United States must examine the question of technology transfers to South Africa, that is, do U.S. computers make population control through the pass system more effective? Do technology transfers strengthen South Africa militarily? Would a policy of encouraging loans for new investment in South Africa with Eximbank guarantees strengthen the apartheid system and enable South Africa to avoid necessary progressive changes in her economy?

These are questions which require careful consideration if the United States is to be an effective force for peaceful change in South Africa or another formidable obstacle to be overcome only through violence.

To view the growing atmosphere of confrontation in South Africa as one organized by Communist elements is also self-deluding. For the South Africans it ignores that the root causes of the accelerating confrontation lie in the country's system of strict racial segregation. For U.S. policymakers it would solidly entrench us on the side of maintaining the status quo, while the Soviets emerge as the champions of racial equality and change. It is a dangerous specter with which to saddle ourselves.

The United States has substantial interests at stake throughout southern Africa. It has a large and growing economic interest. It has an interest in defusing the serious threat to international peace and stability in that region. To effectively promote these interests, the United States must make a serious and total commitment to peaceful transitions to majority rule in all of southern Africa—a system in which the equality of all races is enhanced and protected. The immediacy of such change is as urgent in South Africa as it is in Rhodesia and Namibia. While Rhodesia and Namibia may be dominating the news headlines today, we should not lose sight of the fact that the die has also been cast in South Africa.

## NATIONAL HOBBY MONTH

Mr. TUNNEY. Mr. President, October has been designated by the President as National Hobby Month, thanks to the efforts of California Congressman EDWARD ROYBAL and New York Senator JACOB JAVITS. The hobby industry is tremendously important to California, and I would like to take this opportunity to cite a few of its achievements.

Consumers spent more than $1.3 billion on hobby goods in 1975, and California has one of the largest hobby industries in the Nation. The California industry provides jobs to thousands of our citizens and contributes greatly to the vitality of both our domestic economy and to our balance of payments through its export sales.

The California hobby industry has also pioneered the development of hobby programs in education, agriculture, patient therapy, delinquency prevention and space travel, as well as producing goods for fashion and entertainment.

The Department of Secondary Education at the California State University in Los Angeles played a leading role in the development of hobby curriculums as "hands-on" learning tools in our Nation's schools.

In 1973, the use of hobbies in a teaching technique, the "Constructive Learning Method," was tested in 1,000 schools nationwide. The test was funded and administered by the Hobby Industry of America, and conducted in cooperation with the education section of the Civil Air Patrol, the Federal Aviation Administration, the National Aerospace Education Council and the National Association of State Aviation Officials.

After evaluating the test results, the university worked with the education committee of the Hobby Industry of America to develop teaching techniques based on its findings. The university-sponsored pilot teachers workshops in the "constructive learning method" are now emulated in many other universities throughout the Nation.

The result of this program developed in California by the hobby industry and educational institutions has been to raise achievement levels in reading and skills, science, mathematics, bilingual education and in career and vocational motivation and education.

Another California first is a program in the Los Angeles juvenile hall to test the use of hobbies in reducing violence motivating learning and upgrading vocational skills. California has also shown the way in the use of hobbies in patient therapy programs. A San Diego-based nonprofit organization, Help Hospital Veterans, has donated millions of dollars worth of hobbies and crafts to patients in military and Veterans' Administration hospitals for the past several years.

In commemorating National Hobby Month, the American Library Association suggests that public libraries display books on hobbies for all age groups. Recreation departments throughout the country will hold classes and demonstrations in the craft of recycling tin, glass, plastic, and paper products into practical and decorative objects. The Boy Scouts of America will emphasize all categories of "constructive hobbies," the American Legion will integrate hobbies into its youth career and vocational education program, and the Kiwanis will include hobbies in its antijuvenile delinquency good citizenship program. Finally, the southern California chapter of reading is fundamental—RIF—and the Whittier College reading clinic will sponsor the first RIF teachers workshop on the use of hobbies to raise reading achievement levels.

In his message on National Hobby Month, the President points to those revolutionary era figures such as Washington, Franklin, and Jefferson, whose:

> . . . genius in devising our system of government also guided them in devising so many useful and aesthetic inventions, crafts and hobbies.

As a result of the national attention which will be focused on hobbies next month, we can be certain that even greater strides will be made in the development of programs for the benefit and enjoyment of all our citizens.

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## INTERIM REPORT ON PENSION PAPERWORK SHOWS TRENDS OF CONCERN TO SMALLER BUSINESSES

Mr. NELSON. Mr. President, as chairman of the Private Pension Plans Subcommittee of the Senate Finance Committee and chairman of the Senate Select Committee on Small Business, I would like to provide an interim report to the Senate on the public hearings conducted by these two committees during the past year and to comment upon some disturbing trends in the pension area which this investigation has revealed.

Our inquiry has found that pension plan starts are down to less than one-half of their prior level, while terminations are up between 300 and 400 percent, and that mistakes in the administration of this law are the cause of a significant part of the trouble.

The trends can be derived from the following table of pension activity since calendar year 1970:

*Retirement plan creations and terminations*

| Calendar year | Starts | Terminations |
|---|---|---|
| 1970 | 32, 570 | 2, 306 |
| 1971 | 40, 664 | 3, 335 |
| 1972 | 49, 335 | 3, 550 |
| 1973 | 59, 605 | 4, 130 |
| 1974 | 59, 919 | 4, 604 |
| 1975 | 30, 043 | 8, 276 |
| January-June 1976 | 11, 327 | 7, 626 |

NOTE: Corporate plans only, self-employed plans would add to totals.

Source: Internal Revenue Service.

The table shows that corporate pension starts averaged 48,919 annually for the 5-year period 1970–74, prior to the enactment of the Pension Reform Act—Employee Retirement Income Security Act of 1974 or ERISA. However, starts fell to 30,043 in 1975 and 11,327 for the first 6 months of 1976. The percentage reductions from the 5-year average are thus 37.95 percent for 1975 and 53.71 percent for 1976.

As to terminations, the average for the 5 years prior to ERISA was 35,085. Assuming these trends continue for the balance of this year, 1976 would show additional terminations of 325.32 percent over the pre-ERISA 5-year average and between three and four times individual pre-ERISA years.

Looked at another way, the ratio of retirement plan creations to terminations ranged between 13.5 to 1 and 14 to 1 in the 5 years prior to enactment of ERISA, while in the 2 years after the act took effect, the ratio fell to 3.6 to 1 and 1.5 to 1.

### STATISTICS BEAR OUT STATEMENTS OF SMALL BUSINESSMEN

These figures appear to substantiate the complaints received by the Senate Small Business Committee and the Private Pension Plans Subcommittee during and subsequent to our February hearings. Pension administrators and consultants have been reporting fewer plan creations and greater terminations on the basis of their own experience. For example, the president of Retirement Administrators and Designers of America wrote that:

> My firm typically created 25 to 30 new plans yearly before ERISA, about 80% being defined benefit plans. From April 1975 to April 1976, the number of new plans was exactly three, only one of which was a defined benefit plan (covering 3 employees). During the same period, we assisted in terminating 10 plans![1]

Another pension firm in a southern State predicted that "a great many perfectly sound plans are going out of business in the next 12 months. * * *"[2]

### CAUSES OF THE TROUBLE

Independent professionals have cited as reasons for these trends the onerous reporting and disclosure requirements, as well as other new substantive obligations of those involved in pension administration, which are raising fees and making professionals reluctant to recommend creation or retention of qualified retirement plans "because of—maintenance expense, headaches and general confusion."

We certainly need to analyze the decisions on terminations in detail and intend to do so. However, it is safe to generalize at this point that maladministration of the statute is one of the chief underlying causes of the problem.

When the first wave of paperwork struck in mid-1975, I joined with the Senator from Texas (Mr. BENTSEN) to introduce a bill, S. 2344, which would make simplified reporting mandatory for smaller retirement plans. Labor Department figures show that, overall, 96½ percent of all pension plans have less than

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Footnotes at end of article.

100 participants, and 90 percent have less than 25 employees, as illustrated in the following table:

| Number of participants in plan | Total number of plans | Percentage of total number of participants |
|---|---|---|
| 1 to 25 | 64,000 | 90.14 |
| 26 to 99 | 45,000 | 6.33 |
| 100 or more | 25,000 | 3.25 |

From 1970 to mid-1974, however, even a higher proportion of the plans created were smaller and medium sized:

| Number of participants in plan | Total number of plans | Percentage of total number of participants |
|---|---|---|
| 1 to 25 | 183,430 | 92.3 |
| 26 to 99 | 10,855 | 5.5 |
| 100 or more | 4,469 | 2.2 |

Source: Testimony of John W. Baker, February 2, 1976. (See footnote 4.)

These smaller and medium-sized plans account for just under 11 percent of participants as can be seen from the following table:

PRE-ERISA REPORTING REQUIREMENTS

| Number of participants in plan | Total participants in size category | D-1 (10 pp.) | D-2 (16 pp.) | 4848 (1 p.) | 4848 Schedule A (2 pp.) | 4848A (2 pp.) | 4849 (2 pp.) | Pages |
|---|---|---|---|---|---|---|---|---|
| 1 to 25 | 1,580,900[1] | ---- | ---- | × | × | × | × | 7 |
| 26 to 99 | 2,100,000[2] | × | ---- | × | × | × | × | 17 |
| 100 or more | 30,000,000[3] | × | × | × | × | × | × | 34 |

[1] .0469 percent of total number of participants.
[2] 0.0623 percent of total number of participants.
[3] 0.8907 percent of total number of participants.

Source: Department of Labor, testimony of James D. Hutchinson, Administrator, Pension and Welfare Benefits, Feb. 2, 1976, Hearings (see footnote 3).

Thus, prior to ERISA, the under-25 participant plans were exempt from detailed reporting under the Labor Department's D-1—10-page—and D-2—16-page—forms, and the 26–99 participant plans were exempt from D-2.

We felt these circumstances argued for simpler reporting forms for the medium sized and especially the smallest retirement plans. Congress therefore in section 104(a)(2)(A) of the ERISA statute authorized the Secretary of Labor to prescribe simplified annual reports for plans with less than 100 participants.

What happened? The administration attempted to reassure us that the forms they produced were the most simplified forms possible, and that everyone should relax because these simplified forms would apply to all business. But the forms and regulations produced up until February of this year were estimated by experts to result in "at least 50 percent" increases in time to prepare and dollar costs over the pre-ERISA requirements.[3]

For the sake of clarification, let us review the history of the two major forms developed for administering this law.

In April 1975, the Department of Labor distributed a 16-page pension description form (EBS-1) to be filled out by every single pension plan, large, small or medium sized.

The form could not be read by machine and could not be utilized by a computer.

It was such a disaster that the Department finally had to withdraw the entire form and start again.

Then the Department combined with the Internal Revenue Service on the requirement for a 5½-page annual report form which would be required of every pension plan, in addition to the EBS-1 form.

This form overlapped significantly the EBS-1 form and the pension application forms already filed by existing plans. Furthermore, it was plain that the agencies were seeking under short-term deadlines more information than they could possibly process during the early years of administration of the act.

On November 18, 1975, the Senator from Louisiana (Mr. LONG), the Senator from Texas (Mr. BENTSEN), and myself wrote at length to the Department of Labor and the IRS with a series of requests for simplification of forms, mitigation of requirements, and extension of comment and reporting periods for smaller pension plans. I ask unanimous consent to have that letter printed in the RECORD at the conclusion of my remarks for informational purposes.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. NELSON. Mr. President, in the face of a hail of public and congressional criticism, the two agencies finally reduced the EBS-1 form from 16 pages to 6 and the annual report, Form 5500, from 5½ to 2½. The requirement of an accountant's opinion was also eliminated for the smaller plans.

This was a great relief. But the reality was that Congress and the small business community had spent most of last year battling the bureaucracy—at considerable expense and effort—to: First, eliminate impossible requirements—such as the expensive audits; second, reduce crushing and unnecessary paperwork; and third, extend impractical deadlines. The reporting forms which I have described constituted part but not all of the administrative overkill that undoubtedly influenced the climate in which employers and pension managers were making their decisions.

The Pension Benefit Guaranty Corporation reported that in 1975 it received 5,035 notices of termination, with 1,148 of these filed in December.

An analysis of these figures was made by the President of the National Association of Pension Consultants and Administrators in his February 1976 testimony before our committee as follows:[4]

> There are a number of reasons for this increase in terminations, including the general state of the economy.
>
> However, it is our view that this high rate is due to some extent to the burdens of compliance with ERISA and more specifically, to a fear of what those burdens might be. If these fears are not alleviated, the termination rate could well increase.

This witness typified the role of the pension professional in trying to avert terminations in the following terms:

> . . . every day that I try to, and our association tries, to keep in business until ERISA gets straightened out. We have calls in my office—and ours is not a large office—every day asking if they should terminate.
>
> Every day we convince them (smaller employers) time after time that terminations (of their plans) are not in order, that we will get it straightened out.

The February hearings which took place after the EBS-1 and 5,500 forms had been reduced in size still revealed a marked difference in opinion about compliance burdens. Government witnesses testified that they had been reduced, arguing that the total number of report pages required for the medium-sized and larger plans of 25 or more participants would be less after ERISA.

Representatives of small plans such as the American Society of Pension Actuaries disagreed. The Labor Department's own tables, they said, showed an increase of nearly 50 percent in the number of required report pages for under-25 plans. The same table shows an overall increase in required total pages for all plans from 6.1 million to 7.2 million, or 18.5 percent.[5]

But, the number of pages is only part of the story. The National Association of Pension Consultants and Administrators—NAPCA—outlined a host of new post-ERISA requirements for all plans, including the smaller units. I ask unanimous consent that their list likewise be printed in the RECORD following my remarks as exhibit B.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. NELSON. Mr. President, the additional demands include new bookkeeping requirements, more stringent requirements of verifying the current value of assets in a plan, filing forms with a new agency—the Pension Benefit Guaranty Corporation—and increases in inquiries about the plan by the employer and participants that some administrators estimate have quadrupled.

It is therefore not surprising that pension managers informed our committee that their costs for servicing small plans had doubled. A survey of pension administrators taken in early 1976 by NAPCA revealed that the cost before ERISA and after ERISA has just about doubled. It has gone from $200 to $400 depending upon the number of plans, from $350 to $700. Those were the figures given to us by those who do nothing but small plans.

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Footnotes at end of article.

### SERIOUS IMPLICATIONS FOR SMALLER BUSINESSES AND THE ECONOMY

These were the early warnings from the small business community, and the response was quite moderate. Some experts questioned whether there will be a place for the small pension plans under the pension system, but such suggestions were considered alarmist. But the current statistics will not allow us to dismiss the question any longer.

These figures signal that we could be witnessing the beginning of a flight from the private pension system.

At the time of our public hearings in February 1976, the Internal Revenue Service attempted to assure the committee that such disillusionment was not widespread. Against the universe of the 685,000 smaller private retirement plans, IRS estimated that:

> There would be 10,000 plan terminations, which represents 1 percent of the community of pension plans. Not a very large number . . . and if they are going to jump out, they would have jumped out in 1975, before they got into the clutches of the system. . . . (We do not think that the figures have) demonstrated . . . a great exodus from the pension community.[6]

However, if the present 1976 trend continues, there would be over 15,000 terminations this year, in addition to the 8,300 of last year, for a total of approximately 23,000, or more than twice the IRS prediction.

The 90 percent of the retirement plans having less than 25 participants and the 96½ percent having less than 100 participants corresponds roughly with Small Business Administration estimate that 97 percent of the 13.3 million businesses in the country are small businesses. These enterprises provide 52 percent of all private employment. Small businesses employ most of the workers not presently covered by private retirement plans. Congress wished in ERISA to encourage extension of the pension system in this direction.

If small business retirement plans are no longer viable, this would have far-reaching implications for our economic and social institutions.

This would mean that the prospects of expanding private employer retirement plans to those in the working population who do not now enjoy such coverage would be further dimmed, directly contrary to congressional intent.

### UNANSWERED QUESTIONS

It should be noted that employees can earn coverage under social security. In addition, they might elect to start an individual retirement account—IRA. But social security still requires a qualification period, and IRA's have a maximum contribution of $1,500.

We know very little at this point about how many workers would undertake to replace a terminated employer plan with an IRA contribution. We do not know how many would voluntarily begin, or continue an IRA plan, and for how long, and whether they would have enough of a fund to retire on as a result.

If enough employers and workers lose faith in the private pension system, we will be left only with social security.

In my view, there should be room for both private and public retirement systems in our economy. I believe it would be tragic if every employee became solely dependent for retirement income on Government systems of one kind or another

### ANSWERING THE QUESTIONS WHICH HAVE BEEN RAISED

It is an urgent matter that all concerned address themselves to what appears to be a crisis of confidence in our private pension system.

Conditions have improved in the executive branch since last year. The Internal Revenue Service and the Department of Labor Pension Administration are headed by able and conscientious men and their staffs are working very hard. A small plans impact group has been created to channel small business input to the ERISA Advisory Council.

Congress must also do its share. It developed the law in an effort to protect the workingman. It could not foresee such an implementation of the act so clumsy that it would force the small business community out of the pension field.

Nevertheless, we must assist in coping with the paperwork and compliance burdens which have arisen.

We must also be responsible about the appropriations needed to handle the extraordinary requirements in the early years under the reform provisions. We must be openminded about suggestions for clarifications and modifications of the legislative guidelines. And, we must maintain continuous oversight of administrative, legal, and practical developments.

Congress is limited, however. It cannot make the day-to-day decisions, develop the forms, or issue the technical rulings. In the nature of things, that kind of supervision must be left to the professional personnel in the Labor Department and the IRS.

We would not be concerned if a limited number of pension plans, which were marginal in the first place, were terminated. Unfortunately, however, the figures appear to go far beyond any "weeding out" and are affecting sound plans. It seems that the difficulties of 1975 and 1976 are having consequences far more adverse than were anticipated, and they should be dealt with on a priority basis by all concerned.

Our committees are continuing to explore these issues and will report our findings and recommendations to the Senate as soon as possible.

### FOOTNOTES

[1] Letter dated May 27, 1976, from John J. Pearce, President, Retirement Administrators and Designers of America, to Senator Gaylord Nelson, Chairman, Senate Select Committee on Small Business.

[2] Letter dated May 21, 1976, from Lawrence A. Walker, President, Corporate Plan Services, Inc., to ERISA Advisory Committee c/o James D. Hutchinson, Department of Labor.

[3] Testimony of Robert D. Conkel, Esq., American Society of Pension Actuaries at the Joint Hearings Before the Subcommittee on Private Pension Plans and the Subcommittee on Financial Markets of the Committee on Finance and the Select Committee on Small Business, U.S. Senate, 94th Cong., 2d Sess., "Paperwork Requirements of the Pension Reform Act of 1974," Feb. 2 and 3, 1976 (p. 73).

[4] Testimony of John W. Baker, President, National Association of Pension Consultants and Administrators, Inc., Hearings (p. 34).

[5] Appendix on "Comparative Reporting Requirements" appearing at page 23 of the hearings (loc. cit., footnote 3) as follows

| Size of plan | Number of plans | Pre-ERISA pages | Post-ERISA pages | Difference |
|---|---|---|---|---|
| 1 to 25 | 640, 000 | 7 | 10 | +1, 920, 000 |
| 26 to 99 | 45, 000 | 17 | 10 | −315, 000 |
| 100 or more | 25, 000 | 34 | 15 | −475, 000 |
| Net |  |  |  | +1, 130, 000 |
| Percent |  |  |  | 18. 53 |

[6] Testimony of Alvin D. Lurie, Asst. Comm., Employee Plans and Exempt Organizations, Dept. of Labor, Hearings (p. 121–122).

## EXHIBIT 1

SELECT COMMITTEE ON SMALL BUSINESS,
*Washington, D.C., November 18, 1975.*

Hon. JOHN T. DUNLOP,
*Secretary of Labor,*
*Washington, D.C.*
Hon. DONALD C. ALEXANDER,
*Commissioner, Internal Revenue Service,*
*Washington, D.C.*

DEAR MR. SECRETARY AND MR. COMMISSIONER: During the course of our inquiry on small business tax reform, the Select Committee and the Financial Markets Subcommittee of the Senate Finance Committee heard testimony in our September hearings about the intention of some small employers to terminate their employee retirement plans because of increased costs and administrative requirements. One study showed that, in several instances, costs had risen to over $1,000 per employee, or over 10 percent of the income of the plan. We have also received extensive correspondence about the reporting requirements of the proposed EBS–1 and the Joint Form 5500.

As a result, we have become increasingly concerned over the impact of cost and reporting burdens of complying with the Pension Reform Act and possible termination of the smaller employee benefit plans, those with less than 25 participants.

One expression of this concern is the recently introduced legislation regarding simplified reporting for smaller plans (S. 2344). Our understanding of the intent of the Congress in enacting the Employee Retirement Income Security Act of 1974 was that lesser burdens would be imposed on the smaller plans.

The Department of Labor and the Internal Revenue Service have made commendable efforts toward that objective, as indicated by the agreement upon a joint annual retfurn/report, which in our view is a major accomplishment.

However, in a further effort to respond to the contentions of the small business community about the specifics of the proposed EBS–1 Plan Description and Form 5500 Annual Report, we have examined the proposed forms in the light of the views they have expressed to us. Despite considerable hesitation because of the technical complexities of these matters, we would offer the following suggestions for your consideration:

1. Periods for Comment and Evaluation. It appears that the comment period, and perhaps especially the evaluation period of less than three weeks, ending November 18, is somewhat compressed. This schedule has generated doubt as to the thoroughness of the evaluation of the views and recommendations submitted by the small businesses and professionals affected.

Since the ultimate information requirements have now been disclosed to all interested parties, we feel it would be advantageous to extend the comment and evaluation periods if this can be done without changing the ultimate filing deadlines. Such extensions should provide additional time for analysis, and changes if necessary. They would have the additional advantage of assuring the business community of the orderly consideration of its contentions.

2. Goals of the Forms. Examination of the forms raises the question as to whether all the information sought by the EBS–1 and the Joint Form 5500 Annual Report from the small plans can be physically processed, reviewed, and acted upon within the forthcoming year.

Small business spokesmen have advocated that the basic identification material should be emphasized in the first reporting year for smaller plans, as a basis for setting up computer files which could then readily absorb additional information. If this is feasible, it might reduce the quantity of information required at the outset.

An analysis of the two forms attached reveals several questions which are common to the two forms. Although some of the information, such as the number of participants, tends to change, we would ask whether additional consideration could be given to the opportunity to report changes in the items concerned, and to the use of retrieval techniques to recover basic information. A related question involves the possible usefulness of Form 4848 for 1975 for the existing small plans in this context.

Perhaps your experts could also re-examine appendix items closely with a view to restricting any duplication which may occur.

3. Furnishing of Plan Descriptions. Businesses have complained that the Summary Plan Descriptions which must be provided to participants and filed with the EBS–1 form, must be completed at a time when significant amendments required to bring many plans into conformity with the Act may still be in preparation. Businessmen state further that, in many instances, amendments must await the publication of regulations, which may not yet have been issued.

They argue that a second summary plan description would have to be prepared after the filing amendments. Because of this, employers would incur additional expense and participants might become confused. It has been agreed that it would be more valuable to employees to receive a single description which does take into account the new standards of the Act.

There thus appears to be some logic in suggesting that the Summary Plan Descriptions be deferred for some period, perhaps until 30 days subsequent to the required amendment date under the regulations. We so recommend, but only on the condition that the substance of the Act, requiring disclosure to employees, is honored by providing all plan participants as early as possible with an explanation of their rights and benefits. Perhaps this could be done by distributing applicable provisions of the EBS–1 form itself.

4. Requirement of Accountant's Opinion. The recently announced requirement for accountants' opinions for all small- and medium-sized plans under Section 103(a) have been described to us as going far beyond a normal audit. It would therefore reportedly be costly, especially for the smaller plan. In view of the fact that other agencies, such as the Securities and Exchange Commission, draw distinctions for accounting requirements by size of companies, we would hope similar differences could be recognized in this area.

As you know, we have supported and worked for an effective Pension Reform Act, and certainly do not wish to see it weakened in any way. However, in our view, it seems to us reasonable to explore possibilities of this kind in order to alleviate some of the short-notice provisions of the required reporting, simplify initial reporting for smaller plans, and phase in the furnishing of information in such a way as to mitigate the paperwork burdens and costs of obtaining and processing the required information for both the business community and the government.

Because of our interest in these matters, we would welcome any reaction you might have to the practicability of these suggestions, and would appreciate the opportunity of having your thoughts in this area. Our Committees plan to hold joint hearings on the questions discussed in this letter at a later time, and we shall be pleased to confer with your staffs to determine a timetable that would be in the best interests of all concerned. Please be assured of our cooperation in bringing about the effective and reasonable application of this very important legislation.

Very truly yours,

GAYLORD NELSON,
*Chairman, Senate Select Committee on Small Business.*

RUSSELL LONG,
*Chairman, Senate Finance Committee.*

LLOYD BENTSEN,
*Chairman, Subcommittee on Financial Markets, Senate Finance Committee.*

COMPARISON OF EBS–1 PLAN DESCRIPTION AND FORM 5500 ANNUAL REPORT

| | EBS–1 | 5500 |
|---|---|---|
| 1. Name, address, other identification of employer/sponsor | 1(a)–(e) | 1(a)–(c) |
| 2. Identification of administrator | 2(a)–(c) | 2(a)–(c) |
| 3. Differences from prior report | | 3 |
| 4. Structure of the plan | 3(a)–(d) | 4(a)–(d) |
| 5. Name and number of plan | 4(a)–(b) | 5(a)–(b) |
| 6. WP file number | 5 | |
| 7. Initial effective date of plan | 6 | |
| 8. Year ending date | 7 | |
| 9. Administrator agent for process | 8 | |
| 10. Type of plan | 9(a)–(b) | 6(a)–(b) |
| 11. Number of participants | 10(a)–(f) | 7(a)–(f) |
| 12. Persons performing selection functions | 11(a)–(n) | |
| 13. Whether derived from collective bargaining agreement | 12 | |
| 14. Documentary basis | 13 | |
| 15. Type of employees participating | 14 | |
| 16. Sources of contributions | 15(a)–(g) | |
| 17. Method of accumulation and disbursement | 16 | 11 |
| 18. Claims procedure | 17(a)–(e) | |
| 19. Pension eligibility criteria | 18 | |
| 20. Vesting provisions | 19(a)–(b) | |
| 21. Portability or reciprocity | 20(a)–(b) | |
| 22. Computation method for length of service | 21(a)–(c) | |
| 23. Break-in service rules | 22 | |
| 24. Type of benefit/requirements therefor. | 23(a)–(e) | |
| 25. Ineligibility/forfeiture | 24(a)–(b) | |
| 26. Annuity conditions | 25 | |
| 27. Disposition of contribution not paid. | 26(a)–(d) | |
| 28. Welfare plan provisions | 27 | |
| 29. Loss of welfare benefits | 27(a)–(d) | |
| 30. Summary plan description—furnished to participants. | 29 | |
| 31. Summary plan description—filed. | 30 | |
| 32. Plan amendment information | | 8 |
| 33. Termination during past year | | 9 |
| 34. Merger or consolidation within year. | | 10 |
| 35. Identification of fiduciaries | | 12 |
| 36. Change in personnel | | 13 |
| 37. Compensation of fiduciaries, etc. | | 14(a)–(f) |
| 38. Assets and liabilities | | 15(a)–(c) |
| 39. Income statement | | 16 |
| 40. Explanation of 3 percent transactions, defaults, etc. | | 17 |
| 41. Bonding | | 18(a)–(f) |
| 42. Plans with 5 percent shareholder participant. | | 19(a)–(b) |
| 43. Employee stock ownership plans | | 20 |
| 44. Master or prototype | | 21 |
| 45. Qualification/determination | | 22 |
| 46. Percentage test of 410 of Internal Revenue Code. | | 23 |
| 47. Integration | | 24 |

### EXHIBIT 2

### NEW POST-ERISA REQUIREMENTS

#### INTERNAL REVENUE SERVICE

1. Notice to interested parties upon application for approval.

2. Notification to IRS that above notice was provided.

3. Annual report of terminated participants with deferred vested benefit.

4. Terminated participant to receive notice of deferred vested benefit.

5. Notice of change in status—Change in name or address, or report of termination. merger, consolidation or division.

6. Actuarial statement—30 days before a merger, consolidation or asset transfer.

7. Report of Actuary at least every 3d year.

#### LABOR DEPARTMENT

1. Summary Plan Description to participants and Labor—if amended, due every 5 years; otherwise, every 10 years.

2. Modification or changes—Notify Labor 60 days after change.

3. Modification or changes—Notify participants 210 days after plan year end.

4. Summary of Annual Report to participants 210 days after plan year end.

5. Termination Report to Labor.

6. Opportunity for each participant to elect Joint and Survivor Annuity Option at early retirement—explanation in writing required.

7. Denial of claim in writing to participant, with right of review.

8. Report of Accrued Benefits and Nonforfeitable Benefits upon written request of participants but not more often than once per year.

9. Make available to participants—Copies of Plan Description, latest Annual Reports, Trust Agreement, Bargaining Agreement or other document under which Plan was established or is operated.

#### PENSION BENEFIT GUARANTY CORPORATION

1. Premium payment at inception of plan and annually.

2. Termination Report to PBGC—10 days before proposed termination date.

3. Notice to PBGC of "reportable event".

4. Notification to employer each year if it is "substantial employer".

5. Notify PBGC if "substantial employer" withdraws.

6. Annual Report to PBGC—may include items 3, 4, and 5 above.

#### RECORDKEEPING REQUIREMENTS

Employers required to keep records "sufficient to determine the benefits due or which may become due to . . . employees." This requires permanent records of all employees, past and present, including those who have been separated from service and could potentially be rehired.

Labor requires records kept to permit verifications or clarification of the reports for at least six years.

## ERLE COCKE, JR. URGES AMERICANS TO REGISTER AND VOTE IN 1976

**Mr. TALMADGE.** Mr. President, in this Bicentennial Year, all Americans have had occasion to reflect upon the blessings of liberty they enjoy as citizens of the United States. Not the least among these is the privilege and right to vote, and thereby to participate in the democratic process of government. A distinguished American and a fellow Georgian, Erle Cocke, Jr., a native and legal resident of Dawson, Ga., and now a prominent management consultant, has called attention to the patriotic duty of all citizens to register and vote. He is a past national commander of The American Legion.

I would like to share with my colleagues an address delivered by Mr. Cocke on September 22 in Elsinore, Denmark, before an awards dinner sponsored by the 3–M Co. as part of the International Micrographics Congress, whose membership includes many American firms. The Congress met this year serially in the cities of Copenhagen, Oslo and Stockholm.

Mr. President, I ask unanimous consent that the text of Mr. Cocke's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### REMARKS OF ERLE COCKE, JR.

I think all of us can find inspiration in meeting in this historic setting in this friendly and hospitable country on so significant an occasion.

In this political year of a Presidential election we hear much campaign oratory about the common man and the "better deal' he deserves from Government. But too little is said, it seems to me, about the uncommon man.

We meet under pleasant circumstances to honor a group of uncommon men. They have earned the tribute we pay them on this occasion—the accolade of their company, the respect of their peers—and, perhaps, even the grudging admiration of a group of surprised mothers-in-law!

As Plato observed more than two millenia ago, "Excellent things are rare." He might well have added that excellent men are even more rare—especially in a world that has grown increasingly tolerant of mediocrity.

Example is better than precept, according to an old English proverb. Each of us may profitably seek to emulate the example of those whom we honor at this Awards Banquet. Their achievement speaks eloquently.

Recently I came across this squib on the editorial page of a newspaper:

"Excellence.

"You can't really see it or touch it.

"But it has presence.

"Sustained by achievement."

The thought is so stimulating that I was puzzled that the author did not lay claim to it by signing his name. The explanation may lie in the anonymity of the editorial "we."

To pursue the admirable quality of excellence a bit farther, I would like to share with you a quotation from the writings of John Gardner, former president of the Carnegie Corporation, Secretary of Health, Education, and Welfare, and founder of Common Cause, the so-called People's Lobby.

"We must recognize that there may be excellence or shoddiness in every line of human endeavor," Mr. Gardner wrote. "We must learn to honor excellence (indeed, to demand it) in every socially accepted human activity, however humble the activity, and to scorn shodddiness, however exalted the activity.

"An excellent plumber is infinitely more admirable than an incompetent philosopher. The society which scorns excellence in plumbing because plumbing is an humble activity, and tolerates shoddiness in philosophy because it is an exalted activity, will have neither good plumbing nor good philosophy. Neither its pipes nor its theories will hold water."

In this distinguished assemblage we have convincing proof that the race belongs to the fittest. You have demonstrated beyond a shadow of doubt that you not only are swift runners, but also that you have the stamina to stay the course. We can only envy you—and fervently hope that your tribe may increase.

We hear too much these days about "underachievers"—an academic synonym for lazy students—and "peer-group pressures" and individuals who "turn off" or "cop out." Some of us occasionally may wonder whether we as a people have not grown lazy, complacent, and cynical. Certainly one of our most compelling challenges ought to be the elimination of the negative consequences of disdain for effort.

The political trauma to which the American people have been subjected during the last three years—the betrayal of public trust at high levels of government, scandalous conduct in Congressional chambers, and occasional trampling upon the rights of individuals—may have distorted our perspective. Many of our European friends think we make too much of Watergate. They have a point. Our self-flagellation may have gone too far. Above all, we must not permit that sordid experience to destroy our faith in our institutions, our trust in our fellow man, or our belief in ourselves.

Such clarion words as honesty, integrity, honor, responsibility, dedication, and morality may sound like dim echoes from the Victorian past. But they have not lost their meaning—either for people who care about the English language, or about life's values and the future of their country in an interdependent world.

An idea like liberty—and individual initiative to preserve it—is still a torch we can hold aloft, even though in many parts of the world today it burns with a flickering flame. Let us then hold high that torch and shield its glow, so that it may illuminate our lives and dispell the dark shadows of fear and doubt and mistrust among men and nations.

Marcus Aurelius said a long while ago, "Man must be buttressed from within, else the temple wavers into dust."

In this Bicentennial Year, let us "look not to the mournful past" which Longfellow reminds us "comes not back again", but rather to the still promising future as we continue our "pursuit of happiness." Without optimism, democracy withers. The holy vision with which we set out on the path of liberty two centuries ago may have dimmed, but its shimmering light still shines before us, a beacon of hope.

Altogether too many of us who believe in our heritage have been too timid to stand up for our beliefs. We have remained silent when we ought to have spoken out. We have stayed home and sat on our hands when we ought to have gone to the voting booth. Not all of the blame for the venality in public office can be laid at the steps of the White House, nor at the door of Congress; some of it must be shared by the electorate.

"Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it," Thomas Paine said in September 1777. There are disturbing signs that his warning may have gone unheeded.

Recent public opinion polls reveal an appalling apathy on the part of voters in the upcoming presidential election. Of 150 million Americans of voting age, only 71 percent had registered at the end of August, compared to 75 percent in 1972 and 77 percent in 1968.

If those statistics shock you, consider this one: 42 percent of Americans polled declared their intention not to vote at all this year!

Although Democrats outnumber Republicans 44 percent to 22 percent, four out of five republicans have registered compared to three out of five democrats. Independents, estimated at a third of all voters, trail at 60 percent.

Seventy-two percent of whites have registered, against only 62 percent of non-whites.

Surprisingly, only 50 percent of the eligible 18–29 year old group of voters had registered by mid-September. One would have expected this group, among all voters, to have mounted a more impressive assault on the "Establishment" it has so vociferously condemned in recent years.

The hopes of political conservatives are buoyed up by the poll results showing that 85 percent of the 50 and over age group have registered.

With statistics such as these, the prediction of some political columnists that the contest for the White House may turn out to be a horse race after all may prove well-founded.

We should keep one thing foremost in mind. Apathy at the polls poses a far graver threat to democratic government than the political corruption which is attributed as the cause.

I have attended every Democratic National Convention since 1948—and most of the Republican conventions held during the same period. But I must admit to some surprise in finding that harmony had replaced the discord characteristic among the Democrats while rancor had supplanted the rock-ribbed solidarity common to the Republicans—1964 excepted. The sweetness and light that prevailed in New York City in July may not be seen again for a long time, if ever.

At least one truth emerged from those proceedings: Politics is unpredictable!

However we rate the respective qualifications of the Democratic and Republican presidential nominees, they do afford us a choice. Either Gerald R. Ford or James Earl Carter will be elected president of the United States on November 2. It is hardly conceivable that Eugene McCarthy or Lester Maddox will be the choice of the American people for the highest office in the land.

Whether Jimmy Carter or Jerry Ford wins the presidential sweepstakes, the winner ought to be the choice of a majority of those eligible to exercise the franchise of the ballot. We have to remember that the Electoral College, not the popular vote, determines the winning candidate. Keep in mind also that one third of the United States Senate—and all 435 members of the House of Representatives—will be chosen in the 1976 elections

Who occupies the White House is important, of course. But it is perhaps even more important who is elected to serve in the Congress. Every American voter ought to keep soberly in mind the lesson of the 1974 Congressional elections. In that ill-fated year the voter turn-out was an incredible 38 percent. The predictable result was the election of the most radical group of Congressmen to serve in the House in the last 100 years. Let us hope that such an abdication of the responsibility of citizenship will never again be witnessed in our republic. And we can, by a purposeful visit to the polls on November 2, see to it that those who have failed to measure up to the public trust are retired from office.

It is worth remembering that freedom is inseparable from the free ballot. Vote your shares of stock in the common enterprise our forefathers launched on these shores two centuries ago. There is no more effective a way to check our compass, correct for drift, and get America back on course.

But, you may well ask what about the Party platforms? Suppose I don't like either of them? These are good questions.

Before you invoke "a plague on both houses" and decide to sit out the election, consider a pithy observation made by former Senator Sam Ervin in a speech in Washington earlier this month.

In an address on the Georgetown University campus spiked with the humor for which he is famous, Senator Ervin described political platforms as "the ultimate exercise in political hypocrisy."

Party platforms are not the law of the land. They serve only as direction signs along the political highway. The record shows that few if any end up in binding legislation. They are merely guideposts, not guidelines.

The knowledge that he must stand for reelection in two years restrains many a Congressman from an excess of party zeal in delivering on platform pledges. The same can be said of Presidents without implying insincerity on the part of any candidate.

But can the really key issues—the economy, unemployment, inflation, national defense, the international balance of payments, health isurance, government regulation of business—be accommodated within that context? The answer is—they can, and they will be. Washington cannot receive a message unless we send a message to Washington. That's where participatory democracy comes in. It is essential for the private citizen and the corporate citizen to participate in the political process and fulfill their legitimate roles. If business is to have a voice in government, then businessmen must speak out. And if the individual is to have a voice in government, he must register and vote.

In a thoughtful speech last July, Air Force Chief of Staff, General George S. Brown, made this reassuring statement: "There is no challenge to our national security that cannot be met if we preserve the faith and the spirit of our founding fathers. Times and circumstances may have changed but the basic principles have not."

What he said on that patriotic occasion in Minnesota's Twin Cities also applies to the challenge faced today by American business.

While emphasizing political liberty, the founding fathers also proclaimed the importance of individual economic enterprise. Thomas Jefferson wrote: "Agriculture, manufacture, commerce and navigation, the four pillars of our prosperity, are the most thriving when left to individual enterprise."

Businessmen who complain about government being on their backs cannot blame Jefferson. He never intended for the bureaucrats to get on in the first place.

The businessman who looks to Washington to bail him out of economic difficulty and to protect him from competition should not be surprised when the bureaucracy tells him how to conduct his affairs. It is a truism that economic freedom and political freedom are indivisible. But it merits reiteration.

Few will argue with a statement made recently by Deputy Treasury Secretary George H. Dixon.

"Washington does not hold or have the answers to all our problems. Very often it isn't even asking the right questions. Indeed, Government itself—in the form of Government spending, Government deficits, Government bureaucracy, and Government regulation—lies at the core of many of our national problems."

He went on to say that we will fail in the struggle to preserve and strengthen the free enterprise system in America unless we heed a lesson of recent years that we may not have learned as well as experience should have dictated.

The lesson to which Mr. Dixon pointed is simply this; and I quote him: "To restore faith in the American economic system we must not only make basic changes in the way the Government behaves, but the business community must also undertake a far-reaching effort to improve its own house."

A question which ought to concern us all is whether business can survive in an anti-business climate. Evidence of this all-pervasive attitude—and its destructive effects—is widespread. Businessmen can ignore its existence only at their peril.

It should surprise none of us that the average American has as little faith in business as he does in government. A recent Lou Harris poll revealed that confidence in business has slipped in the last 10 years from slightly more than two-thirds of the population to less than one-fifth.

The dire portent of these statistics is that they point to more, not less, government regulation. As Secretary of the Treasury William Simon has frequently warned, the public attitudes of today become the public statutes of tomorrow.

Businessmen at every level have a compelling responsibility to restore public confidence in the institutions they manage. More than mere survival of individual companies is at stake—the future of free enterprise rides on the outcome.

As Thomas Fuller, an articulate Englishman, said in 1732, "a good example is the best sermon."

I am sure you are aware that the 3-M Company is among the forefront of enlighted corporate citizens who are energetically meeting this challenge. In this crucial campaign each of you has an important role to play. I am confident that you will acquit yourself well.

It may be true that virtually every business decision made today is affected by Government in one way or another. But it is worthwhile to recall, as Seagrave Corporation President Arnold Saltzman said nearly a decade ago, that Government is not the agency responsible for applying to people's daily lives the technology that has transformed the world. It is business that makes posisble the effective utilization of this technology.

And I would point out that it is supersalesmen like you—proud representatives of a truly Elite Corps—who put the products of techology in the hands of the people. Stop to consider for a moment where Detroit would be—indeed where the world might be today—had Henry Ford not sold that first motorized buggy!

We are proud to salute you, members of the Corps d'Elite!

In countless speeches to audiences in more than 30 countries of the world I have never had a more opportune occasion to quote Shakespeare than before this agreeable gathering in the shadow of the walls of the castle that inspired the immortal lines of Hamlet. I don't believe I could find a more appropriate concluding admonition to this group than these lines:

"To thine own self be true,
And it must follow, as the night the day,
Thou cans't not then be false to any man."

No generation ever faced a more exciting challenge than that confronting ours at this mid-point of the decade of the Seventies: "to better the opportunities of people everywhere to achieve a full measure of well-being and political democracy."

Finally, as did Emerson in his Ode to Concord, let me urge you,

"Go put your creed into your deed
"Nor speak with double tongue."

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## CONGAREE SWAMP NATIONAL PRESERVE BILL

Mr. HOLLINGS. Mr. President, I rise to speak on the bill to establish the Congaree Swamp National Preserve which is of vital concern to my State and, indeed, the Nation. I am sure that many people join me in expressing a real appreciation for the interest, cooperation, and support this body has provided.

The issue to protect or preserve the Congaree Swamp has been with us for nearly 20 years. The first studies were undertaken of the general geographic region two decades ago. It was then that the swamp was first identified as a biological museum. My involvement in the matter dates back to my early days as a U.S. Senator. At that time, Mr. Ambrose Hampton, the publisher of the Columbia State, and Mr. Peter Manigault, the publisher of the Charleston News and Courier, approached me with a proposal for the Federal Government to purchase and maintain that tract of land held by the Francis Beidler family of Chicago. At that time, the Beidlers had no interest in selling their property and they resisted overtures to accomplish such a goal. Public support in South Carolina was limited, and the proposal, however noble, soon faded from priority.

Since that time, we have experienced an awakening of our environmental concerns. We have become aware that our resources are finite, and we understand that our greed and lust are threatening our existence. In short, we are aware of our limitations and we seek to act with logic and reason to protect our environment—for ourselves and for future generations. The Congaree Swamp issue is a part of that concern. Nowhere else does there remain such an area of virgin riverbottom Southern hardwood. Nowhere else is there the beauty and majesty which once was so common in our Southland—the record trees, the renewing ecosystem, and the identity of what once was a pristine land. We have no other opportunity to enshrine for posterity such a virgin wilderness and it is important that we do so now.

This issue has elicited a chorus of support in my State. I have received over 850 letters since January on this matter, and there are cadres of concerned citizens who wish that this goal be accomplished.

But the proposal, however desirable and whatever its urgency, has not been without obstacles. As you are aware, Mr. President, we in the Congress have sought to regulate Federal spending—an effort which has been largely successful in this its first year. I am a member of the Senate Budget Committee and I support the efforts of the committee to impose restraints on profligate spending—even when my own State stands to lose from that effort. This is when the chickens come home to roost because for our new budgetary process to work, it must have the unwavering support of us all. I have approached the question of funding for the Congaree Swamp National Preserve with a sense of dedication to this new budgetary process. I have tried to balance that concern with my desire to preserve the swamp. In order to authorize any funds for the purchase this year, the request normally should have been reported from committee in both Houses by May 15. This deadline was not met and there were but two remaining alternatives to circumvent the problem.

We could have requested a waiver from the Budget Committee for the inclusion of specific funding for the Congaree Swamp this year. As a member of the committee, I could not in good conscience support such an effort; the integrity of the budgetary process would have been violated. However, it developed that specific authorization could be tied directly to the Land and Water Conservation Fund, the normal funding source for such acquisitions. The language of this bill allows for such an option and I believe this to be the most expeditious means of realizing our goal.

Mr. President, it should be pointed out, however, that the official position of the Ford administration has been one of opposition to the proposal and it remains so even today. To pass this bill and to preserve the area for future enjoyment, we must overcome the stated opposition of the Office of Management and Budget and the White House.

And as we have wrestled with these problems, the cutting of timber, an economically necessary activity for the owners, has continued. My staff and I have met with Francis Beidler III, the representative of the family, on numerous occasions in an effort to establish some form of a moratorium on the cutting of this virgin forest. The Beidler family, in an effort to protect its financial standing, has released approximately 3,500 acres for cutting since they began their sales program in 1969. It has been their intenton to continue this based on economic necessity.

The Beidlers are reasonable, intelligent people. They realize the value of their resource and with the apparent intent of the Congress to create this preserve, they understand the importance of maintaining the virgin condition of their holdings for the larger community. Our meetings proved to be fruitful. They have agreed with me that a halt in cutting would be desirable if it could be reconciled with the family's obligations under the terms of the trust instruments which govern the management of their property.

With my assistance, they have met with representatives of the National Park Service to discuss a solution to the problem. Those discussions progressed to the point that the family announced its intention to enter the moratorium upon the receipt of a letter outlining in definitive terms the points agreed to in negotiations with the Park Service.

I congratulate and thank the Beidlers for that cooperation and gracious accommodation on the moratorium and their very noble attitude; the State of South Carolina is indebted to them.

Mr. President, I ask unanimous consent that the bill, as passed by the House and Senate be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order to preserve and protect for the education, inspiration, and enjoyment of present and future generations an outstanding example of a near-virgin southern hardwood forest situated in the Congaree River floodplain in Richland County, South Carolina, there is hereby established the Congaree Swamp National Monument (hereinafter referred to as the "monument"). The monument shall consist of the area within the boundary as generally depicted on the map entitled "Congaree Swamp National Monument", numbered CS–80, 001–B, and dated August 1976 (generally known as the Beidler Tract), which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of his intention to do so, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions of the boundary of the monument by publication of a revised map or other boundary description in the Federal Register, but the total area may not exceed fifteen thousand, two hundred acres.

SEC. 2. (a) Within the monument the Secretary is authorized to acquire lands, waters, and interests therein by donation purchase with donated or appropriated funds, or exchange. Any lands or interests therein owned by the State of South Carolina or any political subdivision thereof may be acquired only by donation.

(b) With respect to any lands acquired under the provisions of this Act which at the time of acquisition are leased for hunting purposes, such acquisition shall permit the continued exercise of such lease in accordance with its provisions for its unexpired term, or for a period of five years, whichever is less: *Provided*, That no provision of such lease may be exercised which, in the opinion of the Secretary, is incompatible with the preservation objectives of this Act, or which is inconsistent with applicable Federal and State game laws, whichever is more restrictive.

SEC. 3. (a) The Secretary shall administer property acquired for the monument in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of this Act.

(b) The Secretary shall permit sport fishing on lands and waters under his jurisdiction within the monument in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when no fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations promulgated under this subsection shall be placed in effect only after consultation with the appropriate fish and game agency of the State of South Carolina.

SEC. 4. Within three years from the effective date of this Act, the Secretary shall review the area within the monument and shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; U.S.C. 1132 (c) and (d)), his recommendation as to the suitability or nonsuitability of any area within the monument for preservation as wilderness, and any designation of any such area as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 5. (a) The Secretary may not expend more than $35,500,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities.

(b) Within three years from the effective date of this Act the Secretary shall, after consulting with the Governor of the State of South Carolina, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan for the use and development of the monument consistent with the purposes of this Act, indicating:

(1) the lands and interests in land adjacent or related to the monument which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act, and the estimated cost thereof;

(2) the number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

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## JUVENILE ALCOHOLISM

Mr. HATHAWAY. Mr. President, H.R. 8283, which is currently pending on the Senate Calendar, is a bill to permit the use of artificial flavorings in domestically produced wines, if such flavorings are approved by the Secretary of the Treasury.

Since I oppose this bill and do not intend to permit action on it during this session of Congress, I would like briefly to explain my position at this time. My opposition is based on several important concerns, which stem largely from insights I have gained as chairman of the Subcommittee on Alcoholism and Narcotics. Those concerns include the following:

First, there has been no attempt during consideration of this bill to assess its impact on teenage drinking and teenage alcohol abuse. In fact, from what I can gather, this seemingly innocuous measure might better be characterized as the "Juvenile Alcoholism Promotion Act of 1976."

On several occasions during the past year, my subcommittee has heard testimony regarding an alarming increase in alcohol abuse and alcoholism among juveniles, including preteenagers.

Most recently, on Wednesday, September 29, a study was cited from California—the State whose Senators have been strongly promoting this legislation.

This study, of high schools boys and girls, indicates that the number of California boys using alcohol over 50 times a year has doubled since 1970 and that the number of girls drinking heavily, under the same criteria, has nearly tripled.

Another study, cited by NIAAA Director Dr. Ernest Noble, who is also from California, noted that the incidence of drinking among high school aged girls has gone from 25 percent in the 1960's to 69 percent in 1974, and that it is now at the same level as drinking among high school aged boys.

It has been made clear to my subcommittee on numerous occasions that oversweetened pop wines are rapidly replacing beer as the "drink of choice" among teenagers who drink.

For that reason, any measure which would further enhance the "palatability" of these cheap pop wines must necessarily raise questions of social policy as well as of commerce.

It is ironic, of course, that natural flavorings and essences are not sufficient to produce ideal sweetened alcohol products for kids. Teenagers today have grown up on a diet of colas, twinkies and junk-food breakfast cereals. Apparently the wine industry believes "Daffy Duck Wild Gooseberry Wine" simply won't sell unless it tastes like gooseberry Kool Aid, rather than real wild gooseberries. And while their share of the teenaged market has grown by leaps and bounds in recent years, bulk wine producers seem panic-stricken over the potential success of the hard liquor folks, who have introduced

40 proof strawberry milkshakes, which they market like Bosco.

The wine industry seems to be addicted to these inoffensive-sounding amendments designed to increase the salability of their heavily advertised youth market products. Two years ago—before I became chairman of the Alcoholism Subcommittee, I might add—they got permission from Congress to increase the carbon dioxide content of pop wines, without having to pay the much higher sparkling wine taxes. The result was the ability to put a little soft drink sparkle into the product—and not incidentally, increase its store-shelf life to make it more popular to the mom-and-pop grocers.

All things considered, on the basis of national health policy alone, I believe it is time Congress stopped encouraging the wine industry to extend and expand its juvenile market.

Second. Although my primary concern should be more than sufficient to convince the Senate that my objection is well founded, I believe the bill itself is defective in additional ways.

For example, there is no mention in this measure of the jurisdiction of the Food and Drug Administration over health and safety aspects of such artificial ingredients. The bill simply requires the approval of the Secretary of the Treasury or his delegate. As competent as the Secretary of the Treasury is, or may be under a new administration, I find it difficult to believe that his or her expertise would extend to analyzing artificial additives. That is more correctly within the province of FDA—and jurisdiction over food additives, I might add, lies in the Labor and Public Welfare Committee, not the Finance Committee, which reported out this bill.

Third. Finally, I see no mention in this measure of any consumer information requirements associated with the use of artificial flavorings. Even if Congress is to ultimately approve of the wine industry's use of such ingredients—which as I indicate above, is not in itself a particularly good idea—it would seem incumbent upon us to require notification on the label, and perhaps in any advertising as well, of the use of artificial flavors.

The whole issue of ingredient labeling is one to which considerable time and effort has been devoted in recent months. The principal argument has been over Federal agency jurisdiction in this matter, primarily because one of two agencies which currently exercise joint jurisdiction—the Bureau of Alcohol, Tobacco and Firearms—has decided not to require ingredient labeling at this time.

Consequently the wine industry has sought to take away the current jurisdiction of the Food and Drug Administration—FDA, which has indicated support for ingredient labeling, and give it exclusively to BATF, which has not. Through the vehicle of the Food Act, which now appears dead in this session of Congress, an elaborate compromise was worked out retaining jurisdiction in both FDA and the Treasury Department—through its Bureau of Alcohol, Tobacco and Firearms, following a 6-month study of the question.

Under the current statutory situation, absent any new provision of law, both agencies will continue to exercise their respective jurisdiction in this area. In the case of the FDA, it is clear they would favor ingredient labeling, and thus it is clear they would also require labeling as to the presence of artificial flavors.

However, the wine industry has also tried to block implementation of current FDA authority in this area. Together with the distillers, they have procured a temporary injunction from a Federal court in Eastern Kentucky against FDA, and they appear to be willing to carry this obstructionist and anticonsumer battle to extremes.

This does not seem to be true, by the way, of the beer industry, which seems to have a much more positive approach to public health and consumer information issues than either the wine industry or the distillers.

But given the wine industry position on labeling, it would seem imperative that legislation such as H.R. 8283 should not be permitted to pass without a provision specifically requiring the labeling of any beverage containing artificial flavors.

It would also seem imperative that no further commercial benefits such as the one at issue here be made available to the wine lobby, until the public policy and public health issues surrounding the promotion of alcoholic products to juveniles has been thoroughly aired.

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## TIMBER MANAGEMENT REFORM

Mr. NELSON. Mr. President, over 6 months ago, the Senate Agriculture and Interior Committees began to work on a thorough review of this Nation's timber management policy. Both the Senate and the House have passed this legislation and the combined conference committee has just recently completed action on this 1976 timber management reform bill.

This piece of legislation is very controversial. It has been attacked by some environmentalists as being too weak. One newspaper, for example, termed the bill "the great forest ripoff of 1976." On the other hand, some segments of the forest industry claim the bill will substantially curtail harvesting of the national forest because of its oppressive environmental protection provisions.

The conference version is an example of compromise at its best. The environmental protection section of both the Senate and House bills were retained by conference. The even flow sustain-yield management concept, one of the most important provisions of the Senate bill, is included in the conference committee's bill. Additionally, strong clearcutting guidelines and protective harvesting requirements for the use of marginal land passed by the Senate is included in the conference legislation. From the House bill the maturity standard and the species transfer sections were included in the bill recommended by the conference committee.

The Senate's even flow sustain-yield provision limits timber sales from each national forest to a quantity no greater than the forest can produce in perpetuity on a sustain-yield basis. This is an important management tool that will protect the national forests from overcutting.

The clearcutting guidelines retained from the Senate-passed bill require the Secretary of Agriculture to establish on a case-by-case basis appropriate limits on the sizes of clearcutting. The Secretary of Agriculture is directed to insure that where clearcutting occurs, they are carried out consistent with the protection of soil, watershed, fish, wildlife, recreation, and other aesthetic qualities. Additional clearcutting is to be permitted only where it is determined to be the "optimum cutting method." A comprehensive interdisciplinary review will have to be made on each proposed cut and each cut will have to be able to blend into the existing terrain.

The conference report retains the Senate's prohibition on managing an area for timber production on marginal lands if the cost of management exceeds the sale price of the timber that is proposed to be harvested.

From the House bill the maturity provision that provides a stand of trees must reach a mean age of growth before harvesting has been retained by the conference. This section provides for a longer rotation of trees with benefits for wildlife and recreation and further reenforces the multiple use concept enacted by the Congress in 1960.

The species transfer provision also retained from the House bill requires the Secretary of Agriculture to preserve the general diversity of a stand of trees after harvesting. The purpose of this section is to protect mixed hardwoods from being converted to softwoods.

This compromise is a good one. This bill represents a step forward toward uniform environmentally acceptable management of our renewable national forests' resources.

While it is important to note the national impact of this legislation, it is also important to determine how this legislation would affect the Chequamegon and Nicolet National Forests in Wisconsin. We have been fortunate in Wisconsin to have forward-looking managers who have embraced the State's desire for continued harvesting subject to adequate environmental requirements. There is already strong clearcutting guidelines in effect for these two national forests. Moreover, the species diversity dilema does not apply to Wisconsin. In fact, the Wisconsin trend is just opposite the national trend, more hardwoods are being planted to replace softwoods.

The problem is that not every national forest throughout this country has had such management as we have had in Wisconsin. Consequently, a strong, yet economically valuable, piece of national legislation needs to be enacted. This legislation, as reported by conference, will move this Nation ahead in this area. There is more work to be done and this issue will be coming before the Congress in the coming years for revision similar to the water pollution and clean air programs established by the Congress. As we gain knowledge and experience with the law, we will be able to make further progress in the coming years.

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## THE SENATE SELECT COMMITTEE ON SMALL BUSINESS: PAST CONTRIBUTION AND FUTURE ROLE

**Mr. HATHAWAY.** Mr. President, as we are about to conclude the work of the 94th Congress it is appropriate that we reflect on the valuable contributions of the Select Committee on Small Business. In a time when individual entrepreneurial opportunities are seen to be diminishing, this committee has focused on the need to preserve small business as a means to counter and potentially reverse this trend.

Hearings held by this committee last December were most useful in delineating the benefits of small business to our society as a whole. These hearings demonstrated that small business plays a key role in fostering continuity in our communities, that small businessmen and women tend to have a greater commitment to local institutions. Small business families tend to put down roots socially and emotionally, because they know that they are not likely to be transferred from city to city across the country as are their counterparts associated with corporate giants. In this sense small business is the cement which holds the community together.

This committee under the able leadership of its chairman, Senator Nelson, has demonstrated that the prosperity of small business must be developed and encouraged if we are to maintain our quality of life and our economic system. I have been pleased as a member of this committee to share in its work and look forward to carrying out these vital tasks in the future.

It is therefore appropriate that the Washington Post has seen fit recently to carry stories regarding the role of small business in our society and the work of the committee in pointing out this role. I refer to a feature article which appeared on September 6 and an editorial which appeared on September 18.

Mr. President, I shall ask unanimous consent that both of these be printed in the Record at the conclusion of my remarks.

I would point out to my colleagues that the Post editorial stresses the work of the committee through the vehicle of hearings, studies, and so on. As a select committee it has in the past lacked legislative jurisdiction and therefore has been unable to directly affect legislative remedies to the problems it has so forcefully pointed out. This absence of legislative power will soon be rectified. At the beginning of the 95th Congress, the committee will be vested with the authority to report legislation dealing with the Small Business Administration and its programs which provide aid and assistance to the small business community.

This change will occur pursuant to Senate Resolution 104 which was passed by an overwhelming majority of this body on April 29 of this year. I was pleased to author this resolution and was gratified that the measure gained the sponsorship of three out of four of my colleagues. I trust that they will not be disappointed with their action and I look forward to many useful legislative proposals from the committee upon our return in January.

Mr. President, I ask unanimous consent that articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

### Workers and Their Satisfactions

(By Colman McCarthy)

Three of the sparkling and glamorous people in the lives of my children—boys, ages eight, seven and five—are Julius Andracsek, Angelo Provenzano and Pearl Gregory. These are not phony TV characters, nor divine ones in the personality magazines. They are neighborhood merchants. And they are worth thinking about on Labor Day.

Each is a shopkeeper along a mile stretch of Wisconsin Avenue in the District between Lowell and Fessenden Streets. Julius Andracsek, born in Hungary, has owned and run the University Pastry Shop since 1930, going back to the rural days when his neighbors included Mrs. McLean when McLean Gardens truly were gardens. Mr. Andracsek is helped in the shop by his sons, Tom and George, and together they are known—with the larynxes of my boys proclaiming it the loudest—as makers of supreme ice cream: heavy, chewy and nothing like the puffy shaving cream laced with air and chemicals that the big companies market.

Further along Wisconsin is Angelo Provenzano's golf repair shop. Its owner is also unique in the city: the first businessman to understand that people become emotionally attached to their golf clubs and prefer to have them regripped, redesigned and redone rather than junked. Pearl Gregory shares this view, applying it to the bicycles in her Cycle and Sports shop. Her father began the business in downtown Washington 1912, and Mrs. Gregory and her husband Charley took it over in 1959.

When I go with my boys into these shops, I know they will get the kind of service and products that the oversized and depersonalized chain stores can't care about. But more crucial, the children are exposed to grounded and proud craftsmen who are happy in their work. Children need to learn early that a man's labor need not be his drudgery, that the commerce of the neighborhood is not a sprawl of anonymous supermarkets or discount marts but is people like the Andracseks, Provenzanos and Gregorys who have character and heart because they delight in their work, are cheerful before the shoppers and reverent toward the craft.

How many others in America's workforce have these feelings? The number, sadly, has to be low. The politicians come at the public with plans to reduce unemployment but the larger issue involves malemployment—worker dissatisfaction. "The job," Lane Kirkland of the AFL–CIO has said, "is still the secret to a guy's general happiness and attitude. If you like your work, you're happy. If you don't you're miserable." Such common realities as absenteeism, high turnover rates, sabotage, inhouse theft, strikes, sloppy products and the inevitable who-cares attitude are among the latches that spring the trap door to worker dissatisfaction. These costs are incalculable in what management loses in money and workers in emotional contentment. The subject is worth thinking about because, as with many of the abuses and absurdities in American life, the situation need not be as bleak as it is.

The philosophers have all had a try at defining work, from Mark Twain who said that work was what you do when you would rather be doing something else, to Bertrand Russell who believed that "work is of two kinds: first; altering the position of matter at or near the earth's surface to other such matter; second, telling other people to do so. The first kind is unpleasant and ill-paid; the second is pleasant and highly paid." The question raised by these definitions is whether a worker—from the board chairman to the night security guard—is mindlessly dreaming when he dares think about even the chance of gaining satisfaction from his work. Shouldn't the paycheck be enough? No society until our own ever put it into the head of the worker that he had a right to pursue jobsite contentment. In other societies it has been the blessing of the angels if the laborer could get merely a fair wage and a little time off to rest his back until the next shift.

Study after study has documented that however much progress machines and technology have supposedly brought to the workplace, the emotional and social prices have been high. The 1971 HEW report on "Work in America," after discussing the "discontent among workers at all levels," concluded that "a general increase in their educational and economic status has placed many American workers in a position where having an interesting job is now as important as having a job that pays well."

The truth of that is clear: The person satisfied in his work is the one who would keep at it even if his salary were cut in half or in some cases taken away altogether. The emotional payment more than makes up for what is lost in dollars. The stereotyped "starving artist" starves only with a lean stomach; his emotions and soul are bloated with the richness of creating, ones that few high-priced athletes or corporate captains ever know. Although Congress, rising to giddiness, may one day get around to a Federal Interesting Job Act—with $1,000 fines for employers convicted of allowing on-the-job dullness—it is unlikely that the system will ever offer to more than a few the kind of work that involves the spirit of a person, not merely the muscles or brains. This may be why it is futile for sociologists and journalists to wander the land trying to find "the mood of the American worker." His mood? Who knows—so benumbed is it by the taking of countless mood-altering drugs like Valium and Librium to get through the workday.

To begin looking for alternatives to the problem of dead jobs or dead-end careers, visiting the shops of the small businessmen like the Andracseks, Provenzanos and Gregorys might be useful. Three characteristics link these craftsmen: They earn a living by being personally identified with, and accountable for, what they sell; they have a say in their own working conditions; and they have affectionate feelings for the neighborhood that preclude all desires to move up and out. The issue is not that the virtues of small business are as automatic as the imagined evils of big business—the local watchmaker can run a sweatshop as ruthlessly as the board chairman can bully his underling vice-president—but is one that raises another question: whether enough citizens, whatever their work, are thinking about ways to elevate labor beyond just a way to make money or progress. The answer is not as grim as might be imagined in "The Future of the Workplace," Paul Dickson writes: "The external signals that indicate the start of a broad attempt to effect fundamental change in the way people work have gone up. It is far too early to predict how far it will go or how fast change will occur, but it is obvious that significant momentum for change is building. Why is the business community adding to this momentum? Because carefully considered and executed workplace reform can allow an employer to couple humanitarian and hard-nosed business goals in a single package. . . . For leaders of industry and commerce, it provides a rare opportunity to have one's cake and eat it too—that is, to take statesmanlike action against employee alienation and malaise while improving the health, condition, productivity and profitability of the organization. As an executive involved in a job redesign effort within a company in the Bell Telephone System put it, 'The unbelievable thing is that a successful program can make a manager a hero to both the largest stockholders and the people on the lowest rung of the ladder in the company.'"

Many of the largest companies recognize the importance of worker satisfaction and that a redesigning of work is not only desirable but possible. A large number of experiments now going on do not involve overpowering changes in the way of doing business but minor shifts in the daily routine. One example was recounted in recent hearings before the Senate Select Committee on Small Business by Dr. Michael Maccoby, a Washington psychiatrist who helped organize a work humanization project at a Bolivar, Tenn., plant where outside car mirrors were made. "The last time I visited Bolivar a few weeks ago," Maccoby said, "a foreman described how he was teaching workers to take over his functions. His eyes shone with enthusiasm as he described how the workers were learning. A top manager asked why he was doing it, and he answered, 'because it was so boring just telling people what to do.' Someone asked if he wasn't afraid of losing his authority, but he pointed out that never before had he enjoyed so much authority based on respect and not fear. You might say that if this much can be achieved in an old factory, in an uncertain market, during a recession, starting from a relationship of zero trust between company and union, then it can be done anywhere."

Albert Camus believed that "without work all life goes rotten; but when work is soulless, life stifles and dies." Imagination, and a measure of risk, are needed if work in America is to be elevated beyond just an endurance of drudgery. Little is accomplished when candidates bemoan the loss of "the work ethic," as if the loafing ethic is threatening the Republic, or when they incite businessmen with reckless talk that the government is the enemy. The past answers need to be scrapped, along with those providing them. We are not bucking up against unknowns; the work world is not a mystery world. We have found some solutions, many places like the Bolivar, Tenn., plant, or in the sparkle for life in the pastry, golf and bicycle shops along Wisconsin Avenue. The trouble is, we keep letting opportunities pass by, as though productivity and profits are on assembly line that can't be stopped for a moment's worth of reflection.

But not everyone is letting the opportunities go by, starting with three ever-alert McCarthy boys. When they go in for ice cream cones at University (not often, only afternoons), they know that the men who made it are also behind the counter to talk of it. The emperors of ice cream are relaxed and joyful in the domain of their workplace, proving that Mark Twain may have had it backwards, or at least sideways: Work, when the whole self is engaged, is what you do when nothing else that you could be doing is as exciting.

How else has Julius Andracsek been in the same shop since 1930? And how else has he persuaded three young ones, increasingly knowing of cons, that only the authentic man can create an authentic product, however modest a quart of vanilla may be?

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### WHAT FUTURE FOR SMALL BUSINESS?

Not all the work of congressional committees and subcommittees is meant to produce "a bill." Often it is the airing of problems that marks the usefulness of a committee. One example is Sen. Gaylord Nelson's Select Committee on Small Business, which has been quietly at work exploring a number of questions involving the economic, social and political conditions with which the small businessman must deal.

The committee has done valuable work, if only because its examination could be the starting point for much of the discussion that will necessarily come in future years. Sen. Nelson observed that "small businesses today, which constitute 97 per cent of the total U.S. business firms. are . . . confined generally to those areas where profits are lowest and failure high—those are the areas where entrance is easy, competition is high and survival chances are poor. . . . The traditional freedom of the small businessman has diminished and so have the promises of the American dream of individualism and independence."

One of the themes repeatedly emphasized was the relationship of the small operator to his local neighborhood and community. Harold Williams, president of the Institute of Man and Science in Rensselaerville, N.Y., made the point that "most small towns are simply unable to attract large businesses." Appalachia, for example, is one area where politicians and planners have tried to persuade large companies to settle. In many areas they have, but mostly the attraction has been to what are called "growth centers." One of the unfortunate results is that the isolated small towns have become even more isolated, losing people who go to the larger towns for jobs. Family ties. community solidarity and self-reliance are lost.

As one result, what is often encouraged, not only in Appalachia but elsewhere in the country, is the shifting around of corporation employees from one city to another, Dr. Robert Seidenberg, a professor of psychiatry at the State University of New York in Syracuse, discussed the style of rootlessness that is often imposed on workers who are regularly transferred. "Wives and children are involuntarily transported to areas which may be completely inimical to their personal needs and aspirations. When we see today so many of our young people wandering, as we say, on the highways and byways of America and abroad as well, they may be responding not to some counterculture innovation, but indeed to their early life experiences of being on the road as part of their father's corporate nomadism."

The argument made by Sen. Nelson, Mr. Williams, Dr. Seidenberg and others at the hearings was not that small business is superior to big busines but that the contributions of small business to American life should not be smothered or ignored. At the least, the businesses should be nurtured. In one area, for example, Sen. Nelson asked last week that House and Senate conferees not raise taxes on small businesses. In addition to the burden of what are often excessive taxes, the shoulders of the small businessman are also weakened by the burden of regulatory paperwork. For many, running a business now means spending more time filling out forms than serving the customers or marketing the product. These were a few of the issues discussed at the hearings. They are not "the burning issues" of the day, perhaps. But to ignore them is to risk losing not only an increasing number of small businesses but also the human values that prompt men and women to enter the marketplace as independents.

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## POPULATION GROWTH: 25 YEARS AND 25 FACTS

Mr. LEAHY. Mr. President, the environmental fund is a private, nonprofit, independent organization, based in Washington, D.C., which specializes in environmental and population studies.

For the past 3 years, the environmental fund has published estimates of world population, country-by-country and continent-by-continent. These publications also include related data on the impacts of world population growth on the environment.

The organization has recently released its mid-1976 population estimates. A study of the 1976 table, a comparison of that table with those for 1974 and 1975—the first ones published by the environmental fund—and a review of the organization's statement issued with the 1976 estimates have made it possible to prepare the following list of 25 facts on population growth:

### WORLD POPULATION

1. The world's population is now over 4.25 billion people.

2. In the past 25 years, 1.7 billion people have been added to this small planet.

3. At present growth rates, world population will double to 8.5 billion in 32 years.

4. Each year, 94 million people are added to this planet.

5. Annual world population growth is equal to the combined populations of Bangladesh and Malaysia.

6. An estimate by the UN, made in 1951, was that world population would reach 3.636 billion in 1980; but the UN now says that population figure was actually reached in 1970—10 years ahead of schedule.

7. Death rates in many countries are dropping due to improved public health, while death rates in others are rising due to malnutrition.

### THE UNITED STATES POPULATION

8. The U.S. population is 222.2 million, or some 7 million more than the official mid-1976 estimate of the Census Bureau.

9. At present growth rates, the U.S. population will double in 53 years.

10. Over 40 percent of the U.S. annual population growth is due to illegal immigration.

11. Despite a slight decline in the birth rate in this country, the U.S. population increased by over 2.5 million in the past year.

12. The U.S. population grew faster last year than each of the preceding two years, because of illegal immigration.

### AFRICA, LATIN AMERICA AND ASIA

13. Africa's population of 432 million grew by 2.8 percent last year, adding nearly 12 million people to a population that will double in 28 years.

14. Asia's population of 2.476 billion grew by 2.5 percent last year, adding 68 million people to a population that will double in 28 years.

15. Latin America's population of 334 million grew by 2.6 percent last year, adding 6 million people to a population that will double in 27 years.

FOOD

16. In the past 2 years, world grain consumption per capita has dropped by more than 10 percent—from 311 kilos to 274 per year.

17. The 9 most populous poor nations are all major importers of grain, importing 330 percent more grain today than 25 years ago.

18. Twenty-five years ago, 35 nations exported grain. Today, there are only 17. Twenty-five years ago, there were 88 net importers of grain; today there are 134. Twenty-five years ago, 8 nations imported more than 1 million tons of grain annually; today, 31 nations do so.

19. Asian grain deficits in 1974 were 8 times larger than they were 25 years before. African grain deficits in 1974 were 21 times larger than they were 25 years before. Latin American grain deficits are nearing half-a-million tons; 25 years ago, this region exported over 1 million tons.

20. Twenty-five years ago, the amount of arable land available to support each person on the globe was 1.4 acres. Today, it is about half that: 0.8 acres and decreasing.

GROWTH AND DOUBLING RATES

21. The world's most populous less-developed nations—China, Indonesia, India, Bangladesh, Pakistan, Nigeria, Mexico, Brazil and the Philippines—are growing, in general, faster today than 25 years ago and will double every 19 to 32 years.

22. These 9 poor, populous nations grow by almost 65 million people a year.

SUMMARY

23. Only 12 nations are winning the battle between population growth and food supplies. Ten of them have population growth rates below 1.5 percent.

24. In general, the nations already least able to feed themselves are growing the fastest.

25. The world is adding more people each year than at any other time in world history.

Mr. President, I ask unanimous consent to have printed in the RECORD the 1974 and 1976 tables of world population estimates, with footnotes, prepared by the environmental fund, followed by the press release and "supplemental remarks" issued by the fund at the time the 1976 estimates were issued.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WORLD POPULATION ESTIMATES, 1976

| | Population estimates (millions) mid 1976 [1] | Growth rate (percent) [2] | Birth rate (per 1,000 population) [2] | Death rate (per 1,000 population) [3] | Number of acres of arable land per person [4] | 1974 production cereal grains (1,000 metric tons) | 1948–52 net exports cereal grains (1,000 metric tons) [6] | 1974 net exports cereal grains (1,000 metric tons) [7] |
|---|---|---|---|---|---|---|---|---|
| **World** [8] | 4,240.7 | 2.2 | 35 | 14 | 0.8 | 1,333,864 | | |
| **Africa** | 431.9 | 2.8 | 46 | 21 | 1.2 | 67,921 | −370 | −6,936 |
| **North Africa** | 99.4 | 3.0 | 44 | 17 | .7 | 17,940 | 35 | −6,249 |
| Algeria | 16.2 | 3.3 | 39 | 17 | 1.0 | 1,346 | 183 | −1,774 |
| Egypt [9] | 37.9 | 2.3 | 44 | 16 | .2 | 7,908 | −561 | −2,860 |
| Libya | 2.5 | 4.1 | 46 | 16 | 2.3 | 173 | −20 | −401 |
| Morocco | 1.08 | 3.0 | 50 | 17 | 1.0 | 4,849 | 321 | −856 |
| Sudan | 18.9 | 3.2 | 49 | 18 | .9 | 2,527 | −15 | −61 |
| Tunisia [10] | 5.9 | 2.4 | 41 | 13 | § 1.9 § | 1,137 | 127 | −297 |
| **West Africa** | 137.5 | 2.5 | 49 | 24 | 1.4 | 14,701 | −264 | −2,079 |
| Benin (Dahomey) | 3.2 | 2.4 | 51 | 26 | § 1.2 § | 400 | (−5) | −15 |
| Cape Verde Islands | .3 | 2.3 | 29 | 9 | .3 | 13 | −11 | −35 |
| Gambia | .5 | 1.9 | 43 | 23 | § 1.0 § | 107 | −4 | −11 |
| Ghana | 10.3 | 3.0 | 47 | 18 | .2 | 877 | −27 | −153 |
| Guinea | 4.5 | 2.3 | 47 | 25 | § .8 § | 765 | −4 | −63 |
| Guinea-Bissau | .5 | 1.1 | 41 | 30 | 1.2 | 65 | 1 | −34 |
| Ivory Coast | 5.0 | 2.5 | 46 | 23 | 3.9 | 560 | −26 | −185 |
| Liberia | 1.6 | 3.1 | 50 | 21 | .2 | 208 | −3 | −47 |
| Mali | 5.8 | 2.3 | 50 | 27 | § 4.9 § | 891 | | −232 |
| Mauritania | 1.3 | 2.2 | 44 | 23 | .5 | 34 | | −126 |
| Niger | 4.7 | 2.9 | 52 | 23 | 7.9 | 847 | (−1) | −167 |
| Nigeria [11] | 83.8 | 2.5 | 50 | 25 | § .6 § | 7,806 | −12 | −354 |
| Senegal | 4.5 | 2.5 | 46 | 23 | § 3.1 § | 635 | (−167) | −464 |
| Sierra-Leone | 3.1 | 2.4 | 45 | 23 | 2.9 | 556 | −3 | −95 |
| Togo | 2.3 | 2.6 | 51 | 26 | 2.3 | 238 | −2 | −23 |
| Upper Volta | 6.1 | 2.0 | 49 | 29 | 2.2 | 699 | (0) | −75 |
| **East Africa** | 119.1 | 2.9 | 46 | 22 | 1.1 | 18,569 | −155 | −1,164 |
| Burundi | 4.1 | 2.4 | 48 | 25 | .6 | 552 | | −7 |
| Comorros | .3 | 2.6 | 31 | 20 | § .7 § | 16 | 0 | −15 |
| Ethiopia [12] | 29.9 | 2.6 | 46 | 25 | 1.1 | 5,545 | 39 | −85 |
| Kenya | 14.1 | 3.7 | 48 | 18 | .3 | 2,118 | 43 | 65 |
| Madagascar | 7.7 | 2.2 | 46 | 25 | § .9 § | 2,093 | 2 | −161 |
| Malawi | 5.1 | 2.3 | 49 | 25 | 1.4 | 1,347 | −1 | 25 |
| Mauritius | .9 | 1.8 | 28 | 7 | § .3 § | 1 | −63 | −163 |
| Mozambique | 9.3 | 2.3 | 43 | 23 | .7 | 901 | −21 | −119 |
| Reunion | .5 | 2.0 | 28 | 7 | .3 | 12 | −34 | −88 |
| Rhodesia | 6.6 | 3.4 | 48 | 14 | § .7 § | 2,369 | −76 | −61 |
| Rwanda | 4.4 | 2.9 | 52 | 23 | .3 | 167 | | −7 |
| Somalia | 3.2 | 2.4 | 46 | 24 | § .7 § | 325 | −6 | −24 |
| Tanzania | 16.0 | 3.0 | 47 | 22 | 2.3 | 1,031 | −9 | −430 |
| Uganda | 11.9 | 3.3 | 43 | 18 | .8 | 1,261 | 0 | −35 |
| Zambia | 5.1 | 3.2 | 50 | 21 | 2.3 | 831 | −29 | −59 |
| **Middle Africa** | 47.1 | 2.6 | 45 | 25 | 1.5 | 2,833 | 107 | −634 |
| Angola | 6.6 | 1.8 | 50 | 30 | § .3 § | 570 | 107 | −51 |
| Cameroon | 6.6 | 2.4 | 43 | 23 | 2.5 | 692 | −10 | −74 |
| Central African Republic | 1.8 | 2.6 | 46 | 25 | 8.0 | 119 | | −14 |
| Chad | 4.3 | 2.4 | 48 | 25 | § 4.0 § | 577 | −8 | −46 |
| Congo | 1.4 | 2.7 | 44 | 23 | 1.1 | 14 | | −62 |
| Equatorial Guinea | .3 | 1.9 | 35 | 22 | § 1.8 § | | | −2 |
| Gabon | .5 | 1.2 | 33 | 25 | § .6 § | 3 | | −5 |
| Zaire [13] | 25.6 | 2.8 | 44 | 23 | § .7 § | 858 | 18 | −380 |
| **South Africa** | 28.8 | 3.0 | 41 | 17 | 1.2 | 13,878 | −93 | 3,228 |
| Botswana | .6 | 1.9 | 44 | 23 | 2.1 | 55 | | −44 |
| Lesotho | 1.1 | 2.1 | 39 | 21 | .8 | 211 | | −64 |
| Namibia | .7 | 2.1 | 44 | 25 | 2.3 | 119 | −8 | 0 |
| South Africa | 25.9 | 3.1 | 40 | 17 | 1.2 | 13,390 | −85 | 3,347 |
| Swaziland | .5 | 3.2 | 52 | 24 | .8 | 103 | | −11 |

**Footnotes at end of table.**

WORLD POPULATION ESTIMATES, 1976—Continued

| | Population estimates (millions) mid 1976 [1] | Growth rate (percent) [2] | Birth rate (per 1,000 population) [3] | Death rate (per 1,000 population) [3] | Number of acres of arable land per person [4] | 1974 production cereal grains (1,000 metric tons) [5] | 1948–52 net exports cereal grains (1,000 metric tons) [6] | 1974 net exports cereal grains (1,000 metric tons) |
|---|---|---|---|---|---|---|---|---|
| Asia | 2,475.9 | 2.5 | 40 | 15 | .5 | 513,867 | −5,845 | −47,078 |
| Southwest Asia | 90.4 | 2.9 | 43 | 16 | 1.1 | 24,179 | 135 | −4,880 |
| Bahrain | .3 | 3.3 | 30 | [9] | .005 | | | −14 |
| Cyprus | .7 | .9 | 23 | 8 | 1.3 | 216 | −47 | −155 |
| Gaza | .4 | 3.6 | 44 | 8 | | | | |
| Iraq | 11.4 | 3.4 | 49 | 16 | 1.1 | 2,175 | 330 | −626 |
| Israel | 3.5 | 2.1 | 28 | 7 | .2 | 350 | −230 | −1,472 |
| Jordan | 2.7 | 3.6 | 48 | 16 | 1.0 | 261 | −29 | −169 |
| Kuwait | 1.1 | 6.1 | 43 | 7 | .002 | 0 | | −203 |
| Lebanon [14] | 2.7 | 2.6 | 40 | 10 | .2 | 72 | −141 | −356 |
| Oman | .8 | 3.1 | [50] | [19] | .05 | | | |
| Saudi Arabia [13] | 9.2 | 3.0 | 50 | 23 | .2 | 556 | (−101) | −693 |
| Syria | 7.6 | 3.4 | 48 | 15 | 1.8 | 2,335 | 191 | −336 |
| Turkey | 41.3 | 2.6 | 40 | 15 | 1.5 | 17,014 | 174 | −587 |
| United Arab Emirates | .2 | 3.6 | [50] | [18] | § .2 § | | | |
| Yemen Arab Republic | 6.8 | 2.9 | 50 | 23 | § .4 § | 1,105 | | −146 |
| Yemen Dem. Republic | 1.7 | 3.0 | 50 | 23 | § .4 § | 95 | −12 | −123 |
| Middle South Asia | 893.8 | 2.7 | 44 | 17 | .6 | 154,657 | −4,164 | −10,470 |
| Afghanistan | 19.7 | 2.5 | 51 | 27 | 1.0 | 4,702 | (0) | −16 |
| Bangladesh | 82.9 | 2.7 | [46] | [17] | .3 | 17,401 | | −1,667 |
| Bhutan | 1.2 | 2.4 | [44] | [20] | § .01 § | 396 | | 15 |
| India [15] | 652.7 | 2.6 | 43 | 17 | .6 | 108,199 | −3,576 | −5,374 |
| Iran | 36.0 | 3.1 | 45 | 17 | 1.1 | 6,348 | −50 | −1,948 |
| Nepal | 12.9 | 2.3 | 45 | 23 | § .4 § | 3,351 | (35) | 43 |
| Pakistan [16] | 74.2 | 3.6 | 51 | 18 | § .7 § | 12,315 | (39) | −559 |
| Sikkim [17] | .2 | 2.0 | 29 | 16 | § .1 § | 33 | | −11 |
| Sri Lanka | 14.0 | 2.0 | 30 | 8 | .2 | 1,912 | −612 | −953 |
| Southeast Asia | 338.4 | 2.7 | 44 | 16 | .5 | 73,455 | 1,413 | −2,744 |
| Burma | 31.9 | 2.4 | 40 | 17 | 1.4 | 8,613 | 1,230 | 204 |
| Indonesia (Inc. W. Irian) | 143.4 | 2.3 | 48 | 19 | § .3 § | 25,560 | −464 | −1,714 |
| Khmer Republic | 8.7 | 3.2 | 45 | 16 | .5 | 705 | 0 | −223 |
| Laos | 3.5 | 2.7 | 42 | 17 | § .7 § | 930 | 0 | −88 |
| Malaysia | 12.7 | 2.7 | 38 | 11 | .2 | 2,062 | −642 | −1,000 |
| Philippines [18] | 45.9 | 3.3 | 45 | 12 | § .5 § | 7,883 | −278 | −794 |
| Portuguese Timor | .7 | 2.1 | 43 | 25 | .3 | 35 | 0 | −3 |
| Singapore [19] | 2.3 | 1.4 | 20 | 5 | .003 | | | −414 |
| Thailand | 42.7 | 3.1 | 43 | 10 | .7 | 15,855 | 1,291 | 3,547 |
| Vietnam, Democratic Republic of [20] | 25.3 | 2.9 | 38 | 16 | § .2 § | 4,450 | (110) | −1,808 |
| Vietnam, Republic of | 21.3 | 2.6 | 43 | 8 | .4 | 7,362 | (166) | −451 |
| East Asia | 1,153.3 | 2.3 | 35 | 12 | .3 | 261,572 | −3,229 | −28,882 |
| China [21] | 964.4 | 2.4 | 37 | 9 | § .3 § | 226,723 | (299) | −2,825 |
| Hong Kong | 4.4 | 2.1 | 19 | 5 | .006 | 7 | (−282) | −654 |
| Japan | 112.2 | 1.1 | 19 | 7 | .1 | 16,480 | −2,731 | −19,222 |
| Korea, Democratic Republic of | 17.0 | 3.2 | 39 | 11 | § .3 § | 6,533 | (−55) | −531 |
| Korea, Republic of | 37.1 | 2.2 | 36 | 11 | .1 | 8,057 | (−543) | −2,676 |
| Macau | .3 | 2.2 | [25] | [7] | § .002 § | | −25 | −25 |
| Mongolia | 1.5 | 3.1 | 42 | 11 | 1.3 | 358 | (−1) | −27 |
| Taiwan [22] | 16.4 | 2.0 | [23] | [5] | .2 | 3,414 | 109 | −2,922 |
| North America | 245.3 | 1.3 | 14 | 8 | 2.3 | 235,958 | 22,481 | 76,374 |
| Canada | 23.1 | 1.3 | 16 | 7 | § 4.7 § | 31,478 | 8,492 | 11,658 |
| United States [23] | 222.2 | 1.3 | 14 | 9 | 2.1 | 204,480 | 13,989 | 64,716 |
| Latin America | 333.5 | 2.6 | 39 | 10 | .8 | 76,840 | 1,160 | −443 |
| Middle America | 80.3 | 2.6 | 45 | 9 | .9 | 16,353 | −448 | −3,296 |
| Costa Rica | 2.0 | 2.3 | 29 | 5 | .3 | 178 | −23 | −93 |
| El Salvador | 4.3 | 3.1 | 40 | 8 | .3 | 520 | −21 | −50 |
| Guatemala | 6.2 | 2.8 | 42 | 13 | .5 | 723 | −23 | −139 |
| Honduras | 3.3 | 3.7 | 49 | 17 | § .6 § | 319 | −6 | −56 |
| Mexico [24] | 60.5 | 2.2 | 46 | 8 | 1.1 | 14,047 | −369 | −2,850 |
| Nicaragua | 2.3 | 3.4 | 46 | 17 | .8 | 335 | 8 | −30 |
| Panama | 1.7 | 2.6 | 33 | 9 | .6 | 231 | −14 | −78 |
| Caribbean | 27.4 | 2.2 | 33 | 10 | .5 | 1,519 | −623 | −2,537 |
| Bahamas | .2 | 3.8 | 22 | 5 | .025 | | −6 | −19 |
| Barbados | .2 | 0 | 21 | 9 | .3 | 2 | −19 | −35 |
| Cuba | 9.4 | 1.8 | 25 | 6 | § .9 § | 540 | −397 | −1,474 |
| Dominican Republic | 5.1 | 3.1 | 49 | 15 | § .5 § | 270 | 4 | −247 |
| Guadeloupe | .4 | 1.7 | 28 | 7 | .3 | 1 | −19 | −49 |
| Haiti | 5.2 | 2.1 | 42 | 13 | § .2 § | 669 | −27 | −89 |
| Jamaica | 2.1 | 2.3 | 31 | 7 | § .3 § | 12 | −70 | −347 |
| Martinique | .4 | 1.4 | 22 | 7 | .1 | | −18 | −44 |
| Netherlands Antilles | .2 | 1.7 | 20 | 5 | § .1 § | 6 | −11 | −35 |
| Puerto Rico | 3.2 | 3.0 | 23 | 7 | § .2 § | 3 | | |
| Trinidad/Tobago | 1.0 | .7 | 27 | 7 | .1 | 16 | −60 | −198 |
| Tropical South America | 183.0 | 3.0 | 40 | 10 | .6 | 32,556 | −1,356 | −4,616 |
| Bolivia | 5.6 | 2.6 | 44 | 19 | 1.3 | 508 | −70 | −211 |
| Brazil [25] | 113.0 | 2.9 | 38 | 10 | .6 | 26,404 | −886 | −1,266 |
| Colombia | 26.6 | 3.2 | 45 | 11 | .3 | 2,676 | −47 | −482 |
| Ecuador | 7.3 | 3.2 | 45 | 11 | 1.0 | 614 | 13 | −196 |
| Guyana | .8 | 2.3 | 36 | 8 | 2.5 | 229 | 5 | −23 |
| Peru | 16.0 | 3.0 | 42 | 11 | .4 | 1,139 | −225 | −1,101 |
| Surinam | .4 | 2.2 | 41 | 7 | .2 | 150 | 0 | −5 |
| Venezuela | 13.3 | 3.4 | 41 | 8 | .9 | 836 | −146 | −1,332 |
| Temperate South America | 42.8 | 1.5 | 25 | 9 | 1.9 | 26,390 | 3,587 | 10,083 |
| Argentina | 26.3 | 1.4 | 23 | 9 | 2.2 | 23,160 | 3,558 | 11,292 |
| Chile | 10.8 | 1.7 | 26 | 9 | 1.3 | 1,706 | −34 | −1,291 |
| Paraguay | 2.6 | 2.6 | 45 | 11 | § 1.0 § | 332 | −37 | −77 |
| Uruguay | 3.1 | 1.1 | 21 | 10 | 1.4 | 1,192 | 100 | 159 |

| | Population estimates (millions) mid 1976 [1] | Growth rate (percent) [2] | Birth rate (per 1,000 population) [3] | Death rate (per 1,000 population) [3] | Number of acres of arable land per person [4] | 1974 production cereal grains (1,000 metric tons) [5] | 1948–52 net exports cereal grains (1,000 metric tons) [6] | 1974 net exports cereal grains (1,000 metric tons) [7] |
|---|---|---|---|---|---|---|---|---|
| **Europe** | 475.8 | .6 | 15 | 10 | .7 | 235,076 | −20,775 | −28,470 |
| **Northern Europe** | 81.4 | .3 | 14 | 11 | .5 | 35,328 | −8,769 | −7,961 |
| Denmark | 5.1 | .4 | 14 | 10 | 1.3 | 7,261 | −162 | 207 |
| Finland | 4.7 | .4 | 13 | 10 | § 1.4 § | 2,852 | −340 | −149 |
| Iceland | .2 | .9 | 20 | 7 | .013 | ... | −9 | −34 |
| Ireland | 3.1 | .7 | 22 | 11 | .9 | 1,169 | −554 | −581 |
| Norway | 4.0 | .6 | 15 | 10 | .5 | 1,127 | −576 | −686 |
| Sweden | 8.2 | .4 | 14 | 11 | § .9 § | 6,651 | −246 | 610 |
| United Kingdom | 56.1 | 0 | 13 | 12 | § .3 § | 16,268 | −6,882 | −7,328 |
| **Western Europe** | 153.4 | .5 | 12 | 11 | .5 | 72,017 | −10,040 | 2,041 |
| Austria | 7.5 | 0 | 13 | 13 | .5 | 4,012 | −736 | −163 |
| Belgium | 9.8 | .4 | 13 | 12 | .2 | 2,012 | −1,292 | −3,609 |
| France | 53.3 | .8 | 15 | 10 | .8 | 41,070 | −1,033 | 16,876 |
| Fed. Rep. of Germany | 62.1 | .1 | 10 | 12 | .3 | 22,663 | −4,602 | −5,168 |
| Luxembourg | .4 | .6 | 11 | 12 | § .4 § | 134 | ... | ... |
| Netherlands | 13.8 | .9 | 14 | 8 | .1 | 1,314 | −1,588 | −4,445 |
| Switzerland | 6.5 | .5 | 13 | 9 | .1 | 812 | −789 | −1,450 |
| **Eastern Europe** | 107.0 | .8 | 17 | 10 | 1.0 | 75,866 | 647 | −6,710 |
| Bulgaria | 8.8 | .7 | 17 | 10 | 1.2 | 6,797 | (10) | −467 |
| Czechoslovakia | 14.9 | .8 | 20 | 12 | .9 | 10,599 | (7) | −1,066 |
| Dem. Rep. of Germany | 16.8 | −.2 | 10 | 13 | .7 | 9,400 | (0) | −3,041 |
| Hungary | 10.6 | .6 | 18 | 12 | 1.2 | 12,855 | 349 | 1,461 |
| Poland | 34.4 | 1.1 | 18 | 8 | 1.1 | 22,983 | (196) | |
| Romania | 21.5 | 1.0 | 20 | 9 | 1.1 | 13,232 | (86) | 325 |
| **Southern Europe** | 134.0 | .8 | 18 | 9 | .7 | 51,864 | −2,613 | −15,839 |
| Albania | 2.5 | 2.4 | 33 | 8 | .5 | 607 | (0) | −48 |
| Greece | 9.0 | .5 | 16 | 8 | .8 | 3,928 | −479 | −1,335 |
| Italy | 56.2 | .7 | 16 | 10 | .4 | 16,934 | −1,634 | −7,373 |
| Malta | .3 | 0 | 17 | 9 | .1 | 5 | −68 | −125 |
| Portugal | 8.5 | −.4 | 19 | 11 | 1.0 | 1,601 | −318 | −1,788 |
| Spain | 36.0 | 1.1 | 19 | 8 | 1.1 | 13,158 | −260 | −4,523 |
| Yugoslavia | 21.5 | .9 | 18 | 8 | .8 | 15,631 | 146 | −647 |
| **U.S.S.R.** | 256.8 | 1.0 | 18 | 9 | 2.2 | 186,620 | (2,050) | 678 |
| **Oceania** | 21.5 | 1.8 | 23 | 10 | 5.3 | 17,583 | 3,158 | 6,947 |
| Australia | 13.7 | 1.4 | 18 | 9 | 8.1 | 16,822 | 3,389 | 7,264 |
| Fiji | .6 | 2.1 | 30 | 5 | .3 | 23 | (−11) | −52 |
| New Zealand | 3.2 | 2.2 | 21 | 9 | .6 | 730 | −173 | −82 |
| Papua/New Guinea | 2.8 | 2.6 | 42 | 18 | .1 | 5 | (−16) | −92 |
| Smaller islands and enclaves [26] | 1.2 | 3.3 | 31 | 7 | .5 | 3 | −31 | −91 |

*Population doubling time*

| Population growth rate percent | Number of years to double population |
|---|---|
| 0.5 | 140 |
| 1.0 | 70 |
| 1.5 | 47 |
| 2.0 | 35 |
| 2.5 | 28 |
| 3.0 | 24 |
| 3.5 | 20 |
| 4.0 | 18 |

EXPLANATORY REMARKS

As in 1974, population estimates and growth rates are based on those prepared by the International Statistical Program Center, U.S. Bureau of the Census. The 1975 chart relied on U.N. data because the Census Bureau refused to release their estimates. Whether or not their findings will be released this year is still in doubt (as of June 1, 1976). Our source is labeled "Preliminary Draft Not For Publication," December 12, 1975. In the few cases where we have departed from these figures, footnotes, will indicate why we have done so.

The *1975 Estimates* included figures on urbanization, percentage of the population under 15 years of age, and energy consumption per capita. Rather than repeat these figures, we have substituted figures relative to the production, consumption and export of cereal grains, which constitute 75%, or more, of the world's food supply.

Those who are interested in both the birth rates and growth rates of the early 1960's, for comparison purposes, should refer to the *1974 Estimates Sheet.*

FOOTNOTES

(1) Unless otherwise indicated, all 1976 population estimates are from the International Statistical Program Center, U.S. Bureau of the Census. Figures derived from other sources are noted in footnotes.

(2) Unless otherwise indicated, growth rates are computed from the gain in population 1975–1976 as reported from the above source.

(3) Birth rates and death rates are from United Nations, *Population and Vital Statistics Report, Statistical Papers,* Series A, Volume XXVIII, Number 1, January 1976.

In cases where birth and/or death rates are not given by this source, the figures are taken from Census Bureau un-published data *World Population: 1975,* March 10, 1976, and are in brackets [ ].

(4) These figures are based upon arable land figures from the 1974 United Nations Food and Agriculture Organization (UNFAO), *Production Yearbook,* Volume 28–1, Table 1.

In some cases, arable land was not separated from land under permanent crops, and the figure for the arable land is the sum of the two. These are marked with § §. Since permanent cropland is usually a small area relative to land under cultivation for any country, these combined figures are still useful.

(5) Data from 1974 UNFAO *Production Yearbook,* Volume 28–1, Table 12.

FAO's estimates are substantially greater than those made by USDA because FAO reports paddy rice, and USDA reports milled rice. Also, FAO figures sometimes include pulses and other crops with cereals (for instance the Chinese include potatoes).

(6) From 1960 UNFAO *Trade Yearbook,* Volume 14, Tables 14–21. Where data was not given, figures were taken from the 1955 and 1960 UNFAO *Trade Yearbook* for years in the early 1950's. These figures are printed in parentheses ( ).

(7) 1974 UNFAO *Trade Yearbook,* Volume 28, Table 35.

(8) Includes the population of 27 smaller islands and enclaves not listed elsewhere.

(9) Birth rates and death rates from the 1970 United Nations *Demographic Yearbook,* because these correspond closely to rates derived by Egyptian demographers. See Footnote No. 2, 1974 Environmental Fund *World Population Estimates* for details.

Natural increase is probably above 2.8, but out-migration is substantial.

(10) Birth and death rates are from *Selected World Demographic Indicators by Countries, 1950–2000,* Population Division, United Nations Secretariat, Working Paper No. 55, May 28, 1975.

(11) According to the Nigerian census of 1973 (neither the Census Bureau nor the United Nations accepts this figure).

(12) The Census Bureau figure is 30.3 million, but there is now evidence that 500,000 people died of starvation in 1974, Census Bureau demographers tell us that their figure only reflects the 100,000 originally reported.

(13) Population and growth rate from 1974 United Nations *Demographic Yearbook,* Table 5.

(14) Birth and death rates from United Nations *Statistical Papers,* Series A, Volume XXVIII, No. 2, April 1976.

(15) Population and growth rate derived from *World Population: 1973,* U.S. Bureau of the Census.

(16) Birth and death rates from the 1972 United Nations *Demographic Yearbook.* Population and growth rate derived from the 1973 *Demographic Yearbook,* Table 4. See Footnote No. 8, 1974 Environmental Fund *World Population Estimates* for further details.

(17) Population and growth rates derived from 1974 United Nations *Demographic Yearbook,* Table 5. Sikkim became a state of India in April, 1975, and will not be reported separately hereafter.

(18) Population and growth rate from *Single-Year Population Estimates and Projections for Major Areas, Regions and Countries of the World, 1950–2000,* Population

Division, United Nations Secretariat, Working Paper No. 56, October 6, 1975.

(19) Growth rate of 1.4 seems unlikely. United Nations sources give higher rates.

(20) Population and growth rates from 1974 North Vietnam census. See Footnote No. 17, 1975 Environmental Fund *World Population Estimates* for further details.

(21) Population estimates based upon Dr. John Aird's "intermediate model" for China prepared by the Foreign Demographic Analysis Division, Bureau of Economic Analysis, U.S. Department of Commerce, 1975. See Footnote No. 10, 1974 Environmental Fund *World Population Estimates.*

Birth and death rates are from United Nations *Statistical Papers,* Series A, Volume XXVII, No. 2, April 1975.

1974 Production and Net Exports of cereal grains are UNFAO figures for China minus figures for Taiwan obtained from other sources (see footnote 22). The UN stopped reporting Taiwan separately from mainland China in 1971.

(22) Arable land is obtained from the *World Data Handbook,* U.S. Department of State, 1973. 1974 production and net exports of cereal grains are obtained from the USDA, Grains Division.

(23) Population includes officials census figure of 215.7 million, plus verified undercount of 5.3 million, plus 1975–76 illegal immigration as reported by U.S. Immigration and Naturalization Service (1.2 million).

Growth rate was obtained from natural increase, 1.3 million (from H.E.W.), plus net migration.

Birth and death rates published by HEW are slightly higher, because they are computed without including the verified undercount or the illegal aliens.

(24) Population figure of 61.3 million adjusted for out-migration to the U.S. of 800,000 (see Footnote No. 23). The crude growth rate of 3.5 must be adjusted to 2.2 for the same reason.

(25) Population derived from CELADE figure for the 1970 Brazilian census including the undercount.

(26) Includes The British Solomons, New Caledonia, New Herbrides, Gilbert and Ellis Islands, Guam, The Pacific Islands, American Samoa, The Cook Islands, French Polynesia, Tonga, and Western Samoa.

## LEADERSHIP NEEDED FOR METRIC CONVERSION

Mr. PELL. Mr. President, at long last the President has submitted to the Senate his nominees for the U.S. Metric Board. Despite the short time remaining before the end of the session, I hope that the Senate will be able to act before adjournment to permit the Board to begin its work as soon as possible.

While I am not in a position at this time to comment on the merits of the individual nominees, I trust that the President has closely followed the mandate of Public Law 94–168, in selecting competent, qualified persons to serve on the Board.

Mr. President, metric conversion action is long overdue in this country. Citizens are far ahead of their Government in seeing the simplicity and logic of the metric system of weights and measures. We see signs of voluntary conversion all around us. What is needed now is governmental coordination of these efforts, and that coordination will be provided by the U.S. Metric Board.

Mr. President, the Metric Conversion Act is 9 months old and as yet no action has been taken. I trust that Members of the Senate will be persuaded by the need to have qualified nominees for the U.S. Metric Board approved as expeditiously as possible, so that the important job of directing the growing movement of metric conversion can go forward.

Mr. President, a recent editorial in the Providence Journal speaks of another need for convening the U.S. Metric Board at the earliest possible date. One of the chief duties of the Board will be to focus attention on average citizens and their adaptation to the metric system. As that editorial explains, we must learn from the British experience and keep consumer awareness up with industry conversion. That is very clearly a problem of coordination which lies within the responsibility of the Metric Board.

Mr. President, I ask unanimous consent that the Providence Journal editorial of August 30 be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Metric Weights and Measures

We hope that the reshaped national administration next January, whether it is a Ford-Dole or Carter-Mondale regime, will improve upon the commitment already made by Congress to convert America to a metric system of weights and measures.

That doesn't mean launching a headlong rush to conversion by an ill-prepared nation. But the change is inevitable and is already taking place among our big, multinational companies. Unfortunately, federal leadership is still unfocused.

Congress late last year established a 17-member National Metric Board to coordinate voluntary conversion by business and industry. Sen. Claiborne Pell, long a crusader for the "metrics" that virtually everybody else in the world uses, had introduced a bill making the change mandatory in 10 years. His bill was almost completely rewritten in committee, although at the end he endorsed the compromise.

The board has not yet even been appointed by President Ford. Meanwhile, giant firms such as General Motors and IBM have launched their own "metrication" programs.

As the Wall Street Journal pointed out the other day, we may fall into the mistake made by Great Britain when it converted some years ago; industries went fully metric long before the average consumer was made acquainted with the new system.

Our American public will need a thorough education, of course, but we think the public's intelligence has been underestimated. Any television viewer who readily perceived that the three-meter diving board in the Montreal Olympics pool was about 10 feet above the water will grasp the new system.

The incoming Congress and the new White House team should consider at least a mild speedup in metric conversion and a coordinating program with more vigor than we are likely to get from the new board.

## SUPPLEMENTAL AIRLINE HEARINGS

Mr. ABOUREZK. Mr. President, Senator Nelson recently announced hearings to be held by the Small Business Committee, Subcommittee on Monopoly, on the subject of the fate of supplemental airlines in the United States. The hearings will be held October 6, 7, and 8 from 9:30 to 12:30 in room 1114, Dirksen Senate Office Building. I would like to insert in the Record today the witness list for these hearings.

I would also like to insert an initial staff report on the history of this matter. I want to stress that this is only a preliminary report designed to acquaint people with the issues to be raised at the hearings, and in no way represents conclusions of the staff, myself, or the committee.

Mr. President, I ask unanimous consent to have printed in the Record the witness list and staff report to which I have referred.

There being no objection, the witness list and staff report were ordered to be printed in the Record, as follows:

### Witness List

The witnesses on Wednesday, Oct. 6, will be officers and owners of several supplemental airlines, now defunct. They are:

Richard Neumann, former president of California Air Charter and Holiday Airlines.

Orvis Nelson, former president of Trans-Ocean Airlines.

Ralph Cox, former president of U.S. Overseas Airlines.

Ida Mae Herman, former coowner of Great Lakes Airlines.

On Thursday, Oct. 7, the witnesses will be five more executives of closed-down or inactive supplemental airlines and a former safety investigator for the Civil Aeronautics Board, CAB. The Thursday witnesses will be:

Fred Adkins, former vice-president of Central Air Transport.

Fred Hart, former president of North American Airlines.

Bud Craft, former president of Standard Airways.

Amos Heacock, former president of Air Transport Associates.

Ermin Pesiss, former president of Air Europe International.

Marvin Griggs, former safety investigator for the CAB.

On Friday, October 8, the witnesses will include additional former members of the industry, former government officials, and members of the academic community, as follows:

Joseph P. Adams, former member of the CAB, Brigadier General, USMC.

Michael Levine, professor law, University of Southern California, and professor of law and social change in the technological society, California Institute of Technology.

William A. Jordan, professor of managerial economics, York University.

Glen Nickerson, former president, Universal Airlines.

Robert Rousselot, former vice president of Civil Air Transport, former president of Continental Air Services, and former assistant to the president, Continental Airlines.

Fletcher Prouty, former military officer, responsible for liaison and support arrangements between the Air Force, later the Department of Defense, and the Central Intelligence Agency.

### Preliminary Staff Report on the Regulation of Supplemental Air Carriers

At the end of World War II the government encouraged returning veterans to purchase surplus aircraft and enter the air transport industry as non-scheduled airlines. In a few years, there were 142 such airlines. They were issued letters of registration and exempted from the need to obtain a certificate of public convenience and necessity—the usual requirement for operating an airline. There was a great deal of confusion about how to fit this unexpectedly large number of carriers into the system of air transportation established by the Civil Aeronautics Board. Hearings held by the

Small Business Committee in 1953 revealed that the Board had begun to think that it had created something it could not control. These new airlines were offering very low-cost flights—in fact, they pioneered the concept of a coach class. The scheduled airlines had, until prodded by the "non-skeds", believed that flying was essentially upper class phenomenon.

The Board was concerned that these new airlines, exempt from regulation, would disrupt the scheduled system, largely by flying cut-rate flights between high density cities. The scheduled carriers, of course, were required to fly less profitable points as well, although, it should be remembered, they were receiving a federal subsidy at the time. There was also legitimate concern that some of the non-skeds were rather shaky in their operations, and possibly unsafe. The Board decided, in response to these concerns, that the non-skeds should be strictly regulated and, in the early fifties, commenced its Large Irregular Carrier Investigation. There is some evidence that the purpose of this investigation was to eliminate, or severely reduce, the number of non-skeds. A secret memorandum, reprinted in the 1953 Small Business hearings, stated, for instance:

"Either procedure [certification hearings or denying letters of registration] has the advantage of affording means for ultimately terminating the operations of this group of carriers. A second reason in favor of either proposal is that it should not lay the Board open to criticism for stamping out, without due process, these carriers which they have permitted to come into being. Accordingly, termination of such carriers' letters of registration would appear a fair and natural conclusion."

This memorandum was written in 1948 by the staff person directing the CAB's investigation into the problem.

During the period of the investigation, the Board issued a series of regulations designed to limit the frequency of flights between any two points by a non-sked—e.g. no more than ten flights per month between any two points. The non-skeds, in response, devised a number of ways to avoid these regulations. Two groups of carriers, for instance, were formed to create more frequent trips between points—but not for any single operator. The 1950's proved to be a battle between the Board, arguing that the non-skeds were "skimming the cream" by flying low-cost flights between profitable city-pairs, and the non-skeds, arguing that they were creating a whole new market for flying—people who otherwise would go by surface transportation, or not go at all. In 1959, the investigation ended. The delay in itself caused many carriers to go bankrupt, as they were unable to get financing when it was always uncertain that the CAB would allow them to remain in business. The result of the investigation was a decision to change the letters of registration to certificates of public convenience and necessity, which were granted to 25 carriers. The certificates gave the carriers a very limited schedule authority, but, in short order, the courts ruled the CAB action illegal. In 1962, Congress enacted a law to resolve the problem.

At the same time, the military, which had substantial contracts with the supplementals, was in the process of switching from low-big procurement practices to long-term contracts with a select group of carriers. The military argued that the negotiated contracts were needed because they could be used as a vehicle to insure that carriers had modern fleets, would make aircraft available in an emergency, and would be less likely to collapse as a company in the middle of a contract. The non-skeds responded that the change resulted in rates 30-70% higher for various contracts, that companies were modernizing their fleets anyway, as the new jets were more economical, and that the best reserve guarantee was a competitive industry. They pointed to massive and effective non-sked participation in the Korean and Berlin airlifts as examples. Retrospectively, the non-skeds also argued that the companies receiving the military contracts had no special qualifications (in fact, were often in severe financial difficulties), but did have very prominent connections with the Department of Defense.

Also around this time, the Central Intelligence Agency, through its proprietaries, was successfully arranging for substantial contracts for its carriers, a practice that would continue until 1973. Coupled with favorable considerations from the CAB, this resulted in just one of the CIA's carriers, Southern Air Transport (the only carrier certificated as a supplemental for the CIA) averaging in the area of 5% of total supplemental revenues, both civilian and military, during the sixties.

By 1962, then, the non-skeds believed that they were under severe attack. Two disastrous crashes occurred in the year as well, and the legislation Congress passed that year reflected a strong desire to limit the non-skeds very carefully. The legislation renamed the non-skeds "supplementals" and limited them to charter and contract operations. It instructed the Board to undertake a second investigation to certificate carriers as supplementals. In 1966, the Board completed its actions, leaving 13 carriers certificated. Charter authority during the 60's was generally limited to affinity group charters and after 1968 inclusive tour charters (these required a minimum of three stops at least 50 miles apart and a fare 110% of the scheduled rate). The supplementals argued that these rules were much too restrictive. Today they point to the fact that there are only seven carriers left (and two of these are merging). Proponents of the Board have responded by arguing that in order to protect a successful air system competition must be carefully limited, and within these limits only a small number of carriers could have existed and made a profit. Therefore, the Board also had to be sure not to allow too many supplemental carriers into the marketplace. Now that the supplemental industry is established at a good size, and more people are seeking low-fare flights, the Board can and has vastly liberalized its charter regulations.

What problems remain then? Is this a "dead horse"? Witnesses will argue it is not, for many reasons. First, the Department of Defense regulations remain in place. Second, the Board has done nothing to encourage new entry, and there has been none in recent years, despite evidence that there are people who seriously would like to start supplementals. One carrier applying for a certificate, for instance, had to wait from 1973 till 1976 just to have a hearing schedule. The carrier finally decided to purchase an existing supplemental. The new regulations will have little meaning, the witnesses will argue, unless genuine competition is allowed. Third, the history of CAB regulation, they charge, has severely discriminated against supplementals, at enormous cost to the public. The entire system of airline regulation should be reconsidered, they will argue, and supplementals should be given an even larger role. Even current regulations, they argue, still discriminate against supplementals, for scheduled carriers can offer the same charters as supplementals, but supplementals cannot fly schedules.

In essence the charge is that the CAB forced an innovative, small business sector out of the market in favor of the large carriers. Competition and free enterprise were and are, they charge, being stifled. No trunk carrier, for instance, has ever been allowed to fold (although some have merged), for any reason. Supplementals charge they were forced to shut down for incorrect or petty reasons, or simply because the CAB did not expedite their cases. The supplementals charge that they pioneered air coach and charter travel, expanding air travel to millions who never could have afforded it, but that it is the scheduled carriers who have been allowed to make the most of these innovations (which they initially resisted). Today, air fares remain too high, the witnesses will charge, as the supplementals could still fly for far less than the schedules, if allowed. One supplemental, in fact, has applied for a coast-to-coast fare of $89 (and been denied).

These charges are very serious. There is not enough evidence at this point to judge them, and the other side deserves a complete hearing. Nonetheless, they do raise a larger point and one that gets to the heart of the reason for these hearings. Other committees have admirably evaluated regulation of scheduled carriers, and there are bills from the CAB, the administration, Senator Kennedy and Senator Cannon seeking deregulation of various kinds. These hearings will shift the focus to supplemental regulations, but the overall purpose is the same: to determine whether the policies of the government are giving the public the cheapest and safest service possible, and if not, what should be done.

These initial hearings will explore the history of the supplementals, providing the background we need when we continue the hearings next session. At that time, we will give the CAB and others a chance to respond to charges made against them, and we will explore the current problems of the supplemental industry.

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## A NEW POLICY REGARDING AMBASSADORIAL POSTS

Mr. CHURCH. Mr. President, in a recent editorial printed in the Washington Post, entitled "A Chance To Stop the Embassy 'Auction,'" Clayton Fritchey makes the excellent point that the time has come to appoint top career diplomats to our major Embassies instead of doling out these vital posts as political rewards to campaign contributors.

Other important world powers rely on professional and experienced career foreign service officers to fill their top embassy positions, and for good reasons: modern transportation and technology have dissolved the insulators of time and distance between countries. The United States must have men and women in their Embassies abroad who are competent to handle complex diplomatic situations. Such competence comes from years of services in the Diplomatic Corps.

This country will benefit greatly if the new year brings a new and more professional set of standard for appointing ambassadors. For its part, the Senate Foreign Relations Committee should adopt suitable confirmation standards to assure that America's top representatives abroad are the best trained individuals available, with distinguished records of public service or career experience in the field of foreign affairs.

Mr. President, I ask unanimous consent to have the Washington Post editorial printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### A Chance To Stop the Embassy "Auction"

(By Clayton Fritchey)

Thanks to public financing of the presidential campaign, the next chief executive.

regardless of who wins the election, will be free to fill U.S. embassies around the world with experienced diplomats instead of large campaign contributors. It could be a notable improvement.

The auctioning of diplomatic posts to high bidders has gone on for a long time under both Republican and Democratic Presidents, but it reached its peak in the Nixon administration when would-be ambassadors kicked in up to $300,000 for even tiny posts such as Luxembourg.

Career foreign service officers have long been denied well-earned promotions not only to make way for campaign angels but also to enable Presidents to pay off others to whom they are indebted politically.

The quickest way to improve the spirit and performance of America's foreign service, about which Presidents have been known to grumble, would be for the next chief executive to show some respect for the State Department professionals, specifically through a new policy of reserving the top embassies for the top career diplomats.

That would not require legislation, nor even a formal executive order. All that is needed is a new presidential precedent: No more ambassadorial payoffs. Now that public financing has at last freed the presidential contenders from their usual obligations to fat-cat financial backers, there is a fresh opportunity to initiate a new standard at Foggy Bottom.

It is an especially good opportunity for Jimmy Carter because he, unike President Ford, could start from scratch. The incumbent is stuck with a flock of payoff appointments inherited from former President Nixon and some that he has made himself.

A pledge by Carter to elevate the foreign service would be very much in line with his promise to practice a less politicized foreign policy. A new emphasis on career diplomats would, of course, not preclude the use of outstanding men who, while not foreign service officers have special talents to offer.

No President would want to deny himself the services of men like Averell Harriman, Adlai Stevenson, David Bruce and others of similar background and experience. There would be little complaint if our embassies were consistently manned by gifted non-career men, but that is seldom the case.

The argument is advanced that only very rich men can afford the cost of large embassies, since the government does not provide enough money to run them. What could be more un-American or more undemocratic? The truth is that Congress will appropriate enough money whenever any President seriously demands it. The idea that the richest nation on earth cannot properly support its embassies around the world is ludicrous.

An even worse myth is the notion that ambassadors really don't matter any more in an era of instant communication. Actually, it all depends on the ambassador. If he is a man of intellect and conviction, if he has a sure grasp of his foreign assignment, he can wield almost unlimited influence back in Washington.

It's been proven time and again. At the conclusion of World War II, for instance, a single long cable from George Kennan, then in the American Embassy of Moscow, altered the whole course of administration thinking about Russia. It was Kennan, who retired as a career ambassador, who made the "policy of containment" a household phrase.

It works the other way, too, for incompetent ambassadors can also be influential. America is still paying a stiff price for the performance of Patrick Hurley, a flamboyant Oklahoma politician, who was U.S. ambassador to China during that country's civil war in the late 1940s. Hurley was surrounded by able career diplomats who perceived the weakness and corruption of Chiang Kai-shek's Nationalist forces, and who correctly foresaw that Mao and the Communists were the wave of the future in mainland China. Unfortunately, Hurley, who disagreed, not only prevailed, but accused his advisers of being soft on communism.

The moral of this is that ambassadors still do carry weight and, since that is so, all our missions abroad should be directed by the ablest men in the foreign service. The State Department is bulging with highly trained professionals who are retiring prematurely because the posts they should be filling are occupied by beneficiaries of the political payoff system.

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## TRIBUTE TO SENATOR FONG

Mr. STENNIS. Mr. President, as the time approaches for Senator Hiram Fong of Hawaii to retire from the Senate, I wish to express to him my admiration for the effectiveness with which he has carried out his work in this body, and my appreciation for the associations I have enjoyed with him as a colleague.

We have served here together for 18 years, ever since Hawaii became a State. I know him to be a very hard worker, sound and practical in his judgments. Although of different parties, we share a common philosophy in many matters. I have profited frequently from his advice, for it is based on his thorough working knowledge of the facts on the issue.

All of us here are aware that Hiram Fong started life with very few material advantages, and that through hard work, perserverence, and a vast amount of common sense he has achieved great success, both as a legislator and a businessman. He learned in his boyhood and early manhood that determination and effort can achieve goals that are seemingly beyond expectation. He showed great drive and an energetic mind, and carried these qualities on into his work here in the Senate.

His accomplishments show that he is both a practical and an imaginative man, and these qualities are demonstrated in his legislative work and in his voting record. He is also a humanitarian, and some of the legislation he has sponsored and seen signed into law so demonstrates.

Hiram Fong has been unfailingly effective in service to his State and his constituents, and they will miss him. In addition he has served the Nation with distinction representing the United States abroad in many interparliamentary conferences and other delegations.

The Senate will miss Hiram Fong and his lovely wife Ellyn. Mrs. Stennis joins with me in every good wish to them as they return to Hawaii to enjoy their family and friends.

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## THE ECONOMICS OF STAGNATION: A STUDY OF THE REPUBLICAN YEARS—1969–1976

Mr. HUMPHREY. Mr. President, on September 19, the Democratic Presidential nominee, Governor Carter, released a study entitled "The Economics of Stagnation: A Study of the Republican Years, 1969–1976." This study is largely a description of how our economy has behaved in the past 8 years. This study is not composed of rhetoric; it is composed of hard statistical fact.

The study shows, for example, that—

The level of unemployment today is 50 percent greater than when Mr. Ford took office 2 years ago, and that there are fewer workers employed in private nonfarm jobs today than there were when Mr. Ford took office.

The overall real growth rate of the economy in the last 8 years has been about half the growth rate during the Kennedy-Johnson years.

Last year's deficit alone was larger than all of the deficits of the Kennedy-Johnson years put together.

The real value of the average worker's weekly paycheck is less today than it was in 1968.

Corporate profits, adjusted for inflation, are less today than they were in 1968.

Many of us have known that during the past 8 years the economy has performed very poorly. We have seen the record of the economy traced out in the statistics that are released almost daily and in the lives of the people we represent. This study steps back from the daily and monthly statistics and looks at the economy from a longer range perspective.

I have found this study most interesting and useful and I would like to share it with my colleagues. I ask unanimous consent that it be printed in the Record.

There being no objection, the study was ordered to be printed in the Record, as follows:

### The Economics of Stagnation: A Study of the Republican Years, 1969–1976

When Richard Nixon entered the White House in January 1969, he inherited an economy which, while not without its problems, had just completed a year of full employment and modest price stability. Unemployment for 1968 stood at 2.8 million workers, amounting to 3.6% of the labor force, while inflation averaged 4.7%. The federal budget for the fiscal year then in progress was in surplus.

The following study documents the economic record of Richard Nixon and Gerald Ford in the ensuing eight years—it is a case study of a record of consistent and costly economic mismanagement. The record of the Nixon-Ford years includes:

#### UNEMPLOYMENT

(1) A rate (7.9%) and level (7.5 million) of unemployment today which is higher than at any other time between the Great Depression and the inauguration of Gerald Ford.

(2) A level of unemployment today which is 50% greater than it was when Mr. Ford took office two years ago (with an additional 2½ million workers unemployed) and more than 2½ times as high as it was in 1968.

#### INFLATION

(1) The highest average rate of inflation for any Administration in over 50 years.

(2) A rate of inflation today (6%) which is higher than at any time between the Korean War and the inauguration of Richard Nixon.

(3) A 1968 dollar which is now worth 61 cents.

#### DEFICITS AND DEBT

(1) A deficit for the fiscal year just ended ($65 billion) which is the largest in our history and which exceeds the deficits for all the Kennedy-Johnson years put together ($54 billion).

(2) An increase in the public debt under the Nixon-Ford Administration ($281 billion) which is greater than the total public debt incurred under all Presidents during the preceding 192 years of our history ($279.5 billion).

### REAL EARNINGS

A decline in the real value of the average worker's weekly paycheck from $103.39 in 1968 to $102.94 today.

### ECONOMIC GROWTH

(1) A slower rate of economic growth (2.3% per year) than under any other Administration since the Great Depression.

(2) An actual decline in real GNP during 1974 and 1975, each of Mr. Ford's first two years in office.

### THE MISERY INDEX

An average Misery Index (which combines the rates of inflation and unemployment) of almost 16% for Mr. Ford, the highest for any President in more than 50 years.

### THE ECONOMIC RECOVERY

An economic recovery under Mr. Ford in which unemployment (7.9%), inflation (6%), and deficit spending ($65 billion for the fiscal year just ended) are greater than at any time between the Korean War and the inauguration of Richard Nixon, and in which private nonfarm employment is lower today (64.2 million workers) than it was in August 1974 (64.5 million).

### THE HIGH COST OF UNEMPLOYMENT

Record levels of unemployment and undercapacity which have cost the American people hundreds of billions of dollars in lost income ($200 billion for the current year alone) and the Federal Treasury tens of billions in lost tax revenues and increased welfare payments ($16 billion for each percentage point of unemployment above 4%).

### INTEREST RATES

The highest interest rates since the Civil War.

### HOUSING

(1) New private housing starts which are lower today (1,387,000 units) than they were in 1968 (1,500,000 units).

(2) A $16,000 increase in the average price of a new home from $30,000 in 1968 to $46,000 today.

(3) 17% unemployment among construction workers.

### POVERTY

More Americans living in poverty (24.2 million) in 1974 (the latest date for which poverty figures are available) than in 1969 (24.1 million), as compared to a 15 million reduction in the number of Americans living in poverty during the Kennedy-Johnson years.

### CORPORATE PROFITS

Real corporate profits which are lower today ($98 billion, constituting 7.8% of real GNP) than they were in 1968 ($99 billion, constituting 9½% of real GNP).

### BUSINESS PLANT UTILIZATION

A manufacturing utilization rate which is 73% today, compared to 88% in 1968, and which is a lower rate of utilization than under any President since the 1930's.

### STOCK MARKET

(1) Stock prices which are about the same today as they were eight years ago.

(2) A significant decline in the price-earnings valuation of most stocks.

### INTERNATIONAL TRADE

The first yearly deficits in our balance of trade since the Great Depression.

### UNEMPLOYMENT

The rate (7.9%) and the level (7.5 million) of unemployment are higher today than under any other President since the Great Depression. The level of unemployment is 50% greater today than it was when Mr. Ford took office two years ago, with an additional 2½ million workers unemployed, and more than 2½ times as high as it was in 1968.

1. As of August 1976, the unemployment rate was 7.9%; more than 7.5 million workers were unemployed. The unemployment rate for all black workers was 13.6%, the unemployment rate for all teenagers in the labor force was 20% (with 40% of black teenagers in the labor force unemployed), and the unemployment rate for construction workers was 17%.

2. Unemployment increased in each of the past three months, from 7.3% of the labor force in May to 7.9% in August. There are 600,000 more workers out of jobs today than there were in May.

3. There are actually fewer workers employed in private nonfarm jobs today (64.2 million) than there were two years ago (64.5 million).

4. When Mr. Ford took office in August 1974, the unemployment rate was 5½%, with almost 5 million workers unemployed. Unemployment accelerated rapidly, while Mr. Ford was proposing a tax increase to Congress. By May 1975, less than one year after Mr. Ford took office, the unemployment rate had reached its post-Depression high of 8.9% and more than 8.2 million workers were unemployed. In less than one year, from August 1974 to May 1975, unemployment had climbed from 5 million to more than 8.2 million, an increase of more than 60%.

5. Average levels of unemployment in excess of 7 million translate into unemployment at some time during the year for over 20 million Americans. It has been estimated that 60 to 75 million people in 1975 were members of families in which someone was unemployed.

6. Even these record rates understate the true extent of unemployment in the country—for the unemployment statistics do not include workers who have given up trying to find a job and workers who have settled for part-time employment because they have been unable to find full-time jobs. If these two groups were counted among the unemployed, the overall unemployment rate would approach 10% and almost 10 million people would be counted as unemployed.

7. The unemployment rate was 3.6% for 1968, with 2.8 million workers unemployed. The unemployment rate averaged less than 5% during the Kennedy-Johnson years.

### INFLATION

The rate of inflation today (6%) is higher than it was at any time between the Korean War and the inauguration of Richard Nixon. The 1968 dollar is now worth 61¢.

1. The 1968 dollar is now worth 61¢ and the 1968 food dollar is now worth 57¢.

2. The average rate of inflation of 6½% during the Nixon-Ford years exceeds the average rate for every other Administration since Woodrow Wilson.

3. The 12.2% inflation for 1974 was twice as high as the annual rate for any year since the Korean War (excluding the 8.8% inflation of 1973).

4. Food prices increased 20.1% in 1973 (which was greater than the combined price increases for food during the entire Kennedy-Johnson Administration) and 12.2% in 1974.

5. Inflation averaged 2.2% per year during the Kennedy-Johnson Administration. Food prices increased at the annual rate of 2.3%.

### THE MISERY INDEX

The combination of unemployment and inflation under Mr. Ford has been greater than for any other President in more than 50 years.

1. The Misery Index is calculated by adding the rate of unemployment and the rate of inflation—the higher the total, the worse off you are.

2. The combined rates of unemployment and inflation have averaged almost 16% under Mr. Ford, the highest average Misery Index for any President since Woodrow Wilson.

3. The Index averaged about 11% under Mr. Nixon and 7% during the Kennedy-Johnson years.

### DEFICITS AND DEBT

Mr. Ford's budgets will account for the largest single deficit and more than one-third of the public debt incurred during our 200 year history. The increase in the public debt during the Nixon-Ford years will be greater than the total public debt incurred under all other Presidents in our history.

1. The $65 billion deficit for the fiscal year just ended (FY 1976) is the largest in our history and exceeds the deficits for all the Kennedy-Johnson years put together ($54 billion).

2. The combined Nixon-Ford deficits of $243 billion (including the deficit projected by Mr. Ford under his current budget) are almost as great as the combined deficits for all Presidents in our history ($295 billion). If the peak war year of 1943 is excluded, the Nixon-Ford deficits exceed the total of all other deficits, in war as well as peace, in our entire history.

3. The publicly held federal debt will have increased $281 billion under the Nixon-Ford Administration budgets, $214 billion of which will have been accounted for by Mr. Ford. The outstanding public debt at the end of the 192 year period preceding the Nixon-Ford Administration was $279.5 billion. Acocrdingly, the Nixon-Ford budgets will account for more than ½, and Mr. Ford's budgets for more than ⅓, of the total $560 billion public debt incurred over our entire history.

4. The interest charges on the $281 billion of additional public debt will amount to $19.7 billion per year (at an assumed interest rate of 7%); this amounts to an annual charge which will continue indefinitely of more than $350 for every family in the country.

### REAL EARNINGS

The real value of the average worker's weekly paycheck is less today than it was in 1968.

1. In 1968 the average American worker made $103.39 a week (in real terms, adjusted for inflation). Today the real value of that paycheck is $102.94 a week.

2. Under the Kennedy-Johnson Administration, average real weekly earnings increased from $90.95 in 1960 to $103.39 in 1968, an increase of almost 14%.

### ECONOMIC GROWTH

The economy has grown at a slower rate during the Nixon-Ford Administration than under any other Administration since the 1930's. Real GNP actually declined during each of Mr. Ford's first two years in office.

1. Real GNP (in 1972 dollars) has grown at a rate of about 2.3% during the past 8 years.

2. Real GNP actually declined (about 2%) in each of 1974 and 1975. The declines were greater than those for any other year since the end of World War II.

3. Real GNP grew at an annual rate of approximately 4.4% during the Kennedy-Johnson years.

### THE ECONOMIC RECOVERY

During the present economic recovery, unemployment, inflation, and deficit spending are greater than at any time between the Korean War and the inauguration of Richard Nixon.

1. The unemployment rate today (7.9%) is higher than at any time between the Great Depression and the inauguration of Gerald Ford. Unemployment has increased by 600,000 workers during the past three months, with the unemployment rate moving from 7.3% in May to 7.9% in August.

2. The inflation rate today (6%) is higher than at any time under Presidents Eisenhower, Kennedy or Johnson.

3. The economy is producing at least $200 billion less today than it would at full employment. That loss of production and income amounts to $3,600 a year for every American family.

4. Deficit spending and debt are at an all-time high.

### THE HIGH COST OF UNEMPLOYMENT

The record levels of unemployment and undercapacity during the past 8 years have cost the American people hundreds of billions of dollars in lost income and the Federal Treasury tens of billions in lost tax revenues and increased welfare payments.

1. The gap between our current national output and what we could produce at full employment is at least $200 billion. That loss of production and income amounts to $3,600 for every American family.

2. The cumulative gap under the Nixon-Ford Administration is more than 6 times as great as for the Kennedy-Johnson years, which amounts to a net loss in excess of $500 billion.

3. Every additional percentage point in unemployment costs the Federal Treasury an estimated $16 billion—$14 billion in lost tax revenues and $2 billion in legally mandated food stamps, unemployment insurance, and other support programs. Accordingly, had the economy been operating at a level of 4% unemployment during the past year, substantially all of Mr. Ford's record $65 billion deficit would have been eliminated.

### INTEREST RATES

Under the Nixon-Ford Administration, interest rates have reached their highest levels since the Civil War.

1. Interest rates for triple A bonds issued by our strongest corporations have averaged almost 8% under the Nixon-Ford Administration, compared to less than 5% during the Kennedy-Johnson years. Less credit worthy corporations have had to pay much higher rates or been unable to borrow long term at all.

2. Short-term interest rates on bank loans to businesses have increased from an average of 5½% under the Kennedy-Johnson Administration to 8% during the Nixon-Ford years.

3. Interest rates on new home mortgages have moved from an average of less than 6% under Presidents Kennedy and Johnson to 8½% under Presidents Nixon and Ford (and are presently about 9%).

### HOUSING

The rate of new housing starts is lower today than it was in 1968. The average cost of a new home has increased from $30,000 in 1968 to $46,000 today. The rate of unemployment among construction workers is 17%.

1. The number of new private housing units started is lower today (1,387,000 units as of July) than it was in 1968 (1,500,000 units).

2. The explanation for this decline in the housing sector may be found in a stagnant economy and record high interest rates and housing prices. Interest rates on new home mortgages have moved from an average of less than 6% during the Kennedy-Johnson years to an average of about 8½% under the Nixon-Ford Administration (and are presently about 9%). The average cost of a new home has moved from $30,000 in 1968 to $46,000 today, and the monthly mortgage payment has gone from $154 to $288.

3. Unemployment among construction workers is 17%.

### POVERTY

During the Kennedy-Johnson years, there was a substantial reduction in the number of Americans living in poverty. Today there are more Americans living in poverty than there were in 1969.

1. In 1960 almost 40 million Americans were living on incomes below the official poverty level. By 1968 this number had been reduced to 25 million, a reduction in excess of 35%.

2. By 1969 the number of Americans living in poverty was approximately 24.1 million. By 1974 (the most recent date for which poverty figures are available) slightly more than 24.2 million Americans were still living in poverty.

3. It is expected that the 1975 data, when released, will show a sizable further increase in the number of Americans living below the poverty level.

### CORPORATE PROFITS

Real corporate profits (adjusted for inflation) are lower today than they were in 1968.

1. Real corporate profits were $99 billion in 1968 (9½% of real GNP) and had declined to $81 billion by 1975 (6.8% of real GNP). As of the second quarter of 1976 (the latest date for which statistics are available), real corporate profits were running at the annual rate of $98 billion (7.8% of real GNP).

2. Real corporate profits have averaged about 7.3% of real GNP under Presidents Nixon and Ford.

3. Real corporate profits grew at an annual rate of 5% during the Kennedy-Johnson years and averaged about 9.8% of real GNP.

### BUSINESS PLANT UTILIZATION

There is more unused manufacturing capacity in the economy today than under any other President since the 1930's.

1. Today the economy is operating at 73% of manufacturing capacity, as compared to 88% in 1968.

2. During the Kennedy-Johnson years, the economy averaged 85% utilization of manufacturing capacity. Under Presidents Nixon and Ford, the average has fallen to less than 80%. The difference has meant hundreds of billions of dollars in lost production and income.

### THE STOCK MARKET

Common stock prices are about the same today as they were in 1968. There has been a serious decline in equity financing.

1. Standard & Poor's index of 500 Common Stocks has increased about ¾ of 1% a year under the Nixon-Ford Administration. The index actually declined about 13% between 1968 and 1975.

2. Standard & Poor's index increased almost 10% a year during the Kennedy-Johnson Administration.

3. In the 1960's, the stock market valued most stocks at 15 to 20 times earnings. Now, largely due to the economic stagnation and low profitability of recent years, most stock prices are less than 10 times earnings. That, combined with an exodus of the small investor from the market, has resulted in a serious decline in equity financing.

### INTERNATIONAL TRADE

Under the Nixon-Ford Administration, the United States ran its first deficits in the balance of trade since the Great Depression. Imports have exceeded exports in three out of the past five years and 1976 is expected to be another deficit year.

1. In 1971 the United States experienced its first annual deficit ($2.2 bill'on) in the balance of trade since the Great Depression. Deficits of $6.4 billion in 1972 and $5.2 billion in 1974 have followed. Imports are running ahead of exports again this year.

2. The overall eight-year record of the Nixon-Ford Administration will show a net deficit in our balance of trade.

3. We ran a trade surplus averaging $4.5 billion per year under Presidents Kennedy and Johnson.

## TRIBUTES TO SENATOR PAUL FANNIN

Mr. STENNIS. Mr. President, I have enjoyed a close association with Senator PAUL FANNIN of Arizona over the 12 years he has served here in the Senate. We have stood together on many issues. He is solid in his judgments and a dependable colleague who always puts his work and his public obligations first.

PAUL FANNIN came to the Senate after a successful business career and after three terms as Governor of Arizona. From these experiences he brought much valuable knowledge of the problems of the arid west to the Interior Committee, where he serves as the ranking minority member, and to the Finance Committee, where his business acumen and respect for the free enterprise system have always contributed to sound legislation. His realistic views on tax policies have been very helpful to the Senate.

As well as being a proponent and defender of the free enterprise system, PAUL FANNIN is an advocate of minimizing the intrusion of big government into the daily lives of our citizens, a view I strongly share. He is a strong and effective ally in these discussions and debates.

In his work on the Interior Committee Senator FANNIN has been a leader in the formulation of energy policy, and in the years to come the Nation will benefit from his forethought and hard work in this field. He has been particularly effective as an advocate of solar energy development, and if Arizona is one day the leading State in that field it will be because of his efforts.

With 12 years experience as Governor, PAUL FANNIN has an intimate knowledge of the problems in his State and of its people. He has done a magnificent job of serving their best interests here, and the people are losing a dedicated public servant. We here in the Senate will miss his sound judgment and counsel. We will miss him as a friend also, and his lovely wife Elma as well. Mrs. Stennis joins me in extending to them every good wish for the coming years.

Mr. CURTIS. Mr. President, I do not know what I am going to do without PAUL FANNIN. He has been my strong arm of support all these years on the Committee on Finance. If ever there was a solid, dependable, dedicated man, it is PAUL FANNIN.

PAUL FANNIN is the most competent, dependable champion of free enterprise, individual liberty and the American way that I know of. He does not make noises; he performs. PAUL FANNIN's great intelligence and his wide experience in business and public life makes him invaluable as a U.S. Senator. We can add to that his wonderful characteristics of honesty, intelligence, stick-to-itiveness, and his willingness to stay on the job until the task is finished.

Mr. President, there will be millions of Americans in the years that lie ahead who will benefit from the wise and far-reaching decisions which have been made in our generation. They will owe their blessings in no small measure to that pillar of the Republic, PAUL FANNIN.

I hate to see PAUL go. He won't be replaced. Mildred joins me in congratulating him on an outstanding record of public service and we wish him and his lovely wife Elma many, many years of health and happiness and prosperity.

## TRIBUTES TO SENATOR JOHN PASTORE

Mr. CURTIS. Mr. President, much will be said about the very lovable JOHN PASTORE. If I make too long a speech, I will be repeating what others have said so I shall not do that.

I want to say that I will miss Senator PASTORE. I will miss his good advice to the Senate on getting on with the business. I like to listen to a speaker who can be heard. JOHN PASTORE knows what he is talking about. He speaks clearly and loudly and he makes his point.

More than that, I have had occasion to know something about JOHN PASTORE the man. He is kindly and compassionate. He has a deep concern for others and he takes time to show it.

I wish for JOHN and his loved ones the very best of health and happiness and prosperity for many years to come.

Mr. BROOKE. Mr. President, I wish to join my colleagues in paying tribute to my friend, JOHN PASTORE. For 26 years in the Senate, JOHN has been a voice for integrity, equality, and commonsense. In this Chamber his singular eloquence has forced the 99 other individuals to listen and to listen closely. Often JOHN's words were both persuasive and decisive. He made his point with wit and verve and dynamism. He will surely be missed.

When one seeks information about a Member of the Congress, it is logical to look in the Congressional Directory. With typical modesty, JOHN PASTORE's biography is one of the shortest. But that succinct biography gives no indication of the illustrious and meaningful legislative accomplishments of the senior Senator from Rhode Island. As a member of the Joint Committee on Atomic Energy, JOHN has worked long and hard to develop a sane nuclear policy for this Nation and for the world. His own resolution led to the Nuclear Proliferation Treaty. And many will long remember the great floor debate which led to its ratification. He also led the floor fight to ratify the Nuclear Test Ban Treaty and as a delegate to the United Nations helped draft the resolution which established the International Atomic Energy Agency.

As chairman of the Commerce Committee's Subcommittee on Communications since 1955, he has been responsible for most of the major legislation which has influenced the growth and development not only of radio and television broadcasting but also of interspace telecommunications and satellite communications, public broadcasting and common carriers. And he has carried his role of advocate for a strong communications network into the Appropriations Committee where among other things he fought for funding to insure a vital, provocative, and protected public broadcasting system.

And I remember with great warmth the role which Senator PASTORE played in many of the key civil rights battles of the 1960's. JOHN PASTORE put his principles into action, fighting side by side with those of us who believe that inequality and injustice must be eradicated in this society before we are all truly free. I am certain that many of those battles would not have been won but for his clarity of vision and for his ability to share that vision with us through his speeches, through his arguments, and through his persuasive discussions with many Members of this Chamber.

JOHN PASTORE will be missed as an ally and as an advocate, but he can surely enjoy his well-earned rest in Rhode Island. For he, more than most, will leave a living monument to his articulate, vital presence in the Senate. He will be missed but we and the Nation are richer for the 26 years that he spent in the Senate of the United States.

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## SENATOR PASTORE AND HIS ROLE IN THE BATTLE AGAINST TELEVISION VIOLENCE

Mr. MAGNUSON. Mr. President, the retirement of Senator JOHN O. PASTORE of Rhode Island creates a void in the U.S. Senate which cannot be filled. We will miss his strength, intelligence, and spirit which has sustained all of us through his long years of service in the Senate. No one will be able to fill his shoes. Nevertheless, we must all learn to accept his decision to leave us. Now we must face up to the job of continuing his work in protecting the public's interest.

There is one particular area where Senator PASTORE has played a dominant role which I would like to address today. He has individually been the leading force in focusing the Nation's attention on the problems of gratuitous violence on television. In March of 1969, a major milestone in television programing occurred when Senator PASTORE wrote a most important letter. He told then Secretary of the Department of Health, Education, and Welfare, Robert H. Finch, that there was an obvious lack of research into the issue of possible connections between antisocial behavior and television violence. That correspondence led directly to the study conducted by a committee appointed by the U.S. Surgeon General. The Surgeon General's committee filed its report on January 19, 1972. Its basic conclusion was that—

> The causal relationship between televised violence and anti-social behavior is sufficient to warrant appropriate and immediate remedial action.

Over the years, Senator PASTORE has continued his efforts to focus the Nation's attention on the problem of gratuitous televised violence. So today there is a growing consensus that gratuitous violence on television is no longer an acceptable norm. The last few years have seen credible moves both inside and outside the television industry to find some alternatives to the historical television programing patterns which have led to excessive violence on the Nation's airwaves.

The retirement of Senator PASTORE does not signal the end of Senatorial interest in this problem. As chairman of the Senate Commerce Committee, I assure my colleagues and the Nation that the committee will stay actively involved in monitoring the progress of academic research on the effects of televised violence and the self-regulatory efforts of the industry and its advertisers to correct the problem internally. We will continue to offer a public forum to review industry efforts. As Senator PASTORE has taught us, "Our role is that of a watchdog: We can bark but we cannot bite." The Congress of the United States cannot infringe broadcasters' first amendment rights or assert governmental control of programing content. On the other hand, the Congress, and particularly the Senate Commerce Committee and its Communications Subcommittee, can continue to offer a forum and focus for the facts, for public opinion and for industry responses to these facts and opinions.

On December 18, 1975, I made a statement on the floor of the Senate regarding television violence. In that statement, I summarized the state of the sociological and psychological research as to the effects of television violence on children. It was not my purpose in December and it is not my purpose now to engage in a debate with the television industry or other persons about the accuracy of the findings of the research on television violence. Any reasonable person would have to conclude that there is substantial evidence currently available to support these conclusions. The risks of continuing historical patterns are several. It is precisely these risks which led the board of trustees of the American Medical Association, AMA, at its meeting of May 11–15, 1976 to authorize:

First. Appointment of an ad hoc AMA committee to evaluate new TV research;

Second. Publication of a booklet to be made available to patients by physicians emphasizing parental responsibility for children's TV viewing;

Third. Exploration with the National Association of Broadcasters, NAB, of the possibility of convening periodic joint AMA–NAB conferences on the impact of TV on children.

The AMA Board of Trustees went on to recommend that the AMA should support full funding of research by the National Institute of Mental Health on the influence of television, encourage physicians to emphasize to parents their responsibility in taking an interest in children's viewing habits, and urging television networks and individual stations to utilize violence indexes as they are developed.

This response by the medical establishment is most encouraging. Doctors know better than anyone that maturation is a long, hard course for every human being. Children are trying to get in touch with reality. Their perception of fantasy and reality is indistinct. They are trying hard to understand their emotions and their feelings. They are trying hard to relate to and understand the world into which they are thrust. Children are complete human beings who have not yet acquired all of the tools of survival. Television can help teach children of their world or it can further distort their fantasies and perceptions. While it is important not to overstate the influence of television on children, all the decisionmakers involved in television programming must recognize that their programs do have an effect on their viewing audiences. They cannot wash their hands of responsibility for their decisions.

Different people have different ideas about television programing in the United States. I personally think that there is a lot of good programing nowadays. I certainly think programing has steadily improved over the years. But I also recognize that commercial television is a business. It is organized and designed to make profits. It does that very effectively. Advertisers today see television as the best selling tool that has ever been created by the hand of man. So advertisers clamor for the available space on television and pay dearly for that space when they can get it. In return, the television industry attempts to deliver as many viewers as possible to receive the advertiser's message. The vehicle for viewer acquisition is programing.

It is not surprising that there is great pressure within the television community to produce programs that attract and hold viewer attention as inexpensively as possible. There is great pressure to hold down program production costs of commercial television. Too often, gratuitous violence is used to solve both problems. A large number of violent actions isolated from realistic portrayals of the consequences of those actions on human relationships can be a cheap programing vehicle. It is cheaper and more profitable to run shows that are low on dramatic content, high on physical action, and present stereotyped cliches. But this kind of violent portrayal degrades the viewer and the industry. This kind of violence is economically cheap but socially expensive.

The child viewer trying to get in touch with reality is a victim when subjected to this type of programing decision which has its eye only on the bottom line profit figure. To suggest that television, the most persuasive tool available to advertisers for sophisticated and mature human beings, is not affecting children who do not have the experience to distinguish truth from falsehood or exaggeration from understatement is ludicrous. In the words of one researcher—

> It is not a healthy environment if your outer world corroborates all of the worst and most fearful parts of your inner world.

Reinforcement of the child's inner fears, doubts and confusions mixed with simplistic solutions to complex human problems is the devastating effect of gratuitous violence on television.

In the months ahead, the Senate Commerce Committee will seriously review the efforts of the broadcast industry, of professional organizations such as the American Medical Association, the National Education Association, the National Congress of Parents and Teachers, and groups of child psychiatrists and pediatricians, as well as of citizen action groups to offer constructive solutions to the problem of gratuitous violence on television. The committee will be reviewing the industry's self-regulation efforts, the direction of current and future research on the effects of television on children. It will provide a forum for discussion of the shared responsibility among viewers, families, programers, and researchers.

Senator PASTORE has shown us the way. Now it is our duty to carry on.

Mr. President, I request unanimous consent that the full report of the board of trustees of the American Medical Association and an article from the Television Digest of August 23, 1976, be printed in the RECORD. The TV Digest article summarizes the current 2-year program of the National Congress of Parents and Teachers designed to contribute to the reduction of gratuitous television violence.

There being no objection, the report and article was ordered to be printed in the RECORD, as follows:

### REPORT OF THE BOARD OF TRUSTEES: TELEVISION VIOLENCE

(By Raymond T. Holden, M.D.)

Since the publication of a special communication in JAMA on December 8, 1975 by Michael B. Rothenberg, M.D., on "Effect of Television Violence on Children and Youth," there has been considerable discussion concerning medicine's appropriate role in this problem area.

Television violence is a complex problem. It requires the concerted attention and effort of a variety of individuals and groups, including the medical and other professions, parents and parent surrogates, all segments of the broadcasting industry and the Federal Government.

These forces, working together and understanding each other's roles, can make progress in identifying and curtailing the use of more harmful types of TV violence, in discouraging the viewing of violence especially by those most susceptible, and in promoting the development of wholesome and positive programming for children.

In his article Dr. Rothenberg declared that the content of TV programming for children is far more violent than it is for adults, and he called upon organized medicine to sound a cry of protest and to make specific recommendations "for new kinds of television programming for children and youth."

Subsequently a group of consultants, after reviewing the Rothenberg article and other pertinent material, concluded that there are legitimate reasons for medicine to express concern and take affirmative action, even though they found a wide divergence of opinion among investigators on the significance of the effects of violence portrayals.

Based on this report, the Board of Trustees at its meeting May 11–15, 1976, authorized:

(1) Appointment of an ad hoc committee to evaluate new research in this field and to recommend ways in which the medical profession and others can appropriately respond to findings which appear to be valid.

(2) Publication of a booklet, to be made available to physicians for distribution to patients, that would emphasize parental responsibility for children's viewing and indicate what parents should look for in terms of suitable children's programming.

(3) Exploration with the National Association of Broadcasters of the possibility of convening periodic joint AMA–NAB conferences on the impact of TV on children. Such conferences would assess the current status of children's programming, identify problem areas and arrive at mutally acceptable recommendations for improvement.

The Board also recommends that the AMA:

(1) Support full funding of research by the National Institute of Mental Health on the influence of television. Funding should include the training of manpower in all appropriate disciplines to perform high quality investigations. Priority should be given to objective and applicable measurements of television violence and its effects, and to the elucidation of how and to what extent various types and degrees of television violence affect children adversely.

(2) Encourage physicians to emphasize to parents their responsibility in taking an interest in their children's viewing habits and in helping them be selective. Such admonition may be given by physicians in their direct contact with patients; in public appearances, including those on radio and TV shows; and in dealings with community organizations, including school boards. Appropriate channels for conveying this type of information to prospective parents are courses in parenting which are being incorporated in some high school curricula.

(3) Urge television networks and independent stations, in deciding on program content and scheduling, to utilize indices of violence as they are developed. The Federal Communications Commission also should be requested to use such indices, or their methodology, to identify trends in portrayal of violence, as well as to measure the violence content of individual programs. Such indices are now being developed by George Gerbner, dean of the Annenberg School of Communication at the University of Pennsylvania, and by the Social Science Research Council. Both are receiving support from the National Institute of Mental Health. Until indices are perfected, television networks and stations should be urged to use a designation such as "parental guidance suggested" on all programs which contain episodes of violence that may have an adverse effect on some children.

In communicating these suggestions to the television industry, the AMA should acknowledge the sincere efforts which have been made by several segments of the industry to reduce violence and improve programming for children.

Fiscal Note: $1,500, ad hoc committee; $10,000, joint conference; $12,000, publication of booklet (these funds are expected to be recouped through the sale of the booklet).

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[From Television Digest, vol. 16, No. 34]

### PTA ANTI-VIOLENCE PLAN

National Congress of Parents & Teachers (PTA) will unveil in next week or 2 a year-long program designed to pressure broadcasters into reducing TV violence. Organization has 6,200,000 members in 33,364 units, and program contemplates enlisting members in program monitoring, letter-writing, possible boycotts, legal actions and personal visits to government officials, stations, networks and sponsors.

Project has 3 phases: (1) Leadership seminar beginning Sept. 27, with briefing by researchers, industry representatives, advertisers, etc., and selection of 9-member PTA commission to direct rest of project. (2) Public hearings in each of PTA's 8 regions—Pittsburgh Nov. 30, Chicago Jan. 11, Atlanta Jan. 18, Minneapolis Jan. 25, Dallas Feb. 1, Portland, Ore. Feb. 8, Boston Feb. 15, L.A. Feb. 22. (3) Development of action plan, training program and instructional materials.

Though plan hasn't been finalized, among possibilities being considered are: "Training parents to monitor children's TV viewing—with their judgments to be compiled for publication on local or national level; formal program-rating system offered for publication in newspaper & magazine program schedules; local and national boycotts of programs and sponsors' products; individual and group visits to stations, networks, sponsors & govt. officials, and letter-writing campaigns. Project's organizers also contemplate license challenges, formal complaints to FCC, litigation against stations charging that programs harm children's health.

"It is going to be a whole new ballgame," according to Project Dir. William Young, pres. of Urban Dynamics, educational consulting firm, Oak Park, Ill. "The training sessions, especially, involving the PTA's over-32,000 organized local units, will make a significant impact. We're going to educate the parents in all the possible legal and social remedies available to them in our society." Young, who designed project at request of National PTA Pres. Carol Kimmel, told us he also has "a personal interest" in project: "I believe because of the evidence I have seen that TV is having a negative impact on children. I've seen a lot of reports, but nobody is really doing anything." Young formerly was Chicago State U. dean of education, and he produced several Chicago radio & TV education programs.

Kimmel has been communicating by letter with networks and NAB TV Code Authority since end of 1975, following adoption by National PTA at 1975 convention of resolution demanding reduction in TV violence. In response, networks described their efforts, outlined research programs, explained family viewing concept. CBS asked Kimmel to meet with network excs. to discuss matter. NBC urged parental control of children's viewing. ABC explained how network's research findings taught how to mold portrayals of violence "to emphasize justice . . . and the maintenance of order." Following exchanges of letters, Kimmel wrote PTA board of managers that she had concluded project was needed because, "although the networks regret our unhappiness with their programs, they feel that they are obeying the rules in TV programming, and that nothing is going to change soon." PTA doesn't consider family hour concept "a sufficient response because children are watching TV all the time," Young explained. "It's not even a palliative."

Cost of project for year is estimated at $111,300. Chicago Mayor Richard Daley has promised to raise $50,000 from his own sources—not city money. Kraftco has pledged $5,000, McDonald's $3,500, International Minerals & Chemical $1,000, Chicago Bridge & Iron Foundation $250. What happens at end of year "depends upon whether the recommendations—if implemented—can ultimately effect positive changes in programming, be feasibly supported by the National PTA, meet the needs of PTA membership, and concur with the PTA's philosophy and goals," according to PR Dir. Sandra Fink.

## TRIBUTE TO THE HONORABLE ROBERT G. STEPHENS

Mr. NUNN. Mr. President, the 10th District of Georgia is losing a great friend and able representative this year with the retirement of Congressman Robert G. Stephens from the Congress. My good friend, Bob Stephens, having served with distinction for 16 years in the House of Representatives, is returning to his native Athens, Ga.

Bob Stephens has many friends in Athens and at the University of Georgia, and I am sure they look forward to his returning home. They will find, as most of us are painfully aware, that Bob is still the best spinner of yarns in the U.S. Congress.

Around Washington, Bob's beautiful wife, Grace, is known as "Amazing Grace" not only because of her amazing intelligence and beauty but also because of her amazing patience in listening to Bob's stories and laughing most of the time.

It was with great surprise and regret that all of us learned earlier this year of Bob's plans for retirement at the end of the 94th Congress. Though saddened by the news, nevertheless, I take great satisfaction in expressing deep admiration for his years of service to his country and the people of his district.

The record of Bob's eight victories is a good indication of the high esteem in which he is held by his constituents in the 10th Congressional District. He beat his Democratic opponents with 60, 80, and 84 percent margins on three occasions; he beat two Republicans with 66 and 65 percent of the votes cast on two occasions; and he ran unopposed on three other occasions. In that first race 16 years ago, Bob spent only $8,000 in beating seven other opponents by a nearly 4 to 1 margin. In fact, Randolph Holder in Athens told me they had enough money left over to buy time on all radio stations in the district asking friends and supporters to take down his campaign posters. Now, that is what I call an efficient campaign.

He is a formidable opponent, both in the district campaigning and on the floor of the House battling for housing or banking legislation.

From his position as sixth ranking member of the Banking and Currency Committee, Bob has shepherded much extremely important legislation through the House of Representatives. Major portions of the Rent Supplements Act of 1968, the Community Development Act of 1974, and the Real Estate Cost Settlement Act of 1975 are directly attributable to Bob Stephens.

An effective spokesman for rural Americans, Bob Stephens has earned the affectionate title, "Father of Rural Housing." He has been the principal sponsor of all farmers' home legislation in the House for the past 10 years.

It is a mark of his colleagues' confidence in his ability that Bob was appointed in 1973 by Speaker Carl Albert to a special blue ribbon committee which was charged with recommending to the House reforms in committee jurisdiction and House rules.

His patient, understanding nature, his inquisitive mind, and his sense of fair play, have made him many friends on both sides of the aisle.

Bob's quiet demeanor belies his legislative influence. I talked with some of his colleagues recently to get a sampling of what they think of Bob Stephens.

One said:

> He has a Ben Franklin capacity for coming in at the critical moment and knowing exactly what to say.

Another said:

> Bob provides a catalytic element in floor debate. He has an innate ability to separate the wheat from the chaff, summarizing the principal arguments and applying sound logic to the problem at hand.

And the House majority leader, Thomas O'Neill said:

> Bob's influence can often mean the difference between victory and defeat on many closely contested votes.

Speaker Carl Albert told me recently:

> Bob Stephens is one of the most learned, intelligent and decent men with whom I have served in Congress. Bob possesses an extraordinary knowledge of government. His outstanding Congressional career adds lustre to the eminence of his great-great uncle, Alexander Stephens who represented Bob's district for 26 years.

When Bob came to Congress, my great-uncle Carl Vinson remarked:

> Bob Stephens is the first freshman legislator I have seen who could read a piece of legislation and understand what is in it.

Although Bob is leaving the House of Representatives at the conclusion of this Congress, I know that he is a long way from "retirement" in the traditional sense of that word. There is no doubt in my mind that Bob Stephens will continue to contribute to the people of his district and our State for many years to come.

Mr. President, I would like to extend to Bob and Grace my best wishes for many years of health and happiness back in the red hills of North Georgia.

## GETTING A HANDLE ON DAY CARE

Mr. BROCK. Mr. President, ever so often there arises a situation which meets with unquestioning acceptance by many people, but which may have unintended and unanticipated negative consequences. Day care may fit into this category. Day care is proposed by some as a "pro-family" policy, but a good case can be made that it is just the opposite. Instead of child-rearing being taken as a parental responsibility, it is left to a third party; instead of relying on family and friends for help, people are encouraged to rely on anonymous governmental bureaucracies.

The Department of Health, Education, and Welfare is conducting a major series of studies to investigate these questions on day care. Some preliminary results and hypotheses that are emerging from these studies suggest that a more cautious, less dogmatic approach to day care is warranted. Child/staff ratios appear to have a more complex relationship to child well-being than is often assumed.

In addition, parents appear to prefer day care that is most similar to their own home situations and steer away from large day care centers of the type that many of the self-appointed experts propose as the standard. There is an hypothesis that child care in homes offers more stimulation and models for young children than do day care centers which have only one purpose and that are staffed by adults who have child care as their single role. Finally, the research suggests that superior day care for children from disadvantaged situations may be as good or better than the care they receive at home, but there is little evidence about the effects on children from average homes.

All of the foregoing is not to say there is never a need for day care. Rather, there is a need to demonstrate that its value may have been overstated. Certainly, there are situations where day care is an economic, if not social, necessity. The number of female heads of households is increasing. These women are not paid equally with men, and they truly need assistance. Statistics show that female heads of households have lower-median incomes than male heads of households or two parent families. The former groups experience poverty more frequently.

The justification for governmental assistance for day care is different for middle- and upper-income families. In these instances, the use of day care is more a matter of choice—to give both parents the opportunity to work or to improve their living standards—than necessity. When the Government subsidizes day care, actually all citizens must share in the cost, including those who choose not to use it. This is a transfer payment from the taxpayers who do not use the day care center to those parents who use day care. This does not seem to be a consistent, rational policy.

In an article entitled, "Getting a Handle on Day Care," B. Bruce-Briggs has challenged this uncritical and complacent attitude toward day care. The good intentions of the day care advocates do not guarantee that their cause is good for all. This article shows that there is more than one side to the day care issue. Those of us who consider ourselves pro-family have long been concerned that the unquestioning advocacy of day care may lead to a breakdown in family structure and inadequate child development.

Therefore, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Sept. 27, 1976]

### Getting a Handle on Day Care

(By B. Bruce-Briggs)

Chastened by the experience of welfare, Medicare, food stamps and education, perhaps it is appropriate to speculate on what will be the next fiscal disaster created by an open-ended, unmonitored, runaway government program. The federally funded day care program deserves consideration as a likely candidate.

Day care sounds like an unexceptionable idea. Millions of poorer women, particularly welfare mothers, cannot work because they are responsible for pre-school age children. It makes sense to provide day care for their children so they can get out into the labor force and not be a burden on the public. Even a subsidy for day care sounds sensible; it can't cost much to take care of little children, can it?

Well, New York State thinks New York City is paying a bit too much for day care, and the state welfare administration has proudly announced that the city must cut its average per week day care cost from $75 to $65 per child. Fine, except that $65 per week adds up to about $3,250 per year per child. That might seem a trifle expensive to get a woman off the welfare rolls and back to work, especially if she has more than one pre-school age child. For comparison, the best nursery schools in Manhattan, which care for the children of the very rich, charge the equivalent of $75 per week.

Now, New York City's social services spending is a little peculiar. The strangely expensive leases of day care centers have been widely publicized, and one hears rumors of "no show jobs" and luncheon groceries leaving the centers in car trunks instead of children's tummies. So let us look elsewhere. In New York State outside the city, the payout for day care is only $40 per week or about $2,000 per year per child.

It is impossible to accurately estimate the national average day care costs, largely because they are scattered among many agencies and programs. Data published by the Senate Finance Committee in 1974 suggest that about $1.3 billion is the total public bill for day care. These figures have been challenged as underestimating the total tab. I have heard estimates as high as $6 billion.

Nonetheless, from the finance committee data it looks as if federally aided day care centers cost about $1,000 per year per child; applying that figure to the eligible pre-school age population runs the total cost of day care up to $7 billion, of which three-quarters would be paid by the feds.

However, this is for day care that does not meet current federal standards. The lowest figure I have heard for "adequate" day care is $1,600 per child per year, and "quality" day care as advocated by "child development" professionals costs at least $4,000 per year. Applying those figures to the eligible population pushes the bill up to $11 billion and $28 billion respectively.

#### ZOOMING COSTS

Recently the Congress approved and the President signed a $240 million appropriation to bring day care centers up to federal standards. That would seem trivial within the context of day care funding potential. But that would not exhaust the taxpayer's burden. Provisions in the federal income tax allowing deductions for day care are already denying the Treasury $300 million per year according to Ways and Means Committee estimates and are projected to escalate to $615 million by fiscal year 1981. Tax reform provisions now under consideration by the Congress would raise these figures considerably.

Perhaps that seems like a lot of money for welfare mothers. Not so. The federal eligibility standards provide for a full subsidy for families making up to 80% of state median family income—about $10,000 nationally as of 1973. And partial subsidies can be paid to families with incomes up to 115% of median family income. New York City families making $16,000 can be paid $25 a week. In other words, the majority of families and children are eligible for federal day care subsidies. Fortunately, most states only support less prosperous parents—so far.

Obviously these income levels are not intended for welfare mothers. Indeed, the mystery number in day care is how many former welfare recipients are receiving this service. Probably very few, which is just as well. It cannot be a good investment to pay up to $4,000 per child to put a women to work for $5,000. Oddly, now being advocated is using the Work Incentive Program to force welfare mothers to work in day care centers—in other words, to be paid to take care of each others' children. This is all the more peculiar because the Aid to Families with Dependent Children program was intended to provide income so indigent women could be able to stay home to care for their own children. AFDC is expensive, but is cheap compared with "quality" day care, and at least it gives money directly to the poor rather than to "early childhood education specialists" and other "professionals."

The reason for these incredible day care costs does not seem to be ordinary corruption but government policy. Facilities are required to meet something called the Federal Interagency Day Care Requirements which establish some reasonable standards for structural safety, fire protection and the like, but also mandate staffing—one employe per child up to six weeks of age, one per four children six weeks to three years, and one per five children four to five years. Five years old is kindergarten age, and most kindergartens have 15–20 children. The swank nursery schools in New York have one teacher for 10 childern. The Federal staffing standards are held to be for the benefit of the children: skeptics might suspect they are for the benefit of the staff.

Suprisingly little attention has been paid to the fiscal implications of expansion of the day care program, but the surprise is less when we consider how little attention has been paid to any aspect of the program. Only now is serious work being done on the demand and availability of day care. There seems to be no evidence to back the "professionals'" claim that day care is better for child development than mother care.

Indeed, the most serious discussion of day care has been on the ideological level, as when President Nixon vetoed the child development bill of 1972 on the grounds that it was an attack on the American family. The day care issue is intimately intwined with women's liberation, the feminists maintaining that women should not be hindered in their careers by assigning the sex-determined roles in caring for and raising children; they advocate the states assume as much of that role as possible. It follows from this position that professional day care is as good or better than mother care. On the other side is the traditionalist position that a mother's primary responsibility is to her children and that only she can raise them properly.

Poll data indicate that the traditionalist position is far stronger among the American people, but the political record suggests that the feminist outlook is better organized. The federal expenditures and tax benefits for day care greatly favor the working mother. Since these taxes must be paid by the general public, they also fall on the families where the wife is at home with her children. This, in effect, establishes a tax on motherhood. I estimate that an average woman caring for her own children is paying an annual tax of $200 for the privilege. As the number of children in day care increases, the tax on the housewives will also.

And this is not all—currently advocated is day care for school-aged children during vacations and after school, also at potentially enormous costs. The Federal Interagency Day Care Requirements mandate staff ratios of one to 15 for children aged 6–10 and one to 20 for children 10–14. Most schools have more than 20 students per teacher and studies of educational performance show that staff-pupil ratios don't matter. For "adequate" or "quality" day care this could add roughly $10 billion–25 billion to the government day care bill.

To say the least, all this would appear to be unnecessary. With due respect to Milton Friedman, there is such a thing as a free day care center—the home. Mothers usually are highly motivated to take care of their children, despite the lack of economic incentives, and their labor is not tabulated in the national income accounts. Most women who have to, or prefer to, work avail themselves of the services of mothers, sisters, or other realtives.

#### STICKING TOGETHER

The amount of geographical mobility among Americans is grossly exaggerated; the great bulk of us live near our kin. And, according to the sociologists, black families have particularly strong female ties—downtrodden folk learn to stick together. Other working mothers make use of neighbor women who charge a modest fee for the service (which probably rarely appears in income tax returns).

And there is the independent sector. Most readers of this newspaper are bound to ask: If there is, as the day care lobby claims, such a great demand for day care, why isn't the private sector supplying the service? Part of the answer is that it is undercut by subsidized government competition, another is that state regulations limit entry and push up costs.

Nevertheless, private day care by profit-making and independent non-profit organizations is flourishing. Nursery schools are nothing new. Church-related organizations are finding that day care is a socially desirable utilization of their Sunday school facilities. Competent policy research on day care is beginning to emerge and it leads in the direction of showing that few women desire the sort of grandiose institutionalized service promoted by the day care establishment, prefering informal close-to-home facilities.

Capable research on day care preference and utilization is now appearing. Studies from the Stanford Research Institute, the Urban Institute, Abt Associates, the Brookings Institution, and other independent organizations challenge the policy positions of the day care establishment. Among other findings are that most women who need day care can find it for themselves and that private day care is as good as public day care at less cost.

Other findings are that public funds frequently have been used to assist upper middle class women who desire "interesting" work for "self-actualization" rather than the nonaffluent women exhibited in the rhetoric, and that intensive and expensive programs by "early childhood education professionals" has little if any lasting effect. The policy implication of this research is that the best that could be done for day care and for children in general is merely to raise the per child tax exemption and let parents decide how they wish their children cared for.

While researchers are challenging the "conventional wisdom" of day care, Congress is paying more attention to the day care lobbyists, who are formidably organized. Reading the testimony before Congress last year reminds one of bees buzzing around a honey pot. The day care advocates' claims of being able to mold children's minds if they can be grabbed young enough would be scary if they wern't so ludicrous. The principal political weakness of the day care lobby is an internal conflict among the educators, the social workers, and the poverty warriors.

#### SQUABBLING OVER THE PIE

A disturbing aspect of the issue of day care is that no one in government seems to have a handle on it. Rough estimates of costs had to be employed because no hard data are available. A major reason for the confusion is that day care is mixed in with other programs collectively labeled "child care" and "child development" which are scattered among dozens of agencies in several government departments, all squabbling for a piece of the pie, and apparently unmonitored except by sympathetic examiners.

It is possible that day care could flower as a political issue this year. The Republicans and conservatives have long been suspicious about its social impact (except on welfare mothers), while its principal supporters on Capitol Hill have been liberals like Walter Mondale who have accepted the line of the day care establishment. Mr. Mondale is on record as saying that child development is too important to be left "to chance," i.e., to the accident of parentage. In a recent speech Governor Carter offered "a national day care program" as part of "a strong pro-family policy."

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## REPORTS OF TURKISH MISSILE MOVEMENTS TOWARD THE GREEK AEGEAN ISLANDS

Mr. PELL. Mr. President, on September 15, during a hearing conducted by the Foreign Relations Committee on the proposed Defense Cooperation Agreement with Turkey, I stated to administration witnesses that—

> I am informed that missiles, originally supplied by the U.S. to Turkey for NATO defense purposes, have been moved by Turkish authorities from the Turkey-Soviet border to the Turkish coast opposite the Greek islands in the Aegean. I understand these missiles are the second generation Pershing type and have been installed in triangular shaped mounds, 45 to a side, behind hills at various points in the Turkish coast. Would you be kind enough to ascertain for the record whether or not this is correct or whether, in fact, any American supplied missiles have been so moved?

After checking with the Pentagon, Mr. Robert Ellsworth, the Deputy Secretary of Defense, responded orally that no Pershing missiles were in Turkey, that smaller Honest John missiles were in the possession of Turkish forces, but that the Department of Defense was unaware of any redeployments of these or any other missiles near the Greek Aegean Islands. I was not entirely satisfied with that response; so I sent Mr. Ellsworth a letter later that same day asking him to look into the matter further with particular reference to whether any redeployments of Turkish forces have taken place, whether or not they involve missiles, which could be threatening to Greece.

Mr. Ellsworth responded on September 22 and reiterated his earlier statement that the Department of Defense is aware of no evidence of redeployment of any missile or missile-equipped units in Turkey. Mr. Ellsworth also informed me that both Greece and Turkey have taken steps to strengthen their military positions in the Aegean area, but that these measures "appear to have been limited in scope."

The situation as it now stands is, therefore, that I have received reports that missiles have been moved to the Aegean coast by Turkey, and Department of Defense says that it is unaware of any such movements. Not having any further information of my own on this matter, I am not in a position to take issue with what the Department of Defense has said. It is my expectation, however, that the Department of Defense will watch this matter very closely and report promptly to the Congress any changes in the situation as stated in Mr. Ellsworth's letter to me of September 22.

Mr. President, in order that my colleagues in the Senate and the American public may be fully informed of the issue I have raised and of the Defense Department's views in response, I ask unanimous consent that the texts of the letters exchanged between myself and Mr. Ellsworth be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
*September 15, 1976.*

Hon. ROBERT ELLSWORTH,
*Deputy Secretary of Defense,*
*Department of Defense,*
*Washington, D.C.*

DEAR MR. SECRETARY: Although I was absent at the time, I wished to thank you for supplying a response during today's hearing to my question concerning missile redeployments in Turkey. I also appreciate your willingess to notify the Committee of any changes in the situation which may occur.

Since you took issue with the reports of missile redeployments which I had received, I wonder if you could look further into the matter to determine whether the Turkish armed forces have made any significant redeployments of units of whatever kind and/or major combat equipment supplied by the United States. It occurred to me that perhaps some other redeployments were misinterpreted as involving missiles but which, nevertheless, have significant implications.

I hope that you will be watching this situation very carefully and trust you share my concern that any Turkish redeployments near the Greek Aegean Islands could pose a threat to peace in that area.

With every good wish.

Ever sincerely,

CLAIBORNE PELL.

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WASHINGTON, D.C.,
*September 22, 1976.*

Hon. CLAIBORNE PELL,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR PELL: Thank you for your letter of September 15 concerning my recent testimony before the Foreign Relations Committee. I want to assure you that we share your concern over recent developments in the Aegean and the danger to the peace that these developments represent.

It is regrettably true that over what is now an extended period of time both Greece and Turkey have moved to strengthen their respective military positions in the general Aegean area. These moves have included the introduction by Greece of military equipment into the previously demilitarized Dodecanese Islands and the reported establishment of a new Aegean command by Turkey.

More recently, the two countries have taken certain additional precautionary measures to insure military readiness in the event of an incident. We are aware that a certain degree of military redeployment was involved in these measures but these appear to have been limited in scope. I would reiterate in this connection that we are aware of no evidence of redeployment of any missile or missile-equipped units in Turkey.

The recent Security Council resolution calling on Greece and Turkey to resume bilateral talks on their differences in the Aegean has contributed to some reduction in these recent tensions and hopefully will see a resumption of the talks that everyone agrees are essential. Unfortunately, however, tension remains sufficiently high as to cause such statements as that suggesting Turkey has shifted Pershing missiles or any other missiles to its Aegean coast to receive intense publicity in Greece and to deepen public suspicion there of both Turkish intentions and our role in Turkey. I know you will appreciate the harmful effects of this development, both to the outlook for progress in the Aegean and our own efforts to preserve and strengthen our important relationships with both Greece and Turkey.

Warmest personal regards,

Sincerely,

ROBERT ELLSWORTH.

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## THE U.S. ROLE IN INTERNATIONAL AFFAIRS

Mr. BROCK. Mr. President, throughout our history, the United States' role in international affairs has been the subject of controversy and heated debate. Inextricably linked to this area has been the question of what level of spending for national defense is adequate and proper. In a recent issue of New International Realities, these problems are discussed in concert and very cogently from two points of view. Dr. James R. Schlesinger writes of "The Changing U.S. Strategic Position and the New Weapons Technologies," and Neil J. McMullen discusses "Defense and Economics: the Longer Term Dilemma for American Policy."

Because of the vital interest inherent in the topics and the valuable insights offered here, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

## NEW INTERNATIONAL REALITIES—CURRENT WORLD TRENDS

### THE CHANGING U.S. STRATEGIC POSITION AND THE NEW WEAPONS TECHNOLOGIES

(From a talk by Dr. James R. Schlesinger to NPA's Committee on Changing International Realities, April 23, 1976 at Key Largo, Florida.)

In keeping with the focus of your Committee, my subject is the changing realities of America's strategic position and the implications of the new weapons technologies. But, I intend to start with a *continuing* international reality. It is fundamental. From a strategic standpoint—that is, in political-military terms—the world continues in large degree to be bipolar, however multipolar the international system may be becoming in other respects.

Some years ago, there was the suggestion that the world was becoming pentagonal—that China, Western Europe and Japan were going to become superpowers along side the Soviet Union and the United States. Nevertheless, there are at present only 2.2 superpowers, with China still only the 0.2. As China moved away from the Soviet Union, a very symptomatic development has been that it has felt that it needed the support of the other superpower to survive against Soviet pressure. To my mind, this symbolizes the continued domination of the world strategic scene by the United States and the Soviet Union.

From this continuing strategic bipolarity, a very simple moral can be drawn. It is that the rest of the non-Soviet world, if it is not to a large degree sustained by the United States, will sooner or later succumb to Soviet influence. I have in mind particularly the margins of the Eurasian continent which remain dependent upon us: Japan, Korea and Western Europe. At the same time, I want to stress that the Middle East is coming gradually to be much more within the shadow of Soviet military power and, by the end of the decade, it may fall within that shadow.

Thus, the United States has thrust upon it the unenviable responsibility of serving as a counterweight to Soviet power unless we are prepared ultimately to retreat into the North American continent—with all that is thereby implied. That is a continuing reality. We may find it unpleasant but we can not escape it. If we are to preserve a world which we find satisfying in the sense that other nations share to some degree our political style and the rudiments of our economic order, the United States inevitably will have to serve the role of counterweight and maintain a strategic equilibrium around the world.

Strategic stability depends on the retention of both a military and a political equilibrium, which requires continued American involvement.

### *The changing military position of the United States*

From the military standpoint, the changing international reality is that the United States has been shrinking in terms of its relative power, while the Soviet Union has been growing. The Soviet Union, of course, started from a relatively low base compared to the United States but it has been growing rapidly over the past decade. It has finally closed the gap in terms of strategic forces. So, the prior reliance of the United States and the Western world upon the inhibiting effects of nuclear superiority on Soviet policy has now waned—indeed, departed permanently. Therefore, we are face-to-face with the problem of Soviet conventional military capabilities in a way that we have not been before. In the past, we could offset our inferiority in conventional capabilities by our strategic superiority. Now, that offset is gone.

Today, the Soviets maintain 4.7 million men under arms. They have grown by a million in the last seven or eight years while we have dropped by a million and a half since fiscal year 1968. We are about 500,000 men lower than we were in the Eisenhower period, when we possessed a nuclear monopoly and advertised a doctrine of massive retaliation. Our navy has shrunk by half in the last decade—from 975 ships to about 475 ships—while during that period the Soviets have finally established a bluewater navy.

Excluding transfer payments (retired pay, etc.), the expenditures we make on our defense establishment today are somewhat less than 5 percent of the Gross National Product, even with a level of unemployment of 7½ percent and with our economy operating considerably below capacity level. A decade ago, we were spending 9.3 percent of GNP on defense. The United States is not going to remain a great power, the counterweight of the Soviet Union, if it is prepared to shrink defense down to 4 percent of GNP. We should recognize the implications of such an action. Undoubtedly, we could take money *temporarily* out of defense and survive. But, what we have been faced with over the past decade has been a steady search each year for ways to reduce the defense budget. And, the cumulative effect of those reductions has been to put us in a position in which we are now relatively much weaker.

In the long run, the United States will have to spend more on procurement because we are currently living off our investments in the Vietnam War. For example, we then acquired some 17 wings of tactical fighters and they will stay in the inventory until 1980 but, thereafter, they will have to be replaced. So, procurement will have to go up in the years ahead.

It should be pointed out, however, that comparisons of Soviet and U.S. military strength need to take vital differences into account. For example, the U.S. naval mission is entirely different from that of the Soviets. The Soviets designed their navy with no sustaining power at all. Their forces are intended to sink their opponents in a first strike. They have no reload capability for their missile ships. In contrast, we invest much more in our ships—reload capability, sustaining power, "long legs," and, finally, habitability for our naval personnel. The results is that the United States has much larger ships built at much higher costs, given their immediate offensive power. We can alter that, and I think we probably should. On tanks, however, I am not sure that the Soviets have gone in the right direction. While the United States has 4 or 5 thousand first-line tanks, the Soviet Union has an inventory of 40 thousand tanks. However, that gives a misleading impression of the relative position; our tanks are a great deal better and we should be taking credit for it. Increasingly in tank warfare, whoever gets in the first successful shot is going to win. Unless you are able to do so, the other fellow is going to get you. For that reason, we have invested in laser range-finders to improve our gunnery and we spend a lot of money on training that the Soviets do not. While the United States still has a considerable advantage in that respect, the Soviets are beginning to put laser range-finders in their tanks.

### *The changing political position of the United States*

The changing reality of the U.S. military position coincides with the changing reality of our international political position and the considerable uncertainty, both at home and among our allies, regarding America's future role in the world. As I indicated earlier, there is really no alternative to the United States serving as the counterweight to the Soviet Union. Yet, the aftermath of the Vietnam period has clearly created questions in the minds of a large portion of the American public whether indeed such a role is appropriate. In addition, one must recognize that Vietnam, followed by Watergate, caused widespread distress with regard to the efficacy—even the legitimacy—of government.

So, at the very moment that Soviet power is increasing we are in a difficult period. This represents a dramatic historic change. After World War II, the United States was the preeminent power in the world, and that fact was critical to the development of the kind of world in which we presently live. A change in the status of the United States would have a dramatic impact on the nature of worldwide economic and political relationships. The degree to which the present political style of the Western world and the relationships among nations have depended upon the prior period of American supremacy is frequently overlooked. Under the paramount power of the United States, a world economy was created—excluding the Soviet bloc—in which, because of the prevailing political security, investment flourished, trade expanded rapidly and there was an astonishing growth of the economies of the industrialized nations and of the world at large.

Those conditions have begun to change. One example of the changed position of the United States and its allies is that we now have a particular vulnerability resulting from our growing dependence upon external energy sources. The Middle East provides 25 percent of U.S. energy, 75 percent of Europe's and 85 percent of Japan's. This makes the entire industrialized world dependent upon continued access to those energy resources. This new dependence comes just at the time that the preeminence of American military protection is beginning to fade and to be questioned. Moreover, the Soviets are improving their mobility forces, including their potential access to the Persian Gulf. By the end of the decade, their mobility forces will be such that they will have the capacity to move into the Persian Gulf area. We would have to be prepared to make adjustments in our deployments and in force structure to deter them. I think it is significant that this area on which the entire industrialized world depends has become increasingly vulnerable.

Early in this century, the geopolitician Halford Makinder developed an intriguing formula: who controls the heartland controls the world island, who controls the world island controls the world. Today, there may be an interesting analogy: who controls the Persian Gulf controls the industrialized world. For, if the Soviets were ever to obtain control of the oil tap in the Middle East, the worldwide political balance would immediately change.

It is for this reason, among others, that the United States continues to have to serve as counterweight to the Soviet Union. Yet, the current situation is that of a United States significantly weakened not only in relative military power but, more importantly, in terms of political will. Moreover, even though we at home believe that we still have the political will, our reputation overseas has seriously declined. Our actions have succeeded only in terrifying our allies and dependents and delighting our potential foes. At the present time, visits to the West European countries—visits even to the Far East, which has been more stable than Western Europe—indicate deep concern about the purposes of American democracy. Europeans continue to recognize that their future, the political and economic style they can follow, depends upon American strength.

In the Third World, too, our position is deteriorating, which could have a major impact on our sources of supply and lines of communication. We here in North America, who have enjoyed security for so many years, do not fully appreciate that most nations of the world simply adjust their external politics to provide for their security because, unlike us, they cannot generate it internally. Most nations in the Third World will inevitably be looking for the winner. If the United States does not appear to be the winner, they will turn toward the Soviet Union as apparently the rising power.

The decline in the international prestige of the United States has the unfortunate aspect that it tends to be selfsustaining. Prior to the time that a nation's prestige has declined, the action it is forced to take may be quite limited. But, a decline in prestige tends to be rather like a stone rolling downhill: it gathers momentum and, consequently, the counteraction that must be taken to arrest that momentum may be greater than would have been required if the stone had never started to roll in the first place. That is why the world is likely to be shaky in the coming years unless the United States can reestablish a reasonable military and political equilibrium vis-a-vis the Soviet Union.

### *The new weapons technologies*

Will the new weapons technologies, which are now being developed and which will be deployed during the 1980s, redress the strategic balance for the United States? We in the Western world have typically sought to treat technology as a panacea—as a substitute for other things. But, if our political will is eroding, technology will not be a substitute. Technology will not be a substitute for an adequate force structure or adequate training or adequate military doctrine. Nonetheless, although technology is not a panacea, it does offer certain opportunities.

For one thing, new technical developments, notably in precision-guided munitions, offer us a prospect of being able to improve substantially our conventional capabilities. In that way, the United States can maintain a deterrent structure with a fairly high nuclear threshold without being unduly dependent upon nuclear threats, which some may not find credible. The problem with undue dependence on nuclear weapons is that one is forced to issue the kind of threats that may terrify more those one is protecting than those one is attempting to deter. For that reason, we must maintain a substantial conventional capability. The development of a new weaponry, new technologies, provides us with an advantage over the Soviets. The cruise missile, for example, could dramatically change conventional warfare by making it possible systematically to pluck out selected targets on the other side of a military line of engagement. In addition, precision-guided munitions will give the United States a qualitative edge in conventional equipment that may offset the existing quantitative advantages of the Warsaw Pact countries.

The greatest advantage, though, that we have drawn in the past from our technological capability has been that the Soviets have been relatively backward. But, we must now face the fact that this advantage, too, has been reduced as the Soviets have simultaneously increased their military power and improved their technological capabilities.

The United States, and especially its allies, must become more serious about maintaining an adequate defense structure and coherent military doctrine and tactics, and must not rely simply on technological research and development. Hitherto, our NATO allies have placed their confidence in U.S. nuclear strength and were not sufficiently interested in their own military forces—that is, in defense structure, training and doctrine. In consequence, NATO got into bad habits, spending most of its time worrying about what share of the production of which particular weapons system each member would produce. The Europeans allowed their forces to deteriorate as draft terms were cut. A country with a nine-month draft term in effect has military forces that are virtually untrained. Regardless of what equipment they may have, such forces are not capable of standing up to an opponent like the Soviet Union. With regard to strategy, an effective conventional capability requires an intermeshing between force structure and strategy. Tactics, too, need to be continually adjusted: the Middle East War of 1973 provides a splendid example of what happens when tactics are not undergoing the necessary adjustment. Battles, particularly on land, are won not so much by superiority of equipment as by well-trained forces that are properly indoctrinated and have reasonably good tactics. In 1973, as previously, the Israelis fought with inferior equipment on the ground, if not in the air, and they were certainly numerically inferior. But, what they did in 1973 was to take as axiomatic that the splendid tactics of 1967 were a solution to their problems for all eternity. They were not. And, as a result, when they encountered the complexities introduced by antitank and surface-to-air missiles, they discovered that the shock weapons they had been counting on—the tank and the plane—would not bring them victory. They did adjust their tactics very quickly. But, NATO may not have time to do so after hostilities commence. Thus, even in peacetime, there must be continued adjustment of tactics to the Changing mix of weapons system.

The continuing changes in defense structures and in military doctrine and tactics that will have to be made in coming years will be expensive. The preferred alternative quite obviously would be to limit the armaments *on both sides* in such a way as to provide military stability as well as military balance. In the strategic nuclear area, some limitation with a military balance has been achieved by the SALT agreements. But, it has not provided stability because of the growth of the offensive capabilities on both sides. Ideally, both sides should recognize their interest in military balance, in strategic stability. Unfortunately, the Soviets have never thought in those terms. They have looked at arms control agreements as an opportunity for political gain. To some extent, this has been reflected in SALT, but it has most notably been evident, I think, in the Vienna discussions on mutual balanced force reduction in Europe. The first Soviet objective in those discussions is to get control of the Bundeswehr; the second is to prevent any movement within Europe toward a unified military establishment. To attain these objectives, they are prepared to throw out some bait to the United States to reduce its own forces on a unilateral basis. In essence, the Soviets regard arms limitation discussions not for the purpose of establishing stability but for the purpose of obtaining advantages for themselves.

This Soviet viewpoint should not surprise us. If the Soviets shared with us the desire to live in a *stable* world, we would not have the kinds of competitiveness and disagreements with them that we experience. Instead, the Soviets continue to believe—as they so regularly state—that detente requires the *intensification of the ideological struggle*. At the recent Party Congress, Brezhnev reiterated that detente does not repeal the laws of class struggle. The Soviet Union states that it has an obligation to support wars of national liberation in the Middle East, Africa and Latin America, and it seeks to penetrate into Western Europe. Some years ago we thought that detente might mean that the Soviets had become a *status quo* power. The Soviet Union is not a *statu quo* power and that is regrettable. Until such time as the Soviets are prepared to acquiesce in the *status quo*, arms control agreements can achieve only a limited—though useful—result. Until then, the risks of failing to respond to Soviet military developments are greater than the risks of competing with them.

### PROGNOSIS—DEFENSE AND ECONOMICS: THE LONGER TERM DILEMMA FOR AMERICAN POLICY

Throughout history, the advancement of economic and cultural life has required the effective provision of protection, justice and order both within and among societies. Without a minimum level of these services, civilizations tend to decline, markets contract, societies devolve, and most individuals are forced to focus on survival at a subsistence level. When protection and justice services can be amply provided, civilizations thrive, living standards improve and culture tends to flourish.

The Greek and Roman experiences are examples of the rise of economic and cultural systems and the expansion of civilizations. Periods of decline, such as the 5th-9th centuries in Western Europe, are generally marked by the breakdown of protection, justice and order, and the concomitant contraction of the society economically, culturally and physically. In the modern era, the period of the *Pax Britannica*, during most of the 19th century and beyond to 1914, saw the United Kingdom as the leading guarantor of order throughout much of the world. This contributed to an unprecedented expansion of worldwide economic activity and introduced all corners of the globe to Western technology and culture. From 1914 to 1945, there was inadequate provision of international stabilization services and the period was marked by declining international economic activity and the fragmentation, disruption and partial breakdown of Western society. Since 1945, the United States has been the main supplier of protection, justice and order in the world. This has permitted a broad economic expansion in excess of anything previously experienced, as well as the extension of the best and worst of the American experience to the far reaches of the globe.

The curent dilemma of American foreign policy is that the United States bears a disproportionately large share of the costs of providing stabilization services, including the disapprobation of many of the beneficiaries, and receives a disproportionately small share of the benefits. In the past, nearly all guarantors of protection, justice and order have been able to meet costs by extending their effective tax base to cover most of those encompassed within the system. This option is not open to the United States and, as a result, Americans seem to be faced with two unattractive alternatives: should defense expenditures be reduced to a level that will inevitably undermine American security, or should the United States continue to subsidize the security and well-being of others by providing protection, justice and order for an increasingly ungrateful world. There is no satisfactory solution to this dilemma, but a better understanding of the American position can only help in confronting the problem.

### *Protection, justice and order*

Recent studies in economic history working toward a theory of institutional change have isolated recurring patterns in the history of the rise and decline of political-economic units.[1] Based on this work, three propositions relating to the maintenance of the stability necessary for cultural and economic progress have been advanced.

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[1] For example, see Douglas C. North and Robert Paul Thomas, *The Rise of the Western World: A New Economic History* (Cambridge, Eng.: Cambridge University Press, 1973).

(1) The initial growth of an economy and expansion of a civilization may in an important way be a consequence of the effective provision of protection and justice which shows up as a productivity gain in the production of goods and services.

(2) The retardation of a country's growth may be explained at least partially by the full realization of all the economies of scale in producing protection and justice. This means that further gains in productivity now must be generated by the goods and services sector alone.

(3) The stagnation and decline of a system results from a rise in the costs of providing any given quantity of protection and justice. This leads to a search for new sources of fiscal revenues with adverse consequences for efficiency in the goods and services sector so that declining productivity occurs in that sector as well.

It should be noted that the type of justice we are discussing is primarily a legalistic concept involving the enforcement of contract law, the recognition of property rights and the discouragement of violence as a basis for the settlement of disputes between individuals. The idea of distributional justice, of equity in income shares, is incorporated only indirectly as contractual justice may tend to distribute income on the basis of economic skills in addition to political and martial skills. The use of the terms protection and order along with justice reinforces the idea of violence being monopolized by the sovereign and economic disputes being resolved primarily through juridical processes. The major impact of the public provision of adequate protection and justice services is the reduction of risk for the economic decision maker. Entrepreneurs can specialize in the formation and management of enterprises with reasonable certainty that they will not also have to be soldiers or political leaders to protect their investments and returns. The provision of protection and justice also expands the horizon of economic decision makers, allowing the migration of factors of production, the expansion of markets, greater specialization, and the advancement of science, technology and the arts. This line of reasoning provides a powerful historial argument for viewing the provision of protection or organized violence as an economically productive activity with important consequences for the comparative long-run performance of nations. By viewing the relationship between military power and the international position of the American economy in this way, we can gain an important alternative perspective on current and prospective performance.

The century from Waterloo to the Marne, often called the *Pax Britannica*, was perhaps the most peaceful century in European history since the *Pax Ecclesiastica* of the 13th century. It was a century of comparative peace for the countries of Europe and lands of recent settlement such as the United States. Nineteenth-century wars were, for the most part, external to these countries, being fought in areas of imperial expansion. To an extent, 19th-century American growth was underwritten by the military forces of Britain which provided a period of unprecedented political and economic stability in the international order. After 1815, advantages accrued to U.S. international commerce largely in the form of costless transfers of protective services from Britain. These services provided the "peaceful" framework within which the liberal trading system of the international economy of the 19th century emerged—a system typified by orderly market transactions and peaceful commodity exchange.

The period extending from 1914 to 1945 witnessed the complete disruption of the international economy and the ascendancy of the United States. In 1914, the United States was one of many industrializing nations, and its international debts exceeded international assets. By 1945, the economic position of the United States had changed radically. America was paramount financially, and industrially and the only country able to assume the burden of providing protection and justice internationally. Moreover, the interwar breakdown of the international system convinced most Americans that they had to act if international stability was to be achieved in the post-World War II era.

### *Burdens and benefits of defense*

In undertaking this commitment to try to maintain international stability, the United States has allocated an average of about 8 percent of annual GNP from 1945 to 1976. This expenditure approaches the 10 percent of U.S. output that, on average, has gone into business fixed investment since 1945. Moreover, it is clear that the United States has borne a disproportionate share of the international defense burden. In 1968, U.S. military expenditures were $79 billion, or 9.1 percent of a GNP of $868.5 billion, as against $24.5 billion, or 4.1 percent of GNP, for all other NATO nations.

Added to the financial burdens of maintaining the U.S. defense capability in the postwar period is not only the opportunity cost of manpower currently being directed into technical and scientific defense-related fields, but the manpower requirements for the standing army. There are also policy management costs involved in maintaining a large and sometimes active defense establishment. When, for example, defense effort rises sharply in response to a real or perceived disturbance, it brings about serious economic stabilization problems. Since there is a general reluctance among policy makers either to raise taxes during peak periods of defense activity or to engage in significant reductions in total expenditures during nonpeak periods, the overall problem of demand management in the U.S. economy is complicated by defense policy considerations. The direct foreign-exchange costs for maintaining overseas bases and stationing military force levels in foreign countries poses an additional burden of defense. Finally, there is an intangible cost related to the moral and political approbation enjoyed by the main provider of defense services. There seems to be a tendency in world and domestic opinion to concentrate on the main provider of defense services in a negative way as being responsible for maintaining the inequities in the existing world order. From an economic point of view, the principal effect of a loss of, or reduction in, moral and political approbation is to increase the financial and manpower commitment necessary to maintain a given level of protective services.

Although the costs of defense are fairly specific in the domestic economy, susceptible, in principle, to calculation in economic terms, and are shared, more or less, equitably by all taxpayers, the benefits of defense services are much different in character and incidence. While under current international arrangements the costs of defense are largely internalized in the U.S. economy, the benefits exhibit strong externalities. Moreover, the benefits themselves are difficult to calculate in precise terms due to the presence of these externalities and intangible considerations such as the value of national security. The incidence of defense benefits in the domestic economy is likely to be somewhat uneven, but probably no more so than most other public activities.

The benefits that accrue to the U.S. economy as a whole may be grouped into two broad and related categories: key currency treatment and real income effects. After World War II, Britain, although still a key currency country, was not able to finance its ongoing balance-of-payments deficits without significant price and employment adjustments. The United States, on the other hand, was essential enough to many other economies, not only with regard to its economic power but also its political and military power, to be relatively immune to the type of internal economic adjustments that Britain had to make throughout most of the postwar period. Prescriptions for managing the American economy are almost totally oblivious to the state of the U.S. balance of trade. Internal economic policy management for a key currency country like the United States is not constrained by the verdicts of international finance ministers.

The most important benefit resulting from the effective use of military power for the provision of adequate protection and justice services in the world economy is the accelerated growth in real income. This follows from the expansion of markets, greater specialization, broader horizons for factor employment, security for larger longer-term investments, and the predictability of the future necessary for private and public economic planning. However, the fruits of this benefit have not been solely or even proportionately reaped by the United States. Military power has not yielded preferred access to markets for American exports. To the contrary, the impact of the formation of a series of common markets has led to a deterioration in the status of U.S. exports *vis-a-vis* many countries. On the import side, market access relates primarily to raw materials supplies. Here also, military power has not resulted in a preferential position for the United States. Up to 1974, supplies of raw materials to the United States, Japan and the industrialized countries of Western Europe were specified as to price and quantity on the basis of negotiated exchange agreements. It is not only supply price, but the stability and continuity of supply which has created an environment conducive to economic growth for the industrialized countries. This has been done by permitting investment and planning decisions to be made in a framework of relative certainty with respect to these international supply and demand considerations. Criticisms of the arrangements negotiated for the sale of raw materials have cited excess benefits accruing to the industrialized countries at the cost of the suppliers, but they have not argued that the United States received preferential treatment *vis-a-vis* other importers of raw materials.

The United States has probably not even benefited proportionately from the international economic stability that it has provided in the post-World War II era. In allocating manpower and capital to the provision of defense services, the resources available for the production of private and civilian public goods are reduced. Data in Table 1 show the percentage of GNP allocated to capital formation, defense and civilian governmental uses for six industrialized countries, in general, it seems that a small defense burden and a high investment ratio is typical of the faster-growing countries, with Japan the outstanding example. The reverse case is represented by the United States and the United Kingdom. Sweden and France are intermediate examples. Having had moderately high defense burdens in the early 1950s, they shifted resources to investment as the proportion of national output allocated for defense fell. After 1968, the American defense burden dropped considerably, but the resources were shifted to civilian governmental activities rather than investment. Thus, the United States has consistently allocated less of its product to capital formation than the fast-growing industrialized nations and has seen its per capita income fall behind that of Germany and Sweden. This result is not unexpected in light of the three propositions discussed earlier regarding the relationship between the provision of protection, justice and order and economic productivity. One would expect a portion of the high measured productivity increases achieved by Japan, France, Germany, Sweden, and others to be an imputation reflecting the protective services which created a relatively stable and secure trading environment in the years from 1945 to 1973.

TABLE 1.—PERCENT OF GNP ALLOCATED TO INVESTMENT, DEFENSE AND GOVERNMENT FOR VARIOUS COUNTRIES[1]

| | Percent of GNP | | | |
|---|---|---|---|---|
| | Investment | Defense | Civilian government | Total |
| United States: | | | | |
| 1950 | 20.5 | 5.0 | 6.9 | 32.4 |
| 1953 | 16.5 | 13.4 | 7.0 | 36.9 |
| 1956 | 18.1 | 9.6 | 7.7 | 35.4 |
| 1959 | 17.4 | 9.5 | 8.7 | 35.6 |
| 1962 | 16.5 | 9.3 | 10.0 | 35.8 |
| 1965 | 17.2 | 7.3 | 11.3 | 35.8 |
| 1968 | 16.7 | 9.1 | 11.9 | 37.7 |
| 1971 | 16.2 | 6.7 | 12.2 | 36.1 |
| 1973 | 16.9 | 5.6 | 13.9 | 36.4 |
| 1975 | 13.6 | 5.6 | 15.1 | 34.3 |
| France: | | | | |
| 1950 | 16.3 | 6.3 | 7.3 | 29.9 |
| 1953 | 16.3 | 7.8 | 7.3 | 31.4 |
| 1956 | 18.1 | 6.2 | 7.6 | 31.9 |
| 1959 | 19.0 | 5.9 | 8.0 | 32.9 |
| 1962 | 19.7 | 5.1 | 8.3 | 34.1 |
| 1965 | 21.7 | 4.2 | 9.1 | 35.0 |
| 1968 | 24.9 | 3.8 | 8.9 | 37.6 |
| 1971 | 25.6 | 3.1 | 12.3 | 41.0 |
| 1973 | 24.4 | 3.0 | 12.5 | 39.9 |
| United Kingdom: | | | | |
| 1950 | 12.6 | 6.4 | 9.4 | 28.4 |
| 1953 | 13.3 | 9.7 | 9.6 | 32.6 |
| 1956 | 14.6 | 8.0 | 9.0 | 31.6 |
| 1959 | 15.6 | 6.6 | 10.5 | 32.7 |
| 1962 | 17.0 | 6.0 | 9.6 | 32.6 |
| 1965 | 18.6 | 5.4 | 9.2 | 33.2 |
| 1968 | 18.7 | 5.5 | 12.1 | 36.3 |
| 1971 | 17.8 | 4.9 | 13.1 | 36.8 |
| 1973 | 19.7 | 4.7 | 14.0 | 38.4 |
| Germany: | | | | |
| 1950 | 19.0 | 4.5 | 10.8 | 34.3 |
| 1953 | 20.0 | 4.4 | 11.1 | 35.5 |
| 1956 | 22.9 | 3.0 | 10.8 | 36.7 |
| 1959 | 23.1 | 3.1 | 10.3 | 36.5 |
| 1962 | 25.4 | 4.2 | 10.8 | 40.4 |
| 1965 | 26.5 | 4.0 | 11.5 | 41.0 |
| 1968 | 23.1 | 3.1 | 12.3 | 38.5 |
| 1971 | 26.7 | 2.6 | 14.6 | 43.9 |
| 1973 | 24.7 | 2.9 | 15.2 | 42.8 |
| Sweden: | | | | |
| 1950 | 18.5 | 4.0 | 9.9 | 32.4 |
| 1953 | 20.7 | 5.3 | 11.3 | 37.3 |
| 1956 | 19.9 | 5.1 | 11.8 | 36.8 |
| 1959 | 21.6 | 4.9 | 12.9 | 38.4 |
| 1962 | 22.6 | 4.8 | 13.5 | 40.9 |
| 1965 | 23.6 | 4.8 | 14.8 | 43.2 |
| 1968 | 22.3 | 3.9 | 16.6 | 42.8 |
| 1971 | 21.2 | 3.7 | 18.1 | 44.1 |
| 1973 | 22.0 | 3.1 | 19.4 | 44.5 |
| Japan: | | | | |
| 1950 | 16.2 | 1.0 | 10.1 | 27.3 |
| 1953 | 22.2 | 1.2 | 9.8 | 33.2 |
| 1956 | 23.0 | 1.0 | 9.1 | 33.1 |
| 1959 | 27.1 | .8 | 8.4 | 36.3 |
| 1962 | 34.4 | .9 | 7.9 | 43.2 |
| 1965 | 31.3 | 1.0 | 8.6 | 40.9 |
| 1968 | 33.4 | .9 | 7.4 | 41.7 |
| 1971 | 34.6 | .7 | 8.0 | 43.3 |
| 1973 | 37.3 | 1.0 | 7.8 | 46.1 |

[1] Note that these figures do not include government transfers or subsidies, but only final purchases of goods and services.

Source: "U.N. Yearbook of National Accounts Statistics" (various years). U.S. data for 1975 are from "The Economic Report of the President."

The benefits of a stable international economic environment are not limited to the industrialized countries. Theory tells us that trade will generally benefit any country with a comparative advantage in a tradeable good or service, and experience over the past 25 years has affirmed this conclusion. For the period 1960 to 1972, 82 of the 100 middle- and upper-income countries grew faster than the 4.2 percent real annual GNP growth rate of the United States.[2] In the period from 1965 to 1972, 90 of these countries outperformed the United States. Among the 25 countries with the lowest per capita income, only 9 had faster real GNP growth rates than the United States during the 12 years following 1960. The 1960s and early 1970s saw a pervasive rise in income levels for most of those nations which had the desire and potential for gaining from international trade. Furthermore, during this period it seemed that the majority of nations in the world benefited more than the United States in terms of real income growth.

The unusually stable international economic order that lasted some 28 years from September 1945 to October 1973 permitted a broad expansion of output throughout the world. The chief beneficiaries of this era of stability were those countries and institutions that could escape the burden of defense and allocate resources to the production of tradeable goods and services. Specifically, these include the small- and medium-sized nations with growing trade sectors, multinational corporations and various international institutions which have presided over the financing and administration of the international economy. The chief underwriters of this era of stability were the United States and, to a lesser degree, the United Kingdom.

### *Implications for U.S. policy*

Analysis of trading patterns has confirmed that the United States has a comparative advantage in producing and exporting goods and services, whether agricultural, industrial or defense, which have a high science and technology content. Insofar as these items are tradeable commodities, the private and social benefits accruing to investments in this activity can be captured by the U.S. economy; but in the case of defense services to the rest of the world—international protection, justice and order—the public good aspect of these services makes it difficult, if not impossible, for the U.S. domestic economy to capture the returns generated.

From 1946 to 1956, the United States developed a strong comparative advantage in the provision of protective services on a global scale. This position rests to a large, but not exclusive, extent upon the maintenance of "superpower status." The key element of superpower status is not merely the possession of strategic deterrents; rather it is the industrial capacity and scientific capability to create new types and kinds of strategic weapons systems. It requires the continuing exploration of the technological and scientific frontiers related to strategic weaponry, and the rapid incorporation (or potential for rapid incorporation) of this knowledge into forces in being that maintain this status. The military power of the United States, and the USSR for that matter, does not rest solely on the possession of a strategic capability. However, conventional weapons and tactics can be purchased or imitated and improved on by other countries in product cycle fashion. This process of developing conventional capabilities can give rise to local or regional shifts in protection, as was witnessed in South East Asia from 1972 to 1975, but it cannot directly create a strategic global advantage. Strategic and global superiority arises from the scientific and industrial capability to render forces in being, whether conventional or strategic, virtually obsolete with sufficient rapidity so that imitation by other countries is either impossible, due to lack of sufficient scientific and technical inputs, or prohibitively expensive.

The difficulty with having superpower status, from the U.S. perspective in the latter 1970s, is that it is becoming increasingly expensive to maintain and the positive benefits seem to be diminishing. Since 1968, American defense activities have decreased. This reduction has been so sharp that in real terms the United States spent less on defense in 1975 than it did in any year since 1950.[3] However, along with this reduction in defense there has been a reduction in protection and increased instability throughout the world as new political and economic forces move into the vacuum created by receding U.S. power. From the vantage point of world peace and prosperity, as well as the security of Western Europe and North America, it would be a disastrous defect in current policy if protective services were being underprovided for the reason that they were underpriced in world markets. The tendency among economists and military strategists is to be preoccupied with the narrower issues of defense, those relating to intra-sectoral efficiency and optimal choice of system or program within the context of a given strategic objective. While these issues are important, they do not address the broader relationship between the provision of protection, justice and order services, on the one hand, and long-term economic trends, on the other.

The alternatives facing the United States fall into three categories. Defense expenditure can be allowed to continue falling in real terms and the consequences for long-term U.S. political and economic interests accepted. Defense expenditures can be increased in real terms so as to become a stable or rising share of total resources available. Or the United States could prevail upon other nations with strong, common interests in maintaining international stability to allocate more of their resources for protection, justice and order services.

The arguments against the first course of action are cogently presented in the preceding article and will not be reiterated here. However, two observations are in order. First, it is not clear that the decline in real spending for U.S. defense that occurred between 1968 and 1975 has led to increased capital formation, accelerated growth or any other notable improvement in American living standards. Table 1 indicates that U.S. defense savings went into nonmilitary public spending and one is hard pressed to identify much noticeable improvement in the resultant quality or quantity of American life. This contrasts with the experience of Sweden and France where a fall in the share of GNP allocated to defense between 1953 and 1968 was accompanied by a nearly equivalent increase in investment, an acceleration in economic growth and a notable rise in living standards. The point is that if real U.S. commitments of defense continue falling then the resources freed ought to be used productively. Unfortunately, recent experience does not indicate that the United States is particularly good at this. Second, if the provision of international protection, justice and order continues to fall, then at some point it will become quite inadequate. At this point, negative costs would accumulate as markets contract, supplies dry up, the international economy fragments, and nations are forced to pursue more autarchic economic and political courses. Living standards would fall most markedly in industries and economies dependent on international trade. The United States would be hard hit, particularly with regard to energy, but would fare better than most other nations. Therefore, the avoidance of defense costs in the years immediately ahead will very probably raise costs across the board in the longer term.

Increased expenditures for defense by the United States are necessary, but not sufficient, for the needed improvement in international protection, justice and order. Not only weapons and manpower but improved doctrine and policy implementation are necessary. However, even with an optimal outcome this alternative continues to place disproportionate costs on Americans and provide benefits for all involved in international markets. In the 1950s, U.S. wages and living standards were the highest in the world and there was a sound basis for Americans providing more than their share of international stability. However, by 1975, wages and living standards in half a dozen or more nations were equivalent or superior to those of the United States. Given these conditions, the argument for America's disproportionate provision of international protection, justice and order is much weakened. Moreover, the implications of this policy for economic growth in America are quite gloomy. Resources used for defense cannot be invested and the consequence is continuing slow growth in comparison with most of the beneficiaries of our stabilization policies.

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[2] Data from the *World Bank Atlas* (Washington, D.C., 1974), pp. 6-7.

[3] In terms of constant 1958 prices, national defense expenditures (in billions) were \$18.9 in 1950, \$40.7 in 1951, \$38.8 in 1974, and \$38.5 in 1975.

The third alternative envisages a sharing of the costs of providing protection, justice and order. In the past, this has almost universally come to pass by fiat. Historically, the dominant power has imposed taxes (in one form or another) to offset the costs of maintaining stability, and in many instances the tax receipts surpassed the costs. Rarely if ever in history has the dominant power provided protection, justice and order largely as a public service. It is unthinkable that the United States would follow this course and attempt to impose taxes on other nations. On the other hand, if some sort of cost-sharing mechanism is not negotiated, the situation will become progressively more unstable. In the 1980s, American voters will surely want to know why they should subsidize and protect the more affluent Germans, Swedes, Norwegians, Swiss, Canadians, and Belgians.

Over the next 10 years, there is no substitute for the Europeans and Japanese shouldering a bigger share of the defense burden, and also having a bigger role in formulating policies relating to international stabilization. If this cannot be done through negotiations, then a well planned, unilateral, long-term rundown of U.S. commitments will have to be considered in the hope that friendly powers will step into the vacuum. Ideally, America would exchange roles and let another relatively benevolent nation maintain international order, as England did in the 19th century. Practically, this is not possible, and the best that can be achieved is a more equitable sharing of the costs of providing international protection, justice and order.

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## TRIBUTE TO SENATOR MANSFIELD

Mr. STENNIS. Mr. President, I wish to pay a tribute to the distinguished majority leader, Senator MIKE MANSFIELD, on the eve of his retirement from the Senate.

I have served during his floor leadership for the past 16 years. It is difficult to say good-bye. We have shared many experiences, and I shall always value my memories of them.

Sixteen years is longer than any other man has ever served as the leader of his party in the Senate. This in itself tells us a great deal about his abilities and his character. He has the kind of character that comes from a quiet, inner strength—the discernment to always know what is just, in dealing with his colleagues, and the courage to follow that judgment.

I think some of this strength of character must have come from being tempered in the forge of experience. As a very young man he served in the Navy in World War I, and subsequently in the Army and Marine Corps as an enlisted man. He worked in the mines in Montana, and he knows firsthand what it is to be a laboring man. He was a college professor for 10 years, and he served in Congress for 34 years.

Fairness has been MIKE MANSFIELD'S hallmark as majority leader. He never forgot that every Senator has equal rights, even in the most heated of debates. His calmness, courtesy, and patience were unfailing. He brought quiet dignity to his post as majority leader, and lent that dignity to the Senate as a body.

Mr. President, the words "useful" and "usefulness" sum up the approach of Senator MANSFIELD to his work and also is a summary of his career. He wanted to be useful and he has been useful, abundantly so.

Mr. President, Montana is losing a great Senator, who served his State and its people with devotion and distinction. His lovely wife, Maureen, will be greatly missed also.

Mrs. Stennis joins with me in wishing MIKE and Maureen MANSFIELD all good things in the coming years. Each has made a splendid contribution to public life in our Capital City and throughout the Nation. Their work here will endure and benefit the Nation for many generations to come. All wish them well and many years of happiness and contentment.

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## HELP FOR THOSE WHO SUFFER HEARING IMPAIRMENTS

Mr. BROCK. Mr. President, I am very concerned about the status of the "Line 21" rule presently being considered by the Federal Communications Commission. I would like to join my colleagues in urging the Commission to give prompt approval to the effort to reserve "Line 21" for the transmission of "closed captioning" signals that may be transmitted on specially equipped receivers for those viewers who suffer hearing impairments.

I have written a letter to Mr. Richard E. Wiley, Chairman of the Federal Communications Commission, to urge fast approval of this measure.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
*September 29, 1976.*

Re Docket No. 20693.
Mr. RICHARD E. WILEY,
*Chairman, Federal Communications Commission, Washington, D.C.*

DEAR MR. WILEY: I would like to join my various Senate and House colleagues in their letter of September 17 to express support for prompt approval of the proposed "Line 21" rule, presently being considered by the Federal Communications Commission.

If approved, this rule would reserve Line 21, the first non-visual line above the television picture, for the transmission of "closed captioning" signals that could be received on specially equipped receivers for the benefit of viewers with hearing impairments.

Approval of the "Line 21" rule would represent the availability of television to the over 13 million people who suffer from hearing disorders. As television is probably the most easily accessible source of information and entertainment for most Americans, I feel it is unfair to discriminate against those people with hearing impairments.

I join my colleagues in urging the early approval of the proposed "Line 21" rule.

Very truly yours,

BILL BROCK.

## TRIBUTE TO SENATOR HRUSKA

Mr. STENNIS. Mr. President, my friend the distinguished Senator from Nebraska, Senator ROMAN HRUSKA, is retiring, and I wish to speak briefly of our 22 years together in the Senate, and my high regard for him.

As my colleagues know, Senator HRUSKA is a splendid lawyer. He is completing 19 years of service on the Judiciary Committee, and he has devoted his talents and left his mark on many fine pieces of legislation in that field. He has had a special interest in the Federal courts system, law enforcement, and the reform of the Federal criminal law. His special knowledge of these fields and his thoroughness in committee work are manifested in the legislation he worked on and advocated on the floor. I can only voice my admiration for his splendid legal work over the years.

ROMAN HRUSKA is a man of conviction and principles, who is always very straightforward. I think this is one reason why he is so effective on the Senate floor. We all know his character, and we know his strong work habits that equip him with the facts in the matters he presents. He is a solid man, of great strength of character. Anyone is fortunate indeed to have him on your side in a debate.

Senator HRUSKA's knowledge of farm problems, particularly in the Great Plains States, have made him a great asset to the Agriculture Committee. Much of the progress that has been made in irrigation has been due to his knowledge and foresight. We sit together on the Public Works Subcommittee of the Appropriations Committee, and I know at first hand how persuasive he can be as an advocate of water resources projects in his native State.

As ROMAN HRUSKA and his lovely wife, Vicki, return to Nebraska to enjoy retirement in their home on the banks of the Platte River, Mrs. Stennis and I thank them for the associations we have enjoyed with them for many years, and wish them well in the years to come.

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## TRIBUTE TO A FINE MEDICAL SCHOOL AND A GREAT LADY

Mr. BROCK. Mr. President, as all of us from Tennessee well know, Meharry Medical School is one of the finest medical schools in the country. I was particularly pleased therefore that recently the American Medical News ran two splendid articles about the school, "Meharry's Centennial Brings Nation's Black Physicians Back Home," and a "Profile" on Dr. Dorothy Brown, who is, among her many other jobs, the director of student health services at Meharry.

I ask unanimous consent that these articles be printed in the RECORD. I think these are splendid articles, except for one line. The article says that Meharry has "come of age in the past few years." I disagree—it came of age 100 years ago.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### Meharry's Centennial Brings Nation's Black Physicians Back Home

Good things always come back. At least in America.

In Nashville, Tenn., for example, the most imposing civic landmark is the Parthenon, built as a replica of the Greek original to honor the state's centennial observance. The town's most famous industry, music, is now enshrined in Opryland, the ambitious amusement complex that has supplanted an old church as the home of the Grand Ole Opry.

And in the hot days of August, one of Nashville's most unusual conventions was the gathering of the Model A Club of America, with vintage Fords attracting stares as they were driven about the city.

And so it was only appropriate that another convention—the National Medical Assn. representing the nation's black physicians—be held in Nashville as part of the centennial celebration of one of that city's most prominent institutions, the Meharry Medical College.

Meharry, the only private, AMA-accredited, primarily black medical school in America, has given this country about one-half of its black physicians and black dentists.

And a goodly number came back to Nashville. Both Meharry and NMA, many observers, agreed, have "come of age" in the past few years. But both continue to face major challenges in their joint role of providing medical care for millions of poor blacks.

Ralph H. Hines, PhD, Meharry's executive vice president for development, points with pride to the school's raising of $75.5 million in the past eight years, close to its $88-million goal.

"Eight years ago," Dr. Hines told AMN, "Meharry had only 400 students, 67 full-time faculty, 400 employes, a physical plant valued at $2.5 million, an annual operating budget of $5.7 million."

And charged with meeting the health needs of all the nation's blacks.

Today, he notes, the figures have more than doubled: 900 students, 220 faculty, 1,800 employes—the Mid-South's fifth largest employer—an $84-million physical plant, a $32-million annual budget.

This month, Meharry broke ground for an $8.4-million dental school. It recently completed a 200-bed addition that doubled the capacity of its George Hubbard Hospital. The new George Russell Hospital Tower is named in honor of the General Motors trustee who heads Meharry's national fund-raising campaign.

Foundations and corporations, almost 700 in all, were the major contributors to the campaign, Dr. Hines said, and government funds continue to be the major source of operating funds.

But, he emphasized, the Meharry alumni, many of them forming the backbone of NMA, have an uncommon bond.

Almost half of the school's graduates continue to participate in Meharry affairs. For the school's centennial year, it is expected that alumni will contribute $1 million. At one convention banquet alone, Meharry medical grads contributed $132,000.

There are only about 6,000 black physicians in the nation, Dr. Hines points out. Some 3,000 of them graduated from Meharry and 2,000 belong to NMA. The Aug. 8–12 NMA convention drew almost 1,000 MDs, most Meharry grads.

"The ties are very strong between Meharry and its grads," Dr. Hines said. "For one thing we graduate almost all of our medical school students. That's because we make sure they get all the support and encouragement they need.

"For another, about 85% of our grads will practice among the rural and urban poor, mostly blacks. And we train them in comprehensive, community-oriented care. Our dentists are trained as physicians, to check the eyes and mouth for disease, and to perform hypertension screening."

Meharry can't shoulder the burden alone, however, warns the school's president, Lloyd C. Elam, MD.

Dr. Elam, a psychiatrist, has been at Meharry since 1961, its president since 1968.

For the 1976 fall term, he noted, Meharry accepted 120 of 3,500 medical school applicants. last June, it graduated 92 physicians, 80 of them black.

The Meharry numbers are rising, but, nationwide, black enrollment is declining, Dr. Elam said. Blacks represent only 2% of the nation's 350,000 physicians and their share of the medical school enrollment is now only about 6%, roughly one-half the goal set several years ago.

"This is so," Dr. Elam said, "because scholarship funds have dropped 75% in the past few years and loan funds are drying up. The competition is fierce to get into medical school and each group is trying to improve its competitive advantage. Thus, those who have money argue, 'Only let in those people who can pay.' "

Unfortunately, the Meharry president said "this myth of America's shrinking resources is being subscribed to by too many people. America doesn't believe there's enough to go around anymore. People call health care a priority, but don't believe it can be delivered to all Americans."

Black patients are not biologically unique, Dr. Elam said, but their clinical problems include such socially induced disorders as poor nutrition, obesity tied to malnutrition, and hypertension tied to poor diet and the stresses imposed by poverty. The black patient, he said, also suffers disproportionately from maladies linked to his "search for highs, for a substitute for a happy life—such things as alcohol and drug abuse and suicide."

Meharry, Dr. Elam said, "has always had a sense of responsibility for the entire poor segment of the population, and not just for the delivery of medical care, but also for economic, political, and social leadership."

In this mission, he added, the school "has had fantastic support from the government, from NMA, from AMA, from corporations and foundations, and from individuals around the world."

Meharry's concern for the underserved, he concluded, "cannot have geographic and financial limits."

Things were also looking up at the NMA meeting, although delegates expressed concern about the professional liability insurance problem, fraud and underpayment in the Medicaid program, and possible bias in specialty board certification.

Referring to the organization's financial turnaround (*AMN*, Aug. 2, 1976), outgoing NMA President Jaspar Williams, MD, told delegates "We have made some progress in carrying out your requests for an end to unaccountability, deficit financing, multiple authority, absent policy, declining membership, irrelevant activities, disregard by government, and dreams without ends.

"There remain untold numbers of opportunities to act serving the need of black medicine and of black people. We have built the launching pad. We have begun building the rocket."

NMA delegates endorsed the swine flu immunization program and called on Congress to ameliorate the liability problem.

In an interview with *AMN*, some key NMA officials touched on other issues confronting black physicians and their patients.

Calling for a study of possible bias against black physicians on specialty certification, Dr. Williams said, "It's funny how a black physician can be doing well in his practice or residency, pass his written specialty exams, and still have to come back again and again, and again without passing the oral subjective test."

Contending that personalities might be entering into decisions made by specialty examiners, Dr. Williams cited general surgery, obsterics, and urology as possible problem areas.

NMA President Arthur Coleman, MD, San Francisco, singled out problems in Medicaid.

"With Medicaid payments being delayed, denied, and always low," he said, "the black physician is forced, in effect, to subsidize care provided poor patients. Some white physicians and some hospitals refuse to see Medicaid patients. The black physician has to pick up the slack. He's always available—and in the face of rising liability premiums."

A special concern, Dr. Coleman said, is the widespread fraud that drains funds from Medicaid. NMA delegates, he noted, strongly opposed the medical factoring companies that "have bilked the Illinois Medicaid program of hundreds of millions of dollars, possible as much as 50% of the total annual appropriations, according to some investigators."

Dr. Williams, who practices in Chicago, added that, "Medicaid payments are already discounted about 20% and the 10% taken by factors is intolerable. It's amazing how a black physician can have $100,000 in uncollected billings and be unable to do anything about it and a factor can recover $90,000 within a week. If it can be paid to a factor, there's no reason why it can't be paid to the provider."

NMA called for prompt and full payment of Medicaid billings and asked federal and local governments to investigate charges of Medicaid fraud.

NMA supports national health insurance, Dr. Coleman said, but is not committed to a particular bill, "although we may have things in common with the proposal advanced by Jimmy Carter. The Kennedy-Corman bill goes too far and the AMA proposal does not go far enough."

A broad program of NHI "is a foregone conclusion, probably within the next three years, certainly no more than five," argues Matthew Walker, MD, Meharry's provost for external affairs and NMA's president in the early 1960s when the organization supported John F. Kennedy's Medicare proposal.

"It doesn't matter who is president," said Dr. Walker. "I could be president, but enactment of NHI is as sure as the ebb and flow of the tides.

"Herbert Hoover got blamed for the Depression, which, in fact, came to America from across the ocean. Likewise, NHI is going to jump the ocean from Europe to America, just as it did to Canada. The foundation for salaried medicine is already here."

Dr. Walker, who at 70 is in his 40th year of training surgeons at Meharry relinquished his position as chief of surgery in 1974.

"I was promoted to provost at an additional $1 a month," he observed, "but I continue to teach surgery." Drawing on contacts around the world, Dr. Walker said, he can, by picking up a phone, place Meharry-trained surgeons in advanced programs at the best institutions.

"During the annual meeting of the American College of Surgeons," he said, "there's always a special get-together of the 'Matthew Walker Surgery Club,' the physicans I've trained at Meharry."

At last count, he noted, it numbered more than 100, one of whom is the first black woman surgeon in the South, Dorothy Brown, MD (see accompanying profile). Dr. Walker has also been instrumental in placing Meharry grads in service progams in Africa and at Mound Bayou, Miss.

Looking back on a lifetime of service to Meharry, he noted, "The one thing apparent at this meeting is that both Meharry and NMA have finally come of age."

—Dennis Breo.

## Profile: Dorothy Brown, M.D.—From Orphanage to Operating Room

At age eight, Dorothy Brown wanted to know why she never had visitors at the Troy, N.Y., orphanage where she had been since infancy.

The orphanage superintendent told her he hadn't seen her mother since she had put Dorothy in the home after her out-of-wedlock birth.

Young Dorothy Brown was satisfied with the explanation.

But the superintendent told a nearby congregation about the young girl who had no visitors. Soon, a church deacon, his wife, and daughter became her constant visitors.

The daughter was a student at Troy's exclusive Russell Sage College, Dorothy recalls, "and this was a great bragging point for me—you know how important it is for a child to have someone to brag on."

Years later, Dorothy Brown, M.D., the first black woman surgeon in the South the first black woman in the Tennessee State Legislature, raised another question that changed her life.

Why could abortions not be performed legally, thus preventing the untold cost and suffering of illegal and often incompetent abortions. Dr. Brown, practicing in Nashville, Tenn., often was called upon "to salvage the botched-up jobs," and she saw a better way.

In 1967, she introduced legislation to allow therapeutic abortions. She was politely told by other legislators the bill would abort her political career.

"Well, I've introduced it and I'll just have to see it through" Dr. Brown replied.

The bill came within two votes of approval, but Dr. Brown, running in the heart of the Bible Belt, failed to gain reelection to the Tennessee House. As she did the next time. And the next. And the next, And once she failed in a bid for the state Senate.

Interviewed in her home adjoining her office next to Nashville's Tennessee A&I campus, Dr. Brown said she may try again next spring.

She hardly needs the seat, though.

One wall of Dr. Brown's den is lined with the plaques and awards that bear testament to a lifetime of leadership and accomplishment.

In 1972. she received an honorary degree from Russell Sage College. On hand to help honor her was her friend from the orphanage days, Janet Coffeen Craw, who was celebrating her own 40th reunion at the college.

As a young girl at the orphanage, Dr. Brown recalls how she used "to lie in the grass and look across the street at the girls at the fashionable Emma Willard secondary school." In 1972, Dr. Brown enrolled her adopted daughter, Lola Denise, at Emma Willard.

There is more in this mold, for Dr. Brown's story is truly inspiring.

Dr. Brown says she knew she wanted to be a doctor "at age five when I was taken to the hospital for a tonsillectomy and was struck by the sights and sounds and smells of the hospital."

It was a long journey and there were many friends along the way, particularly the Methodist Church.

At age 13, her mother took her to live in Troy. Living in a black ghetto, Dr. Brown, who had been extroverted, fun-loving, and a leader at the orphanage, experienced despair for the first time.

Unhappy, she ran away from home three times, heading for the orphanage, but each time was brought back.

At age 14, she quit school and worked for two years as a maid. Earning $14 weekly, she saved $500 in two years and resumed her education.

The day she registered for high school, Dr. Brown recalled, "I had no home address. When the registrar asked for it, I said, I don't have one, but I'll find a room this afternoon and give you the address tomorrow."

The next day she was taken in by a black couple who had 11 other children. "Grandpa and Grandma were poor," she says, "Grandpa worked for a road construction company, but somehow he always managed to earn enough to feed us. And there was enough love for all of us."

In 1937, upon graduating from high school, she returned to maid's work to earn money for college. "I figured at the rate of my income, it would take 11 years to earn enough for college," Dr. Brown notes.

But the Methodist Church gave her a scholarship to attend Bennett College in North Carolina. And the Methodist women helped her pay her way through Meharry Medical College.

After an internship at Harlem Hospital in New York City, Dr. Brown was accepted for a five-year residency in general surgery at Meharry's George Hubbard Hospital.

Today, Dr. Brown is chief of surgery at Nashville's Riverside Hospital, attending surgeon at Hubbard and Metro General hospitals, and director of student health services for Meharry and Fisk U. The residence for professional women at Meharry was named "Dorothy Brown Hall" in 1971. Dr. Brown maintains a busy practice serving Nashville's black population.

She designed her own elegantly appointed home ("I quarreled a lot with the decorator"). The den overflows with plaques and books ("not a single one on medicine; when I was a student cramming all night over those medical texts, I found I had to read something else for relief").

The medical books are all in her adjoining office. Lining one wall are file cabinets of accounts receivable—but unlikely to be paid. "Oh, someone may pay a bill that's six years old every once in a while," Dr. Brown noted, "but most of these represent a labor of love."

Back in her days as a state legislator, Dr. Brown used to talk about black activism. Her speeches included a reference to the exploitation of black Africans not only by white colonialists, "but by the blacks living on the east coast of Africa who enslaved their brothers from the interior and sold them into slavery."

The Black Panthers asked her to delete the reference. "But I couldn't," she said. "It was the truth." Security guards accompanied her public appearances.

Asked if she had any regrets about her life, Dr. Brown replied that she would only "try to live more intensely," and, "display a greater aptitude for mathematics."

The former is unlikely, the latter irrelevant.

Breaking so many barriers, being the first in so many ways "sometimes gets a little tiring," Dr. Brown said. "But if I can inspire any child—white, black, male or female—that makes it worthwhile."

—Dennis Breo.

## TRIBUTE TO SENATOR HUGH SCOTT

Mr. STENNIS. Mr. President, the distinguished minority leader and Senator from Pennsylvania, Senator Hugh Scott, who is retiring at the end of this Congress, has rendered long and effective service to his constituents and to his party. They will miss him, as will his colleagues here in the Senate.

I would like to say first that as the Senate leader of the other party he has been unfailingly courteous, fair, and understanding. Many of our endeavors here in the Senate are undertaken under the guidance of the joint leadership, so we are all indebted to Hugh Scott. The debate on the floor and the orderly progression of Senate business are dependent upon understandings between the majority and minority, and upon unanimous consent agreements. We are fortunate to have had someone of Senator Scott's ability and personality to share the joint leadership.

A man of wit and humor, he enlivened exchanges on the floor and relieved tension in times of stress. He is a master of the English language and the spoken word. He is a hard fighter for his minority, but he does it in a way that maintains the even temper of the discussions and the dignity of the Senate.

Senator Scott is a veteran of 34 years in the Congress. He is an expert legislator who is skilled in debate. He rendered exceptional service to the Nation in his work in the Foreign Relations Committee. As a member of the Judiciary Committee he was a leader in crime control and antitrust matters.

Hugh Scott is a man of intellectual accomplishment, an author, and a master scholar in certain fields, although he prefers to think of himself as a student.

The Commonwealth of Pennsylvania has been fortunate in having Hugh Scott as Senator. They will miss him, and so will we in the Senate. To him and to his charming wife Marian I extend every good wish from Mrs. Stennis and myself for the coming years.

## THE AIR BAG ISSUE

Mr. MOSS. Mr. President, while the 55-mile-per-hour speed limit and the Federal motor vehicle safety standards have had a major impact in reducing the annual death toll on the highways, motor vehicle accidents are still the No. 1 cause of accidental death. Indeed, according to the National Safety Council, motor vehicle accidents were the No. 1 killer of Americans from ages 1 through 44.

The irony of these statistics is that unlike other major killers such as heart disease, cancer, or stroke, we have the wherewithal to vastly reduce this carnage in a very short period of time. The key to the further substantial reduction of the number of motor vehicle deaths is providing to all vehicle occupants an effective restraint system which will be used. The lap and shoulder harness that is currently installed in all vehicles could be such a system if motorists would only use them and if the Department of Transportation modified its standard to require that seatbelts comply with rigorous performance requirements. But the simple fact is, that less than one-third of vehicle occupants wear either their lap or shoulder belts, or both.

For almost a decade, the Department of Transportation has been studying what steps it should take to provide occupant restraint protection to vehicle occupants. The alternatives to the approach we are pursuing today include mandatory seatbelt usage laws or automatic or passive restraint systems. With respect to the former, I have great doubts that Congress, State legislatures, or the American people will accept a law which will require "buckling up." Congress, responding to the demands of its constituents legislated the ignition interlock out of existence and State legislature after State legislature is repealing mandatory helmet use laws.

DOT Secretary William Coleman recently held a 1-day hearing to study the options available to the Department with respect to occupant restraint systems. He has promised that by the first of the year, he will issue a new motor vehicle safety standard which will chart the course for future occupant restraint protection.

I ask unanimous consent to have printed in the Record an article which appeared in the September 24, 1976, issue of Science Magazine entitled "Auto Safety: Coleman To Act on Controversial Air Bag Issue." This article contains what I consider to be an excellent summary of the issues facing DOT in this area.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Auto Safety: Coleman To Act on Controversial Air Bag Issue

(I had dozed for a moment after a hard day in the office, but awakened in time to see that I was driving into a large city metro bus. . . . I never saw the air bag inflate or deflate, nor did I feel or hear it, it was so fast. My glasses were not broken. I felt stunned and amazed to be uninjured and alive.—Arnold V. Arms, a Kansas City physician, testifying on 3 August at a hearing conducted by the Secretary of Transportation on possible amendments to standards issued under the National Traffic and Motor Vehicle Safety Act of 1966.)

Since crashing head-on into that city bus in October 1975, Arnold Arms has been trying to get air bags for his new car, but without success. Neither General Motors—which for a few years offered air bag systems as a $315 option on some of its luxury cars—nor any other automobile manufacturer is now offering these protective devices, either as standard or optional equipment. "I decry the lack of human interest [by the auto manufacturers] in the death and mutilation on the highways," Arms said.

As an answer to societal problems, the "technological fix" has often been oversold. But many advocates of highway safety have been convinced for nearly a decade now that the air bag system—a relatively simple system consisting of a deceleration sensor and inflatable bags that cushion the driver and front seat passengers in frontal collisions—is one very real answer to the carnage on the highway.

Highway smashups are such a common, everyday phenomenon that there are probably few adults living in America today who, even if they have escaped involvement in a serious accident themselves, have not known a relative or friend either to die in one or suffer cruel and perhaps crippling injuries. Although highway deaths and injuries. have been reduced in number by the 55-mile-per-hour speed limit and the vehicle safety improvements mandated in recent years by federal law, the annual toll remains high, with more than 45,000 persons killed and several million injured.

The National Highway Traffic Safety Administration (NHTSA) estimates that about a third of the some 27,000 fatalities suffered by drivers and passengers in automobile accidents in 1975 could have been prevented had air bags and automatic safety belts—another "passive restraint" system that does not have to be buckled up by front seat occupants—been in general use. The 400,000 serious injuries that occurred could also have been greatly reduced.

The automobile industry's unwillingness to put passive restraint systems into all their cars forthwith, and the fact that the federal government has not yet required them to do this, has been regarded as an outrage by some public health epidemiologists and insurance underwriters, as well as by activists such as Ralph Nader and Clarence M. Ditlow III, executive director of the Nader-founded Center for Auto Safety.

Secretary of Transportation William T. Coleman, Jr., has now promised to act on this issue before the year is out. But, while a ruling directing the automobile industry to begin installing passive restraint systems by the 1980-model year is a real possibility, it is by no means a foregone conclusion. The automobile industry strongly opposes issuance of such a ruling and its leaders carry plenty of political weight at the White House.

The first air bag system was patented in 1952, and, since then, this system's technical feasibility seems to have been established. Air bags have been installed in some 12,000 cars—about 10,000 of them sold by General Motors—and the experience to date, while limited, indicates that they are dependable and effective in frontal and front-angle crashes, which are the only kind for which they are designed to cope.

Why Detroit is opposing issuance of a safety standard requiring air bags is not altogether clear, for the industry's stand may stem as much from an aversion to regulation as from any real or alleged disadvantages associated with the devices. A major disadvantage cited by the industry is that the air bag does not constitute a truly passive restraint system requiring nothing of the driver or front seat passenger to be effective.

All agree that lap belts should be used with this system for the protection of front seat occupants in side-impact and rollover crashes and in those frontal crashes occurring at speeds too low to trigger the bag's deployment. Indeed, a safety standard making air bags standard equipment on new cars would be coupled with one retaining lap belts.

Industry spokesmen argue, therefore, that the air bag system demands as much of driver and passenger as the lap and shoulder belt combination, which they regard as much cheaper and about equally effective in the protection offered in frontal crashes. The industry also objects to issuance of a standard requiring air bags on various other grounds, some having to do with equity and "freedom of choice" for those car buyers who would prefer to rely on safety belts.

More generally, the industry simply holds that, if air bags are ever to be required as standard equipment on most new cars, it should not be until there has been much more practical experience with them. And, to that end, the industry appears generally to favor the idea of the government's undertaking a major test of air bag and other passive restraint systems, perhaps by ordering a large number of air bag-equipped cars for government fleets and monitoring the experience with them over a period of 5 years or so.

Yet, even if Secretary Coleman gives great weight to the industry arguments against requiring early installation of air bags, he may find that he faces a Hobson's choice, for substantial doubts have been raised as to the efficacy of the other alternatives open to him.

The auto manufacturers want the secretary to allow them to continue providing only the current "active" restraint system: the lap and shoulder belt combination which has to be buckled up. Besides being cheaper than the air bag, this system offers the advantage of holding vehicle occupants in place in all types of crashes. But its great disadvantage is that it is actually used by not more than 20 to 30 percent of drivers and passengers, according to the best available estimates. The industry maintains that, with improved and more comfortable belt systems, usage is increasing, but the NHTSA estimates that, at best, voluntary usage will never exceed about 40 percent.

The secretary could urge Congress to make seat belt usage mandatory, but in light of Congress' recent record, this would appear futile. Responding to angry and exasperated protests from constituents. Congress in 1974 did away with the "ignition-interlock" that kept motorists from starting their cars without buckling their seat belts; at the same time, it declared that, in the future, no safety standard pertaining to passenger restraint systems shall go into effect until Congress has had time to review and perhaps disapprove it. This year Congress has prohibited the Department of Transportation from requiring motorcyclists, among whom serious and often fatal head injuries are endemic, to wear helmets.

Coleman's other few alternatives also have serious drawbacks. He could require auto manufacturers to offer passive restraint systems as optional equipment; but this would offer only a very limited advantage because, in the case of air bags, the per unit cost would probably be discouragingly high.

Or he could propose—at the same time he announced a continuation of existing standards—a $50-million to $150-million program of field testing of the kind referred to earlier. Here the drawback is that, for the most part, realization of the air bag's life-saving potential would be long deferred.

The last three directors of the NHTSA or its predecessor agency have wanted installation of air bags made mandatory. In fact, in 1971 the then secretary of transportation, John Volpe, decided on the advice of his traffic safety administrator that all new cars would come equipped with these devices, beginning with 1973 or 1974 models. But while a federal appeals court—acting in a lawsuit brought by the Chrysler Corporation—approved the new safety standard requiring air bags in principle, it ruled that this standard could not be imposed until inadequacies in the dummy tests used to assess the air bag's effectiveness were overcome.

After this setback, a stopgap measure was adopted for 1973 model cars—front seat occupants who failed to buckle their seat belts were subjected to a continuous buzzer unless they contrived (as many car owners did) to disconnect or otherwise outwit this device. Then, as the NHTSA and the Department of Transportation began moving toward the issuance of an air bag standard for 1974-model cars, the Nixon White House, at the urging of auto industry officials, directed that the ill-fated ignition-interlock system be required instead.

Secretary Coleman is aware that, if he does rule that passive restraint systems must be installed (for most cars, this probably would mean air bags). Congress or the courts may undo what he has done. But, with the impending shift to smaller cars mandated by new federal fuel economy standards, the problem of highway safety is becoming increasingly urgent.

At the August hearing on safety standards. John Z. De Lorean, formerly a top executive with General Motors who (unlike GM's present leadership) strongly advocates air bags, reported on a study done for Allstate Insurance by his new enterprise, De Lorean Motor Company. "Unless we act now to guarantee passive restraint protection," he said, "this country will experience a 35 percent increase in injuries and deaths over the next 10 years, contributed to significantly by a switch to smaller cars."

The industry argument that air bags are not really an effective passive restraint system is, as auto safety activists maintain, something of a canard. More than half of all highway fatalities occur in frontal or front-angle crashes, and there is simply no question whatsoever but that, in the event of such a crash, a motorist is far more likely to survive or escape serious injury if his car has air bags that he is if protected by no restraint system at all. Moreover, to judge from sled impact tests conducted by highway safety laboratories, he is at least somewhat safer than he would be if he were wearing the lap and shoulder belt combination. An air bag absorbs impact forces more gently than do belts and from a larger area of the body—and, the greater the impact speed, the more important this is believed to be.

It is true, however, that no statistically significant comparison between the effectiveness of air bags and that of belts can be drawn from the experience with the limited number of cars equipped with air bags to date. About all one can say is that, in the 89 crash situations in which air bags are known to have deployed, most of the drivers and front seat passengers escaped with either no injuries or only minor ones.

Four persons were killed in these crashes, but none of the fatalities was attributable to a failure of the air bag system. In two instances, the crash was so severe the passenger compartment was destroyed; in another, a 6-week-old infant was fatally injured during pre-collision braking; and, in the fourth case, the victim was seen slumped over the steering wheel at the time of impact and may already have been dead.

Some people have worried that air bags might "go off" inadvertently, and this concern has been given some not very subtle encouragement from Detroit. A Ford Motor Company ad several years ago suggested: "Imagine driving along at 60 miles per hour and suddenly having an enormous pillow thrust in your face." The fact is, only six inadvertent deployments have occurred in some 240 million vehicle miles of experience with air bags. Three of the six occurred while the cars were being worked on by mechanics who were unfamiliar with the air bag system. One of the other deployments was attributable to a fire and explosion in the vehicle and the remaining two resulted from manufacturing defects.

Inasmuch as most of the operational experience with air bags goes back no further than 1974, the question has been raised whether they will remain ready to perform properly throughout the 10- or 11-year life of the automobiles in which they are installed. For instance, at the air bag hearing last month, Nicholas Perrone, director of the structural mechanics program at the Office of Naval Research, expressed the view that the public cannot be expected "to actively maintain the viability" of this system.

Yet, as air bag proponents point out the problem of keeping air bag systems in working order might be no greater than that of maintaining belt systems, which can jam or fail if not properly looked after. In any case, the maintenance problem can perhaps be dealt with by the states through the same kind of vehicle inspection programs used in checking on brakes, lights, and other safety equipment. The air bag system offered by General Motors as an option came with a diagnostic circuit and warning light, and this would be an essential feature should installation of air bags be required.

If Secretary Coleman does in fact order air bags installed, it will necessarily lead to an increase in the price of new cars, and the only question is how much. Nader insists that it could be less than $100, while Ford Motor Company officials say it would be more than $300 (the NHTSA's estimates fall between $100 and $200).

Such an order by the secretary would also represent a restriction by government on the car buyer's, as well as the auto companies', freedom of choice. But much more involved in auto safety regulation than the government's deciding for the car buyer what safety equipment will serve him best.

### CAR POOLERS AND DRUNKEN REVELERS

Car are ridden in by the very young and the very old, by car poolers, by adolescent hell-raisers and drunken revelers, and by others who have had no say in how a particular vehicle is equipped. Moreover, small children and even many adults simply cannot or will not buckle up seat belts. In a collision, their fate may turn on whether the Secretary of Transportation has decided that every new car shall have passive restraint systems.

In addition, if hundreds of thousands of avoidable deaths and serious injuries occur every year from a failure of automobile safety regulation, the effects are widely felt, as in the added demand for health and welfare services and in the cost of insurance. At Coleman's hearing, Richard G. Chilcott, senior vice president of Nationwide Insurance Companies, said that his firm is allowing policyholders whose cars are equipped with air bags 30 percent off on coverage for personal injury, medical payments, and family compensation. "If air bags were installed in all cars for drivers and front seat passengers, consumers could save $1.9 billion in auto insurance costs annually," Chilcott said.

In taking his turn at the secretary's hearing, Nader was at his most provocative. What the pending rule-making on passive restraints really come down to, he said, was whether Coleman had "the moral fortitude to stand up to the giant auto companies and the White House that has served them so faithfully in the last few years."

As the situation is viewed by Clarence Ditlow, of the Center for Auto Safety, Coleman should even go beyond requiring installation of passive restraint systems by also calling upon Congress to make seat belt usage mandatory. Once passive systems are required, it will take more than a decade for cars equipped with such systems to replace those not so equipped. In the interim, a seat belt law might bring usage up from the present 20 percent to perhaps 70 percent, the level of compliance reportedly attained in Australia and some other nations that have enacted laws of this kind. Where new legislation is concerned, however, Secretary Coleman lacks the power of decision and can only resort to exhortation. But as for issuing a passive restraint standard for new cars, the secretary already has the statutory authority to crack the whip over the lions in Detroit and all he need do is to use it.

—Luther J. Carter.

## MEDICAID AND MEDICARE ANTI-FRAUD LEGISLATION

Mr. TALMADGE. Mr. President, I am proud of the Senate's efforts to control fraud in medicaid and medicare. Our committees have taken the initiative in not only exposing the widespread fraud and abuse plaguing the medicare and medicaid programs, but we have also taken the lead in trying to change our laws so as to more effectively deal with these fraudulent and abusive activities which cost the taxpayers billions of dollars each year.

Anyone who has followed the extensive hearings held by Senator Moss' subcommittee, Senator Nunn's Permanent Subcommittee on Investigations, or the Subcommittee on Health of the Committee on Finance will understand what I am saying.

I truly regret that the House of Representatives has been unable to act expeditiously and effectively on the antifraud and antiabuse initiatives developed in the Senate, and added as amendments to H.R. 12961.

Now, I am aware that they have accepted an Inspector-General for HEW—a proposal originally recommended by Senators John William of Delaware and Abe Ribicoff in 1970. And they have agreed to our proposal to make fraud under medicare and medicaid a felony instead of a misdemeanor. We have salvaged some parts of what an effective antifraud and antiabuse effort must consist of.

On the other hand, I do not think the House fully understood that in order to punish people, you have to find them first. They have been unwilling, at least at this time, to recognize the need for complete disclosure and access to information on the part of providers and suppliers who are paid with public funds. They were unwilling to accept the closing of the loopholes with respect to the buying and selling of medicaid receivables—a practice which is not only inflationary but loaded with potential for fraudulent activity. I might add that both of these provisions were strongly endorsed by the Comptroller General of the United States. Neither was the House willing to act on the section of the Senate antifraud and antiabuse bill designed to beef up the capacity of PSRO's—particularly with respect to reviewing care in the socalled "medicaid mills".

So be it. We are within hours of adjourning. We were not accorded the opportunity to explain to the House, in conference, the urgency of these antifraud and antiabuse provisions which the House has chosen to drop.

I want to assure the Senate that the first order of business in the new Congress for the Subcommittee on Health of the Committee on Finance will be to consider antifraud and antiabuse measures. I am not, and I do not think the Senate is satisfied with partial answers in dealing with widespread fraud and abuse in medicare and medicaid. I do not know whether the House will be willing to act promptly next year to put into law necessary antifraud provisions. I am, however, confident that the Senate will meet its responsibilities to the American people in unmistakable and clear language early in the next Congress.

## TRIBUTES TO SENATOR JOHN PASTORE

Mr. BAKER. Mr. President, it is with gratitude and humility that I rise today to pay tribute to my longtime friend, Senator John Pastore. Since the people of Tennessee sent me to the Senate 10 years ago, the colleague with whom I have been most associated has been my distinguished partner from Rhode Island.

He has been the chairman and I have been the ranking Republican on both the Joint Committee on Atomic Energy and the Communications Subcommittee of Commerce. On both committees, then, he has been my senior; but in spirit and cooperation, he has been my counterpart.

It was a sad day in the U.S. Senate last October when Senator Pastore announced that he had chosen to retire after 26 years in this body. As has been true in so many instances, his reason for retiring was because he wanted to show a more intense interest in someone else, in this case his wife, children, and grandchildren.

John Pastore came to this body as a person already well-grounded in the intricacies and demands of public life. He had served as a member of the Rhode

Island General Assembly, as assistant State attorney general, as Lieutenant Governor, and Governor. Virtually the entire span of Senator PASTORE's adult life, then, has been used in public service.

In spite of the numerous contributions he has made in so many fields, I am convinced that history will judge his greatest contributions to be his unparalleled leadership in the field of atomic energy. From the inception of the atoms-for-peace plan in the early 1950's until the present day, he has done more than anyone I know to insure both the safety and practical application of the atom.

Senator PASTORE was a member of the U.S. delegation to the 10th General Assembly of the United Nations in 1955, and the following year was a congressional adviser to the U.N. delegation while the International Atomic Energy Agency was being established under U.N. auspices. He was Senate designee to the initial conference of the IAEA in Vienna in 1957 and returned to conferences on the peaceful uses of the atom in 1958 and 1961 at Geneva.

On the domestic scene he has overseen the development of the American reactor electric-generation program which has benefitted so many parts of the country, especially his native New England. His work on the original Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 will forever be a living legacy.

Not only has Senator PASTORE been a forceful legislator and an imaginative thinker, he has also been one of the Senate's most colorful speakers when the time to communicate his views has come. In recognition of his ability, the Democratic Party chose him in 1964 to deliver the keynote address at their national convention.

A son of Italian immigrants, JOHN PASTORE is literally a "self-made" man, and one who has done an excellent job in molding his own abilities and character. His life and accomplishments will serve for years as an encouragement to people of all ethnic backgrounds.

So it is with a sense of thanksgiving and comradeship today that I pay my tribute to JOHN PASTORE; a noble colleague, an accomplished legislator, a trusted friend, a man who will be long remembered not only as a Senate giant, but also as a friend of the American common man.

## TRIBUTE TO SENATOR JOHN PASTORE

Mr. McGOVERN. Mr. President, Americans have taken justified pride in the fact that in our country, to a far greater degree than in any other nation on Earth, it is possible to rise from humble origins to the highest levels of attainment. Anyone who doubts that this is so would do well to examine the career of JOHN PASTORE, the distinguished senior Senator from Rhode Island, who has represented our smallest State with admirable vigor for the past 26 years.

JOHN grew up in an Italian-American neighborhood and was forced by the untimely death of his father to assume weighty responsibilities at a very early age. But while working to support his family, he was able to complete his education and to become an attorney. Even as a very young man, he showed the grit and determination which his colleagues in the Senate later came to admire.

JOHN PASTORE is familiar with the workings of government at every level. He has been a State legislator, Lieutenant Governor, and on two occasions the people of Rhode Island selected him as their Governor. In all of these positions of public trust, he has won the confidence of his constituents. He has consistently been elected and reelected overwhelmingly. Here in the Senate, he has won a reputation as a conscientious Member, an outstanding chairman of the Communications Subcommittee of the Committee on Commerce and a formidable debater in the grand tradition. His presence has both enlivened and enlightened the deliberations of this body.

Mr. President, I find it difficult to imagine that the 95th Congress will convene without the Senator from Rhode Island. He has my deep respect, my warm affection, and my best wishes for a productive retirement.

## THE INFORMATION CRISIS

Mr. METCALF. Mr. President, last year the Subcommittee on Reports, Accounting and Management conducted 2 days of hearings on information management by Federal regulatory agencies. The hearings had to be terminated before one of the scheduled witnesses testified. This was unfortunate because the witness, Dr. Ronald E. Muller, economics professor at American University, has many thoughtful insights into information management problems.

For example, in Global Reach, Professor Muller and his coauthor Richard J. Barnett discussed how "skilled obfuscation" has become a standard accounting device. In Japan corporations are required to give the tax collector and shareholders the same profit figures. In contrast, the accounts of U.S.-based firms appear as wedding clothes to stockholders and rags for the tax collector, as Congressman CHARLES VANIK has observed.

I hope that the subcommittee will be able to hear Professor Muller early in the next Congress. For now I ask unanimous consent to have printed in the RECORD the abbreviated summary statement of the verbal testimony he planned to deliver.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### ABBREVIATED-SUMMARY STATEMENT OF VERBAL TESTIMONY OF DR. RONALD E. MÜLLER

A major conclusion of my testimony is that the U.S. Government is caught in the midst of a profound information crisis. The chief symptom of this crisis is the government's growing inability to maintain economic stability and equity for the majority of our society. An interrelated and equally important symptom of the government's "information gap" will be a continuing erosion in the economic and political accountability of certain major actors of the U.S. polity. As history would have foretold, current economic instability seems to breed with it an erosion in the functioning of constitutional checks and balances necessary to maintain our democratic institutions.

Democracy cannot survive without economic stability, economic stability without democracy goes against the core of the U.S. political tradition. Reliable, complete, and relevant information, rapidly communicated to the policy-making community, is a prerequisite common to both economic stability and democracy. This is particularly so when it is recognized that in our interdependent society, economics is a basis of political power and politics a basis of economic power. It goes without saying, therefore, that the topic of the Subcommittee's present hearings are a vital one.

Since WW II the U.S. and world political economy have undergone a fundamental transformation in terms of the major institutions which regulate economic and political life. The failure by policy-makers, and the science and other "expertise" communities upon which they are dependent, to recognize the full scope of this transformation is a basic explanation of current policy inefficacy, let alone inefficiency. Because government's information systems both determine and are determined by various different types of policy, the "discovery" of ineffective policy goes hand in hand with the "discovery" of an information crisis. When a political economy, i.e. a social system, undergoes a transformation, history teaches us that old policy must be replaced by new approaches, old content of information replaced and/or modified by new content.

For example, the last structural transformation of the U.S. political economy occurred between 1865 and 1939. Yet it was not until the depths of the Great Depression that this transformation was recognized and the government finally overcame its "structural lag." Policy-makers thereupon implemented the totally new approaches of the "Keynesian Revolution" in economic stabilization policy and significantly revamped government's regulatory functions and thereby its information systems. Similarly as concerns today's times: although we may experience a slight easing in inflation and unemployment over the next 18 months, it is my opinion that this is but a "pseudo-recovery." In fact, there is a very significant probability that continuing the current policy approach, basically the same as for the past 25 years, will land us by 1978–79 right back in the same, if not worse, situation that we have now.

This is the background which leads me to suggest that a full understanding of the Post WWII transformation of the U.S. political economy is essential for this Subcommittee to accomplish its announced tasks. In this regard there are three major systemic and intimately interrelated causes contributing to the Government's crisis in information and policy efficacy. A review of these systemic causes outlines the parameters for updating the policy-generating and information systems of government about which this Subcommittee is holding hearings:

(1) As in the past, the U.S. private corporate sector has been the leading institution behind the transformation of the overall political economy. Because some 700 agribusiness, industrial, and financial corporations control about 70% of the private economy (compared to 40% in 1950) the transformation in their own behavior has transformed the behavior of the economy and changed the response of the economy to standard stabilization policies. Increasingly over the past 10 years, these policies (intended to maintain stable full employment, prices, income distribution, balance of payments, and fiscal solvency of government) have produced ineffective and at times perverse results. What were in 1950, dominant single industry, national corporations have evolved now into multi-industry, truly global conglomerates. In addition, because so much of their total transactions are between subsidiaries of the same parent conglomerate, they can no longer be characterized as market enterprises.

The upshot of this 25-year period of rapid evolution is that the overall economy has achieved historic levels of concentration, global interdependence, and is largely a Post-Market economy. This at a time when government still pursues policies based upon the now outdated assumptions of an economy characterized by competitive, single industry, and largely national firms, operating through market mechanisms of independent buyers and sellers. Not only is this policy approach based on invalidated assumptions, but it is also dependent upon statistical information increasingly unreliable because the information systems generating those statistics make the same erroneous assumptions. The global conglomerate does and must utilize, given its unique form of systemic competition with other conglomerates, a remarkable "accounting mobility" to shift revenue, cost, and profit figures from subsidiaries in one national industry to another, from one nation to another. For the purposes of fiscal and monetary policy (and for that matter, wage negotiations), statistics derived from consolidated balance sheets are at best of uncertain validity, at worst, meaningless. Thus, Leonard Spacek, former chairman of the world's largest accounting firm, Arthur Anderson & Company, has noted that "generally accepted accounting principles" on financial statements are a "fiction." He goes on, "My profession appears to regard a set of financial statements as a roulette wheel to the public investor." David Norr of the American Institute of Certified Public Accountants agrees. "Accounting today permits a shaping of results to attain a desired end. Accounting as a mirror of activity is dead."

Proposals to rectify this situation are complex. I shall give some specific examples in the question session to follow. In this abbreviated written summary, let me emphasize, however, that correctives will not only have to account for the global interdependence of our economy but also its "sectoral" interdependence: In an economy dominated by conglomerates, policy or information requirements aimed at one industry, can in fact be compensated by offsetting behavior in other industries.

(2) The increased complexity of our modern society is another capstone characteristic of transformation and a further systemic cause in the breakdown of information systems and government policy-making. The term "our complex modern society" is used popularly, almost to the point of being trite; yet the process of government information gathering and policy-making has failed to change in light of this growing complexity. Information is still gathered, interpreted and policy made by functional experts, whose knowledge domain and training is limited to a single discipline or set of topics. In contrast to the reality of complexity, we still develop a new technology, a new law, or a new policy to attack some specific problem, more often than not oblivious of the inevitable "spin-offs" that will result in other parts of our society or world. It is not surprising that government be beset by this problem for the academic community of this country still continues to educate people in singular fields of knowledge, oblivious of the reality of sectoral and global interdependence, still believing in complete specialization and division of labor. A society where politics and economics are but two sides of the same coin, global and sectoral inter-relations are the norm not the exception, inevitably will have to make some degree of commitment to multi-disciplinary, multi-geographic approaches to information generation and policy-informaton.

(3) The characteristic of increased societal complexity is directly related to a third systemic cause of the current problems in government information requirements and policy-making, namely, that of the accelerating speed of social change. Increasing global and sectoral interdependency via the linkage of common technologies and productive institutions means not only a dovetailing or overlapping between different problems in different parts of society or the world, but also a heightened speed of that dovetailing. Thus for example, the actions of OPEC dovetailed with U.S. domestic food shortages via a balance of trade policy that ignored impacts on inflation, which were to be further aggravated due to domestic versus foreign prices of fertilizers. The accelerating speed of social change and therefore the growing policy problems confronted by government, again, is almost too trite a point to mention. But the triteness of verbal recognition does not connote understanding if the lack of change in the communications process between science and policy-maker or between policy-makers in different branches is the evaluatory criterion.

On all three of these systemic causes relating to the inadequacies of government information systems and policy-making, I am currently engaged with a number of others in the development of a center, to be located here in Washington, and dedicated to the problems currently afflicting democratic policy-making in the U.S. I would hope that in the question session to follow some of the findings that have been used to develop the outlines of this Center could be of interest to the endeavors of this Subcommittee. One of those findings, however, I should note here in this written summary: The lack of widespread understanding of our social system's current transformation, particularly, the new types of interdependencies of which I have spoken, can lead one to consider the need for a legislative moratorium in certain areas of policy-making. Governmental information requirements to maintain policy-making may be one of these areas. Another may be that of a national planning agency located within the executive branch. In prior testimonies in other committees of Congress. I am on record supporting both new information requirements, specifically in the area of corporate disclosure, and the need for national planning activities, particularly under the guidance of the Congress. I and others are concerned, however, that an incomplete understanding of the many interdependent ramifications, both domestic and international, will lead to only partial remedies and thus delay more comprehensive approaches.

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## INTERVIEW ON THE CONCORDE

Mr. GOLDWATER. Mr. President, recently it was my honor to represent the President at the Farnborough Air Show held in England from September 5 to 9. While in England for that event, I was asked to be interviewed by the BBC relative to the Concorde supersonic transport. Now, the questions posed by the BBC reporter, Mr. Brian Redhead, reveal the tremendous interest which the Europeans have in the continued progress of civilian supersonic flight, and in order to provide some insight into the latest thinking in Europe about this subject, I ask unanimous consent that the transcript of the interview be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

[Transmitted on BBC Radio 4, "Today," Sept. 8, 1976]

### CONCORDE

BRIAN REDHEAD. Is Concorde a triumph of matter over mind? With every flight it seems to be sweeping aside the arguments of those who oppose it, and now even Americans are forecasting that she'll soon be allowed to land in New York and that should mean commercial success. But how long can Britain and France alone command supersonic civil flight in the Western world, when will the United States move in? Senator Barry Goldwater of Arizona, one of America's most influential politicians is visiting the Farnborough Air Show this week, and John Sargent asked him about Concorde.

Senator GOLDWATER. Concorde is here to stay. Supersonic flight is with us and we won't get rid of it. In fact, you've already hauled fourteen thousand people back and forth across the Atlantic and you're going to expand this service almost worldwide, it's going to force the United States whether the Congress likes it or not, into having one or two or more of its airlines buy supersonic transport. Now, I think the next step will be a wider bodied, larger airplane, possibly a little faster, I don't think it's beyond possibility that we'll see mach 5 flight in my life time and I intend to live quite a while.

J. SARGENT. So you see co-operation between the United States and Britain and France?

Senator GOLDWATER. Yes, we already have co-operation, we're co-operating very heavily in the avionics field, in the engine field, I spoke the other evening—or the other day with the Rolls-Royce engine people and you know, they're working with our people and we're working with them, trying to develop a higher thrust, more quiet engine. We are doing research on air flow forms and sizes with NASA, so eventually all of this knowledge can be pooled and we can all benefit by it.

J. SARGENT. There must be some fear here that all the hard won experience that we've got with Concorde might be given as it were, free to the Americans, do you think that's a real fear?

Senator GOLDWATER. Well, I think that any time any advancement is made in any science it becomes the property of the world, so you may say that what England and France have done with the Concorde is a gift in aeronautical know-how to the whole rest of the world, not just the United States.

J. SARGENT. And of course, one of the arguments for those tremendous development costs, more than a thousand million pounds, between Britain and France, was that we'd get in early on the supersonic transport and this would be a lead that we could somehow maintain.

Senator GOLDWATER. I think it will work to your advantage, although I think we have to be honest and recognize that neither France or England is going to make a profit out of this directly, but let's take a look at the amount of money we have—the United States—has spent on space, some forty billion dollars. I see the day coming when we will get that much back every year and I think you'll find the same thing, the fall out, from the supersonic development, all of the little things here and little things there that are going to happen.

J. SARGENT. But you would expect though the present versions of Concorde not to make any money?

Senator GOLDWATER. I don't see how they can unless they get into far wider use by any airlines in other countries, I don't think that's too important, the economic aspect of it . . . the important thing is that we can now . . . fly people faster than the speed of sound, we've always known we can but it took these two countries to prove it.

## STATUS OF DOMESTIC LEGISLATION FOR DEEP OCEAN MINING

Mr. JACKSON. Mr. President, I ask unanimous consent that there be printed in the RECORD the speech prepared for delivery by D. Michael Harvey—deputy chief counsel of the Senate Interior Committee to the American Mining Congress, September 29, 1976, Denver, Colo.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

### STATUS OF DOMESTIC LEGISLATION FOR DEEP OCEAN MINING

(By D. Michael Harvey)

#### BRIEF HISTORY OF SENATE LEGISLATION

The Senate Committee on Interior and Insular Affairs has been working on legislation to promote the conservation and orderly development of the mineral resources located on the ocean floor since 1972. In fact, this work really began with the hearings of the Special Subcommittee of the Outer Continental Shelf which were held in 1970. The Committee reported a bill (S. 1134) by unanimous vote in August, 1974. That bill was referred to the Committee on Foreign Relations and did not come to a vote in the Senate. In this Congress, the Committee continued its work and in April reported the Deep Seabed Hard Minerals Act (S. 713) again by unanimous vote. S. 713 was then referred to three committees—Armed Services, Commerce, and Foreign Relations.

In June, those three committees reported it back to the Senate. The Committees on Armed Services and Commerce reported it without recommendation for passage, i.e. they were neutral. The Committee on Foreign Relations, on the other hand, opposed the bill.

S. 713 remained on the Senate Calendar until September 15 when it was tabled by unanimous consent. This action did not represent an adverse vote by the Senate but rather was a "housekeeping" move in recognition of the fact that the sponsors of the bill did not intend to seek Senate action on the bill this year.

#### PURPOSE AND BASIC PROVISIONS OF S. 713

The Deep Seabed Hard Minerals Act is designed to promote the conservation and orderly development of the manganese nodule resources of the deep seabed by persons subject to the jurisdiction of the United States. It is interim legislation which expressly provides that it will be superseded by the terms of any international agreement binding on the United States. Negotiations looking toward such an agreement are currently underway at the Third United Nations Conference on the Law of the Sea.

The bill has three basic provisions.

First, U.S. nationals would have to obtain a license from the Secretary of the Interior before they could engage in exploration for or commercial recovery of manganese nodules on the deep seabed. No commercial recovery will be authorized until January 1, 1977. Licenses would limit the area to be mined by any one company and would contain provisions to protect the marine environment. There is no other existing basis for such licensing, under either international law or federal statute.

Second, S. 713 recognizes the need for an international legal system for all the uses of the oceans, including ocean mining. No licenses would be issued under the bill once a new treaty became binding on the United States. This bill provides an orderly transition from the present situation of no regulation of ocean mining, to United States' regulation of its nationals who conduct ocean mining and then to a new international system which could result if a Law of the Sea treaty is agreed upon, ratified and enters into force.

Third, S. 713 would stabilize the presently uncertain investment climate in the ocean mining industry caused by the fact that the United States has indicated its willingness to agree to change the present international law which permits unrestricted seabed mineral development. Prospective ocean miners are faced with the possibility that new internationally agreed upon terms and conditions may be imposed on them in the near future which could deny access by private industry to manganese nodule deposits entirely. Delay in investment could result in loss of American industry's current technological advantage and increased dependence on foreign sources of minerals.

S. 713 provides a guarantee against loss of investment due to imposition of a new international regime. This guarantee does not include loss of profit. Any payment under the guarantee would be offset by any profits realized prior to loss of investment.

#### WHY HAS NOT S. 713 BEEN ENACTED?

Since ocean mining legislation has been considered for three Congresses, why hasn't it passed the Senate and indeed, why hasn't it been enacted by Congress? I see four basic reasons.

First, the Congress has supported the concept of a Law of the Sea treaty which would help achieve harmony and stability in the many new and varied uses of ocean space, including deep sea mining, which are developing right now. Haphazard development of international law in this area may not adequately protect our own or any other country's interests in navigation, pollution control, freedom of scientific research and the rational development of both living and mineral resources of the ocean and seabeds. Congress has been very patient.

Second, the Administration has strongly opposed enactment of any legislation on the grounds that so doing would jeopardize the "progress" at the Law of the Sea conference. Veto threats tend to dampen Congressional enthusiasm for legislation.

Third, there has been a general lack of knowledge about and concern for the Law of the Sea negotiations. This is a complex subject which is unfamiliar to many Senators and their staffs. The fact that high policy officials in the Executive Branch appeared to be ignorinrg the negotiations led many from the Senate to conclude that they were not very important.

Fourth, the legislation, despite the fact that S. 713 differs greatly from the original bill in the 92nd Congress, is still described by many commentators as the bill "drafted by the American Mining Congress". Many of these commentators then describe the bill as "special interest legislation" which, by definition, must be not in the public interest. I will not comment further on this problem other than to point out that the same individuals see nothing wrong with a bill drafted by the Sierra Club.

#### WHERE DO WE GO FROM HERE?

After another session, delegates from some 150 nations again have been unable to agree on a United Nations treaty on the law of the sea.

The most recent was the fifth session—New York in 1973; Caracas in 1974; Geneva in 1975; New York twice in 1976. The most recent session ended Friday, September 17, with agreement to meet in New York next May for at least seven weeks.

On September 1, our Secretary of State hosted a reception for those who headed delegations to the Law of the Sea Conference. In his remarks to that group, he offered three propositions with a view to encouraging a successful conclusion of the treaty negotiations.

In his words, these were "very significant concessions" on the part of the United States.

Secretary Kissinger first repeated an earlier suggestion for parallel access to the deep seabed, with reservation of mining sites for use by the International Authority.

Second, he proposed that the United States underwrite financing of ocean mining by the International Authority. Without going into detail, he said that the purpose would be to transfer technology and otherwise enable the International Authority to exploit its portion of the seabed concurrently with private enterprise and participating nation-States.

Third, the Secretary suggested a periodic review so that the seabed regime might at sometime be reformulated.

In his summation, Secretary Kissinger warned that American flexibility on this issue is limited. He stated his belief that the "basic principles," as put forward by him are not likely to be changed under a new Administration in Washington, and in this connection refererd to the bipartisan composition of the Congressional delegation taking part in the Conference negotiations.

I would emphasize that the Senate not only has insisted upon and continues to support the nonpartisan character of the United States Law of the Sea negotiations, but also that Senators have insisted upon and continue to support a bipartisan approach to ocean mining legislation.

At stake in the Law of the Sea Conference is the chance of avoiding global confrontation of one kind or another. So, in matters having to do with ocean mining, it is appropriate that the United States adopt a farsighted approach.

It is also vitally important that representatives of developing nations at the Conference are fully aware that we agree with Secretary Kissinger that American flexibility concerning Law of the Sea matters is indeed limited, and that many Senators do not favor the direction that the negotiations have been taking. Nor would they be inclined to grant, advise and consent to ratification of a treaty pertaining to ocean mining which is based on the framework provided by the Revised Single Negotiating Text, including subsequent recent additions to it.

Furthermore, despite the discouraging years of ideological haggling and delay at the Conference, it should be made clear that Congress has shown restraint out of a desire to see the Conference achieve a successful conclusion. For this reason, legislation to foster American ocean mining interests has been held in abeyance.

Nevertheless, since the Conference this year failed to arrive at an agreement conducive to the development of ocean mining, I believe that Congress will definitely be in a mood to act on legislation early in 1977 regardless of whatever Administration is in office.

Our domestic ocean mining industry, by dint of major expenditure of capital and effort, is prepared to undertake the commercial recovery of manganese nodules from the ocean floor with due regard to other uses of the ocean. Certainly, our Nation stands in need of the nickel, cobalt and other critical minerals which are available on the ocean floor and open to exploitation under existing international law. Congress will not mark time indefinitely while the Law of the Sea delegates continue to procrastinate.

I have high hopes that a bill which meets the valid concerns expressed by the Commerce and Armed Services Committees about S. 713 and retains the features needed to allow our domestic industry to proceed, will be introduced at the beginning of the 95th Congress. I believe that the Senate will enact such a bill well before the next session of the Law of the Sea Conference. Surely, this action could not make matters at the conference any worse than they are already. On the contrary, I believe a strong argument can be made that firm action by Congress to protect the interests of the United States in access to seabed minerals may be the only hope for resolution of this issue in the international forum.

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## OCS LEASING REFORM—ANOTHER VICTIM OF THE BIG LIE

Mr. JACKSON. Mr. President, on Tuesday, the House of Representatives by a 198–194 vote sent the conference report on the Outer Continental Shelf Lands Act Amendments of 1976 (S. 521) back to conference. In view of the limited time left in this Congress and the procedural difficulties in obtaining floor action both in the Senate and the House of Representatives, this move did exactly what its proponents intended—it killed the bill.

Most Senators are aware that S. 521 is opposed by the major oil companies and the Ford administration. They pulled out all the stops in their efforts to keep the Congress from sending a bill to the President. Among other things, they made expert use of the "big lie" technique. The chairman of the Ad Hoc Select Committee on the Outer Continental Shelf, Congressman JOHN MURPHY, and I have both pointed out the errors and misleading statements in the materials circulated by the National Ocean Industries Association. I ask unanimous consent that my statement on this subject in the September 10 CONGRESSIONAL RECORD and Chairman MURPHY's September 22 letter be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, even the normally accurate Wall Street Journal got into the act with its misleading and factually inaccurate editorial of August 31. I ask unanimous consent that Chairman MURPHY's September 2 letter to the editor, together with the editorial be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JACKSON. Mr. President, the final installment of this big lie campaign was Secretary of Interior Kleppe's September 22 statement that he would recommend that President Ford veto S. 521 if the conference report was adopted. Mr. Kleppe's statement referred to "factual analyses that predict a 2 to 4 year delay if this legislation is passed." When I received the press release, I immediately requested him to send me copies of the analyses to which he referred since no such analyses have ever been submitted to the Interior Committee. This letter was hand carried to the Secretary's office and his correspondence log indicates that it was received on the 23d. I have had no reply.

Mr. President, one can only conclude that there are no factual analyses. Perhaps the Secretary is developing them now just as the studies upon which President Ford's veto of the strip mining bill were allegedly based did not exist at the time he vetoed the bill.

Almost 15 months ago, Senator METCALF and I asked President Ford to comment on newspaper accounts indicating that the strip mining veto was not based on any analytical study. That request, like my most recent one to Secretary Kleppe, has not been answered. I ask unanimous consent that the letter Senator METCALF and I sent to the President on July 9, 1975, be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. JACKSON. Mr. President, these actions demonstrate that the Ford administration has and continues to wage a massive effort to obfuscate the facts and mislead the public about the impact of significant legislation which attempts to balance the need to develop our domestic resources with the need to protect our environment. One of the basic thrusts of this legislation has been to encourage cooperation between the Federal Government and the States impacted by development of Federal energy resources.

For years the Nixon-Ford administration has indulged in the rhetoric of a "new federalism"; of taking power from Washington, D.C., and returning it to the States. In fact, however, their rhetoric and their actual policy are going in opposite directions.

While they talk partnership, the Nixon-Ford administration has been running roughshod over State rights.

Who in the Ford administration consulted with State government on Outer Continental Shelf leasing?

Who consulted with the States on oil shale development, on coal gasification, on siting nuclear powerplants, on identifying deepwater ports, on strip mining, on new oil and gas pipelines and on a long list of Federal actions which have critical impacts on State and local governments.

The answer is that the Ford administration has not consulted with the States. The States have not been treated as a partner in important resource and environmental decisions.

This has produced needless delay and costly conflict. It has inspired obstructionism in many State capitols.

Mr. President, the Ford administration's handling of these critical issues has been insensitive, incompetent, and inconsistent. If this were not enough, the Interior Department has continually put out inaccurate information about these issues. I have already pointed out the serious problems connected with strip mining and OCS legislation. Thankfully, a few of these errors are simply funny. For example, on September 27 in an address to the American Mining Congress, Secretary Kleppe berated the Congress for "failure to enact key provisions of President Ford's energy program." I was glad that he reminded the American consumer and taxpayer that Ford's program called for a fivefold increase in the price of natural gas and more tax loopholes for the major oil companies.

I was amused to note that one of our alleged "failures" was that the Congress had not enacted legislation to "permit the construction and operation of deepwater ports." The 94th Congress did not enact such legislation because the 93d Congress did. The President signed the Deepwater Ports Act in January of 1975.

Mr. President, we need to modernize the OCS Lands Act. Unfortunately it will not be done this year, but I am confident that it will be done in 1977. In the meantime, I am sure that the broad spectrum of citizens and State and local officials who so strongly supported S. 521, will keep in mind the fact that it was killed by the Ford administration, once again working hand in hand with the major oil companies.

### EXHIBIT 1

[From the CONGRESSIONAL RECORD, Sept. 10, 1976]

### MISLEADING INDUSTRY PROPAGANDA ON OUTER CONTINENTAL SHELF LEGISLATION

Mr. JACKSON. Mr. President, I expect that Congress will soon be sending to the President the Outer Continental Shelf Lands Act Amendments (S. 521) which has been passed by both the Senate and the House of Representatives and is now in conference. I am aware that the oil and gas industry is exerting every effort to prevent final congressional action on this legislation. One aspect of the energy industry campaign is a so-called "procedural leasing flow chart" which purports to prove that enactment of S. 521 will cause delays in production of at least 24 months.

This chart, which was sent to every Senator by the National Oceans Industry Association, is extremely misleading. For example, it implies that the requirement that the Secretary of Interior adopt a 5-year leasing program will prevent any leasing between the date of enactment and adoption of the program. This is wrong. The bill expressly provides that leasing can continue prior to the deadline for approval of the leasing program which is 18 months after enactment. The bill even allows leasing to continue after that time if the program is undergoing administrative or judicial review.

The flow chart also indicates that the requirement that the Secretary seek applications for stratigraphic drilling once in each frontier area "may take years." The fact is that the Secretary of the Interior can establish the time period during which he will seek applicants.

The flow chart implies that the review of environmental impact statements by State Governors and regional advisory boards will add 2 months to the leasing process. This is wrong. This review would take place at the same time that general public review would occur as is indicated on the flow chart itself.

The flow chart indicates another 2-month delay for regional advisory board and State Governor reviews on lease sale. It indicates that this period would come after the publication of the sale notice. Once again, this is wrong. This review would take place before the sale notice was published.

Finally, the chart implies that the requirements for a development and production plan and for State Governors review of such plan may lead to a delay of as much as 18 months. There are several errors in this portion of the chart. First, the chart implies that an environmental impact statement would be required on every development and production plan. This is not true. The bill simply requires one impact statement on a proposed development and production in each frontier area. Aside from this, the bill does not change the existing requirements of the National Environmental Policy Act which are applicable under the existing leasing system to development plans.

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Ad Hoc Select Committee on
Outer Continental Shelf,
*Washington, D.C., September 22, 1976.*

Dear Colleague: In the Washington Post today, Wednesday, September 22, 1976, is a full page ad by the "National Ocean Industries Association" opposing S. 521, the Outer Continental Shelf Lands Act Amendments of 1976. As the text of that advertisement clearly indicates, it is a last gasp attempt by the major oil companies, through their suppliers, to stop Congress from passing needed reforms to the 1953 OCS Act. The advertisement is full of inaccuracies, distortions, and scare words. The text itself clearly indicates that the companies represented by the National Ocean Industries Association are the suppliers of the "major oil companies" and thus subject to their bidding and demands. In fact NOIA was originally set up by one large company, EXXON, as an additional lobbying agent in its behalf. It is unfortunate, of course, that the "seven sisters" feel it is necessary not only to personally lobby against the bill, individually and through their industry organization, the American Petroleum Institute, but also now through an organization established to bolster their almost isolated opposition to S. 521.

Throughout our hearings, representatives of the seven major oil companies testified in almost the same words as to their total opposition to any amendments to the Outer Continental Shelf Lands Act. This opposition was echoed almost word for word, by the industry representative, the American Petroleum Institute. The testimony, letters, reports, and statements issued by the National Ocean Industries Association can be seen as a carbon copy of the language, positions, and attitudes expressed by the seven sisters and the API.

For almost 18 months, the major oil companies have been attempting to stall needed legislation to improve the regulatory machinery for the exploitation of the mineral resources of the federally-owned Outer Continental Shelf. Now, in a last blitz attempt, they are seeking to stop this legislation, coming back to Congress in a Conference Report after already having been passed by both Houses, from being finally approved in the final days of the 94th Congress. Do not be fooled. The request for a 120 day legislative delay will be followed by more delay next Congress and ad infinitum.

You should, at this point, be receiving letters from the various oil companies, their employees, and their suppliers in response to a call by the American Petroleum Institute, and executives of the large oil companies, for such a mail "blitzkrieg". In addition, you will be seeing and receiving editorials in some commercial journals restating the industry position word for word, and making rash statements about the proposed OCS legislation. We are attempting to respond to each and every one of these communications so as to accurately state the facts.

As to the NOIA advertisement, the major oil companies suggest that the OCS bill will add 45 more steps to the regulatory machinery and thus add two more years to OCS development. In fact, as noted by Senator Jackson in his Congressional Record insert of September 10, 1976 (p. 29677) the statements and chart supposedly justifying these statements are entirely misleading. I have previously detailed in the Congressional Record of June 4, 1974, comparison of existing procedures and steps, with those required by H.R. 6218 (now almost totally adopted in S. 521). A review of this chart clearly indicates there are no substantial additional administrative procedures required by the new bill. A review of the NOIA chart indicates that the steps "added", are procedures presently required, and will not cause additional delays. The OCS bill will replace many and not add to existing procedures, so as to modernize and improve them, and will provide that activities operate concurrently thus eliminating any delay in OCS development.

The OCS bill rather than leading to a loss of revenue, a deficit in the annual balance of payments, an increase in foreign imports, and a decrease in exploratory activities, will in fact result in additional revenue to the federal government through use of new bidding systems, additional exploratory activity because of the involvement of additional energy companies in OCS lease sales and exploratory activities, in an increase in development of our domestic sources of energy through new diligence requirements and limitations on under- or non-production leaseholds.

Finally, the NOIA advertisement would appear to indicate that this bill comes out of the clear blue sky. It is a moderate attempt to reform a 23 year old law, and has support of not only environmentalists and most coastal states, but also of almost all the gas distributors throughout the United States, many of the independent and small refiners, many of the independent and smaller service station owners, many of the smaller oil companies, the unions, including those worker's organizations which work on OCS facilities and, as demonstrated by the votes in the Senate and the House, a substantial majority of the Members of Congress.

I hope you will consider the source of this advertisement and its objective and oppose attempts by the major oil companies to thwart our attempts to update and modernize the antiquated Outer Continental Shelf Lands Act of 1953.

Sincerely,

John M. Murphy,
*Chairman.*

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Exhibit 2

[From the Wall Street Journal, Aug. 31, 1976]

### Murphy's Law

There are several laws attributed to Murphy, the most notable being "Anything that can go wrong, will." We've never been able to find out who this Murphy is, but if H.R. 6218 is typical of the legislation drafted by Rep. John Murphy, the Long Island Democrat, we may have found our man.

Mr. Murphy's bill, an amendment to the Outer Continental Shelf Lands Act, has absolutely nothing in it that would make things better. And what there is in the bill that can go wrong probably will. It was thus made to order for this particular Congress, and easily passed the House in late July and is now being fitted to a companion bill written by Senator Jackson, which drew only 19 negative votes in the Senate. President Ford will have another veto opportunity in a few weeks.

There aren't many laws on the books that could not stand refining and improvement, but the existing OCS law has so clearly served the public interest that there is no percentage in opening it up for repairs of a major nature.

Both environmentally and financially, the legislation's record in the Gulf of Mexico is superb. In more than 20 years, 19,000 wells have been drilled with only one spill, and there was no permanent ecological damage from that. The oil industry has grossed $23 billion in oil and gas sales. Government has received $19.9 billion of that amount. The industry, which so far has *spent* $34 billion on development of the Gulf OCS, may eventually get a return on investment of no more than 7%. If there is anything here for U.S. taxpayers and consumers to complain about, it isn't evident.

Murphy's Law, though, is the equivalent of sending your Rolls-Royce down to Sammy's Garage for a ring and valve job at 20,000 miles, whether it needs it or not.

The least of its mischief is that it adds a few dozen more screening procedures on top of the more than 100 checkpoints an oil company now faces before it can start drilling. Taxpayers and consumers, of course, pay all the bills for ecological returns that are beyond the vanishing point. It is money thrown away to purchase delay.

Worse, though, are the innovative financial provisions that purport to maximize revenues from leasing and production, but which can logically only inhibit production and revenues.

Before offering a tract for lease, the Interior Department would be required to contract an exploration on behalf of the taxpayer. The idea is that the government will be able to get more in bonuses and royalties if it knows first hand if there's a jackpot under the OCS tract. In effect, the taxpayer is giving Interior Department bureaucrats a pile of money to gamble with, and if the bureaucrats lose, so what? It's not their money. Senator Jackson's version would actually set up a federal corporation with $500 million to play with.

The other innovation that can only go wrong is the requirement that the Interior Secretary let out so many tracts on royalty bidding instead of bonus bidding. The idea is to give Mom & Pop Oil Explorers a chance at the big time. Bonus bidding, now standard, requires up-front money by the explorer, which means he has a serious incentive to explore. Mom & Pop can compete on royalty bidding because there's no up-front money. They can promise to give the government 80% of production, win the tract, dig one well hoping for a North Slope, and abandon the tract if it's dry.

What's wrong with the current system? When the nine square miles of Baltimore Canyon tracts were put up to bid a few weeks ago, there were 410 bids on 101 out of the 154 tracts. The government rejected 8 of the bids as too low, and collected $1.127 billion in bonuses. It will be five years before the first drop of oil is produced. The reason Mom & Pop Explorers don't belong in this kind of games is exactly the same reason why they should steer clear of the baccarat tables in Las Vegas The same goes for the desk jockeys at Interior.

Unless Representative Murphy has some secret maps detailing OCS oil fields, which he will turn over to the federal explorers he is asking the taxpayers to finance, there's nothing in his law worth saving. When it hits President Ford's desk it should be vetoed, quietly, mercifully, and we will promise to forget about it if Mr. Murphy will.

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Ad Hoc Select Committee on
Outer Continental Shelf,
*Washington, D.C., September 2, 1976.*

The Editor,
*Wall Street Journal,*
*National Press Building,*
*Washington, D.C.*

Dear Sir: Your editorial, "Murphy's Law" (August 31, 1976), is, at best, inaccurate, and in fact, intentionally misleading and deceptive.

Both the Senate and the House have passed amendments to the Outer Continental Shelf Lands Act. H.R. 6218, now called S. 521, is the product of nine sets of public hearings in 14 different coastal cities by the OCS Committee. We heard testimony from more than 300 witnesses throughout the country, and held 12 days of mark-up sessions, during which we considered almost 200 amendments. This was followed by four days of floor debate by the House, considering 80 more amendments. The bill was not, as you claim, "drafted" by me. It was prepared by all the Members of the Committee, and by many other Members of the full House.

Your editorial makes it appear that this bill has no support. Not only is it supported by almost all coastal states and environmental groups, it is supported by the AFL–CIO, smaller oil companies, and the gas distributors throughout the country. In fact, the opposition to the bill comes from the larger oil companies, the seven "sob" sisters, and not from the general energy industry. It should be remembered that these large companies are the same ones that capitulated and are capitulating to the Arabs.

You ask "What's wrong with the current system?" It is anticompetitive, potentially unsafe, irrational and antiquated. Present OCS leasing policies do not consider the requests for rational protection of the environment, for consideration of the legitimate interests of coastal communities, for balancing short-term against long-term needs, and for improving the safety conditions for workers.

The OCS bill is recognized by most as a moderate attempt to update an outmoded 1953 law, which, despite your unsupported statements to the contrary, has not worked well.

In specific response to your misstatements, the record of offshore drilling is not superb. By discussing only the Gulf of Mexico, you failed to recognize the enormous damage resulting from the 1969 Santa Barbara oil spill. In addition, you did not mention the serious, and often fatal, accidents to divers and other workers on offshore facilities.

You do not mention that the Administration has reversed the policy of gradual development it undertook in the Gulf, and has now decided to accelerate lease sales in all previously undeveloped areas. You completely ignore the enormous impact that such "accelerated leasing" has on previously untouched coastal communities and the need to supply information to and obtain input from such coastal areas.

You stress that OCS administration is "financially sound". Your paper has continually stressed the need to promote "free enterprise competition"; yet you support continuing the present anti-competitive offshore leasing system. In the Baltimore Canyon lease sale, Exxon—the largest oil company—was able to secure one-third of the leases offered; the top seven oil companies, either alone or as the lead party, obtained 75 to 80 percent of the leases. This is not competition—it is oligopoly. Requiring use of new bidding systems will bring in other companies. Your use of the term "Mom and Pop" explorers is an insult to many multi-million dollar energy companies, including gas distributors. Smaller companies have been drilling most of the wells onshore and now seek an equal opportunity offshore. Gas distributors have been supplying natural gas to its customers for years, and now seek an opportunity to eliminate the middleman and produce their own gas. These alternate systems are not untested; they are used successfully by many foreign countries and by states now leasing or licensing their lands.

You indicate that none but the seven sisters will efficiently exploit resources. Present Interior Department regulations, which would be substantially improved by the new OCS bill, provide for strict diligence requirements and penalties for premature abandonment. In fact, as demonstrated by a recent GAO report, shut-in wells and abandonment are more likely to occur when development is by the larger oil companies rather than by the smaller ones.

It is unfortunate that you state that the industry "may" only get a seven percent return on its investment on OCS leases. By that logic, the industry "may" also get a return of three-to-five times that amount. Calculation of bonus costs and exploration costs which have so far indicated a small return to producers does not take into account the fact that the fields already leased will continue to produce oil and gas for some time with a return to the government of only 16⅔ percent per barrel. At our hearings, representatives of the oil industry indicated that they eventually expect to make a return far in excess of the seven percent you suggest (Standard Oil of California and Shell indicated an eventual net income of 25–30 percent), especially in light of continually increasing prices for oil and natural gas. Moreover, because of technical provisions in tax statutes, the net return is substantially less than the real return. To paraphrase the statement of one witness from a large oil company, if they didn't believe that they would get an adequate return, they wouldn't be seeking to obtain the leases.

You indicate that the bill requires the Interior Department to contract for exploration. There is simply no such provision in the bill. The industry and the Interior Department both agree that the 1953 OCS Act allows exploration prior to a lease sale, and in fact, such geological exploration has been conducted pre-lease since 1953. The proposed House bill does not in any way mandate government exploration, by contract or any other way.

Finally, it must be recognized that the Outer Continental Shelf is federal land—not private domain. A lease grants the right to explore, develop and produce—it does not grant the right to despoil. It is not only the desire, but the duty, of Congress to set policy, guidelines and standards for government property. It is not in the public interest to allow exploitation of public resources to be determined by a few uncontrolled companies.

Unlike the unsupported statements in your editorial, these facts can be documented by our hearings and record. I am therefore attaching a full set of our hearings and the Committee report for your review.

Sincerely,

JOHN M. MURPHY.

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EXHIBIT 3

JULY 9, 1975.

The PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Your May 20 Memorandum of Disapproval on the Surface Mining Control and Reclamation Act of 1975 (H.R. 25) indicated that substantial production and job losses in the coal industry would result from its enactment. At the June 3 hearing on the Memorandum, the Administration representatives were unable to substantiate the "loss" estimates contained in your Memorandum.

Since June 3, additional information has been made public which indicates that most of the data and studies cited in your Memorandum and by the Administration's witnesses at the hearings were, in fact, developed after you vetoed H.R. 25.

For example, the two enclosed articles by Courier Journal and Baltimore Sun contain serious allegations, which if true, indicate that the loss estimates in your Memorandum of Disapproval were not based on any analytical study.

For example, Bureau of Mines employees told reporters that the figures were based on "a lot of guessing". No economic impact study was in fact made. What was done was to talk with state agencies, mining associations and mine operators usually by long distance telephone call. No fixed sheets of questions were used and no written responses were requested. The sheets noting the informal replies have been destroyed.

Six weeks after Congress sent H.R. 25 to you, Federal Energy Administration and Bureau of Mines officials told reporters that the legislation explicitly banned surface mining on slopes of 20 degrees or greater. No such provision existed in the bill and, in fact, both the Senate and House had rejected floor amendments to include such a prohibition.

Some state officials whom FEA had indicated that it had contacted about the impact of the bill denied that they had been interviewed or had furnished FEA any data.

If you have information which indicates that these and other statements in the articles are incorrect, we would appreciate receiving it.

On June 10, the day of the House vote to override your veto, the Washington Post published a letter from Chairman Morton and Executive Director Zarb of your Energy Resources Council about H.R. 25. They stated that: "The fact is, the bill recently vetoed would have greater adverse effects than the bill vetoed in December." This statement is a direct contradiction of their testimony on June 3 and your May 20 veto message which admitted that Congress had adopted a number of the changes you recommended. They cited in support of their statement a reference in Audubon Magazine to amendments adopted on the House floor in March which were not in the bill sent to you in May.

These actions demonstrate that the Administration has engaged in a massive and ongoing effort to obfuscate the facts and mislead the public on regulation of surface coal mining.

Sincerely yours,

HENRY M. JACKSON,
*Chairman.*

LEE METCALF,
*Chairman, Subcommittee on Minerals, Materials and Fuel.*

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## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE—H.R. 5546

Mr. STAFFORD. Mr. President, on September 27, 1976, the House of Representatives, for technical reasons respecting one aspect of the conference report on H.R. 5546 regarding insured loans, took an action which had the effect of returning to the Senate its amendment to H.R. 5546 with that one technical change. Subsequent to its action Senator KENNEDY, Senator JAVITS, and I understand the distinguished chairman of the Interstate and Foreign Commerce Committee, Mr. STAGGERS, and the ranking minority member of the Committee's Health and the Environment Subcommittee, Mr. CARTER, have revised and extended their remarks concerning H.R. 5546 in the CONGRESSIONAL RECORD to the effect that the conference report on the bill and its accompanying statement of managers reflect the view of the House conferees and the House of Representatives with the singular exception of the amendment made by the House concerning insured loans. We further understand that these remarks appear in the

Congressional Record of September 29, 1976.

The amendment before us recently is what all the conferees had agreed to in conference, save the provision relating to the point of order sustained by the House regarding one aspect of the title respecting insured loans?

It is my understanding and that of all the conferees that the statement of managers signed by the conferees of both the Senate and the House is intended to be part of the legislative history of H.R. 5546 regardless of the action of the House on September 27, 1976.

Accordingly, at this time I ask unanimous consent to have the following statement printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

## Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5546) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII of such act for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report: The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text. The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment.

The principal differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below.

### SHORT TITLE

The House bill provided that the act was to be cited as the "Health Manpower Act of 1975".

The Senate amendment provided that the act was to be cited as the "Health Professions Educational Assistance Act of 1976".

The conference substitute conforms to the Senate amendment.

### EXTENSION OF EXISTING AUTHORITIES

The House bill extended, without substantive revision, existing authorities relating to health manpower through fiscal year 1975 at the fiscal year 1974 authorization levels.

The Senate amendment extended most existing authorities through fiscal year 1977, and made substantive revisions through such fiscal year in the authorities for construction of teaching facilities. It extended the existing authority for loans and scholarships to United States students enrolled in foreign medical schools through fiscal year 1980. It also extended, with substantive revisions, the existing authority for grants for training in family medicine through fiscal year 1980. Under the Senate amendment, the fiscal year 1976 authorizations reflected the higher of the fiscal year 1975 appropriation and the fiscal year 1975 budget request. The fiscal 1977 levels reflected the higher of the fiscal year 1976 appropriations times 1.072 (the cost of living increment, as determined by the Senate Budget Committee) and the fiscal year 1977 budget request.

The conference substitute provides for an extension of existing programs through fiscal year 1976 at the fiscal year 1974 authorization levels. It includes the line-item authorizations for fiscal year 1977 provided by the Senate amendment, and makes substantive revisions for fiscal year 1977 in the existing construction authority. As noted below, the substantive revisions with respect to grants for traineeships and fellowships in family medicine are made applicable beginning in fiscal year 1978. Finally, under the conference substitute, the programs of loans and scholarships for United States citizens studying abroad are extended only through fiscal year 1976.

### TRAINING IN BILINGUAL AND BICULTURAL AWARENESS AND STUDY OF ADMISSIONS EXAMINATIONS

The Senate amendment required that any entity seeking assistance under the Public Health Service Act which provides training in facilities providing health services to an area where a substantial portion of individuals served is of limited English-speaking ability shall include in its application for assistance assurances that it will (1) place special emphasis on the recruitment and training of personnel who are competent in the predominant language other than English spoken by such individuals and (2) plan and operate projects to increase the awareness of their trainees of the cultural sensitivities of such individuals. The Senate amendment also required the Secretary to arrange for the conduct of a study to determine the effectiveness of the admissions examinations of health training institutions in evaluating the potential and ability of applicants from population groups of limited English-speaking ability to participate in and successfully complete the educational program of the institution.

The House bill contained no comparable provisions.

Under the conference substitute, the Secretary is required to arrange for the conduct of two studies: the first to determine the effectiveness of admissions examinations in evaluating the potential of applicants from population groups of limited English-speaking ability and the second to determine the adequacy of efforts by health training institutions which provide training in facilities serving populations with limited English-speaking ability to recruit and train health personnel who are bilingual and to conduct programs to increase the awareness of those trainees of the cultural sensitivities of population groups with limited English-speaking ability. The conferees agreed that if the findings of either study indicate a need for legislation, they will give serious consideration to remedial legislation without awaiting expiration and reconsideration or renew the authorities in the conference report. The conference substitute also provides special project grant authority, described below, designed to encourage the recruitement and training of bilingual personnel and the establishment of programs to increase awareness of cultural sensitivities.

### INTERDISCIPLINARY HEALTH PERSONNEL TRAINING

The Senate amendment required that, in providing assistance under the Public Health Service Act to any entity for the training of health personnel, the Secretary take affirmative steps to encourage the development of programs for cooperative interdisciplinary training among the various health professions.

The House bill contained no comparable provision.

In lieu of the provisions of the Senate amendment, the conference substitute authorizes the award of special project grants, described below, for the development of programs of interdisciplinary health personnel training.

### PRESERVATION OF ACADEMIC FREEDOM

The Senate amendment included a provision whereby it was expressly declared to be the intent of Congress to supersede any laws of States or political subdivisions insofar as they prevent training authorized under the Public Health Service Act.

The House bill contained no comparable provision.

The conference substitute does not include the Senate provision.

### ADVISORY COUNCIL

The House bill amended the provisions of existing law with respect to the composition of the National Advisory Council on Health Professions Education to require that, of the appointed members of the council, twelve shall be representatives of health professions schools, two shall be full-time students enrolled in such schools, and six shall be members of the general public.

The Senate amendment contained no comparable provision.

The conference substitute conforms to the provisions of the House bill except that of the twelve representatives of health professions schools, at least four are to be representatives of schools of veterinary medicine, optometry, podiatry, pharmacy and public health.

The conferees view the efficient implementation of the various programs for grants authorized by the conference substitute as a top priority of the National Advisory Council. In this regard, the conferees fully expect that each of the programs will be administered expeditiously and in a way that will insure that only quality programs which have passed the rigors of scientific review will be approved. It is, therefore, the intent of the conferees that sufficient advisory committees be established as complements to the Advisory Council in order that grant applications may be evaluated in a timely manner with appropriate advice and recommendations prepared for final action by the National Advisory Council. It is intended that separate advisory committees be established so that they represent the disciplines of (1) medicine and osteopathy, (2) dentistry, and (3) veterinary medicine, optometry, pharmacy, podiatry, and public health. The conferees feel strongly that review of grants by experts in the discipline which is the subject of the grant application is necessary if sufficient technical expertise is to be available to insure that each application receives thorough review by qualified persons.

Both the House bill and the Senate amendment included provisions which prohibited the Secretary from delegating to regional offices his authority to (1) review and prepare comments upon the merit of any grant or contract under any health manpower program for the purposes of presenting such application to the National Advisory Council on Health Professions Education, and (2) to make such a grant or contract.

The conferees made their intention clear that this provision precludes only the making of comments on such applications for purposes of presenting them to the Advisory Council, and does not constitute a blanket prohibition of regional office comment on grant or contract applications.

### HEALTH PROFESSIONS DATA

The Senate amendment contained a provision requiring the Secretary to establish a program to collect, compile, and analyze data on health professions personnel (including data respecting their training, licensure status, place of practice, professional specialty, practice characteristics, place and date of birth, sex, and socioeconomic background). It authorized the Secretary, in the collection of such data, to enter into contracts for the conduct of analytic and descriptive studies of the health professions as well as to make grants and enter into contracts with States (or appropriate nonprofit private entities within States) for the purpose of establishing a uniform health professions data reporting system. Further, the Senate amendment required any school receiving institutional support under the bill to make reports annually to the Secretary respecting students which attend such school. The Senate amendment required an annual report to the Congress and to the President on the status of health professions personnel in the Untied States. Finally, the Senate amendment provided for the confidentiality of personal data secured for the purposes described above.

The House bill contained no comparable provisions.

The conference substitute includes the provisions of the Senate amendment with technical amendments.

### SHARED SCHEDULE RESIDENCIES

The Senate amendment required that any entity which maintains a post-graduate physician training position in family practice, general internal medicine, general pediatrics, or general obstetrics and gynecology and which receives financial support under title VII of the Public Health Service Act shall, in the fiscal year in which it received such financial assistance, establish a reasonable number of such positions as "shared scheduled positions." "Shared schedule positions" was defined as a post-graduate training position which is shared by two individuals in which each individual (1) engages in at least two-thirds but not more than three-fourths of the total training for such position, (2) receives for each year in such position an amount of credit for certification in the medical specialty equal to the amount of training in which the trainee was engaged, (3) receives one-half of the salary for such position, and (4) receives all applicable employee benefits.

The House amendment contained no comparable provision.

The conference substitute conforms to the Senate amendment, except that the requirement to maintain shared schedule residency positions is applicable to all entities that receive Federal assistance.

### PAYMENT FOR INCREASES IN TUITION FOR WHICH THE SECRETARY IS RESPONSIBLE

The Senate amendment required the Secretary, by regulation, to establish criteria for determining allowable increases in tuition and other educational costs for which he would be responsible for payment under the Public Health Service Act.

The House bill contained no comparable provision.

The conference substitute adopts the provision of the Senate amendment except that the determination is limited to tuition and other educational costs for which the Secretary is responsible for payment under title VII of the Public Health Service Act.

### ACCREDITATION OF NONAFFILIATED RESIDENCIES

Under the Senate amendment the Commissioner of Education was directed not to recognize any entity for the purposes of accrediting graduate medical education, or to revoke recognition, in the case where he has recognized such an entity for such purposes, where the entity has either accredited or proposed to accredit a graduate medical residency training program in a hospital which is not contractually affiliated with an accredited school of medicine or osteopathy.

The House bill contained no comparable provision.

The conference substitute does not contain the Senate provision. However, as described in more detail below, the conference agreement does contain broad authorities to enable the Secretary to determine whether a medical residency training program is, in fact, affiliated with a school of medicine for purposes of determining compliance with eligibility requirements for capitation support. Moreover, the conference report contains a requirement that, if the Secretary determines that a school of medicine has disaffiliated with a medical residency training program for the purpose of compliance with such requirements but continued to provide training support for such a program, he is to deny such school capitation support.

### SOLDIERS' AND SAILORS' CIVIL RELIEF ACT

The House bill contained a provision which equated active service of commissioned officers of the Public Health Service with active service in the armed forces of the United States for the purpose of rights, privileges, immunities, and benefits under the Soldiers' and Sailors' Civil Relief Act of 1940.

The Senate amendment contained no comparable provision.

The conference agreement contains no such provision since the conferees noted that the provision was included in Public Law 94-278, enacted after the passage of the House bill.

### ASSISTANCE FOR CONSTRUCTION OF TEACHING FACILITIES

The House bill continued the existing program of assistance for construction of teaching facilities with the following revisions: (1) it added facilities for the training of professonal public health personnel as entities eligible for such assistance; (2) it required that grants for construction projects for teaching facilities for the training of physicians located in a State which has no such facilities shall cover 80 percent of the construction costs unless the Secretary determines that such percent is not needed; (3) it required that, in considering grant applications for the cost of construction of teaching facilities for the training of physicians, the Secretary give special consideration to projects in States which have no such facilities and (4) it authorized $25 million per year for fiscal 1976, 1977, 1978 for the construction program.

The Senate amendment extended the existing program through fiscal year 1977 with revisions which authorized (1) that, for such fiscal year, an application for the construction of a clinical facility affiliated with a school of veterinary medicine, optometry, podiatry, or pharmacy, which has as its purpose the establishment or expansion of a regional health professions school may be filed by any public or other nonprofit agency if the application is approved by the school with which the facility is to be affiliated and that, in connection with such an application, (2) that only that portion of the project which the Secretary determines to be reasonably attributable to the need of the regional health professions school for teaching facilities shall be regarded as the project with respect to which the application is submitted and (3) that, in considering applications for grants under the construction authority, the Secretary afforded special consideration to applications for facilities for the establishment or expansion of regional health professions schools.

In addition, the Senate amendment repealed the existing construction authority beginning in fiscal year 1978 and replaced such authority with authority to make grants (not to exceed the lesser of $1 million or 50 percent of costs) to public and nonprofit private entities to assist in the construction of ambulatory, primary care teaching facilities for the training of physicians and dentists. The Senate amendment authorized $80 million for fiscal year 1978 and $40 million for fiscal year 1979 for this purpose.

Under the conference substitute, the existing program is continued through fiscal year 1980 with the following revisions: (1) the conference substitute adopts the provisions of the Senate amendment with respect to regional health professions schools and makes such authority effective only during fiscal year 1977, (2) the amendment of the House bill to existing authority which added facilities of schools of public health as eligible entities and the authority of the Senate amendment with respect to construction of ambulatory primary care teaching facilities for the training of physicians and dentists are added to the existing authority, and (3) authorizations of $40 million per year for fiscal years 1978, 1979, and 1980 are provided with the stipulation that 50 percent of sums appropriated shall be obligated for grants for the construction of teaching facilities and the remaining 50 percent shall be obligated for grants for the construction of ambulatory, primary care teaching facilities.

During their deliberations with respect to the construction authority, the conferees expressed interest in the concept of establishing "twilight medical schools" whereby, in effect, two separate student bodies could attend one medical school at the same time through utilization of the school's facilities during evening hours. The conferees direct the Secretary of Health, Education, and Welfare to conduct a study of this concept and to submit a report of his findings with respect to its feasibility to the appropriate House and Senate committees within six months of the date of enactment of the conference report.

### AUTHORIZATIONS OF APPROPRIATIONS FOR LOAN GUARANTEES AND INTEREST SUBSIDIES

The House bill continued the existing program authorizing loan guarantees and interest subsidies to assist nonprofit private entities to carry out approved construction projects for teaching facilities, and authorized appropriations of $2 million for fiscal year 1976, $3 million for fiscal year 1977, and $3 million for fiscal year 1978 for the program.

The Senate amendment also continued the loan guarantee and interest subsidy program, with authorizations of $3 million for each of fiscal years 1978, 1979, and 1980.

The conference substitute authorizes $2 million for fiscal year 1978, $3 million for fiscal year 1979, and $3 million for fiscal year 1980 for the program.

### REVISIONS OF STUDENT LOAN PROGRAM

Both bills contained extensions and revisions of the existing program authorizing the Secretary to assist schools of the health professions in establishing student loan funds for the purpose of making loans to students in such schools.

Under the House bill, the following appropriations were authorized for Federal capital contributions to student loan funds: $30 million for each of fiscal years 1976, 1977, and 1978.

Under the Senate amendment, the following appropriations for Federal capital contributions to student loan funds were authorized: $22 million for fiscal year 1978, $24 million for fiscal year 1979, and $26 million for fiscal year 1980. Further, the Senate amendment made the following revisions in the program: (1) it repealed the prohibition against health professions students receiving both a health professions student loan and a national defense education loan; (2) it required that no student of medicine or osteopathy who would graduate that June 30, 1978 would be eligible to receive a health professions student loan after October 1, 1976 unless such student were of exceptional financial need; and (3) it limited the existing loan forgiveness provisions to allow repayment only of health professions student loans through service in a shortage area.

The conference substitute conforms to the Senate amendment except that (1) it prohibits assistance to any medical or osteopathic student who will graduate after

June 30, 1979 unless such student is of exceptional financial need, and (2) it authorizes the following appropriations for Federal contributions to student loan funds: $26 million for fiscal year 1978, $27 million for fiscal year 1979, and $28 million for fiscal year 1980.

### LISTER HILL SCHOLARSHIPS

The Senate amendment established a program whereby up to ten Lister Hill scholarships each year would be awarded to medical students who agree to enter into the family practice of medicine in health manpower shortage areas and authorized appropriations for such program as follows: $80,000 for fiscal year 1977, $160,000 for fiscal year 1978, $240,000 for fiscal year 1979, and $320,000 for fiscal year 1980.

The House bill contained no comparable provision.

The conference substitute conforms to the Senate provision, with technical amendments.

### REVISIONS TO NATIONAL HEALTH SERVICE CORPS PROGRAM

#### *Administrative provisions*

The House bill retained the provisions of existing law which require the Secretary to conduct recruiting programs for the National Health Service Corps at health professions schools, authorize the Secretary to reimburse applicants for positions in the Corps for expenses incurred in making one trip to an area in which they would be assigned, and provide that personnel of the Corps engaged in the provision of health services to underserved populations shall not be counted against employment ceilings affecting the Department of Health, Education, and Welfare.

The Senate amendment did not contain the provisions described above. The Senate amendment did require that the identifiable administrative unit within the Department of Health, Education, and Welfare which administers programs relating to construction, capitation grants, and grants for family medicine programs concur in administrative actions, prior to the issuance thereof, with respect to the National Health Service Corps Program and the National Health Service Corps Scholarship Program.

Under the conference substitute, the three administrative provisions contained in the House bill are adopted. In addition, the conference substitute provides that the administrative unit within the Department of Health, Education, and Welfare which administers the program relating to capitation grants shall participate in the development of administrative actions, prior to their issuance, with respect to the National Health Service Corps Program and the Scholarship Program.

#### *Adjustment of pay*

Under the House bill, the Secretary was authorized to adjust the monthly pay of each National Health Service Corps physician and dentist engaged directly in the delivery of health services, following the termination of any obligatory service incurred as a result of NHSC scholarship support, by an amount not to exceed $1,000 per month so that such pay would be competitive with that of members of their professions with equivalent training and time experience. Upon expiration of the thirty-six month period, such bonus support would continue only to the extent necessary to make the National Health Service Corps member's monthly pay equal to the income he received for the last month of the thirty-six month period.

The Senate amendment contained no comparable provision.

The conference substitute includes the House provision, except that it is made applicable to all members of the National Health Service Corps.

#### *Designation of medically underserved populations or health manpower shortage areas*

Under the House bill, the population of an urban or rural area which the Secretary determined to have a critical health manpower shortage or a population group determined by the Secretary to have such a shortage was to be designated as a "medical underserved population and, thus, eligible for service from a National Health Service Corps assignee.

The Senate amendment, using the term "health manpower shortage area", defined such an area as (1) an area in an urban or rural area which the Secretary determines has a health manpower shortage, (2) a population group which the Secretary determines has such a shortage or (3) a public or nonprofit private medical facility or other public facility (including a Federal facility) which the Secretary determines has such a shortage.

The conference substitute adopts the provisions of the Senate amendment, except that it adds a definition of the term "medical facility".

#### *Review of applications for assignment of Corps personnel*

Under the House bill, the Secretary could not approve an application for the assignment of a National Health Service Corps member to an area unless he had afforded each health systems agency for a health service area which includes any or part of the area in which the population for which the application is submitted resides (or, if there is part of such area within a health service area for which no health systems agency has been designated, the State health planning and development agency of the State in which such part is located is afforded an opportunity to review the application and submit comments respecting the need for and proposed use of the Corps personnel requested.

The Senate amendment contained no comparable provision.

The conference substitute includes the provisions of the House bill except that health systems agencies (and where appropriate State health planning and development agencies) are afforded 90 days to review and comment upon applications.

#### *Participation of medical and other health professions societies in assignment of Corps personnel*

The House bill required the certification of a State or district medical, osteopathic, dental, or other appropriate health society for a designated area to certify to the Secretary that assignment of Corps personnel is needed for the area prior to the assignment of a National Health Service Corps member. The House bill provided for a waiver of this requirement if the Secretary determined that certification had clearly been arbitrarily and capriciously withheld.

The Senate amendment required that, in considering an application for assignment, the Secretary take into consideration comments from medical, osteopathic, dental or other health professions societies or individuals in such professions serving the appropriate area.

The conference substitute directs the Secretary to take into consideration the comments of such societies or individuals prior to making an assignment of a National Health Service Corps member to a designated area.

#### *Waiver of cost sharing provisions*

Both bills provided authority for the Secretary to waive requirements that an entity to which a National Health Service Corps member has been assigned pay to the United States an amount equal to the assignee's salary, any scholarship support he might have received under the National Health Service Corps Scholarship Program, and any amount payed to the entity by the Secretary in order that the entity could prepare for the arrival of the National Health Service Corps member.

Under the House bill the Secretary was authorized to waive, in whole or in part, such repayment requirements if he determines that compliance would unduly limit the ability of the entity to maintain the quality of the services it provided.

Under the Senate amendment, the Secretary's determination was to be with respect to the ability of the entity to provide for the support of the provision of health services by Corps members. In addition, the Senate amendment exempted from the repayment requirement entities located in a health manpower shortage area in which a significant percentage of the residents were elderly, living in poverty, or had other characteristics which would indicate an inability to repay the required amount.

Under the conference substitute, the Secretary is authorized to waive, in whole or in part, the repayment requirement if he finds that the requirement would unreasonably limit the ability of the entity to provide for the adequate support of the provision of health services by Corps members. In addition, the Secretary is authorized, but not required, to grant such a waiver to an entity located in an area in which a significant percentage of the residents of the area are elderly, living in poverty, or have other characteristics bearing upon ability to repay.

#### *Loans and grants to entities to which National Health Service Corps personnel will be assigned*

The House bill authorized the Secretary to make single grants, not in excess of $25,000, to entities to which National Health Service Corps personnel had been assigned for the purpose of establishing medical practice management systems, acquiring equipment, and establishing continuing education programs for National Health Service Corps personnel. As noted above, the amount of such grants was required to be repayed by the entity, although the repayment requirement could be waived in whole or in part.

The Senate amendment authorized the Secretary to make one loan, without interest, to any entity to which a National Health Service Corps member has been assigned for purposes comparable to those for which the House bill authorized grants except that such a loan could also be utilized for the renovation of buildings. No such loan could exceed $75,000, and repayment could be waived. In addition, the Senate amendment authorized the Secretary to make one grant in lieu of a loan to an entity that was financially unable to meet the full cost of providing facilities. The amount of any such grant could not exceed $15,000 or 50 percent of the cost of providing such facilities, whichever is less.

The conference substitute conforms to the House bill except that (1) the term "grant" is changed to "loan" (2) the Senate provision which authorized as one of the purposes for a loan the renovation of buildings is included and (3) the amount of the loan may not exceed $50,000.

#### *Denial of hospital privileges to National Health Service Corps members*

The Senate amendment contained a provision, not included in the House bill, making it unlawful for any hospital to deny admitting privileges to a physician or dentist member of the National Health Service Corps when such member otherwise meets the professional qualifications established by the hospital and agrees to abide by the bylaws of the hospital and medical staff. Further, the Senate amendment provided that any hospital which is found by the Secretary to have violated this requirement shall cease to receive and be eligible to receive federal funds under the Public Health Service Act, and shall be liable to the United States for civil penalty of $10,000.

The conference substitute includes the Senate provision.

### Advisory council

The House bill repealed the provisions of existing law which establish the National Advisory Council on Health Manpower Shortage Areas and established in its place a council to be known as the National Advisory Council on the National Health Service Corps.

The Senate bill repealed the authority for the National Advisory Council on Health Manpower Shortage Areas.

The conference substitute conforms to the provisions of the House bill.

### Authorization of appropriations for the National Health Service Corps Program

The House bill authorized appropriations as follows for the Scholarship Program: $30 million for fiscal year 1976, $36 million for fiscal year 1977, $45 million for fiscal year 1978.

The Senate amendment authorized the following appropriations for the program: $47 million for fiscal year 1978, $57 million for fiscal year 1979, and $70 million for fiscal year 1980.

The conference substitute conforms to the Senate amendment.

The conferees intend that persons who volunteer for the National Health Service Corps should be given greater consideration in matching their preferences for assignment among all health manpower shortage areas than persons who acquire an obligation to serve in such areas because of receipt of scholarship support.

The conferees further intend that scholarship recipients should be assigned to areas of greatest need. In determining assignments, the Secretary should establish groupings of areas of greatest need and authorize limited assignment choices for scholarship recipients among such groupings.

## REVISIONS IN THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

### Period of obligated service

The House bill required each applicant for participation in the National Health Service Corps Scholarship Program to agree to provide one year of service for each academic year of training for which a scholarship was received, or two years of service, whichever is greater.

The Senate amendment required each participant in the program to serve for a period equal to one year of such service for each year for which the scholarship was received, but required each applicant to accept no less than two years of scholarship support.

The conference agreement conforms to the House provision.

### Application, provisions of offer, and contract

The Senate amendment required that, to be eligible for acceptance in the National Health Service Corps Program, an individual must submit an application for acceptance in the program and enter into a written contract with the Secretary.

In addition, the Senate amendment contained a provision requiring the Secretary to transmit an offer to each person whose application for participation in the Scholarship Program had been approved. The offer was required to include (1) a copy of the approval, (2) necessary forms, (3) a summary of the rights and liabilities of the individual upon acceptance of the scholarship, and (4) a copy of the contract to be entered into by the individual. The contract was to contain (1) an agreement whereby the Secretary agrees to provide the individual with scholarships for a specified number of years and the individual agrees to accept such scholarships and serve for the period of obligated service in an area to which he is assigned by the Secretary, (2) a provision that any financial obligation of the United States and of the student is contingent upon sufficient funds being appropriated to carry out such obligation, (3) provisions for liquidated damages, (4) applicable administrative and judicial procedures, and (5) other significant matters affecting the rights and liabilities of the parties.

The House bill contained no comparable provision.

The conference substitute combines the provisions of the Senate amendment into one provision whereby the application for acceptance into the program includes the provisions of the offer and a copy of the contract which must be signed by the applicant prior to acceptance into the program.

### Priority and award of scholarships

The Senate amendment required that, in awarding National Health Service Corps scholarships, the Secretary give initial priority to the individual who has previously received such a scholarship or who had received a scholarship for persons of exceptional financial need, and thereafter priority to individuals who will be entering their first year of school, and, finally, special consideration to individuals who reside in designated medically underserved areas.

The House bill contained no comparable provision.

Under the conference substitute, the Secretary is required to give priority in acceptance of applicants for participation in the program (1) for the academic year which begins September, 1978, first to individuals who have previously participated in the Scholarship Program or who have received scholarships under the program for students of exceptional financial need, and, secondly, to individuals who will be entering their first or second year of training at an accredited health professions school; and (2) for each academic year which begins September, 1979 and thereafter, first to individuals who have previously participated in the Scholarship Program or who have received scholarships for persons of exceptional financial need and secondly to those individuals entering their first year of training at an accredited health professions school.

### Amount of scholarship

The House bill provided that a National Health Service Corps scholarship was to consist of (1) an amount equal to the basic pay and allowances of a commissioned officer of the Public Health Service on active duty in pay grade O–1 with less than two years of service and (2) payment of the tuition expenses of the participant and all other reasonable educational expenses.

The Senate amendment provided that the scholarship of a participant in the National Health Service Corps Scholarship Program was to consist of (1) a stipend of $400.00 per month (with a provision for an annual increase of a percentage equal to the percentage of the increase in the salaries of Federal employees) and (2) tuition and all other reasonable educational expenses.

The conference agreement adopts the provisions of the Senate amendment.

### Deferral of obligated service

The House bill provided that the Secretary shall, at the request of participants in the NHSC Scholarship Program, defer the beginning of obligated service for the time required for the participant to complete internship, residency, or other advanced clinical training.

Under the Senate amendment, the Secretary was authorized but not required, to defer the beginning of obligated service for such persons for a period required for a participant to complete internship, residency, or other advanced clinical training, except that such period could not exceed three years. Under the Senate amendment, the Secretary was to give priority in granting a deferral to participants who requested such deferral for the purpose of completing such training in a medically underserved area, or for the purpose of receiving training in family medicine, general internal medicine, general pediatrics, and general obstetrics and gynecology.

The conference substitute conforms to the House provision except that the period of deferral may not exceed three years.

### Reports

The Senate amendment required each member of the National Health Service Corps during his period of obligatory service and each individual released from his service requirement as a member of the Corps to serve in private practice to file a report with the Secretary each year which shall include his activities over the previous year.

The House bill contained no comparable provision.

The conference report does not contain the Senate provision. However, the conferees do not intend that this action be construed as prohibiting reasonable requests for information from such individuals by the Secretary.

### Release to engage in research

The Senate amendment contained a provision, not included in the House bill, which authorized the Secretary, if he determines that a participant in the National Health Service Corps Program demonstrates exceptional promise for medical research, to permit such individual to perform his service obligation under the requirements of the National Research Service Award program obligation established under section 472(c) of the Public Health Service Act.

The conference substitute conforms to the Senate provision, except that the Secretary may permit such individuals to perform their service obligation through participation in the National Research Service Award program.

The conferees intend that the Secretary would use his authority to release such individuals who demonstrate extraordinary promise respecting biomedical research, given the fact that the principal purpose of awarding National Health Service Corps scholarships is to provide health services to medically underserved areas and not simply to provide financial support for health professions students. It is the intent of the conferees that, in his annual report to the Congress with respect to the Scholarship Program, the Secretary report as to the number of individuals released from their service obligations under the Program during the previous year.

### Release from obligation to enter private practice

Both bills contained provisions authorizing the release of persons from their service obligation in order to enter the private clinical practice of their profession in a health manpower shortage area.

Under the House bill, the Secretary was *required* to release such an individual from his service obligation and was authorized to make one grant to any such individual who has agreed to extend the period of practice under such agreement by a period of not less than one year to assist in the costs of beginning the practice of his profession. The amount of the grant was authorized to be $12,500 if the individual agreed to practice his profession for a period of at least one year but less than two years; such amount was to be $25,000 if the individual agreed to practice his profession for a period of at least two years.

The Senate amendment *permitted* but did not require the Secretary to release such an individual, conditioned upon the existence of a sufficient financial base in the area in which the individual intended to practice his profession. It contained no provision authorizing the award of a grant to such an individual.

Under the conference substitute the Secretary is required to release from his service obligation a member of the National Health Service Corps who agrees to enter into the private practice of his profession in a health manpower shortage area which has a sufficient financial base to sustain such practice. The conference substitute contains no provision with respect to the award of a grant to such an individual.

### *Good medical practice requirements*

The Senate amendment required that agreements entered into between the Secretary and persons released from obligated service in order to enter private practice contain provisions in order to assure that the medical practice of such person will be in accordance with the requirements of good medical practice in effect for Corps members, including requirements relating to medical records systems, professional coverage arrangements, and hours of practice.

The House bill contained no comparable provision.

The conference substitute does not contain this provision. However, the conferees noted that this action does not preclude the establishment of reasonable regulations by the Secretary to insure that persons released for purposes of private practice engage in the full time clinical practice of their profession and that such practice be of high quality.

### *Grants for persons who have completed obligated service*

The House bill contained a provision authorizing grants to persons who have completed their service obligation and who agree to engage in the private practice of their profession in a medically underserved area to assist such persons in meeting the costs of beginning the practice of their professions. The authorized amount of such grant was $12,500 if the individual agreed to practice his profession for a period of at least one but not less than two years; such amount was to be $25,000 if such individual agreed to practice his profession for a period of at least two years.

The Senate amendment contained no comparable provision.

The conference substitute includes the House provision.

### *Recovery of damages upon default*

The House bill contained a provision which entitled the United States to recover from a person failing to begin or complete his service obligation an amount equal to two times the amount paid under the scholarship training program, plus interest at the maximum prevailing legal rate, within a three year period beginning on the date the United States becomes entitled to recover such amounts. Repayment was to be in accordance with a formula designed to encourage participants not to fulfill only a portion of their service obligations.

The Senate amendment contained a comparable provision, except that repayment was to be at an amount equal to three times the amount paid under the scholarship training program plus interest, repayable within 60 days of the period in which the United States becomes entitled to recover the amount.

Under the conference substitute, the amount the United States is entitled to recover is an amount equal to three times the amount paid under the scholarship training program, plus interest, payable within one year from the date of the breach of the contract entered into between the United States and the individual.

### *Termination of studies*

The House bill provided that when a participant in the scholarship program is dismissed for failure to meet academic standing requirements or for disciplinary reasons or voluntarily terminates academic training, he shall be liable for repayment to the government for an amount equal to the scholarship which he received.

Under the Senate amendment, the obligation of such individual would be cancelled without prejudice, although if the individual subsequently received a health professions degree, the obligation which had been cancelled would be reinstated.

The conference substitute conforms to the House bill.

### *Liquidated damages*

The Senate amendment contained a provision providing that any individual who entered into a written contract to accept a National Health Service Corps scholarship and who failed to enroll as a first year student shall be liable to the United States for the sum of $1,500 in liquidated damages. Further, it provided that whenever an individual submitted an application for a National Service Corps scholarship, agreed in writing to accept the scholarship, enrolled as a student in a school of the health professions and failed to accept such scholarship, if offered, such individual would be liable to the United States for the sum of $1,500 in liquidated damages.

The House bill contained no comparable provision.

The conference substitute does not contain the provisions of the Senate amendment with respect to failure to enroll as a first year student. It does, however, contain the provisions with respect to the liability of an individual who enrolls in a health professions school and fails to accept a scholarship after agreeing in writing to do so.

### *Authorization of Appropriation for National Health Service Corps Scholarship Program*

The House bill authorized the following appropriations to carry out the National Health Service Corps Scholarship Program: $40 million for fiscal year 1976, $80 million for fiscal year 1977, and $120 million for fiscal year 1978. Further, the House amendment required that sums appropriated under the authority for National Health Service Corps scholarships for any fiscal year must remain available for obligation in the succeeding fiscal year.

Under the Senate amendment, the following appropriations were authorized for the National Health Service Corps Scholarship Program: $85 million for fiscal year 1978, $150 million for fiscal year 1979, and $233 million for fiscal year 1980. The Senate amendment further required that not less than $68 million for fiscal year 1978, $120 million for fiscal year 1979, and $190 million for fiscal year 1980 be used for scholarships for medical and osteopathic students and that not less than $12 million for fiscal year 1978, $24 million for fiscal year 1979, and $36 million for fiscal year 1980 be used for scholarships for dental students.

Under the conference substitute, the following appropriations are authorized for the National Health Service Corps Scholarship Program: $75 million for fiscal year 1978; $140 million for fiscal year 1979, and $200 million for fiscal year 1980. In addition, under the conference substitute, not less than 90 percent of funds appropriated in any of the above fiscal years must be for the purpose of awarding scholarships for medical, osteopathic, or dental students, of which 10 percent must be reserved for dental students. Finally, the conference substitute includes the House provision which required that sums appropriated for any fiscal year shall remain available for obligation for the succeeding fiscal year.

### FUNDING PRIORITY

Under the Senate amendment, funds appropriated under the authorization of appropriations for National Health Service Corps scholarships and scholarships for students of exceptional financial need could not be less than 50 percent of the funds appropriated for capitation grants to schools of medicine, osteopathy, and dentistry.

The House bill contained no comparable provision.

Under the conference substitute, if 75 percent or more of the sum of the amounts authorized to be appropriated for such fiscal year for the purpose of making capitation grants to schools of medicine, osteopathy and dentistry is appropriated for any fiscal year, no funds appropriated for such fiscal year may be obligated or expended for the purpose of carrying out any provisions of title VII of the Public Health Service Act unless the amounts appropriated for National Health Service Corps Scholarships and scholarships for students of exceptional financial need are less than the lesser of (1) the amounts authorized to be appropriated for such fiscal year for such programs or (2) 50 percent of the total amount appropriated for such fiscal year under title VII of the Public Health Service Act.

### REVISION OF SCHOLARSHIP AUTHORITY

Under the House bill, the existing authority for grants to schools for the provision of scholarship awards to students was repealed, and appropriations were authorized only for the purpose of making payments to students who had received such awards from grants made to schools prior to fiscal year 1975.

Under the Senate amendment, the existing scholarship authority was repealed and replaced by authority for grants to public or nonprofit private schools of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, and veterinary medicine for scholarships to be awarded to students who are of exceptional financial need and who are in their first year of study at such schools. Scholarships were to consist of a stipend of $400 per month, tuition, and all other reasonable educational expenses. Authorizations of $16 million for fiscal year 1978, $17 million for fiscal year 1979, and $18 million for fiscal year 1980 were provided for such purpose.

Under the conference susbtitute, both the provisions of the House bill and the Senate amendment are adopted with technical changes.

### GUARANTEED STUDENT LOANS

The Senate amendment contained provisions which would establish a new program of Federally insured loans for students enrolled in health professions schools, modeled on the program estabished by the Higher Education Act but with substantially increased ceilings on the amounts that could be borrowed by health professions students. Students in schools of medicine, osteopathy, dentistry, veterinary medicine, podiatry, optometry, and public health were authorized to borrow up to $10,000 a year with a total loan limit per student of $50,000. Students in schools of pharmacy were permitted to borrow up to $7500 a year with a total loan limit per student of $37,500. The Senate amendment provided for principal payments on such loans to be deferred while the borrower was in school, and during a period not to exceed three years, while in training as an intern or resident or while serving in the Armed Forces, the Peace Corps, or under the Domestic Volunteer Services Act of 1973, but required that interest payments be made during the period of deferral. It limited the amounts of new loans that could be insured in each of the fiscal years covered by the legislation to $500 million during fiscal year 1978, $510 million during fiscal year 1979, and $520 million during fiscal year 1980, and it provided that not more than 50 percent of the students in any class of a medical, dental, or osteopathic school were authorized to obtain such insured loans. In addition, the Senate amendment authorized the marketing of such loans in the secondary market established by the Student Marketing Association, permitted institutions to use capitation payments to subsidize the interest costs of students holding such insured loans, and authorized the Secretary to permit borrowers under the program to discharge their loan obligation after graduation by providing service in a medically underserved area either as a member of the National Health Service Corps or in private practice in such an area.

The House bill contained no comparable provision.

The conference substitute includes the provisions of the Senate amendment with the following changes:

(1) Health professions schools participating in the program may do so only if they meet the conditions prescribed by the conference report respecting eligibility for capitation.

(2) The schools themselves are designated as eligible lenders, unlike the provision of the Senate amendment which excluded such institutions as being lenders.

(3) Lenders are required to make substantial efforts at collecting on loans insured under the program before the Federal government may pay the amount owed under the guarantee.

(4) In the event that the Secretary enters into an agreement with a borrower for payment of a portion of a loan obligation in return for service and the borrower breaches his contract obligation under such agreement, he is required to pay damages in an amount equal to three times the amount paid by the Secretary under the agreement to him or on his behalf.

The conferees were particularly concerned that schools not use the guaranteed student loan program as a substitute for the capitation program. Thus, the conference substitute provides that only the students of schools that are in compliance with the capitation conditions for receipt of capitation support are eligible for participation in the program.

In the view of the conferees, the new guaranteed loan program will be of material assistance to health professions schools by providing private sources of income for students to meet the ever rising costs of education. This program should be of particular value to those institutions which receive relatively little public support and, consequently, are obliged to charge high tuition fees. Thus, the conferees expect that, in the administration of the program, the Secretary will pay particular attention to the needs of high tuition schools.

Finally, the conferees noted that the guaranteed student loan program offers the Secretary a source of personnel for service in underserved areas in addition to persons who are under obligation due to receipt of National Health Service Corps scholarships. Although borrowers under the program are not entitled to repay their loans through service as a matter of right, the Secretary is authorized to enter into agreements with them to discharge their loan obligations in return for service under terms and conditions identical to those of the NHSC program. In all likelihood most of the loans insured under this program will be repaid in the normal course; however, there may be circumstances under which the Secretary seeks to obtain additional personnel for service in underserved areas. This program enables the Secretary to obtain such personnel by contracting with borrowers for such service.

The conferees stress that provision is made to limit the possibility of avoidance of repayment by restricting borrowers under the program from discharging their obligation through bankruptcy for a period of five years after repayment commences and, further, by authorizing denial of reimbursement under any Federal program to providers who have defaulted on loan obligations incurred under the program.

### TRAINEESHIPS FOR STUDENTS IN SCHOOLS OF PUBLIC HEALTH AND OTHER GRADUATE PROGRAMS

The House bill contained two provisions which authorized traineeship support for students in schools of public health and other graduate programs in health. The first provision authorized appropriations of $6 million for each of fiscal years 1976, 1977, and 1978 for grants to schools of public health for traineeships to train students enrolled in such schools. The second provision authorized appropriations of $2.5 million for each of fiscal years 1976, 1977, and 1978 for grants to public or nonprofit private entities (except schools of public health) training students in graduate educational programs in health administration, hospital administration, health planning, environmental health, and preventive medicine for traineeships to train public and community health personnel for which the Secretary determines there is unusual need.

The Senate amendment combined the two authorities into one authority for traineeships. Under the Senate provision, the Secretary was authorized to make grants to accredited schools of public health and to public or nonprofit private educational entities (including schools of social work) which have accredited programs in health administration, hospital administration, and health planning for traineeships to train students in such schools and programs. It provided that eighty percent of the traineeships were to be awarded to individuals who either had a postbaccalaureate degree or had worked for three years in health services, and were pursuing courses of study in biostatistics, epidemiology, health administration, health planning, health policy analysis and planning, environmental health, occupational health, dietetics, or nutrition. The Senate amendment authorized appropriations of $10 million for fiscal year 1978, $11 million for fiscal year 1979, and $12 million for fiscal year 1980 for such traineeships.

The conference substitute provides for two separate traineeship programs, one for students in accredited schools of public health and one for students in accredited programs of health administration, hospital administration, and health planning. With respect to traineeships to students in accredited schools of public health, 45% of the awards in fiscal year 1978, 55% in fiscal year 1979, and 65% in fiscal year 1980 are to be reserved for awards to the individuals eligible under the Senate amendment. Eighty percent of the awards for students in accredited programs of health administration, hospital administration, and health planning are earmarked for individuals who either have a postbaccalaureate degree or three years of work experience in health. The conference substitute authorizes appropriations of $7.5 million for fiscal year 1978, $8 million for fiscal year 1979, and $9 million for fiscal year 1980 for traineeship awards for students in schools of public health, and $2.5 million for each of fiscal years 1978, 1979, and 1980 for traineeship awards to students enrolled in graduate programs of health administration, hospital administration, and health planning.

The conferees recognize that the report contains several references regarding accreditation of schools of public health and programs in health administration, hospital administration, and health planning. These references are in no way intended to imply that any changes in policy or direction with respect to HEW's Office of Education respecting the recognition it chooses to grant regarding accreditation are necessary.

### CAPITATION GRANTS FOR SCHOOLS OF MEDICINE, OSTEOPATHY AND DENTISTRY AND ELIGIBILITY FOR SUCH GRANTS

Under both the House bill and the Senate amendment, schools of medicine, osteopathy, and dentistry were eligible for Federal institutional support based on a formula of a statutory amount of money times the number of full time students enrolled in such schools (and thus termed "capitation" support). Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

#### *House bill*

Under the House bill, schools of medicine, osteopathy, and dentistry were eligible for institutional support of $2100 per full time student for fiscal year 1975, $2100 per full time student for fiscal year 1976, and $2000 per full time student for fiscal year 1977.

The House bill provided that a school of medicine, osteopathy, or dentistry was not eligible for capitation support unless one of the following three conditions were met:

(1) That for the second school year beginning after the fiscal year in which the grant was to be made the first year enrollment of such school would be increased over the 1975 enrollment level by 10 percent if the enrollment in fiscal year 1975 was under 100 students, or by 5 percent or 10 students, whichever is greater, if such year's enrollment was over 100 and maintained for each school year thereafter;

(2) That for the second school year beginning after the fiscal year in which the grant was to be made and the third year enrollment of such school would be increased over the 1975 enrollment level by 10 percent if the enrollment in fiscal year 1975 was under 100 students, or by 5 percent or 10 students, whichever is greater, if such year's enrollment was over 100 and maintained for each school year thereafter; or

(3) That such school would have approved a plan to train students in ambulatory care settings in areas geographically remote from the main site of teaching facilities of the school. Under this option, a minimum of 50 percent of graduating students were required to receive at least six weeks of training (in the aggregate) in such areas; if 60 percent of the students were to receive such training, the required period was shortened to five weeks; if 75 percent of the students were to receive such training, the required period was shortened to four weeks.

#### *Senate Amendment*

Under the Senate amendment, capitation support for schools of medicine, osteopathy, and dentistry was established at $1800 per student for fiscal year 1978, $1900 per student for fiscal year 1979, and $2000 per student for fiscal year 1980.

The Senate amendment required the following as conditions for receipt of capitation support by schools of medicine, osteopathy and dentistry:

#### Schools of Medicine and Osteopathy

Each such school would be required to provide assurances that an established number of positions available to students enrolled in such school would be reserved for students (excluding fourth-year students) who had applied for and agreed in writing to accept National Health Service Corps scholarships. The required number in academic year 1977–78 would be 25 percent of the number of first year students enrolled in the preceding academic year; in 1978–78, 30 percent of such number; and in 1979–80, 35 percent of such number. Further, the

Senate amendment provided that these school-by-school requirements would not apply if "assured national goals" were "substantially met". "Assured national goals" meant that the national average of full-time first year students submitting applications for National Health Service Corps scholarships and entering into written contracts constituted at least the following percentages: 25 percent in academic year 1977–78; 30 percent in 1978–79; and 35 percent in 1979–80. "Substantially met" was defined to mean either that 92 5 percent of funds authorized to be appropriated for National Health Service Corps scholarships for medical and osteopathic students had been obligated, or that at least 92.5 percent of the assured national goal for each academic year had been met.

In addition, each school of medicine would have been required to have the following percentages of all of its filled residency positions (including both direct and affiliated positions) in the specialties of family practice, general internal medicine, general pediatrics, and general obstetrics and gynecology; 42 percent in academic year 1977–78; 47 percent in 1978–79; and 57 percent in academic year 1979–80; with not more than 7 percent each year attributable to residencies in general obstetrics and gynecology (calculated on a school-by-school basis). Further, in applying these requirements, the Secretary was required to seek to assure that calculated in the national aggregate for each academic year there were an appropriate percentage of residencies in psychiatry.

Schools of Dentistry

Under the Senate amendment, schools of dentistry were required to meet the following conditions:

First, each such school would be required to provide assurances that an established number of positions available to students enrolled in such school would be reserved for students (excluding fourth year students) who applied for and agreed to accept National Health Service Corps scholarships. The number was to be a percentage of first year positions to be determined by the Secretary (which could not be more than 20 percent, but not less than 10 percent). This school-by-school requirement would not apply if the national average of full-time first year students who applied for and agreed to accept National Health Service Corps scholarships was equal to or exceeded the percentage established by the Secretary or if 92.5 percent of the funds authorized to be appropriated for such scholarships for dental students were obligated. The percentage of first year positions which was to constitute the requirements under the Senate amendment was to be determined by the Secretary in cooperation with appropriate national dental organizations.

Second, each dental school would be required either (1) to develop a program to train dental students in the organization and management of multiple auxiliary dental team practices in accordance with regulations of the Secretary, or (2) to increase (beginning in academic year 1977–78) the number of first year students above 1976–77 levels by 10 percent if such level was 100 or less, or by 5 percent or 10 students, whichever is greater, if such level was more than 100. Further, the Secretary was authorized to waive either of these requirements in cases in which dental schools would face the loss of accreditation due to compliance with such requirements.

Third, dental schools would be required to provide assurances that at least 70 percent of filled positions in dental specialty programs in excess of academic year 1976–77 levels would be in either general dentistry or pedodontics.

*Conference substitute*

Under the conference substitute, the following appropriations are authorized for capitation grants to schools of medicine, osteopathy and dentistry: $2000 per full time student for fiscal year 1978; $2050 per full time student for fiscal year 1979; and $2100 per full time student for fiscal year 1980.

The requirements of the conference substitute with respect to eligibility for capitation support are modifications of the provisions of the House bill with respect to enrollment increases and of the Senate amendment with respect to requirements for percentages of residency training programs in primary care. The requirements of the Senate amendment with respect to the reservation of certain percentages of positions in schools for students who apply for and agree to accept National Health Service Corps scholarships are not included in the conference substitute; however, due to the provisions of the conference substitute with respect to funding priorities for National Health Service Corps scholarships, (described above) the intention of the Senate amendment—to insure that adequate numbers of students receive scholarships in return for an agreement to practice their professions in medically underserved areas—will, in the opinion of the conferees, be fulfilled.

The conference substitute provides as follows:

Requirements for Schools of Medicine

Requirements for Primary Care Residency Positions: Unless, on July 15, 1977, the number of filled first year residency positions in primary care (defined as family medicine, general internal medicine and general pediatrics) is at least 35% of the total number of first year filled positions on that date in all direct or affiliated medical residency training programs, then in order for a school of medicine to be eligible for capitation grants for the fiscal year 1978, it must have, on July 15, 1978, at least 35% of its filled first year positions in its direct or affiliated medical residency training programs in primary care.

Unless, on July 15, 1978, the number of filled first year residency positions in primary care is at least 40% of the total number of filled first year positions, then in order for a medical school to be eligible for a capitation grant for fiscal year 1979, it must have on July 15, 1979, 40% of its filled first year residency positions in its direct or affiliated medical residency training programs in primary care.

Unless, on July 15, 1979, at least 50% of all filled first year medical residency positions are in primary care, then in order for a medical school to be eligible for capitation support for fiscal year 1980, it must have on July 15, 1980, at least 50% of its filled first year positions, in its direct or affiliated medical residency training programs in primary care.

Under the conference substitute, the Secretary is required to determine what percent of all first year filled positions as of July 15, 1977 and July 15 of each succeeding year in direct or affiliated medical residency training programs are filled positions in primary care. In making his determination each year, the Secretary is to deduct from the number of filled first year positions in primary care, a number equal to the number of individuals who were in a first year filled position in primary care in the previous year and who are, at the time the Secretary makes his determination, not in a residency training program in primary care. Each such determination is required to be published in the Federal Register not later than 45 days after the determination is made and reported in writing in each school of medicine in the United States and to the appropriate committees of the Congress. The Secretary may, in instances in which a school is required to have a specified percentage in primary care positions, determine that such requirement is met if (1) he determines that a school has made good faith efforts to meet the requirement and that at least 98 percent of the required percentage has been met. In addition, the conference substitute provides that the Secretary may not make a capitation grant to a school of medicine for any fiscal year if in the preceding year such school terminated or failed to renew an affiliation with a medical residency training program for the purpose of meeting the requirements for eligibility for capitation grants relating to residency positions continued to provide training support for such a residency training program.

Requirements to Enroll Students from Foreign Medical Schools: In order for a school of medicine to be eligible for capitation support, it must in its application for such support provide assurances satisfactory to the Secretary that it will participate in a national program whereby it will reserve positions in the school year beginning immediately before the fiscal year for which the grant is applied for students who were enrolled in a school of medicine outside of the United States prior to the enactment of the conference report which students (1) are citizens of the United States, (2) successfully completed at least two years in such a school of medicine, (3) successfully completed Part I of the National Board of Medical Examiners examination (or its equivalent) and (4) have applied to the Secretary for assignment to a school of medicine in the United States. The Secretary is required to apportion equitably among the schools of medicine in the United States the number of positions for individuals eligible for admission under this provision and must report to the schools not later than 15 days after the identification is made of such individuals; schools of medicine are not required to enroll an individual apportioned to it if such individual does not meet the school's entrance requirements (other than requirements with respect to academic standing or place of residence) or, if enrollment of such individual will, as determined by the Secretary after consultation with the appropriate accreditation body, result in the school's not meeting the accreditation standards of such body. In addition, if the Secretary determines that there is an inadequate population in the area served by the medical school hospital to provide an adequate patient load so quality clinical training can be provided to students in the medical schools.

It is not the conferees' intent, in including this requirement, either to encourage or condone the practice of U.S. citizens receiving their medical education in foreign medical schools if such persons intend to practice medicine in the United States. Rather, it is intended to remedy an unfortunate situation which currently exists. In the view of the conferees, the current situation, in which thousands of U.S. citizens are presently enrolled in foreign medical schools where, in most cases, the education they are receiving is not of the quality provided by U.S. medical schools and is being taught in a language other than English, is a situation which deserves the immediate attention of the Department of Health, Education, and Welfare, the American Medical Association, and the Association of American Medical Colleges. The conferees believe that it is in the best interests of the U.S. health care system to permit those U.S. citizens who have successfully completed two years of medical education in a foreign medical school and who have passed Part I of the National Board of Medical Examiners' Examination to complete their education in U.S. medical schools. The conferees intend that this provision not be extended beyond the life of the conference report and that individuals planning a career in medicine become cognizant of this fact.

Although the conference substitute does not include the provisions of the Senate amendment with respect to emphasis on residencies in psychiatry and obstetrics and gynecology, the conferees do not intend that this action be construed as prohibiting the development of appropriate numbers of such residencies to meet national needs.

### School of Osteopathy

The requirements of the conference substitute with respect to receipt of capitation support by schools of osteopathy build upon the remote site training requirements of the House bill. Under the conference substitute, in order for a school of osteopathy to be eligible for capitation support for fiscal years 1978, 1979, or 1980 such school must submit to the Secretary and have approved a plan to train full time students in ambulatory care settings in the school year beginning in the fiscal year for which the grant was made and in each school year thereafter beginning in a fiscal year for which a grant is made. Such training must be in an area geographically remote from the main site of the teaching facilities of the applicant (or any other school of osteopathy which is joined with the applicant) in the submission of the plan or areas in which medically underserved populations reside. This provision authorizes more than one school of osteopathy to join in the submission of the plan. It requires that no plan may be approved unless (1) each school which joins in the submission of the plan submits assurances that all of the full time students who graduated from the school will upon graduation have received, in such areas, at least six weeks (of which at least three weeks must be consecutive) of clinical training, (2) the plan contains a list of the areas where the training is to be conducted, a detailed description of the type and amount of training to be given in the areas, and provision for periodic review by experts in osteopathic education of the desirability of providing training in such areas and the quality of training rendered in such areas, (3) the plan contains a specific program for the hiring, as members of faculty of the school or schools submitting the plan, of practicing physicians to serve as instructors in the training program in such areas, and (4) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

### Schools of Dentistry

The conference substitute provides that no school of dentistry will be eligible to receive capitation support for fiscal years 1978, 1979, or 1980 unless the following requirements are met.

First, in the school year beginning in fiscal year 1978 and in each school year ending in the fiscal year for which a capitation grant is applied for, at least 70 percent of such school's filled positions in dental specialty programs which are in excess of the number of filled positions in its program in the school year beginning in fiscal year 1977 must be in general dentistry or pedodontics.

Second, a school of dentistry must either increase its enrollment during fiscal year 1978 or submit and have approved a plan for remote site training of its students. The enrollment increase must be a percentage of the number of full time students enrolled in the school in the school year beginning in fiscal year 1977. The increase must be by 10 percent of the *academic year 1976–77* enrollment if the enrollment was not more than 100 or 5 percent of such number (or 10 students) whichever is greater if such number was more than 100. Requirements with respect to remote site training are identical to those described above with respect to schools of osteopathy except that the requirement to provide at least three consecutive weeks of training is not included. However the conferees anticipate that this requirement could and should be met in most instances. It is the intention of the conferees that, to the maximum extent feasible, remote site training should be conducted in areas which are in need of dentists. The conferees anticipate that the Secretary would use as a guideline counties (or equivalent political units) in which the dental to population ratio is 1 to 2,000 or more and that the area be an area in which training support in general dental practice and pedodontics is available.

### CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH

Under both the House bill and the Senate amendment, schools of public health were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

#### HOUSE BILL

Under the House bill, schools of public health were eligible for capitation grants of $1,500 per student equivalent for fiscal year 1976, 1977, and 1978.

The House bill required that no school of public health would be eligible for capitation support unless it agreed that the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter would exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number if the number was not more than 100, or by 5 percent of such number, or 10 students, whichever was greater, if such number was more than 100. The Secretary was authorized to waive such requirement if he determined that such school could not increase its first year enrollment without lowering the quality of education provided in the school.

#### *Senate amendment*

Under the Senate amendment, capitation support for schools of public health was established at $1225 per student equivalent for fiscal year 1978, $1300 per student equivalent for fiscal year 1979, and $1375 per student equivalent for fiscal year 1980.

The Senate amendment's requirements for eligibility for capitation support were comparable to the requirements of the House bill, except that the enrollment increase was to be by 5 percent of the number of students enrolled in the preceding school year if such number was not more than 100, or by 2.5 percent of such number or five students, whichever was greater, if such number was not more than 100.

#### *Conference substitute*

Under the conference substitute, appropriations of $1,400 per student equivalent are authorized for each fiscal years 1978, 1979, and 1980 for capitation grants for schools of public health.

The requirements of the conference substitute with respect to eligibility for capitation grants conform to the Senate amendment.

### CAPITATION GRANTS FOR SCHOOLS OF VETERINARY MEDICINE

Under both the House bill and the Senate amendment, schools of veterinary medicine were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

#### *House bill*

Under the House bill, schools of veterinary medicine were eligible for capitation grants of $1,500 per year for each full time student for each of fiscal years 1976, 1977, and 1978.

The House bill required that one of two conditions were required to be met in order for a school of veterinary medicine to be eligible for capitation support. First, the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter was required to exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number if the number was not more than 100, or by 5 percent of such number, or 10 students, whichever was greater, if such number was more than 100. Alternatively, such schools would be required to submit assurances to the Secretary that at least 20 percent of the first year enrollment of full time students in such school would, for the second school year beginning after the close of the fiscal year in which the grant applied for was to be made and in each school year thereafter beginning in a fiscal year in which the grant was to be made, be comprised of students who were residents of States in which there were no accredited schools of veterinary medicine.

#### *Senate amendment*

Under the Senate amendment, capitation support for schools of veterinary medicine was established at $1,350 per full time student for fiscal year 1978, $1,425 per full time student for fiscal year 1979, and $1,500 per full time student for fiscal year 1980.

The Senate amendment contained requirements with respect to eligibility for capitation support comparable to those of the House bill, except that the enrollment increase requirement was to be by 5 percent of the number of students of the preceding school year if such number was not more than 100 or by 2.5 percent of such number, or 5 students, whichever was greater, if such number was more than 100, and that at least 40 percent of the first year enrollment of full time students must be comprised of students who are residents of States in which there are no accredited schools of veterinary medicine. In addition, the Senate amendment required that each school of veterinary medicine, in order to be eligible for capitation support, provide assurances to the Secretary that the clinical training provided by such school emphasize predominantly care to food producing animals or to fiber producing animals or to both types of animals. Further, the Senate amendment authorized the Secretary to waive requirements with respect to increasing enrollment or enrollment of students from States in which there are no accredited schools of veterinary medicine (or both such requirements) if he determined, after receiving the written recommendation of the appropriate accreditation body, that compliance by such school would prevent it from maintaining its accreditation.

#### *Conference substitute*

Under the conference substitute, $1,450 per full time student is authorized for fiscal years 1978, 1979, and 1980 for capitation grants for schools of veterinary medicine.

The requirements of the conference substitute with respect to eligibility for capitation support conform to the Senate amendment, except that (1) the requirement with respect to enrollment of students from States which have no accredited schools of veterinary medicine is that 30 percent of the first year enrollment of such schools be comprised of such students and (2) that the Secretary is not authorized to waive either requirement.

### CAPITATION GRANTS FOR SCHOOLS OF OPTOMETRY

Under both the House bill and the Senate amendment schools of optometry were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

### *House bill*

Under the House bill, schools of optometry were eligible for capitation grants of $700 per full time student for fiscal years 1976, 1977 and 1978.

Under the House bill, one of two conditions was required to be met in order for a school of optometry to be eligible for capitation. First, the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter was required to exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number if the number was not more than 100, or by 5 percent of such number, or 10 students, whichever was greater, if such number was more than 100. Alternatively, such schools would be required to submit assurances to the Secretary that at least 25 percent of the first year enrollment of full time students in such school (or, in the case of a private school, 50 percent of such enrollment) would, for the second school year beginning after the close of the fiscal year in which the grant applied for was to be made and in each school year thereafter beginning in a fiscal year in which the grant was to be made, be comprised of students who were residents of States in which there were no accredited schools of optometry.

### *Senate amendment*

Under the Senate amendment, capitation support for schools of optometry was established at $775 per student for fiscal year 1978. $830 per student for fiscal year 1979, and $885 per student for fiscal year 1980.

The Senate amendment contained requirements with respect to eligibility for capitation support comparable to those of the House bill, except that the enrollment increase requirement was to be by 5 percent of the number of students of the preceding school year if such number were less than 100, or 2.5 percent of such number or 5 students, whichever was greater, if such number was more than 100.

Further, the Senate amendment authorized the Secretary to waive requirements with respect to increasing enrollment if he determined, after receiving the written recommendation of the appropriate accreditation body, that compliance by such school would prevent it from maintaining its accreditation.

### *Conference substitute*

Under the conference substitute, $765 per full time student is authorized for each of fiscal years 1978, 1979, and 1980 for capitation grants for schools of optometry.

The requirements of the conference substitute with respect to eligibility for receipt of capitation support conform to the Senate amendment, except that the conference substitute does not provide for a waiver of the requirements.

### CAPITATION GRANTS FOR SCHOOLS OF PODIATRY

Under both the House bill and the Senate amendment schools of podiatry were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

### *House bill*

Under the House bill, schools of podiatry were eligible for capitation grants of $1,100 per full time student for each of fiscal years 1976, 1977, and 1978.

Under the House bill, one of two conditions was required to be met in order for a school of podiatry to be eligible for capitation. First, the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter was required to exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number if the number was not more than 100, or by 5 percent of such number, or 10 students, whichever was greater, if such number was more than 100. Alternatively, such schools would be required to submit assurances to the Secretary that at least 40 percent of the first year enrollment of full time students in such school would, for the second school year beginning after the close of the fiscal year in which the grant applied for was to be made and in each school year therafter beginning in a fiscal year in which the grant was to be made, be comprised of students who were residents of States in which there were no accredited schools of podiatry.

### *Senate amendment*

Under the Senate amendment, capitation support for schools of podiatry was established at $775 per full time student for fiscal year 1978, $830 per full time student for fiscal year 1979, and $885 per full time student for fiscal year 1980.

The Senate amendment contained requirements with respect to eligibility for capitation support comparable to those of the House bill, except that the enrollment increase requirement was to be by 5 percent of the number of students of the preceding school year if such number was not more than 100 or by 2.5 percent of such number, or 5 students, whichever was greater, if such number was more than 100.

Further, the Senate amendment authorized the Secretary to waive requirements with respect to increasing enrollment if he determined, after receiving the written recommendation of the appropriate accreditation body, that compliance by such school would prevent it from maintaining its accreditation.

### *Conference substitute*

Under the conference substitute, $965 per full time student is authorized for each of fiscal years 1978, 1979, and 1980 for capitation grants for schools of podiatry.

The requirements of the conference substitute with respect to eligibility for receipt of capitation support conform to the Senate amendment except that the conference substitute does not provide for a waiver of the requirements.

### CAPITATION GRANTS FOR SCHOOLS OF PHARMACY

Under both the House bill and the Senate amendment schools of pharmacy were eligible for capitation support. Both the House bill and the Senate amendment required that certain conditions be met by such schools in order that they be eligible for capitation support.

### *House bill*

Under the House bill, schools of pharmacy were eligible for capitation grants of $700 per full time student for each of fiscal years 1975, 1976, and 1977.

Under the House bill, one of two conditions was required to be met in order for a school of pharmacy to be eligible for capitation. First, the number of full time students enrolled in the second school year beginning after the close of the fiscal year in which the capitation grant was to be made and for each school year thereafter was required to exceed the number of such students enrolled in the school year which began during fiscal year 1975 by 10 percent of such number if the number was not more than 100, or by 5 percent of such number, or 10 students, whichever was greater, if such number was more than 100. Alternatively, such schools would be required to have a plan approved by the Secretary for the establishment, expansion, improvement, or operation of at least two of the following programs: (1) a program to teach pharmacy in a hospital, extended care facility, or other clinical setting; (2) a program of training in clinical pharmacology; or (3) a program to train pharmacists to assist physicians and patients on the appropriate use of and reaction to drugs.

### *Senate amendment*

Under the Senate amendment, capitation support for schools of pharmacy was established at $650 per full time student for fiscal year 1978, $690 per full time student for fiscal year 1979, and $730 per full time student for fiscal year 1980.

The requirements of the Senate amendment with respect to eligibility for capitation support were that each such school must provide each student with a training program in clinical pharmacy which includes one clinically trained full-time faculty member for every fifteen students in the last year of the program; inpatient and outpatient clinical pharmacy clerkship experience, and training in drug information retrieval and analysis in the context of actual patient problems.

### *Conference substitute*

Under the conference substitute, $695 per full time student is authorized for each of fiscal years 1978, 1979, and 1980 for capitation grants for schools of pharmacy.

The requirements of the conference substitute with respect to eligibility for receipt of capitation grants are that each student enrolled in such school must undergo a training program in clinical pharmacy which shall include inpatient and outpatient clinical pharmacy clerkship experience and other health professionals; training in the counseling of patients on the appropriate use of and reactions to drugs, training in a hospital, extended care facility, or other clinical setting; interaction with physicians in drug information retrieval and analysis in the context of actual patient problems.

### REQUIREMENTS THAT STUDENTS IN HEALTH PROFESSIONS SCHOOLS REPAY CAPITATION GRANTS RECEIVED BY SUCH SCHOOLS

The House bill contained a provision which required that, as a condition for receipt of capitation support, each school of the health professions enter into agreements with each of its students to repay, beginning two years after such student graduates or completes postgraduate clinical training, the amount of capitation grants paid on his behalf, in annual installments equal to the number of such grants. It provided for forgiveness of one annual installment for each year of service in the National Health Service Corps or Indian Health Service, in private practice for a designated medically underserved population, or in military service.

The Senate amendment contained no comparable provision.

The conference substitute does not include the provision of the House bill.

### INSTITUTIONAL GRANTS FOR GRADUATE PROGRAMS IN HEALTH

Both bills contained provisions providing new authority for the Secretary to make annual grants to public or nonprofit private educational entities (except schools of public health) to support the graduate programs in health of such entities.

Under the House bill, grants were to be for the purpose of supporting the graduate educational programs of such entities in health administration, hospital administration, health planning, environmental health and preventive medicine. In addition, the House bill required that the Secretary could not approve an application for assistance to such entities unless they provided assurances to the Secretary that they would increase overall enrollment, as well as increase enrollment in programs for the training of needed types of health personnel (as determined by the Secretary). The House bill authorized the following appropriations for such grants: $3 million for fiscal year 1976, $3.5 million for fiscal year 1977, and $4 million for fiscal year 1978.

Under the Senate amendment, funds were authorized to support graduate educational programs in health administration, hospital administration, and health planning. The Senate bill contained no provisions with respect to requirements for increases in enrollment. The Senate amendment authorized the following appropriations for such programs: $3 million for fiscal year 1977, $3.25 million for fiscal year 1978, $3.5 million for fiscal year 1979, and $3.75 million for fiscal year 1980.

Under the conference substitute, grants for graduate programs in health are to be for the purpose of supporting programs in health administration, hospital administration, and health planning. In addition, an application for assistance may not be approved unless the program maintains a first year enrollment of full time students in such program for the school year ending in fiscal year 1978 and for each school year thereafter ending in a fiscal year in which a grant is applied for exceeds the number of such students enrolled in such program ending in fiscal year 1977 by 5 percent of such number if such number was not more than 100 or by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100. Provision for waiver if accreditation status is threatened is included in the conference substitute. Finally, under the conference substitute, the following appropriations are authorized for institutional grants for graduate programs in health: $3.25 million for fiscal year 1978, $3.5 million for fiscal year 1979, and $3.75 million for fiscal year 1980.

### SPECIAL PROJECT GRANTS AND CONTRACTS

Both the House bill and the Senate amendment authorized funds for special project grants and contracts. The House bill provided detailed authority for ten programs with discrete line item authorizations of appropriations for each program. The Senate amendment, with a few exceptions, combined all special project authorities into a single line item authorization of appropriations with priority for certain purposes.

#### *House bill*

The House bill provided for a line item authorization of appropriations for each of the following programs at the specified funding level and repealed all other existing special project authority:

1. Revised and extended the existing program of start-up assistance and authorized $10 million for each of fiscal years 1976, 1977, and 1978 for the program.

2. Extended the existing authority for financial distress awards, included schools of public health as entities eligible to receive such awards, and authorized $5 million for each of fiscal years 1976, 1977, and 1978 for such purpose.

3. Extended the existing program of support for family medicine residency programs, added authority for the support of residency programs in the general practice of dentistry and authorized $40 million for each of fiscal years 1976, 1977, and 1978 for the program.

4. Extended the existing program of grants for computer technology health care demonstration programs and authorized $3 million for each of fiscal years 1976, 1977 and 1978 for the program.

5. Extended the existing program of support for emergency medical services training, added authority for support of postgraduate physician training, and authorized $10 million for each of fiscal years 1976, 1977, and 1978, of which one-third of the monies appropriated was to be obligated for postgraduate physician training program support.

6. Added specific authority for the following two programs which had previously been funded under the general authority entitled "Health Manpower Education Initiative Awards":

(a) Area Health Education Centers at $15 million for fiscal year 1976, $20 million for fiscal year 1977, and $25 million for fiscal year 1978; and

(b) Training of physician assistants and expanded function dental auxiliaries at $25 million for fiscal year 1976, $30 million for fiscal year 1977, and $35 million for fiscal year 1978.

7. Added new authority for the establishment and support of family medicine departments in schools of medicine and osteopathy and authorized $10 million for fiscal year 1976, $15 million for fiscal year 1977, and $20 million for fiscal year 1978 for such purposes.

8. Added new authority to award grants to schools of medicine and osteopathy to train U.S. citizens who had been enrolled in foreign medical schools prior to July 1, 1975, to enable such individuals to enroll in U.S. schools and to encourage such schools to enroll such individuals with advanced standing, and authorized $2 million for fiscal year 1976, $3 million for fiscal year 1977, and $4 million for fiscal year 1978 for such awards.

9. Added new authority to award grants and enter into contracts with schools of optometry, pharmacy, and podiatry for specified special projects and authorized $5 million for each of fiscal years 1976, 1977, and 1978 for such purposes.

#### *Senate amendment*

The Senate amendment contained a broad, general special project grant authority which specified, in detail, twenty-three purposes which could be funded by special project grants and contracts. It authorized the Secretary to make grants and enter into contracts with public or nonprofit private hospitals, schools of medicine, osteopathy, and dentistry, graduate schools of psychology and social work, and other public or nonprofit private entities for special projects for the following purposes:

1. Programs for physician assistants and expanded function dental auxiliaries.
2. Start-up grants.
3. Area Health Education Center programs.
4. Financial distress.
5. Grants for training, traineeships, and fellowships in general internal medicine and general pediatrics.
6. Human behavior and psychiatry in medical and dental practice.
7. Speech pathology, audiology, bioanalysis and medical technology.
8. Humanism in health care.
9. Biomedical educational programs.
10. Education of United States citizens returning from foreign medical schools.
11. Grants for bilingual health clinical training centers.
12. Project grants and contracts for schools of optometry, pharmacy, and podiatry.
13. Grants to schools of social work in health care.
14. Health manpower development grants and contracts.
15. Environmental health education grants.
16. Problems relating to women.
17. Regional health professions schools.
18. Primary dental care development.
19. United States citizens trained abroad.
20. Psychology training programs.
21. Implications of advances in biomedical research.
22. Dietetic residencies.
23. Regional systems of continuing education.
24. Health manpower development in the Trust Territories.
25. Problems of the Aged.

The Senate amendment authorized $110 million for fiscal year 1978, $120 million for fiscal year 1979, and $130 million for fiscal year 1980 for such programs, and required that, of funds appropriated in each fiscal year, not less than 50 percent were to be obligated for the purposes of (a) programs for physician assistants and expanded function dental auxiliaries, (b) start-up grants, (c) area health education center programs, and (d) financial distress.

In addition, the Senate amendment contained provisions which:

(1) Extended the program of support for family medicine residencies, and authorized $40 million for fiscal year 1978, $45 million for fiscal year 1979, and $50 million for fiscal year 1980 for such program;

(2) Added new authority to award grants to assist public or private nonprofit colleges or universities in the establishment, operation, and administration of occupational health training and education centers and authorized $5 million for each of fiscal years 1977 and 1978, $8 million for fiscal year 1979, and $10 million for fiscal year 1980 for such purpose.

(3) Added new authority for special project grants to accredited schools of public health, and public or nonprofit private educational entities (including graduate schools of social work) which have accredited programs of health administration, health planning, or health policy analysis and planning, and authorized $5 million for fiscal year 1978, $5.5 million for fiscal year 1979, and $6 million for fiscal year 1980 for such program.

(4) Added new authority for grants to public or nonprofit private agencies, institutions, or organizations which can demonstrate the ability to assist in carrying out a program to select and train effective lay staff of professional standards review organizations and authorized $2.5 million for each of fiscal years 1978, 1979, and 1980 for such purposes.

(5) Added new general authority (under section 301 of the Public Health Service Act) to award grants to universities, hospitals, laboratories, and other public or private institutions for such projects as are recommended by the National Environmental Health Sciences Council for institutional support for manpower development programs.

#### *Conference substitute*

The conference substitute provides for a line-item authorization for each of the the following programs at the specified funding level:

(1) It continues the program of assistance for family medicine residency programs, adds authority for support of general dentistry residency programs, and authorizes $45 million for fiscal years 1978, $45 million for fiscal year 1979, and $50 million for fiscal year 1980 for such purposes, of which not less than ten percent of funds appropriated must be obligated for support of general dentistry residency programs;

(2) It adds new authority to make grants to schools of medicine and osteopathy to meet the costs of projects to establish and maintain academic administrative units to provide instruction in family medicine, and authorizes $10 million for fiscal year 1978, $15 million for fiscal year 1979, and $20 million for fiscal year 1980 for such purposes.

(3) It adds specific authority for the support of area health education center programs and authorizes $20 million for fiscal year 1978, $30 million for fiscal year 1970, and $40 million for fiscal year 1980 for such purposes.

(4) It adds new authority to award grants to schools of medicine and osteopathy to train U.S. citizens who had been enrolled in foreign medical schools prior to the date of enactment to enable such individuals to enroll in U.S. medical schools, or to encourage

such schools to enroll such individuals, and authorizes $2 million for each of fiscal years 1977 and 1978, $3 million for fiscal year 1979, and $4 million for fiscal year 1980 for such purposes.

(5) It adds specific authority to support programs for the training of physician assistants and expanded function dental auxiliaries and to support training in the TEAM approach to the delivery of dental care, and authorizes $25 million for fiscal year 1978, $30 million for fiscal year 1979, and $35 million for fiscal year 1980 for such purposes.

(6) It adds new authority to support general internal medicine and general pediatric residency programs and authorizes $10 million for fiscal year 1977, $15 million for fiscal year 1978, $20 million for fiscal year 1979, and $25 million for fiscal year 1980 for such purposes.

(7) It adds new authority for grant support for the establishment, operation, and administration of occupational health training and education centers, and authorizes $5 million for each of fiscal years 1977 and 1978, $8 million for fiscal year 1979, and $10 million for fiscal year 1980 for such purpose.

(8) It adds a new general authority for the following purposes:

(a) start-up assistance,

(b) financial distress,

(c) interdisciplinary training, and

(d) projects and programs such as—

(1) speech pathology, audiology, bioanalysis, and medical technology,

(2) establishing humanism in health care centers,

(3) biomedical combined educational programs,

(4) cooperative human behavior and psychiatry in medical and dental education and practice,

(5) bilingual health clinical training centers,

(c) curriculum development in school of optometry, pharmacy, and podiatry,

(7) social work in health care,

(8) health manpower development,

(9) environmental health education and preventive medicine,

(10) the special medical problems related to women,

(11) the development or expansion of regional health professions schools,

(12) training of citizens of the United States from foreign medical schools to enable them to enroll in residency programs in the United States,

(13) psychology training programs,

(14) ethical implications of biomedical research,

(15) establishment of dietetic residencies,

(16) regional systems of continuing education,

(17) computer technology,

(18) training of professional standards review organization staff, and

(19) training of health professionals in human nutrition and its application to health.

The conference substitute authorizes $25 million for each of fiscal years 1978, 1979, and 1980 for such purposes of which not more than $5 million of the funds appropriated in each fiscal year may be obligated for startup assistance and not more than $5 million may be obligated for financial distress awards.

(9) It adds new authority for special project grants to accredited schools of public health, and public or nonprofit private educational entities (including schools of social work (which have accredited programs of health administration, health planning, or health policy analysis and planning, and authorizes $5 million for fiscal year 1978, $5.5 million for fiscal year 1979, and $6 million for the fiscal year 1980 for such purposes.

As noted above, many of the provisions of the Senate amendment which provided detailed authority for a variety of special project grant programs are included in the conference substitute, but are mentioned only briefly as examples of projects which may be funded under broad, general authority. The conferees intend that, if applications are submitted under this broad authority for the specific programs derived from the provisions of the Senate amendment, they be considered under the detailed terms and conditions as required in the provisions of the Senate amendment and the legislative history respecting such programs set forth in Senate Report 94-887.

The conferees believe that the TEAM approach to the delivery of dental services is one which increases the capacity of the current dental system to increase the productivity and thereby obviate the necessity for producing more dentists. The TEAM concept is based on increasing efficiency and productivity through incorporation of management philosophies and utilization of expanded function auxiliaries. Basic to achieving these efficiencies is the necessity for dental students to work with auxiliaries, in a clinical environment, who are performing expanded functions; without the clinical experience and the ability to work with expanded function dental auxiliaries, the productivity increases will not be realized. It is therefore the intent of the conferees that any school applying for special project support to institute a TEAM program must demonstrate a capacity for clinical training and insure that expanded function dental auxiliaries are participants in the training program. Research demonstrates that in order to increase the productivity of the TEAM to a meaningful degree, it is imperative that the EFDA's pack, carve, and finish amalgams.

The conferees are impressed with the potential that preventive dental care has on preventing dental disease and thereby greatly lessening the cost of dental care to the public. It is therefore intended that the dental TEAM program include at least one dental hygienist and the clinical experience incorporate the provision of preventive care.

In addition, the conferees recognize that virtually all of the expertise with respect to the special training needed for top management and data handling in Professional Standards Review Organizations exists among those who are working in a PSRO. Thus, the conferees intend that, if the Secretary awards a grant or contract for the training of Professional Standards Review Organization personnel, that such grant or contract stipulate that training be conducted by or through organizations of PSROs and those with experience working in a PSRO.

It is also the expressed intent of the conferees that the Secretary of HEW establish coordinating mechanisms which will insure that the training and education functions of the National Institute of Occupational Safety and Health and the National Institute of Environmental Health Science will be coordinated with the development and operation of the Occupational Health Training and Education Centers program authorized by the conference report.

The conferees recognize that the provisions of the new authority for Area Health Education Center programs are such that many existing area health education centers are not in compliance with them. In the view of the conferees, these centers have been given sufficient time under the provisions of the conference report to meet the new requirements. It may be, however, that in the case of the AHEC program located in New Mexico, the principal thrust of the program—the training of Indian people in health professions—can not be continued under the new provisions. If this becomes the case, then it is the intent of the conferees that the Secretary afford special consideration to the funding of the program under other provisions of law.

### PROVISIONS WITH RESPECT TO TRAINING IN ALLIED HEALTH

Both the House bill and the Senate amendment contained provisions authorizing support of project grants and contracts and traineeships with respect to schools and students of the allied health professions.

### DEFINITION

Under the House bill, the term "allied health personnel" was defined as individuals responsible for (1) supporting, complementing, or supplementing the professional activities of physicians, dentists, and other health professionals in the delivery of health care to patients, or (2) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

The definition of "allied health personnel" in the Senate amendment was identical to that of the House amendment except that it did not include reference to assistance to environmental engineers and other personnel in environmental health control and preventive medicine activities.

The conference substitute conforms to the provisions of the House bill.

### PROJECT GRANTS AND CONTRACTS

Both the House bill and the Senate amendment authorized the award of project grants and contracts with respect to training in the allied health professions. The provisions of the House bill and the Senate amendment were comparable except that:

(1) The House bill authorized the award of project grants and contracts to public and nonprofit private entities while the Senate amendment defined entities eligible for receipt of project grants and contracts as schools, universities, other educational entities, States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions, and any entity which has a working relationship with such entities. The conference substitute conforms to the provisions of the Senate amendment.

(2) The House bill provided that project support could be for the purposes of coordination of training programs for allied health personnel with other educational institutions and for State and regional coordination and monitoring of education and training of allied health personnel. The Senate amendment authorized project grant support for such purposes for the training of nurses, as well as allied health personnel. The conference substitute conforms to the Senate provision.

(3) The House bill provided that one of the purposes for which project grants and contracts could be awarded was the support of educational programs leading to a degree in the various fields within the allied health professions and the expansion or establishment of new educational programs in the allied health professions for which the Secretary determined there was a critical national need. The Senate amendment contained no comparable provision, and the conference substitute contains no comparable provision.

(4) One of the purposes for which project grants and contracts could be awarded under the House amendment was for continuing education programs for practicing allied health personnel. The Senate amendment contained no comparable provision. The conference substitute includes the provision of the House amendment.

(5) Under the House bill, $20 million for each of fiscal years 1976, 1977, and 1978, was authorized for the purpose of making payments under grants and contracts for projects relating to allied health. The Senate amendment contained the following authorizations: $27.2 million for fiscal year 1978, $30

million for fiscal year 1979, and $32.5 million for fiscal year 1980. Under the conference substitute, the following authorizations of appropriations are provided for project grants and contracts for projects relating to allied health; $22 million for fiscal year 1978, $24 million for fiscal year 1979, and $26 million for fiscal year 1980.

(6) The Senate amendment required that not less than 50 percent of funds appropriated for projects in the allied health professions be reserved for awards to training centers for allied health professions. The House bill contained no comparable provision, and the conference substitute conforms to the provision of the Senate amendment.

### *Traineeships for advanced training of allied health personnel*

Both the House bill and the Senate amendment contained provisions authorizing the Secretary to make grants for traineeships for the advanced training of allied health personnel. The provisions of the House bill and the Senate amendment respecting such traineeships were identical except that the House bill authorized $6 million per year for fiscal years 1976, 1977, and 1978 for such purposes and the Senate amendment authorized $4.5 million for fiscal year 1978, $5 million for fiscal year 1979, and $5.5 million for fiscal year 1980 for such purposes.

The conference substitute conforms to the provisions of the Senate amendment.

### GRANTS FOR EDUCATIONAL ASSISTANCE TO DISADVANTAGED INDIVIDUALS IN ALLIED HEALTH TRAINING

Both the House bill and the Senate amendment authorized the Secretary to make grants to and enter into contracts with State and local educational entities and other public or private nonprofit entities for the recruitment and training of such persons in the allied health professions.

Under the House bill, $1 million per year was authorized for fiscal years 1976, 1977 and 1978 for such purposes.

Under the Senate amendment, the following appropriations were authorized for such purposes: $1.1 million for fiscal year 1978, $1.2 million for fiscal year 1979, and $1.3 million for fiscal year 1980.

The conference substitute conforms to the House bill.

### STUDIES AND REPORTS

The House bill required the following studies and reports:

(1) A continuous compilation of statistics, and an annual report to the Congress, of information respecting activities, needs and other characteristics with respect to public health personnel.

(2) A continuous study, and an annual report to the Congress, with respect to descriptions of anticipated need for, and the number, employment, geographic locations, salaries, and surpluses and shortages of allied health personnel.

(3) A study of the current distribution of physicians by specialty, a projection of the expected distribution of physicians by specialty and subspecialty, an examination of the various methods for estimating the optimal distribution of physicians and the development of a methodology to establish such distribution.

(4) A report describing the allied health personnel program supported by the Secretary and a requirement that assistance be provided only to programs which meet quality standards.

(5) Studies with respect to the types of allied health personnel and the activities in which they are engaged, classifications of allied health personnel, methodologies to determine the cost of educating and training allied health personnel, and an identification of the classifications in which there is a critical shortage of allied health personnel.

(6) A study of funding alternatives to Federal and State support which may be developed to meet the costs of training within schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy.

The Senate amendment contained no comparable provisions. However, the Senate amendment contained a provision requiring the Secretary to arrange for the conduct of a study to determine the national average per student educational cost of providing education programs which lead to a degree of Doctor of Chiropractics, and recommendations concerning how the Federal government can utilize educational ccst per student data to determine the amount of capitation grants which might be provided under the Public Health Service Act.

Under the conference substitute, the following studies and reports are mandated: (1) the provision of the House bill with respect to public health personnel, (2) a study of data and characteristics with respect to allied health personnel, combining the requirements of the two studies of allied health personnel contained in the House bill, (3) the provision of the Senate amendment with respect to chiropractic education, except that the report to the Congress is not to contain information concerning how the Federal government can utilize costs per student to determine the amount of capitation grants which might be provided under the Public Health Service Act.

### NATIONAL COUNCIL ON POSTGRADUATE PHYSICIAN TRAINING

The Senate amendment provided for the establishment of a National Council on Postgraduate Physician Training consisting of various officers of the Federal government and members of the public. Duties of the council included the making of studies and other activities (and the making of recommendations to the Secretary of Health, Education and Welfare) with respect to distribution and goals for the distribution and postgraduate physician training positions among the various medical specialties, the development of working relationships with specialty organizations with respect to number and location of specialists, assessment of the need for financial support for postgraduate physician training, and assessment of the service needs of hospitals and other health institutions for graduate physician trainees, an assessment of the educational components of postgraduate physician training programs, and an assessment of the impact of practice in the United States by graduates of foreign medical schools. Not later than 6 months after the completion of the study by the National Council, the Secretary was to report to the Congress on the status of specialty and geographic maldistribution of postgraduate physician training programs, any changes in the goals recommended by the National Council, and any authority the Secretary may require to implement such goals.

The House bill contained no comparable provision.

The conference substitute does not include the Senate provision.

### STANDARDS FOR LICENSURE, RELICENSURE, AND CONTINUING EDUCATION

The Senate amendment required the Secretary, in consultation with appropriate professional organizations, to develop and establish model standards for State licensure of physicians and dentists, prepare appropriate examinations for the licensing and procedures for the relicensing of physicians and dentists, and develop appropriate standards for continuing educational programs for physicians and dentists. Standards were to include a level of satisfactory performance on examinations, the demonstration of written and spoken proficiency in the English language, and completion of a specific number of hours of continuing education. In addition, under the Senate amendment, the Secretary was authorized to make grants to State agencies to assist States planning, developing, or operating systems for licensure and relicensure of physicians and dentists which meet the standards established by the Secretary. Authorizations of $3 million for fiscal year 1978, $4 million for fiscal year 1979, and $5 million for fiscal year 1980 were provided for such grants.

The House bill contained no comparable provision.

The conference substitute does not contain the Senate provision.

### AMENDMENTS TO NURSE TRAINING ACT WITH RESPECT TO NURSE PRACTITIONERS

The Senate amendment contained a provision which would amend the Nurse Training Act with respect to nurse traineeships to (1) require the Secretary, in awarding such traineeships to give special consideration to programs for the training of nurse practioners who will practice in health manpower shortage areas and (2) to authorize the Secretary to make grants and enter into contracts with schools of nursing, medicine, and public health, hospitals, and other nonprofit entities to establish traineeship programs to train nurse practitioners who are residents of urban or rural health manpower shortage areas.

The House bill contained no comparable provision.

The conference substitute conforms to the provisions of the Senate amendment.

### INCLUSION OF OPTOMETRISTS AS PROVIDERS UNDER HEALTH PLANNING AUTHORITY

The Senate amendment contained a provision which (1) specifically included optometrists as providers of health care eligible to be appointed to the governing bodies of health systems agencies under section 1512 of the Public Health Service Act and (2) included optometrists within the definition of "provider of health care" under section 1531 of such Act.

The House bill contained no comparable provision.

The conference substitute includes the provisions of the Senate amendment.

### RADIATION HEALTH AND SAFETY

The Senate amendment contained a provision which required the Secretary to develvelop criteria for minimum standards for accreditation of educational institutions for the training of radiologic technologists and for use in the accreditation of educational institutions conducting programs for the training of medical and dental practitioners, dental hygienists, and dental assistants. In addition, the Secretary was required to develop and issue to the States criteria and minimum standards for licensure of radiologic technologists. If such standards for accreditation of institutions or licensure of personnel were not met by States with two years, standards developed by the Secretary were to become standards to be applied within such States.

The House bill contained no comparable provision.

The conference substitute does not contain the Senate provision. However, the protection of patients from unnecessary radiation exposure in the provision of radiologic services is a matter of considerable concern to the conferees. The general public's exposure to radiation in medicine and dentistry amounts to over 90 percent of all human exposure to man-made ionizing radiation. Testimony before the House Committee on Interstate and Foreign Commerce and the Senate Committee on Labor and Public Welfare indicates that such patient exposure can be significantly reduced without impairing the provision of radiologic services, such as X-ray examinations, which are essential to effective medical and dental services.

Concern for the public health implications of present practices has spurred no less than seven national bodies between 1966 and 1974 to recommend that the qualifications of the operators of radiologic equipment be upgraded. In response, eight States have enacted legislation and four other States have been judged by their Attorney Generals to possess sufficient authority to require the mandatory licensure of radiologic technologists.

In the judgment of the conferees the programs of the Department of Health, Education, and Welfare to promote model legislation to encourage State licensure of radiologic technologists have been inadequate, compared to the potential risks associated with unneccessary radiation exposure of consumer-patients. Thus, the conferees expect the Secretary to intensify his efforts with respect to offering encouragement and assistance to States to upgrade their standards with respect to the provision of radiologic services.

### AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

The Senate amendment contained provisions which amended the Immigration and Nationality Act with respect to the eligibility of alien physicians to immigrate into the United States. These provisions rendered such aliens ineligible for preference priorities under section 203(a) (3) and (6) of such Act (relating to preferences for persons of exceptional ability in the sciences or the arts and to persons capable of performing labor for which a shortage exists in the United States) and for the nonpreference category, unless such aliens have passed Parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination) and are competent in the English language. In addition, the Senate amendment added new provisions to such Act which required that in order for an alien physician to enter the United States on an exchange visitor visa, (a so-called "J-visa"), he must (a) participate in a program sponsored by a United States school of medicine or other recognized educational institution, (b) have passed parts I or II of the National Board of Medical Examiners Examination or an equivalent examination, and (c) make a commitment to return to the country of his origin upon completion of his education in the United States. In addition, such alien physician may not participate in an educational program in the United States for more than two years (with provision for extension of this period for an additional year). Until December 31, 1980, these additional requirements with respect to the J-visa program would not preclude participation by aliens in an accredited program of graduate training in a medical facility where such program would otherwise be substantially disrupted.

The House amendment contained no comparable provision.

The conference substitute includes the Senate provisions, with technical amendments, including an amendment requiring the Secretary of Health, Education, and Welfare to develop sufficient data to enable the Secretary of Labor to make equitable determinations with regard to applications for labor certification by graduates of foreign medical schools.

The conferees recognize that successful legal challenges have been made to Department of Labor determinations under section 212(a)(14) of the Immigration and Nationality Act. As a result, future case-by-case determinations should be supported by data and information relating to the availability of physicians, and the conferees expect the Department of Health, Education, and Welfare to provide the necessary assistance in accumulating such data.

Harley O. Staggers,
Paul G. Rogers,
David E. Satterfield,
Richardson Preyer,
James W. Symington,
James H. Scheuer,
Henry A. Waxman,
James J. Florio,
Charles J. Carney,
Andrew Maguire,
Samuel L. Devine,
Tim Lee Carter,
James T. Broyhill,
Edward R. Madigan,
*Managers on the Part of the House.*

Edward Kennedy,
H. A. Williams,
Gaylord Nelson,
Thomas F. Eagleton,
Alan Cranston,
Claiborne Pell,
William D. Hathaway,
John A. Durkin,
Richard S. Schweiker,
J. K. Javits,
J. Glenn Beall, Jr.,
Robert Taft, Jr.,
Robert T. Stafford,
Paul Laxalt,
*Managers on the Part of the Senate*

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## REUSE OF OIL—A GENUINE ENERGY CONSERVATION EFFORT

Mr. DOMENICI. Mr. President, conservation of our national energy resources continues to command the priority attention of the Congress. Particularly is this true of petroleum.

Midway in this Bicentennial Year of 1976—in the middle of the month of June—the United States of America set a new record.

We imported more crude oil from foreign countries than ever before in history. We imported more than 6 million barrels a day during that historic week.

Mr. President, foreign countries are not always friendly. Their policies and economic behavior can hazard the well-being of our Nation and menace the lifestyle of our people. Remember the embargo of 1973–74. It cost us an estimated $10 to $20 billion, and sent a half-million American workers into the streets unemployed.

This can happen again. The consequences can be worse. We are warned.

The Federal Energy Administration warns us that we are becoming increasingly dependent upon foreign oil. We are approaching the point where foreign nations control half the oil we use.

Mr. President, we must prevent this.

There are several things we can do. I speak today of one—conservation—the recovery and reuse of used oil—used oil recycling.

I am speaking of the most valuable portion, the smallest portion, of a barrel of crude oil. This is lubricating oil—the kind you put in your automobile engine—the kind that industry puts in machines to produce products for all Americans.

This used oil is a valuable natural resource. It can be recycled and reused, again and again, for home, auto, and industrial needs.

But, we are wasting it—throwing it away or burning it up—an estimated 500 million gallons of valuable used lubricating oil a year.

American business and industry, and State and local governments, are wasting and losing 400 million gallons a year.

Individual Americans, the citizen car owners, the "do-it-yourselfers" who change their own motor oil, are wasting and losing 100 million gallons each year.

And not only is this valuable used oil forever lost to our economy. It is usually disposed of in ways harmful to our environment, and our community and neighborhood water supplies suffer.

Mr. President, our colleagues are aware that companion bills—the National Oil Recycling Act—have been introduced by myself and Representative Charles A. Vanick of Ohio. This legislation is designed to encourage action by Federal, State, and local governments, and by citizen-community groups, to conserve our energy and preserve our environment through nationwide programs and projects.

Working toward this objective, the Federal Energy Administration is now encouraging State and local governments to include used oil recycling in their State energy conservation programs, under the Energy Policy and Conservation Act of 1975.

This autumn, the FEA plans to have available a used oil recycling kit to assist citizen groups to organize community and neighborhood used oil recycling projects. These projects can serve millions of "do-it-yourself" oil changers, and result in the recovery and reuse of millions of gallons of valuable used motor oil.

The kit will be available to citizen groups who request it. The projects will be created and run in the great volunteer tradition of America, by citizen groups dedicated to energy conservation, preservation of the environment, and consumer interests, and at no cost to the Government.

Mr. President, I commend these sensible and sound approaches by the FEA. I encourage this Congress, our State and local governments and our volunteer citizen groups throughout America, to support used oil recycling on a nationwide basis.

Today I welcome the interest of all Members in a new publication in this specific field of energy conservation. It is titled "A Model Used Oil Recycling Act."

It is prepared by William A. Irwin, of the Environmental Law Institute, under contract to the FEA, and is a model bill designed for States, counties, and municipalities which seek to develop programs for collecting, rerefining, and reusing used oil.

The full bill would provide a comprehensive system for flexible control over used oil recycling. But a law consisting only of sections 1–7, 11 (a) and (f), 12, and the standard sections 13–16 would offer the foundations for an effective program for promoting used oil recycling in a jurisdiction which does not need the provisions for licensing.

I urge Members to bring this new Model Used Oil Recycling Act to the attention of the counties, cities, communities, and citizen groups they represent, in newsletters and through other communication channels, so that we may have the benefit of such broad exposure and comment.

It is available through request to: Used Oil Recycling Program, Conservation and Environment, Federal Energy Administration—C, Washington, D.C. 20461.

The FEA has not yet endorsed this model legislation. However, following review, the FEA may officially refer it to State and local governments.

Mr. President, I ask unanimous consent that the complete text of the new publication be printed in the RECORD under its title: "A Model Used Oil Recycling Act."

There being no objection, the report was ordered to be printed in the RECORD, as follows:

## A MODEL USED OIL RECYCLING ACT

(By William A. Irwin)

### INTRODUCTION

This pamphlet contains the final draft of a model bill to promote recycling of used oil, with commentary. The bill is designed for states, counties and municipalities which wish to develop programs for collecting and reusing used oil.

The bill was prepared for the Federal Energy Administration as part of its energy conservation program. Earlier versions of the bill have greatly benefited from the constructive comments of dozens of experienced persons whose views cover the full range of perspectives on used oil issues. This final draft represents balanced approaches to these issues which should be useful as a point of departure.

The full bill would provide a comprehensive system for flexible control over used oil recycling. But a law consisting only of sections 1–7, 11(a) and (f), 12, and the standard sections 13–16 would offer the foundations for an effective program for promoting used oil recycling in a jurisdiction which does not need the provisions for licensing.

Suggestions or comments about this bill are welcome.

WILLIAM A. IRWIN,
*Environmental Law Institute.*

Washington, D.C., *July 1976.*

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## A BILL TO ENCOURAGE RECYCLING OF USED OIL

### SHORT TITLE

Section 1. This Act may be cited as the "Used Oil Recycling Act."

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Section 1. Short Title, Table of Contents.
Section 2. Definitions.
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Section 7. Collection Facilities.
*Section 8. Licenses for Used Oil Collectors.*
Section 9. Licenses for Used Oil Recyclers.
Section 10. Special Permits for Other Uses or Disposal.
Section 11. Administration.
Section 12. Recycled Oil Products.
Section 13. Enforcement and Penalties.
Section 14. Severability.
Section 15. Repeal.
Section 16. Effective Date.

### DEFINITIONS

Section 2. As used in this Act:

(a) "used oil" means a petroleum-based oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties;

(b) "recycle" means to prepare used oil for reuse as a petroleum product by refining, rerefining, reclaiming, reprocessing or other means or to use used oil in a manner that substitutes for a petroleum product made from new oil, provided that the preparation or use is operationally safe, environmentally sound, and complies with all laws and regulations;

(c) "Director" means the [chief executive officer] of [the agency for environmental protection];

(d) "person" means any individual, private or public corporation, partnership, cooperative, association, estate, municipality, political or jurisdictional subdivision, or government agency or instrumentality.

*Commentary*

(a) "Used oil" is preferable to "waste oil" since it indicates possibilities for further use rather than readiness for disposal. Used oil includes, but is not limited to, crude oil, fuel oil, lubricating oil, hydraulic oil, electrical oil, refrigeration oil, cutting oil, oil emulsion, kerosense diesel fuel, and other nonchlorinated industrial oil, that are discarded as waste or recovered from oil separators, oil spills, tank bottoms or other sources. Used oil does not include an insoluble or partially soluble oragnic chemical or petroleum derivative which requires special handling precautions because of toxicity, composition, or flammability including but not limited to gasoline, a petroleum solvent, a chlorinated solvent or oil, an aromatic, organic pesticide, polychlorinated biphenyl, and a low-boiling ketone, alcohol or ether.

(b) "Recycle" is now a popularly understood word for recovery and reuse of resources. Recycling of used oil is defined as any preparation for reuse or use in place of new oil which is operationally safe (*i.e.*, will not pose risks of fire or explosion), environmentally sound (*i.e.*, will not endanger public health or environmental quality), and complies with all laws and regulations.

The listed means of preparation, *i.e.*, refining, rerefining, reclaiming and reprocessing, have more or less defined vernacular meanings:

The term "refine or rerefine" means to use refining technology in the treatment of used oil to remove physical and chemical contaminants and enhance used oil quality so as to produce lubricating oil or other petroleum products that are similar to new oil intended for the same purpose. The technology includes, but is not limited to, the use of distillation, chemical treatment, oil additives, hydrogen treating, and various physical treatments.

The term "reclaim" means to use physical methods, short of those used in rerefining, to cleanse used oil for further use for its original or similar purpose. The methods include settling, heating, dehydration, filtration and centrifuging and may entail use of oil additives.

The term "reprocess" means to use minimal physical methods to remove water and suspended solids from used oil in preparation for its use primarily as a fuel or fuel supplement. The methods may include settling, chemical pre-treatment, filtration, and dehydration.

(c) The director of an agency responsible for energy conservation or public health could also be named.

### FINDINGS

SECTION 3. The [legislature; council] finds that [millions] of gallons of used oil are generated each year in the [State; municipality]; that used oil is a valuable petroleum resource which can be recycled; and that, in spite of this potential for recycling, significant quantities of used oil are wastefully disposed of or improperly used by means which pollute the waters, land and air and endanger the public health and welfare.

*Commentary*

As the following table shows, in all states the amount of industrial and automotive used oils generated exceeded one million gallons in 1971. For local jurisdictions the amounts would depend on population and industrial characteristics.

Although dirty and contaminated, used oil is composed mostly of lube oil fractions, a small but valuable portion of a barrel of crude oil, and has high heating value.[1] Used oil can be rerefined into lubricating oil[2] or used as a feedstock in the manufacture of other petroleum products. It can be reclaimed and used again for its original purpose, can be reprocessed to fuel oil and, under controlled conditions, can be safely burned untreated.[3]

The best estimate of the ultimate fate of the 1.1 billion gallons of used oil generated annually in the United States is: 480 million gallons (43 percent) used as fuel, treated or untreated; 90 million gallons (8 percent) refined to lube oil; 200 million gallons (18 percent) used as road oil or in asphalt; and the fate of 340 million gallons (31 percent), including the 30 million gallons of rerefining wastes, is unknown. Better estimates of the ultimate fate of used oil are not possible because of the lack of means of accounting for it across the fragmented collection, rerefining and disposal systems.[4]

Most used oils contain heavy metals and organic compounds which are toxic and, in some instances, carcinogenic, if ingested or inhaled.[5] Disposal on land contributes to water pollution either directly or by leaching, and may make the land unproductive and result in ground water contamination.[6] Incineration or uncontrolled burning releases metallic oxides, principally lead, to the air; the Environmental Protection Agency has determined that concentrations of certain airborne metals, including lead, endanger public health.[7]

*References*

1. Waste Oil Study: Preliminary Report to Congress, U.S. Environmental Protection Agency, April 1973.

2. Report to Congress: Waste Oil Study, prepared by the Environmental Protection Agency, Washington, D.C. 20460, April 1974, Section VI.

3. *Id.*, Section VII.

4. *Id.*, page 25.

5. *Id.*, Section IV. *See also*, Irwin and Liroff, Used Oil Law in the United States and Europe, U.S. Government Printing Office, EPA-600/5-74-025, July 1974, pages 16–20.

6. *Id.*, p. 33.

7. *Id.*, pages 66–67. The EPA regulations requiring reduction of lead in gasoline were upheld by the District of Columbia Court of Appeals on March 19, 1976 (*Ethyl Corp. v. EPA*, 6 ELR 20267).

TABLE I.—*Used oil generation by State (1971 data)*

| State | Automotive (gallons) | Industrial (gallons) |
|---|---|---|
| Alabama | 12,182,640 | 4,719,116 |
| Alaska | 1,395,900 | 190,920 |
| Arizona | 6,358,600 | 1,279,087 |
| Arkansas | 8,008,590 | 3,085,107 |
| California | 72,034,320 | 20,021,638 |
| Colorado | 8,229,900 | 1,920,620 |
| Connecticut | 6,743,770 | 3,652,711 |
| Delaware | 1,624,870 | 435,653 |
| Florida | 14,445,970 | 5,056,982 |
| Georgia | 14,495,260 | 6,442,547 |
| Hawaii | 1,857,600 | (1) |
| Idaho | 3,435,230 | 392,549 |
| Illinois | 37,263,020 | 26,383,747 |
| Indiana | 17,722,970 | 12,991,233 |
| Iowa | 11,103,710 | 2,400,122 |
| Kansas | 14,381,400 | 2,979,826 |
| Kentucky | 14,075,660 | 639,301 |
| Louisiana | 15,163,310 | 12,070,643 |
| Maine | 3,339,070 | 822,170 |
| Maryland | 7,286,110 | 3,102,488 |
| Massachusetts | 13,404,420 | 6,129,556 |
| Michigan | 37,488,000 | 19,571,150 |
| Minnesota | 14,533,400 | 3,213,530 |
| Mississippi | 9,185,500 | 2,707,690 |
| Missouri | 19,701,790 | 4,283,712 |
| Montana | 4,191,070 | 503,289 |
| Nebraska | 8,846,970 | 1,633,035 |
| Nevada | 2,381,820 | 257,644 |
| New Hampshire | 1,680,430 | 257,769 |
| New Jersey | 18,071,960 | 18,459,034 |
| New Mexico | 4,760,980 | 1,548,790 |
| New York | 32,016,880 | 15,546,678 |
| North Carolina | 13,832,020 | 4,585,158 |
| North Dakota | 4,046,060 | 271,254 |
| Ohio | 36,627,970 | 29,795,774 |
| Oklahoma | 12,295,480 | 4,249,737 |
| Oregon | 12,020,320 | 2,977,082 |
| Pennsylvania | 35,728,740 | 27,823,461 |
| Rhode Island | 1,912,560 | 770,858 |
| South Carolina | 6,432,670 | 1,678,776 |
| South Dakota | 4,400,210 | 203,592 |
| Tennessee | 12,665,700 | 10,442,178 |
| Texas | 47,222,230 | 32,778,546 |
| Utah | 4,647,950 | 1,062,643 |
| Vermont | 1,330,400 | 190,565 |
| Virginia | 10,839,430 | 3,017,776 |
| Washington | 11,047,210 | 2,845,560 |
| Washington, D.C. | 1,638,780 | (1) |
| West Virginia | 6,530,830 | 7,432,560 |
| Wisconsin | 17,262,010 | 5,073,985 |
| Wyoming | 2,563,700 | 470,723 |

[1] Not available.

Source: GCA Corporation, *Waste Automotive Lubricating Oil Reuse as a Fuel*, published report EPA–600/5–74–032, Environmental Protection Agency, September 1974.

POLICY

Section 4. Used oil shall be collected and recycled to the maximum extent possible, by means which are economically feasible and environmentally sound, in order to conserve irreplaceable petroleum resources, preserve and enhance the quality of natural and human environments, and protect public health and welfare.

*Commentary*

The statement of policy provides a general purpose and constitutional foundation (protection of public health and welfare), two principal components of that purpose (resource conservation and environmental protection), two means for achieving the purpose (collection and recycling) and two flexible concepts for implementing the means for achieving the purpose (economically feasible and environmentally sound).

Subsequent sections of this Act empower the Director, through a system of rules, licenses, special permits, and prohibitions, to execute this policy.

The implementation of this policy in a particular area will depend on what the environmental constraints and economic markets are. From the viewpoint of environmental soundness, if air pollution standards are stringent and hazardous waste disposal facilities for recycling wastes are available, more used oil may flow to rerefining or reclaiming or both. Conversely, if environmental standards permit, more used oil may flow to other uses.

Economic feasibility is the other key concept. An activity is economically feasible if the revenues from it are at least equal to the costs of doing it, including a competitive return on the investment in the activity.

The amount of used oil collected depends on many factors, including, but not necessarily limited to, the concentration of used oil collection sites within an area, the quantities of used oil available, the type and quality of used oil to be collected, and, most importantly, whether a market exists for the collected oil.

PROHIBITIONS

Section 5. (a) No person shall collect, transport, transfer, store, recycle, use, or dispose of used oil in any manner which endangers the public health or welfare, or violates any law or regulation.

(b) Disposal of used oil by discharge to sewers, drainage systems, surface or ground waters, watercourses, or marine waters; or by incineration or deposit on land, unless in accordance with a special permit authorized by section 10, is prohibited.

*Commentary*

The means of disposal named here are those which are most clearly wasteful and harmful to the environment. The general prohibition is intended to cover other uses or means of disposal which endanger public health, such as emissions or residues from recycling and depositing used oil in one's garbage. Applicable environmental and other laws and regulations are also included.

PUBLIC EDUCATION

Section 6. The Director shall conduct a public education program to inform the public of the needs for and benefits of collecting and recycling used oil in order to conserve resources and preserve the environment. As part of this program, the Director shall:

(a) adopt rules, in accordance with section 11(a), requiring sellers of more than 500 gallons of lubricating or other oil annually in containers for use off the premises to post and maintain at or near the point of sale durable and legible signs informing the public of the importance of proper collection and disposal of used oil, and how and where used oil may be properly disposed of, including locations and hours of operation of conveniently located collection facilities;

(b) establish, maintain and publicize a used oil information center that will explain local, state and federal laws and regulations governing used oil and will inform holders of quantities of used oil on how and where used oil may be properly disposed of; and

(c) encourage the establishment of voluntary used oil collection and recycling programs and provide technical assistance to persons organizing such programs.

*Commentary*

Public education is potentially a very effective component of the Director's used oil program.

Signs posted where those who change their own oil purchase it informing them of the location of the collection facilities established in accordance with section 7 would promote both the establishment of the facilities and public knowledge of why and how they should be used.

Public understanding of the law is important to the acceptance and success of the Director's program and should be a part of his public education efforts. Provisions of federal law, such as EPA rules for labels on oil containers concerning proper disposal of oil after use (when that requirement of section 383 of the Energy Policy and Conservation Act becomes effective) should also be explained.

Public information and education functions—such as telling a member of the public or commercial generator where the nearest used oil deposit facility is or who the collectors in an area are—could best be coordinated and performed by a member of the staff responsible for a used oil information and education center. Some state agencies have such personnel; they are also available from extension services.

Technical assistance for voluntary recycling programs would include providing local groups with materials which contain a how-to-do-it manual for creating community recycling programs, along with a suggested brochure, poster and bumper sticker and case histories of successful local programs, and would stimulate interest and effort which complement the state or municipal regulatory activities.

In addition, brochures could be provided for distribution by all retailers of oil and by the department of motor vehicles in conjunction with drivers' licensing or testing or vehicle registration. Used oil units could be prepared for inclusion in driver or automotive education courses.

COLLECTION FACILITIES

Section 7. The Director shall by rule adopted in accordance with section 11(a) prescribe means for the provision of safe and conveniently located collection facilities for the deposit of used oil by persons possessing not more than 5 gallons at one time at no cost to those persons. The Director may require public persons or sellers of more than 500 gallons of lubricating or other oil annually in containers for use off premises, or both, to provide or contract for the provision of such facilities.

*Commentary*

Within the last ten years, there has been a significant upturn in "do-it-yourself" oil changes. This trend is reflected in the large volume of retail automotive lubricating oil sales in mass-market retail stores. It is estimated that retail sales today of lubricating oils at non-service station outlets constitute between 40 and 60 percent of all automobile lube oil sales, and few provide facilities for return of used oil. For lack of an alternative, individuals who change their oil, in doing so, often discard the used product where they can—in the garbage, down storm sewers, and in vacant lots. Such disposal wastes a valuable resource, and may create a fire hazard or produce water pollution. Many "do-it-yourselfers" interviewed in a recent survey conducted for EPA indicated a willingness to return used oil, provided a convenient mechanism for doing so existed. This section is designed to require the provision of convenient places for the deposit of small quantities of used oil.

Creation and maintenance of collection facilities could be the responsibility of those who retail oil, or of municipal governments (*e.g.*, fire stations, sanitary landfills, etc.) or of state government, or of a combination of any of these. The responsible persons could of course contract for the provision of the facilities.

Collection facilities should be located as conveniently as possible for the benefit of those who change their own oil. Those who change their own oil will probably neither travel far nor pay anything to deposit their used oil. The Director's rules could require that private and public facilities combined be made available on a per capita or per square mile basis.

The limitation on gallons deposited at one time is designed to prevent overloading of facilities. Those who generate larger amounts of used oil should create their own storage facilities and arrange for regular pick-up by collectors licensed in accordance with section 8.

Whoever maintains collection facilities should secure them from theft, tampering or threat of fire and should post a sign at each site stating clearly that they are only for used oil, not for paints, solvents, gasoline, pesticides, or other wastes.

### LICENSES FOR USED OIL COLLECTORS

Section 8. (a) A person who transports more than 500 gallons of used oil annually over public ways, hereinafter referred to as a used oil collector, or any storage facility that receives more than 10,000 gallons of used oil annually from one or more used oil collectors, also referred to as a used oil collector, shall do so in accordance with a license issued by the Director.

(b) A licensed used oil collector shall transfer used oil only to another used oil collector licensed under this section; a recycler licensed under section 9; a person with a valid special permit issued under section 10; or a person outside the [State; municipality].

(c) A licensed used oil collector shall provide a receipt to any person to whom used oil is transferred; maintain a complete record of all such transactions, documented by reproducible receipts, for two years; and make fully available to the Director, upon request, all records and copies of receipts for the purpose of review and audit.

(d) A licensed used oil collector shall submit an annual report to the Director on his activities during the calendar year based on the records kept in accordance with section 8(c). The report shall state simply the quantities of used oil possessed at the beginning and end of the reporting period, the total amount collected and the amounts transferred during this period. The amounts transferred shall be itemized as follows: to collectors, recyclers and special permit holders in the [State; municipality]; and by the State or foreign country for those persons outside the [State; municipality].

*Commentary*

A used oil collector is defined to exclude those who transport only on their own property or who transport small amounts. Licensing of collectors should limit the number of unreliable or unscrupulous "gypsy" operations which flourish when used oil is in demand. The 500 gallon threshold permits storage and transport by persons not in business to collect used oil.

Subsection (b), (c) and (d) are designed to permit control of the flow of used oil into approved uses and to provide information which will enable monitoring and eventual management of those flows.

In many metropolitan areas collectors pick up oil in one jurisdiction and deliver it in another. In order that receiving states are notified of the amount and locations of delivery, out-of-state as well as intra-state information should be recorded on the collector's annual report and the Director should send to his counterparts in another state the information contained in the reports pertaining to that state.

### LICENSES FOR USED OIL RECYCLERS

Section 9. (a) A person who recycles 5,000 gallons or more of used oil annually shall do so in accordance with a license issued by the Director.

(b) A licensed used oil recycler shall provide a receipt to any person from whom used oil is received; maintain a complete record of all such transactions, documented by reproducible receipts, for two years; maintain records on the quantities of used oil recycled; and make fully available to the Director, upon request, all records and copies of receipts for the purpose of review and audit.

(c) A licensed used oil recycler shall submit an annual report to the Director on his activities during the calendar year based upon the records kept in accordance with section 9(b). The report shall state simply the quantities of used oil possessed at the beginning and end of the reporting period, the total amount received, and the amounts recycled during this period. The amounts recycled shall be itemized as follows: prepared for reuse as a petroleum product; consumed in the process of preparing for reuse, including wastes generated; and other uses, specifying each type of use.

*Commentary*

This section authorizes licensing of those who recycle used oil in order to provide outlets for the oil collected and to control potential adverse environmental effects of recycling or its byproducts. In addition, these persons should be identified in conjunction with section 12 dealing with recycled oil products.

The 5,000 gallon threshold could be different, depending on the desired trade-off between scope of coverage and administrative burden.

Subsections (b) and (c) are designed to complement sections 8(c) and 11(e).

### SPECIAL PERMITS FOR OTHER USES OR DISPOSAL

Section 10. (a) A person who uses or disposes of more than 55 gallons of used oil annually by means other than recycling, including but not limited to road oiling, incineration and landfilling, shall do so only in accordance with a special permit issued by the Director.

(b) A special permit holder shall provide a receipt to any person from whom used oil is received; maintain a complete record of such transactions, documented by reproducible receipts, for two years; maintain records on the quantities of used oil used or disposed of; and make fully available to the director, upon request, all records and copies of receipts for the purpose of review and audit.

(c) A special permit holder shall submit an annual report to the Director on his activities during the calendar year based on the records kept in accordance with section 10(b). The report shall state simply the quantities of used oil possessed at the beginning and end of the reporting period, the total amount received, and the amounts used and disposed of during the period. The amounts used or disposed of shall be itemized as follows: type of use and method of disposal.

*Commentary*

In certain circumstances, for example, where it would be unreasonably expensive to bring used oil in for recycling, or where the capacity for recycling is not available, other uses or means of disposal may be permitted provided that they are environmentally sound, even though they may involve the loss of resource.

This section provides the Director necessary flexibility in implementing the Act's policy, that is, in determining economic feasibility and environmental soundness.

Use or disposal of less than 55 gallons a year does not require a special permit. This would exempt several uses of used oil on the farm or in small shops, for example.

Subsections (b) and (c) are designed to complement sections 8(c) and 11(e).

### ADMINISTRATION

Section 11. (a) The Administrative Procedure Act [or other appropriate statute or ordinance governing rule making and adjudication] applies to all actions taken under this Act.

(b) The Director shall adopt rules in accordance with section 11(a) governing contents of and fees for applications for licenses and special permits under this Act and procedures for review of applications and for issuance, renewal, denial, and revocation of licenses and special permits. These rules shall provide for joint licenses or special permits for persons requiring more than one authorization under this Act or other acts administered by the Director. The Director shall also adopt rules prescribing provision of receipts, the keeping of records and the filing of reports by license or special permit holders.

(c) The Director shall issue a license or special permit upon determining that the proposed means for collection, transport, transfer, storage, recycling, use, or disposal is operationally safe, environmentally sound and consistent with the policy of this Act and shall impose terms in a license or special permit requiring the license or special permit holder to install or effect controls, processes, or practices necessary to insure continuous compliance with existing laws and regulations.

(d) A license or special permit shall be valid for one year, but may be renewed upon application.

(e) The Director shall prepare and submit an annual report to the [legislature; council], based in part on information submitted in accordance with sections 8(d), 9(c), and 10(c), summarizing information on used oil collection and recycling, licenses and special permits, analyzing the effectiveness of the Act's provisions in implementing the policies of section 4, and making recommendations for necessary changes in the provisions or their administration.

(f) The Director shall fully implement all sections of this Act as soon as practical, but in no event later than two years after the effective date of this Act.

*Commentary*

(a) Adherence to an administrative procedure act, in addition to ensuring due process, makes administration of this Act consistent with existing statutes.

(b) The extent of information required on an application may vary among states and kinds of activities applied for. The Director's rules could call for name and address; kind and capacity of recycling facilities (or location of site and means of proposed disposal or use under special permits); amounts of used oil to be recycled, used or disposed of; kinds and amounts of wastes generated and waste management practices, etc.

Fees for applications should not be so high as to discourage entering the business; other means of funding this program are available.

Keeping of records enables monitoring and evaluation of practices and programs designed to regulate them.

(c) Whatever the recycling, use, or disposal authorized, the authorization should require compliance with all current laws, regulations and environmental standards. Licenses could prescribe a schedule for achieving compliance by a facility needing time to do so.

(d) The term of a license or permit could be shorter or longer. The relatively short term of a year is suggested as an accommodation between the ease of administration of a longer term and the greater flexibility of control of a shorter term.

### RECYCLED OIL PRODUCTS

Section 12. (a) A person may represent any product made in whole or in part from used oil to be substantially equivalent to a product made from new oil for a particular end use if substantial equivalency has been determined in accordance with rules prescribed by the Federal Trade Commission under section 383(d)(1)(A) of the Energy Policy and Conservation Act, P.L. 94–163, or if the product conforms fully with the specifications applicable to that product made from new oil. Otherwise, the product must be represented as made from previously used oil.

(b) All officials of this [State; municipality] shall encourage the purchase of recycled oil products represented as substantially equivalent to products made from new oil in accordance with section 12(a).

*Commentary*

This section is designed to facilitate the sale of recycled oil products of sufficient quality to meet their intended uses and to proscribe misrepresentation of recycled oil products. There have been numerous alleged instances of selling used oil which has merely been decanted as "home heating oil;" burning such oil poses risk of damage to furnaces.

State and local officials should encourage the purchase of recycled oil products by public and private persons in order to provide a market for them and an example of their utility.

### ENFORCEMENT AND PENALTIES

Section 13. (a) The Director shall enforce compliance with the provisions of this Act and with the terms of licenses and special permits issued in accordance with this Act.

(b) The Director is authorized to employ the following means of civil enforcement: inspection of the operations of a license or special permit holder; issuance of an administrative order directing specified actions in accordance with a specified schedule; imposition of a civil administrative penalty of up to $500 per day for each violation; revocation of an issued license or special permit, after providing an opportunity for a hearing; and a civil action seeking equitable relief or civil penalties of up to $1,000 per day for each violation or both.

(c) A person who violates sections 5 or 12, or any term of a license or special permit issued under this Act, is guilty of a misdemeanor and may be fined up to $5,000 per day for each violation.

*Commentary*

Enforcement is essential to the credibility of any regulatory system and is therefore required of the Director. A selection of administrative actions and civil enforcement techniques is authorized in order to provide the flexibility needed to tailor an enforcement action to the nature of the violation. Civil administrative penalties, although not so common at the state level as at the federal, have proved effective where states have employed them, e.g., Illinois, Pennsylvania, and Connecticut. Violation of the central provisions of the Act is made a misdemeanor for each day of violation.

Where state law requires, the Director would utilize the authority provided in this section in collaboration with the office of the attorney general.

### SEVERABILITY

Section 14. If any provision of this Act or the application of it to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

*Commentary*

This section enables the continued validity of the remainder of the Act if a part of it is found unconstitutional.

### REPEAL

Section 15. The following acts are repealed:

*Commentary*

Sections of existing law which conflicts with provisions of this law should be specifically referred to and expressly repealed in order to avoid questions of interpretation.

### EFFECTIVE DATE

Section 16. The effective date of this Act is 90 days after the date of enactment.

*Commentary*

This section postpones the effective date of this Act 90 days in order to provide the Director time to organize implementation. This section ties in with section 11(f), in which the Director is allowed a maximum period of two years after the effective date to fully implement all provisions.

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## THE NATIONAL ASSOCIATION OF NEGRO BUSINESS AND PROFESSIONAL WOMEN'S CLUBS ENDORSES S. 50—HUMPHREY-HAWKINS BILL

Mr. HUMPHREY. Mr. President, recently the National Association of Negro Business and Professional Women's Clubs, Inc., went on record as supporting S. 50, the Humphrey-Hawkins bill. In their letter to me announcing their support of the bill, they expressed concern and dissatisfaction with the fact that there are well over 7 million people unemployed in this country.

Unemployment hits hardest those who can least afford it—blacks, other minorities, young people, and the poor. This regrettable fact is reflected in our unemployment statistics. In August, the overall unemployment rate was 7.9 percent while for blacks and minorities it soared to 13.9 percent. For black teenagers it was an astounding 40.2 percent.

Mr. President, I am dismayed at these unemployment figures and disturbed that they have reversed their earlier downward trend and have again begun to climb. Continued strong growth of real output is essential to satisfactory progress toward full utilization of both labor and capital. Unless we adopt economic policies which would stimulate the strong growth in real output which we need, the unemployment rate will continue to remain unconscionably high throughout the remainder of this year and next year. Given the modest growth of the economy which is likely for 1977, if current economic policies are continued, the unemployment rate will drop very gradually at best and will probably still be 6½ percent at the end of next year.

In all good conscience, I believe we cannot permit so many people to remain out of work, forcing them to live under extremely adverse conditions and denying them the opportunity to find work. It is the avowed purpose of S. 50 to implement direct employment and anti-inflation policies to achieve and maintain full employment and economic growth with stable prices. The need for such policies is clear. I, therefore, urge my colleagues to join the National Association of Negro Business and Professional Women's Clubs in supporting the Full Employment and Balanced Growth Act of 1976.

Mr. President, I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTMBER 7, 1976.

Hon. HUBERT HUMPHREY,
*U.S. Senate,*
*Washington, D.C.*

MY DEAR MR. HUMPHREY: Whereas, The National Association of Negro Business and Professional Women's Clubs, Incorporated believes in full employment and

Whereas there are well over seven million people in this Country without jobs, and

Whereas this unemployment impacts disproportionately on minorities and women;

Be it therefore resolved that the National Association of Negro Business and Professional Women's Clubs Incorporated go on record as supporting S. 50 and H.R. 50 better known as The Humphrey-Hawkins Bill, and be it further resolved that this resolution be transmitted to Congressman Augustus Hawkins, U.S. House of Representatives and to Senator Hubert Humphrey, U.S. Senate and all other members of Congress by the National Office, Local Clubs and individual members.

Sincerely yours,
ROBIN B. OWENS,
*National President.*

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## NATIONAL POLICY TOWARD YOUTH UNEMPLOYMENT—PAPER PRESENTED AT NATIONAL COMMISSION FOR MANPOWER POLICY CONFERENCE

Mr. HUMPHREY. Mr. President, Wednesday I introduced legislation to help our Nation's 3.5 million unemployed youths by creating a Youth Community Service program and a Youth Counseling and Employment Service. The Youth Community Service program will provide youths with the opportunity to work on projects benefiting their local community and the Nation while learning job skills and earning decent wages. The Youth Counseling and Employment Service will help youths with job market problems by providing them with readily available and effective job counseling and job placement services, often right in their high schools and neighborhoods.

Last week, while I was preparing this legislation, the National Commission on Manpower Policy was holding a regional conference in Atlanta on the same subject my bill addresses—the problem of high unemployment among our Nation's youths and what can be done about it.

One of the background papers presented at the conference, by Prof. William Spring of Boston University, was on the subject of "Youth Unemployment, Bridge Jobs, and National Policy." Professor Spring's paper was a critical analysis of the various approaches we have used in the past to counter high youth unemployment—including job training programs, job creation programs, programs designed to increase cooperation among youth-oriented organizations—and recommendations for future action.

The central element of any successful program for youths must be job creation, according to Professor Spring. In his paper, he states:

> We must start with the realization that there is no way in which training and community organization can substitute for job availability. If there are not enough jobs to go around, then there will be unemployment, as President Coolidge used to say. Unemployment is not a function of a poorly performing employment service, vocational education system or the young themselves. It is a function of economic activity in the nation, and even more importantly, in the labor market.
>
> For youth in these cities, for these young people in 1976, nearly old enough to be the sons and daughters of those we failed in 1957, better vocational education, more participating in council settings by concientious businessmen, a better organized and more responsive employment service, are helpful but hardly sufficient answers. For these young people job opportunities must be created.
>
> In so far as possible that job opportunity should realistically reflect the pattern of individual development:
>
> . . . for 15, 16, and 17 year olds, programs of part-time paid work at around the minimum wage level and part-time study toward high school equivalency accomplishment as well as certification are needed.
>
> . . . for somewhat older workers, full time jobs built around the bridge job concept—small, closely supervised work crews, at decent pay with measurable skills, ideally working side by side with adults, must be devised. As has often been said, there is plenty of work to do in the inner cities and poor agricultural areas if the political will to pay for that work exists.
>
> As Ray Marshall of the University of Texas says when speaking of the problems of rural youth, ". . . to be effective a program must be based on systematic analysis and be comprehensive in scope . . .". A good deal of analysis has been done. But the resources for a comprehensive program have not been available. We have attempted to progress against youth unemployment problems by the same incremental steps we have attempted in other areas of social reform. Sadly, the progress of the late 1960's has been overwhelmed in the 70's by national economic policy answering to other priorities. Designing the details of such a large scale employment program, integrating it with private sector jobs and with educational institutions will be an enormous job. But we must press for a beginning.

The Youth Community Employment Act, which I introduced Wednesday is just such a beginning.

I ask unanimous consent that Professor Spring's paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

### YOUTH UNEMPLOYMENT, BRIDGE JOBS, AND NATIONAL POLICY

(By William J. Spring)

Thomas Bradley of Los Angeles, Maynard Jackson of Atlanta and Coleman Young of Detroit have a number of things in common. They are liberals. They are black mayors of large American cities. They are talking tough on crime, teenage crime.

A recent newspaper article in the Boston Herald pointed out that crime and vandalism by young blacks was a main reason for the flight of retail business and small manufacturing from the inner city.

The author recommended certain jail for two-time losers (more than half the crimes are committed by young men who have been arrested for two or more previous offenses, he said), and serious consideration for John Connally's suggestion of compulsory national service for the unemployed youth.

It was high unemployment among young school leavers in Detroit that led James B. Conant to warn about "social dynamite" in our cities . . . and led Hubert Humphrey to propose back in 1957 a reviving of the C.C.C. and N.Y.A. programs of the 1930's.

According to press reports, last month in Detroit gangs of black teenagers invaded Cobo Hall and terrorized the patrons of a rock concert for an hour before police intervened.

Hubert Humphrey's efforts were unsuccessful in 1957, but his program became S. 1 of the Congress meeting in January, 1961 as, with the empassioned support of Attorney General Robert F. Kennedy, the administration committed itself to doing something about youth unemployment, hopelessness and crime. S. 1 didn't pass, either, but its major provisions were enacted into law as Title I of the Economic Opportunity Act in 1964. Thus, the nation began a 12-year effort to assert federal responsibility for the problems of youth unemployment. And that effort, including all of its frustrations, brings us to this conference, this fall in Atlanta.

The terror in the streets of Detroit—where east side food store cashiers operate behind bullet-proof plexiglass—marks the failure of that effort to achieve notable success to date.

That failure can be laid to three separate areas:

First, the failure to maintain a full employment economy, especially in the inner city areas.

Second, the failure to understand the stages of youthful development, attempting to make 17-year-olds behave like 25-year-olds, and

Third, the failure of the society's institutions, schools, vocational and academic, market place institutions like the employment service, and employers to cooperate as fully as they might in making the school-to-work transition smoother.

By far, the most serious failure is the failure to reach and maintain full employment. And this is too seldom discussed among professionals in the field. By far the *least* important is the failure of "coordination" among institutions. Just as training alone does not create jobs, so coordination alone is not a job creation program.

This paper will discuss the youth employment situation in historical perspective, consider the stages of life for modern American youth as they relate to the labor market; and consider the impact of institutions. In conclusion, I shall suggest for discussion a possible program agenda.

We must begin with the recognition that adolescence is a relatively new phenomena—that is, until the maturing of industrial civilization children moved to adulthood—and full adult economic responsibility at approximately puberty. Note that Bar Mitzvah comes at 13. In Agricultural societies, young people worked the fields and trades. Early industrial revolutionary times created mass childhood labor. In Massachusetts in 1820, 43 percent of all textile workers were children; in Rhode Island, 55 percent. We now begin our employment statistics with those over 16. Why? Well, child labor laws played a part. Immigration had a role. Increased mechanization was important. Child labor began to fade out about the time the nimble fingers and slight frames of childhood were no longer needed to move the great wheel of industry.

Youth employment patterns, then, changed rapidly after 1900. Child labor in factory was prohibited; child and adolescent attendance in school increased. In 1900, only 6.4 percent of seventeen-year-olds had graduated from high schools. By 1940, the figure was 50.8 percent.

As Paul Osterman of Boston University points out in his perceptive thesis on youth and work, the current pattern of four years of high school was already the dominant trend in the *Middletown* observed by the Lynds in the 1920's.

During and after World War II, there was another major wave of immigration to the nation's major cities. Only this time, the migrants came through the bus terminal rather than Ellis Island. And in the wake of this wave of migrants, youth unemployment began to rise sharply—and with it youth crime—leading to the awakening interest in youth employment problems in the late 1950's and early 1960's.

The Progressives began with a concern for poor immigrant children. In the 1950's, youth-oriented manpower policy began with the failure of the schools to help the children of migrants from the south. Programs were devised in the 1920's which were then used as a pattern for the reform of all education. And now the education reforms that began out of concern with poor inner-city youth are now discussed in the context of revising all community activity to help youth.

In the progressive era, the idea was to get young people out of the destructive, exploitative industrial atmosphere into therapeutic schoolrooms.

And now, ironically, it's an effort to get young people out of demoralizing, unrealistic schools into the real-life, learn-by-doing atmosphere of industry and commerce.

There may indeed be a tide in the affairs of men, but it seems to be a tide that moves now in, now out, carrying with it fashions of social thought that are as repetitive as they are strong. Are we that sure that working at relatively low-paying, repetitive jobs is that much more rewarding than any school atmosphere we could devise?

In his thesis, Osterman applies to the transition from education to work those understandings of the movement from childhood to adulthood that Erik Erikson has found to underly this process in all cultures. These stages Osterman labels moratorium, exploration and settling down.

Young men (and there were only men in Osterman's sample) in the moratorium period, roughly 15 to 17 years of age, are not as yet seriously interested in career jobs. They are interested in money sufficient to play a role among their peers. Often they live at home. And they are in what we commonly call the "youth" job market: flipping hamburgers, washing cars, retail sales, taking casual jobs at low pay. (Unfortunately, there are those, minority members and older women especially, for whom such jobs become careers because they can get no better.) Interviews with young men and with employers in Boston, Cambridge and Worcester, Massachusetts and a careful evaluation of the Parnes Data indicate that this pattern is well-neigh universal. That young men under the age of 18 take secondary labor market jobs as a matter of course, first as part-time work while they are in school and then for a year or so after they leave on a full-time basis, but often shifting among jobs.

Osterman's point is that this behavior, in the modern world, is in some sense natural. And that the effort to instill in such young men the attitudes toward steadiness and career concern expected and almost universally found in 25-year-olds is unlikely to be met with much success.

It poses a very difficult problem for those who see the youth unemployment problem as one "caused" by young men and women changing jobs much more often than adults. Many seem to feel that if only 17 and 18-year-olds had better labor market information they would show greater duration of employment. It is very likely, however, that this is simply not so, that young people in their moratorium period are working at casual jobs for casual labor wages and the problem is not primarily lack of skills or lack of information or lack of motivation, but simply their stage of life in a complex technological society.

The sixteen-year-old clothing store clerk who told Osterman that "I don't need much money, just enough to buy a good used motorcycle," may have been speaking for an entire age group.

The trouble comes when even such low paid jobs are in scarcity, or, because of unemployment elsewhere in the economy older workers are locked into these entry level jobs. Many a letter to the editor—or op ed piece in the New York Times—bewails the plight of college gaduate young men and women, forced to take secondary labor market jobs because better cannot be found.

The next stage, for slightly older youth, say 18 to the early 20's, is the exploratory stage, when, having passed through the period when one's attention is most seriously focused on the peer group, young people begin attempting, seriously, to find a place, a career in the world. During this stage, many of the most successful of non-college youth find jobs in small businesses—machine shops and auto body repair operations where training is available under the close supervision of the owner of the establishment.

Osterman found in interviews with larger firms in Worcester that the small machine shops are the feeders, not only of materials but also of personnel to larger firms. Larger firms that do not expect specific training do expect a mature attitude and general acquaintance with machines and machine shop procedure.

The small shop provides a number of things that young men in an exploratory phase are looking for: informal and close supervision, informal personnel policies, casual employment, and the chance to learn the trade. For the owners, who cannot afford to pay for highly skilled workers, youth workers offer reciprocal advantages.

Finally, after a period of exploration, often involving work in a number of small shops, young workers in the early 20's are ready to settle down, and do so when they are able to find jobs that offer advancement and security. It is at this stage that they are apt to find employment with larger, more profitable firms, with complex internal labor markets and become steady workers, husbands, fathers, and solid citizens.

If Osterman's application of life-stage development to the problems of employment are accurate, and the Parnes data, giving work histories of thousands of young men and his interviews in cities of Massachusetts indicate that they are, what implications have they for manpower policy?

First, the hard fact of the matter is that young men do not go from high school graduation to life-time employment. And efforts of manpower policy—or vocational education policy to foster a quick transition are pretty surely doomed to failure. The transition takes a good deal of time. And during the transition, youth do and will continue to seek jobs in the secondary labor market. Many have deplored this. But perhaps work in secondary jobs that provide income during the moratorium period is a good thing. Nearly half of the high school graduates now go on to college, lengthening their years when self and world exploration take precedence over economic contribution to the age of 22. Is it not to be expected that working class youth will attempt to find an equivalent of this extended moratorium period?

Probably the key element in determining the length of the moratorium period—as for the very existence of such a luxury—is the demand for full-time, well-paid labor in the economy as a whole. If there is a real demand for labor at good wages and with a good future, then young workers will be more quickly drawn through their moratorium and exploratory stages.

The key to the transition from secondary labor market moratorium jobs to primary career jobs are the bridge jobs that perform the function that educators would like to see the schools carry out, jobs with smaller manufacturing operations in particualr. In the balance of state prime sponsor in Massachusetts, where I serve on the Prime Sponsor Council, we find that the best O.J.T. placements are with relatively small firms of the "bridge" type that Osterman identified. However, vacancies in these bridge jobs are usually filled through information networks of relatives and friends. The Employment Service plays little or no role. And minorities—whose parents and uncles seldom are found running such establishments—have less chance for finding such work. Thus, the patterns of labor market discrimination are perpetuated by the very structure of advancement. Although technically subject to the Civil Rights Act, as a practical matter small shops have little to fear from already overburdened civil rights enforcement officials.

Since Hubert Humphrey first called for action to help the nation's inner-city youth with their unemployment problems, we have followed three separate, if blurred, strategies: training, community institution building and direct job creation.

Training has included the Job Corps in three flavors: urban residential, rural (conservation) residential, and urban non-residential. The Neighborhood Youth Corps, also in three varieties, summer, in-school, and out-of-school, has been mixed with training and job creation, but with the emphasis primarily on the latter.

Community institution building has been various indeed, starting with Mobilization for Youth in N.Y.C., a prototype of the community action agencies throughout the CAPS to CETA, a redirection of the employment service in the mid 1960's, a substantial increase in the funding for vocational education, a new focus on "career education" through the public school systems, and now, serious thought about building new institutions in the local community to bring school, employment service and employing community closer together to foster the transition from school to work. Former Labor Secretary W. Willard Wirtz's name is most frequently associated with that idea.

Finally, job creation has included primarily the summer Neighborhood Youth Corps, the year-round Neighborhood Youth Corps and work experience programs. And a smallish share of public service employment opportunities.

We now also have the suggestion for a compulsory military-style training program and work program. Finally, we have been asked to consider what would be in effect a universal, voluntary Vista program of paid volunteers—perhaps Sargent Shriver's greatest contribution to the bag of domestic policy options was the concept of the paid volunteer—for all young Americans.

The concept of a national service corps breaks apart when you try to think through a program to embrace both the college student bent on a year of service and the ghetto school dropout trying to cope with a very unpromising future. Compulsion, and the threat of death in battle, make this uneasy mixing of classes possible in the Army, if not always gentle and brotherly. The practical means of doing it in peacetime and on a volunteer basis confound me. Also, the question must be raised as to why the federal government ought to devote any very considerable resources to the support of the children of the middle class. It is one thing to ask individual institutions to open themselves for the participation of middle class young people, it is quite another to ask the federal government to undertake that organization—and the cost—itself.

Of all the efforts of the past 12 years to solve the problems of unemployment through tinkering with the institutions in some ways the saddest is that of the employment service. Re-directed in 1966 to serve the young and the disadvantaged, it saw its placement rates fall drastically and its cost per placement rise. It found itself attempting to place young workers that primary firms were unwilling to take, and it found itself still accused in poverty communities of being part of the racist's superstructure of an unjust society. It is now attempting to recover, but is a long way from being a very effective institution in the labor exchange business, and as several studies have borne out, plays a nearly negligible part in the placement of youth.

Vocational education, like the employment service, has gotten a consistently bad press for not doing what in all likelihood cannot be done: placing of moratorium stage youth from poverty backgrounds into primary sector jobs.

The establishment of Community Education/Work Councils, as urged by Mr. Wirtz, could be very useful indeed. Especially if they were built on the start toward organizing community resources around work and training issues represented by the Comprehensive Employment and Training Act prime sponsor councils rather than in competition with them. However, insofar as there is hope that better information and coordination will lead to markedly better economic conditions, such councils will prove another disappointment.

The effort to lower the unemployment rate by convincing young people to act as if secondary jobs were primary, and as if they themselves were at the settling down stage is probably doomed to failure. Even if it could work, it would not make a serious difference. It would represent an effort to attack the statistic (high youth job turnover) rather than the problem (poor career job opportunity for maturing young workers).

The most remarkable thing in the relationship between maturing youth and education labor market institutions is how badly they fit together. Maximum concern for career education is being devoted to students not yet ready for career decisions. Youth are ready to settle down some years after the high school years are completed. Years of academic "regimentation" ought to have prepared young men and women to fit docilely into their assigned niches on the economic order of things, if Marxist critics of American education are correct. In fact, they do not. After 12 years of enforced (more or less) punctuality and order-taking, the young tend to move into casual work attachment.

Wise employment and training policy ought to work with this situation rather than attempt to fly in its face.

We must start with the realization that there is no way in which training and community organization can substitute for job availability. If there are not enough jobs to go around, then there will be unemployment, as President Coolidge used to say. Unemployment is not a function of a poorly performing employment service, vocational education system or the young themselves. It is a function of economic activity in the nation, and even more importantly, in the labor market.

Then we must plan our strategy to conform with realities that cannot be changed, especially realities like the stages of youth development as the impact on the labor market.

One successful program in the Boston area is run by the Boston High School on Newbury Street, a school for vocational school dropouts.

At the Boston School the transition of secondary to primary jobs are replicated through the school system. Students in all four years go to school part-time and to paid employment part time. They begin work in their freshman year in menial jobs—washing dishes, delivering messages. Each year their employment stations improve in pay, status and future prospects. Seniors who stay with the program find themselves working in the First National Bank of Boston and other job sites with strong futures.

What Joseph Ippolito, headmaster of the Boston School, has done—and without benefit of reading Professor Osterman's thesis—is to reproduce the stages of the natural labor market progression within the educational program of the Boston School.

Can it be reproduced on a larger scale? Very hard to do. It would require dedicated teachers and, especially, dedicated job developers. And long before job slots of this quality and this progression would be developed for all or even a substantial majority of the Boston Area teenage workforce, potential slots would have been exhausted. But the school provides a model of what might be done and the direction that manpower policy for teenage workers ought to take.

The cooperative education program, in which earning and training opportunities are made available in area businesses—as in Cleveland, for instance—offer promise of replicating the stages of casual, exploratory and settling down experience as part of the regular vocational high school curriculum.

Whether or not these efforts can actually telescope what normally takes until the early 20's to accomplish remains to be seen. Evaluations of the value of vocational education (see Beatrice Reuben in "Vocational Education for All?" Work and the Quality of Life, O'Toole, ed.) is another question. At least they can succeed in making the educational process more informative.

We also, of course, need more and more accurate labor market information. The need goes beyond the current fragmentary reports on uemployment rates, openings on the job bank and middle-range employment occupational forecasts.

We need unemployment and subemployment data by inner city on a regular basis, for if we don't know with some precision how serious the problem is, it is hard to know how to act.

We need current vacancy data in much more detail than is now available . . . and six month forecasts, by skill, pay and firm size.

But we also need specific information on work histories of young men and young women in particular labor markets so that education about careers for young school leavers will not simply be a promotional walk-through the local tap-and-die, but also make clear and rational what is now only street corner gossip: who gets what jobs and how, and how to find good jobs in particular neighborhoods.

Extremely localized labor market information—how the labor market functions, now a mystery to all participants, is the cornerstone on which intelligent manpower policy must rest—insofar as manpower policy as opposed to employment policy can make a difference.

We must end where we began, with unemployment, with Detroit, Los Angeles, and Atlanta. In 1970, as part of the decennial census, a careful survey was taken in the inner city labor markets of some 51 American communities. The following table shows the S.M.S.A. unemployment rates and the teenage (16–21) unemployment rates for the inner city areas for these cities:

UNEMPLOYMENT RATES

| | *1970 SMSA* | *Inner-City teenage* |
|---|---|---|
| Detroit | 7.0 | 32 (m & f) |
| Los Angeles | 7.0 | 25 (m & f) |
| Atlanta | 3.7 | 17.7 (m)<br>24.9 (f) |

We do not have accurate inner-city teenage unemployment rates for these cities; but we do know the 1970 SMSA rates:

UNEMPLOYMENT RATES

| | *1975 SMSA* |
|---|---|
| Detroit | 13.1 |
| Los Angeles | 9.7 |
| Atlanta | 9.0 |

And we know the August 1969 unemployment rates for teenagers nationwide:

UNEMPLOYMENT—AUGUST 1969 TEENAGE UNEMPLOYMENT

| | |
|---|---|
| White | 17.3 |
| Black | 40.2 |

It is very important to note that in 1969, after nearly a decade of sustained growth, the white teenage unemployment rate had fallen to only 10%. But black teenage unemployment stood at 24.1 percent. Full employment policies that led to effective reduction of unemployment for white teenagers still left black youngsters with unacceptably high rates.

Current data (1975 average) for poverty areas (the poorest 1.5 of census tracts) shows an unemployment rate 25.9 percent for all 16 to 19 year olds. For urban black teenagers, the rate is 40.7, and even more ominous is the fact that their labor force participation rate is only 37.7 percent, eleven points below the white teenage participation rate.

While the rates are frightening the numbers are manageable: 379,000 unemployed teenagers in both urban and rural poverty areas, 188,000 black urban teenagers unemployed (although one must keep the low labor force participation rates in mind).

These numbers are annual averages. Unemployment is much higher in the summer when school is out. The point is that a nation that can provide over 700,000 summer Neighborhood Youth Corps slots can mount a substantial year-round youth employment program.

What is happening to those labor markets? Are half the young workers without any jobs? No gas to pump, no counters to wait on, no laboring jobs? Or is it that their job attachment is so short that those quitting jobs every month drives up the measured rate? We just don't know. Do the east side young men in Detroit lack labor market information about firms with good jobs available but unable to find workers? We doubt it.

For youth in these cities, for these young people in 1976, nearly old enough to be the sons and daughters of those we failed in 1957, better vocational education, more participating in council settings by concientious businessmen, a better organized and more responsive employment service, are helpful but hardly sufficient answers. For these young people job opportunities must be created.

Insofar as possible that job opportunity should realistically reflect the pattern of individual development:

For 15, 16, and 17 year olds, programs of part-time paid work at around the minimum wage level and part-time study toward high school equivalency accomplishment as well as certification are needed.

For somewhat older workers, full time jobs built around the bridge job concept—small, closely supervised work crews, at decent pay with measurable skills, ideally working side by side with adults, must be devised. As has often been said, there is plenty of work to do in the inner cities and poor agricultural areas if the political will to pay for that work exists.

As Ray Marshall of the University of Texas says when speaking of the problems of rural youth, ". . . to be effective a program must be based on systematic analysis and be comprehensive in scope . . .". A good deal of analysis has been done. But the resources for a comprehensive program have not been available. We have attempted to progress against youth unemployment problems by the same incremental steps we have attempted in other areas of social reform. Sadly, the progress of the late 1960's has been overwhelmed in the 70's by national economic policy answering to other priorities. Designing the details of such a large scale employment program, integrating it with private sector jobs and with educational institutions will be an enormous job. But we must press for a beginning.

There is real danger that the discussion and effort to establish interagency cooperation around the fringes of the catastrophic inner-city and rural area youth unemployment problem may obscure the need for a substantial job creation program until another generation is lost to the cycle of unemployment, poverty and crime.

## TAIWAN, COMMUNIST CHINA, AND THE UNITED STATES

Mr. FANNIN. Mr. President, U.S. policy for China seems to be undergoing a very basic reevaluation. The question of the legitimacy of two separate governments, each claiming to represent the Chinese people, is at the heart of the policy deliberations.

Our close friend and very dedicated supporter and ally, the Republic of China, has proven for several decades not only a mutuality of interests with the United States, but a long-range commitment to defend and promote the ideals of freedom and democracy.

The ancient cultural traditions of China are based on religious respect for the family, family obligations toward the society and political moderation in ruling the society. These traditions today are maintained and continued only on Twaiwan, the territory of the Republic of China. When the Communists swept into control of continental China in 1949 and forced the evacuation of the free Chinese Government to the island of Taiwan, it was not anticipated that the existence of two Chinas would become a "de facto" condition of political life for several decades to come.

The Republic of China recognized the fact of the possibility of a long range political isolation from the mainland and immediately proceeded to organize its economic and political existence under the new environment.

Now, after 27 years of such national separation, the Republic of China can claim an unusual success in economic development and political stability. The main ingredients of such unprecedented success for a small, 16 million people nation can be attributed to many factors, but primarily to hard work, organizational skill and the free enterprise system for the economy, which stimulated efficiency and private initiative, as important elements of national growth. The comparison of the two Chinas in these three decades is a most devastating judgment of the Communist system of controlled economic life and lack of incentive for more efficiency and higher standards of production.

The U.S. business community has been mesmerized by the enormity of the mainland China population and the potential market capabilities represented by such figures. But the reality of a huge Communist state with very limited domestic production, nonexistent capital formation, and governmental monopoly over public consumption and export-import trade was quite different than the expectations of those who planned great economic traffic. As the years went by, this traffic never became a reality. As a matter of fact, the export-import exchange with the 16 million Chinese based on Taiwan not only continued to exceed any trade figures with the 800 million on mainland China, but continued to have greater potential for growth and expansion. Huge plans for industrial investment in the Communist country remain in a stage of planning and anticipation while the foreign investment on Taiwan reached a level of $1.5 billion in 1975 and continues to grow in spite of the fact that many countries severed their diplomatic relations with that country.

The recent proposal for a conference between the United States, the Peoples Republic of China, North Korea, and South Korea on the Korean future is another indication of foreign policy reevaluation. This type of mutual interest conference including Communist China as a partner/mediator with the United States over the future of a sovereign country, Korea, or for practical purposes the future of two countries, Communist North Korea and non-Communist South Korea, is an indication that the United States recognizes the influence, power, and responsibility of Communist China in this part of the world, not only for the destiny of China itself but also for the political future of other countries.

This commitment for joint action of the United States and Communist China is a new development and an attempt for a new opening. It should not overlook, however, the fact that the future of Korea, besides being a matter for concern and decisionmaking of the Koreans themselves, is of great significance for other countries in the area, particularly Japan. The surprise visit of the U.S. President to Peking was considered a "shock" in Japan in 1972. A new conference concerning the future of Korea with the participation of Communist China but with the exclusion of Japan cannot be expected to be supported enthusiastically by Japan. Above all, the Republic of China on Taiwan should not be excluded from any such conference.

The proposal for a new conference with Communist China on the future of Korea should take into account the fact that the 1972 understanding did not produce the spectacular results expected of it. The independence of South Korea undoubtedly will come into question if Communist China assumes a position of arbiter in the Korean dispute. Any conference on South Korea must guarantee that the integrity and independence of that nation be maintained.

There are many reasons to believe that the resumption of diplomatic relations by the United States with the government in Peking is likely to pose problems for our relationship with the Republic of China. I believe it would be wise for the United States to recognize both Chinas so that we may be knowledgeable about the cultural, political and economic workings of both those societies.

Mr. President, the death of Mao Tse-tung has produced a great deal of speculation about Communist China's next leader. In my opinion, it would be wise for the United States to assess the new Chinese leaders and their policies before making a change in our relationship with either China. A July 6, 1976, editorial in the Washington Star, "Mainland China, Taiwan and Us," presents a good case for diplomatic relations with both Chinas. I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Star, July 6, 1976]

### Mainland China, Taiwan and Us

The withdrawal of the few Americans still in Quemoy and Matsu on official business amounts to very little in people or tangible instruments of force. But it matters because it hints at a more important disengagement: from Taiwan.

For bargaining purposes at least, the People's Republic of China has made it a condition of "normalizing" relations with the United States that we not only pull out our last military and technical aid establishments from Taiwan but that we also repudiate our long-term support of Taiwan's independence. What we are called upon to do—and what, to a startling degree, we have already done in statements by Secretary Kissinger and Presidents Nixon and Ford—is to admit that Taiwan is a province of the People's Republic and that it's none of our business what may happen to it once Peking gets ready to "normalize" its way across the Formosa Strait.

Chinese irredentism about Taiwan is understandable and likely to be at least as tenacious as Taiwan's long insistence on the prospect of retaking the mainland in the name of the Republic of China. The messianic dynamism of any communist regime comes on the stronger in this case because Taiwan presents such a challenging example of non-communist success.

Taiwan's burgeoning economy has been described as "Japan 10 years ago." It took off under the refugee government and is still on an up-curve, competing in world markets and giving its people the second highest living standard in East Asia.

Politically, Taiwan's leadership still projects something of a siege mentality, and social controls are a good deal tighter than ours, although it goes without saying that it's Liberty Hall compared with the People's Republic. Furthermore, there have been honest efforts to correct power imbalances within Taiwan by bringing the indigenous population into the government.

It was not only the dominance of a refugee elite that kept them out of it after the Chiang Kai-shek government fled the mainland in 1948. Partly, their comparative lack of representation has reflected the subordinate position they occupied under the Japanese who had controlled Taiwan since 1895. Short on education and government experience, the native people were considerably less qualified for leadership roles than the newcomers.

It is to be expected that the People's Republic would be eager to reap the benefits of Taiwan's economic successes and even more eager to get rid of such dramatic evidence that a politically freer society can hold together. The hope of humbling the United States a little before opening up full diplomatic and trade relations is on yet another plane of enticement for a nation that, for all its breaks with the past, has not forgoten how the West used to humiliate old China.

Still, there is a good chance that—for the moment, anyway—the PRC will remain a paper dragon, more adept at ceremonial displays of fire-breathing than devouring small neighbors. The possibility of a new power struggle when Mao goes has necessarily more immediacy for the present leadership in Peking than foreign invasions. So does the reality of border tensions where China abuts the Soviet Union.

All of which adds up to a call for creative nonaction from the United States. Taiwan deserves our continuing loyalty, but if we prefer to calculate foreign policy in terms of realpolitik rather than morals, there is an equally strong case for standing firm. What, exactly, is to be gained for our side by conceding to the PRC?

"Because it's there" is supposed to sum up a lot of persuasive thinking about the need for a rapprochement with the PRC "You can't ignore 800 million people," it's said.

Well, Taiwan is there, too—a going concern, a historic friend. You can't ignore 16 million people either.

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## ACHIEVEMENTS OF SENATOR HARRISON A. WILLIAMS, JR. AS A MEMBER OF THE SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. McINTYRE. Mr. President, over the years, it has been my pleasure to serve with Harrison A. Williams, Jr. on the Senate Committee on Banking, Housing and Urban Affairs. During those years, he has been an innovative, creative and industrious member of the committee and has initiated many far reaching and constructive legislative proposals.

In the field of securities legislation, Senator Williams has been particularly active. The 94th Congress was a Congress of major reform of our securities laws and of our securities markets. Senator Williams, as chairman of the Securities Subcommittee of the Senate Committee on Banking, Housing and Urban Affairs, was the principal sponsor of the landmark Securities Act Amendments of 1975 which contain the first comprehensive revisions of the Securities Exchange Act since the early 1930's. This legislation was a most complex and time-consuming project which lasted for over 4 years. The scope and significance of this legislation is self-evident.

The 1975 act brought competition to the securities industry by providing a basis in law for competitive stock exchange commission rates. The act also provided for the unbundling of securities services so that consumers now only pay for the specific brokerage services which they receive. The 1975 act also gave the Securities and Exchange Commission the mandate to create a central market system and, for the first time, regulated the securities firms and banks which underwrite and trade in municipal securities. It also established a new self-regulatory organization—the Municipal Securities Rule Making Board—and provided the Securities and Exchange Commission with the authority to require institutional investors to disclose their securities holdings and securities transactions.

Many of the changes in the structure of our securities markets which were mandated by the 1975 act are now in effect; others still must be completed. However, all of these changes should result in better securities markets for our country and a strengthened securities industry which will be better attuned to meet the needs of our Nation in the years ahead; a securities market more in step with the technology of the 1970's; and a securities industry more attuned to and responsive to the needs of the investing public.

In addition, during the 94th Congress, Senator WILLIAMS introduced legislation—which has not been acted upon—which would afford purchasers of municipal securities sufficient investment information to permit informed investment decisions. This proposed legislation, the Municipal Securities Full Disclosure Act, was a direct result of the impact of the financial difficulties of New York City, which raised fundamental questions concerning the need for greater investor protection in the offering of securities of State and local governments. Since these securities have never been subject to the disclosure requirements which govern the offerings of public companies, Senator WILLIAMS' legislation would bring the benefits of full disclosure to investors in municipal securities so that the sad experiences of investors who purchased New York City bonds do not recur.

Another notable legislative proposal advanced by Senator WILLIAMS as chairman of the Securities Subcommittee has been approved by the Senate. This legislation would require the disclosure of the true ownership of major stockholders in American companies. Under this proposal, upon which the House of Representatives has not yet acted, the American public, for the first time, would know the true ownership of America's corporations. The Committee on Banking, Housing and Urban Affairs has also, during the 94th Congress, favorably reported to the Senate, Senator WILLIAMS' amendments to the Investment Advisors Act of 1940. This legislation would establish financial responsibility criteria for investment advisors and also gives the SEC the authority to provide standards of competence for individuals engaging in the investment advisory business.

In addition, the Securities Subcommittee, under the leadership of Senator WILLIAMS is presently conducting an important study into the relationship between the commercial banking industry and the investment banking industry. The Glass-Steagall Act of 1933 separated commercial banking from investment banking activities. However, changes in the banking business, over the past 15 years, have brought these two industries into a competitive framework never envisioned in 1933. These changes in activities have raised important questions concerning the relevancy and adequacy of the Glass-Steagall Act's provisions. Some of the regulatory and economic policy questions being covered in Senator WILLIAMS study are:

What are the permissible bounds—under the banking and securities laws—of the new, as well as the traditional securities activities of banks and bank holding company affiliates?

What is the impact on investors, banks, brokerage firms, and investment companies of the existing statutory and regulatory framework?

Is the line drawn by statutes and by administrative and judicial decisions still appropriate?

Does competition between the banking industry and the brokerage and investment company industries promote efficiency and innovation in the delivery of financial services to investors; and would any benefits of such competition be offset by any undue concentrations of economic power which might result?

Would depositor confidence in the safety and solvency of banks be jeopardized by these securities-related activities?

The issues involved are complicated and are not susceptible of these easy answers. But I am confident that this difficult task is under the direction of a colleague who is knowledgeable about and sensitive to the problems and the needs of the public as well as the industries involved.

Senator WILLIAMS has also taken a leadership position, not only in our committee, but in the Senate as a whole in attempting to end the Arab boycott of the State of Israel. He has sponsored legislation which would end the inequities as well as the moral and economic distortions caused by the Arab boycott. This legislation, which is part of the Export Administration Act amendments, has now passed both houses of the Congress and is currently awaiting a House-Senate conference.

Another portion of this legislation which originated as a result of Senator WILLIAMS' endeavors is the so-called horse export amendment. Senator WILLIAMS has long been an advocate of animal welfare legislation and his amendment would ban the export of horses for slaughter overseas. American horses are now subject to a grueling voyage to Europe when they are exported for slaughter for table meat. Many of them arrive dead, ill, or injured due to inhumane conditions aboard ship. Senator WILLIAMS' amendment would bring an end to this cruel and unnecessary trade.

As a special tribute to the Bicentennial, Senator WILLIAMS introduced a bill to provide for the striking of medals to commemorate ethnic heroes of the American Revolution. The bill would honor the men and women of diverse ethnic origins who contributed to the founding of our Nation. Any proceeds from the medals program, which would be administered by the American Revolution Bicentennial Administration, would be used to aid State and local Bicentennial projects. The Senate passed Senator WILLIAMS' ethnic medals bill June 6, 1975, and the House passed an amended version of it on April 30, 1976. The bill is now awaiting final action.

During the 94th Congress, Senator WILLIAMS also played a major role in the development of much of our housing legislation. He was the author of the Emergency Middle Income Housing Act which was designed to stimulate home purchases by middle income families through a program of periodic assistance payments. This legislation was incorporated into a larger emergency housing bill which passed both Houses of the Congress; but which was vetoed by President Ford.

He was also the author of legislation which provided for $2.5 billion in borrowing authority to provide decent housing for the elderly under the section 202 housing for the elderly program. This bill was incorporated into the Housing Authorization Act of 1976 and has been signed into law.

Senator WILLIAMS has also authored the Hospital Supplemental Insurance Act which permits hospitals with FHA insured mortgages to be eligible for supplemental Federal loans for the purpose of necessary additions and improvements. This proposal was also included in the Housing Authorization Act and was signed into law.

A proposal sponsored by Senator WILLIAMS to expand the coinsurance program under which the Department of Housing and Urban Development makes arrangements with public housing agencies or insured depository institutions to share the risk in connection with the financing of apartment projects was also incorporated into the Housing Authorization Act.

In addition, Senator WILLIAMS sponsored the original program of winterization assistance and energy conservation for low income persons and the elderly and the handicapped which was enacted into law during the current session of the Congress.

As the father and author of our Nation's mass transportation programs, Senator WILLIAMS has been responsible for the enactment of all of the major mass transit legislation which has been enacted into law since 1961. During this session of the Congress, he was responsible for Senate passage of legislation which would provide operating assistance for mass transit programs in our Nation's less populated areas and for legislation which would make all mass transit facilities accessible to our Nation's elderly and handicapped. Unfortunately, the House has not as yet acted upon this proposal.

And in all, Senator WILLIAMS' achievements as a member of the Senate Committee on Banking, Housing and Urban Affairs, during the 94th Congress have been most noteworthy and the Senator should be praised for his endeavors.

As chairman of the Financial Institutions Subcommittee, I would like, at this time, to express my thanks to Senator WILLIAMS for his assistance in securing Senate passage of the Financial Institutions Act, the most comprehensive financial restructuring effort in 40 years.

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## WORTHINGTON, MINN., DAILY GLOBE ENDORSES HUMPHREY/HAWKINS

Mr. HUMPHREY. Mr. President, it is with great pleasure that I bring to the attention of my colleagues an excellent editorial which appeared in the Worthington Daily Globe last week endorsing the Humphrey/Hawkins bill.

The Daily Globe pointed out in an extremely well-developed argument that unemployment in 1975 was actually much higher than commonly reported in the media. The Daily Globe emphasizes that:

> In 1975, when inflation was at its worst, more than 8 million workers were officially unemployed. A more realistic calculation which accounts for discouraged job-seekers no longer included in Department of Labor unemployment statistics indicates that unemployment in 1975 averaged 10.8 million people, or one out of every nine workers.

Let me add that this 10.8 million reflects the average number of people unemployed at any one time during the year. Recent Bureau of Labor Statistics data show that more than 20 million Americans actually experienced at least one spell of unemployment during the year 1975. Altogether, this means that more than 60 million Americans were directly or indirectly affected by unemployment in their families last year.

These cold, hard statistics make as strong an argument as is necessary for swift passage of the Humphrey/Hawkins bill. The Worthington Daily Globe editorial pointed out that one of the most common criticisms made of the bill is that full employment would be inflationary. Mr. President, the Globe editors did such an excellent job of rebutting this spurious argument that I do not want to attempt to improve upon it. They emphasized that:

> Ford and other critics of the Humphrey/Hawkins bill seem to think that spending money is always inflationary. It is not; if more consumer goods and services are produced while more people are working, supply can meet demand and prices can remain stable. Increased employment causes inflation mainly when more people are hired to produce goods that individuals cannot purchase, such as military equipment.

Mr. President, I commend this editorial to my colleagues for its well reasoned arguments in support of full employment legislation and for its swift rebuttal of the spurious criticisms of the present Humphrey/Hawkins bill. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Worthington (Minn.) Daily Globe, Sept. 14, 1975]

### HUMPHREY-HAWKINS: PROPOSAL WITH MERIT

For years, college economics professors have taught freshmen students about the Phillips Curve theory, which indicates a direct trade-off between unemployment and inflation in free-market economies. As the level of employment increases and more people have more money to spend, the theory suggests, the rate of inflation also increases; the opposite is also true.

A growing number of respected economists, however, now feel that the relationship between unemployment and inflation is not as direct as they formerly believed—that there can be a state of full or near-full employment in an industrialized country accompanied by only moderate inflation. Experiences in Japan and Sweden show that it can be so, and the recent recession in the United States, in which rapid rises in unemployment and inflation occurred simultaneously, has left a widespread realization that the Phillips analysis does not always hold true.

In 1975, when inflation was at its worst, more than 8 million workers were officially unemployed. A more realistic calculation which accounts for discouraged job-seekers no longer included in Department of Labor unemployment statistics indicates that unemployment in 1975 average 10.8 million people, or one out of every nine workers. The waste of their productive resources cannot be recovered.

People did not starve in the streets during the recession, but many went into debt, were harassed for unpaid home mortgage, car and appliance payments, feared the shame of possible bankruptcy, suffered loss of self-esteem and felt strains in personal relationships. Against the backdrop of family hardship and personal tragedy caused by the recession the Humphrey-Hawkins full employment bill was introduced in the U.S. House and Senate.

The proposed act commits the federal government to a policy of providing paid employment at a fair rate of compensation to all Americans able and willing to work, through federally operated public job projects, private nonprofit job projects and a youth jobs program. The goal of the full employment planning process is to reduce unemployment to 3 percent in the next four years and keep it there.

The greatest criticism of the bill to date has involved its "inflationary potential." President Ford, who has shown a high level of tolerance toward unemployment, has said on several occasions that passage of the bill would produce an uncontrollable inflationary effect—even though Arthur Burns, chairman of the Federal Reserve Board, and Alan Greenspan, chairman of the President's Council of Economic Advisors, both now discount the unemployment-inflation trade-off theory.

Ford and other critics of the Humphrey-Hawkins bill seem to think that spending money is always inflationary. It is not; if more consumer goods and services are produced while more people are working, supply can meet demand and prices can remain stable. Increased employment causes inflation mainly when more people are hired to produce goods that individuals cannot purchase, such as military equipment.

Inflation is also caused by government transfer payments such as unemployment compensation or welfare allotments, through which money is released in the economy to people who are not producing goods or services. Humphrey-Hawkins would eliminate some of that source of inflation because people who are receiving transfer payments and could work would be put back into the production process.

In many fields workers resist managerial efforts toward increased productivity and efficiency because they fear resultant layoffs: they are afraid of "working themselves out of a job." With an assurance of job security they could be willing to do more. Likewise, in seasonal occupations like construction and agriculture workers press for high, sometimes-inflationary wage rates to compensate for periods of idleness. Those wage pressures are likely to be moderated if they were assured of work year-round.

In cold, economic terms, forgetting the social impacts of unemployment, each percentage point of unemployment costs the U.S. treasury $14 billion in lost tax revenues and another $2 billion in transfer payments. President Ford said in his 1975 budget message that lower tax receipts and payments to the unemployed more than account for the deficits expected in both 1975 and 1976 and that if unemployment were in 1975 and 1976 at the same level as in 1974 there would be no deficit.

Ford has vetoed social programs, bills to provide job training and stimulate employment and bills to meet some of the needs of the poor in his efforts to balance the federal budget.

Humphrey-Hawkins seems a better way.

## MISSILE SALES TO SAUDI ARABIA

Mr. CASE. Mr. President, the recent effort to pass a resolution of disapproval against the sale of 650 additional Maverick missiles to Saudi Arabia was only one manifestation of the congressional concern over the lack of proper coordination in the decisions to offer U.S. weapons for purchase by other nations.

Although this particular effort ran into procedural problems during the final days of this congressional session, my concern over the issue continues. During the recess and in the next session of Congress there will be, I am sure, a reexamination of existing legislation and procedures. Therefore, I would like to share with my colleagues a September 29 editorial in the New York Times.

In discussing the controversy over the Mavericks, the editorial accurately notes:

> The Congressional effort to block this particular missiles order could hardly be described as a move to strip a relatively friendly Middle-Eastern nation of its capacity to defend itself against outside attack; it would be more accurate to say that this was an attempt to apply some needed controls to the increasingly dangerous proliferation of American weapons in the Middle East.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### CHAOS ON ARMS

The controversy over the sale to Saudi Arabia of 650 air-to-ground Maverick missiles illustrates the grave risks that flow from this country's reckless arms trade with the rest of the (non-Communist) world. In the absence of a carefully designed policy of restraint governing the export of sophisticated weapons, the United States is following the chaotic course that was set when President Nixon on an overnight stopover in Teheran in 1972 told Iran in a spur-of-the-moment gesture that it could buy virtually anything it wanted.

That impetuous Presidential commitment unleased what can only be called the inundation with American arms of an unstable and inflammatory region. The latest order from Saudi Arabia, which has already bought $6 billion worth of American arms and recently has outstripped the dangerously excessive Iranian purchases, is only the latest wave in a continuing tide. The Congressional effort to block this particular missiles order could hardly be described as a move to strip a relatively friendly Middle-Eastern nation of its capacity to defend itself against outside attack; it would be more accurate to say that this was an attempt to apply some needed controls to the increasingly dangerous proliferation of American weapons in the Middle East.

Reports of behind-the-scenes threats prove, despite denials from official Saudi Arabian and American sources, that uncontrolled American arms sales have exposed the United States needlessly to international blackmail. In its frantic attempts to head off the Congressional move to block the Mavericks' delivery, the Ford Administration has leaked dark hints that Saudi Arabia's displeasure (already incurred by a toughening Congressional stand against the Arab's effort to impose an illegal secondary boycott in the United States) may trigger another oil embargo.

The spongelike American policy on arms exports effectively takes decision-making out of Washington's hands and delivers it to foreign governments in coalition with their own and American special-interest lobbies. Under such circumstances, Congressional action is a natural response to abdication by the White House of its fundamental responsibility to control the arms trade wherever it threatens to stimulate international conflict in troubled areas of the world.

## SENATOR MANSFIELD'S STAFF

Mr. METCALF. Mr. President, last week we joined in paying tribute to our distinguished majority leader (Senator Mansfield).

Before we adjourn, I think it appropriate that we also recognize the capable staff he assembled to help him in the public interest.

Two members of that staff have within the past few days been the subject of media comment. They are Mrs. Peggy DeMichele, Senator Mansfield's Administrative Assistant, and Mr. Ray Dockstader, Mike's Legislative Assistant.

Mrs. DeMichele was the subject of WMAL correspondent Joseph McCaffrey's "Eye on the Hill" report of this past Sunday. Mr. Dockstader was featured in an article headlined "A Chance To Get Away From Capitol Hill" in the Washington Post of Sepember 30, 1976.

Mr. President, I ask unanimous consent that Joe McCaffrey's script and the appropriate portion of the Washington Post article be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### "EYE ON THE HILL"

(By Joseph McCaffrey)

Good evening.

In 1940 Peggy DeMichele came to Washington from Montana to work at the Census Bureau; stopped on the Hill to see Montana Congressman James O'Connor; was offered a job for a few days; took it and on January 3rd of next year she'll retire. The few days stretched into almost 37 years, and for the last 21 years she has been Administrative Aide to Senator Mike Mansfield.

Mrs. DeMichele really worked her way into every job she has held on the Hill.

Congressman O'Connor made her a permanent employee when he went back to the State to campaign in 1940 and turned the care of the office on Capitol Hill over to her. Upon the death of O'Connor she kept the office operating until a special election was held to name a successor.

Because mail still continued to come in to the office which needed the attention of a member, Peggy began routing the mail to the other Montana House Member, Mike Mansfield. Before she wrapped up O'Connor's office, Congressman Mansfield asked her to help out in his office, then put her on his permanent staff, and then after Mansfield had moved to the Senate in 1953 and his beloved AA, Jimmy Sullivan, became ill, Peggy took up the slack. When Sullivan finally retired, Mansfield, without hesitation, named her as his AA, at which time she was one of three women to hold a top Senate staff spot.

(Some thoughts on the retiring Senate Majority Leader from his retiring Administrative Aide.)

Peggy DeMichele has been with Mike Mansfield since 1945 and as far as she is concerned, no one ever had a better boss.

She herself goes back to Montana two or three times a year, but she admits she never covered the State as thoroughly as the Senator.

Although the pressure of his work as senior Senator and Majority Leader limited his visits to Montana when he did go back, he touched all the bases. On each trip back he traveled the State by auto and visited at least one town or village in each of the State's 56 counties.

What impressed Peggy DeMichele the most about the Senator is that he thinks of the little thing. He has an understanding of people and a concern for their problems.

"He was like that when I first knew him in the House years ago," Peggy said, "and he has stayed the same. There are so many little things he has done for the people in the state, things no one has ever heard about and he doesn't want anyone to know about.

"He has always tried to let others take the credit. Time after time he has worked hard for some project, and when the ribbon cutting time came he let others hold the scissors."

Even now, as the retiring Majority Leader, Mike Mansfield when he is in town goes through all the mail. It is stacked on his desk for him in three stacks, one State mail, official mail, out-of-state mail and the junk mail, newspapers, advertisements, circulars.

And Mike Mansfield never sought power and, strange as it may seem, Mike Mansfield never had a press secretary. Imagine that!

Now Peggy DeMichele is busy cataloging Mansfield's files for the University of Montana. Years ago, when Mansfield began sending his books and other things to the University, Peggy visited the librarian to see how official papers were handled and found that unless it was pre-cataloged much of it stayed in the packing cases because the library didn't have enough staff people.

Coming back to Washington she talked to experts at the Library of Congress, worked out a cataloging system and since then has been laying the groundwork for the big packing.

Now one office is jammed with files, neatly tabbed and indexed, all ready to be shipped back to Montana.

Looking at the boxes, the files and the loose odds and ends Peggy DeMichele said, "The secret of phasing out a Congressional office is to begin filing, indexing and packing the week after the member is sworn in."

In January Peggy DeMichele walks away from the Hill. Just like she thought when Congressman O'Connor motioned her to a typewriter—she knew the job wouldn't last very long.

That's Eye on the Hill. This is Joseph McCaffrey. Have a great week—good evening.

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[From the Washington Post, Sept. 30, 1976]

### A Chance To Get Away From Capitol Hill

(By Lois Romano)

The turnover in membership between 94th and the 95th Congress will be the greatest in American history. To date, this Congress has produced 59 retirees, resignations, deaths and defeats of members, forcing some 2,000 staffers out of jobs. All in all, the huge majority of these people will join in the scramble for Hill employment with the arrival of new congressmen. Some will sit and hope that they will be retained by those members who succeed their current employers.

A few, however, will use this opportunity to get away from Congress and start whole new careers for themselves.

Like Ray Dockstader. He came to Washington 22 years ago from Billings, Mont., to work for Sen. Mike Mansfield. In the time he has been on the senator's staff, Dockstader has worked his way up from research assistant to head legislative assistant in the office. He handles predominantly Montana affairs and is one of the Senate majority leader's closest political advisors. With Mansfield's retirement at the end of this year, Dockstader, at age 46, has decided to take this opportunity to go into art.

"I have become very spoiled working for a man like Mansfield and I would find it very difficult going to work for someone else right now—or to even try and learn the politics of another state for that matter," he explains. "Work on Capitol Hill really isn't as much fun as it used to be. It's more like drudgery—much too tedious for me."

For the past 16 years, Dockstader's avocation has been art—abstract painting, photography and watercolors. Through contacts he has made on the Hill, Mansfield's artist in residence has been able to sell enough of his output to pay rent on the studio he maintains near Dupont Circle. Some of his work has sold for as high as $450. Dockstader lives in a town house on East Capitol Street near Capitol Hill.

"I have never been committed to politics 24 hours a day and could never live on a job totally. So art became my diversion," says Dockstader from his Senate office—which is almost wallpapered with his art. He's not too worried about leaving his $36,000 a year job and is sure he'll find something in Washington to suit his interests.

"Washington is a great place to get started in art because the government is involved through the national galleries and museums," he says confidently. "I'm looking for an administrative position in the field and I have already sent feelers out through the contacts I've accumulated since I became interested. Because the government is involved I'm also assured of salary protection."

## GOVERNOR CARTER GIVES "COMLETE ENDORSEMENT" TO HUMPHREY/HAWKINS BILL

Mr. HUMPHREY. Mr. President, I am pleased to report to my colleagues today that Governor Carter announced on Monday, September 28, that he has given his complete endorsement to S. 50 and H.R. 50, the Full Employment and Balanced Growth Act of 1976. In an address to union officials in Portland, Oreg., Mr. Carter said that recent changes made in the legislation "have made the bill a very good one" which he could support.

As I have said repeatedly since the Humphrey/Hawkins bill was introduced early this year, the sponsors fully expected that as the legislation moved through the Congress perfecting changes would be made. We have received a number of valuable, constructive criticisms on how the bill could be improved. Many of these changes have already been incorporated into the revised version of H.R. 50 which was reported out of the House Education and Labor Committee earlier this month. It is the new version of the bill to which Governor Carter was referring when he gave his endorsement to the Humphrey/Hawkins bill.

Let me emphasize again that Gus Hawkins and I intend to reintroduce the Full Employment and Balanced Growth Act very early in the next session of Congress. I am confident that with the endorsement of our future President, we have every opportunity for speedily enacting this landmark legislation next year.

Mr. President, I ask unanimous consent that a Wall Street Journal article by James Gannon which contains Governor Carter's endorsement be printed in the Record.

There being no objection, the article was ordered to be printed in the Record. as follows:

[From the Wall Street Journal, Sept. 28, 1976]

### Carter, Turning Focus to Economic Issues, Charges Ford Has Impoverished Millions

(By James P. Gannon)

Portland, Oreg.—Jimmy Carter, trying to focus his presidential campaign on economic issues and off himself, charged that Ford administration "mismanagement" has dropped millions of Americans into poverty.

In a speech here, the Georgian seized upon statistics issued over the weekend that showed a large increase in the number of Americans officially classified as poor. He built his attack around new Census Bureau figures showing that an additional 2.5 million Americans last year fell below the poverty line of $5,500 of income for a family of four.

"There can be no clearer indictment of economic mismanagement by this Republican administration and no better symbol of the issues which lie at the heart of this year's campaign," the Democratic nominee said. He added: "Mr. Nixon and Mr. Ford have made these people poor in the same way Mr. Hoover made them poor in the 1930s—by denying them in the chance to work."

The hard-hitting economic attack was in line with the new Carter strategy of stressing "bread-and-butter" issues. The Carter forces believe that theme is their best hope to solidify the Democratic vote for their man and to get the focus of the campaign away from damaging side issues, such as Mr. Carter's recent comments on sex and religion.

But even as Mr. Carter sought to reemphasize economic issues, his controversial comments to Playboy magazine continued to dog him. Yesterday morning at a breakfast meeting with AFL–CIO officials here, he was asked by a union officer whether he regretted his interview remarks.

Mr. Carter said he may have employed an "unfortunate illustration" in using adultery to explain his religious beliefs, but he said he thought it was good for readers of Playboy "to know about me."

Explaining that he is trying to conduct an open campaign, he said: "I would rather run that kind of a campaign and even make a mistake every now and then" than "to hide in the Rose Garden for eight weeks and isolate myself from the American people." The last remarks, referring to President Ford's strategy of campaigning primarily from the White House, brought a rousing cheer from the labor group.

The Democratic candidate, realizing that President Ford is widely perceived as a decent and well-meaning man, also is trying harder to portray the election as a choice between two parties and two economic philosophies, rather than two men.

The election, he said in his speech here, "isn't simply a contest between two presidential candidates, but a choice between two political heritages." The choice, he declared, is "between the party which cares about the common man and the party which puts special interests first—between the party of Roosevelt and the party of Hoover, between the party of Kennedy and the party of Nixon."

Under questioning by the union officials, Mr. Carter said he had given his "complete endorsement" to the revised Humphrey-Hawkins full-employment bill, even though he had failed to mention that union-backed legislation in his remarks on joblessness during last week's debate, Mr. Carter said that the recent changes made in drafting the legislation "have made the bill a very good one," which he could support, though he had had misgivings about the measure earlier this year.

The candidate also reiterated his promise never to boost taxes on working people. "I would never increase taxes on Americans who work for a living or report all their income on a tax form." He attacked the "unbelievable loopholes in the tax laws that reduce the taxes on upper-income individuals.

The Democratic nominee campaigned here yesterday before flying on a scheduled appearance late last night in Evansville, Ind. He was planning to return home to Plains, Ga., for a two-day rest before resuming his campaign later this week.

## THE MISMANAGERS

**Mr. MOSS.** Mr. President, President Ford bemoans the runaway bureaucracy as self-righteously as if he were a management consultant from Grand Rapids. But Mr. Ford is not a management consultant from Grand Rapids. He is the Chief Executive. And if the bureaucracy is running away, it is running away from the managers selected and appointed by Mr. Ford.

As Chief Executive, Mr. Ford has strange notions about the qualifications needed to restrain and direct the Federal Government. At the beginning of this year, his first qualification seemed to be "who can I name from those States in which I face a close call in the Republican primary?"

For example, in early February, just before the New Hampshire primary, he nominated as Chairman of the ICC, an agency whose incompetence he daily assailed, a New Hampshire lawyer totally lacking in experience and knowledge of transportation.

Next, shortly before the North Carolina primary, he nominated for the Federal Power Commission, that woebegone agency critical to our faltering energy policy, the daughter of a former Republican Congressman who, 6 months earlier testifing at a hearing on her confirmation to the North Carolina State Utility Commission, appeared never to have heard of a rural electric co-op.

Again, to the National Transportation Safety Board, charged with overseeing air, rail, and highway safety for the Nation's travelers, Ford nominated, in the nick of time to influence the Texas primary, a pleasant Texas legislator who possessed no technical knowledge or background with which to judge the transportation accidents.

Once the primaries were over a different principle or regulatory qualifications seemed to emerge: White House staff with powerful friends and congressional staff with powerful friends, industry lawyers with powerful friends and a couple of fellows from Grand Rapids who did not seem to need powerful friends.

This was how the President sought to gain managerial discipline over the bureaucracy whose mismanagement he persists in blaming upon Democratic Congresses.

Even when the White House decides to seek expertise, it cannot seem to do the job right. Knowing that the Federal Trade Commission would have a vacancy open up in September 1975, the administration headhunters put out the word to find a specialist in economics to provide substantive expertise in an important area watched by the Federal Trade Commission. But when the nomination finally was submitted, the White House neglected to tell the nominee that his name would be submitted for a term which had only 6 months to run, whereupon the nominee asked that his name be withdrawn, as he did not need "a summer job."

Over the last few years the Senate Commerce Committee alone has refused to confirm more than a dozen key regulatory appointments, either for serious disqualifying factors, such as conflict of interest or more often, the simple lack of basic minimum qualifications or demonstrated commitment to the public interest. The committee has not acted in a partisan manner, indeed, quite the opposite. The committee and the Senate have, in some cases given the benefit of the doubt to Presidential nominees of doubtful qualifications. Indeed we have continued to recommend confirmation of well-qualified nominees, though these have been few and far between, almost to the end of the congressional session. In 1960, a similar year of a close Presidential race, only one nominee was confirmed after February and that one, confirmed on June 23, 1960, was a reappointment.

Mr. President, we have heard much from the President about the need for regulatory reform, for restraining bureaucracy, for getting the Government off the back of business. The first step toward each of these goals is the naming of tough, competent, committed regulatory managers, qualified by experience and training to administer the laws as Congress intended them. We need men and women who will protect the consuming public while avoiding the burdensome excesses of bureaucratic zeal, which is the inevitable result of unmanaged bureaucracy. We are still waiting.

## YOUTH UNEMPLOYMENT

**Mr. DOMENICI.** Mr. President, the Budget Committee is unique in that it is the only congressional mechanism which can deal comprehensively with the important policy issues involved in setting national spending and revenue totals for the coming fiscal year. Such an approach is necessary if we are to develop an overall fiscal strategy and program mix which responds to the needs of the unemployed in all segments of the work force. No other substantive committee of the Senate has the jurisdiction to take a broad view of Federal policy in this area, to determine what is appropriate in terms of fiscal policy, income maintenance, spending for employment and education, and the whole range of other programs which affect the levels of employment and unemployment in the United States.

I am somewhat concerned that we tend to think of unemployment-employment in homogeneous terms. This is not a useful view. We need to take a careful look at the structural and other factors causing high rates of unemployment in various segments of the work force. Our knowledge here is very limited and policy prescriptions to combat unemployment depend on a real understanding of these factors.

The high rate of unemployment experienced by our Nation's workers during the 1974–75 recession is expected to decline, albeit slowly, as the economy recovers. However, this beneficial reduction in unemployment will be unevenly distributed among the various groups of participants making up our work force. For our youngest workers, the future of this Nation, continued economic improvement, alone, will leave their unemployment rates substantially higher than those of adults. Within this group, nonwhite youths, as well as nonwhite adults, will have even higher unemployment rates than do their white counterparts.

In the United States, unemployment has traditionally been the highest for our youngest members of the labor force. In the last 25 years, youth unemployment has ranged from 5 to 12.6 percentage points above that of adults. Higher unemployment rates for youth are attributed to many factors, such as high rates of job changing, their status as new entrants and reentrants into the labor force, their seasonal patterns of entry into the labor force, inadequate education and training, and minimum wage and child labor laws. Nonwhite and disadvantaged youth living in poverty areas are found to face a confluence of negative factors ranging from racial discrimination and inadequate basic education and training to geographic isolation and a weak local labor market structure.

I cannot easily accept the fact that the rates of unemployment for our young workers should necessarily be higher than those of adults, especially in view of the fact that this high differential in percentage points between the unemployment rate of youth and the unemployment rate of adults does not exist in other industrial countries. Unemployment has its price in both budgetary and human terms. Unfortunately, the human cost cannot be quantitatively measured. The experience of unemployment for some teenagers, however, will undoubtedly have long-term effects which will carry over into their adult lives. The inability to get a job will mean discouragement, the unwillingness of these young people to invest in education and job training for themselves, and will block them from gaining the work experience and skills which may be highly valuable to them in future years.

The cost of unemployment in terms of Federal dollars is already great, and yet we really do not seem to be hitting on the persistent and growing problem of structural unemployment in this country. For fiscal year 1977, the current policy estimate of the Federal programmatic response to unemployment is $41.7 billion in outlays and $4.9 billion in tax expenditures. Of this $41.7 billion in Federal expenditures for employment-related programs, the largest percentage, $18.8 billion, is in the form of income assistance to the unemployed; $17.7 billion is for programs aimed at increasing the employability of workers—primarily through education, training and vocational rehabilitation; and $5.2 billion is for programs, such as public employment, public works and antirecession grants to State and local governments, which directly create employment. The current policy estimates for the three principal employment programs specifically designed for youth—the Youth Conservation Corps, the Job Corps, and the summer youth program under CETA—total $760 million. These programs are not new and have known limitations. Throwing additional dollars at them will not increase their effectiveness. A flurry of new programs, to include a National Youth Service, a CCC-type program like that of the 1930's and an Adult Youth Conservation Corps, have been proposed to meet the unemployment problems of our youth.

In deciding whether our Federal dollars are being put to effective use or whether they might be put to more effective use in some other manner, we rely on our limited knowledge of the structural and other factors behind the high rate of youth unemployment in this country. Unless we fully understand these factors, it is unclear what the appropriate division of Federal dollars should be between employment-creating programs, programs aimed at increasing the employability of workers, income assistance to the unemployed, and a wide array of other initiatives which might be instituted to meet the particular needs of the unemployed in this country.

The CBO has just released its preliminary assessment of the youth unemployment problem. I commend the CBO for this undertaking. I believe the study will provide a starting point from which we can take a new and comprehensive look at the problem of youth unemployment in the United States. The Budget Committee can appropriately address this problem and I am proposing to the committee that this be done through the vehicle of a task force on youth unemployment.

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## CONGRESS SURRENDERS ARMS SALES POLICY TO EXECUTIVE BRANCH

**Mr. PROXMIRE.** Mr. President, the events of the past several days make it quite clear that Congress has totally surrendered to the executive branch on the right to limit burgeoning arms sales to the Middle East.

Congress has thrown in the towel—actually given up any chance of halting over $5 billion in arms sales to the Middle East. In a classic case of do-nothingism, Congress once again has taken the easy way out by ducking the issue.

This is a tragic development in executive-legislative relations. It means Congress is not serious about stopping the Middle East arms race or even considering the foreign policy implications of massive arms sales.

Think of it. The executive branch hastily sends Congress a last minute package of some $5 billion in arms sales to the most troubled, volatile region in the world. Included in the deal are the most modern U.S. weapons—$4.4 billion in F–16 sales to Iran for example. No justification is given as to why Iran needs these aircraft. They are far more sophisticated than would seem necessary to defend against Iran's likely enemies. This is the front line fighter for the United States. Why do the Iranians need it? Why? There is no answer.

And we will allow thousands of sophisticated antitank and air-to-air missiles to be sold to the Arab States. How long before these items show up in use against Israel?

The irony of this situation cannot go unnoticed. We act as the guarantor of Israel's security in terms of supplying military equipment. Every time the Soviet Union upgrades the military force of the Arabs, we upgrade the Israeli force.

Now we, not the Soviets, but the United States dramatically upgrades the arsenal of the Arab States. And this in turn will one day require that we upgrade and improve the defenses of the Israelis.

The only people who benefit from this self-fulfilling prophecy are the arms manufacturers whose business swells with each new round of tension.

The responsibility for accelerating the arms race in the Middle East lies jointly with the executive and legislative branches. Congress had the opportunity to say no—to limit or change the character of these arms shipments. Instead, Congress has wished away the problem.

Furthermore, we have erected parliamentary roadblocks which likely will even prohibit a vote on these extremely critical arms shipments. Thus the Congress is not only unwilling to say no but is unwilling to allow a decision to be made—to allow a vote by the elected representatives of the people.

I ask my colleagues one simple question. Why should there not have been a vote on this issue? Why tie our own hands with restrictive rules? Why not let every Senator express himself with a vote?

This comes about due to a complicated procedure required to stop pending arms sales. Resolutions of disapproval must be passed by both Houses to stop a sale. But first these resolutions must be reported out of committee. By taking no action in committee, the only way to have a vote on any arms sales is to force the issue to the floor with a discharge petition. Unfortunately this is a technical procedure which can easily be blocked. And in the present case, there is not enough time left to put it into effect before the arms sales are approved.

Thus congressional procedures contribute to the malaise. We have abdicated our responsibility to the Pentagon and State Department.

So far, with $5 billion in arms sales pending to the Middle East, the Senate has taken the dramatic step of reporting out one resolution of disapproval—for $30 million in Maverick missiles to Saudi Arabia and that was subsequently withdrawn.

We have turned a blind eye to the $583 million more for Saudi Arabia, the $4.4 billion for Iran, the $80 million for Pakistan.

Without adequate justification, without current rationale, Congress is helping to shape the military environment of one of the world's most volatile regions not for this year but for the next 15 years. These arms sales will have repercussions beyond our limited foresight.

One thing is clear about armaments. They are used. Used against neighbors and sometimes against the national population.

If we are to represent principled reason in the world, then our massive arms sales policy is a poor reflection of that statesmanship. In fact it is worse than no position at all for it runs counter to the creative, humanitarian gifts our people could give the world.

At a time when dictatorships, totalitarian and Communist, are the norm rather than the exception, there is so much more the United States could export than arms. Let us search for that which is positive, productive, democratic and representative of our way of life such as an expanded Peace Corps; Project Hope; disaster relief; communications equipment; technical development aid; food production assistance. Our example is the best image to project.

We should not make our image that of the gunrunner. And the Congress should not be the rubber stamp for the executive department.

## THEODORE A. SERRILL

Mr. HUGH SCOTT. Mr. President, on January 2, 1977, one of the Nation's most respected newspapermen will retire. Theodore A. Serrill, executive vice president of the National Newspaper Association, will then end another chapter in a distinguished newspaper career which has spanned nearly five decades.

Ted, who was born in the shadow of Independence Hall in Philadelphia, has spent that career tirelessly and successfully defending one of the principles drawn by the Founding Fathers in Philadelphia—that of a free and viable American press.

After graduating from Pennsylvania State University during the great depression, Ted began his career in this city on the staff of the Washington Daily News. In the succeeding years, and prior to taking command of the National Newspaper Association, he worked for newspapers in Pennsylvania and North Carolina, and directed the Pennsylvania Newspaper Publishers' Association, and the Washington, D.C., Publishers' Association. He also has made valuable contributions to our Government, beginning as an employee of the War Loan Division of the U.S. Treasury during World War II.

Ted is a member of the Executive Reserve of the U.S. Department of Commerce, and has served on the Wages Committee of the Bureau of Labor Statistics, U.S. Department of Labor, and held a 2-year Presidential appointment on the U.S. Postal Service Advisory Council as a public member. He also served on the public relations committee of the American Bicentennial Commission—now Administration. Currently he is a Presidential appointee to the Corporation of USO, Inc.

Few readers of the Nation's more than 7,000 weekly and 1,000 daily newspapers would recognize the name Ted Serrill. But it is doubtlessly true that each of them has benefited in some way by his hard work for, and his devotion to, the American newspaper. That hard work and devotion also have been channeled into other areas affecting journalism, notably journalism education, to which he has given vast amounts of time and experience.

The publishers and editors of the more than 6,500 newspapers represented by the National Newspaper Association recognized him for his constant efforts to help them improve the quality of their newspapers. To this end, he has made direct and important contributions.

Members of both the Senate and the House of Representatives are familiar with Ted Serrill. He has made frequent appearances before committees of the Congress during his career defending the public's right to know and the press' right to publish.

Ted Serrill has brought to his profession a unique brand of journalistic activism for which he is noted and admired.

This activism has, fortunately, influenced many of his colleagues. Because of his outstanding contributions to his profession and to the citizens of our Nation, Ted Serrill is to be congratulated—and thanked—by all of us.

## TRIBUTES TO SENATOR HUGH SCOTT

Mr. McGOVERN. Mr. President, I wish to add my own tribute to the many which have been offered upon the retirement of the distinguished minority leader, Senator Hugh Scott.

Although Hugh and I have had our disagreements over the years, I have great respect for this urbane, sophisticated and learned man. I consider him a legislative craftsman of the first order and I have long admired his ability to find a common ground upon which advocates of varying positions can meet and find agreement.

Mr. President, Hugh Scott can look back on a history of solid accomplishments in the Senate. He has an enviable record in, among other things, civil rights, election reform and most recently, antitrust legislation. And he provided leadership to his party in a period of enormous turmoil and unprecedented crisis in our political system.

Hugh Scott will soon leave the Senate, but I hope that the Nation will be able to continue to call upon his advice and wise counsel when he returns to private life. I wish him every happiness in the years to come.

Mr. BROCK. Mr. President, I am honored to be able to be present to express my sincerest admiration to a fine man, Senator Hugh Scott, who has dedicated 18 years of his life to the U.S. Senate and to the great State of Pennsylvania. Hugh Scott has served with enviable integrity and dedication as minority leader for the last 7 years of his career. I am sure I am not alone in my sadness at seeing him return to private life at this, the end of the 94th Congress. Hugh Scott's outstanding contributions as a statesman, legislator, and leader have been an inspiration to his colleagues in the Senate and to all of Pennsylvania. He has contributed much to the Congress through his personal involvement and fair-mindedness, and has inspired countless others to follow his fine example.

Hugh Scott has the rare qualities of dependability and stability. When I was elected to the Senate in 1970, I was introduced to Senator Hugh Scott. Now, in 1976, I am proud to say that I am equally impressed by my friend Hugh Scott, the private citizen. He has always made that extra effort, walked the extra mile, for others, which is one of the primary reasons he has consistently been a leader, and recognized as an unqualified pioneer in the Senate. I am proud to be able to count him among my friends.

We in the Senate honor Hugh Scott with the respect he truly deserves and ask that he continue to give us the benefit of his time and wisdom. I add my best wishes that his years ahead are richly blessed and filled with rewarding times. His friendship and guidance have meant much to me, and I shall miss him.

## TRIBUTES TO SENATOR FONG

Mr. PELL. Mr. President, I join my colleagues in paying tribute to the senior Senator from Hawaii, Senator Hiram L. Fong, who is retiring from the Senate at the conclusion of this 94th Congress, after a distinguished career spanning more than 17 years in the Senate.

Senator Fong holds the distinction of having represented the people of the State of Hawaii in the Senate from the first days of the admission of Hawaii to statehood. He is, in addition, the first person of Chinese ancestry to serve in the Congress and the first of oriental ancestry to have served in the Senate.

Senator Fong has with dignity and effectiveness developed an appreciation among his colleagues of the unique resources and richness of his State, as well as an awareness of the unique problems that confront Hawaii as an island State.

Hiram Fong was among a very few Senators who was an early supporter of efforts to develop a stronger and more cohesive national program for development of ocean resources. His support for the national sea grant college program and for adequate funding of that program has been particularly effective and helpful in making it possible for that program to realize its potential, in Hawaii and throughout the Nation.

Senator Fong will be remembered also for his advocacy and support of improved education programs and his contributions to the landmark civil rights and voting rights acts of the 1960's.

Hiram Fong will be greatly missed in the Senate and I extend to him my best wishes in the years ahead.

Mr. McGOVERN. Mr. President, when the beautiful State of Hawaii was admitted to the Union in 1959, Hiram Fong, one of the architects of statehood, came to Washington to begin his distinguished career in the Senate. Now that he has chosen to retire, I want to express my gratitude to him for the many services he has rendered to the Nation in the course of his long and productive career in public life.

Like so many others, Hiram Fong is a

living testimony to the promise of America and to the fact that Horatio Alger stories can sometimes come true in real life. This able son of Chinese immigrant parents became a Harvard-trained lawyer, an astute and successful businessman, a leading legislator in Hawaii and a respected Member of the U.S. Senate. He has represented our Nation abroad with distinction, he has earned the admiration of his colleagues in the Senate for his competence and his hard work and he has done a fine job of representing the interest of the gracious people of his State.

Hiram Fong has many "firsts" on his credit—the first U.S. Senator of Asian descent, the first University of Hawaii graduate admitted to the Harvard Law School—but I know that he will be remembered as much for the quality of his service as for the barriers he broke. Hiram has always been firmly on the side of equal rights for all Americans and he has been a supporter of programs to give the less fortunate a better chance to compete in our society.

Mr. President, I want the Senator from Hawaii to know that my warm good wishes go with him and with his family. In retirement, I am sure that Hiram Fong will continue to render service to Hawaii and to the Nation.

Mr. BROCK. Mr. President, I am delighted to add my voice to the many here in the Senate paying tribute to Senator Hiram Fong of Honolulu, Hawaii, on the eve of his retirement from the U.S. Senate. I would like to join my colleagues in expressing my sincere admiration and deep appreciation for the admirable contributions made by this fine statesman.

After 17 years of dedication in the U.S. Senate, Hiram has earned his retirement, but we shall miss him here in Congress. Hiram leaves the Senate with a legacy of excellence in legislating and leadership. His personal commitment and contributions have given all of us the challenge of better government in our respective States and our Nation. I can only add my congratulations for the fine job Hiram Fong has done for the people of Hawaii and the Nation. I am confident that the future will bring him many thanks from those of us who have benefited from his rewarding efforts.

I thank the Chair.

## TRIBUTES TO SENATOR PAUL FANNIN

Mr. McGOVERN. Mr. President, for the past 12 years, Paul Fannin has represented Arizona in this body with the same quiet diligence he brought to three terms he served as Governor of that State. His work on the Finance and Interior Committees has won him the respect of his colleagues. His initiatives in the area of solar energy are likely to have an important impact upon the future of our country.

Paul and I have disagreed on some issues while serving here together, but I have great respect for his integrity, his gentlemanly demeanor and his consistent advocacy of a principled point of view. With his departure, the Senate will lose a conscientious Member.

Mr. President, I join with my colleagues on both sides of the aisle in expressing my fond regards for a valued friend and a distinguished public servant. It is my hope that the future will hold all good things for him and his family.

Mr. BROCK. Mr. President, I am proud to be one of those present to pay tribute to a dedicated individual who, during his 12 years in the Senate, was a distinguished member of the Senate Interior and Insular Affairs Committee, the Finance Committee, the Joint Economic Committee, and chairman of the Republican Calendar Committee.

Paul Fannin's personal commitment and contributions on behalf of the people of Arizona have given us all the challenge of better Government in the Senate and in our Nation. I can only add my sincerest admiration and appreciation for his many years of diligent service, and particularly for his friendship. I pray that the years ahead are richly blessed and filled with good times.

I thank the Chair.

## TRIBUTE TO SENATOR HRUSKA

Mr. BROCK. Mr. President, when Senator Roman Hruska retires at the end of this, the 94th Congress, his absence will be noted with sadness by his colleagues here in the Senate.

Roman, as you retire from your work here in the U.S. Senate, I wish to express my sincere appreciation and respect for the fine job you have done as the representative of the people of Nebraska. Your 22 years of dedicated and tireless work on such committees as the Appropriations, Judiciary, and the Bicentennial Committees is to be commended. I know I am not alone in saying that I enjoyed and considered myself lucky in having worked with a man of your character and integrity in the Senate. I join my colleagues and the people of Nebraska in saying thank you, and extend my best wishes for every success in the years ahead.

I thank the Chair.

## STRUCTURAL REFORM IS THE FIRST AND ESSENTIAL ACTION TO ACHIEVE AN EFFECTIVE SENATE COMMITTEE SYSTEM

Mr. STEVENSON. Mr. President, in the midst of the clamor that accompanies the closing of another legislative year, a committee which I have the honor to chair and Senator Brock to chair, has approved and is submitting to the Senate a reorganization plan that will help the U.S. Senate perform more effectively its responsibilities to the American people.

The Temporary Select Committee To Study the Senate Committee System makes this report pursuant to Senate Resolution 109, which the Senate approved last March 30. This portion of our report deals with the basic structure of the Senate committee system—the numbers, sizes, and jurisdictions of committees, along with assignment limitations. We present them at this time in order to facilitate consideration by the Senate when the 95th Congress convenes in January 1977. Other phases of our work, dealing with committee rules and procedures, staffing, information gathering, and legislative oversight, will be reported to the Senate early next year.

### TRANSITION FOR SENATORS AND STAFF

Before outlining the major features of the reorganization plan, I want to say a few words about possible procedures for transition from the current committee organization to the one we are proposing. All too frequently, reorganization plans are resisted not because they lack merit but because individuals are uncertain how they, personally, will fare under the new arrangements. These concerns are understandable. Every Senator, for example, has a right to expect that he will be given a relatively equal opportunity to pursue committee work of substance and of consequence to himself and his constituents, and that he will be granted enough staff assistance to permit him to do this work effectively. With other members of the select committee, I believe no staff member who is performing valued tasks under the existing organization framework should fear for his job under a revised structure, and no Senator will be abruptly or unfairly deprived of needed staff he now employs.

I am confident that those who work in the Senate, both Members and staff, can be given these assurances. Thus, I would hope that discussions about reorganization will center on its merits, and not be clouded by fears over personal futures—fears which, in this case, would be unjustifiable.

To my Senate colleagues who may be partial to this or that committee assignment, I can say this. As we all know, decisions on committee assignments, though a concern of the entire Senate, have historically been delegated to the respective parties. It is in party councils that detailed decisions about assignments will be made, as they have in the past, according to the guidelines set forth in the Senate rules. Presumably this will be the case for assignment decisions that must be made after this reorganization is adopted by the Senate.

While the basic decision on reorganization should be made in accord with sound principles of organization, I fully anticipate that the party caucuses will try to achieve the transition as easily and humanely as possible, in accord with the principles which the Senate will lay down. I will support actions within the Democratic Conference and Steering Committee to achieve such a transition, and I know that Senator Brock intends to do the same within his party. Specifically, the select committee recommends first and full consideration in new assignments should be accorded to those chairmen and ranking minority members whose standing committees are consolidated into other standing committees, and to chairmen and ranking minority members of select committees or standing subcommittees whose jurisdictions are transferred to other standing committees.

I conclude after careful reflection on this problem that relatively few Senators will find themselves "losers," if that is the term, in the reorganization plan we are proposing. Most of us are already drastically overcommitted and, if we are honest about it, must consolidate and trim our responsibilities if we are going to retain our effectiveness.

The Senate is fortunate to have attracted many talented people for its various staffs, and I think they, too, can be assured that immediate and drastic consequences can be avoided. Eventually, of course, we trust that reorganization will help check the recent rapid growth in Congress operating budget by reducing the number of committees and subcommittees that must be staffed, housed and otherwise financed. Costs of the legislative branch have increased from $351 million in 1970 to $959 million for fiscal year 1977. Whatever savings we can effect will occur after a shakedown period, however, and I anticipate no immediate large-scale firings as a result of reorganization. Indeed, whatever trimming in fact occurs it can occur naturally, through turnover and attrition.

To ease the immediate uncertainties of transition, I intend to propose a series of steps which could be taken to "hold harmless" those staff members who, through no fault of their own, will have their responsibilities shifted into new committees. For example, staffs of all special, select, or standing committees and subcommittees consolidated in other standing committees by the reorganization might transfer temporarily at their current salary with their employing Senator to the staff of the new, consolidated committee without charge to that committee's staff allowance.

A chairman or ranking member of a committee or subcommittee should not be deprived of a committee staff person he employed under the current organization. We could provide, therefore, that during the first 6 months of the reorganization, any staff not transferred to consolidated committees which are givployed temporarily on such a Senator's personal staff, to be paid from the Senate's contingent fund.

The Committee on Rules, Administration and Standards could establish and enforce other regulations or procedures, and recommend necessary funds, for the fair transfer or continued employment of staff persons or positions directly affected by the reorganization. I believe that all such problems could be resolved by the end of the first full year of the reorganization—preferably by attrition but to include severance pay if necessary. The Committee on Rules, Administration and Standards should also consider requests for additional staff from chairmen and ranking minority members of consolidated committees which are given new and expanded jurisdictions.

I must reemphasize that the reorganization does not abolish any of the functions presently performed by the Senate or its staff. There is no magic way of reducing the Senate's responsibilities, and the select committee is under no such illusions. What we have endeavored to do is to arrange those functions more logically, and to consolidate them to minimize schedule conflicts and fractionalization of policymaking.

### FEATURES OF THE REORGANIZATION

The accompanying reorganization package will reduce the number of Senate committees by more than one-half, from 31 to 15; reduce the number of Senator's committee and subcommittee assignments from an average of 18 to no more than 8; and realine committee jurisdictions for the first time in 30 years.

Under the reform plan, the present 31 standing, select, special, and joint committees will be reduced to 14 standing committees and 1 select committee, the recently created Select Intelligence Committee.

The select committee proposes new committees on energy and the environment, and for the first time consolidates responsibilities in such areas as transportation, human resources, science and technology, and international economics. The new Energy and Natural Resources Committee, based on the present Interior Committee, will centralize responsibilities presently scattered among some 14 committees, 1 select committee, 2 joint committees, and more than 40 subcommittees. The new Environment and Public Works Committee will handle responsibilities now distributed among a dozen Senate committees.

The 14 standing committees proposed by the select committee are: Agriculture and Small Business; Appropriations; Armed Services; Banking, Housing and Urban Affairs; Budget; Commerce, Science and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Governmental Affairs; Human Resources; Judiciary; and Rules, Administration and Standards. The newly created Select Intelligence Committee would be retained for the 95th Congress, during which its future status would be assessed.

The plan consolidates most human resources policies into a single, stronger committee. Senators' efforts are now dissipated in several committees, notably Labor and Public Welfare, Veterans' Affairs, and the Special Committee on Aging.

Governmental affairs will be handled by a committee of that name, merging jurisdictions now residing in such committees as Government Operations, Post Office and Civil Service, and District of Columbia. Similarly, new responsibilities for science and technology policy will be combined with the present jurisdiction of the Aeronautical and Space Sciences Committee to form a key part of a new Committee on Commerce, Science and Transportation.

The work of four temporary committees—Select Small Business; Select Standards and Conduct; Special Aging; Select Nutrition and Human Needs—will be consolidated in standing committees exercising legislative jurisdiction in those areas. At present the temporary committees are limited to studies and investigations and do not report legislation, often duplicating the work of parallel standing committees that do have legislative jurisdiction.

Joint Senate-House committees will be similarly consolidated with appropriate Senate standing committees, with vacancies on the joint committees filled by members of relevant standing committees pending concurrence of the House of Representatives on the future of joint committees.

Under the plan, Senators will be limited to membership on two standing committees and two subcommittees on each of these, and to one additional committee assignment with one subcommittee assignment, for an overall maximum of eight assignments. Membership on the Budget Committee and the Select Intelligence Committee would be exempted from the standing committee limit. At present, Senators serve on an average of 18 committees and subcommittees, and some hold 30 or more assignments.

The Senate's present 174 subcommittees would also be reduced to approximately 100 by provisions strictly limiting subcommittee assignments and chairmanships. Although scheduling of committee and subcommittee meetings will be facilitated by the reductions in the number of committees and subcommittees, the select committee also recommends a computerized scheduling service and a revised Senate workday that will concentrate floor debate and provide more time for committee and subcommittee meetings.

### A TIME FOR CHANGE

This is an important moment in the life of the Senate. Not for 30 years has there been a full-scale review of the operations of the Senate and its committees; nor in that time has there been a thoroughgoing plan for reorganizing the committee structure. Even in 1946—the occasion of the landmark Legislative Reorganization Act—the realinement that took place was primarily a consolidation of existing committees and a codification of committee responsibilities drawn from 19th century and early 20th century precedents. Thus, in a very real sense the type of reform being presented today by the select committee is unique in the history of this most unique of legislative assemblies.

In the years that have passed since 1946, our world has changed in wonderful and terrifying ways. Inevitably, events have outrun the committee system created in 1946. The legislators who labored on the LaFollette-Monroney Committee, which produced that act, could not possibly have predicted the shifts in congressional responsibilities and workloads that have occurred in the last three decades. Legislative topics which preoccupy us today—energy development and conservation, environmental protection, transportation planning, and human resources programs, to name a few—were only dimly perceived in the post-World War II years. As a result even the most careful reading of rules XXV, which governs committee structure and jurisdiction, yields but a fragmentary picture of the tasks now performed by Senate committees.

An extensive realinement of committee jurisdictions is needed to modernize the Senate's committee system. The Nation faces a new generation of problems that cut across old committee and agency lines; and the Senate has too often responded ineffectively, with committee jockeying for position and no effort to achieve cohesive solutions. Hardly a single major policy area now exists that is exempt from jurisdictional confusion, overlap, and even, upon occasion, conflict among Senate committees.

In the meantime, the Senate has witnessed a phenomenal proliferation in its committee work groups. After the 1946 Legislative Reorganization Act was enacted, there were 15 standing committees, 44 subcommittees, and 3 special or select committees. Today, the Senate has 18 standing committees with some 140 subcommittees, 6 select and special committees having 18 subcommittees. Counting joint committees, there are in 1976 no less than 32 full committees—standing, special, select, and joint—and 174 subcommittees.

Individual Senators' assignments have grown accordingly to the point where Senators are spread woefully thin in their committee work. In 1976 Senators on the average serve on 2.56 standing committees and 14.3 standing subcommittees. Counting all the committees, subcommittees, party bodies, panels, studies, and boards to which Senators are assigned, there are no fewer than 1,999 positions to be filled by 100 Senators—an average of nearly 20 assignments apiece.

During the 6 months that the select committee has studied and considered this problem, we have discovered a surprising consensus within the Senate for fundamental alterations in the committee system. The Senators who appeared during our hearings, the experts who testified, and most of the 75 key committee staff people who were interviewed by our staff testified eloquently to the difficulties of operating Senate committees efficiently or effectively under the present demands on Senators' time.

The select committee realizes that some Members may be reluctant to change the Senate's ways of doing things—perhaps because they mistakenly fear that they may lose the grasp they hold on some tiny segment of public policy through a committee or subcommittee jurisdiction. This is a shortsighted and parochial viewpoint. In our quite legitimate desires to gain for ourselves a "piece of the action" and an adequate complement of staff, we have succeeded in creating a monstrosity of fragmentation that is incapable of serving adequately the people who sent us here. We are dangerously overextended in our committee and subcommittee assignments. What Member of this body can say to the American people that he devotes adequate and concerted attention to the matters coming before all the committees, subcommittees, and other bodies to which he is assigned? How many of us could even name all the assignments we have, if we were challenged to do so?

We may find it gratifying to hold down memberships on so many committees, subcommittees, panels, and boards. But too often the result has been to render our daily schedules impossible to follow, and to dilute our influence over the problems that affect our constituents. The late Senator Everett McKinley Dirksen once remarked that he would need roller skates to make the rounds among all his committee meetings. Today, roller skates would not do the job. We are deluding ourselves, and the public, if we think we can adequately discharge the responsibilities we have set out for ourselves. We are, nearly all of us, like the little child in the candy store whose eyes are bigger than his stomach. We have bitten off too many responsibilities, and we cannot digest them.

Committee fragmentation not only dilutes our personal effectiveness as Senators, but it restricts the Senate's capacity to deal with public problems in a coherent, comprehensive fashion. Our legislative response to problems is too often a patchwork of partial solutions, written in conformity with our jurisdictional tangle here on Capitol Hill.

Some people believe that Senators should be specialists, devoting our attention to thorough review of a very few detailed matters. Others argue that we should be generalists, ranging widely among the diverse issues that affect our States. We are neither. We are compartmentalists; we have sliced our daily routines into superficial fragments, and we have divided and subdivided large problems into a host of committee cubbyholes. It is no wonder that there is little consistency or coherence to what we do here. Do we have anything that could fairly be called a "policy" in such fields as energy conservation, environmental protection, or health care? If we do, it would be hard to find evidence of it in our fragmented committee system.

No organizational structure can be effective for all purposes or all times, and no division of labor can wholly eliminate overlaps. However, a workable structure is one that concentrates action upon today's problems and allows enough flexibility to meet them and, at the same time, anticipate tomorrow's problems. That is the approach the select committee has followed in recommending this reorganization.

The work of every Senator suffers daily from the deluge of committee and subcommittee assignments, conflicts among committee meetings, and overlaps in committee jurisdictions. By better organizing the work of the Senate, we can enhance our effectiveness and at least insure that disorganization does not prevent the public's work from getting done.

### EXPEDITIOUS ACTION NEEDED

To give full details of the committee's report to the Senate, Senator Brock and I will submit with cosponsors a resolution incorporating the proposed alterations in Senate rule XXV, which deals with committee jurisdictions and assignments. We urge every Senator to study this plan carefully in the next few months, and we ask the Committee on Rules and Administration to take steps to facilitate bringing this matter before the full Senate at the convening of the 95th Congress. It is essential that the Senate have the opportunity to debate fully the question of committee organization, and unless we are to forgo reorganization for 2 more years it is imperative that this debate be scheduled at the earliest possible moment. Speaking for myself, I am prepared to take what steps may be necessary to insure that this debate takes place before our present organizational arrangements are locked into place for another Congress.

We approach this reorganization at a pivotal time in the life of Congress. Legislative prerogatives have been under attack, and citizen confidence in Congress is at a low ebb. It is therefore, imperative that the Senate examine carefully the health of standing committee system. As the LaFollette-Monroney Committee concluded in presenting their reorganization plan 30 years ago:

> We feel that there is nothing sacrosanct in the present arrangement of our committees. A study of the committee system of both Houses reveals that since the first Congress the committees have undergone many realignments and changes as conditions have demanded. As the "workshop of Congress" the committee structure, more than any other arm of the legislative branch, needs frequent modernization to bring its efficiency up to the requirements of the day.

Those sentiments, which guided this body more than a generation ago, apply with equal force to our present circumstances. We will do well to heed them.

## THE EXPORT ADMINISTRATION ACT

Mr. STEVENSON. Mr. President, time has about run out on one of the most important items of unfinished business before this Congress—legislation amending and extending the Export Administration Act.

This legislation deals with a number of critical questions, including foreign boycotts, nuclear proliferation, grain embargoes, controls on the export of strategic materials, and East-West trade.

These are difficult and delicate questions which have been dealt with responsibly by the legislative branch—and irresponsibly by the administration.

These are matters which require the exercise of statesmanship. But instead of statesmanship, the President of the United States is engaging in political gamesmanship.

It is a dangerous game.

Mr. President, legislation amending and extending the Export Administration Act has been passed by large majorities in both chambers. Conferees from both bodies have met informally and have resolved the differences in the measures passed by the Senate and the House. But the will of the Congress is now being frustrated by a parliamentary ploy aimed at keeping this legislation from being brought to a vote in the Senate. That effort is supported by the administration.

If it succeeds, this important legislation will have been sacrificed to political expediency. Once again, the President will have opposed in the Congress efforts which, in his campaign for reelection, he professes to support.

Mr. President, this bill contains realistic and workable provisions to strengthen the U.S. position on foreign boycotts. The legislation agreed to informally by the conferees blends the House and Senate measures and improves upon both. It would protect the rights of American citizens and the sovereignty of all nations—the United States, Israel, and the Arab States alike. It would prevent American companies from conspiring to boycott Israel while protecting the right of American businesses to engage in all legitimate trade with Arab States. It would prevent those states from enlisting American companies in their boycott of Israel without interfering with other nations' right to control their own economic relations with Israel.

This bill recognizes that the Congress cannot dictate Arab policy toward Israel. It reflects also a determination that the Arab States will not dictate American policy toward Israel.

Mr. President, this legislation deals with other important issues.

It deals realistically and forcefully with one of the greatest threats to mankind—the proliferation of nuclear weapons. It calls for action by the United States alone and by the United States in concert with the other nuclear powers to halt the spread of nuclear weapons-making capability. It is the first major legislation to be acted on by Congress in many years to deal with nuclear proliferation.

The bill contains a measure to protect American farmers and grain exporters from arbitrarily-imposed embargoes by permitting the Congress to override Presidential embargoes on agricultural sales abroad. It also permits agricultural commodities, once purchased for shipment abroad, to be stored in the United States without fear of embargoes against their shipment. Both measures are of importance to American farmers and the American economy.

The bill also contains measures to expand U.S. trade with Eastern Europe and the Soviet Union while at the same time improving our ability to prevent transfers of strategic materials to adversaries. In the ebb and flow of détente this is of crucial importance to improved relations with the Soviet Union, to the expansion of our economy, and to the protection of our national security.

Mr. President, the decision to block this legislation not only deprives the President of tools to deal with these sensitive and vital issues, it means that the Export Administration Act itself will expire. This will mean an end to the authority under the act to control sales of strategic materials to the Soviet Union and other nations. It will mean an end to the President's ability to protect the American economy from shortages of vital commodities. And it will even mean an end to the only law which declares it to be U.S. policy to oppose foreign boycotts and gives the President the power to deal with boycotts.

Once again the will of the Congress has been blocked. Not by veto, as has often been the case in the past, but by a parliamentary stratagem aimed at keeping important legislation from even being put to a vote. This disregard for the will of an overwhelming majority of the House and the Senate reflects a fundamental insensitivity to issues of vital importance to the United States.

Mr. President, in order that the Members may better understand the provisions of this legislation, I ask unanimous consent that a summary be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

### SUMMARY OF EXPORT ADMINISTRATION LEGISLATION TITLE I

The bill extends the Export Administration Act to provide for a two-year extension of the Act, through September 30, 1978.

### EXPORT CONTROLS FOR NATIONAL SECURITY PURPOSES

#### *Factors to be considered*

The bill amends Section 4(b)(1) of the Act to provide that in administering export controls for national security purposes, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate.

#### *Review of national security controls*

The bill requires that the President periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of the factors mentioned above.

#### *Reports to Congress*

The bill provides that the results of the review mentioned above, together with the justification for United States policy in light of such factors, be included in the semi-annual report of the Secretary of Commerce required by this Act, beginning with the report for the first half of 1977 and every second report thereafter.

#### *Review by the Secretary of Defense*

The bill provides for review by the Secretary of Defense of exports to any nation to which exports are restricted for national security purposes if the export will make a significant military contribution to the military potential of such nation. The Secretary of Defense is authorized to recommend to the President disapproval of any export to any country to which exports are controlled for national security purposes if the export will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such nation.

### COMMODITY CONTROL LISTS

#### *Review of unilateral and multilateral controls*

The bill provides for a detailed review of both unilateral and multilateral export controls and for a report to be submitted to Congress within 12 months of enactment.

#### *Foreign availability*

The bill amends Section 4(b) of the Act to make it clear that the policy that goods freely available elsewhere are not to be controlled for national security purposes unless it is demonstrated that the absence of controls would prove detrimental to U.S. national security. The nature of such evidence is to be included in the semi-annual report to Congress. Where controls are imposed for national security purposes notwithstanding foreign availability, the President is to initiate negotiations with foreign countries for the purposes of eliminating such availability.

### SIMPLIFICATION OF EXPORT CONTROLS

The bill provides for a review of export control lists and regulations aimed at seeking ways to simplify and clarify both export control lists and export regulations and rules. The report is to be submitted to Congress within 12 months.

### EXPORT OF TECHNICAL INFORMATION

#### *Reporting and monitoring technical agreements*

The bill provides that any person (including an educational institution) entering into a contract, protocol, or other understanding, involving the transfer from the United States of technical information to any country to which exports are controlled for national security or foreign policy purposes shall furnish such documents and information as the Secretary of Commerce shall require to enable him to monitor the effects of such export on the national security and foreign policy of the United States.

#### *Study of exports of technical data*

The bill amends Section 4 of the Act by adding a new subsection (j)(2) that requires a specific study of the problem of the export, by publication or other means of public dissemination, of technical data which may prove detrimental to the national security or foreign policy of the United States. A report is required within 6 months on the impact of such exports; the report shall include recommendations for monitoring such exports.

### ACTION ON EXPORT LICENSE APPLICATIONS

#### *Period for approval*

The bill strengthens the language in Section 4(g) to confirm the intent of Congress that any export license application required under the Act be approved or disapproved within 90 days of receipt. If it is not acted upon, it shall be deemed approved and the license issued unless the applicant is notified in writing of the specific circumstances requiring additional time and the estimated date of decision.

#### *Opportunity to respond*

The bill amends Section 4(g) to provide that whenever an export license application is to be referred to any multilateral review process, the applicant shall be given an opportunity to review any documentation to be submitted for the purpose of describing the export in order to determine whether such description is accurate.

The bill further provides that if any export license application is not acted upon within 90 days, the applicant shall, to the maximum extent consistent with U.S. national security, be specifically informed in writing of questions raised and negative considerations or recommendations made by any Government agency and shall be given an opportunity to respond thereto.

#### *Reasons for denial of license*

The bill requires that an applicant whose export license is denied must be informed in writing of the specific statutory basis for the denial.

### TECHNICAL ADVISORY COMMITTEES

#### *Term of industry representatives*

The bill amends Section 5(c)(1) of the Act by lengthening the term of industry representatives on the technical advisory committees from 2 to 4 years.

#### *Role of technical advisory committees*

The bill makes it clear that technical advisory committees are to be consulted, when they have expertise, with respect to technical matters, worldwide availability, licensing procedures, and multilateral controls.

#### *Use of recommendations*

The bill requires that each semi-annual report include an accounting of the consultations undertaken with technical advisory committees, the use made of their advice, and their contributions to carrying out the policies of the Act.

### EXCLUSION OF CERTAIN PETROLEUM PRODUCTS FROM EXPORT LIMITATIONS

The bill contains a provision exempting petroleum products refined in either U.S. foreign trade zones or Guam from short supply export controls unless the Secretary of Commerce finds that such products are in short supply.

### PENALTIES FOR VIOLATION

The bill amends Section 6(b), providing for penalties for exporting to a Communist-dominated nation in violation of the Act, by replacing "Communist-dominated nation" with "country to which exports are restricted for national security or foreign policy purposes."

### INTERNATIONAL TERRORISM

The bill amends Section 3 of the Act by adding a new paragraph (8) stating that it is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territory or resources to aid those persons involved in acts of international terrorism. To achieve this objective, the President is directed to make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

### EXPORT OF HORSES FOR SLAUGHTER

The bill amends Section 4 of the Act to add a new subsection (k) to prohibit the exportation by sea from the United States of horses for the purpose of slaughter.

### CONGRESSIONAL VETO OF EXPORT CONTROLS ON AGRICULTURAL EXPORTS

The bill amends Section 4(f) of the Act to provide that if export controls are imposed on any agricutural commoditiy for foreign policy purposes, they shall cease if the Congress within 30 days passes a concurrent resolution of disapproval.

### NUCLEAR POWERPLANTS

The bill prohibits the use of foreign assistance funds to finance any nuclear power plant under an agreement for cooperation.

### TRAINING OF FOREIGN NATIONALS

The bill contains an amendment to Section 4(j) of the Act requiring a Presidential study of the training of foreign nationals within the U.S. in nuclear engineering and related fields to determine where this contributes to nuclear proliferation. A report is required within 6 months of enactment.

### AUTHORIZATION FOR APPROPRIATION

The bill adds a new Section 13 to the Act to provide that, beginning with fiscal year 1978, no appropriation may be made for export administration expenses unless previously and specifically authorized.

### AVAILABILITY OF INFORMATION TO CONGRESS

The bill amends Section 7(e) of the Act to provide that the confidentiality provisions of the Export Administration Act do not authorize the withholding of information from a Congressional committee or subcommittee.

### SEMI-ANNUAL REPORT

The bill amends Section 10 of the Act by adding a new subsection (c) specifying the kinds and types of information which is to be included in each semi-annual report to the Congress.

### SUNSHINE IN GOVERNMENT

The bill adds a new section to the Act which requires annual disclosure statements by each Commerce Department employee who has policy making responsibilities relating to export administration and who has any known financial interest in any person subject to, licensed under, or otherwise receiving benefits under the Export Administration Act. Criminal penalties are required for knowing violations. Annual reports to Congress are required from the Secretary of Commerce.

### NUCLEAR PROLIFERATION

The sections on nuclear proliferation are in two parts, one dealing with the international effort to control the spread of reprocessing, enrichment, and heavy water technology and the other with unilateral controls over United States nuclear agreements and licenses with the objective of limiting the ability of non-weapons states to possess strategic quantities of readily fissionable material.

The bill calls upon the President to seek agreement among nuclear exporting nations:

(a) to terminate exports of enrichment, reprocessing, or heavy water production facilities while alternatives to national facilities are being pursued;

(b) to refuse to export nuclear materials and technology to countries which do not accept international safeguards;

(c) to establish minimum physical security standards;

(d) to establish arrangements for sanctions in the event of violations of any international agreement to control the use of nuclear materials and technology;

(e) to pursue the concept of multilateral fuel facilities; and

(f) to establish arrangements for appropriate response, including the suspension of transfers of nuclear equipment, material, or technology, to any non-nuclear weapons country which has detonated a nuclear explosive device or which has embarked upon a nuclear weapons program.

The President is to report progress to Congress within one year of enactment.

Additionally, the bill permits agreements for nuclear cooperation or amendments to or renewals thereof, only if:

(a) provisions of the agreement apply to all weapons-grade nuclear material produced by a reactor transferred under such an agreement, and

(b) the recipient country agrees to permit the IAEA to report to the United States on the status of all inventories of weapons-grade nuclear material under IAEA safeguards possessed by that country.

The Secretary of State is to seek to amend existing agreements accordingly and to obtain from recipient countries reports on weapons-grade nuclear material not under IAEA safeguards. No license is to be issued in the absence of a pledge against use for any explosive nuclear device.

Finally, permission to a party to an agreement for nuclear cooperation to reprocess special nuclear material through the use of U.S.-supplied material or equipment, can only be given upon determination by the Secretary of State that detection and timely warning of diversions will occur well in advance of the time at which that party could transform strategic quantities of diverted nuclear material into explosive nuclear devices.

### TITLE II

#### *A. Prohibitions*

Subject to rules and regulations issued by the Department of Commerce it would be a violation of the Export Administration Act to do any of the following with intent to comply with, further, or support a foreign boycott or restrictive trade practice against a country which is friendly to the United States and is not the object of any U.S. embargo:

1. Refrain from doing business with any U.S. person or person doing business in the United States.
2. Refrain from employing or otherwise discriminating against persons of a particular race, religion, or national origin.
3. Furnish information regarding a person's race, religion, or national origin.
4. Refrain from doing business with any person other than the boycotted country or its nationals.
5. Refrain from doing business with the boycotted country or its nationals pursuant to an agreement with, requirement of, or request from or on behalf of any boycotting country. The mere absence of a business relationship with or in the boycotted country or its nationals would not constitute a violation of the above.
6. Furnish information about whether the person does, has done, or proposes to do business with the boycotted country or its nationals or with any other boycotted person.

#### *B. Exceptions to prohibitions*

The above general prohibitions would not apply to:

1. Compliance with import rules prohibiting import of goods from boycotted country or its nationals or shipment of such goods on carrier or boycotted country or via route prescribed by boycotting country.
2. Compliance with import and shipping document requirements with respect to name and route of carrier and identity of supplier and country of origin of the goods.
3. Compliance with export requirements of boycotting country with respect to transshipment.
4. Compliance by individuals with immigration requirements of boycotting country.
5. Refusing to honor letters of credit where beneficiary fails to comply with requirements thereof, except where such compliance would be a violation of the law.

#### *C. Scope of coverage*

Above prohibitions and reporting requirements would apply to (1) U.S. persons (defined as individuals plus corporations organized under U.S. law); (2) U.S. controlled subsidiaries and affiliates; and (3) persons doing business in the United States with respect to their business in the United States.

The test of control would be control in fact: Does the parent in the ordinary course of business control the activities or determine the policies of the subsidiary?

#### *D. Enforcement*

Enforcement would be by Commerce Department administrative process in accordance with the APA. Rules and regulations to be effective within 3 months of enactment. Existing agreements must be brought into compliance 3 months after effective date of regulations.

#### *E. Disclosure*

Exempted from public disclosure would be information regarding the quantity, description and value of any goods to which the boycott report relates if the Secretary of Commerce determines that disclosure thereof would place the person reporting at a competitive disadvantage.

Charging letters or other documents initiating enforcement proceedings would be made public.

## ERISA'S SECOND ANNIVERSARY: RECOGNITION OF SENATOR WILLIAMS' VITAL ROLE

**Mr. JAVITS.** Mr. President, this past Labor Day was the second anniversary of the Williams-Javits Employee Retirement Income Security Act of 1974.

First, I wish to commend my coauthor HARRISON A. WILLIAMS, JR., whose position as chairman of the Senate Labor and Public Welfare Committee expedited passage of this landmark pension reform statute which affords protection to millions of workers and their families covered by private pension and health plans. Chairman Williams' strong leadership of the Senate Labor Committee was essential to the passage of ERISA which is the first Federal pension reform law in our country's history.

Industrial pensions began in America more than 100 years ago, and in the last 25 years, they have enjoyed enormous growth. Today, more than 30 million American workers and their families are relying on private pension and health plans as a major source of economic security in old age. Yet, until 2 years ago the phenomenal growth in pensions had been largely unregulated. While the absence of legal requirements helped promote growth of the private system, the resulting plans set up difficult and sometimes insurmountable obstacles to employees.

In 1967, I introduced the first pension reform bill. In 1969, Senator Williams and I asked the Senate to conduct an indepth study of pension plans in the United States. Senator Williams was selected as chairman of the study. In 1971 after 3 years of intensive work, the Senate pension plan study revealed that of all those who had been employed, and were covered under pension plans, and had left that employment over the preceding 20 years, only 5 percent would ever receive any benefits under their plans. This revelation came after numerous witnesses including those from Ballantine in Newark, N.J., with the countless tragic stories of being in their late forties and fifties losing their pension rights because of plant shutdowns, transfers, store closings, and pension fund terminations.

The intent of the major reform legislation we introduced in 1973 was to produce a Federal check on the private pension system in this country so that workers would not be faced with the prospect of retiring after a lifetime of work to poverty because their pension rights had been taken away or lost.

After 2 years of work on this complex legislation which received approval of four committees of the Congress, it became law on September 2, 1974.

ERISA affords to plan participants and their beneficiaries unprecedented, uniform Federal protection in several areas. To list but a few:

Participation requirements describe whether and when workers may be covered by a pension plan. Generally, ERISA sets minimum requirements, which once met, provides that a worker cannot be excluded from coverage under the pension plan for any reason.

Vesting means the point at which rights to a pension cannot be taken away. Under ERISA workers will be assured of receiving pension benefits based on service when they reach retirement age.

ERISA's funding requirements establish how a pension plan will acquire the money it needs to pay benefits. The funding requirements assure that at some future date all pension plans will be able to meet the benefits level for each retired worker.

ERISA established strict standards of duty for those who administer pension plans. In general, a plan must be established and operated for the exclusive benefit of workers and their families. ERISA also sets down a number of prohibitions on the way in which a plan's funds may be used. The law strictly prohibits an administrator from using the plan's money for his own interest.

ERISA has accomplished a number of other things that will assure that workers will not be left without benefits upon retirement. There is a provision which offers special protection to a surviving spouse when a pension plan provides for a retirement benefit in the form of an annuity. ERISA creates the Pension Benefit Guaranty Corporation to insure benefits will be paid in the event that a pension plan terminates without sufficient funds to pay vested benefits.

Finally, under ERISA workers are protected by certain reporting and disclosure requirements. In addition to annual financial reports and plan descriptions which a plan must file with the Government and make available to workers and their families, every worker is entitled once a year to request the administrator of a pension plan for a status report on vesting and benefits.

The original pension bill we introduced contained a portability provision which permitted an employee to be able to accumulate pension credits from one job to another and eventually combine them to earn a higher, single pension. Chairman Williams and I believe that this is an issue which deserves the most serious consideration.

Two cases have recently come to our attention as a result of the committee's oversight activities. A Teamster, who now resides in California, writes that after having worked in the industry for 38 years, he applied for a pension. He has been advised that under the pension plan negotiated by his current local he is entitled to ony $33 a month in pension benefits because the plan does not recognize his years of service under the jurisdiction of his former Teamster local located in New York.

Another example: An attorney writes that his client receives a pension in an amount approximately 40 percent of the value of what he would be entitled to if he had worked his 22 years under the jurisdiction of a single plan.

We are also concerned that the 10-year vesting provisions in ERISA leaves too many American workers uncovered because of job mobility. An employee could work in one industry for a number of years but never stay with one employer 10 years so as to vest in any pension plan. At the end of his or her career, there will be no pension.

Finally, one of the most successful ERISA features is the PBGC pension termination coverage. However, such coverage is not afforded to terminated health and welfare plans. Chairman Williams has raised with me two recent items called to the committee's attention which dramatize the plight of those victimized by health plan terminations.

First, on June 28, 1976, hundreds of persons receiving welfare health and life insurance from the New Jersey State Brewery Employees Fund received notification that effective July 1, 1976, these benefits were terminated. Second, on July 21, 1976, the New York Times carried a guest column written by a young attorney describing the situation faced by her parents. Her father had counted upon a construction union negotiated welfare plan to cover his family's health insurance needs in his retirement, only to be notified that, due to construction industry conditions, his benefits were terminated. Meanwhile, the family had just learned that her mother will soon be required to undergo serious cancer surgery. The newspaper column is headlined: "No One Expected This God to Fail."

None of these improvements in ERISA will be inexpensive. However, this same argument was made in opposition to the original reforms established in ERISA. Few can quarrel with the position that the cost of those ERISA reforms has been far outweighed by the deprivation and tragedy which have been avoided and the new security and dignity which has been gained by over 30 million workers.

## COLOR TELEVISION INDUSTRY SUFFERING FROM UNFAIR FOREIGN COMPETITION

Mr. SCHWEIKER. Mr. President, the survival of the U.S. color television industry and its employees is now threatened by a tremendous increase in the flow of imported sets into the United States. Most of these imports are coming from Japan, and their manufacture is being subsidized by the Japanese Government in a variety of ways.

At stake is a $2 billion industry and at least 65,000 jobs directly connected with it throughout the United States.

Mr. President, the American color television industry is not afraid of fair foreign competition. In this case, however, competitive conditions are not equal for all participants. From 1966 to 1975 imports of color television sets gradually increased from about 5 percent of our market to about 18 percent. In 1976, however, the situation is entirely different. Imports for the first half of 1976 are double those of the comparable period in 1975. Labor and industry experts predict that at least 18,000 job opportunities will be lost to American workers because of this latest substantial increase.

In these patterns, history is repeating itself. In the last decade we have witnessed the demise of the American black and white television industry. Virtually the entire domestic market has been lost to foreign imports. A similar fate awaits our color TV industry and its workers if action is not taken soon.

My own State has a large stake in this matter. Six manufacturing facilities are located in Pennsylvania, along with hundreds of workers represented by the American Flint Glass Workers, the Glass Bottle Blowers, the United Auto Workers, the International Brotherhood of Electrical Workers and the International Union of Electrical Workers.

A large group of companies and labor unions have now formed a coalition called COMPACT—the Committee to Preserve American Color Television—to fight for fair competition in the industry. Individual members of this organization have filed a petition for import relief with the International Trade Commission under section 201 of the Trade Act of 1974. Their goal is not an end to foreign imports but only realistic limits on their numbers. They seek a return to fair competitive conditions.

Mr. President, I strongly support the effort to save this vital industry and its jobs and hope the ITC will act favorably on their request.

## SPANISH-SPEAKING PROGRAM

Mr. HASKELL. Mr. President, on September 16 the National Council of La Raza, a Chicano civil rights organization, and IMAGE, a national Spanish-speaking government employees' organization, released a report entitled Cinco Años Después: A preliminary Critique of the Sixteen Point Spanish Speaking Program Five Years After Its Creation.

This report is most enlightening. It calls into question the effectiveness of Federal efforts to give the Hispanic community parity in the Federal employment system.

Mr. Gil Chevez, national president of IMAGE, said:

> Since 1970, when the "Sixteen Point Program" was initiated, to the end of 1975, the total employment of full-time Federal civilian Spanish-speaking employees has increased only one-tenth of one percent (.001) of the total federal full-time work force.

Raul Yzaguirre, national director of the National Council of La Raza, stated,

> The Nation's Hispanic community has lost $2.6 billion in income as a result of discrimination in Federal employment during the last three years, according to preliminary findings of an analysis of the Federal Spanish Speaking Programs.

These two statements, coupled with the conclusions in the report, indicate that efforts in this area have produced few results. The Hispanic community has measured the results of efforts on their behalf and found them wanting, despite all the good intentions and rhetoric of the past 5 years. I personally am saddened by these conclusions.

I know that many of my colleagues and those who read the record of our debates did not have an opportunity to study this report and weigh its conclusions. I ask unanimous consent that it be printed in the RECORD for their consideration. In conclusion, may I thank the National Council of La Raza and IMAGE for their efforts in producing this report and bringing it to our attention. Their efforts are most commendable and deserve our attention on behalf of those we represent.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

### CINCO AÑOS DESPUÉS: A PRELIMINARY CRITIQUE OF THE SIXTEEN POINT/SPANISH SPEAKING PROGRAM FIVE YEARS

(By the National Council of La Raza, Raul Yzaguirre, National Director, September 16, 1976)

#### BACKGROUND

In 1964, the Civil Rights Act provided the second largest minority group with a ray of hope. In November 1970, President Nixon launched a Sixteen-Point Program, through a press release, to increase the number of Hispanic employees in the Federal Service.

The Sixteen-Point Program functions as part of the government-wide EEO Program under the authority of Executive Order 11478 on Equal Employment Opportunity, the Equal Opportunity Act of 1972, and the President's official statement of November 5, 1970. The U.S. Civil Service Commission's Federal Personnel Manual (FPM) Letter No. 713–18, dated January 23, 1973, requires agencies to take specific actions in this EEO area, including the appointment of Sixteen-Point Program Coordinators. It is now known as the Spanish Speaking Program.

The need for such a program was evident, but the necessity for immediate action was particularly underscored by the issuance of the November 30, 1969 Civil Service Commission Report on Minority Group Employment in the Federal Government. This report showed that of the more than 2.6 million Federal civilian workers only 2.8% were Spanish surnamed. Moreover, most of them were concentrated in the lower grade levels and blue collar positions.

The Hispanic representation in the Federal Service was not enough to adequately sensitize the massive bureaucracy to the needs and problems of the Hispanic community, much less to provide solutions to them. Therefore, in addition to the obvious objective of the program—to increase Hispanic employment in the Federal Service—it was also expected that by increasing the number of Hispanics in the Federal Service, the Hispanic community would benefit from the sensitivity to its problems and needs, the Hispanic hires would bring to Federal Government.

The figures being presently released by the U.S. Civil Service Commission depict a perfunctory improvement with respect to the Federal employment of Hispanics. Nearly five years of "special emphasis" have elapsed and Hispanic representation in the Federal work force has not yet increased by one full percentage point, nor have the problems and needs of the Hispanic community been adequately met. On November 30, 1975, data was compiled for minority group representation in the Federal work force by the Civil Service Commission. This date also marked the five year lapse of the Sixteen-Point Program.

#### INTRODUCTION

The seriousness of the problems that the Spanish speaking citizens of this nation face cannot be understated. They have traditionally suffered from discrimination, inadequate education, unemployment, and underemployment, in the administration of justice, but they are suddenly remembered when wars break out.

We must realize that the Spanish speaking in the United States are projected to be the nation's largest minority within a decade. Using various statistical references, we conservatively estimate the nation's Spanish speaking to number about 16 million people, exclusive of the residents of Puerto Rico and excluding other Spanish speaking whose legal status is in question. Former Special Assistant to the President on Hispanic Affairs, Fernando C. de Baca has stated that if the total population of Spanish speaking in the United States were to be considered as a separate nation; that nation would be the fifth largest Spanish speaking country in the world. It is safe to state that Hispanic representation in Federal Government will not reach the 3.8% mark, (Hipanic population of 16 million is approximately 6% of the total population of the United States) which would represent a full percentage point increase from 1969 figures. The need to analyze the Spanish Speaking Program five years after its creation clearly exists.

There needs to a critical look to find out what impact it has made. At the current state of increase according to IMAGE, a National Hispanic Government employee group, the Hispanic community will be able to boast by the year 2035 that they have finally reached parity. That is a sad statement when one considers that the Federal work force, with a two and a half million employees and approximately 13% tournover rate hires close to half a million employees annually (451,000).

By hiring the population parity figure (6%) for five years, which should happen if discrimination does not exist in the Federal Government with respect to Hispanic hiring, parity in the Federal work force would be reached by the year 1980. The government's policy of equal opportunity in the future seems to capriciously resemble the Hispanic stereotyped adage of "Manana"—but tomorrow never comes. The implementation of Equal Opportunity by the government obviously lacks something, when even with special emphasis directed at only one area, employment the inequality persists.

Even with the supposedly positive impact of the existing Spanish Speaking Program, we find that Hispanics are only trickling into the Federal Government.

#### CINCO AÑOS DESPUÉS (FIVE YEARS LATER)

Cognizant of the need to begin to document the impact of the Spanish Speaking Programs, the National Council of La Raza (NCLR) initiated the Cinco Años Después (CAD) project in June of 1976. The NCLR's CAD project is part of a larger effort to inject the essence of accountability by the federal bureaucracy to the nation's Hispanic constituency.

Initially, the CAD project found that even though the Spanish Speaking comprised 3.2% of the Federal work force, they only represented 0.6% of the policymakers for the government in General Schedule positions GS–16, 17, and 18. However, in the Wage System (Blue Collar jobs), or in those General Schedule positions earning less than $10,000 (GS–1 to 6 inclusive) the Spanish speaking made up 6.1% of the Wage Systems employment. Over 60% of Hispanics in Federal Government are found at the bottom of the totem pole, the six lowest paying positions in Civil Service.

The number of Hispanics who have found their way into managerial, policy-making, personnel, budget, and other positions which influence the decision making processes of the Executive Branch are few. Much of the gains made by the Spanish Speaking have been in the Equal Employment Opportunity (EEO) area. These gains have been in effect, front office window dressing non decision making positions by agencies which play with numbers to simulate progress.

The myth that agencies could not find any qualified Hispanic gave way to Spanish Speaking coordinators identifying qualified Hispanic applicants who were subsequently not hired.

Hispanic spokespersons have continually endorsed the concept of the Spanish Speaking Program, consequently it becomes imperative that a hard look be taken at its effectiveness.

TABLE 1.—PERCENT SPANISH SPEAKING IN FEDERAL WORK FORCE, 1973-75 [1]

| Year | Total civilian full-time Federal work force | Total Spanish speaking in civilian full-time Federal work force | Percent of Spanish speaking in total civilian full-time Federal work force |
|---|---|---|---|
| 1973 | 2, 788, 000 | 76, 351 | 2.7 |
| 1974 | 2, 866, 000 | 79, 546 | 2.8 |
| 1975 | 2, 822, 000 | 79, 970 | 2.8 |

[1] Full statistics are only available for these years.

Sources: Minority Study: Civil Service Commission—1976.

TABLE 2.—PERCENT OF TOTAL SPANISH-SPEAKING CIVILIAN FULL-TIME SALARIES OF TOTAL FEDERAL CIVILIAN FULL-TIME SALARIES

| Year | Total Federal civilian payrolls | Total Spanish-speaking payroll | Percentage, 32 |
|---|---|---|---|
| 1973 | $34, 474, 000, 000 | $769, 695, 000 | 2. 233 |
| 1974 | 37, 590, 000, 000 | 932, 756, 000 | 2. 481 |
| 1975 | 40, 699, 000, 000 | 1, 543, 000, 000 | 3. 791 |

Source: Manpower Information Center of the Civil Service Commission—1976.

Table 2 shows that from 1973 to the end of 1975 the total Spanish-Speaking Payroll increased by 1.6% of the total federal payroll. One might conclude that minimal as this increase is, it nevertheless indicates progress. There was an increase in Spanish Speaking coordinators; however, very few were decision-making positions. At present there are only two Spanish-Speaking persons who function in the position of Director within the EEO field.

There is a tendency within the Federal bureaucracy to "take care of your own first," and it seems a fallacy to expect non-Hispanics to give priority to the entry of Hispanics into the policy-making levels of the bureaucracy.

This is reflected in the difference between the average medium salaries of Spanish-Speaking employees when compared to the average median salary for the total federal work force.

TABLE 3.—COMPARISON OF MEDIAN SALARIES OF SPANISH-SPEAKING FEDERAL EMPLOYEES TO MEDIAN SALARIES OF FEDERAL TOTAL WORK FORCE

| Year | Median salary for Federal work force | Median salary for Spanish speaking | Amount Spanish-speaking employees is underpaid | Amount Spanish-speaking as a group are underpaid |
|---|---|---|---|---|
| 1973 | $12, 365 | $10, 181 | $2, 284 | $17, 438, 568 |
| 1974 | 13, 115 | 11, 726 | 1, 389 | 11, 048, 939 |
| 1975 | 14, 121 | 12, 549 | 1, 572 | 12, 571, 284 |

Source: Manpower Information Center of the Civil Service Commission.

Viewing Table 3 we see that a Spanish-Speaking federal employee compared with the median salary of the total Federal work force was underpaid an average of $2,284.00 in 1973, $1,389 in 1974 and $1,572 in 1975. We can only conclude from such figures that the Spanish-Speaking federal work force are concentrated in the lower pay grades.

When you take the amount that a Hispanic government employee is underpaid and multiply it by the total number of Latinos in the federal work force, we find that as a group the Nation's Hispanic government employees are underpaid millions of dollars every year. In addition to not being adequately represented in the total federal work force, we find that the Spanish Speaking who manage to enter government employment despite obstacles, is being underpaid.

TABLE 4.—CONSUMER PRICE INDEX 1964-75

| Year | All items (1967=100) | All items (1975=100) |
|---|---|---|
| 1973 | 133. 1 | 82. 6 |
| 1974 | 147. 7 | 91. 6 |
| 1975 | 161. 2 | 100. 0 |

Source: Economic Report of the President, January 1976, p. 220.

TABLE 5.—CONVERTING DIFFERENCE UNDERPAID SPANISH SPEAKING TO 1975 CONSTANT DOLLARS

| Year | Total actual dollar difference | 1975=100* factor (all items) | 1975 dollars |
|---|---|---|---|
| 1973 | $17, 438, 568 | 0. 826 | $21, 112, 067 |
| 1974 | 11, 048, 939 | . 916 | 12, 062, 150 |
| 1975 | 12, 571, 284 | 1. 00 | 12, 091, 464 |

Source: Economic Report of the President, January 1976, p. 220 (Consumer Price Index 1973-75).

Using the Consumer Price Index 1973-1975 to convert the difference underpaid Spanish Speaking to 1975 dollars, we discover in Table 5, that for the period 1973-1975, that Hispanics in government jobs, as a group, were underpaid a grand total of $45,265,681.00. Tables 1 through 5 indicate that in addition to being underrepresented in the federal work force, the Spanish Speaking as a group are underpaid.

According to the data presented in Table 6, the Spanish Speaking Community lost $2.6 billion in economic buying power as a direct result of their underrepresentation in the Federal Government's work force between the years 1973 and 1975. During this period of time, the total Federal civilian payroll was approximately $113 billion dollars and the Spanish origin population, according to the U.S. Bureau of the Census data, represented approximately 5.2 percent of the total population.

If we assume that the Spanish Speaking should receive that portion of the total Federal civilian payroll equal to their representation in the United States; then this group should have been the recipients of $5.8 billion. However, the actual Spanish Speaking payroll receipts between 1973 and 1975 were $3.2 billion or a difference of $2.6 billion.

TABLE 6.—TOTAL DOLLAR VALUE LOST BY SPANISH-SPEAKING COMMUNITY AS A RESULT OF UNDERREPRESENTATION IN THE FEDERAL WORKFORCE: 1973-75

[Dollar values in millions]

| Year | Total Federal civilian payroll | Percent Spanish origin population [1] | Entitlements based on percent Spanish origin population | Actual Spanish-speaking payroll | Actual dollars lost |
|---|---|---|---|---|---|
| 1973 | $34, 474 | 5. 1 | $1, 758 | $770 | $988 |
| 1974 | 37, 590 | 5. 2 | 1, 955 | 933 | 1, 022 |
| 1975 | 40, 699 | 5. 3 | 2, 157 | 1, 543 | 614 |
| Total | 112, 763 | | 5, 870 | 3, 246 | 2, 624 |

[1] Percent Spanish origin is based on U.S. Bureau of the Census figures which many national Spanish-speaking organizations view as being conservative due to underenumerations during the 1970 census count. Based on a 16,000,000 numerical value, the Spanish origin population would represent 7.4 percent of the total U.S. population in 1975.

### CONCLUSIONS AND FUTURE ACTIVITIES OF CINCO AÑOS DESPUÉS

Our preliminary findings lead us to conclude that at best the Spanish Speaking Program has been a holding action, and at worst, a deliberate attempt by the policy making levels of the federal government to circumvent legislative mandate. The program sometimes reminds us of a car stuck in the mud and spinning its wheels; there is an awful lot of activity, but the car seems to go nowhere.

Based on these findings, the Cinco Años Después project does have some place to go in the future. The NCLR's belief that government should be accountable to its constituency, prompts us to continue the project.

The National Council of La Raza in cooperation with other Hispanic organizations including IMAGE, will be conducting an ongoing assessment of the Spanish Speaking Program. More specifically Cinco Años Después will:

1. Request data, under the Freedom of Information Act, from Federal Departments and Independent agencies in order to review the concrete results of their Spanish Speaking Program.

2. Be looking at the key employment areas in the Federal Government. The project will focus on positions in the financial, personnel, and legislative areas as well as other positions in the decision making process.

3. Identify those federal departments and independent agencies whose record indicates they have paid only lip service to the Spanish Speaking Program concept.

4. Request government employee groups such as the American Federation of Government Employees to co-operate with the NCLR's Cinco Años Después project and in increasing the representation of Spanish Speaking in the Federal work force.

5. Make our future findings known to heads of departments and agencies.

6. Present our findings at department or agency budget hearings.

7. Make the Nation's Hispanic community aware of our findings.

The National Council hopes that its concern over the underrepresentation of Spanish Speaking in the federal work force will be shared by the heads of federal departments and independent agencies. The Council further hopes that their concern be expressed in positive actions that will result in a substantial increase of Spanish-Speaking employed in policymaking positions in the areas of personnel, budget, and legislation.

Perhaps, with renewed commitment in action from the federal government, the Spanish Speaking of the United States will not have to wait until we are well into the 21st century before they have finally begun to reach parity.

If the federal government really wants to make equal employment a reality in its own backyard, we know they can do so. If it is really serious in its commitment to Spanish Speaking, it is conceivable that parity for Hispanics in the Federal work force could be reached by the year 1980.

That would be a worthwhile objective for future Administrations; however, the big question remains, "Do they (Federal Government) really want it to happen."

## INTERNATIONAL ORGANIZATIONS STUDY

Mr. RIBICOFF. Mr. President, I would like to tell the Senate of the progress members of the Committee on Government Operations are making in a survey of U.S. participation in international organizations. This survey is examining the effectiveness of the specialized agencies of the U.N. and other similar organizations whose work does not involve national security matters. The survey will also examine the effectiveness of American participation in these organizations.

To my knowledge, this study is the first comprehensive Senate inquiry into U.S. participation in these international organizations since the Government Operations Committee conducted a similar survey in the years 1948 to 1951. The shape of the world has changed since 1951, and with it the shape of the international organizations. Yet, since 1951 there has been no across-the-board examination of many of the fundamental issues and questions underlying U.S. policies toward the 70 to 100 international organizations in which we now are members.

Increasingly the developing world is seeking to reshape the nature and purpose of many of these international organizations to their development needs. Increasingly some countries seem to want to use the international organizations for irrelevant political purposes.

There are now over 280 international organizations of all kinds. One study by the Union of International Associations predicts that if the current trend continues, there will be 450 intergovernmental organizations in the world by 1985. The Library of Congress estimates 89 international organizations alone have some interest, in a greater or lesser way, in food, agriculture or nutrition.

Among the specific questions our study will address are these: To what extent is there duplication among international organizations and how can it be reduced? Are there organizations whose purposes have changed so much that we no longer receive sufficient benefits to justify our financial obligations? Have some international organizations become obsolete? Does the United States receive adequate information to evaluate the policies and programs of the international organizations? What methods do these organizations have for evaluating the effectiveness and efficiency of their own programs? What standards of planning, programing, and budgeting are used by the organizations? To what extent has the work of different international organizations been politicized and what can the United States do to combat this problem? Are Americans adequately and fairly represented in the secretariats of various international organizations? Does our Government have clear-cut aims and objectives it is pursuing in each organization? How adequate are the mechanisms to coordinate our policies toward international organizations? Are changes needed in our governmental structure to help promote our policies more vigorously?

This spring the committee sent a questionnaire to each of some 39 Federal departments and agencies that participate in the making of U.S. policy toward some 70 intergovernmental organizations. Fourteen agencies alone participate in our involvement in the United Nations Educational, Scientific, and Cultural Organization, 18 in the Organization for Economic Cooperation and Development. The responses and other material collected by the committee are now being analyzed. I hope that the committee will be able to hold initial hearings early in the new session of Congress.

I particularly appreciate the fine work that is being done on this study by Senators PERCY, JAVITS, and ROTH. Senators PERCY and JAVITS are members of the Foreign Relations Committee as well as the Government Operations Committee, and they bring to our study years of experience in international affairs. Senator ROTH has been actively working on this study from the beginning. He is a former member of the House Foreign Affairs Committee and has remained closely interested in foreign policy issues as a member of the Trilateral Commission and advisory bodies for the Georgetown Center for Strategic and International Studies and the Foreign Policy Program at the Brookings Institution.

I hope a number of other members of the committee will be able to become actively involved as the work proceeds.

In connection with this study, the senior Senator from New York (Mr. JAVITS) and I recently visited the headquarters of a number of important international organizations in Geneva and Rome, including the Food and Agricultural Organization, the International Labour Organization, and the World Health Organization. These meetings, as well as our meetings with American mission personnel, were extremely informative to us. We will be reporting in greater detail on our discussions at a later date.

Mr. PERCY. Mr. President, I want to compliment the chairman of the Government Operations Committee, Senator RIBICOFF, for taking the time to comment recently on the study the committee is undertaking of U.S. participation in international organizations. This study will be a major task of the committee in the upcoming Congress.

I also want to thank Senator ROTH and Senator JAVITS for the time they have already devoted to this study and for their willingness to assume an even heavier workload in the future.

The Government Operations Committee is attempting to look at international organizations from two perspectives. First, how well is each organization fulfilling the mandate and the responsibilities with which it has been charged? Second, what are the benefits to the United States of participation in each organization and how well is U.S. Government policy coordinated with respect to our participation in each organization?

On the first question of organizational effectiveness, preliminary evidence indicates that in the case of some organizations, they have shifted emphasis and are no longer emphasizing in their work the original responsibilities given to them. This is not necessarily bad, but we should know clearly what each organization is doing.

Evidence also indicates that there is increasing overlap in the international system among various international agencies. To the extent this occurs, there is either wasted effort, wasted funds, or both.

From the standpoint of U.S. participation in international organizations, the answers received from U.S. Government agencies to the questionnaire the committee sent out are most interesting. In a number of cases, agencies and departments of the U.S. Government have different ideas as to the value of a particular international organization and even differ on what they think the organization should be doing. I personnally am acquainted with this problem from hearings I conducted earlier this year on U.S. participation in the Food and Agricultural Organization. In that case, both the State Department and the Department of Agriculture are involved in policy formulation toward the FAO and often the two differ on what they feel the FAO should be doing and what the policy of the United States ought to be toward the FAO.

Mr. President, I am impressed by the breadth of the inquiry being made by the Government Operations Committee. This is not just a scatter-shot approach to one particular problem but an attempt to have a vigorous overview over international organizations in general and U.S. policy toward them. As more and more important decisions are being made in international forums, I think it is vitally important for the Congress to reassess our country's role in international organizations.

Again, I commend Senators RIBICOFF, ROTH and JAVITS for the work they have already put into this effort and I look forward to working with them intensively in the future on our continuing studies.

Mr. JAVITS. Mr. President, as the Senate knows, the Senate Government Operations Committee has embarked upon an important and timely review of the effectiveness of U.S. participation in international organizations. It is appropriate as we reach the closing days of the 94th Congress to examine briefly the extent of the committee's work to date. It constitutes an impressive beginning.

I believe that the initial work on this project undertaken by Chairman RIBICOFF, Senator PERCY, Senator ROTH and myself has paved the way for the effective resolution of many questions which predicated the committee's initiative at the outset. In the course of study missions to Rome and Geneva this summer, undertaken by Senator RIBICOFF and me, we individually interviewed many United States and international officials involved in the administration and operation of the World Health Organization—WHO, the International Labor Organization—ILO, the United National Fund for Drug Abuse Control—UNFDAC, the Food and Agricultural Organization—FAO, the World Food Program—WFP, the World Food Council—WFC, and the General Agreement on Tariff and Trade—GATT.

The basic information gathering vehicle which was developed for this study is a comprehensive questionnaire covering the entire range of questions relating to the nature and effectiveness of 72 international organizations, as well as the extent and effectiveness of U.S. participation in these organizations. It was sent to all U.S. departments and agencies which are involved in the participation of the United States in, and the coordination of the activities of international organizations.

With the help of the international organizations bureau of the State Department, the responses have been collected. The committee staff, with the help of the Library of Congress is now analyzing this material. The committee expects to develop for the first time a precise and usable body of data setting forth basic information about each international organization, its budget, its personnel, its hiring practices, its ability to coordinate and evaluate programs and the procedures for U.S. policy formulation and execution within this system.

Pursuing our Nation's many and diverse interests in literally scores of multilateral forums of all kinds is an important responsibility which appears to be fragmented throughout several departments and agencies.

While the overall U.S. contribution to the total budget of these international oganizations and their programs has increased dramatically, it appears that our general level of effectiveness needs to be appraised, also. By examining the new forces operating in the major international arenas, particularly the U.N. specialized agencies, the committee hopes to develop answers to the perplexing problems of organization and impact which plague many international organizations.

While we seek to examine the nature of this community of organizations, and to strengthen their capabilities and the participation of the United States therein, we must also count the tide of growing interdependence among nations. We must continue to work with the nations of the world as we seek to alleviate, and hopefully to solve the great problems confronting all peoples today: economic development, peacekeeping, environmental pollution, lack of family planning, energy resources, and human rights.

An interim report outlining the preliminary findings of the committee respecting its analysis and evaluation of the data obtained will be followed by committee hearings next year. I look forward to continuing to work on this important project with Senators RIBICOFF, PERCY and ROTH.

Mr. ROTH. I commend the chairman of the Government Operations Committee for taking the initiative in making this study of U.S. participation in international organizations. A comprehensive overview of U.S. policy in this area is badly needed. I am very pleased that the chairman and Senator PERCY, the distinguished ranking minority member, asked me to play a leading role in this project.

In my mind, this study represents congressional oversight at its best. We did not begin by pretending to know the answers, but rather by asking the kind of questions that will help us evaluate the activities of the international organizations themselves on the one hand and the quality of U.S. participation in them on the other hand. We are asking each of the U.S. departments and agencies involved to demonstrate what the U.S. interest is in participating in the various international organizations, and we are seeking ideas on how our policy can be strengthened in those organizations for which we have a continuing national interest in participating.

International organizations have become an important part of our foreign policy in recent years. In 1939, the United States was a member of 19 intergovernmental organizations; now the number is somewhere between 75 and 100, depending on what is defined as an international organization.

It is clear that international organizations are essential to the realization of many goals of U.S. foreign policy, including such objectives as developing a common position in the developed world for combating oil embargos and petroleum price increases, ending international trafficking in narcotic drugs, conserving fishery resources and whales, maintaining the kind of healthy international monetary and trading systems that contribute to U.S. economic growth, establishing an effective code of conduct for multinational corporations, and many more.

At the same time, they have become an expensive part of our diplomacy, costing more than $2 billion a year when contributions to development banks are included. It certainly behooves the Congress to get a firm grasp on how this money is being spent and whether it is being spent wisely.

There may well be an analogy between the situation of international organizations today and that of the Federal domestic assistance programs 10 years ago when I became a member of the House of Representatives. The catalog I put together at that time identified each program and showed the areas of overlap as well as the programs which were obsolete. At the same time, it provided the public with a systematic source of information on the domestic programs that they were funding and which were available for their use.

I hope that in a similar fashion the Government Operations Committee study will provide a coherent overview of the activities and programs of international organizations and identify areas where savings might be made. I also hope the study will provide the interested public with greater information on international organizations and help make these organizations more accountable to member governments and their publics for their programs, budgets, and personnel policies. Obviously, this is a big challenge because international organizations are composed of independent, sovereign governments, many of which have very different ideas of what these organizations should be doing.

From our own Government's perspective, we should have a clear idea of our aims and a vigorous policy of pursuing those aims. If an organization has strayed so far from what our objectives are that it is no longer in our national interest to participate, we should identify, as in the case of the International Labour Organization, those changes that would be necessary for us to continue as a member. If these changes were not made, then we should not hesitate to withdraw.

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## PRODUCTS LIABILITY AND WORKERS' COMPENSATION LEGISLATION

Mr. WILLIAMS. Mr. President, the recent attention that has been directed to the products liability crisis has resulted in the accumulation of data which shows that certain legal doctrines concerning employer liability for industrial accidents must be seriously reexamined and questioned.

Many industrial accidents are caused by the employer's failure to maintain a safe workplace, that is, failure to guard properly or service complicated machinery or failure properly to instruct and monitor his employees in the safe operation of that machinery.

What this means in human terms is a situation in which unsafe work practices in unsafe workplaces maintained by unsafe employers are causing American employees to suffer severe physical injuries and economic costs. But the employer invariably escapes liabilty, because in most States, employers who have met their workers' compensation obligations are insulated from further legal attack by either the injured employee or the machinery manufacturer due to the restrictive exclusivity provisions of these same workers' compensation statutes.

Mr. President, the increase in product liability suits faced by many American businesses does not lend itself to neat and simple solutions. It is a multifaceted problem, and I recognize that the workers' compensation relationship and related problem of contribution and subrogation is but one aspect of the overall crisis. Nevertheless, the Senate Subcommittee on Labor and Public Welfare has examined these matters with serious concern, and we intend to consider remedial legislation as early as possible in the next session of Congress.

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## SSI

Mr. HATHAWAY. I am pleased that the Senate has been able to act on these important amendments to the supplemental security income program this session. The amendments are all substantially contained in H.R. 8911, passed by the House on August 30 by a vote of 374 to 3. I am optimistic that the Senate's quick action on many of the provisions of this House bill will insure their acceptance before the end of this session.

My particular interest has been in the provisions which I offered to the Finance Committee which implement the SSI program for low-income, disabled children. Children have been eligible for SSI since the 1972 amendments, and have been eligible for the referral and services provided in section 1615 of the Social Security Act. Regrettably this eligibility for children has not been so meaningful as it should have been.

Section 501 of H.R. 10210 implements present provisions of law in order to make them of value to disabled and poor children. Section 501 provides a program of referral, counseling, and individual service plans and monitoring which are appropriate for all poor and disabled SSI eligible children. Additionally, an entitlement program of services for children 6 and under, or children who have not yet been in school and in need of preschool preparation is established. One of the most important aspects of section 501, however, is the requirement that HEW promulgate criteria applicable to children under the age of 18. These criteria are to be appropriate for determining disability as it is defined in section 1614 (a) (3) of the Social Security Act for such persons under the age of 18.

Although the program for children has been part of the Social Security Act since 1972, criteria for determining children's disabilities have not yet been published. Section 501 insures that criteria will be developed so that all of the current definition of disability may be implemented; criteria are to be developed both for the determination of a medically determinable mental or physical impairment, and for the determination of the comparable severity of the child's disability in terms that are relevant to a child.

Mr. HATHAWAY. This test of comparable severity for a child's disability is required in current law. Like the test for determining the disability of an adult, a disability is not determined solely on medical grounds but also includes an evaluation of the impact of the disability on the person's abilities. In the case of an adult, that impact is looked at in light of his ability to engage in substantial gainful activity; the child's disability is to be looked at in terms of the comparable severity of its impact. Vocational ability, however, is clearly not a relevant test for determining the impact of a disability on a child. The assessment, rather, should refer to the impact of the child's handicap on his ability to function successfully within age-appropriate expectations. The child's functional capacity within the areas of learning, language, self-help skills, mobility and social skills are decidedly more meaningful in determining both the severity of the impairment and the developmental potential of the child.

Medical criteria used in the broad sense of the total health development of the child could indeed provide the basis for determining the comparable severity of a child's disability. Medical criteria which are restrictively drawn, or related to whether or not the child will be able to be gainfully employed at some point in the distant future are not going to provide a definition of disability relevant to the person under the age of 18. A test of comparable severity is needed and is required in the present definition of disability for such persons; but it should be based on tests relevant to a child, to his social and educational development, rather than to try to relate it directly to his future vocational potential, which may not be able to be determined with any degree of objectivity in any case.

For example, a child may have a severe medical disability which may, in childhood, be able to be brought under control through proper treatment. If the medical disability is indeed brought under control through such treatment, the child may no longer be considered to be eligible for SSI payments and services. That child, however, may have missed months or even years of school as a result of the disability, and may not have had the opportunity to develop normal social or verbal skills because of lack of contact with the normal educational processes available to a child. He may, indeed, be far behind normal developmental expectations for a child of that age.

If there is no intervention at this stage, and needed services are not provided that child, then he may well not be able to develop the skills needed to become a productive adult despite the theoretical ability of the child to do so. Without early intervention designed to enable the child to become a productive adult, the cycle of disability, failure to develop to potential, and a future of welfare dependency may never be broken.

Breaking this cycle of dependency is the underlying purpose of section 1615 of the Social Security Act, by providing vocational rehabilitation for SSI eligible individuals. Vocational rehabilitation is of assistance to disabled adults. Early intervention for children, however, offers the best hope of avoiding the cycle altogether, and is the most cost-effective means of fulfilling the underlying purpose of this section of the Social Security Act. The first step in this early intervention is identification of the children who need and can benefit from assistance geared toward overcoming the impact of their disabilities on their age-related development. To do such identification, criteria which can be applied in a uniform manner need to be available from HEW. This is what this amendment to the SSI program requires; that HEW develop the appropriate criteria for determining the eligibility of disabled, poverty-level children for SSI payments and assistance.

Appropriate assistance and services given to a child in the early stages of a disabilty greatly increase the opportunity for lessening or in some cases even reversing the child's disability, enabling him to become a self-sufficient adult, no longer dependent upon welfare or SSI as a means of support. The potential payoff of this type of early intervention in both human and financial terms is substantial.

Second, this amendment to the SSI program for children requires that the State plans provide for the appropriate referral, counseling, development of individual service plans, and monitoring for all children ages 0 to 16. At present, all individuals eligible for SSI are referred to the vocational rehabilitation programs for services. While this may be the appropriate referral for an adult, vocational programs may well not be relevant for a younger person. It is my understanding, in fact, that children under the age of 13 are simply not referred, and those over 13 are generally not provided services until they reach the age where they may be able to enter the job market. Yet HEW feels that at present they do not have the authority to require more appropriate referrals for children under 16. Section 501 gives them that authority by requiring that children under 16 be referred to one identifiable unit which is appropriate for serving the needs of disabled children. In most cases this may well be the office administering the crippled children's programs; in others, the Governor may determine that there is another more appropriate agency, and if that determination can be supported in the State plan, the referral will be to that alternative agency.

Following referral, sound case management, including individual service plans for these children under 16, is required to be provided for in the State plans. This will insure followup of the referral, and determination of the services appropriate to that particular child's needs.

Finally, section 501 provides for a 100-percent Federal entitlement for State agencies both for the cost of the identification of all children eligible for SSI benefits, the necessary first step in implementing the program, and also for the provision of services to those children age 6 and under or children who are not yet in school and require preparation in order to enable them to take advantage of public educational programs. Up to 10 percent of the funds may be spent by the State for the costs of referral, counseling, development of individual service plans, and monitoring for all children.

This primary targeting of funds on younger, preschool children so far as direct services are concerned, reflects two decisions: first, this is the area where the fewest resources are presently concentrated; and second, early intervention has the most potential for enhancing the child's later ability to become a self-sufficient adult. These younger children are additionally the most difficult to identify; they are not in school, they are poor, and their disabilities may just be beginning, making immediate diagnosis less likely.

Although the program is a 100-percent Federal entitlement, there are several limitations on the cost of this program. First, the program is initially established for 3 years, a time sufficient to permit it to become operational and to permit review by Congress, HEW, and the States for any needed changes in its implementation. Second, there is a provision to prohibit the use of these funds to supplant State funds; the purpose, of course, is to insure that additional services are provided, rather than simply changing the funding source for existing services and programs. Provision is also made that these funds be spent only on the incremental cost of providing services to the disabled child; this refines the idea of maintenance of support. The purpose of this provision is to insure that money is actually used to provide services to disabled children; and to prevent the possible situation whereby the State has an ongoing or even newly established preschool program, refers some SSI children to it, and then funds the entire program with the moneys provided under this section. The cost of the special services for the SSI disabled children could be paid for from these funds as incremental cost; the entire program cost for all the children could not, however, be funded with these moneys.

Finally, although the program is an entitlement to the State agencies, there is an overall $30 million limitation on the amount of the entitlement available for each of the 3 years of the program. This is, I should note, above the HEW estimate of the first-year cost of the program which is $18.5 million. It is likely that in the beginning funds will be spent primarily on the identification of children eligible for this assistance. The assurance, however, that there will be adequate Federal funding for States which undertake the responsibilities of this program should be an incentive to the States to participate fully in identification, case management, and the provision of services required under this section. This incentive is most important in the third year of the program, by which time the States should be in a good position to provide the needed services to all of the children who have been properly identified and for whom service plans have been developed.

The potential for this program for reducing welfare and SSI costs over the long run is great; as is the potential for improving the future for several thousands of disabled and poor children who are not now receiving the assistance and services which they need. I am pleased that the Senate has included this improvement in the SSI program for children and look forward to its enactment this session.

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## LADY LIBERTY REMEMBERS

Mr. LAXALT. Mr. President, this being our Bicentennial Year much has been written about the people, places, and things that have played a role in the shaping of our history. I doubt, however, that anyone has written a more eloquent work capturing the hopes and dreams of our forefathers—the American immigrant—than Mr. Thomas Mulroy of Las Vegas, Nev. His sensitive handling of the complex multitude of feelings shared by the settlers and builders of the United States is skillful and beautiful poetry. I commend the following poem "Lady Liberty Remembers" to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

### LADY LIBERTY REMEMBERS

(By Thomas A. Mulroy)

I'm glad that I have been here, a witness to the past.
When first I looked across the sea, I wondered, "Will it last?"
This land of hope and promise, this America of mine,
Its fibre must be strong and clear to met the test of time.
I've seen them come, from many lands, with hope, but little more.
They came to ask me, could they, please, pass through the golden door.
They carried bags and baskets containing all their needs,
And those whose hopes were in the earth brought special planting seeds.

I saw them come, from far off lands, many different creeds and races.
I saw them first, when they saw me, I saw all those different faces.
I saw them smiling through their tears, the love-light in their eyes.
"We're here!" I heard them say, with thanksgiving in their sighs.

I wanted so to beckon them, to reach them with my arms,
To say, "I know you'll find your dreams, in our cities, shops or farms."
I had love to give then, though I was made of stone
And they felt that love, they needed it; they were fearful and alone.
By the legions they kept coming, Germans, Slavs and Poles,

Bringing all the different customs from their many different roles.
They gazed upward to the torch I held; I wished that I could smile,
To give the tired comfort, to bid them rest awhile.

Among those huddled masses, yearning to breathe free,
Were the wretched sons and daughters of Spain and Italy.
I noted, too, the strength of some; my land they would enhance,
Young married folks with children, from Denmark, Greece and France.
They came from other distant shores around the Baltic Sea,
The Irish Sea and Black Sea and the Mediterranean, too,
And they came from many cities; I remember just a few.
There was Leningrad and Glasgow, Cairo and Trieste,
There was Odessa, Copenhagen, Bucharest and Brest.

They came to seek a future, a new land to be their home.
They left behind their tears and ties, in Dublin, Prague and Rome.
On they came, these legions, these tempest-tost to me.
I'm Liberty; I loved them all, and their yearning to breathe free.

My Lamp aloft, it was their light, beside the golden door,
And may I enjoy my treasure another hundred years and more.
And if some day I turn around, to gaze upon my land,
I'll ask of all I welcomed. "Did you give a helping hand?"

I'll gaze across, from shore to shore, from Florida to Maine
To see if all my sons and daughters are worthy of my name.
They call me Lady Liberty; the meaning is quite clear,
There is no room for bigotry, there is no room for fear.
So, I say to you, America, let not your purpose lag;
Let all our hearts be swelled with pride
When they unfurl our flag.

## RESOLUTION TO REORGANIZE THE SENATE COMMITTEE SYSTEM

Mr. BROCK. Mr. President, in the Jefferson era Congress was one of three equal branches. As Jefferson wrote:

> The Federal Government was so divided and balanced among several bodies of magistracy that no one could transcend their legal limits without being effectively checked and restrained by the others.

Today we introduce a resolution that helps move us closer to the real world of our forefathers.

In recent years, significant legislation has helped Congress reassert its proper constitutional responsibility. Both the Congressional Budget and Impoundment Control Act of 1974, the first major congressional reform bill since the Legislative Reform Act of 1946, and Senate Resolution 60, which provided personal committee staff for all Senators, instituted reforms that have resulted in more effective congressional action. I am proud to have authored both measures. The resolution that I am substituting today, along with Senator STEVENSON and many other Senators, is taken from this same mold.

Let me remind you that the Constitution is fully adequate to protect the Congress. It created Congress as a coequal branch. We are the people's branch, the representative branch; and if we are incapable of reform, then we don't have anybody to blame but ourselves. If the Congress wants to have adequate authority, it has got to reform itself. That means something must be done about the committee system in which there are little baronies of power—people collect them over a period of time, totally insulated from the rest of the world. If we do not face these fragmentations of functions and scattering of responsibilities, then we are not going to be able to face anything else.

We, the Congress, must lead the way toward massive reorganization within the Federal Government. Both Presidential candidates have promised to reorganize the executive branch. Our example, committee reorganization, will serve as the basis for eliminating fiefdoms and providing for a more efficient and effective Congress and Executive. We cannot continue to pass the buck and criticize unless we are willing to face up to reorganization of the Senate committee system.

A brief review of the history of our efforts seems appropriate. In early 1973, Senator MATHIAS and I introduced Senate Resolution 89, cosponsored by Senators CRANSTON, JOHNSTON, JAVITS, PERCY, THURMOND, DOMENICI, CLARK, BIDEN, and TUNNEY. This resolution would have established a select Senate committee to study, and recommend changes in the committee system within the Senate. It was promoted by the establishment of a similar committee earlier that year in the House under the leadership of Congressmen BOLLING and MARTIN and the warm reception committee reorganization received during ad hoc hearings on congressional reform held in December of 1972 sponsored by Senators MATHIAS and STEVENSON. On May 9, 1973, Senators STEVENSON, HATHAWAY, INOUYE, and METCALF introduced a resolution, Senate Resolution 113, which emanated from the deliberations of these Senators as members of a special committee of the Senate Democratic Policy Committee.

Both resolutions flowed from a strong belief by the Senators that the current committee structure encumbered the conduct of the Nation's business. The move to create a special Committee on the Budget, along with the other numerous proposals for special and select committees, new standing committees and subcommittees, and so forth, reflect the felt need to reexamine the whole committee structure of the Senate. Another reason for these proposals was the emergence of critical new issues in subject areas—such as energy, environment, the overall budget, and international economics—which were not focused upon when the Senate's committee structure was last reviewed.

Senator STEVENSON and I joined forces and held a discussion with the joint leadership on December 14, 1973 after which we prepared a letter proposing a new resolution combining the major features of our previously introduced resolutions. Unfortunately, no action was taken during the 93d Congress.

Early in the 94th Congress, 2d session (1976), Senator BENTSEN and I convened the steering committee of the senatorial classes of 1968, 1970, 1972, and 1974—freshmen Senators—to discuss Senate committee reform. This group strongly supported Senator STEVENSON'S and my resolution to establish a temporary select committee to study the Senate committee system which had been introduced on March 11, 1975. After discussions with the leadership of the Senate, hearings were held by the Rules and Administration Committee and they issued a report on March 30, 1976. The Senate adopted Senate Resolution 109 the same day.

It has been 6 months since the select committee was established. Over 40 separate hearings, meetings or markup sessions have been held. Three staff reports totaling over a thousand pages have been produced. Thus the resolution we are introducing today rests on thorough consideration of all major committee reform issues.

One of the prime problems that we face in our effort to achieve an efficient and economical committee system in the Senate is the tremendous excess of subcommittees. As my colleagues are painfully aware, Senators are so overloaded with committee and subcommittee meetings that they cannot attend all of the meetings or devote sufficient time and energy to their committee responsibilities. It is not uncommon for a member to be expected to be at four meetings at once.

As the first staff report of the select committee shows, the total number of standing committee subcommittees has more than doubled in the last 30 years, increasing from 49 in the 80th Congress to 122 in the 94th Congress. When we add the ad hoc subcommittees, the study groups, and subcommittees of the select and joint committees, the total number of subcommittees at present is 174. This increase means that Senators, on the average, are assigned to 14 subcommittees. Indeed, there are some Members who serve on more than 20 subcommittees in the Senate. In 1975, the Senate was in session for 178 days. During this same period, there were 2,196 meetings of committees and subcommittees. In other words, there were 12.3 meetings for every day in which the Senate was in session. The situation is simply intolerable.

In my judgment, Mr. President, this resolution will be welcomed by Members of the Senate because it proposes a major reduction of subcommittees, almost 40 percent to be precise. Members would be limited to eight assignments under this proposal, five subcommittee assignments and three committee assignments. This reduction will not only reduce scheduling conflicts and make it possible for Senators to meet their committee responsibilities, but will also produce other benefits in terms of efficiency, wasted time and resources.

The proposed resolution would abolish all of the select and special committees except the new Intelligence Committee and shift their functions to one of the standing committees. The staffs on these committees, I remind my colleagues, are at present costing the taxpayers hundreds of thousands of dollars.

If adopted, this resolution will bring about a greater distribution of power in the Senate, and it will give us a more democratic Senate, bringing us closer to the constitutional principle of equal representation among the States. It will also save the taxpayers a great deal of money, and encourage better oversight with a view toward more responsible Government.

There has been a great deal of public discussion this year about the need to reduce the size of Government and reorganize the Federal bureaurcacy. We hear calls from both sides of the aisle for regulatory reform. We all share these aspirations. No one favors bureaucracy. But if we are truly interested in reducing the bureaucracy and restoring power to the people and to the States, then it seems to me—and I am addressing the Members of the majority party in particular—that such reform must begin here in the legislative branch. If we cannot get our own house in order, then we are hardly in a position to condemn the Chief Executive for not undertaking reform of the executive branch.

The proliferation of subcommittees is, of course, only one of many problems which this committee is examining, and I wish to assure my colleagues that matters affecting the rights of the minority party, the fantastic growth of Senate staffs, and the alarming increase in expenditures to operate the Senate will also be forthrightly addressed. Realining the jurisdiction of the standing committees is merely the beginning, not the end, of senatorial reform.

On the question of staff, there are at least two issues: There are too many and too few are assigned to Members of the minority party. The growth of the congressional bureaucracy has become one of the major scandals of the day. At present, there are 1,295 Senate committee employees.

Appropriations for the U.S. Senate have skyrocketed. Indeed, since 1970, they have doubled, from $54,813,126 to an estimated $127,359,475 in 1976. Of this $127 million, $8.9 provides for the staffing of standing committees and the Select Committee on Small Business. This figure does not include the costs of staffing most of the Senate subcommittees and special investigation units, which amount to $18.7 million and are financed primarily from the contingent fund of the Senate. Some of these subcommittee staffs, such as the permanent investigations subcommittee of the Government Operations Committee, which numbers approximately 37 persons at present, are larger than the staffs of many of our regular standing committees.

During the next 3 months, the select committee welcomes comments on the committee reform proposal that we are introducing today. A careful review will be made of every observation be it suggestive or a critique.

We are asking that committee reform be taken up as the first order of business in the 95th Congress. If we delay, committee reorganization will not be possible until 1979. Delay would be tragic! Therefore, we are insisting as strongly as we know how, that the Senate face up to committee reform in early January 1977.

Let me quote what I have said about committee reform proposals:

> In looking at the various committee reform proposals, we should remember the warning of Edmund Burke—that not all change is reform—and ask the following question: does the proposal tend to weaken or strengthen the committee system? That is, does it promote bicameralism, independence of the executive, Senate control over its committees, deliberation, protection of the minority and compromise? If the answer is no, such a proposal should be viewed with skepticism. It may actually be no reform at all.

I believe that the resolution that is being introduced today will strenghten the committee system. It will promote a more balanced House-Senate relationship. It provides a structure for greater congressional independence of the executive. Better management of committee business will be possible. And minority rights have been protected.

Committee reform will take place in January 1977! The question in my mind is how effective will the reform be? I believe that the select committee has provided the Senate with excellent information about the committee system. Careful review has been given to the various systems. It is now time for the full Senate to turn its attention to reorganizing the committee system.

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### A URANIUM PRODUCERS' CARTEL?

Mr. PERCY. Mr. President, the Justice Department is now investigating evidence indicating the possibility of an international uranium producers' cartel. Document made available to the Justice Department show that a cartel may have been fixing prices and limiting production over the past 4 years. Such a conspiracy could explain in part the sevenfold increase in uranium prices from $6 per pound in 1972 to the present price of $45 per pound. The potential power of this cartel to control the price of a fuel as vital to America's energy needs as uranium could have grave consequences for the United States.

As the central raw material of nuclear reactors, uranium must be readily available if the United States is to rely to any significant degree on nuclear power in its effort to achieve the goal of energy independence from foreign oil supplies. However, the formation of a uranium producers' cartel similar to the Organization of Petroleum Exporting Countries, OPEC, could ruin all hope of energy independence before the end of this century. The artificially high uranium prices and the constant threat of a uranium embargo inherent in a cartel would jeopardize the U.S. energy supply from nuclear reactors.

In light of the possible existence of a uranium cartel, one might argue that we should reevaluate the nuclear reactor program, perhaps halting all further research and development in this area. However, the nuclear reactor provides an important interim supply of energy until renewable energy sources can be fully researched and developed commercially. The United States will need increasing amounts of readily available and inexpensive uranium for these reactors. In a freely operating world market, competition would insure ample supplies of uranium at economical prices.

A uranium cartel could well be destroying that free market. The evidence of the Justice Department investigation indicates that a cartel may be fixing prices and artificially limiting production, with each member company being assigned a certain percentage of the fixed total uranium output. Further evidence indicates that there may be rigged bidding rules to insure high prices as well as a policy of not dealing directly with companies which manufacture nuclear reactors. The alleged cartel includes companies from Canada, South Africa, Australia, and France. Representatives of the governments of these four countries may well be participating in the activities of the uranium producers' organization.

The U.S. Government must act quickly and effectively to put an end to any possible uranium cartel. The policies of willful price fixing and artificially low production which this organization could effect would destroy a sector of the free enterprise system, a system which has enriched this Nation both socially and economically. Honest and open business relations in the world economic community are crucial as we enter the era of limited resources and international interdependence. The world cannot tolerate secret agreements between producers of essential raw materials or collaboration between these companies and their respective governments in monopolistic activities.

I commend the Justice Department for its investigation of the allegations that a uranium cartel may exist. I trust that the grand jury inquiry into this matter will be conducted with diligence and tenacity. It must be a cardinal tenent of U.S. policy that international cartels designed to artificially control production and fix prices of basic raw materials be vigorously opposed.

I would like to draw the attention of my colleagues to an article on the matter of a possible uranium cartel, which appeared in the September 2 issue of the Chicago Tribune. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### UNITED STATES PROBING ALLEGED URANIUM CARTEL

(By Casey Bukro)

What if a group of producers cornered the world market on uranium?

It may sound like the plot of a television thriller because uranium, the fuel of nuclear power plants, is the world's leading hope for cheap and abundant energy.

But the United States Justice Department has spent more than a year investigating the alleged existence of a cartel that:

Caused the price of uranium to soar sevenfold, from $6 a pound in 1972 to $45 a pound and more now.

Put a stranglehold on America's dream of energy independence through nuclear power.

Raised the threat of a uranium embargo as powerful as the one imposed on oil in 1973 by the Arab countries.

Played a role in sending Westinghouse Electric Corp. to the brink of financial ruin through uranium price manipulations.

Gained the support of the Rothschilds, financial backers of European kings and one of the richest and most powerful families in the world.

Cloaked in deep secrecy, investigators are scanning American and foreign uranium companies for possible antitrust violations that include uranium pricing, actions that could hamper price competition, and agreements to limit production.

"Justice conducted an investigation for six months before deciding to bring the matter before a federal grand jury," said Mark Sheehan, a Justice Department spokesman in Washington.

Sheehan would not discuss the findings but noted, "Our investigation convinced us there was sufficient information to seek a grand jury investigation"—which he described as "just beginning."

The federal grand jury issued subpoenas to more than a dozen U.S. companies, including "uranium mining outfits and major oil companies that have been getting into the uranium business.

Less binding "letters of inquiry" were sent to foreign firms.

Justice would not identify the companies subpoenaed, but the financial press has reported that they include such mining firms as Atlas Corp., Phelps Dodge Corp., United Nuclear Corp., and Anaconda Co. Also reportedly served were oil companies, including Kerr-McGee Corp., Exxon Corp., Standard Oil of Ohio, Continental Oil, and Gulf Oil.

Uranium producers accuse the Justice Department of going on a "fishing expedition," maintaining that rapidly climbing mining costs justify uranium price increases.

The stakes are high. Under federal criminal antitrust law, a firm can be fined up to $1 million for a violation and individuals can be fined up to $100,000 and imprisoned for three years.

But to do that, Sheehan explained, the Justice Department must prove a felonious conspiracy, a secret agreement between competitors or a restraint of trade.

"Conspiracy is one of the most difficult crimes to discover or expose," he emphasized.

The federal grand jury was quietly searching in that direction when the case exploded into public view Monday with charges by five California energy officials that they had documents describing the existence of a uranium producers' cartel involving all major foreign uranium suppliers.

"The United States seems to be confronted with a uranium OPEC (Organization of Petroleum Exporting Countries) which fixes prices, rigs bids, and controls supplies," the California officials charged in a joint statement in Sacramento.

"This uranium cartel would severely hamper our energy independence, and may make this country as vulnerable to a cutoff of uranium supplies as it was to the Arab oil embargo."

Cartel countries and companies accounted for 97 percent of the world's uranium production in 1975, they charged.

Worldwide, there are 485 nuclear power units in operation, under construction or ordered.

The U.S. has 61 commercial nuclear reactors in operation. Late in 1974, the U.S. government lifted an embargo against uranium imports intended to protect domestic suppliers.

The U.S. is the largest uranium consumer in the free world.

Because of a world economic slump and a rare drop in energy use, the U.S. nuclear industry suffered, its worst year in 1975 since 1969. Construction on 23 reactors was canceled and 125 were delayed.

The documents outlining the alleged conspiracy were first uncovered in Australia by Friends of the Earth, an environmental group, which gave them to the Californians. The Californians relayed them to the Justice Department, saying such a cartel could force Americans to pay billions of dollars in higher energy prices.

"Personally, I'm outraged," said Ronald Doctor, California state energy commissioner, one of the officials. "We have been given a line of facts on how a nuclear commitment is the answer to the Arab oil embargo."

Doctor said he could not vouch for the authenticity of the documents but believes they are genuine. He said he favors a reappraisal of the U.S. commitment to nuclear power, raising still another challenge to the growth of atomic energy in this country.

The nuclear industry already is under heavy attack on questions dealing with nuclear safety, safe disposal of radioactive wastes, and nuclear economics.

The documents trace the formation in 1972 of a "uranium producers club" during a meeting in Johannesburg, South Africa. It allegedly consisted of uranium producers from Australia, Canada, France, and South Africa.

The group supposedly took the name of the Uranium Institute in 1975 and established a base in London. The federal grand jury investigation is focused on this institute, its officers, and members.

U.S. uranium producers reportedly shun Uranium Institute meetings, according to a nuclear trade magazine, because American organizations "are still worried about the antitrust implications of such get-togethers."

The grand jury subpoenas are said to ask specifically who attended the 1972 meeting in Johannesburg and a meeting of a nuclear trade group named the Atomic Industrial Forum in Oak Brook, Ill., in March, 1973.

Key features of the alleged cartel described in the documents include:

Explicit fixing of prices and allocation of world uranium markets.

Emphasis on secrecy.

Percentage quotas for producing groups from each of the four nations.

Detailed bid-rigging rules.

Participation by government representatives of the four countries.

A policy against dealing directly with manufacturers of nuclear reactors, such as General Electric and Westinghouse.

One of the more damaging passages cited in the hundreds of pages of memoranda, correspondence, and reports in the documents is in a May 2, 1972, letter from Louis C. Mazel, acting sales agent for RTZ Service, Ltd., a British mining company. Replying to a letter from an Australian mining company official, Mazel wrote:

"In your letter you mention a word which we would not even like to mention as some members of the club are rather worried about informal price agreements. I would like to stress very strongly that under all circumstances there can only be an unofficial agreement and whatever agreement is struck it should be on a strictly confidential basis."

The documents do not show the word to which he referred.

The same letter, as well as others, mentioned uranium supplies for Commonwealth Edison Co. in Chicago, and Westinghouse. In his May 2 letter, Mazel proposed delaying uranium shipments to Commonwealth Edison for up to four years.

George Rifakes, Commonwealth Edison's manager of fuel, said Mazel was not proposing to cut off the utility's fuel supply. Edison had agreed to the delays until the U.S. government lifted its embargo against importing foreign uranium, he said.

Another letter from Mazel says, "We would be rather unhappy to assign the tonnages concerned to Westinghouse."

Westinghouse is conducting its own investigation of the alleged uranium cartel, hoping to rescue itself from a nightmarish financial dilemma.

Westinghouse signed $2.5 billion worth of uranium fuel contracts in the late 1960s and early 1970s for $8.50 to $10 a pound. Then came the Arab oil embargo and the alleged formation of the uranium producers club. The price of uranium skyrocketed, along with the price of all other fuels.

Westinghouse has agreed to sell 81 million pounds of uranium at low prices, but it concluded after prices had soared that it could not afford to honor contracts to deliver 66 million pounds of uranium to American utilities over the next 20 years.

Late last year, Westinghouse announced that it felt "legally excused" from obligations to deliver uranium to customers after 1978. It cited the legal doctrine of "commercial impracticality" in its defense.

Westinghouse then was sued for breach of contract by 19 utilities whose lifeblood is uranium fuel. They seek damages that could total $1.9 billion. To add to its troubles, the company reported a net loss of $76 million in the fourth quarter of 1974.

With the cost of uranium still climbing, Westinghouse finds itself in hock for more than its net worth.

The utilities, which filed lawsuits in 10 Federal District Courts and one state court, asked the courts to enforce their contracts with Westinghouse, which would enable them to buy uranium at bargain prices.

Westinghouse earlier this year sold 14.9 million pounds of uranium to 13 utilities at existing contract prices.

"It makes our case easier if we are victims of a cartel rather than our own stupidity," said a Westinghouse source who is eagerly seeking proof of a uranium cartel. "It's clear the uranium producers are sitting on their hands."

He estimates that $15 a pound would be a fair price for uranium today instead of the $40 and more being charged.

Meanwhile, the target of suspicion, the Uranium Institute, continues to meet periodically—as recently as June 16 in London.

The August edition of Nuclear News, a trade magazine, described the June 16 meeting this way:

"The producer members of the Uranium Institute are unwilling to discus prices in anything but the most general terms because of their fears of being labeled a cartel. . . . They seemed to favor the establishment of a world market price based on energy costs."

One of the founding members of the Uranium Institute is Rio Tinto-Zinc of London, a multinational mining company with mineral holdings ranging from uranium to emeralds.

As investigators untangle the maze of corporate interconnections, they will find that the French branch of the Rothschild family has a substantial interest in Rio Tinto-Zinc.

Baron Guy de Rothschild, 66, leader of the Paris Rothschilds, sits on Rio Tinto-Zinc's board.

The family bid $100 million last year for a controlling interest in Copperweld Corp., a small specialty steel company headquartered in Pittsburgh.

Despite court battles resisting the takeover, the family acquired 69 percent of Copperweld's outstanding shares.

"How do you fight the Rothschild's?" a defeated Copperweld executive asked

## SOLAR ENERGY CONFERENCE

Mr. PERCY. Mr. President, I wish to advise and cordially invite any of my colleagues to attend a conference on Saturday, Cctober 9, that I am sponsoring on solar energy at the University of Illinois Chicago Circle Center. The conference, which is the first in a series, will be held between 9 a.m. and 5 p.m. It is open to the public and free of charge.

Mr. President, solar energy is an environmentally sound, abundant, long-term energy source with potential applicability to residential, commercial, agricultural, and industrial uses. The aggressive development of solar energy as an alternative energy source is needed in order to quickly achieve the economies of scale and associated production cost reductions necessary for widespread utilization of solar energy.

I hope the conference I am sponsoring in Chicago on October 9 will help to overcome one of the chief obstacles to the implementation of alternative energy technologies—namely lack of public awareness. Many people seem to think that solar energy is an exotic dream of the future. This conference will provide an opportunity to show that solar energy is workable today and rapidly becoming commercially viable. In many parts of the country, consumers can actually save money now by heating their homes with solar energy.

The conference will feature a morning and afternoon speakers session that will include panel discussions and audience participation. The speakers are: Frank Zarb, Administrator, the Federal Energy Administration; Barry Commoner, author and ecologist; John Eberhard, president, American Institute of Architects; Paul Cronin, former Congressman and president of a solar energy manufacturing firm; and Henry Marvin, Director, Solar Energy Division, Energy Research and Development Administration.

I am delighted that these gentlemen are coming and very appreciative of the efforts that they are making.

As well as the speakers, the conference will feature over a dozen workshops on subjects like solar heating and cooling, Government solar energy policy, and wind power. These workshops, which will be led by top national and Illinois solar experts, will provide conference participants with an in-depth look at both current and potential uses of solar energy.

The third major component of the conference is numerous exhibits of equipment from solar energy organizations and manufacturing firms in Illinois. These exhibits will feature many types of solar energy systems, including solar collectors and solar cells. Many of the solar energy systems designed for residential, commercial and industrial buildings are rapidly becoming economically competitive with more traditional energy sources such as oil, gas, and coal.

Mr. President, as I said earlier, this conference is open to the public and free of charge. I hope that a large number of people will attend.

## TRIBUTES TO PAUL H. DOUGLAS

Mr. PERCY. Mr. President, many recent tributes to the late Senator Paul Douglas remind us again of his notable career and his many contributions to Illinois and the Nation.

We are reminded particularly of his deep convictions and his strength of character. As a humanitarian and a conservationist, he still stands as one of the giants of the Senate.

A number of these tributes provide an opportunity to reflect once again on Paul Douglas the man and Paul Douglas the legislator. Among these are recent editorials published in the Washington Post, the Washington Star, the Chicago Tribune, and the Chicago Sun-Times, as well as accounts of Senator Douglas' career by Robert Gruenberg of the Washington bureau of the Chicago Daily News; Edward S. Gilbreth, political editor of the Chicago Daily News; and Tom Littlewood of the Washington bureau of the Chicago Sun-Times.

I ask unanimous consent that these editorials and articles be printed in the RECORD.

There being no objection, the editorials and articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 29, 1976]

### PAUL DOUGLAS

In Paul Douglas' last years, in his home on Davenport Street in Northwest Washington, the former Illinois senator fought stubbornly against a number of physical diseases. But friends who visited him found that however weakened his body had become, the mind of Mr. Douglas remained sharp and vibrant. He had passed from power—in 1966 when he lost a reelection race—but he refused to pass from participation. Nearly all the battles in which he had soldiered as a spirited and thoughtful senator were still being fought—over great national issues like tax reform, for example, or over such back-home environmental causes as saving the Indiana dunes. On so many social issues Sen. Douglas had been ahead of his time; that being true, he saw no reason to let the times now pass him by.

As one who went into politics after years as an economics professor, Sen. Douglas brought a style of scholarship to his work that allowed him to debate the issues intellectually as well as emotionally. He could feel for the poor and the victimized, but he could effectively champion their causes because his arguments were based on clear reasoning and dispassionate reflection. In his 18 years in the Senate, his constituency became a national one, benefitting from his pioneering advocacy of civil rights, decent housing, welfare reform, economic competition, fiscal accountability in government, cooperatives, pension funds and anti-poverty programs. He called himself "a gradualist." In his book, "In the Fullness of Time," he wrote: "Remembering how attempts to cure or even improve [social] conditions on a wholesale or universal scale in the past had only resulted in failure, I tried to satisfy myself with taking a series of small steps."

Some of those steps, we now see, were larger than Sen. Douglas' gracious modesty allowed him to admit. Such a trait was found in other parts of his life. He made little of joining the Marines at age 50 (and learning how to scale a 10-foot concrete wall to graduate from boot camp). He quietly imposed a rule on himself that allowed no gifts worth more than $2.50. He understood his own mortality, but could say whimsically: "Twice the old gentleman with a scythe advanced toward me wearing his most winning smile. Then he retreated. . . ."

The political record of Sen. Douglas was marked by involvement in causes that sought to raise the quality of life for those who needed help the most. He said once, "certainly there is much wrong with the world today. Nevertheless, I see bright spots." He was a modest man, who sought little for himself, so it must fall to others to observe that his own career, illuminated by integrity and scholarship, was one of the bright spots.

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[From the Washington Star, Sept. 28, 1976]

### PAUL H. DOUGLAS

National leaders often talked about Paul H. Douglas in superlatives. President John F. Kennedy once called him "one of the most gifted figures in the Senate in this century." The NAACP's Roy Wilkins called him "rare among our senators." Hubert Humphrey called him a "giant of a man and a giant of a senator."

Paul Douglas stood out all right. At 6 feet, 2½ inches, he towered over most people. He had a national reputation as an economist and as a teacher. As a Senator, he stood tall for "people" programs long before most of his colleagues in the Congress caught up with them.

He crusaded for equal treatment and opportunity for minorities when that was an unpopular cause. During 18 years in the Senate, he fought for truth-in-lending, public housing, higher minimum wages, Medicare, federal aid to elementary and secondary education, conservation of natural resources, the vote for 18-year-olds, the concept of one-man-one-vote.

He was an independent man who followed his conscience. When opposition to the war in Vietnam became a yardstick of liberalism, Senator Douglas refused to soften his support of the policy pursued by President Johnson.

"I do not intend to shift or change (my views) as public opinion or polls shift and change," he declared in a foreign policy address during his 1966 campaign for reelection.

Mr. Douglas was not a member of the Senate's inner "club." He was too independent. He thought members of Congress ought to disclose their financial interests, a notion that did not endear him to his colleagues in the pre-Watergate era. He not only published annual accountings of his income and expenditures but refused to accept any gift worth more than $2.50.

Paul Douglas came a long way from the Maine backwoods where he grew up. He became a Phi Beta Kappa scholar, a college football player, a professor, a Chicago alderman, a Marine recruit at the age of 50 (he pulled some strings to get the Marines to take him, and was wounded twice in Pacific battles), a senator in 1948 at the age of 56.

During the 1966 campaign, Senator Douglas sat down one day in a Chicago tavern to share with several reporters the dark German beer he liked and to discuss the issues. Though his frame had become bent with age—he was 74 then—his mind still churned with the agility that helped him fashion some of the most significant legislation of the century. "My own fate is relatively insignificant in history," he said. "But what happens to civil rights and resistance to aggression is important."

That was his last campaign. In an election that turned on age as much as anything else, Illinois voters selected Republican Charles Percy, then 47, who had been one of Senator Douglas' students at the University of Chicago. After defeat, he returned to the academic world.

Mr. Douglas died last Friday at 84. His contribution to his country and his fellow man was far from insignificant.

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[From the Chicago Tribune, Sept. 26, 1976]

### PAUL H. DOUGLAS

Paul Douglas, who died Friday at the age of 84, was sometimes called "a giant of a man." In 1951, the Washington press corps named him the country's best senator.

The Tribune didn't happen to share these sentiments at the time. Mr. Douglas was a pre-New Deal Socialist, a left-wing professor of economics at the University of Chicago, who was elected to the Chicago City Council in 1939. He ran for the United States Senate five times—losing in 1942, winning in 1948, 1954, and 1960, and finally losing again to Charles Percy in 1966.

We opposed Mr. Douglas in every Senate election as a man who would destroy the budget and create the "large government deficit" which, in his own earlier words as an economist, "will inevitably lead to inflation."

Mr. Douglas was in the forefront of just about every liberal movement in Congress for 18 years: the minimum wage, the extension of Social Security, civil rights, the beginnings of consumerist legislation, health insurance, federal aid to education, and so on down the line. [He also urged the development of shale oil in the Rockies.]

Much of what he fought for has come to pass. So did the deficit, and so did inflation. We don't regret our criticism of his cavalier attitude toward the budget.

But no matter how history ultimately may judge his economics, Paul Douglas was in many ways ahead of his time. And to be ahead of one's time calls for the sort of courage which Mr. Douglas displayed in abundance. Though backed for the council by the old Kelly-Nash machine, he rebelled against it at a time when rebellious councilmen were almost unheard of—or at least unheard from.

Throughout his political career, he made a practice of disclosing his personal finances with every bit as much candor as we have become accustomed to today. Defeated for the Senate in 1942, he signed up as a private in the Marines at the age of 50 and wound up twice wounded in the Pacific.

He was justly called "the fighting liberal," but when he felt the liberals were wrong, he fought against them. He supported President Truman in Korea and President Johnson in Viet Nam. He was a firm believer in the domino theory of Communist expansion, a theory that was anathema to liberals of the late 1960's but ultimately proved true in Asia and is now being tested in Africa. On leaving the Senate in 1966, he became a spokesman for the Citizens Committee for Peace and Freedom, a group supporting our role in Viet Nam. He also became chairman of the board of Freedom House, an institution dedicated to freedom throughout the world.

Clearly Mr. Douglas was always his own man. He put his foot down for what he thought was right, no matter whose toes got in the way. And these, after all, are the qualities most essential to "a giant of a man."

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[From the Chicago Sun-Times, Sept. 26, 1976]

### IN MEMORIAM PAUL H. DOUGLAS

His campaign buttons read "PhD," and the pun was appropriate: The man who represented Illinois in the U.S. Senate for 18 years was a scholar-politician, a shaggy, craggy man with a profound social conscience.

Paul H. Douglas, trained in economics (which he loved) at Columbia and Harvard and schooled in raucous politics (which he hated) in the Chicago City Council, merged the disciplines: He knew the "little guy" on the social-financial ladder needed help, and he battled the "big guy" special interests.

By the time he died last week at 84, 10 years after retiring from the Senate, his social legislation remained a shining memory. Mercifully more obscured by time was his unfortunate and fervid support of U.S. intervention in Southeast Asia.

The best will be remembered: his key role in bringing the Civil Rights Act of 1964 from dream to reality, his championship of moves to create the Indiana Dunes National Lakeshore, his long battle for laws requiring clear interest-rate disclosure in consumer credit.

Douglas' faults seemed to spring from his virtues. The inability to compromise, as one example, often can doom a legislator's efforts; yet that inability may arise from strong ideals strongly held. And Douglas' ideals were among the strongest. A pacifist in early years, he enlisted as a private in the Marines at age 50 and lost the use of his left arm after he was wounded on Okinawa.

What he may have lacked in cloakroom diplomacy, he made up for in the brilliance of his legislative goals. His foresight on civil rights, consumer protection, the Dunes—all are witness to that.

Most people have one stone for a monument. Douglas' is an entire shore.

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[From the Chicago Daily News, Sept. 25-26, 1976]

### DOUGLAS: PROFESSOR, POLITICIAN, AND PROPHET

(By Robert Gruenberg)

WASHINGTON.—Paul Howard Douglas took time out one evening in September, 1960—during the campaign for his third term in the U.S. Senate—to talk to a young reporter.

He spoke about the significance of the river city in which he and a few of his aides had stopped for the night. It was Alton, Ill., on the Mississippi, 23 miles north of St. Louis.

Alton, the tall, craggy-faced senator recounted in words that had the ring of gospel, was where Elijah Parish Lovejoy, the great abolitionist editor, published his anti-slavery editorials, where mobs three times destroyed his presses and, finally shot him to death Nov. 7, 1837.

This was Paul Douglas teaching, imparting knowledge, and years later when he was asked which of two careers he loved the most, teaching or politics, he replied, "I think, teaching." In teaching, he said, one was "aloof from the power struggle."

Douglas who died Friday at 84, never became identified with the struggle for power. As a result of the anonymity that accompanies men in no position to carve their names on pedestals or peristyles, much of the most significant legislation of the last two decades bears his mark, but not his mention.

He served three terms in the U.S. Senate, from 1948 to 1966, when Republican Charles H. Percy defeated him. The liberal Douglas' support from the state's major newspapers ranged from thin to nonexistent.

Percy, 47, campaigned against Douglas, 74, heaping praise on his opponent with such unsubtle age-conscious statements as, "I have every respect for Sen. Douglas and always have had—ever since he was my economics professor at the University of Chicago."

More important, however, were the civil rights marches, which had created unrest in white middle-class communities. Also, the beginning of the anti-Vietnam War sentiment worked against Douglas.

Too, some observers saw a great "sympathy vote" for Percy as a result of the murder of Percy's daughter, Valerie, in the midst of the campaign.

During his years in the Senate, Douglas, who had been an economics professor at four American universities, was author, co-author or key advocate of such legislation as the 1955 Minimum Wage Law, the 1955 Depressed Areas Act—later to be called area redevelopment because of the sensitivities of a number of communities—and economic laws.

He was a prophet before his time leading battles on such measures as truth in lending, defense spending economies, tax reform, Medicare, aid to education, public housing and oil shale development.

His dramatization of an issue was often as newsworthy as the issue itself.

To illustrate Pentagon waste, Howard Shuman, an aide, would purchase in local hardware stores such items as nuts, bolts and screws, then mount them on a board with prices alongside—3 cents, 7 cents, etc. Shown with them would be the prices paid by the Defense Department—ten times more than the Douglas prices.

In a campaign to get federal approval for fish flour for use in the United States he invited reporters to lunch, then liberally sprinkled his own food with the flour and asked his somewhat doubting guests to follow suit. Douglas believed Americans were missing a great, cheap source of protein and other nourishment by not making more use of fish.

But it was civil rights and the establishment of the Indiana Dunes National Lakeshore upon which Douglas looked back with the greatest emotion and warmth of memory in the years after he left the Senate.

In 1956, the House had passed what he called "a pretty good civil rights bill," and Douglas sought to make certain that it would not end up in the hostile Senate Judiciary Committee.

He attempted to intercept the bill, but was outmaneuvered; it had already been referred to Judiciary. Douglas tried to get the Senate to vote it out of committee and after an all-day debate, during which he was opposed by then-Senate majority leader Lyndon B. Johnson, he secured only six votes on the Senate floor.

"I was never so upset and discouraged in my life," he recounted later. "I went back to my office and cried for two or three hours."

In 1957 he introduced civil rights legislation, but the vital section embodying the 14th Amendment guaranteeing equal treatment for all persons, black or white, was knocked out.

In 1960, Douglas and Sen. Jacob Javits (R-N.Y.), introduced legislation proposing that federal registrars be sent to the South to guarantee voting registration by blacks. It was defeated by a tabling motion offered by Johnson and backed by Sen. Everett Dirksen (R-Ill.).

Five years later to the day, on March 15, 1965, Johnson—by then President—sent a Voting Rights Act embodying the same principles to the Senate. He accompanied it by a personal address to Congress punctuated by "We shall overcome!"

With the help of the then minority leader, Dirksen, it was passed. The irony was little noted by most persons. On Aug. 6, 1975, President Ford signed a seven-year extension of the law.

In the first 10 years of the law's existence, it has been estimated, more than a million blacks were registered and nearly 1,000 found the way to elective office in seven southern states.

The Senator's other consuming passion was his battle to save the Indiana dunes from encroaching industrial development. While he once recalled his civil rights battles as his "most important," the dunes fight was the "most enjoyable."

Douglas started on the project in 1958. As usual, he evoked powerful opposition, and in the dunes fight these included two influential Republican figures, Rep. Charles Halleck, house minority leader, and Sen. Homer Capehart, both of Indiana, and industrial and business interests in northern Indiana.

The battle was finally won in 1966, but not without a compromise. A park of 8,300 acres was established, which included an already existent 2,200-acre state park.

Douglas was born in Salem, Mass., March 26, 1892. His mother died when he was 4, and his father remarried. The family lived in Sarasota Springs, N.Y., and later in a backwoods settlement called Onawa in central Maine, a hamlet of 30 or 40.

Rep. Paul Simon (D-Ill.), a friend of Douglas, has pointed out that as in Lincoln's case "a stepmother provided immense intellectual stimulation as well as love" for Douglas. His stepmother eventually left his father and took with her Douglas and an older brother.

Douglas worked his way through Bowdoin College at Brunswick, Maine, as he had while attending a 30-student high school in Newport, Maine, 40 miles from Onawa.

At Bowdoin he played center on the football team and was graduated with Phi Beta Kappa honors in 1913. He received a master's degree from Columbia University in 1915, and his doctor of philosophy degree in 1923.

He taught economics at the University of Illinois in 1916 and 1917; at Reed College in Portland, Ore., in 1917 and 1918 and at the University of Washington in 1919 and 1920. He joined the University of Chicago in 1920.

He first served as an assistant professor, then from 1923 to 1925 as associate professor, and for the next 23 years was full professor. In 1931 he married Emily Taft, daughter of the famous sculptor, Lorado Taft, whose work graces a number of sites in Chicago and Downstate. Mrs. Douglas served as an Illinois congresswoman at large from 1945 to 1947.

During the '20s, he investigated Samuel Insull's utility holding company empire. In the '30s Douglas was active on numerous boards and commissions concerned with revising or writing the Illinois 1935 Pension Act, the Illinois 1937 Unemployment Insurance Act and the Federal Social Security Act in 1935 and 1939.

In 1939, he was elected alderman from Chicago's 5th Ward, the Hyde Park area.

His city council career was interrupted in 1942 when he enlisted as a Marine Corps private, to serve with the 1st Marine Division. Twice wounded, at Pelelieu and Okinawa, he was discharged as a lieutenant colonel in 1946 after 14 months in hospitals, and after losing the use of his left arm. He received the Bronze Star for bravery.

The tall, graying, rangy, attention-commanding Dougas went back into politics. It was widely supposed that in 1948 he would run for the Illinois governorship, while Adlai Stevenson, father of the current senator, Adlai II, would be the Democrats' Senate candidate.

Douglas once said he would have "preferred" to be governor, "but I realized they probably would not give me the nomination"—they being the Cook County Democratic Organization.

Douglas intimates have said that the organization was "afraid" of Douglas with his reform-minded ideas and control of patronage, if elected governor.

In later years, after his retirement from the Senate, he lived quietly with Mrs. Douglas in Washington's northwest Rock Creek Park section, following events and personalities avidly. He suffered at least three strokes, but while they incapacitated him physically, he remained as alert as ever.

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[From the Chicago Daily News, Sept. 25-26, 1976]

### DOUGLAS: EXIT A COMPLEX GIANT

(By Edward S. Gilbreth)

The death Friday of former Sen. Paul H. Douglas (D-Ill.) stirred a rush of memories, fleeting vignettes, concerning that remarkable and highly complex individual.

I recalled seeing him in person for the first time in 1952, on the night of the day when the Democratic National Convention here nominated then-Gov. Adlai E. Stevenson for President.

The setting is fuzzy, but I'm inclined to remember it as a cocktail lounge in the Loop.

Douglas had been a staunch supporter of his Senate colleague, Estes Kefauver, for the nomination, and at this particular moment Douglas and Kefauver were consoling themselves.

Neither was particularly happy with the selection of Stevenson, and both were bitter at President Truman's presumed role in shutting out Kefauver.

I don't recall the precise words of either. Neither was speaking with great precision and, even though there were reporters around (I was a copyboy on dinner break), neither worried about whether their remarks would become public.

But their words weren't important. It was the mood that struck me. It was deeply moving to observe two great soldiers in defeat, to sense the warmth of their camaraderie, to sympathize with their nursing of wounds too fresh to have become scars.

Two years later, while shopping at W. 63d St. and S. Halsted, I was pleasantly surprised to encounter Douglas once again. Alone, the majestically tall Douglas plunked a wooden soapbox (yes, a real soapbox) on the sidewalk, mounted it, and began attracting a small gathering as he campaigned for a second term.

There was something edifying about seeing a United States senator, already a giant in liberal-populist circles, taking his case directly to street corners.

There was a personal side to Douglas that was less inspiring. I found, in several brief conservations, that he had great difficulty acknowledging any "redeeming" qualities about anyone who happened to be a Republican.

In many ways, he was as shrilly partisan as Truman, whom he fought on a couple of significant issues.

In 1958, at a cocktail party in Flossmoor, I asked Douglas whether he still maintained ties with Robert E. Merriam, his former friend and liberal ally from Hyde Park who had moved to Washington to take a post in the Eisenhower administration.

The senator shook his head sadly. "Bob's not the same person he used to be," he said. "You know, he's become a Republican. Something changes in people when they become Republicans." It was not said in mock jest.

Douglas himself did not change on many key issues during his Senate tenure, and this was partly his undoing. In 1966, running against the young Charles H. Percy, Douglas indulged the same Cold War rhetoric that even then was becoming unfashionable. He gave Lyndon Johson strong support on the Vietnam War, while Percy raised soul-searching questions about that dubious venture.

Douglas, under other circumstances the most charitable of men, was not gracious in defeat. As he saw his Senate seat slipping away in the closing days of the campaign, he was waspish, rude to reporters whom he suspected (unfairly) of favoring Percy and intolerant of the most softly expressed criticism.

Several years later, Douglas acknowledged in his autobiography, "In the Fullness of Time," that time had mellowed his bitterness at defeat and his animosity toward Percy. I think that was the real Paul Douglas.

Historians will measure Douglas' contributions as a political figure. He will not be found wanting.

For myself, the loss is personal. He enriched the lives of everyone who knew him, however slightly.

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[From the Chicago Sun-Times, Sept. 25, 1976]

### FAR-SIGHTED LIBERAL, SCHOLARLY ACTIVIST

(By Tom Littlewood)

Paul Howard Douglas was a scholarly and far-sighted liberal, an uneasy politician who illuminated social problems before the nation was ready to open its eyes.

Throughout the 18 years that he represented Illinois in the U.S. Senate, from 1949 until 1966, Mr. Douglas answered to a concience as strict, as rockbound, as uncompromising as the coast of his native New England, proudly pursuing his vision of truth, justice and morality.

A Quaker who renounced his pacifism and lost the use of an arm on the beaches of Okinawa in World War II, he remained a dedicated anti-Communist to the end of his days, supporting the military intervention in Vietnam and never wavering from his respect for the power of armed strength in a world that could not be trusted.

Paul Douglas entered the public arena in the 1920s and 1930s, a radical economics professor and a Socialist who wanted to clean up Chicago and lift the oppressed out of their misery. Many years later, turned out of office by the voters of his state, he was sadly embittered by the revolutionary militance of the anti-war movement and the ungrateful rejection of the good intentions of a dying generation of white liberals.

His stubborn independence and occasional political abrasiveness made it necessary for him to operate well outside the Senate's "inner club," a Southern-led fraternity that has since nearly withered away. For that reason, among others, it will not be easy to measure the influence of his towering intellect and his courageous if unorthodox advocacy of ideas whose time had not quite arrived in the history of the middle half of this century.

Paul Douglas was born March 26, 1892, in Salem, Mass., the son of a traveling salesman whose drunkenness and "taste for low life" disgusted the boy while he was growing up in the backwoods of Maine.

After graduating from Bowdoin College, the young man completed his graduate education in economics at Columbia and Harvard. Already a campus radical, Mr. Douglas taught at the University of Chicago and plunged into various reform crusades, provoked especially by the public utility empire that was accumulated by Samuel Insull. His first marriage, to Dorothy Wolff, ended in divorce, following the birth of four of his five children. Later, in 1931, Douglas was married to Emily Taft, the daughter of sculptor Lorado Taft.

He joined the Society of Friends (Quakers) and made what he regarded as his chief claim to scholarly distinction with a book on "The Theory of Wages." He led his students to the South Chicago mills to help organize the steelworkers, prepared and promoted some of the earliest Social Security legislation, and involved himself with Charles E. Merriam and Harold L. Ickes in a variety of worthy causes.

In 1939, a citizens' committee was formed in the 5th Ward to recruit an independent alderman, and resolved the matter by drafting the chairman of the committee, who was Paul Douglas. His fellow aldermen were crude fellows, but Mr. Douglas said in his memoirs many years later that they were "better persons than most of the well-educated and wealthy utility lawyers who, living in the suburbs, looked down on those they helped to corrupt in the slum areas."

The Douglases happened to be touring in Italy, enjoying Renaissance painting and sculpture, in 1935 when Mussolini invaded Ethiopia. Shivering that night in their unheated room in Ravenna, the couple awakened to the shocking fact of Fascist dictatorship and "the probability that within five years we might be locked in a concentration camp."

He would never be the same. A draft-age peacenik of his day during World War I, Mr. Douglas regretted having avoided military service. So, when the U.S. entered World War II, the guilt-stricken 50-year-old scholar pulled strings and managed to enlist in the Marine Corps as a private. During the invasion of Okinawa, a Japanese machine-gun bullet ripped through the artery and nerves of his left arm. "A deep wave of exaltation swept through me that at my age I had shed blood in defense of my country," he recalled in his memoirs. Forever after, his arm hung limp and his left hand was "good only for a paperweight."

Although Mr. Douglas had advocated third-party movements some years before, when he considered the Democratic Party hopelessly corrupt, he was chosen by the regular Democratic organization in 1948 to run against Republican Sen. C. Wayland Brooks. He won by more than 400,000 votes, was re-elected against Joseph T. Meek by 240,000 in 1954, and won a third six-year term in 1960 against Samuel W. Witwer by 437,000.

Campaigning in and out of season, the senator inveighed against a gallery of "special interests" and studiously played to his coalition of supporters. These included liberal intellectuals, racial minorities, labor unions, marginal farmers "south of the black dirt" in the southern half of Illinois, the poor people of the Illinois Ozarks, and the Slavic communities in Chicago and the near western suburbs.

Adlai E. Stevenson was elected governor of Illinois in the same election of 1948, but the two liberals had a permanent falling out over the control of Democratic convention delegates in 1952, when Stevenson made his first of two bids for the Presidency.

For some reasons, Mr. Douglas always seemed to perform clumsily when he came in contact with presidential politics. At first he favored Gen. Dwight D. Eisenhower for the Democratic nomination in 1952, then campaigned actively for Sen. Estes Kefauver (D-Tenn.), even after Mayor Daley boarded the Stevenson bandwagon. At the convention in Chicago, Mr. Douglas shouted hysterically at the chairman, House Speaker Sam Rayburn, late one night demanding an overnight recess.

This episode, which he would later look back on as "quixotic," was captured by the television cameras and created an unfortunate impression of emotional instability which ended whatever presidential aspirations he might have entertained. For that and other reasons, Daley wanted to dump Mr. Douglas in 1954, but the county assessor, John S. Clark, interceded. In 1960, 1968, again in 1972 Mr. Douglas endorsed Sen. Hubert H. Humphrey for the presidential nomination. The two liberals had been founding members of Americans for Democratic Action many years before.

When there were Democrats in the White House, Mr. Douglas also had frustrating experiences with the judicial selections which are customarily made by the senators and nominated by the President. But he and President Harry S. Truman deadlocked over two appointments in 1951, and later President John F. Kennedy made a deal with the Republican Senate leader from Illinois, Everett M. Dirksen, trading Republican judgeship for Dirksen's co-operation on some vital legislative matters.

If judicial patronage and presidential maneuvering made Mr. Douglas uncomfortable, which they did, he more than made up for it through the intellectual brilliance of his legislative activities. And even here he excelled in the field of innovative ideas rather than the horsetrading that gets bills passed. His talent was summarized by the American Political Science Assn. in this citation: ". . . He has kept on the nation's current agenda many of those enduring problems which might otherwise have been accidentally overlooked or deliberately ignored."

Despised by the then Senate leader, Lyndon B. Johnson, and the Southern-dominated ruling clique in the Senate, Mr. Douglas was nevertheless able to carve out a distinguished record in a wide range of specialized areas.

An early champion of civil liberties and social welfare programs, he played an important part in the civil rights legislation that began with the historic 1964 act, and in the struggle for medical insurance for the elderly.

He earned the enmity of his colleagues by attacking the "pork" in the rivers and harbors budget, and of the oil and gas producers by tenaciously fighting to reduce their mineral depletion allowance and other tax preferences, and by protecting public rights to valuable oil shale and offshore oil deposits.

He was an expert on housing programs and international monetary affairs. He put through the first programs of federal assistance to chronically depressed regions, such as the worked-over coal fields of southern Illinois, and successfully resisted Dirksen's campaign for a constitutional amendment that would have undone the Supreme Court's requirement of representative districts of equal population.

Some of his battles were not won until after he had left the Senate—national lakeshore park in the Indiana Dunes, for example, and the long struggle for a law requiring a clear statement of the cost of consumer credit.

Typically the issues that interested Paul Douglas were complicated subjects, pitting "little people" against interests that were loaded with power. He derived satisfaction out of bucking heavy odds, working in obscure corners of public policy, and using logic to advance causes that were either premature or unpopular in the places where great influence reposed. He was a plodder, his influence cerebral.

As the Vietnam War dragged on, though, many of his liberal friends became increasingly distressed by his steadfast dedication to the domino theory of international politics in the Far East and what came to be known as the "devil theory" of Communist world conquest. Mr. Douglas had no compunction against joining the Committee of One Million that opposed the recognition of the People's Republic of China. And after leaving the Senate, he helped to organize a Committee for

Peace with Freedom that supported the U.S. military presence in Indochina.

Publication of the Pentagon papers, which revealed the hidden origins of U.S. Vietnam policy, only convinced the retired senator that "great decisions were built on a faulty base." While hoping that President Richard M. Nixon's friendly overtures to Peking and Moscow turned out well, Mr. Douglas warned that "there's danger in it because neither the Chinese nor the Russians have given up their belief in armed revolution."

His hawkish views on the war probably played a small part in the Democratic senator's defeat by Charles H. Percy in 1966. Their contrast in ages—Mr. Douglas was 74, Percy 47—was undoubtedly a more decisive factor. For many years before, the incumbent said he had thought about the character in a book—"the priest-king who paced restlessly in full armor awaiting the young challenger who someday would emerge from the forest to kill and displace him." In his autobiography, Mr. Douglas blamed his defeat on the growing suburban population, the increase in white-collar employment, and the tendency of young voters to "stress the image of a candidate, not his record or experience."

Upon leaving office, Mr. Douglas and his wife Emily continued to live in Washington, where he completed his memoirs.

## TRIBUTE TO SENATOR MIKE MANSFIELD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from Minnesota (Mr. Mondale) in tribute to Senator Mike Mansfield.

The PRESIDING OFFICER. Without objection, it is so ordered.

### STATEMENT BY SENATOR MONDALE

Mr. President, six years ago I joined with other senators in commemorating the service of Mike Mansfield as the majority leader serving the longest tenure as Majority Leader of the U.S. Senate. I praised his warmth, his unparalleled ability to provide effective leadership and his utmost respect for the integrity and equality of every member of this body. I also indicated that I was proud to have served in the Senate with him, and said how much he had done for me personally through his wisdom, his leadership and his friendship.

Today, I wish to pay tribute to Mike Mansfield on his retirement. His contributions to this body in 15 years as our Majority Leader are both innumerable and far reaching. They have fallen in four major areas—his legislative achievements, his manner of leadership, his life's work and his personal character and style. We are all familiar with them, but I would like to comment on each area briefly.

Mike Mansfield's legislative achievements include initiating the formation of the Senate Watergate and Intelligence Committees, the enactment of the 18 year old vote, and the 1964 and other Civil Rights Acts. In the field of foreign affairs, he has been a defender of Senate prerogatives during the Johnson and Nixon Administrations. His differences with the late President Johnson over Vietnam, his opposition to the Cambodian invasion and his urging that Nixon speed withdrawal of troops helped give credibility to the small group of early critics and were largely responsible for re-asserting the Senate's role in foreign policy decisions. His leadership on the War Powers Bill has helped guarantee that *congressional* prerogatives in future wars will not be circumvented by an overzealous executive branch.

While his legislative achievements are formidable, Mike Mansfield will be remembered best in the Senate for his manner of leadership. He, more than anyone else in that position has been responsible for changing the character and attitudes of the Senate from a passive institution run by a small group of more senior members to an assertive institution of one hundred equals in which the voices and actions of all members can be heard and felt. The very antithesis of an autocratic school teacher, Mike Mansfield has been described as the lonely headmaster watching over the progress of his students. He has always felt that his role was not to direct, order or cajole its members, but to give them an opportunity to make a collective judgment.

Mike Mansfield's life's work has been wide-ranging and unique. While we know him best as a member of Congress over the last 33 years, he has had more than just legislative experience. Mike has served in not one, but three branches of the Armed Forces—the Army, Navy and Marine Corps. The son of Irish immigrants, he has worked his shift as a coal miner in the Butte mines, and while doing so, managed to become a mining engineer. Without having completed elementary school, he later managed to receive his B.A., M.A., and is still a Professor of Far Eastern and Latin American history at the University of Montana. He is also one of the few men who has ever served under four presidents representing this country abroad in the important area of foreign policy.

Mike said earlier this year, "When I'm gone, I want to be forgotten." Mike Mansfield will never be forgotten. He will be remembered by all who have known him for his character and personal style. He is this body's most highly respected and esteemed member, renowned for his integrity, fairness, decency and modesty. He is a man who knows that a few words, well spoken, are more effective and persuasive than long speeches.

The expression, "tap 'er light," which Mike has used often, perhaps typifies him best. He is a gentle and passive, yet strong and persuasive man, who knows that a friendly pat on the back is a more effective form of leadership than the twist of an arm.

When remarking on his decision to leave the Senate leadership post he said, "I just felt it was time to go. As the miners say in Butte, when you complete tapping in the stock, you're deep enough."

We are sorry to see Mike leave us, but we are all grateful to have served under the fine leadership of a man whose spirit will continue to preside over us.

## INTERNATIONAL NUCLEAR ENERGY POLICY

Mr. JAVITS. Mr. President, a report has just been published by the Committee for Economic Development that outlines and analyzes the principal issues relating to the national security and foreign policy implications of nuclear power. It is the first report that I have seen that thoroughly explores the interrelationship between our domestic nuclear policies and their international implications, without any bias toward a predetermined conclusion.

I stand ready to work next year toward combining the goals of nonproliferation with expansion of our domestic nuclear fuel capacity. Indeed, I believe the key to success in this area is to work for an integrated approach to the problems involved, as suggested by the CED report.

The report recommends the strengthening of the IAEA so that it has increased inspection personnel as well as use of the latest techniques in surveillance and inspection. It also states the goal of negotiating an agreement with all suppliers that puts all nuclear facilities in all countries under IAEA safeguards. However, it stops short of recommending that the United States impose this standard unilaterally if a multilateral accord is not achieved in a reasonable time, which I believe we should consider as a move toward bold moral leadership in this area.

Of considerable interest is the report's analysis of domestic nuclear decisions in an international context. For example, the NRC is currently considering a major decision on plutonium recycling; whether or not we permit this domestically will have profound implications for any attempts to discourage or control it internationally, which is a nearly unanimous nonproliferation goal.

The report strongly suggests that we ought to be doing a lot more on the diplomatic front, such as negotiating an agreement to deal with nuclear emergencies and terrorism contingencies, to establish international mechanisms and standards for shipping nuclear materials and storing nuclear wastes, and to expand the IAEA's enforcement authority.

It is clear that many nations may never agree to the NPT; thus new methods must be pursued to deal with the nuclear proliferation menace. In addition to the diplomatic initiatives outlined above, the report speculates that eventually we may have to shift from a policy of preventing the proliferation of weapons capability to a policy of preventing or discouraging the actual use of nuclear weapons.

I commend the entire report to my colleagues. I particularly call their attention to the summary chapter, and I ask unanimous consent that it be printed in the Record at the conclusion of my remarks. This contains a brief analysis of each of the report's recommendations as well as a discussion of the nuclear fuel cycle and a plutonium economy.

The next Congress must take action promptly.

There being no objection, the report was ordered to be printed in the Record, as follows:

### NATIONAL SECURITY AND FOREIGN POLICY IMPLICATIONS OF NUCLEAR POWER

#### INTRODUCTION AND SUMMARY OF RECOMMENDATIONS

As Americans weigh the issues of living with nuclear energy, one important fact is often overlooked: Nuclear energy is a reality in the rest of the world. About 30 countries have already begun installing nuclear reactors. In twenty years, 100 countries will possess the raw materials and the knowledge necessary to produce nuclear bombs. There is no way that the United States can remain isolated from global developments of such magnitude. The nation must decide what its role will be in the coming world nuclear economy. Nuclear energy and its consequences for national security are life-and-death matters deserving the highest priority on the national agenda.

It is fallacious to believe that this country can escape the hazards of worldwide nuclear development by foregoing its economic advantages at home. It is equally fallacious to believe that the United States need be concerned only with domestic costs and benefits, as if the perils of nuclear development in the rest of the world could be safely ignored. U.S policy must recognize that nuclear energy is an issue in which it is impossible to separate U.S. and world interests. Nuclear power has the most wide-ranging implications not only for worldwide energy needs but also for the domestic and international economies and for national defense and indeed the security of all nations. Acute national security interests and urgent economic and environmental interests at home are inextricably intertwined. They cannot be separated from similar interests of other countries. Failure of the U.S. government to recognize these interrelated issues and to deal with them in a coherent and comprehensive manner could be disastrous.

This policy statement is intended to increase awareness of these nuclear issues. The recommendations that we offer are not solutions to the problems raised by worldwide nuclear development, but they do describe positive steps that the United States can take toward finding solutions. Although the problems are enormous and disheartening, ignorance of nuclear choices and perils can only make the world more dangerous than it already threatens to be. Nuclear energy almost certainly will be essential to meeting the world's future energy needs, but its weapon potential is a threat to the very existence of all nations.

### NUCLEAR ENERGY AND ITS ALTERNATIVES

This Committee examined the various alternative sources of energy in the policy statement Achieving Energy Independence (1974). We stated there our belief that nuclear power, subject to adequate safeguards including waste disposal, promises to be the solution to many of the difficulties associated with fossil fuels. We reaffirm that view. For the United States, the difficulties associated with fossil fuels are environmental, economic, and strategic. For other countries, the difficulties connected with dependence upon oil and coal are even more acute. Consequently, nuclear power will provide a substantial portion of the world's expanding energy needs between now and the year 2000.

At the same time, the United States is one of the few countries that may have any real choice between nuclear power and an alternative that has a proven supply and an available technology. That alternative is coal. The use of coal will almost certainly have to double within the next decade and will have to increase still further by the end of the century. The growth of electric power during the next several decades will be significant, and a shift to uranium and coal as fuels for the generation of electricity will be essential.

Other new sources of energy should be vigorously explored. Unfortunately, the pursuit of alternatives has intensified the debate between proponents of nuclear energy and proponents of nonnuclear alternatives. Advocates of nuclear energy often disparage other sources of energy; advocates of nonnuclear sources tend to offer alternatives (such as solar energy), not as complements to, but as substitutes for, nuclear power. We deplore this tendency to treat complementary sources of energy as though they were mutually exclusive. Nuclear, solar, and geothermal energy; coal and synthetics derived from coal; and major energy conservation measures are not conflicting alternatives. On the contrary, combining development and conservation of energy resources is the first step to achieving energy independence. That is emphatically true for Japan and for many other nations whose dependence on foreign oil can seriously weaken U.S. security. Because of uncertainty and delay in the development of new energy sources, conservation becomes all the more important.

Research and development of solar energy should be pressed seriously and undoubtedly will proceed both in the United States and abroad. But although a few applictions are approaching cost effectiveness, the technology required to achieve substantial economy through the use of solar energy is not likely to materialize in the immediate future.

In Achieving Energy Independence, we focused considerable attention on the need to assess the outlook and relative efficiencies of both new and conventional sources of energy. That need becomes more urgent as we face the realization that the United States still does not have a clear and comprehensive energy policy and that the goal of substantial energy independence by 1985 will not be reached.

The United States has also not demonstrated sufficient understanding of the energy choices facing other nations. Nuclear power is one promising source of energy for the United States, but it is not the only one. Most nations have fewer alternatives. Decisions to build nuclear reactors in other countries have already been made and will be made more frequently during the coming decade. Although the problems entailed by the worldwide dispersion of nuclear reactors are largely problems of the future, policies to cope with them cannot wait.

### NUCLEAR PROLIFERATION AND A PLUTONIUM ECONOMY

Until recently, nuclear proliferation referred to actual possession of weapons or to a demonstrated possession of nuclear explosives motivated by an express decision for a nuclear capability. But the meaning of the term nuclear proliferation is undergoing a dramatic change. In another ten or fifteen years, most nations will have the technical ability to produce nuclear explosives from reactor fuel. The basic material needed to make a plutonium bomb, the plutonium itself, is generated in a nuclear reactor as a by-product of producing steam for the generation of electricity. It can be separated from the rest of the spent fuel and refined into a form suitable for use in a weapon. This can be done quite openly under the Treaty on the Non-Proliferation of Nuclear Weapons as long as the International Atomic Energy Agency (IAEA) can monitor and inspect the process in accordance with the treaty's safeguards provision. Thus, whether or not they possess actual stockpiles of weapons, most nations will possess the materials base and the technological base for producing nuclear weapons. In that sense—and it is a terribly dangerous sense—worldwide nuclear proliferation will occur in the early, if not the immediate, future.

Commercial-scale reprocessing of plutonium is not yet being done. In the United States, the regulations under which a reprocessing plant might operate and plutonium might be handled have not been decided and, according to the Nuclear Regulatory Commission (NRC), are not expected to be until next year.[1] Aside from legal sanctions, cost is the practical barrier to using recycled plutonium and uranium to provide some 10 or 20 percent of the total required fuel. At present, it is not clear whether these materials can be extracted and used as fuel for less than the cost of an equivalent amount of new uranium. Therefore, most countries that burn nuclear fuel in power reactors will for a time continue to depend on imported uranium fuel of a kind that is useless for weapons. But it must be remembered that when such uranium fuel is consumed in a reactor, the plutonium that results (if it is successfully separated from the rods of spent reactor fuel) suffers no such disability. It can indeed be used to make bombs. Therefore, even before plutonium recycling becomes economic, the creation of plutonium will pose a severe threat to national security.

A key factor in the economic feasibility of plutonium reprocessing is the cost of uranium. The future price of uranium is uncertain. It may double or quadruple by the 1990s as the supply of high-grade ore becomes exhausted, and unless some unexpected technologies for extracting uranium economically from seawater or from low-grade ores are discovered—and in an environmentally acceptable manner—it may be only a matter of time before it becomes economic to extract plutonium from spent fuel and to recycle it into a reactor. If, instead, the price of uranium goes down, it may not pay to reprocess fuel.

A decision to proceed with commercial reprocessing of plutonium would encourage the development of the *breeder reactor* (a reactor that produces more plutonium than it consumes). If breeder reactors can be developed as an economic and reliable source of power, they will have two enormously important effects. They will postpone for more than 100 years the prospect of a shortage of fuel for nuclear reactors. And they will ensure the emergence of the *plutonium economy*, with all its dangers.

If the plutonium economy becomes a reality, a country interested in acquiring at least a limited nuclear weapons capability could easily disguise that interest by stressing the economic case for investing in nuclear reactors to meet its energy needs. Inventories of plutonium or plutonium fuel assemblies would be common. World trade in plutonium or plutonium fuel assemblies would be common. Like gold, plutonium will have to be carefully guarded in storage and shipment. Unlike gold, an amount of plutonium that a person can carry in one hand can be made into a bomb powerful enough to destroy a city.

The Non-Proliferation Treaty forbids signatories, except those already identified as nuclear weapons states (states that had exploded a nuclear device before January 1, 1967), from using their plutonium to make bombs.[2] It obliges nonnuclear weapons states to submit their reactors, their spent-fuel depots, any chemical-processing facilities, any plutonium inventories, and any fuel fabricated out of plutonium to scrutiny by IAEA inspectors.

Yet, with a decade of lead time in which to plan, it seems likely that governments anticipating the possession of a physical capability to fabricate nuclear weapons will take steps to develop personnel or laboratory teams acquainted with the technology and perhaps practiced in the pertinent operations. It is generally acknowledged that most of the scientific and technical information needed to make a bomb out of plutonium or highly enriched uranium is publicly available and not difficult to obtain. Furthermore, the motive and the ability to keep weapons designs secret will diminish as more countries investigate the subject and as it is increasingly taken for granted that the knowledge is becoming widely available.

In a military sense, therefore, scores of countries, perhaps most countries, will have nuclear weapons. That is, they will have access to them. Upon any decisoin to proceed with assembly, test, demonstration, or military use, a growing inventory could be available on a predictable schedule with a brief lag of weeks or days rather than months. If independent national chemical-reprocessing facilities for the separation of plutonium or facilities for the enrichment of uranium become generally available, the countries possessing them will possess nuclear mobilization bases that could be activated in any emergency in which a country was willing to withdraw from or violate any nonproliferation commitment it had undertaken.[3]

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[1] In January 1975, the Atomic Energy Commission was superseded by the Energy Research and Development Agency and the Nuclear Regulatory Commission. NRC exercises the licensing and other regulatory functions concerned with nuclear safety and security.

[2] The Treaty on the Non-Proliferation of Nuclear Weapons was signed July 1, 1968, by the governments of the United States, the United Kingdom, and the Soviet Union and went into force March 5, 1970, upon ratification by forty other governments. Ninety-eight nations are parties to the treaty, and another thirteen have signed but have not completed ratification.

The dangers in such a world are not limited to those that may be caused by the belligerency or irresponsibility of national governments. Fissionable materials in various forms will be stored in many locations and will be shipped by various modes of transport from fuel-fabrication facilities to power stations; spent fuel will be shipped from reactors to reprocessing facilities; plutonium will be shipped from reprocessing facilities to storage sites or fuel-assembly facilities. It will be an endless cycle. The number of shipments of potentially explosive materials within or between countries may be tens of thousands per year. As is the case with any valuable or dangerous material, there will be the possibility of theft or hijacking for criminal or terrorist purposes or for other illicit use by individuals, organizations, or movements. It is worth pondering that even several NATO countries have been subject to military revolt, usually with the military forces divided politically.

### PLUTONIUM'S EXPLOSIVE POTENTIAL

The enormous energy embodied in uranium fuels for reactors is not an immediate military threat; these fuels will be imported, inventoried, and slowly consumed. Nevertheless, the plutonium produced within the power reactor, as a by-product, is potentially explosive. And as explosives, the amounts are staggering.

Here are the customary estimates: Two decades from now, the plutonium produced in electric power reactors outside the United States and the Soviet Union would, if chemically processed, be sufficient to produce more than 10,000 atomic bombs per year. By the year 2000, the total plutonium expected to have been produced as a by-product of nuclear power would be equivalent in explosive potential to 1 million bombs of the size that destroyed Nagasaki.

A conservative estimate would be as follows: Worldwide electrical capacity will have quadrupled by the year 2000. If the increase were one-third nuclear, there would be well over 1 billion kilowatts of nuclear generating capacity: this would produce about 250,000 kilograms of plutonium in a year, potentially equivalent to tens of thousands of atomic bombs.

### POLICY DILEMMA

The world's use of energy in all its forms has more than doubled every fifteen years since 1925. For several decades, the major source has been petroleum. To a substantial extent, the demand for continued economic development in both the industrialized and the undeveloped countries of the world will be a demand for a continued increase in the use of energy, especially electricity. Thus, by strategic choice or by necessity, most countries are going to make increasing use of nuclear energy.

The drastically changed nature of the proliferation problem, from a weapons orientation to an energy orientation with weapons implications, poses a dilemma for the security of the United States that will require wisdom and subtlety in the formulation of U.S. policy. It is no longer within the power of the United States, if indeed it ever was, to prevent the rest of the world from moving toward nuclear electric power. Furthermore, the United States is committed by the Non-Proliferation Treaty (in the negotiation of which the United States took a leading role) to facilitate "the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy." The diplomatic basis for safeguarding nuclear materials and facilities will rest on the confidence that governments have in that treaty and on the good faith they display and expect from each other in conforming to its spirit and letter.

For the past decade, U.S. efforts to cope with nuclear proliferation have been focused on the Non-Proliferation Treaty. But it must be recognized that a significant fraction of the world's governments will probably not sign and ratify the Non-Proliferation Treaty. Henceforth, the treaty has to be part of much more complicated legal and diplomatic safeguards upon the peaceful uses of nuclear energy. The nature of national security and the relevance of traditional military forces and expenditures to national security are obviously going to change during the next decade. Nuclear explosives in the hands of army generals, naval commanders, a palace guard, or persons with access to certain laboratories and plutonium stockpiles will add a terrible dimension to internal revolts and civil wars.

It is not clear what the U.S. military establishment should do in the face of these possibilities. The wisdom of minimal involvement may have to be weighed against the necessity for vigorous multilateral action. It would be wasteful at this point to channel funds into military forces in the hope that money can always buy something useful. But it is essential to explore what plans and preparations we should be making for nuclear emergencies anywhere in the world. The complex dangers posed by a worldwide nuclear economy should receive high priority in American national security planning now.

### ORGANIZING GOVERNMENT FOR A COHERENT POLICY

The United States has traditionally separated, or attempted to separate, domestic and foreign policy. By custom and by deliberate organization, the government is substantially divided between those agencies that have little or no responsibility for what goes on abroad and those agencies that have little or no responsibility for what goes on at home.

The single pervasive issue of nuclear energy demands a coherent set of policies reflecting the energy interdependence of the U.S. economy and the rest of the world. These policies will require painful readjustments in the way the U.S. government makes policies and programs and carries them out. The U.S. government must quickly develop a new capability to deal coherently with matters that are of the most urgent economic significance domestically and of the highest diplomatic and security significance abroad.

At present, there are a number of political initiatives to fragment energy policy by making it the responsibility of the fifty individual states. If the object of these initiatives is obstruction, they represent a particularly futile and localized isolationism. If their object is assuring that energy policy is responsible to the local and regional needs of people, we believe that they are misguided. In the development of new sources of energy, in the provision of incentives to conserve energy, in the balancing of energy needs against the social costs of exploiting resources, and especially in the recognition of the problems of worldwide nuclear energy, this nation cannot afford to have fifty separate energy policies. Security against the hazards of nuclear energy requires that the problems be faced on a scale larger than that of a single country, not fifty times smaller. Indeed, a unified national policy will be inadequate unless it is coordinated at the very least with the countries participating in the International Energy Agency (IEA).

The United States cannot have a nuclear energy foreign policy unless it has an energy policy. It cannot have a foreign policy on reactor fuel supplies if it has no policy for domestic production of fuel. It cannot have a foreign policy on reprocessing of spent fuel without settling domestic policy. The United States cannot take the lead in solving worldwide problems of spent-fuel storage and waste disposal if it has no adequate plan for domestic storage and disposal or for participation in a larger plan. In general, this nation cannot assume any leadership or use whatever influence it might have in shaping the worldwide development of nuclear power except in coordination with domestic nuclear policies.

Sensible energy planning in the United States must start by replacing the divisive ideological controversies about nuclear power with some basic understandings. This country needs a wider agreement that nuclear power does indeed raise severe problems, including hazards that are poorly understood and that may occur on an unprecedented scale. However severe these problems are, they have to be acknowledged in order to be solved. It is important to recognize that not all the problems can be solved to everybody's satisfaction in a hurry. And it is necessary to recognize that high employment and a better standard of living will require meeting increasing demands for energy.

The development and conservation of energy resources will be central to the development of the U.S. economy during the coming decades. The increasing importance of energy policy was recognized by this Committee in Achieving Energy Independence, in which we recommended that energy policy be the responsibility of a new cabinet-level agency. We reassert that recommendation. We urge that any organizational arrangements for energy policy be undertaken with full recognition of the inseparability of the foreign and domestic aspects of national strategy for energy. From now on, energy policy must be considered an integral part of national security policy, and the highest level of presidential authority must be responsible for it. U.S. energy policy will be highly influential in U.S. efforts to safeguard the worldwide nuclear economy and will be at the center of the nation's strategic relations with many important countries.

The Senate and the House of Representatives are not organized for effectively dealing with the complex field of energy policy, especially for integrating long-term energy policy with foreign policy and national security. Like the executive branch, Congress has traditionally been accustomed to dealing with foreign problems and domestic problems separately. We recommend that Congress take steps similar to those recommended by this Committee in 1974 for the executive branch to recognize that energy policy is simultaneously central to the domestic economy and to national security.

### NEGOTIATING INTERNATIONAL SAFEGUARDS

The U.S. government must simultaneously honor its commitments to certain kinds of nuclear favoritism and maintain the flexibility necessary for further diplomatic progress in nuclear matters. What will make this policy a demanding one is that it has to be reflected not only at the high level of explicit diplomacy but also in all the programs and operations dealing with the licensing and financing of nuclear exports, commitments for the delivery of nuclear fuel, technical cooperation and assistance, and alliance relationships.

We strongly recommend that the United States negotiate with all nuclear-supplying countries, including those that are not signatories of the Treaty on the Non-Proliferation of Nuclear Weapons, to attach common International Atomic Energy Agency safeguards on all sales to all countries. Such safeguards should be more stringent than they are now and should apply not only to the actual facilities and materials exported but also to any indigenous production of nuclear facilities or materials.

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[3] On three months' notice, a party to the Non-Proliferation Treaty can withdraw if "extraordinary events, related to the subject matter of this treaty, have jeopardized the supreme interests of its country."

IAEA safeguards are an important step toward controlling nuclear dangers, but their effectiveness should not be overstated. Even the term safeguards is misleading. Current IAEA safeguards amount only to inspection, surveillance, and record keeping; they are not physical safeguards.

If a country does violate safeguard agreements, IAEA can only sound an alarm. There is no mechanism for dealing with a country or individual that has broken a safeguard agreement, nor has any party to the Non-Proliferation Treaty proposed such a mechanism. IAEA can only alert the United States and other countries to problems; in the end, these problems must be dealt with by political means.

Successful negotiation of safeguards and restrictions will require effective federal control over the export of nuclear equipment, materials, and technology and vigorous efforts to work out common terms and conditions of nuclear exports with the governments of other nuclear-exporting countries. Relaxation of safeguards must not be allowed to become a method of competition in the nuclear-export market.

It is time to begin planning with other countries for coping with nuclear emergencies. Governments could decide to abrogate the safeguards they had accepted under the Non-Proliferation Treaty or under other arrangements and proceed to build nuclear explosives. Nuclear accidents can occur. Sabotage or occupation of nuclear facilities may be attempted. Nonnational organizations or dissident military forces may acquire nuclear materials. Internal security threats will have terrifying implications for other countries when they become nuclear threats.

The United States needs to develop new methods of technical surveillance and intelligence, mostly in cooperation with other governments, to cope with this range of security and safety problems. The United States should support efforts to enlarge very substantially the inspection capability of the International Atomic Energy Agency, both through increased personnel and through the development and installation of the most modern techniques of automatic surveillance and materials control.

Another problem U.S. nuclear energy foreign policy must address is the disposal of nuclear wastes and the handling of other environmental hazards. Waste disposal should be closely linked to safeguarding fuel supplies because the shipment of spent fuel to international storage facilities or to storage facilities within the fuel-producing countries would determine the location of those raw materials from which plutonium could be extracted. We recommend that the United States participate in the collaborative development of techniques and facilities for handling international shipments of nuclear materials and for disposing of radioactive waste materials in order to achieve common standards of physical security and safety.

IAEA is examining a proposal for internationally owned and managed nuclear fuel centers. The significance of the proposal would be economic and strategic: Many countries that might otherwise proceed to develop independent capabilities for reprocessing plutonium or for enriching uranium fuel might be attracted to the greater economies of larger-scale centralized facilities and also to the greater protection offered by a scheme that would commit other countries to return spent fuel to an internationally managed central location for storage or reprocessing. Although this proposal does not answer the crucial question of what is to be done with these dangerous materials, the United States has expressed interest in it as one further way to reduce the incentives for additional countries to develop their own fuel facilities, which might be usable for the production of weapons material. The United States should be prepared to consider contributing to the success of multilateral arrangements, possibly by making its own enrichment facilities available to participants in such an international program.

To reduce the incentives for developing indigenous uranium-enrichment or plutonium-reprocessing facilities that might be usable for the production of weapons material, the United States should be prepared to offer, and to collaborate with other countries in offering, assured supplies of reactor fuel on long-term contracts at reasonable prices. Many of the dangers of the plutonum economy and of the proliferation of uranium enrichment are going to be dangers to which all the countries participating in these nuclear developments will be susceptible. These are dangers to which their governments should become increasingly sensitive as the nature of a possible proliferated world becomes more widely understood. Skillful diplomacy may harness the self-interest of many countries.

### GOVERNMENT AND INDUSTRY

An unresolved issue of nuclear energy policy is the proper role of the U.S. government in the ownership or control of production facilities for nuclear fuel. All uranium enrichment in the United States is now done by the federal government, using facilities originally built for weapons programs. Further development of uranium enrichment will be for power reactors; therefore, from now on, the major use of the enrichment facilities originally designed for the production of weapons-grade uranium will be production of reactor fuel.

The key point for the United States is that there is an essential diplomatic role for the federal government parallel to an essential production and commercial role for private enterprise. Coordinating these two roles is an immediate challenge.

It has become clear that an early expansion of uranium enrichment will depend on the traditional technology of gaseous diffusion and that private companies will not finance this development without comprehensive federal guarantees of a kind that may not be forthcoming. What makes the matter serious is that the supply of nuclear reactor fuel is one of the few potential inducements that the U.S. government may have at its disposal during the coming decade in helping to shape the development of the worldwide nuclear fuel cycle. We believe that private industry in cooperation with government should competitively develop the forthcoming centrifuge process of uranium enrichment. But it is urgent to proceed with the next stage of expansion using the older technology. We expect government assumption of financial risks to be comprehensive whether this interim stage is conducted publicly or privately.

NRC has the power to license, or withhold licensing from, the reprocessing of spent fuel. It is within the authority of NRC to determine whether the process is too hazardous. Like other pending decisions about nuclear energy, this one is charged with foreign policy implications. A "go" decision by NRC would be a strong signal to the rest of the world that plutonium recycling is a part of the nuclear future. A negative decision by NRC would slow and discourage the development of the plutonium economy. What needs emphasis is that a decision on reprocessing spent fuel and extracting plutonium is a decision of enormous consequence both for the domestic economy and society and for U.S. foreign policy and national security. The U.S. government must integrate national and international economic and security implications in decisions of this sort.

### U.S. ROLE IN GLOBAL NUCLEAR DEVELOPMENT

Whatever happens, there will be no easy solutions to the security problems associated with the worldwide development of nuclear energy. But without vigorous U.S. participation in that development, there may be no solutions at all. It is simply not within the power of the United States to determine unilaterally how nuclear energy is going to develop around the world. The only way in which this country can have a voice in the responsible and orderly development and safe management of this very dangerous technology is by participating in some cooperative arrangements. We believe there is no choice. Only by continuing to exercise leadership in the worldwide development of atomic energy can the United States hope to influence the way the world's nuclear economy is safeguarded. Withdrawal of U.S. support from peaceful nuclear developments abroad or renouncing nuclear energy in this country and suppressing its technological development would nullify whatever moderating influence the United States can hope to exercise through continued leadership and cooperation.

The U.S. government is still in a position to influence the worldwide development of nuclear energy—but diplomatically, not unilaterally. It has bargaining power, not decisive leverage. The United States is rapidly losing its preeminence in the field of nuclear technology, reactor exports, and fuel supply. U.S. supply of nuclear fuel, though momentarily adequate, has been committed far in advance. This country's hobbled position as a supplier means that it is unable to offer a crucial inducement to other countries to abstain from developing fuel facilities with weapons potential. Countries dependent on imports of nuclear fuel will need to be assured that there is an adequtae supply for their current reactor operations and even for stockpiling abroad.

In short, a vigorous policy might yet enable the United States to lead and shape world development, use, and control of nuclear energy. Even so, nuclear diplomacy is likely to be frustrating, unsatisfying, and only partially successful. But the frustrations cannot be avoided by abandoning the effort and concentrating on domestic energy development. The United States cannot bury its head in the sand and leave the rest of its body unprotected.

Under these circumstances, it is important to remember that the United States happens to possess some two-fifths of the known high-grade uranium ore in the world (excluding the Soviet Union and the People's Republic of China). There are large uncertainties in estimates of uranium reserves; the extent of undiscovered uranium deposits is not known. The United States is in a strong potential position to supply itself, to supply others, and to participate in worldwide arrangements for the harnessing of this enormously important energy resource and thus to establish a strong bargaining position in determining the course that the development of the world nuclear power industry should take. But this potential can be dissipated if the United States fails to take steps to consolidate its position.

Crucial decisions will hinge on just how scarce or plentiful uranium ore is in the United States and around the world and on just how great the costs of extraction will be. Improved estimates through exploration must be considered urgent. Many issues of national policy, both foreign and domestic, will hinge on the knowledge that can be gained.

We recommend that the United States vigorously pursue its program of exploration of uranium deposits within this country and develop cooperative methods for estimating supplies of uranium ore in other parts of the world. Such a course will make it easier to estimate the availability of this important but limited resource to meet U.S. needs and the needs of other countries and to estimate the future demand for new technologies, such as breeder reactors or plutonium recycling, in an open, multinational process that takes adequate account of the needs of other countries. In addition, we urge that all present restrictions on the importation of foreign uranium be immediately removed.

Even if nuclear fuel had no explosive potential, managing the world's energy resources would be one of the most challenging elements of American foreign policy. But because the world's next fuel for electricity is also the fuel for the world's most terrifying weapons, hardly anything will determine the physical security of American citizens in future decades more than the way this country utilizes its economic, military, and diplomatic influence in shaping the worldwide development of nuclear energy.

Wars and military emergencies are conditions under which governments that have nuclear weapons might consider using nuclear weapons. In twenty years, most of the world's governments will have (and will be known to have) a capacity to mobilize nuclear materials and nuclear technology into nuclear weapons. The most fundamental problem of international security will then be to prevent any interest in using nuclear weapons from ever being realized.

## MEASURING SUCCESS IN THE EDUCATIONAL SYSTEM

Mr. JAVITS. Mr. President, there has been considerable attention both in the popular media and in scholarly publications regarding the methods and the results of the measurement of educational achievement in our country. This vital topic clearly merits such careful examination and debate. Approximately one-third of our citizens are involved in education on a full-time basis as teachers or students. Parents concerned about the education of their children want to know the successes and the shortcomings of our schools. Government officials responsible for public funds need such information for proper decisionmaking and stewardship. Most importantly, education remains the fundamental basis for economic and social advancement of our country, as well as a key element in the enrichment of the lives of each of our citizens.

A recent letter to the editor of the Washington Post by two Federal education officials contains useful facts and needed prospective on this topic.

The letter was jointly signed by Harold Hodgkinson, Director of the National Institute of Education, and Marie Eldridge, Administrator of the National Center for Education Statistics. It provides an important dimension to the continuing and necessary assessment of our educational system. I would hope that all parties who are seriously addressing this topic would benefit from the knowledge and expertise of these two leading educators.

Mr. President, I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

### School Test Scores—"The Decline Is Bottoming Out"

The recent series of articles in The Washington Post (August 29–31) by Jack McCurdy and Don Speich of the Los Angeles Times on the subject of education standards and tests has drawn attention to an interesting and important trend. We believe, however, that they raised several substantive issues that require clarification.

First, they called for changes in national priorities and for new research approaches to study the problem of declining test scores.

We already know that some of the score trends are down; we know also in which areas they have declined and by roughly how much. To undertake more exhaustive studies will add another few decimals of accuracy to our knowledge of the magnitude of the decline but will not change the basic implications for national policy.

The suggestion of research into the causes for the decline assumes that understanding the causes will lead directly to a cure or remedy. But the broad character of the decline is almost certainly evidence of multiple causes, many of which simply could not be altered or "reversed" to raise test scores. Lists have been compiled which blame the society (too permissive), the children (less motivated), the family (less cohesive and more mobile), the life style (increased use of drugs and alcohol, increased emphasis on entertainment and decreased emphasis on academics), the tests themselves (less relevant content), and the schools (too little discipline, too many electives).

Current research efforts must be directed at areas in which we can bring about the most useful results. Studying the many possible causes of the test score decline would be fascinating historical work, but it is unlikely to reverse the trend. Such research would, however, sidetrack scarce resources now being spent on research to remedy the decline. We know, for example, that where federal funds have been concentrated on the early elementary grades, reading and math test scores have shown continuous increases even while scores in other grade levels declined.

It is certainly worth noting that declines in some scores and education standards are not restricted to the U.S. alone. Several other countries, including Great Britain, are faced with similar declines over approximately the same period. Also, it should be noted that if one looks at the complete history of U.S. test scores since the 1950's, one sees that in spite of recent declines, scores on current tests are still above those of 25 years ago.

But most importantly, we must disagree with the reporters' statement that the trends are continuing to decline. There is recently available evidence to the contrary. The latest SAT scores for 1975–1976 show no decline in mathematics and only a three point decline in verbal skills (the smallest decline in five years). The Iowa Testing Program—which has consistently typified other test score trends—reports increases in all subject scores for most grade levels and greatly reduced declines for seventh and eighth grades for the first time in a decade. And a study by the National Assessment of Educational Progress—which provides data about the knowledge, skills and attitudes of America's youth—indicates a two per cent rise between 1971 and 1974 in the number of 17-year-olds who have mastered basic reading skills.

A general increase in scores can be seen in the Graduate Record Exams, also. This last is perhaps more significant than the SAT scores, since the GRE tends to emphasize a student's achievement or learning rather than ability or aptitude.

We would like to touch briefly on one last point: the question of state and national efforts to actively improve the situation. Twenty-nine states have either initiated or are planning some form of high school graduation requirements based upon student competencies in specific basic and life skills; most other states are considering similar programs. The National Institute of Education brought nationally known scientists and educators together last year in the first major conference on test score decline. The National Center for Education Statistics, through programs such as NAEP, has been compiling and analyzing information on a variety of education trends for some time. In fact, it was that NIE conference and the materials released from the NAEP study that first provided the nation with hard information about the decline, its magnitude, and possible causes.

There is no immediate panacea, but the evidence shows that the decline is bottoming out and that current research efforts are succeeding.

Harold L. Hodgkinson,
*Director, National Institute of Education.*
Marie Eldridge,
*Administrator, National Center for Education Statistics.*
Washington.

## RECOMMENDATIONS OF THE TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM

Mr. STEVENSON. Mr. President, I report for printing in the Congressional Record recommendations for the structural reorganization of the Senate committee system.

The Temporary Select Committee on the Study of the Senate Committee System, of which I am chairman and Senator Brock cochairman, adopted these recommendations on September 29. The following Members have signed this report: Senator Stevenson, Senator Brock, Senator Moss, Senator Metcalf, Senator Nelson, Senator Hansen, Senator Packwood, Senator Domenici, and Senator Helms. Senator Chiles has agreed to sign for the purpose of reporting the recommendations. The two remaining members of the temporary select committee are still examining the recommendations. No votes were cast against the report at the September 29 meeting.

The select committee directed the staff to circulate to select committee members within 2 weeks an explanation and detailed description to be combined with the recommendations and reported no later than November 15, with the consent of the Senate.

Further, I have announced, as has Senator Brock, our intention to introduce with cosponsors a resolution embodying the details of these recommendations for immediate referral to the Committee on Rules and Administration by the end of next week, with the consent of the Senate. Senators may request additional details or to be listed as cosponsors by informing committee staff on 4–1848.

I emphasize even though our recommendations do not specifically refer to the status of Senators' committee staff and Senate Resolution 60 staff, the intent is to implement this reorganization, once the Senate approves, with fair treatment for employing staff without abrupt loss of necessary staff or arbitrary loss of employment. The committee, now that it has adopted recommendations for a structure, has instructed the staff to describe its effects on Senators' staff in detail and suggest, for our review and adoption before the end of the year, a specific policy for implementation of staff changes which protects the rights of Senators who may ultimately lose staff because their responsibilities are shifted into new committees. The committee discussed this matter several times during our many meetings on this report and Senators may be assured specific procedures and protections will be a part of any floor debate which may occur on it.

Second, I emphasize select committee members repeatedly have made clear their hope and expectation committee system structural reform will be the first order of business of the Senate in the next Congress with the recommendation of the Committee on Rules and Administration.

Third, I observe that the select committee has offered numerous opportunities to fellow Senators and other interested persons to be heard on its study of the Senate committee system and its subsequent recommendations. I will include a list of such announcements and opportunities at the close of these remarks. Nevertheless, the chairman and cochairman and other members of the committee and the staff encourage, and will be available to receive, additional comments on our recommendations. Such comment should be facilitated by the specificity of our report. Our expectation is that we will receive many comments and improvements could be made in our recommendations as a result of those comments prior to consideration of this question by the Senate in January.

The select committee and staff in the 5 months remaining before our final report will be conducting studies and reporting on the following additional and related matters on which we solicit comment: facilities, staffing, confirmations, oversight, foresight, alternatives to hearings, external and internal communications, internal rules and procedures, conference committees, leadership and committee planning of committee work, and scheduling.

Mr. President, I thank and commend Senator **Brock** and all my colleagues on the select committee for their long hours, diligent efforts, and generous cooperation. We were aided by the hard work of an extraordinarily able staff, the members of the select committee's staff have my great respect and gratitude.

Mr. President, I ask unanimous consent that the recommendations the select committee ordered reported on September 29 and a chronology of the public announcements of the select committee's work be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Structural Reorganization of the Senate Committee System

### REPORT OF THE TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM

### RECOMMENDATIONS APPROVED BY THE SELECT COMMITTEE, SEPTEMBER 29, 1976

Under authority of S. Res. 109, the Temporary Select Committee has agreed upon the following initial recommendations:

### *I. Committee numbers and sizes*

The Senate committee system shall consist of the following fourteen standing committees and one select committee, consolidated from the existing 31, of the sizes stated unless adjusted by the Senate to accommodate party ratios:

Agriculture and Small Business (15 members).
Appropriations (22 members).
Armed Services (15 members).
Banking, Housing and Urban Affairs (15 members).
Budget (15 members).
Commerce, Science and Transportation (17 members).
Energy and Natural Resources (17 members).
Environment and Public Works (15 members).
Finance (15 members).
Foreign Relations (15 members).
Governmental Affairs (15 members).
Human Resources (15 members).
Judiciary (15 members).
Rules, Administration and Standards (9 members).
Select Intelligence (15 members).

### *II. Assignment limitations and chairmanships*

a. Each Senator without exception shall serve on two and no more than two standing committees and no member of an authorizing committee may serve as an ex officio member of the Committee on Appropriations.

b. Each Senator shall be limited to one additional committee assignment on a joint, special, select or ad hoc committee.

c. For the 95th Congress, membership on the Committee on the Budget and the Select Committee on Intelligence shall count as a paragraph II b. assignment, but thereafter each Senator serving on the Committee on the Budget shall be subject to the two standing committee limitation and the functions of the Select Committee on Intelligence shall be reassigned to existing standing committees.

d. Appropriate Senate committees, no later than the end of the first session of the 95th Congress, shall report legislation treating the consolidation of all present joint committees in the 14 standing committees and the conversion of the staff of the Joint Committee on Internal Revenue Taxation to a Congressional Revenue Office, and vacancies on any joint committee which occur prior to enactment of its consolidation shall be filled from the membership of relevant standing committees.

e. Each Senator shall be limited to two subcommittee assignments on each standing committee and one subcommittee assignment on a paragraph II b. committee, to a maximum total of five subcommittee assignments, and committees shall be prohibited from creating any sub units by any name other than "subcommittee" without the explicit authorization of the Senate by resolution.

f. Each Senator shall be limited to one subcommittee chairmanship on a committee.

g. Committee assignments and transfers of seniority to effect this reorganization shall be determined by the conference of each party for its members, with first and full consideration in new assignments accorded to chairmen and ranking minority members of standing committees which are consolidated in the other standing committees and to chairmen and ranking minority members of select committees and standing subcommittees whose jurisdictions are transferred to other standing committees.

### *III. Joint referral by motion*

The Majority Leader and the Minority Leader acting jointly shall have authority under the Standing Rules to move the referral of a bill jointly or sequentially, or such multiple referral of selected titles of a bill, to two or more committees, with instructions, and debate on such motions shall be limited to two hours equally divided between proponents and opponents.

### *IV. Ad hoc legislative committees*

The Majority Leader and the Minority Leader acting jointly shall have authority under the Standing Rules to introduce a privileged resolution to establish an ad hoc committee, to exist only during the Congress in which it is created, with full authority to have bills referred to it and to investigate and report legislation on subjects described in the resolution which cut across existing committee jurisdictional lines, with debate on such resolution limited to five hours, equally divided between proponents and opponents, and each Leader further shall appoint members of the ad hoc legislative committees from among members of the appropriate standing committees.

### *V. Scheduling*

a. The Senate leadership shall establish, as soon as is possible, a computerized scheduling service to which chairmen must report immediately the scheduling of any committee, subcommittee, or conference committee meeting for the advice of Senators.

b. The Senate shall be prohibited from conducting roll call votes before 2:00 p.m., with all committees and subcommittees limited to scheduling meetings in two time periods, from 8:00 or 9:00 a.m. to conclude at 11:00 a.m., and from 11:00 a.m. to conclude at 1:00 or 2:00 p.m., except as ordered by the Senate by majority vote without debate.

c. Senate leaders shall be required to publish in advance schedules of Senate meetings and to plan a maximum number of days in which no Senate sessions are held.

### *VI. Continuing Review*

The Majority Leader, in consultation with the Minority Leader, shall issue a report prior to the adjournment of each Congress and additional reports as needed on the implementation of this reorganization and the effective operation of the Senate committee system.

### *VIII. Jurisdictions*

Each committee of the Senate shall have referred to it all proposed legislation, messages, petitions, memorials and other matters relating to subjects as follows, and all authorizing committees shall in addition have general oversight responsibility over tax expenditures within their subject jurisdictions:

## JURISDICTIONS OF SENATE COMMITTEES RECOMMENDATIONS APPROVED BY THE SELECT COMMITTEE SEPTEMBER 29, 1976

*First Column*: Legislative categories assigned to proposed committees—both authorizing and oversight responsibilities—as drawn from existing Senate committees. These categories either are embodied in the existing language of Rule XXV, or reflect jurisdiction residing in existing committees by precedent.

*Second Column*: Listing of the Federal departments and agencies subject to authorization or oversight by the proposed committees. This list is not exhaustive and will no doubt be rendered obsolescent by changes in agencies and their missions. However, successor agencies, or one analogous to those listed, would be within the jurisdiction of the same committee.

*Third Column*: Certain major categories of comprehensive policy oversight proposed for inclusion in the jurisdiction of certain committees. Comprehensive policy oversight denotes special responsibility to study and recommend policies relating to broad-ranging categories of problems. The committee holding such jurisdiction would report its findings to the Senate or to committees holding authorizing jurisdiction over relevant agencies or programs.

### AGRICULTURE AND SMALL BUSINESS

*Authorizing jurisdiction*

New Categories

Food from the sea.

From Agriculture and Forestry

Agriculture and commodities.

Inspection of livestock, meat, and agricultural products.

Animal industry and diseases.

Pests and pesticides.

Agricultural extension services and experiment stations.

Forestry.

Agricultural economics and research.

Home economics.

Plant industry, soils, and agricultural engineering.

Farm credit and farm security.

Rural development, rural electrification, and watersheds.

Agricultural production, marketing, and stabilization of prices.

Crop insurance and soil conservation.

Human nutrition.

School nutrition programs.

Food stamp programs.

From Banking

Small Business.

From Commerce

Food from the sea.

From Interior

Irrigation and reclamation.

Land use planning.

From Public Works

Regional economic developments.

*Non-authorizing jurisdiction*

From Select Committee on Nutrition and Human Needs

All jurisdiction.

From Select Committee on Small Business

All jurisdiction.

*Agencies for oversight*

Department of Agriculture.

Commodities Futures Trading Commission.

Small Business Administration.

Economic Development Administration (Commerce).

Appalachian Regional Commission.

Regional Action Plannning Commissions.

Bureau of Reclamation (Interior).

Farm Credit Administration.

*Comprehensive policy oversight*

Food, nutrition and hunger (national and international).

### APPROPRIATIONS

*Authorizing jurisdiction*

From Appropriations

Appropriations for revenue in support of the Government.

Rescissions and deferrals of appropriations.

New spending authority.

### ARMED SERVICES

*Authorizing jurisdiction*

From Armed Services

Common defense.

Military installations.

Military personnel and benefits.

Military research and development.

Selective service system.

Strategic and critical materials.

Military aerospace matters.

Canal Zone government.

Foreign military sales (part).

From Joint Atomic Energy

National security aspects of atomic energy.

*Agencies for oversight*

Department of Defense.

Selective Service System.

National Security Council.

Military courts and tribunals.

Energy Research and Development Administration (part).

### BANKING, HOUSING, AND URBAN AFFAIRS

*Authorizing jurisdiction*

From Banking, Housing and Urban Affairs

Banks, banking, and financial institutions.

International finance.

Financial aid to commerce and industry.

Deposit insurance.

Housing.

Federal monetary policy, including Federal Reserve System.

Money and credit, including currency and coinage.

Issuance and redemption of notes.

Control of prices of commodities, rents, and services.

Urban development (except for urban mass transit).

Economic stabilization and defense production.

Export controls.

From Commerce

Export promotion.

From Foreign Relations

International financial and monetary organizations.

Foreign trade promotion.

From Veterans' Affairs

Veterans' housing.

*Non-authorizing jurisdiction*

From Joint Defense Production

Defense production and national stockpiles.

From Joint Economic

Urban affairs.

International economic problems.

Economic growth.

*Agencies for oversight*

Department of Treasury.[1]

HUD.

Export-Import Bank.

Federal Deposit Insurance Corporation.

Federal Home Loan Bank Board.

International Trade Commission.

Overseas Private Investment Corporation.

Renegotiation Board.

Securities and Exchange Commission.

National Credit Union Administration.

Council on International Economic Policy.

Office of Special Representative for Trade Negotiations.

Council on Wage and Price Stability.

Office of Minority Business Enterprise (Commerce).

Bureau of East-West Trade (Commerce).

Bureau of International Commerce (Commerce).

Bureau of Resources and Trade Assistance (Commerce).

International Bank for Reconstruction and Development.

International Monetary Fund.

Inter-American Development Bank.

Federal Financing Bank.

East-West Foreign Trade Board.

Export Administration Review Board.

Federal Savings and Loan Insurance Corporation.

U.S. Travel Service (Commerce).

Federal Reserve Board.

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[1] Note portions of Treasury Department in other committees.

*Comprehensive policy oversight*

International economic policy.

Urban affairs.

Credit.

### BUDGET

*Authorizing jurisdiction*

From Budget

Concurrent budget resolutions.

Effects of legislation on budget outlays.

Tax expenditures.

Congressional Budget Office.

*Non-authorizing jurisdiction*

From Joint Economic

Economic policy.

Priorities and economy in Government.

Annual Economic Report.

Report on annual current services budget.

*Agencies for oversight*

Council of Economic Advisers.

Congressional Budget Office.

*Comprehensive policy oversight*

Economic policy.

Public and private pension programs.

### COMMERCE, SCIENCE AND TRANSPORTATION

*Authorizing jurisdiction*

New categories

Scientific research and policy.

Engineering and technology research and development.

From Aeronautical and Space

Nonmilitary aeronautical and space sciences.

Science, engineering, and technology policy.

From Armed Services

Panama Canal: maintenance and operation.

From Commerce

Interstate commerce.

Regulation of interstate common carriers: railroads, buses, trucks, vessels, pipelines, civil aviation.

Merchant Marine and navigation.

Coast Guard.

Inland waterways.

Communications.

Consumer protection: commercial products.

Interoceanic canals.

Standards and measurement.

From Public Works

Construction and maintenance of highways.

From Banking

Urban mass transit.

From Labor and Public Welfare

National Science Foundation.

*Non-authorizing jurisdiction*

From Joint Economic

Consumer economics.

From Special Aging

Consumer interests of the elderly.

*Agencies for oversight*

Department of Commerce[1] (Bureau of Standards; Maritime Administration; Fire Prevention and Control Administration; Office of Telecommunications; Bureau of Domestic Commerce).

Department of Transportation.

Civil Aeronautics Board.

Consumer Product Safety Commission.

Federal Communications Commission.

Federal Maritime Commission.

Federal Trade Commission.

Interstate Commerce Commission.

National Transportation Safety Board.

Amtrak.

Office of Teelcommunications Policy.

Panama Canal Company.

Office of Telecommunications Policy.

Office of Technology Assessment.

Federal Coordinating Council for Science, Engineering and Technology.

National Academy of Sciences.

National Academy of Engineering.

National Research Council.

National Technical Information Service.

National Aeronautics and Space Administration.

National Science Foundation.

Plus: Broad oversight into scientific, engineering and technical activities of the Federal government, including all research and development activities.

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[1] Note portions of Commerce Department in other committees; Department of Commerce authorizations remain here.

*Comprehensive policy oversight*

Science and technology.

Transportation.

Consumer affairs.

Communications.

JURISDICTIONS OF SENATE COMMITTEES RECOMMENDATIONS APPROVED BY THE SELECT COMMITTEE SEPTEMBER 29, 1976—Continued

### ENERGY AND NATURAL RESOURCES

*Authorizing jurisdiction*

New Categories
Energy policy.
Energy regulation, conservation, R&D.
From Aeronautical & Space
Solar heating and cooling.
From Armed Services
Naval petroleum reserves.
From Banking
Applications of energy conservation.
Solar energy systems.
From Commerce
Oil and gas production, distribution.
OCS lands (part) [1]
Deepwater ports (part).
From Interior
Pubic lands: forests, farming, grazing, mineral extraction, and related energy issues.
Nat'l. parks, recreation areas, wilderness areas, historical sites.
Mining; mineral lands, mining claims, mineral conservation.
Mining schools, stations.
Energy R&D (part).
OCS lands: mineral extraction.[1]
Native American land management and trust responsibilities.
From Public Works
Deepwater ports (part).
Hydroelectric power.
Coal production, distribution, utilization.
From Joint Atomic Energy
Nuclear energy: development (nonmilitary).
From Joint Economic
Energy.

*Agencies for oversight*

Dept. of Interior (part) authorization; general management.
Energy and minerals.
Land and water resources.
ERDA.
Federal Energy Admin.
Federal Power Comm.
Energy Research Council.
Regional Power admins.

*Comprehensive policy oversight*

Energy and resource development.

### ENVIRONMENT AND PUBLIC WORKS

*Authorizing jurisdiction*

New Categories
Environmental policy.
Environmental R&D.
From Commerce
Oceans, weather, atmospheric activities.
Fisheries, wildlife.
Coastal zone management.
OCS lands (part) *
Ocean dumping (part)
Solid waste (part).
Toxic substances (part).
Pesticides (part).
From Interior
OCS lands (except for mineral extraction).[1]
From Public Works
Water resources.
Flood control, improvements of rivers and harbors.
Public works, bridges and dams.
Water pollution.
Air pollution.
Noise pollution.
Solid waste (part).
Resource recovery.
Ocean dumping (part).
Toxic substances (part).
From Joint Atomic Energy
Nuclear energy: regulation and control (nonmilitary).

*Agencies for oversight*

Dept. of Interior (part) Fish, wildlife, & parks.
Environmental Protection Agency.
Nuclear Regulatory Comm.
Nat'l. Oceanographic & Atmospheric Admin. (Commerce).
Council on Environmental Quality.
Office of Environmental Quality.
Army Corps of Engineers.
Tennessee Valley Authority.

*Comprehensive policy oversight*

Environmental protection.
Resource utilization and conservation.

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[1] Joint jurisdiction over Outer Continental Shelf Lands between energy and natural resources and environment.

### FINANCE

*Authorizing jurisdiction*

From Finance

Revenue measures, including tax expenditures.

Bonded debt of the United States.

Deposit of public moneys.

Customs.

Trade and tariffs.

Transportation of dutiable goods.

Revenue measures regarding insular possessions of the United States.

Health, welfare, and income maintenance financing programs.

General revenue sharing.

*Non-authorizing jurisdiction*

From Joint Committee on Internal Revenue Taxation

Investigation into operations, effects of Federal taxation.

Staff support for revenue legislation.

From Joint Economic

Fiscal policy.

*Agencies for oversight*

Internal Revenue Service (Treasury).

Bureau of the Public Debt (Treasury).

U.S. Customs Service (Treasury).

U.S. Tax Court.

### FOREIGN RELATIONS

*Authorizing jurisdiction*

From Foreign Relations

Foreign relations of the United States.

Treaties and executive agreements, except trade.

Boundaries of the United States.

Protection of U.S. citizens and businesses abroad.

Intervention abroad and declarations of war.

Foreign economic, military, technical, and humanitarian assistance.

International organizations, other than financial and monetary.

Diplomatic service.

Foreign military sales (part).

*Agencies for oversight*

Department of State.

Foreign Claims Settlement Commission.

Inter-American Foundation.

U.S. Arms Control and Disarmament Agency.

U.S. Information Agency.

Agency for International Development.

Board for International Broadcasting.

American National Red Cross.

Canal Zone Government.

ACTION (Peace Corps).

United Nations and other international agencies.

*Comprehensive policy oversight*

National security policy.

### GOVERNMENTAL AFFAIRS

*Authorizing jurisdiction*

New categories:

Government information including freedom of information.

From District of Columbia

Municipal affairs of the Dist. of Columbia.

From Foreign Relations

Acquisition of land and buildings for embassies.

From Government Operations

Organization and reorganization of the Executive branch.

Budget and accounting measures other than appropriations (except as provided in Budget and Impoundment Control Act of 1974).

Study of governmental activities at all levels.

Reports of the Comptroller General Intergovernmental relations.

From Interior

Insular possessions of the United States.

From Labor and Public Welfare

Labor statistics.

From Post Office and Civil Service

Federal Civil Service.

Status of officers and employees of United States.

Postal service.

Census and collection of statistics.

Archives of the United States.

From Public Works

Public buildings and grounds.

Federal buildings and parks within the District of Columbia.

U.S. Capitol, Congressional office buildings.

Construction, maintenance of Botanic Gardens, Library of Congress, Smithsonian Institution.

*Agencies for oversight*

District of Columbia government.

General Accounting Office.

General Services Administration.

Federal Property Council.

Administrative Conference of the United States.

American Battle Monuments Commission.

American Revolution Bicentennial Administration.

Bureau of Labor Statistics (Labor).

Social and Economic Statistics Admin. (Commerce).

Advisory Commission on Intergovernmental Relations.

Commission of Fine Arts.

Postal Rate Commission.

U.S. Postal Service.

U.S. Civil Service Commission.

Executive Office of the President.

Cost Accounting Standards Board.

Territorial courts.

District of Columbia courts.

Office of Management and Budget.

*Comprehensive policy oversight*

In addition to the specific agencies enumerated in Column 2, the Governmental Affairs Committee exercises legislative and investigative responsibilities over the structure and effectiveness of all Federal agencies.

JURISDICTIONS OF SENATE COMMITTEES RECOMMENDATIONS APPROVED BY THE SELECT COMMITTEE SEPTEMBER 29, 1976—Continued

## HUMAN RESOURCES

*Authorizing jurisdiction*

From Agriculture and Forestry
Agriculture colleges.
From Armed Services
Overseas education of civilian and military dependents.
From Banking
Nursing home construction.
From Labor and Public Welfare
Education, labor, and public welfare.
Vocational education.
Vocational rehabilitation.
Equal employment opportunity.
Occupational safety and health.
Pension plans.
Aging.
School nutrition programs.
Railway labor and retirement.
Public health.
Arts and humanities.
Gallaudet College, Howard University, Freedman's Hospital, St. Elizabeth Hospital.
Biomedical research.
Student loans.
National Science Foundation.
From Interior
Native American education, health, social services and loan programs.
From Veterans' Affairs
Veterans' measures, except for housing.
*Non-authorizing jurisdiction*
From Special Aging
Employment and retirement incomes.
Federal, State, and community services.
Health for the elderly.
From Joint Economic
Employment and unemployment in the U.S.

*Agencies for oversight*

Department of Labor.
Department of Health, Education, and Welfare.
ACTION (domestic programs).
Community Services Administration.
Equal Employment Opportunity Commission.
Bureau of Indian Affairs (Interior).
Federal Mediation and Conciliation Service.
National Mediation Board.
National Labor Relations Board.
National Foundation on the Arts and Humanities.
Occupational Safety and Health Review Commission.
Pension Benefit Guaranty Corporation.
Railroad Retirement Board.
Institute of Medicine.
Veterans' Administration.
Office of Drug Abuse Policy.
Smithsonian Institution.

*Comprehensive policy oversight*

Health.
Education and training.
Aging.
Pensions and income maintenance.
Native American affairs.

## JUDICIARY

*Authorizing jurisdiction*

From Judiciary
Judiciary proceedings.
Constitutional amendments.
Federal courts and judges.
Local courts in territories and possessions.
Revision, codification of U.S. statutes.
National penitentiaries.
Restraint of trade and monopolies.
Holidays and celebrations.
Bankruptcy, mutiny, espionage, and counterfeiting.
State and territorial boundaries.
Meetings of Congress; attendance of Members; incompatible offices.
Civil liberties.
Patents, copyrights and trademarks.
Immigration and naturalization.
Apportionment of Representatives.
Claims against the United States.
Interstate compacts.

*Agencies for oversight*

Department of Justice.
U.S. Secret Service (Treasury).
Consolidated Federal Law Enforcement Training Center (Treasury).
Bureau of Alcohol, Tobacco and Firearms (Treasury).
Federal courts and judges (except Tax Court; military courts; territorial courts; District of Columbia courts).
Administrative Office of the United States Courts.
Federal Judiciary Center.
Commission on Civil Rights.
Patent and Trademark Office (Commerce).
Indian Claims Commission.
Legal Services Corporation.

## RULES, ADMINISTRATION AND STANDARDS

*Authorizing jurisdiction*

From Rules and Administration
Contingent fund of the Senate.
Management of Library of Congress, Senate Library, art for the Capitol, Botanic Gardens, monuments to individuals.
Federal elections.
Contested Federal elections.
Presidential succession.
Credentials and qualifications of Members of Congress.
Measures concerning parliamentary rules.
Administration of the Senate.
Printing and correction of the Congressional Record.
From Standards and Conduct
Rules, complaints, and investigations concerning improper conduct by Members, officers or employees of the Senate.
*Non-authorizing jurisdiction*
From Joint Congressional Operations
Study and recommendations concerning

*Agencies for oversight*

Federal Elections Commission.
Library of Congress.
Botanic Gardens.
Government Printing Office.

RULES, ADMINISTRATION AND STANDARDS—Continued

*Non-authorizing jurisdiction*—Continued

Congressional organization and operation.

Identification of judicial activities relating to the Houses of Congress.

Supervision of central personnel and office management services.

From Joint Library

Library of Congress.

From Joint Printing

Government Printing Office.

SELECT INTELLIGENCE

*Authorizing jurisdiction*

From Select Intelligence

Intelligence agency charters and guidelines.

Collection, production, and quality of intelligence.

Limitations on intelligence activities.

*Agencies for oversight*

Central Intelligence Agency.

F.B.I. (part).

Defense Intelligence Agency.

National Security Agency.

Intelligence activities of other DOD agencies.

Department of State (part).

Department of the Treasury (part).

*Comprehensive policy oversight*

Intelligence activities.

(Public Announcements and Solicitations of Comments on its Study and Recommendations by the Temporary Select Committee To Study the Senate Committee System.)

CHRONOLOGY

March 11, 1975—Introduction of S. Res. 109 to establish a temporary select committee to study the Senate committee system by Senator Stevenson and others. Text of S. Res. 109 in *Congressional Record*, pp. 6031–6037.

April 9, 1975—S. Res. 109 referred to the Subcommittee on the Standing Rules of the Senate, Committee on Rules and Administration.

February 5, 1976—Subcommittee on the Standing Rules of the Senate held hearings on the resolution (received testimony from Senators Brock and Moss; written statements from Senators Humphrey, Javits, Kennedy, Metcalf, and Percy), *Congressional Record*.

March 30, 1976—S. Res. 109 reported from the Committee on Rules and Administration with an amendment limiting total expenditures of the Select Committee and requiring a report of its findings and recommendations by February 28, 1977, *Congressional Record*.

March 31, 1976—Discussion of the establishment of the Temporary Select Committee to Study the Senate Committee System, *Congressional Record*, p. 8814.

April 1, 1976—Statement of Senator Mansfield making Democratic appointments to the Select Committee, *Congressional Record*, p. 9070.

April 4, 1976—Statement by Senator Scott making Republican appointments to the Select Committee, *Congressional Record*, p. 9687.

April 9, 1976—Statement by Senator Metcalf on nomination of chairman and agenda of the Select Committee, *Congressional Record*, pp. 10365–10366.

April 12, 1976—Statement by Senator Mansfield replacing Senator Nunn with Senator Moss on the Select Committee, *Congressional Record*, p. 10420.

April 29, 1976—Open meeting for the formation of the Temporary Select Committee to Study the Senate Committee System, and consideration of workplan and staffing proposals for the Committee.

May 20, 1976—Statement by Senator Stevenson on rules of the Select Committee, *Congressional Record*, pp. 14761–14762.

June 1, 1976—Letters sent to all chairmen and ranking minority members requesting designation of staff contact for interviews regarding the Senate committee system.

June 3, 1976—Statement of Senator Mansfield and text of S. Res. 456 on service of Senators on Select Committee, *Congressional Record*, p. 16324.

June 11, 1976—Letters sent to chairmen and ranking minority members of Appropriations Subcommitees requesting designation of staff contact for interviews regarding the Senate committee system.

June 21, 1976—Statement by Senators Stevenson and Brock and text of S. Res. 475 on Senate assignment directory and rules file of the leadership and the Select Committee, *Congressional Record*, p. 19420.

June 23, 1976—Statement by Senator Cannon and text of report on S. Res. 475 on the Senate assignment directory and rules file, *Congressional Record*, p. 19929.

June 29, 1976—Senate Report 94–978 to accompany S. Res. 475.

July 9, 1976—Letter sent to all Senators announcing July and September hearings and soliciting views from Senators.

July 18, 1976—Press release announcing July hearings.

July 19, 1976—Statement by Senator Stevenson on July hearings and oversight statement, *Congressional Record*, pp. 22583–22584.

July 19, 1976—Announcement in *Daily Digest* on hearing to be held on July 20.

July 20, 1976—Announcement in *Daily Digest* on hearing to be held on July 21.

July 21, 1976—Announcement in *Daily Digest* on hearing to be held on July 22. Also summary of hearing on July 20.

July 22, 1976—Announcement in *Daily Digest* on hearings to be held subject to call. Also summary of hearing on July 21.

July 30, 1976—First Staff Report sent to all Senators and interested persons.

August 10, 1976—Statement by Senator Stevenson on September hearings, *Congressional Record*, p. 16527.

August 30, 1976—Second Staff Report sent to all Senators and interested persons.

August 31, 1976—Press release announcing release of Second Staff Report and hearings to be held in September.

September 1, 1976—Statement by Senator Stevenson outlining "Starting Points," *Congressional Record*, pp. 28735–28739.

September 8, 1976—Statement by Senator Mansfield reviewing "Starting Points," *Congressional Record*, p. 29290.

September 9, 1976—Statement by Senator Brock on revised hearing and mark-up schedule, *Congressional Record*, p. 29455.

September 13, 1976—Announcement in *Daily Digest* on hearings to be held on September 14.

September 14, 1976—Statement by Senator Curtis outlining proposal for change in Senate committee system submitted by Senators Moss and Goldwater, *Congressional Record*, pp. 30307–30310.

September 14, 1976—Announcement in *Daily Digest* on hearings to be held on September 15.

September 15, 1976—Announcement in *Daily Digest* on hearings to be held on September 16. Also summary of hearing on September 14 appeared on September 16, 1976—*Daily Digest* on mark-up to be held on September 15.

September 17, 1976—Announcement in *Daily Digest* on mark-up to be held on September 22 and 23. Also summary of mark-up held on September 16.

September 21, 1976—Announcement in *Daily Digest* on mark-up to be held on September 22.

September 22, 1976—Announcement in *Daily Digest* on mark-up to be held on September 23. Also summary of mark-up held on September 21.

September 23, 1976—Announcement in *Daily Digest* on mark-up to be held on September 24. Also summary of mark-up held on September 22.

September 24, 1976—Announcement in *Daily Digest* on mark-up to be held on September 27 and 28. Also summary of mark-up held on September 23.

September 27, 1976—Announcement in *Daily Digest* on mark-up to be held on September 28. Also summary of mark-up held on September 24.

September 28, 1976—Announcement in *Daily Digest* on mark-up to be held on September 29. Also summary of mark-up held on September 27.

September 29, 1976—Press release outlining recommended changes in Senate committee system.

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## PRODUCT LIABILITY

Mr. TAFT. Mr. President, product liability, or the responsibility of manufacturers and sellers for injuries sustained by persons using their products, is becoming an increasingly greater problem for the business community, and for the general public itself. Indeed, the product liability crisis has become so acute in recent months that the White House recently directed the U.S. Commerce Department to commence a 2-month study of the product liability crisis that we currently find ourselves involved with today.

One example of how the product liability crisis is affecting us today is the fact that a number of smaller machine tool manufacturing companies have now been forced to liquidate and go out of business due to the unavailability of adequate product liability insurance at reasonable rates and in some instances the unavailability of such insurance at any cost. Other small manufacturers continue to operate with limited coverage and some without any product liability insurance at all. Those companies forced to do business with incomplete or no coverage not only expose themselves to potential disaster but they also subject persons injured by using one of their products to the possibility of having under some circumstances a legal right but with practically speaking no legitimate remedy.

The State workers' compensation benefits for disabling on-the-job injuries vary greatly is not open to serious question; nor is the fact that, generally speaking these benefit levels have not kept pace with income levels and inflation. The result of this economic inadequacy has been predictable. Faced with antiquated limits on the amount recoverable for severe disabling injuries, injured workers, searching for an alternative source of compensation, bring product liability suits against the manufacturers and sellers of the capital equipment on which they were injured. The impact of this phenomenon upon industrial machinery producers and sellers has been staggering.

According to recent industry survey data, in the machine tool industry alone, there has been a huge increase in product liability insurance premiums for builders of mechanical power presses during the past 8 years. One power press manufacturer has seen his product liability insurance premiums go up from $3,024 in 1968 to $168,659 in 1975. Another builder has had an increase from $15,000 in 1968 to $400,000 in 1975. Still another builder has had his premium increase from $125,000 in 1968 to $600,000 in 1975.

This problem impacts hardest on small businesses. For example, the average insurance premium for manufacturers of metal forming machinery with annual sales between $5 and $15 million is $29.53 per $1,000 of sales.

Much of the cause of the industrial equipment industry's problem can be traced to employers who permit their employees to utilize overaged or improperly maintained equipment, presumably to reduce manufacturing costs. Then in most States, if they have met their workers' compensation law obligations, they are insulated from further legal attack by either the injured employee or the machinery manufacturer because of the restrictive provisions of these same workers' compensation statutes.

Thus, State workers' compensation laws, though originally conceived by legislative devices designed to protect the workingman by insuring that he would be adequately compensated if injured on the job, have become, over the years, shields which protect careless employers by limiting their liability to a statutorily designated maximum regardless of the degree of their responsibility for the condition which brought about the employee's injury.

The workers' compensation statutes in a majority of States provide that such compensation is the execlusive remedy for the injured worker. The courts generally have extended this doctrine of exclusivity to cover suits involving third parties—usually product manufacturers—thus eliminating any possibility of a third party right of contribution against a negligent employer.

The problems created for industrial machinery manufacturers and sellers by the exclusivity provisions of State workers' compensation laws are aggravated and extended by the operation of the doctrine of subrogation, under which, in most States, the employer or his workers' compensation insurance carrier succeeds to the rights of the injured employee to the extent the employer or the carrier has provided compensation. In such case the employer or carrier, in assuming the position of the injured employee, is not tainted by any of the employer's negligence and may seek recovery against a third party manufacturer for the full amount of the workers' compensation "loss." Such statutory subrogation of either the employer or his insurance carrier is common. While subrogation may be sensible in the context of a faultless employer and a negligent third party, it is difficult to justify in the case of a negligent employer and a minimally or nonnegligent third party.

In effect, subrogation shifts the financial burden of job injuries from the employer to the third party. As in the contribution area, most courts have held that any third party recourse against the employer is barred. Thus, the employer's own negligence is not a defense to a subrogation suit.

One of the surest ways to increase employer safety awareness and reduce employee accidents would be to place the full economic burden of such accidents upon the party or parties who are at fault, whose act or failure to act caused the employee injury. My bill, S. 3317 provides for this. That party also is likely to be in the best position to eliminate hazards, and placing the economic burden on his shoulders will insure that he has the greatest incentive to do so. In most cases that party will be the employer—in some cases it may be the machinery manufacturer—in a few cases both employer and manufacturer may be deemed responsible.

S. 3317, the Industrial Safety Encouragement Act of 1976, was introduced in the Senate on April 14, 1976, by me, and my cosponsors include Senators DOMENICI, GRIFFIN, INOUYE, NELSON, RANDOLPH, HUGH SCOTT, and THURMOND.

My bill would first recognize section 4(b)(4) of OSHA, 29 U.S.C. 653(b)(4), thus preserving a sense of statutory continuity. It would then limit its area of coverage to any case where the employer fails to comply with any provision of OSHA or any standard promulgated thereunder or fails to comply with any State statutory, administrative or common law requirement relating to industrial safety.

Thus, before this section becomes operable, there must be a finding by a court or jury or administrative body that the employer had breached an established standard of conduct relating to industrial safety. This standard must be expressed in State or Federal safety law, thus giving the employer actual or constructive knowledge of the requirement in advance of his breach of the standard.

As a second requirement, the employer's "failure to comply" must have "caused or contributed to" the physical injury of an employee, thus establishing a direct relationship between employer misconduct and employee injury.

When these statutory requirements are met, the employer would no longer be shielded from an action for contribution or indemnification or other relief in the nature thereof—such as apportionment of damages based on concepts of comparative fault—brought by a third party who suffered economic injury as a direct result of the employer's misconduct. Presumably the employer and the third party would share the economic responsibility for the accident in accordance with their respective degrees of fault. Most importantly, the legal rights of the injured employee would in no way be affected by this readjustment of responsibility among the employer and the third party.

There are also unfavorable Internal Revenue Code tax provisions for those manufacturers who want to continue operating and who have considered self-insurance because of their inability to obtain insurance at any cost or because they cannot afford commercial coverage. The provisions of the Internal Revenue Code of 1954 do not permit a taxpayer to deduct as a business expense payments set aside as a reserve for self-insurance. In addition, the IRS takes the position that the case law in this area clearly prohibits a deduction for payments made to a reserve for self-insurance.

Therefore, it appears as though legislative action by Congress is the only way in which a deduction of this kind could be authorized and I want to advise my colleagues that I am seriously thinking about introducing a bill in the next Congress which would accomplish this objective.

Mr. President, this problem is a critical one for many segments of American industry and it is a problem which warrants the attention of the Congress. I assure my colleagues that the problem will be a continuing one. I will not introduce my bill on the floor this year, not because it is unmeritorious, but only because it is too late in this session to get anything passed. All is not lost however because we did educate many Senate Members as to the problems in this complex area.

I hope to obtain some assurances today by the chairman and ranking minority member of the Committee on Labor and Public Welfare that they view the problem as severe and one which they will come to grips with early next year independent of any other bill or in the consideration of a Federal Workers' Compensation Act. I can assure my colleagues that I will offer them a vehicle for their consideration at that time.

Mr. CULVER. Mr. President, as a member of the Senate Small Business Committee, several weeks ago I chaired hearings on the declining availability to small businesses of product liability insurance. The threat to the small business community posed by skyrocketing insurance expenses and, for some firms, the inability to obtain this type of insurance, was the recurrent theme throughout the testimony of the 28 witnesses.

We were told, for instance, that the results of one survey indicated that product liability insurance premiums averaged 24 percent of the net profit for some small firms. We heard examples of product liability insurance premium increases of 100, 400, 900, and sometimes as much as 5,000 percent. And these increases applied to small firms that had never experienced a claim for an injury caused by their products.

A representative of the National Machine Tool Builders Association told the Small Business Committee that the average machine tool builder has seen his product liability insurance costs rise from $10,000 in 1970 to $40,000 in 1975, and then almost double again to $71,000 this year. The same witness pointed out that 71 percent of his association's members described product liability "as the most serious problem facing the machine tool industry."

During the hearings, representatives of eight associations from capital equipment manufacturers and distributors discussed what they feel are inequities in the litigation system. They told us that the liability exposure of capital equipment manufacturers is almost unlimited, as there exists no statute of limitations on the liability the manufacturer has for his product once it enters the stream of commerce. We heard that courts apply the current state of the part in safety equipment when judging whether a machine involved in an injury met safety standards, so that a machine built 30 years ago is judged by current safety standards.

An expressed purpose of the hearings was to obtain from industries a variety of remedies that would address the serious problems confronting them. The committee received many different proposals. I should call your attention at this time to the fact that, during the hearings, at least two other major capital equipment associations testified in opposition to the specific remedy proposed by Senator TAFT in his amendment. It may be that the addition of a limitation to the employer's liability may alter the position of these associations; however, the point is that we have not taken a close enough look at the legislative options open to us to solve these problems. At this point, our data concerning product liability insurance is very rudimentary as is our understanding of the various solutions.

The Under Secretary of Commerce, Edward O. Vetter, appeared at hearings held by the Senate Small Business Committee on December 10, 1975, and outlined a study being undertaken by the Department of Commerce. That study will examine the systemic impact of various solutions concerning product liability insurance on all those affected. The Under Secretary pledged that the study is to be completed by December 15 of this year, and thus would be available at the beginning of the next Congress.

In addition, various studies are presently being undertaken by several insurance agencies and will also be available next session. This would lend to us more solid information on this important issue and will enable us to look more closely at all the legislative options open to us early in the next session of Congress. I feel that we would be doing American industry and the American consumer a grave injustice to pass any legislation until we have as many facts before us as possible, and until we have considered how all of the proposed remedies impact on different segments of industry, on small businesses, on labor, and on the American consumer.

As far as the provisions in the amendment offered by Senator TAFT are concerned, we do not know how they would affect small businesses other than capital equipment manufacturers. It seems most probable that, under this type of change in this law, the workers compensation insurance premiums of employers would reflect their increased liability exposure. If so, the cost of insurance for small manufacturers could reach even further danger levels, as their premiums for product liability insurance and workers compensation could increase substantially.

I applaud Senator TAFT's efforts to address the problems facing the capital equipment industry, and I share his deep concern that the health of this important industry may be threatened by the product liability insurance crisis.

The capital equipment industry produces the tools by which American industry meets the need of our society for food, clothing household items, and medical care, to name a few. A strong, viable capital goods industry is vital to the satisfaction of those needs; it is also necessary to assure this country's ability to export goods and maintain its national defense posture.

The Senate Small Business Committee will continue its study of the impact on small business of the product liability problem. We will conduct extensive hearings, both in Washington and in the field, to ascertain both the extent of the problem and how it might best be addressed. It is my hope that this body will avail itself of the extensive resources compiled by the Small Business Committee in any consideration of proposed legislation to remedy the product liability problem.

Mr. JAVITS. Mr. President, I concur with the views expressed by my colleagues, Senator WILLIAMS and Senator TAFT, that the products liability problem needs to be given further and more intensive consideration by the Congress. As the ranking minority member of the Small Business Committee, I listened with great interest to the statements of many businessmen and other witnesses who testified in great detail about the inability of machine tool and other manufacturers to obtain product liability insurance at a reasonable rate. Several witnesses expressed alarm over the ability of their companies to continue to survive in the face of skyrocketing costs. Some indicate that their product liability insurance premiums had risen as much as 500 percent over the past 3 to 4 years.

These hearings before the Small Business Committee were not the first in the Senate to consider the products liability problem. As Senator WILLIAMS has indicated, the Labor and Public Welfare Committee, on which I also serve as the ranking minority member, has had this matter before it since March of this year. In its consideration of S. 2018, the workers compensation reform bill, which Chairman WILLIAMS and I have coauthored, we have received much testimony on the issue of third party liability in products liability actions.

I believe that the committee will again consider the products liability issue in the context of workers' compensation reform when it considers such legislation next year. I believe that the members of the committee have now become more aware of the serious problems involved and will seek an early opportunity to consider various alternative approaches to the apportionment of damages in cases of employee injuries arising out of the negligence of his employer in the maintenance or alteration of the machine or in putting it to a use for which it is not intended. Where, in fact, it was the employer's negligence that caused the injury, when a worker is injured on the job and his employer has been negligent, it would seem that employer should not be permitted to use the workers' compensation system as a shield to establish total financial immunity in suits against the third-party manufacturer.

The area of products liability law, particularly as the doctrine of strict liability has developed, is a relatively new and complex one. To the extent that it comes within the jurisdiction of the Labor and Public Welfare Committee, I fully expect that the information we have received on the developing law of product liability, as it relates to traditional concepts of workers' compensation liability, will be the subject of intensive study and, hopefully, of legislative actions in the first session of the next Congress.

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## UNANIMOUS CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Now, Mr. President, under the order that was previously entered the Senate will come in this morning at 9 a.m. I ask unanimous consent that immediately after the recognition of the two leaders under the standing order the clerk will call the roll to establish the presence of a quorum and immediately upon the establishment of a quorum the Chair put the question on the motion to proceed to the consideration of the conference report.

Mr. GARN. Reserving the right to object, so that I fully understand, we are requesting unanimous consent that further reading of the conference report be dispensed with, that the Senate will stand in recess until 9 a.m. tomorrow morning, at which time, after the leaders are recognized we will determine the presence of a quorum and then the question will be put and a rollcall vote will be held on the motion to take up the conference report.

Mr. ROBERT C. BYRD. Yes, that is correct. That will be a rollcall vote during the establishment of the quorum. Otherwise, the Senate would spend an hour getting a quorum. So at some point during the quorum call undoubtedly the Sergeant at Arms will be asked to go get

Senators. There will be a rollcall vote on that question and then there will be a rollcall vote on the question to proceed.

Mr. GARN. I understand.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 85. A concurrent resolution authorizing the printing as a Senate document of a report by a special consultant to the Administrative Conference of the United States on some administrative procedures of the Internal Revenue Service;

S. Con. Res. 201. A concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the Ninety-fourth Congress as a Senate document.

The House has agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 664. A concurrent resolution providing for the printing of a booklet entitled "Women in Congress";

H. Con. Res. 698. A concurrent resolution providing for the printing as a House document "Art in the United States Capitol";

H. Con. Res. 772. A concurrent resolution authorizing the printing of materials relating to the Presidential debates between James E. Carter and Gerald R. Ford.

The House has passed the bill (S. 3848) to amend the act of February 25, 1920, with an amendment in which it requests the concurrence of the Senate.

The House agrees to the amendment of the Senate to the bill (H.R. 8228) to amend the Federal Aviation Act of 1958 relating to emergency locator transmitters, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 22) for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes.

The House has passed the following joint resolutions in which it requests the concurrence of the Senate:

H.J. Res. 1022. A joint resolution providing for the designation of the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week" and

H.J. Res. 1107. A joint resolution to provide for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler.

### ENROLLED JOINT RESOLUTION SIGNED

The Speaker has signed the following enrolled joint resolution:

H.J. Res. 1096. Joint resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. BURDICK).

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## RECESS UNTIL 9:00 A.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate recess under the order.

The motion was agreed to and, at 1:14 a.m., the Senate recessed, pursuant to the order, to reconvene at 9 a.m. Friday, October 1, 1976.

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## NOMINATIONS

Executive nominations received by the Senate September 30, 1976:

### National Institute of Building Sciences

The following-named persons to be Members of the Board of Directors of the National Institute of Building Sciences for the terms indicated commencing on the date of incorporation (new positions.)

For a term of 1 year: Jack C. Sanders, of Oklahoma.

For a term of 2 years: Ernest Ambler, of Maryland.

For a term of 3 years: Charles J. Orlebeke, of Maryland.

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## CONFIRMATIONS

Executive nominations confirmed by the Senate, September 30, 1976:

### Export-Import Bank of the United States

Margaret W. Kahliff, of Ohio, to be a member of the Board of Directors of the Export-Import Bank of the United States.

### National Center for Productivity and Quality of Working Life

The following-named persons to be members of the Board of Directors of the National Center for Productivity and Quality of Working Life for a term coterminous with the term of the President:

Donald C. Burnham, of Pennsylvania.

R. Heath Larry, of Pennsylvania.

Edward E. Carlson, of Illinois.

I. W. Abel, of Pennsylvania.

C. L. Dennis, of Illinois.

Frank E. Fitzsimmons, of Maryland.

James E. Holshouser, Jr., of North Carolina.

Daniel J. Evans, of Washington.

L. William Seidman, of Michigan.

Andrew E. Gibson, of New Jersey.

The following-named persons to be members of the Board of Directors of the National Center for Productivity and Quality of Working Life for a term coterminous with the term of the President:

Bess Myerson, of New York.

Berkeley G. Burrell, of the District of Columbia.

Wayne L. Horvitz, of the District of Columbia.

Gaylord Freeman, of Illinois.

Herbert S. Richey, of Ohio.

Robert A. Georgine, of Maryland.

J. Lane Kirkland, of the District of Columbia.

John T. Dunlop, of Massachusetts.

### Department of State

Wat T. Cluverius IV, of Maryland, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

Edward E. Masters, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Monteagle Stearns, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

Robert P. Smith, of Virginia, a Foreign Service officer of class 1, to be Ambassador sador Extraordinary and Plenipotentiary of United States of America to the Republic of Ghana.

### International Bank Posts

William D. Rogers, of Virginia, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank.

### Agency for International Development

Eugene N. S. Girard II, of Mississippi, to be an Assistant Administrator of the Agency for International Development.

### Overseas Private Investment Corporation

The following-named persons to be members of the Board of Directors of the Overseas Private Investment Corporation for terms expiring December 17, 1978:

Donley L. Brady, of California.

Allie C. Felder, Jr., of the District of Columbia.

### Inter-American Foundation

Manuel R. Caldera, of California, to be a member of the Board of Directors of the Inter-American Foundation for a term expiring October 6, 1980.

### UNESCO Conference Representatives

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the 19th Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

#### *Representatives*

John E. Reinhardt, of Maryland.
Robert B. Kamm, of Oklahoma.
William B. Jones, of California.
Sarah Goddard Power, of Michigan.
Clayton Kirkpatrick, of Illinois.

#### *Alternate Representatives*

Arthur K. Solomon, of Massachusetts.
Mae Sue Talley, of Arizona.
Russell C. Heater, of California.
Oscar Padilla, of California.
Dixon R. Harwin, of California.

### Department of Health, Education, and Welfare

Edward Aguirre, of California, to be Commissioner of Education.

### National Science Foundation

Harvey Allan Averch, of Virginia, to be an Assistant Director of the National Science Foundation.

Eloise E. Clark, of the District of Columbia, to be an Assistant Director of the National Science Foundation.

The following-named persons to be members of the National Science Board, National Science Foundation, for a term expiring May 10, 1982:

Raymond L. Bisplinghoff, of Missouri.

Lloyd Miller Cooke, of New York.

Herbert D. Doan, of Michigan.
John R. Hogness, of Washington.
William F. Hueg, Jr., of Minnesota.
Marian E. Koshland, of California.
Alexander Rich, of Massachusetts.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE U.S. ARMY

The following-named officer for temporary appointment in the Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

*To be brigadier general*

Col. James H. Patterson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

IN THE U.S. NAVY

Vice Admiral Kent L. Lee, U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE ARMY AND NAVY

Army nominations beginning Gerald E. Galloway, to be permanent professor, U.S. Military Academy, and ending Dale S. Vincent, to be 2d lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Sept. 15, 1976.

Navy nominations beginning Frank R. Arko, to be captain, and ending Mildred L. Carr, to be captain which nominations were received by the Senate and appeared in the Congressional Record on Sept. 10, 1976.

# HOUSE OF REPRESENTATIVES—*Thursday, September 30, 1976*

The House met at 10 o'clock a.m.

Rev. Cynthia A. Jarvis, Westminster Presbyterian Church, Wooster, Ohio, offered the following prayer:

O Lord our God, in this year of remembering, bring to our minds those who have been forgotten.

We give you thanks for men who refused to fire the shot heard around the world and women who birthed babies instead of bombs;

For Indians who knew better than to trust promises and slaves who still travel underground;

For witches too numerous to burn and scarlet-lettered ladies;

For immigrants whose bootstraps broke before they pulled themselves up and for those who cried "injustice" as they melted into the pot;

For exiles who burned draft cards instead of towns and children whose inflated hunger was swallowed for defense.

O Lord if it be Your will, grant that our future as a nation be shaped by these Your suffering servants, that our future as a people be nurtured in the power of Your compassion. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 13655) entitled "An act to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was resolved, that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate had passed a bill of the Senate of the following title in which concurrence of the House is requested:

S. 2278. An act, the Civil Rights Attorney's Fees Awards Act of 1976.

## REV. CYNTHIA A. JARVIS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, our guest chaplain today is the Reverend Cynthia Jarvis, of Wooster, Ohio.

After graduating from Denison University in Granville, Ohio, she studied for 1 year at Boston University on a Rockefeller Foundation trial fellowship. As a result of this experience, she then entered and graduated from Vanderbilt University with a degree in divinity.

Mr. Speaker, Reverend Jarvis is presently serving as the acting pastor of Westminster Presbyterian Church in Wooster, Ohio, and has, as part of her responsibility, the campus ministry for Wooster College.

In addition, she serves on several national boards including as vice president of the Church Society for College Work—a board with the goal of furthering campus ministries; as vice moderator of the Mushingam Valley Presbytery; a member of the executive committee for the National Campaign Committee for Major Mission Funding for the Presbyterian Church; and chairperson of the Presbytery Task Force on Women and a member of the Synod Task Force on Women.

Mr. Speaker, Reverend Jarvis has carved out a remarkable record of service to the community and to the students at Wooster College in 2 years of service to the Wooster community. We are pleased that she is here today to give the invocation in this Bicentennial Year.

## PROFESSIONAL SPORTS OVERSIGHT NEEDED

(Mr. SISK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SISK. Mr. Speaker, as chairman of the Select Committee on Professional Sports, I want to report that we have concluded perhaps the most comprehensive study of the professional team sports industry ever conducted. In 28 hearing sessions, we heard from over 80 witnesses and 2,400 pages of transcript testimony.

Although our specific mandate was to identify the problems associated with the four major professional team sports, an interesting side revelation of the hearings was the extent of the influence and impact those sports, and almost all other organized sports, professional and amateur, have on the minds and attitudes of the public at large. One evidence of this is the enormous amount of mail to the committee from people connected with other sports who wanted to travel from all parts of the country, at their own expense, to testify about the problems of those sports. A good portion of the mail offered personal evidence of problems with certain sports. Most heartening was the almost unanimous favorable tenor of the communications to the work of the committee.

The overriding theme I am getting at is the widespread concern of the people of this Nation over and about sports. And when things are not right in the sports world, this has an upsetting effect on the public.

This was brought sharply into focus by the hullabaloo over the heavyweight championship fight the other night. From all reports, it would appear that three spineless officials were either bought off, sold off, or scared off. Whatever the real story, we can see more widespread evidence of fan disgust with sports.

The reason for the formation of the select committee was the convulsive, unsettled state of the four major professional sports. Little has happened over the last 4 months to show that we were wrong in our assessment that there was a need for investigations. In fact, some things appear even worse now.

All this leads me to believe that the time has come for some type of congressional oversight over all sports on an ongoing, permanent basis. I am totally opposed to any Federal commission to control or dictate sports in this country. I think that would be unwise. But, I have seen the beneficial effects of our hearings thus far. Their seriousness, and the evenhanded way they have been conducted, seems to have had a restraining effect; the participants have seemed to become more rational, more reasonable.

Congress has a duty to protect the fan interest of this Nation in its sports. Sports provide entertainment and recreation. They are supportive of our Nation's traditional values of sportsmanship and fair play. They are a national asset. If congressional oversight can serve as a conscience for the American sports world, keeping the eyes of those who run sports in America on its important national goal, they have in their care:

spiritual and physical integrity, then this is a task we should seriously look into and take on if necessary.

## PLIGHT OF TODAY'S SOVIET JEWS

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEVITAS. Mr. Speaker, it is altogether befitting that as the world recognizes Babi Yar Memorial Services honoring the slaughter of between 33,000 to 100,000 Russian Jews by the Nazis on September 29 and 30, 1941, that the plight of today's Soviet Jews should be brought to the world's attention.

One important function of the Congress is to be a forum to speak out to the people of this Nation and the world on issues of great concern. I have spoken out here before on such matters as the tragedy that was occurring in Lebanon, the problem of human rights on Cyprus, and about the plight of Soviet Jews in their desperate effort to flee tyranny and to seek a better life.

The problem of oppression in Russia is not confined solely to the Jews. It applies to many others as well. The resolution recently adopted overwhelmingly by this House dealing with Pastor Georgi Vins, a Baptist minister, points out the widespread disregard for human rights by the Soviet Union.

I have previously spoken specifically of a young Russian Jew named Boris Levitas, who has sought repeatedly to emigrate from Kiev to Israel to be reunited with his family.

I rise today, Mr. Speaker, to inform my colleagues in the House that—where Boris Levitas' situation was of extreme seriousness—it now has become impossible. He is living the life of a hunted animal, the constant prey of Soviet police and totally dependent on his friends in Kiev and elsewhere.

Boris Levitas no longer has a home. His identity papers and his work permit have been confiscated, leaving him with no way to earn money for food and clothing. His friends give him shelter—secretly, covertly—placing themselves in great danger of retaliation and punishment at the hands of the Soviet Government. We in America cannot fully understand the desperateness of a person without papers as is the case in a totalitarian state.

Recently, an American tourist from Florida met Boris Levitas on a darkened Kiev street and gave the shivering youth his own topcoat to ward off the Russian cold.

All Boris Levitas wants is to emigrate to join his family in Israel. Instead he hides in fear lest the Soviet authorities throw him in prison.

Every one of my inquiries about Boris Levitas to Soviet officials have been met with the stony inhumanity of implacable tyranny. They will not respond. They will not let Boris Levitas go. They have made a mockery of the Helsinki accords which they signed promising freedom of movement.

It happens, Mr. Speaker, that Boris Levitas and I share the same last name, although I do not believe we are related, except as human beings. But I would protest just as strongly were he to bear your name, or the name of any other Member of this House, or any other name in the world, for Boris Levitas—hunted, fearful, yearning for freedom—is every human being oppressed by those who ravage moral decency and human dignity. His plight is an indictment of those who seek to crush human courage.

If the rulers of the Soviet Union want to prove they are prepared to honor their commitments in the Helsinki accords; if the rulers of the Soviet Union want to demonstrate their desire to improve relations, they could make a major symbolic move by releasing Boris Levitas.

## THE SMITH COLLEGE BILL

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, many members of the public, the press, and indeed of this House may not be fully aware that we have before us at this instant the opportunity to provide a modicum of help to the millions of Americans hard pressed to finance higher education for themselves or their children.

The Smith College bill, H.R. 1386, which passed the House last spring, has been amended in the Senate to provide for a $100 yearly tax credit for vocational or college education expenses which would increase to $250 by 1980.

While this is not a huge amount, it is at least a start in providing help to those Americans, particularly middle-income citizens, who find the escalating costs of higher education onerously difficult to finance.

Yesterday, the distinguished chairman of the Committee on Ways and Means asked unanimous consent to take from the Speaker's table the Smith College bill so that it could be acted upon by this House. There was objection. I urge the distinguished chairman of the Committee on Ways and Means to seek authority of the committee to move that the bill be taken up so that we might concur in the Senate amendment.

This can be done now. We can provide help to millions of Americans now. At the same time, approval of the Senate provisions would have no budgetary impact this year.

The Senate has passed similar tax credit legislation in four of the past five Congresses, including this 94th Congress. More than 80 Members of this House have previously indicated support for similar proposals.

We have the opportunity now to bring this question before the House. I hope we will not disappoint millions of Americans by failing to do so.

## CALL OF THE HOUSE

Mr. DEVINE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 845]

Abdnor
Abzug
Adams
Ambro
Armstrong
Bauman
Boggs
Bolling
Breckinridge
Brown, Calif.
Buchanan
Burke, Calif.
Butler
Byron
Chisholm
Clausen, Don H.
Conable
Conlan
Conyers
Corman
Dellums
Derwinski
Dickinson
Diggs
Dingell
Drinan
Early
Edwards, Calif.
Esch
Eshleman
Evans, Colo.
Flynt
Ford, Mich.
Fountain
Fraser
Frey
Gibbons
Goodling
Green
Gude
Guyer
Harsha
Hayes, Ind.
Hébert
Heckler, Mass.
Hinshaw
Holland
Howe
Jacobs
Jarman
Johnson, Colo.
Jones, Ala.
Keys
Kindness
Koch
LaFalce
Landrum
Lott
McCloskey
McCollister
McDonald
McKay
McKinney
Madigan
Matsunaga
Melcher
Metcalfe
Mink
Mitchell, Md.
Moorhead, Pa.
Moss
Nix
O'Brien
O'Hara
O'Neill
Passman
Pattison, N.Y.
Pepper
Peyser
Pritchard
Railsback
Rangel
Reuss
Rhodes
Riegle
Risenhoover
Rogers
Ruppe
Santini
Scheuer
Shuster
Skubitz
Spellman
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Teague
Thornton
Tsongas
Udall
Van Deerlin
Vanik
Walsh
Waxman
Wiggins
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

The SPEAKER. On this rollcall 319 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make a statement. In order to complete the legislative program, we will have to follow a pattern. The Chair will receive unanimous-consent requests from Members at this time, but not for speeches and not for legislative matters, except to file conference reports.

## CONFERENCE REPORT ON S. 3091, NATIONAL MANAGEMENT ACT OF 1976

Mr. FOLEY submitted the following conference report and statement on the Senate bill (S. 3091) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1735)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (S. 3091) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "National Forest Management Act of 1976".

### FINDINGS

Sec. 2. The Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601–1610) is amended by redesignating sections 2 through 11 as sections 3 through 12, respectively; and by adding a new section 2 as follows:

"Sec. 2. Findings.—The Congress finds that—

"(1) the management of the Nation's renewable resources is highly complex and the uses, demand for, and supply of the various resources are subject to change over time;

"(2) the public interest is served by the Forest Service, Department of Agriculture, in cooperation with other agencies, assessing the Nation's renewable resources, and developing and preparing a national renewable resource program, which is periodically reviewed and updated;

"(3) to serve the national interest, the renewable resource program must be based on a comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from the Nation's public and private forests and rangelands, through analysis of environmental and economic impacts, coordination of multiple use and sustained yield opportunities as provided in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531), and public participation in the development of the program;

"(4) the new knowledge derived from coordinated public and private research programs will promote a sound technical and ecological base for effective management, use, and protection of the Nation's renewable resources;

"(5) inasmuch as the majority of the Nation's forests and rangeland is under private, State, and local governmental management and the Nation's major capacity to produce goods and services is based on these nonfederally managed renewable resources, the Federal Government should be a catalyst to encourage and assist these owners in the efficient long-term use and improvement of these lands and their renewable resources consistent with the principles of sustained yield and multiple use;

"(6) the Forest Service, by virtue of its statutory authority for management of the National Forest System, research and cooperative programs, and its role as an agency in the Department of Agriculture, has both a responsibility and an opportunity to be a leader in assuring that the Nation maintains a natural resource conservation posture that will meet the requirements of our people in perpetuity; and

"(7) recycled timber product materials are as much a part of our renewable forest resources as are the trees from which they originally came, and in order to extend our timber and timber fiber resources and reduce pressures for timber production from Federal lands, the Forest Service should expand its research in the use of recycled and waste timber product materials, develop techniques for the substitution of these secondary materials for primary materials, and promote and encourage the use of recycled timber product materials.".

### REPORTS ON FIBER POTENTIAL, WOOD UTILIZATION BY MILLS, WOOD WASTES AND WOOD PRODUCT RECYCLING

Sec. 3. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof a new subsection (c) as follows:

"(c) The Secretary shall report in the 1979 and subsequent Assessments on:

"(1) the additional fiber potential in the National Forest System including, but not restricted to, forest mortality, growth, salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple use considerations;

"(2) the potential for increased utilization of forest and wood product wastes in the National Forest System and on other lands, and of urban wood wastes and wood product recycling, including recommendations to the Congress for actions which would lead to increased utilization of material now being wasted both in the forests and in manufactured products; and

"(3) the milling and other wood fiber product fabrication facilities and their location in the United States, noting the public and private forested areas that supply such facilities, assessing the degree of utilization into product form of harvested trees by such facilities, and setting forth the technology appropriate to the facilities to improve utilization either individually or in aggregate units of harvested trees and to reduce wasted wood fibers. The Secretary shall set forth a program to encourage the adoption by these facilities of these technologies for improving wood fiber utilization.

"(d) In developing the reports required under subsection (c) of this section, the Secretary shall provide opportunity for public involvement and shall consult with other interested governmental departments and agencies.".

### REFORESTATION

Sec. 4. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 section 2 of this Act, is amended by adding at the end thereof new subsections (d) and (e) as follows:

"(d)(1) It is the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Accordingly, the Secretary is directed to identify and report to the Congress annually at the time of submission of the President's budget together with the annual report provided for under section 8 (c) of this Act, beginning with submission of the President's budget for fiscal year 1978, the amount and location by forests and States and by productivity class, where practicable, of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise denuded or deforested, and all lands with stands of trees that are not growing at their best potential rate of growth. All national forest lands treated from year to year shall be examined after the first and third growing seasons and certified by the Secretary in the report provided for under this subsection as to stocking rate, growth rate in relation to potential and other pertinent measures. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment. The level and types of treatment shall be those which secure the most effective mix of multiple use benefits.

"(2) Notwithstanding the provisions of section 9 of this Act, the Secretary shall annually for eight years following the enactment of this subsection, transmit to the Congress in the manner provided in this subsection an estimate of the sums necessary to be appropriated, in addition to the funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut over that year, plus sufficient portion of the backlog of lands found to be in need of treatment to eliminate the backlog within the eight-year period. After such eight-year period, the Secretary shall transmit annually to the Congress an estimate of the sums necessary to replant and otherwise treat all lands being cut over and maintain planned timber production on all other forested lands in the National Forest System so as to prevent the development of a backlog of needed work larger than the needed work at the beginning of the fiscal year. The Secretary's estimate of sums necessary, in addition to the sums available under other authorities, for accomplishment of the reforestation and other treatment of National Forest System lands under this section shall be provided annually for inclusion in the President's budget and shall also be transmitted to the Speaker of the House and the President of the Senate together with the annual report provided for under section 8(c) of this Act at the time of submission of the President's budget to the Congress beginning with the budget for fiscal year 1978. The sums estimated as necessary for reforestation and other treatment shall include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

"(3) Effective for the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there is hereby authorized to be appropriated for the purpose of reforesting and treating lands in the National Forest System $200,000,000 annually to meet requirements of this subsection (d). All sums appropriated for the purposes of this subsection shall be available until expended.

"(e) The Secretary shall submit an annual report to the Congress on the amounts, types, and uses of herbicides and pesticides used in the National Forest System, including the beneficial or adverse effects of such uses.".

### RENEWABLE RESOURCE PROGRAM

Sec. 5. Section 4 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by striking out the word "and" at the end of paragraph (3); striking out the word "satisfy" and inserting in lieu thereof "implement and monitor" in paragraph (4); striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and by adding a new paragraph (5) as follows:

"(5) Program recommendations which—

"(A) evaluate objectives for the major Forest Service programs in order that multiple-use and sustained-yield relationships among and within the renewable resources can be determined;

"(B) explain the opportunities for owners of forests and rangeland to participate in programs to improve and enhance the condition of the land and the renewable resource products therefrom;

"(C) recognize the fundamental need to protect and, where appropriate, improve the quality of soil, water, and air resources;

"(D) state national goals that recognize the interrelationships between and interdependence within the renewable resources; and

"(E) evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices.".

### NATIONAL FOREST SYSTEM RESOURCE PLANNING

Sec. 6. Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof new subsections (c) through (m) as follows:

"(c) The Secretary shall begin to incorporate the standards and guidelines required by this section in plans for units of the National Forest System as soon as practicable after enactment of this subsection and shall attempt to complete such incorporation for all such units by no later than September 30, 1985. The Secretary shall report to the Congress on the progress of such incorporation in the annual report required by section 8(c) of this Act. Until such time as a unit of the National Forest System is managed under plans developed in accordance with this Act, the management of such unit may continue under existing land and resource management plans.

"(d) The Secretary shall provide for public participation in the development, review, and revision of land management plans including, but not limited to, making the plans or revisions available to the public at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and hold public meetings or comparable processes at locations that foster public participation in the review of such plans or revisions.

"(e) In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans—

"(1) provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960, and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness; and

"(2) determine forest management systems, harvesting levels, and procedures in the light of all of the uses set forth in subsection (e)(1) the definition of the terms 'multiple use' and 'sustained yield' as provided in the Multiple-Use Sustained-Yield Act of 1960, and the availability of lands and their suitability for resource management.

"(f) Plans developed in accordance with this section shall—

"(1) form one integrated plan for each unit of the National Forest System, incorporating in one document or one set of documents, available to the public at convenient locations, all of the features required by this section;

"(2) be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

"(3) be prepared by an interdisciplinary team. Each team shall prepare its plan based on inventories of the applicable resources of the forest;

"(4) be amended in any manner whatsoever after final adoption after public notice, and, if such amendment would result in a significant change in such plan, in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section; and

"(5) be revised (A) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (B) in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section.

"(g) As soon as practicable, but not later than two years after enactment of this subsection, the Secretary shall in accordance with the procedures set forth in section 553 of title 5, United States Code, promulgate regulations, under the principles of the Multiple-Use Sustained-Yield Act of 1960, that set out the process for the development and revision of the land management plans, and the guidelines and standards prescribed by this subsection. The regulations shall include, but not be limited to—

"(1) specifying procedures to insure that land management plans are prepared in accordance with the National Environmental Policy Act of 1969, including, but not limited to, direction on when and for what plans an environmental impact statement required under section 102(2)(C) of that Act shall be prepared;

"(2) specifying guidelines which—

"(A) require the identification of the suitability of lands for resource management;

"(B) provide for obtaining inventory data on the various renewable resources, and soil and water, including pertinent maps, graphic material, and explanatory aids; and

"(C) provide for methods to identify special conditions or situations involving hazards to the various resources and their re- of the Program which—

"(3) specifying guidelines for land management plans developed to achieve the goals of the Program which—

"(A) insure consideration of the economic and environmental aspects of various systems of renewable resource management, including the related systems of silviculture and protection of forest resources, to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife and fish;

"(B) provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives, and within the multiple-use objectives of a land management plan adopted pursuant to this section, provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan;

"(C) insure research on and (based on continuous monitoring and assessment in the field) evaluation of the effects of each management system to the end that it will not produce substantial and permanent impairment of the productivity of the land;

"(D) permit increases in harvest levels based on intensified management practices, such as reforestation, thinning, and tree improvement if (i) such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960, and (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;

"(E) insure that timber will be harvested from National Forest System lands only where—

"(i) soil, slope, or other watershed conditions will not be irreversibly damaged;

"(ii) there is assurance that such lands can be adequately restocked within five years after harvest;

"(iii) protection is provided for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from detrimental changes in water temperatures, blockages of water courses, and deposits of sediment, where harvests are likely to seriously and adversely affect water conditions or fish habitat; and

"(iv) the harvesting system to be used is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber; and

"(F) insure that clearcutting, seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-aged stand of timber will be used as a cutting method on National Forest System lands only where—

"(i) for clearcutting, it is determined to be the optimum method, and for other such cuts it is determined to be appropriate, to meet the objectives and requirements of the relevant land management plan;

"(ii) the interdisciplinary review as determined by the Secretary has been completed and the potential environmental, biological, esthetic, engineering, and economic impacts on each advertised sale area have been assessed, as well as the consistency of the sale with the multiple use of the general area;

"(iii) cut blocks, patches, or strips are shaped and blended to the extent practicable with the natural terrain;

"(iv) there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be cut in one harvest operation, including provision to exceed the established limits after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal: *Provided*, That such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm; and

"(v) such cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource.

"(h)(1) In carrying out the purposes of subsection (g) of this section, the Secretary of Agriculture shall appoint a committee of scientists who are not officers or employees of the Forest Service. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted. The committee shall terminate upon promulgation of the regulations, but the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations. The views of the committees shall be included in the public information supplied when the regulations are proposed for adoption.

"(2) Clerical and technical assistance, as may be necessary to discharge the duties of the committee, shall be provided from the personnel of the Department of Agriculture.

"(3) While attending meetings of the committee, the members shall be entitled to receive compensation at a rate of $100 per diem, including traveltime, and while away from their homes of regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(i) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.

"(j) Land management plans and revisions shall become effective thirty days after completion of public participation and publication of notification by the Secretary as required under section 6(d) of this Act.

"(k) In developing land management plans pursuant to this Act, the Secretary shall identify lands within the management area which are not suited for timber production, considering physical, economic, and other pertinent factors to the extent feasible, as determined by the Secretary, and shall assure that, except for salvage sales or sales necessitated to protect other multiple-use values, no timber harvesting shall occur on such lands for a period of 10 years. Lands once identified as unsuitable for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of other multiple-use values. The Secretary shall review his decision to classify these lands as not suited for timber production at least every 10 years and shall return these lands to timber production whenever he determines that conditions have changed so that they have become suitable for timber production.

"(l) The Secretary shall—

"(1) formulate and implement, as soon as practicable, a process for estimating long-term costs and benefits to support the program evaluation requirements of this Act.

This process shall include requirements to provide information on a representative sample basis of estimated expenditures associated with the reforestation, timber stand improvement, and sale of timber from the National Forest System, and shall provide a comparison of these expenditures to the return to the Government resulting from the sale of timber; and

"(2) include a summary of data and findings resulting from these estimates as a part of the annual report required pursuant to section 8(c) of this Act, including an identification on a representative sample basis of those advertised timber sales made below the estimated expenditures for such timber as determined by the above cost process; and

"(m) The Secretary shall establish—

"(1) standards to insure that, prior to harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary): *Provided*, That these standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures: *Provided further*, That these standards shall not preclude the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack; and

"(2) exceptions to these standards for the harvest of particular species of trees in management units after consideration has been given to the multiple uses of the forest including, but not limited to, recreation, wildlife habitat, and range and after completion of public participation processes utilizing the procedures of subsection (d) of this section.".

### NATIONAL PARTICIPATION

Sec. 7. Section 8 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended—

(a) by striking out "'sixty" in the second sentence of subsection (a) and inserting in lieu thereof the word "ninety"; and by striking out "sixty-day period" in the third sentence of subsection (a) and inserting in lieu thereof "ninety-day period"; and

(b) by adding a new sentence at the end of subsection (c) as follows: "With regard to the research component of the program, the report shall include, but not be limited to, a description of the status of major research programs, significant findings, and how these findings will be applied in National Forest System management.".

### TRANSPORTATION SYSTEM

Sec. 8. Section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by inserting "(a)" immediately before the words "The Congress" and inserting at the end thereof new subsections (b) and (c) as follows:

"(b) Unless the necessity for a permanent road is set forth in the forest development road system plan, any road constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later determined that the road is needed for use as a part of the National Forest Transportation System.

"(c) Roads constructed on National Forest System lands shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources.".

### NATIONAL FOREST SYSTEM

Sec. 9. Section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473), no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), or any act supplementary to and amendatory thereof, shall be returned to the public domain except by an act of Congress.".

### RENEWABLE RESOURCES

Sec. 10. Section 12 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by striking out the period at the end of that section and inserting in lieu thereof the following: "and on the date of enactment of any legislation amendatory or supplementary thereto.".

### LIMITATIONS ON TIMBER REMOVAL; PUBLIC PARTICIPATION AND ADVISORY BOARDS; REGULATIONS; SEVERABILITY

Sec. 11. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new sections 13 through 16 as follows:

"Sec. 13. Limitations on Timber Removal.—(a) The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis: Provided, That, in order to meet overall multiple-use objectives, the Secretary may establish an allowable sale quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established: *Provided further*, That any such planned departure must be consistent with the multiple-use management objectives of the land management plan. Plans for variations in the allowable sale quantity must be made with public participation as required by section 6(d) of this Act. In addition, within any decade, the Secretary may sell a quantity in excess of the annual allowable sale quantity established pursuant to this section in the case of any national forest so long as the average sale quantities of timber from such national forest over the decade covered by the plan do not exceed such quantity limitation. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield.

"(b) Nothing in subsection (a) of this section shall prohibit the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack. The Secretary may either substitute such timber for timber that would otherwise be sold under the plan or, if not feasible, sell such timber over and above the plan volume.

"Sec. 14. Public Participation and Advisory Boards.—(a) In exercising his authorities under this Act and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

"(b) In providing for public participation in the planning for and management of the National Forest System, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, shall establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards shall be representative of a cross section of groups interested in the planning for and management of the National Forest System and the various types of use and enjoyment of the lands thereof.".

"Sec. 15. Regulations.—The Secretary of Agriculture shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this Act.

"Sec. 16. Severability.—If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.".

### CONFORMING AMENDMENTS TO THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

Sec. 12. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended as follows:

(a) Section 6(a), as redesignated by section 2 of this Act, is amended by striking out "section 3" and inserting in lieu thereof "section 4".

(b) Section 8, as redesignated by section 2 of this Act, is amended—

(1) by striking out "section 2" and "section 3" in the first sentence of subsection (a) and inserting in lieu thereof "section 3" and "section 4", respectively;

(2) by striking out "section 3" in subsection (c) and inserting in lieu thereof "section 4"; and

(3) by striking out "section 3" in the first sentence of subsection (d) and inserting in lieu thereof "section 4".

### AMENDMENT TO THE ORGANIC ACT

Sec. 13. The twelfth undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS" in the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), is hereby repealed.

### TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS

Sec. 14. (a) For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601–1610), the Secretary of Agriculture, under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands.

(b) All advertised timber sales shall be designated on maps, and a prospectus shall be available to the public and interested potential bidders.

(c) The length and the other terms of the contract shall be designed to promote orderly harvesting consistent with the principles set out in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960) will result, sales contracts shall be for a period not to exceed ten years: *Provided*, That such period may be adjusted at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser. The Secretary shall require the purchaser to file as soon as practicable after execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be subject to concurrence by the Secretary. The Secretary shall not extend any contract period with an original term of two years or more unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan of operation or (B) that the substantial overriding public interest justifies the extension.

(d) The Secretary of Agriculture shall advertise all sales unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than $10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement.

(e) The Secretary of Agriculture shall take such action as he may deem appropriate to obviate collusive practices in bidding for trees, portions of trees, or forest products from National Forest System lands, including but not limited to—

(1) establishing adequate monitoring systems to promptly identify patterns of noncompetitive bidding;

(2) requiring sealed bidding on all sales except where the Secretary determines otherwise by regulation; and

(3) requiring that a report of instances of such collusive practices or patterns of noncompetitive bidding be submitted to the Attorney General of the United States with any and all supporting data.

(f) The Secretary of Agriculture, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or other forest products related to research and demonstration projects.

(g) Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary of Agriculture. Such persons shall have no personal interest in the purchase or harvest of such products and shall not be directly or indirectly in the employment of the purchaser thereof.

(h) The Secretary of Agriculture shall develop utilization standards, methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards, methods, and practices shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, the Secretary is authorized to require the purchasers of such timber to make monetary deposits, as a part of the payment for the timber, to be deposited in a designated fund from which sums are to be used, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service sale preparation and supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are to be available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That such deposits shall not be considered as moneys received from the national forests within the meaning of sections 500 and 501 of title 16, United States Code: *And provided further*, That sums found to be in excess of the cost of accomplishing the purposes for which deposited on any national forest shall be transferred to miscellaneous receipts in the Treasury of the United States.

(i)(1) For sales of timber which include a provision for purchaser credit for construction of permanent roads with an estimated cost in excess of $20,000, the Secretary of Agriculture shall promulgate regulations requiring that the notice of sale afford timber purchasers qualifying as "small business concerns" under the Small Business Act, as amended, and the regulations issued thereunder, an estimate of the cost and the right, when submitting a bid, to elect that the Secretary build the proposed road: *Provided*, That the provisions of this subsection shall not apply to sales of timber on National Forest System lands in the State of Alaska.

(2) If the purchaser makes such an election, the price subsequently paid for the timber shall include all of the estimated cost of the road. In the notice of sale, the Secretary of Agriculture shall set a date when such road shall be completed which shall be applicable to either construction by the purchaser or the Secretary, depending on the election. To accomplish requested work, the Secretary is authorized to use from any receipts from the sale of timber a sum equal to the estimate for timber purchaser credits, and such additional sums as may be appropriated for the construction of roads, such funds to be available until expended, to construct a road that meets the standards specified in the notice of sale.

(3) The provisions of this subsection shall become effective on October 1, 1976.

### VALIDATION OF TIMBER SALES CONTRACTS

Sec. 15. (a) Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), prior to the date of enactment of this section shall not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sale procedures in effect at the time of the sale, subject to the provisions of subsection (b) of this section.

(b) The Secretary of Agriculture is directed, in developing five-year operating plans under the provisions of existing fifty-year timber sales contracts in Alaska, to revise such contracts to make them consistent with the guidelines and standards provided for in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, and to reflect such revisions in the contract price of timber. Any such action shall not be inconsistent with valid contract rights approved by the final judgment of a court of competent jurisdiction.

### PAYMENTS TO STATES FOR SCHOOLS AND ROADS

Sec. 16. The sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908, as amended, and section 13 of the Act of March 1, 1911, as amended (35 Stat. 260, 36 Stat. 963, as amended; 16 U.S.C. 500), are each amended by adding at the end thereof, respectively, the following new sentence: "Beginning October 1, 1976, the term 'moneys received' shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.".

### ACQUISITION OF NATIONAL FOREST SYSTEM LANDS

Sec. 17. (a) The Act of March 1, 1911 (36 Stat. 961), as amended (16 U.S.C. 480, 500, 513–517, 517a, 518, 519, 521, 552, 563), is amended as follows:

(1) Section 4, as amended, is repealed, and all functions of the National Forest Reservation Commission are transferred to the Secretary of Agriculture.

(2) Section 5 is repealed.

(3) Section 6 is amended to read as follows: "The Secretary of Agriculture is hereby authorized and directed to examine, locate, and purchase such forested, cut-over or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber. No deed or other instrument of conveyance of lands referred to herein shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams.".

(4) Section 7, as amended, is amended to read as follows: "When the public interests will be benefited thereby, the Secretary of Agriculture is hereby authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests which, in his opinion, are chiefly valuable for the purposes of this Act, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him: *Provided*, That before any such exchange is effected notice of the contemplated exchange reciting the lands involved shall be published once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in some like newspaper published in any county in which may be situated any lands or timber to be given in such exchange. Timber given in such exchanges shall be cut and removed under the laws and regulations relating to such national forests, and under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands so accepted by the Secretary of Agriculture shall, upon acceptance, become parts of the national forests within whose exterior boundaries they are located, and be subjected to all provisions of this Act.".

(5) Section 9, as amended, is amended by striking out the following language in the first sentence: "the National Forest Reservation Commission and".

(6) Section 14, as amended, is repealed.

(b) For purposes of providing information that will aid the Congress in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary of Agriculture may not hereafter enter into any land purchase or exchange relating to the National Forest System of $25,000 or more for the types of lands which have been heretofore approved by the National Forest Reservation Commission until after 30 days from the date upon which a detailed report of the facts concerning such proposed purchase or transfer is submitted to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate or such earlier time as may be approved by both such committees. Such report shall contain at least the following:

(1) guidelines utilized by the Secretary in determining that the land should be acquired;

(2) the location and size of the land;

(3) the purchase price of the land and the criteria used by the Secretary in determining such price; and

(4) the person from whom the land is being acquired.

### AMENDMENT TO THE KNUTSON-VANDENBERG ACT

Sec. 18. Section 3 of the Act of June 9, 1930 (46 Stat. 527; 16 U.S.C. 576b), is amended—

(a) by striking out the word "or" immediately before "(3)" in the first sentence thereof; and

(b) by striking out in the first sentence thereof the colon preceding the proviso and all that follows down through "three years" and inserting in lieu thereof the following: ", or (4) protecting and improving the future productivity of the renewable resources of the forest land on such sale area, including sale area improvement operations, maintenance and construction, reforestation and wildlife habitat management".

### AMENDMENT TO THE ACT OF JUNE 12, 1960

SEC. 19. The Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528–531), is amended by adding at the end thereof the following new section:

"SEC. 5. This Act may be cited as the 'Multiple-Use Sustained-Yield Act of 1960'.".

### PLAN FOR CONTROL OF DUTCH ELM DISEASE

SEC. 20. The Secretary of Agriculture, in consultation with officials of both the States and political subdivisions thereof, shall conduct a study of the incidence of Dutch elm disease and evaluate methods for controlling the spread of such disease. The Secretary shall prepare and submit to the President and both Houses of the Congress on or before March 1, 1977, a report which includes—

(1) the results of such study;

(2) plans for further research into the control of Dutch elm disease; and

(3) an action plan which includes a program of outreach and public information about the disease, and recommendations for controlling the spread of the disease.

### SEVERABILITY

SEC. 21. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

And the House agree to the same.

THOMAS S. FOLEY,
JOHN MELCHER,
JAMES WEAVER,
JOSEPH VIGORITO,
JOHN KREBS,
GEORGE E. BROWN, Jr.,
DAWSON MATHIS,
WILLIAM C. WAMPLER,
STEVEN SYMMS,
JAMES P. JOHNSON,
*Managers on the Part of the House.*
HERMAN E. TALMADGE,
HENRY JACKSON,
JAMES O. EASTLAND,
FRANK CHURCH,
HUBERT H. HUMPHREY,
DALE BUMPERS,
CARL CURTIS,
MARK HATFIELD,
JESSE HELMS,
JAMES A. MCCLURE,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3091) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purpses submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommend in the accompanying conference report:

Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below.

### 1. FINDINGS

*Senate bill*

The Senate bill would amend the Forest and Rangeland Renewable Resources Planning Act of 1974 (hereinafter RPA) by redesignating sections 2 through 11 as sections 3 through 12 and by inserting a new section 2 which contains seven Congressional findings. These findings place emphasis on the complexity of management of the Nation's renewable resources and the need for a comprehensive Renewable Resource Assessment and a Renewable Resource Program. The findings further emphasize the role of research, the role of private as well as public lands in meeting national needs, and the responsibility and opportunity for the Forest Service to provide leadership in managing and conserving natural resources. (Section 12 of the Senate bill would make conforming amendments to existing cross references in the RPA.)

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute* (Sec. 2)

The Conference substitute adopts the Senate provision.

### 2. REPORTS ON WOOD UTILIZATION BY MILLS AND ON WOOD WASTES AND WOOD PRODUCT RECYCLING

*House amendment*

The House amendment would add to present section 5 of the RPA new subsections (k) and (l). New subsection (k) would require the Secretary to report to Congress together with the 1979 updating of the Assessment on the location of the milling and other wood fiber fabrication facilities in the United States and on the public and private forested areas that supply such facilities. This report must assess the degree of utilization of harvested trees by such facilities, set forth the technology appropriate to improve utilization and reduce wasted wood fibers, and set forth a program to encourage adoption by such facilities of these technologies.

New subsection (l) would require the Secretary to include in his report in the 1979 and subsequent Assessments specific recommendations on the potential and increased utilization of forest and wood product waste in the National Forest System and on other lands, and of urban wood wastes and wood product recycling. The Secretary is required to consult the public and other interested governmental departments and agencies and to recommend to Congress actions to increase utilization of material now being wasted both in the forest and in manufactured products.

*Senate bill*

The Senate bill contains no comparable provisions.

*Conference substitute (Sec. 3)*

The Conference substitute incorporates the provisions of the House amendment but combines them with a provision identical in the Senate bill and House amendment which requires the Secretary to report in the 1979 and subsequent Assessments on the additional fiber potential in the National Forest System.

### 3. REFORESTATION

*Senate bill*

The Senate bill amends present section 8 of the RPA by inserting at the end thereof a new sentence which requires the Secretary of Agriculture with respect to any forest or rangeland in the National Forest System where vegetative cover has been removed to report to Congress within five years after such removal either the amount of funds necessary to restore vegetative cover or that such lands are not in need of revegetation. Areas which would be used for specific purposes such as rights-of-way, campgrounds, and reservoirs, or areas where permits or other provisions are made to assure revegetation, are excluded from the above reporting requirement.

*House amendment*

The House amendment adds to present section 2 of the RPA a new subsection (d) dealing with reforestation. Subsection (d)(1) would establish the policy of the Congress that all forested lands in the National Forest System be maintained in appropriate forest cover to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. The Secretary would be required to report to Congress annually beginning with submission of the President's budget for fiscal year 1978 the amount and location by forest, State, and productivity class where practicable, of all lands where the objectives of land management plans indicate the need to reforest areas, and all lands with stands of trees that are not growing at their best potential rate of growth. All National Forest lands treated must be examined after the first and third growing seasons and certified as fit or rescheduled for proper treatment.

New subsection (d)(2) requires the Secretary to submit annually for eight years following enactment of these amendments an estimate of the sums necessary to be appropriated in addition to funds available from other sources to replant an acreage equal to the acreage to be cut-over that year plus a sufficient portion of the backlog of lands in need of treatment to eliminate the backlog within the eight-year period. After such period, the Secretary must transmit annually to the Congress an estimate of the sums necessary to replant all lands being cut-over and to maintain planned timber production on all other forested lands in the National Forest System so as to prevent the development of a backlog larger than the needed work at the beginning of the fiscal year. Sums estimated as necessary for reforestation include, but are not limited to, moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock from regeneration areas, and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

Subsection (d)(3) authorizes to be appropriated, beginning with fiscal year 1978, for the purpose of reforesting lands in the National Forest System $200 million annually, and all sums appropriated shall be available until expended and not subject to rescission.

*Conference substitute (Sec. 4)*

The Conference substitute adopts the House amendment but deletes the phrase "and shall not be subject to rescission" from subsection (d)(3).

### 4. REPORT ON USE OF HERBICIDES AND PESTICIDES

*House amendment*

The House amendment adds to present section 2 of the RPA a new subsection (e) which requires the Secretary to submit to the Congress an annual report on the amounts, types, and uses of herbicides and pesticides in the National Forests, including the beneficial or adverse effects of such uses.

*Senate bill*

The Senate bill contains no comparable provision.

*Conference substitute (Sec. 4)*

The Conference substitute adopts the House amendment.

### 5. RPA PROGRAM PERSONNEL REQUIREMENTS

*House amendment*

The House amendment amends present section 3(4) of the RPA to make clear that the detailed study of personnel requirements which must be included in the RPA Program must reflect the personnel required to "implement and monitor" rather than merely "satisfy" existing and on-going programs.

*Senate bill*

The Senate bill contains no comparable provision.

*Conference substitute (Sec. 5)*

The Conference substitute adopts the House amendment.

### 6. RPA PROGRAM RECOMMENDATIONS

*Senate bill*

The Senate bill amends present section 3 of the RPA by adding a new paragraph which requires that the RPA Program include four specific program recommendations. Included among these is a recommendation which explains the opportunities for owners of forests and rangeland to participate in programs to improve and enhance the condition of the land and the renewable resource products therefrom.

*House amendment*

The House amendment would also amend present section 3 of the RPA to include four specific program recommendations, three of which are identical to those contained in the Senate bill. However, the specific recommendation referred to above with respect to opportunities for private landowners would not be required by the House amendment. Instead, the House amendment would require that the program evaluate the impact of the export and import of raw logs on domestic timber supplies and prices.

*Conference substitute (Sec. 5)*

The Conference substitute adopts the Senate provision and the specific recommendation contained in the House amendment which requires that the Program evaluate the impact of the export and import of raw logs on domestic timber supplies and prices.

### 7. RULEMAKING IN CONNECTION WITH NATIONAL FOREST SYSTEM RESOURCE PLANNING

*Senate bill*

The Senate bill would amend present section 5 of the RPA to add six new subsections. The principal subsection, new subsection (d), would require the Secretary, within two years after enactment, to promulgate regulations in accordance with the procedures set forth in section 553 of title 5, United States Code, under the principles of the Multiple-Use Sustained-Yield Act, that prescribe both the process for the development and revision of the land management plans, and the inclusion of the many specific guidelines and standards contained in this new subsection.

*House amendment*

The House amendment would amend present section 5 of the RPA to add 11 new subsections. However, the House amendment would not require a rulemaking proceeding. Instead, it would require the Secretary to begin as soon as practicable after enactment to incorporate the standards contained in present section 5 of the RPA, as amended, into plans for units of the National Forest System.

*Conference substitute*

The Conference substitute adopts the provision of the Senate bill requiring the Secretary to conduct a rulemaking proceeding as soon as practicable but certainly within two years, but makes changes, as discussed subsequently in this report, in the specific guidelines and standards required to be incorporated in the regulations.

### 8. LAND MANAGEMENT PLANS COMPLETED BY 1985

*House amendment*

The House amendment adds to present section 5 of the RPA a new subsection (c) which requires the Secretary to begin to incorporate the standards contained in section 5, as amended, into units of the National Forest System as soon as practicable after enactment and to complete such incorporation for all units of the National Forest System by September 30, 1985.

*Senate bill*

The Senate bill contains no comparable provision.

*Conference substitute (sec. 6)*

The Conference substitute adopts the House amendment but modifies it to require that the Secretary (1) attempt to complete incorporation of the standards into the plans for all units of the National Forest System by September 30, 1985; and (2) report to the Congress on the progress of such incorporation in connection with the RPA annual report.

### 9. PUBLIC PARTICIPATION AND EFFECTIVE DATE OF PLANS

*Senate bill*

The Senate bill adds to present section 5 of the RPA new subsections (c) and (g) which require the Secretary to provide for public participation in the development, review, and revision of land management plans; and provide that such plans and revisions would become effective 30 days after completion of public participation.

*House amendment*

The House amendment adds to present section 5 of the RPA a new subsection (d) which requires plans for units of the National Forest System to be available for public scrutiny at convenient locations in the vicinity of the affected units for at least three months before final adoption during which time the Secretary must hold public meetings or comparable processes of public involvement for consideration of such plans in locations that foster public participation in the review of such plans.

*Conference substitute (sec. 6)*

The Conference substitute adopts the provisions of both the Senate bill and the House amendment.

### 10. INTERIM GUIDELINES

*Senate bill*

The Senate bill amends present section 5 of the RPA to add a new subsection (h) which requires the Secretary, within 120 days after enactment under the Senate bill of new subsection (d), to adopt interim procedures to carry out the land management planning process. Prior to promulgation of the regulations required by the new subsection of the Senate bill, management of National Forest System lands must be in accordance with existing regulations and the interim guidelines. When necessary, land management plans will be revised as soon as practicable to be in accord with the guidelines specified in new subsection (d).

*House amendment*

The House amendment amends present section 5 of the RPA by incorporating in new subsection (c) a provision that until such time as a unit of the National Forest System is managed under plans developed in accordance with the RPA, as amended, the management of such unit may continue under existing land and resource management plans.

*Conference substitute (Sec. 6)*

The Conference substitute adopts the House amendment. The Conferees agreed that the "Church guidelines on clearcutting shall continue to be followed by the Forest Service pending incorporation into all unit plans of the management standards added to the RPA by these amendments.

### 11. MULTIPLE USE AND PROCEDURAL REQUIREMENTS FOR UNIT PLANS

*House amendment*

The House amendment amends present section 5 of the RPA by adding new subsections (e) and (f).

New subsection (e) requires the Secretary in developing and revising plans for units of the National Forest System to:

(1) provide for multiple uses and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act, including coordination of recreation, range, timber, watershed, wildlife and fish, and wilderness; and

(2) determine forest management systems, and harvesting levels and procedures in light of all the specific uses set forth above, the definitions of the terms "multiple use" and "sustained yield" in the Multiple-Use Sustained-Yield Act, and the availability of lands and their suitability for resource management.

New subsection (f) requires that plans developed in accordance with section 5 of the RPA, as amended—

(a) form one integrated plan for each unit of the National Forest System, incorporating in one document all of the features required by section 5 and any other applicable provision of law;

(b) be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

(c) be prepared by a multidisciplinary team. Each team shall prepare its plan based on actual knowledge of the forest and upon inventories of all the resources of the forest;

(d) be amended after final adoption only pursuant to the procedures and public participation required for the original plan;

(e) be revised from time to time when the Secretary finds conditions in a unit have significantly changed but at least every 15 years.

*Senate bill*

The Senate bill contains no directly comparable provisions.

*Conference substitute (Sec. 6)*

The Conference substitute adopts the House amendment but modifies subsection (f) to:

(1) permit the integrated plans for each unit of the National Forest System to be incorporated in one set of documents at convenient locations where it is impossible for such plan to be embraced on one document;

(2) permit each interdisciplinary team to prepare its plan based on inventories of the applicable resources of the forest; and

(3) permit minor changes to be made in unit plans after appropriate public notice but without invoking the formalities required for the original plan.

### 12. REGULATIONS

*House amendment*

The House amendment adds to the RPA a new section 13, a general rulemaking authority, which empowers the Secretary to prescribe such regulations as he determines necessary and desirable to carry out the provisions of the RPA.

*Senate bill*

The Senate bill contains no comparable provision.

*Conference substitute (Sec. 11)*

The Conference substitute adopts the House amendment.

### 13. COMMITTEE OF SCIENTISTS FOR RULEMAKING PROCEEDING

*Senate bill*

The Senate bill amends section 5 of the RPA to require the Secretary in the course of promulgating regulations required by new subsection (d) to appoint a committee of scientists who are not employees of the Forest Service and who shall provide scientific advice on proposed guidelines and procedures. The Secretary would be required to provide administrative support for the committee, and members of the committee would be entitled to per diem of $100 per day, including travel time, plus travel expenses and additional per diem in lieu of subsistence.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute (Sec. 6)*

The Conference substitute adopts the provision of the Senate bill.

### 14. PUBLIC PARTICIPATION AND ADVISORY BOARDS

*Senate bill*

The Senate bill adds to the RPA a new section 14 which requires the Secretary by regulation to establish procedures, including public hearings, to give the Federal, State, and local governments and the public adequate notice of, and an opportunity to comment upon, the formulation of standards and guidelines applicable to Forest Service programs. This new section would also require the Secretary to establish, pursuant to the Federal Advisory Committee Act, advisory boards to advise on the management of the National Forest System.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute (Sec. 11)*

The Conference substitute adopts the provision of the Senate bill.

### 15. SPECIFIC RESOURCE PLANNING GUIDELINES

*Senate bill*

The Senate bill amends present section 5 of the RPA to incorporate in new subsection (d) a requirement that the regulations promulgated pursuant to this subsection—

(1) specify how the interdisciplinary approach required by the present subsection 5(b) of the RPA will be implemented;

(2) specify the types of plans that will be prepared and their relationship to the Program;

(3) specify procedures to insure public participation;

(4) specify procedures to insure that plans are prepared in accordance with NEPA including directions as to when and for what plans an environmental impact statement shall be prepared;

(5) specify guidelines which require identification of the suitability of lands for resource management; provide for obtaining inventory data on the various renewable resources, soil and water; and provide for methods to identify hazards to the various resources and their relationship to alternative activities;

(6) specify guidelines which—

(A) insure consideration of the economic and environmental aspects of various systems of renewable resources management;

(B) provide for diversity of plant and animal communities;

(C) recognize the requirements necessary to coordinate the uses on unique management areas;

(D) recognize the need for special provisions to protect soil, water, esthetic, and wildlife resources where conditions are critical for tree regeneration;

(E) specify how the interdisciplinary approach, as required by subsection (b) of section 5 of the RPA, will be implemented;

(F) prescribe, according to geographic area, forest types, or other suitable classifications, appropriate systems of silviculture;

(G) insure research on and evaluation of the effects of each management system and provide for the discontinuation of any system which is impairing productivity of the land; and

(H) (i) provide that the amount of timber to be harvested from any National Forest System lands shall be determined only through the process of preparing land management plans, and (ii) that the allowable harvests on National Forest System lands shall be based only on lands available and suitable for timber production.

*House amendment*

The House amendment addresses these considerations in general terms but, with one exception, contains no directly comparable provisions. The House amendment does add to present section 5 of the RPA a new subsection (i) which requires the Secretary to preserve the diversity of tree species similar to that existing at the time of harvest.

*Conference substitute (Sec. 6)*

The Conference substitute adopts paragraphs (4), (5), (6)(A), and 6(B) and, with some modifications, (6)(G) of the Senate bill.

Environmental Impact Statement

The Conferees understand that paragraph (4), which requires that the regulations specify procedures to insure that plans are prepared in accordance with NEPA, makes no change in the responsibilities of the Secretary under that statute but is designed to establish uniform guidance within the Department of Agriculture as to what constitutes a major federal action for which an environmental impact statement is required.

Diversity

Paragraph (6)(B), which requires guidelines to provide for diversity of plant and animal communities, was modified to incorporate the essential purpose of the provision of the House amendment. It is the intent of the Conferees that where the resource plan is developed separately from the land management plan, that this provision would govern the resource plan as well.

Research and Evaluation of Management Systems

Paragraph (6)(G), which requires that the regulations insure research on and evaluation of the effects of each management system, was modified to clarify its purpose which is to insure that a system would not produce substantial and permanent impairment of the productivity of the land. The Conferees intend that such research and evaluation will be done on a sample basis for each management system.

Regulations

The Conferees anticipate that the regulations promulgated under the amendments to present section 5 of the RPA will specify how the interdisciplinary approach required by the RPA will be implemented (including the manner in which the expertise of affected State agencies will be obtained and used in the preparation of plans), the types of plans that will be prepared and their relationship to the Program, and procedures to insure public participation. The Conferees further anticipate that those regulations will specify guidelines which:

(1) recognize the requirements necessary to coordinate the uses on unique management areas, and the need for special provisions to protect soil, water, esthetic, and wildlife resources where conditions are critical for tree regeneration of in terms of multiple use impacts;

(2) prescribe, according to geographic area, forest types, or other suitable classifications, appropriate systems of silviculture, and provide that the amount of timber to be harvested from any National Forest System lands shall be determined only through the process of preparing land management plans, that the allowable harvests on National Forest System lands shall be based only on lands available and suitable for timber production.

### 16. SUITABILITY OF LANDS FOR TIMBER PRODUCTION

*Senate bill*

The Senate bill requires that the regulations to be promulgated by the Secretary pursuant to new subsection (d) identify the relative productivity of land for timber production and assure that timber production is not a management goal on lands where the estimated cost of production will exceed estimated economic return.

*House amendment*

The House amendment would add to present section 5 of the RPA a new subsection (m) which requires the Secretary to implement a process for estimating long-term costs and benefits to support the program evaluation requirements of the RPA, including information on all estimated expenditures associated with reforestation, timber stand improvement, and sale of timber from the National Forest System, and a comparison of these expenditures with the return to the Government resulting from sale of timber. The Secretary would be required to report to the Congress annually a summary of the data and findings resulting from the above estimates and of those advertised timber sales made below the estimated expenditures for such timber.

*Conference substitute (Sec. 6)*

The Conference substitute modifies the provisions of the Senate bill to require that in developing land management plans the Secretary must identify lands within the management area which, considering to the extent feasible physical, economic, or other pertinent factors as determined by the Secretary, are not suited for timber production. In making such identification, the Secretary need not follow the present Forest Service classifications. The Secretary must assure that, except for salvage sales or sales necessary to protect other multiple use values, no timber harvesting shall occur on such lands for a period of ten years. However, such lands shall continue to be treated for reforestation purposes, and the Secretary must review his decision as to the suitability of such lands for timber production at least every ten years and return them to timber production whenever he determines them to be suitable therefor.

The Conferees understand that there may be other "pertinent factors" which the Secretary may consider in making the determination regarding the suitability of lands for timber production. The Conferees expect the Secretary to give appropriate consideration to such things as advances in logging techniques, improved genetic stock, or improved knowledge about the relationship between the resource components of the general land area. While this list is by no means exhaustive, the Conferees intend the Secretary to review and keep abreast of all developments in the field of forestry and its related sciences and to refer to these developments as necessary in making the determination required by this section.

In addition, the Conference substitute modifies the provisions of the House amendment to make clear that the long-term cost and benefit estimation process called for by the House amendment shall require provision of information about expenditures associated with reforestation, timber stand improvement, and sale of timber, on a representative sample basis, and that only a representative sample of those advertised timber sales made below the estimated expenditures for such timber need be included in the Secretary's annual report.

### 17. INCREASES IN ALLOWABLE HARVEST LEVELS

*Senate bill*

The Senate bill would require the regulations promulgated pursuant to new subsection (d) to include a guideline which permits increases in allowable harvests based on intensified management practices only upon demonstration that such practices justify increased allowable harvests and that the outputs projected are being secured.

*House amendment*

The House amendment would include in new subsection (f) of section 5 of the RPA a requirement that plans developed in accordance with that section permit increases in harvest levels based upon intensified management practices if such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act and such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned.

*Conference substitute (Sec. 6)*

The Conference substitute adopts the House amendment. The Conferees intend that increased harvest levels be permitted when it is apparent to the Secretary that the particular intensified management practice employed has been successfully implemented. Thus, for example, in the case of reforestation, an increase in harvesting level would be permitted if the planting took and the Secretary would not be required to wait for the full rotation period to determine whether or not the practice was successful.

### 18. HARVESTING GUIDELINES

*Senate bill*

The Senate bill requires that the regulations promulgated pursuant to new subsection (d) include guidelines which insure that timber will be harvested from National Forest System lands only where soil, slope, or other watershed conditions will not be irreversibly damaged, such lands can be restocked within five years after harvest, and protection is provided for streams and other bodies of water from temperature change, blockage, and deposits of sediment where harvests could adversely affect water conditions or fish habitat. Further guidelines would be required to insure that clearcutting will be used only where it is the optimum method, the interdisciplinary review has been completed and potential impact on non-timber resources assessed, clearcut patches are shaped and blended with the terrain, maximum size limits for area to be clearcut have been established and clearcuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, esthetic resources, and regeneration of the timber.

*House amendment*

The House amendment would include in new subsection (f) of section 5 of the RPA a requirement that plans developed in accordance with that section permit the application of silvicultural systems only if tree regeneration can occur within five years, such systems are carried out in a manner consistent with the protection of soil, watershed, continuously flowing waterways and bodies of water, fish, wildlife, recreation, and esthetic resources, and regeneration of the timber, that such systems are appropriate to accomplish multiple use sustained yield management objectives, the areas to be clearcut are shaped and blended with the natural terrain, the size of areas to be clearcut is to be kept to a minimum, and the silvicultural system selected is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber.

*Conference substitute (Sec. 6)*

The Conference substitute adopts, with some modifications, the provisions of the Senate bill.

The provision requiring protection for streams and other bodies of water from changes where harvests could adversely affect water conditions is modified to clarify that protection is required only from *detrimental* changes, and only where harvests *are likely to* seriously and adversely affect water conditions or fish habitat. The Conferees incorporated in the general harvesting guidelines a provision from the House amendment which insures that a particular timber harvesting system is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber. The Conferees also incorporated in the clearcutting guidelines a provision from the House amendment which requires that cutting methods (other than clearcutting) which are designed to produce an even-aged stand will be used only where they are determined to be appropriate to accomplish the multiple use sustained yield resource management objectives of the RPA. Finally, the Conferees modified the provision of the Senate bill requiring interdisciplinary review to permit the Secretary to determine the parameters and scope of such review, and limit its application to advertised sales.

### 19. GUIDELINES FOR RESOURCE PLANS

*Senate bill*

The Senate bill would require that the regulations promulgated pursuant to new subsection (d) of present section 5 of the RPA specify guidelines to be followed in the preparation and revision of resource plans using an interdisciplinary review.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the House amendment.

### 20. NATIONAL PARTICIPATION

*Senate bill*

The Senate bill would amend present section 7(a) of the RPA to enlarge from 60 to 90 days the period within which either House of Congress may adopt a resolution disapproving the Statement of Policy submitted by the President. The Senate bill would further insert in present section 7(b) of the RPA a provision which would require the Director of the Office of Management and Budget to appear before the appropriate Committees of Congress to explain the failure of the Administration to request a budget to meet the policies approved by the Congress.

*House amendment*

The House amendment would amend present section 7(a) of the RPA to insert at the end thereof a proviso that no funds are authorized to be appropriated to carry out existing renewable resource programs of the Forest Service after September 30, 1980, except for the reforestation program authorized by section 3 of the House amendment. The House amendment would also amend present section 7(c) of the RPA to add at the end thereof a new sentence which provides that the Secretary's annual report to the Congress must include a description of the status of major research programs and subsequent findings, and how these findings will be applied in National Forest System management.

*Conference substitute (Sec. 7)*

The Conference substitute adopts the provision of the Senate bill but substitutes the language contained in subsection (b) of the House amendment, which requires an annual report of the status of research programs, for the language of subsection (b) of the Senate bill.

### 21. TRANSPORTATION SYSTEM

*Senate bill*

Both the Senate bill and the House amendment amend present section 9 of the RPA by redesignating the existing language as subsection (a) and adding new subsection (b) which provides that any road constructed on land of the National Forest System in connection with a timber contract or other permit or lease must be designed with the goal of re-establishing vegetative cover within 10 years after termination unless the necessity for a permanent road is set forth in the forest development road system plan or it is later determined that the road is needed for use as a part of the forest development road system. In addition, the Senate bill would add a new subsection (c) which would provide that roads constructed on the National Forest System be designed to standards appropriate for the intended use or uses.

*House amendment*

The House amendment contains no provision comparable to new subsection (c).

*Conference substitute (Sec. 8)*

The Conference substitute adopts the provisions of the Senate bill.

### 22. DEFINITION OF RENEWABLE RESOURCES

*Senate bill*

The Senate bill amends present section 11 of the RPA by adding at the end thereof a clause which makes clear that the term "renewable resources" shall be construed to involve matters within the scope of responsibility of the Forest Service not only on the date of enactment of the RPA but also on the date of enactment of any legislation amendatory or supplementary thereto.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute (Sec. 10)*

The Conference substitute adopts the provisions of the Senate bill.

### 23. LIMITATIONS ON TIMBER REMOVAL

*Senate bill*

The Senate bill adds to the RPA a new section 13 which requires the Secretary of Agriculture to limit the sale of timber from each National Forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. The Secretary may exceed the quantity limitation from time to time so long as the average sales of timber from each forest over any 10-year period do not exceed such limitation. In cases where a forest contains less than 200,000 acres of commercial forest land the Secretary may use two or more forests for purposes of determining the sustained yield. The Secretary would, however, not be prohibited from salvaging timber stands which are substantially damaged by fire, windthrow, or other catastrophe.

*House amendment*

The House amendment contains no directly comparable provision but would incorporate in new subsection (j) of present section 5 of the RPA a requirement that the Secretary establish standards to insure that, throughout the National Forest System, prior to harvest, stands of trees shall generally have reached their culmination of mean annual increment of growth. However, these standards would not preclude thinning, or stand improvement nor salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack. The Secretary would be required to establish exceptions to the above standards for the harvest of particular species of trees in management units after consideration has been given to the multiple uses of the forest including recreation, wildlife habitat, and range and after completion of public participation.

*Conference substitute (Sec. 6, 11)*

The Conference substitute modifies the language of the Senate bill (1) to permit the Secretary in planning for achievement of long-term sustained yield management, when consistent with the multiple use management objectives of the land management plan and after public participation, to establish an allowable sale quantity for any decade which departs from the projected long-term average sale that would otherwise be established; (2) to permit the Secretary to sell salvage timber over and above the volume called for by the unit plan if it is not feasible to substitute salvage timber for timber that would otherwise be sold under the plan; and (3) to incorporate the provisions of the

House amendment which authorize thinning or other stand improvement measures, salvage sales, including the salvaging of timber stands which are in imminent danger from insect or disease attack, and require that generally stands of timber must have reached the period of culmination of mean annual increment of growth prior to harvest.

This section gives the Secretary discretion to vary the allowable sale quantity where he determines that so doing would meet multiple use management objectives and would be consistent with the basic directives of the Multiple-Use Sustained-Yield Act of 1960. The Conferees understand that the Secretary may choose to exercise this discretion for a number of reasons, including, but not limited to, such things as the desirability of improving the age-class distribution on a forest to facilitate future sustained yield management, or the desirability of reducing high mortality losses.

### 24. ORGANIC ACT REPEAL

*Senate bill*

The Senate bill repeals the twelfth undesignated paragraph of the Organic Act of 1897 and provides new authority outside that Act for timber sales on National Forest System lands.

*House amendment*

The House amendment contains a substantially identical provision except that the new timber sale authority would take the form of an amendment to the Organic Act and the Secretary would be required to promulgate rules and regulations governing timber sales.

*Conference substitute (sec. 13)*

The Conference substitute adopts the provision of the Senate bill.

### 25. PROSPECTUS FOR TIMBER SALES

*Senate bill*

The Senate bill requires that all advertised timber sales be designated on maps and prospectuses be available to public and interested potential bidders.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute (sec. 14)*

The Conference substitute adopts the provision of the Senate bill.

### 26. LENGTH OF TIMBER CONTRACTS

*Senate bill*

The Senate bill requires that the length and other terms of timber sales contracts be designed to promote orderly harvesting consistent with the principles set out in present section 5 of the RPA, as amended, absent a finding by the Secretary that better utilization of the various forest resources, consistent with the Multiple-Use Sustained-Yield Act, will result, sales contracts shall be for a period not to exceed 10 years. However, such period may be adjusted in the discretion of the Secretary to afford additional time in the event of delay caused by an action of an agent of the U.S. or by other circumstances beyond the control of the purchaser. With respect to any advertised sale with a term of 2 years or more the Secretary must require the purchaser to file a plan of operation which is subject to concurrence by the Secretary. The Secretary may not extend any contract period within an original term of two years or more unless he finds that the purchaser has diligently performed in accordance with an approved plan of operation *or* that the extension would be in the public interest.

*House amendment*

The House amendment would add to present section 5 of the RPA a new subsection (h), the provisions of which are substantially identical to those of the Senate bill except that delay caused by an act of an agent of the U.S. is not specifically referenced as a justification for extending a timber contract, the plan of operation would be part of the contract and subject to amendment to meet changing conditions, and extension of any contract period with an original duration of 2 years or more would require that the Secretary find that the purchaser has diligently performed or made every reasonable effort to perform in accordance with the plan of operation *and* that extension would be in the public interest.

*Conference substitute (Sec. 14(c))*

The Conference substitute adopts the language of the Senate bill and incorporates language which permits the Secretary to adjust the contract period to provide additional time where the substantial overriding public interest justifies the extension.

The Conferees intend that the Secretary use his discretionary authority to make timber contracts with a duration of more than ten years only in the best interests of the forest resources and only when he makes a finding that better utilization will in fact occur consistent with the principles enunciated in the Multiple-Use Sustained-Yield Act. However, the Conferees expect that the Secretary will use this authority carefully in all cases including salvage sales and only on a case-by-case basis.

The Conferees also intend that competitive forces be given free play in timber sales and that the contract period not be so long that smaller companies which might otherwise want to bid would effectively be excluded.

### 27. COLLUSIVE BIDDING

*House amendment*

The House amendment would include in the amendment to the Organic Act a requirement that the Secretary take action to obviate collusive practices in bidding for timber from National Forest Systems lands including the establishment of monitoring systems to identify patterns of non-competitive bidding, a requirement that sealed bids be predominantly utilized for advertised sales of 1 million board feet or less, and a requirement that a report of instances of collusive practices or patterns of non-competitive bidding be submitted to the Department of Justice with any and all supporting data.

*Senate bill*

The Senate bill contains no comparable provision.

*Conference substitute (Sec. 14(e))*

The Conference substitute adopts the House amendment but modifies the paragraph providing for sealed bidding (1) by striking the provision which limited application of that paragraph to sales of one million board feet or less and (2) by providing that sealed bidding will be required for all advertised sales except in those instances where the Secretary, pursuant to regulations which he shall prescribe, determines that the public interest justifies use of other methods. The Conferees intend that there be public participation in developing these regulations and that such regulations shall accord the Secretary the discretion to employ oral bidding or a mix of bidding methods when protection of the economic stability of dependent communities or other considerations indicate the advisability to do so.

### 28. UTILIZATION STANDARDS

*Senate bill*

The Senate bill requires that utilization standards and methods of measurement be established for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. The standards must be compatible with multiple use resource management objectives and must reflect consideration of opportunities to promote more effective wood utilization as well as consideration of regional conditions and species characteristics. In situations involving salvage of insect infested, dead, damaged, or down timber, the Secretary is authorized to require purchasers of such timber to make deposits, *in addition* to the payment for the timber, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost of Forest Service supervision of the harvesting of such timber. Deposits of money would be available until expended to cover the cost of accomplishing the purposes for which deposited. However, any portion of any deposit found to be in excess of the cost of accomplishing those purposes would be transferred to miscellaneous receipts.

*House amendment*

The House amendment would incorporate in new subsection (j) of present section 5 of the RPA a paragraph substantially similar to the provision of the Senate bill except that the monetary deposits required of purchasers would be part of the payment for timber, such deposits would be placed in a designated fund and could also be used to remove associated trees for stand improvement and to cover the cost of Forest Service sale preparation. Finally, under the House amendment, such deposits would not be considered as moneys received from the National Forests within the meaning of sections 500 and 501 of title 16, United States Code.

*Conference substitute (Sec. 14(b))*

The Conference substitute adopts the provisions of the House amendment.

### 29. VALIDATION OF TIMBER SALES

*Senate bill*

The Senate bill provides that timber sales made pursuant to the Forest Service Organic Act prior to enactment of this bill are validated except that, with respect to existing 50-year timber sale contracts in Alaska, the Secretary, in developing the 5-year operating plans under the provisions of such contracts must revise such contracts to make them consistent with the guidelines and standards contained in the RPA, as amended, and reflect such revisions in the contract price of the timber. Any such action by the Secretary would be required to be consistent with valid contract rights approved by final judgment of a court of competent jurisdiction.

*House amendment*

The House amendment would incorporate into the amendment to the Organic Act a provision which provides that timber sales made pursuant to the Organic Act prior to the date of enactment of this amendment would not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sale procedures in effect at the time of the sale.

*Conference substitute (Sec. 15)*

The Conference substitute adopts the language of the House amendment but incorporates the provision of the Senate bill relating to existing fifty-year timber sales contracts in Alaska.

### 30. ACQUISITION OF NATIONAL FOREST LANDS

*Senate bill*

The Senate bill amends the Act of March 1, 1911, by repealing sections 4, 5, and 14, revising sections 6 and 7, and by striking from section 9 the reference to the "National Forest Reservation Commission". The effect of these amendments is to abolish the National Forest Reservation Commission and transfers its functions to the Secretary of Agriculture. The Secretary would, in addition, be required to include in the annual report to Congress required by present section 7(c) of the RPA a report of all land purchases and exchanges relating to the National Forest System and an evaluation of the purchase price criteria and guidelines utilized by the Secretary for the purpose of forest land acquisition.

*House amendment*

The House amendment would abolish the National Forest Reservation Commission without amending the Act of March 1, 1911, and transfer all functions of the Commission to the Secretary of Agriculture. In addition, the House amendment would require that prior to entering into any land purchase or exchange relating to the National Forest System for the types of lands which have been heretofore approved by the National Forest Reservation Commission the Secretary of Agriculture must first submit to the Committees on Agriculture of the House and the Senate, for a period of 30 days or such lesser time as may be approved by both Committees, a detailed report of the facts concerning such proposed purchase or transfer. Such report must contain at least the guidelines utilized by the Secretary in determining that the land should be acquired, the location and size of the land, the purchase price and criteria used by the Secretary in determining such price, and the person from whom the land is being acquired.

*Conference substitute (Sec. 17)*

The Conference substitute adopts the provision of the Senate bill except that subsection (b) of the House amendment requiring prior submission to the cognizant Committees of Congress of data on proposed purchases or exchanges is substituted for subsection (b) of the Senate bill which required an annual report of purchase and exchanges.

### 31. SEVERABILITY

*House amendment*

The House amendment adds to the RPA a new section 14 which provides that if any provision of the RPA, as amended, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

*Senate bill*

The Senate bill contains no comparable provision.

*Conference substitute (sec. 11)*

The Conference substitute adopts the provision of the House amendment.

### 32. AMENDMENT TO THE KNUTSON-VANDENBERG ACT

*Senate bill*

The Senate bill amends section 3 of the Act of June 9, 1930, by striking the proviso limiting deposits to the average cost of planting comparable lands over the previous three years and by adding as a purpose for which a purchaser of National Forest timber may be required to make deposits, the protection and improvement of the future productivity of the renewable resources of the forest land on a sale area, including sale area improvement operations, maintenance and construction, reforestation and forest habitat management.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute (sec. 18)*

The Conference substitute adopts the provision of the Senate bill. The Conferees understand that the primary, though not exclusive, purpose of this amendment is to facilitate reforestation.

### 33. TITLE FOR ACT OF JUNE 12, 1960

*Senate bill*

The Senate bill amends the Act of June 12, 1960, by adding at the end thereof a new section 5 which provides that that Act may be cited as the "Multiple-Use Sustain-Yield Act".

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute (Sec. 19)*

The Conference substitute adopts the provision of the Senate bill.

### 34. CONTROL OF DUTCH ELM DISEASE

*House amendment*

The House amendment requires that the Secretary of Agriculture, in consultation with the officials of the States and political subdivisions thereof, conduct a study of the incidence of Dutch elm disease and evaluate methods for controlling its spread. The Secretary must prepare and submit to the President, and to both Houses of the Congress, on or before March 1, 1977, a report which includes the results of the study, plans for further research into the control of Dutch elm disease, and an action plan including a program of outreach and public information about the disease, and recommendations for controlling the spread of the disease.

*Senate bill*

The Senate bill contains no comparable provision.

*Conference substitute (Sec. 20)*

The Conference substitute adopts the provisions of the House amendment.

### 35. LOGGING ROADS

*Senate bill*

The Senate bill would have amended section 4 of the Act of October 13, 1964, the National Forests Roads and Trails Systems Act, by striking the proviso which limits the road construction cost which a purchaser of National Forest timber must pay to the cost of a road built to a standard no higher than that needed in the harvesting and removal of the timber and other products covered by the particular sale.

*House amendment*

The House bill contains no comparable provision.

*Conference substitute (Sec. 14(i))*

The Conference substitute adopts in lieu of the amendment contained in the Senate bill language which would be added to the RPA providing that, in the case of timber sales which include provision for purchaser credit for construction of permanent roads with an estimated project cost in excess of $20,000, the notice of sale must contain an estimate of the cost, the deadline for completion of the proposed road, and must extend to small operators (equivalent to one who qualifies as small business under the Small Business Act) the right, when submitting a bid, to elect that the Secretary build the road. If the purchaser so elects, the price subsequently paid for the timber must include all of the estimated cost of the road. However, the Secretary would be authorized to use the receipts from any sale of timber equal to the amount of the cost estimate, and such additional sums as may have been appropriated for the construction of roads to construct the proposed road. The provision would not be applicable in Alaska.

Thomas S. Foley,
John Melcher,
James Weaver,
Joseph P. Vigorito,
John Krebs,
George E. Brown, Jr.,
Dawson Mathis,
William C. Wampler,
Steve Symms,
James P. Johnson,
*Managers on the Part of the House.*
Herman E. Talmadge,
Henry Jackson,
James O. Eastland,
Frank Church,
Hubert Humphrey,
Dale Bumpers,
Carl Curtis,
Mark Hatfield,
Jesse Helms,
James A. McClure,
*Managers on the Part of the Senate.*

### PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ASHBROOK. Mr. Speaker, I thought I heard the Chair state that nothing except personal requests of Members will be considered.

The SPEAKER. Personal requests; no legislative business except the filing of conference reports.

Mr. ASHBROOK. A conference report would be a legislative matter, would it not?

The SPEAKER. The Chair said he would permit filing, not consideration.

Mr. ASHBROOK. I would just like to make sure that is what we are going to do.

The SPEAKER. The only legislative business would be the filing of conference reports.

Mr. ASHBROOK. I thank the Speaker.

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## LABOR - HEW APPROPRIATIONS — VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on H.R. 14232, making appropriations for the Departments of Labor, and Health, Education, and Welfare and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Pennsylvania (Mr. Flood) for 1 hour.

Mr. FLOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is not the first time that I have addressed this House in connection with a Presidential veto. Since 1969, there have been seven vetoes of Education or Labor-HEW appropriation bills. Two of the vetoes were sustained by the Congress, three were overridden, and one was a pocket veto on which Congress did not have an opportunity to act. Today we are considering the seventh in this series of vetoes.

Mr. Speaker, the Members will recall that the President vetoed both the fiscal 1976 education appropriation bill and the fiscal 1976 Labor-HEW appropriation bill. Together, those bills exceeded the President's 1976 budget request by more than $2 billion, and the Members know how they acted on it, very definitely.

Mr. Speaker, both vetoes were overridden, just like that, both of them.

The President's veto of the 1977 Labor-HEW appropriation bill presents us with essentially the same issue as did the vetoes on the 1976 appropriation bill. The same issue.

The reasons why the 1977 Labor-HEW appropriation bill exceeds the President's budget request are very simple. The President's budget for 1977 for the controllable health, education, employment, training, and human development programs made no provision for cost increases, no provision for mere cost increases, or for any kind of program expansion. On the contrary, it proposes to cut back, to cut back many of these programs, many of them—the Members know about them—to the tune of over $2 billion.

Here are some of the cuts below the 1976 level, below the 1976 level, your level, that are proposed in the budget:

Jobs. We have heard about that lately. Jobs and job training programs for the unemployed, for the aging, and for the teenagers in the summer months, the summer youth program, $475 million.

Maternal and child health, $110 million.

This will interest some of the Members. Family planning, cut $21 million.

This will concern the Members, all of them, and their families. Cancer research, one of our favorites, cut $75 million.

Research on the heart, lung, and blood diseases: $27 million.

Then, after all the statistics that we have been getting lately and all the facts we have heard in the last year, mental health funds are cut $155 million.

Here is another one: Aid to schools of nursing. They say you should never turn your back on a nurse. That is cut $76 million.

Aid to the elementary and secondary schools for special programs for the disadvantaged students. That is cut $222 million.

Wait until the Members hear this one. Just listen to this. Impacted area aid; that is cut $386 million.

Emergency aid for the school systems required to desegregate; that is cut $30 million. Let me repeat that. That is for school systems that are required to desegregate.

Education for the handicapped. Oh, how we talked about that; all of us were interested in that. That is cut $90 million.

Here is one: Aid to the land grant colleges; cut $9,500,000.

Aid to school libraries: Cut $10 million.

Here is one we have had mail on by the stacks: All of the Head Start programs; cut $24 million.

Here is one the Members just will not believe, especially those in districts like mine where the average age is above the national average: Programs for the aged: those are cut $75 million. That is programs for the aged.

Vocational rehabilitation for the handicapped; cut $27 million.

The Members get mail on this: Community service programs; cut $186 million.

Then there is public broadcasting. How we talked about that for months. That is cut $8.5 million.

Mr. Speaker, that is only a partial list of the cutbacks proposed by the budget, but it should be enough to indicate why we could not possibly accept the President's budgetary proposals for 1977.

Let me tell the Members this: Over $2.2 billion of this congressional increase in the Labor-HEW bill results simply from restoration of the cutbacks. That is $2.2 billion just to restore the cutbacks. Now, this was our idea, and I hope the Members will listen to this: another $500 million of the increase over the budget results from providing funds for 2 years in this one appropriation bill for the vocational education program. We believe that the vocational education program should be funded 1 year in advance, as are many other education programs. That results in a paper increase over the budget of $500 million.

Mr. Speaker, the Members put that in there.

This is not an expansion of the vocational education program. It is simply an effort to permit our States and counties to use these funds more effectively—no more, no less. The fact is that the increases provided in this bill for health, education, and job training are, on the whole, less than the amount that would be required just to keep pace with inflation—just that.

Mr. Speaker, this year we are operating for the first time under the provisions of the Congressional Budget Act. We all know about this. We have established targets for total spending and revenues, both, in the second budget resolution which was recently agreed to by both the House and the Senate.

Mr. Speaker, this Labor-HEW bill that we have before us here today clearly falls within those budget targets. Keep that in mind.

Mr. Speaker, any increases over the budget in the Labor-HEW bill are more than offset by congressional reductions below the budget request in other appropriation bills for fiscal year 1977.

Mr. Speaker, I have served for many years—practically since it was formed—on the Subcommittee on Defense Appropriations. I have always favored, as the Members well know, a strong defense establishment to safeguard our Nation's security.

Just a few days ago, Mr. Speaker, a $104 billion defense appropriation bill became law.

Mr. Speaker, in my view, the health and the education of our people are just as essential to our national defense as airplanes and battleships. Therefore, the question before us today is really a very simple one. The question is: Do we believe that Congress was wise in providing a modest increase in appropriations for programs like job training for the unemployed, for cancer research, for mental and child health, for education for the handicapped, for nutrition for the aged, for vocational rehabilitation, and for impact-area aid? Do we, or do we not think that Federal support for these programs should be reduced below the current level?

Mr. Speaker, if Members believe, as I do, that these programs should not be cut back or terminated, then they should vote to override the President's veto of this bill.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I want to commend the distinguished chairman, the gentleman from Pennsylvania (Mr. FLOOD), for the magnificent job he has done in arguing for the override.

However, he confined himself to questions and programs dealing with many—with appropriations.

There is one particular question in my mind, and I do not recall whether this provision remained in the conference report and whether or not it is in this bill that we are going to override. That was the provision that was adopted on the floor of this House concerning the exemptions from OSHA regulations by farmers who employ 10 or less people. Did that provision remain in the bill?

Mr. FLOOD. The so-called Skubitz amendment?

Mr. KAZEN. That is correct.

Mr. FLOOD. The exemption to farmers employing 10 or fewer persons from OSHA?

Mr. KAZEN. That is correct. Is that still in the bill?

Mr. FLOOD. Yes. We kept the House language pertaining to farms in the bill.

Mr. KAZEN. I thank the chairman and I urge the House to override the veto.

Mr. FINDLEY. Madam Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Illinois.

Mr. FINDLEY. Madam Speaker, in connection with the same subject just raised, the OSHA act, can the gentleman from Pennsylvania clarify what effect the agreed to language will have on the enforcement of first offense citations against an employer? It is my understanding that the amendment I offered was altered somewhat in conference. I wondered if the gentleman from Pennsylvania could clarify the final result.

Mr. FLOOD. The Senate, of course, struck out what we call the Findley amendment and replaced it with what is known as the Durkin amendment. The Durkin amendment applies to all employers, regardless of size and the conferees retained that language with one modification. The modified language, as I think the gentleman knows, prohibits OSHA from fining an employer for nonserious first-instance violations of the act unless 10 or more violations are found during an inspection. If an inspector finds 10 or more of these violations during one inspection, then OSHA would have the authority to levy a fine. In any case, the language does not prohibit citations, it just prohibits fines. There is a distinction between citation and fines.

Mr. FINDLEY. Madam Speaker, will the gentleman yield further?

Mr. FLOOD. I yield further to the gentleman from Illinois.

Mr. FINDLEY. Even though I wish that limitation had not been agreed to which permits fines if 10 or more violations are found on first-instance inspection, I feel the compromise provision is a great advance for which employers will find cause for rejoicing. It does permit an inspection of the premises the first time without the assessment of fines in certain circumstances. I commend the conference committee for achieving this agreement.

Mr. FLOOD. Madam Speaker, I yield 15 minutes to the distinguished ranking member of the committee, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Madam Speaker, I obviously rise in support of the veto and ask the Members to sustain it. The Members all know the figures. The bill is $4 billion over the President's budget of $52½ billion, an all-time record of congressional profligacy in this field. But this is not the extent of congressional spending for Labor-HEW. We just passed a continuing resolution this past week which raises the spending level another $2.4 billion over the budget, and when the supplementals come up, early next year another substantial boost over the budget is likely.

When this bill was initially before us in June, I warned that total spending for Labor-HEW could well exceed the budget by $10 billion before we are all through. At that time I really felt that such a level of spending was inconceivable and that Congress would never lose control of itself to such a degree. Now I know differently. It is becoming more and more apparent that Congress is rapidly headed toward this outrageous level of expenditure with little apparent desire or will power to restrain itself.

Congressional excesses of this magnitude will cost the average American family some $227 annually in additional tax cuts which President Ford proposed if we held the line on spending.

How many of the Members want to go back to their constituents and tell them a month before the election that they voted to deny their constituents such a cut because they could not resist the demand of the special interests; because they could not summon up the discipline necessary to vote "no" to excessive expenditures, and because they were unwilling to end funding for the same old discredited, outmoded programs?

What the gentleman preceding me in the well failed to mention was that while there were cuts in specific items, as we list them by line item today, the President has proposed earlier in the year a $10-billion block grant approach in the field of health and welfare, which would have done away with the line-item-by-line-item approach to funding which is so susceptible to the pressures of special-interest groups, and would have provided a more effective means of administering and funding the programs.

This bill needs to be viewed in the overall context of spending for Labor-HEW. A vote to sustain the veto today will not only strike out the excesses in the bill but will give us the momentum necessary to hold the line on remaining appropriations in this area during fiscal year 1977.

We can get by with a continuing resolution, and believe it or not we will then be spending at a rate of $3 billion over last year. That ought to be sufficient.

A vote to override, however, means the floodgates are open; the special interests will be calling the shots; and spending is going to continue zooming onward and upward.

In considering this veto, it should be noted that not only is the bill $4 billion over the President's budget in total dollar terms, but it also represents, as I indicated earlier, a rejection of the President's efforts to reform and place on a sounder administrative footing many of the programs covered by the bill, to phase out programs which have largely accomplished their intended purpose, and to stabilize funding of programs which have not as yet proved their effectiveness.

We hear a lot of talk these days from a certain aspirant to the Presidency about the need to reform the Federal Government. President Ford in his budgetary recommendations for Labor-HEW has, in fact, requested that reforms be approved by the Congress. He has called for the consolidation of numerous categorical education programs into an overall block grant program designed to eliminate administrative complexity and Federal heavyhandedness, and to provide State and local officials with the necessary flexibility to allocate funds according to local needs. I alluded earlier to what he had also proposed in the same area for health.

He has called for revisions in the impact aid and vocational education programs.

I might add in response to that dramatic presentation just preceding me, that President Kennedy, President Johnson, and President Nixon before President Ford all proposed the same reform in impact aid. But again we have not taken the step in the right direction; we have taken it in the wrong direction by including people now in public housing. So, instead of 385 Members involved in that program, the Members even have me included, and all the rest, with my public housing in Peoria, Pekin, and Galesburg. It is wrong, dead wrong, but the Members will not change it simply because they are afraid to stand up to pressure groups roaming around these Halls.

Mr. Carter talks about the need for so-called zero-based budgeting. The administration does this every year when it puts together the budget. The President in his Labor-HEW budget recommended numerous changes based on this bottom-line analysis; but again in the Democratic majority in the Congress has chosen to continue things as they are—business as usual.

Mr. Carter has talked about the need to wipe from the books old programs which have outlived their usefulness or accomplished their intended purpose. This Labor-HEW area, it is replete with such programs, and the President, through his budget, has sought to phase down or eliminate many of them. But once again the Members in the majority have opted not only for the status quo, but more of it.

We hear frequent criticisms by the Democrat Presidential candidate about the all-powerful influence of lobbyists and special interest groups in Washington, and within the past few days we have heard so much rhetoric about lobbying activities right here on the floor of this House.

This bill represents special interests legislation at its worst. It is the product of the AFL-CIO, the National Education Association, the Coalition on Health Funding, the American Hospital Association, the American Nurses Association, the American Council on Education, the American Federation of Teachers, the National Association of Mental Health, the National Farmers Union, the American Cancer Society, the American Academy of Pediatrics, and the list goes on and on and on.

Mr. PATTEN. The gentleman left out the lobbyists for the oil groups.

Mr. MICHEL. Did we? As I said the list goes on and on and on.

These groups and their highly paid lobbyists for all practical purposes have written this bill. They are all looking for a portion of a supposedly unlimited Federal pie. Those that are already getting, demand more; and those that are not, want whatever they can get. No matter that some programs may have outlived their usefulness or others have not proven effective. No matter the overall impact on the economy and the taxpayers of such excessive levels of expenditure of Federal funds; the demand for funding continues unabated.

The President in his veto message said:

> The partisan political purpose of this bill is patently clear. It is to present me with the choice of vetoing these inflationary increases and appearing heedless of the human needs which these Federal programs were intended to meet, or to sign the measure and demonstrate inconsistency with my previous anti-inflationary vetoes on behalf of the American taxpayer.
>
> It is to present me with the dilemma of offending the voting groups who benefit by these government programs, or offending those primarily concerned with certain restrictions embodied in the bill.
>
> I am sympathetic to the purposes of most of these programs. I agree with the restriction on the use of Federal funds for abortion. My objection to this legislation is based purely and simply on the issue of fiscal integrity.

There can be little question about the important role the Federal Government must play in promoting equal educational opportunity, health research, improved health care, a better life for our elderly citizens, expanded opportunities for the handicapped, and job training and placement. Pursuit of this role, however, does not automatically require an ever-increasing expenditure of Federal funds. Nor does it require never-ending adherence to existing, centralized programs, simply because they are on the books.

The Federal role should be designed to enhance the ability of States, localities, and individual citizens to meet the problems at hand. It should not supplant them.

The Federal Government should supply the resources where necessary, but it should never supply them in such amounts that it destroys the incentive of local entities to raise their own resources. Nor should it supply them in such amounts that local officials and individuals become beholden to these resources, and sell their souls if need be to keep the dollars flowing.

The evidence is becoming more clear that State and local officials, school officials, health personnel and individual citizens are increasingly tired and frustrated with the ever-growing web of Federal rules and regulations which accompany Federal programs and Federal dollars. It is becoming just as clear, however, that these individuals have become so dependent on Federal dollars that they are reluctant to approve any change for fear the certain flow of Federal dollars will be interrupted. This only leads to greater unhappiness, the perpetuation of waste, inefficiency, and ineffectiveness, and an ever-increasing burden on the average taxpaying citizen.

The vote on this veto is not a vote for or against health; or for or against education; or for or against the poor or the elderly. We are all for programs to provide better health, better education, and assistance to those truly in need, and I would underscore the truly in need.

The President's budget provided $52.5 billion for these programs, a very substantial sum which is three times the amount provided during the last year of the Johnson administration.

A 300-percent increase, mind you, in 8 years while total Federal expenditures, excluding trust funds have gone up by considerably less—80 percent.

This is a record of assistance to the poor, the elderly, the sick, those seeking an education, and those needing job training, of which all of us involved can be proud.

We need a balanced approach though, which provides us with a solid level of funding needed to do the job but which takes into account the ability of the American people to finance the bill and the continued viability of the programs receiving the funds. The bill before us fails on all counts. It exceeds our ability to pay, it does not establish effective restraints on program funding levels, and it does not reflect a proper review of the programs being funded and the approaches being pursued.

The cause of good government leaves us no alternative except to sustain this veto; then fund these programs under a continuing resolution at the current level for the next few months, and then undertake early next year the development of a new bill that more properly takes into account the needs of both the tax receiver and the taxpayer.

Madam Speaker, I would urge in the strongest terms that we sustain the President's veto.

Mr. ROUSSELOT. Madam Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. ROUSSELOT. Madam Speaker, I appreciate my colleague yielding.

Basically, as I hear the views and figures my colleague has given us, a vote to sustain the veto is a vote for putting restraint on substantial and unwarranted increases in this whole appropriation. It is not a vote, as we have been told by all these lobbyists that have come to us from all over the country, to cut the heart out of education. It is a vote to put a restraint on unnecessary increases that the American working people, 88 million of them, have asked us to do.

Mr. MICHEL. Exactly.

Mr. ROUSSELOT. Madam Speaker, if the gentleman will yield further, a second point to be made is that a vote to override the veto is an obvious step to go the same way as Great Britain, or the same way as New York City. A vote to override the veto will provide an atmosphere of wild spending similar to the uncontrolled financial conditions in which both Britain and New York City now find themselves enmeshed.

I hope my colleagues will join the distinguished ranking member on this Subcommittee on Appropriations, Mr. MICHEL, and show real restraint by sustaining the veto instead of going the way of New York City and Great Britain.

Our President restated in his veto message what the Prime Minister of Great Britain recently proclaimed:

> Britain for too long has lived on borrowed time, borrowed money and borrowed ideas. We will fail if we think we can buy our way out of our present difficulties by printing confetti money and by paying ourselves more than we earn.

Madam Speaker, I hope we will listen to the voice of those who have been through this problem of uncontrolled spending such as many public officials in New York City and Great Britain. I hope we will heed the voice of the great Prime Minister of Great Britain.

Mr. MICHEL. Madam Speaker, I thank the gentleman. I reserve the balance of my time.

Mr. FLOOD. Madam Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Madam Speaker, this is another Presidential election year. My friend, the gentleman from Illinois, makes that clear. The gentleman really is not as mean all the time as the gentleman sounded just a minute ago; but while we are speaking of the Presidential years, I think we ought to go back to another Presidential year, 1972. On the Democratic side of the aisle we had a couple of candidates for President, or aspirants for the Presidency, who decided they needed their names attached to some new big Federal program, so they dreamed up what was called revenue sharing.

Then the President at that time, President Nixon, decided the way to handle that was to say, "Me, too," and so they locked it in and we know what has happened since then. In 4 years, we have had four vetoes of this bill with categorical grants to the States, and we are going to have an unusual opportunity today right after we vote on this veto, we will vote on the extension of revenue sharing.

Now, let us look at what has happened since revenue sharing was first passed. Every year the administration has tried to take revenue sharing out of the categorical grants to States. The original idea was that the States needed some additional funds. If they had additional funds, perhaps they would not make additional demands for categorical grants. The categorical grants admittedly are the most important grants, more important than programs financed with State revenue sharing funds. If they were not, they would not have the pressure behind them to get it adopted to start with.

So what do we have in this bill here? We have in here CETA and advances to the States for unemployment compensation over the budget by $673 million. That is mostly grants to the States.

Health services, mostly grants to the States, $368 million over the budget.

The Center for Disease Control—we maintain 50 percent of State health departments in this country—is $53 million over the budget.

Then, there are other health services and aid for the universities, student aid, $187 million. Education is $1.6 billion over, and we only furnish about 8 percent of the money that is spent in the local school districts.

By sending the boys and girls to school, by giving them education, giving them more training, they are able to later earn more money so that they can pay more Federal taxes. This is an investment. It is not really the boondoggle expenditure such as those who oppose the bill are talking about. This is an expenditure that returns great profits to the Federal Government as well as to the local governments, so let us look at what is going on here.

What we have is an attempt to finance revenue sharing out of categorical grants to the States. It has been going on for 4 years. How can we stand up here a few minutes or an hour from now and say, "Oh, I am for revenue sharing for the States; they need the money," when they have just finished voting to take the categorical grants away from the States?

Mr. LATTA. Mr. Speaker, will the gentleman yield for a question?

Mr. SMITH of Iowa. I yield to the gentleman from Ohio.

Mr. LATTA. Maybe I was misled when revenue sharing was being debated in this House, but I remember that we were going to replace some of these categorical grant programs with revenue sharing and give States and local governments the opportunity to spend the taxpayers' money as they saw the need. Now, the gentleman is arguing that just because we cut back on State categorical grant programs, that is wrong. Let us go back and read the debate 4 years ago, when we put in revenue sharing, and I think the gentleman will find that the argument used was that we were going to cut back on these categorical grant programs. I thought that is what we were going to do.

Mr. SMITH of Iowa. The gentleman is a little mistaken. That is what the Nixon administration was using as an excuse in the Republican Caucus to get some of the conservatives to go along. That was another meeting, not on the floor of the House.

On the floor, the idea was that they needed additional money.

Mr. Speaker, I urge an override of the veto.

Mr. FLOOD. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of this effort to override the

President's veto of the Labor-HEW bill. I might add one other thing in the litany of the people and associations that are for the override that my good friend, the minority whip, has mentioned; I have never been endorsed by one of them.

While I can understand the action of the President in light of the $4 billion by which this bill exceeds the President's budget, I think we all realize that the budget was nowhere—nowhere—near realistic in providing for the human resource needs of this great Nation of ours.

This bill provides an increase for all covered programs of 5.6 percent; less than enough to meet the annual cost of inflation. I might point out, as one who has worked throughout my congressional career to reorder Federal spending priorities toward human resource programs, that the increase in the Labor-HEW bill is less than half the 14-percent increase that we provided, and the President approved, for the Department of Defense.

This $56.6 billion bill is a large bill, but so are the needs of this Nation for health care, education, employment training for the handicapped, the elderly and biomedical research. This measure is a responsible one, and it demonstrates our continuing commitment to improving the quality of life of our country. It is a measure which affects each and every American. I believe we worked for 3 solid weeks with the Senate to bring this bill down below $4 billion.

Mr. Speaker, although we have been through the contents of this bill on several occasions, I would once again like to briefly outline some of the programs provided for in this measure which are of particular interest and concern to me.

We provided $2.5 billion for the vital programs of the National Institutes of Health, programs which are proving their worth in breakthroughs on the major afflictions affecting mankind.

The bill contains $500 million in advance funding for vocational education for fiscal year 1978.

We have provided $106.9 million for mental health research, an amount which turns around a multiyear trend for decreasing mental health funding at a time when we need to devote more of our efforts to this field.

We have provided $26.5 million for new starts of community mental health centers, an amount which will permit significant expansion of this program.

We have expanded maternal and child health funding, to demonstrate our commitment to the premise that preventive medicine is the most effective kind, and that we must continue our efforts in this area.

Over $2 billion is included in this bill to restore cutbacks proposed by the administration in job training, aid to the handicapped, community service programs, and many other areas of concern to all of us.

I urge my colleagues to override the President's veto.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Speaker, I believe that the appropriations in this conference report are very critical to the continued survival of individuals all over this country. I believe that the economic program of this administration has created an even greater need for these programs. Unemployment, inflation and its impact upon those who are unable to care for themselves, is a direct responsibility of this administration. It is this administration's own policies which have created unemployment and the concomitant need to provide even more assistance than this bill reflects. It ill-behooves the administration, therefore, to veto it.

Mr. Speaker, I do want to make this point, however, that I believe this bill contains a provision which is unconstitutional, discriminatory and ill-considered legislation. We provide in this bill for medical and health services for poor people. We provide for family planning, health, and hospital care. Yet as we provide Federal funds for seeing to it that pregnancies come to fruition for poor people, we take away the same rights that poor people have to terminate those pregnancies by refusing to provide funds for abortion. I believe this provision is unconstitutional. I do not believe it even belongs in this legislation. I have agreed to serve as cocounsel in a lawsuit to challenge this provision in the courts of these United States. I vote to override the veto, with the clear understanding that I do so because the funds provided here are essential to the survival of people all over this country for programs that they desperately need and programs I think which are further necessitated by incorrect economic policies of this administration, but with a clear statement that I continue to strongly oppose the Hyde amendment and its compromise version. I take the floor to also indicate to my colleagues that although I vote to override this veto, I think in the closing days of this session Congress was in error to insert an unconstitutional, illegal and discriminatory provision with respect to abortions, and believe the Congress will overrule this error.

Mr. FLOOD. Mr. Speaker, I yield such time as he may require to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I rise in support of the bill, H.R. 14232, the Labor-HEW and related agencies appropriation bill for 1977 and urge the Members to vote to override the President's ill-timed and misplaced veto.

The President submitted his veto of the Labor-HEW appropriations bill on the basis that its totals exceed his budget request by about $4 billion. Now that the congressional budget process is in place and operating, the President's budget request represents one reference point to be considered along with a number of other sources of advice and guidance in the final determination of congressional appropriations. The total budget deficit of the President and Congress is within 1 percent so the Congress does now have control over the system. To the Members of Congress, the relation of the congressional appropriation to the President's budget request is no longer the critical question. The critical question is the relationship of the appropriation to the amounts provided in the second budget resolution that needs to be examined since both the Congress and the President have almost the same deficit figure. I can advise the Members that the Labor-HEW appropriation bill is entirely consistent with congressional budget goals and allocations which we have adopted. Its totals are within the amounts allocated in the second budget resolution for programs operated by the Departments of Labor and HEW.

In the second budget resolution which Congress adopted 2 weeks ago, we provided $65.7 billion in budget authority and $67.1 billion in outlays for Labor-HEW programs in fiscal year 1977. The appropriation bill vetoed by the President contains $56.4 billion in budget authority and $62 billion in outlays. The appropriation bill, therefore, is $9.3 billion in budget authority and $5.1 billion in outlays below the total amounts anticipated for the Labor-HEW programs.

Although the total budget authority and outlays in H.R. 14232 are substantially below the allocation targets. I must advise the House that many important legislative items remain to be considered which, if fully acted upon at the levels projected in the second budget resolution, will fully absorb the funds remaining in the Labor-HEW allocation. The second budget resolution assumes the funding later in the fiscal year of legislation such as the special unemployment assistance benefits, support for higher education, public service employment, and a number of health service and manpower training programs. In addition, current estimates indicate that several entitlement programs will require higher appropriations than are included in the Labor-HEW appropriation bill. The public assistance programs of medicaid, AFDC, and supplemental security income will require supplemental appropriations totaling about $900 million. Appropriations of this magnitude have been anticipated in the second budget resolution.

If all of the above amounts are subsequently provided as anticipated in the second budget resolution, when added to the amounts in the appropriation bill before us, the allocation totals for Labor-HEW programs would be completely exhausted, but not exceeded.

Let me cite some examples of what failure to override the President's veto means to the people affected.

First, in education:

Programs of assistance for handicapped children would be reduced by one-third from their 1976 levels. The congressional appropriation would expand this vital program by about one-third over the 1976 level, consistent with the increases in the authorization legislation.

Assistance to federally impacted areas would be reduced by over 50 percent from the 1976 level—a reduction which cannot legally be made under current law. The Labor-HEW bill would maintain the impact aid program at its 1976 level when the effect of inflation is taken into account.

Elementary and secondary education programs would be reduced about 10 percent from the 1976 levels. The congressional appropriation would add about 10 percent to the funding level, providing essentially for the impact of inflation on school costs.

In total, the President's budget would reduce support for education programs by $700 million from the 1976 appropriated levels. In order to maintain the same program level, financially hard-pressed States and communities would have to absorb this amount and the additional costs required as a result of inflation.

The Labor-HEW bill would provide sufficient funds to maintain education programs at their 1976 levels, when the impact of inflation is considered, and provide modest increases in selected programs.

Second, in manpower and training programs:

The appropriation bill would provide an additional $300 million over the 1976 appropriation for employment and training assistance programs to enable an additional 30,000 individuals to receive counseling, training, and work experience in preparation for their obtaining and holding permanent employment in private industry.

The summer youth program would be reduced by almost 25 percent—$128 million reduction—from the 1976 appropriation under the President's budget, resulting in the loss of over 200,000 summer jobs for needy young persons. The congressional appropriation would add over 125,000 jobs above the 1976 level, providing support for 1 million summer youth jobs in 1977.

The President proposed to abolish the Older Americans Jobs programs, a program of proven effectiveness. The Labor-HEW bill would provide funds to help over 15,000 low-income senior citizens find suitable part-time employment.

Congress, in both its budget resolutions and the appropriation bills, has made special efforts to expand those programs which assist in the creation of jobs directly or stimulate the economy to move us out the unemployment slump which threatens to become a chronic condition of American life.

Third, in health programs:

The President's budget would reduce support by one-third for programs providing health services to mothers and children, migrants, the inner-city poor and mentally ill. The Labor-HEW bill would maintain these important health service programs at their 1976 levels, and add small amounts necessary to offset inflation.

The President would reduce support for biomedical research by about 9 percent from the 1976 appropriated levels. The congressional budget recognizes the need to continue the current level of support for this vital activity and adds 9 percent above 1976 funding—essentially a cost-of-living increase.

The President would reduce support for health manpower training by about one-third from 1976. The congressional budget maintains the 1976 level.

In total, the President's budget would reduce funding for health programs other than medicare and medicaid from $4.9 billion in 1976 to $4 billion in 1977, a 17-percent cut. The Labor-HEW bill would increase support to $5.2 billion, an increase about $300 million or 6 percent.

In summary then, the Congress has constructed a set of budget priorities and fiscal policy objectives different from those of the President. The Labor-HEW appropriation bill fits those priorities and objectives. I strongly urge the Members to support the congressional budget goals by voting to override the President's veto.

Mr. MICHEL. Mr. Speaker, I wonder if it would be possible for the Chairman to yield a sufficient time to the gentleman from Illinois, 2 minutes, and to the gentleman from Ohio.

Mr. FLOOD. Mr. Speaker, I think we have 2 minutes. We will yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. MICHEL. Mr. Speaker, I have only consumed 14 minutes. We have an hour on the subject. This is a big bill. We have been talking and yaking for hours about bills costing $1 or $2 million, and here we are, with a $56 billion bill.

Mr. FLOOD. Yes. I agreed to yield.

Mr. MICHEL. I am just asking the Chairman to yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON) and a couple minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. FLOOD. Mr. Speaker, that would be 5 minutes altogether.

I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the distinguished chairman of the subcommittee for his generosity in yielding.

I only ask for this time to reiterate a point that was made earlier in, I think, very excellent fashion by my friend, the gentleman from Illinois (Mr. MICHEL). The point has been raised again by what was just said by the distinguished chairman of the Committee on the Budget when he told us that we can go ahead and vote to override this veto with equanimity because it is within the constraints of the House-passed and the Senate-passed budget resolution.

I refer back to the debate on this bill that took place in the other body in which the senior Senator from Maine, the chairman of the Budget Committee of that body, advised the Senate that the totals in the measure did fall within the limits set by the congressional budget resolution. However, the debate goes on to suggest the warning that a number of programs had not been included in the bill because authorizing legislation had not been passed when the measure was taken up in the Senate. Among these were the temporary public services job programs and aid to higher and vocational education.

In addition to that, the debate suggested that supplemental appropriations might have to be provided for medicaid, aid to families with dependent children, the supplemental security income program, and other programs. "These considerations"—and I am quoting—"plus possible new programs upon which Congress was expected to act by the end of the year might require a major supplemental appropriation bill," said the chairman of the Senate Budget Committee.

In other words, what the gentleman from Illinois (Mr. MICHEL) told us earlier is apparently only too true, that with these supplemental appropriations that will be called for before the expiration of the current fiscal year, we could have a total overage of $10 billion, not just the $4 billion that we are talking about here.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. Mr. Speaker, will the gentleman yield? The gentleman used my name.

Mr. ANDERSON of Illinois. Mr. Speaker, I will yield. First, I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I am one of those Members who would like to vote to sustain the veto because of the excessive amount of money provided. However, I am concerned as to what happens if the veto is sustained.

Could the programs in which I am interested be continued with a continuing resolution? What is the situation? I have asked that question before, and I am still not sure of the answer.

Mr. ANDERSON of Illinois. Mr. Speaker, the gentleman from Illinois (Mr. MICHEL), the ranking minority member of the subcommittee, has already suggested that that is precisely the vehicle that could be employed to continue good, existing programs.

Mr. BROWN of Ohio. Mr. Speaker, I understand the continuing resolution is $2.2 billion over the budget, and that it could be amended further to add some of the programs. As a matter of fact, it might even be amended in such a way as to exceed the bill we are considering at this point.

Mr. ANDERSON of Illinois. That would be up to the will of this body, of course. In a continuing resolution we can do anything we want to do.

The SPEAKER. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

Mr. FLOOD. Mr. Speaker, I yield 1 minute to the gentleman from Washington( Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, in direct reply to the gentleman from Illinois (Mr. ANDERSON) and to make very clear what the senior Senator from Maine has said and what I have said, there is available in the budget resolution that we have adopted for the spring supplemental in this area $9.3 billion in budget authority and $5.1 billion in outlays still available for what may have to be adopted in the spring. These amounts are consistent with the target.

That is true because parts of these programs have not as yet been authorized, but they are nevertheless provided for within the budget resolution aggregates. Even including these amounts, our deficit figure and the President's deficit figure will still remain within less than 1 percent. I have sent a letter, along with a chart, to all my colleagues showing the President's revised budget figures and the revised figures from the second budget resolution. These are shown by category and by aggregates, together with the projections, and there is no question about the figures that have been used.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, the gentleman constantly refers to the difference between the President's deficit and the House deficit as 1 percent, but he knows that the President's budget contemplated a $10 billion reduction in revenues through additional tax cuts, and if the tax reductions contemplated by the President's budget are not enacted and they won't be, the difference would be more than three times that amount. It is a clear misrepresentation to compare these two figures without considering the difference in the estimated revenue figures.

The SPEAKER. The time of the gentleman from Washington (Mr. Adams) has expired.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Latta).

Mr. LATTA. Mr. Speaker, the gentleman from Washington (Mr. Adams) knows that I have the highest regard for him. I would like to say, however, that his argument points out the phoniness of this new budget process.

Mr. Speaker, when I accepted an assignment on this committee, I thought our primary function was to cut the budget, not to add to it. Yet, that's what the Budget Committee has done during the 2 years of its existence. Incidentally, without my vote. In fact, it is turning out resolutions for increased spending and increased authorizations beyond those recommended by the President. Now, every time we get a bill on the floor above the President's budget but within the Budget Committee's figures, we get this phony argument that it is consistent with the budget resolution and somehow argued that it is not for increased spending.

What was the gentleman from Washington talking about? He was talking about a budget resolution $13.2 billion over the President's budget request. For this reason, I think it is a little bit phony for us to argue that these bills are consistent with our budget resolution without mentioning that the budget resolution itself is $13.2 billion over the President's request.

Mr. Speaker, I think it is high time that we do something about balancing the budget. We are hearing this around the country from a certain candidate. My question is when? When? How? How?

We are not going to do it by a majority voting every time we have one of these resolutions to pass it even though it is going to increase the President's budget. Then they come along and use the phony argument I just mentioned every time we get a veto or a bill within the resolution, without ever telling the American people that that resolution is above the President's request.

Mr. Speaker, let me make this further comment: We are going home soon and the spenders in this House will probably tell the people they want us to cut back Government spending and they have failed to do so when they had an opportunity.

I have been reading some of these statements from our great spenders. They are saying they are for cutting back when they are in their districts, but are usually voting the other way while they are in Washington.

Mr. Speaker, when are they going to help us cut back? We cannot reduce this reckless spending without help from the Democratic Members.

Next year we programed, without my vote, into this budget resolution a $700 billion deficit for the United States of America.

Does not this call for reduced spending? We programed a $50.6 billion deficit for fiscal year 1977 alone. Does not this cause you concern?

Mr. Speaker, I hope so. I hope the American people are keeping up with what has been going on here and I am sure they have.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Heinz).

Mr. HEINZ. Mr. Speaker, I rise to urge my colleagues to vote to override the veto of the President. I do so because I think there are tremendously important programs in this bill for the elderly and for important transfers of the social security trust funds.

Mr. Speaker, on jobs, there is a very necessary increase in unemployment compensation assistance, not to mention the Comprehensive Employment and Training Act appropriations that are so badly needed.

In the area of education alone, where we spend in this country today $4 billion, fortunately not appropriated by this body, on pornography, only $3 billion is in this bill for elementary and secondarv education and emergency school aid.

Finally, Mr. Speaker, in the area of health care, the National Institutes of Health, an area which is doing health research, research so that we can have preventive health care, not health care after the fact, the priorities in this legislation, my good friends, are tremendously high.

Mr. Speaker, I urge my colleagues, the Members of the House, to join me in voing to override.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I am interested in what the continuing resolution has in it with respect to the programs that the gentleman in the well is concerned about.

Mrs. MINK. Mr. Speaker, I can only say that the President's veto of the Labor-HEW appropriation bill for fiscal year 1977 is truly disheartening. In order to justify his veto of this bill which funds programs in education, jobs, and health, the President has resorted to partisan politics. Rather, his veto merely represents a lack of commitment to the adequate funding of these programs.

The President has said that this bill is $4 billion over his budget proposal. The Congress reviewed each and every one of his proposals and rejected them. The level of spending proposed in this bill is well within the spending targets established by the Congress in the 1977 budget resolution.

I would like to address myself specifically to the issue of the level of funding for programs in education. Members will recall that the Congress was in a similar position last year when the President vetoed the fiscal year 1976 education appropriations bill and that the Congress overwhelmingly overrode his veto. The President's lack of support of education programs is quite clearly revealed in his consistent vetoes of these programs.

At this point, it would be appropriate to enter into the Record the President's proposed funding of our education programs for fiscal year 1977 in comparison with congressional priorities:

COMPARISON BETWEEN VETOED HEW APPROPRIATION BILL AND PRESIDENT'S REQUEST FOR EDUCATION PROGRAMS

| | Fiscal year 1976 appropriation | President's request for fiscal year 1977 | Fiscal year 1977 HEW bill vetoed by President | HEW bill compared to President's fiscal year 1977 request (percent) | President's fisca year,1977 request compared to fiscal year 1976 appropriation (percent) |
|---|---|---|---|---|---|
| Elementary and secondary education | $2,436 | $2,214 | $2,713 | +18 | −9 |
| Impact aid | 704 | 325 | 793 | +59 | −54 |
| Emergency school aid | 272 | 250 | 275 | +9 | −8 |
| Education for the handicapped | 326 | 236 | 468 | +50 | −28 |
| Occupational, vocational and adult education | 509 | 600 | 932 | +36 | +15 |
| Higher education | 400 | 338 | 352 | +4 | −16 |
| Special projects and training | 37 | 30 | 47 | +36 | −19 |
| Library resources | 199 | 189 | 215 | +12 | −5 |
| Salaries and expenses | 108 | 117 | 116 | −1 | +8 |
| Total | 5,218 | 4,324 | 5,936 | +28 | −1 |

You will note that the President proposed that Federal assistance for elementary and secondary education be cut back from last year's level by 9 percent; he proposed that assistance for emergency school aid be reduced by 8 percent; he proposed that assistance for the education of handicapped children be slashed by 28 percent; and he proposed that assistance for higher education be lowered from last year's level by 16 percent.

In total, the President proposed that Federal assistance for education be reduced by a staggering 17 percent below last year's level. The Congress, on the other hand, increased funding over the President's budget by 28 percent, or 12 percent over the fiscal year 1976 level of funding.

The strong commitment of the Congress to our education programs is clear. I urge my colleagues to vote to override the President's veto.

Mr. KEMP. Mr. Speaker, this veto should be sustained. I think we owe it to the hard working and overburdened taxpayers to sustain it. For if it should be overriden, it shows again the commitment of the majority in Congress to playing partisan politics with the national interest.

There are numerous provisions in this bill which I support. But there is much here which is bad, too. And the worst thing of all is the way in which the spending level exceeds what the two Federal Departments—Labor and Health, Education, and Welfare—really say they need to provide in fiscal year 1977 for HEW-Labor programs. It exceeds those needs by $4 billion, nearly 8 percent over the Departments' requests. This is unnecessary, excessive spending, the kind which causes either higher taxes or higher inflation both of which raise the cost of living.

What this country wants—and I think we know accurately the sentiments of the American people on this matter—is reform, not more spending. Reform is what we need in our Nation's welfare and medicaid program, not just more welfare spending. Reform is what we need in some types of education programs, not just more Federal spending. Reform is what we need in a wide variety of employment programs, not just more spending. Yet, instead of enacting reform—which would provide more benefits, not less, to those who are truly needy, the Congress insists on spending more of the people's money. The majority in Congress just cannot seem to get down to the hard work essential to instituting reforms. It is either that, or their actions are being governed by special interests. I cannot think of a third alternative.

I think the American people are wiser than many in Congress think.

The American people know that compassion on the part of the Federal Government involves more than taking additional cash from their paychecks.

They know that inflationary spending and larger deficits must be paid for not only by all Federal taxpayers but by every citizen, including the poor, the unemployed, the retired person on fixed incomes, through the inevitable reduction in the purchasing power of their dollars.

We must have compassion for those who cannot help themselves, but we must have compassion for the taxpayers as well.

There is another reason why this veto should be sustained, too. It deals with the ever-widening gulf between what the majority in Congress says and what it does.

Congress says it cares about cutting inflation and controlling Federal spending. If the Congress really cared about cutting inflation and controlling spending, would it have passed a bill that is $4 billion over what is budgeted?

Congress says it wants to stop fraud and abuse in Federal programs. If the Congress really wanted to stop fraud and abuse in programs, like Medicaid, where we have a scandal of first magnitude going on, would it appropriate more money this year than last and fail to act on reforms necessary to overcome the abuses?

The Congress says it wants to end duplication and overlap in Federal activities. If the Congress really wanted to do that, would it continue all of these narrow programs this year at higher funding levels than before?

The obvious answer to all these questions is, "No."

This Congress seems blind to what happened in Great Britain. We can see clearly, if only the eyes are opened, exactly what Britain did wrong. As Prime Minister Callaghan said this week:

> Britain for too long has lived on borrowed time, borrowed money and borrowed ideas. We will fail if we think we can buy our way out of our present difficulties by printing confetti money and by paying ourselves more than we earn.

Yet, the Congress keeps forcing this country and its people down the road to ruin known as tax and spend, and tax some more, with inflation on the side for extra measure. It is the road to economic disaster.

The President's veto should be sustained and let us pass a responsible HEW-Labor appropriation bill.

Mr. LEVITAS. Mr. Speaker, the House of Representatives will be voting within a few minutes on the question of overriding or sustaining the President's veto of H.R. 14232, the fiscal year 1977 appropriations bill for the Departments of Labor and Health, Education, and Welfare. After carefully weighing all of the factors involved, I have no choice but to vote for sustaining the President's action.

However, it must be pointed out that my vote in no way whatsoever is directed against the departments' many important and vital programs and projects which directly and indirectly benefit every single American. In fact, it should be emphasized that even if the veto is sustained, these programs will be continued, and they will continue to be adequately funded.

Indeed, it was precisely for that reason that I voted for the fiscal year 1977 continuing appropriations resolution which the House of Representatives passed just 3 days ago. That resolution will insure that all of the programs and activities within the two department will continue to be funded at their present fiscal year 1976 level until such time as the Congress and the administration reach agreement on the fiscal year 1977 appropriations for Labor-HEW.

To reiterate, the reason for my vote is not that I do not believe in or support most of these programs. Instead, it is simply that the bill exceeds the funding ceiling agreed upon in the congressional budget resolution we passed 5 months ago, on May 13. I voted for the budget resolution on the basis that it established binding ceilings and that the appropriations bills which the House would subsequently consider would be within its limits.

It is also worth noting that the conference report on H.R. 14232 now before us exceeds the original House-passed appropriations total by almost half a billion dollars. I voted for H.R. 14232 when it first passed the House on June 24 because its total then was $263 million below the budget resolution, and if similar restraint had been exercised in keeping the funds in the conference report below that binding ceiling, I would have voted for it also. The conference report exceeded the miximum limit by $150 million, though, so I voted against it on August 10.

I opposed the conference report 7 weeks ago because it was, and still is, a budget-busting, budget-wrecking measure. And no matter how attractive or appealing, we simply cannot continue to vote for spending levels that exceed responsible limits. This may not be politically appealing, but it definitely is sound financial reasoning. We must draw the line and stick to it, or we will surely stay on the road to economic chaos.

In other words, Mr. Speaker, we have no choice but to stay within the targets we set for ourselves in the May budget resolution, and to cease juggling figures with half-hearted and impractical excuses that we will offset excesses with slashes in later bills. We must not, and we cannot, continue to spend, spend, spend, and then tax, tax, tax or borrow, borrow, borrow. While the constraints of the new budget law may chafe, the fact of the matter remains that the budget law is the first significant step toward restoring and maintaining fiscal sanity in Federal expenditures and, indirectly, in the Nation's economy as a whole.

The cruel hoax of trying to benefit people by spending money we do not have must be stopped. Otherwise, the inflation due to rising Government spending and growing Federal deficits will increasingly continue to pick the pockets of those very same Americans whom these programs are supposed to be helping. We must come to our senses and reverse this inflation-feeding tide by reducing Government expenditures. We must exercise fiscal restraint and live within our budget and within our means, even if it requires voting against a politically attractive bill.

I made many of the same points in my remarks to the House 7 weeks ago on the occasion of my vote against the conference report on the Labor-HEW appropriations legislation, and it was most gratifying to have my statements and vote become the subject of a favorable editorial by one of the newspapers in my congressional district, the DeKalb News/Sun.

Mr. Speaker, I have here a copy of that editorial, and I include it in the CONGRESSIONAL RECORD at this point:

### LEVITAS CATCHES MOOD

DeKalb's Congressman Elliott Levitas recently cast his vote against the Labor-HEW appropriations for 1977. While he said he supported many of the programs, the appropriation was $412 million above the budget.

In casting his vote he had some interesting things to say: "No matter how attractive or appealing, we simply cannot vote for spending levels that exceed responsible limits. This may not be politically appealing but it is fiscally sound. We must draw the line and stick to it or we will surely continue on the road to economic chaos."

The American public is very uneasy about the economic situation, and especially the high taxes they pay for programs of very questionable benefit. Both major political parties have sensed this mood in the people. Jimmy Carter is flatly an anti-Washington candidate. Jerry Ford is taking the posture that his is a new administration and the problem is a spend-happy Democratic Congress.

Levitas caught the mood of the voters when he said:

"We must not always spend, spend, spend, and then tax, tax, tax or borrow, borrow. The constraints of the new budget law may chafe us. But that budget law is the first major step to restoring fiscal sanity to the Nation. . . The cruel hoax of trying to benefit people by spending money we do not have must be stopped. . ."

Levitas' words were very clear. Unfortunately the Congress approved the $412 million overspend.

The average family is feeling the tight pinch of inflation and having to live on a very close budget. But the Congress seems to be running wild spending money with no thought for the effects that it will have on the people—or in the election.

In summary, Mr. Speaker, my vote to sustain the veto of the fiscal year 1977 appropriations contained in H.R. 14232 for the Departments of Labor and Health, Education, and Welfare should be considered as an effort on the part of at least one Member of Congress—this Member from Georgia's Fourth District—to curb Government spending. It is not an expression of opposition to the vast majority of the programs involved. On the contrary, I strongly support the objectives of most of these programs which have contributed so much to the health and well-being of our Nation. I have voted for adequate funding for them previously, and I will do so again whenever a Labor-HEW appropriations bill is brought up that is within the limits established by the congressional budget resolution we approved in May.

I hope my colleagues will join me in taking the only proper and responsible action on this monetary measure. Let us sustain the veto and then begin work on a new bill that reflects fiscal restraint by not exceeding the ceiling we have already imposed on ourselves.

Mr. KASTENMEIER. Mr. Speaker, I would hope that we would not have to spend a great deal of time justifying the funding levels in this bill. It should be merely a process of reaffirming our commitment to meeting the needs of our people.

The President, unfortunately, has chosen to place this issue in the partisan poltical arena. If one wishes to address the basic and fundamental difference between the priorities of this administration, which is Republican, and the priorities of this Congress, which is democratically controlled, then perhaps we could bring it into the political arena. I would prefer to believe that it is simply a matter of this Congress having not only compassion for our people's needs, but a basic understanding of what should and what should not be sacrificed in the name of austerity.

Let us take a look at those areas where the Congress chose to increase funding in this bill over the President's budget request. The list is rather interesting. It includes: Education aid for the disadvantaged, cancer research, the Jobs for the Elderly program which the President proposed to abolish, comprehensive services for the elderly, vocational rehabilitation, the National Institutes of Health, community health centers, maternal and child health programs, family planning, migrant health, rat control, health education, rape prevention, alcoholism programs, student assistance for nurse training, the Right to Read program, drug abuse education, environmental education, adult education, child development programs.

In each of these areas, and this is only a very partial list, the President proposed to cut funding from last year's levels. If we had adopted the President's budget, it would have meant that fewer disadvantaged children would receive special education assistance. It would have meant a reduced effort to find a cure for cancer. It would have meant fewer services for the elderly. Fewer disadvantaged, pregnant women would have been able to avail themselves of prenatal care. Fewer disadvantaged children would have had at their disposal desperately needed health care. This, too, is only a partial list. But, it does tell you something. It tells you that the people who would suffer the most from the cuts proposed by the President are those who are already disadvantaged. They are the poor, the elderly, the handicapped.

If the President wants to present this in partisan terms, then let us take a look at where this administration has placed its priorities in the last 8 years. Not one foreign aid bill has been vetoed because it cost too much. Not one military appropriation bill has been vetoed because it cost too much. But, in the last 8 years, seven appropriation bills providing money for health, education, and welfare have been vetoed, three of those under the current sitting President.

We should not be sacrificing our children, our elderly, and our disadvantaged in times of economic trouble. They have already sacrificed too much because of skewed priorities. Their programs have never been adequately funded in the first place, and they certainly cannot afford a cut in programs already underfunded. Let us talk about cutting costs where people will not suffer. Let us talk about cutting the cost of military hardware to repressive foreign governments. Let us talk about cutting the cost of weapons systems we do not need. Let us talk about cutting back on excessive troop levels abroad. Unfortunately, the President would rather provide bomber planes to foreign governments than a job for a person out of work. He would rather send aid to the repressive Korean and Chilean Governments than commit the needed resources to the health and welfare of our children. He may argue within that analysis, but that is what his record shows.

The common people in this country, the disadvantaged people in this country, the unemployed and the elderly do not have an advocate in the White House. The responsibility for helping to meet their needs rests squarely on this Congress. If being committed to meeting the needs of our people is a partisan stance, then we should be proud to be on the right side of the issue. But, in fact, it is simply and basically our responsibility to meet those needs. That is why we must override this veto.

Mr. GOLDWATER. Mr. Speaker, this so-called, or rather I should say self-styled, fiscally responsible, Democrat controlled congress, once again has the opportunity to either live up to its claims or reveal itself for what it really is—a budget busting, fiscally irresponsible Congress.

First, this Labor-HEW spending authorization is $4 billion dollars over the President's budget. That is roughly 8 percent over. Given that the President's budget proposal accounted for the effects of inflation, I think that some of my colleagues can see that this increase is really more than it appears at first glance. In addition, when you realize that that continuing budget resolution we recently passed contained some $2.4 billion—yes, I said billion—for these agencies, the real over-budget increases exceed 12 percent.

There is only one way to state it: This Labor-HEW bill is grossly inflationary. There is no way to describe this bill except to say that it is not fiscally responsible. Its increases make a lie out of the contention of some that it will not add to the fires of inflation. And, it is not a balanced, reasonable bill.

I fully agree with my colleague from Illinois that this bill is the brain child of special interests who are addicted to the Federal trough and who are really trying to protect and enhance their pet projects. It is common knowledge that the National Education Association, teacher unions, and several health care associations wrote this bill, I am baffled and disappointed that those Members who rush to this Chamber to decry the involvement of special interests in the private sector in legislative drafting and featherbedding have developed laryngitis in protesting this situation.

It is also worth noting that this bill, with its budget-busting contents and its funding for special interests, comes to us after the Democrat Presidential hopeful has assured the Nation only he can balance the budget and that together with his party's leadership in the Congress it can be done without being influenced by any special interests. This bill makes a mockery out of that claim. Further, it indicates that this Democrat controlled Congress does not subscribe to his claims and are in fact, fiscally out of control—with someone else's money.

There are several programs in this legislation that are important, necessary and meaningful, in spite of the fact that HEW takes over 20 percent of these funds right off the top to pay for its expenses and cover its mismanagement. The elderly, the sick, the disadvantaged, the handicapped and the students of this Nation do need some assistance that the Federal Government can rightfully supply. There is indeed basic, important medical and social research that needs to be done. But, these needs can and should be met with quality, not quantity. There is not a citizen that does not understand that simply pouring money into a program produces waste, dilutes quality in a reverse proportion, and cruelly betrays fragile aspirations.

The President is to be commended for rejecting this legislation. It would have been politically convenient for him to have accepted it—holding his nose all the while. He has set an excellent example that I hope my colleagues will follow.

I urge you to sustain this veto.

Mrs. HOLT. Mr. Speaker, I would like to explain why I will vote to sustain the veto of H.R. 14232, Labor-HEW appropriations for the 1977 fiscal year. As so often happens, changes made in conference have made this bill less acceptable than the version which passed the House by voice. The conference report was approved on August 10, 1976 and I was one of the 100 Members who opposed it.

My opposition to this conference committee bill has not changed. Mr. Speaker, in its present form, this legislation exceeds Presidential budget estimates by $3.2 billion, for a total of $56 billion. In addition, the conference committee version is some $413 million more than the House-passed bill. Some $53 million of that increase goes for higher levels of spending on operating expenses in the Department of Labor and in domestic programs at HEW.

In addition to this, Mr. Speaker, I am surprised and disappointed at cuts in good programs carried out in conference. Community mental health center funding is down $2.5 million from the House verison and there is a cut of $4 million in capitation grants for nurse training.

Any bill which breaks the back of the budget to the tune of $3.2 billion, makes substantial increases over the House-passed version, enlarges the bureaucracy and slashes some truly useful programs is a target for a veto. As a member of the House Budget Committee, I am ever mindful that responsible budget policy is one of the first priorities of the Congress. But when that Congress fails to spend our taxpayers' money wisely, the President must become involved. President Ford's veto is responsible and I will support it.

Mr. SKUBITZ. Mr. Speaker, I shall vote to sustain the President's veto, and let me tell you why.

Here is an expenditure that has grown from $7 billion in 1965 to $18.6 billion in 1969 to $29 billion in 1973 to $56.5 billion in 1977. This is not JOE SKUBITZ' figures but the facts as reported by Senator PROXMIRE. The President requested $52.6 billion. Hence this conference report request is $4 billion over the President's budget.

How does the President's request compare with the budget for the last fiscal year? Well, the President requested $800 million less. If the President's request was adopted—it would not eliminate a single program, it would simply call for a belt tightening to the extent of less than $1 billion.

I favor every single program in this, but it is time to do some belt tightening. That message came through loud and clear from the people of the Fifth District who in response to my question, Would you support cutting Federal spending even though it means reducing the funds for one of your pet projects? and 73 percent answered "yes." It is time to slow up on Federal spending.

If the President is sustained that is not the end of the world. It simply means that the committee will have to reconvene and in 1 hour's time came forth with a bill that will provide $52.6 billion in spending with a proviso that no program be eliminated instead of $56.5 billion.

Mr. HYDE. Mr. Speaker, I am voting to override the President's veto of H.R. 14232 with enormous reluctance, because every criticism the President made of this legislation in his veto message is absolutely correct. The $4 billion spending over the President's budget request is a dangerous refueling of inflation, and those of us who recognize inflation as the major threat to our Nation's economic stability bear a heavy responsibility when we vote to override.

I am, nevertheless, voting to override the President's veto because within this legislation is a provision forbidding the use of Federal funds to pay for abortions. In starkest terms, the potential exists of saving some 300,000 lives which otherwise might be destroyed with the use of taxpayers' funds. The saving of these lives far outweighs the economic considerations involved in this legislation. It is unfortunate that the choice is between a sensible veto and the saving of so many human lives, but human life cannot be measured in terms of dollars, and so my choice is as clear as it is unpleasant. I reluctantly vote to override the President's veto.

Mr. FRENZEL. Mr. Speaker, this bill is $4 billion over the President's budget. With supplemental appropriations that are sure to follow, the excess appropriated over that budget figure could soar to $9 billion.

However enthusiastic we may be about many of the programs included here. I do not see how any of us can vote for a bill like this in a year in which we are expecting a $51 billion deficit. I know I cannot.

Like many other Members, I have received calls from concerned people in my district who are worried that a particular program may be denied funding. If this veto is sustained, as I hope and urge that it will, no program will be denied. We have already passed a continuing resolution mandating funding of each line item at a level of last year's funding or the President's budget request, whichever is higher. The continuing resolution assures for HEW a level of funding significantly higher than last year, even if the veto is sustained.

There are items in this bill I favor. The level of elementary and secondary education funding is not too high. Most of the medical research programs are at reasonable levels. But overall, the whole package is just too high. I believe our beleaguered taxpayers and our citizens who, through inflation, are paying the cruelest and most repressive tax of all, deserve to be supported by the sustaining of this veto.

Mr. MARTIN. Mr. Speaker, "President Ford vetoes HEW-Labor Appropriations."

"Great Britain devalues the Pound."

These headlines reflect the content of two recent news reports. While there is no direct connection between the two reports, a common bond exists; it is a view of a country spending more money than it has collected in taxes. I find it ironical that these two stories appeared during the same week. Looking at both stories should cause us to examine our spending habits and the possible future course of our country.

Great Britain has been on the verge of economic collapse for many months, brought on principally by Government overspending and increased borrowing to pay for a myraid of social programs. Last February, Britain's former Prime Minister Harold Wilson's Labor Government had to finally admit that the liberals' ambitious social-welfare programs were crippling the economy. He then announced vast cuts in public spending. The Chancellor of the Exchequer, Dennis Healey, said public spending had risen to the point where taxes needed to cover the spending would frustrate and "corrode the will to work." I sense that frustration in the attitudes of many hard working, taxpaying Americans who pay to run our Government.

All of this leads me to comment on the President's veto of the HEW-Labor appropriations bill. I wholeheartedly supported the veto because the bill is $4 billion more than the President asked for in his budget. The measure, which is being jammed down the taxpayer's throat, represents a 9-percent increase in spending over the previous year. The education component alone is up 13 percent. The inflation rate over the past year has been 5.6 percent and, until the economy is on solid ground with the budget closer to balance, I think HEW and Labor spending should be in line with the rate of inflation.

The liberals who pushed for the huge increase over President Ford's request charged that the veto represented a lack of compassion for those who cannot help themselves. I have compassion for those who are helped by HEW appropriations, but I also have compassion for the taxpayers who foot the bill.

When the Government increases spending under the pretense of helping the needy, people are being misled, especially those who are needy for they are always hit the hardest by inflation. The middle-income and wealthy families are more financially able to absorb the increased costs of Government which are forced upon them, but they cannot absorb the costs forever. It is not hard to guess which group of individuals have been hurt most by Great Britain's rampant inflation rate bought on by excessive Government spending.

The liberals in Congress should show compassion for those unable to help themselves by using a commonsense approach to spending taxpayer funds, and refrain from spending so many billions of dollars that we do not have.

Mr. THOMPSON. Mr. Speaker, President Ford's veto of the Labor-HEW appropriations bill is one more example of the present administration's callous disregard for the rights and needs of American working people.

Pious and empty phrases about curbing inflationary trends cannot conceal the fact that the President would place the burden of the Nation's economic difficulties squarely on the backs of the working men and women who are the prime beneficiaries of the services provided by our health, welfare, and labor agencies. Unless Congress overrides the veto and restores full funding for the essential services these agencies provide, the price in terms of human misery for thousands of workers and their families will be great.

I am especially concerned about what the President's veto would mean for the operations of the National Labor Relations Board, the agency responsible for protecting the rights of workers to organize and bargain collectively without fear of oppression or retaliation.

The Subcommittee on Labor-Management Relations, of which I am the chairman, conducted extensive oversight hearings on the work of the NLRB during the past year. As a result of these hearings added to the knowledge I have gained during many years of involvement in the field of labor relations, I have great familiarity with the operations and problems of the NLRB.

I am particularly concerned with the huge volume of unfair labor practice complaints which the board must process, particularly those involving allegedly discriminatory discharges. During fiscal 1977, the Board will process, based on past experience, some 24,000 of these 8(a)(3) complaints.

But it is not the statistic which is important. Most of those 24,000 cases represent a family which has been deprived of a breadwinner for at least a period of time. Each of those families suffers grievous and needless injury where the discharges are in fact unlawful and there is no prompt remedy available.

Our oversight hearings revealed that because of the volume of cases filed and the Board's backlog, it took an average of 250 days to have an 8(a)(3) charge decided by the Board. If the case went on to court, there was an additional delay of 12½ months. In practical terms, this means that the victim of an unlawful discharge can be out of work for 20 months or more. And that means a family without a breadwinner for 20 months or more.

Our hearings made it clear to me that it was absolutely essential to provide the full budget submitted by the administration on behalf of the NLRB in order for this dedicated agency and its hard-working personnel to be able to cope with the mammoth problems they face and make inroads into the backlog of cases and provide effective and speedy justice for working people.

The President's veto action will mean more delays and more misery and more inequity for working men and women. Instead of stripping essential funds from the agencies responsible for protecting the rights and providing needed services to working people, let the President cut back on expenditures for the bloated White House staff.

One of the Presidential candidates has had his words taken out of context and been criticized for having too much lust in his heart. I surely wish that President Ford had more of a lust for justice and equity in his.

Ms. ABZUG. Mr. Speaker, as I indicated earlier, although I strenuously disagree with the prohibition on spending medicaid funds for abortions contained in this legislation, I will vote to override the President's veto of this important appropriation measure.

I have expressed my opposition to the Hyde amendment or any compromise version which restricts the freedom of poor women to exercise their constitutional right to choose an abortion in all the previous debates. It is an inappropriate way to legislate on a constitutional question. Although I will vote for this bill, I will continue to oppose this discriminatory provision in the courts and plan to serve as cocounsel in suits challenging this provision in New York and Washington, D.C. I disagree with the President's veto and I also disagree with his veto message which supports the denial of Federal funds for abortion.

Lower Federal courts have ruled that similar State laws prohibiting medicaid payments for abortions were unconstitutional and I am confident that this provision of the law, too, will be struck down. A majority of Americans believe the abortion decision should be left up to the woman and her doctor, free from Government interference. This must apply equally to poor women as well as rich women. It will now be left to the courts to vindicate this basic right of privacy.

The $56.6 billion contained in this bill is urgently needed for jobs programs and social services for children, the elderly, poor, and handicapped. The increase above the 1976 appropriation level accounts simply for inflation and the increase in the population served by these programs. Significant increases are provided in programs under the Older Americans Act, including the amendment which I coauthored giving $20 million for multipurpose senior centers.

Although the President requested drastic cuts in funding for education and health programs, the Congress has responsibly refused to accept these reductions. The increases in funds for family planning programs, maternal and child health, health planning and public health service care were long overdue. A substantial increase for programs aimed toward educating handicapped children was also made to help the States comply with the new law which guarantees a free appropriate education to all handicapped children by 1978.

Funds for unemployment benefits, SSI, AFDC, and medicaid are also part of this measure. With unemployment rates continuing to hover around 8 percent, expenditures for income maintenance programs will continue to rise. The unemployed, the poor and elderly living on fixed incomes, dependent on government benefits, must not be penalized. Many of these people would like to work, but there are not jobs for them. Rather than supporting jobs programs the Ford administration prefers to veto such legislation and veto the social programs which sustain the unemployed and unemployable as well. We have had enough vetoes and negative governing. The people need positive programs and this bill provides the necessary funding for such programs.

More than dollars and cents are at stake here. The aged, the poor, the unemployed, the sick and the disabled depend upon these programs for their subsistence and for their dignity. We cannot deprive them of these vital services. These reasons compel me to vote to override the President's veto despite my continued opposition to the discriminatory and unconstitutional provision prohibiting medicaid payments for abortions.

Mr. LONG of Maryland. Mr. Speaker, in recent days my attention has been brought to the language of the conference report on the Labor-HEW Appropriations bill which deals with the subject of indirect cost recovery on Government grants and contracts at our colleges and universities. I am dismayed that the language of the conference report is more accusative with respect to our institutions of higher education than the language earlier adopted in either the House or Senate reports. The Senate report on this bill did not address the question of indirect cost recovery at all. While the House Committee report did do so, the language of that report recommended certain studies be conducted for purposes of determining facts and circumstances with an eye to action only on the basis of the conclusions which such careful study would generate. As a member of the Appropriations Committee I subscribed to the language of the House report and I do so again now. It seems to me that our choice of words was both intelligent and fair and that we properly and wisely avoided any prejudgment in this delicate and important matter without benefit of the essential facts on which to base good judgment.

I call the attention of my colleagues on the Appropriations Committee and in the House to the fact that the language of the conference report goes beyond what we had originally intended. The conference report language draws conclusions as to fact which I do not believe are appropriate at this juncture. The report expresses concern, "over the substantial subs ostensibly appropriated for activities authorized by law, but which are actually being diverted to pay overhead costs of universities and other recipients of Federal grants." The report language goes further in directing that "the Department—HEW—work closely with the Office of Management and Budget and other Federal agencies, to undertake revisions in the indirect cost mechanism which will result in a significant reduction in funds being diverted into indirect costs." The report even recommends the possible utilization of "cost competition" in the grant approval process for our colleges and universities. Finally, the report prejudges any proper conclusions which might be drawn from a careful analysis of the facts by directing that "the Department—HEW—should submit a report by January 1 as to the steps it has taken and the total projected dollar savings that will result."

The conference report thus suggests that indirect cost payments made to colleges and universities in support of Government-sponsored research represent an unauthorized diversion of appropriated funds and that indirect costs bear no real relationship to the research function itself. This conference report language may well trigger administrative actions in the executive branch which could bring enormously adverse financial consequences to our great research universities and the programs that they conduct on behalf of our Government and our citizenry.

There may be some explanation for the concern of the conferees with the indirect cost recovery rate. The past few years have seen a devastating direct impact of inflation on research costs, but the indirect impact has been much greater. A simple example will illustrate. Energy now costs our colleges and universities more than three times what it did 5 years ago. Educational institutes have had no choice but to allocate large new expenditures to meet these cost increases. At the same time, and in a constant effort to keep costs down, restraint has been exercised over increases in salaries and other controllable research costs. Furthermore, college and university participation in the national research effort has continued as always to be done at less than full cost. There is no monetary profit to our institutions for their role in this national effort. Indirect costs are real costs and are as much a legitimate part of the Government-sponsored research effort as those costs which convenience has caused us to label as "direct."

We should be careful in approaching our concern with the total cost of the research effort that we do not take actions that would destroy the environment for competent research which we have worked so hard to create and which has contributed, through the partnership of our institutions with Government, so much to our strength and our leadership as a nation in the realms of science and human affairs.

Mr. Speaker, I regret the language of the conference report in this regard. I do not think it represents a fair assessment of the role and the performance of our institutions of higher education in the research effort, nor do I think it is fair to the facts as they might be developed and examined. I would urge, therefore, that the Department of Health, Education, and Welfare and the Office of Management and Budget move with caution for the continued strength of the Nation's research programs in examining this problem. I urge that these agencies of Government bring the facts precisely and clearly before us for our examination before taking any action, in this matter.

Mr. STOKES. Mr. Speaker, I rise in support of the motion to override President Ford's unconscionable veto of the Labor/HEW Appropriations Bill for Fiscal Year 1977 (H.R. 14232).

Given the fully documented level of need for the absolutely essential programs funded by this bill and the most responsible and prudent manner in which this bill was adopted under the successful new congressional budget process, the President's veto action is both irresponsible and inexcusable. Included in this bill are such vitally needed programs as: Summer youth employment; manpower training; older Americans programs; State employment offices; maternal and child health; community health centers; disease prevention activities; research on cancer, heart disease, and other killing diseases; prevention and treatment of mental illness and alcoholism; assistance to nursing schools and students; elementary and secondary education, including title I of ESEA; impact aid; education for the handicapped; adult education; library programs, child welfare services; work incentives; Headstart; rehabilitation of the handicapped; Vista; community action agencies; and public television and radio.

Under the President's budget request, many of these essential programs were to have been cut back, even below the fiscal year 1976 level, during a period of continuing economic recession, high unemployment and inflation. It was therefore necessary for the Congress to restore those harsh cuts and to add only enough additional funds to account for the increase in inflation. Our failure to include at least a 7.5 percent overall increase would have resulted in an overall cut by that same amount.

The President states in his veto message that his "objection to this legislation is based purely and simply on the issue of fiscal integrity."

I suggest to you, Mr. Speaker, and my fellow colleagues, that the President's veto action here demonstrates a lack of fiscal integrity. On the one hand he has vetoed legislation passed by this Congress that would have created some 2,225,000 jobs; and on the other hand, he has this Nation spending some $17 billion on welfare and unemployment compensation.

Mr. Speaker, it is morally reprehensible for us to squander billions of dollars annually on defense-related frills and a bloated inventory of weaponry "overkill", while "benignly neglecting" the very real human needs and sufferings in our very midst. We must once again say to the President, most emphatically, that we will not become a party to such morally bankrupt policies. In this the Bicentennial Year of the founding of our great and humanitarian Nation, we must remind the President and the civilized world that we will continue to honor the human commitment inherent in that great heritage.

And in closing, Mr. Speaker, it seems to me that if the President were truly concerned about "fiscal integrity" as well as our human welfare commitment, he might begin to do something about bolstering an under-capacity economy. At this very moment, our recession-ridden economy is staggering along at a 2 percent growth rate, losing some $150 billion a year in goods and services, which amounts to a $2,500 loss for every American family.

These economic facts of life, I think, quite clearly demonstrate the real danger of allowing our great Nation to wallow any longer in unnecessary and avoidable economic bankruptcy—it leads, inexorably, to moral bankruptcy—I urge my colleagues to vote to override.

Mr. DRINAN. Mr. Speaker, I rise in support of the motion that the House pass H.R. 14232, the Labor-HEW appropriations bill for fiscal year 1977, over the veto of President Ford. The President's veto of this legislation yesterday afternoon came as a surprise to no one. After all, this is not the first time this administration has attempted to prevent funding of programs vital to the welfare of our citizens. Last year, President Ford vetoed the fiscal year 1976 Labor-HEW appropriations bill. That veto was overridden by this Congress. A few months later, he vetoed the fiscal year 1976 Education Division appropriation bill. That veto, too, was overriden. The President then impounded $1.3 billion in funds for education, but Congress failed to approve the rescission. Thus, this most recent Presidential act is simply one of a series of steps designed to frustrate the will of Congress in providing for the needs of the American people.

The President objects to this bill on the grounds that it exceeds his recommended budget for these departments by approximately $4 billion. That objection looks plausible on its face, but careful examination reveals that the President's budget of $52.6 billion incorporated drastic reductions in funding for health and education programs. Let me cite just a few examples. In comparison to spending during fiscal year 1976, the President's budget called for:

A 30-percent reduction in funding for the Health Services Administration.

A 50-percent reduction in funding for the Center for Disease Control.

A 35-percent reduction in funding for the Alcohol, Drug Abuse, and Mental Health Administration.

A 35-percent reduction in funding for the Health Resources Administration.

A 50-percent reduction in education impact aid.

A 30-percent reduction in funding of education programs for the handicapped.

A 35-percent reduction in funding for the Community Services Administration.

The President's budget was clearly not a proposal to move forward with these vital programs. It was not even a proposal to stand still. Rather, at a time of continuing inflation, the President proposed to slash funding for health, education, and social services in an unjustified and irresponsible manner. The President's proposed budget for Labor-HEW is a clear indication of the distorted priorities of this administration. When it comes to funding for the Pentagon, President Ford eagerly presses for $110 billion to compensate for inflation and provide "modest" real growth. But when people programs are involved, the President turns his back and lectures Congress about the magnitude of the Federal deficit.

I am confident, Mr. Speaker, that this Congress will reject that unconscionable point of view and reaffirm our commitment to meeting the need of the American people for adequate health care, medical research, education, and social services. On August 10 of this year, the House voted 270 to 100 to approve the conference report before us again today. I urge my colleagues to remain steadfast in the face of the President's veto and repass H.R. 14232 by an even greater margin today

Mr. BADILLO. Mr. Speaker, I rise in support of voting to override the President's veto of the Labor-HEW appropriation bill. It is not the bill I would have proposed, nor does it begin to address the critical needs of the American people in any realistic fashion. Added to that, the so-called Hyde amendment which blatantly discriminates against poor women who seek abortions, is not only abhorrent to me, but unconstitutional as well. However, it is the best bill we could get, and it does provide continuation of many social programs—welfare, bilingual education, health care programs—that are so desperately needed by our citizens.

And again, the President chose to veto this bill. As he has chosen to veto the Child Nutrition Act, the Public Works Employment bill, the Emergency Employment bill—in short, the legislation that is needed to put us to work, to feed our children, to help our spiralling inflation. As this session draws to an end, the sorry record of this administration is absolutely evident. It is clear that the priorities of the country are in the wrong place, and it is equally clear that unless there is a new Democratic administration in January, this destructive pattern will continue. I hope the country will learn the lesson of this veto, and in January we will have leaders that have some understanding of the real priorities of our people.

Mr. ROYBAL. Mr. Speaker, I rise in support of the motion to override the veto to H.R. 14232, the Labor-HEW appropriations bill.

The President would like the American public to believe that the Congress is playing election politics with the funding levels contained in this bill. Nothing could be further from reality. In January, President Ford proposed a budget that would have resulted in drastic cutbacks in education, health, and welfare services. The administration heralded the budget as the beginning of an era of new realism, but its real effect would be to inflict a new catastrophe on the poor, the elderly, and the disadvantaged.

After exhaustive hearings on the President's proposal, the Labor-HEW Subcommittee, of which I am a member, voted to restore funds for certain programs and increase appropriations for others where there was a demonstrated need for the additional funding.

For instance, the subcommittee agreed to my recommendations to provide additional funding for programs serving the elderly. Thus, the Congress funded title V, Multipurpose Senior Citizen Centers, for the first time, and substantially increased appropriations for nutrition programs, community service activities, and research, and training.

In the health services area, the subcommittee provided additional funding for community based programs such as maternal and child health, community health centers, and migrant health services. These programs have brought vital medical services to large groups of people who have never before had access to them. In each instance, the program has produced superior results and the subcommittee took this opportunity to expand the number of people to be served during the next year.

Finally, the subcommittee met the growing educational needs of our students by providing additional sums for title I grants for the disadvantaged, bilingual education, and libraries, and by restoring funding for supplemental opportunity grants and the work study program.

Mr. Speaker, the President has recently told the public that he is sensitive to the needs of the people. But actions speak louder than words. The President's veto will bring untold suffering to millions of low-income and elderly people. This veto is not the action of a person who is sensitive to human suffering and needs. I urge my colleagues to vote in support of the motion to override so that we can give millions of Americans some hope for the future.

Mr. GILMAN. Mr. Speaker. I thank the gentleman for yielding. I rise in support of the vote to override the President's veto on the bill, H.R. 14232, the Labor-HEW and related agencies appropriations. I strongly believe that this measure reflects the conviction of many of us in the House that money spent on projects which advance education and insure the health of the citizens of the United States is money properly spent. The budget requested by the Congress includes funding for such programs as summer youth employment, constructive programs for older Americans, disease prevention activities, maternal and child health plans, and vital assistance to education programs such as impact aid, title I of ESEA funding, handicapped rehabilitation, vocational, primary, and secondary education, and adult education programs.

The health and education of our citizens, I believe, must be maintained as one of our Nation's most important priorities. We legislators are bound by the Constitution of the United States to "promote the general welfare—to ourselves and our posterity." The general welfare, which Americans have recognized as a basic and inalienable right, includes assurances of health, adequate education, freedom from the threats of disease, illness, illiteracy, and the malaise which characterizes a people's reaction to a government which is unresponsive to its basic needs. The response of a government, of our Government, to its people must not and cannot be measured in dollars and cents. If this veto were sustained, and the President's budget request were honored, educational and health programs would be severely handicapped, experiencing cuts which would set them below the 1976 expenditures.

The reality of this situation is quite clear: In fiscal year 1977, we are faced with the results of inflation, rises in the cost of living, and a never-ending cycle of increased and added expenses which permeate all facets of our lives. It is our responsibility to respond adequately to the demands that this high cost of living places upon us: vital services should not, and must not be eliminated. The toll that such irresponsibility and unresponsiveness would take upon the morale and well-being of Americans is incalculable. In order to maintain the quality of public assistance to our disadvantaged and elderly, we must meet the costs by increased appropriations. This reality is not a difficult one to perceive, to recognize, and remedy.

Accordingly, I urge my colleagues to join with me in voting to overide the veto on the Labor-HEW Appropriations bill.

Mr. FORD of Michigan. Mr. Speaker, I rise to urge my colleagues to vote to override the President's veto of the Labor-Health, Education, and Welfare Appropriations bill which contains our entire Federal budget—over $56 billion—for "people programs—programs to provide things like jobs, education, and health protection for American citizens.

The problem of the President's opposition to spending money for these kinds of programs has been a perennial one ever since Mr. Ford's predecessor, Richard Nixon, took office in 1969, and it has certainly continued throughout the Ford administration. Only a year ago we were fighting the same battle—to override the President's veto of the Education Appropriations and Labor-Health, Education, and Welfare Appropriations for fiscal year 1976. Now after a year of battles over rescissions and deferrals and all the other gimmicks this administration has employed to prevent spending Federal tax dollars on programs that will directly benefit the American people, such as jobs, health care, and education, we find ourselves back here today in the same old fight.

The distinguished chairman of the Labor-HEW Appropriations Subcommittee (Mr. FLOOD) has already explained in detail to us which funds for which programs are at issue in this vetoed bill, but let me remind you again what is at stake here.

The bill before us contains almost $4 billion more than the President requested—but his request for most of these programs was about $2 billion less than what we spent on them last year. The bill before us provides for actually less than the amounts necessary to keep pace with inflation.

The bill before us is well within the congressional budget levels we set earlier this year, and our budget is within 1 percent of the President's. The only real difference in our budget and his is priorities.

If we followed the President's budget proposal instead of insisting on ours we would be cutting back expenditures for jobs and job-training programs to the tune of $475 million from last year's level.

We would reduce the funds for the education title I of the Elementary and Secondary Education Act by $222 million; for education of the handicapped by $70 million; for Impact Aid by $386 million and for title I of the Library Services and Construction Act by over $49 million.

If we followed President Ford's budget instead of our own, we would be cutting the Head Start program by $24 million and aid for land-grant colleges by $9.5 million.

We would lose $155 million for mental health programs, $75 million for cancer research, $110 million for maternal and child health and $27 million for research on heart, lung and blood disease. We would also lose $76 million in Federal aid to nursing schools.

In addition, we would forfeit some $75 million in programs for the aging and $27 million for vocational rehabilitation for the handicapped.

Mr. Speaker, these are just some of the programs which would have to be cut back if we followed the President's "Robin Hood in reverse" approach to Federal spending priorities.

I do not think the American people can afford to spend more than they are now for health care. I do not think we are ready for the tremendous increase in property taxes which would be necessitated by the President's proposed decreases in our education budget, I do not think the American people want to make cutbacks in research efforts to find cures for cancer and heart and lung disease.

And finally, Mr. Speaker, I do not know of anyone in my congressional district who wants the Federal Government to cut back its efforts to provide employment opportunities and job training programs for the millions of Americans who have lost their jobs since the Nixon-Ford administration took over the reins of our Government.

I hope my colleagues from both sides of the aisle will join me in voting to override the President's veto of these funds.

Ms. HOLTZMAN. Mr. Speaker, I will vote to override the President's veto of the $56.4 billion Labor-HEW appropriations bill. This bill includes vitally needed additional funding—beyond that recommended by the President—for education, the rehabilitation of handicapped people, family planning, mental health and other health programs.

I deeply regret, however, that the conference report contains the so-called "Hyde amendment," an amendment which prohibits the use of Federal funds to pay for abortions. The only exception permitted is ambiguously stated as cases where "the life of the mother would be endangered or shortened if the fetus were carried to term."

This is senseless, cruel, cynical and unconstitutional legislation. It makes no exception for a woman who conceives as the result of rape or incest. It ignores the consequences—for mother and infant alike—when young teenage girls are forced to give birth. It ignores the price paid by an unwanted infant who grows up abused and neglected—and the price paid by society.

It is important to realize, too, that the issue in the Hyde amendment is not whether there will be safe, legal abortions in the United States. The Constitution already guarantees that right. Abortions will continue. The only issue is whether one group—the poor—will be arbitrarily denied that right and condemned instead to unwanted births or back alley abortionists. Clearly such discrimination is both morally and constitutionally repugnant.

This is a cowardly amendment, directed not to the moral question of whether there should be abortions but rather to the question of reelection.

I hope the 95th Congress will remedy the wrong that has been done in this bill before too many women and children have suffered. I am confident in any case that the courts will.

Mr. FLOOD. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 312, nays 93, not voting 25, as follows:

[Roll No. 846]

YEAS—312

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grassley
Gude
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Kindness
Koch
Krebs
Krueger
Lagomarsino
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead,
Moakley
Calif.
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Quillen
Railsback
Randall
Rangel
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Schroeder
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—93

Anderson, Ill.
Archer
Armstrong
Ashbrook
AuCoin
Beard, Tenn.
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burleson, Tex.
Butler
Cederberg
Clancy
Clawson, Del
Cochran
Collins, Tex.
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Edwards, Ala.
English
Erlenborn
Eshleman
Frenzel
Frey
Goldwater
Goodling
Gradison
Hagedorn
Hall, Tex.
Hansen
Harsha
Hightower
Holt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Landrum
Latta
Levitas
Lujan
McDonald
McEwen
Mahon
Mann
Martin
Michel
Milford
Miller, Ohio
Montgomery
Moore
Mosher
Myers, Ind.
Passman
Paul
Poage
Pritchard
Quie
Rees
Regula
Rhodes
Roberts
Robinson
Rousselot
Satterfield
Schneebeli
Schulze
Sebelius
Shuster
Skubitz
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Symms
Taylor, Mo.
Teague
Treen
Vander Jagt
Waggonner
Whitehurst
Wiggins
Wylie

NOT VOTING—25

Boggs
Conable
Conlan
Corman
Esch
Evans, Colo.
Flynt
Green
Guyer
Hébert
Hinshaw
LaFalce
McCollister
Matsunaga
Mink
Moss
Nix
Pepper
Peyser
Scheuer
Steelman
Steiger, Ariz.
Stephens
Thornton
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Corman and Mrs. Boggs for, with Mr. Hébert against.

Until further notice:

Mr. Pepper with Mr. Scheuer.
Mr. Matsunaga with Mr. Flynt.
Mr. Moss with Mr. Stephens.
Mrs. Mink with Mr. Evans of Colorado.
Mr. LaFalce with Mr. Nix.
Mr. Charles H. Wilson of California with Mr. Thornton.

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

### GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto of the bill, H.R. 14232, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

### PERSONAL EXPLANATION

Mr. THORNTON. Mr. Speaker, this morning I had a longstanding commitment as chairman of the Subcommittee on Domestic and International Scientific Planning and Analysis to deliver an early morning address to the annual conference on the Advancement of Research in Philadelphia. Because my flight from Philadelphia to Washington was delayed, I arrived in the Chamber too late to cast my vote on the override of the President's veto of the Labor-HEW Appropriations Act. Had I been present, I would have voted "yea," and I am pleased that the override vote in the House was successful.

### CONFERENCE REPORT ON H.R. 13367, STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

Mr. BROOKS. Mr. Speaker, I call up the conference report on the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

#### POINT OF ORDER

Mr. ADAMS. Mr. Speaker, I raise a point of order against the conference agreement.

The SPEAKER. The gentleman will state the point of order.

Mr. ADAMS. Mr. Speaker, I raise a point of order against the conference agreement on H.R. 13367, to extend the State and Local Fiscal Assistance Act of 1972. The conference agreement contains a provision, not included in the House bill, which provides new spending authority for fiscal years 1978 and 1979 over the amounts provided for fiscal year 1977. This new entitlement increment for succeeding fiscal years violates section 303(a) of the Congressional Budget Act which provides in part:

> It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides— . . . new spending authority described in section 401(c)(2)(C) to become effective during a fiscal year . . . until the first concurrent resolution on the budget for such year has been agreed to pursuant to section 301.

By increasing the fiscal year 1978 entitlement by $200 million over the amounts for fiscal year 1977, H.R. 13367 does provide new spending authority to become effective for a fiscal year for which a budget resolution has not been adopted. It would thereby allow that new spending increment to escape the scrutiny of the fical year 1978 budget process. While section 303 provides an exception for new budget authority and revenue changes for a succeeding fiscal year, entitlement programs were expressly omitted from the exception by the House-Senate conference on the Congressional Budget Act.

Mr. HORTON. Mr. Speaker, I rise in opposition to the point of order.

The applicable provision of the Budget Act in this matter concerns section 303 (d)(1). This provision provides an exception for any bills on the full fiscal year for which the current resolution applies. The $200 million increase contained in the conference report begins in fiscal year 1978, the next fiscal year beyond 1977, the year for which our present budget resolution applies.

The $200 million increase, since it begins in fiscal year 1978, technically conforms with the Budget Act and deserves to be retained in the conference report. I might say to the membership that in making this point of order, this was brought up in the conference and we purposely did not provide for any increase in fiscal year 1977. We purposely skipped the first three-quarters. We agreed upon a term of 3¾ years for the Revenue Sharing Act to be in effect, but we skipped the first three-quarter year and applied a $200 million increment for the first fiscal year thereafter, namely, 1978, and for each of the 3 years subsequent thereto; or a total of $600 million. So, we purposely skipped this fiscal year 1977 so that we would not violate the budget resolution.

Accordingly, I believe that the point of order should be overruled.

Mr. BROWN of Ohio. Mr. Speaker, I also would like to be heard on the point of order.

The SPEAKER. The gentleman is recognized.

Mr. BROWN of Ohio. Mr. Speaker, if I understand the parliamentary situation, it is that the point of order has been made against the revenue sharing bill by the chairman of the Budget Committee on the theory that the revenue sharing bill contains, in the entitlement, language that would provide for the budget resolution to be broken in the future.

As I understand, the budget resolution applies to the 1977 fiscal year. In the 1977 fiscal year, the budget resolution contains $6.65 billion for the revenue sharing entitlement for that year. The fact of the matter is that for that year, the fiscal year 1977, the revenue sharing conference reported includes only $6.65 billion. So, in point of fact, it does not bust the budget resolution in that regard.

Now, in out years, the revenue sharing conference did report an additional $200 million. There are, if the point of order should be sustained, if I understand them, several ways in which this conflict in the conference—if, in fact, there is one—and the budget resolution could be resolved.

One is to have the Rules Committee convene and make an exception. The other is, if the gentleman from Texas, the chairman of the Government Operations Committee, who was chairman of the conference (Mr. BROOKS), offers an amendment which would take out the $200 million after the conference report is rejected on the parliamentary point; just take out the parliamentary issue, then we could vote down that amendment and we could offer at that point, if I understand, an indexing provision which would be in accordance with the budget resolution. That indexing provision could be capped at $200 million in such a way that the $200 million annual increase for the out years after 1977 would be both germane to the budget resolution and conform to the agreement made with the Senate in the conference.

We could save both the conference agreement and the virginity of the budget resolution if in fact there is a problem at this point. But it would be my contention, Mr. Speaker, that there is not a problem because for the fiscal year 1977 we had in that conference exactly what the budget resolution calls for.

The SPEAKER. The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, in response to the comments made by the gentleman from New York (Mr. HORTON), the provision that he refers to regards new budget authority, not entitlement programs where there is a reference over to the Committee on Appropriations and it is controlled in that fashion. This committee in its wisdom and the vote of the House was that this should be an entitlement program, and the violation is to the budget statute and process. We have applied this to all other committees of the House, that entitlement programs for the fiscal year, where we are changing the entitlement—and we have had this come up before—must be considered in the budget resolution for the fiscal year involved. This committee wishes for fiscal year 1978 to bring forth something for fiscal year 1978 that can be done in the budget cycle of that year. But it is out of order to bring it up and try to put it into the process at this point.

The argument of the gentleman from Ohio (Mr. BROWN) is irrelevant to the discussion that we are having at this point because the discussion we are having at this point is on the violation of the budget statute, not the amounts of money in the budget resolution for fiscal year 1977.

I would say to the Members that the same amount of money will go in fiscal year 1977 to the cities, regardless of what happens, so long as the bill is passed this year. There is no dispute about the amount for this year. It is the violation of the budget process for fiscal year 1978, fiscal year 1979, and fiscal year 1980.

Mr. Speaker, I ask that my point of order be sustained.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman for yielding.

Mr. Speaker, the gentleman understands, does he not, there is no additional amount in fiscal year 1977?

Mr. ADAMS. That is correct.

Mr. HORTON. The amount involved, $200 million, would not be applicable until fiscal year 1978. And in the next Congress, the next session, the Budget Committee would at that time have an opportunity to act on that budget.

Mr. ADAMS. No, the gentleman is not correct, because this represents one of the worst kinds of problems in budgeting.

If the entitlement goes in place, as the gentleman stated, that money would automatically be spent and would be required to be in the budget resolution. Neither the House nor the Budget Committee could consider the matter in the fiscal year 1978 budget cycle.

That is why those in the House on the conference and later the House and the Senate in their wisdom put this provision in, to control entitlement programs. That is the purpose of the provision, and it is vitally important to act.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Speaker, I refer to Public Law 93-344, the language that exists on page 22(d)(2).

Mr. ADAMS. Would the gentleman refer to the motion, please? I am using both the conference report and the statute.

Mr. BROWN of Ohio. Section 401.

Mr. ADAMS. Is the gentleman referring to the statute or the conference report?

Mr. BROWN of Ohio. Section 401 of the statute.

The SPEAKER. The Chair has been liberal in enforcing the rules on arguing on a point of order. The Chair controls the time and each individual Member desiring to be heard should address the Chair and not yield to other Members.

Does the gentleman from Ohio (Mr. BROWN) desire to be heard?

Mr. BROWN of Ohio. Yes, Mr. Speaker, I do desire to be heard.

Mr. Speaker, I refer to Public Law 93-344 of the 93d Congress which was enacted July 12, 1974, and I refer to page 22 of that legislation, section 401(d)(2). Section 401(d) is entitled "Exceptions." Subsection (d)(2), under "Exceptions," says as follows:

> Subsections (a) and (b) shall not apply to new spending authority which is an amendment to or extension of the State and Local Fiscal Assistance Act of 1972, or a continuation of the program of fiscal assistance to State and local governments provided by that Act,—

meaning the Local Fiscal Assistance Act of 1972—

> to the extent so provided in the bill or resolution providing such authority.

Mr. Speaker, it seems to me clearly designed in that legislation that the Local Fiscal Assistance Act of 1972 was meant to contain an exception from the entitlement procedure, a procedure which was in fact used in that legislation of 1972, the first Revenue Sharing Act, and I see no other way to read it except that we would provide an exception to sections 401 (a) and (b) in accordance with the legislation that the Congress previously passed.

The act provides—and this is what the conference provided for—an entitlement, and the entitlement is in fact both an authorization and an appropriation. It provided for the funds for that purpose into the future. For the first year it did not result in any breaking of the Budget Resolution passed by this House in accordance with the Committee on the Budget.

So, Mr. Speaker, I see no way by which the extension of the Revenue Sharing Act could be prohibited, because this exemption which was provided is in the law.

It may be argued that the language in our extension does not specifically say, "in accordance with section (d)(2)," et cetera, so we can go ahead and pass an entitlement, but I am sure that that reference would not be necessary for any reasonable person to interpret both what we did in the conference and what was done in this basic Public Law 93-344, which is the Congressional Budget and Accounting Act of 1974.

The SPEAKER. Does the gentleman from Washington (Mr. ADAMS) desire to be heard further on the point of order?

Mr. ADAMS. Yes, I do, Mr. Speaker.

In reply to the argument of the gentleman from Ohio (Mr. BROWN), I refer the gentleman to the statement of the managers which defines and comments on the section that he mentioned. At page 66 of the report of the managers it states very clearly that the managers note that these exemptions that the gentleman has referred to relate only to the procedures in section 401, and that the programs are fully subject to the congressional budget process.

That exemption, therefore, has no applicability to section 303 which provides, as I have explained before in my argument, a very careful system for the handling of entitlement programs.

Mr. Speaker, I ask that the point of order be sustained.

The SPEAKER. The Chair is prepared to rule. The Chair thinks he has heard about all the arguments he needs to hear.

Mr. BROWN of Ohio. Mr. Speaker, may I make one final comment in response to the statement of the gentleman from Washington (Mr. ADAMS)?

The SPEAKER. The Chair will hear the gentleman briefly.

Mr. BROWN of Ohio. Mr. Speaker, the gentleman from Washington (Mr. ADAMS) just quoted a reference to section 401. Section 401 clearly embraces section 401(d), which is the exemption section, and I do not see how it can be read any other way, even by the gentleman from Washington, for whom I have the greatest respect and affection, but who, I know, is generally opposed to the revenue sharing legislation.

The SPEAKER. The Chair is ready to rule.

The gentleman from Washington (Mr. ADAMS) makes a point of order against the conference report on the bill H.R. 13367 on the ground that section 5(a) of the conference report provides new spending authority and entitlement increment for fiscal years 1978 and 1979 over the amounts provided for in fiscal year 1977, in violation of section 303(a) of the Congressional Budget Act of 1974.

The gentleman from New York (Mr. HORTON) and the gentleman from Ohio (Mr. BROWN) rebut this argument by contending that a mere incremental increase in an entitlement for subsequent fiscal years is not new spending authority as prescribed in section 401(c)(2)(c) to become effective during the subsequent fiscal years, but rather, a continuation of the spending authority for fiscal year 1977, which is permitted under section 303(a).

The Chair has examined the conference report, and section 5(a) is structured so as to provide separate authorization for entitlement payments for each of the fiscal years 1977, 1978, and 1979, with a higher authorization for 1978 and 1979 than for 1977.

In the opinion of the Chair, such a separate increase in entitlement authorizations is new spending authority to become effective during those subsequent fiscal years, which may not be included in a bill or an amendment prior to the adoption of the first concurrent resolution for fiscal years 1978 and 1979, which does not come within the exception contained in section 303(b) for new budget authority, and which does not come within the section 401(d) revenue-sharing exception—applicable only to contract or borrowing spending authority as defined in subsections (a) and (b) of section 401(c)—cited by the gentleman from Ohio.

The Chair therefore sustains the point of order against the conference report.

### AMENDMENT IN DISAGREEMENT

The SPEAKER. The Clerk will report the Senate amendment in disagreement.

The Clerk read as follows:

> Senate amendment: Strike out all after the enacting clause and insert:
>
> SECTION 1. SHORT TITLE.
>
> This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976".
>
> SEC. 2. AMENDMENT OF STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972.
>
> Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.; 86 Stat. 919).

### Sec. 3. Elimination of Expenditure Categories.

(a) Section 103 (relating to requirement that local governments use revenue sharing funds only for priority expenditures) is repealed.

(b) Section 123(a) (relating to assurances to the Secretary of the Treasury) is amended by striking out paragraph (3).

### Sec. 4. Elimination of Prohibition on Use of Funds for Matching.

(a) Section 104 (relating to prohibition on use of revenue sharing funds as matching funds) is repealed.

(b) Section 143(a) (relating to judicial review of withholding of payments) is amended by striking out "104(b) or".

### Sec. 5. Extension of Program and Funding.

(a) In General.—Section 105 (relating to funding for revenue sharing) is amended—

(1) by inserting "or (c)" immediately after "as provided in subsection (b)" in subsection (a) (1);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) Authorization of Appropriations for Entitlements.—

"(1) In general.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000;

"(B) for the fiscal year beginning October 1, 1977, $6,850,000,000;

"(C) for the fiscal year beginning October 1, 1978, $7,050,000,000;

"(D) for the fiscal year beginning October 1, 1979, $7,250,000,000;

"(E) for the fiscal year beginning October 1, 1980, $7,450,000,000; and

"(F) for the fiscal year beginning October 1, 1981, $7,650,000,000.

"(2) Noncontiguous states adjustment amounts.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000;

"(B) for the fiscal year beginning October 1, 1977, $4,923,759;

"(C) for the fiscal year beginning October 1, 1978, $5,067,519;

"(D) for the fiscal year beginning October 1, 1979, $5,211,278;

"(E) for the fiscal year beginning October 1, 1980, $5,355,038; and

"(F) for the fiscal year beginning October 1, 1981, $5,498,797."; and

(4) by inserting "; authorizations for entitlements" in the heading of such section immediately after "appropriations".

(b) Conforming Amendments.—

(1) Subsection (a) of section 106 (relating to general rule for allocation among States) is amended to read as follows:

"(a) In General.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b) (1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c) (1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Paragraph (1) of section 106(b) (relating to general rule for determining allocable amounts) is amended to read as follows:

"(1) In general.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if—

"(A) in the case of an entitlement period beginning before December 31, 1976, the amount allocable to such State under paragraph (3) is greater than the sum of the amounts allocable to such State under paragraph (2) and subsection (c); and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, the amount allocable to such State under paragraph (3) is greater than the amount allocable to such State under paragraph (2)."

(3) Paragraph (1) of section 106(c) (general rule for noncontiguous State adjustment) is amended to read as follows:

"(1) In general.—In addition to the amounts allocated to the States under subsection (a), there shall be allocated for each entitlement period an additional amount to any State in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code—

"(A) in the case of an entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b) (2), if the allocation of such State under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection; and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c) (2)."

(4) Section 106(c) (2) (relating to amount of noncontiguous State adjustments) is amended—

(A) by striking out "subsection (b) (2)" and inserting in lieu thereof "subsection (b)", and

(B) by inserting immediately after "section 105(b) (2) for any entitlement period" the following: "beginning before December 31, 1976, or authorized under section 105(c) (2) for any entitlement period beginning on or after January 1, 1977,".

(5) Section 108(b) (6) (D) (i) (relating to entitlements less than $200) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c) (1) (C) (relating to optional formula for allocation among local governments) is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1982,".

(7) Section 141(b) (relating to definition of "entitlement period" is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning October 1 of 1977, 1978, 1979, 1980, and 1981.".

### Sec. 6. Special Entitlement Rules.

(a) State Maintenance of Transfers to Local Governments.—

(1) Paragraph (1) of section 107(b) (relating to general rule for State maintenance of transfers to local governments) is amended to read as follows:

"(1) General rule.—

"(A) Pre-1977 entitlement periods.—The entitlement of any State government for any entitlement period beginning on or after July 1, 1973, and before December 31, 1976, shall be reduced by the amount (if any) by which—

"(i) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

"(ii) the similar aggregate amount for the one-year period beginning July 1, 1971.

"(B) Post-1976 entitlement period.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

(i) one-half of the aggregate amounts transferred by the State government (out of its own sources) during the 24-month period ending on the last day of the last fiscal year of such State for which the relevant data are available (in accordance with regulations prescribed by the Secretary) on the first day of such entitlement period, to all units of local government in such State, is less than,

"(ii) one-half of the similar aggregate amount for the 24-month period ending on the day before the start of the 24-month period described in clause (i).

"(C) For purposes of subparagraphs (A) (i) and (B) (i), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.".

(2) Section 107(b) (2) (relating to adjustment where State assumes responsibility for category of expenditures) is amended—

(A) by striking out "under paragraph (1) (B)" and inserting in lieu thereof "under paragraph (1) (A) (ii) or (1) (B) (ii)"; and

(B) by striking out "the one-year period beginning July 1, 1971," and inserting in lieu thereof "the period utilized for purposes of such paragraph".

(3) Section 107(b) (3) (relating to adjustments in the case of new taxing powers) is amended by striking out "paragraph (1) (B)" and inserting in lieu thereof "paragraph (1) (A) (ii) (in the case of an entitlement period beginning before December 31, 1976) or paragraph (1) (B) (ii) (in the case of an entitlement period beginning on or after January 1, 1977)".

(4) Section 107(b) (relating to State maintenance of support to local governments) is amended by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively, and by inserting after paragraph (5) the following new paragraphs:

"(6) Special rule for the period beginning January 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amounts taken into account under clauses (i) and (ii) of paragraph (1) (B) shall be three-fourths of the amount which (but for this paragraph) would be taken into account.

"(7) Adjustment where federal government assumes responsibility for category of expenditures.—If, for an entitlement period beginning on cr after January 1. 1977, a State government establishes to the satisfaction of the Secretary that during all or part of the period utilized for purposes of paragraph (1) (B) (i), the Federal Government has assumed responsibility for a category of expenditures for which such State government transferred amounts which (but for this paragraph) would be included in the aggregate amount taken into account under paragraph (1) (B) (ii) for the period utilized for purposes of such paragraph, then (under regulations prescribed by the Secretary) the aggregate amount taken into account under paragraph (1) (B) (ii) shall be reduced to the extent that increased Federal Government spending in that State for such category of expenditures has replaced corresponding amounts which such State government had transferred to units of local government during the period utilized for purposes of paragraph (1) (B) (ii).".

(b) Waiver by Indian Tribes and Alaskan Native Villages.—

(1) Paragraph (4) of section 108(b) (relating to Indian tribes and Alaskan native villages) is amended by striking out the last sentence.

(2) Paragraph (6) (D) of such section (re-

lating to effect of waivers) is amended by adding at the end thereof the following: "If the entitlement of an Indian tribe or Alaskan native village is waived for any entitlement period by the governing body of that tribe or village, then the amount of such entitlement for such period shall (in lieu of being paid to such tribe or village) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such tribe or village is located.".

(c) Separate Law Enforcement Officers.—

(1) General rule.—Section 108 (relating to entitlements of local governments) is amended by adding at the end thereof the following new subsection:

"(e) Separate Law Enforcement Officers.—

"(1) Entitlement of separate law enforcement officer.—The office of the separate law enforcement officer for any county area in the State of Louisiana (parish of Orleans excepted) shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 15 percent of the amount which would (but for the provisions of this subsection) be the entitlement of the government of such county area.

"(2) Reduction of entitlement of county government.—The entitlement of the government of a county area for an entitlement period shall be reduced by an amount equal to one-half of the entitlement for the separate law enforcement officer for such county area for such entitlement period.

"(3) Reduction of entitlement of state government.—The entitlement of the State government of Louisiana for an entitlement period shall be reduced by an amount equal to the sum of the reductions provided under paragraph (2) for governments of county areas in such State for such entitlement period."

(2) Conforming amendments.—

(A) Section 108(b)(7)(A) (relating to general rule for adjustment of entitlement) is amended by striking out "and any adjustment required under paragraph (6)(D) last." and inserting in lieu thereof "any adjustment required under paragraph (6)(D) next, and any adjustment required under subsection (e) last.".

(B) Section 108(d)(1) (defining "unit of local government") is amended by adding at the end thereof the following: "Such term also means (but only for purposes of subtitles B and C) the office of the separate law enforcement officer to which subsection (e)(1) applies.".

(C) Section 107 (relating to entitlements of State governments) is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For reduction of State government entitlement because of provision for separate law enforcement officers, see section 108(e).".

(D) Section 108(d)(1) (defining "unit of local government") is amended by adding at the end thereof the following: "Such term also means a suburban improvement district organized under the laws of Arkansas: *Provided, however*, That such district must impose taxes or receive intergovernmental transfers for substantial performance of at least two of the following governmental services: (A) police protection; (B) courts and corrections; (C) fire protection; (D) health services; (E) social services for the poor or aged; (F) public recreation; (G) public libraries; (H) zoning or land use planning; (I) sewerage disposal or water supply; (J) solid waste disposal; (K) pollution abatement; (L) road or street construction and maintenance; (M) mass transportation; and (N) education: *And provided further*, That at least ten percent of a district's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services just listed and numbered (A) through (N).".

(d) Currency of Data.—

(1) Section 109(a)(7) (relating to data used and uniformity of data) is amended—

(A) in subparagraph (A) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) or (C)", and

(B) by adding at the end thereof the following new subparagraph:

"(C) Tax collections.—Data with respect to tax collections for a period more recent than the most recent reporting year for an entitlement period (as defined in subsection (c)(2)(B)) shall not be used in the determination of entitlements for such period."

(2) Section 109(c)(2)(B) (defining "most recent reporting year") is amended by striking out "made before the close of such period." and inserting in lieu thereof "made before the beginning of such period.".

(e) Limitation on Adjustment of Payments.—Section 102 (relating to payments to State and local governments) is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) In General.—Except"; and

(2) adding at the end thereof the following new subsection:

"(b) Limitations on Adjustments.—No adjustment shall be made to increase or decrease a payment previously made to a State government or a unit of local government, unless a demand therefor shall have been made by such government or the Secretary within 1 year of the end of the entitlement period with respect to which the payment was made."

(f) Reserves for Adjustments.—Section 102 (relating to payments to State and local governments), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(c) Reserves for Adjustments.—The Secretary may reserve such percentage (not exceeding 0.5 percent) of the total entitlement payment for any entitlement period with respect to any State government and all units of local government within such State as he deems necessary to insure that there will be sufficient funds available to pay adjustments due after the final allocation of funds among such governments.

Sec. 7. Citizen Participation; Reports.

(a) Section 121 (relating to reports on use of funds and publication of reports) is amended to read as follows:

"Sec. 121. Reports on Use of Funds; Publication and Public Hearings.

"(a) Public Hearings; Planned Use Reports.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after October 1, 1977 (other than a government to which an election under subsection (b) applies with respect to such entitlement period), shall hold a public hearing on its proposed budget at least 7 days before the adoption of its budget. Such hearing shall be held at a time and place convenient for general public attendance. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget concerning the use of funds made available to such government under subtitle A. Before such hearing, such government shall have a copy of its report on its entire budget published in a newspaper which is published within the State and has general circulation within the geographic area of such government. Such report shall show a summary of the entire budget for such government's previous fiscal period, for such government's current fiscal period, and as proposed for such government's coming fiscal period, and for each such period shall show the amounts of funds made available or to be made available to such government under subtitle A, as well as other sources of funds and total expenditures. Such publication shall be made at such time as to give adequate notice of the public hearing, and indicate the time and place of the public hearing.

"(b) Election.—

"(1) Subsection (a) shall not apply to any State government or unit of local government which—

"(A) is required by law to hold a public hearing at which citizens have the opportunity to provide written and oral comment to the body responsible for enacting the budget of such government, before the expenditures of its own revenues, and is required by law to provide for publication and adequate notice of such hearing;

"(B) certifies that it will conduct a hearing and provide for publication and notice with respect to the funds such government expects to receive under subtitle A, under the same law described in subparagraph (A); and

"(C) elects under this subsection that the provisions of subsection (a) shall not apply.

"(2) Such election shall include a brief description of the public hearing process and notice procedures that apply with respect to the expenditures of such government's revenues and that are proposed to apply with respect to the funds expected to be received under subtitle A. Such election shall apply to funds for such entitlement periods as are specified in such election and as to which such hearing process and notice procedure are applicable.

"(c) Special Rules.—

"(1) Legislative branch committees.—In the case of a State government or a unit of local government where expenditures of funds expected to be received under subtitle A are considered by committees of a body exercising legislative powers, the provisions of this section shall apply with respect to hearings before such committees.

"(2) Publication of proposed use reports.—The requirement of newspaper publication of proposed use reports with respect to funds made available (or expected to be made available) for an entitlement period shall not apply if the direct cost of such publication would exceed 15 percent of the amount of the funds expected to be received under subtitle A for such entitlement period (or the sum of the amounts of funds expected to be received for such entitlement periods, where the report applies to funds expected to be received for more than one entitlement period). Such requirement may be waived in whole or in part with respect to an election period, if compliance with the waived requirement for such period is found by the Secretary (in accordance with regulations prescribed by the Secretary) to be impractical. No provision of this section shall be deemed to prevent units of local government served by the same newspaper of general circulation from combining and consolidating the information required to be published under this subsection in a single joint publication, provided such a joint publication clearly identifies the required information pertaining to each such unit.

"(3) Budgets.—The Secretary shall provide for regulations for the application of this section to circumstances under which the State government or unit of local government does not adopt a budget.".

Sec. 8. Nondiscrimination Provisions.

(a) In General.—Section 122 (relating to nondiscrimination provisions) is amended to read as follows:

"Sec. 122. Nondiscrimination Provisions.

"(a) In General.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government which (1) has been designated as being funded in whole or in part with funds made available under subtitle A, or (2) under all the facts and circumstances is demonstrated to be funded in whole or in part with funds made available under subtitle A. Any prohibition against discrimination on the basis of age effected by the Age Discrimination Act of 1975 (89 Stat. 728) or a handicap as provided in section 504 of the Rehabilitation Act of 1973 (87 Stat. 355) shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 (78 Stat. 241) or title VIII of the Civil Rights Act of 1968 (82 Stat. 73) shall also apply to any such program or activity.

"(b) Determination by the Secretary.—

"(1) Notice of noncompliance.—Within 10 days after the Secretary has received a holding described in subsection (c) (1) or has made a finding described in subsection (c) (4), with respect to a State government or a unit of local government, he shall send a notice of noncompliance to such government, clearly setting forth the specific acts of exclusion, denial, or discrimination which constitute the failure to comply with subsection (a).

"(2) Procedure before secretary; suspension of payment of revenue sharing funds.—Within 60 days after a notice of noncompliance has been sent to a State government or a unit of local government in accordance with paragraph (1), such government may informally present evidence to the Secretary regarding the issues of—

"(A) (except in the case of a holding described in subsection (c) (1)) whether there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination on the basis of age effected by the Age Discrimination Act of 1975 (89 Stat. 728) or a handicap as provided in section 504 of the Rehabilitation Act of 1973 (87 Stat. 355), or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 (78 Stat. 241) or title VIII of the Civil Rights Act of 1968 (82 Stat. 73), and

"(B) whether the program or activity in connection with which such exclusion, denial, discrimination, or violation is charged has been designated as being funded in whole or in part with funds made available under subtitle A or, under all the facts and circumstances, is demonstrated to be funded in whole or in part with funds made available under subtitle A.

Before the end of such 60-day period, unless a compliance agreement is entered into with such government, the Secretary shall issue a determination as to whether such government failed to comply with subsection (a). If the Secretary determines that such government has failed to comply with subsection (a), the Secretary shall suspend the payment of funds under subtitle A to such government unless such government (before the 61st day after the issuance of such determination) enters into a compliance agreement or (within 70 days after the issuance of such determination) requests a full hearing with respect to such determination.

"(3) Hearings before administrative law judge; suspension of payment of revenue sharing funds.—

"(A) Hearings requested by a State government or a unit of local government pursuant to paragraph (2) shall begin before an administrative law judge within 30 days after the Secretary receives the request for the hearing.

"(B) Within 60 days after the beginning of the hearing provided under subparagraph (A), the administrative law judge conducting the hearing shall, on the record then before him, issue a preliminary finding (which shall be consistent with subsection (c) (2)) as to whether such government has failed to comply with subsection (a). If the administrative law judge issues a preliminary finding that such government is not likely to prevail, on the basis of the evidence presented, in demonstrating compliance with subsection (a), then the Secretary shall suspend the payment of funds under subtitle A to such government. No such preliminary finding shall be issued in any case where a determination has previously been issued under subparagraph (C).

"(C) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c) (2)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement before the 31st day after such issuance, the Secretary shall suspend the payment of funds under subtitle A to such government; if a suspension in accordance with subparagraph (B) is still in effect, then that suspension is to be continued.

"(D) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c) (2)) that there has not been a failure to comply with subsection (a), and a suspension is in effect in accordance with subparagraph (B), such suspension shall be promptly terminated.

"(c) Holding by Court or Governmental Agency; Finding by Secretary.—

"(1) Description.—A holding is described in this paragraph if it is a holding by a Federal Court, a State Court, or a Federal administrative law judge, with respect to a State government or a unit of local government which expects to receive funds under subtitle (a), that such government has, in the case of a person in the United States, excluded such person from participation in, denied such person the benefits of, or subjected such person to discrimination under any program or activity on the ground of race, color, national origin, or sex, or violated any prohibition against discrimination on the basis of age effected by the Age Discrimination Act of 1975 (89 Stat. 728) or a handicap as provided in section 504 of the Rehabilitation Act of 1973 (87 Stat. 355) in connection with any such program or activity, or violated any prohibition against discrimination on the basis of religon as provided in the Civil Rights Act of 1964 (78 Stat. 241) or title VIII of the Civil Rights Act of 1968 (82 Stat. 73) in connection with any such program or activity.

"(2) Effect on proceedings or hearing.—If there has been a holding described in paragraph (1) with respect to a State government or a unit of local government, then, in the case of proceedings by the Secretary pursuant to subsection (b) (2) or a hearing pursuant to subsection (b) (3) with respect to such government, such proceedings or such hearing shall relate only to the question of whether the program or activity in which the exclusion, denial, or discrimination occurred is funded in whole or in part with funds made available under subtitle A. In such proceedings or hearing, the holding described in paragraph (1), to the effect that there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination on the basis of age effected by the Age Discrimination Act of 1975 (89 Stat. 728) or a handicap as provided in section 504 of the Rehabilitation Act of 1973 (87 Stat. 355), or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 (78 Stat. 241) or title VIII of the Civil Rights Act of 1968 (82 Stat. 73), shall be treated as conclusive.

"(3) Effect of reversal.—If a holding described in paragraph (1) is reversed by an appellate tribunal, then proceedings under subsection (b) which are dependent upon such holding shall be terminated; any suspension of payments resulting from such proceedings shall also be terminated.

"(4) Finding by secretary.—A finding is described in this paragraph if it is a finding by the Secretary (made within 60 days after the Secretary receives a complaint (within the meaning of subsection (d) (1)), a determination by a State or local administrative agency, or other information pursuant to procedures provided in regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of local government has failed to comply with subsection (a).

"(d) Compliance Agreement.—For purposes of this section and section 124, a compliance agreement is an agreement between—

"(1) the Secretary, or

"(2) in the case of a holding described in subsection (c) (1), the governmental office or agency responsible for prosecuting the claim or complaint before the Federal or State court or Federal administrative law judge that conducted the proceedings giving rise to such holding (but only if the Secretary has approved such agreement)

and the chief executive officer of the State government or the unit of local government that has failed to comply with subsection (a), setting forth the terms and conditions with which such government has agreed to comply in order to satisfy the obligations of such government under subsection (a). Such agreement shall dispose of all the matters which had been held or found to constitute failures to comply with subsection (a), and may consist of a series of agreements which, in the aggregate, dispose of all such matters. Within 15 days after the execution of such agreement (or, in the case of an agreement under paragraph (2), the approval of such agreement by the Secretary, if later), the Secretary shall send a copy of such agreement to each person who has filed a complaint described in any paragraph of section 124(d) with respect to such failure to comply with subsection (a) (or, in the case of an agreement under paragraph (2), to each person who has filed a complaint with the governmental office or agency (described in such paragraph) with respect to such failure to comply with subsection (a)).

"(e) Resumption of Payments.—If payment to a State government or a unit of local government of funds made available under subtitle A has been suspended under subsection (b) (2) or (b) (3), payment of such funds shall be resumed only if—

"(1) such government enters into a compliance agreement (but only at the times and under the circumstances set forth in such agreement (or, in the case of an agreement under subsection (d) (2), only at the times and under the circumstances set forth in the Secretary's approval of such agreement));

"(2) such government complies fully with the holding of a Federal or State court, or Federal administrative law judge, if that holding covers all the matters raised by the Secretary in the notice pursuant to subsection (b) (1), or if such government is found to be in compliance with subsection (a) by such court or Federal administrative law judge;

"(3) in the case of a hearing before an administrative law judge under subsection (b) (3), the judge determines that such government is in compliance with subsection (a);

"(4) in the case of a suspension under subsection (b) (2), the Secretary determines that such government is in compliance with subsection (a); or

"(5) the provisions of subsection (c) (3) (relating to reversal of holding of discrimination) require such suspension of payment to be terminated.

For purposes of this section, compliance by a government may include the satisfying of a requirement of the payment of restitution to persons injured by the failure of such government to comply with subsection (a).

"(f) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or a unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under subtitle A, or placing any further payments under subtitle A in escrow pending the outcome of the litigation.

"(g) Agreements Between Agencies.—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary of any actions instituted by such agencies against a State government or a unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.".

(b) Citizen Complaints.—Subtitle B (relating to administrative provisions) is amended by adding at the end thereof the following new section:

"Sec. 124. Private Civil Actions.

"(a) Standing.—Whenever a State government or a unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by section 122(a), upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

"(b) Relief.—The court may grant as relief of the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) Intervention by Attorney General.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

"(d) Exhaustion of Administrative Remedies.—A person shall not be treated as having exhausted his administrative remedies for purposes of this section unless—

"(1) such person files a complaint (in such form and manner as is provided in regulations prescribed by the Secretary) with the Secretary describing the failure of a State government or a unit of local government to comply with section 122 (a),

"(2) the Secretary, within 60 days after such complaint has been filed, either—

"(A) issues a determination that such government has not failed to comply with section 122(a);

"(B) fails to act on such complaint; or

"(C) refers such complaint to the Attorney General;

"(3) in the case of a disposition described in paragraph (2)(A) or (2)(B), such person files a complaint with the Attorney General describing essentially the same failure of such government to comply with section 122 (a); and

"(4) in the case of either a disposition described in paragraph (2)(C) or a filing described in paragraph (3), the Attorney General, within 60 days of such disposition or such filing, either—

"(A) issues a determination that such government has not failed to comply with section 122(a); or

"(B) fails to act on the complaint described in paragraph (2)(C) or paragraph (3).

"(e) Attorney Fees.—In any action under this section to enforce section 122(a), the court, in its discretion, may allow to the prevailing party, other than the United States, reasonable attorney fees, and the United States shall be liable for fees and costs the same as a private person.".

(c) Judicial Review.—Section 143(a) (relating to petitions for judicial review) is amended by striking out "receives a notice of withholding of payments under section 104(b) or 123(b)," and inserting in lieu thereof "receives a notice of withholding of payments under section 104(b) or 123(b) or a determination under section 122(b)(3)(C) that payments be suspended,".

### Sec. 9. Accounting and Auditing Provisions.

Section 123(c) (relating to accounting, auditing, and evaluation) is amended—

(1) by redesignating paragraph (2) as paragraph (8), and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) Independent audits.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977 (other than a government to which an election under paragraph (2) applies with respect to such entitlement period), shall have an independent audit of its financial statements conducted for the purpose of determining compliance with this title, in accordance with generally accepted auditing standards, not less often than once every 3 years.

"(2) Election.—Paragraph (1) shall not apply to any State or unit of local government whose financial statements are audited by independent auditors under State or local law not less often than every 3 years, if (A) such government makes an election under this paragraph that the provisions of paragraph (1) shall not apply, and (B) such government certifies that such audits under State or local law will be conducted in accordance with generally accepted auditing standards. Such election shall include a brief description of the auditing standards to be applied. Such election shall apply to audits of funds received under subtitle A for such entitlement periods as are specified in such election and as to which such State or local law auditing provisions are applicable.

"(3) Series of audits.—If a series of audits conducted over a period not exceeding 3 fiscal years covers, in the aggregate, all of the funds of accounts in the financial activity of such a government, then such series of audits shall be treated as a single audit for purposes of paragraph (1) and paragraph (2).

"(4) Entitlements under $25,000.—

"(A) The requirements of paragraph (2) shall not apply to a State government or unit of local government for any fiscal period in which such government receives less than $25,000 of funds made available under subtitle A, unless subparagraph (B) applies for such fiscal period.

"(B) In the case of a fiscal period which is described in subparagraph (A), if State or local law requires an audit of such government's financial statements, then the conducting of such audit shall constitute compliance with the requirements of paragraph (1).

"(5) Waiver.—The Secretary may waive the requirements of paragraphs (1) or paragraph (2), in whole or in part, with respect to any State government or unit of local government for any fiscal period as to which he finds (in accordance with regulations prescribed by the Secretary) (A) that the financial accounts of such government for such period are not auditable, and (B) that such government demonstrates progress toward making such financial accounts auditable.

"(6) Coordinations with other federally required audits.—An audit of the financial statements of a State government or unit of local government for a fiscal period, conducted in accordance with the provisions of any Federal law other than this title, shall be accepted as an audit which satisfies the requirements of paragraph (1) with respect to the fiscal period for which such audit is conducted, if such audit substantially complies with the requirements for audits conducted under paragraph (1).

"(7) Audit opinions.—Any opinions rendered with respect to audits made pursuant to this subsection shall be provided to the Secretary, in such form and at such times as he may require.".

### Sec. 10. Miscellaneous Provisions.

(a) Budget Act.—In accordance with section 401 (d)(2) of the Congressional Budget Act of 1974 (31 U.S.C. 1351(d)(2); 88 Stat. 297, 318), subsections (a) and (b) of section 401 of such Act shall not apply to this Act.

(b) Optional Formulas.—Section 108(c) (1) (relating to optional formulas) is amended by adding after subparagraph (C) thereof the following new sentence: "If the entitlement of a unit of local government for any entitlement period is adjusted under subsection (e), then this paragraph shall not apply to such entitlement for such period.".

(c) Definition of "Unit of Local Government".—Section 108(d)(1) (defining "unit of local government") is amended by striking out "municipality, township, or other unit of local government below the State which is a unit of general government" and inserting in lieu thereof "municipality, or township, which is a unit of general government below the State".

### Sec. 11. Study of Revenue Sharing and Federalism.

Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

"(a) Study.—The Advisory Commission on Intergovernmental Relations shall study and evaluate the American Federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including, but not limited to, a study and evaluation of—

"(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of other Federal Government systems;

"(2) State and local governmental organization from both legal and operational viewpoints to determine how general local governments do and ought to relate to each other, to special districts, and to State governments in terms of service and financing responsibilities, as well as annexation and incorporation responsibilities;

"(3) the effectiveness of Federal Government stabilization policies on State and local areas and the effects of State and local fiscal decisions on aggregate economic activity;

"(4) the quality of financial control and audit procedures that exists among Federal, State, and local governments;

"(5) the legal and operational aspects of citizen participation in Federal, State, and local governmental fiscal decisions;

"(6) the specific relationship of Federal general revenue sharing funds to other Federal grant programs to State and local governments, as well as the role of such revenue sharing funds in Federal, State, and local government fiscal interrelationships;

"(7) forces likely to affect the nature of the American Federal system in the short-term and long-term future and possible adjustments to such system, if any, which may be desirable, in light of future developments; and

"(8) the legal and operational aspects of the processes by which State and local governmental units allocate Federal general revenue sharing funds among individual projects, especially the role played in such processes by long-term planning.

"(b) Cooperation of Other Federal Agencies.—

"(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

"(2) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

"(3) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(c) Reports.—The Commission shall submit to the President and the Congress such interim reports as it deems advisable, and not later than three years after the first day on which all members of the Commission have been appointed, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation as it deems advisable.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to the Commission, effective with the fiscal year beginning October 1, 1977, such sums as may be necessary to carry out the provisions of this section.".

Sec. 12. Effective Dates.

(a) Except as otherwise provided in this Act, the amendments made by this Act shall apply to entitlement periods beginning on or after January 1, 1977.

(b) The amendments made by section 6(e) apply to demands made by the Secretary for any entitlement period beginning on or after January 1, 1972, and to demands made by a State government or a unit of local government with respect to any entitlement period beginning on or after January 1, 1977.

(c) The amendment made by section 11 takes effect on February 1, 1977.

Sec. 13. Economic and Technical Assistance.

Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) Economic and Technical Assistance.—The Secretary, acting through the Director of the Office of Revenue Sharing, and utilizing other appropriate resources, shall, on request, make available to State and local units of government the economic and technical assistance necessary to encourage, develop, and implement long-range planning capabilities in the allocation and expenditure of Federal revenue sharing funds.".

Sec. 14. Payments to State and Local Governments.

The second sentence of section 102 is amended as follows: Strike the period at the end and add the following: "except that, where the Secretary determines that the entitlement of a unit of local government to funds under this subtitle will be less than $4,000, the total payment shall be made not later than 5 days after the close of the first quarter of such entitlement period.".

Mr. BROWN of Ohio. Mr. Speaker, I reserve a point of order against the amendment.

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment in disagreement be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

### MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Brooks moves that the House recede from its disagreement and concur in the Senate amendment to the House bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972 and for other purposes, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Section 1. Short Title

This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976".

Sec. 2. Amendment of State and Local Fiscal Assistance Act of 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.; 86 Stat. 919).

Sec. 3. Elimination of Expenditure Categories.

(a) Section 103 (relating to a requirement that local governments use revenue sharing funds only for priority expenditures) is repealed.

(b) Section 123(a) (relating to assurances to the Secretary of the Treasury) is amended by striking out paragraph (3).

Sec. 4. Elimination of Prohibition on Use of Funds for Matching.

(a) Section 104 (relating to prohibition on use of revenue sharing funds as matching funds) is repealed.

(b) Section 143(a) (relating to judicial review of withholding of payments) is amended by striking out "104(b) or".

Sec. 5. Extension of Program and Funding.

(a) In General.—Section 105 (relating to funding for revenue sharing) is amended—

(1) by inserting "or (c)" immediately after "as provided in subsection (b)" in subsection (a)(1);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) Authorization of Appropriations for Entitlements.—

"(1) In general.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(B) for each of the fiscal years beginning October 1 of 1977, 1978, and 1979, $6,650,000,000.

"(2) Noncontiguous states adjustment amounts.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,780,000"; and

(4) by inserting "; authorizations for entitlements" in the heading of such section immediately after "appropriations".

(b) Conforming Amendments.—

(1) Subsection (a) of section 106 (relating to general rule for allocation among States) is amended to read as follows:

"(a) In General.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under the section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b)."

(2) Paragraph (1) of section 106(b) (relating to general rule for determining allocable amounts) is amended to read as follows:

"(1) In general.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if—

"(A) in the case of an entitlement period beginning before December 31, 1976, the amount allocable to such State under paragraph (3) is greater than the sum of the amounts allocable to such State under paragraph (2) and subsection (c); and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, the amount allocable to such State under paragraph (3) is greater than the amount allocable to such State under paragraph (2).".

(3) Paragraph (1) of section 106(c) (general rule for noncontiguous State adjustment) is amended to read as follows:

"(1) In general.—In addition to the amounts allocated to the States under subsection (a), there shall be allocated for each entitlement period an additional amount to any State in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code—

"(A) in the case of an entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(2), if the allocation of such State under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection; and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(2).".

(4) Section 106(c)(2) (relating to amount of noncontiguous State adjustments) is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)", and

(B) by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "beginning before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,".

(5) Section 108(b)(6)(D)(i) (relating to entitlements less than $200) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) (relating to optional formula for allocation among local governments) is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1980,".

(7) Section 141(b) (relating to definition of "entitlement period") is amended by in-

serting at the end thereof the following new paragraphs:

"(6) The period beginning January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning October 1 of 1977, 1978, and 1979.".

Sec. 6. Special Entitlement Rules.

(a) State Maintenance of Transfers to Local Governments.—

(1) Paragraph (1) of section 107(b) (relating to general rule for State maintenance of transfers to local governments) is amended to read as follows:

"(1) General rule.—

"(A) Pre-1977 entitlement period.—The entitlement of any State government for any entitlement period beginning on or after July 1, 1973, and before December 31, 1976, shall be reduced by the amount (if any) by which—

"(i) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local governments in such State, is less than,

"(ii) the similar aggregate amount for the one-year period beginning July 1, 1971.

"(B) Post-1976 entitlement periods.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

"(i) one-half of the aggregate amounts transferred by the State government (out of its own sources) during the 24th month period ending on the last day of the last fiscal year of such State for which the relevant data are available (in accordance with regulations prescribed by the Secretary) on the first day of such entitlement period, to all units of local government in such State, is less than,

"(ii) one-half of the similar aggregate amount for the 24-month period ending on the day before the start of the 24-month period described in clause (i).

"(C) For purposes of subparagraphs (A) (i) and (B)(i), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.".

(2) Section 107(b)(2) (relating to adjustment where State assumes responsibility for category of expenditures) is amended—

(A) by striking out "under paragraph (1) (B)" and inserting in lieu thereof "under paragraph (1)(A)(ii) or (1)(B)(ii)"; and

(B) by striking out "the one-year period beginning July 1, 1971," and inserting in lieu thereof "the period utilized for purposes of such paragraph".

(3) Section 107(b)(3) (relating to adjustments in the case of new taxing powers) is amended by striking out "paragraph (1)(B)" and inserting in lieu thereof "paragraph (1) (A)(ii) (in the case of an entitlement period beginning before December 31, 1976) or paragraph (1)(B)(ii) (in the case of an entitlement period beginning on or after January 1, 1977)".

(4) Section 107(b) (relating to State maintenance of support to local governments) is amended by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively, and by inserting after paragraph (5) the following new paragraphs:

"(6) Special rule for the period beginning January 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amounts taken into account under clauses (i) and (ii) of paragraph (1)(B) shall be three-fourths of the amount which (but for this paragraph) would be taken into account.

"(7) Adjustment where Federal government assumes responsibility for category of expenditures.—If, for an entitlement period beginning on or after January 1, 1977, a State government establishes to the satisfaction of the Secretary that during all or part of the period utilized for purposes of paragraph (1)(B)(i), the Federal Government has assumed responsibility for a category of expenditures for which such State government transferred amounts which (but for this paragraph) would be included in the aggregate amount taken into account under paragraph (1(B)(ii) for the period utilized for purposes of such paragraph, then (under regulations prescribed by the Secretary) the aggregate amount taken into account under paragraph (1)(B)(ii) shall be reduced to the extent that increased Federal Government spending in that State for such category of expenditures has replaced corresponding amounts which such State government had transferred to units of local government during the period utilized for purposes of paragraph (1)(B)(ii).".

(b) Waivers by Indian Tribes and Alaskan Native Villages.—

(1) Paragraph (4) of section 108(b) (relating to Indian tribes and Alaskan native villages) is amended by striking out the last sentence.

(2) Paragraph (6)(D) of such section (relating to effect of waivers) is amended by adding at the end thereof the following: "If the entitlement of an Indian tribe or Alaskan native village is waived for any entitlement period by the governing body of that tribe or village, then the amount of such entitlement for such period shall (in lieu of being paid to such tribe or village) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such tribe or village is located.".

(c) Separate Law Enforcement Officers.—

(1) General rule.—Section 108 (relating to entitlements of local governments) is amended by adding at the end thereof the following new subsection:

"(e) Separate Law Enforcement Officers.—

"(1) Entitlement of separate law enforcement officers.—The office of the separate law enforcement officer for any county area in the State of Louisiana, other than the parish of East Baton Rouge, shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 15 percent of the amount which would (but for the provisions of this subsection) be the entitlement of the government of such county area. The office of the separate law enforcement officer for the parish of East Baton Rouge shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 7.5 percent of the sum of the amounts which would (but for the provisions of this subsection) be the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each such entitlement period.

"(2) Reduction of entitlement of county government.—The entitlement of the government of a county area for an entitlement period shall be reduced by an amount equal to one half of the entitlement for the separate law enforcement officer for such county area for such entitlement period. For the purpose of applying this paragraph to the parish of East Baton Rouge, Louisiana, the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each entitlement period shall each be reduced by an amount equal to 3.75 percent of the amount which would (but for the provisions of this paragraph) be the entitlement of each such government.

"(3) Reduction of entitlement of State government.—The entitlement of the State government of Louisiana for an entitlement period shall be reduced by an amount equal to the sum of the reductions provided under paragraph (2) for governments of county areas in such State for such entitlement period. For purposes of this paragraph—

"(A) the reductions provided under paragraph (2) for the governments of Baton Rouge, Baker, and Zachary, Louisiana, shall be considered as reductions of entitlements of governments of county areas, and

"(B) the entitlement of the parish of Orleans for an entitlement period shall be considered to have been reduced by an amount equal to the additional amount provided for such parish for that entitlement period under paragraph (4).

"(4) Entitlement of parish of Orleans.—In the case of the parish of Orleans, Louisiana, paragraphs (1) and (2) shall not apply, and such parish shall be entitled to receive, for each entitlement period beginning after December 31, 1976, an additional amount equal to 7.5 percent of the amount which would otherwise be the entitlement of such parish.".

(2) Conforming amendments.—

(A) Section 108(b)(7)(A) (relating to general rule for adjustment of entitlement) is amended by striking out "and any adjustment required under paragraph (6)(D) last." and inserting in lieu thereof "any adjustment required under paragraph (6)(D) next, and any adjustment required under subsection (e) last.".

(B) Section 108(d)(1) (defining "unit of local government") is amended by adding at the end thereof the following: "Such term also means (but only for purposes of subtitles B and C) the office of the separate law enforcement officer to which subsection (e) (1) applies.".

(C) Section 107 (relating to entitlements of State governments) is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For reduction of State government entitlement because of provision for separate law enforcement officers, see section 108(e).".

(d) Currency of Data.—

(1) Section 109(a)(7) (relating to data used and uniformity of data) is amended—

(A) in subparagraph (A) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) or (C)", and

(B) by adding at the end thereof the following new subparagraph:

"(C) Tax collections.—Data with respect to tax collections for a period more recent than the most recent reporting year for an entitlement period (as defined in subsection (c)(2)(B)) shall not be used in the determination of entitlements for such period.".

(2) Section 109(c)(2)(B) (defining "most recent reporting year") is amended by striking out "made before the close of such period." and inserting in lieu thereof "made before the beginning of such period.".

(e) Limitation on Adjustment of Payments.—Section 102 (relating to payments to State and local governments) is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) In General.—Except"; and

(2) adding at the end thereof the following new subsection:

"(b) Limitations on Adjustments.—No adjustment shall be made to increase or decrease a payment made for any entitlement period beginning after December 31, 1976, to a State government or a unit of local government, unless a demand therefor shall have been made by such government or the Secretary within 1 year of the end of the entitlement period with respect to which the payment was made.".

(f) Reserves for Adjustments.—Section 102 (relating to payments to State and local governments), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(c) Reserves for Adjustments.—The Secretary may reserve such percentage (not exceeding 0.5 percent) of the total entitlement payment for any entitlement period with respect to any State government and all units of local government within such State as he deems necessary to insure that there will be sufficient funds available to pay adjustments due after the final allocation of funds among such governments.".

(g) Recovery of Certain Overpayments.—In the case of an adjustment to decrease a payment made for an entitlement period ending before January 1, 1977, under title I of the State and Local Fiscal Assistance Act of 1972 to a unit of local government (as defined in section 108(d)(1) of that Act), the amount of such adjustment shall be withheld from the reserves for adjustments established by the Secretary under section 102(e) of such Act for the State within which such units of local government are located. Amounts withheld under this subsection shall be covered into the State and Local Government Fiscal Assistance Trust Fund.

### Sec. 7. Citizen Participation; Reports, Enforcement.

(a) Citizens Participation.—Section 121 (relating to reports on use of funds and publication of reports) is amended to read as follows:

### "Sec. 121. Report on Use of Funds; Publication and Public Hearings

(a) Reports on Use of Funds.—Each State government and units of local government which receives funds under subtitle A shall, after the close of each fiscal year, submit a report to the Secretary (which report shall be available to the public for inspection setting forth the amounts and purposes for which funds received under subtitle A have been appropriated, spent, or obligated during such period and showing the relationship of those funds to the relevant functional items in the government's budget. Such report shall identify differences between the actual use of funds received and the proposed use of such funds. Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(1) Hearing on proposed use.—Not less than 7 calendar days before its budget is presented to the governmental body responsible for enacting the budget, each State government or unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall, after adequate public notices, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds before the governmental authority responsible for presenting the proposed budget to such body.

"(2) Budget hearing.—Each State government or unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall have at least one public hearing on the proposed use of such funds in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to ask questions concerning the entire budget and the relation thereto of funds made available under subtitle A. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) Waiver.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitle A in relation to its entire budget.

"(c) Notification and Publicity of Public Hearings; Access to Budget Summary and Proposed Use of Funds.—

"(1) In general.—Each State government and unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall—

(A) at least 10 days prior to the public hearing required by subsection (b)(2)—

"(b) Public Hearings Required.—

"(i) publish, in at least one newspaper of general circulation, the proposed uses of funds made available under subtitle A together with a summary of its proposed budget and a notice of the time and place of such public hearing; and

"(ii) make available for inspection by the public at the principal office of such State government or unit of local government a statement of the proposed use of funds, together with a summary of its proposed budget; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

(i) make a summary of the adopted budget, including the proposed use of funds made available under subtitle A, available for inspection by the public at the principal office of such State government or unit of local government; and

(ii) publish in at least one newspaper of general circulation a notice of the availability for inspection of the information referred to in clause (i).

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use of funds and the summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible. In addition, the 10-day provisions of paragraph (1)(A) may be modified to the maximum extent necessary to comply with applicable State and local law if the Secretary is satisfied that the citizens of such State or local government will receive adequate notification of the proposed use of funds consistent with the intent of this section.

"(d) Report Submitted to the Governor.—The Secretary shall furnish to the Governor of the State in which any unit of local government which receives funds under subtitle A is located, a copy of each report filed with the Secretary as required may prescribe by regulation.

"(e) Budgets.—The Secretary shall promulgate regulations for the application of this section to circumstances under which the State government or unit of local government does not adopt a budget.

"(f) Report of the Secretary.—The Secretary shall include with the report required under section 105(a)(2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of—

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of such section;

"(3) the manner in which funds distributed under subtitle A have been distributed in recipient jurisdictions; and

"(4) any significant problems arising in the administration of the Act and the proposals to remedy such problems through appropriate legislation.

"(g) Participation by Senior Citizens.—In conducting any hearing required under this section, or under its own budget processes, a State or unit of local government shall endeavor to provide senior citizens and their organizations with an opportunity to be heard prior to the final allocation of any funds provided under the Act pursuant to such a hearing.".

(b) Enforcement.—Subtitle B (relating to administrative provisions) is amended by adding at the end thereof the following new sections:

### "Sec. 124. Private Civil Actions.

"(a) Standing.—Whenever a State government or a unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

"(b) Relief.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) Intervention by Attorney General.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be enttiled to the same relief as if it had instituted the action.

"(d) Exhaustion of Administrative Remedies.—As used in this section, administrative remedies shall be deemed to be exhausted upon the expiration of 90 days after the date the administrative complaints were filed with the Secretary or with the Agency with which the Secretary has an agreement under section 122(h) if, within such period, the Secretary or such Agency—

"(1) issues a determination that such Government under unit has not failed to comply with this Act; or

"(2) fails to issue a determination on such complaint.

"(e) Attorney Fees.—In any action under this section to enforce section 122(a), the court, in its discretion, may allow to the prevailing party, other than that the United States, reasonable attorney fees, and the United States shall be liable for fees and costs the same as a private person.

### "Sec. 125. Investigations and Compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits (in no event to exceed 90 days) for the Secretary to conduct an investigation and make a finding after receiving a complaint (described in section 124(d)), a determination by a State or local administrative agency, or other information relating to the possible violation of the provisions of this Act;

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews (including investigations of allegations) relating to possible violations of the provisions of this Act.

The regulations promulgated pursuant to paragraphs (1) and (2) shall also establish reasonable and specific time limits for the Secretary to advise any complainant of the status of his investigation, audit, or review of any allegation of violation of section 122 (a) or any other provision of this Act.".

(c) Judicial Review.—Section 143(a) (relating to petitions for judicial review) is amended by striking out "receives a notice of withholding of payments under section 104(b) or 123(b)," and inserting in lieu thereof "receives a notice of withholding of payments under section 104(b) or 123(b) a determination under section 122(b)(3)(C) that payments be suspended, or a determination under section 122(b)(3)(D) that payments be terminated,".

Sec. 8. Nondiscrimination Provisions.

(a) In General.—Section 122 (relating to nondiscrimination provisions) is amended to read as follows:

"Sec. 122. Nondiscrimination Provisions.

"(a) Prohibition.—

"(1) In General.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, hereafter referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under subtitle A.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Determination by the Secretary.—

"(1) Notice of noncompliance.—Within 10 days after the Secretary has received a holding described in subsection (c)(1) or has made a finding described in subsection (c)(4), with respect to a State government or a unit of local government, he shall send a notice of noncompliance to such government setting forth the basis of such holding or finding.

"(2) Procedure before secretary; suspension of payment of revenue sharing funds.—Within 30 days after a notice of noncompliance has been sent to a State government or a unit of local government in accordance with paragraph (1), such government may informally present evidence to the Secretary regarding the issues of—

"(A) (except in the case of a holding described in subsection (c)(1)) whether there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973, or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, and

"(B) whether the program or activity in connection with which such exclusion, denial, discrimination, or violation is charged has been funded in whole or in part with funds made available under subtitle A.

Before the end of the such 30-day period, unless a compliance agreement is entered into with such government, the Secretary shall issue a determination as to whether such government failed to comply with subsection (a). If the Secretary determines that such government has failed to comply with subsection (a), the Secretary shall suspend the payment of funds under subtitle A to such government unless such government within the 10 day period following such determination enters into a compliance agreement or requests a hearing with respect to such determination.

"(3) Hearings before administrative law judge; suspension or termination of payment of revenue sharing fund.—

"(A) Hearings requested by a State government or a unit of local government pursuant to paragraph (2) shall begin before an administrative law judge within 30 days after the Secretary receives the request for the hearing.

"(B) Within 30 days after the beginning of the hearing provided under subparagraph (A), the administrative law judge conducting the hearing shall, on the record then before him, issue a preliminary finding (which shall be consistent with subsection (c)(2) as to whether such government has failed to comply with subsection (a). If the administrative law judge issues a preliminary finding that such government is not likely to prevail, on the basis of the evidence presented, in demonstrating compliance with subsection (a), then the Secretary shall suspend the payment of funds under subtitle A to such government. No such preliminary finding shall be issued in any case where a determination has previously been issued under subparagraph (C).

"(C) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement before the 31st day after such issuance, the Secretary, subject to the provisions of subparagraph (D), shall suspend the payment of funds under subtitle A to such government; if a suspension in accordance with subparagraph (B) is still in effect, then, subject to the provisions of subparagraph (D), that suspension is to be continued.

"(D) In the event of a determination described in subparagraph (C), the administrative law judge may, in his discretion, order the termination of payment of funds under subtitle A to such government or unit.

"(E) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that there has not been a failure to comply with subsection (a), and a suspension is in effect in accordance with subparagraph (B), such suspension shall be promptly discontinued.

"(c) Holding by Court or Governmental Agency; Finding by Secretary.—

"(1) Description.—A holding is described in this paragraph if it is a holding by a Federal Court, a State Court, or a Federal administrative law judge, with respect to a State government or a unit of local government which expends funds received under case of a person in the United States, ex- subtitle A that such government has, in the cluded such person from participation in, denied such person benefits of, or subjected such person to discrimination under any program or activity on the ground of race, color, national origin, or sex, or violated any prohibition against discrimination (A) on the basis of age under the Age Discrimination Act of 1975 or (B) with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973 or (C) on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, in connection with any such program or activity.

"(2) Effect on proceedings or hearing.—If there has been a holding described in paragraph (1) with respect to a State government or a unit of local government, then, in the case of a proceedings by the Secretary pursuant to subsection (b)(2) or a hearing pursuant to subsection (b)(3) with respect to such government, such proceedings or such hearing shall relate only to the question of whether the program or activity in which the exclusion, denial, discrimination, or violation occurred is funded in whole or in part with funds made available under subtitle A. In such proceedings or hearing, the holding described in paragraph (1), to the effect that there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination (A) on the basis of age effected by the Age Discrimination Act of 1975, (B) with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973, (C) on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, shall be treated as conclusive.

"(3) Effect of reversal.—If a holding described in paragraph (1) is reversed by an appellate tribunal, then proceedings under subsection (b) which are dependent upon such holding shall be discontinued; any suspension or termination of payments resulting from such proceedings shall also be discontinued.

"(4) Finding by Secretary.—A finding is described in this paragraph if it is a finding by the Secretary with respect to a complaint referred to in section 124(d), a determination by a State or local administrator agency, or other information (pursuant to procedures provided in regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of local government has failed to comply with subsection (a).

"(d) Compliance Agreement.—For purposes of this section and section 124, a compliance agreement is an agreement between—

"(1) the governmental office or agency responsible for prosecuting the claim or complaint which is the basis of the holding described in subsection (c)(1) and the chief executive officer of the State government or the unit of local government that has failed to comply with subsection (a), if such agreement is approved by the Secretary, or

"(2) the Secretary and such chief executive officer, setting forth the terms and conditions with which such government or unit has agreed to comply that would satisfy the obligations of such government under subsection (a). Such agreement shall cover all the matters which had been determined or would constitute failures to comply with subsection (a), and may consist of a series of agreements which, in the aggregate, dispose of all such matters. Within 15 days after the execution of such agreement (or, in the case of an agreement under paragraph (1), the approval of such agreement by the Secretary, if later), the Secretary shall send a copy of such agreement to each person who has filed a complaint referred to in section 124(d) with respect to such failure to comply with subsection (a), or, in the case of an agreement under paragraph (1), to each person who has filed a complaint with the governmental office or agency (described in such paragraph) with respect to such failure to comply with subsection (a).

"(e) Resumption of Suspended Payments.—If payment to a State government or a unit of local government of funds made available under subtitle A has been suspended under subsection (b)(2) or (b)(3), payment of such funds shall be resumed only if—

"(1) such government enters into a compliance agreement (but only at the times and under the circumstances set forth in such agreement, or, in the case of any agreement under subsection (d)(1), only at the times and under the circumstances set forth in the Secretary's approval of such agreement);

"(2) such government complies fully with the holding of a Federal or State court, or Federal administrative law judge, if that holding covers all the matters raised by the Secretary in the notice pursuant to subsection (b)(1), or if such government is found to be in compliance with subsection (a) by such court or Federal administrative law judge;

"(3) in the case of a hearing before an administrative law judge under subsection (b)(3), the judge determines that such government is in compliance with subsection (a); or

"(4) the provisions of subsection (c)(3) (relating to reversal of holding of discrimination) require such suspension of payment to be discontinued.

For purposes of this section, compliance by a government may include the satisfying of a requirement of the payment of restitution to persons injured by the failure of such government to comply with subsection (a).

"(f) Resumption of Terminated Payments.—If payment to a State government or unit of local government of funds made available under subtitle A has been terminated under subsection (b)(3)(D), payment of such funds shall be resumed only if the determination resulting in such termination is reversed by an appellate tribunal.

"(g) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or a unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under subtitle A, or placing any further payments under subtitle A in escrow pending the outcome of the litigation.

"(h) Agreements Between Agencies.—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary of any actions instituted by such agencies against a State government or a unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.".

Sec. 9. Accounting and Auditing Provisions

Section 123(c) (relating to accounting, auditing, and evaluation) is amended—

(1) by redesignating paragraph (2) as paragraph (9), and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) Independent audits.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977 (other than a government to which an election under paragraph (2) applies with respect to such entitlement period), shall have an independent audit of its financial statements conducted for the purpose of determining compliance with this title, in accordance with generally accepted auditing standards, not less often than once every 3 years.

"(2) Election.—Paragraph (1) shall not apply to any State or unit of local government whose financial statements are audited by independent auditors under State or local law not less often than every 3 years, if (A) such government makes an election under this paragraph that the provisions of paragraph (1) shall not apply, and (B) such government certifies that such audits under State or local law will be conducted in accordance with generally accepted auditing standards. Such election shall include a brief description of the auditing standards to be applied. Such election shall apply to audits of funds received under subtitle A for such entitlement periods as are specified in such election and as to which such State or local law auditing provision are applicable.

"(3) Series of audits.—If a series of audits conducted over a period not exceeding 3 fiscal years covers, in the aggregate, all of the funds of accounts in the financial activity of such a government, then such series of audits shall be treated as a single audit for purposes of paragraph (1) and paragraph (2).

"(4) Entitlements under $25,000.—

"(A) The requirements of paragraph (1) shall not apply to a State government or unit of local government for any fiscal period in which such government receives less than $25,000 of funds made available under subtitle A, unless subparagraph (B) applies for such fiscal period.

"(B) In the case of a fiscal period which is described in subparagraph (A), if State or local law requires an audit of such government's financial statements, then the conducting of such audit shall constitute compliance with the requirements of paragraph (1).

"(5) Waiver.—The Secretary may waive the requirements of paragraph (1) or paragraph (2), in whole or in part, with respect to any State government or unit of local government for any fiscal period as to which he finds (in accordance with regulations prescribed by the Secretary) (A) that the financial accounts of such governments for such period are not auditable, and (B) that such government demonstrates substantial progress toward making such financial accounts auditable.

"(6) Coordination with other federally required audits.—An audit of the financial statements of a State government or unit of local government for a fiscal period, conducted in accordance with the provisions of any Federal law other than this title, shall be accepted as an audit which satisfies the requirements of paragraph (1) with respect to the fiscal period for which such audit is conducted, if such audit substantially complies with the requirements for audits conducted under paragraph (1).

"(7) Audit opinions.—Any opinions rendered with respect to audits made pursuant to this subsection shall be provided to the Secretary, in such form and at such times as he may require.

"(8) Comptroller general shall review compliance.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

Sec. 10. Miscellaneous Provisions.

(a) Budget Act.—In accordance with section 401(d)(2) of the Congressional Budget Act of 1974 (31 U.S.C. 1351(d)(2); 88 Stat. 297, 318), subsections (a) and (b) of section 401 of such Act shall not apply to this Act.

(b) Definition of "Unit of Local Government".—Section 108(d)(1) (defining "unit of local government") is amended by striking out "municipality, township, or other unit of local government below the State which is a unit of general government" and inserting in lieu thereof "municipality, or township, which is a unit of general government below the State".

Sec. 11. Study of Revenue Sharing and Federalism

Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

"Sec. 145. Study of Revenue Sharing and Federalism.

"(a) Study.—The Advisory Commission on Intergovernmental Relations shall study and evaluate the American Federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including, but not limited to, a study and evaluation of—

"(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of other Federal Government systems;

"(2) State and local governmental organization from both legal and operational viewpoints to determine how general local governments do and ought to relate to each other, to special districts, and to State governments in terms of service and financing responsibilities, as well as annexation and incorporation responsibilities;

"(3) the effectiveness of Federal Government stabilization policies on State and local areas and the effects of State and local fiscal decisions on aggregate economic activity;

"(4) the legal and operational aspects of citizen participation in Federal, State, and local governmental fiscal decisions;

"(5) forces likely to affect the nature of the American Federal system in the short-term and long-term future and possible adjustments to such system, if any, which may be desirable, in light of future developments.

"(b) Cooperation of Other Federal Agencies.—

"(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

"(2) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

"(3) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(c) Reports.—The Commission shall submit to the President and the Congress such interim reports as it deems advisable, and not later than three years after the day on which the first appropriation is made available under subsection (d), a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation as it deems advisable.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission, effective with the fiscal year beginning October 1, 1977, such sums as may be necessary to carry out the provisions of this section.".

SEC. 12. PROHIBITION ON USE FOR LOBBYING PURPOSES.

Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(e) PROHIBITION OF USE FOR LOBBYING PURPOSES.—No State government or unit of local government may use any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A.".

SEC. 13. EFFECTIVE DATES.

(a) Except as otherwise provided in this Act, the amendments made by this Act shall apply to entitlement periods beginning on or after January 1, 1977.

(b) The amendment made by section 11 takes effect on February 1, 1977.

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HORTON. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from Ohio (Mr. BROWN) has reserved a point of order against the amendment.

Does the gentleman from Ohio desire to make the point of order?

Mr. HORTON. Mr. Speaker, I am reserving the right to object on the unanimous-consent request to have the motion considered as read.

I wanted to ask the gentleman from Texas (Mr. BROOKS) whether he is going to explain the motion to the House.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, I look forward to that opportunity to explain it as my distinguished friend, the gentleman from New York (Mr. HORTON) desires.

Mr. BROWN of Ohio. Mr. Speaker, my reservation of the point of order relates to the fact that I have not seen the amendment of the gentleman; and if suspension of the reading of the amendment is to be undertaken, that is, if we are not going to hear it, there will be some necessity for me, in order to be able to make a point of order, to see the amendment or to hear an explanation of it from the gentleman from Texas. I would like to see the amendment, if I could.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I will be happy to yield to the gentleman from Texas on my reservation of objection.

The SPEAKER. The gentleman from Texas can make his explanation under the reservation of objection which has already been made by the gentleman from New York (Mr. HORTON), or the reservation of objection of the gentleman from Ohio (Mr. BROWN).

The SPEAKER. Does the gentleman from Texas desire to make a brief explanation of the amendment? If not, the gentleman from Ohio (Mr. BROWN) desires to have the amendment read.

Mr. BROOKS. Mr. Speaker, as soon as I am recognized, I will be pleased to explain the amendment in detail.

The SPEAKER. The Chair will state that at this time the gentleman from Texas can be recognized only if the gentleman from Ohio yields under his reservation.

Mr. BROWN of Ohio. I yield.

Mr. WYDLER. Mr. Speaker, I object.

The SPEAKER. The Clerk will read the amendment.

The Clerk continued to read the amendment.

Mr. BROWN of Ohio. Mr. Speaker, I withdraw my reservation of objection and ask unanimous consent that the amendment be considered as read.

The SPEAKER. The Chair understands the gentleman to withdraw his reservation of his point of order and to ask to dispense with further reading.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Texas, Mr. BROOKS.

### PARLIAMENTARY INQUIRY

Mr. HORTON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. HORTON. Mr. Speaker, I would like to ask what the allocation of time is on this particular motion.

The SPEAKER. The Chair will state that the rule provides, of course, for 30 minutes on a side under consideration of a conference report but the practice has been followed, if the Chair recalls correctly, of allotting 30 minutes to a side on a motion when a conference report is ruled out on a point of order.

Under that procedure, the gentleman from Texas (Mr. BROOKS) will be recognized for 30 minutes.

The Chair would inquire who will be handling the matter on the minority side?

Mr. HORTON. Mr. Speaker, I will be handling time on this side.

The SPEAKER. And the gentleman from New York (Mr. HORTON) will be recognized for 30 minutes for debate only.

The Chair recognizes the gentleman from Texas (Mr. BROOKS) for 30 minutes.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amendment I am offering would reinstate the conference report with the exception of the single provision that violates the Budget Act. This amendment would provide entitlement funding for the revenue sharing program for 3¾ years, from January 1, 1977, through September 30, 1980. This is the term that the House had enacted in our bill.

Recipient State and local governments would receive a total of approximately $25 billion during this period, or $4.99 billion for January 1977 through September 30, 1978, and $6.65 billion for each of the fiscal years 1978, 1979, and 1980. The language agreed to by the conferees is very close to that passed by the House, particularly those sections which strengthen the nondiscrimination, public participation and accounting and auditing provisions of the present act.

Other than the $200 million escalator provision which is subject to a point of order, the conference report, which was signed by all 10 House conferees and all 8 Senate conferees, differs in only three significant respects from the form in which the bill passed the House on June 10, 1976.

First, the requirements of a proposed use report and newspaper publication of budget summary after budget adoption have been deleted.

Second, the nondiscrimination provision contains some clarifying language with respect to the application of the Civil Rights Act in interpreting the prohibition against religious discrimination. The prohibition against discrimination on account of age will not take effect until the effective date of the Age Discrimination Act of 1975. Recipient governments will now have to demonstrate by clear and convincing evidence that the alleged discriminatory program or activity is not funded by shared revenue. An administrative law judge may suspend or terminate revenue-sharing funds 100 days after a notice of noncompliance is sent to recipient governments.

Third, the accounting and auditing provision generally requires an independent financial and compliance audit. Governments receiving less than $25,000 for any fiscal period in revenue-sharing entitlements are exempt from this provision.

That means that approximately 73 percent of the recipients under this law will be exempt from the audit provision.

Other compromises reached in conference created a reserve fund for adjustments, retained a House antilobbying provision, and revised a Senate provision for a study of revenue sharing and Federalism by the Advisory Commission on Intergovernmental Relations.

I repeat, Mr. Speaker, my amendment retains all provisions of the conference report except the incremental increase in funding from $6.65 billion per year to $6.85 billion per year. This amendment has $6.65 billion for each of 3¾ years to approximately 39,000 recipient governments.

Mr. Speaker, I would ask the Members' support for this amendment.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the analysis of the conference as was stated by the chairman of the committee, the gentleman from Texas (Mr. BROOKS). This bill passed the House some months ago. The Senate took it up and eventually passed its version of the revenue-sharing bill. We went to conference with several differences. One of the differences was the term and the amount of revenue sharing. The bill provided for a 5¾-year program as distinguished from 3¾ years on the House side. The Senate bill also provided for an incremental increase which provided for $200 million for the first year, and increasing each year, so that there was a total increase of $1.2 billion—I think it was—for the 5¾ years that were involved.

The House, of course, did not have that. We had other differences with regard to citizen participation. We had other differences with regard to civil rights or antidiscrimination provisions.

The conference began this past Monday at 2 o'clock in the afternoon. The conferees were very attentive, and all remained except for short breaks when we had to come back to the House or to the Senate for the purpose of voting. We finished about 1 o'clock Tuesday morning, being continuously in session until that time.

After all of the differences were resolved, with the exception of the 3¾ years and 5¾ years in the period of the entitlement, and the difference of the increase that had been provided by the Senate.

We then arrived at the point where it was necessary to determine the amount of time for the program to continue. As we all know, it expires December 31 of this year. There was great discussion about that. The Senate was very firm with its position of 5¾ years plus an increment of $200 million for each of the years involved. The House was adamant in its position, although the question was put to accept the 3¾ years and to accept an amount of $100 million for each of the years involved. That was not agreed to by the House conferees and ultimately we separated, discussed, and then came back, at which time there was an agreement that we would accept 3¾ years and there would be added $200 million for each of the fiscal years 1977, 1978, and 1979.

All conferees agreed to that. As a matter of fact, the last question was put by the chairman of the committee, the gentleman from Texas (Mr. BROOKS), to Congresswoman JORDAN, at which time she agreed to the compromise.

It was agreed on both sides that there would be a compromise of some $600 million for the last 3 years of the 3¾-year entitlement program.

There was a question raised as to whether or not a point of order would be made. The gentleman from Texas, the chairman, indicated that there might be, and he indicated that this would be resolved. I fully expected that point could be resolved by going to the Rules Committee to get a rule to bring it to the floor and waive that problem. However, the point of order was made here with respect to the $600 million.

What we are talking about is, pure and simple, $600 million to be added to this program for the last 3 years of the 3¾ years.

We had the conference in the open. The sunshine provisions were prevailing. All people that were interested in revenue sharing, or their representatives, were there to listen to us. They know that the conferees agreed upon $600 million for the last 3 years.

Why is that important? If we leave the amount at $6.5 billion for each of the 3¾ years, those mayors, those Governors, those county executives, those heads of municipalities that will share under this program have no additional funds. Because of the restrictions that we have removed with regard to those who can share in this program, these government officials will have additional demands for general revenue sharing funds, particularly from educators. The educators are going to come in because now we no longer have the restrictions that we currently have on the program and the educators are going to come in and say: "We are entitled to share under the revenue sharing program and the Congress has said we can share, so therefore give us a part of it."

The Governor, the mayor, the county executive, whoever it is, or the council are going to say: "We are sorry but we have already committed the money."

So it is important to have these additional funds. The Senate thought it was important and they were very adamant in their position that they would not waive their position of 5¾ with this increment added until we made this compromise.

We did make a compromise and I think it is beholden upon the conferees to stand behind the position that was taken at that conference to provide this $600 million. As I indicated, it is going to be very important to these municipalities that share in this revenue sharing that they have these additional funds, because we have removed the restrictions and it opens it up to people, organizations, and municipalities that are no longer prohibited from sharing and it will be up to the local governments whether they can share.

They are no longer prohibited from sharing and it is up to the local governments as to whether or not they are sharing. They are going to ask for their due share and there will be no funds for them.

In addition, I think it is very important to do what the conferees have agreed upon.

Now, it is my purpose to oppose the motion of the gentleman from Texas and I hope that the House will oppose that and vote that down.

It is then my intention to either offer on my behalf or on behalf of the gentleman from North Carolina (Mr. FOUNTAIN), a motion which will be the conference report we agreed upon with the Senate, with the $600 million; but it will be indexed, so it would not be subject to a point of order.

The gentleman from Washington indicated in his statement on the point of order that if it were indexed, it would not be subject to a point of order. It will be indexed, so it will not be subject to a point of order and that is the amendment that will be offered if we vote down the motion of the gentleman from Texas.

So I urge all who are interested in revenue sharing and who are interested in making certain that these States, counties, cities and other municipalities that share in this revenue sharing have this increment that was agreed upon by the conferees.

I ask that we vote down this motion in order that I can offer the Fountain-Horton amendment, which would include the $600 million and which will carry out the intention of the conferees. So far as I know, the conferees are willing to stand behind the position that they took. All of them signed it, including the gentleman from Texas.

The point of order has been made, so now we have to try to resolve it. We did not go to the Committee on Rules to get a waiver, so now we are up against the only way to solve the question, that is, to vote down the motion of the gentleman from Texas and vote for the motion which I will offer on behalf of the gentleman from North Carolina (Mr. FOUNTAIN) and myself, which would provide for these $600 million to be indexed.

Mr. BROOKS. Mr. Speaker, I yield 5 minutes to the very able and distinguished gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Speaker, I rise in opposition to the motion of my distinguished chairman to delete the annual increment that was agreed to by all of the House and Senate conferees when we met on Monday. This increment, which amounts to less than one-half of the increment contained in the Senate amendment, was unanimously agreed to only after a long period of debate on this issue.

The conference committee met from 2 p.m. on Monday until past midnight. It was most ably presided over by the distinguished gentleman from Texas (Mr. BROOKS) who himself agreed to the compromise to add a small increment to help meet inflation during the last 3 years of the program we are renewing. This compromise was not arrived at lightly. The Senate conferees took the position, quite reasonably, that the House should recede to them on at least one of the two big issues before the conference—the length of the extension or the amount of money. The House conferees felt it was of utmost importance to stand firm on the 3¾-year extension, as compared to the 5¾ years in the Senate amendment, in order to permit the next President—whoever he may be—to have his input on further extension of the revenue sharing program. We though it unwise to permit this program to extend beyond the term of the next President without a full reexamination.

Consequently, it was incumbent upon the House conferees to make some concession on the differing amounts of money passed by the two Houses in order to facilitate action on this very important legislation before adjournment. Your House conferees argued long and hard for a minimum concession on this issue that would be acceptable to the Senate. What we arrived at is a responsible and reasonable compromise. The conference report removes the escalator built into the Senate increments and, instead, provides only for a constant increase of $200 million a year for the three fiscal years beginning October 1977. The total cost of this increment would be only $600 million over the 3¾-year period as compared with the $1,400,000,000, passed by the Senate.

I do not honestly believe that the Senate would be willing to compromise further on this issue. Consequently, I see no alternative but to urge my colleagues to reject the motion offered by the distinguished gentleman from Texas, and to support a motion to provide some kind of increment that will be acceptable to the House and hopefully also to the Senate when a motion is offered for this purpose.

**Mr. HORTON.** Mr. Speaker, will the gentleman yield?

**Mr. FOUNTAIN.** I yield to the gentleman from New York.

**Mr. HORTON.** Mr. Speaker, I am sure the gentleman has covered this in his statement, but would the gentleman again comment on the fact that this was a conference that continued at great length? It was a very detailed conference. We went over all the points in disagreement and had much discussion on each one of those points of disagreement. They were all resolved until we came down to the final consideration of the length of time and the extra amount.

**The SPEAKER** pro tempore. (Mr. Gibbons). The time of the gentleman from North Carolina has expired.

**Mr. HORTON.** Mr. Speaker, I yield 2 additional minutes to the gentleman from North Carolina.

**Mr. FOUNTAIN.** I thank the gentleman.

**Mr. HORTON.** The Senate had included in their bill 5¾ years, and an increment increase of $200 million for each of the 5¾ years. This was the final matter to be disposed of, and there was discussion of the fact that there might be a point of order raised. The conferees knew that, and the conferees also knew the problems that were involved with the $600 million as opposed to what the Senate position was; that the Senate was very adamant in their position; and that finally, after much consideration and discussion, with everyone knowing eactly what was involved, all the conferees agreed upon the $600 million increase for the last 3 years.

Would the gentleman care to comment on that part of the negotiations?

**Mr. FOUNTAIN.** The gentleman from New York is absolutely correct. We did discuss ways of avoiding possible objection and a point of order. In the final analysis, we concluded, not really anticipating the point of order motion made by the distinguished gentleman from Washington (Mr. Adams) about entitlement programs, that we had covered the situation. Whether we had or not, I myself feel honorbound to do everything I can within this body, in every legal proper, and responsible way to carry out the intent of the conference. I would have been satisfied with 5¾ years without the increment, but in sticking to the shorter extension we have cut this bill from about $40 billion down to around $25 billion.

**The SPEAKER.** The time of the gentleman from North Carolina has expired.

**Mr. HORTON.** Mr. Speaker, I yield 2 additional minutes to the gentleman from North Carolina (Mr. Fountain).

Mr. Speaker, will the gentleman yield at that point?

**Mr. FOUNTAIN.** I yield to the gentleman from New York (Mr. Horton).

**Mr. HORTON.** I thank the gentleman for yielding.

Mr. Speaker, as I specifically recall, there was a time during the negotiations and discussion when I raised the issue that with the Senate having 2 additional years over the 3¾ years we had, that what we were doing was cutting back $6.5 billion for each of those 2 years, or a total in excess of $13 billion. The Senate felt very strongly about that additional $13 billion.

**Mr. FOUNTAIN.** The gentleman is unquestionably correct. As a matter of fact, our bill provided $6,650,000,000 for the fiscal years beginning October 1, 1977, 1978, and 1979. The Senate had $6,850,000,000 for fiscal year 1978; $7,050,000,000 for 1979; $7,250,000,000 for 1980; $7,450,000,000 for 1981; and $7,650,000,000 for 1982.

So the Members can see that we have substantially cut the Senate amounts on an annual basis, in addition to reducing the period of the extension of this legislation.

So it seems to me that we have substantially reduced the total cost of this legislation. In doing so, the conferees believed they were acting within the intent and spirit of the Budget Control Act.

I might say further that we have significantly improved the present program and have made it less difficult to administer. The conference report retains in substance the meaningful nondiscrimination and citizen participation provisions adopted by the House.

Mr. Speaker, I urge the Members of this House to vote against the amendment offered by the gentleman from Texas.

**The SPEAKER.** The time of the gentleman from North Carolina has again expired.

**Mr. HORTON.** Mr. Speaker, I yield 1 additional minute to the gentleman from North Carolina (Mr. Fountain).

Mr. Speaker, will the gentleman yield?

**Mr. FOUNTAIN.** I yield to the gentleman from New York (Mr. Horton).

**Mr. HORTON.** Basically, what this boils down to is the intent of the conferees as to the $600 million for the 2 years. That is basically what we are talkingabout?

**Mr. FOUNTAIN.** Yes.

**Mr. HORTON.** If we vote against the motion of the gentleman from Texas (Mr. Brooks), we would be voting against providing $600 million to all the States, cities, counties and municipalities which share in revenue sharing. And if we vote for the motion which I will offer, we will vote for $600 million to those units of government. It would not be subject to a point of order, and we will carry out the intention of the conferees.

**Mr. FOUNTAIN.** The gentleman is correct. I intend to support the amendment which the gentleman and I, and others, have proposed and which will be offered.

**Mr. BROOKS.** Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. Jordan).

**Ms. JORDAN.** I thank the gentleman for yielding.

Mr. Speaker, as one who served on the conference committee which developed this report, I came here fully intending to support the intent, the extent, the figures that we agreed to in conference. What is very disturbing now is that we are going to allow this one provision which was stricken on the point of order to jeopardize a program which entails the expenditure of more than $25 billion. That I think would be an unwise course of action for us to proceed to take at this point. There are a lot of good things in this conference committee report, regardless of the way we feel about the $600 million. We have eliminated the matching fund requirement which was a sticky point throughout the administration of revenue sharing funds. We have built in a structure for civil rights enforcement, which we feel will guarantee that every citizen, without regard to race, color, religion, or whatever, will be able to receive the benefits which can be received through participation in programs which are funded by revenue sharing funds.

**Mr. HORTON.** Mr. Speaker, will the gentlewoman yield?

**Ms. JORDAN.** Yes, I yield to the gentleman from New York.

**Mr. HORTON.** Mr. Speaker, I wish to interrupt the gentlewoman at this point only to commend her for her work in the subcommittee, in the full committee, on the floor of the House when we debated this bill, and in the conference. As the gentlewoman knows, I have reference to her work in connection with the antidiscrimination provisions that are in this bill.

I want to underscore her views that these are very good provisions. The gentlewoman from Texas and I worked very long and very hard on those provisions. I think that the compromise that was agreed upon in the conference is a good compromise, and I believe we now have a meaningful set of antidiscrimination provisions in this bill.

I think it is appropriate to commend the gentlewoman for the work and leadership that she provided during the successive stages of the handling of this revenue sharing bill.

**Ms. JORDAN.** Mr. Speaker, I thank the gentleman from New York for those remarks.

**Mr. WYDLER.** Mr. Speaker, will the gentlewoman yield?

**Ms. JORDAN.** I yield to the gentleman from New York.

**Mr. WYDLER.** Mr. Speaker, I really do not see that we are jeopardizing the bill if we proceed as the gentleman from New York (Mr. Horton) has suggested. Immediately after we vote down the Brooks amendment, we would vote thereafter on an amendment that would make it possible to give these funds to the communities and the cities that need this money. Then the local governments that need this money can get it and will get it. We can vote immediately on that.

If that would pass, then it would go to the Senate, and I am sure the Senate will accept it. In fact, the Senate wanted more in the bill, so they will certainly agree to this.

So, Mr. Speaker, I see no risk that would be run by voting down the amendment offered by the gentleman from Texas (Mr. BROOKS) and then votign on a better amendment.

Ms. JORDAN. Mr. Speaker, I would like to use some of my own time, if I may.

The gentleman from New York (Mr. WYDLER) says that if we vote down the Brooks amendment, an amendment will be offered which will make whole or confirm or carry out the agreement of the conferees. I have received a copy of the amendment which is purported to be offered if the Brooks amendment goes down. I do not know of anyone who can explain to me just what will occur with regard to the payout of funds under the provisions of this amendment. Since it is tied apparently to tax collections, it is conceivable that the fluctuations in tax collections could violate the conference committee agreement insofar as the minimum amount of money is concerned that we want to see expended by State and local governments.

Mr. BROOKS. Mr. Speaker, will the gentlewoman yield?

Ms. JORDAN. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, there is just one question I have concerning this. Would this not in fact jeopardize the receipt by 39,000 communities of $6,650 million?

Ms. JORDAN. It would appear to me that it could jeopardize the receipt of the funds by these local entities.

Mr. HORTON. Mr. Speaker, will the gentlewoman yield?

Ms. JORDAN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, there are two points that ought to be made. No. 1 is this: That the formula would be applicable to all the funds. In other words, there would be no change in the formula. The distribution would be the same to all the municipalities or all the cities.

The SPEAKER. The time of the gentlewoman from Texas (Ms. JORDAN) has expired.

Mr. HORTON. Mr. Speaker, I yield 1 additional minute to the gentlewoman from Texas (Ms. JORDAN).

Will the gentlewoman yield further?

Ms. JORDAN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, in addition to that first point, the gentlewoman has asked the question with regard to the so-called indexes.

Ms. JORDAN. Yes.

Mr. HORTON. We would not exceed $6.85 billion. That provides for the $200 million for each of those 3 years. It would not exceed that; it could not exceed it. The way the language is framed, it would not exceed the $6.85 billion, so there would be no increase in that, and it could not go below the $6.65 billion which we have authorized and which we would approve.

Ms. JORDAN. Mr. Speaker, I would just like to say this in concluding my remarks: Let us not do away with and toss aside the kinds of good things that we have accomplished in this program for the sake of additional monies to some of the units of local government under the conference formula which was adopted.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, I appreciate the gentleman yielding.

Having just come from local government as the mayor of San Jose, Calif., a city of 560,000, I know it is very important that we analyze what is being done. The gentleman from Texas (Mr. BROOKS) has a motion before us to eliminate the provisions for the additional annual increment of $200 million.

Following, hopefully, the defeat of the Brooks amendment, the gentleman from North Carolina (Mr. FOUNTAIN) will be offering an amendment to index an annual increment up to the maximum of $200 million over a 3-year period.

Mr. Speaker, one of the things that we have to recognize is that the present level of funding in the conference report is the same dollar amount as the present program and if that is all we are going to put into the general revenue sharing program which was originally enacted in 1972, that will be a diminution of the value that we are trying to put forth in terms of help and support to State and local governments.

One of the problems that we must recognize is that through the Federal income tax, our income reflects what is happening in the economy. Local government on the other hand, is strapped with property taxes and sales taxes and there is no indexing of those forms of revenue of what happens in the economy. Property taxes and sales taxes are regressive.

Mr. Speaker, I have seen what happens to local government when we have inflationary periods and the property tax and sales tax do not go up to reflect economic fluctuations. What is happening is that we are going to put more of a load on property taxes.

The SPEAKER. The time of the gentleman from California (Mr. MINETA) has expired.

Mr. HORTON. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. MINETA. Mr. Speaker, to continue, when that happens, when we put that extra load on property taxes without general revenue sharing then we are putting an increased load on those who have fixed incomes, again, people whom we profess we are trying to help.

Mr. Speaker, what we really ought to do at this point is to defeat the Brooks amendment and then vote for the Fountain amendment; otherwise, we are going to be strapping local government that much more. If we are trying to help those on fixed incomes and those on low- and middle-incomes in terms of maintenance of levels of services and property tax relief as well, then we ought to defeat the Brooks amendment and vote in favor of the Fountain amendment.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. MEZVINSKY).

Mr. MEZVINSKY. Mr. Speaker, I thank the gentleman for yielding.

First, I would like to make clear, as a member of the conference committee, that we were warned that a point of order would be raised. I would also like to make clear that when we reached this agreement to have $6.65 billion and then hold to $6.85 billion after 1 year, it was not my understanding that by this move we would take care of the point of order. I would like to make that very clear. I as one member of the conference committee did not think that simply by doing this and reaching this compromise, the point of order would not be raised and would not be sustained.

Therefore, Mr. Speaker, I think in fairness to the gentleman from Texas (Mr. BROOKS), this is made with good intentions and is not meant to subvert the conference committee.

The second point that I would like to make, and I think this has been raised, is that I have looked at the amendment. Unfortunately, the drafting of this amendment is fuzzy. It is so fuzzy that the localities and the States could feel they were being hurt in a situation like this. They may receive less than what was originally put in it by the conference committee.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. MEZVINSKY. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, the gentleman in the well should have said the Horton amendment, not the Brooks amendment.

Mr. MEZVINSKY. Yes. I am sorry. I am referring to the Horton amendment which would come forth if this amendment by the gentleman from Texas fails.

In other words, we have a situation by which, under the Horton amendment, all those localities that have stood up and fought for revenue sharing will say that they are actually worse off than they were under the agreement of the conference committee.

Mr. Speaker, for that reason, I think the amendment of the gentleman from Texas (Mr. BROOKS) clarifies what was originally intended by the House and more importantly, will produce legislation that would not be jeopardized by the fuzzy language of the Horton amendment and would meet the intent of the House of Representatives.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, I think what we have here is a technical problem that can be solved by a technical amendment. We can carry out the agreement of the conferees that was reached after about 9 hours of intensive work and which was agreed to by all conferees, including the chairman, the gentleman from Texas (Mr. BROOKS).

I think we owe it to the House and to the Members that worked so hard to bring out this conference report to see that the $200 million so desperately needed by the States and local governments is included in the final legislation.

The only way we can do it is to vote down the Brooks amendment and to vote for the amendment of the gentleman from New York (Mr. HORTON) that will be immediately offered in its place.

Mr. HORTON. Mr. Speaker, if the gentleman will yield, some question has been raised but I believe they are just trying to make it appear as though the amendment that will either be offered by the gentleman from North Carolina (Mr. FOUNTAIN), or myself, the so-called Fountain-Horton or Horton-Fountain amendment, is fuzzy and that it will ruin and take away the whole program of revenue sharing.

The indexing that is involved is the indexing only of the increment of $200 million. It is not an indexing of the $6.65 billion program. I want to make that clear to those Members who are attempting to raise some red herrings in this amendment.

The procedure, as I understand it, is that the motion offered by the gentleman from Texas (Mr. BROOKS) will be voted on. I would again urge that we vote that down and you will then be voting to put in the $600 million which will be in the Horton-Fountain amendment.

The SPEAKER. The time of the gentleman has expired.

Mr. HORTON. Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

If the gentleman will yield further, that amendment would provide for an indexing of the $200 million or the $600 million for the 3 years. It is not very confusing. It is not confusing at all. It is very clear. The purpose is to provide $600 million to those cities, towns and villages and States for those 3 years, this 3¾ years of revenue sharing.

So again I say it is simple. It is an indexing of the $200 million for each of the 3 years, or a total of $600 million. It is not an indexing of the $6.65 billion. It is very simple. If we want to get that $600 million we vote against the Brooks amendment and vote for the Horton-Fountain amendment.

Mr. WYDLER. Mr. Speaker, I would say as far as the revenue sharing is concerned, that if you supported the program and you mean that support then you should vote down the Brooks amendment and vote for the Fountain amendment because those that will vote for the Brooks amendment you will note, if you look at the record, are those who are opposed to revenue sharing.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I want to thank the chairman of the conference committee, the gentleman from Texas (Mr. BROOKS), for yielding and I urge that we vote no on the Brooks amendment.

Why do we need to do that? First of all, in the House, as well as in the Senate, we removed all the categories, some eight categories to limit the areas in which these funds could be spent by local governments. So now we have what has been prohibited before. Education may now come in and try to get funds from revenue sharing for schools or for any additional purpose if they so choose.

I sat through the conference for some 10½ hours Monday, and I thought we acted in good faith. I know that the chairman did. There was not going to be any trickery involved in trying to bring this up under this procedure. And I am not alleging that, but it was discussed in the conference, if my recollection is correct, that if we want, as the Senate had proposed, a multiplier effect of $200 million on top of each other, it was the feeling that would run in the face of the Budget Act; but that if we did it in this manner, it was my opinion, and the unanimous agreement of the conferees, this would not fly in the face of the Budget Act.

As has been pointed out by the gentleman from New York (Mr. WYDLER), this is a technical problem and the local communities absolutely need this increment. It is a long compromise back from what the Senate had originally proposed. The Senate gave a lot on the length of time and the other matters that the House had added.

Mr. Speaker, I urge a no vote on the Brooks amendment.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Speaker, several of the gentlemen who preceded me have said that this was a "technical" problem. There are just 600 million "technical" problems here—$600 million added to the budget—added at the instigation of Members who like to say that they want to balance the budget. Those of the Members who said they believed in a congressional budget—and I think it is the best thing we have done this session—cannot at the same time believe in adding $600 million to a program over and above what was the budget approved by this House—and in excess of the budget submitted by the President himself.

Less than an hour ago I voted with the President to hold the line—to hold the budget figure on the education bill. Is this gift more important than education? I think not, but I believe in the budget concept. It cannot succeed if it is to be broken by either the Congress or the President.

If Members intend to really maintain a budget program, we are going to have to "bite the bullet" and vote against some popular expenditures. I am deeply disappointed to find so many of my Republican friends preaching economy and a balanced budget and at the same time voting to repudiate the only effective budget control approved at this session.

My friends, "there is no free lunch."

Mr. HORTON. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I think we ought to be very direct about what is going on here. The revenue sharing bill has been part of our responsibility to extend throughout this year. We know when it was going to expire. It expires at the end of December. Certain Members of this body, notably the chairman of the Budget Committee, the gentleman from Washington (Mr. ADAMS), and the chairman of the Committee on Government Operations, the gentleman from Texas (Mr. BROOKS), do not want revenue sharing. And I can understand that as an honest difference in philosophy. The reason they do not want it has a lot of ramifications. One of them is the traditional position of the Democratic Party in the House of Representatives, and I guess in the Senate, too, that aid to local communities ought to be very carefully controlled from Washington, and it ought to be controlled because, among other things, that enhances the power of the Members of Congress who serve on the committees that authorize these programs.

It is not an unreasonable argument; it is a very logical argument; except that it says very clearly, "We know better in Washington what ought to be done for the folks at home than the folks at home know."

The revenue sharing approach is a different kind of approach. It is one that squares, I think, with some traditional principles that we have held on our side of the aisle, and those principles are that the folks at home have sense, too, and they have honesty and integrity in terms of their ability and their knowledge about how their tax dollars ought to be spent. So it is an effort like block grants in broad categories to return the money and leave it to the discretion of the local communities, and even to go further than that and say, We are going to return the money, God bless you; some day I hope we can return the taxing authority. But we are going to return the money to the folks at home so that they can spend it on the things they think are important.

The gentleman from Texas, my chairman on the Government Operations Committee, has told me for some time that he wants to defeat this legislation altogether. I do not think he can do that now because the conferees in the House and the conferees in the Senate were limited in scope by the set parameters of what we passed in these two bodies. The fact of the matter is that the conferees gave in to the lower number of years of 3¾ rather than 5¾, as the Senate passed, and we gave in to the lower amount of money, $24.9 billion, as opposed to what the Senate had in their legislation of $41.23 billion. But we did get an extra $600 million, that is $200 million for the first full year of the extension, $200 million above the $6.65 million again for the second full year, and another $200 million for the third full year.

The increment is to take care of inflation and in fact what it means is that the local communities will be getting less in terms of purchasing power from revenue sharing as the years go by.

The gentleman from New York is merely taking the position that the conferees ought to stick to what they agreed to, which is essentially the House position with that $200 million increment, or $600 million, and that there is a way to accomplish this.

There are other ways, too. The other way would have been for the point of order not to have been raised but I knew in the conference that was not going to occur. It would have been nice if we had not had the point of order raised from that side of the aisle or this side of the aisle, where we try to keep the House on track with parliamentary points of order.

Another way would have been for the Rules Committee to have been convened and then waive the rule. We do that for everything else where we want to spend more money. I must say I do not cotton to the argument, if the gentleman will pardon my use of that word, that what we ought to do is hold the budget line in this area. We have just broken it on the last veto vote by $4 billion. How did we get so sensitive in the last few moments about this $600 million?

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I think we should be clear about what is involved here. The cities and mayors and those involved are going to get the same amount of money this year no matter which of the two amounts is voted upon. What we are talking about is the basic integrity of the budget process.

We argued in this House about whether or not we should have an authorization and appropriation approach to revenue sharing in the outyears, and if we had done that this House could have authorized the $200 million for those outyears and the conference committee could have gone along with that, but we did not. Instead we have an entitlement program. Once that was adopted by the House, I supported it being in the budget resolution and it was. Not only that, it was increased $200 million over the President's request. Because the House voted that I accepted that, so there has been no attempt to violate in any way the word, voice, or position of the House of Representatives.

But what has happened here is something we have fought all year long in every committee, again and again, before the Rules Committee and on the House floor, and that is if we do not control these outyear entitlement programs we can never balance this budget in the House.

What we have in this program is $25 billion of mandatory spending over the next 3¾ years. I have accepted it because the House and Senate have so voted. But when they came in and asked for $600 million more on top of the House amounts in flat violation of the Budget Act, I raised the point of order to protect the budget process.

Mr. Speaker, I hope that the motion of the gentleman from Texas (Mr. BROOKS) will be adopted, so that we have a flat figure for these years. Then if in fiscal year 1978 it is the will of this House and of the Senate and of the country to add $200 million more in this program, they can come in the budget cycle before the Budget Committee and vote it in; but that is the time to vote it in, in the fiscal year 1978, when it comes up in the context of the budget resolution for that year.

Mr. Speaker, in answer to the last question, we precisely put the HEW within the budget resolution amendment.

Mr. Speaker, people talk about the President's budget. That vanished a long time ago. That is a proposal by the administration. Never in the history of this country have we adopted a President's budget. It comes as a recommendation. Recommendations come to the Congress, and we act. We have a process. We have laid out our budget for the year. Let us stick by it.

Mr. Speaker, I hope we adopt the motion of the gentleman from Texas and then vote for the previous question.

Mr. HORTON. Mr. Speaker, I yield myself 3 minutes.

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## CALL OF THE HOUSE

Mr. WYDLER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 847]

Addabbo
Archer
Ashley
Beard, R.I.
Boggs
Bonker
Brown, Ca'if.
Burton, John
Cederberg
Chappell
Chisholm
Clausen, Don H.
Collins, Ill.
Conyers
Dellums
Derwinski
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Flynt
Foley
Fraser
Goldwater
Green
Gude
Guyer
Harsha
Hébert
Heinz
Hinshaw
Holland
Jarman
Johnson, Colo.
Karth
LaFalce
Leggett
McCloskey
McCollister
McDonald
McKinney
Matsunaga
Melcher
Miller, Calif.
Mink
Moakley
Morgan
Mosher
Moss
Neal
Nix
Passman
Pepper
Peyser
Railsback
Rees
Riegle
Santini
Satterfield
Scheuer
Schneebeli
Seiberling
Shuster
Smith, Nebr.
Staggers
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symms
Teague
Walsh
Waxman
Wiggins
Wilson, C. H.
Wilson, Tex.
Young, Alaska
Young, Ga.

The SPEAKER pro tempore (Mr. BOLLING). On this rollcall 349 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## CONFERENCE REPORT ON H.R. 13367, STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The SPEAKER pro tempore. The gentleman from New York (Mr. HORTON) is recognized for 3 minutes.

Mr. HORTON. Mr. Speaker, I take this time to explain briefly what the parliamentary situation is and what it is that we will be voting on.

We are talking about revenue sharing. The conference report was agreed upon by all the conferees. The agreement provided, among other things, that there would be a 3¾-year extension of revenue sharing to be passed by December 31 of this year, and second, that there would be an increase or an increment of $200 million for the last 3 years, for a total of $600 million. That agreement was arrived at in discussions with the Senate.

The Senate had provided for 5¾ years and also provided for $200 million for each of those 5¾ years. So in essence we are talking about a $600 million increase.

The gentleman from Texas (Mr. BROOKS), after the point of order was raised with regard to the $600 million, has offered an amendment or a motion which is before us now and which embodies the conference report except for the $600 million. The cities, the municipalities, and the States will share in that $600 million just as though they shared in the $6.65 billion.

In other words, the formula applies for that increment just as it does for the other recipients or revenue sharing.

Mr. Speaker, I am asking the Members to vote against the Brooks amendment and to vote for an amendment which I subsequently will offer, which will provide for the $600 million. It would also provide that it will be indexed so that it will not be subject to a point of order.

Mr. Speaker, I urge the Members to vote "no" on the Brooks amendment and vote "aye" on the amendment which I will offer, for myself and on behalf of the gentleman from North Carolina (Mr. FOUNTAIN), the chairman of the subcommittee, on behalf of the gentleman from Florida (Mr. FUQUA); a conferee and a member of the subcommittee; on behalf of the gentleman from New York (Mr. WYDLER); and also on behalf of the gentleman from Ohio (Mr. BROWN), all members of the subcommittee who also were conferees.

Mrs. SPELLMAN. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Speaker, may I make the point that the National Association of Counties, the National Governors Conference, the National League of Cities, the National Conference of State Legislatures, and the United States Conference of Mayors are all asking for a "no" vote on the Brooks amendment and are wholeheartedly in support of the Horton amendment.

Mr. HORTON. Mr. Speaker, I thank the gentlewoman from Maryland (Mrs. SPELLMAN).

There has been a point raised about

the indexing. The indexing is only for the $200 million, not for the $6.65 billion.

Mr. BROOKS. Mr. Speaker, I yield myself 5 minutes.

The SPEAKER pro tempore (Mr. BOLLING). The gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes to close debate.

Mr. BROOKS. Mr. Speaker, I am strenuously opposed to the suggestion that the problem with the Budget Act would be resolved by the circumventing method of injecting a whole new concept into the revenue sharing legislation.

I can appreciate the objectives of the proponents of the proposal. I recognize that it appears to be within the dollar limits of the agreement reached in conference.

Mr. Speaker, if that were the only issue, I might find it much more acceptable. However, for the first time, this proposal would tie revenue sharing funds to some external index. This concept is not contained in the present law. It was not in the House bill, it was not in the Senate bill; and I do not believe that we should embark on a totally new concept at this late date.

Furthermore, Mr. Speaker, even though the provisions may technically qualify within the words of the Budget Act, the effect of this effort is no different from the provisions of the conference report. If we add an index formula, it is going to increase the entitlements for fiscal years 1978, 1979, and 1980 above the base level of $6.65 billion, which is precisely the reason that the point of order was sustained on the proposition proposed by the conference.

Mr. Speaker, there is no way that it can be of any value other than to serve as a vehicle for raising entitlements and, therefore, effectively breaching and thwarting the purpose of the Budget Act.

Mr. Speaker, I warned the conferees at the time that an incremental increase was included that it might be in violation of the Budget Act and would, therefore, give us a problem on the House floor. I did not support the provision, but the majority prevailed.

In carrying out my responsibilities as chairman of that conference, I have presented the conference report as agreed to by the conferees of the House. Now that the Speaker has ruled, properly in my judgment, that this provision, the $600 million add-on, is in violation of the Budget Act and, therefore, cannot come before us, I believe that the only way to resolve it is to delete the offending matter altogether.

Mr. Speaker, I do not believe that there is any obligation on the conferees or on the Members of this House to engage in an effort to find words that might indirectly permit us to do something that we cannot do directly.

Mr. Speaker, it is clearly understood that the President's original request for revenue sharing was $6.5 billion, and this House added another $150 million to that.

We passed the bill with $6.65 billion and sent it to the Senate. This amendment that I offer now reflects the position of the House.

It is my sincere belief that the Members should support the previous question and then support the amendment putting in the conference committee language and which gives $6.65 billion to 39,000 communities and States throughout this country and, at the same time, preserves some degree of sanctity of the budget process and some degree, minor though it is, of fiscal responsibility.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the distinguished chairman, the gentleman from Texas (Mr. BROOKS), for yielding to me.

As the gentleman knows, he and I have not always been in accord all the way through on this revenue sharing proposal. I have strongly supported this position of the House on revenue sharing so as to let the local officials make the decision about the spending of these funds. I think in terms of fiscal responsibility, commensurate with local decisionmaking, that the House position is a correct one.

There is no revenue sharing now in view of the ruling of the Chair that it is out of order in the conference report.

So, I believe it would serve us well, as Members of this House, to support the position of the House of Representatives which we voted for overwhelmingly some time ago, and to defend the House position and support the gentleman's motion. I think it will serve our local communities well and will further fiscal responsibility.

The SPEAKER pro tempore. (Mr. BOLLING). All time has expired.

Without objection the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS), that the House recede from its disagreement to the amendment of the Senate and concur therein with an amendment.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 147, nays 252, not voting 31, as follows:

[Roll No. 848]

YEAS—147

Adams
Allen
Andrews, N.C.
Archer
Ashley
Badillo
Baucus
Bauman
Bedell
Bennett
Bergland
Bevill
Bingham
Blouin
Boland
Bolling
Brademas
Breckinridge
Brinkley
Brooks
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Burton, John
Byron
Carr
Clawson, Del
Clay
Collins, Tex.
Conyers
Corman
Crane
Daniel, Dan
Danielson
Davis
Diggs
Dingell
Downing, Va.
Duncan, Oreg.
Eckhardt
Edwards, Calif.
English
Evans, Ind.
Fascell
Findley
Fithian
Flowers
Foley
Ford, Mich.
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Hall, Tex.
Hamilton
Hansen
Hayes, Ind.
Hechler, W. Va.
Hefner
Hicks
Hightower
Hughes
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jones, Ala.
Jones, N.C.
Jones, Okla.
Keys
Krebs
Krueger
Landrum
Lehman
Levitas
Long, La.
Long, Md.
Lujan
McCormack
McDonald
McFall
McKay
Madden
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Mezvinsky
Milford
Mills
Mollohan
Moorhead, Pa.
Murtha
Nichols
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Paul
Pickle
Pike
Poage
Preyer
Reuss
Roberts
Rogers
Rose
Roush
Rousselot
Roybal
Runnels
Ryan
Satterfield
Sebelius
Seiberling
Sikes
Simon
Sisk
Slack
Smith, Iowa
Stanton, James V.
Stark
Steed
Stokes
Studds
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Udall
Ullman
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
White
Wirth
Wright
Yates
Young, Ga.

NAYS—252

Abdnor
Abzug
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Aspin
AuCoin
Bafalis
Baldus
Beard, R.I.
Beard, Tenn.
Bell
Biaggi
Biester
Blanchard
Bonker
Bowen
Breaux
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton, Phillip
Butler
Carney
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Eilberg
Emery
Erlenborn
Eshleman
Fary
Fenwick
Fish
Fisher
Flood
Florio
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gilman
Goodling
Gradison
Grassley
Hagedorn
Haley
Hall, Ill.
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler, Mass.
Helstoski
Henderson
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hyde
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Kindness
Koch
Lagomarsino
Latta
Leggett
Lent
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lundine
McClory
McCloskey
McDade
McEwen
McHugh
McKinney
Madigan
Martin
Melcher
Metcalfe
Meyner
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
O'Brien
Patterson, Calif.
Perkins
Pettis
Pressler
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Schneebeli
Schroeder
Schulze
Sharp

Shipley
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steiger, Wis.
Stratton
Stuckey
Sullivan
Talcott
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Walsh
Wampler
Weaver
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

### NOT VOTING—31

Boggs
Brown, Calif.
Esch
Evans, Colo.
Evins, Tenn.
Flynt
Green
Gude
Guyer
Hébert
Heinz
Hinshaw
Holland
Karth
LaFalce
McCollister
Matsunaga
Mink
Moss
Nix
Passman
Pepper
Peyser
Rees
Scheuer
Steelman
Steiger, Ariz.
Stephens
Teague
Wilson, C. H.
Wilson, Tex.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Brown of California.

Mr. Hébert with Mr. Gude.

Mr. LaFalce with Mr. Heinz.

Mr. Moss with Mr. Esch.

Mr. Pepper with Mr. Karth.

Mr. Green with Mr. Charles Wilson of Texas.

Mr. Nix with Mr. Steelman.

Ms. Mink with Mr. Evins of Tennessee.

Mr. Charles H. Wilson of California with Mr. McCollister.

Mr. Teague with Mr. Flynt.

Mr. Matsunaga with Mr. Stephens.

Mr. Holland with Mr. Guyer.

Mr. Evans of Colorado with Mr. Peyser.

Mr. Scheuer with Mr. Steiger of Arizona.

Mr. Passman with Mr. Rees.

Messrs. **ANDREWS** of North Carolina, **SIMON**, **VIGORITO**, **MADDEN**, and **GOLDWATER** changed their vote from "nay" to "yea."

Mrs. **COLLINS** of Illinois, Messrs. **PHILLIP BURTON**, **HALL** of Illinois, and **NEAL** changed their vote from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

### MOTION OFFERED BY MR. HORTON

Mr. **HORTON**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HORTON moves that the House recede and concur in the Senate amendment to H.R. 13367, with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976".

SEC. 2. AMENDMENT OF STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.; 86 Stat. 919).

SEC. 3. ELIMINATION OF EXPENDITURE CATEGORIES.

(a) Section 103 (relating to requirement that local governments use revenue sharing funds only for priority expenditures) is repealed.

(b) Section 123(a) (relating to assurances to the Secretary of the Treasury) is amended by striking out paragraph (3).

SEC. 4. ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING.

(a) Section 104 (relating to prohibition on use of revenue sharing funds as matching funds) is repealed.

(b) Section 143(a) (relating to judicial review of withholding of payments) is amended by striking out "104(b) or".

SEC. 5. EXTENSION OF PROGRAM AND FUNDING.

(a) IN GENERAL.—Section 105 (relating to funding for revenue sharing) is amended—

(1) by inserting "or (c)" immediately after "as provided in subsection (b)" in subsection (a)(1);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) Authorization of Appropriations for Entitlements—

"(1) In general.—In the case of any entitlement period described in paragraph (3), there are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided for such entitlement period an amount equal to $6,650,000,000 times a fraction—

"(A) the numerator of which is the amount of the Federal individual income taxes collected in the last calendar year ending more than one year before the end of such entitlement period, and

"(B) the denominator of which is the amount of the Federal individual income taxes collected in the calendar year 1975. The amount determined under this paragraph is not to exceed $6,850,000,000.

"(2) Noncontiguous States adjustment amounts.—In the case of any entitlement period described in paragraph (3), there are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided for such entitlement period an amount equal to $4,780,000 times a fraction—

"(A) the numerator of which is the amount of the Federal individual income taxes collected in the last calendar year ending more than one year before the end of such entitlement period, and

"(B) the denominator of which is the amount of the Federal individual income taxes collected in the calendar year 1975.

The amount determined under this paragraph is not to exceed $4,923,759.

"(3) Entitlement periods.—The following entitlement periods are described in this paragraph:

"(A) The entitlement period beginning January 1, 1977, and ending September 30, 1977;

"(B) The entitlement period beginning October 1, 1977, and ending September 30, 1978;

"(C) The entitlement period beginning October 1, 1978 and ending September 30, 1979; and

"(D) The entitlement period beginning October 1, 1979 and ending September 30, 1980.

"(4) Short entitlement period.—In the case of an entitlement period of 9 months which follows an entitlement period of 6 months—

"(A) the amount determined under paragraph (1) for such 9 month period shall be reduced by one-half the amount appropriated for such 6-month period under subsection (b)(1), and

"(B) the amount determined under paragraph (2) for such entitlement period shall be reduced by one-half the amount appropriated for such 6-month entitlement period under subsection (b)(2)."

(4) by inserting "; AUTHORIZATIONS FOR ENTITLEMENTS" in the heading of such section immediately after "APPROPRIATIONS".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 106 (relating to general rule for allocation among States) is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Paragraph (1) of section 106(b) (relating to general rule for determining allocable amounts) is amended to read as follows:

"(1) IN GENERAL.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if—

"(A) in the case of an entitlement period beginning before December 31, 1976, the amount allocable to such State under paragraph (3) is greater than the sum of the amounts allocable to such State under paragraph (2) and subsection (c); and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, the amount allocable to such State under paragraph (3) is greater than the amount allocable to such State under paragraph (2).".

(3) Paragraph (1) of section 106(c) (general rule for noncontiguous State adjustment) is amended to read as follows:

"(1) IN GENERAL.—In addition to the amounts allocated to the States under subsection (a), there shall be allocated for each entitlement period an additional amount to any State in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code—

"(A) in the case of an entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(2), if the allocation of such State under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection; and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(2).".

(4) Section 106(c)(2) (relating to amount of noncontiguous State adjustments) is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)", and

(B) by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "beginning before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977.".

(5) Section 108(b)(6)(D)(i) (relating to entitlements less than $200) is amended by inserting after "6 months" the following: "$150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) (relating to optional formula for allocation among local governments) is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1980,".

(7) Section 141(b) (relating to definition of "entitlement period") is amended by in-

serting at the end thereof the following new paragraphs:

"(6) The period beginning January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning October 1 of 1977, 1978, and 1979.".

Sec. 6. Special Entitlement Rules.

(a) State Maintenance of Transfers to Local Governments.—

(1) Paragraph (1) of section 107(b) (relating to general rule for State maintenance of transfers to local governments) is amended to read as follows:

"(1) General rule.—

"(A) Pre-1977 entitlement period.—The entitlement of any State government for any entitlement period beginning on or after July 1, 1973, and before December 31, 1976, shall be reduced by the amount (if any) by which—

"(i) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

"(ii) the similar aggregate amount for the one-year period beginning July 1, 1971.

"(B) Post-1976 entitlement periods.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

"(i) one-half of the aggregate amounts transferred by the State government (out of its own sources) during the 24-month period ending on the last day of the last fiscal year of such State for which the relevant data are available (in accordance with regulations prescribed by the Secretary) on the first day of such entitlement period, to all units of local government in such State, is less than,

"(ii) one-half of the similar aggregate amount for the 24-month period ending on the day before the start of the 24-month period described in clause (i).

"(C) For purposes of subparagraphs (A) (i) and (B) (i), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.".

(2) Section 107(b) (2) (relating to adjustment where State assumes responsibility for category of expenditures) is amended—

(A) by striking out "under paragraph (1) (B)" and inserting in lieu thereof "under paragraph (1) (A) (ii) or (1) (B) (ii)"; and

(B) by striking out "the one-year period beginning July 1, 1971," and inserting in lieu thereof "the period utilized for purposes of such paragraph".

(3) Section 107(b) (3) (relating to adjustments in the case of new taxing powers) is amended by striking out "paragraph (1) (B)" and inserting in lieu thereof "paragraph (1) (A) (ii) (in the case of an entitlement period beginning before December 31, 1976) or paragraph (1) (B) (ii) (in the case of an entitlement period beginning on or after January 1, 1977)".

(4) Section 107(b) (relating to State maintenance of support to local governments) is amended by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively, and by inserting after paragraph (5) the following new paragraphs:

"(6) Special rule for the period beginning January 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amounts taken into account under clauses (i) and (ii) of paragraph (1) (B) shall be three-fourths of the amount which (but for this paragraph) would be taken into account.

"(7) Adjustment where Federal Government assumes responsibility for category of expenditures.—If, for an entitlement period beginning on or after January 1, 1977, a State government establishes to the satisfaction of the Secretary that during all or part of the period utilized for purposes of paragraph (1) (B) (i), the Federal Government has assumed responsibility for a category of expenditures for which such State government transferred amounts which (but for this paragraph) would be included in the aggregate amount taken into account under paragraph (1) (B) (ii) for the period utilized for purposes of such paragraph, then (under regulations prescribed by the Secretary) the aggregate amount taken into account under paragraph (1) (B) (ii) shall be reduced to the extent that increased Federal Government spending in that State for such category of expenditures has replaced corresponding amounts which such State government had transferred to units of local government during the period utilized for purposes of paragraph (1) (B) (ii).".

(b) Waivers by Indian Tribes and Alaskan Native Villages.—

(1) Paragraph (4) of section 108(b) (relating to Indian tribes and Alaskan native villages) is amended by striking out the last sentence.

(2) Paragraph (6) (D) of such section (relating to effect of waivers) is amended by adding at the end thereof the following: "If the entitlement of an Indian tribe or Alaskan native village is waived for any entitlement period by the governing body of that tribe or village, then the amount of such entitlement for such period shall (in lieu of being paid to such tribe or village) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such tribe or village is located.".

(c) Separate Law Enforcement Officers.—

(1) General rule.—Section 108 (relating to entitlements of local governments) is amended by adding at the end thereof the following new subsection:

"(e) Separate Law Enforcement Officers—

"(1) Entitlement of separate law enforcement officers.—The office of the separate law enforcement officer for any county area in the State of Louisiana, other than the parish of East Baton Rouge, shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 15 percent of the amount which would (but for the provisions of this subsection) be the entitlement of the government of such county area. The office of the separate law enforcement officer for the parish of East Baton Rouge shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 7.5 percent of the sum of the amounts which would (but for the provisions of this subsection) be the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each such entitlement period.

"(2) Reduction of entitlement of county government.—The entitlement of the government of a county area for an entitlement period shall be reduced by an amount equal to one half of the entitlement for the separate law enforcement officer for such county area for such entitlement period. For the purpose of applying this paragraph to the parish of East Baton Rouge, Louisiana, the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each entitlement period shall each be reduced by an amount equal to 3.75 percent of the amount which would (but for the provisions of this paragraph) be the entitlement of each such government.

"(3) Reduction of entitlement of State government.—The entitlement of the State government of Louisiana for an entitlement period shall be reduced by an amount equal to the sum of the reductions provided under paragraph (2) for governments of county areas in such State for such entitlement period. For purposes of this paragraph—

"(A) the reductions provided under paragraph (2) for the governments of Baton Rouge, Baker, and Zachary, Louisiana, shall be considered as reductions of entitlements of governments of county areas, and

"(B) the entitlement of the parish of Orleans for an entitlement period shall be considered to have been reduced by an amount equal to the additional amount provided for such parish for that entitlement period under paragraph (4).

"(4) Entitlement of parish of Orleans.—In the case of the parish of Orleans, Louisiana, paragraphs (1) and (2) shall not apply, and such parish shall be entitled to receive, for each entitlement period beginning after December 31, 1976, an additional amount equal to 7.5 percent of the amount which would otherwise be the entitlement of such parish.".

(2) Conforming amendments.—

(A) Section 108(b) (7) (A) (relating to general rule for adjustment of entitlement) is amended by striking out "and any adjustment required under paragraph (6) (D) last." and inserting in lieu thereof "any adjustment required under paragraph (6) (D) next, and any adjustment required under subsection (e) last.".

(B) Section 108(d) (1) (defining "unit of local government") is amended by adding at the end thereof the following: "Such term also means (but only for purposes of subtitles B and C) the office of the separate law enforcement officer to which subsection (e) (1) applies.".

(C) Section 107 (relating to entitlements of State governments) is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For reduction of State government entitlement because of provision for separate law enforcement officers, see section 108(e).".

(d) Currency of Data.—

(1) Section 109(a) (7) (relating to data used and uniformity of data) is amended—

(A) in subparagraph (A) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) or (C)", and

(B) by adding at the end thereof the following new subparagraph:

"(C) Tax collections.—Data with respect to tax collections for a period more recent than the most recent reporting year for an entitlement period (as defined in subsection (c) (2) (B)) shall not be used in the determination of entitlements for such period.".

(2) Section 109(c) (2) (B) (defining "most recent reporting year") is amended by striking out "made before the close of such period." and inserting in lieu thereof "made before the beginning of such period.".

(e) Limitation on Adjustment of Payments.—Section 102 (relating to payments to State and local governments) is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) In General.—Except"; and

(2) adding at the end thereof the following new subsection:

"(b) Limitations on Adjustments.—No adustment shall be made to increase or decrease a payment made for any entitlement period beginning after December 31, 1976, to a State government or a unit of local government, unless a demand therefor shall have been made by such government or the Secretary within 1 year of the end of the entitlement period with respect to which the payment was made.".

(f) Reserves for Adjustments.—Section 102 (relating to payments to State and local governments), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(c) Reserves for Adjustments.—The

Secretary may reserve such percentage (not exceeding 0.5 percent) of the total entitlement payment for any entitlement period with respect to any State government and all units of local government within such State as he deems necessary to insure that there will be sufficient funds available to pay adjustments due after the final allocation of funds among such governments.".

(g) Recovery of Certain Overpayments.—In the case of an adjustment to decrease a payment made for an entitlement period ending before January 1, 1977, under title I of the State and Local Fiscal Assistance Act of 1972 to a unit of local government (as defined in section 108(d)(1) of that Act), the amount of such adjustment shall be withheld from the reserves for adjustments established by the Secretary under section 102(c) of such Act for the State within which such units of local government are located. Amounts withheld under this subsection shall be covered into the State and Local Government Fiscal Assistance Trust Fund.

### Sec. 7. Citizen Participation; Reports, Enforcement.

(a) Citizens Participation.—Section 121 (relating to reports on use of funds and publication of reports) is amended to read as follows:

### "Sec. 121. Report on Use of Funds; Publication and Public Hearings.

"(a) Reports on Use of Funds.—Each State government and units of local government which receives funds under subtitle A shall, after the close of each fiscal year, submit a report to the Secretary (which report shall be available to the public for inspection setting forth the amounts and purposes for which funds received under subtitle A have been appropriated, spent, or obligated during such period and showing the relationship of those funds to the relevant functional items in the government's budget. Such report shall identify differences between the actual use of funds received and the proposed use of such funds. Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(1) Hearing on proposed use.—Not less than 7 calendar days before its budget is presented to the governmental body responsible for enacting the budget, each State government or unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds before the governmental authority responsible for presenting the proposed budget to such body.

"(2) Budget hearing.—Each State government or unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall shall have at least one public hearing on the proposed use of such funds in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to ask questions concerning the entire budget and the relation thereto of funds made available under subtitle A. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) Waiver.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitle A in relation to its entire budget.

"(c) Notification and Publicity of Public Hearings; Access to Budget Summary and Proposed Use of Funds.—

"(1) In general.—Each State government and unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall—

(A) at least 10 days prior to the public hearing required by subsection (b)(2)—

"(b) Public Hearings Required.—

"(i) publish, in at least one newspaper of general circulation, the proposed uses of funds made available under subtitle A together with a summary of its proposed budget and a notice of the time and place of such public hearings; and

"(ii) make available for inspection by the public at the principal office of such State government or unit of local government a statement of the proposed use of funds, together with a summary of its proposed budget; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) make a summary of the adopted budget, including the proposed use of funds made available under subtitle A, available for inspection by the public at the principal office of such State government or unit of local government; and

"(ii) publish in at least one newspaper of general circulation a notice of the availability for inspection of the information referred to in clause (i).

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use of funds and the summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible. In addition, the 10-day provisions of paragraph (1)(A) may be modified to the maximum extent necessary to comply with applicable State and local law if the Secretary is satisfied that the citizens of such State or local government will receive adequate notification of the proposd use of funds consistent with the intent of this section.

"(d) Report Submitted to the Governor.—The Secretary shall furnish to the Governor of the State in which any unit of local government which receives funds under subtitle A is located, a copy of each report filed with the Secretary as required under subsection (a), in such manner and form as the Secretary may prescribe by regulation.

"(e) Budgets.—The Secretary shall promulgate regulations for the application of this section to circumstances under which the State government or unit of local government does not adopt a budget.

"(f) Report of the Secretary.—The Secretary shall include with the report required under section 105(a)(2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of—

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of such section;

"(3) the manner in which funds distributed under subtitle A have been distributed in recipient jurisdictions; and

"(4) any significant problems arising in the administration of the Act and the proposals to remedy such problems through appropriate legislation.

"(g) Participation by Senior Citizens.—In conducting any hearing required under this section, or under its own budget processes, a State or unit of local government shall endeavor to provide senior citizens and their organizations with an opportunity to be heard prior to the final allocation of any funds provided under the Act pursuant to such a hearing.".

(b) Enforcement.—Subtitle B (relating to administrative provisions) is amended by adding at the end thereof the following new sections:

### "Sec. 124. Private Civil Actions.

"(a) Standing.—Whenever a State government or a unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

"(b) Relief.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspensions, termination, or repayments of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) Intervention by Attorney General.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

"(d) Exhaustion of Administration Remedies.—As used in this section, administrative remedies shall be deemed to be exhausted upon the expiration of 90 days after the date the administrative complaints were filed with the Secretary or with an Agency with which the Secretary has an agreement under section 122(h) if, within such period, the Secretary or such Agency—

"(1) issues a determination that such Government under unit has not failed to comply with this Act; or

"(2) fails to issue a determination on such complaint.

"(e) Attorney Fees.—In any action under this section to enforce section 122(a), the court, in its discretion, may allow to the prevailing party, other than the United States, reasonable attorney fees, and the United States shall be liable for fees and costs the same as a private person.

### "Sec. 125. Investigations and compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits (in no event to exceed 90 days) for the Secretary to conduct an investigation and make a finding after receiving a complaint (described in section 124(d)), a determination by a State or local administrative agency, or other information relating to the possible violation of the provisions of this Act;

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews (including investigations of allegations) relating to possible violations of the provisions of this Act.

The regulations promulgated pursuant to paragraphs (1) and (2) shall also establish reasonable and specific time limits for the Secretary to advise any complainant of the status of his investigation, audit, or review of any allegation of violation of section 122 (a) or any other provision of this Act.".

(c) JUDICIAL REVIEW.—Section 143(a) (relating to petitions for judicial review) is amended by striking out "receives a notice of withholding of payments under section 104(b) or 123(b)," and inserting in lieu thereof "receives a notice of withholding of payments under section 104(b) or 123(b) a determination under section 122(b)(3)(C) that payments be suspended, or a determination under section 122(b)(3)(D) that payments be terminated,".

SEC. 8. NONDISCRIMINATION PROVISIONS.

(a) IN GENERAL.—Section 122 (relating to nondiscrimination provisions) is amended to read as follows:

"SEC. 122. NONDISCRIMINATION PROVISIONS.

"(a) Prohibition.—

"(1) IN GENERAL.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination, on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, hereafter referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.

"(2) EXCEPTIONS.—

"(A) FUNDING.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under subtitle A.

"(B) CONSTRUCTION PROJECTS IN PROGRESS.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) DETERMINATION BY THE SECRETARY.—

"(1) NOTICE OF NONCOMPLIANCE.—Within 10 days after the Secretary has received a holding described in subsection (c)(1) or has made a finding described in subsection (c)(4), with respect to a State government or a unit of local government, he shall send a notice of noncompliance to such government setting forth the basis of such holding or finding.

"(2) PROCEDURE BEFORE SECRETARY; SUSPENSION OF PAYMENT OF REVENUE SHARING FUNDS.—Within 30 days after a notice of noncompliance has been sent to a State government or a unit of local government in accordance with paragraph (1), such government may informally present evidence to the Secretary regarding the issues of—

"(A) (except in the case of a holding described in subsection (c)(1)) whether there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973, or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, and

"(B) whether the program or activity in connection with which such exclusion, denial, discrimination, or violation is charged has been funded in whole or in part with funds made available under subtitle A.

Before the end of the such 30-day period, unless a compliance agreement is entered into with such government, the Secretary shall issue a determination as to whether such government failed to comply with subsection (a). If the Secretary determines that such government has failed to comply with subsection (a), the Secretary shall suspend the payment of funds under subtitle A to such government unless such government within the 10 day period following such determination enters into a compliance agreement or requests a hearing with respect to such determination.

"(3) HEARINGS BEFORE ADMINISTRATIVE LAW JUDGE; SUSPENSION OR TERMINATION OF PAYMENT OF REVENUE SHARING FUND.—

"(A) Hearings requested by a State government or a unit of local government pursuant to paragraph (2) shall begin before an administrative law judge within 30 days after the Secretary receives the request for the hearing.

"(B) Within 30 days after the beginning of the hearing provided under subparagraph (A), the administrative law judge conducting the hearing shall, on the record then before him, issue a preliminary finding (which shall be consistent with subsection (c)(2)) as to whether such government has failed to comply with subsection (a). If the administrative law judge issues a preliminary finding that such government is not likely to prevail, on the basis of the evidence presented, in demonstrating compliance with subsection (a), then the Secretary shall suspend the payment of funds under subtitle A to such government. No such preliminary finding shall be issued in any case where a determination has previously been issued under subparagraph (C).

"(C) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement before the 31st day after such issuance, the Secretary, subject to the provisions of subparagraph (D), shall suspend the payment of funds under subtitle A to such government; if a suspension in accordance with subparagraph (B) is still in effect, then, subject to the provisions of subparagraph (D), that suspension is to be continued.

"(D) In the event of a determination described in subparagraph (C), the administrative law judge may, in his discretion, order the terminaton of payment of funds under subtitle A to such government or unit.

"(E) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that there has not been a failure to comply with subsection (a), and a suspension is in effect in accordance with subparagraph (B), such suspension shall be promptly discontinued.

"(c) HOLDING BY COURT OR GOVERNMENTAL AGENCY; FINDING BY SECRETARY.—

"(1) DESCRIPTION.—A holding is described in this paragraph if it is a holding by a Federal Court, a State Court, or a Federal administrative law judge, with respect to a State government or a unit of local government which expends funds received under subtitle A that such government has, in the case of a person in the United States, excluded such person from participation in, denied such person the benefits of, or subjected such person to discrimination under any program or activity on the ground of race, color, national origin, or sex, or violated any prohibition against discrimination (A) on the basis of age under the Age Discrimination Act of 1975 or (B) with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973 or (C) on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, in connection with any such program or activity.

"(2) EFFECT ON PROCEEDINGS OR HEARING.—If there has been a holding described in paragraph (1) with respect to a State government or a unit of local government, then, in the case of proceedings by the Secretary pursuant to subsection (b)(2) or a hearing pursuant to subsection (b)(3) with respect to such government, such proceedings or such hearing shall relate only to the question of whether the program or activity in which the exclusion, denial, discrimination, or violation occurred is funded in whole or in part with funds made available under subtitle A. In such proceedings or hearing, the holding described in paragraph (1), to the effect that there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination (A) on the basis of age effected by the Age Discrimination Act of 1975, (B) with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973(C) on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, shall be treated as conclusive.

"(3) EFFECT OF REVERSAL.—If a holding described in paragraph (1) is reversed by an appellate tribunal, then proceedings under subsection (b) which are dependent upon such holding shall be discontinued; any suspension or termination of payments resulting from such proceedings shall also be discontinued.

"(4) FINDING BY SECRETARY.—A finding is described in this paragraph if it is a finding by the Secretary with respect to a complaint referred to in section 124(d), a determination by a State or local administrative agency, or other information (pursuant to procedures provided in regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of local government has failed to comply with subsection (a).

"(d) COMPLIANCE AGREEMENT.—For purposes of this section and section 124, a compliance agreement is an agreement between—

"(1) the governmental office or agency responsible for prosecuting the claim or compaint which is the basis of the holding described in subsection (c)(1) and the chief executive officer of the State government or the unit of local government that has failed to comply with subsection (a), if such agreement is approved by the Secretary, or

"(2) the Secretary and such chief executive officer, setting forth the terms and conditions with which such government or unit has agreed to comply that would satisfy the obligations of such government under subsection (a). Such agreement shall cover all the matters which had been determined or would constitute failures to comply with subsection (a), and may consist of a series of agreements which, in the aggregate, dispose of all such matters. Within 15 days after the execution of such agreement (or, in the case of an agreement under paragraph (1), the approval of such agreement by the Secretary, if later), the Secretary shall send a copy of such agreement to each person who has filed a complaint referred to in section 124(d) with respect to such failure to comply with subsection (a), or, in the case of an agreement under paragraph (1), to each person who has filed a complaint with the governmental office or agency (described in such paragraph) with respect to such failure to comply with subsection (a).

"(e) Resumption of Suspended Payments.—If payment to a State government or a unit of local government of funds made available under subtitle A has been suspended under subsection (b)(2) or (b)(3), payment of such funds shall be resumed only if—

"(1) such government enters into a compliance agreement (but only at the times and under the circumstances set forth in such agreement, or, in the case of any agreement under subsection (d)(1), only at the times and under the circumstances set forth in the Secretary's approval of such agreement);

"(2) such government complies fully with the holding of a Federal or State court, or Federal administrative law judge, if that holding covers all the matters raised by the Secretary in the notice pursuant to subsection (b)(1), or if such government is found to be in compliance with subsection (a) by such court or Federal administrative law judge;

"(3) in the case of a hearing before an administrative law judge under subsection (b)(3), the judge determines that such government is in compliance with subsection (a); or

"(4) the provisions of subsection (c)(3) (relating to reversal of holding of discrimination) require such suspension of payment to be discontinued.

For purposes of this section, compliance by a government may include the satisfying of a requirement of the payment of restitution to persons injured by the failure of such government to comply with subsection (a).

"(f) Resumption of Terminated Payments.—If payment to a State government or unit of local government of funds made available under subtitle A has been terminated under subsection (b)(3)(D), payment of such funds shall be resumed only if the determination resulting in such termination is reversed by an appellate tribunal.

"(g) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or a unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under subtitle A, or placing any further payments under subtitle A in escrow pending the outcome of the litigation.

"(h) Agreements Between Agencies.—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary of any actions instituted by such agencies against a State government or a unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.";

### Sec. 9. Accounting and Auditing Provisions.

Section 123(c) (relating to accounting, auditing, and evaluation) is amended—

(1) by redesignating paragraph (2) as paragraph (9), and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) Independent audits.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977 (other than a government to which an election under paragraph (2) applies with respect to such entitlement period), shall have an independent audit of its financial statements conducted for the purpose of determining compliance with this title, in accordance with generally accepted auditing standards, not less often than once every 3 years.

"(2) Election.—Paragraph (1) shall not apply to any State or unit of local government whose financial statements are audited by independent auditors under State or local law not less often than every 3 years, if (A) such government makes an election under this paragraph that the provisions of paragraph (1) shall not apply, and (B) such government certifies that such audits under State or local law will be conducted in accordance with generally accepted auditing standards. Such election shall include a brief description of the auditing standards to be applied. Such election shall apply to audits of funds received under subtitle A for such entitlement periods as are specified in such election and as to which such State or local law auditing provisions are applicable.

"(3) Series of audits.—If a series of audits conducted over a period not exceeding 3 fiscal years covers, in the aggregate, all of the funds of accounts in the financial activity of such a government, then such series of audits shall be treated as a single audit for purposes of paragraph (1) and paragraph (2).

"(4) Entitlements under $25,000.—

"(A) The requirements of paragraph (1) shall not apply to a State government or unit of local government for any fiscal period in which such government receives less than $25,000 of funds made available under subtitle A, unless subparagraph (B) applies for such fiscal period.

"(B) In the case of a fiscal period which is described in subparagraph (A), if State or local law requires an audit of such government's financial statements, then the conducting of such audit shall constitute compliance with the requiremens of paragraph (1).

"(5) Waiver.—The Secretary may waive the requirements of paragraph (1) or paragraph (2), in whole or in part, with respect to any State government or unit of local government for any fiscal period as to which he finds (in accordance with regulations prescribed by the Secretary) (A) that the financial accounts of such governments for such period are not auditable, and (B) that such government demonstrates substantial progress toward making such financial accounts auditable.

"(6) Coordination with other federally requested audits.—An audit of the financial statements of a State government or unit of local government for a fiscal period, conducted in accordance with the provisions of any Federal law other than this title, shall be accepted as an audit which satisfies the requirements of paragraph (1) with respect to the fiscal period for which such audit is conducted, if such audit substantially complies with the requirements for audits conducted under paragraph (1).

"(7) Audit opinions.—Any opinions rendered with respect to audits made pursuant to this subsection shall be provided to the Secretary, in such form and at such times as he may require.

"(8) Comptroller general shall review compliance.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title".

### Sec. 10. Miscellaneous Provisions.

(a) Budget Act.—In accordance with section 401(d)(2) of the Congressional Budget Act of 1974 (31 U.S.C. 1351(d)(2); 88 Stat. 297, 318), subsections (a) and (b) of section 401 of such Act shall not apply to this Act.

(b) Definition of "Unit of Local Government".—Section 108(d)(1) (defilning "unit of local government") is amended by striking out "municipality, township, or other unit of local government below the State which is a unit of general government" and inserting in lieu thereof "municipality, or township, which is a unit of general government below the State".

### Sec. 11. Study of Revenue Sharing and Federalism.

Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

### "Sec. 145. Study of Revenue Sharing and Federalism.

"(a) Study.—The Advisory Commission on Intergovernmental Relations shall study and evaluate the American Federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including, but not limited to, a study and evaluation of—

"(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of other Federal Government systems;

"(2) State and local governmental organization from both legal and operational viewpoints to determine how general local governments do and ought to relate to each other, to special districts, and to State governments in terms of service and financing responsibilities, as well as annexation and incorporation responsibilities;

"(3) the effectiveness of Federal Government stabilization policies on State and local areas and the effects of State and local fiscal decisions on aggregate economic activity;

"(4) the legal and operational aspects of citizen participation in Federal, State, and local government fiscal decisions;

"(5) forces likely to affect the nature of the American Federal system in the short-term and long-term future and possible adjustments to such system, if any, which may be desirable, in light of future developments.

"(b) Cooperation of Other Federal Agencies.—

"(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

(2) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

(3) The Administrator of General Services shall provide to the Commission, on a reimburseable basis, such administrative support services as the Commission may request.

(c) Reports.—The Commission shall submit to the President and the Congress such interim reports as it deems advisable, and not later than three years after the day on which the first appropriation is made available under subsection (d), a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation as it deems advisable.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission, effective with the fiscal year beginning October 1, 1977, such sums as may be necessary to carry out the provisions of this section.".

SEC. 12. PROHIBITION ON USE FOR LOBBYING PURPOSES.

Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

(e) PROHIBITION OF USE FOR LOBBYING PURPOSES.—No State government or unit of local government may use any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A.".

SEC. 13. EFFECTIVE DATES.

(a) Except as otherwise provided in this Act, the amendments made by this Act shall apply to entitlement periods beginning on or after January 1, 1977.

(b) The amendment made by section 11 takes effect on February 1, 1977.

Mr. HORTON (during the reading). Mr. Speaker, I move that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore (Mr. BOLLING). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. HORTON) will be recognized for 30 minutes, and the gentleman from Texas (Mr. BROOKS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York.

Mr. HORTON. Mr. Speaker, this is the amendment that was referred to during the discussion and debate on the Brooks amendment. In essence, what we are doing is restoring the $600 million and indexing it to tax collections. This amendment is being offered on behalf of myself, the gentleman from North Carolina (Mr. FOUNTAIN), the gentleman from Florida (Mr. FUQUA), the gentleman from New York (Mr. WYDLER), and the gentleman from Ohio (Mr. BROWN).

Mr. Speaker, I urge the Members to vote for the amendment.

Mr. FOUNTAIN. Mr. Speaker, I join with the gentleman from New York (Mr. HORTON) in sponsoring this amendment to restore the $200 million a year increment to the conference report by a method that will not in any way violate the Budget Act. It is our understanding that by indexing future increments, beginning in fiscal year 1978, to Federal personal income tax collections with a $200 million a year ceiling, this amendment does not violate the Budget Act and, therefore, is not subject to a point of order.

As I stated earlier, when we agreed to add a total of $600 million for the entire 3¾-year renewal period to help offset to a small degree the impact of inflation, the House conferees acted in the belief that this would not violate the Budget Act. We agreed to the very minimum increase that we thought the Senate would accept in view of the fact that the House side had refused to compromise on the other major issue involving the number of years by which the revenue sharing program would be extended.

Because of these circumstances and the fact that every House member of the conference committee voted for the $200 million a year compromise, I think we have an obligation to honor this commitment. Furthermore, the conference report is a big victory for the House.

I strongly urge my colleagues to back your conference committee by voting for the amendment offered by the gentleman from New York (Mr. HORTON), myself, Mr. FUQUA of Florida, Mr. WYDLER of New York, and Mr. BROWN of Ohio. Again moneywise and otherwise the conference report was signed by all conferees, including my close friend and able colleague, the gentleman from Texas, (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I want to say that this amendment has the same purpose as the original $600 million escalator. What this amendment does, if I can understand it—it is a little involved and the gentleman did not explain too much about the details of it—it ties revenue sharing to an index of individual income taxes, and Mickey Mouses around so as to get around the parliamentary restrictions and so, in effect, allow the revenue-sharing funds to be increased above that amount passed by the House, above $6,650,000,000.

It will be in violation of the Budget Act, but not in a manner in which we can raise a point of order against it. So, I would say that it is an interesting amendment.

I would ask one question of my distinguished friend from New York: Does he feel that this amendment guarantees that the $6.65 billion will be retained as a base?

Mr. HORTON. The formula was drafted in such a way as to make it a practical impossibility to go below $6.65 billion, the figure originally approved by the House of Representatives.

Mr. BROOKS. It is my reading of the amendment that technically and legally there is no guaranteed base entitlement amount. I would say further, however, that this is just another effort to increase the budget. I think it is a little unconscionable, and I would say that I do not believe we can print enough money or get enough empty bushel baskets to satisfy the people who would like to add to this and add to it and add to it.

I regret that position, and say that I would ask Members to vote against this amendment with the hope that we can stay with the House position rather than escalate this rather expensive policy.

Mr. DERWINSKI. Mr. Speaker, as the Congress prepares to adopt an extension to the revenue-sharing program, I use this time to emphasize my support for the continuation of the program. I want to direct the attention of the Members to a very positive local use of revenue-sharing funds.

I am specifically referring to the use of revenue-sharing funds in fields such as low cost health service which can be made available at a local level through proper allocation of revenue-sharing funds. A pioneer in this field is the township of Stickney in Cook County, Ill., which has had a low cost local health service within the township for 29 years and which is now allocating its revenue-sharing funds for this purpose. I insert as part of my remarks a resolution adopted by the township officials organization of Cook County which properly commends the Stickney township public health district program. The resolution follows:

1976 T.O.C.C. RESOLUTION NO. 12

Whereas, under the Public Health Chapter of the Illinois Revised Statutes (Chapter 1114), there is a mechanism to erect public health districts in towns of 75,000 population or more, or in two or more towns with a combined population of 75,000 or more;

Whereas, the formation of a district can only be approved by the voters of a town or towns at a referendum which can only be held in conjunction with the quadrennial election of town officers;

Whereas, health is one of the priority areas for the expenditures of Federal Revenue Sharing funds under the 1972 State and Local Fiscal Assistance Act and it continues to be highly important in the proposed 1976 Act;

Whereas, the ongoing struggle to properly administer the mass vaccination program to prevent the "swine flu" epidemic has produced a disappointing record for the agencies currently organized to provide public health protection in the suburban Cook County area;

Whereas, the Stickney Township Public Health District has been an impressive example of how the health of township residents can be protected by a township public health district;

Whereas, the fame of the Stickney Township Public Health District has been heralded by the metropolitan and national media as a model health providing facility;

Whereas, existing township laws can only authorize limited health services to township residents under general assistance or revenue sharing auspices;

Now therefore be it resolved by the township officials of Cook County that we encourage each township government to investigate the health needs of its residents and to determine whether to seek the formation of public health districts either for its township residents or in cooperation with other township governments to meet the 75,000 population requirement.

The Resolution Committee recommends: Do pass.

Mr. CONTE. Mr. Speaker, I rise in support of this conference report on this measure to extend the Fiscal Assistance Act.

When this legislation was first proposed, I was one of its strongest advocates; I even traveled around the country selling this program to local officials, helping to create a grassroots local constituency for revenue sharing. Revenue sharing has become a widely accepted idea, with vast bipartisan support at the Federal, State, and local levels. I strongly urge its renewal.

Mr. Speaker, the premise of revenue sharing is that Federal funds are to be spent locally by citizens participating through their local governments. To a large degree that premise has been met, although I still have reservations about the unnecessary participation of State governments in the general revenue-sharing program.

The second premise, and one which has clearly borne fruit, is the shift of funding for local services and needs from more regressive revenue bases such as sales and property taxes to the more progressive Federal income tax.

Since its inception, the general revenue-sharing program has provided approximately $22 billion to 38,000 State and local governments. Administered with fewer than 100 people and a computer, this program sets a record for Federal bureaucratic efficiency.

In this Bicentennial Year, the general revenue-sharing program should be acclaimed as the centerpiece of our reaffirmation of the federal system of government—a system which attempts to meet its manifold responsibilities while maintaining maximum power with the people. I urge the adoption of this conference report, and insert at this point a chart of estimated general revenue-sharing entitlements for the first year under this extension for towns in my district:

| | |
|---|---|
| Berkshire County | $316, 820 |
| North Adams | 428, 872 |
| Pittsfield | 1, 324, 842 |
| Adams | 205, 274 |
| Becket | 23, 498 |
| Alford | 9, 138 |
| Cheshire | 25, 938 |
| Clarksburg | 22, 298 |
| Dalton | 139, 218 |
| Egremont | 15, 064 |
| Florida | 24, 882 |
| Great Barrington | 167, 990 |
| Hancock | 4, 770 |
| Hinsdale | 20, 908 |
| Lanesboro | 39, 598 |
| Lee | 109, 750 |
| Lenox | 86, 132 |
| Monterey | 11, 296 |
| Mt. Washington | 1, 700 |
| New Ashford | 2, 160 |
| New Marlboro | 12, 570 |
| Otis | 17, 506 |
| Peru | 7, 612 |
| Richmond | 9, 390 |
| Sandisfield | 10, 494 |
| Savoy | 5, 366 |
| Sheffield | 29, 588 |
| Stockbridge | 42, 084 |
| Tyringham | 10, 388 |
| Washington | 3, 906 |
| W. Stockbridge | 15, 720 |
| Williamstown | 97, 486 |
| Windsor | 8, 952 |
| Ashfield | 14, 266 |
| Bernardston | 33, 672 |
| Buckland | 32, 554 |
| Charlemont | 13, 150 |
| Colrain | 32, 434 |
| Conway | 10,, 060 |
| Deerfield | 57, 832 |
| Erving | 11, 456 |
| Franklin County | 178, 746 |
| Gill | 16, 134 |
| Greenfield | 436, 026 |
| Hawley | 1, 416 |
| Heath | 8, 782 |
| Leverett | 21, 338 |
| Leyden | 2, 002 |
| Monroe | 7, 264 |
| Montague | 162, 786 |
| New Salem | 10, 272 |
| Northfield | 36, 736 |
| Orange | 88, 456 |
| Rowe | 10, 598 |
| Shelburne | 29, 892 |
| Shutesbury | 14, 840 |
| Sunderland | 52, 928 |
| Warwick | 8, 844 |
| Warwick | --------- |
| Whateley | 16, 448 |
| Hampshire County | 358, 500 |
| Northampton | 647, 992 |
| Amherst | 440, 234 |
| Belchertown | 126, 962 |
| Chesterfield | 17, 606 |
| Cummington | 12, 648 |
| Easthampton | 222, 214 |
| Goshen | 12, 438 |
| Granby | 83, 116 |
| Hadley | 41, 186 |
| Hatfield | 37, 650 |
| Huntington | 18, 298 |
| Middlefield | 5, 940 |
| Pelham | 9, 144 |
| Plainfield | 8, 036 |
| Southampton | 48, 660 |
| South Hadley | 207, 706 |
| Ware | 129, 370 |
| Westhampton | 13, 642 |
| Williamsburg | 19, 906 |
| Worthington | 12, 476 |
| Hampden County | 976, 332 |
| Holyoke | 1, 094, 368 |
| Westfield | 543, 768 |
| Agawam | 519, 414 |
| Blandford | 11, 722 |
| Chester | 25, 260 |
| Granville | 17, 920 |
| Russell | 35, 406 |
| Southwick | 103, 392 |
| Tolland | 6, 948 |
| West Springfield | 582, 626 |

Mr. FISHER. Mr. Speaker, I rise to support the conference report on the extension of the general revenue sharing program. Having observed this program closely, first as an elected member of a local government and now as a Member of the House of Representatives, I remain strongly of the opinion that this program has been and will continue to be of great value to our States and localities.

It should be kept in mind that Federal aid to States and localities continues to be mainly for specific categorical programs or blocks of programs. The general revenue expenditures by the States represents a fraction of the total, but is especially important because it allows the States and localities to apply the funds according to their priorities. If some of this money is not spent wisely, and I am sure there will be a little, I believe it will still be spent at least as wisely as money spent for the assortment of categorcial programs whose relative importance is decided at the Federal level. But, there is a place for both types of Federal assistance.

The principle difference of opinion at this stage, after both Houses have acted on the original revenue sharing bills and on the conference report, concerns whether or not there should be a modest increase in available funds year by year to offset what is likely to be a continuing inflation. The fiscal year 1977 will not be affected because the annual increases will not begin until fiscal year 1978. For that year and the 2 following years an additional $200 million would be made available, a little more than 3 percent of the total of $6.6 billion per year. The present projections of both the administration and the Congressional Budget Office are for inflation to be moving at 4 to 6 percent annually during the next several years so that the revenue sharing increments will make up for only about half or a little more of the anticipated inflation.

As a further protection against any undue increases being built into the program for the next several years, it will be possible to review the matter each year in the light of inflation trends, the fiscal outlook, and other relevant factors. For those who are worried that projected budget outlay ceilings for 1978 and beyond will be breached, it has to be pointed out that the Congress will address budget resolutions for those years when the time comes. Meantime the modest increases that are being recommended by the conference committee will make possible a more orderly planning of general revenue expenditures by the states and localities.

Furthermore, the Senate members of the conference committee, reflecting the Senate version of the general revenue sharing bill, have indicated they will insist on the small annual step-up in amount as part of the agreement by which they receded to the House view that the program should be extended for 3¾ years rather than for a longer time.

In all, the measure deserves support of all Members who believe some of the Federal funds used to aid States and localities should be provided so that they can be used the way the States and localities think would bring the greatest returns to their people. I urge support of the measure.

Mr. KOCH. Mr. Speaker, I would like to advise our colleagues that the Gravel-Koch amendment on religious discrimination is included in this conference report, so that church-related schools, homes for the aging, and child-care institutions will not be adversely affected as might have been the case had the original House version prevailed. Furthermore, I am pleased to note that this conference report also includes provisions which require an independent financial audit of the budgets of all cities and States receiving revenue sharing money at least every 3 years. I originally proposed this requirement last March, and Representative EDWARD MEZVINSKY of Iowa and I introduced legislation which Representative MEZVINSKY persuaded the committee to adopt as an amendment to the bill. In conference with the Senate, the language was modified, but the basic aim of our proposal remains: that every city and town receiving revenue sharing funds should be required to meet at least certain minimum standards of financial recordkeeping and that the results of these audits will be available to the public. I am very pleased that these auditing provisions and the Gravel-Koch amendment on religious discrimination have been included in this conference report.

Because of my recent involvement in the issues revolving around the religious discrimination provision, I would like to call to the attention of the House a letter which appeared in the New York Times, authored by Msgr. Harry J. Byrne, pastor of the St. Joseph's Church of Yorkville, who happens not only to be a leading churchman in the city of New York but a good friend of mine. Indeed in the month of October my traveling constituent office will be located in the rectory of the St. Joseph's church for the convenience of my constituents in that area.

His letter deals with the constitutional dilemma that we face in attempting to permit our parochial schools to continue to function by aiding them with Federal financial assistance. His letter is very compelling and strikes a reasonable balance between the establishment and free exercise clauses of our Bill of Rights. I along with him hope that the U.S. Supreme Court can restore a more equitable balance. A copy of his letter follows:

OF CHURCH, STATE, AND COOPERATION

*To the Editor:*

The recent decision of a Federal District Court banning actual cost reimbursement to religious non-public schools for state-required attendance and test reporting while permitting the reimbursement to non-religious private schools is a serious affront to parents of children in parochial schools.

St. Joseph's of Yorkville School, with a base tuition rate of $180 a year, serving families of low and moderate income, is denied the modest reimbursement of our costs to file state-required reports, while a non-sectarian private school, an intervenor-defendant in this case, with a tuition of $2,750 a year, serving high income people, continues to receive its reimbursement.

The First Amendment protects against laws which would establish religion and against laws which would interfere with the free exercise of religion. In dealing with the establishment clause and the free exercise clause of the First Amendment, courts have often been faced with the necessity of finding "a neutral course between the two religion clauses" in situations where an absolutist approach would lead to a clash between them (*Walz* v. *Tax Commission*, 397 U.S. 664, 668–69 [1970]).

The present court decision has indeed taken an absolutist approach by viewing reimbursement for these secular activities as resulting in "the direct advancement of religion" and therefore forbidden. Perhaps the next step will be to ban fire departments from putting out fires in our parochial schools.

This court decision reflects an anti-religious Jacobin church/state doctrine of 19th-century Europe and rejects an authentic American church/state doctrine which provides for separation but also provides a basis for long-standing traditions of cooperation ranging from government provision of military, hospital, and prison chaplains to the provision of kosher food to the imprisoned Meir Kahane and the installation of Sabbath elevators in government-financed housing projects. (Sabbath elevators run automatically on the Sabbath so that observant Jews need not operate the machinery. They are substantially more expensive both to install and to operate.) These represent excellent examples of cooperation between church and state, compromises between the "establishment" and "free exercise" clauses of the First Amendment. Doctrinaire absolutism regarding the "establishment" clause is rapidly becoming destructive of an appropriate realization of the "free exercise" clause, which is nowhere mentioned in the present court decision. We hope the U.S. Supreme Court will restore the balance.

MSGR. HARRY J. BYRNE,
*Pastor, St. Joseph's Church of Yorkville, New York, June 30, 1976.*

Mr. DRINAN. Mr. Speaker, I am pleased to join my fellow managers of the conference in urging passage of the State and Local Fiscal Assistance Amendments of 1976. The final product represents many hours of hearings, markups, and debate. While the House managers yielded to the Senate on several points, I believe the result before you accurately reflects the will of this body expressed on first passage.

A great many words have been said on all features of this bill. With the indulgence of the Members, let me add a few more regarding the nondiscrimination provisions of the measure. The structure of the civil rights section follows the revisions contained in my bill, H.R. 8329. The central feature is an automatic trigger which activates administrative enforcement of the antidiscrimination provisions of the act. Although the House and Senate versions differ in certain details, both bills contain this trigger device.

In reconciling the differences between the bills, the conferees retained the trigger mechanism, derived from H.R. 8329. On the other matters, they came to a middle ground. They adopted the House concept mandating suspension on a day certain, and the Senate requirement of a preliminary hearing before suspension at which time the recipient would have the opportunity to prevent the suspension by showing likelihood of success on the merits after a full evidentiary hearing.

A second major difference between the bills involved the scope of the remedies available to the Secretary at the conclusion of the administrative process. Under the House version, the Secretary was required to terminate the funds if the recipient lost on the merits, and had the option to require repayment of funds already expended. The Senate bill required suspension of funds at the end of the process, but did not authorize termination or repayment.

Again the conferees agreed on a provision somewhere between these two positions. The final language requires suspension at the conclusion of the hearing, or in the absence of a hearing, when the Secretary makes a final determination. At this point, the compromise also authorizes the appropriate official to terminate funds or order repayment or both. The conference language expressly authorizes "payment of restitution to persons injured" by the violation, which would authorize the Secretary or the administrative law judge to order repayment of shared revenues already spent by the recipient. The quoted language would also authorize administrative orders in the nature of affirmative decrees to remedy the effects of prior discrimination. Of course, such affirmative relief should be included in any voluntary compliance agreement.

The Senate and House bills also differed in their requirements that a complainant first exhaust administrative remedies before bringing suit under section 124 of the amended act. The House provision required the complainant to wait 60 days after filing a complaint with the Secretary or another administrative agency. After the expiration of the 60 days, or if the Secretary acted on the complaint prior to the 60th day, the complainant could bring suit. The Senate bill had a 120-day exhaustion requirement which required the complainant to go both to the Secretary and the Attorney General before being able to initiate legal action in the courts.

The Senate receded to the House version with an amendment extending the waiting period to 90 days and allowing the complainant to exhaust remedies with an agency other than the Treasury if it had signed a cooperation agreement with the Secretary. Consequently under the conference agreement, a private citizen may institute court action under section 124, 90 days after filing a complaint with the Secretary or a cooperating administrative agency. Such legal actions may be filed prior to the 90th day if the Secretary or other agency makes a decision—either for or against the recipient—on the merits of the complaint before that time. Once that decision is made, the private citizen is free to go to court, no matter what the nature of the decision by the administrative agency.

Of course, it should be emphasized that the exhaustion requirement is not intended to impose any preconditions on nor diminish in any way the exercise by the courts of their equitable powers to order suspension, termination, or repayment of shared revenues in citizen actions under other provisions of law. For example, a private suit might be instituted under 42 United States Code 1983 to enjoin the discriminatory use of revenue sharing funds. In such cases, the court could suspend, terminate, or order repayment of such funds without first requiring the plaintiff to exhaust administrative remedies. In short the exhaustion requirement applies only to suits brought solely on the basis of section 124. In this connection, it should be noted that a handicapped person, for example, could bring a suit against a recipient under section 1983, invoking the prohibition in section 122, without having first exhausted her or his administrative remedies. See *Blue* v. *Craig*, 505 F.2d 830 (4th Cir. 1974).

A fourth difference concerned a provision for attorney fees in suits brought under the act. The Senate authorized such fees in actions to enforce section 122, while the House had no comparable provision. The House receded to the Senate on this section. It should be noted that the language of the attorney fee provision is substantively identical to attorney fee provisions in existing law. See 42 United States Code 2000e–5(k). Accordingly the courts should give it the same generous construction as similar provisions in current law. *Newman* v. *Piggie Park Enterprises, Inc.*, 390 U.S. 400 (1968); *Northcross* v. *Memphis Board of Education*, 412 U.S. 427 (1973); *Bradley* v. *Richmond School Board*, 416 U.S. 696 (1974); see also House Report No. 94–1558 (Sept. 15, 1976).

Finally the question arises whether the revisions made by this Act will be applicable to pending cases. It is the settled rule that statutory amendments are applied to pending cases. *Bradley* v. *Richmond School Board*, *supra*. Thus on the day these amendments become effective, the Secretary would be required to send out noncompliance notices to recipients subject to a "holding" within the meaning of section 122(c)(1), or recipients found to be in noncompliance by the Secretary pursuant to his own investigation.

The civil rights provisions break new ground in the enforcement of Federal antidiscrimination proscriptions. But ultimately such enforcement depends on the vigor of the executive branch and private citizens. I hope both will be forthcoming.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 292, nays 111, not voting 27, as follows:

[Roll No. 849]

YEAS—292

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Aspin
AuCoin
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Biaggi
Biester
Bingham
Blanchard
Blouin
Bolling
Bonker
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Butler
Byron
Carney
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
Davis
Delaney
Dellums
Dent
Derwinski
Devine
Diggs
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Eilberg
Emery
Erlenborn
Eshleman
Fary
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hyde
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Lagomarsino
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lundine
McClory
McCloskey
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Martin
Mathis
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
O'Brien
Patten, N.J.
Patterson, Calif.
Perkins
Pettis
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Schroeder
Schulze
Sharp
Shipley
Shriver
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Symington
Symms
Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—111

Adams
Archer
Ashley
Badillo
Baucus
Bennett
Bergland
Bevill
Boland
Brademas
Breckinridge
Brooks
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Carr
Chappell
Clawson, Del
Collins, Tex.
Conyers
Corman
Crane
Daniel, Dan
Danielson
de la Garza
Derrick
Dickinson
Dingell
Downing, Va.
Duncan, Oreg.
Eckhardt
Edwards, Calif.
English
Evans, Ind.
Fascell
Findley
Foley
Giaimo
Gibbons
Gonzalez
Haley
Hall, Tex.
Hamilton
Hayes, Ind.
Hicks
Hightower
Hungate
Hutchinson
Ichord
Jacobs
Jones, Ala.
Jones, Okla.
Jordan
Kazen
Krebs
Landrum
Lehman
Long, Md.
Lujan
McCormack
McDonald
McFall
McKay
Madden
Mahon
Mann
Mazzoli
Meeds
Milford
Mills
Moorhead, Pa.
Murtha
Nichols
Obey
O'Hara
O'Neill
Ottinger
Pattison, N.Y.
Paul
Pickle
Pike
Poage
Rees
Reuss
Roberts
Roush
Roybal
Runnels
Satterfield
Schneebeli
Sebelius
Seiberling
Shuster
Sikes
Simon
Sisk
Slack
Stanton, James V.
Stark
Studds
Sullivan
Taylor, Mo.
Thornton
Udall
Ullman
Vanik
Vigorito
Waggonner
Waxman
Wilson, Tex.
Wirth

NOT VOTING—27

Boggs
Brown, Calif.
Esch
Evans, Colo.
Evins, Tenn.
Flynt
Green
Hébert
Heinz
Hinshaw
Holland
Krueger
LaFalce
McCollister
Matsunaga
Mink
Moss
Nix
Passman
Pepper
Peyser
Scheuer
Steelman
Steiger, Ariz.
Stephens
Teague
Wilson, C. H.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Esch.
Mrs. Mink with Mr. Scheuer.
Mr. Moss with Mr. Krueger.
Mr. Nix with Mr. Charles H. Wilson of California.
Mr. Hébert with Mr. Steelman.
Mr. Evans of Colorado with Mr. Evins of Tennessee.
Mr. Matsunaga with Mr. Green.
Mr. LaFalce with Mr. Stephens.
Mr. Pepper, with Mr. Flynt.
Mr. Teague with Mr. McCollister.
Mr. Passman with Mr. Steiger of Arizona.
Mr. Holland with Mr. Heinz.
Mr. Brown of California with Mr. Peyser.

Mr. KELLY changed his vote from "nay" to "yea."

Mr. KREBS changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 13367 just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7108) entitled "An act to authorize appropriations for environmental research, development, and demonstration."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11337) entitled "An act to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 22) entitled "An act for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3131) entitled "An act to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. PASTORE, and Mr. HARTKE, Mr. STEVENSON, Mr. FORD, Mr. WEICKER, and Mr. BEALL to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3091) entitled "An act to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10210) entitled "An act to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes," requested a conference with the House on the disagreeing votes of the two

Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. NELSON, Mr. HATHAWAY, Mr. CURTIS, Mr. FANNIN, Mr. HANSEN, Mr. JAVITS, and Mr. ROTH to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3131) entitled "An Act to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes."

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 3823) entitled "An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRAVEL, Mr. RANDOLPH, Mr. BURDICK, Mr. CULVER, Mr. DOMENICI, Mr. MCCLURE, and Mr. BAKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5682. An act to extend the boundary of the Tinicum National Environmental Center, and for other purposes;

H.R. 10210. An act to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

H.R. 12207. An act to amend the Rural Electrification Act of 1936, as amended, to correct unintended inequities in the interest rate criteria for borrowers from the Rural Electrification Administration, and to make other technical amendments;

H.R. 13585. An act to amend the Federal Boat Safety Act of 1971; and

H.R. 14360. An act to amend the John Kennedy Center Act to authorize funds for repair, reconstruction, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 1096) entitled "joint resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes," and that the Senate agrees to the amendment of the House to amendments of the Senate numbered 5 and 9 to the foregoing resolution.

## SOCIAL SECURITY COVERAGE THROUGH CONSTRUCTIVE FILING OF WAIVER CERTIFICATES BY CERTAIN NONPROFIT ORGANIZATIONS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15571) to amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute—for both tax and benefit purposes—a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate, which was unanimously reported favorably to the House by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object I wonder if the distinguished chairman would care to describe this bill further for the Members.

Mr. ULLMAN. Mr. Speaker, would the gentleman yield to the author of the bill, the gentleman from Illinois (Mr. MIKVA)?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. MIKVA. I thank the gentleman for yielding.

This bill is intended to correct a situation that has developed that could both penalize a great many senior citizens who are expecting social security coverage, as well as be a drain on the social security funds.

Under the existing social security laws, a not-for-profit organization's employees are not covered by the social security laws, and the only way they can be covered is if the organization files an exemption certificate, which is a written piece of paper that it is supposed to file with the Social Security Administration. Most not-for-profit organizations over the years have not known about this technical requirement and have paid in both for themselves and their employees for a long period of time.

The Treasury ruled approximately a year or so ago that, given the state of the law, they had to insist that unless the organization had filed a waiver, those employees were not covered notwithstanding the fact that moneys had been paid in for them to the social security for years and years. That is how the employees would get undone.

But then, in addition, the Treasury ruled that for a period of 3 years refunds could be obtained by the employees of the organizations which could amount to a several hundred million dollar drain on the social security funds.

This bill really says that where an organization has paid in for a period of time, that will be deemed a course of action the same as if they had filed a waiver. Their employees would be covered, and no refunds would be allowed.

Mr. CONABLE. I wonder if the gentleman would correct me. I have some understanding of this bill, but I would like to be sure it is correct. Would the gentleman tell me if anything in what I say in further elucidation is incorrect?

It is my understanding that H.R. 15571 was introduced to deal with a problem involving certain nonprofit tax-exempt organizations and their employees.

Under section 210(a) of the Social Security Act and section 3121(k) of the Internal Revenue Code, employees of these organizations may be covered under social security if the organizations file certificates waiving their tax exemptions for social security purposes. The problem is that many of these organizations have been paying social security taxes for years, but have not filed proper certificates. In these cases, there is no social security coverage, and the affected organizations and their employees may claim a refund of all social security taxes paid within periods covered by the statute of limitations—3 years, 3 months, and 15 days. A substantial number of these organizations and their employees have received refunds.

H.R. 15571 would deal with this problem by providing that the payment of social security taxes by any such organization would constitute a retroactive "constructive filing" of the required certificate.

More specifically, the bill would provide that—

First. Those organizations which have paid the taxes and have not received a refund would be deemed to have filed a proper certificate when they began paying the taxes.

Second. Those organizations which have received a refund would have 180 days, after enactment of this measure, to file a waiver certificate voluntarily. If they do so, their employees who desire coverage would be listed and the list would be submitted along with the waiver. The organization and its individual employees would be required to pay back the amounts of refunds received.

Third. Organizations which have received a refund but do not file a new waiver within the 180-day period would be deemed to have filed such a waiver on the 181st day after enactment. The waiver would be deemed to cover all employees for whom social security taxes were paid. Such organizations would be solely liable for both employer and employee taxes for the retroactive period. The Internal Revenue Service would have the discretion to establish a reasonable extended period for the repayment of such taxes.

These are my basic assumptions about this bill, if the gentleman from Illinois will confirm them.

Mr. MIKVA. Those assumptions are correct.

Mr. CONABLE. Mr. Speaker, further reserving the right to object, I wonder if anybody would like to add anything further or ask any questions on this bill?

Mr. ULLMAN. If the gentleman will yield, the gentleman is right in every instance. Between my friend, the gentleman from New York, and the sponsor of the bill, the gentleman from Illinois (Mr. MIKVA), I think they have covered in a good way the content of this legislation. H.R. 15571 is intended to stem the development of an emerging problem that could result in a substantial drain on the social security trust funds.

The bill relates to social security taxes that have been paid by a number of nonprofit organizations that have not followed all of the requirements of the law that should have been taken to extend social security coverage to their employees. The Internal Revenue Service has determined that all of the taxes paid by such organizations and their employees will have to be refunded unless the organizations file waiver certificates that are effective retroactively to cover the 3-year statute of limitations period in the Social Security Act.

Mr. Speaker, under present law, employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service a certificate waiving its exemption from taxation. Coverage may be provided retroactively for up to 5 years before the calendar quarter in which the waiver is filed. Employees of the organization at the time the waiver certificate is filed are given the option to participate in the program and, if they decide to do so, must sign a form accompanying the certificate waiving their right of exemption. All employees subsequently hired by the organization are automatically covered under the program. After a waiver certificate has been in effect for 8 years, an organization may terminate it after giving 2 years' advance notice.

There is substantial evidence that a large number of nonprofit organizations and their employees have been paying social security taxes even though the organizations have not filed a valid waiver certificate necessary to waive such organizations' exemption from social security tax liability and extend coverage under the program to their employees. The Internal Revenue Service has determined that such nonprofit organizations and their employees are entitled to a refund of social security taxes paid during the statute of limitations period—approximately 3 years—and when a refund is made the social security credits earned by an organization's employees during the statute of limitations period are canceled.

The General Accounting Office has conducted a study of this situation and estimates that in 1975 around 13,000 to 20,000 nonprofit organizations that had not filed a waiver certificate were paying social security taxes ranging from around $118 million to $369 million.

Turning now to a brief explanation of the bill, H.R. 15571 would provide that in cases in which a nonprofit organization and its employees have paid social security taxes for at least three consecutive calendar quarters and continuing to within the statute of limitations period, without having filed a valid waiver certificate, but no refund or credit of such taxes has been made prior to September 9, 1976, the organization would be deemed to have filed a valid waiver certificate effective beginning with the period for which such taxes were paid. This would validate the social security coverage of employees of such nonprofit This would validate the social security taxes have been paid.

Those organizations that have received a refund or credit of taxes would have 180 days after enactment of the bill to voluntarily file a waiver certificate and a list of concuring employees. A nonprofit organization that does not file a waiver certificat within 180 days after enactment of the bill would be deemed to have filed on the 181st day after enactment a waiver certificate for all employees for whom social security taxes were paid. In order to avoid putting an undue hardship on these nonprofit organizations and their employees who would be required to repay the refunds they have received the bill provides that the payment of retroactive taxes would be permitted to be made in installments.

Mr. Speaker, this bill is clearly an emergency measure. If Congress does not act on it before adjournment, by next year it will be too late to enact effective legislation. The Internal Revenue Service has stated that in the absence of this legislation it will initiate a program to notify all of the nonprofit organizations that have been paying social security taxes without having followed the technical requirements of the law and advise them to either accept a refund of such taxes for the last 3 years or more or to file a valid waiver certificate.

Presumably most of these organizations will file waiver certificates since they mistakenly believed that they were already doing all that the law required of them. Since all of their employees, however, will have to be informed of their right to have their social security taxes for the last 3 years or more refunded, there will be a strong inducement for them to choose to take the refund and thereby lose their social security coverage while they remain in the employ of such organizations.

Mr. Speaker, this bill has the support of the administration. The Social Security Administration has indicated that some people now receiving social security benefits will lose their entitlement to benefits if the bill is not enacted. This matter has come to the attention of the Senate Finance Committee and it has added provisions identical to H.R. 15571 to another bill pending before it. I am sure that the Senate will take action on this matter after it passes the House. I strongly urge the passage of the bill.

Mr. CONABLE. Mr. Speaker, if I may say, this illustrates one small problem in a very troubled Social Security Administration. We are going to have to do a lot of pattern setting in this area next year not only because of problems of this sort but also because of the potential of a serious erosion of the payments into the system. We are also going to have to deal with the long-term and short-term actuarial problems with social security. This is only a stopgap measure designed to deal with a specific problem relating to nonprofit organizations.

Mr. MIKVA. Mr. Speaker, if the gentleman will yield one further moment, I would like to add something.

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, I think a great deal of credit is due to the gentleman from New York (Mr. OTTINGER) and after it was brought to the attention of the committee to the gentleman from Massachusetts (Mr. BURKE).

Mr. CONABLE. I agree with what the gentleman said with respect to the two gentleman and what the gentleman said with respect to the need for action at this time.

Therefore, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon as to consideration of the bill?

There was no objection.

The Clerk read the bill as follows:

H.R. 15571

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 210(a)(8)(B) of the Social Security Act is amended—

(1) by inserting after "filed pursuant to section 3121(k) of the Internal Revenue Code of 1954" in the matter preceding clause (i) the following: "(or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k))";

(2) by inserting after "filed" in clauses (i), (ii), and (iii) the following: "(or deemed to have been filed)"; and

(3) by striking out "is in effect" in the matter following clause (iii) and inserting in lieu thereof "is (or is deemed to be) in effect".

(b) Section 3121(b)(8) of the Internal Revenue Code of 1954 (relating to exclusion of certain services from definition of employment) is amended—

(1) by inserting after "filed pursuant to subsection (k) (or the corresponding subsection of prior law)" in the matter preceding clause (i) the following: "or deemed to have been so filed under paragraph (4) or (5) of such subsection";

(2) by inserting after "filed" in clauses (i), (ii), and (iii) the following: "(or deemed to have been filed)"; and

(3) by striking out "is in effect" in the matter following clause (iii) and inserting in lieu thereof "is (or is deemed to be) in effect".

(c) Section 3121(k) of such Code, (relating to exemption of religious, charitable, and certain other organizations) is amended by adding at the end thereof the following new paragraphs:

"(4) CONSTRUCTIVE FILING OF CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN MADE.—

"(A) In any case where—

"(i) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) has not filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) as of the date of the enactment of this paragraph or any subsequent date, but

"(ii) the taxes imposed by sections 3101 and 3111 have been paid with respect to the remuneration paid by such organization to its employees, as though such a certificate had been filed during any period (subject to subparagraph (B)(i)) of not less than three consecutive calendar quarters.

such organization shall be deemed (except as provided in subparagraph (B) of this paragraph) for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) on the first day of the period described in clause (ii) of this subparagraph effective on the first day of the calendar quarter in which such period began, and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes described in such subparagraph were paid (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate).

"(B) Subparagraph (A) shall not apply with respect to any organization if—

"(i) the period referred to in clause (ii) of such subparagraph (in the case of that organization) terminated before the end of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph, or

"(ii) a refund or credit of any part of the taxes which were paid as described in clause (ii) of such subparagraph with respect to remuneration for services performed on or after the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of enactment of this paragraph (other than a refund or credit which would have been allowed if a valid waiver certificate filed under paragraph (1) had been in effect) has been obtained by the organization or its employees prior to September 9, 1976.

"(5) CONSTRUCTIVE FILING OF CERTIFICATE WHERE REFUND OR CREDIT HAS BEEN MADE AND NEW CERTIFICATE IS NOT FILED.—In any case where—

"(A) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) would be deemed under paragraph (4) of this subsection to have filed a valid waiver certificate under paragraph (1) if it were not excluded from such paragraph (4) (pursuant to subparagraph (B)(ii) thereof) because a refund or credit of all or a part of the taxes described in paragraph (4)(A)(ii) was obtained prior to September 9, 1976; and

"(B) such organization has not, prior to the expiration of 180 days after the date of the enactment of this paragraph, filed a valid waiver certificate under paragraph (1) which is effective for a period beginning on or before the first day of the first calendar quarter with respect to which such refund or credit was made (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under paragraph (1)(B)(iii) and which is accompanied by the list described in paragraph (1)(A).

such organization shall be deemed, for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection on the 181st day after the date of the enactment of this paragraph, effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (A) of this paragraph was made (or, if later, with the first day of the earliest calendar quarter falling wholly or parity within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph), and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee described in subparagraph (A) of paragraph (4) including any employee with respect to whom taxes were refunded or credited as described in subparagraph (A) of this paragraph (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate). A certificate which is deemed to have been filed by an organization on such 181st day shall supersede any certificate which may have been actually filed by such organization prior to that day except to the extent prescribed by the Secretary or his delegate.

"(6) APPLICATION OF CERTAIN PROVISIONS TO CASES OF CONSTRUCTIVE FILING.—All of the provisions of this subsection (other than subparagraphs (B), (F), and (H) of paragraph (1)), including the provisions requiring payment of taxes under sections 3101 and 3111 with respect to the services involved, shall apply with respect to any certificate which is deemed to have been filed by an organization on any day under paragraph (4) or (5), in the same way they would apply if the certificate had been actually filed on that day under paragraph (1); except that—

"(A) the provisions relating to the filing of supplemental lists of concurring employees in the third sentence of paragraph (1)(A), and in paragraph (1)(C), shall apply to the extent prescribed by the Secretary or his delegate;

"(B) the provisions of paragraph (1)(E) shall not apply unless the taxes described in paragraph (4)(A)(ii) were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate; and

"(C) the action of the organization in obtaining the refund or credit described in paragraph (5)(A) shall not be considered a termination of such organization's coverage period for purposes of paragraph (3). Any organization which is deemed to have filed a waiver certificate under paragraph (4) or (5) shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

"(7) BOTH EMPLOYEE AND EMPLOYER TAXES PAYABLE BY ORGANIZATION FOR RETROACTIVE PERIOD IN CASES OF CONSTRUCTIVE FILING.—Notwithstanding any other provision of this chapter, in any case where an organization described in paragraph (5)(A) has not filed a valid waiver certificate under paragraph (1) prior to the expiration of 180 days after the date of the enactment of this paragraph and is accordingly deemed under paragraph (5) to have filed such a certificate on the 181st day after such date, the taxes due under section 3101, with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which such 181st day occurs (along with the taxes due under section 3111 with respect to such services and the amount of any interest paid in connection with the refund or credit described in paragraph (5)(a)) shall be paid by such organization from its own funds and without any deduction from the wages of the individuals who performed such services; and those individuals shall have no liability for the payment of such taxes.

"(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where an organization described in paragraph (5)(A) files a valid waiver certificate under paragraph (1) by the end of the 180-day period following the date of the enactment of this paragraph as described in paragraph (5)(B), or (not having filed such a certificate within that period) is deemed under paragraph (5) to have filed such a certificate on the 181st day following that date, the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary or his delegate, rather than in a lump sum.".

(d) The amendments made by this section shall apply with respect to services performed after 1950, to the extent covered by waiver certificates filed or deemed to have been filed under section 3121(k)(4) or (5) of the Internal Revenue Code of 1954 (as added by such amendments).

SEC. 2. Notwithstanding any other provision of law, no refund or credit of any tax paid under section 3101 or 3111 of the Internal Revenue Code of 1954 by an organization described in section 501(c)(3) of such Code which is exempt from income tax under section 501(a) of such Code shall be made on or after September 9, 1976, by reason of such organization's failure to file a waiver certificate under section 3121(k)(1) of such Code (or the corresponding provision of prior law), if such organization is deemed to have filed such a certificate under section 3121(k)(4) of such Code (as added by the first section of this Act).

SEC. 3. In any case where—

(1) an individual performed service, as an employee of an organization which is deemed under section 3121(k)(5) of the Internal Revenue Code of 1954 to have filed a waiver certificate under section 3121(k)(1) of such Code, at any time prior to the period for which such certificate is effective;

(2) the taxes imposed by sections 3101 and 3111 of such Code were paid with respect to remuneration paid for such service, but such service (or any part thereof) does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b) of such Code) because the applicable taxes so paid were refunded or credited (otherwise than through a refund or credit which would have been allowed if a valid waiver certificate filed under section 3121(k)(1) of such Code had been in effect) prior to September 9, 1976; and

(3) any portion of such service (with respect to which taxes were paid and refunded or credited as described in paragraph (2)) would constitute employment (as so defined) if the organization had actually filed under section 3121(k)(1) of such Code a valid waiver certificate effective as provided in section 3121(k)(5)(B) thereof (with such individual's signature appearing on the accompanying list),

the remuneration paid for the portion of such service described in paragraph (3) shall, upon the request of such individual (filed in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act) accompanied by full repayment of the taxes which were paid under section 3101 of such Code with respect to such remuneration and so refunded or credited, be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for repayment of any taxes which it paid under section 3111 of such Code with respect to such remuneration and which were refunded or credited to it.

Mr. OTTINGER. Mr. Speaker, I am grateful to the members of the Ways and Means Committee, and particularly to the gentleman from Illinois (Mr. MIKVA), for taking action on H.R. 15571 and pleased that we are able to take it up as a unanimous consent request today. I also want to give particular thanks to Chairman ULLMAN, Subcommittee Chairman BURKE, the gentleman from Florida (Mr. GIBBONS) and my colleague from New York (Mr. CONABLE) for their invaluable help.

Time is of the essence in this matter if we are to avoid costly refunds from the social security trust fund to organizations that have failed to comply with a minor technicality in the law which the GAO has estimated could run as high as $1 billion.

This legislation cosponsored by Congressman MIKVA and me is needed to protect an estimated 13,000 to 20,000 voluntary organizations and their employees who have been paying social security taxes without having filed a prescribed form SS15, a waiver of exemption. Nonprofit organizations were excluded prior to 1950 from participation in the social security program. In 1950 legislation was passed allowing nonprofit organizations to provide social security coverage for their employees if they chose to do so, but required them to waive their exclusion under the law by filing this Form SS15 with the Internal Revenue Service.

Many of these organizations and their employees, estimated by GAO as some 13,000 to 20,000 nationwide, have been paying social security taxes without ever filing the form SS15. The IRS, despite the fact that it cheerfully accepted the taxes without notifying the organizations or their employees of any problem, has ruled that failure to file the form negates social security coverage. It also concluded that it is under a legal obligation to refund all tax payments to the organizations and their employees upon application, but only insofar as refunds are permitted under the statute of limitations—3 years and 3 months of payments. An organization which applies for a refund automatically deprives its employees of social security coverage. Thus, employees of non-profit organizations who have worked and paid social security taxes for 20 years could lose coverage and be eligible for refund of these taxes paid for only 3 years, 3 months. Furthermore, these refunds have the potential for placing a serious drain on the social security trust fund.

The bill that has been reported from Ways and Means Committee would accomplish the following:

First. Organizations which have been paying taxes but have not filed the SS15 waiver nor received a refund will simply be deemed to have filed the waiver and will continue paying as before. Coverage for participating employees will be validated.

Second. Organizations which have received a refund will have 180 days to file a waiver on behalf of those employees who want their coverage restored. Both employer and employee will be responsible for the accumulated back taxes if the back coverage is to be restored. Employees have the option of keeping their refunds and remaining outside the Social Security system. Payment of back taxes can be made in installments over an extended period. Prospective coverage only is also available to these people under a provision of current law.

Third. Organizations that received refunds and which fail to file the SS15 by the end of 180 days will be deemed to have filed on the 181st day on behalf of all those employees who took the refund. In this case back taxes will be paid by the organization. This provision was put in the bill because it was feared that if there were not some strong incentive for the refunded organization to file on behalf of those employees who want back into the program, many of them would simply take no action.

Mr. Speaker, over the past few weeks we have had discussions with both the agencies involved in this matter—the Treasury Department and the Social Security Administration—as well as with representatives of some 30 to 40 of the largest nonprofit groups in the country. The bill we are considering today is the product of input from all these sources. It has the strong support of the administration and of the nonprofit organizations. To my knowledge not one person or party has come forward to express opposition to the measure.

I think I can truthfully say that this is about as noncontroversial a measure as I have seen. It does not cost us anything, and could save the trust fund as much as $1 billion.

I would just like to add that this bill has been favorably reported by the Senate Finance Committee, which agreed last week to attach it as an amendment to a House-passed bill, H.R. 8046. If we can get it through the House, it can be held at the desk in the Senate. Since it has the support of the Finance Committee members, I am confident that it will be voted upon and passed by the full Senate.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a moton to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks on this bill and that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

## THE INDIAN TRIBAL GOVERNMENTAL TAX STATUS ACT

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8989) to amend the Internal Revenue Code of 1954 to provide the same tax exemptions and general tax treatment to recognized Indian tribes as are applicable to other governmental units, which was unanimously reported favorably to the House by the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished chairman of the House Ways and Means Committee so that he may describe the bill for the House.

Mr. ULLMAN. I thank the gentleman for yielding.

Mr. Speaker, this bill amends the Internal Revenue Code to provide to recognized Indian tribes and Alaskan Native villages the same tax treatment that is applicable to other governmental units. This series of changes treats recognized Indian tribes and Alaskan Native villages similar to States for the purpose of determining whether the tribes and villages can issue tax-exempt municipal bonds and industrial development bonds, and the same as States for determining whether taxes paid to and charitable contributions made to the tribes and villages are deductible and for certain other income and excise tax purposes.

Indian tribes and Alaskan Native villages perform many of the same governmental functions as do municipal and State governments. These functions include law enforcement, water, sewage and garbage services, business licensing and regulation, land use planning, housing, social and health programs, legal services, natural resource development and other activities. In order to assist the Indian tribes and Alaskan Native villages in carrying out their self-governing responsibilities, those tribes which perform substantial governmental functions should be provided with substantially the same tax status enjoyed by other governmental units.

An amendment to present tax law is necessary because the status of these units is not stated explicitly in the code. As a result, certain of the governmental functions cannot be performed. Specifically, the Internal Revenue Code does not exempt Indian tribes from taxation, but the Internal Revenue Service has ruled that "Income tax statutes do not tax Indian tribes. The tribe is not a taxable entity." Nevertheless, the ruling by the Service does not grant the tribes and villages authority to issue tax-exempt municipal and industrial development bonds.

The bill generally gives to recognized Indian tribes the tax treatment now available to State governments. The term "recognized Indian tribe" includes any tribe, band, community, village, or group of Indians or Alaska Natives which is recognized by the Secretary of the Treasury, after consultation with the Secretary of the Interior, as performing substantial governmental functions. This definition is intended to provide tax treatment as governmental units to the same Indian tribes and Alaskan Native villages which are treated as governmental units for certain revenue sharing purposes under the State and Local Fiscal Assistance Act of 1972. Three hundred and forty-seven groups are at present listed as eligible for revenue sharing entitlements under the act.

A major effect of the bill is to permit recognized Indian tribes to issue debt obligations that pay interest which is exempt from income taxation. However, tax-exempt treatment is not to be available for interest on any obligation—other than an industrial development bond—issued by a recognized Indian tribe if all or a major portion of the proceeds are to be used directly or indirectly in any commercial or industrial activity. In the case of industrial development bonds, the exemption is to apply only if: First, the principal activities of the trade or business financed with the proceeds of the bonds are carried on in the area reserved by Federal statute, Executive order, or treaty to the Indian tribe issuing the bonds, and second, substantially all of the activities of the trade or business which are carried on outside of the reservation area are purchasing, marketing, or similar activities directly related to the activities carried out within the reservation area.

In addition, the bill provides beneficial tax treatment with respect to pension and retirement income and contributions, charitable contributions, excise taxes, tribal income and real property taxes and certain unrelated business income. The bill also provides that certain tribal officials are to be "government officials" for purposes of the tax on self-dealing between a private foundation and a disqualified person.

The tax provisions apply to taxable years and other actions after September 30, 1977.

Mr. FRENZEL. Mr. Speaker, I rise in support of H.R. 8989, which would grant to recognized Indian tribes the same general tax treatment as is now applicable to other governmental units. Under present law, Indian tribes are not specifically exempt from taxation. However, the Internal Revenue Service has ruled that such tribes are not taxed under the income tax statutes inasmuch as the tribe is not a taxable entity.

The Indian tribes and Alaskan Native villages affected by this bill perform many of the governmental functions performed by municipal and State governments, including law enforcement, water, sewage and garbage services, business licensing and regulation, social and health programs, et cetera. The Ways and Means Committee concluded that in order to assist these tribes and Native villages in the discharge of their governmental responsibilities, those tribes performing substantial governmental functions should receive essentially the same tax treatment as that enjoyed by other governmental units.

H.R. 8989 would extend to these recognized Indian tribes and Alaskan Native villages the same tax treatment now available to State governments. A recognized Indian tribe would include any tribe, band, community, et cetera, recognized by the Secretary of the Treasury, following consultation with the Secretary of the Interior, as one which performs substantial governmental functions.

Specifically, the bill would provide favorable tax treatment to such tribes with regard to retirement income derived from employment by a tribe, contributions which are made to persons seeking election to tribal office, interest on bonds issued by such tribes, including industrial development bonds, scholarship and fellowship grants made by tribes, taxes levied by tribes on real property, charitable contributions to tribes, and a number of other activities as to which favorable tax treatment is now available to other State and local governments.

With regard to these changes in the law, one of the bill's major effects is to permit these recognized Indian tribes to issue debt obligations, the interest upon which will be tax exempt for Federal income tax purposes. However, this tax treatment will not be available on interest on any obligation, other than industrial development bonds, which is issued by a tribe if all or the major portion of the proceeds from such debt is to be used either directly or indirectly in any industrial or commercial activity.

I believe that this bill makes needed and justifiable changes in the law with regard to these tribes and urge its enactment. The bill is effective as of October 1, 1977.

Mr. FRENZEL. Mr. Speaker, I thank the chairman for this description of the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, and I will at the present time, I merely say to my friend, the chairman of the Committee on Ways and Means, that there are many of us who are concerned about 35 lines that appeared in the Congressional Record yesterday. The 35 lines refer to an objection to a provision that would have provided a credit for tuition on income tax returns.

Mr. Speaker, parliamentary niceties prohibit me from really saying what I think about that; but suffice it to say, I will object to any unanimous-consent request by the Committee on Ways and Means during the remainder of the session. If we cannot get any relief to these millions of people on this necessary tax credit measure, I do not think we should permit any further unanimous-consent requests by the Ways and Means Committee.

Mr. Speaker, on that point, I do object.

The SPEAKER pro tempore. Objection is heard.

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## PROVIDING FUNDS FOR EXPENSES OF SELECT COMMITTEE ON ASSASSINATIONS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1557 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

### H. Res. 1557

*Resolved,* That (effective September 17, 1976) expenses of investigations and studies to be conducted by the Select Committee on Assassinations, acting as a whole or by subcommittee, not to exceed $207,500, including expenditures for the employment of investigators, attorneys, and clerical and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $30,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Assassinations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

### COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike all after the word "*Resolved,*" and insert:

That (effective September 17, 1976) expenses of investigations and studies to be conducted by the Select Committee on Assassinations, acting as a whole or by subcommittee, not to exceed $150,000, including expenditures for the employment of investigators, attorneys, and clerical and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $30,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Assassinations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, on September 23, the Honorable Thomas

Downing, chairman of the Select Committee on Assassinations, and the Honorable Samuel Devine, ranking minority member, appeared before the committee and testified in support of House Resolution 1540. The committee inquired into the staffing and administrative needs of Chairman Downing's new select committee, and determined that the amount of $150,000 was an appropriate level of authorization. This amount is $57,000 less than the amount requested. I believe it is fair, and the committee deemed it adequate.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. THOMPSON. I yield for debate only to my friend from Maryland.

Mr. BAUMAN. I thank the gentleman.

I supported the creation of this committee with some misgivings, but nevertheless I know it is an issue that many people feel strongly about, and hopefully we will get it settled. However, this committee will only exist for a little over 2 months. It seems to me that $150,000 is an inordinate amount of money for 2 months' operation when part of those 2 months will be taken up in a general election. Members certainly will not be available during the month of October, so it comes down to, roughly, not more than 6 weeks.

I have just gone through the organization of the Commission on Administrative Review, and we certainly have not, in 2 months' time, been able to organize our staff beyond, four or five employees. I think perhaps our duties are just as arduous. I do not question the need for some funding but it just seems to me that it is going too far in too short a time, and perhaps we ought to wait until January.

Mr. THOMPSON. I can understand the gentleman's reservation. We had some also until the gentleman from Virginia (Mr. Downing) and the gentleman from Ohio (Mr. Devine) came before the committee, were questioned extensively by each and every Member present on the committee. If the gentleman will refer to the report on page 3, there is a budget summary and anticipated staff.

Essentially, I will say to the gentleman from Maryland that the very largest part of this expenditure will be the gathering together, the employment of staff and the beginning of investigations and the taking of what is considered by the Committee on House Administration and by the select committee to be a very badly needed series of testimony at the earliest possible time. The gentleman is correct that it will expire. It will have to be reconstituted and refinanced.

If there is any carryover—and the gentleman from Ohio and the gentleman from Virginia are not famous as big spenders—that carryover will revert to the Treasury. I would, therefore, suggest that this is appropriate, especially in light of the considerable amount of attention paid to it.

The committee amendment was agreed to.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING ADDITIONAL FUNDS FOR THE EXPENSES OF THE COMMITTEE ON HOUSE ADMINISTRATION

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Res. 1563) providing additional funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the Committee on Appropriations and the Committee on the Budget of the House of Representatives, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1563

*Resolved*, That the Committee on House Administration is authorized to incur such further expenses (not in excess of $102,500) as the committee considers advisable to provide for maintenance and improvement of ongoing computer services for the Committee on Appropriations and the Committee on the Budget of the House of Representatives. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, and signed by the chairman thereof.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditures in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, this supplemental request for the House information system specifically is intended to cover the further computer services needed for support of the Committee on Appropriations in the amount of $92,500, and the Committee on the Budget in the amount of $9,500.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield for the purpose of debate only to the distinguished chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, I rise in support of House Resolution 1563. This resolution will provide additional funds for the expenses of the Committee on House Administration to provide for the maintenance and improvement of ongoing computer services for the Committee on Appropriations and the Committee on the Budget. The resolution seeks $102,500 which is necessary until the end of this calendar year to pay for the computer time-sharing services obtained from the commercial vendors that are being used by both committees. These services cost $281,000 in 1975, and are projected to cost $462,500 in 1976, including the $102,500 that would be provided by this resolution.

This year we have begun sharing these services with the Congressional Budget Office and the Senate Committee on Appropriations. Some of the 1976 increase, therefore, reflects these activities that have already resulted in increased cooperation on technical matters between both bodies and the CBO. The balance of the increase between 1975 and 1976 represents the costs of the first full year of operations under the Budget Control Act.

Mr. Speaker, these funds are needed to carry out important projects that are proving beneficial to our committee and which contribute to the success of the new procedures required by the Congressional Budget Act of 1974. In fact, Mr. Speaker, without this computer assistance, it would be impossible for us to meet the various deadlines and additional responsibilities that are imposed by the Budget Act.

The Committee on House Administration has a technical group called House information systems that has been providing the necessary technical support in this area. They are the ones that administer the contracts for the services that require the expenditure we are discussing today. Most of these funds will be used to make adjustments to the computer systems operated by the committees and House information systems so that we may be ready for the fiscal year 1978 budget that will be submitted next January. It is our desire and intention that these services be continued through the approval of this funding resolution.

Mr. Speaker, I strongly support the position of the gentleman from New Jersey (Mr. Thompson).

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR ADDITIONAL EXPENSES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1500, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1500

*Resolved*, That for the further expenses of the investigation to be conducted pursuant to H. Res. 1042, by the Committee on Standards of Official Conduct, acting as a whole or by subcommittee, not to exceed $100,000 including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $90,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Standards of Official Conduct shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Strike all after "*Resolved,*" and insert in lieu thereof the following:

That for the further expenses of the investigation to be conducted pursuant to H. Res. 1042, by the Committee on Standards of Official Conduct, acting as a whole or by subcommittee, not to exceed $50,000 including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistance, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $50,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2U.S.C. 72a(i)), but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Standards of Official Conduct shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, on September 9, the Honorable John J. Flynt, Jr., chairman of the Committee on Standards of Official Conduct, appeared before the Committee on House Administration and testified in support of House Resolution 1500, which would provide a $100,000 supplemental authorization for completion of the Schorr investigation. The committee inquired of Chairman Flynt and the ranking minority member, the Honorable Floyd D. Spence, the actual obligations incurred by the Ethics Committee in the investigation. The committee subsequently received further information bearing on the amount needed, and approved a motion to report House Resolution 1500 with a committee amendment authorizing $50,000 to pay for outstanding obligations, and to close the investigation.

Mr. Speaker, the amount is fair and reasonable, and will discharge the House of the financial obligations surrounding the Schorr inquiry.

Mr. Speaker, I might add that in terms of actual dollars and cents, the current obligations appear to be $48,242.50. The resolution calls for $50,000. We do not anticipate that all of that will be used, and whatever difference remains will revert.

The committee amendment was agreed to.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## AMENDING SECTION 5 OF HOUSE RESOLUTION 1238 OF THE 91ST CONGRESS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1576 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1576

*Resolved,* That, until otherwise provided by law, the contingent fund of the House shall be available, for the period of two years immediately following the date of the adoption of this resolution, for the designation and appointment of one additional employee at a gross annual salary of not to exceed $9,000 for the purposes of (and as if made under) section 5 of House Resolution 1238, Ninety-first Congress, as enacted into permanent law by Public Law 91–665 (84 Stat. 1989) and supplemented by subsection (a) of the first section of Public Law 93–532 (88 Stat. 1723).

Sec. 2. Effective on the date of the enactment of the provisions of this section as permanent law, section 5 of House Resolution 1238, Ninety-first Congress, as enacted into permanent law by Public Law 91–665 (84 Stat. 1989) and supplemented by subsection (a) of the first section of Public Law 93–532 (88 Stat. 1723), is amended—

(1) in the first sentence thereof, by striking out "and" immediately before "a Secretary, who shall be paid", and by inserting immediately after "as determined by the Speaker," the second place it appears therein the following: "and an additional Secretary, who shall be paid at a gross per annum rate of not to exceed $9,000 as determined by the Speaker,"; and

(2) in the last sentence thereof, by striking out "as Administrative Assistant or Secretary".

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1576 would simply add to the staff of former Speakers and future former Speakers an amount not to exceed $9,000 for an additional secretary.

Currently, Mr. Speaker, former Speakers are allowed an amount not to exceed $14,916.71 for one administrative assistant, and a secretary, with the identical amount, for a total of $29,478.30.

This resolution would add one person not to exceed $9,000 and would put the annual limit at $38,478.30.

Mr. Speaker, I think that this is important, and that the resolution should be agreed to.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING SALARY ADJUSTMENTS FOR OFFICIAL REPORTERS OF DEBATES AND OFFICIAL REPORTERS TO COMMITTEES

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1495 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1495

*Resolved,* That until otherwise provided by law, effective January 1, 1976, the gross salary of an Official Reporter of Debates or an Official Reporter to Committees, whose pay is disbursed by the Clerk of the House and is fixed at a specific rate by House resolution, is increased by an amount equal to 5 per centum of his per annum gross rate of pay. Effective as of the effective date of each comparability adjustment, which becomes effective on or after January 1, 1976, in the rates of pay of the Federal statutory pay systems under section 5305 of title 5, United States Code, or under such section 5305 as modified or otherwise changed by any other provision of law, the per annum gross rate of pay of an Official Reporter of Debates or an Official Reporter to Committees is increased by an amount equal to that per centum of his per annum gross rate of pay which is equal to the average per centum increase made in the pay rates of such statutory pay systems to achieve such pay comparability adjustment in the pay rates of such pay systems. No rate of pay shall be increased by reason of the adoption of this resolution to an amount in excess of the annual rate of basic pay of level V of the Executive Schedule contained in section 5316 of title 5, United States Code. The contingent fund of the House is made available to carry out the purposes of this resolution.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, and that it be printed in the Record.

The SPEAKER pro tempore. (Mr. Natcher). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. Thompson).

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, yesterday, President Ford recommended a raise this October averaging 4.83 percent for the Nation's 1.2 million white-collar civil servants, and nearly 3 million uniformed military personnel. President Ford's pay advisers proposed a sliding scale based on a study of wage gains and job comparisons in private industry.

House Resolution 1495 would provide "salary adjustments for the official reporters of debates and official reporters to committees."

The official reporters and the committee reporters have not had a cost-of-living increase since 1971. This inequity would be prospectively balanced by House Resolution 1495, which would provide for future cost-of-living increases. It is justified because:

First. The cost of living has gone up markedly since 1971, over 25.93 percent;

Second. We are getting improved reporting service; and

Third. There has been a substantial increase in the workload since 1971.

Three out of ten committee reporters have taken early retirement which is indicative of the problem. And as we look to future Congresses, we find the dismal prospect of having committee hearings and floor debate inadequately reported.

We presently have a skilled, accurate, dedicated, and experienced staff. However, our reporting corps is failing to attract qualified new people—and I emphasize the word "qualified." Congressional reporting is regarded more difficult than most reporting jobs. It takes talent and experience to provide the desired level of reporting of this body. Most reporters cannot meet our demanding standards and schedules.

There are many advantages to having our own reporting corps. For example, our committee reporters have top secret clearances, an intangible advantage over commercial reporters. The quality of committee reporter work is uniformly rated excellent, and the general quality of contract reporter work is regarded as "uneven." In addition, we get good copy with overnight delivery; whereas commercial reporting services take much longer. Experience has shown that at times "overnight" copy of contract reporters takes as long as 10 days to deliver. With increasing workloads, and with anticipated increases in the number of hearings, the desirability of having competent committee reporters to cover hearings on very short notice is beyond question. Committee reporters are "on call" all year long—whether or not the House is in session—and whether or not any hearings are actually being conducted. They cannot "moonlight," and unlike contract reporters, have no other earnings potential. All their energies are devoted to congressional committee work.

With respect to the reporters of debates, during the first 7 months of 1975, the House put in more than 500 hours on the floor; no other session of the House in the past 25 years has worked more than 500 hours in the same 7-month period.

If we are to prevent our reporters from leaving our employ to join the ranks of Federal court reporters, or contract reporting companies, where salaries can be earned with relatively less effort than congressional committee and floor debate reporting, I would strongly urge your favorable vote on House Resolution 1495.

Contract reporting companies pay their reporters a salary plus a per-page commission. Federal courts provide an added advantage to their reporters—a fixed salary, plus transcript sales. A comfortable income can be earned in that area with substantially less effort than our reporters. Court reporting is easier work than congressional committee and floor debate reporting. I believe, therefore, that if we are to attract competent, reliable, and dedicated committee reporters and reporters of debates, we are going to have to insure that the disparity between the salaries of our reporters and the earnings potential of outside reporters, does not get competitively far afield.

I strongly urge your favorable consideration of House Resolution 1495.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to my colleague, the gentleman from Minnesota (Mr. Frenzel), for the purpose of debate only.

Mr. FRENZEL. Mr. Speaker, I would be the first to agree that any group that has not had a cost-of-living increase in 5 years certainly has it coming. I wonder if I might inquire of the distinguished chairman of the Committee on House Administration what the annual wage will be of the official reporters after giving effect to this increase.

Mr. THOMPSON. Mr. Speaker, the present salary is about $34,000.

Mr. FRENZEL. So the annual wage would be just short of $37,000 per annum after giving effect to the 5-percent increase?

Mr. THOMPSON. Yes. The gentleman is approximately correct.

Mr. FRENZEL. Mr. Speaker, I know that the gentleman has yielded to me for the purpose of debate only, so I cannot offer an amendment to include Congressmen in this category.

Mr. THOMPSON. Well, Mr. Speaker, if I thought there was any chance or if we could be assured such an amendment would be agreed to, I will say to my good friend, the gentleman from Minnesota, that I would yield for that purpose.

Mr. FRENZEL. Mr. Speaker, may I further make the statement, however, that the spread is getting pretty narrow.

Mr. Speaker, I thank the gentleman for yielding.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman from Minnesota (Mr. Frenzel), and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR ACCEPTING A PORTRAIT OF LESLIE C. ARENDS OF THE STATE OF ILLINOIS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1544 and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1544

*Resolved*, That the House of Representatives accept the gift of a portrait of Leslie C. Arends of the State of Illinois who served as a Republican Member of the House of Representatives from January 1935 to January 1975, was elected to the position of minority whip on June 3, 1943, and was reelected to that office in each of the succeeding fifteen Congresses. Mr. Arends' portrait shall be displayed in a location in the United States Capitol Building subject to the approval of the Speaker.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution has been introduced by the gentleman from Illinois (Mr. Michel); by the gentleman from Massachusetts (Mr. O'Neill); by the gentleman from California (Mr. McFall); by the gentleman from Arizona (Mr. Rhodes), the distinguished minority leader; by the gentleman from Illinois (Mr. Metcalfe); by the gentleman from Illinois (Mr. Murphy); by the gentleman from Illinois (Mr. Russo); by the gentleman from Illinois (Mr. Derwinski); by the gentleman from Illinois (Mr. Yates); by the gentleman from Illinois (Mr. Fary); by the gentleman from Illinois (Mr. Hyde); by the gentlewoman from Illinois (Mrs. Collins); by the gentleman from Illinois (Mr. Rostenkowski); by the gentleman from Illinois (Mr. Mikva); by the gentleman from Illinois (Mr. Annunzio); by the gentleman from Illinois (Mr. Crane); by the gentleman from Illinois (Mr. McClory); by the gentleman from Illinois (Mr. Erlenborn); by the gentleman from Illinois (Mr. Hall); by the gentleman from Illinois (Mr. Anderson); by the gentleman from Illinois (Mr. O'Brien); by the gentleman from Illinois (Mr. Railsback); by the gentleman from Illinois (Mr. Findley); by the gentleman from Illinois (Mr. Madigan); by the gentleman from Illinois (Mr. Shipley); by the gentleman from Illinois (Mr. Price); and by the gentleman from Illinois (Mr. Simon).

Mr. Speaker, I myself regret that my name is not on it, although I associate myself with it.

It is to allow the House to accept the gift of a portrait of Leslie C. Arends of the State of Illinois, who served as a Republican Member of the House from January of 1935 until January of 1975.

Mr. Speaker, he was elected to the

position of minority whip on June 3, 1943, and reelected in each succeeding 15 Congresses.

Mr. Speaker, the portrait of Mr. Arends, if this resolution is agreed to, will be displayed at a location in the Capitol Building, subject to the approval of the Speaker.

As to myself, Mr. Speaker, it was a personal delight to sponsor a resolution which will, in a sense, honor a man who was a great public servant and a dear and profound friend of all of us.

Mr. Speaker, I am very pleased that the gentleman from Illinois (Mr. MICHEL), initiated this action.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I am delighted to yield to the gentleman from Illinois (Mr. MICHEL) for purposes of debate only.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from New Jersey (Mr. THOMPSON) for yielding.

On behalf of the leadership of both sides and the entire Illinois delegation, as the gentleman from New Jersey has indicated, Mr. Arends was a Member of this body for 40 years and served as whip of the House on the Republican side longer than any man in the history of the country.

Mr. Speaker, it is very appropriate that we should honor him in this way; and we are most happy that the committee has seen fit to expeditiously handle our resolution to honor Leslie Arends.

Mr. THOMPSON. Mr. Speaker, I might suggest to my distinguished friend, the gentleman from Illinois (Mr. MICHEL), that had this resolution been the subject of a "Dear Colleague" letter, it would surely have appended to it the name of every man in this body who ever served with or knew Les Arends.

Therefore, Mr. Speaker, it is an honor for me to do this; and again, I am grateful to the gentleman from Illinois (Mr. MICHEL) and to the distinguished Illinois delegation for this action.

Mr. MICHEL. Mr. Speaker, if the gentleman will yield, I thank the chairman for his kind comments and will be sure to communicate them to our former colleague, Les Arends.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman from Illinois, and I want him to be assured that it makes me personally happy to ask that we honor Les Arends in this way.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several resolutions just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## REQUEST FOR APPOINTMENT OF CONFEREES ON H.R. 10210, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 10210 to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. ASHBROOK. Mr. Speaker, on behalf of all of the Members who got short shrift yesterday, I object.

The SPEAKER pro tempore. Objection is heard.

## PROVIDING FOR THE AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3621) to amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. BINGHAM)?

Mr. BIESTER. Mr. Speaker, reserving the right to object, I would yield to my subcommittee chairman, the gentleman from New York (Mr. BINGHAM) to explain the background of this legislation.

Mr. BINGHAM. I will be glad to explain the purpose of this legislation and thank the gentleman for yielding to me.

Mr. Speaker, this bill is urgently requested by the administration. The bill provides for a procedure whereby the International Claims Commission may begin the processing of claims against the German Democratic Republic, the Government of East Germany, for property that was confiscated, that is property of American citizens, by that Government following World War II.

This is a procedure precisely the same as that followed with respect to other East European governments. The only reason for the delay in this case is that we only fairly recently recognized the Government of East Germany and that is why the bill comes up at this time.

As I say, the administration is anxious to have action on the bill even though they requested it only in July because there is little business at present before the International Claims Commission, and, without this legislation, they cannot proceed to begin to process these claims.

I have discussed this matter not only with the ranking minority member of the Subcommittee on International Trade and Commerce, which held hearings on this matter, but also with the chairman and the ranking minority member of the Committee on International Relations, and with the minority leader, the gentleman from Arizona (Mr. RHODES), and it is entirely agreeable to them.

Mr. BIESTER. Mr. Speaker, the gentleman from New York (Mr. BINGHAM) has stated the circumstances correctly. This is urged by the administration. The beneficiaries of this legislation would be American citizens who have claims against the Government of East Germany.

Mr. BINGHAM. Mr. Speaker, this is an administration-requested bill that passed the Senate unanimously on September 17, 1976, with one amendment in the form of an additional provision. The Subcommittee on International Trade and Commerce, which I chair, held hearings on the administration-requested version of the bill (H.R. 14642) on August 26, 1976, but there has not been opportunity to take further action on the matter given the other legislation before the International Relations Committee.

When the United States entered into diplomatic relations with the German Democratic Republic—East Germany—in 1974, there was agreement that the two Governments would begin negotiating settlement of claims. Some such negotiations have taken place, but they cannot progress much further until precise figures are available as to the amount of claims by U.S. nationals.

Mr. Speaker, I have discussed this matter with the chairman of the International Relations Committee and the ranking minority member of that committee (Mr. BROOMFIELD), as well as other Members who participated in the House hearing on this bill. I understand that there are no objections to the passage of this bill from any of these Members.

This bill, Mr. Speaker, would simply authorize and enable the Foreign Claims Settlement Commission to assemble, review, and validate claims of U.S. nationals against the German Democratic Republic just as it has done with numerous other U.S. claims programs. This is a process that takes several years.

The bill does not authorize or provide for the payment of any claims. Funds for such payment will eventually come from the Government of East Germany once the negotiations are complete and a settlement has been reached. The bill does authorize, however, funds for the administrative costs of reviewing and validating the claims. The funds necessary are estimated to total $1.7 million over 4 years—or about $425,000 per year. I would emphasize, however, that even these costs will be recovered and repaid to the U.S. Treasury from the eventual settlement, so that there will be no net cost of the claims program authorized by this bill.

Mr. Speaker, there is urgent need for this legislation not only because it has passed the Senate and is necessary to permit negotiation of claims against East Germany to continue, but because the Foreign Claims Settlement Commission is in danger of losing some of the highly specialized staff that will be needed to carry out this program. The Commission has successfully completed all of the claims programs authorized by law. Unless the East German claims program is authorized in the very near future, the Commission will not have the funds or necessity to retain the highly skilled and experienced people on its staff. In order to prevent that loss, and the need to rehire these people or train others, this program should be authorized immediately.

S. 3621 as passed by the Senate also includes the following provision:

> "PROTESTS
>
> "SEC. 615. Notwithstanding the provision of sections 210 and 211 of the War Claims Act of 1948 (Act of July 3, 1948), as amended by Public Law 87-846, the Foreign Claims Settlement Commission established by Reorganization Plan No. 1 of 1954 (68 Stat. 1279) is authorized and directed to receive and consider protests relating to awards made by the Commission during the ten calendar days immediately preceding the expiration of the Commission's mandate to make such awards on May 17, 1967. Any such protests must be filed within ninety days after notice of the enactment of this provision is filed with and published in the Federal Register, which shall take place within thirty days of enactment. Such protests may include the submission of new evidence not previously before the Commission, and shall be acted upon within thirty days after receipt by the Commission. The Commission may modify awards made during the subject period in accordance with the procedures established by the War Claims Act of 1949, and any increases in awards determined to be appropriate by the Commission shall be certified to and paid by the Secretary of the Treasury out of funds which are now or may hereafter become available in the War Claims Fund in accordance with section 213 of the Act.".

This provision would permit the Foreign Claims Settlement Commission to reopen and accept new evidence in a claim that was originally adjudicated and validated under the War Claims Act of 1948. The valuation of that claim by the Foreign Claims Settlement Commission was done in haste in the final hours of the war claims program authority in 1967. A protest by the claimant to the amount of the claim was filed immediately—but statutory authority for the program had already expired.

This provision, of course, does not grant any monetary award in this case. It does not obligate the Foreign Claims Settlement Commission to increase the amount of the award. It simply authorizes the Commission to hear additional evidence in support of the claimant's position that the valuation of the claim was unjustly small. Should the Commission determine that an increase in the valuation of the claim is justified, there will be no cost to the U.S. Treasury. The increased claim would be paid from the War Claims Fund, which consists of funds from liquidated assets and other funds from Japan.

During its hearings on the corresponding bill in the House, the Subcommittee on International Trade and Commerce heard with particular sympathy the testimony of counsel for the Conference on Jewish Material Claims Against Germany on H.R. 14642, and placed in the hearing record a letter from the Conference's secretary. In this regard, I note two facts: First, that the agreed minute of September 4, 1974, into which the United States and German Democratic Republic entered upon the establishment of diplomatic relations between them provides that:

> Following the establishment of diplomatic relations and the opening of Embassies, upon the request of either side, the two Governments will enter into negotiations for the settlement of claims and other financial and property questions which remain unresolved, each Government being entitled to raise during these negotiations the questions it wishes to have dealt with. Included on the Agenda will be property and other questions which arose prior to or since 1945 which have not otherwise been settled, including losses by victims of Nazism.

At the same time, it was understood by the State Department, the representatives of the German Democratic Republic, and the Conference on Jewish Material Claims that negotiations on claims arising out of losses by victims of Nazism would be pursued by the Conference with an organization designated by the German Democratic Republic. The intent of this understanding was demonstrated by the official U.S. press briefing given on the day on which the agreed minute was signed by a representative of the Department of State, where the following exchange took place:

> Q. Who will negotiate?
>
> A. Once the GDR Delegation, in effect, said, 'all right, we hear what you are saying, we recognize there is a problem here [about claims of victims of Nazi persecution, whether or not they are U.S. nationals] that we'll have to deal with,' once we got to that point we urged them strongly to deal directly with the Conference on Jewish Material Claims Against Germany, because that is an internationally recognized organization embracing the whole gamut of Jewish organizations in this country and abroad and speaking so far as any group can, that I know of, for the whole group of those victims of Nazi persecution that we're talking about. This group is the group which has dealt with the Federal Republic of Germany. And we said, 'ideally, since these people have all the facts and know all the things, they are recognized as very reputable anywhere by anybody, deal with them, that's the simplest and best way to do it, work out something that would be mutually satisfactory.' They did not agree to that. They said their Government could not deal with a private organization. They did, however, agree that they would permit a private organization within the GDR, a somewhat analogous kind of organization, something called the 'Committee of Anti-Fascist Resistance Fighters'—they would not only permit but ask this group to hold discussions with the Conference on Jewish Material Claims to see if some sort of solution to the problem might be found. And as we understand it, on the GDR side this private group would be willing to discuss this matter with the Conference, will make a report and recommendations to the GDR authorities, and then it's up to them to decide what to do with the report. They did not make any commitment about what they would do, but they did agree to follow this course.
>
> Q: To follow that up, does that mean that the U.S. Government then becomes absolved of all responsibility to pursue this matter?
>
> A: No, it does not because these talks which we would think would be the best, simplest, most efficient way to deal with the problem, of course, may not be successful. No one can predict that. We, therefore, made clear to the GDR that in the claims negotiations, which they agree shall be held after establishment of relations, that on the agenda either side is free to bring up whatever it may wish. That's a sort of standard thing for any claims talks. We made clear to them that in these negotiations the U.S. side will be free to and will bring up, if warranted, the question of property and other losses incurred before 1945, including losses of victims of Nazi persecution.
>
> So that what we are doing really is trying to follow first with private talks but reserving and making clear to the GDR that this Government may address—will be free to and may choose to bring up the question with them in a government-to-government sense during the claims negotiations.
>
> Now, they are aware of this. They accept the fact that this is on the agenda or may be on the agenda if we wish to put it on. And I would not want to deceive anybody. They do not commit themselves as to what they will do about it. They do commit themselves to negotiate the subject with us as a government if this should work out this way.

Second, S. 3621, which is identical to H.R. 14642 except for the Senate amendment in the form of an additional provision I have already mentioned, does not authorize the Foreign Claims Settlement Commission to validate certain claims, however compelling they may be, arising, directly or indirectly, from losses by victims of Nazism. Among them, the Commission is not authorized to make awards for claims of persons or entities other than those who are nationals of the United States, and who were nationals of the United States at the time of loss or of the taking of their interests. It should be noted, however, that the Department of State and the Foreign Claims Settlement Commission interpret the "time of loss or of the taking of their interests" to mean the date or times when the German Democratic Republic assumed power and assumed the use or benefit of—or has continued to use—the property rights in question.

This interpretation will thus include all losses or takings which occurred prior to 1951, as well as takings the use of which extend to the presentation of claims by the United States against the German Democratic Republic. By the terms of the legislation, the Commission is also not authorized to validate claims made by American charitable organizations for reimbursement of unpaid expenses incurred in the relief and rehabilitation of victims of Nazi persecution and claims for heirless or unclaimed individual or organizational property taken from victims of Nazi persecution.

As chairman of the Subcommittee on International Trade, I wish to stress that there is no identity between the scope of the claims which the Commission will, under this legislation, be authorized to adjudicate and other claims which the United States may decide to pursue with the German Democratic Republic. I earnestly hope that the Conference will be successful in reaching with the German Democratic Republic or its designee a satisfactory settlement of its claims, including those referred to above. At the same time, should the Conference not so succeed, I expect and trust that the Department of State will vigorously pursue these claims directly with the German Democratic Republic on an intergovernmental plane with a view toward arriving at an equitable disposition of them.

In my view, the agreed minute to which the Governments of the United States and the German Democratic Republic subscribed contemplates such negotiations and, should discussions initiated by the Conference fail, humanitarian considerations will demand such negotiations. Certainly it is the committee's conviction that, as long as the German Democratic Republic has not satisfactorily settled both the claims dealt with by this legislation and "property and other questions which arose prior to or since 1945 which have not otherwise been settled, including losses by victims of Nazism," the development of normal relations between the United States and the German Democratic Republic will be impaired.

The Congress could reconsider the situation with a view toward enacting new legislation which will assure an equitable apportionment of all funds received from the German Democratic Republic among all categories of claimants, including, among others, claims for medical and other expenses of rehabilitating victims of Nazism, claims for heirless and unclaimed property, and supplemental payments to survivors of Nazi concentration camps.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill as follows:

### S. 3621

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the International Claims Settlement Act of 1949, as amended, is amended by adding at the end thereof the following new title:

## "TITLE VI

### "PURPOSE OF TITLE

"SEC. 600. It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property interests of nationals of the United States. This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

### "DEFINITIONS

"SEC. 601. As used in this title—

"(1) The term 'national of the United States' means—

"(a) a natural person who is a citizen of the United States;

"(b) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

"(2) The term 'Commission' means the Foreign Claims Settlement Commission of the United States.

"(3) The term 'property' means any property, right, or interest, including any leasehold interest, and debts owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic for which no restoration or no adequate compensation has been made to the former owners of such property.

"(4) The term 'German Democratic Republic' includes the government of any political subdivision, agency, or instrumentality thereof or under its control.

"(5) The term 'Claims Fund' is the special fund established in the Treasury of the United States composed of such sums as may be paid to the United States by the German Democratic Republic pursuant to the terms of any agreement settling such claims that may be entered into by the Governments of the United States and the German Democratic Republic.

### "RECEIPT AND DETERMINATION OF CLAIMS

"SEC. 602. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claim by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

### "OWNERSHIP OF CLAIMS

"SEC. 603. A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

### "CORPORATE CLAIMS

"SEC. 604. (a) A claim under section 602 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States, shall not be considered. A claim under section 602 of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, or taken by the German Democratic Republic.

"(b) A claim under section 602 of this title based upon a direct ownership interest in a corporation, association, or other entity for loss, shall be considered subject to the provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

"(c) A claim under section 602 of this title for losses based upon an indirect ownership interest in a corporation, association, or other entity, shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States.

"(d) The amount of any claim covered by subsections (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

### "OFFSETS

"SEC. 605. In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 202(a) of the War Claims Act of 1948, as amended, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this title.

### "CONSOLIDATED AWARDS

"SEC. 606. With respect to any claim under section 602 of this title which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

### "CLAIMS FUND

"SEC. 607. (a) The Secretary of the Treasury is hereby authorized to establish in the Treasury of the United States a fund to be designated the Claims Fund as defined under section 601(5) for the payment of unsatisfied claims of nationals of the United States against the German Democratic Republic as authorized in this title.

"(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund, an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

### "AWARD PAYMENT PROCEDURES

"SEC. 608. (a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 602 of this title.

"(b) Upon certification of such award, the Secretary of the Treasury is authorized and directed, out of the sums covered into the Claims Fund, to make payments on account of such awards as follows, and in the following order of priority:

"(1) payment in full of the principal amount of each award of $1,000 or less;

"(2) payment in the amount of $1,000 on account of the principal amount of each award of more than $1,000 in principal amount;

"(3) thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the fund available for distribution at the time such payments are made;

"(4) after payment has been made in full of the principal amounts of all awards, pro rata payments may be made on account of any interest that may be allowed on such awards;

"(5) payments or applications for payments shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

### "SETTLEMENT PERIOD

"SEC. 609. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years following the final date for the filing of claims as provided in section 602 of this title.

"TRANSFER OF RECORDS

"SEC. 610. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

"APPROPRIATIONS

"SEC. 611. There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions under this title.

"FEES FOR SERVICES

"SEC. 612. No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this title, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claims. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

"APPLICATION OF OTHER LAWS

"SEC. 613. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of the Act shall be applicable to this title: subsections (b), (c), (d), (e), (h), and (j) of section 4; subsections (c), (d), (e), and (f) of section 7.

"SEPARABILITY

"SEC. 614. If any provisions of this Act or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected.

"PROTESTS

"SEC. 615. Notwithstanding the provision of sections 210 and 211 of the War Claims Act of 1948 (Act of July 3, 1948), as amended by Public Law 87-846, the Foreign Claims Settlement Commission established by Reorganization Plan No. 1 of 1954 (68 Stat. 1279) is authorized and directed to receive and consider protests relating to awards made by the Commission during the ten calendar days immediately preceding the expiration of the Commission's mandate to make such awards on May 17, 1967. Any such protests must be filed within ninety days after notice of the enactment of this provision is filed with and published in the Federal Register, which shall take place within thirty days of enactment. Such protests may include the submission of new evidence not previously before the Commission, and shall be acted upon within thirty days after receipt by the Commission. The Commission may modify awards made during the subject period in accordance with the procedures established by the War Claims Act of 1949, and any increases in awards determined to be appropriate by the Commission shall be certified to and paid by the Secretary of the Treasury out of funds which are now or may hereafter become available in the War Claims Fund in accordance with section 213 of the Act.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 1096, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE

Mr. MAHON. Mr. Speaker, I call up the conference report on the resolution (H.J. Res. 1096), making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 29, 1976.)

The SPEAKER pro tempore. The gentleman from Texas (Mr. MAHON) is recognized for 30 minutes.

Mr. MAHON. Mr. Speaker, the matter before us is the conference report on the Guam typhoon supplemental. When this measure passed the House it contained $163,073,000 to replace and repair defense facilities on Guam which had been damaged by Typhoon Pamela on May 21, 1976. The Senate added four additional budgeted items and one unbudgeted item.

The Senate added an additional $200,000,000 for payment of claims for damages resulting from the Teton Dam failure on June 6; a $500,000,000 payment to the Postal Service fund in order to maintain present office and service levels pursuant to Public Law 94-421; $46,951,838 for payment of adjudicated claims and judgments against the United States; $1,000,000 for refunds under the renegotiation act, and an additional $2,100,000 for Presidential transition expenses. The items added by the Senate are desirable and necessary by law or circumstances.

The conferees agreed on a total of $872,084,838 in new budget—obligational—authority and $30,900,000 by transfer. This is $64,867,000 below the budget, $709,011,838 over the House and $6,721,000 over the Senate. Of the total amount agreed upon, $622,033,000 is for the transition period ending September 30, 1976, and $250,051,838 is for fiscal year 1977.

I will insert a table at this point in the RECORD that compares conference action with the budget requests and House and Senate action:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR GUAM TYPHOON SUPPLEMENTAL FOR FISCAL YEAR 1977 AND TRANSITION PERIOD

| | Budget request, fiscal year 1977/transition | House amount | Senate amount | Conference amount | Conference compared with budget request | Conference compared with House | Conference compared with Senate |
|---|---|---|---|---|---|---|---|
| Department of Defense: | | | | | | | |
| Operation and maintenance, Navy, transition period | $30,846,000 | $19,960,000 | $10,890,000 | $19,960,000 | −$10,886,000 | | +$9,070,000 |
| Operation and maintenance, Air Force, transition period | 13,290,000 | 10,940,000 | 7,749,000 | 10,940,000 | −2,350,000 | | +3,191,000 |
| Military construction, Navy, transition period | 77,869,000 | 67,400,000 | 61,684,000 | 65,699,000 | −12,170,000 | −$1,701,000 | +4,015 000 |
| Military construction, Air Force, transition period | 26,622,000 | 24,400,000 | 24,537,000 | 25,843,000 | −779,000 | 1,443,000 | +1,306,000 |
| Family housing, Defense, transition period | 40,373,000 | 40,373,000 | 29,091,000 | 30,491,000 | −9,882,000 | −9,882,000 | +1,400,000 |
| Total, Department of Defense, transition | 189,000,000 | 163,073,000 | 115,312,000 | 122,033,000 | −66,967,000 | −41,040,000 | +6,721,000 |
| By transfer, transition period | | | (18,639,000) | (30,900,000) | (+30,900,000) | (+30,900,000) | (+12,261,000) |
| Department of the Interior: | | | | | | | |
| Bureau of Reclamation, construction and rehabilitation | 200,000,000 | | 200,000,000 | 200,000,000 | | +200,000,000 | |
| Total, Department of Interior | 200,000,000 | | 200,000,000 | 200,000,000 | | +200,000,000 | |
| Department of the Treasury: | | | | | | | |
| Claims and judgments | 46,951,838 | | 46,951,838 | 46,951,838 | | +46,951,838 | |
| Total, Department of Treasury | 46,951,838 | | 46,951,838 | 46,951,838 | | +46,951,838 | |
| U.S. Postal Service: | | | | | | | |
| Payment to the Postal Service fund, transition period | 500,000,000 | | 500,000,000 | 500,000,000 | | +500,000,000 | |
| Total, U.S. Postal Service, transition period | 500,000,000 | | 500,000,000 | 500,000,000 | | +500,000,000 | |
| General Services Administration: | | | | | | | |
| Refunds under Renegotiation Act | 1,000,000 | | 1,000,000 | 1,000,000 | | +1,000,000 | |
| Expenses, Presidential transition | | | 2,100,000 | 2,100,000 | +2,100,000 | +2,100,000 | |
| *Total, General Services Administration* | 1,000,000 | | 3,100,000 | 3,100,000 | +2,100,000 | +3,100,000 | |
| Grand total | 936,951,838 | 163,073,000 | 865,363,838 | 872,084,838 | −64,867,000 | +709,011,838 | +6,721,000 |
| Fiscal year 1977 | 247,951,838 | | 250,051,838 | 250,051,838 | +2,100,000 | +250,051,838 | |
| Transition | 689,000,000 | 163,073,000 | 615,312,000 | 622,033,000 | −66,967,000 | +458,960,000 | +6,721,000 |
| By transfer, transition | | | (18,639,000) | (30,900,000) | (+30,900,000) | (+30,900,000) | (+12,261,000) |

Mr. Speaker, as I indicated, the Senate added a very large item for the Postal Service in the amount of $500 million. The sum for the Postal Service results from the fact that congressional action has made it impossible for the Postal Service to take certain steps toward reducing the service and thus reducing the expenditures through that procedure, or increasing the revenues of the Postal Service by increasing postage and other charges. That has been made impossible as a result of congressional action. Therefore, it has been stated that a total of $1 billion is probably required but that $500 million would be adequate for the immediate future.

The portion of this bill having to do with Guam was handled by the Subcommittee on Military Construction headed by the gentleman from Florida (Mr. Sikes). He will have something to say in regard to it. The additional funds for the Teton Dam is under the jurisdiction of the subcommittee headed by the gentleman from Tennessee (Mr. Evins). The Postal Service matter was handled by the subcommittee headed by the gentleman from Oklahoma (Mr. Steed). A hearing was had with respect to the Postal Service by the subcommittee, and the recommendation was that they would concur in the Senate amendment. So, that is where we are at this time.

Mr. Speaker, I yield such time as he may require to the gentleman from Florida (Mr. Sikes).

Mr. SIKES. Mr. Speaker, in agreeing on $122,033,000 of new budget authority and $30,900,000 in transfer authority for the restoration of Typhoon Pamela destruction on Guam, the conferees have taken what we believe are necessary steps to get the most essential work underway as soon as possible.

A total program of $189 million was requested in House Document No. 94-570. The program approved in conference, including amounts derived by transfer, is $152,933,000 or a reduction in actual work approved of some $36,067,000.

For actual funding of the amount authorized there is a reduction of $41,040,000 in new budget authority from the House bill, largely as a result of using transfers from existing appropriations rather than new budget authority. That means we are using money previously appropriated. The actual reduction in work as a result of the conference action, on the appropriations bill as compared to the House bill, results from a reduction of $10,140,000 in the military construction and family housing programs. Military construction and family housing appropriations require authorization, whereas operations and maintenance appropriations do not. We have adjusted the amounts approved in the House bill for the military construction and family housing programs to correspond to the authorizations we understand have been agreed to by the Committees on Armed Services of the Senate and House. There are projects which were requested which are deferred due to lack of authorization and we would not propose to fund them. In any case, appropriations without proper authorization would not enable these projects to be undertaken.

Therefore, to correspond to what we understand the authorizing committees have agreed to, we have adjusted the amount made available by the House as follows: Military construction, Navy is reduced by $1,701,000; military construction, Air Force is increased by $1,443,000; and family housing, defense is reduced by $9,882,000.

In many cases these reductions should be regarded as deferrals, except where the authorizing committees have indicated that reductions in scope of projects are necessary. In my opinion, it is unfortunate that the $8,002,000 requested for family housing operation and maintenance has been denied authorization at this time since this can only worsen an extremely serious backlog of maintenance in the family housing area. However, I hope that the Armed Services Committees will take effective steps next year to authorize additional appropriations to deal with this very serious problem.

For "Operation and maintenance, Navy" and "Operation and maintenance, Air Force" our conference agreement provides $19,960,000 and $10,940,000, respectively. This is a total of $30,900,000. These are the same amounts as the House provided. However, in lieu of new budget—obligational—authority provided by the House, these funds would be obtained by transfer from fiscal year 1976 military personnel accounts. The Senate had provided only $18,639,000 in total to be derived from Army and Navy military personnel accounts and from "Aircraft procurement, Air Force". Subsequent to the Senate action, the military services indicated that additional assets in the military personnel accounts were available for transfer. I feel that this is a satisfactory solution which enables us to reduce the new budget—obligational—authority considerably, while at the same time providing needed repair funds to carry on the work on Guam.

The conferees reinstated language carried in the House bill which, because of the lateness of these appropriations, would allow operation and maintenance funds provided in this joint resolution to be transferred into either the transition quarter or to fiscal year 1977 accounts as they are needed. Again, this will allow work to go on in the most expeditious manner.

I support the conference agreement.

The work is essential because of the importance of Guam to our defenses in the Pacific. The facilities there have been badly damaged, and in many instances destroyed. The program of rebuilding should be expedited and completed as quickly as possible.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Alabama (Mr. Edwards).

Mr. EDWARDS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I shall not take but about 30 seconds.

The Chairman of our full committee and the chairman of the Military Construction Subcommittee have both set the facts out in this conference report. I think it is a good conference report. Some of the higher amounts are in there, such as for the post office. We felt we had no choice on that, and on the transition of the President's office we felt we had no choice. We held the House position generally on the others. I think it is a good conference report, and I urge its adoption.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

### AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 1, line 8 after "$163,073,000," insert: "and in addition, $18,639,000, of which $8,600,000 shall be derived by transfer from 'Military Personnel, Navy, 1976', and $3,700,000 shall be derived by transfer from 'Military Personnel, Army, 1976', and $6,339,000 shall be derived by transfer from 'Aircraft Procurement, Air Force, 1976/1978',".

### MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert: "and in addition, $30,900,000, of which $20,861,000 shall be derived by transfer from 'Military Personnel, Navy, 1976', $3,700,000 shall be derived by transfer from 'Military Personnel, Army, 1976', and $6,339,000 shall be derived by transfer from 'Military Personnel, Air Force, 1976',".

Mr. MAHON. Mr. Speaker, I yield to the gentleman from New York (Mr. Addabbo), who has a statement to make in regard to the conference report.

Mr. ADDABBO. Mr. Speaker, Public Law 94-421, Postal Reorganization Act Amendments of 1976, signed September 24, 1976, authorized supplemental appropriations to the Postal Service as follows: $500 million for the transition quarter ending September 30, 1976; and $500 million for fiscal year 1977.

These funds were directed by the law to be used to apply against the accumulated operating indebtedness of the Postal Service as of September 30, 1976, and September 30, 1977. In view of the lateness of the approval of the bill by the President, the budget estimate was sent to the Senate. The Senate added the $500 million for the transition quarter to the bill, and deferred until next year, without prejudice, the second amount of $500 million for fiscal year 1977.

Hearings were held on the budget request by both House and Senate. The Senate hearings were held on Monday of this week and the House hearings were held on Tuesday. There has not been time enough, of course, to print the hearings.

Public Law 94-421 imposes a moratorium on major changes in postal service and rates until such time as a temporary study commission, established by the law, has had time to study the problems facing the Postal Service and make its report.

The amendment is brought back to the House in technical disagreement only because the Senate made funds available until expended to preclude the possibility of a legal technicality arising, because the bill could not become law before the transition quarter expires on September 30.

The law requires, however, that the entire amount be used to apply against the accumulated operating indebtedness of the Postal Service as of September 30, 1976. The Postmaster General has informed the committee that the operating indebtedness, as of September 30, 1976, will be approximately $1,625 million.

REFUNDS UNDER RENEGOTIATION ACT

Refund and rebate payments due World War II contractors are made upon approval of claims adjudicated by a Renegotiation Board under the Revenue Act of 1951 as amended. The authority of the Renegotiation Board expires on September 30, 1976, but legislation is currently pending (H.R. 11920) which would extend the act until December 31, 1977. Regardless of whether or not the act is extended, the Board has adjudicated claims which, by law, must be paid. This appropriation provides funds to pay those claims. In the event that these funds are in excess of that which is needed to pay the claims, that excess will be returned to the Treasury.

EXPENSES, PRESIDENTIAL TRANSITION

In the fiscal year 1977 Appropriation Act for Treasury, Postal Service, and General Government, $900,000 was appropriated for Presidential transition. The House recently passed H.R. 14886, which increases the amount authorized for transitional expenses to $3 million. The House action was based in part on a GAO report which indicated that the $900,000 was not sufficient to cover the costs of the transition.

The $3 million that will be available for transition upon enactment of this resolution will provide $2 million to the incoming administration and $1 million to the outgoing administration. Where the President-elect is the incumbent President or the Vice President-elect is the incumbent Vice President, there will be no expenditure of funds for the incumbent under this act. In the event that there is no change in administration, most of the funds would revert to the Treasury, but some portion would be available to the new Vice President.

The House has passed the authorizing legislation (H.R. 14886), but it has not yet passed the Senate. The amendment is being reported in technical disagreement, because the action on the authorizing legislation has not been completed.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 2, line 4, strike out "$24,400,000" and insert: "$24,537,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$25,843,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 14: Page 3, after line 3, insert:

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION AND REHABILITATION

For an additional amount for "Construction and Rehabilitation," for the fiscal year 1977, $200,000,000, to remain available until expended: *Provided*, That this additional amount may be made available without reimbursement: *Provided further*, That this appropriation is for the payment of claims for damages to or loss of property, personal injury, or death proximately resulting from the failure on June 5, 1976, of the Teton River Dam, in accordance with Public Law 94-400 and such rules and regulations of the Secretary of the Interior as may be necessary and proper for the purpose of administering such claims and of determining the amounts to be allowed pursuant to this appropriation and the persons entitled to receive the same: *Provided further*, That nothing herein shall be construed to impose any liability on the United States or to allow for payment of claims that are paid or payable from any other source, public or private.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 16: Page 3, after line 3, insert:

UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for "Payment to the Postal Service Fund" for fiscal year 1976 and for the period July 1, 1976, through September 30, 1976, $500,000,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 17: Page 3, after line 3, insert:

"GENERAL SERVICES ADMINISTRATION"

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein.

The motion was agreed to.

The Speaker pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 18: Page 3, after line 3, insert:

"REFUNDS UNDER RENEGOTIATION ACT

"For necessary expenses to carry out Section 201(f) of the Renegotiation Act of 1951 (50 U.S.C. App. 1231(f)), for the fiscal year 1977, $1,000,000, to remain available until expended."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 3, after line 3, insert:

"EXPENSES, PRESIDENTIAL TRANSITION

"For an additional amount to carry out the provisions of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, Note), $2,100,000, to remain available until September 30, 1977."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

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## GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

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## PROVIDING FOR DESIGNATION OF NATIONAL GIFTED CHILDREN WEEK

Mr. BRODHEAD. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 1022) providing for the designation of the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week."

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman from Michigan tell us what committee this is out of; is it the Committee on Post Office and Civil Service?

Mr. BRODHEAD. Mr. Speaker, if the gentleman will yield, yes, it is.

Mr. BAUMAN. Mr. Speaker, does it have the concurrence of the gentlewoman from Colorado (Ms. SCHROEDER) and the gentleman from California (Mr. ROUSSELOT)?

Mr. BRODHEAD. Mr. Speaker, if the gentleman will yield further, I know it has the concurrence of the gentlewoman from Colorado (Ms. SCHROEDER).

The gentleman from California (Mr. ROUSSELOT) told me that he would not object.

The rules of the House require the obtaining of 218 signatures. The required 218 signatures are on the resolution.

Mr. BAUMAN. Mr. Speaker, the only reason I raise the question is that I know this subcommittee has consistently refused to report out any number of meritorious days, weeks, months, and years, that Members have introduced. The same subcommittee has refused to consider many other requests of Members.

I do not have any particular objection to this one, but it seems to be a departure from the policy.

Mr. Speaker, in the absence of any Member on the minority side, perhaps the gentleman from Michigan could withdraw the request until we have their concurrence.

Mr. BRODHEAD. Mr. Speaker, if the gentleman will yield further, I will say that I am a member of the subcommittee in question; that this has been done with the full knowledge of the gentlewoman from Colorado (Ms. SCHROEDER).

The gentleman from California (Mr. ROUSSELOT) and I have discussed the matter. The gentleman from California (Mr. ROUSSELOT) was asked if he had any objection and I was assured he did not.

The rules of the committee require the obtaining of 218 signatures. I have obtained those signatures of the majority of the House. I know of no objection to this.

Mr. BAUMAN. Mr. Speaker, with the gentleman's assurance, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 1022

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States hereby is authorized and requested to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## CONFERENCE REPORT ON S. 2212, CRIME CONTROL ACT OF 1976

Mr. MANN. Mr. Speaker, I call up the conference report on the Senate bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 29, 1976.)

Mr. MANN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. MANN. Mr. Speaker, before the House today is the conference report on the reauthorization of the Law Enforcement Assistance Administration. The House, on September 2, 1976, passed H.R. 13636 by a vote of 324 to 8, to reauthorize this agency for 1 more year. The Senate almost simultaneously passed S. 2212 to reauthorize the agency for 5 years. This week 13 conferees from the House and 9 from the Senate sat down to the task of reconciling 70 points of difference in the House and the Senate bills.

In the back of our minds throughout this process we knew that crime in America was rising. We know, too, that $4.4 billion had been spent by the Federal Government in 8 years through the Law Enforcement Assistance Administration to assist the States and local governments in combating crime. This is the third time Congress has been asked to extend the life of LEAA and both Houses felt the need to examine the program carefully.

Since January of this year, the Subcommittee on Crime and the full Committee on the Judiciary has spent the majority of their time attempting to work out a program of change for the Federal Government in the area of crime reduction.

Coincident to our hearings and markups several reports were issued by independent evaluators leveling severe criticisms against LEAA's performance. The House of Representatives responded to these criticisms by voting on September 2 for a 1-year authorization for LEAA to put the agency on a "short leash" in a trial status. We took the burden upon ourselves to work hard during the next Congress to perform stringent oversight of the agency to assist them in identifying which of their projects may be successful and deserving of replication. The Senate, on the other hand, opted for a long term reauthorization with special programs addressing the needs of the State court systems.

This is the backdrop upon which we came to conference. This conference substitute bill which I bring before you today addresses the major issues in conflict in the two versions in the following ways:

First. The conference accepted a 3-year authorization with $880,000,000 for the first year and $800,000,000 for each of the 2 remaining years.

Second. The conference accepted the House program for an Office of Community Anti-Crime to administer $15,000,000 per year for 3 years to assist neighborhoods in fighting crime. They also adopted the House provision relating to the need for community groups to get approval of their local government official before receipt of block grants for these purposes.

Third. The conference accepted the House civil rights compliance procedures with minor modifications.

Fourth. The conference rejected the Senate high crime area program.

Fifth. The conference accepted the Senate antitrust enforcement provisions.

Sixth. The conference accepted the Senate 10-year term for the FBI director.

Seventh. The conference accepted the House provision which would confer authorization jurisdiction over the Justice Department to Congress.

Eighth. The conference adopted both House and Senate language giving State legislatures greater input in the planning process.

Ninth. The conference accepted Senate language giving the Attorney General more policy direction and control over LEAA.

Tenth. The conference accepted provisions which would create judicial planning councils to develop mini plans for submission to the SPA's on court programs. The courts would be assured an adequate share of funds for court programs; and the planning councils would receive $50,000 in each State.

Eleventh. The conference adopted both House and Senate language requiring institute, administration, and State participation in evaluations.

Twelfth. The conference adopted House and Senate language directing LEAA to identify the special needs of drug offenders and to coordinate Federal drug programs in the States.

Thirteenth. The conference rejected Senate language which would have allowed for multiyear planning.

Fourteenth. The conference adopted Senate provisions to allow reprogramming of planning funds and kept present law in reference to part C funds.

Fifteenth. The conference rejected House language which made reduction and prevention of crime a specific goal of LEAA.

Sixteenth. The conference eliminated the special emphasis on riot control programs in accepting House language.

Seventeenth. The conference adopted the House position and did not allow for a waiver of the one-third salary limitation.

Eighteenth. The conferees retained present law in reference to miniblock grants but added language to effectuate the 1973 amendment.

Nineteenth. The conference adopted House and Senate language requiring the the National Institute to make drug studies, study the needs of correctional institutions, assist in, make and receive evaluation, establish evaluation criteria, and make a list of successful projects.

Twentieth. The conference rejected language in the House and Senate bills which would establish advisory committees.

Twenty-first. The conference rejected Senate language which would require States to meet minimum physical and service standards before renovating or improving State and local correctional facilities.

Twenty-second. The conference adopted House provisions with modifications which require detailed annual reporting to Congress.

Twenty-third. The conference rejected House language requiring financial disclosure by LEAA employees.

Twenty-fourth. The conference accepted Senate language mandating 19.15 percent of all funds be used for juvenile justice programs.

Twenty-fifth. The conference adopts the Senate provision as amended related to the Drug Enforcement Administration and also allows for 39 new Justice Department supergrades.

Twenty-sixth. The conference adopted Senate language making available assistance for "Operation Sting" ventures.

None of us are entirely satisfied with this legislation. But we feel this is a step toward making LEAA more accountable to Congress and the American people for their projects and programs designed to reduce and prevent crime in our country.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report. The gentleman from North Carolina has explained many of the details of the conference report, and copies of the report are available. This was a really hard fought conference, and we had some very vigorous, strongly debated sessions.

Mr. Speaker, I am pleased to have this opportunity to voice my support for S. 2212, to amend title I of the Law Enforcement Assistance Act of the Omnibus Crime Control and Safe Streets Act of 1968. This bill, which passed the Senate in its original form on July 26 and which passed the House in a slightly different form on September 2, would among other things, reauthorize the Law Enforcement Assistance Administration for another 3 years, or until September 30, 1979. That is a position which I personally supported when we considered this legislation recently. The final vote in the House on this bill was 324 to 8, with 98 of our colleagues not voting. For the most part, we are able to prevail in conference and retain those provisions which were so strongly supported on the House floor. The major change in what passed this body was the extension of the reauthorization period from 15 months to 3 years. (I should note that the other body previously had reauthorized LEAA for 5 years).

As I mentioned earlier, I argued strongly in support of a 3-year extension through my floor amendment to accomplish that end. I was defeated. The other body, by a 6 to 1 ratio, defeated a floor amendment which would have reduced LEAA's reauthorization period to 15 months. I believe, therefore, that the 3-year compromise, as reached by the members of the conference, is a fair and equitable one. In exchange for what was somewhat of a concession on our part, insofar as the reauthorization was concerned, we were able to retain certain items, including the civil rights language jointly drafted by Mr. BUTLER and Ms. JORDAN and title II of our bill. Section 204 of title II, of course, confers on the Congress authorization jurisdiction over the Department of Justice.

At this time, perhaps it would be appropriate, as well as helpful to those who are relatively unfamiliar with the bill and with the conference substitute, to list for informational purposes some of the areas which I believe will be of the greatest interest to my colleagues.

It is unquestioned that the drug problem has been on the increase since LEAA was born in 1968. It has had as a result an unfortunate effect on the spread of crime in America. Both the Senate and House bills would have recognized the need to address these problems through LEAA fundings. The Senate bill would have added to section 301 of title I authorization for the development of programs designed to identify the special needs of drug dependent offenders and the establishment of procedures for effective coordination between State planning agencies and single State agencies. I should note that the category of "drug dependent offenders" included alcoholics, alcohol abusers, drug addicts, and drug abusers. The House bill, as a result primarily of the efforts of Chairman RODINO, similarly identified these needs but required that the new State plan should not be approved by LEAA unless it mandatorily addressed the problem. The conference substitute is a true compromise for it will add programs to identify the needs of drug dependent offenders to the permissive grant section—section 301—of the act and the coordination of various drug programs to the mandatory section of the act already mentioned. We have placed language in the statement of managers to indicate that no State plan should be determined to be comprehensive if it fails to address the problem of the need for drug programs.

When this bill was considered on the House floor, I supported our attempts to integrate into the development of comprehensive State plans the criminal justice system in its entirety, including the courts, prosecutors, and public defenders. In addition, I supported language which would have given State legislatures an opportunity to review and comment upon State plans. In this regard we were able to retain in conference our section 206 of part B. This section mandates that comprehensive Statewide plans shall be submitted to the State legislatures at their request for an advisory review prior to its submission to LEAA by the chief executive of the State. Similarly, in section 106 of our bill we sought to grant, in subsection (10), authority for the funding of court projects designed to accelerate the criminal justice system. We emphasized the funding of not only the Judiciary but also prosecutorial and public defender programs which doubtless contribute immensely to the efficiency of the overall system. Mr. HUGHES offered the original amendment in the committee and Ms. HOLTZMAN amended it on the floor to include prosecutors and defenders. It was supported overwhelmingly here and included in the conference substitute. Mr. Speaker, let me interject at this point that the House was also successful in conference in retaining what I believe to be the original concept of the block grant program; that the ultimate decisionmaking responsibility in the area of planning and utilizing Federal funds to improve local law enforcement should be in the hands of the grantees, in this instance, the States. Local governmental bodies have the principal responsibility for law enforcement; I believe they should retain it.

In summary, Mr. Speaker, S. 2212 represents a triumph for the House, the Congress and, more than any other, the localities whose awesome responsibility it is to handle the omnipresent specter of crime. I urge its adoption.

In my opinion, the House position prevailed on the important parts of the report. The Members may recall that I argued vigorously for a 3-year extension of LEAA, and so when we lost to the Senate on that point, I was very pleased at the same time that we were able to prevail with regard to other points upon which we had votes here, division votes and rollcall votes, and in general the House position was supported.

There are some important improvements in the legislation. The House had put in provisions with regard to neighborhood and community anticrime programs, and that was supported in the conference. Another provision which prevailed there was that those programs, of course, would only apply when there was an approval of the local authorities with regard to such programs.

I would say, in general, that we have accomplished our mission here. We have provided the kinds of benefits for local and State law-enforcement agencies. We are giving further support to the courts in this legislation. We have, while not a generous authorization of funds, in my opinion, an adequate authorization, at least for this brief period, and I would hope that we would expand this legislation to demonstrate that it is the kind of workable program at both the Federal and State and local levels which the American people demand and are entitled to.

So I am very hopeful that there will be just an overwhelming support of this conference report.

Mr. MYERS of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Pennsylvania (Mr. MYERS).

Mr. MYERS of Pennsylvania. I thank the gentleman for yielding.

Mr. Speaker, I take this time to raise a question about section 203 of the report. I find it somewhat surprising that the Members are now faced with a conference report with a decision of whether or not we lock in the FBI Director for a 10-year term. I am aware of the fact that the other body has the responsibility for confirming directors, however, I would think the House should have a shared responsibility for determining any such term.

It seems to me that perhaps we could find ourselves in a situation where we have established the situation in which an individual would be assigned to that position for a 10-year term but who would be of marginal value in that position, and actually we would have a very difficult situation on our hands. I question the gentleman if in fact there are provisions for removing an individual.

Mr. McCLORY. This subject was discussed at great length, and it is true that this was in the Senate bill and not in our bill. I suppose we could agree that the primary responsibility may vest in the other body, because, of course, they have the authority to advise and consent with regard to the role of the FBI Director. This is a subject which has received widespread consideration.

I might say that in the course of our discussions it seemed to be generally agreed that where a President came in and wanted the resignation of a person in the executive branch who had a fixed term of office, traditionally and as a matter of comity and as a matter of practice, the resignation may be demanded and is customarily tendered and received. Also, of course, as the Members know, there has been a great deal of interest in limiting the term of the FBI Director. I suppose it results somewhat from the almost unlimited term of the first and only FBI Director prior to Mr. Kelley, the only one who has been confirmed, at least. It does apply to Mr. Kelley. And it also may indicate a kind of confidence in the administration of an office which both the House and Senate seem to agree upon.

Mr. MYERS of Pennsylvania. If the gentleman will yield further, I would like to make it clear that I am not speaking about Mr. Kelley. The fact of the matter is, I think we are also putting ourselves in a position of perhaps at one point in time having to reject a continuation of a term of an individual who is serving well. It seems to me if we are going to address the issue of limiting terms of people in public office, we should do that in a broader scope than simply in a conference report. Although I wholeheartedly agree with the gentleman's feelings about the continuation of LEAA, I do have a great deal of difficulty with this particular section.

Mr. McCLORY. Mr. Speaker, I will say further that it is my understanding that the Supreme Court in deciding the Myers case—*Myers* v. *United States*, 272 U.S. 52 (1926)—said through Mr. Justice Taft, himself a former President, that the President is empowered by the Constitution to remove any executive officer, of which the Director of the FBI is one, appointed by him by and with the advice and consent of the Senate. This power is not subject in its exercise to the assent of the Senate and an act of Congress cannot make it so.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Speaker, I would like to point out that this matter was considered by the Rockefeller commission. The recommendation made by the Rockefeller commission was for a term not in excess of 10 years for the FBI Director. The present FBI Director had an opportunity to express himself on this proposal and offered no objection.

So I think what we have done by accepting the Senate proposal for a 10-year term is to place a reasonable limitation on the length of service of the FBI Director. I believe that this proposal would insure stability, and at the same time it assures us some degree of control over this office, an office which has given us a great deal of concern because of recent disclosures. The conferees on the House side were in accord that the 10-year term is a good way to keep a check on that office.

Mr. McCLORY. Mr. Speaker, I thank the gentleman, and I appreciate the information that has been supplied by my friend, the distinguished chairman of the Committee on the Judiciary.

I might say that there was not any disagreement with regard to this section on the part of either the Members on our side or the Members of the other body, as I recall.

Mr. MYERS of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Speaker, I would like to ask the chairman of the committee if the House or the Committee on the Judiciary has in fact discussed this subject in regard to other unrelated bills or bills specifically unrelated to LEAA. Has the pulse of the House been felt on this particular item?

Mr. RODINO. Well, not the consensus of the House, but the matter has been under discussion by one of our subcommittees. The subcommittee which has oversight jurisdiction has had this matter of the FBI Director's office under considerable discussion.

I see no objection there. I think this is in keeping with all of the matters that seem to have been considered. I think it certainly would not meet with any objection; as a matter of fact, it meets with their wholehearted approval.

However, when the gentleman asks whether or not we took this particular item up and considered it, I must say we did not. I saw no necessity for it, in view of the many discussions that had taken place and the oversight that has been conducted by the Subcommittee on Civil and Constitutional Rights. The chairman of that subcommittee, the gentleman from California (Mr. EDWARDS), served on the conference committee, and he has wholeheartedly gone along with this.

Mr. McCLORY. Mr. Speaker, I agree with the chairman of the committee. I think we have discussed this informally, but not in a formal manner.

Mr. RODINO. That is correct.

Mr. McCLORY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. WIGGINS), a member of the conference committee.

Mr. WIGGINS. Mr. Speaker, I rise in general support of the conference report.

A conference is, by definition, a time for compromise. It is unrealistic to expect that all positions which were supported by the House and in which I believe strongly would without exception be adopted in the conference. The House has surrendered on several positions which I deem to be rather important.

I think it is unfortunate, Mr. Speaker, that we have further categorized the LEAA program with respect to judicial planning and judicial grants. This is a rather important change from the House bill. However, in the spirit of compromise, I am satisfied that the House conferees were justified in accepting this Senate language.

With respect to the FBI Director, as I understand the law, the language in this conference report is somewhat misleading and perhaps even illusory. So long as the FBI Director remains an official within the executive branch of Government, the President retains the right to discharge that FBI Director at his will, notwithstanding the fact that he may have been appointed and confirmed by the Senate for a fixed term. I do not believe there is any dispute as to the accuracy of my understanding of the law. If the gentleman from South Carolina (Mr. MANN) agrees, I will ask him to express his agreement.

Mr. MANN. Mr. Speaker, if the gentleman will yield, I concur with that interpretation.

Mr. WIGGINS. In addition, of course, to the President's power to discharge for whatever cause he deems appropriate, the Director, notwithstanding the fact that the term is fixed, would obviously be subject to impeachment, or he may resign.

Mr. Speaker, I urge a favorable vote on the conference report.

Mr. McCLORY. Mr. Speaker, I have no further requests for time.

Mr. MANN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I rise in support of the conference report.

It was a pleasure to have served on the conference committee. I think the chairman of the committee, the gentleman from New Jersey (Mr. RODINO), and the chairman of the subcommittee, the gentleman from Michigan (Mr. CONYERS), returned a very good conference report, and I urge the Members of the House to support it.

Mr. CONYERS. Mr. Speaker, my conscience compels me to inform my colleagues in the House that I cannot support the agreement reached by the conferees on S. 2212, reauthorizing the Law Enforcement Assistance Administration. It was with the greatest reluctance that I withheld my signature from the report and it is with the same reluctance that I must oppose its adoption.

I must make clear to my colleagues

that I do not oppose Federal assistance to States and units of general local government for the dual purposes of reducing crime and improving the administration of criminal justice, either in theory or in practice—far from it. Since I became a member of the Judiciary Committee, I have supported this concept enthusiastically in many forms, including the reauthorization of the agency in 1973. Furthermore, I believe that the agreement reached by the conferees reflects an honest attempt by both bodies to remedy deficiencies in past administration of the program and improve its prospects for future success. Meaningful participation by citizens and communities in the war on crime is closer to reality than ever before because the committee and this House insisted upon the creation by law of an Office of Community Anticrime Programs within LEAA and a separate authorization of appropriations for funds for such programs to reinforce that expression of congressional intent; the other body has acceded to the merit of this proposition.

A lack of Federal leadership in enforcing civil rights laws against grantees who violate their agreements not to discriminate prompted the committee and this House to adopt comprehensive enforcement guidelines to prevent such abuses from reoccurring; the other body realized as well that the time has come for such provisions. These are but two significant examples of areas where both bodies have demonstrated a willingness to learn from the lessons of the past 8 years and to act to assure the eventual success of this program.

What troubles me—what prompts my present dissatisfaction—is that, for a second time, this change of attitude about the direction and goals of the most significant anticrime program ever conceived at the Federal level has fallen prey to other, short-sighted considerations. In 1973, the Judiciary Committee recommended an extension of LEAA for no more than 2 years, rejecting proposals for a 5-year extension which the chairman, the gentleman from New Jersey (Mr. RODINO), characterized as inconsistent with the need for "continuing and vigilant congressional oversight" of the program. As the distinguished gentleman said, the limitation of authorization for no more than 2 years would promote:

> Continuing and vigilant congressional oversight [which] was necessary to insure the program's accountability, and to allow for periodic reappraisals of our fight against crime. A five-year authorization would not be consistent with that responsibility.

I agreed with my chairman:

> I support the committee's bill as a distinct improvement over the present law. Moreover, the bill would require the Law Enforcement Assistance Administration to return for additional authorizations for fiscal year 1976 and thereafter, thereby insuring to the committee an automatic opportunity to make a thorough review of the progress made under the revised law in the next 2 years.

This House agreed as well, sending the 2-year reauthorization bill to conference by a vote of 391 to 0. Our conferees—myself included—returned with a 3-year compromise, fairly satisfied that the committee's objectives and this body's endorsement of them had been served.

As the steward of the commitment to "continuing and vigilant congressional oversight," I quickly discovered that the voices of discontent over the administration's execution of its responsibilities, which were responsible for the 1973 rejection of an extended reauthorization, had grown in number and force. The General Accounting Office found that, in the interim, a lack of comprehensive evaluation policies and guidelines had compounded the absence of direction and continuity uncovered in 1973.

Minority and female police officers pointed to a sorry record of civil rights enforcement on the part of LEAA, to the point where little improvement had been realized despite clear direction from the Congress 3 years ago—a conclusion affirmed by the U.S. Commission on Civil Rights. Counties, communities, and citizens complained of changing LEAA procedures, priorities and even previous commitments which effectively foreclosed opportunities for participation. Judges and court officials spoke of virtual exclusion from active planning and policy roles at the local and State levels and indifference on the part of LEAA itself to redress those grievances.

More to the point, Mr. Speaker, two independent evaluating agencies were so dissatisfied with the administration's performance toward fulfilling title I's dual mandate that one recommended total abolition of the agency and the other, reauthorization for no more than 1 year under intense congressional scrutiny in lieu of abolition. The Center for National Security Studies was unequivocal in its recommendation:

> Congress should repeal Title I of the Safe Streets Act. LEAA is unclear as to its mission, and, what it has attempted, it has done poorly. Termination of the program will not cause injury to individuals, as occurs when other such social programs, such as welfare, Medicaid, or the school lunch program are reduced or terminated.

The report of the Twentieth Century Fund was no less emphatic:

> The administration has proposed that LEAA be authorized in 1976 for five years at a budget of $1.3 billion per year. *The Task Force opposes five-year authorization at this time without a thorough restructuring of LEAA to eliminate its serious problems and weaknesses.*
>
> * * * * *
>
> If LEAA and its program are restructured, Congress should carefully monitor the operations of the federal agency and review the findings of its evaluations of state and local programs. *If the agency is not restructured, then this Task Force urges only a one- or two-year authorization, a cutback in the proposed level of authorization, and a thorough congressional investigation of LEAA.* [Emphasis in original.]

Hearing and heeding these dissident voices, the subcommittee reported and the full Judiciary Committee adopted a 1-year extension with an authorization of appropriations at the same level as appropriated for fiscal 1976. Amendments to broaden the extension and increase the appropriations authorization were soundly defeated.

Dissatisfaction with the agency's performance among the Members of this body was even more apparent. On June 18, the House approved a fiscal 1977 appropriation of $753 million—$127 million less than last year—by a vote of 208 to 9. During its consideration of the committee's reauthorization bill on August 31, an amendment to extend the reauthorization to 3 years was rejected by better than 2-to-1—119 to 268.

By its actions, then, this House served notice upon the Law Enforcement Assistance Administration that it is dissatisfied in the extreme with the manner in which it had discharged its responsibilities under title I over the past 3 years and that its continued existence would depend entirely upon its own willingness to improve during a probationary period of 1 additional year.

I respectfully submit that, by agreeing to a 3-year reauthorization at higher authorization-of-appropriations levels, the conference committee failed in its duty to protect and faithfully execute the clearly expressed wishes of this body. For this reason and this reason alone, I must oppose the adoption of House Report 94-1723.

To correct the record, Mr. Speaker, my signature to the body of the conference report itself was not deleted, as it was from the joint explanatory statement of the managers, due to an oversight.

Ms. HOLTZMAN. Mr. Speaker, I rise in support of the conference report on S. 2212, which extends the programs of the Law Enforcement Assistance Administration (LEAA) for 3 years.

As passed by the House, the LEAA reauthorization bill made a number of significant improvements in the Federal program of aid to State and local governments for crime fighting. Chief among these were the increased emphasis on speeding criminal trials and reducing crime against the elderly, and the strengthened evaluation and congressional oversight requirements. These provisions were originally suggested in legislation I introduced, and I am pleased that they were retained by the conference committee. They should make LEAA a more effective weapon against crime.

The conference committee strengthens the House bill by requiring States to allocate adequate LEAA funds to reduce both court congestion and "revolving door justice." In this regard, I believe it is particularly important that the conference report provides for coordinated planning by judges, court administrators, prosecutors, and defenders working together on judicial planning committees to improve the functioning of State criminal courts. Only by such a coordinated effort, taking into account the needs and responsibilities of each component of the criminal justice system, can the ideal of swift and sure justice for the guilty, the innocent and the public alike be attained.

The chief shortcomings of the conference report are in the 3-year authorization period and the absence of a special effort directed at violent crime in urban areas. I had recommended, and the House had approved, a 1-year authorization for LEAA in order to keep it on a "short leash" and assure that its past inadequacies would be remedied. The 3-year period, I am concerned, may give the LEAA bureaucracy too much leeway, and delay the making of further improvements.

Equally serious is the absence of a strong focus on the most severe crime problem in America: violent "street crime" in cities. In New York and in other major cities throughout the Nation, crime and the fear that it breeds are ugly facts of life. We in the Congress must take strong and positive action to combat this modern "plague" that haunts our urban areas.

Despite these reservations, however, I believe we have taken, in the LEAA conference report, meaningful steps to provide effective Federal aid to combat crime in the United States.

### GENERAL LEAVE

Mr. MANN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. MANN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the adoption of the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 6, not voting 40, as follows:

[Roll No. 850]

### YEAS—384

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Ind.
Evins, Tenn.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

### NAYS—6

Crane
Fascell
Hansen
McDonald
Paul
Symms

### NOT VOTING—40

Andrews, N.C.
Bafalis
Boggs
Conlan
Conyers
Duncan, Oreg.
Early
Esch
Evans, Colo.
Flynt
Green
Hall, Tex.
Hébert
Heinz
Hinshaw
Holland
Horton
Howe
Landrum
McCollister
McEwen
Matsunaga
Meyner
Mink
Mollohan
Moss
Nix
Passman
Pepper
Pettis
Quillen
Rees
Richmond
Scheuer
Steelman
Steiger, Ariz.
Stephens
Stuckey
Wilson, C. H.
Wilson, Tex.

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs for, with Mr. Conyers against.

Until further notice:

Mr. Hébert with Mr. Andrews of North Carolina.

Mr. Green with Mr. Esch.

Mr. Matsunaga with Mr. Heinz.

Mr. Charles H. Wilson of California with Mr. McCollister.

Mr. Pepper with Mr. Rees.

Mr. Holland with Mr. Conlan.

Mr. Duncan of Oregon with Mr. Quillen.

Mr. Moss with Mr. Flynt.

Mr. Nix with Mr. Steiger of Arizona.

Mrs. Meyner with Mr. Horton.

Mrs. Mink with Mr. McEwen.

Mr. Howe with Mr. Hall of Texas.

Mr. Richmond with Mr. Stephens.

Mr. Charles Wilson of Texas with Mr. Landrum.

Mr. Mollohan with Mr. Scheuer.

Mr. Bafalis with Mr. Stuckey.

Mr. Early with Mrs. Pettis.

Mr. Evans of Colorado with Mr. Steelman.

Messrs. WEAVER and DELLUMS changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PRINTING AS A HOUSE DOCUMENT TRANSCRIPT OF PROCEEDINGS ON PRESENTATION OF PORTRAIT OF HONORABLE JAMES A. HALEY

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the concurrent resolution (H. Con. Res. 761) authorizing the printing as a House document of proceedings of the Committee on Interior and Insular Affairs of July 27, 1976, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 761

*Resolved by the House of Representatives (the Senate concurring)*, That the transcript of the proceedings in the Committee on Interior and Insular Affairs of July 27, 1976, incident to the presentation of a portrait of the Honorable James A. Haley to the Committee on Interior and Insular Affairs be printed as a House document with illustrations and suitable binding.

Sec. 2. In addition to the usual number, there shall be printed one thousand copies of such document for the use of the Committee on Interior and Insular Affairs.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## CONFERENCE REPORT ON S. 3557, AUTHORIZING APPROPRIATION OF FUNDS FOR TREATY BETWEEN UNITED STATES AND SPAIN

Mr. FASCELL. Mr. Speaker, I call up the conference report on the Senate bill (S. 3557) to authorize the appropriation of funds necessary during the fiscal year

1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 28, 1976.)

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, this conference report represents an agreement with the Senate over language in the bill relating largely to prerogatives of the House to authorize security assistance appropriations, and the Senate's treaty-making powers. There is no change in the sums involved or the purposes for which they can be used.

I wish to assure the Speaker and the Members that the authorization prerogatives of the House have been fully protected and endorsed by the language in the conference report and the statement of managers as has the Senate's treaty-making power. Agreement was arrived at with very little difficulty as the difference in the two bills was largely technical and required no basic retreat on either side.

There was really no controversy with the Senate over this bill, other than a difference of emphasis or protecting the prerogatives of the House and the Senate. I wish to assure this body that the conference report did not retreat at all from the House position of endorsing the prerogatives of the House to authorize security assistance appropriations. Language was retained in the bill and added to the statement of managers to emphasize the point. The conference report did delete some House language which was in the nature of a sense of the Congress expression concerning hopes for future developments in Spain and in United States-Spanish relations. This language basically repeated what was in the Senate's resolution of advice and consent to the treaty.

I see no controversy at all with this conference report and I hope that the Members of this body will give it the quick approval that it deserves.

Mr. WINN. Mr. Speaker, I rise on behalf of the conference report on S. 3557. This version of the measure approved by the House adheres in all major particulars to H.R. 14940, which the House approved by an overwhelming vote on June 14, 1976. The only significant difference between H.R. 14940 and this conference report is the acceptance of the sense of Congress contained in section 3 of the House bill. Section 3 refers to the development of free institutions in Spain, the relationship between the treaty and American defense commitments in the North Atlantic Treaty area, and nuclear safeguards. Because this same expression is set forth in the Senate's resolution of advice and consent to the Spanish Treaty, it is not repeated in this bill in order to avoid making this body to appear to be approving the treaty.

For the same reason, the revised language makes it clear that the authorization authority of the House with regard to funds is maintained without impinging on the other body's authority to approve treaties. The conference report protects the concerns of both bodies, and more importantly, makes it possible to move ahead with the implementation of the vital and historic treaty with Spain.

Mr. Speaker, I urge my colleagues to accept this conference report.

Mr. MORGAN. Mr. Speaker, I simply wish to join Mr. FASCELL in calling upon the Members to approve this conference report. There is no basis for any controversy at all over this measure, I can assure you.

I am fully satisfied as were all of the other House conferees that the authorization prerogatives of the House over security assistance funds have been fully protected and endorsed. This includes security assistance funds committed by treaty provisions.

The language we agreed to delete was simply a sense of the Congress expression. I am sure when this language was passed by the House, the executive branch and the Spanish got the message. It is the same message that was in the Senate's resolution of advice and consent.

This was a simple and easy conference. Passage of the conference report should be just as easy. I thank you.

Mr. BROOMFIELD. Mr. Speaker, it has been almost 9 months now since the Treaty of Friendship and Cooperation with Spain was signed. In the interim, the administration has worked in good faith with both Houses of Congress to explain the treaty provisions and to answer our questions.

Events of the past year have underscored the importance of good relations between Spain and the United States at a time when the security situation in the Eastern Mediterranean is precarious at best. This treaty is important to the United States and to the Government of Spain. It offers encouragement to King Juan Carlos as he grapples with the difficult problems of post-Franco Spain. It insures that the United States will continue to have access to important air and naval facilities on Spanish territory.

The conference report before us today is entirely consistent with the legislation passed overwhelmingly by the House in June. I commend the administration on an excellent treaty, and I urge acceptance of the conference report.

Ms. HOLTZMAN. Mr. Speaker, I oppose the conference report on S. 3557 which authorizes funds to implement the Treaty of Friendship and Cooperation Between the United States and Spain—the Spanish Bases Treaty.

Since 1952 the United States, in return for the right to operate military bases in Spain, has supported the Franco dictatorship and its successor regime. This present treaty is a further extension of the United States willingness to aid repressive government in Spain in return for military turf.

My colleagues who support this measure argue that with Franco's death American friendship can become an important force for the restoration of democratic rights in Spain. Theoretically, that is true. In practice, however, I am less optimistic and, in any case, there is nothing in the treaty or conference report that conditions American aid on the restoration of democracy in Spain.

The present situation in Spain remains grim. Many political prisoners have yet to be released. The country has not opened its doors to the exiles of the Spanish civil war. Press censorship was recently tightened.

Those who favor this conference report would have us ignore the repressive features of the Spanish regime; instead, they exaggerate the minuscule progress that Spain has made toward restoring democracy.

The original House bill stated that the United States "hopes and intends" the treaty will serve "to support and foster Spain's progress toward free institutions." I was originally concerned that this pious hope was no substitute for a concrete requirement that the Spanish Government take real steps toward bringing about democratic government. Even this token gesture was stricken from the conference report.

In the absence of real guarantees of progress, I cannot vote for this conference report and thereby condone the present authoritarian regime in Spain and by implication the 26-year history of America's support for Spanish dictatorship.

Mr. FASCELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

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## GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

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## PROVIDING FOR CONSIDERATION OF S. 3521, ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up

House Resolution 1584 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1584

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 3521) to expedite a decision on the delivery of Alaska natural gas to United States markets, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. It shall also be in order to consider without the intervention of any point of order an amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs, if offered as an amendment in the nature of a substitute for the Interstate and Foreign Commerce Committee substitute. At the conclusion of the consideration of S. 3521 for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the Interstate and Foreign Commerce Committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1584 provides for the consideration of S. 3521, the Alaska Natural Gas Transportation Act of 1976.

This is an open rule providing for 1 hour of general debate with time divided equally between Committees on Interstate and Foreign Commerce and Interior and Insular Affairs.

The resolution specifically makes two amendments from these committees in order. The first of these is an amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce and printed in the bill. The second is an amendment in the nature of a substitute to be offered by the Committee on Interior and Insular Affairs to the first substitute. All points of order are waived against the Interior Committee substitute. The motion to recommit can be made with or without instructions.

Mr. Speaker, the procedure specified in the rule is designed to give both committees to which the bill, S. 3521, was referred time to be heard. Similar procedure was used in House Resolution 1551 providing consideration of the Lobbying Act to insure that both committees involved, regardless of whether or not a formal report had been filed, were granted time for floor debate.

In this instance, the Committee and Foreign Commerce reported the bill on September 22, 1976. The Committee on Interior and Insular Affairs completed action on the bill yesterday and has authorized a committee amendment in the nature of a substitute to be offered.

Mr. Speaker, the purpose of S. 3521 is to provide the means whereby a sound decision can be made on the selection of a transportation system for delivery of Alaskan natural gas to the lower 48 States. While the committee amendments to the bill may vary somewhat, the objective of both committees is to expedite the decisionmaking process and to encourage the construction and operation of a natural gas pipeline if such a system is approved so that this country will have an adequate supply of natural gas.

The energy problem, as I have stated before on the floor of this House, is of crucial concern. S. 3521 is at least one step toward meeting our energy needs. I urge my colleagues to adopt House Resolution 1584 so that we may proceed to the consideration of S. 3521.

I reserve the balance of my time, Mr. Speaker.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may use.

### GENERAL LEAVE

Mr. ANDERSON of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Res. 1584.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of this resolution and the legislation that it would make in order. Some of us, I think, noted just this past week in one of the weekly business magazines of this country an article about the impending gas shortage in the United States and the fact that very substantial curtailment will have to be made in delivery schedules in all parts of the country. Therefore, in the closing days of this second session of the 94th Congress it is certainly timely that we consider the Alaska Natural Gas Transportation Act of 1976, which, by its passage, would serve to expedite a decision on the very vitally important question of how the natural gas from Prudhoe Bay, in Alaska, is to be transported to the 48 States, the lower 48. There are competing plans that have been before the Federal Power Commission for some time, and under the terms of this legislation we would simply provide that the FPC would suspend those proceedings and would make its recommendation to the President by May 1, 1977.

The act goes on then to prescribe a system of comments by interested agencies. I think the environmentalists can take comfort in the fact that there are some built-in protections where they insure the kind of input that they would want on this very crucial decision.

All of this is subject not only to congressional review, but to judicial review, as well.

I repeat that it does not undertake to prejudge which route shall be followed in the delivery of this gas, but merely to expedite the very important decision that must be made by the Government on this question.

Mr. Speaker, I urge the adoption of the resolution.

Mr. QUILLEN. Mr. Speaker, I rise in support of the rule and of the bill it makes in order, S. 3521, the Alaska Natural Gas Transportation Act of 1976. The rule provides for 1 hour of general debate to be equally divided between the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs, and any germane amendments may be offered.

S. 3521 is designed to expedite the administrative procedure for the selection of the Alaskan natural gas pipeline route and the certification of a carrier to transport natural gas from the North Slope of Alaska to the rest of the United States. The bill does not prejudge these crucial energy decisions, but does provide for a deadline for the Federal Power Commission decision and a mechanism for Presidential recommendation, as well as the procedure for congressional approval of that recommendation, and for judicial review.

Mr. Speaker, it is necessary that the House act favorably on S. 3521 so that the Alaskan natural gas may be brought down to the lower 48 States as rapidly as possible. I urge adoption of the rule and passage of the bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## APPOINTMENT OF CONFEREES ON H.R. 10210, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

Mr. ULLMAN. Mr. Speaker, pursuant to clause 1, rule XX, I move to take from the Speaker's table the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Without objection, the gentleman from Oregon (Mr. ULLMAN) is recognized.

Mr. ASHBROOK. Mr. Speaker, I object.

Mr. ULLMAN. Mr. Speaker, I yield to the gentleman from California (Mr. CORMAN), the chairman of the subcommittee, to explain the situation in which we find ourselves in going to conference.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ASHBROOK. Mr. Speaker, will the Chair inform the Members as to what rules we are operating under? There was a unanimous consent request, and I objected. After that the gentleman from Oregon was recognized.

The SPEAKER. There was a debatable motion offered, and the Chair recognized the gentleman from Oregon (Mr. ULLMAN) for 1 hour. The Chair can put the question, if there is no objection.

Mr. ASHBROOK. Mr. Speaker, I did object.

The SPEAKER. Does the gentleman from Ohio (Mr. ASHBROOK) want to have a vote, or does the gentleman wish to have debate?

Mr. ASHBROOK. Either, Mr. Speaker.

The SPEAKER. Then the Chair recognizes the gentleman from Oregon (Mr. ULLMAN) for 1 hour.

Mr. ULLMAN. Mr. Speaker, I yield to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I thank the gentleman for yielding.

The House has been working on the unemployment compensation bill, H.R. 10210, for almost 2 years. It was acted on yesterday by the Senate. It is a matter of considerable consequence, in that it means about $400 million in the fiscal 1977 budget, $1.3 billion in fiscal 1978 budget, and $3.3 billion in the following year's budget.

This bill should be acted on by the conferees today. There are other SSI matters which the Senate attached to the bill, and these have all been passed by this House.

Mr. Speaker, I urge that the conferees be permitted to go to conference on this bill.

Mr. ULLMAN. Mr. Speaker, I reserve the balance of my time, and I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 0, not voting 46, as follows:

[Roll No. 851]

YEAS—384

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—46

Anderson, Ill.
Bafalis
Baldus
Boggs
Byron
Conlan
Conyers
Esch
Evans, Colo
Flynt
Green
Haley
Hall, Tex.
Harsha
Hébert
Heinz
Hinshaw
Holland
Howe
Jones, Ala.
Kemp
Landrum
McCollister
McEwen
Mann
Matsunaga
Mikva
Mink
Moss
Nix
Oberstar
O'Hara
Passman
Pepper
Randall
Roberts
Scheuer
Solarz
Steelman
Steiger, Ariz.
Stephens
Stuckey
Udall
Vigorito
Wilson, C. H.
Wright

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Anderson of Illinois.
Mr. Mann with Mr. Haley.
Mr. Mikva with Mr. Jones of Alabama.
Mr. Pepper with Mr. O'Hara.
Mr. Hébert with Mr. Harsha.
Mr Moss with Mr. McEwen.
Mr. Nix with Mr. Conlan.
Mr. Oberstar with Mr. Landrum.
Mr. Matsunaga with Mr. Conyers.
Mrs. Mink with Mr. Wright.
Mr. Howe with Mr. Kemp.
Mr. Holland with Mr. Esch.
Mr. Byron with Mr. Steiger of Arizona.
Mr. Baldus with Mr. Flynt.
Mr. Green with Mr. Hall of Texas.
Mr. Bafalis with Mr. Heinz.
Mr. Udall with Mr. Stephens.
Mr. Vigorito with Mr. Roberts.
Mr. Solarz with Mr. Steelman.
Mr. Scheuer with Mr. Stuckey.
Mr. Charles H. Wilson of California with Mr. Evans of Colorado.

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair appoints the following conferees: Messrs. ULLMAN, CORMAN, BURLESON of Texas, BURKE of Massachusetts, RANGEL, STEIGER of Wisconsin, and FRENZEL.

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## ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976

Mr. DINGELL. Mr. Speaker, I move that the House resolve itself into the

Committee of the Whole House on the State of the Union for the consideration of the bill (S. 3521) to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 3521, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Michigan (Mr. DINGELL) will be recognized for 15 minutes, the gentleman from Ohio (Mr. BROWN) will be recognized for 15 minutes, the gentleman from Montana (Mr. MELCHER) will be recognized for 15 minutes, and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, the purpose of this legislation is to provide a process for arriving at a sound decision with respect to the selection of a transportation system for the delivery of Alaska natural gas to U.S. markets. As my colleagues know, proven natural gas reserves in the Prudhoe Bay Field equal an amount greater than 10 percent of the total proven U.S. reserves. Current estimates of deliverability would indicate that Alaska gas may provide up to 6 percent of this Nation's total gas supply. It is of the utmost importance that this gas be made available to U.S. markets at the earliest practicable time.

Proceedings are now underway before the Federal Power Commission pursuant to which contesting applicants seek the issuance of a certificate of public convenience and necessity authorizing the construction of a transportation system for such gas. These proceedings have been underway since January of 1975 and involve more than 100 intervenors in addition to the competing groups of applicants. Approximately 150 witnesses have testified, presenting over 27,000 pages of testimony and tens of thousands of additional pages of exhibits. While it is conceivable that the Commission may reach a decision by early 1977, it is expected that no matter what that decision may be appeals will be brought in the courts and protracted delays will be unavoidable. Rapidly increasing construction costs make timing a critical factor in the undertaking of a project of this dimension. Since judicial review would cast a cloud on the successful applicants' ability to proceed, construction of a major project is generally postponed until the completion of the judicial process. In this context I would call my colleagues' attention to a study by the Department of the Interior which indicates a 10-percent reduction in net economic benefits to the consumer for each year of delay.

The need to expedite the traditional process provided under existing law is well established. The Committee substitute to the Senate bill establishes a neutral 4-step process for the selection of a system and if a system is approved under this process provision is made to expedite its construction and initial operation by truncating administrative and judicial procedures. Let me briefly describe the mechanism set forth in the Committee substitute.

In the first stage, the Commission is directed to review the contesting systems proposed by applicants, together with other alternatives, and to report to the President by May 1, 1977. The Commission may recommend approval of a particular system or advise that no system should be approved pursuant to this act.

In the second stage of the decision-making process, an opportunity is provided for Federal officers and agencies, State Governors, other instrumentalities of government, and interested persons to comment on the recommendation and report of the Federal Power Commission.

The Council on Environmental Quality is given specific responsibilities to hold hearings on the various environmental impact statements which have been prepared relative to the alternative transportation systems reported on by the Federal Power Commission and to comment formally to the President on the legal and factual sufficiency of each such statement. As in the case with other Federal agencies, this report must be submitted to the President by July 1, 1977, and must be contemporaneously made available to the public.

The President has until September 1, 1977, to either accept the Commission recommendation or designate an alternative system, if he determines that a system should be built. The President's decision shall be submitted to the Congress and accompanied by a report explaining its basis. The President may delay his decision an additional 90 days if he determines that extra time is necessary to gather environmental impact information, or to enable him to otherwise arrive at a sound decision.

In the third stage of this process, the Congress would review the President's decision, under expedited procedures which are designed to assure that no single member or committee may block a vote on whether to approve the President's decision. For the President's decision to take effect, the Congress must enact a joint resolution of approval within the 60-day period following its receipt by both Houses. In the event such a resolution is not enacted in this period, the President then has 30 days in which to make and submit a new decision to the Congress. This second submission is also to be considered under expedited procedures.

The fourth and final phase is to be implemented only in the event that a decision of the President designating a system for approval wins congressional acceptance. In this event, all Federal officers and agencies whose permission is required to proceed with the construction and initial operation of the approved system are directed to issue the necessary certificates, permits, rights-of-way, leases or other authorization as soon as is practicable. Judicial review of the actions of Federal officers or agencies acting pursuant to this direction will lie only with respect to allegations that the actions complained of deny rights guaranteed under the Constitution or are beyond statutory authority. No claim may be brought at a date later than 60 days following the complained-of action. Also, any action seeking to test the validity of the Alaska Natural Gas Transportation Act, itself, must be brought before the Court of Appeals of the District of Columbia not later than the 60th day following enactment of a joint resolution approving the selection of a transportation system.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation to be considered today is of vital importance to our Nation's efforts to achieve energy independence. It would be a disaster for our future natural gas supply situation for Congress to adjourn without action on this most essential bill.

Mr. Chairman, under existing law, the potential for delay in the construction and initial operation of a transportation system to bring Alaskan natural gas to the lower 48 States is great. First, there could be serious delay at the FPC. Second, additional years of delay could result because the FPC decision, once made, is subject to judicial review.

The Commerce Committee bill is a procedural bill and provides a means for the expeditious route selection, construction and initial operation of a transportation system, for the delivery of Alaskan natural gas. It does not favor any one of the routes of the three applicants that currently have applications pending before the Federal Power Commission, and it is a rarity among energy bills reported by the Commerce Committee, because it has fairly general bipartisan support.

Mr. Chairman, subsequent to the action that the Commerce Committee took on this bill, the Interior Committee in the process of sequential referral took action and reported out a bill similar to the Commerce bill in general intent, but rather convoluted in some areas and confused in others, that I find some problems with. The rule that was just adopted made the Interior Committee version in order as a substitute. The gentleman from Michigan (Mr. DINGELL), the gentleman from Texas (Mr. ECKHART), and I and some of the members of the Interior Committee after extensive discussion, have compromised differences on several of the provisions of the Commerce and Interior Committee bills into a substitute that will be offered later.

As with any compromise, I am not totally satisfied with all of the compromise provisions, but I feel that the need for this legislation is so vital that a compromise is necessary.

Under the provisions of the Dingell-Brown, et al, substitute, the Federal Power Commission is directed to review all applications and reasonable alternatives for the transportation of Alaskan gas to the lower 48 States and recommend the best system to the President by May 1, 1977. The President must then decide by September 1, 1977, which system, if any, should be selected to transport the gas. The President's decision becomes final only upon the passage of a joint resolution of approval by the Congress within 60 days after the President submits his decision.

In his decision, the President may identify those provisions of law related to the determination as to whether to issue certificates, rights-of-way or permits for the transportation system. The provisions so identified would be waived if the Congress adopts the President's decision by joint resolution. There is also a process in the legislation which provides that if some of those licenses and permits have been missed in the President's identification, he can later submit them to the Congress and get congressional action at that time similar to the initial action.

Once a decision has been approved, the Federal Power Commission and other Federal officials and agencies are directed to issue such certificates and permits necessary for the construction and initial operation of the approved system. In so doing, any Federal officer or agency may waive any existing procedural requirement, if necessary. Such waiver is subject to truncated judicial review under section 10 only on the grounds that it is arbitrary or capricious.

Finally, judicial review of the actions of Federal officers and agencies relating to the operation of the approved system is truncated. Only claims alleging the invalidity of the action taken on the grounds that is, (1) it will deny constitutional rights or, (2) it is in excess of statutory jurisdiction, authority or limitations, or short of statutory right, may be brought within 60 days of such actions. However, if the claimant can show a lack of constructive knowledge of such action, the 60-day limitation will not begin until the date of receiving such constructive knowledge.

Time for action in this Congress is obviously short, but with each day of delay in beginning construction of the transportation system the cost of the gas to the American consumer goes up by approximately $1 or $2 million. If we do not enact this legislation in this Congress, commencement of construction would be delayed until at least 1979 because of the lead times necessary for planning, and it could be delayed for many years thereafter depending upon how many court actions are brought to challenge the Federal Power Commission decision, and other actions taken to issue permits, certificates, and other authorizations by other Federal officers or agencies.

The estimates of Prudhoe Bay gas run as high as 26 trillion cubic feet, and given our current dwindling supplies, the delivery of this gas at the earliest possible date is crucial to the continued health of our economy. According to industry estimates, the additional gas from Alaska translates into about 740,000 jobs annually in our economy that could be saved or created if the gas were available.

I urge that this bill be enacted before the Congress adjourns. The Senate has already acted on a slightly different bill. If we act now, it appears likely that we will get this authority so that the President elected in November will be able to act next spring to get this pipeline underway.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. MICHEL. I am sorry that I did not hear all the gentleman's remarks and do not know if he touched upon the Senate bill. Could he sum up for me very briefly what his views are with respect to the Senate-passed bill as distinguished from the House bill?

Of those provisions I read of in the Senate bill, I thought they were preferable to what we have here in the House measure, or at least in one or the other of the choices before us. Representing a district in Illinois, we are vitally interested in getting whatever oil and gas we can delivered as cheaply as possible.

Mr. BROWN of Ohio. The Senate bill is a little vague in certain areas.

The Commerce Committee bill has tried to tighten up those areas. The Interior Committee bill I think has tightened up the Senate bill to the extent that it tends to tilt some of the decisions made or that are to be made or to lay a few extra admonitions on the administration, whatever that administration is.

There will be a compromise piece of legislation offered as an amendment to the Interior Committee amendment that is made in order under the rule. That has been worked out between myself, the gentleman from Michigan (Mr. DINGELL) the chairman of the Subcommittee on Energy and Power, the gentleman from Texas (Mr. ECKHARDT), and some of the members of the Interior Committee, and we think we have a compromise version that will be generally acceptable to not only this body but to the Senate.

Mr. MICHEL. I thank the gentleman. Mr. Chairman, I am pleased that we have this opportunity to take swift and positive action to insure delivery of Alaskan natural gas to the lower 48 States on a timely basis.

We are all too familiar with the problems in recent years created by an overall energy shortage. In my own congressional district, we are particularly sensitive to the shortage of natural gas. We went through a very rough situation last winter, and we are faced with more shortages and unacceptable prices in the years to come unless something is done. The discovery of a substantial reserve of natural gas at Prudhoe Bay on the North Slope of Alaska could alleviate a significant portion of the U.S. shortage by potentially supplying as much as 1.6 trillion cubic feet annually. But it will be helpful only if we can get it to those places where the need is the greatest.

After reviewing the various proposals submitted to the FPC, I have personally thrown my support to a congressional move to mandate construction of a natural gas pipeline from Prudhoe Bay, through Canada to the lower 48 States. And while I still support that endeavor, I believe the overriding concern should be to get a decision in this matter so that construction can begin as soon as possible. This bill will assure such a decision is forthcoming.

The FPC has been considering the two proposals for several years and was originally expected to render a decision by December 1976. However, I understand the recent submission of a third major proposal threatens to delay that decision for at least several months. In addition, the final decision by the FPC will be subject to judicial review, thus providing the possibility that an ultimate decision could be delayed for many years while going through the appeals court process. As you are aware, the construction of the trans-Alaskan pipeline was delayed at least 4 years by environmental litigation. I do not believe we can afford continued delay in this instance.

If we are to reap the benefits of the Alaskan natural gas fields, while maximizing the economic and energy benefits in balance with environmental concerns, we must proceed as soon as possible. Regardless of which proposal is finally accepted, certain basic facts remain the same. The longer we delay in coming to a decision, the higher the costs of construction, of delivery, and, ultimately, the costs to the consumer. I need not tell you that consumers are already hard-pressed to meet rising energy costs.

Mr. Chairman, I think the FPC and others have had ample time to review all the facts and it is time for action. This legislation would expedite a decision and will undoubtedly save months—perhaps years—of litigation and millions of dollars in added costs. The people have already waited too long for Alaskan energy, and it would be unconscionable to permit further delay. Therefore, I urge adoption of either the Senate passed bill or the Commerce Committee bill to assure a decision is forthcoming so we can get on with the job at hand.

Mr. MELCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Interior Committee which had joint referral of the bill has made a number of modifications in the Commerce Committee's endeavors. As has been described by the gentleman from Michigan (Mr. DINGELL) and by the gentleman from Ohio (Mr. BROWN) the version that the House has before it, as presented by the Commerce Committee seeks to shorten the time that would be required to build a natural gas pipeline from Prudhoe Bay to the lower 48 States. We have the three competing routes, two of them through Canada, and the third, which would parallel the trans-Alaska pipeline to a point in southern Alaska where the natural gas would be liquefied and then carried by tanker down to the lower 48.

Using the Commerce Committee product as a basis to see how it could be improved, the Interior Committee adopted a number of amendments which we think are beneficial. We call for the equitable distribution of natural gas to the Midwest, to the eastern and western regions of the country.

On page 6 of the Interior Committee's version the Members will find described the requirement that, where Alaska natural gas is to be delivered to the lower 48 States, both east and west of the Rocky Mountains, we stress whatever new facilities are necessary, that they be built to assure the direct delivery of Alaska gas to the various parts of the country. We think that is equitable.

Mr. Chairman, we believe that it is necessary to do that and to modify the Commerce Committee's bill in that regard, to assure all regions of the country can share in the benefits of Alaska's natural gas. We look at both the possibility of land routes or the water route and assure that in either case, whether it is land or water, all of the areas of the country can have direct distribution.

We also have sympathy for the State of Alaska, with its minus 60° temperatures, that it has the opportunity or the right to use its royalty share of the natural gas for its own people.

With amendments offered by our colleague, the gentleman from Ohio (John Seiberling) we have two sections in our version of the bill dealing with antitrust matters. The gentleman from Arizona (Mr. Udall) and the gentleman from California (Mr. Miller) offered an amendment that allows for tighter congressional review of the proposed route, and that amendment was accepted by our committee.

On a different aspect of the version of the bill recommended by the Committee on Interior and Insular Affairs, let us look at section 18. We require the President to report on means to facilitate equitable distribution of Alaskan crude oil to the parts of the country that have refineries and that are now short of crude oil or that will become short of crude oil very soon as the Canadian supplies have dwindled and will not be shipped to the United States by 1980.

On balance we think that the Committee on Interior and Insular Affairs has greatly improved the bill, and when it is appropriate, I will ask that the substitute of the Committee on Interior and Insular Affairs be considered. I can assure all the Members of the House that when they consider the substitute recommended by the Committee on Interior and Insular Affairs, they will find points that have merit and that bring a better balanced bill to the House floor.

Mr. Chairman, I reserve the balance of my time.

Mr. SKUBITZ. Mr. Chairman, I yield 3 minutes to the gentleman from Alaska (Mr. Young).

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the Speaker of the House.

### ANNOUNCEMENT BY THE SPEAKER OF PRESIDENT'S SIGNATURE ON CETA

Mr. ALBERT. Mr. Chairman, I wish to advise the Members of the House that I have just spoken with the White House and have been advised that the President will sign the public works employment bill, the bill referred to as CETA.

The CHAIRMAN. The Chair recognizes the gentleman from Alaska (Mr. Young).

Mr. YOUNG of Alaska. Mr. Chairman, before I stress the need for S. 3521, I would like to thank the chairman of the subcommittee, the gentleman from Montana (Mr. Melcher), the gentleman from Michigan (Mr. Dingell), and the ranking minority member of his committee, the gentleman from Ohio (Mr. Brown), the gentleman from Kansas (Mr. Skubitz), and the staffs of both these committees that worked so hard to bring forth to this floor a bill which is greatly needed.

It is very apparent to me and I hope it is apparent to the other Members that we do need this legislation passed during this session or we will not have the gas available to the people of the United States when it is needed. We are talking about gas for heating homes and schools, gas for the agriculture industry, for fertilization, and gas for industry for the production of goods.

I can say to the Members that both bills that have been brought forth before this House have merit.

I serve on the Committee on Interior and Insular Affairs, and I recognize the fact that that committee has come forth with a good bill. Let me stress again the need for a piece of legislation that will expedite the process to get these lines built and to get the FPC moving. This legislation is very much needed.

In the bill from the Committee on Interior and Insular Affairs there is mention about recognizing the needs of Alaska, and I commend the committee for that. We have all worked with the chairman of the subcommittee, the gentleman from Michigan (Mr. Dingell) and the gentleman from Ohio (Mr. Brown), and they have recognized that need. They have both agreed to this type of an amendment.

In the bill from the Committee on Interior and Insular Affairs there is an amendment that I think is crucial—although many may not think so—because it gives a recognition that we must develop a distribution system for our Alaskan crude oil from the West to the East. I have heard much said about the surplus of oil in the West as if that is a great crime. The surplus of oil on the west coast is a blessing because it will now give us an opportunity to build a West-to-East distribution system that will forever avoid a further embargo.

If anyone knows anything about oil, the reason the embargo was enforced is because we only have a south-to-north system in place today. We must recognize that if we build an additional distribution system for Alaskan crude oil, the Mideast countries will no longer have their hands around our throats.

Mr. Chairman, I think it is absolutely mandatory that this body act on a piece of legislation like this that will accomplish that purpose.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. Young) has expired.

Mr. SKUBITZ. Mr. Chairman, I yield 2 additional minutes to the gentleman from Alaska.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding.

I must say that I was originally opposed to this provision, but I think I do understand it now. If the gentleman from Alaska (Mr. Young) has the intent which I believe he has, I would agree with him.

As I understand it, the gentleman's problem is that in his State they have to carry gas from a very long distance across a veritable subcontinent; and if it is not carried in an interstate pipeline, it is not going to be carried at all because it would be too expensive to build an intrastate pipeline from the north portion of Alaska to the south portion. Therefore, the gentleman feels that they should be permitted to use, irrespective of using an interstate pipeline, their own royalty gas without Federal Power Commission control except with respect to the transportation aspects of it; is that correct?

Mr. YOUNG of Alaska. The gentleman is absolutely correct.

The gentleman has recognized, and I do commend him for recognizing, the problems of Alaska, including climatic conditions. Also, a distance of approximately 800 miles is involved here.

Mr. ECKHARDT. I understand that the only gas the gentleman wants free of such control is gas which is to be used in Alaska; is that correct?

Mr. YOUNG of Alaska. Only gas which is to be used in Alaska; that is the royalty gas in Alaska.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman. I agree with the gentleman's position.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I agree with the statement which the gentleman from Texas (Mr. Eckhardt) just made and associate myself with it.

I originally opposed the amendment of the gentleman from Alaska too. Now that I understand it, I am in complete support of it.

Mr. Chairman, I also want to say that I commend the gentleman in the well (Mr. Young of Alaska), the gentleman from Montana (Mr. Melcher), and the other members of the committee, who I believe now support a complete and unanimous position in support of the Committee on Interior and Insular Affairs.

Mr. Chairman, I hope that augurs well for the swift enactment of this legislation.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman from Ohio (Mr. SEIBERLING) for his comments.

Mr. SKUBITZ. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Chairman, the Interior Committee has reported a substitute for the Interstate Commerce Committee's Alaska gas delivery bill. I want to draw my colleagues' attention to one critical section of that bill.

When the Interior Committee's substitute first came out of the Public Lands Subcommittee, it did not protect the Midwest if a water transportation route were chosen. But the committee accepted my amendment to the bill and now whether an all-land or a land-water route is recommended by the Federal Power Commission, that recommendation must include provision for new facilities to the extent necessary to assure direct pipeline delivery of Alaska natural gas contemporaneously to points both East and West of the Rocky Mountains in the Lower Continental United States.

The short of it is simply this. My amendment makes the bill whole. The committee agreed that no matter which transportation route is selected, States East and West of the Rockies must be assured of getting natural gas under the plan.

Put another way, no delivery route can be selected which will favor Western States over the Midwest or the East. It is the only fair way to approach this legislation. It is the only realistic way to get a bill passed. And we do need to pass a bill and get Alaska natural gas on line.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I want to commend the gentleman from Michigan (Mr. RUPPE) for his statement and also commend him for his amendment, because there was a bad flaw in the bill, both from the standpoint of the Committee on Interstate and Foreign Commerce as it completed its action and from the standpoint of the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, as it completed its action.

Mr. Chairman, the gentleman from Michigan (Mr. RUPPE) offered the amendment that made this a whole and a complete bill.

Mr. RUPPE. Mr. Chairman, I thank the gentleman from Montana (Mr. MELCHER).

I want to say that I thank him for his support before the committee yesterday.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, I, too, want to compliment the gentleman from Michigan (Mr. RUPPE) because it was his amendment that broke the logjam on this bill. The gentleman from Michigan really made this a totally evenhanded bill, and I am sure that the gentleman would agree with me that in making it evenhanded for the Eastern States, those States east of the Rocky Mountains, he also made it evenhanded for those States west of the Rocky Mountains.

Mr. RUPPE. Mr. Chairman, I would agree, and I want to say that the gentlemen from the West were very helpful and most cooperative and I think very fair, and that they would be sure to give everybody equal opportunity and equal access to the gas.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from California?

Mr. LAGOMARSINO. Mr. Chiarman, I thank the gentleman for yielding. I want to say that I as a representative from the State of California am vitally interested in the western connection if there is an eastern pipeline built. I do think the amendment proposed by the gentleman from Michigan (Mr. RUPPE) is fair, equitable, and should be supported.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to commend to the gentleman's attention the proposal in the modified version that the gentleman from Michigan (Mr. DINGELL) and the gentleman from Montana (Mr. MELCHER) have worked out which will call for a modification of some of the language with reference to the western leg that was in the bill of the Committee on Interior and Insular Affairs that we believe will satisfy the members of the Committee on Interstate and Foreign Commerce which will give the President flexibility to provide for distribution of the Alaskan gas and indeed all gas sold in this Nation in interstate commerce, so that there will be equitable distribution throughout the United States.

I think the language will accomplish the purpose of the gentleman from Michigan (Mr. RUPPE) without, in effect, formally instructing the President to, in any way, select the western leg as such.

I would urge my colleague to look at that language. I believe it will do the job which needs to be done and justice to the needs of the States on both sides of the Rocky Mountain Divide.

Mr. RUPPE. I would say to the gentleman from Ohio that we certainly will look at the amendments. I would simply like to say I think it is to the interest of all members on the committee who worked on the legislation to provide equitable treatment to all States east and west of the Rockies, and even as well as my friend the gentleman from Alaska (Mr. YOUNG), we have got to treat them fairly well also.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I want to commend my colleague for the very effective job the gentleman did on this legislation. It has been my privilege to have been on the committee for 14 years. As the ranking member, I want to say that the gentleman from Michigan (Mr. RUPPE) is one of the hardest working and most conscientious men we have ever had serving on that committee and this has made my job much easier.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I thank my colleague for yielding. I want to make clear, Mr. Chairman, that the language that is in the substitute of the Committee on Interior and Insular Affairs, this particular section dealing with the so-called Western leg, and the language that assures consideration to the delivery of Alaskan natural gas to all areas of the country, that the language that we have is acceptable to us on that committee and we prefer it. When an amendment is offered on that language, according to what the House wishes, we have not given that any preliminary agreement at all, speaking for the Committee on Interior and Insular Affairs.

Mr. ECKHARDT. Mr. Chairman, I want to compliment both the Committee on Interior and Insular Affairs and the members particularly of the subcommittee who have worked on this matter, and those on the Committee on Interstate and Foreign Commerce for bringing out together a desirable bill.

There remain some differences between the product of the two committees, which differences I believe can be reconciled, and I hope they will be here today.

I think I am in total agreement with the gentleman from Ohio (Mr. BROWN) with respect to his views on the program and his desires to get the Alaskan pipeline going.

There is one thing I should like to anticipate with respect to the differences between the bill of the Committee on Interstate and Foreign Commerce and that of the Committee on Interior and Insular Affairs.

In the Committee on Interstate and Foreign Commerce's bill it was provided that—

> To carry out the directions contained in this subsection, any Federal officer or agency, upon such officer's or agency's own motion, may waive, in whole or in part, any procedural requirements of any provision of law applicable to the issuance or grant of any certificate, right-of-way, permit, lease, or other authorization . . .

In the Committee on Interior and Insular Affairs the gentleman from Ohio (Mr. SEIBERLING), I think quite wisely noted that has too broad an authority of waiver of law, and he struck that sentence. If that sentence had not been qualified, I agree entirely with the gentleman from Ohio (Mr. SEIBERLING) that it should have been stricken. But there is a problem involved, and a serious one.

That is that the Federal Power Commission has presently been in hearings governed by the Administrative Procedures Act, section 554, since January of 1975, and there are about 100 parties in that proceeding. It is necessary under section 554 for every party to have the right to some cross-examination. Therefore, it appears to me that there is a need to give some flexibility with respect to waiver of proceedings, but not flexibility without judicial review.

As the Members know, this bill does very much limit judicial review to questions of constitutionality or questions of action which are outside of the scope of the authority in the bill itself. That does not, then, reach an administrator's act that may be complained of as arbitrary and capricious. I would suggest today as a compromise between the two positions that the language be left in the bill but qualified to provide that any such waiver shall be considered final agency action, reviewable under section 10 of this act, and may be reviewed on grounds of arbitrariness or capriciousness in addition to the grounds set forth in section 10 of this act.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

The difficulty I have with this provision is that if we grant blanket authority to any bureaucrat who is involved at any point in the licensing process to waive any condition that he considers desirable under the terms of this, we are opening up the door to such things as, taking the oil pipeline, for example, waiving the requirements of inspection by X-rays, waiving safety requirements, waiving requirements of the Occupational Safety and Health Act, et cetera.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, the points the gentleman from Ohio (Mr. SEIBERLING) makes are substantive requirements and are not procedural requirements at all and cannot be waived under the proposal suggested.

Mr. ECKHARDT. That is right. If I may go forward a bit, I agree with the gentleman from Ohio that the language was far too broad in permitting an administrator to waive all procedural requirements. But the problem is this, that there are some types of procedures as, for instance, the right to cross-examination of every one of 100 litigants that if permitted to stand could make it as difficult to operate under this bill as exists presently. Therefore, we would qualify the right to waive requirements with immediate review and with the court's authority to strike down such waiver if the same constitutes arbitrary and capricious actions. Of course, if due process were denied, it would be reviewable anyway.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

There will be ample time between now and the time that Congress is considering a resolution to approve a specific proposal from the President to write a tailor-made provision eliminating the very types of roadblocks that the gentleman is referring to.

But to write a blank check allowing any officer of the Government to waive any procedural requirement, which is sometimes a question of what is procedural and what is substantive, it seems to me would be a very foolish thing because none of us knows at this time what the implications would be.

Mr. ECKHARDT. What I wanted to say to the gentleman from Ohio is that I entirely agree with him and support his amendment, but it is not to permit any administrative officer to waive any procedural requirement but to provide he may do so subject to judicial review.

Mr. SKUBITZ. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from Kansas for yielding.

Mr. Chairman, the purpose of my taking the time is to tell the people who are involved, the Interstate and Foreign Commerce and the Interior Committee members that, yes, they are working, but we urge them to keep moving. It is urgent. They are doing a good job, but they should keep doing that good job. Let us not drag as we did with the oil pipeline.

I talked with the Secretary of the Interior, Mr. Tom Kleppe, just a few minutes ago here in the Capitol building. One of the things he expressed was that we needed to move ahead on the legislation that is here today, to determine a route that we would not have the same delay of construction of the natural gas pipeline that we had with the oil pipeline.

As a matter of fact, when we speak of the oil pipeline, we would need a new Prudhoe Bay every 2½ years, because we are falling behind in production of domestic oil. In 1970, we had a production of about 9.6 million barrels of oil domestically. Now we have fallen down to about 8 million barrels, which means that we need a new Prudhoe Bay every 2½ years.

With the amount of natural gas that is available and deliverable from Prudhoe Bay, it could truly save our Nation. At the present time we are importing almost 44 percent of our oil. We are in a position where we need the oil, but we also need the natural gas. So my message is to the members of both committees that they are tied together, they are moving S. 3521, let us keep it rolling so that we will have the natural gas not only for the homes in this Nation and for the schools and the hospitals, but also for the industry so that we will have the energy so that we can stay in business.

We have heard many people say today that the energy problem is over. No, the energy problem is here. It is with us today just as much as it was when we had people waiting at the gas pumps for gasoline. We are importing, but we are importing with the international problem that could cut off our supply of energy immediately and then we would see the real lines at the gas pumps.

So let us continue with the work we have started and not let it slow down. We need the energy in this Nation.

The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Chairman, in the printing of the Interior Committee version of the bill only 500 copies were printed. Each Member's office received 1 copy by hand delivery this morning and that left us with about 70 copies which are available for anybody who is interested. They are at the minority desk and majority desk.

Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the bill from the Committee on the Interior is a much improved version, particularly the congressional and judicial review changes and the Western leg amendment. These are essential to a good bill.

Mr. Chairman, I feel very strongly that they should stay in the final bill; however, I would like to make one other point, and that is, the only true, the only workable solution to low-cost energy for this Nation is in energy conservation.

Mr. MELCHER. Mr. Chairman, I yield 2 minutes to our colleague, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, California has a very definite interest in this bill. After the bill was referred jointly both to the Interstate and Foreign Commerce Committee and to the Interior and Insular Affairs Committee, the Interior Committee Subcommittee on Public Lands held hearings on the matter. One of our real interests is making certain that we get a Western leg, if there is to be an all-land pipeline built.

Now, everyone is looking to Alaska for a supply of oil and for a supply of gas. Naturally, we have to perfect ways and means to bring that oil and gas down.

Now, after the studies and the hearings, a decision will finally be reached. It will allow for some sort of transportation system to be built. If it is an all-land transportation system, naturally we are interested in making certain that there is a Western leg that can take care of the areas of the United States West of the Rockies.

When the bill and the Commerce Committee substitute were before the subcommittee, we amended the Western leg provision in. Later, when the bill was considered in the full committee, we improved on that amendment.

At that point the gentleman from Michigan (Mr. Ruppe) raised an important question. It was: What will happen if there was a route across Alaska liquefying this gas and bringing it down to California by water transportation?

We worked out a suitable amendment to protect the situation and to protect both the Western part of the United States and the other parts of the United States. California knows it will not get a great amount of this gas to be retained in our State; but we are deficient in gas supply. We are now bringing gas down from Canada and from other parts of the United States into California. Our interests are still with an increased supply of natural gas.

Therefore, Mr. Chairman, I do hope we stay with the provisions of the Interior Committee substitute particularly as it relates to the Western and the Eastern leg.

Mr. MELCHER. Mr. Chairman, I yield 2 minutes to our colleague, the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Chairman, I want to speak further to the problem about waivers by any Federal officer or agency of any procedural requirements of any provision of law applicable to the issuance or the granting of certificates, and so forth, that the Interior Committee took out of section 9(b). The difficulty is that this would write a blank check collectible after the Congress a year from now approves a particular system.

Mr. Chairman, it seems to me we have plenty of time between now and the time the President submits a plan to write a provision, and to put it in any resolution approving a pipeline plan, that is tailor-made to the particular problems that we want to eliminate as possible roadblocks. So it is not necessary, and it will not hold up this project in any way, if we simply take out that blank-check provision now and study the problem between now and then, so when the time comes we can enact a provision that will make certain this project goes forward expeditiously. That is really the whole issue.

Mr. Chairman, to give that kind of authority to a whole array of officials, high and low, without any awareness of the possible implications is just an abdication of responsibility. Since it is not necessary, we ought not to put ourselves in that position.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, can the gentleman explain the Interior Committee position on the so-called Western leg?

Mr. SEIBERLING. I could, but that is something I think the gentleman from Montana (Mr. Melcher) could do better at this moment, because I have been focusing on the particular problem I just discussed, and I have not been concentrating on the one you refer to.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Perhaps I could ask the gentleman from Montana (Mr. Melcher) this question: It is my understanding that under the Interior Committee's bill, both the Federal Power Commission's recommendation and the President's decision with reference to routing must include provisions for new direct delivery facilities to assure that Alaska natural gas is equitably and reliably delivered to regions East and West of the Continental Divide. What I am concerned about in that approach is whether or not that does not, in effect, tilt the decision which the Federal Power Commission must recommend and the decision which the President must make so that the decision is clearly insistent upon the Western facilities solution to this problem.

It was the decision of the members of the Commerce Committee, where we also have members from all parts of the country, that the decision be left to the Federal Power Commission to make its recommendations and to the President to make his recommendations with the admonition that we be able to deliver the gas to all parts of the lower 48 States. The philosophy behind this was that all the lower 48 States have an equal right to the national resources of our country in terms of natural gas.

Am I wrong in seeing a sort of direction in the Interior Committee bill that says that the direct delivery must be made both East and West of the Continental Divide?

Mr. MELCHER. If the gentleman will yield, I will be delighted to answer his question.

Mr. BROWN of Ohio. I yield.

Mr. MELCHER. The Interior Committee, in its version, strives, and indeed directs, that both the Federal Power Commission and the President will give consideration and come up with a solution that does provide gas for both East and West of the Rocky Mountains, and does provide that, whichever route is selected, whether it is by land or whether it has the ocean leg in it. Now, a reading of the Interior Committee's bill is direct on that, and I hope we are making legislative history in this instance; that this is exactly what we are striving for.

Mr. BROWN of Ohio. Do I understand that it must be Alaskan gas, as opposed to all natural gas; and it must be by direct delivery rather than displacement delivery, because if this is the case, it seems to me that it directs the delivery of Alaskan gas directly West of the Continental Divide. That presents some real problems. Why did we not write the bill for those people who live in New England and direct it to New England or to Florida or to West Virginia or to the Central South? Why do we not let all gas be delivered in such a way that we can all share in the natural gas that our country has?

Mr. MELCHER. We certainly do mean Alaskan natural gas, and we do mean that to the extent necessary, there will be new facilities to assure direct pipeline delivery of that natural gas both to the East and to the West of the Rocky Mountains. New England States are, of course, part of that area of the country East of the Rocky Mountains.

Mr. BROWN of Ohio. In other words, the decision then is not to be left to the Federal Power Commission or to the President, but rather they are to be directed to do it this way.

Mr. MELCHER. The decision is clearly left to them, but part of that decision must be the equitable distribution both east and west of the Rocky Mountains. Of course, that embraces the country, the lower 48 States.

Mr. BROWN of Ohio. The problems that I have are related to Alaskan natural gas as opposed to all our natural gas resources, and the question of direct delivery versus displacement.

Now the gentleman has raised another problem in his conversation with me, and that is the question of new facilities. This seems to me to be a rather confining piece of legislation, and I must say that I think it is a little bit grasping, perhaps, to insist that all of those decisions have to be made in a way to deal equitably with all of the United States.

Mr. MELCHER. Mr. Chairman, I yield myself such time as I may consume.

To continue the discussion on this very pertinent point, Mr. Chairman, we feel that the Federal Power Commission and the President should come up with a recommendation that does give an equitable distribution of this Alaska natural gas to all parts of the country. We are not talking about Congress being out of the question either, because whatever the President's proposal is, it will be reviewed by Congress and, under the terms of the bill, can be rejected.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Chairman, it seems to me that by the language that has been put into the Interior Committee bill, the gentleman and the other members of the Interior Committee who support this—and I trust it was a majority, although I understand it was taken when a quorum was not present—would, in effect, say that cost and security matters do not really make any difference, "We do not care what the cost or what the national security implications are, we want it delivered directly from Alaska, never mind the other facilities that we have." Is that right?

Mr. MELCHER. To the extent that new facilities are necessary, we are requiring that in the plan.

Mr. BROWN of Ohio. Regardless of the cost or national security implications?

Mr. MELCHER. Is the gentleman posing the question to me?

Mr. BROWN of Ohio. Yes; if the gentleman will yield.

Mr. MELCHER. I do not believe that the Federal Power Commission nor the President nor the Congress is incapable of coming up with an equitable plan.

What we are trying to avoid in this particular section in the bill is some sort of a scheme that would not allow and would in effect deny to various parts of the country the benefits that would flow from the use of Alaska natural gas.

I must reply to the point, however, that the gentleman has raised on whether or not a quorum was present in the Interior Committee when we adopted the bill. A quorum certainly was present, and the record will clearly show that.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. MELCHER. I yield to the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, we had in our language the question of cost and security as two of the things the President must look at, national security. And I just want to ask the gentleman directly if in the Interior Committee bill either one of those two factors was to go into the President's decision?

Mr. MELCHER. I do not think they ought to specify these conditions as any reason to believe that cost and national defense would not be included in the deliberations of the Federal Power Commission, the President, and the Congress.

Mr. BROWN of Ohio. They were taken out of our bill then in the modification of it made by the Interior Committee.

Mr. MELCHER. We are not aware that they were taken out.

Mr. BROWN of Ohio. They were originally in our legislation.

Mr. MELCHER. We would be delighted to look at what amendment the gentleman might offer, if he thinks we have done that to the bill.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Chairman, in response further to the comments of the gentleman from Ohio (Mr. BROWN), at the time we debated the Alaska oil pipeline bill some of us, including this Member, brought up the question of whether, once the oil started to flow through the pipeline, there would not be eventually a surplus of oil on the west coast, and we were assured there was going to be no problem and, in fact, during our hearings the representative of Standard Oil of Ohio said, "Oh, that is not going to be true," and they told me personally in conversation it was not going to be, and now I find it is true. All we are trying to do is to see that the oil-short regions of this country are taken care of.

The CHAIRMAN. The time of the gentleman from Montana (Mr. MELCHER) has expired.

The Chair desires to state that the gentleman from Montana (Mr. MELCHER) has consumed his 15 minutes, the gentleman from Michigan (Mr. DINGELL) has 2 minutes remaining, the gentleman from Ohio (Mr. BROWN) has 2 minutes remaining, and the gentleman from Kansas (Mr. SKUBITZ) has 2 minutes remaining.

The Chair now recognizes the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I rise in support of this legislation. I am proud to be a member of both committees that have moved this legislation forward. Perhaps in the rush we have made some mistakes. But mistakes can be corrected. It is only when we do nothing that indecision results in de facto decisions which do harm to our people and our economy.

Anyone who lived through the oil embargo of 3 years ago is painfully aware of the need for greater domestic supplies of both oil and gas. We have the reserves—we do not even know yet what the extent of oil and gas reserves in Alaska are.

The problem is—how do we get the fuel from Alaska to the lower 48 States? And that is what we are dealing with here.

There are three competing applications for certificates of convenience and necessity for natural gas transportation systems now pending before the Federal Power Commission. Two are all-land pipeline systems from Alaska through Canada to the lower 48 States. The third proposal is for a pipeline to a port in Alaska, where the gas would be converted to liquid natural gas and transported by ship to California.

We are not here to choose from among these proposals. The point of this legislation is to formulate policies which will expedite selection, approval, and construction of a pipeline system. At best, it will take several years to get an operable system. If we get bogged down in controversy, studies, and litigation, it could take many years.

This legislation is designed to eliminate or break through administrative and judicial logjams. The fuel is in Alaska. We need it here. I urge my colleagues to approve this legislation and let us get on with it.

Mr. Chairman, I yield whatever time I have remaining to my colleague, the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I will be very brief. I only wish to say that I think it is vital that legislation be passed that will expedite the flow of natural gas from Alaska to the lower 48 States.

A delay at this time will obviously not serve this Nation well. Representing Ohio and the Midwest generally, where we are having economic problems and particularly where a shortage of natural gas is a threat to jobs as well as to the needs of all types of institutions, I must say that it is vital that a bill move forward. I strongly support the action of the committees in bringing this legislation to us, and I hope the House and Senate will pass a bill that will expedite a solution and achieve action in bringing natural gas to the Midwest.

The CHAIRMAN. All time of the gentleman from Kansas (Mr. SKUBITZ) has expired.

The Chair now recognizes the gentleman from Ohio (Mr. BROWN), who has 2 minutes remaining.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I rise in support of the bill recommended by the Committee on Interstate and Foreign Commerce and in opposition to the substitute of the Committee on Interior and Insular Affairs, because I see no reason why we should not consider the question of cost in the construction of whatever the transportation system is. The cost of the Western leg, which is in effect required by the bill from the Committee on Interior and Insular Affairs, is something like a half a billion dollars.

I feel very strongly about the need for all parts of our country to get the natural gas that will come out of Alaska and will be available to all other parts of our country—and I refer to that gas which goes into the interstate system—but I do think it is a bit unfair to the rest of the Nation to suggest that displacement to get gas is not a viable alternative, and that it must be Alaskan gas, and that it must be delivered directly. I do not see the point in doing that.

It seems to me that in the language we have drafted in the bill from the Committee on Interstate and Foreign Commerce, in the substitute that the gentleman from Michigan (Mr. DINGELL) and myself and others have put together, it is evident that we call for all of the gas in the interstate system in our country to go to all of the areas of our country in equal quantities and in equal availability. I believe that we should leave to the Federal Power Commission and to the President, with the confirmation of Congress by positive action when the recommendation is made, a rational decision on this matter that will embrace all the aspects of the structure of a transportation system that will make that gas available to us as quickly as possible.

Mr. Chairman, in the national interest we are going to abrogate certain procedural rights. If that national interest results in serving only one regional interest and is in fact based on that premise, then we perhaps should not act at all.

Mr. DINGELL. Mr. Chairman, I yield myself the remaining 2 minutes at my disposal, and at the end of my presentation I will yield very briefly to my good friend, the gentleman from Wyoming (Mr. RONCALIO).

Mr. Chairman, I rise in support of the bill of the Committee on Interstate and Foreign Commerce and in opposition to the proposal made by the gentleman from Montana (Mr. MELCHER) on behalf of the Committee on Interior and Insular Affairs.

The bill of the Committee on Interstate and Foreign Commerce is a fair and a neutral bill. It does not designate routes, and it does not mandate construction. It leaves those questions in the hands of the President of the United States and the Congress. It requires the Federal Power Commission to place before the President all possible alternatives, and it leaves to him the prudent judgment as to where national security interests, diplomatic concerns, and costs lie.

Mr. Chairman, I would urge my colleagues not to require construction of a project which is so beneficial and so slanted to one area at the expense of the rest of the country.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I was wondering about the fact that it has been expedient for this House to give in with respect to vetoing the strip mining bill. We encourage mining in Wyoming where coal is plentiful; and ship it to nearly every State in the East.

In the case of natural gas, therefore, we say that we would like the assurance that some Canadian or Alaskan natural gas is available. But some would argue that the West must not be permitted to have a pipeline; be sure it goes to the Midwest, but not to the Rocky Mountain States.

Mr. Chairman, that is not a fair system.

Mr. DINGELL. Mr. Chairman, I decline to yield further to the gentleman from Wyoming. I think he is entirely in error.

Mr. ANDERSON of California. Mr. Chairman, the North Slope of Alaska is expected to become one of our largest, if not the largest, source of untapped natural gas for this Nation. According to a Rand Corp. study, the Prudhoe Bay field alone contains 26 trillion feet of confirmed natural gas reserves. This "amount constitutes more than 10 percent of current U.S. gas reserves."

Everyone knows why we need new reserves of natural gas, but the how and when of transporting it to U.S. markets has not been decided. The Alaskan Natural Gas Transportation Act, S. 3521, is not a final solution, but it will expedite a sensible decision.

The Federal Power Commission has already conducted extensive hearings on the three principal proposals: El Paso, Arctic Gas, and Northwest Pipeline. However, no decision has been made, and longer delays cannot be tolerated.

Generally, the bill establishes a neutral process for a speedup in the approval process. Briefly, it directs the Federal Power Commission to complete its work and make a recommendation by March 1, 1977. Once the recommendation is made, then the Federal agencies, State and local officials, and interested parties will have until July 1, 1977, to comment on the Commission's recommendation. The President would have until September 1, 1977, to accept the FPC recommendation or designate an alternative system. His decision would be submitted to the Congress with a supporting report.

Congress has 60 days after the President's recommendation is submitted to approve a joint resolution of approval. If they do not do so, the President has 30 days to prepare another report if he chooses and that recommendation is subject to a 60-day approval period. If not approved, the expedited procedures under the bill are terminated.

Mr. Chairman, we need this gas, and construction costs are not getting any lower. Therefore, I urge my colleagues to join me in supporting this bill that establishes a workable time frame for a sensible decision on the transportation of Alaskan gas to the lower 48.

Mr. MURTHA. Mr. Chairman, this legislation to establish a firm procedure for review of the development of the Alaskan natural gas reserves is extremely important.

Mr. Chairman, we can throw as many statistics and figures around as we want about how severe the natural gas shortage is, but one fact is clear: somewhere around the corner we face a definite, potentially catastrophic shortage of natural gas that could cause severe unemployment and hardships for many families. There are only a limited number of potential new sources of gas, and possibly the most important of those is the Alaskan gas.

In earlier remarks in the RECORD I stated my support for the trans-Alaska route. Whatever route you support, however, this bill is important because it does the following:

Sets a firm timetable for consideration by the Federal Power Commission, the President, and Congress;

Insures a role for Congress in reviewing the final decision on what route the line is to follow; and

Limits but allows judicial review which will help prevent the issue from being bottled up in the courts for many years.

The earliest we are talking about delivering the gas from Alaska after this bill's procedures are completed and construction completed is about 1981 or 1982. Each year we delay final construction of the pipeline raises the final project cost by about 10 percent because of inflation rates, labor costs, et cetera.

I personally wish the timetable in this bill was even quicker, because I believe this decision and construction should be a top energy priority. But at least this bill is a step in the right direction, and I urge a favorable vote.

Mr. Chairman, every Member of Congress realizes the importance of natural gas and the problems America faces in the years ahead over shortages of this energy source.

An extremely important debate is now underway in Congress that will decide a great deal about how we handle that natural gas problem. That debate is over when and how we plan to develop the natural gas reserves in Alaska.

This week I presented testimony to the House Energy and Power Subcommittee of the Interstate and Foreign Commerce Committee on this subject. In the remarks that follow I want to share the thoughts from that testimony with my colleagues.

One word before I begin. I want to congratulate my colleagues and the major spokesmen for the competing approaches to Alaskan development. To date the debate has been based on the facts, without distortion or unfairness, and has been aimed toward developing the best possible approach for the United States. I hope the following remarks will add to the facts and to that spirit.

I have divided this presentation into two parts. First, I discuss the legislation presently before the subcommittee; second, I detail my own preference for Alaskan natural gas development:

### LEGISLATION

### PART I: INITIAL LEGISLATION

After debating the natural gas issue for over a year in Congress there should be little doubt that the situation is serious. While we can look to off-shore drilling, Alaska, and devonian shale for possible large inputs of new gas, we must also face the fact that development on these sources must begin quickly.

In H.R. 12983 we have a good vehicle for expediting the decision on how to tap the Alaskan natural gas. The decisions moving from the Federal Power Commission, to the President, and finally to Congress represent in my estimation a proper decision-making path.

In all candor we face a difficult time problem because it is a Presidential election year. I can understand the philosophy underlying this bill that in the interests of national policy the Presidential decision should be made by the administration taking office in 1977.

Personally, I must disagree with that philosophy. My own preference is for making the decision this year. I have two main reasons for that. The first is the severity of the natural gas situation. Most estimates I have seen indicate all known reserves of natural gas will be used up at our present rate of consumption by 1990. Last week I saw a news story reporting that a Federal Power Commission study indicated it might only be 10 years before those reserves were gone. When we have 40 million households, 135 million residents, and millions of jobs depending on this energy source. I believe we must move as quickly as possible.

Second, estimates I have seen are that each year of delay in pipeline construction increases the final project cost by 10% because of inflation, labor rates, etc. We want to add as little to that final delivery cost as possible to protect the consumer who is already hard hit by jumps in energy prices.

If a majority of the Committee believes the administration beginning in 1977 should make the determination, then I would strongly urge that the deadlines in the bill for decision-making be moved forward. I am concerned that under the time limits in the legislation it could be as late as October 1977 before the government clears the way for development of the Alaskan gas. My recommendation would be to move up the dates for Presidential and Congressional decisions in 1977 so at the latest by one year from this testimony a final decision is made. Despite the possibility of a change in administration, I believe enough evidence will be known for any new administration to make its decision earlier in 1977 than the August 1 final deadline in this bill.

I hope the Committee will report and Congress pass an outline such as in this bill, so we do develop a firm time plan for making this decision.

### PART II: FINAL ROUTE

Because it is essential for Congress to debate thoroughly the final development plan for the Alaskan natural gas, I also want to take this opportunity to state my firm, positive support for the Trans-Alaskan route for transporting the gas. In the remainder of this testimony I would like to first cite the positive elements of this route, and then answer some of the criticisms being made of this Trans-Alaskan plan.

### *A. Outline*

There have basically been two proposals for moving the gas. The Trans-Alaskan route involves building a pipeline across Alaska, paralleling the oil line, then transporting the gas as LNG to California for distribution in the continental U.S. The alternative proposal (the Trans-Canadian line) involves building a pipeline through Alaska coupled to another pipeline through Canada arriving at the U.S. in the middle west for distribution. I believe the Trans-Alaskan route is superior. [Note: A third route, the Northwest Pipeline, routed through the Fairbanks Corridor, has also been mentioned. I believe the FPC should consider this route if a firm proposal is made, but facts are scarce at this time on the idea. therefore it is excluded from the discussion.]

### *B. Security*

The United States would have total control of a Trans-Alaskan pipeline. Only American approval would be necessary to begin the project. Only the actions of Congress, the Administration, and the State of Alaska would control the development of the project.

If the route is built through Canada, several factors then complicate the issue. Canadian litigation on environmental and other problems could tie up development of the project for many years. In Canada the provinces have sovereignty over the central government and it is unknown what actions the provinces containing the pipeline will take. One option they have is taxing the line heavily, a decision we could not prevent.

Obviously, the Canadian government has traditionally been very friendly to the United States. I am confident that friendship will be strong in the years ahead. But the situations involving the Panama Canal and the Arab Oil Embargo should have shown us that the United States must control our own destiny. The oil and gas coming to the United States from Alaska should be under the total control of the United States government. We should not rely on other nations, no matter how friendly, during this key energy development.

### *C. Economics*

The economic advantages of the Trans-Alaskan pipeline are many.

First, this project means jobs for Americans. Estimates are the Trans-Alaskan project would produce 345,000 jobs for American citizens during construction. If the Trans-Canadian line is built, the vast majority of jobs will go to Canadian citizens. After completion, the Trans-Alaskan line means 3½ times as many jobs for Americans as the Canadian line.

Second, building through Alaska will mean the U.S. government will collect some $9.3 billion in tax revenues. If the line goes through Canada, the Canadian government will collect at least $7 billion. Let us not kid ourselves, in either case the tax cost will eventually be passed on to the American consumer. But I say that if taxes are going to be collected, let us have them come into the U.S. treasuries.

Third, in studying testimony and talking to officials of the El-Paso Natural Gas Company (who would be chief builder of the Trans-Alaskan route) I am impressed with their commitment to build the pipeline with goods purchased from American companies. There is already substantial information that a Trans-Canadian line will depend on Japanese and German firms for much of their material.

Fourth, a key question to me is the purchase of pipe for the lines. The oil route was built largely with foreign steel because U.S. companies did not produce the 48 inch pipe needed. I have spoken with steel company officials and they plan to develop facilities to roll 48 inch pipe. U.S. Steel has already announced plans to build an $80 million pipe mill in Texas to produce the 48 inch pipe. Also, the El-Paso company officials are considering some use of 42 inch pipe, which is already produced by American companies (including Kaiser, Bethlehem, and U.S. Steel). If the line is built through Canada, American companies could be frozen out of pipe production, at the very least they will produce less of it. I make no secret of the fact that both Bethlehem and U.S. Steel have plants in the 12th Congressional District of Pennsylvania and I believe that if we can use American pipe on this project to help these companies and protect American jobs that we should make every effort to do so.

### *D. Time span*

The Trans-Alaskan natural gas project will parallel the existing oil project. What that means is that the gravel roads, work parks, and camps are already built, and much of the equipment is already there and available. The start-up time will be much less. Needed construction before the project actually begins will be less.

Finally, several recent indications are that the Canadian government plans to develop and stress gas sources that will help their own nation, placing any Trans-Canadian line on a back-burner. That makes clear sense for their nation, but it is another reason why the timing on a Trans-Alaskan line will be better for our country.

### *E. Environment*

The corridors through Alaska are already developed and environmental considerations have already been met along the routes. Some of the Trans-Canadian line will go through wilderness area that will be extremely difficult to protect environmentally. The Trans-Canadian line requires more than 5 times as many minor waterway crossings and 6 times as many major water crossings. That is just one indication of the additional harm that could be done to much of the beautiful Canadian wilderness this line would have to traverse.

### *F. Some questions*

Concerned citizens have raised some important questions about the Trans-Alaskan route. I want to answer those questions briefly. My explanations will be a quick summary, but for the completeness of the testimony I would like to mention them.

*The Trans-Alaskan line calls for shipping gas as LNG from Alaska to California, isn't shipping LNG unsafe?* The U.S. Coast Guard has testified to the safety of this shipping. The danger with LNG is during loading and unloading, and the plans are being made to do this in the safest areas possible and away from population. The system involves an automatic cut-off in the pipes when they reach certain stress levels. No one should say there is no danger, but from the material I have seen I believe it is very minimal.

*The Trans-Canadian line will bring gas into the Midwest which is hard pressed for gas. By bringing it into California instead, won't we just gut the West Coast market with gas?* Those advocating bringing the gas into the Midwest are sincerely trying to help their area, but there are two reasons why I do not believe the Midwest would benefit more than the rest of the nation. First, because of displacement, gas coming into California from Alaska will shift the flow of gas now coming into California from the Southwest to Midwest and Eastern markets. If the gas comes into the Midwest, displacement will transfer gas now going into that region to the east or west. Second, if you don't have a contract for the gas, you aren't going to get it regardless of where it comes in unless there is government allocation which we all want to avoid.

*I read where if this gas comes into California, some of it is going to be shipped to Japan. Is that true?* That would be against the law. The Alaskan pipeline law says all gas and oil from the pipeline must be used in the U.S., unless Congress and the President give the right to ship it to a foreign nation. Also, the El-Paso Company has publicly stated it has no intention of marketing even the smallest quantity of Alaskan gas anywhere but in the United States.

*Can't bad weather halt the shipping and mess up the plans?* Sure. The weather has been checked, however, and lead time built in, so that a substantial delay because of continuing bad weather would be unlikely.

It is impossible in a short time to present all the arguments and facts. I would like to conclude, however, by restating several key points. First, I believe it is essential for Congress to act quickly on this proposal. Enough parts of the energy solution have already been delayed. We need to act quickly, and forcefully on this issue so we can stimulate the flow of Alaskan gas within the best time frame possible. Second, I believe the Trans-Alaskan line is the best route. It makes the project entirely under the control of the U.S. government. It increases jobs for Americans, and tax revenues for state and federal governments. It is the quickest project to develop. It is the most environmentally reasonable.

I am submitting a chart outlining the pros and cons of the two proposed routes prepared by the El-Paso Natural Gas Company.

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### Factual Comparison of Projects

| | TRANS-ALASKA PROJECT | ARCTIC GAS PROJECT |
|---|---|---|
| I. *Security Risks:* | None. Totally under American control. | Severe. Substantial portion of the pipeline crosses a foreign country. Contrary to Arctic Gas claims, a treaty is powerless to solve the problem. |
| II. *Balance of Payments Impact:* | Favorable. | Unfavorable. Adverse balance of at least $10 billion. |
| III. *Economic Impact:* | All goods and services will be contracted within the U.S., including the LNG carriers. | Only 6% of $6 billion of Arctic Gas facilities in Canada will be procured in the U.S. |

FACTUAL COMPARISON OF PROJECTS—Continued

| | TRANS-ALASKA PROJECT | ARCTIC GAS PROJECT |
|---|---|---|
| IV. *Environmental Impact:* | Miles of new pipe: 809 in Alaska, plus a few hundred miles, principally in west Texas, connecting with existing pipelines in the Lower 48 having idle capacity. | 5,600 miles of new pipeline. |
| | Gravel required: approximately 7.5 million cubic yards. | Gravel required: approximately 57 million cubic yards. |
| | Waterway crossings:<br>Major: 26.<br>Total: About 600. | Waterway crossings:<br>Major: 170.<br>Total: About 3,000. |
| | Does not enter a wildlife range. | Traverses the width of the Arctic National Wildlife Range. |
| V. *Timing:* | With the uses of Alyeska's haul road and other construction facilities which required 1½ years to complete, this project has a significant head start. | Requires the construction of camps, haul roads, and other preliminary facilities before construction of the pipeline may begin. |
| | The laying of 809 miles of pipe in Alaska, coincident with the construction of the liquefied natural gas (LNG) plant represent the major time requirements for the project. | Requires the laying of 5,600 miles of pipeline. |
| | Permits must be obtained only from American agencies. | Permits must be sought from both U.S. and Canadian agencies. Must compete before the National Energy Board (NEB) in Canada against Foothills' all-Canadian Maple Leaf Project. |
| | Native claims settled in Alaska, after many years of extensive efforts in the U.S. Congress. | Native claims *not settled* in Canada. |
| VI. *Benefits to the State of Alaska:* | Substantial. | Minimal. |
| | $4.7 billion worth of goods, services, and facilities. | $657 million worth of goods, services and facilities. |
| | Construction payroll of $840 million in Alaska. | Construction payroll of $190 million in Alaska. |
| | $2.9 billion to be paid in ad valorem and income taxes to the State over the life of the project. | $360 million in ad valorem and income taxes to the State over the life of the project. |
| | Pipeline route provides State of Alaska direct access to 12½ percent royalty share of the gas. | Arctic Gas route precludes state access to its royalty share of gas. |
| VII. *Tax Benefits to U.S.:* | $9.2 billion in Federal income taxes to the U.S. treasury over the life of the project. | $2.1 billion in Federal income taxes to the U.S. treasury over the life of the project. |
| | $3.6 billion to be paid in *other* taxes to American governmental entities over the life of the project. | $1.4 billion to be paid in *other* taxes to American governmental entities over the life of the project. (In addition, $8 billion will be paid to Canada at present tax rates. Taxing powers of the provinces are sovereign and cannot be controlled by the Canadian federal government.) |
| VIII. *Employment:* | 7,500 workers to be employed at the peak of the project in the State of Alaska. | 2,500 workers to be employed at the peak of the project in the State of Alaska. |
| | 624 permanent employees in the State after construction. | 39 permanent employees in the State after construction. |
| | Total work force in U.S. at peak of construction. 24,000 (including Alaska). | Total work force in U.S. at peak of construction: 12,000. |
| | Permanent number of employees in the U.S. after completion of project: 1,470 (including Alaska). | Permanent number of employees in the U.S. after completion of project: 420. |
| IX. *Shrinkage:* | 11.1 percent, some of which could be recoverable in the form of cryogenic energy. | 9.6 percent, *none* of which is recoverable. |
| X. *Total Capital Cost:* | $8 billion. | $9.2 billion. |
| XI. *Pipe Rolling:* | Pipe requirements (42") can be met by U.S. mills. | Requires substantial portion of worldwide pipe mill capacity. No U.S. mill can now roll 48-inch pipe. Must be done in Canada, Germany or Japan. |

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, now printed in the reported bill as an original bill for the purpose of amendment.

It shall also be in order to consider an amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs if offered as an amendment in the nature of a substitute for the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce.

The Clerk will read.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION. 1. This Act may be cited as the "Alaska Natural Gas Transportation Act of 1976."

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MELCHER:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Alaska Natural Gas Transportation Act of 1976".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds and declares that—

(1) a natural gas supply shortage exists in the contiguous States of the United States;

(2) large reserves of natural gas in the State of Alaska could help significantly to alleviate this supply shortage;

(3) the expeditious construction of a viable natural gas transportation system for delivery of Alaska natural gas to United States markets is in the national interest; and

(4) the determinations whether to authorize a transportation system for delivery of Alaska natural gas to the contiguous States and, if so, which system to select, involve questions of the utmost importance respecting national energy policy, international relations, national security, and economic and environmental impact, and therefore should appropriately be addressed by the Congress and the President in addition to those Federal officers and agencies assigned functions under law pertaining to the selection, construction, and initial operation of such a system.

### STATEMENT OF PURPOSE

SEC. 3. The purpose of this Act is to provide the means for making a sound decision as to the selection of a transportation system for delivery of Alaska natural gas to the contiguous States for construction and initial operation by providing for the participation of the President and the Congress in the selection process, and, if such a system is approved under this Act, to expedite its construction and initial operation by (1) limiting the jurisdiction of the courts to review the actions of Federal officers or agencies taken pursuant to the direction and authority of this Act, and (2) permitting the limitation of administrative procedures and effecting the limitation of judicial procedures related to such actions. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made, and particularly with respect to the limitation of judicial review of actions of Federal officers or agencies taken pursuant thereto.

### DEFINITIONS

SEC. 4. As used in this Act:

(1) the term "Alaska natural gas" means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof;

(2) the term "Commission" means the Federal Power Commission;

(3) the term "Secretary" means the Secretary of the Interior;

(4) the term "provision of law" means any provision of a Federal statute or rule, regulation, or order issued thereunder; and

(5) the term "approved transportation system" means the system for the transportation of Alaska natural gas designated by the President pursuant to section 7(a) or 8(b) and approved by joint resolution of the Congress pursuant to section 8.

### FEDERAL POWER COMMISSION REVIEWS AND REPORTS

SEC. 5. (a) (1) Notwithstanding any provision of the Natural Gas Act or any other provision of law, the Commission shall suspend all proceedings pending before the Commission on the date of enactment of this Act relating to a system for the transportation of Alaska natural gas as soon as the Commission determines to be practicable after such date, and the Commission may refuse to act on any application, amendment thereto, or other requests for action under the Natural Gas Act relating to a system for the transportation of Alaska natural gas until such time as (A) a decision of the President designating such a system for approval takes effect pursuant to section 8, (B) no such decision takes effect pursuant to section 8, or (C) the President decides not to designate such a system for approval under section 8 and so advises the Congress pursuant to section 7.

(2) In the event a decision of the President designating such a system takes effect pursuant to this Act, the Commission shall forthwith vacate proceedings suspended under paragraph (1) and, pursuant to section 9 and in accordance with the President's decision, issue a certificate of public convenience and necessity respecting such system.

(3) In the event such a decision of the President does not take effect pursuant to this Act or the President decides not to designate such a system and so advises the Congress pursuant to section 7, the suspension provided for in paragraph (1) of this subsection shall be removed.

(b) (1) The Commission shall review all applications for the issuance of a certificate of public convenience and necessity relating to the transportation of Alaska natural gas pending on the date of enactment of this Act, and any amendments thereto which are timely made, and after consideration of any alternative transportation system which the Commission determines to be reasonable, submit to the President not later than May 1, 1977, a recommendation concerning the selection of such a transportation system. Such recommendation may be in the form of a proposed certificate of public convenience and necessity, or in such other form as the Commission determines to be appropriate, or may recommend that no decision respecting the selection of such a transportation system be made at this time or pursuant to this Act. Any recommendation that the President approve a particular transportation system shall (A) include a description of the nature and route of the system, (B) designate a person to construct and operate the system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system, (C) if such recommendation is for an all-land pipeline transportation system, or a transportation system involving water transportation include provision for new facilities to the extent necessary to assure direct pipeline delivery of Alaska natural gas contemporaneously to points both east and west of the Rocky Mountains in the lower continental United States.

(2) The Commission may, by rule, provide for the presentation of data, views, and arguments before the Commission or a delegate of the Commission pursuant to such procedures as the Commission determines to be appropriate to carry out its responsibilities under paragraph (1) of this subsection. Such a rule shall, to the extent determined by the Commission, apply, notwithstanding any provision of law that would otherwise have applied to the presentation of data, views, and arguments.

(3) The Commission may request such information and assistance from any Federal agency as the Commission determines to be necessary or appropriate to carry out its responsibilities under this Act. Any Federal agency requested to submit information or provide assistance shall submit such information to the Commission at the earliest practicable time after receipt of a Commission request.

(c) The Commission shall accompany any recommendation under subsection (b) (1) with a report, which shall be available to the public, explaining the basis for such recommendation and including for each transportation system reviewed or considered a discussion of the following:

(1) for each year of the 20-year period which begins with the first year following the date of enactment of this Act, the estimated—

(A) volumes of Alaska natural gas which would be available to each region of the United States directly, or indirectly by displacement or otherwise, and

(B) transportation costs and delivered prices of any such volumes of gas by region;

(2) the effects of each of the factors described in subparagraphs (A) and (B) of paragraph (1) on the projected natural gas supply and demand for each region of the United States and on the projected supplies of alternative fuels available by region to offset shortages of natural gas occurring in such regions for each such year;

(3) the impact upon competition;

(4) the extent to which the system provides a means for the transportation to United States markets of natural resources or other commodities from sources in addition to the Prudhoe Bay Reserve;

(5) environmental impacts;

(6) safety and efficiency in design and operation and potential for interruption in deliveries of Alaska natural gas;

(7) construction schedules and possibilities for delay in such schedules or for delay occurring as a result of other factors;

(8) feasibility of financing;

(9) extent of reserves, both proven and probable and their deliverability by year for each year of the 20-year period which begins with the first year following the date of enactment of this Act;

(10) the estimate of the total delivered cost to users of the natural gas to be transported by the system by year for each year of the 20-year period which begins with the first year following the date of enactment of this Act;

(11) capability and cost of expanding the system to transport additional volumes of natural gas in excess of initial system capacity;

(12) an estimate of the capital and operating costs, including an analysis of the reliability of such estimates and the risk of cost overruns; and

(13) such other factors as the Commission determines to be appropriate.

(d) The recommendation by the Commission pursuant to this section shall not be based upon the fact that the Government of Canada or agencies thereof have not, by then rendered a decision as to authorization of a pipeline system to transport Alaska natural gas through Canada.

(e) If the Commission recommends the approval of a particular transportation system, it shall submit to the President with such recommendation (1) an identification of those facilities and operations which are proposed to be encompassed within the term "construction and initial operation" in order to define the scope of directions contained in section 9 of this Act and (2) the terms and conditions permitted under the Natural Gas Act, which the Commission determines to be appropriate for inclusion in a certificate of public convenience and necessity to be issued respecting such system. The Commission shall submit to the President contemporaneously with its report an environmental impact statement prepared respecting the recommended system, if any, and each environmental impact statement which may have been prepared respecting any other system reported on under this section.

### OTHER REPORTS

SEC. 6. (a) Not later than July 1, 1977, any Federal officer or agency may submit written comments to the President with respect to the recommendation and report of the Commission and alternative methods for transportation of Alaska natural gas for delivery to the contiguous States. Such comments shall be made available to the public by the President when submitted to him, unless expressly exempted from this requirement in whole or in part by the President, under section 552(b) (1) of title 5, United States Code. Any such written comment shall include information within the competence of such Federal officer or agency with respect to—

(1) environmental considerations, including air and water quality and noise impacts;

(2) the safety of the transportation systems;

(3) international relations, including the status and time schedule for any necessary Canadian approvals and plans;

(4) national security, particularly security of supply;

(5) sources of financing for capital costs;

(6) the impact upon competition;

(7) impact on the national economy, including regional natural gas requirements; and

(8) relationship of the proposed transportation system to other aspects of national energy policy.

(b) Not later than July 1, 1977, the Governor of any State, any municipality, State utility commission, and any other interested person may submit to the President such written comments with respect to the recommendation and report of the Commission and alternate systems for delivering Alaska natural gas to the contiguous States as they determine to be appropriate.

(c) Not later than July 1, 1977, each Federal officer or agency shall report to the President with respect to actions to be taken by such officer or agency under section 9(a) relative to each transportation system reported on by the Commission under section 5(c) and shall include such officer's or agency's recommendations with respect to any provision of law to be waived pursuant to section 8(g) in conjunction with any decision of the President which designates a system for approval.

(d) Following receipt by the President of the Commission's recommendations, the Council on Environmental Quality shall afford interested persons an opportunity to present oral and written data, views, and arguments respecting the environmental impact statements submitted by the Commission under section 5(e). Not later than July 1, 1977, the Council on Environmental Quality shall submit to the President a report; which shall be contemporaneously made available by the Council to the public, summarizing any data, views, and arguments received and setting forth the Council's views concerning the legal and factual sufficiency of each such environmental impact statement and other matters related to environmental impact as the Council considers to be relevant.

### PRESIDENTIAL DECISION AND REPORT

SEC. 7. (a) (1) As soon as practicable after July 1, 1977, but not later than September 1, 1977, the President shall issue a decision as to whether a transportation system for delivery of Alaska natural gas should be approved under this Act. If he determines such a system should be so approved, his decision shall designate such a system for approval pursuant to section 8 and shall be consistent with section 5(b) (1) (C) to assure delivery of Alaska natural gas to points both east and west of the Rocky Mountains in the continental United States. The President in making his decision shall take into consideration the Commission's recommendation pursuant to section 5, the report under section 5(c), and any comments submitted under section 6; and his decision to designate a system for approval shall be based on his determination as to which system, if any, best serves the national interest.

(2) The President, for a period of up to 90 additional calendar days after September 1, 1977, may delay the issuance of his decision and transmittal thereof to the House of Representatives and the Senate, if he determines (A) that there exists no environmental impact statement prepared relative to a system he wishes to consider or that any prepared environmental impact statement relative to a system he wishes to consider is legally or factually insufficient, or (B) that the additional time is otherwise necessary to enable him to make a sound decision on an Alaska natural gas transportation system. The President shall promptly, but in no case any later than September 1, 1977, notify the House of Representatives and the Senate if he so delays his decision and submit a full explanation of the basis of any such delay.

(3) If, on or before May 1, 1977, the President determines to delay issuance and transmittal of his decision to the House of Representatives and the Senate pursuant to paragraph (2) of this subsection, he may authorize a delay of not more than 90 days in the date of taking of any action specified in sections 5 and 6. The President shall promptly notify the House of Representatives and the Senate of any such authorization of delay and submit a full explanation of the basis of any such authorization.

(4) If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he shall in such decision—

(A) describe the nature and route of the system designated for approval;

(B) designate a person to construct and operate such a system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system;

(C) identify those facilities, the construction of which, and those operations, the conduct of which, shall be encompassed within the term "construction and initial operation" for purposes of defining the scope of the directions contained in section 9 of this Act, taking into consideration any recommendation of the Commission with respect thereto; and

(D) identify those provisions of law, relating to any determination of a Federal officer or agency as to whether a certificate, permit, right-of-way, lease, or other authorization shall be issued or be granted, which provisions the President finds (i) involve determinations which are subsumed in his decision and (ii) require waiver pursuant to section 8(g) in order to permit the expeditious construction and initial operation of the transportation system.

(5) After a decision of the President designating an Alaska natural gas transportation system takes effect under section 8, the President shall appoint an officer of the United States, with the advice and consent of the Senate, or designate a board (consisting of such an officer, so appointed with the advice and consent of the Senate, as chairman and such other individuals as the President determines appropriate to serve on such board by reason of background, experience, or position) to serve as Federal inspector of construction of such transportation system, except that no such individual or officer may have a financial interest in the approved transportation system. Upon enactment of a joint resolution pursuant to section 8 approving such a system the Federal inspector shall—

(A) establish a joint surveillance and monitoring agreement, approved by the President, with the State of Alaska similar to that in effect during construction of the trans-Alaska oil pipeline to monitor the construction of the approved transportation system within the State of Alaska;

(B) monitor compliance with applicable laws and the terms and conditions of any applicable certificate, rights-of-way, permit, lease, or other authorization issued or granted under section 9;

(C) monitor actions taken to assure timely completion of construction schedules and the achievement of quality of construction, cost control, safety, and environmental protection objectives and the results obtained therefrom;

(D) have the power to compel, by subpena if necessary, submission of such information as he deems necessary to carry out his responsibilities; and

(E) keep the President and the Congress curently informed on any significant departures from compliance and issue quarterly reports to the President and the Congress concerning existing or potential failures to meet construction schedules or other factors which may delay the construction and initial operation of the system and the extent to which quality of construction, cost control, safety and environmental protection objectives have been achieved.

(6) If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he may identify in such decision such terms and conditions permissible under existing law as he determines appropriate for inclusion with respect to any issuance or authorization directed to be made pursuant to section 9.

(b) The decision of the President made pursuant to subsection (a) of this section shall be transmitted to both Houses of Congress and shall be considered received by such Houses for the purposes of this section on the first day on which both are in session occurring after such decision is transmitted. Such decision shall be accompanied by a report explaining in detail the basis for his decision with specific reference to the factors set forth in sections 5(c) and 6(a), and the reasons for any revision, modification of, or substitution for, the Commission recommendation.

(c) The report of the President pursuant to subsection (b) of this section shall contain a financial analysis for the transportation system designated for approval. Unless the President finds and states in his report submitted pursuant to this section that he reasonably anticipates that the system designated by him can be privately financed, constructed, and operated, his report shall also be accompanied by his recommendation concerning the use of existing Federal financing authority or the need for new Federal financing authority.

(d) In making his decision under subsection (a) the President shall inform himself, through appropriate consultation, of the views and objectives of the States, the Government of Canada, and other governments with respect to those aspects of such a decision that may involve intergovernmental and international cooperation among the Government of the United States, the States, the Government of Canada, and any other government.

(e) If the President determines to designate a transportation system for approval, the decision of the President shall take effect as provided in section 8, except that the approval of a decision of the President shall not be construed as amending or otherwise effecting the laws of the United States so as to grant any new financing authority as may have been identified by the President pursuant to subsection (c).

### CONGRESSIONAL REVIEW

SEC. 8. (a) Any decision under section 7(a) or 8(b) designating for approval a transportation system for the delivery of Alaska natural gas shall take effect upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of a decision transmitted pursuant to section 7(b) or subsection (b) of this section.

(b) If the Congress does not enact such a joint resolution within such 60-day period, the President, not later than the end of the 30th day following the expiration of the 60-day period, may propose a new decision and shall provide a detailed statement concerning the reasons for such proposal. The new decision shall be submitted in accordance with section 7(a) and transmitted to the House of Representatives and the Senate on the same day while both are in session and shall take effect pursuant to subsection (a) of this section. In the event that a resolution respecting the President's decision was defeated by vote of either House, no new decision may be transmitted pursuant to this subsection unless such decision differs in a material respect from the previous decision.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not

in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day calendar period.

(d) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this Act, the term "resolution" means (A) a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on , 19 , and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the National Environmental Policy Act of 1969."; the blank space therein shall be filed with the date on which the President submits his decision to the House of Representatives and the Senate; or (B) a joint resolution described in subsection (g).

(3) A resolution once introduced with respect to a Presidential decision on an Alaska natural gas transportation system shall be referred to one or more committees (and all resolutions with respect to the same Presidential decision on an Alaska natural gas transportation system shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If any committee to which a resolution with respect to a Presidential decision on an Alaska natural gas transportation system has been referred has not reported it at the end of 30 calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from consideration of any other resolution with respect to such Presidential decision on an Alaska natural gas transportation system which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Presidential decision on an Alaska natural gas transportation system), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential decision on an Alaska natural gas transportation system.

(5) (A) When any committee has reported, or has been discharged from further consideration of, a resolution, but in no case earlier than 30 days after the date of receipt of the President's decision to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution described in subsection (d) (2) (A) shall be limited to not more than 10 hours and on any resolution described in subsection (g) to one hour. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such 60-day period, to consider any other resolution respecting the same Presidential decision.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(e) The President shall find that any required environmental impact statement relative to the Alaska natural gas transportation system designated for approval by the President has been prepared and that such statement is in compliance with the National Environmental Policy Act of 1969. Such finding shall be set forth in the report of the President submitted under section 7. The President may supplement or modify the environmental impact statements prepared by the Commission or other Federal officers or agencies. Any such environmental impact statement shall be submitted contemporaneously with the transmittal to the Senate and House of Representatives of the President's decision pursuant to section 7(b) or subsection (b) of this section.

(f) Within 20 days of the transmittal of the President's decision to the Congress under section 7(b) or under subsection (b) of this section, (1) the Commission shall submit to the Congress a report commenting on the decision and including any information with regard to that decision which the Commission considers appropriate, and (2) the Council on Environmental Quality shall provide an opportunity to any interested person to present oral and written data, views, and arguments on any environmental impact statement submitted by the President relative to any system designated by him for approval which is different from any system reported on by the Commission under section 5(c), and shall submit to the Congress a report summarizing any such views received. The committees in each House of Congress to which a resolution has been referred under section (d) (3) shall conduct hearings on the Council's report and include in any report of the committee respecting such resolution the findings of the committee on the legal and factual sufficiency of any environmental impact statement submitted by the President relative to any system designated by him for approval.

(g) (1) At any time after a decision designating a transportation system is submitted to the Congress pursuant to this section, if the President finds that any provision of law applicable to actions to be taken under subsection (a) or (c) of section 9 require waiver in order to permit expeditious construction and initial operation of the approved transportation system, the President may submit such proposed waiver to both Houses of Congress.

(2) Such provision shall be waived with respect to actions to be taken under subsection (a) or (c) of section 9 upon enactment of a joint resolution pursuant to the procedures specified in subsections (c) and (d) of this section (other than subsection (d) (2) thereof) within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such proposal.

(3) The resolving clause of the joint resolution referred to in this subsection is as follows: "That the House of Representatives and Senate approve the waiver of the provision of law ( ) as proposed by the President, submitted to the Congress on , 19 ." The first blank space therein being filled with the citation to the provision of law and the second blank space therein being filled with the date on which the President submits his decision to the House of Representatives and the Senate.

(4) In the case of action with respect to a joint resolution described in this subsection, the phrase "a waiver of a provision of law" shall be substituted in subsection (d) for the phrase "the Alaska natural gas transportation system.".

### AUTHORIZATIONS

SEC. 9. (a) To the extent that the taking of any action which is necessary or related to the construction and initial operation of the approved transportation system requires a certificate, right-of-way, permit, lease, or other authorization to be issued or granted by a Federal officer or agency, such Federal office or agency shall—

(1) to the fullest extent permitted by the provisions of laws administered by such officer or agency, but

(2) without regard to any provision of law which is waived pursuant to section 8(g) issue or grant such certificates, permits, rights-of-way, leases, and other authorizations at the earliest practicable date.

(b) All actions of a Federal officer or agency with respect to consideration of applications or requests for the issuance or grant of a certificate, right-of-way, permit, lease, or other authorization to which subsection (a) applies shall be expedited and any such application or request shall take precedence over any similar applications or requests of the Federal officer or agency.

(c) Any certificate, right-of-way, permit, lease, or other authorization issued or granted pursuant to the direction under subsection (a) shall include the terms and conditions required by law unless waived pursuant to a resolution under section 8(g), and may include terms and conditions permitted by law, except that with respect to terms and conditions permitted but not required, the Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to include terms and conditions as would compel a change in the basic nature and general route of the approved transportation system or those the inclusion of which would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(d) Any Federal officer or agency, with respect to any certificate, permit, right-of-way, lease, or other authorization issued or granted by such officer or agency, may, to the extent permitted under laws administered by such officer agency add to, amend or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization except that with respect to any such action which is permitted but not required by law, such Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to take such action if the terms and conditions to be added, or as amended, would compel a change in the basic nature and general route of the approved transportation system or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(e) Any Federal officer or agency to which subsection (a) applies, to the extent permitted under laws administered by such officer or agency, shall include in any certificate, permit, right-of-way, lease, or other authorization issued or granted those terms and conditions identified in the President's decision as appropriate for inclusion except that the requirement to include such terms and conditions shall not limit the Federal officer or agency's authority under subsection (d) of this section.

### JUDICIAL REVIEW

SEC. 10. (a) Notwithstanding any other provision of law, the actions of Federal officers or agencies taken pursuant to section 9 of this Act, shall not be subject to judicial review except as provided in this section.

(b)(1) Claims alleging the invalidity of this Act may be brought not later than the 60th day following the date a decision takes effect pursuant to section 8 of this Act.

(2) Claims alleging that an action will deny rights under the Constitution of the United States, or that an action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right may be brought not later than the 60th day following the date of such action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim alleging the invalidity of such action on the grounds stated above not later than the 60th day following the date of his acquiring actual or constructive knowledge of such action.

(c)(1) A claim under subsection (b) shall be barred unless a complaint is filed prior to the expiration of such time limits in the United States Court of Appeals for the District of Columbia acting as a Special Court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

(2) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

(3) The enactment of a joint resolution under section 8 approving the decision of the President shall be conclusive as to the legal and factual sufficiency of the environmental impact statements submitted by the President relative to the approved transportation system and no court shall have jurisdiction to consider questions respecting the sufficiency of such statements under the National Environmental Policy Act of 1969.

### SUPPLEMENTAL ENFORCEMENT AUTHORITY

SEC. 11. (a) In addition to remedies available under other applicable provisions of law, whenever any Federal officer or agency determines that any person is in violation of any applicable provision of law administered or enforceable by such officer or agency or any rule, regulation, or order under such provision, including any term or condition of any certificate, right-of-way, permit, lease, or other authorization, issued or granted by such officer or agency, such officer or agency may—

(1) issue a compliance order requiring such person to comply with such provision or any rule, regulation, or order thereunder, or

(2) bring a civil action in accordance with subsection (c).

(b) Any order issued under subsection (a) shall state with reasonable specificity the nature of the violation and a time of compliance, not to exceed 30 days, which the officer or agency, as the case may be, determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(c) Upon a request of such officer or agency, as the case may be, the Attorney General may commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed $25,000 per day for violations of the compliance order issued under subsection (a). Any action under this subsection may be brought in any district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty or give ancillary relief.

### EXPORT LIMITATIONS

SEC. 12. Any exports of Alaska natural gas shall be subject to the requirements of the Natural Gas Act and section 103 of the Energy Policy and Conservation Act, except that in addition to the requirements of such Acts, before any Alaska natural gas in excess of 1,000 Mcf per day may be exported to any nation other than Canada or Mexico, the President must make and publish an express finding that such exports will not diminish the total quantity or quality nor increase the total price of energy available to the United States.

### EQUAL ACCESS TO FACILITIES

SEC. 13. (a) There shall be included in the terms of any certificate, permit, right-of-way, lease, or other authorization issued or granted pursuant to the directions contained in section 9 of this Act, a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system shall be prevented from doing so or be discriminated against in the terms and conditions of service on the basis of degree of ownership, or lack thereof, of the Alaska natural gas transportation system.

(b) The State of Alaska is authorized to ship its royalty gas on the approved transportation system for use within Alaska and, to the extent its contracts for the sale of royalty gas so provide, to withdraw such gas from the interstate market for use within Alaska; the Federal Power Commission shall issue all authorizations necessary to effectuate such shipment and withdrawal subject to review by the Commission only of the justness and reasonableness of the rate charged for such transportation.

### ANTITRUST LAWS

SEC. 14. Nothing in this Act, and no action taken hereunder, shall imply or effect an amendment to, or exemption from, any provision of the antitrust laws.

### AUTHORIZATION

SEC. 15. There is hereby authorized to be appropriated beginning in fiscal year 1978 and each fiscal year thereafter, such sums as may be necessary to carry out the functions of the Federal inspector appointed by the President with the advice and consent of the Senate under section 7.

### SEPARABILITY

SEC. 16. If any provision of this Act, or the application thereof, is held invalid, the remainder of this Act shall not be affected thereby.

### CIVIL RIGHTS

SEC. 17. All Federal officers and agencies shall take such affirmative action as is necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving, or participating in any activity conducted under, any certificates, permit, right-of-way, lease, or other authorization granted or issued pursuant to this Act. The appropriate Federal officers and agencies shall promulgate such rules as are necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

### REPORT ON THE EQUITABLE ALLOCATION OF NORTH SLOPE CRUDE OIL

SEC. 18. Within 6 months of the date of enactment of this Act, the President shall determine what special expediting procedures are necessary to insure the equitable allocation of north slope crude oil to the Northern Tier States of Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio (hereinafter referred to as the "Northern Tier States") to carry out the provisions of section 410 of Public Law 93-153 and shall report his findings to the Congress. In his report, the President shall identify the specific provisions of law, which relate to any determination of a Federal officer or agency as to whether to issue or grant a certificate, permit, right-of-way, lease, or other authorization in connection with the construction of an oil delivery system serving the Northern Tier States and which the President finds would inhibit the expeditious construction of such a system in the contiguous States of the United States. Furthermore, all Federal officers and agencies shall, prior to the submission of such report and further congressional action relating thereto, expedite to the fullest practicable extent all applications and requests for action made with respect to such an oil delivery system.

### ANTITRUST STUDY

SEC. 19. The Attorney General of the United States is authorized and directed to conduct a thorough study of the antitrust issues and problems relating to the production and transportation of Alaska natural gas and, not later than six months following the date of enactment of this Act, to complete such study and submit to the Congress a report containing his findings and recommendations with respect thereto.

### EXPIRATION

SEC. 20. This Act shall terminate in the event that no decision of the President takes effect under section 8 of this Act, such termination to occur at the end of the last day on which a decision could be, but is not, approved under such section.

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment in the nature of a substitute be dispensed with, that it be printed in the RECORD, and that it be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. RUPPE. Reserving the right to object, Mr. Chairman, and I do not intend to object, I would like to ask my colleague, the gentleman from Montana (Mr. Melcher), this question: Does the committee amendment presented to the desk reflect the Ruppe amendment as passed by the committee?

Mr. MELCHER. If the gentleman will yield, the answer is yes, but perhaps the Clerk should read beyond that point.

Mr. RUPPE. Mr. Chairman, further reserving the right to object, perhaps the Clerk would then just read the text of section 5(b)(1). That would satisfy me.

The CHAIRMAN. The Clerk will read.

The Clerk continued to read the amendment in the nature of a substitute.

PARLIAMENTARY INQUIRY

Mr. RUPPE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN (Mr. Natcher). The gentleman will state his parliamentary inquiry.

Mr. RUPPE. Mr. Chairman, my parliamentary inquiry is this, do I have the opportunity at this point to withdraw my objection to the unanimous consent request?

The CHAIRMAN. Does the gentleman from Montana renew his request at this time?

Mr. MELCHER. I renew my request, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. DINGELL. Reserving the right to object, Mr. Chairman, I assume that the language of the Interior Committee bill as identified in and prescribed in the rule, and not amended.

The CHAIRMAN. The Chair would like to advise the gentleman from Michigan that the portion read by the Clerk is presumably the portion of the amendment presented by the Committee on Interior and Insular Affairs as permitted under the rule.

Mr. DINGELL. Is it in any fashion amended, Mr. Chairman?

The CHAIRMAN. It would be up to the gentleman from Montana (Mr. Melcher) to answer that question. The gentleman has offered an amendment.

Mr. MELCHER. If the gentleman from Michigan would yield, would the gentleman repeat the question, please?

Mr. DINGELL. Mr. Chairman, further reserving the right to object, is the language of the amendment which has been read the language of the bill reported by the Committee on Interior and Insular Affairs which was identified in the rule which has been adopted, House Resolution 1584, or is it in any fashion amended or changed?

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding.

The language that is at the desk and has been read is a true copy of the committee action.

Mr. BROWN of Ohio. Mr. Chairman, I should like to reserve the right to object.

Mr. DINGELL. Mr. Chairman, I fur- object. If the gentleman from Ohio wishes to carry on his reservation, he may.

Mr. BROWN of Ohio. Mr. Chairman, the question the gentleman from Michigan addressed to the gentleman from Montana I do not think has been properly responded to, and on the answer to that question lies the possibility, of course, of a point of order against what has been submitted as the Committee on the Interior and Insular Affairs bill.

The question is a very simple one. Is the language which is being read as the amendment in order as a substitute by the rule adopted by the Committee on Rules in fact the language that was made in order by the rule? If it is not, then it should be stated clearly, and we should know whether there is an opportunity for a point of order to be lodged against that language.

It is my impression that it may not be.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will be happy to yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding.

The answer is yes. That is the correct language. The copy at the desk is the true action of the committee. It has been read properly, and it takes care of the printing error.

Mr. BROWN of Ohio. My concern is that, for instance, on page 12 of what is called the committee print of September 29, 1976, there is a reference to a subsection 5(b)(1)(C) and (D). There is no 5(b)(1)(D) in the committee print, as read at least. I find in the committee print dated September 24, 1976, which is the amendment to the Commerce Committee bill, a different print. I must say I am confused on what we have.

The Committee on Rules resolution refers to the committee's action on S. 3521, a modification of the Commerce Committee bill.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding.

On line 18, page 12, of the committee print, the reference "and (D)" is a printing error and has been corrected on the copy that is at the desk. If there is any objection at all, Mr. Chairman, we are perfectly willing to have the amendment read in its entirety.

Mr. DINGELL. Mr. Chairman, I think that the explanation of the gentleman from Montana is quite adequate that what we have before us and that which the unanimous consent request is directed to, is the committee-reported bill. On the gentleman's statement I rest content, and I do withdraw my reservation of objection.

Mr. BROWN of Ohio. I understand it is that bill with only printing errors corrected; is that right?

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding.

On page 24, the correction—and the corrected version is at the desk—lines 16, 17, 18, 19, and 20 are stricken because that, too, is a printing error.

And on page 32, on line 18, after the word "commission," inadvertently the printer added a slash, and we have removed that.

Mr. BROWN of Ohio. Mr. Chairman, I have no objection, of course, to printing errors being corrected, I think that comports with the opinion of the Committee on Rules, but I was concerned that we might have presented to us a further modification of the rather expansive modification made by the Committee on Interior and Insular Affairs in what had been a very well developed bill by the Committee on Interstate and Foreign Commerce.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

The CHAIRMAN. The gentleman from Montana (Mr. Melcher) is recognized for 5 minutes.

Mr. MELCHER. Mr. Chairman and members of the Committee, the Committee on Interior and Insular Affairs presents to you a very well balanced, well conceived improvement on the actions of the Committee on Interstate and Foreign Commerce.

First of all, I would like to point out that the gentleman from Ohio (Mr. Brown) inquired or wondered if the cost of the system was taken into consideration or whether that had been eliminated in the version of the bill by the Committee on Interior and Insular Affairs. I refer to page 8, line 21, where capability and cost of expanding the system to transport the additional volume of natural gas, and so forth, seems to answer the point on costs.

On page 10, line 21, whether or not national security is to be considered, subsection (4) on that line, on that particular page, states "national security, particularly security of supply" and so forth. I bring this to the attention of the Committee so that they can rest assured that we did take into consideration those points in our version of the bill.

By and large we feel that we made some improvement in the work of the Committee on Interstate and Foreign Commerce by locking in, in definite language and very strong language, the direction to the FPC and to the President that the proposed plan for distribution of Alaskan natural gas must serve all areas of the country both east and west of the Rocky Mountains. We are firm in that we believe it is essential in the bill if we want to have equitable planning.

We do not view the bill as selecting a route, but we think it is essential that whatever recommendations the President makes for Congress to review, must include that essential point of equitable distribution of natural gas from Alaska so that all parts of the country can share in its benefits.

We have also added the antitrust language that seems to be essential in viewing the proposals of such magnitude as this project is.

We have accepted some of the environmentalists' requests in the Udall-Miller language and in a portion of one of the amendments by the gentleman from Ohio (Mr. SEIBERLING).

We also view the problem of distribution of Alaskan crude oil as being a problem that this country must face and resolve immediately.

So section 18 of our version of the bill directs the President within 6 months to come up with a proposal that will eliminate this bottleneck that may be facing the country when the Alaskan crude oil flows through the trans-Alaska pipeline and arrives at our west coast.

We think it is essential that planning on a pipeline distribution system from the west coast goes east into the Midwest and, therefore, takes care of the problems of the Midwest and also takes care of some of the problems of the East as it displaces oil now used by Midwest refineries, that this problem must be faced now and we must pay some attention to it. Section 18 of our version of the bill directs that attention.

I think, on balance, we have a very fine version for the House to consider and I hope that the House will adopt our substitute.

Mr. Chairman, I yield to our colleague and friend, the gentleman from Washington (Mr. MCCORMACK).

Mr. McCORMACK. Mr. Chairman, I thank the gentleman from Montana for yielding and commend him and the members of the Interior Committee for their efforts in preparing this substitute, which I think is well balanced and responsible. Any objective analysis of this subject, treating the bringing of gas down from Alaska, must face the fact that the country is physically divided by the Rocky Mountains. It makes no sense to allow a division which places all the gas on one side or the other of that division.

The Interior Committee substitute simply requiring that there be a western leg makes eminent good sense. I urge support for the substitute.

The CHAIRMAN. The time of the gentleman from Montana has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. MELCHER was allowed to proceed for an additional 2 minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman from Montana be kind enough to yield?

Mr. MELCHER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman made reference to the language on page 8, which in line 16 says something about the estimate of the total delivered cost to users of the natural gas to be transported by the system by year for each year of the 20-year period, and so on; but in point of fact, is not that merely a listing of costs that would be contained in a report that the Commission does? It does not say, I do not believe, that those costs are in any way taken into account. They must just report those costs; but in point of fact, on page 5, line 21, it says that the President shall approve, and it goes on to say a provision for the direct delivery of natural gas, and so forth.

Now, I am not sure that the President in any way, unless the gentleman can explain this in a different way, is admonished to take into account the costs of what he is told to do in the western leg, or for that matter, as referred to by the gentleman from Michigan, the diplomatic considerations of any selection he could make.

I would also ask, and this is for the benefit of the gentleman from Wyoming, for whom I have a great deal of affection and respect, and I enjoyed the abbreviated colloquy with my chairman; but in the language of the bill it refers to points both east and west of the Rocky Mountains. I was under the impression that Wyoming was almost consumed by the Rocky Mountains and, therefore, was almost in the center of them. Therefore, the matter eliminated from this bill, in other words, it does not make reference to the Continental Divide, it just talks about east and west. Then it refers to the lower continental United States. Is that south of the Mason-Dixon line?

The CHAIRMAN. The time of the gentleman from Montana has again expired.

(At the request of Mr. BROWN of Ohio and by unanimous consent, Mr. MELCHER was allowed to proceed for an additional 2 minutes.)

Mr. MELCHER. Mr. Chairman, there is a double question there. I thank the gentleman from Ohio for bringing up the point, but on page 7, section (c) it says:

> The Commission shall accompany any recommendation under subsection (b)(1) with a report, which shall be available to the public, explaining the basis for such recommendation and including for each transportation system reviewed or considered a discretion of the following:

And turning over to page 8, line 21, that will include the capability and cost of expanding the system.

Now, I think that the Commission submitting that report to the President must take that into consideration. I think the President will consider it.

Now, as to the geographic question about our neighbor State of Wyoming, which is part of the Rockies, Wyoming is a huge State.

It has a grandeur that is matched by very few other States, but which is matched by Montana; but, it does lie both east and west of the Rocky Mountains, and we want both sides of Wyoming to be equitably treated. Our version of the bill will treat both the east and west sides of Wyoming equally, as it will the rest of the country.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, knowing my good friend from Wyoming, rather than getting no gas at all, the State will be getting a douple dip.

Upon the question of national security, the President is certainly going to take that into account in making his final decision. We do not have to write that into the legislation in specific terms.

Mr. MELCHER. I thank the gentleman, but the fact is that the provision is in both versions, the version the Interior Committee presents and the version the Commerce Committee presents.

Mr. DINGELL. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment offered by my good friend from Montana.

Mr. Chairman, I regretfully rise in opposition to the amendment offered by my good friend from Montana. I know that he and the Committee on Interior and Insular Affairs worked long and hard, and they have come forth with what they regard as a good bill. I must say that I honor them for their labors, and I must say that in the committee it is composed largely of members from west of the Rocky Mountains. Their work product is fully understandable. Were I from an area west of the Rocky Mountains, I could be quite assured that I would be supporting the Interior Committee bill.

I do not want anyone in the House to get the idea that they have come forth with an unfair bill. It is not unfair. It is a fair bill. All it does is confer a fair advantage on the Western United States, particularly those parts along the west coast, and particularly those parts west of the Rocky Mountains, because it designates, regardless of cost and regardless of other considerations; regardless of whether the President has diplomatic problems with Canada or not, that they are going to construct a pipeline that is going to serve the Western United States and the Eastern United States whether the Western United States needs a pipeline or needs gas or not.

I do not want anybody to be sorry for the West, because they are not really deprived right now. As a matter of fact, they have oil on the west coast which they cannot run through a refinery they have out there to utilize crude oil coming from Alaska shortly. They are going to have, in defiance of what was told us here when we wrote the legislation, to send that oil over to Japan in defiance of law. I do not blame my good friend from Montana and my other colleagues for being in favor of this. It is not unfair and it does not confer an unfair advantage—just a fair advantage.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Montana.

Mr. MELCHER. I hope I misunderstood my colleague from Michigan. Did he infer that Alaskan crude oil should go to Japan?

Mr. DINGELL. No, I did not. I said that there are reports to the effect—and I am checking it out to make darn sure that oil does not go to Japan.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. MILLER of California. I suggest that the reason why that might happen is because there is only one outlet for Alaskan crude, and that is the west coast. What we are trying to do in the Interior Committee bill is to provide multiple outlets for that gas and still have displacement in other parts of the country on reallocation, and not get trapped into what happened in the Alaskan pipeline. There is only one spigot, and unfortunately we are full in California.

Mr. DINGELL. That is precisely the reason that the Commerce Committee bill is drawn as it is drawn. The big difference between the Commerce Committee bill and the Interior Committee bill which we are now discussing is that the President gets all options placed before him under the Commerce Committee bill so that he may make a proper judgment in the national interest as to whether we are going to have a west coast pipeline, an east coast pipeline, an east and west coast pipeline, or whether the pipeline is going to serve, through displacement or otherwise, a particular part of our country.

I find myself incapable of finding that to be an unfair resolution, or a resolution which is out of keeping with the broad public interest, particularly in the light of the situation which exists with regard to the Canadians, who may or may not want a west coast leg or east coast leg.

The President has some very, very difficult questions he is going to have to face. For that reason, my good friend, the gentleman from Ohio (Mr. BROWN) and I are going to offer a substitute, which we think will take care of the problems of the gentleman from Alaska (Mr. YOUNG), and which will take care of northern tier problems with regard to oil delivery, those problems that have been asserted by the gentleman from Montana, and which will give the President all the information he needs to make a sound judgment in the national interest. That, after all, is why we are here. We are not here, I would point out to my colleagues, to designate where this pipeline is going to go, but simply to lay out a general procedural mechanism wherein this device will be brought into play and the President will have proper advice and the President will properly choose a pipeline which will be in the public interest and which will provide for fair distribution of Alaska natural gas to all parts of the country, East and West.

Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, first I would like to thank the gentleman from Michigan for suggesting that we in the West are taking fair advantage. I am certain he would not want us to take unfair advantage. I would like to also thank him for utilizing in his remarks just recently the illustration of the oil pipeline.

The fact is, what we are trying to do with the Ruppe amendment in the Interior bill is to prevent precisely what has happened with the Alaska pipeline.

As the gentleman from California pointed out, when the Alaska pipeline was planned there were certain factors which were considered, and those factors changed. We found ourselves, as he put it so properly, with one spigot. And that spigot just goes to California and to the west coast and to the Pacific Northwest. If we were to adopt the language which the gentleman from Michigan and the gentleman from Ohio will propose in their substitute, that is precisely what we will be doing with natural gas. While they say that their proposal is evenhanded, it seems to me that, by eliminating one of the routes, it is not evenhanded at all. What we are saying is that in the West, contrary to what the gentleman from Michigan says, we are natural gas short, particularly in the Pacific Northwest. We are 70 percent dependent upon Canada for natural gas. I think everyone knows that supply has been somewhat questionable and very costly.

So we want some assurance that as this gas comes out of Alaska, it will be available in Michigan to the gentleman's constituents and in the West, to the constituents in Washington, in Oregon, and in California. Contrary to what the gentleman says, we are not rich in natural gas.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I have a great deal of respect for my good friend, the gentleman from Washington, who is an able Member of this House. He indicated that in some fashion or another our bill denies natural gas to the west coast.

Mr. MEEDS. Mr. Chairman, I will respond to the gentleman. It denies the west coast by dictating, in effect by striking out a middle corridor route, a middle corridor route which would bring it down to the West on a western leg and to the East on an eastern leg. At least we should be allowed the opportunity to look at the economies, to look at the feasibility of bringing it down into the West from that route.

Mr. DINGELL. Where in our bill is the West denied the opportunity to get gas?

Mr. MEEDS. I say in effect it eliminates that.

Mr. DINGELL. No. Where? Tell me the language. The gentleman has made the statement. He must be able to cite the language.

Mr. MEEDS. Mr. Chairman, in the amendment which will be proposed, I will show the gentleman precisely what I mean, and I will talk about this when the gentleman offers the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. Let me continue, Mr. Chairman.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. Mr. Chairman, I have the time.

The CHAIRMAN. The gentleman from Washington (Mr. MEEDS) has the floor and is in control of the time.

Mr. MEEDS. Mr. Chairman, let me just advise the House what we are trying to prevent after this amendment is offered. We want to have evenhanded treatment. This is just a study; this is just a way of determining the best route.

All three of the present routes should be examined, and I contend that in the amendment that will be offered by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN)—and I assume that will be coming on shortly—there will not be an evenhanded approach.

The CHAIRMAN. The time of the gentleman from Washington (Mr. MEEDS) has expired.

(On request of Mr. ECKHARDT and by unanimous consent, Mr. MEEDS was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. Yes, I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, in the amendment that is about to be offered to the substitute amendment, it is provided that if such recommendation is for an all-land pipeline transportation system or for a system involving water transportation, it will include provision for new, direct delivery facilities to the extent necessary to assure that Alaskan natural gas is equitably and reliably delivered to regions east and west of tne Continental Divide and contiguous States of the United States.

Then in the provision respecting the President's recommendations, it is provided in the substitute bill that such will include provisions to insure that natural gas in the interstate system is equitably and reliably delivered to regions east and west of the Continental Divide and contiguous States of the United States.

Mr. MEEDS. Mr. Chairman, that is precisely the language that I am talking about that will be coming to us in the amendment, and as the gentleman from Texas (Mr. ECKHARDT), who is an expert, well knows, when we use the word "equitably," we have started an allocation system. That is what I am saying will eliminate the western leg.

Mr. ECKHARDT. That is a fair interpretation. That is the point I wanted to make.

### AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MELCHER

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DINGELL to the amendment in the nature of a substitute offered by Mr. MELCHER: Page 1 of the amendment, strike out line 6 and all that follows down through line 9 on page 35 and insert in lieu thereof the following:

SEC. 2. The Congress finds and declares that—

(1) a natural gas supply shortage exists in the contiguous States of the United States;

(2) large reserves of natural gas in the State of Alaska could help significantly to alleviate this supply shortage;

(3) the expeditious construction of a viable natural gas transportation system for delivery of Alaska natural gas to United States markets is in the national interest; and

(4) the determinations whether to authorize a transportation system for delivery of Alaska natural gas to the contiguous States and, if so, which system to select, involve questions of the utmost importance respecting national energy policy, international relations, national security, and economic and environmental impact, and therefore should

appropriately be addressed by the Congress and the President in addition to those Federal officers and agencies assigned functions under law pertaining to the selection, construction, and initial operation of such a system.

STATEMENT OF PURPOSE

SEC. 3. The purpose of this Act is to provide the means for making a sound decision as to the selection of a transportation system for delivery of Alaska natural gas to the contiguous States for construction and initial operation by providing for the participation of the President and the Congress in the selection process, and, if such a system is approved under this Act, to expedite its construction and initial operation by (1) limiting the jurisdiction of the courts to review the actions of Federal officers or agencies taken pursuant to the direction and authority of this Act, and (2) permitting the limitation of administrative procedures and effecting the limitation of judicial procedures related to such actions. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made, and particularly with respect to the limitation of judicial review of actions of Federal officers or agencies taken pursuant thereto.

DEFINITIONS

SEC. 4. As used in this Act:

(1) the term "Alaska natural gas" means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof;

(2) the term "Commission" means the Federal Power Commission;

(3) the term "Secretary" means the Secretary of the Interior;

(4) the term "provision of law" means any provision of a Federal statute or rule, regulation, or order issued thereunder; and

(5) the term "approved transportation system" means the system for the transportation of Alaska natural gas designated by the President pursuant to section 7(a) or 8(b) and approved by joint resolution of the Congress pursuant to section 8.

FEDERAL POWER COMMISSION REVIEWS AND REPORTS

SEC. 5. (a) (1) Notwithstanding any provision of the Natural Gas Act or any other provision of law, the Commission shall suspend all proceedings pending before the Commission on the date of enactment of this Act relating to a system for the transportation of Alaska natural gas as soon as the Commission determines to be practicable after such date, and the Commission may refuse to act on any application, amendment thereto, or other requests for action under the Natural Gas Act relating to a system for the transportation of Alaska natural gas until such time as (A) a decision of the President designating such a system for approval takes effect pursuant to section 8, (B) no such decision takes effect pursuant to section 8, or (C) the President decides not to designate such a system for approval under section 8 and so advises the Congress pursuant to section 7.

(2) In the event a decision of the President designating such a system takes effect pursuant to this Act, the Commission shall forthwith vacate proceedings suspended under paragraph (1) and, pursuant to section 9 and in accordance with the President's decision, issue a certificate of public convenience and necessity respecting such system.

(3) In the event such a decision of the President does not take effect pursuant to this Act or the President decides not to designate such a system and so advises the Congress pursuant to section 7, the suspension provided for in paragraph (1) of this subsection shall be removed.

(b) (1) The Commission shall review all applications for the issuance of a certificate of public convenience and necessity relating to the transportation of Alaska natural gas pending on the date of enactment of this Act, and any amendments thereto which are timely made, and after consideration of any alternative transportation system which the Commission determines to be reasonable, submit to the President not later than May 1, 1977, a recommendation concerning the selection of such a transportation system. Such recommendation may be in the form of a proposed certificate of public convenience and necessity, or in such other form as the Commission determines to be appropriate, or may recommend that no decision respecting the selection of such a transportation system be made at this time or pursuant to this Act. Any recommendation that the President approve a particular transportation system shall (A) include a description of the nature and route of the system, and (B) designate a person to construct and operate the system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system, and (C) if such recommendation is for an all-land pipeline transportation system or for a system involving water transportation, include provision for new direct delivery facilities to the extent necessary to assure Alaska natural gas is equitably and reliably delivered to regions east and west of the Continental Divide in the contiguous States of the United States.

(2) The Commission may, by rule, provide for the presentation of data, views, and arguments before the Commission or a delegate of the Commission pursuant to such procedures as the Commission determines to be appropriate to carry out its responsibilities under paragraph (1) of this subsection. Such a rule shall, to the extent determined by the Commission, apply, notwithstanding any provision of law that would otherwise have applied to the presentation of data, views, and arguments.

(3) The Commission may request such information and assistance from any Federal agency as the Commission determines to be necessary or appropriate to carry out its responsibilities under this Act. Any Federal agency requested to submit information or provide assistance shall submit such information to the Commission at the earliest practicable time after receipt of a Commission request.

(c) The Commission shall accompany any recommendation under subsection (b) (1) with a report, which shall be available to the public, explaining the basis for such recommendation and including for each transportation system reviewed or considered a discussion of the following:

(1) for each year of the 20-year period which begins with the first year following the date of enactment of this Act, the estimated—

(A) volumes of Alaska natural gas which would be available to each region of the United States directly, or indirectly by displacement or otherwise, and

(B) transportation costs and delivered prices of any such volumes of gas by region;

(2) the effects of each of the factors described in subparagraphs (A) and (B) of paragraph (1) on the projected natural gas supply and demand for each region of the United States and on the projected supplies of alternative fuels available by region to offset shortages of natural gas occurring in such region for each such year;

(3) the impact upon competition;

(4) the extent to which the system provides a means for the transportation to United States markets of natural resources or other commodities from sources in addition to the Prudhoe Bay Reserve;

(5) environmental impacts;

(6) safety and efficiency in design and operation and potential for interruption in deliveries of Alaska natural gas;

(7) construction schedules and possibilities for delay in such schedules or for delay occurring as a result of other factors;

(8) feasibility of financing;

(9) extent of reserves, both proven and probable and their deliverability by year for each year of the 20-year period which begins with the first year following the date of enactment of this Act;

(10) the estimate of the total delivered cost to users of the natural gas to be transported by the system by year for each year of the 20-year period which begins with the first year following the date of enactment of this Act;

(11) capability and cost of expanding the system to transport additional volumes of natural gas in excess of initial system capacity;

(12) an estimate of the capital and operating costs, including an analysis of the reliability of such estimates and the risk of cost overruns; and

(13) such other factors as the Commission determines to be appropriate.

(d) The recommendation by the Commission pursuant to this section shall not be based upon the fact that the Government of Canada or agencies thereof have not, by then rendered a decision as to authorization of a pipeline system to transport Alaska natural gas through Canada.

(e) If the Commission recommends the approval of a particular transportation system, it shall submit to the President with such recommendation (1) an identification of those facilities and operations which are proposed to be encompassed within the term "construction and initial operation" in order to define the scope of directions contained in section 9 of this Act and (2) the terms and conditions permitted under the Natural Gas Act, which the Commission determines to be appropriate for inclusion in a certificate of public convenience and necessity to be issued respecting such system. The Commission shall submit to the President contemporaneously with its report an environmental impact statement prepared respecting the recommended system, if any, and each environmental impact statement which may have been prepared respecting any other system reported on under this section.

OTHER REPORTS

SEC. 6. (a) Not later than July 1, 1977, any Federal officer or agency may submit written comments to the President with respect to the recommendation and report of the Commission and alternative methods for transportation of Alaska natural gas for delivery to the contiguous States. Such comments shall be made available to the public by the President when submitted to him, unless expressly exempted from this requirement in whole or in part by the President, under section 552(b) (1) of title 5, United States Code. Any such written comment shall include information within the competence of such Federal officer or agency with respect to—

(1) environmental considerations, including air and water quality and noise impacts;

(2) the safety of the transportation system;

(3) international relations, including the status and time schedule for any necessary Canadian approvals and plans;

(4) national security, particularly security of supply;

(5) sources of financing for capital costs;

(6) the impact upon competition;

(7) impact on the national economy, including regional natural gas requirements; and

(8) relationship of the proposed trans-

portation system to other aspects of national energy policy.

(b) Not later than July 1, 1977, the Governor of any State, any municipality, State utility commission, and any other interested person may submit to the President such written comments with respect to the recommendation and report of the Commission and alternative systems for delivering Alaska natural gas to the contiguous States as they determine to be appropriate.

(c) Not later than July 1, 1977, each Federal officer or agency shall report to the President with respect to actions to be taken by such officer or agency under section 9(a) relative to each transportation system reported on by the Commission under section 5(c) and shall include such officer's or agency's recommendations with respect to the matters to be included under section 7 (a)(3)(C) (4)(D) in any decision of the President which designates a system for approval.

(d) Following receipt by the President of the Commission's recommendations, the Council on Environmental Quality shall afford interested persons an opportunity to present oral and written data, views, and arguments respecting the environmental impact statements submitted by the Commission under section 5(e). Not later than July 1, 1977, the Council on Environmental Quality shall submit to the President a report, which shall be contemporaneously made available by the Council to the public, summarizing any data, views, and arguments received and setting forth the Council's views concerning the legal and factual sufficiency of each such environmental impact statement and other matters related to environmental impact as the Council considers to be relevant.

### PRESIDENTIAL DECISION AND REPORT

SEC. 7. (a)(1) As soon as practicable after July 1, 1977, but not later than September 1, 1977, the President shall issue a decision as to whether a transportation system for delivery of Alaska natural gas should be approved under this Act. If he determines such a system should be so approved, his decision shall designate such a system for approval pursuant to section 8 and include provision to assure that natural gas in the interstate system is equitably and reliably delivered to regions east and west of the Continental Divide in the contiguous States of the United States. The President in making his decision shall take into consideration the Commission's recommendation pursuant to section 5, the report under section 5(c), and any comments submitted under section 6; and his decision to designate a system for approval shall be based on his determination as to which system, if any, best serves the national interest.

(2) The President, for a period of up to 90 additional calendar days after September 1, 1977, may delay the issuance of his decision and transmittal thereof to the House of Representatives and the Senate, if he determines (A) that there exists no environmental impact statement prepared relative to a system he wishes to consider or that any prepared environmental impact statement relative to a system he wishes to consider is legally or factually insufficient, or (B) that the additional time is otherwise necessary to enable him to make a sound decision on an Alaska natural gas transportation system. The President shall promptly, but in no case any later than September 1, 1977, notify the House of Representatives and the Senate if he so delays his decision and submit a full explanation of the basis of any such delay.

(3) If, on or before May 1, 1977, the President determines to delay issuance and transmittal of his decision to the House of Representatives and the Senate pursuant to paragraph (2) of this subsection, he may authorize a delay of not more than 90 days in the date of taking of any action specified in sections 5 and 6. The President shall promptly notify the House of Representatives and the Senate of any such authorization of delay and submit a full explanation of the basis of any such authorization.

(4) If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he shall in such decision—

(A) describe the nature and route of the system designated for approval;

(B) designate a person to construct and operate such a system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system;

(C) identify those facilities, the construction of which, and those operations, the conduct of which, shall be encompassed within the term "construction and initial operation" for purposes of defining the scope of the directions contained in section 9 of this Act, taking into consideration any recommendation of the Commission with respect thereto; and

(D) identify those provisions of law, relating to any determination of a Federal officer or agency as to whether a certificate, permit, right-of-way, lease, or other authorization shall be issued or be granted, which provisions the President finds (i) involve determinations which are subsumed in his decision and (ii) require waiver in order to permit the expeditious construction and initial operation of the transportation system.

(5) After a decision of the President designating an Alaska natural gas transportation system takes effect under section 8, the President shall appoint an officer of the United States, with the advice and consent of the Senate, or designate a board (consisting of such an officer, so appointed with the advice and consent of the Senate, as chairman and such other individuals as the President determines appropriate to serve on such board by reason of background, experience, or position) to serve as Federal inspector of construction of such transportation system, except that no such individual or officer may have a financial interest in the approved transportation system. Upon enactment of a joint resolution pursuant to section 8 approving such a system the Federal inspector shall—

(A) establish a joint surveillance and monitoring agreement, approved by the President, with the State of Alaska similar to that in effect during construction of the trans-Alaska oil pipeline to monitor the construction of the approved transportation system within the State of Alaska;

(B) monitor compliance with applicable laws and the terms and conditions of any applicable certificate, rights-of-way, permit, lease, or other authorization issued or granted under section 9;

(C) monitor actions taken to assure timely completion of construction schedules and the achievement of quality of construction, cost control, safety, and environmental protection objectives and the results obtained therefrom;

(D) have the power to compel, by subpena if necessary, submission of such information as he deems necessary to carry out his responsibilities; and

(E) keep the President and the Congress currently informed on any significant departures from compliance and issue quarterly reports to the President and the Congress concerning existing or potential failures to meet construction schedules or other factors which may delay the construction and initial operation of the system and the extent to which quality of construction, cost control, safety and environmental protection objectives have been achieved.

(6) If the President detemines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he may identify in such decision such terms and conditions permissible under existing law as he determines appropriate for inclusion with respect to any issuance or authorization directed to be made pursuant to section 9.

(b) The decision of the President made pursuant to subsection (a) of this section shall be transmitted to both Houses of Congress and shall be considered received by such Houses for the purposes of this section on the first day on which both are in session occurring after such decision is transmitted. Such decision shall be accompanied by a report explaining in detail the basis for his decision with specific reference to the factors set forth in sections 5(c) and 6(a), and the reasons for any revision, modification of, or substitution for, the Commission recommendation.

(c) The report of the President pursuant to subsection (b) of this section shall contain a financial analysis for the transportation system designated for approval. Unless the President finds and states in his report submitted pursuant to this section that he reasonably anticipates that the system designated by him can be privately financed, constructed, and operated, his report shall also be accompanied by his recommendation concerning the use of existing Federal financing authority or the need for new Federal financing authority.

(d) In making his decision under subsection (a) the President shall inform himself, through appropriate consultation, of the views and objectives of the States, the Government of Canada, and other governments with respect to those aspects of such a decision that may involve intergovernmental and international cooperation among the Government of the United States, the States, the Government of Canada, and any other government.

(e) If the President determines to designate a transportation system for approval, the decision of the President shall take effect as provided in section 8, except that the approval of a decision of the President shall not be construed as amending or otherwise effecting the laws of the United States so as to grant any new financing authority as may have been identified by the President pursuant to subsection (c).

### CONGRESSIONAL REVIEW

SEC. 8. (a) Any decision under section 7(a) or 8(b) designating for approval a transportation system for the delivery of Alaska natural gas shall take effect upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of a decision transmitted pursuant to section 7(b) or subsection (b) of this section.

(b) If the Congress does not enact such a joint resolution within such 60-day period, the President, not later than the end of the 30th day following the expiration of the 60-day period, many propose a new decision and shall provide a detailed statement concerning the reasons for such proposal. The new decision shall be submitted in accordance with section 7(a) and transmitted to the House of Representatives and the Senate on the same day while both are in session and shall take effect pursuant to subsection (a) of this section. In the event that a resolution respecting the President's decision was defeated by vote of either House, no new decision may be transmitted pursuant to this subsection unless such decision differs in a material respect from the previous decision.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day calendar period.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this Act, the term "resolution" means (A) a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on , 19 , and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the National Environmental Policy Act of 1969."; the blank space therein shall be filled with the date on which the President submits his decision to the House of Representatives and the Senate; or (B) a joint resolution described in subsection (h).

(3) A resolution once introduced with respect to a Presidential decision on an Alaska natural gas transportation system shall be referred to one or more committees (and all resolutions with respect to the same Presidential decision on an Alaska natural gas transportation system shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to a Presidential decision on an Alaska natural gas transportation system has been referred has not reported it at the end of 30 calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from consideration of any other resolution with respect to such Presidential decision on an Alaska natural gas transportation system which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Presidential decision on an Alaska natural gas transportation system), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential decision on an Alaska natural gas transportation system.

(5)(A) When any committee has reported, or has been discharged from further consideration of, a resolution, but in no case earlier than 30 days after the date of receipt of the President's decision to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such 60-day period, to consider any other resolution respecting the same Presidential decision.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(e) The President shall find that any required environmental impact statement relative to the Alaska natural gas transportation system designated for approval by the President has been prepared and that such statement is in compliance with the National Environmental Policy Act of 1969. Such finding shall be set forth in the report of the President submitted under section 7. The President may supplement or modify the environmental impact statements prepared by the Commission or other Federal officers or agencies. Any such environmental impact statement shall be submitted contemporaneously with the transmittal to the Senate and House of Representatives of the President's decision pursuant to section 7(b) or subsection (b) of this section.

(f) Within 20 days of the transmittal of the President's decision to the Congress under section 7(b) or under subsection (b) of this section, (1) the Commission shall submit to the Congress a report commenting on the decision and including any information with regard to that decision which the Commission considers appropriate, and (2) the Council on Environmental Quality shall provide an opportunity to any interested person to present oral and written data, views, and arguments on any environmental impact statement submitted by the President relative to any system designated by him for approval which is different from any system reported on by the Commission under section 5(c), and shall submit to the Congress a report summarizing any such views received. The committees in each House of Congress to which a resolution has been referred under subsection (d)(3) shall conduct hearings on the Council's report and include in any report of the committee respecting such resolution the findings of the committee on the legal and factual sufficiency of any environmental impact statement submitted by the President relative to any system designated by him for approval.

(g) If a decision of the President designating for approval a transportation system takes effect pursuant to this section, any provision of law identified pursuant to section 7(a)(4)(D) in such decision shall be waived with respect to actions to be taken under section 9(a).

(h)(1) At any time after a decision designating a transportation system takes effect pursuant to this section, if the President finds that additional provisions of law applicable to actions to be taken under subsection (a) or (c) of section 9 require waiver in order to permit expeditious construction and initial operation of the approved transportation system, the President may submit such proposed waiver to both Houses of Congress.

(2) Such provisions shall be waived with respect to actions to be taken under subsection (a) or (c) of section 9 upon enactment of a joint resolution pursuant to the procedures specified in subsections (c) and (d) of this section (other than subsection (d)(2) thereof) within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such proposal.

(3) The resolving clause of the joint resolution referred to in this subsection is as follows: "That the House of Representatives and Senate approve the waiver of the additional provisions of law as proposed by the President, submitted to the Congress on 19 ." The blank space therein being filled with the date on which the President submits his decision to the House of Representatives and the Senate.

(4) In the case of action with respect to a joint resolution described in this subsection, the phrase "a waiver of additional provisions of law" shall be substituted in subsection (d) for the phrase "the Alaska natural gas transportation system".

### AUTHORIZATIONS

SEC. 9. (a) To the extent that the taking of any action which is necessary or related to the construction and initial operation of the approved transportation system requires a certificate, right-of-way, permit, lease, or other authorization to be issued or granted by a Federal officer or agency, such Federal officer or agency shall—

(1) to the fullest extent permitted by the provisions of law administered by such officer or agency, but

(2) without regard to any provision of law which is waived pursuant to section 8(g) or section 8(h),

issue or grant such certificates, permits, rights-of-way, leases and other authorizations at the earliest practicable date.

(b) All actions of a Federal officer or agency with respect to consideration of applications or requests for the issuance or grant of a certificate, right-of-way, permit, lease, or other authorization to which subsection (a) applies shall be expedited and any such application or requests shall take precedence over any similar applications or requests of the Federal officer or agency. To carry out the directions contained in this subsection, any Federal officer or agency, upon such officer's or agency's own motion, may waive, in whole or in part, any procedural requirements of any provision of law applicable to the issuance or grant of any certificate, right-of-way, permit, lease, or other authorization where such officer or agency determines and so states with respect to any such issuance or grant that the waiver is necessary to permit expeditious and priority consideration of such application or request. Any such waiver shall be considered final agency action reviewable under section 10 of this Act, and may be reviewed on grounds of arbitrariness or capriciousness in addition to the grounds set forth in section 10 of this Act.

(c) Any certificate, right-of-way, permit, lease, or other authorization issued or granted pursuant to the direction under subsection (a) shall include the terms and conditions required by law unless waived pursuant to a resolution under section 8(h), and may include terms and conditions permitted by law, except that with respect to terms and conditions permitted but not required, the Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to include terms and conditions as would compel a change in the basic nature and general route of the approved transportation system or those the inclusion of which would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(d) Any Federal officer or agency, with respect to any certificate, permit, right-of-way, lease, or other authorization issued or granted by such officer or agency, may, to the extent permitted under laws administered by such officer or agency add to, amend or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization except that with respect to any such action which is permitted but not required by law, such Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to take such action if the terms and conditions to be added, or as amended, would compel a change in the basic nature and general route of the approved transportation system or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(e) Any Federal officer or agency to which subsection (a) applies, to the extent permitted under laws administered by such officer or agency, shall include in any certificate, permit, right-of-way, lease, or other authorization issued or granted those terms and conditions identified in the President's decision as appropriate for inclusion except that the requirement to include such terms and conditions shall not limit the Federal officer or agency's authority under subsection (d) of this section.

JUDICIAL REVIEW

SEC. 10. (a) Notwithstanding any other provision of law, the actions of Federal officers or agencies taken pursuant to section 9 of this Act, shall not be subject to judicial review except as provided in this section.

(b)(1) Claims alleging the invalidity of this Act may be brought not later than the 60th day following the date a decision takes effect pursuant to section 8 of this Act.

(2) Claims alleging that an action will deny rights under the Constitution of the United States, or that an action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right may be brought not later than the 60th day following the date of such action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim alleging the invalidity of such action on the grounds stated above not later than the 60th day following the date of his acquiring actual or constructive knowledge of such action.

(c)(1) A claim under subsection (b) shall be barred unless a complaint is filed prior to the expiration of such time limts in the United States Court of Appeals for the District of Columbia acting as a Special Court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

(2) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

(3) The enactment of a joint resolution under section 8 approving the decision of the President shall be conclusive as to the legal and factual sufficiency of the environmental impact statements submitted by the President relative to the approved transportation system and no court shall have jurisdiction to consider questions respecting the sufficiency of such statements under the National Environmental Policy Act of 1969.

SUPPLEMENTAL ENFORCEMENT AUTHORITY

SEC. 11. (a) In addition to remedies available under other applicable provisions of law, whenever any Federal officer or agency determines that any person is in violation of any applicable provision of law administered or enforceable by such officer or agency or any rule, regulation, or order under such provision, including any term or condition of any certificate, right-of-way, permit, lease, or other authorization, issued or granted by such officer or agency, such officer or agency may—

(1) issue a compliance order requiring such person to comply with such provision or any rule, regulation, or order thereunder, or

(2) bring a civil action in accordance with subsection (c).

(b) Any order issued under subsection (a) shall state with reasonable specificity the nature of the violation and a time of compliance, not to exceed 30 days, which the officer or agency, as the case may be, determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(c) Upon a request of such office or agency, as the case may be, the Attorney General may commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed $25,000 per day for violations of the compliance order issued under subsection (a). Any action under this subsection may be brought in any district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty or give ancillary relief.

EXPORT LIMITATIONS

SEC. 12. Any exports of Alaska natural gas shall be subject to the requirements of the Natural Gas Act and section 103 of the Energy Policy and Conservation Act, except that in addition to the requirements of such Acts, before any Alaska natural gas in excess of 1,000 Mcf per day may be exported to any nation other than Canada or Mexico, the President must make and publish an express finding that such exports will not diminish the total quantity or quality nor increase the total price of energy available to the United States.

EQUAL ACCESS TO FACILITIES

SEC. 13. (a) There shall be included in the terms of any certificate, permit, right-of-way, lease, or other authorization issued or granted pursuant to the directions contained in section 9 of this Act, a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system shall be prevented from doing so or be discriminated against in the terms and conditions of service on the basis of degree of ownership, or lack thereof, of the Alaska natural gas transportation system.

(b) Notwithstanding any provision of the Natural Gas Act to the contrary, the Commission shall have no authority to refuse to permit the transportation through the approved transportation system of royalty gas owned by the State of Alaska for use within such State or to refuse to allow the withdrawal of such royalty gas by such State for use within such State pursuant to the terms of a provision respecting withdrawal rights of a contract between such State and any purchases of such royalty gas.

ANTITRUST LAWS

SEC. 14. Nothing in this Act, and no action taken hereunder, shall imply or effect an amendment to, or exemption from, any provision of the antitrust laws.

AUTHORIZATION

SEC. 15. There is hereby authorized to be appropriated beginning in fiscal year 1978 and each fiscal year thereafter, such sums as may be necessary to carry out the functions of the Federal inspector appointed by the President with the advice and consent of the Senate under section 7.

SEPARABILITY

SEC. 16. If any provision of this Act, or the application thereof, is held invalid, the remainder of this Act shall not be affected thereby.

CIVIL RIGHTS

SEC. 17. All Federal officers and agencies shall take such affirmative action as is necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving, or participating in any activity conducted under, any certificates, permit, right-of-way, lease, or other authorization granted or issued pursuant to this Act. The appropriate Federal officers and agencies shall promulgate such rules as are necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

REPORT ON THE EQUITABLE ALLOCATION OF NORTH SLOPE CRUDE OIL

SEC. 18. Within 6 months of the date of enactment of this Act, the President shall evaluate the relative capabilities of alternative oil delivery systems and determine what expediting procedures may be necessary to insure the equitable allocation of north slope crude oil to the Northern Tier States of Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio (hereinafter referred to as the "Northern Tier States") to carry out the provisions of section 410 of Public Law 93–153 and shall report his findings to the Congress. In his report, the President shall identify the specific provisions of law, which relate to any determination of a Federal officer or agency as to whether to issue or grant a certificate, permit, right-of-way, lease, or other authorization, in connection with the construction of an oil delivery system to carry out the provisions of section 410 of Public Law 93–153, which provisions the President finds would inhibit the expeditious construction of such a system in the contiguous States of the United States. Furthermore, all Federal officers and agencies shall, prior to the submission of such report and further congressional action relating thereto, expedite, to the fullest pacticable extent under provisions of applicable law, all applications and requests for action made with respect to oil delivery systems for such oil to carry out such provisions.

ANTITRUST STUDY

SEC. 19. The Attorney General of the United States is authorized and directed to conduct a thorough study of the antitrust issues and problems relating to the production and transportation of Alaska natural gas and, not later than six months following the date of enactment of this Act, to complete such study and submit to the Congress a report containing his findings and recommendations with respect thereto.

EXPIRATION

SEC. 20. This Act shall terminate in the event that no decision of the President takes effect under section 8 of this Act, such termination to occur at the end of the last day on which a decision could be, but is not, approved under such section.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment that has just been offered by me to the amendment in the nature of a substitute offered by the gentleman from Montana (Mr. Melcher) be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, the amendment which I have offered was drafted in concert with and in consultation with my good friend, the senior minority member of the Subcommittee on Energy and Power, the gentleman from Ohio (Mr. Brown). I now yield to the chairman of the subcommittee of the Committee on Interior and Insular Affairs.

Mr. MELCHER. Mr. Chairman, I am delighted that the gentleman from Michigan (Mr. Dingell) has yielded to me, and I certainly thank him.

Now that the gentleman has placed the House and the committee in a position that we must look at his amendment to our substitute amendment—an amendment which is presented to us in all this glory of 35 pages or so, with complicated language—he apparently expects us to absorb each and every part of it in the next 5 minutes and then to either accept it or reject it because it cannot be amended.

Mr. DINGELL. Mr. Chairman, I refuse to yield further.

Mr. MELCHER. Mr. Chairman, any further amendment would be to the third degree, so this cannot be amended. I think this is an outrage.

The CHAIRMAN. The gentleman from Michigan (Mr. Dingell) has the floor.

Mr. DINGELL. Mr. Chairman, the gentleman from Montana (Mr. Melcher) rises easily outraged. I suppose perhaps if I had not consulted him with regard to the amendment and had not made fully available not only the language but the staff to him, he might have genuine reason for his outrage.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Mr. Chairman, I will yield in just a minute, but I just do not have time to listen to the gentleman make speeches at this moment.

Mr. Chairman, the amendment which I have offered tries to strike a balance between the positions taken by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce.

It includes the so-called western leg amendment.

Although the language has been revised to assure that it is neutral, in effect, it does not bind the Federal Power Commission and the President in a manner which favors one system over another, as does the bill of the Committee on Interior and Insular Affairs. It calls for a competitive impact analysis and the antitrust study which was inserted by the Committee on Interior and Insular Affairs. It also includes some of the technical improvements put forward by the Committee on Interior and Insular Affairs. It does not include the so-called Miller amendment which would have required separate studies of any proposal, requiring Commission approval, something that would, quite frankly, have destroyed the effectiveness of the legislation.

Instead, it retains the provisions of the bill of the Committee on Interstate and Foreign Commerce, which would permit these waivers to be joined together and considered en bloc if Congress determines whether or not to approve the recommended system.

Frankly, Mr. Chairman, to do otherwise would tangle the Congress up for many days.

It might also have the effect, I should point out to the House, of preventing the construction of the approved system if the Congress failed also to approve any one of the many waivers which would be included, something which would almost guarantee vast litigation, no construction, and no natural gas.

Mr. Chairman, it contains the authority for many Federal agencies to permit waiver of procedural requirements, as necessary, and to permit expeditious construction and initial operation of the system. However, this authority is qualified.

Mr. Chairman, to not permit separate judicial review of necessary waivers and to set aside efforts found to be arbitrary and capricious.

Mr. Chairman, the amendment includes provisions which permit the State of Alaska—and this was put in at the request of the gentleman from Alaska (Mr. Young)—to exercise control of its own royalty gas.

The amendment also calls for a study of oil-delivery systems and for a Presidential report on the need for expediting systems to carry out the equitable allocation requirements of section 410 of the Mineral Leasing Act, something which was put in by my good friend, the gentleman from Montana (Mr. Melcher).

Mr. Chairman, I do recognize the need to bring that oil down to the Middle West, and I recognize the need to make this fair and equitable to everyone and not exclude someone, as would the language of the bill of the Committee on Interior and Insular Affairs.

Mr. Chairman, I would point out at 6 p.m., during the concluding days of the Congress, to vote for the amendment will terminate matters quickly, and we can get on to other business.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Dingell) has expired.

(On request of Mr. Melcher and by unanimous consent, Mr. Dingell was allowed to proceed for 2 additional minutes.)

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Montana.

PARLIAMENTARY INQUIRIES

Mr. MELCHER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MELCHER. Mr. Chairman, I would like to inquire of the Chair if it would be possible for an amendment to be offered to the amendment of the gentleman from Michigan (Mr. Dingell).

The CHAIRMAN. The Chair would like to advise the gentleman from Montana that the amendment offered by the gentleman from Michigan (Mr. Dingell) is an amendment in the second degree. That amendment will have to be passed on before any additional amendments are offered.

Mr. MELCHER. Mr. Chairman, I have a further parliamentary inquiry: Is there a method that could be followed that would make it amendable?

The CHAIRMAN. The Chair would like to advise the gentleman from Montana (Mr. Melcher) that a substitute for the amendment offered by the gentleman from Montana (Mr. Melcher) is in order, but not an amendment or a substitute for the amendment offered by the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Chairman, I will be glad to yield further to the gentleman from Montana (Mr. Melcher), if he wishes, for these housekeeping matters.

Mr. MELCHER. I think the answer to the question from the Chair was that it could have been offered as a substitute and would therefore be amendable.

Mr. DINGELL. Mr. Chairman, I have to respectfully say that this is not a parliamentary inquiry. If the gentleman wants to debate the issue, I suspect that he ought to do it on his own time.

The CHAIRMAN. The Committee will proceed in an orderly way.

Mr. DINGELL. Mr. Chairman, I will yield to the gentleman for colloquy or a question since he was gracious enough to give me this time.

Mr. MELCHER. Mr. Chairman, I thank the gentleman.

Was it the gentleman's intent to shut off any possible amendment to his amendment?

Mr. DINGELL. No, not at all. I never had that intention. If I would have had that intention, I would have moved to limit time.

Mr. MELCHER. Would the gentleman from Michigan like to retract it and offer it as a substitute?

The CHAIRMAN. The time of the gentleman has expired.

Mr. RONCALIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of speaking against the amendment offered by the gentleman from Michigan (Mr.

Dingell) to the amendment in the nature of a substitute.

First of all, Mr. Chairman, I would like to point out that this country has been good to the State of Wyoming for the last 49 years, and for the last 49 years Wyoming has been equally good to the Nation. We now allow strip mining without Federal regulating of the strip mining.

We have exponential growth of strip mining and we ship to the Midwest and Montana. We do this without surface owner protection for the ranchers, or other land owners. From all of this we have suffered an abrasive human impact with which you are all so familiar. We have the abuse of drinking, of too many suicides, and the extraction of our national resources with profits to the shareholders and to the corporations domiciled elsewhere, not to the people of Wyoming.

So I would now ask, why are you pushing us out, Mr. Dingell, and cutting us out? We send most of our oil to Wood River, Ill., for refining; we dedicate virtually all our natural gas to your States—in interstate commerce. Why deny us a chance for a piece of the Alaskan action?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. No; I will not yield. I already yielded the gentleman 5 minutes.

Mr. DINGELL. The gentleman has mentioned my name; he should yield.

Mr. RONCALIO. I do not yield.

The CHAIRMAN. The committee will be in order.

Mr. DINGELL. My name has been used.

Mr. RONCALIO. It ill behooves anyone to cut the Rocky Mountain States out of consideration on planning an Arctic gas pipeline.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I do not yield.

The CHAIRMAN. The gentleman from Wyoming has the floor.

Mr. RONCALIO. Mr. Chairman, it ill behooves anyone to cut the Rocky Mountain States out of consideration of the pipeline for distribution of Alaska gas. It ought to serve both east and west of the Rockies.

Now you want to cut us out, do not do that to us.

Mr. Chairman, I ask my colleagues, if there are any of them left who have not made up their minds, to accept the substitute of the Committee on Interior and Insular Affairs and to reject the amendment that was thrown at us, a 61-page amendment, at this time, at 10 minutes after 6 o'clock on the night before adjournment sine die. This is not intelligent legislation.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. Mr. Chairman, I would rather finish my statement, if I may.

The point is, Mr. Chairman, that the best interests of not only Western States, but of the entire Nation will be served in doing this. The Federal Power Commission will not approve a line too large or with excessive costs.

Mr. Chairman, much talk has been made about security. There is no better security system than to cooperate with the provinces of Canada, a country with whom we have had friendly relations ever since the existence of our national birth, except, of course, the Crysler farm incidents of 200 years ago.

Let me say that I served up in the development of three dams on the Columbia River in British Columbia, the benefits of which both countries share. I think we can very fairly and mutually work out our problems with Canada, without having to cut out the Rocky Mountain area from some of the potential of this natural gas.

It is a cruel thing that is being done to us in the west. It leaves us with only one alternative, and that is to work to vote down the bill, thereby to kill it, and that is what we will do if you cut us out of the legislation. I can assure you that we will have no alternative.

Mr. ECKHARDT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Forty-six Members are present, not a quorum.

This will be a regular quorum and the call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 852]

Addabbo
Ambro
Andrews, N.C.
Armstrong
Baldus
Beard, R.I.
Beard, Tenn.
Biaggi
Boggs
Bonker
Broomfield
Buchanan
Burke, Fla.
Burton, Phillip
Butler
Carney
Chappell
Chisholm
Clancy
Cohen
Conable
Conyers
Cotter
Coughlin
Davis
Dellums
Derrick
Derwinski
Dodd
Downey, N.Y.
Drinan
Emery
Esch
Eshleman
Evans, Colo.
Fish
Flynt
Foley
Fraser
Frey
Giaimo
Gibbons
Green
Haley
Hall, Tex.
Hayes, Ind.
Hébert
Heckler, Mass.
Heinz
Hicks
Hinshaw
Holland
Howe
Jarman
Johnson, Colo.
Karth
Kemp
LaFalce
Landrum
Lloyd, Calif.
McCloskey
McCollister
McDonald
McEwen
Madigan
Mann
Matsunaga
Mikva
Milford
Mink
Morgan
Moss
Murphy, N.Y.
Neal
Nichols
Nix
O'Hara
O'Neill
Passman
Patterson, Calif.
Pepper
Pike
Rees
Rhodes
Riegle
Rose
Rosenthal
Santini
Scheuer
Schneebeli
Shuster
Sikes
Spellman
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Teague
Udall
Wiggins
Wilson, C. H.
Wilson, Tex.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Natcher, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill S. 3521, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 327 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the Interior Committee substitute.

Mr. Chairman, I rise in opposition to the Interior Committee Substitute, and in support of the Dingell amendment which was offered to it.

### POINT OF ORDER

Mr. SEIBERLING. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SEIBERLING. Mr. Chairman, my point of order is that the gentleman from Ohio in the well said that he rose in opposition to the Interior Committee substitute, but the pending amendment is not the Interior Committee substitute but the substitute offered by the gentleman from Michigan (Mr. Dingell), which completely wipes out the Interior Committee substitute.

The CHAIRMAN. The gentleman from Ohio has been recognized. The point of order comes too late.

The gentleman from Ohio (Mr. Brown) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Chairman, I would like to point out the flaws in the Interior Committee substitute and express my support for the amendment being offered to it by the gentleman from Michigan (Mr. Dingell). The Interior Committee substitute, first, would separate the congressional approval of the President's decision on a system from the congressional waiver of the laws which must be waived to expedite construction of that system. The problem with that is as follows:

The Interior Committee bill would require the identification of every individual law that must be waived in order to expedite the construction of this natural gas pipeline. That also appears in the Commerce Committee bill. But in the Commerce Committee bill all of those laws must be listed at the same time that the President recommends the construction route of the transportation system that he has chosen, based upon, in part, the Federal Power Commission recommendations. And so there would be one vote. But under the Interior Committee bill, we would vote on each one of the laws waived as a separate item, which raises the possibility of several hundred individual votes.

Further the Interior Committee substitute removes the provisions of the Commerce Committee bill which would permit any Federal officer or agency to waive the procedural requirements of law applicable to the issuance of certificates of right-of-way or permits that would be necessary to allow the expeditious construction of the pipeline or the transportation system.

If we want to delay completion of this gas pipeline system, we ought to accept the Interior Committee bill, because that in effect is what it would do.

There is one other point, and I think it explains some of the interest in the Interior Committee bill, and that is that there are, among the northern tier States, several small refiners who have been refining sweet Canadian crude oil that has been coming across the border. Those refiners generally are in the 10,000 to 15,000 barrels per day category. They add up in total, in all of the Northern tier States, to about 150,000 to 200,000 barrels a day of refinery capacity. That is the equivalent of just about one normal refinery in other parts of the country.

Mr. Chairman, I might say that about 65 percent of all our refinery capacity is in the Texas Gulf area of the Western-Southern part of the United States. What the northern tier refiners are concerned about is losing that Canadian crude oil and getting the Alaska crude brought down specifically for the use of these small refiners.

As a matter of fact, the problem would be exacerbated to some extent if they got that oil because they are refineries, as I said, which can only refine sweet crude, and the Alaskan oil is sour crude.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Brown) has expired.

(By unanimous consent, Mr. Brown of Ohio was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, there are two ways to guarantee equitable distinction of the Alaskan natural gas that we need for our country. One is a direct pipeline delivery of Alaskan natural gas to all points East and West of the Rockies, which is proposed in the bill that the Interior Committee has presented. But that bill mandates the Federal Power Commission and the President to approve costly new pipeline facilities for direct delivery of only the Alaskan natural gas.

The Federal Power Commission estimates that it will cost about one-half billion dollars to do that.

There is another way. The approach taken by the Commerce Committee, and the approach taken by the amendment offered by the gentleman from Michigan (Mr. Dingell), is to allow the President to choose a route that is much cheaper for the consumer, much more efficient, and much more practical than mandating western leg direct delivery. It would involve the possibility of a displacement plan. You could bring the natural gas down by any one of three different routes, perhaps one that would come along the Alcan Highway, possibly one that would come directly into the Midwest, and possibly one that would include an ocean route which would land the gas somewhere in the West and thereafter pipe it to the pipelines that would take it into the East.

The choice of the system is left to the President, with the idea that we require him to consider the issues of the cost of serving all parts of the Nation—not just the West, but all parts of the Nation—equitably, and of considering the diplomatic interests that might be involved in a water route or a route over the land of another country.

The system is not selected as to its geography but merely selected as to the idea of letting the President make that decision, based on the recommendation of the Federal Power Commission and the other considerations that we have in mind.

Mr. Chairman, I would suggest that that is a lot easier than, for instance, mandating that if a water route is selected, they must build a pipeline route that would accomplish something else. A lot of pipeline routes in many routes, it would seem to me, might be incompatible.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I would be glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman commented, first of all, on the provisions requiring the President to study what could be done to assure that oil from Alaska be distributed to northern tier of States. This includes the States of Indiana, Illinois, and Ohio.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Brown) has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. LEVITAS. Mr. Chairman, reserving the right to object, I wonder if I could get the attention of the manager on the majority side to inquire whether there is any intention to ask for a limitation of debate at any point on the Dingell amendment.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I think it serves the purpose of the House to understand the 36-odd pages contained in the Dingell amendment, and we will not request a limitation on time at this point or until it is obvious that the amendment is understood.

Mr. LEVITAS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Yes, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the Interior Committee bill provides that the President shall take steps to consider what can be done to assure the supply of Alaskan oil to the northern tier States, including the States of Illinois, Indiana, and Ohio, which also happen to be States that are short of crude oil but which have refineries. And those are not small refineries either; there are some very substantial ones in those States. These States also contain big population centers.

Mr. BROWN of Ohio. That is correct. Mr. Chairman, as the gentleman well knows, because he comes from Ohio as I do, there is an opportunity provided to get oil in Ohio at some of those refineries, although they do not at this time seem to be short.

Mr. SEIBERLING. Mr. Chairman, I can recall a time just a couple of years ago when they were having a very hard time getting oil for those refineries.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Brown) has again expired.

(By unanimous consent, Mr. Brown of Ohio was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, I might say to the gentleman from Ohio (Mr. Seiberling) that any one of these three natural gas systems would be acceptable. As a matter of fact, I would have to say to my colleague, the gentleman from Ohio, that if it were not for the fact that the Committee on Rules had waived all points of order, that provision of the bill from the Committee on Interior and Insular Affairs would be nongermane to a bill relating to the gas problem. The fact of the matter is it represents some interests of people who are along that northern tier of States that are now having some difficulty because they cannot get that sweet Canadian crude, and this is seen as a vehicle to give them some individual relief.

The point is that it fuzzes the issue of what we are going to do with the natural gas problem, and it is unfortunately like the rest of the proposal of the Committee on Interior and Insular Affairs. It tends to develop some special assistance for one part of the country and tilt the balance directly to the benefit of one section. It does not provide the opportunity for equitable treatment of the whole country.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Dingell amendment.

Mr. Chairman, I first want to point out to the body what our parliamentary posture is here.

Of course, the bill before us is the bill from the Committee on Interstate and Foreign Commerce. I serve on that committee, and I also serve on the Committee on Interior and Insular Affairs. The substitute of the Committee on Interior and Insular Affairs, if I had to choose between the two bills, is, I think, the better.

However, the matter immediately before us, the Dingell amendment is somewhat of a compromise between the bill of the Committee on Interior and Insular Affairs and the bill of the Committee on Interstate and Foreign Commerce. It is my opinion that the compromise is better than the bill of the Committee on Interior and Insular Affairs and far better than the bill of the Committee on Interstate and Foreign Commerce.

The compromise bill contains the right of court action to enjoin violation of law, just as the bill of the Committee on Interior and Insular Affairs provides. That is an extremely important point. It also permits judicial review of an administrator's waiving of a procedural provision of law.

Mr. Chairman, from the standpoint of my friends who feel very strongly that environmental interests ought to be protected, I think they should immediately recognize that those two points in the compromise bill are absolutely vital.

It is true that the bill of the Committee on Interior and Insular Affairs would also protect those interests, but if the Dingell amendment is voted down, there are many of my friends on the other side of the aisle who, although they would support the Dingell amendment, would turn against the bill of the Committee on Interior and Insular Affairs.

Mr. Chairman, I would like to buy assurance that the right of judicial review to the extent provided in the compromise, will be protected. It is a compromise. To some extent, we need to compromise to be assured of these things.

Mr. Chairman, there are certain other things in the bill of the Committee on Interior and Insular Affairs which arguably could delay getting quick access to Alaskan gas. I do not contribute in any way to delaying Alaskan gas in coming into the lower 48.

Mr. Chairman, I think we have adequately protected due process in the compromise. If we pass the bill of the Committee on Interior and Insular Affairs, we run into dangers.

The compromise amendment permits the waiver of certain procedural matters which could very gravely delay that gas from coming in and also could discourage investment with respect to these pipelines.

What we do in the compromise is something between the original bill of the Committee on Interstate and Foreign Commerce and the bill of the Committee on Interior and Insular Affairs. We say that these procedural processes can be truncated, but if they are, such is reviewable in court on the basis of whether or not the action was arbitrary and capricious. If it was, it may be stricken down. Mind you, only procedural provisions may be waived.

Mr. Chairman, the other point that I want to bring to the Members' attention is that it has been argued—and frankly, I think it can be argued very well the other way—that the President should be permitted to submit to Congress all of the waivers of law in a single provision.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Eckhardt was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. If the President submits waivers of law, these waivers may not go into effect unless there is concurrent action by both Houses of the Congress approving the suspension of the laws in question. The bill offered by the Committee on Interior and Insular Affairs would require the President to submit each waiver of law separately. As I read the bill, it would require us to make a concurrent resolution with respect to each of them. That might take a considerable period of time. I am not strong on that issue. I do not think it makes too much difference one way or another, but I do know that there is at least valid argument that that would cause some delay.

We have in the substitute the major protections of judicial process. We have in the substitute an absolute assurance of no delay in commencement of the pipeline. We avoid any discouragement of investment in the pipeline occasioned by the possibility of inordinate delay in the process.

I say it is a good compromise. I say also, from a very practical standpoint, we have gotten agreement from a great many of the Members who would not agree with the bill of the Committee on Interior and Insular Affairs. Therefore I suggest to Members, those friends of mine on this side who have much concern with the environment, if you vote down the Dingell amendment, the House could well vote down the substitute of the Committee on the Interior, and then you would be left with the bill of the Committee on Interstate and Foreign Commerce that provides for no injunctive process and provides for suspension of procedural rules without review.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. Brown of Ohio, and by unanimous consent, Mr. Eckhardt was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield, it would seem to me that the quickest procedure for us to follow would be to accept the Dingell amendment as an amendment to the substitute of the Committee on Interior and Insular Affairs and then accept that as the version of the bill and finish our consideration of this legislation as quickly as possible.

Mr. ECKHARDT. That is true because if the Dingell amendment, which amends virtually all of the bill, is adopted, no amendment could then be offered to that Dingell amendment, and if that would be adopted then we would indeed be through.

I may say this, that I have never voted one way or another merely to get away from here.

Mr. BROWN of Ohio. I understand.

Mr. ECKHARDT. And I understand the gentleman from Ohio is not even suggesting that. But it would be a process by which we could make a major decision on some matters that have been well worked out, I think, between the consultants.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. Melcher, and by unanimous consent, Mr. Eckhardt was allowed to proceed for 1 additional minute.)

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I would be glad to yield to the gentleman.

Mr. MELCHER. Mr. Chairman, knowing of the gentleman's work on this matter and his deep interest in it, and his valuable contributions to both committees, does the gentleman really approve of a system where the House is locked into considering a complete version of a bill that is brand new, where there are only two copies available on each side, and one at the desk?

Mr. ECKHARDT. No, Mr. Chairman, the gentleman now in the well does not approve of such a system and such a system does not exist here today.

The situation is this: We were confronted with two approaches to the problem, one by the Committee on Interior and Insular Affairs and another by the Committee on Interstate and Foreign Commerce. Two approaches that were not very far apart in many respects, but in some respects, and I can name them, they were, and these are the only matters that are addressed in this amendment; otherwise the bill is identical to both the Interstate and Foreign Commerce Committee bill and the Interior and Insular Affairs Committee bill. We say this is a compromise.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. Brown of Ohio, and by unanimous consent, Mr. Eckhardt was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I asked the gentleman to yield only to point out that the version of the Committee on Interior and Insular Affairs of this bill only very lately has become available. The bill has been under consideration by both the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce. The Committee on Interstate and Foreign Commerce began its consideration of the bill sometime last summer. I am not sure that the Committee on Interior and Insular Affairs operated with the same degree of dispatch. I do not think it is the fault of the Commerce Committee that this bill comes late to the floor for consideration.

Mr. ECKHARDT. May I say I have deep respect for both committees. I am on both, and I respect my colleagues in both places. But when we have a problem in which we are trying to compromise differences, we do not have 3 weeks to give notice; we do not have 2 days to give notice; and we have done the best we could. But I want to point out to the gentleman that these differences are very small, and they are limited in number.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Eckhardt was allowed to proceed for 30 additional seconds.)

Mr. ECKHARDT. The Northern Tier provision is retained in the Dingell substitute, with slight modification. The only difference is, as I read it, they do not have to build east and west branches contemporaneously. There is a provision like the Seiberling provision. The difference is that instead of striking authority to truncate procedure, we provide that that can be done, but if it is done, it becomes reviewable before a court. We have got the same provision essentially on the Alaskan royalty gas as is contained in the Interior Committee bill.

Mr. MELCHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is, indeed, a complicated subject. The amendment of the gentleman from Michigan (Mr. Dingell) is some 36 pages long. We have not really had the time to review it. We have been given two copies on our side, and I do not believe there are very many more available copies on the floor. They are in such demand as to eliminate any possibility for a reasonable opportunity to read it and comment on it. Apparently it was hastily drawn, and it is so limited in circulation that it almost takes unfair advantage of the Members who would like to know what we are doing on this important subject. It is not open for amendment, although it could be.

I wonder if the members of the committee are aware of some of the aspects of it. First of all, does the Dingell amendment benefit certain areas of the country better than the Interior Committee's version would? The Dingell approach is to allow equitable distribution of Alaskan natural gas on the basis of displacement. We choose in the Interior Committee version to be direct about it and to be clear about it. We want direct distribution, and we call for that.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. Not at this point. We have had about 25 minutes in support of this amendment, and it is about time we have some critique of the amendment. I will not yield at this time.

It is clear that the pipelines that would come over land would be built in such a way that they take all of that natural gas into the Midwest, and that the only way the West could benefit from it would be by displacement. By the same token, if the route approved were by the route that El Paso wants, paralleling the trans-Alaskan pipeline, and then being liquefied and coming on tanker to the west coast—what about equitable distribution from that point to the rest of the country? We face that in the Interior Committee bill directly, too. We say that there shall be provisions for direct distribution so that those points east of the Rocky Mountains can benefit, too, from Alaskan natural gas. And in the Dingell version we would again have to rely, if we are east of the Rocky Mountains—in the case of the gas being liquefied and carried to the west coast—on displacement.

We feel our version of the bill is fairer and more definite, and we want it that way, not just for the Western part of the country, but also for the Midwest and for the East. We think it is the best proposition that can be arrived at.

Now, on the equitable distribution of the Alaskan oil, which is a section in the Interior version of the bill and is now picked up, but in a modified form, in the Dingell amendment. We also find that the Interior version is better balanced and is more fair and is fair for the northern tier States—that would be Washington, Idaho, Oregon, Montana, North Dakota, Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio—and by bringing that Alaskan crude into that area where these refineries are and where they need crude oil we benefit also the Northeast. That is where we have to bring Alaskan crude oil. Under the restraints which apply to consideration of the Dingell amendment—which cannot be amended further—we buy it or reject it in totality.

The CHAIRMAN. The time of the gentleman from Montana has expired.

(By unanimous consent, Mr. MELCHER was allowed to proceed for 1 additional minute.)

Mr. MELCHER. Mr. Chairman, we will be precluded, under those constraints on the Dingell amendment, from considering the amendment of the gentleman from Connecticut (Mr. MCKINNEY) on the Alaskan crude oil which reads:

> In addition the President will include in his report a statement which demonstrates the impact the delivery system will have on reducing the dependence of New England on foreign oil imports.

That again seeks to relieve some of the areas in this country that are destitute for crude oil and that will be in desperate shape if we have another economic embargo.

I hope we can reject the Dingell amendment and that then we can accept the good and needed amendments, such as the Stewart McKinney amendment for the Northeast, and get on with adopting a balanced bill that will truly serve all the parts of the country.

I encourage a "No" vote on the Dingell amendment.

Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are two bills. We have had very little time to examine the 35 or 36 pages contained in the Dingell amendment, we assume are as the gentleman from Michigan and the gentleman from Ohio tells us.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I do not yield at this point. I will be happy to yield to the gentleman in a minute.

Assuming that these are as the gentlemen say, and I assume they are both bills dealing with the selection of a route for delivery of natural gas from Alaska and expediting of the building of that route or the selecting of that route and building a pipeline. There are three routes which are presently proposed and which both bills attempt to deal with. One is a land-and-water route down the west coast and across part of Alaska and two are all-land routes. The study which we are requesting should deal evenhandedly with that problem so as not to dictate at this time which one of those routes should be chosen. We are in effect saying: "Go out and study these three routes and come back to us with a report indicating which of these you feel is best." We are not saying: "We think this one is best," or "These two are better," or we are not eliminating any one of them.

Mr. Chairman, I think that the Interior Committee bill with which the language of the gentleman from Michigan (Mr. RUPPE) deals evenhandedly with all three of those routes assures that the natural gas needs of every State east or west of the Rocky Mountains will be considered. It has such a recommendation for an all-land pipeline system or a water transportation system and deals with east or west of the Rocky Mountains.

Now, the bill which the Dingell amendment proposes, I submit, does not deal evenhandedly with this. By the insertion of the words "equitably and reliably delivered" and by striking the word "contemporaneously," which appears in the language of the gentleman from Michigan (Mr. RUPPE), the Dingell amendment in effect eliminates that, because the minute we talk about equitably distributed, we are talking about an allocation system.

Mr. DINGELL. Mr. Chairman, will the gentleman yield, because that is false.

Mr. MEEDS. Mr. Chairman, when we start talking about an allocation system, we start counting against the West and the Midwest the Canadian natural gas, that is not an assured supply as is the Prudhoe Bay gas. We cannot be certain that 5 or 6 or 7 years down the line we will have that gas. So for all intents and purposes in the Pacific Northwest, where we are getting 70 percent of our natural gas from Canada presently, we are going to have that counted against us, as is California and other places in the West and in the Midwest and that equitably, in effect, strikes out that middle route, which would bring a western leg down into the western side of the Rocky Mountains.

There are other differences.

I want to make the same point that the gentleman from Montana has made. We could have been discussing this and amending the amendment of the gentleman from Michigan (Mr. DINGELL), had the gentleman presented it to us in a fashion which it could have been, as a substitute. We could have amended it and we would not be in this box where it is all or nothing of 35 or 36 pages, which we have not had an opportunity to study. We would have been in a position where we could have in a scholarly way attempted to make it better.

There are some things in it that I like. There are some thing I would hate to see lost to us by virtue of the loss of the substitute of the gentleman from Michigan (Mr. RUPPE).

The CHAIRMAN. The time of the gentleman from Washington has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. MEEDS was allowed to proceed for an additional one-half minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I am delighted to yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I do not understand the gentleman's interpretation of the Dingell amendment as permitting in the counting in of gas other than the Alaskan gas with respect to an equitable situation, because the Dingell amendment says, "necessary to assure Alaskan natural gas is equitably and reliably delivered."

Mr. MEEDS. No question about that; but when we start allocating, we start from what the States we are allocating to has as supplies and potential supplies. Because the prospective supplies in the Canada gas are counted in that allocation. States which are now dependent on Canadian supplies are at a disadvantage.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the Dingell substitute amendment.

Mr. Chairman, it seems odd that two gentlemen from Michigan and two gentlemen from Ohio would be splitting right down the middle and taking seemingly opposite positions on this bill when they all, I am sure, are anxious to insure an equitable supply of gas to their States.

Now, why this difference? I do not know. However, I just want to make sure that everybody understands the difference between the Dingell substitute and the Interior Committee bill. The Dingell substitute says that the President shall submit a plan which will assure an equitable supply of gas to the various regions of the country.

It does not say how that is to be done. It does not say whether it is to be done by displacement or whether it is to be done by direct supply of gas from Alaska to both sections. But, the Interior Committee bill says that, in effect, there shall be new facilities to the extent necessary to assure distribution of Alaska gas both east and west of the Rockies. Now, why did the Interior Committee bill insert that provision to insure the existence of facilities for enabling Alaska gas to go both east and west of the Rockies?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Texas.

Mr. ECKHARDT. The Dingell amendment also says "necessary to assure that Alaska natural gas is equitably and reliably delivered to regions east and west of the Continental Divide."

Mr. SEIBERLING. I am happy to have that indication. I have been trying to get a copy of that section of the Dingell amendment and had to get it by word of mouth because of the procedure we are under where we cannot get an adequate number of copies. But all the explanations I heard around here from the gentleman from Michigan and the gentleman from Texas were to the effect that, under the Dingell substitute, it could take place by displacement and that there was no requirement that Alaska gas come to both sections of the country.

Mr. ECKHARDT. Alaska natural gas, and if the gentleman will please yield a moment longer, he knows that I showed him this copy and we went over it together.

Mr. SEIBERLING. That was before it was offered as a substitute, and I did not know that it was the same as the substitute.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Montana.

Mr. MELCHER. The Commerce Committee draft clearly depends on displacement, and that is a significant difference between the Interior Committee draft and the Commerce Committee draft. We are not satisfied with displacement. We want direct delivery by new facilities.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to my colleague from Ohio.

Mr. BROWN of Ohio. First, I would like to suggest that is not necessarily true, because the President is allowed options under the Commerce Committee draft and under the Dingell amendment which he is not allowed under the Interior Committee bill.

May I address another discussion with the gentleman, because he raises an interesting point that has not been made in debate as yet.

Mr. SEIBERLING. Does this deal with the point about displacement, and so forth?

Mr. BROWN of Ohio. It does.

Mr. SEIBERLING. All right.

Mr. BROWN of Ohio. In the language that the gentleman read in the Interior Committee bill, the Interior Committee bill addresses itself to facilities, with the construction of facilities, and talks about Alaskan gas. In the Dingell amendment, we deal not with facilities, but with the interstate gas itself, and talk about equitable distribution. My point is as follows: Even if the Federal Power Commission offers the opportunity for those licensing procedures, and so forth, for the facilities to be built in a western leg, there is no assurance that those facilities will see to the equitable distribution of interstate gas. I would persuade my colleague from Ohio that the distribution of the gas is much more important than just the construction of the facilities. I think my friends from California do not recognize that. We call for the equitable distribution of the gas, not for the facilities.

If I may go to one other point—the gentleman has been very courteous—at this late hour of the session, we really have not had enough copies of either the Interior Committee bill or the amendment offered by the gentleman from Michigan, and I apologize for that. I know the gentleman feels the same way.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. Well, there seem to be some differences between the two substitutes, because the gentleman from Michigan has made the point that the Interior Committee substitute is objectionable because it mandates that there be facilities to enable gas to be delivered both east and west of the Rockies.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan.

Mr. DINGELL. First, I have not made that statement. Second, that is not my objection. I have pointed out to my colleagues in the House the objections to the Interior Committee bill that I have—I think objections that most of us will have. They are that, unfortunately, it mandates the construction of two pipelines and takes discretion from the President to pick the route or routes, or the system of gas distribution which is most fair and equitable.

That is what I have said, and that is my objection to the bill. I believe in that the gentleman would agree.

Mr. SEIBERLING. May I ask the gentleman a question?

Mr. DINGELL. Certainly.

Mr. SEIBERLING. Is it true that under the Dingell substitute the President could recommend a system of displacement to supply the Eastern States instead of a direct shipment of Alaska gas?

Mr. DINGELL. The answer to that question is that it is not so. It is not so. As a matter of fact, there is as much displacement under the Interior Committee bill, excepting that the displacement would be for the easterners, as opposed to the possibility of it occurring either way under the amendment I propose.

Mr. SEIBERLING. Suppose there is a water route and the gas is transported by water from Alaska to the west coast. What is there in the Dingell bill that would assure that that gas would come to the Eastern States?

Mr. DINGELL. In the first place, the proposal which I have offered to the committee says that the President can recommend a pipeline and a system of distribution which is fair and equitable and considers the needs and interests of all parts of the country, which is some of the language which the gentleman from Montana has complained about, for reasons which I do not fully understand.

Mr. SEIBERLING. Let me try to explain the thing that is bothering some of us who are supporting the Interior bill. We went through a similar process in respect to the Alaskan oil pipeline act in 1973. And we were told at that time that there was not expected to be any surplus of Alaskan oil on the west coast, we were told that in the event that there was a surplus, adequate arrangements would be made to supply oil to the Eastern part of the country, either by shipment or displacement. Unfortunately, if there is a shortage, as was the case with oil during the winter of 1973–74, we realized that without facilities to ship oil or gas, "displacement" is not always possible.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(On request of Mr. DINGELL and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, we do not want to be in that position with respect to Alaskan gas. If there should be a shortage, we do not want to find that we do not have the facilities to transport that gas from West to East, as we find ourselves in at the moment, with respect to Alaskan oil.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. I thank the gentleman for yielding.

The gentleman will remember, and the record will show, that when we had the Alaskan pipeline before us I pointed out that that was one of the perils of that pipeline legislation. And that is one of the reasons I have drafted the language of the amendment as I have drafted it, so that it obviates that peril and it will prevent all of the gas going to one particular place, and it will be fair and equitable to all parts of the country.

Mr. SEIBERLING. Mr. Chairman, I welcome the gentleman's assurance.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. I thank the gentleman for yielding.

Quoting the gentleman from Ohio (Mr. SEIBERLING), when all else fails, read what is in the bill.

I might point out, first of all, what the Interior Committee wrote in our version:

> . . . to include provisions for new facilities, to the extent necessary, to assure direct pipeline delivery of Alaskan gas contemporaneously . . .

What has been changed by the Commerce Committee is:

> . . . to include provisions for new direct delivery facilities, to the extent necessary, to assure natural gas is equitably and reliably delivered to regions East and West . . .

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has again expired.

(On request of Mr. MELCHER and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. MELCHER. If the gentleman will yield, on the surface, perhaps, the language sounds very much the same, but it is drafted to make a huge difference. Our version calls for new facilities, to the extent necessary, to assure direct pipeline delivery contemporaneously, while the other language in the Commerce Committee bill is drafted to allow displacement, to satisfy that the gas is equitably and reliably delivered.

Mr. SEIBERLING. Mr. Chairman, my point is that if the facilities are not there and there is a shortage, we have no assurance we are going to get the gas.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the point that the gentleman from Montana (Mr. MELCHER) overlooks is that displacement is used now in the gas distribution industry, and it can be and probably would be used under the bill from the Committee on Interior and Insular Affairs just as it would under the bill from the Committee on Interstate and Foreign Commerce.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, that is exactly the point. That is what we learned from the trans-Alaskan pipeline, and there is certainly going to be displacement unless we make some corrections now, which we propose to make in this bill. We are seeking to avoid natural gas from Alaska falling into the same pitfall by accepting the version of the Committee on Interior and Insular Affairs, which provides for direct distribution. That is the key part of it.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. Mr. Chairman, I am going to run out of time, and I would like to cover one other point.

Because this substitute device has been used, we cannot consider the various points at issue separately. The gentleman from Texas talked about the Dingell amendment and pointed out that it would prohibit judicial review of waivers of law unless they were arbitrary actions, and that the substitute of the Committee on Interior and Insular Affairs would prohibit waivers of law whether or not they were arbitrary.

Mr. Chairman, I just want to read the language that is in the Dingell substitute and is not in the bill of the Committee on Interior and Insular Affairs. I am quoting from section 9(b) on page 50.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was permitted to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, I am reading now from section 9(b) of the Dingell substitute:

> To carry out the directions contained in this subsection, any Federal officer or agency, upon such officer's or agency's own motion, may waive, in whole or in part, any procedural requirements of any provision of law applicable to the issuance or grant of any certificate, right-of-way, permit, lease, or other authorization where such officer or agency determines and so states with respect to any such issuance or grant that the waiver is necessary to permit expeditious and priority consideration of such application or request.

Mr. Chairman, unfortunately, I do not have the text of the Dingell substitute in my hands because copies of it are in such short supply, but in substance it says that any such waiver may be challenged by court review if it is arbitrary and capricious.

Now what does that mean? There are all kinds of procedural objections that could be made. Some of them should be waived in order to expedite this project, once the Congress has approved a particular proposal submitted by the President.

What it means is that if, for example, if the law or regulations mandate a certain procedure to X-ray the pipe to make sure that it will be safe, and some official says, "Well, we don't need to go through all that procedure; we are going to waive that because that will delay the pipeline," then that would be final unless it be shown that he acted arbitrarily and capriciously, and the burden would be on the challenger to take it to court and prove the waiver was arbitrary or capricious.

It seems to me that we have plenty of time between now and a year from now, when the President is required by this bill to submit a proposal, to write some specific language to deal with this waiver problem after we have had a chance to think it through in the light of the President's proposal.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. DINGELL).

Mr. Chairman, I will be brief. I think what is happening here is that under the approach of the Committee on Interstate and Foreign Commerce we will be back in these chambers some years from now on this same matter. One section of the country will be yelling for the right to build a pipeline or a direct-delivery system into that area of the country, because I think it is very clear that apparently we have not learned the lesson of the Alaskan pipeline.

The bill from the Committee on Interior and Insular Affairs simply guarantees to all sections of the country that they will have direct access to the Alaskan natural gas. I think that it is very important to remember that it simply gives the right to the President to select a route and to offer a certificate of right-of-way to go ahead and build that route.

If the west coast utilities decide that they cannot justify the expenditure of capital to build that leg, they will not build it. If the utilities in the Midwest decide that they cannot justify the capital, they will not build it. However, I think the options ought to remain open to them so that we can have the kind of distribution that we have been talking about from both committees all afternoon, and that is equitable distribution.

Mr. Chairman, I harken back again to the example that was brought up. If the water route is chosen, I would like to know how the equitable distribution system is going to take place in the rest of the country. If the Midwest route is chosen, I would like to know how the equitable distribution system is going to take place in the western part of the country and the rest of the Nation.

Mr. Chairman, all of that looks very good on paper now for the next 5, 10, or 15 years; but as the sources of gas start to diminish, as the contracts becomes fewer in number that western utilities and northeastern utilities can purchase to make up for the loss of access to the Alaskan natural gas, then we are going to be back here asking to build a facility costing much in excess of what any of these facilities would cost today.

Mr. Chairman, I ask the House to reject this amendment.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan (Mr. DINGELL), the distinguished chairman of the Subcommittee on Energy and Power.

Mr. DINGELL. Mr. Chairman, there are a lot of misconceptions of the amendment which I have offered.

Some of them have been exemplified in comments made by the gentleman from California (Mr. MILLER), who just spoke.

In point of fact, the difference between the bill of the Committee on Interstate and Foreign Commerce and the amendment which I have offered, on one hand, and the amendment which is offered by the Committee on Interior and Insular Affairs is really very simple. The bill of the Committee on Interior and Insular Affairs essentially prejudges and says that there will be an east and a west coast leg. The bill of the Committee on Interstate and Foreign Commerce says that the President of the United States, after he receives all recommendations, will make a fair and proper judgment as to where the best interests of the Nation lie and how the matter should be handled or where the several routes should go. After that, the Congress will vote on approval or disapproval of the particular routes.

Mr. Chairman, let us go further. The story is going around that the amendment that I have offered is an allocation proposal.

That is a deliberate falsehood sponsored by some lobbyists from outside this room. They are either misinformed or are deliberately seeking to misinform the House. They refer to such words as "equitable and reliable, delivered to regions both East and West of the Continental Divide" in the amendment which I have offered as basis for allocation. That is false; the said language does not authorize allocation.

With respect to the term "equitable," Mr. Chairman, that term refers to concepts of fairness in the distribution of gas.

This is going to require the displacement of gas. The fact of the matter is that all of the proposals that are before us now, all of the three proposals that have been made to the Federal Power Commission require displacement of gas. Further, the bill of the Committee on Interior and Insular Affairs requires the displacement of gas.

Mr. Chairman, what I am saying to my colleagues is, "Do not let a bunch of outside lobbyists misinform you as to what is an attempt to give the President the judgment that he needs in terms of security, in terms of cost, in terms of fundamental fairness to the different parts of the country."

The language of the committee bill merely refers to the report of the President and the Federal Power Commission. It does not in any way authorize the authority to allocate natural gas. Such an action would be nongermane and would be subject to a point of order. I would not offer it, in any event, because it is neither necessary, wise, nor prudent; and I do not think the Natural Gas Act ought to be indirectly so amended here.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. KETCHUM. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I thank the gentleman for yielding.

I am just wondering, from the remarks the gentleman from Michigan (Mr. DINGELL) made about the lobbyists talking about what is in his amendment, how they were able to get copies of the amendment outside of this room when there are hardly any inside the room.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for his comments.

I want the Members to know that I have not talked to any outside lobbyist. I also would like to suggest to this body that we have been debating this issue for quite a while. This is a classic example of this dual reference of bills and how ridiculous it is and how sorry we all should be that we did not listen to the gentleman from Missouri, Mr. BOLLING, when he tried to suggest a reform of this Congress.

We are presented at this late hour with—and I assume it is 36 pages because I do not think anyone here has seen it—but they tell me that it is 36 pages. It ought to be turned down on that basis alone.

If you want to vote for the Interstate Commerce Committee version of the bill for God's sake vote for it. If you want to vote for the Interior and Insular Affairs Committee version of the bill, then vote for it. The version of the Committee on Interior and Insular Affairs is, in my opinion, and I speak parochially as a Westerner, because I think we should get our share along with the people in the eastern part of the United States and the southern part of the United States and, yes, in Northeastern United States, is the best, but, let us get on with the bill. We have been listening to debate and we have been listening to the same people talk for almost 2 hours. Let us vote and get it over with, not just to get out of here, but to proceed with something constructive in the field of energy because we surely have not done anything in this Congress with true productivity in that particular field.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken and the Chairman announced that the noes appear to have it.

Mr. DINGELL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Sixty-nine Members are present, not a quorum.

The Chair announces that pursuant to clase 2, rule XXIII he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

### QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Prior to the quorum call the gentleman from Michigan made a request for a record vote. Does the gentleman insist upon his request?

### RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 163, noes 209, not voting 58, as follows:

[Roll No. 853]

AYES—163

Anderson, Ill.
Andrews, N.C.
Annunzio
Ashbrook
Ashley
Aspin
Bafalis
Bauman
Bedell
Bennett
Bevill
Biaggi
Biester
Blanchard
Brademas
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burlison, Mo.
Butler
Byron
Carney
Carter
Cleveland
Cochran
Cohen
Conable
Conte
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Dent
Derwinski
Devine
Dingell
Downing, Va.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Eilberg
Emery
Erlenborn
Evans, Ind.
Fary
Fish
Fisher
Fithian

Flood
Ford, Mich.
Fountain
Fraser
Frenzel
Frey
Fuqua
Gilman
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hanley
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Heckler, Mass.
Hefner
Hillis
Holt
Horton
Hungate
Hutchinson
Hyde
Jacobs
Jeffords
Johnson, Pa.
Kasten
Kelly
Keys
Kindness
Koch
LaFalce
Latta
Lent
McClory
McDade
McHugh
Madden
Madigan
Mazzoli
Meyner
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Mosher
Mottl
Murphy, Ill.

Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Perkins
Peyser
Pressler
Preyer
Price
Quie
Quillen
Railsback
Rhodes
Robinson
Rogers
Rostenkowski
Roush
Russo
St Germain
Satterfield
Schneebeli
Schulze
Sharp
Smith, Iowa
Smith, Nebr.
Solarz
Spence
Staggers
Steiger, Wis.
Sullivan
Thone
Traxler
Vander Jagt
Vander Veen
Walsh
Wampler
Whalen
Whitehurst
Wilson, Tex.
Wirth
Wydler
Wylie
Yatron
Young, Fla.
Young, Ga.
Zablocki

NOES—209

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N. Dak.
Archer
AuCoin
Badillo
Baucus
Beard, Tenn.

Bell
Bergland
Bingham
Blouin
Boland
Bolling
Bonker
Bowen
Breaux
Brooks
Brown, Calif.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.

Burton, John
Carr
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Collins, Tex.
Corman
Crane
Daniels, N.J.
Danielson
Davis

de la Garza
Delaney
Dellums
Derrick
Dickinson
Dodd
Drinan
Duncan, Oreg.
Edwards, Ala.
Edwards, Calif.
English
Evins, Tenn.
Fascell
Fenwick
Findley
Florio
Flowers
Foley
Ford, Tenn.
Gaydos
Ginn
Goldwater
Gonzalez
Hammerschmidt
Hannaford
Hansen
Hechler, W. Va.
Helstoski
Henderson
Hicks
Hightower
Holtzman
Howard
Hubbard
Hughes
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Ketchum
Krebs
Krueger
Lagomarsino
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCormack
McDonald
McFall
McKay
McKinney
Maguire
Mahon
Martin
Mathis
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murtha
Natcher
Nichols
O'Neill
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pettis
Pickle
Pike
Poage
Pritchard
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rousselot
Roybal
Runnels
Ruppe
Ryan
Santini
Sarbanes
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Stanton, J. William
Stark
Steed
Stokes
Stratton
Studds
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thornton
Treen
Tsongas
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waxman
Weaver
White
Whitten
Wiggins
Wilson, Bob
Winn
Wolff
Wright
Yates
Young, Alaska
Young, Tex.
Zeferetti

NOT VOTING—58

Armstrong
Baldus
Beard, R.I.
Boggs
Burke, Fla.
Burton, Phillip
Clancy
Conlan
Conyers
Cotter
Diggs
Downey, N.Y.
Esch
Eshleman
Evans, Colo.
Flynt
Forsythe
Giaimo
Gibbons
Green
Haley
Hall, Tex.
Hawkins
Hébert
Heinz
Hinshaw
Holland
Howe
Karth
Kemp
Landrum
Lehman
Lundine
McCollister
McEwen
Mann
Matsunaga
Mikva
Mink
Morgan
Moss
Nix
O'Hara
Passman
Pepper
Riegle
Rosenthal
Sarasin
Scheuer
Snyder
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Udall
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Mikva for, with Mrs. Boggs against.

Mr. Burke of Florida for, with Mr. Hébert against.

Mr. Clancy for, with Mrs. Spellman against.

Mr. Kemp for, with Mr. Howe against.

Mr. McEwen for, with Mr. Steelman against.

Mr. Eschleman for, with Mr. Phillip Burton against.

Mr. Snyder for, with Mr. Hawkins against.

Messrs. CRANE, COLLINS of Texas, ROSE, FLORIO, SYMINGTON, NICHOLS, BUCHANAN, and YATES changed their vote from "aye" to "no."

Messrs. HARRIS, HARRINGTON, HEFNER, Mrs. HECKLER of Massachusetts, Mr. CONTE, and Mr. KOCH changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. M'KINNEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MELCHER

Mr. McKINNEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. McKinney to the amendment in the nature of a substitute offered by Mr. Melcher: Section 18, p. 34, line 15, following the sentence ending with the word "States.", insert the following new sentence: "In addition the President will include in his report a statement which demonstrates the impact that the delivery system will have on reducing the dependency of New England and the middle Atlantic States on foreign oil imports.".

Mr. McKINNEY. Mr. Chairman, in the past 6 months the American public has become increasingly aware of the difficulties being encountered with our plans to distribute the long-awaited oil from the trans-Alaska pipeline. In Senate hearings last week, we received further confirmation of the anticipated "glut" of Alaskan oil on the west coast and were again warned of the real possibility of exporting those badly needed resources to foreign ports. In light of these problems and with the date for the scheduled flow of that oil fast approaching, it becomes incumbent upon this body to establish an equitable and timely solution to these problems. We must insure that foreign refineries do not reap the benefits of the Alaskan pipeline at the expense of our own domestic markets.

Today, Mr. Chairman, we have before us an opportunity to alleviate some of the distribution difficulties and to establish a plan for domestic distribution of Alaskan crude. Incorporated in the Interior Committee's substitute to S. 3521, the Alaskan Natural Gas Transportation Act, is a provision which addresses the problems encountered in plans to distribute Alaskan oil. The provision calls upon the President to determine what special expediting procedures are necessary to insure the equitable allocation of North Slope crude oil to the Northern-Tier States and to report his findings to the Congress within 6 months. I heartily endorse the purpose of this provision and laud the efforts of my colleague, Representative John Melcher, who is greatly responsible for its inclusion in the bill.

However, Mr. Chairman, I believe that this provision would more effectively address the problem of resource scarcity in this Nation if it were to include the obvious energy needs of the industrial Northeast. For this reason I plan to offer a perfecting amendment to the Interior Committee susbtitute which directs the President to include in his report a statement which demonstrates the impact that his proposal will have on reducing the dependency of New England on foreign imports. If New England has any hopes of alleviating its present energy-deprived existence, it is essential that the region receive its fair share of the North Slope crude.

Obviously, Mr. Chairman, while recognizing New England's dire needs we do not intend to ignore the ever-increasing dependency of the entire Northeast and Mid-Atlantic States on foreign oil imports. The entire region is presently relying on the largest amount of imported crude in its history. In seeking relief for New England we also request the President's urgent attention to the needs of our sister States including New York, New Jersey, and Pennsylvania.

The oil from the trans-Alaska pipeline is an important first step, and perhaps our last hope for achieving energy independence in this country. This Nation can ill afford to ignore this opportunity to implement this important first step. I urge all my colleagues to support both the Melcher and McKinney amendments to S. 3521.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, we examined the amendment offered by the gentleman from Connecticut (Mr. McKinney) and are in accord with it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKinney) to the amendment in the nature of a substitute offered by Mr. Melcher.

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Montana (Mr. Melcher).

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Natcher, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the Senate bill (S. 3521) to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes, pursuant to House Resolution 1584, he reported the Senate bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read

a third time, and was read the third time.

The SPEAKER. The question is on the passage of the Senate bill.

The Senate bill was passed.

The title was amended so as to read: "An act to provide for the making of a decision with respect to the selection of a transportation system for the delivery of Alaska natural gas to the contiguous States of the United States markets, and, with respect to any approved system, to expedite the construction and initial operation of such system, and for other purposes."

A motion to reconsider was laid on the table.

## TO AMEND ACT OF JUNE 3, 1976, RELATING TO COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15813) to amend the act of June 3, 1976, relating to the Commission on Security and Cooperation in Europe.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, and I shall not object, I do so in order to yield to the gentleman from Florida so that the gentleman may explain the purpose of the bill.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

This is a technical amendment to the bill passed previously on the Commission on Security and Cooperation in Europe. The amendment simply makes it possible to use foreign currency instead of appropriated funds for the travel of the Commission. That is all it is.

Mr. BAUMAN. I thank the gentleman. How much, may I ask, is the budget for this Commission for required travel?

Mr. FASCELL. If the gentleman will yield, we do not yet know until we contact all of the Members.

Mr. BAUMAN. If the gentleman will give us a figure, we might feel more comfortable in agreeing to considering the bill.

Mr. FASCELL. If the gentleman will yield further, I wish I could give the gentleman an answer as to how much foreign currency, but I cannot.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, would it be fair to say if this does not pass, they would have to stay home?

Mr. FASCELL. If the gentleman will yield, no, sir. We have the authority to travel anyway, but we do not want to use appropriated funds.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the bill, as follows:

H.R. 15813

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 7 of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (Public Law 93–304), is amended—

(1) by inserting "(a)" immediately after "SEC. 7."; and

(2) by adding at the end thereof the following new subsection:

"(b) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use funds in accordance with such sections."

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

## CIVIL RIGHTS ATTORNEY'S FEES AWARDS ACT OF 1976

Mr. MURPHY of Illinois from the Committee on Rules reported a privileged report (Rept. No. 94–1741) on the resolution (H. Res. 1591), which was referred to the House Calendar and ordered to be printed.

## PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT, OCTOBER 6, 1976, TO FILE AN INVESTIGATIVE REPORT

Mr. HICKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight, October 6, 1976, to file an investigative report titled, "Administration of the Federal Workers Compensation Act."

The SPEAKER pro tempore (Mr. BOLLING). Is there objection to the request of the gentleman from Washington?

There was no objection.

## U.S. SPACE OBSERVANCE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 47) authorizing the proclamation of "U.S. Space Observance" and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There being no objection, the Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 47

Whereas a purpose of the United States space program is the peaceful exploration of space for the benefit of all mankind; and

Whereas the United States space program and its technology directly and indirectly benefit relations among countries, astronomy, medicine, business, air and water cleanliness, urban development, industry, agriculture, law enforcement, safety, communications, the study of the earth resources, weather forecasting, and education; and

Whereas the United States Space program has an efficient organization and strong moral leadership, both of which serve as good examples to the people of the United States and to the people of all nations; and

Whereas the National Aeronautics and Space Administration and other organizations throughout the world involved in space exploration programs have cooperated in the cause of the peaceful exploration of space for the benefit of all mankind; and

Whereas the United States space program, through Project Apollo and other space efforts, has provided our Nation with scientific and technological leadership in space; and

Whereas the United States aerospace industry and educational institutions throughout the United States contribute much to the United States space program and to the Nation's economy; and

Whereas in the week of July 16 through 24, 1969, the people of the world were brought closer together by the first manned exploration of the Moon: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That the President is requested to issue a proclamation designating the period of July 16 through 24 as "United States Space Observance", and calling upon the people of the United States to observe such period with appropriate ceremonies and activities.

Mr. TEAGUE. Mr. Speaker, the purpose of National Space Observance Week is to stress the benefits of the space program to all mankind, encourage increased interest in space activities, and commemorate the past achievements on the anniversary of man's first historic landing on the Moon. This commemoration will serve to remind all of us of the excitement and pride as we watched that historic event on television.

The second Viking lander reached the surface of Mars successfully on September 3, 1976. This is only one more accomplishment in space by the United States which can be added to an already significant list. The most important of this Nation's great accomplishments in space was, of course, landing the first man on the Moon on July 20, 1969, and the first successful landing on Mars on July 20, 1976. In recognition of these great moments in the history of the Nation and the world, I, along with 248 of our colleagues, have endorsed Senate Concurrent Resolution 47, to create a period of National Space Observance.

In addition to commemorating man's remarkable achievement of landing a man on the Moon and returning him safely to Earth, the creation of a National Space Observance is designed to call attention to, and show an appreciation for, the benefits that have accrued to mankind through the space program. The space program has been in existence now for 17 years and has contributed to significant advancement of our science and technology, while improving our prospects for the future.

The most obvious and pervasive benefits from the space program have come from the direct application of aeronautical research and technical activities. Both civil and military aviation methods and hardware have undergone vast improvements in the past 17 years as a result of research and development by the National Aeronautics and Space Administration. Satellites have added new dimensions to man's ability to cope with his environment and living conditions. They have expanded the scope and reliability of communications, providing almost immediate access to remote corners of the globe. Our ability to forecast the weather and give forewarning of disaster is constantly improving through use of satellite information. Satellites are also providing valuable and previously unobtainable data and information on the Earth's resources and physical condition. Accurate crop forecasting is now becoming possible on a global scale. Information is becoming available to provide integrated land and water management which can improve national and world resources and productivity. Experiments are underway to make earthquake prediction a reality by using satellites to measure movement of the Earth's crustal plates.

It is interesting to note that on April 12, 1976, the Soviet Union celebrated Space Navigation Day on the 15th anniversary of the first manned flight by Yuri Gagarin. The Government generated a flood of press nostalgia, television documentaries, a series of special stamps, speeches, concerts, and an evening fireworks display in major cities to honor man's first trip outside Earth's atmosphere on April 12, 1961.

We should celebrate U.S. Space Week in honor of man's first historic landing on the Moon, which is listed by the Reader's Digest Almanac as 1 of the top 100 milestones in the history of mankind. The historian, Arthur Schlesinger, Jr., declared:

> The 20th Century will be remembered, when all else is forgotten, as the century when man burst his terrestrial bonds and began the exploration of space.

Mr. Speaker, I urge adoption of Senate Concurrent Resolution 47, as amended.

Mr. FUQUA. Mr. Speaker, I fully endorse the creation of a National Space Observance which brings to the attention of all the people of this great Nation the achievements of the space program. We can be most proud not only for our manned efforts of Projects Mercury, Gemini, Apollo, Skylab and the Apollo-Soyuz test project, but also the many and varied unmanned efforts ranging from Project Mariner to the overwhelmingly successful Project Viking which we are now witnessing unfold before our very eyes.

Our Nation can take heart in the dedication of its hundreds of thousands of talented technicians, mechanics, engineers, scientists and managers who labor not only in the Government, but in the private sector to give us the wonders of the space age.

Our Nation can take heart in the advancement of the way of life for all people as a result of the giant steps in technology made possible by the space program. The list of so-called spinoffs from the space program are too numerous to mention and singularly do not in and of themselves mean much, but collectively the list is extremely impressive.

Our Nation can take heart that many of these same technicians, mechanics, engineers, scientists and managers are busy working on new ideas, new concepts, that challenge the mind to the point of the impossible; because this is the American way. Some of these ideas range from techniques to dispose of nuclear waste via space to the old Dick Tracy watch communication system which I envision we will see in our lifetime.

There are many new and exciting ideas that are just around the corner Mr. Speaker, and the recognition of the past and present will serve notice on this great Nation that their support has brought us this far and their continued support will make a better way of life for us all.

Mr. Speaker, I humbly urge the adoption of Senate Concurrent Resolution 47 and ask my colleagues to join with me in this well-deserved recognition.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks on the Senate concurrent resolution, Senate Concurrent Resolution 47.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks, and to include extraneous matter, on the conference report on the bill H.R. 13350, authorizing appropriations for the Energy Research and Development Administration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## CONFERENCE REPORT ON H.R. 13350, AUTHORIZING APPROPRIATIONS FOR THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Mr. TEAGUE. Mr. Speaker, I call up the conference report on the bill (H.R. 13350) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ERLENBORN. I object, Mr. Speaker.

The SPEAKER. Objection is heard. The Clerk will read.

The Clerk proceeded to read the conference report.

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the conference report be dispensed with.

Mr. ERLENBORN. Mr. Speaker, I object.

The SPEAKER. Objection is heard. The Clerk will read.

The Clerk continued to read the conference report.

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

(For conference report and statement see proceedings of the House of September 29, 1976.)

Mr. TEAGUE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I take this time to engage in a colloquy with the chairman, the gentleman from Texas (Mr. TEAGUE) to discuss the provisions of titles VII and VIII of the conference report.

Mr. Speaker, it is my understanding the title VIII of the report authorizes up to $300 million in loan guarantees for biomass commercial demonstration facilities.

It is my further understanding that title VIII of the report has no provision authorizing loan guarantees for facilities for the conversion of coal or oil shale into synthetic fuels, and it is my understanding that the gentleman from Texas (Mr. TEAGUE), as chairman of the House conferees, agrees that it cannot be interpreted in any way by ERDA as authorizing loan guarantees for such coal gasification and oil shale plants. Is my understanding correct?

Mr. TEAGUE. Mr. Speaker, the gentleman is correct.

Mr. OTTINGER. Mr. Speaker, if the gentleman will yield further, it is my further understanding that title VII of the conference report merely adds to section 7 of Public Law 93-577 an additional financial incentive to carry out the purposes of Public Law 93-577—namely, loan guarantees; but this listing of loan guarantees in section 7 does not authorize ERDA to make any guarantee to anyone for coal gasification or oil shale development without further authorization by later Act of Congress and action through an appropriations bill. Is this understanding correct?

Mr. TEAGUE. Mr. Speaker, the gentleman is correct.

Mr. OTTINGER. Mr. Speaker, I have two more questions. It is my further understanding that the statement is substantiated by the addition of a proviso which makes it clear that the loan guarantee authority is subject to all of the provisions of Public Law 93-577, including the patent provisions, and in order to make any loan guarantee for a coal gasification or oil shale project under title VII, ERDA would have to obtain an authorization and obtain action through an appropriations bill.

Mr. TEAGUE. Mr. Speaker, I will yield to the gentleman from Washington (Mr. McCORMACK) to answer the gentleman from New York.

Mr. McCORMACK. The gentleman from New York is correct. The conferees further substantiated the addition of a proviso to this section which makes it clear that the loan guarantee authority is subject to all of the provisions of Public Law 93-577, including the patent provisions. In order to make any loan guarantee for a coal gasification or oil shale project under title VII, ERDA would have to obtain an authorization and act on an appropriations bill.

Mr. OTTINGER. I thank the gentleman from Washington. I would ask another question by way of clarification.

I note that the conference report does not include in the biomass title several provisions that were included in your substitute for H.R. 12112 particularly provisions for: Community assistance; application of the Davis-Bacon Act; provisions to limit loan guarantees to 75 percent of project costs; provisions to limit loan guarantees maturity to 20 years; nondiscrimination provisions; GAO review and audit; and a prohibition against use of the Federal Financing Bank.

Do you agree, Mr. Speaker, that should ERDA propose projects for loan guarantees under title VII sometime in the future that these provisions, which have been carefully worked out by four committees, should be a part of each project authorization?

Mr. TEAGUE. I will yield to the gentleman from Washington to answer the gentleman from New York.

Mr. McCORMACK. I thank the gentlemen for yielding. I would say yes. I think these provisions which have been itemized are all provisions which certainly are subjects for legitimate concern. We would intend, in the Subcommittee on Energy Research and Development Demonstration, to take them up next year as part of the ERDA authorization.

Mr. OTTINGER. The gentleman would encourage ERDA to include these provisions in any proposals?

Mr. McCORMACK. We certainly would encourage the ERDA to adopt all of these provisions which we have considered, that is, all except the last one—on the Federal financing bank. I plan to hold subcommittee hearings on this subject as early as possible next year.

Mr. OTTINGER. One last question. As I understand it, the conferees did not include provisions that were inserted in the Teague substitute at the behest of the Ways and Means Committee to insure that any municipal bonds or other tax-exempt bonds that were issued pursuant to this program would not also be guaranteed. Am I correct that it was not the intention of the conferees to authorize loan guarantees for any tax-exempt bonds, and is it not the intention of the conferees that no guarantees should be issued with respect to tax-exempt bonds under the authority of title VII or title VIII?

Mr. McCORMACK. The conferees did not amend the Tax Code, and thus did not infringe upon the jurisdiction of the Ways and Means Committee. The language of title VIII puts the loan guarantee provisions in the same position regarding guarantees for tax-exempt bonds. As the Ways and Means Committee amended the synthetic fuels bill earlier this year, by requiring that ERDA only guarantee loans in which holders of municipal bonds would still pay the same taxes as holders of private bonds.

Mr. OTTINGER. But it is not the intent of the conferees that any tax exempt bonds should also be guaranteed.

Mr. McCORMACK. That is correct.

Mr. OTTINGER. In that event, I want to thank the Chairman, and I want to say that it has been a real pleasure to work with him. I have a great deal of admiration for him, even though we disagreed on this basic legislation.

I will say the same thing to the gentleman from Washington (Mr. McCORMACK.)

I will support the basic conference report on that basis.

Mr. TEAGUE. Mr. Speaker, I am very proud of my committee. We have had disagreements from pole to pole, but we have disagreed without making it disagreeable. I hope the House will adopt the conference report.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. I thank the gentleman for yielding.

Mr. Speaker. I do rise in support of this ERDA authorization bill.

Mr. Speaker, as a House conferee on the bill, I would like to discuss title VIII of this bill. Title VIII contains a conference modification of the Senate provision for loan guarantees for commercialization of biomass technology. I would like to emphasize that the loan guarantees are for biomass plants, such as urban waste facilities and not, I repeat, not, for coal gasification or oil shale or other synthetic fuels. The provision authorizes $300 million for these urban waste plants and it includes some acceptable procedures, such as a one-House veto for any plant over $50 million. Unfortunately, however, the title does not include many of the important requirements and restrictions developed by the various committees which considered the synthetic fuel loan guarantee bill.

Because of my position in opposition to synthetic fuel loan guarantees and my fears that this provision could be a step in that direction, despite the defeat of the synfuels rule last week, I attempted in conference to strike the original Senate title. Although that attempt failed, the House conferees were successful in significantly reducing the size and potential scope of the Senate loan guarantees to the present provision. However, because of my continued concern about synfuels, I signed the conference report with a reservation on the title and a further reservation that the House should be given the opportunity for a separate vote on it.

Mr. Speaker, with that background, I would like to ask my distinguished committee chairman to engage in a colloquy on title VIII.

Would the gentleman agree that title VIII is only for biomass and further, that, under the language in this title of the conference version, no other technologies could be given loan guarantees, so as now written it is not for coal gasification or oil shale, among others.

Mr. TEAGUE. I agree with the gentleman. The conference provision is completely limited to biomass loan guarantees.

Mr. GOLDWATER. Would the gentleman agree that the provisions in title VIII could and should be improved by incorporating several important changes or additional provisions, such as those included in the gentleman's three-committee compromise substitute for the synfuel loan guarantee bill. And, would the gentleman agree further that our committee and the House will have the opportunity in the next session to consider amending the title to so improve it.

Mr. TEAGUE. Yes, I agree that title VIII can be improved by such amendment and, further, I agree that the committee and the House will have the opportunity to do so.

Mr. GOLDWATER. Finally, would the gentleman agree that before any other technologies, such as coal gasification or oil shale, are added to this provision, the title should be amended to bring it in line with the gentleman's synfuel substitute or amendments thereto, and that the House should have the opportunity to consider and amend such amendment.

Mr. TEAGUE. Yes, it is my feeling that other synfuel loan guarantees should be subject to provisions like my own synfuels bill and the House should have the opportunity to fully consider and amend them.

Mr. GOLDWATER. Mr. Speaker, I thank the chairman of the committee for his response. Certainly this clarifies our understanding as to precisely what it is we are accepting when we accept the ERDA conference report. The four committees, the Committee on Science and Technology, the Committee on Interstate and Foreign Commerce, the Committee on Banking, Housing, and Currency, and the Committee on Ways and Means spent many, many hours reviewing this entire question of loan guarantees.

Unfortunately, because of the lateness of the hour and of the time available, we are in essence accepting language which does not reflect that perfection and that expertise that has been developed over this past year. However, with the assurance of the chairman of the Committee on Science and Technology that we will in fact have the opportunity to consider and perhaps modify this expressly limited biomass loan guarantee program next year, I will withdraw my reservations and support this conference report.

Mr. TEAGUE. Mr. Speaker, I give the gentleman my assurance of that.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Speaker, I would like to add my commendations to the committee chairman and conference chairman, Mr. TEAGUE of Texas. As chairman of the Subcommittee on Energy Research, Development, and Demonstration—Fossil Fuels—of the Committee on Science and Technology, I will certainly insure that these provisions and protections that the committee chairman has assured us would be incorporated in any possible future consideration of loan guarantees in the area of fossil energy will in fact be included as we bring out many additional pieces of legislation next year. I also will hold hearings on the relationship of such guarantees to the Federal Financing Bank Act of 1973 and will seek testimony from the FBB, ERDA, the Congressional Budget Office, and the GAO concerning the impact of the use of the FFB on the public debt.

And, Mr. Speaker, I might add that I intend to be back here next year.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I will be glad to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I am concerned about one aspect of this bill—and I would be remiss if I did not point out that the $320 million which is devoted to solar energy technologies is a gratifying finale to the efforts many of us made to develop an accelerated program.

But there is one area which I would like to clarify for myself and others who took an active part in the process whereby the House amended the original bill to substantially increase some of the money levels—and that is that when I proposed some amendments to the bill I included some rather specific items, and that when my amendment was altered by passage of the substitute offered by Mr. BROWN of California, there was substantial arguments made by the chairman of the subcommittee, Mr. MCCORMACK and Mr. BROWN and others that it was inappropriate to be too specific, that the specific applications of the funding levels should be left generally to the discretion of the Administrator. However, even though the House did not incorporate specific line item projects in our authorization report, the Senate did, and understandably the conference committee compromised on those specific line items, accepting some and omitting others.

I intend to clarify my understanding here that the fact that this compromise was made and that some line item projects were retained and others not retained in no way alters the fact that discretion remains with the Administrator to fund feasibility studies and follow-on design studies for those areas which are not specifically covered by construction project line-items including those which were deleted.

For example, in the area of photovoltaics, or the direct conversion of sunlight into electricity, this House dramatically increased the funding for research and development to a historic high of over $55 million, nearly double what the administration requested.

Coupled with this is very clear language in the reports of both House and Senate authorizing committees that baseline systems design be conducted by ERDA in photovoltaic applications during the next fiscal year. I would briefly quote the relevant passage from the committee reports, language which is identical in both House and Senate reports;

One of the major photovoltaic technology milestones to be achieved in fiscal year 1977 is "the selection of baseline systems for large-scale tests and applications" and "The emphasis in systems engineering and analysis in fiscal year 1977 will be on initiating the detailed systems analysis of solar photovoltaic conversion systems for applications ranging from multikilowatt onsite residential systems to multimegawatt central station power plants."

Thus it is my understanding, and I ask the conference committee chairman to correct me if I am wrong, from this clear language it is clear that there is no intent on the part of the conferees to reduce the obvious thrust of the committee reports for ERDA to go forward expeditiously in funding such baseline design feasibility studies for photovoltaic applications, not to contradict the overwhelming 321-to-68 vote of the body and that we should expect ERDA to give very serious attention to such studies in the very near term in fiscal year 1977.

Mr. TEAGUE. Mr. Speaker, I can assure the gentleman that he is correct in his statement.

Mr. JEFFORDS. I thank the gentleman very much, Mr. Speaker.

Mr. TEAGUE. Mr. Speaker, I rise in support of the ERDA authorization conference report for fiscal year 1977 and the nonnuclear portions thereof. This report provides $1.87 billion in funds authorized for nonnuclear research and development, and items common to both nuclear and nonnuclear research. For the purpose of illustration, I would like to go through a comparison of this year's conference authorization and last year's appropriation:

Fossil energy research funding was $379 million last year and is authorized at a level of $541 million this year.

Solar energy research was increased from the $113 million funded last year to $319 million for this year.

Geothermal energy research was increased from $31 million funded last year to $68 million this year.

Conservation was increased from $75 million funded last year to $241 million this year.

These are all significant increases over last year's appropriations for energy research and represent a positive step for energy of which we all can be proud.

However significant these increases are, they all represent responsible additions to the ERDA budget and ones which will fit logically into ERDA's research program. The House conferees stood firm against excessive increases and believe that we are presenting a very balanced research program to this House.

The House conferees also reached workable compromises on the other key provisions and amendments in this bill.

The conference adopted a compromise between the bill H.R. 13676, the energy extension service bill, which passed the House August 2, and a similar proposal in the form of an amendment to the ERDA authorization bill. This program when enacted will speed the dissemination of information and ideas regarding conservation to people and communities.

The House conferees also accepted a program for appropriate or intermediate technologies.

The conferees also agreed to a provision requiring all ERDA employees in policymaking positions to fully and publicly disclose known financial interests in energy companies. This will go a long way to letting sunshine into our Government and its practices. The conferees also adopted a compromise provision which requires organizations to fully disclose to ERDA any possible conflicts they may have whenever they seek to contract with ERDA.

The conferees also adopted an amendment to the Federal Nonnuclear Act which simply gives ERDA authority to make loan guarantees, but provides no monetary authorization for the agency to do so. It also provides that all provisions of the Federal Nonnuclear Research and Development Act of 1974 relating to demonstration projects, apply to Federal loan guarantees. Thus, ERDA is required to come back for specific authorization of each loan guarantee over $50 million. Congress, therefore, will have a full and complete opportunity to express itself on each large project receiving a loan guarantee. All smaller projects must also be authorized by Congress.

Finally, the conferees adopted a $300 million loan guarantee program for the demonstration of biomass conversion facilities. This represents a significant yet realistic reduction in the program which was originally proposed at $900 million in loan guarantee authority.

In regard to this biomass demonstration program, I would like to stress the point that the $300 million in loan guarantees authority can only be used for biomass and urban waste conversion projects. The purpose of the section is to "assure adequate Federal support to foster a commercial demonstration program to produce on a commercial scale synthetic fuels and other desirable forms of energy from biomass," (section 20(a) (I)). Coal and oil shale are not authorized at all.

I also would like to stress that this program is neither the President's synthetic fuel commercialization program not is it the synfuels bill, H.R. 12112. In the first place, the former two are concerned with coal, oil shale biomass and solar energy, while this program is solely concerned with biomass. Second, the President's program is $11.1 billion and H.R. 12112 was $4 billion; this program is only $300 million.

In conclusion, I urge you to support this conference report for the fiscal year 1977 ERDA authorization.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I am sorry to impose further, but the gentleman from New York (Mr. BINGHAM) had arranged for a colloquy with the Vice Chairman of the Joint Committee on Atomic Energy with respect to those provisions.

He is not here and I wondered if I could just ask the Vice Chairman one question. In the provisions that relate to nuclear proliferation, as I understand it, provisions in section 209 were adopted that may, in some respects, conflict with the original provisions that were the House passed provisions contained in section 201.

I would like to ask whether my understanding is correct, that where there is a conflict, it is the intention of the conferees that section 201, the House provisions should prevail.

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Illinois, the chairman of the Joint Committee on Atomic Energy.

Mr. PRICE. Mr. Speaker, in answer to the question that the gentleman from New York (Mr. OTTINGER) asks, I can assure him that section 201, the House provision, is the prevailing provision.

Mr. OTTINGER. Mr. Speaker, I thank the gentleman.

Mr. YOUNG of Texas. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Texas.

Mr. YOUNG of Texas. Mr. Speaker, I would like to address this question to the gentleman from Washington (Mr. McCORMACK):

I note that the sixth criterion in section 209 of the conference report requires that the preceding five conditions apply to any nuclear material or equipment which results from the export of any sensitive nuclear technology. However, the statement of managers, at pages 57 and 58, indicates that the sixth criterion also applies to "utilization facilities." For the purpose of clarification would the gentleman confirm my understanding that the words "utilization facilities" are meant to apply only to exported reprocessing, enrichment, and heavy water plants?

Mr. McCORMACK. Mr. Speaker, if the gentleman, will yield, the gentleman's understanding is correct. The term applies only to reprocessing, enrichment, and heavy water plants. That was the committee's intent.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman for yielding.

I merely want to say with respect to the question raised a moment ago by the gentleman from New York (Mr. OTTINGER), as the Member of this body who offered the language found in section 201 of the conference report, language which I authored with the distinguished vice chairman of the Joint Committee on Atomic Energy, the gentleman from Illinois (Mr. PRICE), I would further corroborate the fact that it is our intention that this language contained in section 201 shall prevail, that the congressional review provisions that are set forth therein shall be the policy followed, and that if there is any inconsistency in the language which is found in section 209, it will not contravene the provisions of section 201.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I rise to engage perhaps in a colloquy with the subcommittee chairman, the gentleman from Washington (Mr. McCORMACK), in regard to the points that were made by the gentleman from Vermont (Mr. JEFFORDS).

It is my understanding that the gentleman from Vermont asked a question as to whether design studies for the photovoltaic project in the Senate bill would be allowed or acted upon by ERDA under the authority in the conference bill. As I recall, in the conference there are only just a handful of the Senate's long shopping list of projects that were accepted for design studies. These are listed at the top of page 5, under section 102(c) and only those projects are authorized for design efforts using capital funds. As far as feasibility studies are concerned, I believe that the gentleman is correct that ERDA can pursue a feasibility study for the photovoltaic project using operating funds, but not capital funds.

Mr. Speaker, this is my interpretation, and I would like to hear from the gentleman from Washington who is very familiar with this program since he is chairman of the subcommittee.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I thank the gentleman for yielding.

I think that the interpretation, Mr. Speaker, under the law would be that ERDA would have the authority to undertake conceptual design of any projects that are not specifically authorized, but not engineering design. In other words, they have the authority across the board to do conceptual designs to present to the Congress for authorization, but they may not spend money not authorized by the conferees for engineering work.

Mr. GOLDWATER. Mr. Speaker, I appreciate the concern of the gentleman from Vermont because he has worked hard and is very knowledgeable on this subject, and I would not want the committee to mislead him into believing that ERDA is authorized to do design studies on a photovoltaic capital project. It is my understanding, then, that they are authorized to do conceptual or feasibility studies with operating funds, but not design studies with capital funds for the photovoltaic project, is that my understanding?

Mr. McCORMACK. As far as feasibility studies are concerned, they cannot do engineering design or construction unless they are authorized to do so.

Mr. JEFFORDS. Mr. Speaker, would the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I just want to express my concern and the concern of other Members, that the conferees will have cut out the only photovoltaic engineering study which was authorized on these line items. That differs from my understanding of what I received from the arguments on the floor, that the intent was to have ERDA have full discretion in order to be able to pick and choose projects rather than us telling them what to do. Now I am being told that that is not the case. The only photovoltaic item listed in the line items is being cut, and that only a feasibility study would be allowed. This is the area which this body overwhelmingly supported.

Mr. McCORMACK. Mr. Speaker, if the gentleman will yield, I want to say to the gentleman that the authorization levels for photovoltaic plant and capital equipment are the same as those originally passed in the House.

Mr. JEFFORDS. The intent of the committee was not to cut any of the photovoltaic studies that were established.

Mr. McCORMACK. If the gentleman will yield, the conference figures submitted contained all the money authorized by the House in the amendment that the gentleman presented; all plant and capital equipment for photovoltaic projects in the House bill were retained by the conference.

Mr. MYERS of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Pennsylvania, a member of the committee.

Mr. MYERS of Pennsylvania. Mr. Speaker, I rise in support of the conference report for H.R. 13350 providing authorizations for the Energy Research and Development Administration.

This report presents a significant step forward for energy research in this country and one of which we can be proud. The funding for various energy technologies has been significantly increased.

For the purpose of illustration, I would like to go through a comparison of this year's conference authorization and last year's appropriation:

Fossil energy research funding was

$379 million last year and is authorized at a level of $541 million this year.

Solar energy research was increased from the $113 million funded last year to $319 million for this year.

Geothermal energy research was increased from $31 million funded last year to $68 million this year.

Conservation was increased from $75 million funded last year to $241 million this year.

These are all significant increases over last year's appropriations for energy research and represent a positive step for energy of which we all can be proud.

However significant these increases are, they all represent responsible additions to the ERDA budget and ones which will fit logically into ERDA's research program.

I would also like to call to the attention of my colleagues one of the most important programs in ERDA. ERDA has established an eastern Devonian shale natural gas program, which will cover 5 years and will cost $50 million. This money will be spent to find the geological formations with the best potential for recovery and the best techniques for tapping this resource. The gas industry is fully participating in the work and costs of this program. This program is vitally important, because of the potential for tapping these vast reserves—approximately 285 trillion cubic feet—and because of the proximity of this gas to our eastern industrial markets.

The conference committee has retained the funding level of $12 million for this year for the development of these new techniques to release natural gas trapped in Devonian shale, which underlie the States of Pennsylvania, Ohio, West Virginia, and Indiana.

The committee also brought the promise of SNG closer to consumer availability by authorizing a total of four demonstration plants—two high-Btu projects and two low-Btu projects—which is the last research step before these new technologies are commercially ready.

Finally, I would like to call my colleagues' attention to section 113 which is an amendment I sponsored in the House committee markup of this authorization bill.

Section 113 requires ERDA to report to Congress within 6 months on the environmental assessment and control efforts which have been authorized which exceed $25 million in estimated Federal cost. ERDA is required to report on two areas: The extent to which monitoring and control is needed and the costs of this monitoring. Thus, ERDA will be required to assemble all of the relevant cost data for each federally developed technology, whether or not the environmental study is directly associated with the project or not. Congress will thus be able to get a more complete picture of the total costs of the development of each of these new energy technologies. This information will be of great value to the Congress not only in learning what environmental study costs have resulted from the development of new energy technologies, but also in gaining insight into understanding what the complete cost of development of these technologies will be, as requests for authorization are presented to the Congress. If this study proves to be particularly enlightening, then future legislation to make this report an annual requirement will be considered.

In conclusion, Mr. Speaker, I wish to urge my colleagues to support this very important conference report, which is helping to shape our future energy policy.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Speaker, I would inquire on the nuclear program as to how much there is for the military program in here?

Mr. TEAGUE. Mr. Speaker, I yield to the gentleman from Washington (Mr. McCORMACK) to answer that.

Mr. McCORMACK. Mr. Speaker, let me say to the gentlewoman from New York that I do not have the information available at this time.

Ms. ABZUG. The gentleman does not know the answer to that?

Mr. McCORMACK. I do not have that information at this time.

Ms. ABZUG. Mr. Speaker, I would like to have some information on that before I vote on the conference report.

May I refresh the gentleman's recollection, if the gentleman will yield further?

Mr. TEAGUE. I yield further to the gentlewoman from New York.

Ms. ABZUG. What I am trying to find out, I would say to the gentleman from Texas, is what changes if any took place in the conference with respect to this? As I recall the original report, it did have funds of $2 billion for nuclear military development, which we all agreed at that time did not belong in this part of the bill. I just want to find out whether it still contains $2 billion for military nuclear commitments, before I vote on the conference report.

Mr. TEAGUE. Mr. Speaker, I would like to yield to the chairman of the Joint Committee on Atomic Energy if he would like to answer that question.

Mr. PRICE. Mr. Speaker, I do not have a breakdown on the military, but what military would be in here would be for research and development. The major part of this is for research and development in the atomic program, not the military program.

Mr. HECHLER of West Virginia. Mr. Speaker, I am pleased that we are finally at the point of concluding consideration of H.R. 13350 which passed both the House and the other body last June.

### FOSSIL ENERGY RESEARCH AND DEVELOPMENT RECEIVES SUBSTANTIAL BOOST

As reported by the conference committee, the pending bill includes $541,421,000 for fossil energy development. A full $458,220,000 of that sum is for the development of this Nation's most abundant energy resource—coal. Our resource base of coal has been variously estimated at between 300 to 500 years' supply at present rates of consumption. Coal is truly one of the major pillars upon which this Nation's energy policy should be based far into the long term by anybody's calculations. I heartily support the fossil fuels portion of this bill.

On May 19, 1976, on the floor of the House, I explained the Science Committee's action concerning ERDA's fossil fuels program and the need for an aggressive fossil energy program (pp. H4553–H4555):

> This Nation must have a dynamic and aggressive program to develop coal, oil, and natural gas. Representing the great State of West Virginia, which has mined a quarter of the total tonnage of coal produced in this Nation and today ranks among the top coal-producing States. I am proud to present to this committee and to the Congress a program which steps up this Nation's emphasis on coal as well as other fossil fuels.

For fiscal year 1977 the administration orginally requested $18 million less than what the Congress authorized for fossil energy for the fiscal year 1976. Our committee regarded this as a shocking downgrading of the importance of fossil energy. I am happy to say that Congress in its wisdom has increased that sum over $60 million, and I am hopeful that someday in the near future ERDA's fossil fuels program will reach parity with the nuclear option. Briefly, I would like to highlight some of the important House amendments that were retained by the conference committee:

Authorization for $15 million for two additional demonstration plants, one for high Btu gasification and one for low Btu gasification, was retained, as well as $6 million for devonian shale R. & D. in the Appalachian area including West Virginia.

An amendment limiting the authorization period for fossil demonstration plants to 3 years, unless the plants are funded during that period or the period is subsequently extended was maintained.

An amendment, adding a new section to assure that all revenues derived by ERDA from fossil programs be deposited into the Treasury and an annual report of such revenues be provided the appropriate committees, was retained.

An increase of $5 million for scientific and technical education and training, of which at least $1.9 million is earmarked for fossil energy, was maintained.

The two additional demonstration plants mentioned above are vital to ERDA's second-generation technology program. I sincerely hope that because of the long leadtime required, funds will be appropriated in a supplemental appropriations bill in this fiscal year.

I want also to emphasize scientific and technical education and underscore the tremendous need for trained manpower. I feel that vocational training is entirely within the purview of ERDA and should be stressed. Unfortunately, it has not received much attention at ERDA.

Our committee seized the initiative last year when we authorized funding in Public Law 94–187 for a high Btu gasification plant, a low Btu gasification plant, and a fluidized bed facility. These are large demonstrations. They are exciting proposals which will move our country forward in as orderly program to utilize coal more efficiently and environmentally acceptable than is possible at the present time. This program is not a small undertaking; each one of the high Btu demonstration plants costs approximately $500 million.

### FUNDING CHRONOLOGY

Because ERDA's pilot plant program is at the stage where in the next few years some of them will prove technologies for new demonstration programs, I feel that it is important to disseminate for the public record the funding chronology of the ERDA authorization from the perspective of the Fossil Fuels Subcommittee; that is, to present in detail and in summary tables from the different levels of fundings and their transition through the different steps of the process. The following table presents various program and subprogram budgetary figures for fossil energy pilot plants:

FOSSIL ENERGY DEVELOPMENT—PILOT PLANT PROJECTS

[In thousands of dollars]

| Subprogram/project | Prior year obligations [1] | Estimated obligations | | Fiscal year 1977 budget authority | Total estimated cost | Government | Industry | State and ending dates (fiscal years) |
|---|---|---|---|---|---|---|---|---|
| | | Fiscal year 1976 | Transition quarter | | | | | |
| COAL PROGRAM | | | | | | | | |
| Liquefaction: | | | | | | | | |
| Ebullated-bed (H-coal) | $7,586 | $34,096 | $11,530 | $21,000 | $178,874 | $142,626 | $36,248 | 1965–81 |
| Solvent refined coal (SRC) | 42,331 | 19,070 | 2,395 | 16,635 | 164,431 | | | 1968–82 |
| Cresap test facility | 11,389 | 21,967 | 3,417 | 5,000 | 90,273 | 88,273 | 2,000 | 1974–81 |
| COED | 23,288 | 480 | 0 | 0 | 23,768 | | | 1962–76 |
| High-Btu gasification: | | | | | | | | |
| HYGAS process | 29,660 | 7,584 | 670 | 3,000 | 54,240 | 40,714 | 13,526 | 1965–78 |
| $CO_2$ acceptor process | 26,554 | 6,840 | 710 | 2,333 | 47,379 | 36,237 | 11,142 | 1965–78 |
| Bi-gas process | 39,000 | 12,000 | 1,200 | 10,000 | 144,806 | 103,000 | 41,806 | 1972–81 |
| Self-agglomerating burner | 6,788 | 4,882 | 807 | 2,227 | 19,673 | 19,104 | 569 | 1974–79 |
| Synthane process | 18,850 | 9,000 | 1,400 | 10,500 | [2] 89,250 | | | 1972–81 |
| Steam-iron process | 9,510 | 7,190 | 2,047 | 4,800 | 67,949 | 46,547 | 21,402 | 1973–81 |
| Low-Btu gasification: | | | | | | | | |
| Combined cycle test facility | 0 | 12,550 | 2,000 | 16,500 | 167,100 | 116,000 | 51,100 | 1977–82 |
| Hydrogen from coal facility | 0 | 0 | 0 | 5,000 | 174,000 | 87,000 | 87,000 | 1977–82 |
| Direct combustion: | | | | | | | | |
| Atmospheric pressure fluidized-bed boiler, 30 MW | 12,800 | 9,800 | 1,000 | 3,000 | [2] 42,600 | | | 1973–82 |
| Fluidized-bed combined cycle plant, 13 MW | 0 | 11,500 | 1,000 | 6,500 | 35,500 | 30,500 | 5,000 | 1976–82 |

[1] Government share only.

[2] Fully funded by Government.

### ENVIRONMENTAL AND SAFETY RESEARCH

There is one more element connected with ERDA's demonstration and pilot plant program which I consider of crucial importance to mention. Certainly there will be increased coal demand to feed these projects and their future commercial counterparts in the private sector. There is a critical need for environmental and safety research related to fossil fuels. Roughly $55 million has been included in this bill, as approved by the House, for this purpose. And while I can assure you that much larger sums will be required for this purpose in the future, the fiscal year 1977 program represents an encouraging step. The environment and safety program related to fossil fuels will include coal extraction, preparation, conversion, and utilization; marine oil spills; and oil shale extraction and processing and other fossil fuel R. & D. efforts. Regarding coal mining and the environment, concerns to be addressed include evaluation of impoundments, mine waste disposal, acid mine drainage, and contamination of water resources by trace element leaching.

It is terribly important that ERDA fossil fuels and ERDA environment and safety cooperate in a parallel fashion to identify status and the need for environmental control technology. Accordingly a significant fraction of the increased funding is to be allotted to assessment of control options for advanced first- and second-generation coal conversion technologies, including in situ gasification.

### COAL MINING R. & D.

It is worth mentioning that ERDA's program for precombustion coal cleaning is negligible and will need bolstering in the near future. Recently, the Fossil Fuels Subcommittee held a series of hearings on coal mining R. & D. which will provide input for the next budget cycle. Regarding coal preparation, in detailed responses to subcommittee questions, ERDA indicated the following:

> ERDA's interest in coal mining, handling and preparation is driven by its development of conversion and utilization processes in which coal is a basic raw material feedstock. Direct coal utilization technologies, such as advanced combustion systems, can employ a fairly wide range of coal specifications. Conversion processes may be more demanding in order to insure uniform and reliable operation. . . .
>
> ERDA will be responsible for those aspects of coal preparation needed to assure proper and efficient operation of coal conversion plants. As part of ERDA's mission to aid electric utilities in supplying energy through advanced power systems, ERDA will evaluate ways to use coal preparation technology developed by the Bureau of Mines and by private industry both abroad and domestically to increase reliability or decrease cost of electric generation. If these methods prove their value and cost effectiveness, they will be included in the designs of demonstration plants for coal utilization and conversion.

It is anticipated that as ERDA's demonstration program grows, their coal preparation effort will be upgraded rapidly. ERDA has indicated its intention to fund some local beneficiation studies to be conducted by the Department of the Interior. It is hoped that the September 15, 1976, general memorandum of understanding between the two agencies, which was finally developed just prior to our hearings, will provide a framework for such needed research.

### LOAN GUARANTEES CUT FROM $6 BILLION TO $300 MILLION AND LIMITED TO BIOMASS PLANTS

The House will recall that last year the Senate added a $6 billion loan guarantee authority for synthetic fuels plants. That $6 billion item was rejected overwhelmingly by the House on December 11, 1975, by a vote of 263 to 140.

This year the same provision was introduced as a $2 billion loan guarantee bill (H.R. 12112) for synthetic fuels or, more appropriately, for two coal gasification projects—WESCO and ANG—and several oil companies interested in oil shale; namely, TOSCO, Union, Shell, Sunoco, to name a few. The amount was increased to $4 billion, reported last June, and taken to the House floor last week. Once again the House rejected this concept by declining even to grant a rule, 193–192.

But the proponents did not give up. Last June the Senate added similar loan guarantee authority to H.R. 13350—the ERDA authorization bill for fiscal year 1977. The proponents of H.R. 12112 saw this as a fall back that would authorize a full scale synthetic fuels program.

But fortunately, the House actions of last December and last week had a salutary effect. The conferees excited from H.R. 13350 the open-ended provisions of the Senate bill. But most importantly, through the efforts of Representatives OTTINGER, GOLDWATER, DINGELL, DODD, HARKIN, BLOUIN, PHILLIP BURTON, MADDEN, HAYES, BROYHILL, myself and many of our House colleagues from both sides of the aisle, this loan guarantee authority was cut from $6 billion—which was to be the first step toward an $11.5 billion administration-backed program—to only $300 million. Additionally, it is limited to biomass plants only.

This is truly a victory for the American public and a substantial savings in taxpayers' funds. It should be a clear warning to the energy industry fatcats and lobbyists and the administration, who tried unsuccessfully to ram this special-interest legislation through Congress, that the House will not be stampeded into passing just "anything" in the name of energy.

A national energy policy is more than

just a giant opening up of the public treasury to these special interests. It must be a carefully developed and well-rounded program that protects consumers, preserves the environment, enhances health and safety, conserves energy, and develops renewable resources and coal, not just oil and gas.

### CONFEREES REJECT NEW ASSISTANT ADMINISTRATOR

The other body added a title X to H.R. 13350 which would establish a new assistant administrator for commercialization. The conferees wisely rejected this provision which would have been costly, added more staff to ERDA, and raised havoc as to who in ERDA had responsibility for demonstrations. I believe that this responsibility should rest with the various program assistant administrators.

Incidentally, no funds are included in H.R. 13350 or the Appropriations Acts for ERDA's Office of Commercialization in fiscal year 1977. Thus, as of today there are no funds for that office.

### TITLE VII DOES NOT AUTHORIZE LOAN GUARANTEES FOR COMMERCIAL PLANTS

Added to section 7 of Public Law 93-577 is the words "Federal Loan Guarantees." This means that this type of financial incentive is available, together with direct loans, cost-sharing, and price supports for demonstrations to carry out the objectives of that law (42 U.S.C. 5906). But those objectives do not include the building of commercial size plants, only demonstration plants which are not intended to be of commercial size.

I note that the heading of title VII uses the word "commercial." But that is not part of the amendment to Public Law 93-577. A "heading" has no force of law.

Added to this amendment is a proviso which makes it clear that the patent and other provisions of Public Law 93-577 apply to all loan guarantees. This should lay to rest the patent controversy set forth in the December 8, 1975, conference report (H. Rept. 94-696) in H.R. 3474 (pp. 58-66). Attempts in H.R. 12112, and in the December 8, 1975, conference report to make section 9 of Public Law 93-577 inapplicable to any ERDA loan guarantees failed. This proviso will control. The patent provisions of section 9 apply to all ERDA loan guarantees.

I should stress that this new addition to section 7 of Public Law 93-577 does not authorize ERDA to make any guarantees of contracts or commitments for synthetic fuels or otherwise, unless there is authority in other laws to do so. It contemplates that ERDA must submit to Congress for approval by act of Congress proposals for guarantees on a case-by-case basis, except where otherwise authorized by law. Such proposals must stand both the legislative and appropriation process of Congress before the full faith and credit of the United States is pledged. It further means that all of the provisions of section 8 of the act applicable to demonstrations apply to demonstrations financed by loan guarantees.

Congress will also want to consider the relationship of the Federal Financing Bank to this program and the GAO's criticism of the use of that program in connection with such loan guarantees. In this regard, I insert the GAO letter and a memorandum from the American Law Division of the Library of Congress that I received prior to consideration of H.R. 12112:

WASHINGTON, D.C.,
*September 16, 1976.*

Hon. KEN HECHLER,
*House of Representatives.*

DEAR MR. HECHLER: In your letter of September 13, 1976, you asked for our views and comments on the use of the Federal Financing Bank (FFB) to purchase loans guaranteed by the Energy Research and Development Administration (ERDA) under the provisions of H.R. 12112, if enacted.

It appears to us that FFB could, indeed, purchase such loans under FFB's existing authority and that the resulting disbursement of Federal funds would not be reflected as an outlay in the Federal budget. Such a transaction would, as you suggest, increase the total outstanding Federal debt.

I believe this sort of loophole in the budget process is highly undesirable. It is for this reason that we have consistently opposed the creation of "off-budget" agencies, of which FFB is a prominent example.

If H.R. 12112 were enacted, ERDA would have authority to guarantee certain loans. Under section 3 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1302) the authority to guarantee loans does not represent budget authority. Budget outlays (cash disbursements) would not be recorded until such time as ERDA disbursed funds pursuant to the guarantee. Thus ERDA's immediate transactions would not affect the budget totals.

Under existing law, FFB is authorized to purchase loans guaranteed by Federal agencies, including ERDA (12 U.S.C. 2285). Under usual budget concepts, the disbursement of funds by the Federal Government (and FFB is indisputably a Federal entity) to a private individual or firm is a Federal budget outlay. However, the transactions by FFB of this sort are excluded from the budget totals by law (12 U.S.C. 2290). Thus this transaction also escapes the discipline of the budget process. Taken together, however, these transactions—the ERDA guarantee plus the FFB purchase—amount to a direct loan.

There is little dispute that direct loans should logically be reflected in the budget totals. But the special budget treatment accorded loan guarantees, and the special budget treatment accorded FFB transactions, creates a situation in which it is possible, in effect, to make direct loans without ever going through the normal discipline of the budget process—a discipline which is applicable to most proposals to spend the taxpayer's money.

This anomaly is inconsistent with sound budgetary principles, as reflected in the Report of the President's Commission on Budget Concepts. We believe FFB should be barred from engaging in transactions of this sort so long as its activities are not fully reflected in the budget.

Sincerely yours,
R. F. KELLER,
*Acting Comptroller General of the United States.*

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WASHINGTON, D.C.,
*September 17, 1976.*

To Honorable Ken Hechler of West Virginia.
From American Law Division.
Subject: Impact of Federal Loan Guarantees on Federal Public Debt.

At your request, we have reviewed certain questions raised concerning federal loan guarantees for demonstration synthetic fuel facilities under a proposed amendment to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 509 *et seq.*). The proposal would amend H.R. 12112, 94th Cong., 2d Sess., and appears at 122 Cong. Rec. page 27908, August 26, 1976. It would authorize the Administrator for the Energy Research and Development Agency to guarantee up to $3,500,000,000 in loans to qualifying projects.

The question you have raised is whether the loan guarantees under this amendment would increase the public debt of the Federal Government and thus require an increase in the public debt limit by the amount of the loans that are so guaranteed. In our view, the answer to this question depends on the source of the funds to which the loan guarantee is applied. If the funds were to be raised from private sources, there would be no effect on the public debt. If, however, the funds are obtained through the issuance of marketable securities by the United States Treasury, then the amount of the loan would represent an increase in the Federal public debt.

Under the Federal Financing Bank Act of 1973, Public Law No. 93-224, 87 Stat. 937, the Federal financing Bank (FFB) is authorized to purchase any obligation which is guaranteed by a Federal agency. In addition, any Federal agency which is authorized to guarantee obligations may issue or sell such obligation directly to FFB. P.L. 93-224, section 6(a). The Bank is authorized to issue up to $15,000,000,000 in obligations to the public. Section 9(a). The Bank is also authorized to sell obligations to the Secretary of the Treasury, who, in turn, may treat their purchase as public debt transactions. Section 9(b).

VINCENT E. TREACY,
*Legislative Attorney.*

### COMMUNITY IMPACT ASSISTANCE

One plus from our protracted consideration of synthetic fuels is the fact that our Committee on Science and Technology developed very important provisions to aid communities impacted by synthetic fuels plants. Unfortunately, those provisions are not a part of titles VII or VIII. Presumably, this is because biomass plants are assumed not to require such assistance and other plants will be considered later on a project-by-project basis.

Clearly, if ERDA proposes new synthetic fuel demonstration projects—whether they are funded by loan guarantees or some other method under Public Law 93-577—such provisions should be a part of each project authorization. Such assistance to communities is clearly essential. It is supported by the National Governor's Conference and many others. I hope that these provisions are not lost.

### ORGANIZATIONAL CONFLICTS OF INTERESTS

Last February my subcommittee and a Senate subcommittee headed by Senator ABOUREZK of South Dakota held separate hearings on an ERDA-Bechtel contract where we learned that ERDA's current regulations and procedures concerning organizational conflicts of interests are woefully inadequate. If ERDA on its own initiative or through some other source is aware of such conflicts in connection with a proposed contract, ERDA can react and take precautionary action, including rejection of the contract. But it cannot require the proposed contractor and subcontractors to disclose information to ERDA as to such possible conflicts.

After our hearings the Senator and I separately urged ERDA to take corrective action. ERDA responded by saying that indeed it was a problem, but wanted it to be considered as a governmentwide problem. This was obviously an effort by ERDA to delay. Unfortunately, by this time corrective action by our committee in H.R. 13350 was not possible. But fortunately, Senator Abourezk successfully added a title to the Senate version of H.R. 13350 dealing with this problem. After that bill passed the Senate, I asked the General Accounting Office to review the new title. On August 5, 1976, the GAO replied with the following letter:

Washington, D.C.,
*August 5, 1976.*

Hon. Ken Hechler,
*Chairman, Subcommittee on Energy Research Development and Demonstration (Fossil Fuels), Committee on Science and Technology, House of Representatives.*

Dear Mr. Chairman: You have requested our comments on Title IX, "Organizational Conflict of Interest," of H.R. 13350, as amended, which would require the Energy Research and Development Administration (ERDA) to take certain specified steps to prevent organizational conflicts of interest from arising in its contracting for research and development (R&D) efforts.

Title IX would preclude ERDA from entering into R&D arrangements (including contracts) with any firm which "may be unable to render impartial, technically sound, or objective assistance or advice due to its other activities or its relationship with other organizations" or which "would be given an unfair competitive advantage." To this end, Title IX would require all persons or organizations interested in contracting with ERDA to file with ERDA "a written notice describing in detail the nature and existence of any such activities or relationships or competitive advantage." Such notice would be made available for public comment which ERDA is to "receive and evaluate." ERDA would also be required to conduct a detailed inquiry of offerors with respect to possible conflicts of interest prior to making any award. Finally, Title IX would require ERDA to promulgate implementing regulations.

As you know, I am deeply concerned about the organizational conflict of interest problem and have recently urged development of agency guidelines that would impose clearly defined duties in this area on Government contracting personnel. I therefore am in agreement with the basic purpose of Title IX. However, I believe Title IX would unnecessarily impose administrative burdens and undue delay in ERDA's procurement process, and could, in fact, result in a lessening of competition. It also may be overly restrictive since it may not always be in the Government's best interests to refuse to award a contract on the basis of a remote, as opposed to a clear and direct, conflict of interest.

I think it would be more appropriate for statutory language to provide more generally for both Government officials and those who seek contracts with the Government to take affirmative steps with respect to disclosing and evaluating information bearing on a potential contractor's conflict of interest.

In this connection, I suggest that in place of Title IX as it is currently worded, language along the following lines be considered:

"The Administrator shall, by regulations to be promulgated by him, require any person or organization proposing to enter into a contract, agreement or other arrangement for research, development or evaluation activities to provide the Administrator prior to entering into any such contract, agreement or arrangement, with all relevant information bearing on whether that person or organization has a possible conflict of interest with respect to being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other organizations. The Administrator shall not enter into any such arrangement unless he affirmatively finds, after evaluating such information and any other relevant information available to him, either that (1) there is little or no likelihood that a conflict of interest would exist, or (2) that it would otherwise be in the best interest of the Government to enter into the arrangement."

We trust this serves the purpose of your inquiry.

Sincerely yours,
Elmer B. Staats,
*Comptroller General of the United States.*

Thereafter, I wrote on August 10, 1976, to ERDA about the GAO reply. My letter and enclosure follows:

Washington, D.C.,
*August 10, 1976.*

Dr. Robert C. Seamans,
*Administrator, Energy Research and Development Administration, Washington, D.C.*

Dear Dr. Seamans: Our Subcommittee is quite concerned with the problem of organizational conflicts of interest. After our hearings earlier this year, we wrote to ERDA and the Interior Department concerning this problem in connection with a Bechtel Corporation study of slurry pipelines. In addition, we asked the General Accounting Office to examine this problem in connection with another ERDA contract.

Consequently, we believed it appropriate to ask the GAO to review and comment on title IX of H.R. 13350, as passed the Senate. That title is aimed at preventing organizational conflicts of interest in connection with ERDA programs. We provided to the GAO a copy of a July 22, 1976, letter to Senator Jackson from ERDA's General Counsel concerning this title so that the GAO would have ERDA views on that Senate amendment to H.R. 13350.

The GAO's reply, dated August 5, 1976, is enclosed for your review and comment. It indicates that the GAO is "in agreement with the basic purpose of Title IX," but suggests an alternative which is aimed at dealing with the problem of contractor disclosing information which would enable ERDA to determine whether a proposed procurement involves a situation covered in ERDA's regulations (section 9–1.5407). Such a disclosure statement would be subject to 5 U.S.C. 1001, concerning false statements. We understand that ERDA's current regulations *do not* require such a disclosure which appears to place ERDA's contracting officer at a disadvantage in trying to make the determination required by the ERDA regulations. Unless the proposed contractor volunteers such information, or unless the ERDA contracting officer has independent knowledge of it, it is unlikely that he will know of such conflicts prior to contracting. You will recall that such a situation occurred in connection with the Bechtel study.

You will recall that on February 5, 1976, we wrote to ERDA and Interior about the Bechtel situation and recommended that both agencies "develop an appropriate disclosure regulation." A copy of the letters to Interior which was also sent to ERDA is enclosed for your convenience.

We never received a reply from Interior. But on March 5, 1976, ERDA's then General Counsel indicated that "there is merit in this recommendation," and that it was under consideration as part of a Government-wide effort. We have not heard further about the status of that effort.

We would appreciate ERDA reviewing the GAO's alternative provision which could be added to Public Law 93–577 in Conference on H.R. 13350, and providing to us your comments thereon by August 23, 1976. We would also welcome any suggested changes for our consideration to the GAO language that might improve it.

We note you General Counsel's suggestion in the July letter to Senator Jackson that legislation on this subject be deferred until Government-wide procedures are developed, and that the Office of Federal Procurement Policy hopes to have a proposed regulation by September 1, 1976. This effort is apparently the same one that ERDA referred to in the March 5, 1976, letter to our Subcommittee mentioned above. We would appreciate ERDA indicating in its response the current status of that effort and the timetable for publication and promulgation of such a regulation, as well as a brief summary of what might be included in that regulation insofar as disclosure is concerned.

Please provide a copy of your reply to Chairman Jackson and the GAO.

Sincerely,
Ken Hechler,
*Chairman, Subcommittee on Energy Research, Development and Demonstration (Fossil Fuels).*

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Washington, D.C.,
*February 5, 1976.*

Mr. Thomas S. Kleppe,
*Secretary of the Interior, Interior Building, Washington, D.C.*

Dear Mr. Secretary: Our Subcommittee has been examining the procedures used by the Office of Coal Research, now a part of the Energy Research and Development Administration, in letting a study contract for over $400,000 on May 29, 1974, to the Bechtel Corporation of San Francisco, California. As you probably know, there has been a great deal of critical public comment of ERDA's handling of this contract. When the contract was executed, the OCR was an agency within the Interior Department.

On July 27, 1973, Bechtel submitted to the then Director of the OCR, Dr. George R. Hill, an unsolicited proposal "for a transportation study directed to developing an efficient means of evaluating the cost-effectiveness of various methods of delivering clean energy from coal to demand centers." The proposal was estimated to cost the Government $369,085. Prior to this submission, we understand that an OCR official, Mr. A. Howard Smith, visited Bechtel and, among other things, discussed the proposal with Bechtel officials. On May 29, 1974, the contract for the study was signed by Bechtel and the OCR. The contract cost had risen to $413,205.

One day prior to submitting the 1973 proposal to the OCR, Bechtel incorporated a subsidiary, the Energy Transportation Systems, Inc. (ETSI), to build a coal slurry pipeline from Wyoming to Arkansas.

At recent Senate hearings on the OCR proposal, Mr. Smith testified as follows:

"To the best of my recollection, I do not remember learning about the existence or function of ETSI during 1974. However, certain records indicate I attended a briefing on the proposed ETSI pipeline from Wyoming to Arkansas prior to the award of the Bechtel contract. Although I do have a recollection of attending this meeting, I only recall that a pipeline from Wyoming to Arkansas was discussed in which Bechtel had an interest. I do not recall the name ETSI. Furthermore, I do not remember that any Bechtel research people who I knew to be associated with the computer model proposal were present at that meeting. I have reviewed the attendance list of the meeting and do not recognize any of the Bechtel representatives who were present. In any event, it would not have occurred to me to consider the pipeline effort being discussed to be in conflict with the computer model."

As a matter of fact, our investigation indicates that this "briefing" took place on May 23, 1974 in the Secretary's Conference Room in your Department. On May 21, 1974, the Director of Interior's Office of Environmental Project Review sent a memorandum to 15 Interior offices and agencies, including the Director of the Office of Coal Research. That memorandum was entitled, "Briefing on a 1030 Mile Coal Slurry Pipeline Project by Energy Transportations Systems Incorporated (Wyoming to Arkansas)."

Your Department's files indicate that Mr. Smith attended this briefing on behalf of the Director of the OCR. They also indicate that several Bechtel officials were present, including Mr. E. J. Wasp, who is identified on pages 3–4 of the Bechtel unsolicited study proposal of July, 1973, as one of the principal project personnel and who has been a Vice President of ETSI since it was formed in 1973.

It is clear from the above information that at least one week prior to executing the contract on May 29, 1974, the OCR knew or should have known that a subsidiary of Bechtel (ETSI) was planning to build a coal slurry pipeline crossing "public lands and Indian lands." Mr. Smith testified that it did not occur to him that there may have been a "conflict." Although it is quite possible that he and the OCR did not consider the two matters as related, we are concerned that your Department, and apparently ERDA, does not require proposed Government contractors to disclose at the time they submit proposals and prior to actual contracting what, if any, possible conflicts with their pending proposal may exist.

We think that such a disclosure requirement is essential in order for the Government to determine whether or not a conflict exists. Once disclosed, the Government could still execute a proposal, with appropriate safeguards, or turn it down.

We urge that your Department develop an appropriate disclosure regulation, as soon as possible. If you believe this recommendation is not practicable or reasonable, please so advise us, setting forth your reasons.

We are sending a copy of this letter to ERDA with the recommendation that ERDA develop such a regulation also.

Sincerely,

Ken Hechler,
*Chairman, Subcommittee on Energy Research, Development and Demonstration (Fossil Fuels).*

ERDA was not, as one can imagine, enthusiastic about the GAO proposal. ERDA continued to maintain that it should not be singled out. ERDA contended that this is a governmentwide problem. Thus, we need a general legislative solution which, of course, would be beyond the scope of H.R. 13350.

However, Senator Abourezk and myself continued to believe that legislation for ERDA on this subject is essential. We worked with the help of our staff on improving the GAO language. This was done and it was offered to the conferees who unanimously accepted our revised version of the basic GAO language.

The conferees agreed, as their report succinctly states, that "there is no sound reason to defer 'this legislative solution' until an all-encompassing bill is enacted." I fear that if Congress did wait, several Congresses will pass. Indeed, we are, in this legislation, anticipating a problem, rather than reacting to a disaster.

The new provision in title VI of the bill is added to Public Law 93–577. It requires that ERDA issue regulations within the next 6 months implementing this section. These regulations must undergo public scrutiny before they are finalized—ERDA should not use the contract exemptions from public participation of 5 U.S.C. 553. In this regard, I insert the following letter to ERDA on this matter of public participation. I have not yet received a reply. My letter follows:

Washington, D.C.,
*August 6, 1976.*

Dr. Robert C. Seamans,
*Administrator, Energy Research and Development Administration, Washington, D.C.*

Dear Dr. Seamans: On July 23, 1976, your agency published a regulation "expanding and clarifying the policies and procedures concerning the receipt, evaluation, acceptance, or rejection of 'Unsolicited Proposals' ", and provided that the regulation shall be effective on the same date it was published (41 F.R. 30330–30334). No opportunity was given by ERDA for public comment thereon prior to adoption, although the regulation states public comments received "on or before September 21, 1976 will be considered in determining whether revision of this regulation may be advisable." The regulation is silent on whether or not the public will be informed of ERDA's decision, should ERDA decide that such revision, after this comment period, is not "advisable." In any event, these substantial changes in the regulation are effective until after the comment period and the ERDA decision.

In a July 21, 1976 letter to the Senate Committee on Interior and Insular Affairs, ERDA's General Counsel, Mr. James Wilderotter, commented on title IX of H.R. 13350—the ERDA authorization bill for FY 1977—which was added to that bill by Senator Abourezk on the Senate Floor on June 25, 1976. The title is aimed at the problem of organizational conflicts of interest which, as you know, are of concern to this Subcommittee. In his letter, Mr. Wilderotter said:

"We are also strongly opposed to that part of Title IX of H.R. 13350 which would require the solicitation and evaluation of public comments on a 'written notice' of potential organization conflicts of all prospective contractors prior to the making of any contract or other arrangement. This provision would, as a practical matter, impose upon ERDA (but not other major procurement agencies such as DOD or NASA) the rule-making requirements of the Administrative Procedure Act (5 U.S.C. § 551, et seq.). However, that law, which generally requires publication of proposed rules and the opportunity for the public to participate in the rule-making process, expressly exempts "any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts" (5 U.S.C. § 553(a) (2); see Atty. Gen. Manual on APA, 1947, p. 27; see also Summary of the Report of the Commission on Government Procurement, 1972, p. 14).

"While the views of interested parties may be (and, in fact, are) solicited in the formulation and development of procurement regulations (COGCP Summary, supra, p. 14), it would be extremely burdensome and time consuming for an agency to solicit public views on individual procurement actions whether for organizational conflict purposes or otherwise. The unavoidable delay of such a requirement would undoubtedly frustrate implementation of ERDA's mandate."

Without commenting on title IX of H.R. 13350, we note that ERDA is relying on the above-cited exemption in 5 U.S.C. 553 to avoid publishing its procurement and other regulations as proposed rules for public comment prior to their final promulgation. The ERDA interpretation is a clear limitation on public participation. The Administrative Conference of the United States has recommended that Federal agencies not utilize this exemption. After that recommendation, the House Committee on Government Operations wrote to all Federal agencies and urged them to adopt the Conference's recommendation administratively. One of the agencies that agreed to do so is the Interior Department, as shown in the enclosed notice of May 4, 1971 (36 F.R. 8336). We believe the Atomic Energy Commission also told the House Committee that it would agree to follow that policy.

The policy is applicable to "all offices and bureaus" at Interior, including those that were transferred to ERDA pursuant to the Energy Reorganization Act of 1974. Thus, our Subcommittee is now concerned to find that ERDA appears to have disregarded that policy and, instead, is following a policy that clearly is out of date, contrary to the recommendation of the Administrative Conference, and can severely limit public participation in rule-making.

We urge that ERDA reconsider this action and promptly adopt the policy followed by Interior for more than five years without any perceptible delay or frustration in the "mandate" of its constituent agencies.

Sincerely,

Ken Hechler,
*Chairman, Subcommittee on Energy Research, Development and Demonstration (Fossil Fuels).*

The provision requires that potential ERDA contractors provide to ERDA a report of "all relevant information" bearing on possible conflict of interests. Such information reports are subject to 5 U.S.C. 1001. It uses two tests specified in the new section. The contract may not be executed if that data or other available data reveals a conflict, unless ERDA "affirmatively finds" that there is little or no likelihood of a conflict or that it has been avoided through appropriate and effective contract provisions. However, if a conflict exists and cannot be avoided, ERDA may still contract if it determines that it is in the best interests of the United States to do so and appropriate and effective contract provisions are included to mitigate the conflict to the greatest extent possible. This latter determination should not be made lightly.

The new section also applies to subcontractors—other than supply subcontractors and subcontractors of $10,000 or less.

This new provision is sound and should not be burdensome to contractors. It is a model that should be made applicable to other Government contractors.

I want to express my appreciation to Senator Abourezk and his staff in developing this public interest provision.

### SUNSHINE IN GOVERNMENT—FINANCIAL DISCLOSURE

The conference report includes the financial disclosure provision added to the bill by Representative Dodd with a sponsorship by Representatives Gary A. Myers and Mosher and myself, and others. This provision applies to all ERDA employees, in the nuclear and nonnuclear programs. It is also included in title VIII of the conference report.

It is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 94–163—the Energy Policy and Conservation Act.

On June 11, 1976, the House added it to H.R. 6218 for employees of Interior administering the Outer Continental Shelf leasing program. The conferees reported that bill with this provision. On June 3, 1976, it was added to H.R. 9560 for EPA employees administering the water pollution program. On July 22, 1976, the House also added to it H.R. 13777, the public lands bill, for employees of Interior and on September 29, 1976, the House–Senate conferees on that legislation included it in the conference report. On July 28, 1976, it was added to H.R. 13555, the mine health and safety bill, for Interior, HEW, and Labor employees. On August 4, it was added to H.R. 8401, the nuclear assurance bill, for ERDA employees. On August 23, it was added to H.R. 14032, the toxic substances bill and was accepted by House–Senate conferees, on September 8, it was added to H.R. 10498, the Clean Air Act, for EPA employees, and on September 2, to H.R. 13636 the LEAA bill. On September 14, 1976, it was added to S. 2371, the national parks mining bill, for National Park Service employees. The Senate accepted the provision last Friday and sent the bill to the President.

It is also included in H.R. 14496 for EPA employees, as passed the House on September 27, 1976.

The amendment requires officers and employees of ERDA who perform any function under the bill to file annually statements of any known financial interest in the persons subject to H.R. 13350 or any act amended by that bill, or who receive financial assistance under the bill or such acts. Such statements would be available to the public and would have to be revised by ERDA. Positions within the agency that are of a nonpolicymaking nature could be exempted from this requirement by ERDA.

It does not prevent any employees from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, ERDA and other Federal agencies require their employees who are at the GS–13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. Our amendment does.

The use of the GS–13 level as a classification for determining who must file is an "administrative practice" convenient to the Federal agencies, but is not relevant to the degree of responsibility of the position as the GAO has noted. This amendment, like the one in the above bills, seeks to abandon the practice and force a position-by-position review by the agency.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found "deficiencies" in the system at Interior and several agencies, including in the collection and timely review of such amendments, and the resolution of problems associated with the statements. In a March 3, 1975, report, the GAO said:

> Many USGS employees have financial interests which appear to conflict with their Government duties. Many of these holdings violate the Organic Act of 1879. We believe that the ownership of these conflicting interests is due to deficiencies in the Department's financial disclosure system and that they will have to be corrected to prevent the situation that now exists from continuing.
>
> To improve the effectiveness of the USGS financial disclosure system, we recommend that the Secretary of the Interior:
>
> Review, and take remedial action on, the financial interests of USGS officials which raise conflict of interest possibilities or violate the Organic Act.
>
> Prepare, keep current, and issue to USGS personnel specific guidelines, including a list of prohibited securities, concerning financial interests which may violate the Organic Act.
>
> Require the Bureau Counselor to strictly adhere to the restrictions imposed on USGS employees by the Organic Act.
>
> Insure that adequately trained and experienced personnel, who are knowledgeable of employees' duties and potential conflicts of interest, are appointed to counsel employees and review financial disclosure statements.
>
> Insure that officials responsible for reviewing financial disclosure statements are given specific guidelines and reference manuals to enable them to adequately evaluate the statements.
>
> Require reviewing officers to sign and date the financial disclosure statements to indicate they have reviewed them and determined that the financial interests do not violate the Organic Act or raise conflict of interest possibilities.
>
> Require the USGS Counselor to report the results of the annual financial disclosure review to the Department and to note any financial interests questioned and any remedial action taken.
>
> Establish procedures for periodically reviewing financial disclosure statements to insure that Bureau Counselors adequately enforce conflict of interest regulations.

In a later report of December 1975, the GAO said that Interior was taking steps to improve the situation but the GAO said there were 1,435 additional employees who should file statements, of which 1,000 were below the GS–13 level.

The GAO made similar findings in eight other studies since late 1974.

This provision makes it clear that ERDA must periodically look at the positions to determine who should file and not base his decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for ERDA to define what a "known financial interest" is. Indeed, as an example of such a definition, the Interior Department published proposed regulations defining this term on March 22, 1976, for the purposes of Public Law 94–163. That definition, which is not yet finalized, of course, is as follows:

> Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This includes pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petroleum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trusts," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has no actual knowledge.

Finally, the regulations would be expected to make it clear that public disclosure of financial statements shall be only for lawful purposes. A violation of this requirement is subject to criminal prosecution.

This provision is a part of the permanent body of law applicable to ERDA and should be helpful in insuring confidence.

It will require ERDA to reexamine and revise its conflict of interest regulations "Conduct of Employees" published by ERDA on August 17, 1976 (41 F.R. 34731) without any opportunity for public comment.

### AMENDMENTS RE WATER ASSESSMENTS

Both the House and Senate versions of H.R. 13350 contain identical language that the Water Resources Council shall prepare an assessment water requirements and availability for each demonstration project. This is an amendment to section 13 of Public Law 93–577. The present law requires that the assessment "shall be published in the Federal Register for public review 30 days prior to the expenditure of Federal funds on the demonstration." This provision is not changed by H.R. 13350. In adopting this amendment, our committee said (H. Rept. No. 94–1081, pt. II):

> Under Title III of this bill, $1 million is made available to the Water Resources Council, a sum which the Committee feels is adequate for the Council to carry out its responsibilities to this Act. The amendment establishes an orderly process and assures that the Water Resources Council is involved in the development of technologies undertaken by ERDA. The language does not permit the Water Resources Council to be in a position where it may, by its lack of action, veto a project. The amendment seeks to place the Council in a position of moving at a more appropriate time, when the project is being considered by the agency, so that the needed information on water availability and other aspects of the water assessment such as water quality will be forthcoming. But at the same time the Committee notes that Public Law 94–577 provides that a demonstration plant built under that Act cannot be approved before the assessment called for in section 13(b) of the Act has been made public for review purposes for 30 days.

Since the amendment was adopted by both Houses, we have received considerable correspondence from ERDA expressing concern not about the amendment, but the present law. ERDA is concerned that it may be interpreted that "ERDA may not expend funds for site selection, conceptual design, and preliminary data collection activities" until the WRC assessment is made. Indeed, in a September 20, 1976, letter to me, ERDA suggested language for the conference report. The WRC made a similar suggestion on September 24.

The conferees quite properly did not utilize the language as suggested by the ERDA and the WRC, as it went too far. Instead, they discussed the problem in a way that recognizes that the objective is to insure that the demonstration program moves forward as rapidly as possible, but consistent with the need to recognize other problem areas. Clearly, the conferees' report language cannot change the law. But it can indicate an intent that the program move forward in a sound way. I think the conference report does just that.

What I believe is important to emphasize is that ERDA and the WRC must quickly work together in developing a procedure on how, and in what timeframe, and when in the various phases of a demonstration an adequate assessment will be made as required by section 13. This procedure should be promptly developed and made public and be provided to Congress. Clearly, the assessment must be made early enough in the decisionmaking process to insure that a project site may be changed or even abandoned if the assessment shows this to be the proper course.

### SYSTEMS STUDIES

The conference report quite properly preserves the line item approach adopted by our committee for fossil energy. In particular, it insures a minimum of $10.3 million for systems studies which is an area that has not been adequately managed by ERDA. In this regard, I want to restate what our committee's report of May 3, 1976, states (H. Rept. No. 94–1081, pt. II, p. 48):

> The committee believes that system study funding should not be used for such items as "Budget development." This should be done by ERDA personnel. Nor should such funding be used to review unsolicited proposals or for contracts of other ERDA offices, except in accordance with the reprogramming authority of the bill. If contracts are indeed needed for such items because of a lack of personnel, they should be paid for out of "program support" funds, not the program and subprograms.
>
> The Committee does, however, support the use, if necessary, of contractors to help bring together information and technology for ERDA, the Congress, and the public and utilize such information and technology beneficially.
>
> The Committee again stresses the types of studies mentioned in the Committee's June 1975 report.

I want to add that the funds for such contracts should be shown by ERDA as a line item. I stress this, because I am informed that from January 1975 to July 1976 ERDA's Fossil Energy Office has awarded 36 management and technical support contracts valued at about $27 million. This is over half the amount authorized in this bill for coal gasification. Clearly, one wonders about the value of such studies.

### COAL GASIFICATION AND ERDA'S AGREEMENT WITH THE AMERICAN GAS ASSOCIATION

Last March 18, I wrote to ERDA about the status of its contract negotiations with the AGA, and the AGA commitment for future fiscal years toward the joint AGA–ERDA program which has been quite useful and, I believe, successful. I noted that ERDA's budget for fiscal year 1977 is predicated on this program continuing and with the AGA funding of $10 million annually. I expressed concern about this and urged that ERDA complete these negotiations.

Our committee's report states (H. Rept., supra, pp. 39–40):

> The Committee shares the concern expressed by the Subcommittee. We do not want to see these programs slowed or modified. Since the Subcommittee letter ERDA has furnished a copy of the revised agreement as proposed by AGA. It makes a number of very significant changes. The Subcommittee has asked ERDA for analysis of those changes and their effect on the program.
>
> The Committee believes that ERDA should move rapidly to resolve its contract provisions with A.G.A., consistent with the GAO opinion and all statutory provisions applicable to ERDA, including the patent provisions of Public Law 93–577. The Committee expects to be kept fully and currently informed about this matter, including the contract negotiations.

The contract negotiations are still not completed, although ERDA has provided to us a copy of a draft of the new contract. We note, however, that it does not mention the applicability of Public Law 93–577 to the contract and particularly the patent provisions of that act.

The conference report accepts the Senate figure of $45 million for fiscal year 1977 for high Btu gasification. In doing so, I understand all of the conferees share my concern that the AGA agreement be quickly finalized and the program fully funded.

### SECTION I OF CONFERENCE REPORT VAGUE AND AMBIGUOUS

Mr. Speaker, section 1 of the conference report is new matter never submitted to conference by either House. It is an attempt at a policy statement which seeks to express a congressional opinion that every form of energy be put to use quickly without any consideration of the consequences, including costs to the consumer and the effect on the health and safety of persons. It adds only one caveat; namely, that such actions be "consistent with existing environmental laws,"

It also makes a finding not in either the House bill or the Senate amendment that it may be necessary to undertake aggressive conservation programs to cut back energy consumption and eliminate waste and reduce energy use. That finding appears to conflict with the very strong conservation policy Congress established only a few weeks ago under the leadership of the distinguished majority leader, Mr. O'Neill, in the law extending the life of the Federal Energy Administration.

Section 1 of the conference report is a finding and policy statement that found its origin in the conference in that it was added by the conferees without any consideration in either House. It is not related to any matter in the conference report which provides a line item authorization for appropriations for ERDA and related limitations and directions on the use of funds by ERDA for new and improved energy research and development.

It is ambiguous and vague, and has no real force and effect, because it is not related to anything else in the conference report. For this reason, I have not raised a point of order against it, even though I believe a point of order would be sustained.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the conference report language adopted the House bill authorization provisions for laser fusion operating expenses, and I quote:

> The House bill includes an authorization for laser fusion operating expenses to be used to further the development of laser fusion through cooperative efforts with private industry which exceeds the comparable authorization in the Senate amendment by $5,675,000.
>
> In view of the progress which has been achieved by the Laser Fusion Program, the contributions of private industry to that program, and the potential which this program has for contributing to the development of clean economic power by thermonuclear reaction, the conferees have agreed to accept the additional authorization in the House bill.

I have discussed this with the Chairman of the Joint Committee and he agrees that the Congress should see to the placing of increased stress upon the civilian development efforts identified with the ERDA laser fusion program.

He agrees that this provision should guarantee the continuation of those modest civilian efforts at laser fusion R. & D. underway at such facilities as the KMS laboratories in Michigan.

I wanted to be absolutely sure that the legislative record clearly reflects the full and complete intentions of the Congress regarding this very important element of the ERDA authorization.

Mr. OTTINGER. Mr. Speaker, I believe that the colloquy I held with Mr. Teague on the ERDA conference report will be helpful as legislative history.

I want at the same time to commend the House conferees for striking title X of the Senate amendment from H.R. 13350. That title would have established a new Assistant Administrator for commercialization with all the attendant costs and personnel.

It was an ill-conceived idea. It was offered without any hearings and without any recommendation by the administration.

Also, I note that the conference report does not include any funds for the continuation at ERDA of the Office of Commercialization after October 1, 1976. I call attention of my colleagues to the colloquy between Chairman Teague and myself last June when the House considered H.R. 13350 on the floor. In that colloquy, we confirmed that no funds of any kind were authorized in H.R. 13350 for this Office. The Senate followed suit. I also understand that the Appropriations Committee did not provide any funds for that Office in fiscal year 1977.

Mr. HAYES of Indiana. Mr. Speaker, I take this opportunity to express my strong support for those portions of the conference report that provide increased funding for ERDA to carry out an important nonnuclear energy R. & D. program in fiscal year 1977.

At the same time I express continued reservations about the loan guarantee provisions of this report. I am, of course, very pleased to see that the loan guarantee authority has been reduced from the $6 billion sought by the special interests to only $300 million. This is, indeed, a benefit to the Nation's taxpayers.

I note, however, that the loan guarantee provisions of the bill will permit the use of the Federal Financing Bank Act of 1973 which enables borrowers—armed with an ERDA guarantee—to obtain a direct, low-interest loan from the FFB. Such loans are off-budget and result each year in an increase in the public debt, as observed by the GAO in a recent letter to Congressmen HECHLER, DINGELL, OTTINGER, and myself.

I discussed the FFB in greater detail in my remarks of September 15, 1976—page 30539 of the CONGRESSIONAL RECORD. I urge my colleagues to consider them in light of the guarantees authorized by this conference report, and possibly other guarantees, to see what, if any, effect they will have on the public debt. I hope that the next Congress will take steps to amend the law to preclude this serious impact on the debt.

The letter follows:

COMPTROLLER GENERAL OF THE
UNITED STATES,
*Washington, D.C., September 16, 1976.*

Hon. KEN HECHLER,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. HECHLER: In your letter of September 13, 1976, you asked for our views and comments on the use of the Federal Financing Bank (FEB) to purchase loans guaranteed by the Energy Research and Development Administration (ERDA) under the provisions of H.R. 12112, if enacted.

It appears to us that FEB could, indeed, purchase such loans under FEB's existing authority and that the resulting disbursement of Federal funds would not be reflected as an outlay in the Federal budget. Such a transaction would, as you suggest, increase the total outstanding Federal debt.

I believe this sort of loophole in the budget process is highly undesirable. It is for this reason that we have consistently opposed the creation of "off-budget" agencies, of which FEB is a prominent example.

If H.R. 12112 were enacted, ERDA would have authority to guarantee certain loans. Under section 3 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1302) the authority to guarantee loans does not represent budget authority. Budget outlays (cash disbursements) would not be recorded until such time as ERDA disbursed funds pursuant to the guarantee. Thus ERDA's immediate transactions would not affect the budget totals.

Under existing law, FEB is authorized to purchase loans guaranteed by Federal agencies, including ERDA (12 U.S.C. 2285). Under usual budget concepts, the disbursement of funds by the Federal Government (and FFB is indisputably a Federal entity) to a private individual or firm is a Federal budget outlay. However, the transactions by FFB of this sort are excluded from the budget totals by law (12 U.S.C. 2290). Thus this transaction also escapes the discipline of the budget process. Taken together, however, these transactions—the ERDA guarantee plus the FFB purchase—amount to a direct loan.

There is little dispute that direct loans should logically be reflected in the budget totals. But the special budget treatment accorded loan guarantees, and the special budget treatment accorded FFB transactions, creates a situation in which it is possible, in effect, to make direct loans without ever going through the normal discipline of the budget process—a discipline which is applicable to most proposals to spend the taxpayer's money.

This anomaly is inconsistent with sound budgetary principles, as reflected in the Report of the President's Commission on Budget Concepts. Wo believe FFB should be barred from engaging in transactions of this sort so long as its activities are not fully reflected in the budget.

Sincerely yours,
R. F. KELLER,
*Acting Comptroller General of the United States.*

Mr. THORNTON. Mr. Speaker, I rise in strong support of H.R. 13350 and urge the adoption of the conference report.

As the Nation develops its energy policy for the next few years and for the upcoming decades, the Energy Research and Development Administration has a lead role to perform. We simply must develop alternative energy resources in order to maintain or increase present rates of economic growth and improving standards of living.

This bill provides substantial increases in funding for a number of our most promising energy sources—particularly solar energy—and I strongly support the increased emphasis upon these renewable resources.

For the moment, however, I would like to emphasize the conservation provisions of this bill which are equally significant to and perhaps even more important than the funding provisions for the long-term development of new energy resources.

H.R. 13350 contains a modified version of the bill, H.R. 13676, the National Energy Extension Service Act, which I introduced, and which passed the House on August 2.

As approved by the conferees, the Energy Extension Service Act authorizes a program for face-to-face assistance to energy consumers in the conservation of energy by individuals, homeowners, agricultural producers, and small businesses. Modeled upon the highly successful Agriculture Extension Service, it can become, I am convinced, the focal point of a national conservation effort. It can provide also the administrative mechanism by which the results of our extensive research program are made available to the public.

The conferees agreed that although the operation of a nationwide energy extension service program is intended at the earliest possible date, the $7.5 million already appropriated for fiscal year 1977 would not be adequate to establish a viable program in each State this year.

Therefore, ERDA is given discretion to develop not fewer than 10 pilot programs for fiscal year 1977. It is anticipated that these pilot programs will give the agency the necessary information and experience to develop a nationwide program in fiscal year 1978, subject, of course, to the further review and approval of the Congress.

I would point out that the agreement of the conferees leaves to the States wide discretion in the development of their extension service program while assuring that necessary coordination and supervision is retained by the Energy Research and Development Administration. The provisions for both Federal and State approval of programs represents federalism at its best, and the program has the strong support of the State Governors.

Mr. Speaker, I would emphasize that the conferees intend for the energy extension program to be not just a program for information dissemination but an active outreach effort which can involve the public—collectively and individually—in our conservation efforts.

Mr. Speaker, I would like to commend especially the chairman of the Science and Technology Committee, Chairman TEAGUE, Congressman MIKE MCCORMACK and Congressman BARRY GOLDWATER for their contribution to the development of this legislation, and I urge its approval by this House.

Mr. McCORMACK. Mr. Speaker, as chairman of the Subcommittee on Energy Research, Development and Demonstration and as a member of the Joint Committee on Atomic Energy, I am pleased to rise in support of this conference report on H.R. 13350, the ERDA authorization bill. This is a comprehensive bill which will get this country moving aggressively on a broad front to attack many of the root causes of our Nation's energy problems. It reflects congressional initiative to establish rational programs to provide adequate energy supplies in the future.

I would like to highlight a few aspects of this bill for my colleagues to indicate the progress that is being made in the nonnuclear and nuclear energy areas. The ERDA appropriations for energy R. & D. programs have increased from $2 billion in fiscal year 1976 to $3 billion in fiscal year 1977. The authorization and appropriation levels for the nonnuclear energy and support programs are more than 25 percent of the totals for the ERDA in fiscal year 1977. These levels have been rising rapidly in the past 3 fiscal years and they will undoubtedly continue to rise sharply for several more years as these previously infant programs continue to mature into fully developed activities with well-considered objectives and large-scale demonstrations.

It is instructive to compare the appropriated levels for several major programs in fiscal year 1974 with what we are authorizing with this bill in fiscal year 1977. The following table shows the pronounced growth in these 3 short years:

[Dollar amounts in millions]

| Program | Fiscal year 1974 | Fiscal year 1977 | Ratio fiscal year 1977/fiscal year 1974 |
|---|---|---|---|
| Fossil | $73.4 | $483.1 | 6.6 |
| Solar | 4.0 | 290.4 | 72.6 |
| Geothermal | 6.5 | 54.7 | 8.5 |
| Conservation | 4.7 | 160.9 | 34.2 |
| Environment and safety | 138.1 | 264.4 | 1.9 |
| Basic energy sciences | 135.8 | 232.8 | 1.7 |
| Fusion | 102.3 | 427.9 | 4.2 |
| Fission | 434.9 | 972.4 | 2.2 |

These growth figures are truly astounding in virtually every category. We are making progress and we are moving aggressively in all of these programs. We are increasing these programs at a rate that severely taxes the ability of the ERDA to increase their program staff fast enough with quality personnel to administer the funds appropriated. The solar program has grown exponentially for the last 6 years to where if the trend is continued for a few more years its funding would exceed the current R. & D. budget for the entire Federal Government.

Title I of H.R. 13350 authorizes $1,175,671,000 for fiscal year 1977 for nonnuclear energy research, development and demonstration programs. This is about 2.4 times as much as was spent in fiscal year 1975 and is a 70-percent increase over the spending levels for the current fiscal year. Moreover, title III of H.R. 13350 authorizes an additional $691,795,000 for environmental research and safety, basic energy sciences, program support, and related programs. These moneys to a substantial degree provide support for research programs germane to all energy programs without creating needless duplication with programs in other Federal agencies.

[Dollar amounts in thousands]

| Program | Fiscal year 1974 | Fiscal year 1977 | Growth | |
|---|---|---|---|---|
| | | | Percent | Times |
| Fossil | $73, 270 | $544, 421 | 743 | 7. 43 |
| Solar | 3, 937 | 319, 700 | 8, 120 | 81. 2 |
| Geothermal | 6, 231 | 68, 050 | 1, 092 | 10. 9 |
| Conservation | 4, 720 | 241, 500 | 5, 116 | 51. 2 |
| Environment and safety | 124, 990 | 258, 600 | 207 | 2. 1 |
| Basic energy sciences | 126, 983 | 132, 800 | 105 | 1. 05 |

Title VII of the conference report simply amends the Federal Nonnuclear Energy Research and Development Act in section 7 to give ERDA the generic authority to request of the Congress specific authorization for loan guarantees in future areas where demonstration projects might be built at less cost to the taxpayers by a Federal guarantee of a loan rather than some other form of Federal assistance. All of the provisions of Public Law 93-577 will apply to such loan guarantees.

Another related initiative in the legislation before us is contained in title VIII which establishes a $300 million program of loan guarantees for commercial demonstration facilities for biomass. It is important to point out that the loan guarantees funded by this program only apply to biomass. There is no authorization of a dollar amount for loan guarantees for anything else. This $300 million is not applicable to coal, oil shale, or any other fossil fuel program. It is not a $4 billion or an $11.2 billion program. It simply sets up a program for biomass and bioconversion of urban waste. This is an important program aimed directly at energy conservation.

The U.S. Bureau of Mines has estimated that about 330 million tons of residential and commercial waste are generated in the United States annually, of which about 65 percent is regularly collected, presenting municipalities, regions, and private operators with serious disposal problems. The total waste generated in the United States will reach 420 million tons by 1980, up by 25 percent from today's total.

Landfill methods currently used to cope with the mounting volume of solid waste present municipalities with escalating costs. Landfill constitutes the misuse of an increasingly scarce and valuable resource—undeveloped land.

Urban waste conversion facilities can bring stability to waste disposal costs and can minimize the need to dump refuse in ever more distant and environmentally restricted landfill sites.

Urban waste generates 6 million Btu's for every 1 million Btu's consumed or the equivalent Btu value of 2.1 barrels of oil per ton in recovered fuel and other materials. From the total waste which can be easily recovered, the Nation would save more than 1.1 million barrels of oil a day or between 25 to 30 percent of the total savings set as the Nation's energy independence goal, according to committee testimony.

However, the industry has stated that they are not in a position to finance the projects themselves. Furthermore, the municipalities face severe financial burdens which place restrictions on their ability or willingness to finance new construction. In fact, some municipalities no longer have sufficient credit standing to raise any meaningful amounts of long-term debt. Therefore, a loan guarantee to these interested municipalities or industries would significantly improve their position to develop these vital projects.

Title IX of the conference report contains a very innovative approach to our energy problem. It is in large measure the text of the National Energy Commission Service Act of 1976, H.R. 13676, as it passed the House. This is primarily the creation of Mr. THORNTON of Arkansas, who was the principal architect of the bill. It represents a fine effort to implement an energy outreach service patterned after the agricultural extension service.

The Congress is cognizant of the need to insure that individual homeowners and businessmen. are able to receive answers and help in their efforts to find more energy-efficient ways to maintain their homes or to operate their businesses. Last year the Committee on Science and Technology directed ERDA to explore the possibility of establishing an energy extension service to promote the dissemination of information and advice on energy conservation measures which individuals and companies might take resulting from new technology. This year the committee of conference recommended funding of $25 million for an energy extension service in fiscal year 1977 which will provide support for completion of the ERDA demonstration program begun in fiscal year 1976, and for formulation and initial implementation of the concept in fiscal year 1977.

The bill contains the totals for each of the titles at the beginning of the bill language. These amounts are set forth by title for nonnuclear, nuclear and for the joint programs. They were added to the bill this year so that everyone could quickly see what the figures are for the major categories. The bill does not contain one total number of which has been authorized.

The authorization amounts for each of the programs are in the specific titles themselves, for example, operating expenses for the coal and solar programs are contained in title I with the specific dollar amounts.

The conferees worked within the amounts authorized for each one of these programs and are within the numbers approved by both Houses.

I should also like to point out that the summary of the authorization figures given at the front of the bill in section 2 are in budget authority. The authorizations for the individual programs are in costs and changes in selected resources. The sum of costs and changes in selected resources—mainly uncosted obligations—is budget authority.

Mr. Speaker, Chairman TEAGUE has done a truly outstanding job in providing the leadership for our committee during the consideration of the ERDA authorization bill. My other colleagues on the Committee on Science and Technology have worked hard in putting together this excellent bill. In particular, I wish to express appreciation to the gentleman from Ohio (Mr. MOSHER), the ranking minority member, who will be greatly missed upon his retirement at the end of this Congress. The gentleman from California (Mr. GOLDWATER), the ranking minority member of my subcommittee; the gentleman from Arkansas (Mr. THORNTON), and the gentleman from California (Mr. BROWN), have all made major contributions. I also wish to congratulate all of the rest of the team who have worked on this bill.

Mr. PRICE. Mr. Speaker, questions have been raised by some regarding the action taken by the conferees for H.R. 13350 concerning the nuclear export provisions which appear as amendments to both the House bill and the Senate amendment.

The amendment which was accepted by the House would have provided for automatic congressional review of the first proposed export of nuclear equipment or material under certain agreements for cooperation in the peaceful uses of atomic energy which the United States has with other nations. Specifically, the House amendment would apply to those agreements for cooperation with countries not a party to the Treaty on the Nonproliferation of Nuclear Weapons which went into effect prior to October 14, 1974. October 14, 1974, is the date on which new congressional review procedures became applicable to all future agreements for cooperation.

The purpose of the House amendment was to insure that future exports under these agreements which the Congress had not been given an earlier opportunity to review would be under conditions which would further the nonproliferation objections of the United States. Following adoption of the amendment by the House, it became apparent that a blanket congressional review requirement for exports under these existing agreements might well hinder our nonproliferation efforts by raising doubts about the United States as a reliable supplier of nuclear materials and equipment.

As an addition to the House amendment, the conferees considered an approach which would fully preserve the right of further congressional review where necessary, but which would eliminate the review requirement in those cases where the Congress and the American people could be assured that the export would only be approved under conditions which would further our nonproliferation policy.

The conference language, found in section 209 of the conferees' recommendation, contains specific conditions which must be met if the export is to proceed without further congressional review. These conditions require that the recipient country agree to accept for that export International Atomic Energy Agency safeguards, adequate physical security measures, retransfer and reprocessing conditions, and conditions on the duplication of any exported equipment, and agree not to use the export to make a nuclear explosive device for any purpose whatsoever.

If these conditions are met for the particular export, the Congress can be assured that the export will advance and not deter our goal of controlling the spread of nuclear explosives. Moreover, the House amendment to H.R. 13350 is fully preserved in section 201, and in the event of any conflict between sections 201 and 209, section 201 would control.

Mr. MOSHER. Mr. Speaker, I support the conference report accompanying H.R. 13350, the fiscal year 1977 authorization bill for the Energy Research and Development Administration.

Moreover, as I understand the situation, the potential opponents of this Conference Report expect to agree to it and vote for it, on the basis of the legislative intent which will be established in the record during this debate.

Mr. Speaker, H.R. 13350 authorizes approximatey $1.87 billion in fiscal year 1977 for the nonnuclear energy programs in ERDA. This amount is about $23 million above the House bill. The differences between the two bills were compromised in a straightforward manner.

There is no disagreement about the funding levels. Since the appropriation bill for ERDA's fiscal year 1977 budget has already passed, it was relatively easy to negotiate on funding levels. In most instances the authorization is slightly higher than the corresponding appropriation. The conferees did this to allow some latitude for future supplemental appropriations requests and internal reprograming of funds by ERDA.

It is worthwhile to note that the conference bill contains an Energy Extension Service. This provision is similar to H.R. 13676, the Energy Extension Service Act which passed the House on August 2, 1976. A rule was approved which permitted the inclusion of H.R. 13676 in the ERDA authorization conference bill.

That provision establishes an innovative program to encourage energy conservation on the grassroots level, patterned somewhat after our well-known agricultural extension services and providing for coordination with that established program. It will bridge the gap between high technology, complicated bureaucracy and the practical implementation of improved technology in our everyday lives.

The conference bill also establishes an appropriate technology program. The appropriate technology program will focus on the more efficient use of resources by local communities; on the use of existing technologies in novel situations; and on the development of small scale, low cost, durable energy conservation applications.

Thus, the appropriate technology program will be a natural complement to the Energy Extension Service provision.

Perhaps the most significant qualitative change which the conferees accepted was a provision by the other body providing loan guarantees for biomass conversion projects. The provision originally authorized $800 million in guarantees, but your conferees reduced it to $300 million.

Your conferees insisted that this loan guarantee provision contain many of the safeguards included in other loan guarantee bills. For example, it includes a review of the competitive effects of a project by the Attorney General and Federal Trade Commission; a one-House veto for any project over $50 million; the full and active participation by State and local authorities in planning specific projects; environmental protection; community impact assistance and patent protection.

This limited biomass program will serve as a useful vehicle for testing both biomass technology and the operation of loan guarantees to support energy projects. The lessons we learn from it will allow us to improve any subsequent loan guarantee requests which might be made in later years.

Mr. Speaker, I believe the conference bill is sound and responsible legislation. I urge its adoption.

Mr. TEAGUE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

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## CONFERENCE REPORT ON S. 3219, TO AMEND THE CLEAN AIR ACT, AS AMENDED

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 3219) to amend the Clean Air Act, as amended.

CONFERENCE REPORT (H. REPT. No. 94-1742)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3219) to amend the Clean Air Act, as amended, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

### SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Clean Air Act Amendments of 1976":

### TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Authorizations.

TITLE I—AMENDMENTS PRIMARILY RELATING TO TITLE I OF THE CLEAN AIR ACT

Sec. 101. Training.
Sec. 102. Maintenance of effort.
Sec. 103. Area identification.
Sec. 104. Cost of technology.
Sec. 105. Transportation control information.
Sec. 106. Review of standards.
Sec. 107. State implementation plans; loss of pay.
Sec. 108. New source standards of performance.
Sec. 109. Waiver for technology innovations.
Sec. 110. Emission standards for hazardous air pollutants.
Sec. 111. Delayed compliance orders.
Sec. 112. Civil penalties.
Sec. 113. International pollution abatement.
Sec. 114. Advisory committees.
Sec. 115. Control of pollution from Federal facilities.
Sec. 116. Coal conversion.
Sec. 117. Supplemental controls for nonferrous smelters.
Sec. 118. Unregulated pollutants.
Sec. 119. Construction or modification of facilities at certain existing sites.
Sec. 120. Limitation on indirect source review authority.
Sec. 121. Interstate pollution abatement.
Sec. 122. Stratosphere and ozone protection.
Sec. 123. Prevention of significant deterioration.
Sec. 124. Transportation control extensions.

TITLE II—AMENDMENTS PRIMARILY RELATING TO TITLE II OF THE CLEAN AIR ACT

Sec. 201. Light duty auto emissions.
Sec. 202. Assurance of protection of public health and safety.
Sec. 203. Test procedures for measuring evaporative emissions.
Sec. 204. Emission standards for heavy-duty vehicles or engines and certain other vehicles or engines.
Sec. 205. Tampering.
Sec. 206. Testing by small manufacturers.
Sec. 207. High altitude performance adjustments.
Sec. 208. Production line test.
Sec. 209. Replacement cost.
Sec. 210. Motor vehicle parts certification and study by Federal Trade Commission.
Sec. 211. Owner maintenance.
Sec. 212. Parts standards; preemption of State law.
Sec. 213. Preemption of State law.
Sec. 214. Sulfur emissions study.
Sec. 215. Vehicle inspection and maintenance.
Sec. 216. Railroad locomotive emission standards.

TITLE III—AMENDMENTS PRIMARILY RELATING TO TITLE III OF THE CLEAN AIR ACT

Sec. 301. Continuous controls, stack heights, and dispersion enhancement.

Sec. 302. Definitions of schedules and timetables and major emitting facilities.
Sec. 303. Citizen suits.
Sec. 304. Costs of litigation.
Sec. 305. Employee protection.
Sec. 306. Cost of vapor recovery systems to be borne by owner of retail outlet.
Sec. 307. Fine particulate study.
Sec. 308. Financial disclosure.
Sec. 309. Economic impact assessment.
Sec. 310. National Commission on Air Quality.
Sec. 311. Carbon monoxide—standards for schoolbus passenger areas.
TITLE IV—MISCELLANEOUS AMENDMENTS
Sec. 401. Basis of administrative standards.
Sec. 402. Certain minor, technical, and conforming amendments.
Sec. 403. Rule review.
Sec. 404. Savings provision.
Sec. 405. Research.

### AUTHORIZATIONS

SEC. 2. Section 316 of the Clean Air Act is amended to read as follows:

### "APPROPRIATIONS

"SEC. 316. (a) There are authorized to be appropriated to carry out this Act, other than section 125 and authorities providing for research, development, and demonstration under this Act, $200,000,000 for the fiscal year 1977, $200,000,000 for the fiscal year 1978, and $200,000,000 for the fiscal year 1979.

"(b) There are authorized to be appropriated for the fiscal year 1977, $129,223,500 for carrying out authorities providing for research, development, and demonstration under this Act.

"(c) There are authorized to be appropriated for the fiscal years 1977 through 1979 to carry out section 125 of this Act $75,000,000."

## TITLE I—AMENDMENTS PRIMARILY RELATING TO TITLE I OF THE CLEAN AIR ACT

### TRAINING

SEC. 101. Section 103(b) of the Clean Air Act is amended by striking out paragraph (5), redesignating the following paragraphs accordingly, and adding the following at the end thereof: "In carrying out the provisions of subsection (a), the Administrator shall provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications. Reasonable fees may be charged for such training provided to persons other than personnel of air pollution control agencies but such training shall be provided to such personnel of air pollution control agencies without charge.".

### MAINTENANCE OF EFFORT

SEC. 102. (a) The third sentence of subsection (b) of section 105 of the Clean Air Act is amended to read as follows: "No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, except that the Administrator may waive such prohibition if he determines that a reduction in expenditures is attributable to a general reduction in expenditures in the programs of executive branch agencies of the applicable unit of government; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds.".

(b) Subsection (c) of section 105 of such Act is amended by adding the following: "In fiscal year 1977 and subsequent fiscal years, subject to the provisions of subsection (b) of this section, no State shall receive less than one-half of 1 per centum of the annual appropriation for grants under this section, for grants to agencies within such State.".

### AREA IDENTIFICATION

SEC. 103. Section 107 of the Clean Air Act is amended by adding a new subsection as follows:

"(d) (1) For the purpose of transportation control planning, prevention of significant deterioration, and for other purposes, each State, within one hundred and twenty days after the date of enactment of the Clean Air Act Amendments of 1976, shall submit to the Administrator a list, together with a summary of the available information, identifying those air quality control regions, or portions thereof, established pursuant to this section in such State which on the date of enactment of the Clean Air Act Amendments of 1976—

"(A) do not meet a national primary ambient air quality standard for any air pollutant other than sulfur oxides or particulate matter;

"(B) do not meet, or in the judgment of the State may not in the time period required by an applicable implementation plan attain or maintain, any national primary ambient air quality standard for sulfur oxides or particulate matter;

"(C) do not meet a national secondary ambient air quality standard for any air pollutant;

"(D) cannot be classified under subparagraph (B) or (C) of this paragraph on the basis of available information, for ambient air quality levels for sulfur oxides or particulate matter; or

"(E) cannot be classified under subparagraph (A) or (C) of this paragraph on the basis of available information, for ambient air quality levels for any air pollutant other than sulfur oxides or particulate matter.

"(2) Not later than sixty days after submittal of the list under paragraph (1) of this subsection the Administrator shall, after notice and opportunity for public hearing, promulgate each such list with such modifications as he deems necessary. Whenever the Administrator proposes to modify a list submitted by a State, he shall notify the State and request all available data relating to such region or portion, and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate.

"(3) Any region or portion thereof which is not classified under subparagraph (B) or (C) of paragraph (1) of this subsection for sulfur oxides or particulate matter within one hundred and eighty days after enactment of the Clean Air Act Amendments of 1976 shall be deemed to be a region or portion thereof classified under subparagraph (D) of paragraph (1) of this subsection.

"(4) A State may from time to time review and as appropriate revise and resubmit, the list required under this subsection. The Administrator shall consider and promulgate such revised list in accordance with the procedures of this subsection.".

### COST OF TECHNOLOGY

SEC. 104. The first sentence of section 108 (b) (1) of the Clean Air Act is amended by striking the words "technology and costs of emission control" and inserting in lieu thereof the words "cost of installation and operation, energy requirements, air quality benefits, and environmental impact of the continuous emission reduction technology.".

### TRANSPORTATION CONTROL INFORMATION

SEC. 105. Section 108 of the Clean Air Act is amended by adding new subsections as follows:

"(e) The Administrator shall, after consultation with the Secretary of Transportation and the Secretary of Housing and Urban Development and State and local officials and within one hundred and eighty days after the enactment of this subsection, and from time to time thereafter, publish guidelines on the basic program elements for the transportation planning process assisted under section 125 of this Act. Such guidelines shall include information on—

"(1) methods to identify and evaluate alternative planning and control activities;

"(2) methods of reviewing plans on a regular basis as conditions change or new information is presented;

"(3) identification of funds and other resources necessary to implement the plan, including interagency agreements on providing such funds and resources;

"(4) methods to assure participation by the public in all phases of the planning process; and

"(5) such other methods as the Administrator determines necessary to carry out a continuous planning process.

"(f) (1) The Administrator shall publish and make available to appropriate Federal agencies, States, and air pollution control agencies, including agencies assisted under section 125 of this Act, within six months after enactment of this subsection for clauses (i), (ii), (iii), and (iv) of subparagraph (A) of this paragraph and within one year after the enactment of this subsection for the balance of this subsection (and from time to time thereafter), (A) information, prepared, as appropriate, in cooperation with the Secretary of Transportation, regarding processes, procedures, and methods to reduce or control each mobile source related air pollutant, including but not limited to—

"(i) motor vehicle emission inspection and maintenance programs;

"(ii) programs to control vapor emissions from fuel transfer and storage operations and operations using solvents;

"(iii) programs for improved public transit;

"(iv) programs to establish exclusive bus and carpool lanes and areawide carpool programs;

"(v) programs to limit portions of road surfaces or certain sections of the metropolitan areas to the use of common carriers, both as to time and place;

"(vi) programs for long-range transit improvements involving new transportation policies and transportation facilities or major changes in existing facilities;

"(vii) indirect source measures respecting on-street and off-street parking;

"(viii) programs to construct new parking facilities and operate existing parking facilities for the purpose of park-and-ride lots and fringe parking;

"(ix) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of nonmotorized vehicles or pedestrian use, both as to time and place;

"(x) provisions for employer participation in programs to encourage carpooling, vanpooling, public transit, bicycling, and walking;

"(xi) programs for secure bicycle storage facilities and other facilities, including bicycling lanes, for the convenience and protection of bicyclists, in both public and private areas;

"(xii) programs of staggered hours of work;

"(xiii) programs to institute road user charges, tools, or differential rates to discourage single occupancy automobile trips;

"(xiv) programs to control extended idling of vehicles, including new motor vehicle idle emission controls;

"(xv) programs to reduce emissions, or assist in attainment or maintenance of national ambient air quality standards, by improvements in traffic flow;

"(xvi) programs for the conversion of fleet vehicles to cleaner engines or fuels, or to otherwise control fleet vehicle emissions or operations;

"(xvii) programs for retrofit of emission devices or controls on vehicles and engines (other than light duty motor vehicles and engines), not subject to regulations under section 202 of this Act; and

"(xviii) programs to reduce motor vehicle emissions which are caused by extreme cold start conditions; (B) information on additional methods or strategies that will contribute to the reduction of mobile source related pollutants during periods in which any national primary ambient air quality standard will be exceeded during any extension under section 125 of this Act and during episodes for which an air pollution alert of emergency has been declared; (C) information on other measures which may be employed to reduce the impact on public health or protect the health of sensitive or susceptible individuals or groups during episodes for which an air pollution alert or emergency has been declared; and (D) information on the extent to which any process, procedure, or method to reduce or control such air pollutant may cause an increase in the emissions or information of any other pollutant.

"(2) In publishing such information the Administrator shall describe (A) the effectiveness of such processes, procedures, and methods; (B) factors related to the costs of such processes, procedures, and methods, in different situations; (C) transportation factors related to such processes, procedures, and methods; (D) the environmental, energy, and economic impact of such processes, procedures, and methods; and (E) his assessment of whether each such process, procedure, or method is reasonable for application to attain a primary ambient air quality standard.".

### REVIEW OF STANDARDS

SEC. 106. Section 109 of the Clean Air Act, as amended by section 118 of this Act is amended by adding the following new subsection at the end thereof:

"(d) (1) Not later than December 31, 1980, and at five-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards promulgated under this section and make such revisions in such criteria and standards, in accordance with section 108 and under subsection (b) of this section, as may be appropriate.

"(2) (A) The Administrator shall appoint an independent scientific review committee composed of seven members including at least one member of the National Academy of Sciences, one physican, and one person representing State air pollution control agencies.

"(B) Not later than January 1, 1980, and at five year intervals thereafter, the committee referred to in subparagraph (A) shall complete a review of the criteria published under section 108 and the national primary and secondary ambient air quality standards promulgated under this section and shall recommend to the Administrator any revisions of existing criteria and standards under section 108 and under subsection (b) of this section.

"(C) Such committee shall also (i) advise the Administrator of areas in which additional knowledge is required to appraise the aedquacy and basis of existing, new, or revised national ambient air quality standards, (ii) describe the research efforts necessary to provide the required information, (iii) advise the Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity, and (iv) advise the Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standards.".

### STATE IMPLEMENTATION PLANS: LOSS OF PAY

SEC. 107. (a) Section 110 of the Clean Air Act is amended by adding a new sentence at the end of paragraph (1) of subsection (a) as follows: "Each State shall adopt and submit to the Administrator within nine months after the date of enactment of the Clean Air Act Amendments of 1976, a revision of its implementation plan which provides for implementation, maintenance and enforcement of the provisions of subtitle C for the prevention of significant deterioration in each appropriate air quality control region (or portion thereof) within such State as determined under section 107(d).".

(b) Section 110(a) (2) (B) of the Clean Air Act is amended to read as follows:

"(B) it includes emission limitations, schedules, and timetables for compliance with such limitations; and, in addition, as may be necessary, (i) to assure attainment and maintenance of such primary or secondary standard, such other measures, including, but not limited to, transportation controls, and (ii) air quality maintenance plans, and preconstruction review of direct sources of air pollution".

(c) Section 110(a) (2) (D) of the Clean Air Act is amended by inserting after "(D) it includes" and before "a procedure" the following: "a program to provide for the enforcement of emission limitations and regulation of the modification, construction, and operation of any stationary source, including a permit or equivalent program for any major emitting facility, within such region to assure (i) that national ambient air quality standards are achieved and maintained, (ii) that the requirements of subtitle C are met, and (iii)".

(d) Section 110(a) (2) (H) of the Clean Air Act is amended by striking "or" before "(ii)" and by striking the period and adding at the end thereof: ", or to comply with the requirements of subtitle C; or (iii) to incorporate any additional requirements established under the Clean Air Act Amendments of 1976.".

(e) Section 110(a) (4) of the Clean Air Act is amended by inserting after "primary or secondary standard" the following: "or which will not comply with a standard of performance under section 111, or which does not conform to the requirements of subtitle C".

(f) Section 110(d) of the Clean Air Act is amended by striking the period and inserting at the end thereof "and the requirements of subtitle C of this title.".

(g) Section 110(a) (2) of such Act is amended by inserting the following new subparagraph at the end thereof:

"(J) it complies with the requirements of subtitle C of this title (relating to prevention of significant deterioration of air quality).".

(h) Section 110(a) of such Act (as amended by section 120 of this Act) is amended by adding the following new paragraph at the end thereof:

"(7) No State plan shall be treated as meeting the requirements of this section unless such plan provides that, in the case of any source which uses a supplemental, or intermittent, or other dispersion dependent control system for purposes of meeting the requirements of section 113(d) or 120, the owner or operator of such source may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system.".

### NEW SOURCE STANDARDS OF PERFORMANCE

SEC. 108. (a) (1) (A). Section 111(a) (1) of the Clean Air Act is amended to read as follows:

"(1) The term 'standard of performance' means—

"(A) with respect to any air pollutant emitted from a particular category of sources to which subsection (b) applies, the standard which reflects the degree of emission reduction achievable through the application of the best technological system of continuous emission reduction (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) which the Administrator determines has been adequately demonstrated; and

"(B) with respect to any air pollutant emitted from a particular source to which subsection (d) applies, a standard which the State (or the Administrator under the conditions specified in subsection (a) (2)) determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.".

(B) Section 111(a) of such Act is further amended by adding the following new paragraph at the end thereof:

"(7) The term 'technological system of continuous emission reduction' means—

"(A) a technological process for production or operation by any source which is inherently low polluting or nonpolluting, or

"(B) a technological system for continuous reduction of the pollution generated by a source before such pollution is emitted into the ambient air, such as a system for pre-combustion cleaning or treatment of fuels.".

(2) Section 111 of such Act (as amended by section 109 of this Act) is further amended by inserting after subsection (f) the following new subsections:

"(g) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative technological system of continuous emission reduction will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the technological system applicable to a source under subsection (a) (1), the Administrator shall permit the use of such alternative technological system by the source for purposes of compliance with such subsection (a) (1) with respect to such pollutant.

"(h) (1) As expeditiously as possible, the Administrator shall promulgate regulations specifying the categories of major stationary sources which are not included on the list required under subsection (b) (1) (A) and shall propose and promulgate new source standards of performance for each such category for each such pollutant.

"(2) In determining priorities for listing of unlisted categories of major stationary sources for the purpose of paragraph (1), the Administrator shall consider—

"(A) the quantity of air pollutant emissions which each such category will emit, or will be designed to emit;

"(B) the extent to which each such pollutant may reasonably be anticipated to endanger public health or welfare; and

"(C) the mobility and competitive nature of each such category of sources and the consequent need for nationally applicable new source standards of performance.

"(3) Before promulgating any regulations under this subsection or listing any category of major stationary sources as required under this subsection, the Administrator shall consult with appropriate representatives of the Governors and of State air pollution control agencies.

"(i)(1) Upon application by the Governor of a State showing that the Administrator has failed to specify in regulations under subsection (h)(1) any category of major stationary sources required to be specified under such regulations, the Administrator shall revise such regulations to specify any such category.

"(2) Upon application of the Governor of a State, showing that any category of stationary sources which is not included in the list under subsection (b)(1)(A) contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare (notwithstanding that such category is not a category of major stationary sources), the Administrator shall revise such regulations to specify such category of stationary sources.

"(3) Upon application of the Governor of a State showing that the Administrator has failed to apply properly the criteria required to be considered under subsection (h)(2). The Administrator shall revise the list under subsection (b)(1)(A) to apply properly such criteria.

"(4) Upon application of the Governor of a State showing that—

"(A) a new, innovative, or improved technology or process which achieves greater continuous emission reduction has been adequately demonstrated for any category of stationary sources, and

"(B) as a result of such technology or process, the new source standard of performance in effect under subsection (b) for such category no longer reflects the greatest degree of emission limitation achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impact and energy requirement) has been adequately demonstrated.

the Administrator shall revise such standard of performance for such category accordingly.

"(5) Upon application by the Governor of a State showing that the Administrator has failed to list any air pollutant which causes, or contributes, to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness as a hazardous air pollutant under section 112, the Administrator shall revise the list of hazardous air pollutants under such section to include such pollutant.

"(6) Upon application by the Governor of a State showing that any category of stationary sources of a hazardous air pollutant listed under section 112 is not subject to emission standards under such section, the Administrator shall propose and promulgate such emission standards applicable to such category of sources.

"(7) Unless later deadlines for action of the Administration are otherwise prescribed under this section or section 112, the Administrator shall, not later than three months following the date of receipt of any application by a Governor of a State, either—

"(A) find that such application does not contain the requisite showing and deny such application, or

"(B) grant such application and take the action required under this subsection.

"(8) Before taking any action required by subsection (h) or by this subsection, the Administrator shall provide notice and opportunity for public hearing.".

(b)(1) Section 111(d)(1) of such Act is amended by striking out "emissions standards" in each place it appears and inserting in lieu thereof "standards of performance" and by adding at the end thereof the following new sentence: "Regulations of the Administrator under this paragraph shall permit the State in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies.".

(2) Section 111(d)(2) of such Act is amended by adding at the end thereof the following new sentence:

"In promulgating a standard of performance under a plan prescribed under this paragraph, the Administrator shall take into consideration, among other factors, remaining useful lives of the sources in the category of sources to which such standard applies.".

### WAIVER FOR TECHNOLOGY INNOVATIONS

SEC. 109. (a) Section 111 of the Clean Air Act, as amended by section 108 of this Act, is further amended by inserting after subsection (e) the following new subsection:

"(f)(1)(A) Any person proposing to own or operate a new source may request the Administrator for a waiver from a standard of performance under this section with respect to any air pollutant to encourage the use of an innovative technological system or systems of continuous emission reduction which have not been determined by the Administrator to be adequately demonstrated. The Administrator may, with the consent of the Governor of the State in which the source is to be located, grant a waiver under this paragraph, if the Administrator determines after notice and opportunity for public hearing that—

"(i) there is a substantial likelihood that the proposed technological system will achieve greater continuous emission reduction than that required to be achieved under the standards of performance which would otherwise apply, or achieve at least an equivalent reduction at lower cost in terms of energy, economic, or nonair quality environmental impact,

"(ii) the owner or operator of the proposed source has demonstrated to the satisfaction of the Administrator that the proposed technological system will not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction, and

"(iii) no previous determination of failure has been made with respect to such proposed technological system under subparagraph (D)(ii).

In determining whether an unreasonable risk exists under clause (ii), the Administrator shall consider, among other factors, whether and to what extent the use of the proposed technological system will cause, increase, reduce, or eliminate emissions of any pollutants which is not subject to any regulation under this Act; available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such system; and the availability of other technological systems which may be used to conform to standards under subsection (b) of this section without causing or contributing to such unreasonable risk. The Administrator may conduct such tests and may require the owner or operator of the proposed source to conduct such tests and provide such information as is necessary to carry out clause (ii) of this subparagraph. Such requirements shall include a requirement for prompt reporting of the emission of any pollutant which is not subject to any regulation under this Act from a system if such pollutant was not emitted, or was emitted in significantly lesser amounts without use of such system.

"(B) A waiver under this paragraph shall be granted on such terms and conditions as the Administrator determines to be necessary to assure—

"(i) emissions from the source will not interfere with attainment and maintenance of any national ambient air quality standards, and

"(ii) proper functioning of the technological system or systems authorized.

Any such term or condition shall be treated as a standard of performance for the purposes of subsection (e) of this section and section 113.

"(C) After a waiver has been granted under this subsection with respect to a proposed technological system, no additional waiver may be granted with respect to such technological system unless the applicant (in addition to the other requirements of this paragraph) demonstrates to the Administrator that such additional waiver is essential to adequately demonstrate that technological system and that the previous waiver or waivers are not sufficient for such purposes.

"(D) A waiver under this paragraph shall extend to the sooner of—

"(i) a date (not more than five years after the date on which the waiver is granted) determined by the Administrator, after consultation with the owner or operator of the source, taking into consideration the design, installation, and capital cost of the technological system or systems being used, or

"(ii) the date on which the Administrator determines that such technological system has failed to—

"(I) achieve at least an equivalent continuous emission reduction to that required to be achieved under the standards of performance which would otherwise apply, or

"(II) comply with the condition specified in paragraph (1)(A)(ii),

and that such failure cannot be corrected.

"(2)(A) If a waiver for any source under paragraph (1) is terminated under clause (ii) of paragraph (1)(D), the Administrator shall grant an extension of the requirements of this section or such source for such period as may be necessary for procurement, installation, and test operation of a technological system or systems such as will comply with standards of performance under subsection (b) of this section. Such period shall not extend beyond the date three years from the time such waiver is granted.

"(B) A waiver granted under this paragraph shall set forth a compliance schedule containing increments of progress which require compliance with the applicable standards of performance as expeditiously as practicable and include such measures as are necessary and practicable in the interim to minimize emission. Such schedule shall be treated as a standard of performance for purposes of subsection (e) of this section and section 113.".

### EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Sec. 110. Section 112 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(e) (1) For purposes of this section, if in the judgment of the Administrator, it is not feasible to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, he may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof, which in his judgment is adequate to protect the public health from such pollutant or pollutants with an ample margin of safety. In the event the Administrator promulgates a design or equipment standard under this subsection, he shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(2) For the purpose of this subsection, the term 'not feasible to prescribe or enforce an emission standard' shall include any situation in which the Administrator determines that (A) a hazardous pollutant or pollutants cannot or should not be emitted through a conveyance designed and constructed to emit or capture such pollutant, or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

"(3) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the requirements of paragraph (1), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

"(4) Any standard promulgated under paragraph (1) shall be promulgated in terms of an emission limitation whenever it becomes feasible to promulgate and enforce such standard in such terms.".

### DELAYED COMPLIANCE ORDERS

Sec. 111. (a) Section 113 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(d) (1) A State (or, after thirty days notice to the State, the Administrator) may issue an enforcement order for any stationary source which specifies a date for final compliance with an applicable emission limitation later than the date for attainment of any national ambient air quality standard specified in the applicable implementation plan: *Provided*, That (A) such order is issued after notice to the public (and, as appropriate, to the Administrator) containing the content of the proposed order and opportunity for public hearing; (B) the order contains a schedule and timetable for compliance; (C) the order contains any interim control measures the State (or the Administrator) deems to be reasonable, and the order requires the emission monitoring and reporting by the source authorized to be required under sections 110(a) (2) (F) and 114(a) (1); (D) the order provides for final compliance with the emission limitation in the applicable implementation plan as expeditiously as practicable, but in no event later than January 1, 1979; and (E) in the case of a major emitting facility, the order provides that it will be amended no later than January 1, 1978, to contain provisions requiring the source to pay monthly a delayed compliance penalty, in an amount equal to that sum established by the Administrator pursuant to section 119 of this Act, in the event such major emitting facility fails to comply by January 1, 1979.

"(2) An enforcement order proposed by a State shall issue under this subsection unless the Administrator, within ninety days of receipt of any proposed order, objects in writing to the issuance of such as not consistent with the requirements of paragraph (1) of this subsection. If the Administrator so objects, he shall simultaneously proceed to issue an enforcement order in accordance with this subsection. Nothing in this section shall be construed as limiting the authority of a State or political subdivision to adopt and enforce a more stringent emission limitation or more expeditious schedule or timetable for compliance than that contained in an order by the Administrator.

"(3) If any source not in compliance with an emission limitation in an applicable implementation plan gives written notification to the State (or the Administrator) that such source intends to comply by means of replacement of the facility, a complete change in production process, or a termination of operation, the State (or the Administrator) may issue an order under paragraph (1) of this subsection permitting the source to operate until January 1, 1979, without any interim schedule of compliance: *Provided*, That as a condition of such issuance, the owner or operator of such source shall post a bond or other surety in an amount equal to the cost of actual compliance by such facility and any economic value which may accrue to the owner or operator of such source of reason of the failure to comply. If a source for which the bond or other surety required by this paragraph has been posted fails to replace the facility, change the production process, or terminate the operations as specified in the order by the required date, the owner or operator shall immediately forfeit on the bond or other surety and the State (or the Administrator) shall have no discretion to modify the order under this paragraph or to compromise the bond or other surety.

"(4) In the case of a major emitting facility which proposes to comply with an applicable emission limitation through replacing existing production capacity with an innovative production process whch will result in an emission reduction significantly greater than required by the emission limitation applicable to such facility, or with the installaiton of an innovative control technique that has a substantial likelihood for enabling the source to comply with the applicable emission limitation by achieving a significantly greater emission reduction than that required by the applicable emission limitation, or by achieving the required reduction with an innovative system that will have potential for industrywide application at a significantly lower cost than the systems which have been determined by the Administrator to be adequately demonstrated, the date required for compliance applicable to such facility under paragraphs (1) and (3) of this subsection and section 119 of this Act shall be January 1, 1981.

"(5) (A) In the case of a major emitting facility which—

"(i) is ordered to convert to coal under an order pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974, or

"(ii) within one year after enactment of this paragraph gives notice of intent to convert to coal as its primary energy source because of actual or anticipated curtailment of natural gas supplies under any curtailment plan or schedule approved by the Federal Power Commission (or, in the case of intrastate natural gas supplies, approved by the appropriate State regulatory commission), and which thereby would no longer be in compliance with an applicable emission limitation under an implementation plan, an enforcement order may be issued under paragraph (1) of this subsection for such facility which specifices a date for final complinance with the applicable emission limitation later than the date for attainment of any national ambient air quality standard specified in the applicable implementation plan: *Provided*, That the order provides for final compliance with the emission limitation in the applicable implementation plan as expeditiously as practicable, but in no event later than three years after the date of an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 or three years after giving notice under clause (ii) of this subparagraph, which date shall be the date required for compliance applicable to such facility under paragraphs (1) and (3) of this subsection and section 119 of this Act and in no event shall be later than July 1, 1980.

"(B) In issuing an order under this paragraph, the State shall prescribe (and may from time to time modify) emission limitations, requirements respecting pollution characteristics of coal, or other enforceable measures for continuous reduction of emissions for each facility to which such an order applies. Suh limitations, requirements, and measures shall be those which the State determines must be complied with by the facility in order to assure (throughout the period before the date for final compliance established in the order) that the burning of coal by such source will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

"(C) No order issued under this subsection to a source to which this paragraph applies shall be effective, with respect to an air pollutant, if the national primary ambient air quality standard with respect to such pollutant is being exceeded at any time in the air quality control region in which such source is located. The preceding sentence shall not apply to a source if, upon submission by any person of evidence satisfactory to the Administrator, the Administrator determines (after notice and public hearing)—

"(i) that emissions of such air pollutant from such source will affect only infrequently the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time;

"(ii) that emission of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time; and

"(iii) with reasonable statistical assurance that emissions of such air pollutant from such source will not cause or contribute to air quality concentrations of such pollutant in excess of the national primary ambient air quality standard for such pollutant.".

"(6) For the purposes of sections 110, 304, and 307 of this Act, any order issued by the State which is in effect under this subsection shall be deemed part of the applicable implementation plan.

"(7) (A) During the period during which an enforcement order issued by a State under this subsection is in effect and where the owner or operator is in compliance with the terms of such enforcement order, no other enforcement action pursuant to this section or section 304 of this Act shall be pursued against such owner or operator based upon noncompliance (during the period the order is in effect) with the emission limitation for the source covered by such order.

"(B) The failure of any source subject to an enforcement order under this subsection to adhere to the schedule and timetable of compliance established under this subsection during the period of the order, shall make such source subject to the provisions of subsections (a), (b), and (c) of this section.

"(8) No extension, postponement, waiver, or delay of any requirement of an implementation plan applicable to a major emitting facility shall be granted except in accordance with this subsection or section 110 (f) of this Act: *Provided, however,* That neither this subsection nor section 119 of this Act shall be construed as limiting the authority of any State to revise any deadline for attainment of a national secondary ambient air quality standard.

"(9) Any final actions of the Administrator pursuant to this subsection, including any objection under paragraph (2) of this subsection, shall be considered an action for purposes of section 307 of this Act.

"(10) Any enforcement order issued under subsection (a) of this section or any consent decree in an enforcement action which is in effect on the date of enactment of the Clean Air Act Amendments of 1976 shall remain in effect to the extent that such order or consent decree is not inconsistent with the requirements of this subsection and section 119 of this Act. Any such enforcement order issued under subsection (a) of this section or consent decree which provides for an extension beyond January 1, 1979, is void unless modified to comply with the requirements of this subsection.".

(b) Title I of the Clean Air Act, as amended by section 116 of this Act, is further amended by adding at the end thereof a new section as follows:

### "DELAYED COMPLIANCE PENALTY

"SEC. 119. (a) Prior to January 1, 1978, any enforcement order issued under subsection (d) of section 113 of this Act shall be amended to include a delayed compliance penalty established pursuant to this section which shall be imposed automatically and payable monthly for any major emitting facility which for any reason not entirely beyond the control of the owner or operator is not in compliance with an applicable emission limitation on January 1, 1979.

"(b) As an enforceable interim step under any enforcement order issued under section 113(d) of this Act, the owner or operator of any major emitting facility not in compliance with an applicable emission limitation, for which such order specifies a date for compliance after January 1, 1978, shall, prior to January 1, 1977, furnish to the State (with a copy to the Administrator) information containing a detailed description of the control technology or system proposed to achieve compliance with the applicable emission limitation and the estimated cost of compliance, including capital costs, debt service costs, the estimated schedule of expenditures to comply with such limitation or requirement by January 1, 1979, and the estimated annual costs of operation and maintenance of any technology or system required in order to maintain such compliance, together with such information as the State (or the Administrator) may require on the economic value which a delay in compliance beyond January 1, 1979, may have for the owner or operator of such facility.

"(c)(1) A notice of receipt of information pursuant to subsection (b) of this section shall be published in the newspapers in general circulation in such State, and such notice shall set forth where copies of the information are available for inspection and, for a reasonable charge, copying.

"(2)(A) Within sixty days following the date of publication of the notice issued under paragraph (1) of this subsection, there shall be published in the newspapers in general circulation in such State (and, as appropriate, the Federal Register or any publication required as part of any rulemaking activity in such State) the proposed delayed compliance penalty applicable to the major emitting facility, with an announcement of an opportunity for a public hearing on such action.

"(B) Such proposed delayed compliance penalty under subparagraph (A) of this paragraph, determined in accordance with guidelines published by the Administrator, shall be a monthly payment in an amount no less than the monthly equivalent of the capital costs of compliance and debt service over a normal amortization period, not to exceed ten years, operation and maintenance costs foregone as a result of noncompliance, and the economic value which a delay in compliance beyond January 1, 1979, may have for the owner or operator of such major emitting facility.

"(C) The State shall take final action establishing such delayed compliance penalty within sixty days after the date of publication of the proposed penalty under subparagraph (A) of this paragraph.

"(d)(1) A delayed compliance penalty established by a State under this section shall apply unless the Administrator, within ninety days after the date of publication of the proposed penalty under subsection (c)(2)(A) of this section, objects in writing to the amount of the penalty as less than would be required to comply with guidelines established by the Administrator.

"(2) If the Administrator objects under this subsection, he shall immediately establish a substitute delayed compliance penalty applicable to such facility.

"(e)(1) In the event an owner or operator contests the delayed compliance penalty established under this section, the owner or operator may within sixty days seek review of such penalty in the appropriate United States district court.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, in no event shall any challenge or review taken under this subsection operate to stay or otherwise delay the obligation of a facility not in compliance with an applicable emission limitation to commence monthly payment of the delayed compliance penalty as determined by the State (or the Administrator) on January 1, 1979, pending the outcome of any such review.

"(B) In any challenge of the imposition of the penalty based on an allegation that the failure to comply by January 1, 1979, was due to reasons entirely beyond the control of the owner or operator, the obligation to commence monthly payment of the delayed compliance penalty may be stayed by the appropriate court pending the outcome of such challenge: *Provided,* That as a condition of such stay, the owner or operator of such source shall post a bond or other surety in an amount equal to the potential liability for such penalty during the period of the stay.

"(3) If an owner or operator is successful in any challenge or review proceedings under this subsection, the court may award such relief as necessary, including cancellation of the bond, rebate of any payments, or adjustment of the amount of payments required by the order.

"(f) In any case where a State does not have sufficient authority to issue a delayed compliance penalty, the Administrator after thirty days notice to the State shall establish, implement, and enforce such penalty.

"(g) Failure to make any payment required by an order under this section and section 113(d) of this Act or to submit information required under this section shall, in addition to liability for such payments, subject the owner or operator of a major emitting facility operating pursuant to an enforcement order issued under section 113 (d) of this Act to a penalty under subsection (e) of section 113 of this Act.

"(h) Any final actions pursuant to this section, (other than the action referred to in subsection(e)(1)) including any objection of the Administrator under subsection (d)(1) if this section, shall be considered an action for porposes of section 307 of this Act.

"(i) Any enforcement orders, payments, sanctions, or other requirements under this section shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this Act, and shall in no way effect any civil or criminal enforcement proceedings brought under any provision of this Act or State or local law.

"(j) In the case of an emission limitation approved or promulgated by the Administrator after the enactment of the Clean Air Act Amendments of 1976 which is more stringent than the emission limitation for the source under the applicable implementation plan in effect prior to such approval or promulgation, if any, or where there was no emission limitation approved or promulgated before enactment of the Clean Air Act Amendments of 1976, the date for imposition of the delayed compliance penalty under subsection (a) of this section, and for purposes of subsections (b), (c)(2)(B), and (e) of this section, shall be either January 1, 1979, or the date on which the source is required to be in full compliance with the emission limitation, whichever is later, but in no event later than three years after the approval or promulgation of such emission limitation.".

### CIVIL PENALTIES

SEC. 112. The Clean Air Act is amended:

(a) By amending subsection (b) of section 113 to read as follows:

"(b) The Administrator shall commence a civil action for appropriate relief, including a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $10,000 per day of violation or both, whenever any person—

"(1) violates or fails or refuses to comply with any order issued under subsection (a) or (d) of this section; or

"(2) violates any requirement of an applicable implementation plan (A) during any period of federally assumed enforcement, or (B) more than thirty days after having been notified by the Administrator under subsection (a)(1) of a finding that such person is violating such requirement; or

"(3) violates section 111(e), 112(c), 119 (b), 119(g), 320, or any regulation under section 155; or

"(4) fails or refuses to comply with any requirement of section 114 or section 120 (c)(2), (d), or (e).

Any action under this subsection shall be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation, to require compliance, and assess such penalty. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency.".

(b) By amending subsection (c) of section 113—

(1) to amend paragraph (1)(B) to read as follows:

"(B) violates or fails or refuses to comply with any order under subsection (a) or (d) of this section, or"; and

(2) to add a new paragraph (3) as follows:

"(3) For the purpose of this subsection, the term 'person' shall mean, in addition to the definition contained in section 302(e) of this Act, any responsible corporate officer.".

(c) By adding the following new subsections to section 113:

"(e) In any case where a person is in knowing violation of a provision of an implementation plan applicable to a stationary source, where there has been no request for an enforcement order extending the date of compliance concerning such source filed pursuant to subsection (d) of this section within one hundred and eighty days after enactment of the Clean Air Act Amendment of 1976 (unless such an order has been issued under this section without any such request), or where a person is in violation of the requirements of subsection (b) or (g) of section 119 of this Act, such person shall be punished by a fine of not more than $25,000 per day of violation.".

### INTERNATIONAL POLLUTION ABATEMENT

SEC. 113. Section 115 of the Clean Air Act is amended to read as follows:

### "INTERNATIONAL POLLUTION ABATEMENT

"SEC. 115. (a) Whenever the Administrator, upon receipt of requests, reports, surveys, or studies from any duly constituted international agency, has reason to believe that any air pollutant or pollutants emitted in the United States endanger the health or welfare of persons in a foreign country, or whenever the Secretary of State requests him to do so with respect to such pollutant or pollutants which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to such Governor of the State in which such emissions originate.

"(b) The notice of the Administrator shall operate as finding under clause (ii) of subparagraph (H) of subsection (a)(2) of section 110 of this Act and any foreign country adversely affected by the emission of pollutant or pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable implementation plan.

"(c) This section shall apply only to a foreign country which the Administrator determines has given the United States essentially the same rights with respect to the prevention or control of air pollution occcurring in that country as is given that country by this section.

"(d) Recommendations issued following any abatement conference conducted prior to the enactment of the Clean Air Act Amendments of 1976 shall remain in effect with respect to any pollutant for which no national ambient air quality standard has been established under section 109 of this Act However, the Administrator, after consultation with all agencies which were party to the conference, may rescind any such recommendation on grounds of obsolescence.".

### ADVISORY COMMITTEES

SEC. 114. Section 117 of the Clean Air Act is amended—

(1) by striking out subsections (a) through (c);

(2) by renumbering subsections (d), (e), and (f) as subsection (a), (b), and (c) respectively: and

(3) by amending redesignated subsection (b)—

(A) by striking the words "the Board and" the first time the word "Board" appears and inserting in lieu thereof the word "any"; and

(B) by striking the words "of the Board" the second time the word "Board" appears.

### CONTROL OF POLLUTION FROM FEDERAL FACILITIES

SEC. 115. (a) Section 118 of the Clean Air Act, relating to control of pollution from Federal facilities, is amended by striking out "comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements" and by inserting in lieu thereof "be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, respecting control and abatement of air pollution in the same manner, and to the same extent, as any nongovernmental entity. Neither the United States nor any officer, agent, or employee thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such requirement.".

(b) Section 113 of such Act as amended by sections 111 and 112 of this Act, is further amended by adding the following at the end thereof:

"(g)(1) For purposes of this section, the term 'person' includes any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

"(2) No officer, agent, or employee of the United States shall be personally liable for civil penalty under subsection (b).".

(c) Section 118 of the Clean Air Act is amended by inserting the following immediately before the last sentence thereof: "In addition to any such exemption of a particular emission source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vehicles, or other classes or categories of property which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals.".

### COAL CONVERSION

SEC. 116. (a)(1) Section 119 of the Clean Air Act is hereby repealed. All references to section 119 or subsections thereof in section 2 of the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93–319) shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular. Any certification or notification required to be given by the Administrator of the Environmental Protection Agency under section 2 of the Energy Supply and Environmental Coordination Act of 1974 shall be given instead by the appropriate State.

(2) In the case of any major emitting facility to which any requirement is applicable under section 113(d)(5)(B) of the Clean Air Act and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974, the State shall certify the date which it determines is the earliest date that such facility will be able to comply with all such requirements. In the case of any plant or installation which the State determines (after consultation with the Administrator of the Environmental Protection Agency) will not be subject to an order under section 113(d) of the Clean Air Act and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974, the State shall certify the date which it determines is the earliest date that such plant or installation will be able to burn coal in compliance with all applicable emission limitations under the implementation plan.

(3) Any certification required under section 2 of the Energy Supply and Environmental Coordination Act of 1974 or under this subsection may be provided in an enforcement order under section 113(d) of the Clean Air Act.

(b) Section 111(a) of the Clean Air Act, as amended by section 108 of this Act is further amended by adding the following new paragraph:

"(8) A conversion to coal (A) by reason of an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974, or (B) which qualifies under section 113(d)(5)(A)(ii) of this Act, shall not be deemed to be a modification for purposes of paragraphs (2) and (4) of this subsection.".

(c) For additional provisions relating to coal conversion, see section 111 of this Act.

### SUPPLEMENTAL CONTROLS FOR NONFERROUS SMELTERS

SEC. 117. (a) Title I of the Clean Air Act, as amended by section 111 of this Act, is further amended by adding the following new section at the end thereof:

### "SUPPLEMENTAL CONTROLS FOR NONFERROUS SMELTERS

"SEC. 120. (a) For purposes of this section, the term—

"(1) 'enforcement order' means an order issued by the State or by the Administrator to a primary nonferrous smelter postponing the date required under an applicable implementation plan for compliance by such source with applicable emission limitations under such plan; and

"(2) 'means of emission limitation' means a system of continuous emission reduction (including the use of technology such as acid plants).

"(b) Upon application by the owner or operator of a primary nonferrous smelter, or at the initiative of the State or the Administrator, and after notice and public hearing, an enforcement order may be issued to the smelter under this section.

"(1) by the Administrator with the written consent of the Governor of the State in which such smelter is located, or

"(2) by the State in which such smelter is located, but no such order shall postpone any emission limitation under the applicable implementation plan until the Administrator determines that such order has been issued in accordance with the requirements of this section.

Before any hearing conducted under this section, in the case of an application made by the owner or operator of a smelter, the applicant shall furnish the Administrator or the State (as the case may be) with a statement of the grounds on which such application is based (including all supporting documents and information). The statement of grounds for the proposed order shall be provided by the Administrator or the State in any case in which such State or Administrator is acting on its own initiative. Such statement (including such documents and information) shall be made available to the public for a thirty-day period before such hearing and shall be considered as part of such hearing. No such order may be granted unless the applicant establishes that he meets the conditions required for the issuance of such order (or the Administrator or State establishes the meeting of such conditions when acting on their own initiative). Any decision with respect to the issuance of such an order shall be accompanied by a concise statement of the findings. No later than ninety days after submission by any State to the Administrator of notice of its issuance of an enforcement order under this section to a primary nonferrous smelter within such State, the Administrator shall determine whether or not such order has been issued by the State in accordance with the requirements of this section.

"(c)(1) Not in excess of two enforcement orders may be issued under this section with respect to any requirement of an applicable implementation plan to any primary nonferrous smelter in existence on the date of enactment of this section. Such an order may be issued if the owner or operator of the smelter applying for such order demonstrates (or the State or Administrator finds, when acting on its own initiative) that it is unable to comply with applicable emission limitations because no means of emission limitation applicable to such smelter which will enable it to achieve compliance with such limitation has been adequately demonstrated to be reasonably available (as determined by the Administrator, taking into account the cost of compliance, non-air quality health and environmental impact, and energy considerations). No enforcement order may be issued under this section unless, taking into account the aggregate effect on air quality of such enforcement order together with all variances, extensions, waivers and enforcement orders previously issued under this Act, the order will not permit continued emissions of any air pollutant from such smelter which may cause, or contribute to, air pollution exceeding the national primary or secondary ambient air quality standard for any pollutant after the attainment date for such standard.

"(2) Except as provided in subsection (e)(1)(B), the State or the Administrator may authorize a smelter to which an enforcement order is issued under this section to use such supplemental controls (in addition to continuous emission reduction technology) as may be necessary during the period of the enforcement order to meet the requirements of the last sentence of paragraph (1) if the owner or operator of the smelter agrees—

"(A) to comply with such conditions as the Administrator determines are necessary to maximize the reliability and enforceability of such supplemental controls, as applied to the smelter, in attaining and maintaining the national ambient air quality standards to which the order relates, and

"(B) that any air pollution levels exceeding any national ambient air quality standard to which the order relates occurring within a liability area designated by the Administrator or of any condition under subparagraph (A), shall be treated as a violation of a requirement of the applicable implementation plan by the owner or operator of the smelter.

In issuing an enforcement order to which this section applies, the Administrator shall designate as the smelter's liability area, for the purpose of subparagraph (B), that area within which emissions from the smelter may, in his judgment, be anticipated to cause, or contribute to, air pollution exceeding any national ambient air quality standard to which the enforcement order relates.

"(d) An enforcement order issued to a smelter under this section shall set forth compliance schedules containing increments of progress which require compliance with the requirement postponed as expeditiously as practicable. The increments of progress under any such order shall be limited to requiring compliance with subsection (e) and to procuring, installing and operating the necessary means of emission limitation as expeditiously as practicable after the Administrator determines such means have been adequately demonstrated to be reasonably available. The first order issued to a smelter under this section shall not result in the postponement of the requirement with respect to which such order was issued beyond January 1, 1983, and the second such order issued to such smelter shall not result in a postponement of such requirement beyond January 1, 1988.

"(e)(1)(A) Each smelter to which an enforcement order is issued under this section shall be required, during the period for which such order is in effect, to use continuous emisson reduction technology and such supplemental measures as may be necessary on an interim basis to assure attainment and maintenance of the national primary and secondary ambient air quality standards during such period.

"(B) The requirements of subparagraph (A) and subsection (c)(2) may be waived with respect to a particular smelter by the State or the Administrator, after notice and a hearing on the record, and upon a showing by the owner or operator of the smelter that such requirement would be so costly as to necessitate permanent cessation of operations of the smelter. Upon application for such waiver, the Administrator shall be notified and shall, within 90 days, hold a hearing on the record in accordance with section 554 of title 5 of the United States Code.

At such hearings the Administrator shall require the smelter involved to present information relating to any alleged permanent cessation of operations and the detailed reasons or justification therefor. On the basis of such hearing the Administrator shall make findings of fact as to the effect of such requirement and on the alleged permanent cessation of operations and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public, and shall be taken into account by the State or the Administrator in making the decision whether or not to grant such waiver.

"(C) In the case of any smelter which on the date of enactment of this section uses continuous emission reduction technology and supplemental controls and which receives an enforcement order under this section, no additional continuous emission reduction technology shall be required as a condition of such enforcement order unless the Administrator determines that such additional continuous emission reduction technology is adequately demonstrated to be reasonably available.

"(2) A smelter to which an order is issued under this section shall commit such resources as the Administrator determines to be reasonable for the owner or operator of that smelter to undertake, or assist in the conduct of, research on, and development of, the means of emission limitation which will enable the smelter to achieve compliance with applicable emission limitations unless the Administrator determines that such commitment will not expedite or improve such research and development.

"(3) Any enforcement order under this section shall be terminated if the Administrator determines on the record, after notice and hearing, that the conditions upon which the order was based no longer exist. If the owner or operator of the smelter to which the order is issued demonstrates that prompt termination of such order would result in undue hardship, the termination shall become effective at the earliest practicable date on which such undue hardship would not result, but in no event later than the date required under the last sentence of subsection (d).

"(f) If the Administrator determines that a smelter to which an enforcement order is issued under this section is in violation of any requirement of subsection (c), (d), or (e) he shall either—

"(1) enforce such requirement under section 113, or

"(2) (after notice and opportunity for public hearing) revoke such order and enforce compliance with the requirement with respect to which such order was granted."

### UNREGULATED POLLUTANTS

Sec. 118. (a) Title I of the Clean Air Act as amended by sections 111 and 117 of this Act is amended by adding at the end thereof the following new section:

### "LISTING OF CERTAIN UNREGULATED POLLUTANTS

"Sec. 121. (a) Not later than one year after date of enactment of this section and after notice and opportunity for public hearing, the Administrator shall review all available relevant information and determine whether or not emissions of vinyl chloride, cadmium, arsenic and polycyclic organic matter into the ambient air will cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health. If the Administrator makes an affirmative determination with respect to any such substance, he shall simultaneously with such determination include such substance in the list published under section 108(a)(1) or 112(b)(1)(A) (in the case of a substance which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness), or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 111(b)(1)(A), or take any combination of such actions.

"(b) Nothing in subsection (a) shall be construed to affect the authority of the Administrator to revise any list referred to in subsection (a) with respect to any substance (whether or not enumerated in subsection (a)).".

(b) Section 109 of such Act is amended by adding the following new subsection at the end thereof:

"(c) The Administrator shall, not later than one year after the date of the enactment of the Clean Air Act Amendments of 1976, promulgate a national primary ambient air quality standard for $NO_2$ concentrations over a period of not more than one hour unless, based on the criteria issued under section 108(c), he finds that there is no significant evidence that such a standard for such a period is requisite to protect public health.".

(c) Section 108(c) of such Act is amended by adding the following at the end thereof: "Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1976, the Administrator shall revise and reissue criteria relating to concentrations of $NO_2$ over a period of not more than one hour. Such criteria shall include a discussion of nitric and nitrous acid, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen.".

(d) The Administrator shall conduct a study, in conjunction with other appropriate agencies, concerning the effect on the public health and welfare of sulfates, vinyl chloride, cadmium, arsenic, and polycyclic organic matter which are present or may occur in the ambient air. Such study shall include a thorough investigation of how sulfates are formed and how to protect public health and welfare from the injurious effects, if any, of sulfates, vinyl chloride, cadmium, arsenic, and polycyclic organic matter.

### CONSTRUCTION OF MODIFICATION OF FACILITIES AT CERTAIN EXISTING SITES

Sec. 119. Title I of the Clean Air Act, as amended by sections 111, 117, and 118 of this Act, is further amended by adding the following new section at the end thereof:

### "CONSTRUCTION OR MODIFICATION OF FACILITIES AT CERTAIN EXISTING SITES

"Sec. 122. (a)(1) No major emitting facility shall be constructed or modified in any air quality control region or portion thereof in which any national ambient air quality standard is exceeded, if such facility will emit air pollutants subject to such standard so as to prevent the attainment or maintenance of such standard, except that a facility proposed for construction or modification at an existing site or plant owned or controlled by the owner or operator of such facility may be constructed or modified in such region if the owner or operator demonstrates to the satisfaction of the State that (A) the proposed facility will comply with the best available control technology (as defined in section 160(g)(4) of this Act) applicable to such proposed facility before the proposed facility begins operation, (B) all existing sources owned or controlled by the owner or operator of the proposed facility in the same air quality control region as the proposed facility either are in compliance with all applicable emission limitations or are in compliance with an approved schedule and timetable for compliance under a provision of an applicable implementation plan under section 110 of this Act or an enforcement order issued under section 113(d) of this Act, (C) the total cumulative emissions from the existing sources at the proposed facility location and the proposed facilities will at no time, increase, (D) the total allowable emissions from all existing and proposed sources at the proposed facility location will be sufficiently less than the total allowable emissions from the existing sources under the implementation plan or an approved schedule and timetable for compliance applicable prior to the request to construct or modify so as to represent reasonable further progress toward attainment of the applicable national ambient air quality standard, taking into account progress already made.

"(2) After January 1, 1979, only a proposed facility where all existing sources owned or controlled by the owner or operator of the proposed facility in the same air quality control region as the proposed facility are in compliance with all emission limitations under an applicable implementation plan under section 110 of this Act shall be eligible for an exception under paragraph (1) of this subsection.

"(b) The provisions of this section shall not be available where a State has not made any appropriate revision in the applicable implementation plan to include the emission limitations established for sources at the proposed facility location under (a)(1)(D) of this section.".

### LIMITATION ON INDIRECT SOURCE REVIEW AUTHORITY

SEC. 120. (a) Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

### "INDIRECT SOURCE REVIEW PROGRAM STUDY

"SEC. 317. The Administrator shall conduct a study to determine if, and under what conditions, indirect source review programs (as defined in section 123(g)) contained in, or which could be contained in, State implementation plans are necessary to, and are likely to be effective to reduce, or prevent or minimize any projected increased in, emissions of any mobile source-related air pollutant or otherwise assist in attaining or maintaining any national primary ambient air quality for such pollutant. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1976, the Administrator shall report to the Congress the results and findings of the study conducted under this section. In carrying out this section, the Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences for an independent study to be conducted by the Academy. In conducting such study, the Administrator shall consult with other appropriate governmental agencies. In making the report under this section, the Administrator shall consider the study and advice of the Academy and of other appropriate governmental agencies. Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out such independent study.".

(b) Section 110(a) of such Act, is amended by adding at the end thereof the following new paragraph:

"(5) Except as may be otherwise provided under paragraph (2)(I) and section 123—

"(A) no applicable implementation plan, nor any amendment or revision thereof, shall be required under any provision of this Act, as a condition of approval of such plan under paragraph (2), to include, and no plan promulgated by the Administrator shall include, any indirect source review program (as defined in section 123(g)), and

"(B) any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any such program included in such plan.

This paragraph shall not prevent the Administrator from approving any such program if it is adopted and submitted by a State as part of an applicable implementation plan.".

(c) Section 110(a)(2) of such Act is amended by striking out the period at the end of section 110(a)(2)(H) and inserting in lieu thereof a semicolon and by adding the following new subparagraph at the end thereof:

"(I) it includes an indirect source review program meeting the requirements of section 123 if the Administrator determines—

"(i) as provided under section 123(a), that such program would be necessary in an air quality control region, or portion thereof, in the State in order to assist in attaining or maintaining a national primary ambient air quality standard, and

"(ii) as provided under section 123(b), that such program is likely to be effective in reducing emissions of a mobile resource-related air pollutant, in preventing or minimizing any projected increase in such emissions, or otherwise assisting in attaining or maintaining any national primary ambient air quality standard for such pollutant; and".

(d) Title I of the Clean Air Act, as amended by sections 111, 117, 118, and 119 of this Act, is further amended by adding at the end thereof the following new section:

### "LIMITATIONS ON INDIRECT SOURCE CONTROLS

"SEC. 123. (a) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan, an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 317 (together with such other information as may be available to the Administrator), that such a program would be necessary to assure attainment of the national primary ambient air quality standards for mobile source-related pollutants by the primary standard attainment date for such pollutant or to assure maintenance of such standards thereafter assuming the following conditions existed—

"(1) Light-duty motor vehicles and engines manufactured during and after model year 1975 had achieved a reduction in emissions of carbon monoxide and hydrocarbons of 90 per centum from the emissions of such pollutants allowable under standards under section 202 applicable to model year 1970, and such vehicles and engines manufactured during and after model year 1976 had achieved a reduction in emissions of oxides of nitrogen of 90 per centum from the emissions of such pollutant allowable under such standards applicable to model year 1971.

"(2) All practicable emission limitations and transportation control measures in the applicable implementation plan had been implemented as provided in such plan.

"(b)(1) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan under section 110(a)(2), an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 317 (together with such other information as may be available to the Administrator), that such program is likely to be effective in such State to reduce emissions of a mobile source-related air pollutant, to prevent or minimize any projected increases in such emissions, or otherwise to assist in attaining or maintaining any national primary ambient air quality standard for any such pollutant—

"(A) in general,

"(B) under any specified set of conditions, or

"(C) in any designated air quality control region, or portion thereof.

"(2) If the Administrator makes the determination in paragraph (1) (B) or (C), then any such regulations may apply only in any air quality control region where the conditions specified in paragraph (1)(B) exist or in any region designated in paragraph (1)(C).

"(c)(1)(A) Within three months after the date required for completion of the study conducted under section 318, the Administrator shall publish proposed regulations requiring adequate State indirect source review programs to be included in appropriate State plans, as a condition of approval of such plans, subject to the limitations of subsections (a) and (b). Not later than three months after proposal of such regulations, the Administrator shall promulgate final regulations with appropriate modifications. Regulations promulgated under this section may be revised from time to time.

"(B) Within nine months after the later of (i) promulgation of final regulations under subparagraph (A), or (ii) determinations made under subsections (a) and (b), each State required to include an indirect source review program in the applicable implementation plan as a condition of approval under section 110(a)(2) shall submit to the Administrator a plan revision containing such a program.

"(C) Within eight months from the date required for submission of a plan revision under subparagraph (B), the Administrator shall approve or disapprove so much of the implementation plan as provides for the implementation of, enforcement of, or variance from, such indirect source review program. The Administrator shall approve such provisions of such plan if he determines that the plan revision meets the requirements of regulations prescribed under this subsection. The Administrator may not disapprove any indirect source review program which he has previously approved unless he determines that the State in a substantial number of instances, has failed to carry out the requirements of such program in accordance with the provisions of this section. No determination of disapproval under the preceding sentence shall take effect for a period of three months following the date of such determination.

"(2) Regulations (or revisions thereof) published or promulgated under this subsection shall specify each State implementation plan with respect to which a plan revision will be required to comply with such regulations at the time such regulations (or revisions) are promulgated.

"(3) No indirect source (other than a parking facility which the Administrator determines will be used predominantly as part of [illegible] park-and-ride portion of a public transportation system which will assist in reducing regional air pollution concentrations) shall commence construction or modification after the date three months after the date required under paragraph (1)(C) for approval or disapproval of a State plan revision submitted under paragraph (1)(B) in any air quality control region for which the State is required to submit such a revision, unless the State's plan revision has been approved by the Administrator and such construction or modification complies with such approved plan.

"(d)(1) Except as provided in paragraph (2), any violation of a term or condition of any indirect source review program contained in an approved State plan (or in a plan promulgated under section 110(c), as permitted under subsection (e)(3)), any violation of a term or condition of any permit or variance under such an indirect source review program, and any violation of subsection (c)(3) of this section shall be treated as a violation of a requirement of an applicable implementation plan for purposes of this Act.

"(2) No person who has received a permit to construct or modify an indirect source from a governmental unit with an approved indirect source review program and who complies with the terms and conditions of such permit shall be deemed to be in violation of an applicable implementation plan under this subsection with respect to such construction or modification and no such permit may be withdrawn or revoked by the Administrator.

"(3) The regulations promulgated under subsection (c) may not require any indirect source which commences construction or modification before the date six months after any revision of an applicable implementation plan required by reason of a revision or amendment of the regulations promulgated under subsection (c) to comply with any requirement of such revised or amended implementation plan.

"(e)(1) Except as provided in paragraph (3) of this subsection, the Administrator shall have no authority to promulgate regulations under section 110(c)(1) relating to an indirect source review program for any air quality control region or any portion thereof located in any State.

"(2) In the event an indirect source review program is required for any air quality control region or part thereof in any State and such State fails to adopt a program which meets the requirements of this section, the State's indirect source review program shall be disapproved by the Administrator.

"(3) Paragraph (1) shall not apply to promulgation, implementation, or enforcement of regulations respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources. Nothing in this section shall be construed to limit the authority of the Administrator to conduct preconstruction or premodification review of a federally assisted highway, airport or other major federally assisted indirect source or federally owned or operated indirect source, which commences construction or modification on or before the date three months after the date required under subsection (c)(1)(C) for approval or disapproval of a State plan revision.

"(f)(1) The regulations promulgated by the Administrator under subsection (c) shall provide that variances may be granted by the Governor of a State with an approved indirect source review program premitting construction (or modification) and operation of an indirect source notwithstanding the requirements of the indirect source review program in any case in which such variance will encourage development of long-term transportation patterns and modes which will—

"(A) improve, in the long term, air quality and protect public health, and

"(B) be energy efficient, or

which will prevent any requirement of the indirect source review program from creating any economic advantage or disadvantage for urban, suburban, or rural areas.

"(2) Except for a variance granted under this section or a plan revision under section 110(a)(3), no variance, extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any indirect source by the State or by the Administrator.

"(3) Any variance granted under this section shall terminate not later than January 1, 1985. Upon termination of any variance under this section, the indirect source to which such variance was granted shall be subject to all requirements and limitations of the applicable implementation plan.

"(4) A variance may be granted under this subsection only if the Governor determines that—

"(A) emissions from vehicles attracted to the indirect source with respect to which such variance is granted will not cause or contribute to air-pollution concentrations in excess of any national primary ambient air quality standard for any mobile source-related pollutant in any part of the air quality control region in which such source is located upon expiration of such variance or thereafter (taking into account all other variances previously granted under this subsection),

"(B) any new indirect source receiving such a variance will be located so as to be (upon expiration of the variance) compatible with, and conveniently and economically served by, public transportation and such location will be compatible with any comprehensive public transportation measures under section 125,

"(C) such indirect source will be designed and constructed so as to minimize emissions of mobile source-related pollutants from vehicles attracted to such source and will use the best practicable traffic flow measures, and

"(D) such indirect source as newly constructed or modified will become compatible with transportation control measures provided in the applicable implementation plan.

No subsequent variance may be granted under this subsection if the Administrator determines, after notice and opportunity for public hearing, that variances have been granted without regard to the requirements of this paragraph in a substantial number of instances. The prohibition contained in the preceding sentence shall be for such period as the Administrator deems necessary to assure compliance with such requirements.

"(g)(1) For purposes of this section the term 'indirect source review program' means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

"(A) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

"(B) preventing maintenance of any such standard after such date.

"(2) Such term shall include measures which—

"(A) require a prior permit for construction (or modification) of any such indirect source and require operation of such source in the manner approved pursuant to such permit; and

"(B) limit the issuance of any such permit to indirect sources which will not have the effects referred to in subparagraphs (A) or (B) of paragraph (1).".

(e) Section 302 of such Act, as amended by section 301 of this Act, is further amended by adding the following new subsections at the end thereof:

"(j) The term 'indirect source' means a facility, building structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes sewage treatment facilities, parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of section 110(c)(2)(D)(ii), including regulation of existing on and off street parking).

"(k) The term 'mobile source-related air pollutant' means any air pollutant which is subject to regulation under section 202, 211 (c)(1)(A), 231, or 235 of this Act.".

### INTERSTATE POLLUTION ABATEMENT

Sec. 121. (a) Section 110(a)(2)(E) of the Clean Air Act (42 U.S.C. 1857c-5) is amended to read as follows:

"(E) it contains provisions (i) prohibiting any stationary source within the State from emitting any air pollutant in amounts which will prevent attainment or maintenance by any other State of any such national primary or secondary ambient air quality standard after the attainment date for such standard or interfere with measures required to be included in the applicable implementation plan for any other State to prevent significant deterioration of air quality, and (ii) insuring compliance with the requirements of section 124;".

(b) Title I of such Act, as amended by this Act, is further amended by adding at the end thereof the following new section:

### "INTERSTATE POLLUTION ABATEMENT

"Sec. 124. (a) Not later than nine months after date of enactment of this section, the Administrator shall promulgate regulations establishing a procedure for abating interstate air pollution in accordance with the requirements of this section.

"(b) Regulations promulgated under subsection (a) shall require each applicable implementation plan—

"(1) to require each major proposed new (or modified source which may significantly contribute to air pollution in any air quality control region outside the State in which such source intends to locate (or make such modification) in obtaining its permit to construct from the State of intended location, as required under section 110, to obtain such permit at least ninety days prior to the date of commencement of construction,

"(2) to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

"(3) to review and identify all major existing stationary sources which may have the impact described in paragraph (1) and to provide notice to all nearby States of the identity of such sources not later than eighteen months after date of enactment of this section.

"(c) Regulations under subsection (a) shall authorize any State or political subdivision to petition the Administrator for a finding that any major source would emit any air pollutant in violation of the prohibition of section 110(a)(2)(E)(i). Within sixty days after receipt of any petition under this subsection, the Administrator shall provide opportunity for a public hearing and shall grant or deny the petition.

"(d) Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of the applicable implementation plan in such State (1) for any major proposed new (or modified) source with respect to which a petition has been granted under subsection (c) to operate more than sixty days after such petition has been granted, or (2) for any major existing source to operate more than six months after such petition has been granted with respect to it, except that the Administrator may permit the continued operation of such source beyond the expiration of such six-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirement contained in section 110(a)(2)(E)(i) as expeditiously as practicable.".

### STRATOSPHERE AND OZONE PROTECTION

SEC. 122. (a) Title I of the Clean Air Act, is amended by adding at the end thereof the following new subtitle:

### "Subtitle B—Stratosphere and Ozone Protection

### "PURPOSES

"SEC. 150. The purposes of this subtitle are (1) to provide for a better understanding of the effects of human actions on the stratosphere, especially the ozone in the stratosphere, (2) to provide for a better understanding of the effects of changes in the stratosphere, especially the ozone in the stratosphere, on the public health and welfare, and (3) to authorize the regulation of activities which may reasonably be anticipated directly or indirectly to affect the ozone in the stratosphere in such a way as to cause or contribute to endangerment of public health or welfare.

### "DEFINITIONS

"SEC. 151. For the purposes of this subtitle—

"(1) the term 'halocarbon' means the chemical pounds $CFCl_3$ and $CF_2Cl_2$ and such other halogenated compounds as the Administrator determines by rule may reasonably be anticipated to contribute to reductions in the concentration of ozone in the stratosphere;

"(2) the term 'stratosphere' means that part of the atmosphere above the tropopause.

### ENVIRONMENTAL PROTECTION AGENCY; ADVANCE REGULATION

"SEC. 152. (a) The Administrator shall conduct a study of the cumulative effect of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere. The study shall include an analysis of the independent effects on the stratosphere especially such ozone in the stratosphere of—

"(1) the release into the ambient air of halocarbons,

"(2) the release into the ambient air of other sources of chlorine,

"(3) the uses of bromine compounds, and

"(4) emissions of aircraft and aircraft propulsion systems employed by operational and experimental aircraft.

The study shall also include such physical, chemical, atmospheric, biomedical, or other research and monitoring as may be necessary to ascertain (A) any direct or indirect effects upon the public health and welfare of changes in the stratosphere, especially ozone in the stratosphere, and (B) the probable causes of changes in the stratosphere, especially the ozone in the stratosphere.

"(b) The Administrator shall undertake research on—

"(1) methods to recover and recycle substances which directly or indirectly affect the stratosphere, especially ozone in the stratosphere,

"(2) methods of preventing the escape of such substances,

"(3) safe substitutes for such substances, and

"(4) other methods to regulate substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere.

"(c)(1) The studies and research conducted under this section may be undertaken with such cooperation and assistance from universities and private industry as may be available. Each department, agency, and instrumentality of the United States having the capability to do so is authorized and encouraged to provide assistance to the Administrator in carrying out the requirements of this section, including (notwithstanding any other provision of law) any services which such department, agency, or instrumentality may have the capability to render or obtain by contract with third parties.

"(2) The Administrator shall encourage the cooperation and assistance of other nations in carrying out the studies and research under this section. The Administrator is authorized to cooperate with and support similar research efforts of other nations.

"(d)(1) The Administrator shall undertake to contract with the National Academy of Sciences to study the state of knowledge and the adequacy of research efforts to understand (A) the effects of all substances, practices, processes, and activities which which may affect the stratosphere, especially ozone in the stratosphere; (B) the health and welfare effects of modifications of the stratosphere, especially ozone in the stratosphere; and (C) methods of control of such substances, practices, processes, and activities including alternatives, costs, feasibility, and timing. The Academy shall make a report of its findings by April 1, 1978.

"(2) The Administrator shall make available to the Academy such information in the Administrator's possession as is needed for the purposes of the study provided for in this subsection.

"(e) The Secretary of Labor shall study and transmit a report to the Administrator and the Congress not later than Januay 1, 1978, with respect to the losses and gains to industry and employment which could result from the elimination of the use of halocarbons in aerosol containers and for other purposes. Such report shall include recommended means of alleviating unemployment or other undesirable economic impact, if any, resulting therefrom.

"(f)(1) The Administrator shall establish and act as Chairman of a Coordinating Committee for the purpose of insuring coordination of the efforts of other Federal agencies carrying out research and studies related to or supportive of the research provided for in subsections (a) and (b) and section 153.

"(2) Members of the Coordinating Committee shall include the appropriate official responsible for the relevant research efforts of each of the following agencies:

"(A) the National Oceanic and Atmospheric Administration,

"(B) the National Aeronautics and Space Administration,

"(C) the Federal Aviation Administration,

"(D) the Department of Agriculture,

"(E) the National Cancer Institute,

"(F) the National Institute of Environmental Health Sciences,

"(G) the National Science Foundation, and the appropriate officials responsible for the relevant research efforts of such other agencies carrying out related efforts as the Chairman shall designate. A representative of the Department of State shall sit on the Coordinating Committee to encourage and facilitate international coordination.

"(3) The Coordinating Committee shall review and comment on plans for, and the execution and results of, pertinent research and studies. For this purpose, the agencies named in or designated under paragraph (2) of this subsection shall make appropriate and timely reports to the Coordinating Committee on plans for and the execution and results of such research and studies.

"(4) The Chairman may request a report from any Federal agency for the purpose of determining if that agency should sit on the Coordinating Committee.

"(g)(1) Not later than July 1, 1978, and biennially thereafter, the Administrator shall report to the appropriate committees of the House and the Senate, the results of the studies and research conducted under this section and the results of related research and studies conducted by other Federal agencies. The Administrator shall include in the report any recommendations for control of substances, practices, processes, and activities which in the judgment of the Administrator may reasonably be anticipated to cause or contribute to an effect in the stratosphere, especially ozone in the stratosphere, which effect may reasonably be anticipated to endanger public health or welfare. In devising these recommendations the Administrator shall take into account the feasibility and costs of achieving such control.

"(2) Prior to the submission on July 1, 1978 of the report under paragraph (1), the Administrator shall submit quarterly interim reports to the Congress describing the progress of the research and studies and, insofar as possible, indicating anticipated results and conclusions. The first such report, due 90 days after the date of the enactment of this subtitle, shall include the plan and schedule for the research and study to be carried out. Subsequent interim reports shall update this plan and schedule and shall describe and explain revisions to and deviations from the plan.

"(3) If, at any time prior to the submission of the report under paragraph (1) on July 1, 1978, in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to cause or contribute to an effect in the stratosphere, especially ozone in the stratosphere, and such effect may reasonably be anticipated to endanger public health or welfare, the Administrator shall promptly promulgate and submit regulations to the Congress respecting the control of any such substance, practice, process, or activity. Such regulations shall take effect as provided in section 155.

"(4) Any reports and recommendations required to be submitted under this subsection which are first submitted to the President, the Office of Management and Budget, or any other department or agency of the United States in proposed form shall be submitted to the Congress in such proposed form as well as in final form.

### "RESEARCH AND MONITORING BY OTHER AGENCIES

"SEC. 153. (a) The Administrator of the National Oceanic and Atmospheric Administration shall establish a continuing program of research and monitoring of the stratosphere for the purpose of early detection of changes in the stratosphere and climatic effects of such changes. Such Administrator shall, on or before January 1, 1978, and biennially thereafter, transmit such report to the Administrator and the Congress on the findings of such research and monitoring. Such report shall contain any appropriate recommendations for legislation or regulation (or both).

"(b) The National Aeronautics and Space Administration shall, pursuant to its authority under title IV of the National Aeronautics and Space Act of 1958, continue programs of research, technology, and monitoring of the stratosphere for the purpose of understanding the physics and chemistry of the stratosphere and for the early detection of potentially harmful changes in the ozone in the stratosphere. Such Administrator shall transmit reports by January 1, 1978, and bienially thereafter to the Administrator and the Congress on the results of the programs authorized in this paragraph, together with any appropriate recommendations for legislation or regulation (or both).

"(c) The Director of the National Science Foundation shall encourage and support ongoing stratospheric research programs and continuing research programs that will increase scientific knowledge of the effects of changes in the ozone layer in the stratosphere upon living organisms and ecosystems. Such Director shall transmit reports by January 1, 1978, and biennially thereafter to the Administrator and the Congress on the results of such programs, together with any appropriate recommendations for legislation or regulation (or both).

"(d) The Secretary of Agriculture shall encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon animals, crops, and other plant life. Such Secretary shall transmit reports by January 1, 1978, and biennially thereafter to the Administrator and the Congress on the results of such programs together with any appropriate recommendations for legislation or regulation (or both).

"(e) The Secretary of Health, Education, and Welfare shall encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon human health. Such Secretary shall transmit reports by January 1, 1978, and biennially thereafter, to the Administrator and the Congress on the results of such programs, together with any appropriate recommendations for legislation or regulation (or both).

"(f) In carrying out subsections (a) through (e) of this section, the agencies involved (1) shall enlist and encourage cooperation and assistance from other Federal agencies, universities, and private industry, and (2) shall solicit the views of the Administrator with regard to plans for the research involved so that any such research will, if regulatory action by the Administrator is indicated, provide the preliminary information base for such action.

### "REGULATIONS

"Sec. 154. (a) Upon submission of report required under section 152(g)(1) not later than July 1, 1978, and after consideration of the research and study under sections 152 and 153 and after consultation with appropriate Federal agencies and scientific entities, the Administrator shall propose regulations for the control of any substance, practice, process, or activity (or any combination thereof) which in the judgment of the Administrator may reasonably be anticipated to cause or contribute to an effect in the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare. Such regulations shall take into account the costs of achieving such control. Not later than three months after proposal of such regulations, the Administrator shall promulgate such regulations in final form. From time to time, and under the same procedures, the Administrator may revise any of the regulations submitted under this subsection.

"(b) For provisions permitting promulgation of regulations on advance of the regulations under this section, see section 152 (g)(3).

### "DISAPPROVAL BY CONGRESS

"Sec. 155. (a) Regulations promulgated under section 154 or section 152(g)(3) which prohibit or restrict the manufacture, sale, import, export, or use of aerosol containers, and any amendment or revision thereof, shall be transmitted to the Congress. A regulation (or amendment or revision) transmitted under this subsection shall take effect at the end of the first period of 90 calendar days of continuous session of Congress after the date on which the regulation is transmitted to it unless, between the date of transmittal and the end of the 90-day period, either House passes a resolution stating in substance that that House does not favor such regulation or amendment or revision.

"(b) For the purpose of subsection (a) of this section—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90-day period.

"(c) Under provisions contained in a regulation (or amendment or revision) if the Administrator determines that no endangerment of the public health or welfare may reasonably be anticipated to result, a provision of the regulation (or amendment or revision) may be effective at a time later than the date on which the regulation (or amendment or revision) would be effective under subsection (a).

### "OTHER PROVISIONS UNAFFECTED

"Sec. 156. Nothing in this subtitle shall be construed to alter or affect the authority of the Administrator under section 303 (relating to emergency powers), under section 231 (relating to aircraft emission standards), or under any other provision of this Act.

### "STATE AND LOCAL AUTHORITY

"Sec. 157. (a) Nothing in this subtitle shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere unless a regulation of such substance, practice, process, or activity is in effect under this subtitle.

"(b)(1) Except as provided in paragraph (2), if a regulation of any substance, practice, process, or activity is in effect under this subtitle in order to prevent or abate any risk to the stratosphere, or ozone in the stratosphere, no State or political subdivision thereof may adopt or attempt to enforce any requirement respecting the control of such substance, practice, process, or activity to prevent or abate such risk.

"(2) A State may adopt and enforce a requirement identical to the requirement of a regulation referred to in paragraph (1) and any State or political subdivision may adopt regulations controlling the use of halocarbons as propellants in aerosol spray containers.

### "PENALTIES

"Sec. 158. (a) It shall be unlawful for any person to violate any provision of regulations pursuant to this subtitle.

"(b)(1) The Administrator shall commence a civil action in the United States district court in the judicial district in which the person alleged to be engaged in conduct prohibited by regulations under this subtitle is located or conducts business, for appropriate relief, including a temporary restraining order or a preliminary or permanent injunction to restrain any such conduct.

"(2) Any person engaged in conduct prohibited by regulations under this subtitle, other than use of aerosol containers by an ultimate consumer, shall be subject to a civil penalty of not more than $10,000 per day of violation.".

(b) Title I of such Act is amended by inserting immediately before section 101 the following:

"Subtitle A—Air Quality and Emission Limitation".

### PREVENTION OF SIGNIFICANT DETERIORATION

Sec. 123. (a) Title I of the Clean Air Act, as amended by section 122 of this Act, is further amended by adding at the end thereof the following new subtitle:

## "Subtitle C—Prevention of Significant Deterioration

### "PREVENTION OF SIGNIFICANT DETERIORATION

"Sec. 160. (a) The purposes of this subtitle are as follows:

"(1) to protect public health and welfare from any actual or potential adverse effect which in the Administrator's judgment may reasonably be anticipated to occur from air pollution (or from exposures to pollutants in other media, which pollutants originate as emissions to the ambient air), notwithstanding attainment and maintenance of all national ambient air quality standards;

"(2) to preserve, protect, and enhance the air quality in national parks, national wilderness areas, national monuments, national seashores, and other areas of special national or regional natural, recreational, scenic, or historic value;

"(3) to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources;

"(4) to assure that emissions from any source in any State will not interfere with any portion of the applicable implementation plan to prevent significant deterioration of air quality for any other State; and

"(5) to assure that any decision to permit increased air pollution in any area to which this section applies is made only after careful evaluation of all the consequences of such a decision and after adequate procedural opportunities for informed public participation in the decisionmaking process.

"(b)(1) In accordance with the policy of section 101(b)(1), each applicable implementation plan shall contain emission limitations or such other measures as may be necessary, as determined under regulations promulgated under this section, to prevent significant deterioration of air quality in each region or portion thereof in the State identified pursuant to section 107(d)(1)(D) or (E).

"(2) Upon the enactment of this subtitle, all international parks, and each national wilderness area, and national memorial park which exceeds five thousand acres in size, and each national park which exceeds six thousand acres in size and which is in existence on the date of enactment of the Clean Air Act Amendments of 1976, shall be Class I areas.

"(3) All areas in such State identified pursuant to section 107(d)(1)(D) which are not established as Class I under paragraph (1) shall be Class II areas.

"(4) The State may designate such areas as it deems appropriate as Class I.

"(5) The Federal Land Manager shall review national monuments, primitive areas, and national preserves, and shall recommend any appropriate areas for Class I designation where air quality related values are important attributes of the area. The Federal Land Manager shall report such recommendations, with supporting analysis, to the Congress and the affected States within one year after enactment of this section. The Federal Land Manager shall consult with the States in determining these recommendations.

"(c)(1) In the case of sulfur oxides and particulates, each applicable implementation plan shall contain measures assuring that maximum allowable increases over baseline concentrations of, and maximum allowable concentrations of, such pollutant shall not be exceeded. In the case of any maximum allowable increase (except an allowable increase specified under the last sentence of section 106(e)(2)(C)(ii)(III)) for a pollutant based on concentrations permitted under national ambient air quality standards for any period other than an annual period, such regulations shall permit such maximum allowable increase to be exceeded during one such period per year.

"(2)(A) For any class I area, the maximum allowable increase of sulphur dioxide and particulate matter over the baseline concentration of such pollutants shall not exceed the following amounts:

| "Pollutant | (In micrograms per cubic meter) |
|---|---|
| Particulate matter: | |
| Annual geometric mean | 5 |
| Twenty-four-hour maximum | 10 |
| Sulfur dioxide: | |
| Annual arithmetic mean | 2 |
| Twenty-four-hour maximum | 5 |
| Three-hour maximum | 25 |

"(B) For any class II area, the maximum allowable increase in concentrations of sulfur dioxide and particulate matter over the baseline concentration of such pollutants shall not exceed the following amounts:

| "Pollutant | (In micrograms per cubic meter) |
|---|---|
| Particulate matter: | |
| Annual geometric mean | 19 |
| Twenty-four-hour maximum | 37 |
| Sulfur dioxide: | |
| Annual arithmetic mean | 20 |
| Twenty-four-hour maximum | 91 |
| Three-hour maximum | 512 |

"(C) The maximum allowable concentration of any air pollutant in any area to which this subtitle applies shall not exceed a concentration for such pollutant for each period of exposure equal to—

"(i) the concentration permitted under the national secondary ambient air quality standard, or

"(ii) 90 percent of the concentration permitted under the national primary ambient air quality standard,

whichever concentration is lowest for such pollutant for such period of exposure.

"(D) For the purpose of this section, the term 'baseline concentration' means, with respect to a pollutant, the ambient concentration levels which exist at the time of the first application for a permit in an area under this subtitle, based on air quality data available in the Environmental Protection Agency or an air pollution control agency and on such monitoring data as the permit applicant is required to submit. Such ambient concentration levels shall take into account all projected emissions in, or which may affect, such area from any major emitting facility on which construction commenced prior to January 6, 1975, but which has not begun operation by the data of the baseline air quality concentration determination. Emissions of sulfur oxides and particulate matter from any major emitting facility on which construction commenced after January 6, 1975, shall not be included in the baseline and shall be counted against the maximum allowable increases in pollutant concentrations established in this subtitle.

"(d) (1) Any area other than—

"(A) an area established as class I under subsection (b) (2),

"(B) a national monument, a national primitive area, a national preserve, a national recreation area, a national wild and scenic river, a national wildlife refuge, a national lakeshore and seashore, which exceeds 10,000 acres in size, or

"(C) a national park or national wilderness area established after the date of enactment of this Act which exceeds 10,000 acres in size may be redesignated by the State as class III if—

"(D) such designation has been specifically approved by the Governor of the State, after consultation with the appropriate Committees of the legislature if it is in session or with the leadership of the legislature if it is not in session (unless State law provides that such designation or redesignation must be specifically approved by State legislation) and if general purpose units of local government representing a majority of the residents of the area so designated or redesignated enact legislation (including for such units of local government resolutions where appropriate) concurring in the State's designation or redesignation;

"(E) such designation or redesignation will not cause, or contribute to, concentrations of any air pollutant which exceed any maximum allowable increase or maximum allowable concentration permitted under the classification of any other area; and

"(F) such designation or redesignation otherwise meets the requirements of this subtitle.

"(2) (A) (i) Prior to designation or redesignation of any area under this subtitle, notice shall be afforded and public hearings shall be conducted in areas proposed to be designated or redesignated and in areas which may be affected by the proposed designation or redesignation. Prior to any such public hearing, a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed designation or redesignation shall be prepared and made available for public inspection and prior to any such designation or redesignation, the description and analysis of such effects shall be reviewed and examined by the designating authorities.

"(ii) Prior to the hearing conducted respecting the designation or redesignation of any area under this subsection, if such area includes any Federal lands, the State shall afford the appropriate Federal agency (or agencies) having authority over such lands adequate opportunity to submit an analysis of the proposed designation or redesignation and its recommendations with respect to such designation or redesignation.
regulations not later than six months after

"(iii) The Administrator shall promulgate date of enactment of this subtitle to assure, insofar as practicable, that prior to any public hearing on designation or redesignation of any area, there shall be available for public inspection any specific plans for any new or modified major emitting facility which may be permitted to be constructed and operated only if the area in question is designated or redesignated as class III.

"(B) The Administrator may disapprove the designation or redesignation of any area only if he finds, after notice and opportunity for public hearing, that such designation or redesignation does not meet the procedural requirements of this section. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the designation or redesignation which was disapproved.

"(C) For each class II area, the maximum allowable increase in concentrations of sulfur dioxide and particulate matter over the baseline concentration of such pollutants shall not exceed the following amounts:

| "Pollutant | (In micrograms per cubic meter) |
|---|---|
| Particulate matter: | |
| Annual geometric mean | 37 |
| Twenty-four-hour maximum | 75 |
| Sulfur dioxide: | |
| Annual arithmetic mean | 40 |
| Twenty-four-hour maximum | 182 |
| Three-hour maximum | 700 |

"(e) (1) (A) No major emitting facility on which construction is commenced after June 1, 1975, may be constructed in any area designated under this subsection unless—

"(i) a permit has been issued for such proposed facility in accordance with this section, setting forth emission limitations for such facility which conform to the requirements of this subsection,

"(ii) the proposed permit has been subject to a review in accordance with this section, the required analysis has been conducted in accordance with regulations promulgated by the Administrator, and a public hearing has been held with opportunity for interested persons including representatives of the Administrator to appear and submit written or oral presentations on the air quality impact of such source, alternatives thereto, control technology requirements, and other appropriate consideration;

"(iii) unless the owner or operator of such facility demonstrates that emissions from construction or operation of such facility will not cause, or contribute to, air pollution in excess of any (I) maximum allowable increase or maximum allowable concentration for any pollutant in any area to which this section applies more than one time per year, (II) national ambient air quality standard in any air quality control region or (III) any other applicable emission standard or standard of performance under this Act;

"(iv) the proposed facility is subject to the best available control technology for each pollutant subject to regulation under this Act emitted from, or which results from, such facility;

"(v) the provisions of subparagraph (C) with respect to protection of Class I areas have been complied with for such facility;

"(vi) there has been an analysis of any air quality impacts projected for the area as a result of growth associated with such facility;

"(vii) the person who owns or operates or proposes to own or operate, a major emitting facility for which a permit is required under this subtitle agrees to conduct such monitoring as may be necessary to determine the effect which emissions from any such facility may have, or is having, on air quality in any area which may be affected by emissions from such source; and

"(viii) in the case of a source which proposes to construct in a Class III area, emissions from which would cause or contribute to exceeding the maximum allowable increments applicable in a Class II area and where no standard under section 111 of this Act has been promulgated subsequent to enactment of the Clean Air Act Amendments of 1973, for such source category, the Administrator has approved the determination of best available technology as set forth in the permit.

"(B) Any completed permit application under section 110 for a major emitting facility in any area to which this section applies shall be granted or denied not later than one year after the date of filing of such completed application.

"(C) (i) Each State shall transmit to the Administrator a copy of each permit application relating to a major emitting facility received by such State and provide notice to the Administrator of every action related to the consideration of such permit.

"(ii) (I) The Administrator shall provide notice of the permit application to the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within a class I area which may be affected by emissions from the proposed facility.

"(II) The Federal Land Manager and the Federal official charged with direct responsibility for management of such lands shall have an affirmative responsibility to protect the air quality related values (including visibility) of any such lands within a class I area and to consider, in consultation with the Administrator, whether a proposed major emitting facility will have an adverse impact on such values.

"(III) In any case where the Federal official charged with direct responsibility for management of any lands within a class I area or the Federal Land Manager of such lands, or the Administrator, or the Governor of an adjacent State containing such a class I area files a notice alleging that emissions from a proposed major emitting facility may cause or contribute to a change in the air quality in such area and identifying the potential adverse impact of such change, a permit shall not be issued unless the owner or operator of such facility demonstrates that emissions of particulate matter and sulfur dioxide will not cause or contribute to concentrations which exceed the maximum allowable increases for a class I area under subsection (c): *Provided*, That (aa) in any case where the Federal Land Manager demonstrates to the satisfaction of the State that the emissions from such facility will have an adverse impact on the air quality-related values (including visibility) of such lands, notwithstanding the fact that the change in air quality resulting from emissions from such facility will not cause or contribute to concentrations which exceed the maximum allowable increases for a class I area under subsection (c), a permit shall not be issued, and (bb) in any case where the owner or operator of such facility demonstrates to the satisfaction of the Federal Land Manager, and the Federal Land Manager so certifies, that the emissions from such facility will have no adverse impact on the air quality related values of such lands (including visibility), notwithstanding the fact that the change in air quality resulting from emissions from such facility will cause or contribute to concentrations which exceed the maximum allowable increases for class I areas, the State may issue a permit. In the case of a permit issued pursuant to (bb), such facility shall comply with such emission limitations under such permit as may be necessary to assure that emissions of sulfur oxides and particulates from such sources together with all other sources, will not exceed the following maximum allowable increases over the baseline concentration for such pollutants:

| "Pollutant | (In micrograms per cubic meter) |
|---|---|
| Particulate matter: | |
| Annual geometric mean | 19 |
| Twenty-four-hour maximum | 37 |
| Sulfur dioxide: | |
| Annual arithmetic mean | 20 |
| Twenty-four-hour maximum | 91 |
| Three-hour maximum | 325 |

"(D) (i) The review provided for in subparagraph (A) of paragraph (2) shall be preceded by an analysis in accordance with regulations of the Administrator, promulgated under this subsection, which may be conducted by the State (or any general purpose unit of local government) or by the major emitting facility applying for such permit, of the ambient air quality at the proposed site and in areas which may be affected by emissions from such facility for each pollutant subject to regulation under this Act which will be emitted from such facility.

"(ii) Effective one year after the date of enactment of this subtitle, the analysis required by this subsection shall include continuous air quality monitoring data gathered for purposes of determining whether emissions from such facility will exceed the maximum allowable increases or the maximum allowable concentration permitted under this subtitle. Such data shall be gathered over a period of one calendar year preceding the date of application for a permit under this subtitle unless the State, in accordance with regulations promulgated by the Administrator, determines that a complete and adequate analysis for such purposes may be accomplished in a shorter period. The results of such analysis shall be available at the time of the public hearing on the application for such permit.

"(iii) The Administrator shall within six months after the date of enactment of this subtitle promulgate regulations respecting the analysis required under this section which regulation—

"(I) shall not require the use of any automatic or uniform buffer zone or zones,

"(II) shall require an analysis of the ambient air quality, climate and meteorology, terrain, soils and vegetation, and visibility at the site of the proposed major emitting facility and in the area potentially affected by the emissions from such facility for each pollutant regulated under this Act which will be emitted from, or which results from the construction or operation of, such facility, the size and nature of the proposed facility, the degree of continuous emission reduction which could be achieved by such facility, and such other factors as may be relevant in determining the effect of emissions from a proposed facility on any air quality control region,

"(III) shall require the results of such analysis shall be available at the time of the public hearing on the application for such permit, and

"(IV) shall specify with reasonable particularity each air quality model or models to be used under specified sets of conditions for purposes of this subtitle.

Any model or models designated under such regulations may be adjusted upon a determination, after notice and opportunity for public hearing, by the Administrator that such adjustment is necessary to take into account unique terrain or meterological characteristics of an area potentially affected by emissions from a source applying for a permit required under this paragraph.

"(f) (1) In the case of any State which has a plan approved by the Administrator for purposes of carrying out this subtitle, the Governor of such State may, after notice and opportunity for public hearing, issue orders or promulgate rules providing that for purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account—

"(A) concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of an order which is in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 over the emissions from such sources before the effective date of such order,

"(B) the concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from using natural gas by reason of a natural gas curtailment pursuant to a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan, and

"(C) concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities.

"(2) No action taken with respect to a source under paragraph (1) (A) or (1) (B) shall apply more than five years after the effective date of the order referred to in paragraph (1) (A) or the plan referred to in paragraph (1) (B), whichever is applicable. If both such order and plan are applicable, no such action shall apply more than five years after the later of such effective dates.

"(3) No action under this subsection shall take effect unless the Governor submits the order or rule providing for such exclusion to the Administrator and the Administrator determines that such order or rule is in compliance with the provisions of this subsection.

"(g) (1) For the purpose of this subtitle, the term 'major emitting facility' means any of the following stationary sources of air pollutants which emit or have the potential capacity to emit, one hundred tons per year or more of any air pollutant fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production facilities, chemical process plants, fossil-fuel boilers of more than 250 million British thermal units per hour heat input, petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels, taconite ore processing facilities, glass fiber processing plants, charcoal production facilities. Such term also includes any other source with the design capacity to emit 250 tons per year or more of any air pollutant. This term shall not include new or modified facilities which are nonprofit health or education institutions which have been exempted by the State.

"(2) For the purpose of this title, the terms 'commencement of construction' or 'commenced' as applied to construction, in the case of a major emitting facility means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has (A) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (B) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time: *Provided*, That in the case of a facility on which construction was commenced in accordance with this definition after June 1, 1975, and prior to the enactment of the Clean Air Act Amendments of 1976, the review and permitting of such facility shall be in accordance with the regulations for the prevention of significant deterioration in effect prior to the enactment of the Clean Air Act Amendments of 1976.

"(3) For purposes of this title, the term 'Federal Land Manager' means the Secretary of the department with authority over any lands of the United States.

"(4) For purposes of this title, the term 'best available control technology' means an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment, for control of each such pollutant. In no event shall application of 'best available control technology' result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 or 112 of this Act;

"(h) (1) In the case of the pollutants hydrocarbons, carbon monoxide, photochemical oxidants, and nitrogen oxides, the Administrator shall conduct a study and not later than two years after the date of enactment of this subtitle, promulgate regulations to prevent the significant deterioration of air quality which would result from the emissions of such pollutants. In the case of pollutants for which national ambient air quality standards are promulgated after the date of the enactment of this subtitle, he shall promulgate such regulations on the date of promulgation of such standards.

"(2) Regulations referred to in paragraph (1) shall become effective one year after the date of promulgation at which time revision of the State plan shall begin. Within 21 months after such date of promulgation such plan revision shall be submitted to the Administrator who shall approve or disapprove the plan within 25 months after such date of promulgation in the same manner as required under section 110.

"(3) Such regulations shall provide specific numerical measures against which permit applications may be evaluated, a framework for stimulating improved control technology, protection of air quality values, and fulfill the goals and purposes set forth in section 101 and this section.

"(4) The regulations of the Administrator under paragraph (1) of this subsection shall provide specific measures at least as effective as the increments established in subsection (a) of this section to fulfill such goals and purposes, and may contain air quality increments, emission density requirements, or other measures.

"(i) (1) The Administrator shall, and a Governor may, take such measures under sections 113 or 304 of this Act, including issuance of an order, or seeking injunctive relief, as necessary to prevent the construction of a major emitting facility which does not conform to the requirements of this subtitle, or which is proposed to be constructed in any area included in the list promulgated pursuant to paragraph (1) (D) of subsection (d) of section 107 of this Act and which is not subject to an implementation plan which meets the requirements of this subtitle.

"(3) Notwithstanding the maximum allowable concentrations permitted under subsection (c) (2) (C), in the case of any area where such concentrations are exceeded on the basis of plant capacity in existence on the date of the enactment of this section, no plan shall be required, as a condition for approval by the Administrator under this section, to reduce pollution concentrations in such area to such maximum allowable concentrations.

"(j) (1) Until such time as an applicable implementation plan is in effect for any area, which plan meets the requirements of this section to prevent significant deterioration of air quality with respect to any air pollutant, applicable regulations under this Act prior to enactment of this section shall remain in effect to prevent significant deterioration of air quality in any such area for any such pollutant, except as otherwise provided in paragraph (2) of this subsection.

"(2) If any regulation in effect prior to enactment of this section to prevent significant deterioration of air quality would be inconsistent with the requirements of subsections (c) (2), (d) (2) (C), (e) (2) (C) (ii) (III) or (b) (2), then such regulations shall be deemed amended so as to conform with such requirements.".

(b) Within one year from the date of enactment of this Act, the Administrator shall report to the Congress on the consequences of that portion of the definition of "major emitting facility" under the amendment made by this section which applies to facilities with the design capacity to emit 250 tons per year or more. Such study shall examine the type of facilities covered, the air quality benefits of including such facilities, and the administrative aspects of regulating such facilities.

(c) (1) Section 110(a) (2) of such Act, as amended by section 120 of this Act, is further amended by inserting the following new subparagraph at the end thereof:

"(J) it complies with the requirements of subtitle C of title I (relating to prevention of significant deterioration of air quality).".

(2) Section 110(d) of such Act is amended by striking out "implements" and all that follows down through the period at the end thereof and inserting in lieu thereof "implements the requirements of this section.".

(d) Title III of such Act, as amended by section 120 of this Act, is further amended by adding the following new section at the end thereof:

### "STANDARDIZED AIR QUALITY MODELING

"SEC. 318. (a) Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1976, and at least every three years thereafter, the Administrator shall conduct a conference on air quality modeling. In conducting such conference, special attention shall be given to appropriate modeling necessary for carrying out subtitle C of title I (relating to prevention of significant deterioration of air quality).

"(b) The conference conducted under this section shall provide for participation by the National Academy of Sciences, representatives of State and local air pollution control agencies, and appropriate Federal agencies, including the National Science Foundation, the National Oceanic and Atmospheric Administration, and the National Bureau of Standards.

"(c) Interested persons shall be permitted to submit written comments and a verbatim transcript of the conference proceedings shall be maintained.

"(d) The comments submitted and the transcript maintained pursuant to subsection (c) shall be included in the docket required to be established for purposes of promulgating or revising any regulation relating to air quality modeling under subtitle C of title I."

(e) Not later than one year after the date of enactment of this Act, the Administrator shall publish a guidance document to assist the States in carrying out their functions under subtitle C of title I of the Clean Air Act (relating to prevention of significant deterioration of air quality) with respect to pollutants, other than sulfur oxides and particulates, for which national ambient air quality standards are promulgated. Such guidance document shall include recommended strategies for controlling photochemical oxidants on a regional or multistate basis for the purpose of implementing section 160 and section 110 of such Act.

(f) Not later than two years after the date of enactment of this Act, the Administrator shall complete a study and report to the Congress on the progress made in carrying out subtitle C of title I of the Clean Air Act (relating to significant deterioration of air quality) and the problems associated with carrying out such section, including recommendations for legislative changes necessary to implement strategies for controlling photochemical oxidants on a regional or multistate basis.

### TRANSPORTATION CONTROL EXTENSIONS

SEC. 124. (a) Title I of the Clean Air Act, as amended by sections 111, 117, 118, 119, 120, and 121 of this Act, is further amended by adding the following new section at the end thereof:

### "TRANSPORTATION CONTROL EXTENSIONS

"SEC. 125. (a) Upon application by the Governor of a State on or after June 1, 1976, the Administrator may, solely for the purposes of transportation control measures, extend for not more than five years the deadline for attainment of national primary ambient air quality standards where such transportation control measures are necessary for the attainment of such standards and where the implementation of such control measures by the date established in existing implementation plans would have serious adverse social or economic effects.

"(b) The Administrator may consider extension applications for only those air quality control regions in which the State has—

"(1) implemented or will have begun implementing by June 1, 1977. (A) the requirements of the applicable implementation plan with respect to stationary source emissions of mobile source-related pollutants, and (B) implemented or will have begun implementing by June 1, 1977, all reasonably available measures of the applicable transportation control plan which do not have serious adverse social or economic effects; and

"(2) completed, or agreed to complete by December 31, 1978, a detailed planning study that evidences public and local government involvement in accordance with subsection (h) and includes (A) examination of alternative measures and combinations of measures to attain and maintain the standards after June 1, 1977, (B) a description of projects to be undertaken together with timetables and resource requirements, and (C) identification and analysis of social, economic, and environmental effects including public health and energy conservation effects of such measures and projects.

"(c) Each extension application shall be accompanied by adequate documentation of compliance with the requirements of subsection (b), and shall include a description of the process for the development of an implementation plan for the extension period requested.

"(d) The transportation control plan required under this section shall be adopted and submitted by the State no later than December 31, 1978, and such transportation control plan shall, at a minimum:

"(1) identify the remaining emission reductions necessary for attainment of the national primary ambient air quality standards and the additional reasonably available measures to be implemented to accomplish these reductions;

"(2) provide for the implementation of all reasonably available control measures as expeditiously as practicable;

"(3) identify and commit the financial and manpower resources needed to carry out the plan;

"(4) include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable document, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan; and

"(5) demonstrate (A) attainment of the national primary ambient air quality standards as expeditiously as practicable, but no later than May 31, 1982, or (B) that such attainment is not possible, within the extension period prior to May 31, 1982, despite implementation of all reasonably available control measures.

"(e) (1) Within one hundred and twenty days following the submission of an application and all supporting materials, and after providing notice and opportunity for public hearing, the Administrator shall grant an extension under this section, unless he determines that the requirements of this section have not been met.

"(2) If the Administrator determines that the requirements of this subsection have not been met, including findings relating to the impacts of the transportation control measures upon the social, economic, energy conservation, and environmental welfare of the air quality control region, he shall notify the Governor of deficiencies in the application, including his judgment as to acceptable dates for implementing measures included in any applicable plan and as to the appropriate duration of an extension. The notification shall also specify a date for the submission of a revised application.

"(f) Where the Administrator grants an extension based on an application meeting the requirements of paragraph (5)(B) of subsection (d), the Governor of the State may, on or after June 1, 1981, apply for a further extension in accordance with and subject to the requirements of this section. No extension under this subsection or other portion of this Act may extend beyond May 31, 1987.

"(g)(1) Where the Administrator denies an extension application or where the Governor of a State in which the national primary ambient air quality standards are not being met does not submit an application or revised application under this section and a revised plan, the Administrator shall, after consultation with appropriate State and local elected officials and after opportunity for public hearing in the affected State if no such hearing has been previously held, propose and promulgate a transportation control plan (or portion thereof) meeting the requirements of this section. In proposing and promulgating such plan, the Administrator shall comply with the time requirements and schedules of this section. The United States Court of Appeals for the appropriate circuit may grant a stay of any provision of such transportation control plan upon application by a State.

"(2) The Administrator may delegate the implementation or enforcement of any portion of a promulgated plan to one or more general purpose local governments or a State.

"(h)(1) The transportation control plan required by subsection (b)(2) shall be prepared by an organization of elected officials of local governments designated by agreement of the local governments in an affected area, and recognized by the State for this purpose. Where such an organization has not been designated by agreement within six months after the enactment of the Clean Air Act Amendments of 1976, the Governor (or in the case of an interstate area, Governors), after consultation with elected officials of local governments, shall designate an organization of elected officials of local governments in the affected area to prepare such plan. Where feasible, such organization shall be the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, or the organization responsible for the air quality maintenance planning process under regulations implementing this section, or the organization with both responsibilities.

"(2) The preparation of the plan shall be coordinated with the continuing, cooperative, and comprehensive transportation planning process required under section 134 of title 23, United States Code, and the air quality maintenance planning process required under this section, and such planning processes shall take into account the requirements of this subsection.

"(i)(1) The Administrator shall make grants to any organization of local elected officials with transportation for air quality maintenance planning responsibilities recognized by the State under subsection (h) for payment of the reasonable costs of developing an air quality transportation control plan under this section.

"(2) The amount granted to any organization under paragraph (1) of this subsection shall be 100 per centum of any additional costs of developing an air quality transportation control plan under this section for the first two fiscal years following receipt of the grant under this subsection, and shall supplement any funds available under Federal law to such organization for transportation or air quality maintenance planning. Grants under this paragraph shall not be used for construction.

"(j) Any requirement or measure under a transportation control plan approved or promulgated under this section shall be deemed a requirement of an applicable implementation plan for the purposes of this Act.

"(k)(1) No department, agency, or instrumentality of the Federal Government shall (A) engage in, (B) support in any way or provide financial assistance for, (C) license or permit, or (D) approve, any activity which does not conform to a plan after it has been approved or promulgated under this section. No metropolitan planning organization conducting a process referred to under subsection (h)(2), shall give its approval to any project, program, or plan which does not conform to a plan approved or promulgated under this section. The assurance of conformity to such a plan shall be an affirmative responsibility of the head of such department, agency, or instrumentality.

"(2) Each department, agency, or instrumentality of the Federal Government having authority to conduct or support any program with air-quality related transportation consequences shall give priority in the exercise of such authority, consistent with statutory requirements for allocation among States or other jurisdictions, to the implementation of those portions of plans prepared under this section to achieve and maintain the national primary ambient air quality standard. This paragraph extends to, but is not limited to, authority exercised under the Urban Mass Transportation Act, as amended, title 23 of the United States Code, and the Housing and Urban Development Act, as amended.

"(l) For the purposes of this section, the term 'transportation control measure' shall not include any measure applicable to any indirect source (as defined in section 124).".

(b) Section 110 of the Clean Air Act, as amended by subsection (a) of this section, is amended by adding a new subsection as follows:

"(g) In carrying out the requirements of subsections (a)(2)(B) (i) and (ii) of this section, subtitle C, section 125, subsections (d) of section 113 and section 122, the State shall provide a satisfatcory process of consultation with general purpose local governments and designated organizations of elected officials of local governments, in accordance with regulations promulgated by the Administrator to assure adequate consultation. Such regulations shall be promulgated after notice and opportunity for public hearing and not later than four months after the date of enactment of the Clean Air Amendments of 1976. The Administrator may disapprove any portion of a plan relating to any measure described in the first sentence of this subsection or to the consultation process required under this subsection if he determines that such plan does not meet the requirements of this subsection. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for judicial review of such action on the basis of a violation of the requirements of this subsection.".

## TITLE II—AMENDMENTS PRIMARILY RELATING TO TITLE II OF THE CLEAN AIR ACT

### LIGHT-DUTY MOTOR VEHICLES EMISSIONS

SEC. 201. (a) Subparagraph (A) of section 202(b)(1) of the Clean Air Act is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1978 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbon from light-duty vehicles and engines manufactured during or after model year 1979 shall contain standards which require a reduction of at least 90 per centum for emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970.".

(b) Subparagraph (B) of such section 202(b)(1) of such Act is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during or after model year 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.0 grams per vehicle mile.".

(c) Section 202(b) of such Act is amended by adding a new paragraph (6) as follows:

"(6)(A) The Congress hereby declares and establishes as a research objective, the development of propulsion systems and emission control technology to achieve standards which represent a reduction of at least 90 per centum from the average emissions of oxides of nitrogen actually measured from light duty motor vehicles manufactured in model year 1971 not subject to any Federal or State emission standard for oxides of nitrogen. The Administrator shall, by regulations promulgated within one hundred and eighty days after enactment of the Clean Air Amendments of 1976, require each manufacturer whose sales represent at least 0.5 per centum of light duty motor vehicle sales in the United States, to build and, on a regular basis, demonstrate the operation of light duty motor vehicles that meet this research objective, in addition to any other applicable standards or requirements for other pollutants under this Act. Such demonstration vehicles shall be submitted to the Administrator no later than model year 1978 and in each model year thereafter. Such demonstration shall, in accordance with applicable regulations, to the greatest extent possible, (A) be designed to encourage the development of new powerplant and emission control technologies that are fuel efficient, (B) assure that the demonstration vehicles are or could reasonably be expected to be within the productive capability of the manufacturers, and (C) assure the utilization of optimum engine, fuel, and emission control systems.".

"(B) Within 6 months following the enactment of this paragraph, each manufacturer shall submit to the Administrator a plan, which is reasonable for that manufacturer to meet the objective specified in subparagraph (A) as expeditiously as practicable. The Administrator shall review such plan and, within 6 months after its submission, and after notice and opportunity for public hearing, approve or disapprove the plan. If such plan is disapproved the Administrator may specify a reasonable and feasible plan for such manufacturer. Such plan shall include commitment of such resources as the Administrator determines to be reasonable for such manufacturer to undertake, or assist in the conduct of, research on and development of, the means of reaching such objective. A violation of any such plan shall be treated as a violation of section 203 (a) (1) for purposes of this title.".

### ASSURANCE OF PROTECTION OF PUBLIC HEALTH AND SAFETY

SEC. 202. (a) Section 202(a) of the Clean Air Act is amended by inserting "paragraph (1) of" before "this subsection" in paragraph (2) thereof and by adding a new paragraph at the end thereof:

(3) (A) Effective with respect to vehicles and engines manufactured after model year 1977, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with standards prescribed under this subsection if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

"(B) In determining whether an unreasonable risk exists under subparagraph (A), the Administrator shall consider, among other factors, (i) whether and to what extent the use of any device, system, or element of design causes, increases, reduces, or eliminates emissions of any unregulated pollutants; (ii) available methods for reducing or eleminating any risk to public health, welfare, or safety which may be associated with the use of such device, system, or element of design, and (iii) the availability of other devices, systems, or elements of design which may be used to conform to standards prescribed under this subsection without causing or contributing to such unreasonable risk. The Administrator shall include in the consideration required by this paragraph all relevant information developed pursuant to section 214.".

(b) Section 206(a) of such Act is amended by adding at the end thereof the following:

"(3) (A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 202(a) (4).

"(B) The Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as is necessary to carry out subparagraph (A) of this paragraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system, device, or element of design if such pollutant was not emitted, or was emitted in significantly lesser amounts, from the vehicle or engine without use of the system, device, or element of design.".

(c) (1) Section 206(b) (2) (A) (i) of such Act is amended by inserting "and with the requirements of section 202(a) (4)" after "conformity was issued".

(2) Section 206(b) (2) (A) of such Act is amended by inserting "and requirements" after "such regulations" in each place it appears.

### TEST PROCEDURES FOR MEASURING EVAPORATIVE EMISSIONS

SEC. 203. Section 202(b) (1) of the Clean Air Act is amended by adding a new subparagraph (C) as follows:

"(C) Effective with respect to vehicles and engines manufactured during or after model year 1978 (or in the case of heavy-duty vehicles or engines, such later model year as the Administrator determines is the earliest feasible model year), the test procedure promulgated under paragraph (2) for measurement of evaporative emissions of hydrocarbons shall require that such emissions be measured from the vehicle or engine as a whole. Regulations to carry out this subparagraph shall be promulgated not later than 270 days after date of enactment of this subparagraph.".

### EMISSION STANDARDS FOR HEAVY-DUTY VEHICLES OR ENGINES AND CERTAIN OTHER VEHICLES OR ENGINES

SEC. 204. (a) Section 202(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(4) (A) (i) The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, particulates, and oxides of nitrogen from classes or categories of heavy-duty vehicles or engines manufactured during and after model year 1979. Such regulations applicable to such pollutants from such classes or categories of vehicles or engines manufactured during model years 1979 through 1982 (and thereafter in the case of emissions of particulate matter) shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

"(ii) Unless a different standard is temporarily promulgated as provided in subparagraph (B) or unless the standard is changed as provided in subparagraph (E), regulations under paragraph (1) of this subsection applicable to emissions of pollutants from vehicles or engines manufactured during and after model year 1983 shall contain standards which require a reduction of at least 75 per centum in the case of oxides of nitrogen and a reduction of at least 90 per centum in the case of carbon monoxide and hydrocarbons from the average of the actually measured emissions from heavy-duty gasoline-fueled vehicles or engines, or any class or category thereof, manufactured during the baseline model year.

"(iii) In establishing classes or categories of vehicles or engines for purposes of regulations under this subsection, the Administrator may base such classes or categories on gross vehicle weight, horsepower, or such other factors as may be appropriate.

"(iv) For the purpose of this paragraph, the term 'baseline model year' means, with respect to any pollutant emitted from any vehicle or engine, or class or category thereof, the model year immediately preceding the model year in which Federal standards applicable to such vehicle or engine, or class or category thereof, first applied with respect to such pollutant.

"(B) During the period of June 1, through December 31, 1978, and during each period of June 1 through December 31 of each third year after 1978, the Administrator may, after notice and opportunity for a public hearing promulgate regulations revising any standard prescribed as provided in subparagraph (A) (ii) for any class or category of heavy-duty vehicles or engines. Such standard shall apply only for the period of three model years beginning four model years after the model year in which such revised standard is promulgated. In revising any standard under this subparagraph for any such three model year period, the Administrator shall determine the maximum degree of emission reduction which can be achieved by means reasonably expected to be available for production for such period and shall prescribe a revised emission standard in accordance with such determination.

"(C) Action revising any standard for any period may be taken by the Administrator under subparagraph (B) only if he determines that—

"(i) compliance with the emission standards otherwise applicable for such model year cannot be achieved by technology, processes, operating methods or other alternatives reasonably expected to be available for production for such model year (taking cost into account) or that such compliance cannot be achieved without resulting in an excessive and unreasonable fuel penalty (taking into account any harm to public health which would result from such revision whether on the ground of unavailability of technology or fuel penalties); and

"(ii) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that compliance can be achieved by such technology, processes, methods or alternatives without any such fuel penalty.

"(D) A report shall be made to the Congress with respect to any standard revised under subparagraph (B) which shall contain—

"(i) a summary of the health effects found, or believed to be associated with, the pollutant covered by such standard,

"(ii) an analysis of the cost-effectiveness of other strategies for attaining and maintaining national ambient air quality standards and carrying out regulations under subtitle C (relating to significant deterioration in relation to the cost-effectiveness for such purposes of standards which, but for such revision) would apply.

"(iii) a summary of the research and development efforts and progress being made by each manufacturer for purposes of meeting the standards promulgated as provided in subparagraph (A) (ii) or, if applicable, subparagraph (E), and

"(iv) specific findings as to the relative costs of compliance, and relative fuel economy, which may be expected to result from the application for any model year of such revised standard and the application for such model year of the standard, which, but for such revision, would apply.

"(E) (i) The Administrator shall conduct a continuing pollutant-specific study concerning the effects of each air pollutant emitted from heavy-duty vehicles or engines on the public health and welfare. The results of such study shall be published in the Federal Register and reported to the Congress not later than June 1, 1978, and before June 1 of each third year thereafter.

"(ii) On the basis of such study and such other information as is available to him (including the studies under section 214), the Administrator may, after notice and opportunity for a public hearing, promulgate regulations under paragraph (1) of this subsection changing any standard prescribed in subparagraph (A) (ii) (or revised under subparagraph (B) or previously changed under this subparagraph). No such changed standard shall apply for any model year before the model year four years after the model year during which regulations containing such changed standard are promulgated.

"(F) For purposes of this paragraph, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines unless the Administrator promulgates a rule reclassifying motorcycles as light-duty vehicles within the meaning of this section or unless the Administrator promulgates regulations under subsection (a) applying standards applicable to the emission of air pollutants from motorcycles as a separate class or category.".

(b) Section 202(b)(3) of such Act is amended by adding the following new paragraph at the end thereof:

"(C) The term 'heavy-duty vehicle' means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousands pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use.".

(c) Section 312 of such Act is amended by inserting "AND STUDIES ON COST-EFFECTIVENESS ANALYSES" at the end of the heading thereof and by adding the following new subsection at the end thereof:

"(c) Not later than January 1, 1979, the Administrator shall study the possibility of increased use of cost-effectiveness analyses in devising strategies for the control of air pollution and shall report its recommendations to the Congress, including any recommendations for revisions in any provision of this Act. Such study shall also include an analysis and report to Congress concerning whether or not existing air pollution control strategies are adequate to achieve the purposes of this Act.".

(d) Part A of title II of such Act is amended by renumbering section 214 as 216 and by inserting after section 213 the following new section:

### "STUDY OF PARTICULATE EMISSIONS FROM MOTOR VEHICLES

"SEC. 214. (a)(1) The Administrator shall conduct a study concerning the effects on health and welfare of particulate matter emissions from motor vehicles or motor vehicle engines to which section 202 applies. Such study shall characterize and quantify such emissions and analyze the relationship of such emissions to various fuels and fuel additives.

"(2) The study shall also include an analysis of particulate matter emissions from mobile sources which are not related to engine emissions (including, but not limited to tire debris, and asbestos from brake lining).

"(b) The Administrator shall report to the Congress the findings and results of the study conducted under subsection (a) not later than June 1, 1978. Such report shall also include recommendations for standards or methods to regulate particlulate matter emissions described in paragraph (2) of subsection (a). In prescribing particulate matter emissions standards under section 202, the Administrator shall take into account the results of this study.".

(e) Section 206 of such Act (relating to compliance testing and certification) is amended by adding the following new subsection at the end thereof:

"(f)(1) In the case of any class or category of heavy-duty vehicles or engines or motorcycles to which a standard promulgated under section 202(a) of this Act applies, except as provided in paragraph (2), the Administrator may, upon a finding that action under this subsection would be the most effective means of regulating emissions from such vehicles or engines, issue a certificate of conformity under subsection (a) which shall not be suspended or revoked under subsection (b) for such vehicles or engines manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet such standard if such manufacturer pays a nonconformance penalty as provided under regulations promulgated by the Administrator after notice and opportunity for public hearing.

"(2) No certificate of conformity may be issued under paragraph (1) if the degree by which the manufacturer fails to meet any standard promulgated under section 202(a) exceeds the percentage determined under regulations promulgated by the Administrator to be practicable. Such regulations shall require such testing of vehicles or engines being produced as may be necessary to determine the percentage of the classes or categories of vehicles or engines which are not in compliance with the regulations with respect to which a certificate of conformity was issued and shall be promulgated not later than December 31, 1977.

"(3) The regulations promulgated under paragraph (1) shall, not later than December 31, 1977, provide for nonconformance penalties in amounts determined under a formula established by the Administrator. Such penalties under such formula—

"(A) may vary from pollutant to pollutant;

"(B) may vary by class or category of vehicle or engine;

"(C) shall be based on the extent to which actual emissions of any air pollutant exceed allowable emissions under the standards promulgated under section 202;

"(D) shall create incentives for the development of production vehicles or engines which achieve the required degree of emission reduction; and

"(E) shall remove any competitive disadvantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction.".

(f) Section 202(d)(2) of such Act is amended to read as follows:

"(2) in the case of any motorcycle or any other motor vehicle or motor vehicle engine not included in paragraph (1), be a period of use the Administrator shall determine.".

(g) Section 202(c)(1) of such Act is amended to read as follows:

"(c)(1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct continuing comprehensive studies and investigations of the effects on public health and welfare of emissions subject to subsection (a) of this section (including sulfur compounds) and the technological feasibility of meeting emission standards required to be prescribed by the Administrator by subsection (a)(3) of this section. The Administrator shall report to the Congress within six months of the date of enactment of this paragraph and each year thereafter regarding the status of the contractual arrangements and conditions necessary to implement this paragraph.".

### TAMPERING

SEC. 205. (a) Section 203(a) of the Clean Air Act is amended by inserting "(A)" after "(3)" and by adding a new subparagraph (B) at the end of paragraph (3) as follows:

"(B) for any person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles, knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title following its sale and delivery to the ultimate purchaser, or".

(b) Section 205 of such Act is amended to read as follows:

### "PENALTIES

"SEC 205. Any person who violates paragraph (1), (3), or (4) of section 203(a) or any manufacturer who violates paragraph (3) of section 203(a) shall be subject to a civil penalty of not more than $10,000. Any person who violates paragraph (3) of section 203(a) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (2), (3), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.".

### TESTING BY SMALL MANUFACTURERS

SEC. 206. Section 206(a)(1) of the Clean Air Act is amended by adding at the end thereof the following: "In the case of any person who manufactures vehicles or vehicle engines in the United States whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing by the manufacturer for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine shall not require operation of any vehicle or engine manufactured during such model year for more than five thousand miles or one hundred and sixty hours, respectively, but the Administrator shall apply such adjustment factors as he deems appropriate to assure that each such vehicle or engine will comply during its useful life with the regulations prescribed under section 202 of this Act.".

### HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

SEC. 207. (a) Section 203(a) of the Clean Air Act is amended by adding the following at the end thereof: "No action with respect to any element of design referred to in paragraph (3) (including any adjustment or alteration of such element) shall be treated as a prohibited Act under such paragraph (3) if such action will not adversely affect the emission control performance of the vehicle or engine.".

(b) Title II of such Act as amended by sections 204 and 215 of this Act is further amended by inserting the following new section after section 216:

### "HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

"SEC. 217. (a)(1) Any action taken with respect to any element of design installed on or in a motor vehicle or motor vehicle engine (manufactured before the 1977 model year) in compliance with regulations under this title (including any alteration or adjustment of such element), shall be treated for purposes of section 203(a) as not adversely affecting the emission control performance of the vehicle or engine if such action is performed in accordance with high altitude adjustment instructions provided by the manufacturer under subsection (b) and approved by the Administrator.

"(2) If the Administrator finds that adjustments or modifications made pursuant to instructions of the manufacturer under paragraph (1) will not insure emission control performance at least equivalent to that which would result if no such adjustments or modifications were made, he shall disapprove such instructions. The baseline for the equivalency determination shall be based upon test results for vehicles after proper maintenance has been performed. Such finding shall be based upon minimum engineering evaluations consistent with good engineering practice and upon test data submitted by the manufacturer. In any case in which emissions of one or more pollutants are increased by reason of adjustments or modifications made to reduce emissions of one or more other pollutants, emission control performance may be found by the Administrator to be equivalent for purposes of this subsection if the aggregate effect of emission control performance resulting from such adjustments or modifications will be more protective of health and welfare than the effect of emission control performance if no such adjustments or modifications had been made.

"(b)(1) Instructions respecting each class or category of vehicles or engines to which this title applies providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes shall be submitted to the Administrator not later than 6 months after the date of the enactment of this section. If the Administrator does not disapprove such instructions on or before the date 8 months after such date of enactment such instructions shall be treated as approved for purposes of this section.

"(2) If any instructions provided by a manufacturer for purposes of this section are disapproved by the Administrator, not later than 60 days after such disapproval, the manufacturer shall revise the instructions (in accordance with such requirements as the Administrator determines necessary for approval) and shall make the revised and approved instructions available to any person upon request.

"(3) Any violation by a manufacturer of paragraph (1) or (2) shall be treated as a violation by such manufacturer of section 203(a)(3) for purposes of the penalties contained in section 205.

"(c) No instructions which require the use of any manufacturer parts (within the meaning of section 203(a)) may be promulgated or approved by the Administrator under this section.".

### PRODUCTION LINE TEST

SEC. 208. (a) Section 206(b)(1) of the Clean Air Act is amended by inserting "(A)" after "(b)(1)" and adding a new subparagraph (B) at the end of such subparagraph as follows:

"(B) The Administrator shall within six months of the date of enactment of this subparagraph establish a test procedure to implement, beginning no later than model year 1977, the authority of subparagraph (A) of this paragraph.".

### REPLACEMENT COST

SEC. 209. Section 207(a)(1) of the Clean Air Act is amended by ading the following new sentences at the end thereof: "The cost of any part, device, or component of any light-duty vehicle that is designed for emission control and which in the instructions issued pursuant to subsection (c)(3) of this section is scheduled for replacement during the useful life of the vehicle in order to maintain compliance with regulations under section 202 of this Act, the failure of which shall not interfere with the normal performance of the vehicle, and the expected retail price of which, including installation costs, is greater than 2 per centum of the suggested retail price of such vehicle, shall be borne or reimbursed at the time of replacement by the vehicle manufacturer and shall be provided without cost to the ultimate purchaser, subsequent purchaser, or dealer. The term 'designed for emission control' as used herein means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. It is not intended to include those vehicle components which were in general use prior to model year 1968 and the primary function of which is not related to emission control.".

### MOTOR VEHICLE PARTS CERTIFICATION AND STUDY BY FEDERAL TRADE COMMISSION

SEC. 210. (a) Section 207(b)(2) of the Clean Air Act (42 U.S.C. 1857f–5a(b)(2)) is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2).".

(b) Section 207(a) of such Act is amended by inserting "(1)" after "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Admiinstrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph.".

(c)(1) Section 207(b) of such Act is amended by striking out "its useful life (as determined under section 202(d))" in each place it appears and inserting in lieu thereof "a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs".

(2) Section 207 of such Act is amended by adding the following new subsection at the end thereof:

"(g) For purposes of applying subsection (b) in the case of vehicles and engines manufactured during any model year after the third model year after the Administrator first prescribes warranty regulations under paragraph (2) of such subsection, in lieu of the eighteen-month or eighteen-thousand-mile period referred to in such subsection (b) there shall be substituted the useful life of the vehicle or engine (as determined under section 202(d)) unless otherwise provided by Act of Congress.".

(d) The Federal Trade Commission shall undertake a study to determine whether or not any anticompetitive effects would result from any warranty required to be provided pursuant to section 207(b) of the Clean Air Act if such warranty applied for the useful life (as determined under section 202(d) of such Act) of vehicles and engines to which such warranty applies in lieu of the eighteen month or eighteen thousand mile period specified in such section 207(b). Such study shall include public hearings. Such study shall include an analysis of any measures implemented by the Administrator to prevent or diminish such anticompetitive effects and shall include a finding with respect to whether or not significant anticompetitive effects would nevertheless result from such warranty if the warranty applied for such useful life. Such study shall be undertaken primarily by the Bureau of Competition in consultation with the Bureau of Consumer Affairs. The results of such study shall be submitted to the Congress not later than the end of such first two model years. The Administrator shall submit, before the end of such first two model years, a report to Congress analyzing the effects of the warranty under section 207(b)(2) of such Act on public health and welfare and on the durability of emission control devices and systems.

(e) Section 207(c)(3) of the Clean Air Act is amended by inserting after the first sentence thereof the following: "The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment using any automotive part which meets the performance and engineering specifications of the manufacturer or which has been certified as provided in subsection (a)(2).".

### OWNER MAINTENANCE

SEC. 211. Section 207 of the Clean Air Act, as amended by section 210 of this Act, is amended by adding the following new subsection:

"(h) For the purposes of the section, the owner of any motor vehicle or motor vehicle engine warranted under this section is responsible in the proper maintenance of such vehicle or engine to replace and to maintain, at his expense at any service establishment or facility of his choosing, such items as spark plugs, points, condensers, and any other part, item, or device related to emission control (but not designed for emission control under the terms of the last three sentences of section 207(a)(1) that has a design life of less than the useful life of such vehicle or engine, unless such part, item, or device is covered by any warranty not mandated by this Act or unless such part fails prior to its design life.".

### PARTS STANDARDS; PREEMPTION OF STATE LAW

SEC. 212. Section 209 of the Clean Air Act (relating to State standards) is amended by redesignating subsection (c) as (d) and by inserting after subsection (b) the following new subsection:

"(c) Whenever a design or performance standard with respect to any motor vehicle part or motor vehicle engine parts is in effect under regulations of the Administrator under section 207(a)(2), no State or political subdivision thereof shall adopt or attempt to enforce any design or performance standard or any requirement of certification, inspection, or approval applicable to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b).".

### PREEMPTION OF STATE LAW

SEC. 213. Section 209 of the Clean Air Act as amended by section 213 is further amended by adding the following new subsection:

"(e) Notwithstanding subsection (a) of this section, any State in which a region or portion thereof has been identified pursuant to section 107(d)(1)(A) of this Act may adopt and enforce for model year 1979 the emission standards for light duty motor vehicles required for model year 1980 under section 202(b)(1) of this Act: *Provided*, That the State shows to the satisfaction of the Administrator that the adoption of the standard in 1979 is required to achieve any ambient air quality standard by 1982 and maintain thereafter. Light duty motor vehicles offered for sale within such State shall be certified to comply with such standards in accordance with the procedures established under section 206 of this Act.".

### SULFUR EMISSIONS STUDY

SEC. 214. Section 211 of the Clean Air Act is amended by adding a new subsection (e) as follows:

"(e) The Administrator shall conduct a study and report to Congress by January 1, 1978, on the emission of sulfur-bearing compounds from motor vehicles and motor vehicle engines and aircraft engines. Such study and report shall include but not be limited to a review of the effects of such emissions on public health and welfare and an analysis of the costs and benefits of alternatives to reduce or eliminate such emissions (including desulfurization of fuel, short-term allocation of low sulfur crude oil, technological devices used in conjunction with current engine technologies, alternative engine techologies, and other methods) as may be required to achieve any proposed or promulgated emission standards for sulfur compounds.".

### VEHICLE INSPECTION AND MAINTENANCE

SEC. 215. (a) Section 110(a)(2)(G) of the Clean Air Act is amended by inserting the following before the semicolon at the end thereof: ", and it complies with applicable provisions of section 215 respecting the annual inspection and maintenance of motor vehicles registered in such State".

(b) Part A of title II of the Clean Air Act, as amended by section 204 of this Act, is further amended by inserting the following new section 214:

### "INSPECTION AND MAINTENANCE

"SEC. 215. (a) Each applicable implementation plan which, as in effect on June 30, 1975, contained transportation control measures applicable to any air quality control region in a State, shall provide for the annual inspection, testing, and maintenance of all light-duty vehicles to which this section applies which are registered in such region by any person whose residence or principal place of business (or both) is located in such air quality control region. Such program of inspection, testing, and maintenance shall be conducted in accordance with regulations of the Administrator and shall be no less stringent than the program of inspection, testing, and maintenance in effect in the State of New Jersey on the date of the enactment of this section. Such regulations shall take into account the information published under section 108(f)(1)(A)(i). Such plan shall, except as permitted under clause (1) or (2) of this subsection, prohibit the registration and operation of vehicles subject to such inspection and testing in such State unless such vehicles comply with such program. The regulations of the Administrator shall—

"(1) provide for the exemption from the inspection, testing, and maintenance required under this section of such antique and other vehicles as the Administrator deems appropriate, and

"(2) authorize the operation of vehicles which have not met the applicable standards for such temporary period as may be appropriate to repair or adjust the vehicle in order to meet such requirements or to undertake the tuneup required for registration and operation of the vehicle pursuant to subsection (c)(1).

"(b)(1) For purposes of complying with the provisions of subsection (a), except as provided in paragraph (2) of this subsection, the plan shall require testing for emissions using testing procedures and equipment approved by the Administrator and shall permit the use of existing State motor vehicle inspection and testing facilities and procedures so long as they are consistent with such requirement. The Administrator shall approve testing procedures and equipment for purposes of this paragraph only if he determines that such procedures and equipment comply with such standards respecting calibration, instrumentation, and maintenance as he deems appropriate.

"(2) Upon promulgation of regulations under section 207(b)(1), the plan shall require testing for emissions using the short-test procedures and equipment established under section 207(b)(1), except that such adjustments and exceptions may be made as the Administrator deems necessary to phase in such testing procedures and equipment as expeditiously as practicable.

"(c) The requirements or authority contained in this section shall not be deemed to affect or impair any requirement contained in any other provision of this Act.

"(d) Regulations of the Administrator under this section shall provide for retest of any vehicle which initially fails to meet applicable requirements of the program.".

(c) Section 210 of such Act (42 U.S.C. 1857f–6b) is amended by adding the following at the end thereof: "Grants may be made under this section by way of reimbursement in any case in which amounts have been expended by the State before the date on which any such grant was made. Any grant under this section may be reduced or suspended by the Administrator upon his determination, following notice and opportunity for a public hearing, that a State vehicle inspection and maintenance program is not equal to or more stringent than the procedures and standards specified in section 215.

(d) Not later than six months after the date of enactment of this Act, the Administrator shall notify each State which will be required to revise the applicable implementation plan to include an inspection and maintenance program for purposes of compliance with the amendments made by this section and each such State shall, within 9 months after receiving such notice, submit to the Administrator a revision of such plan. Within 3 months after the date required for submission of such revision, the Administrator shall approve or disapprove the revision if he determines that it complies with the amendments made by this Act and was adopted after reasonable notice and hearing. The provisions which are required under section     to be included in such plan shall be implemented not later than two years after the date of enactment of this Act.

### RAILROAD LOCOMOTIVE EMISSION STANDARDS

SEC. 216. (a) The Clean Air Act is amended by inserting immediately before title III thereof the end thereof the following new part:

### "PART C—RAILROAD LOCOMOTIVE EMISSION STANDARDS

### "EPA REGULATIONS

"SEC. 235. (a)(1) Within 90 days after the date of enactment of the Clean Air Amendments of 1976, the Administrator shall commence a study and investigation of emissions of air pollutants from railroad locomotives, locomotive engines, and secondary power sources on railroad rolling stock in order to determine—

"(A) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

"(B) the technological feasibility of controlling such emissions.

"(2)(A) Within 180 days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall publish proposed emission regulations applicable to emissions of any air pollutant from any class or classes of locomotives, locomotive engines and secondary power sources on railroad rolling stock, which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger the public health or welfare.

"(B) Such proposed regulations shall include emission standards setting limits on air pollutant emissions which reflect the degree of emission reduction achievable through the application of the best available technology, taking into account the cost of compliance, as determined by the Administrator. Such regulations may identify the type of technology available to achieve such reduction.

"(3) The Administrator shall hold public hearings with respect to such proposed regulations. Within ninety days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

"(b) Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(c) Any regulations under this section, or amendments thereto, with respect to locomotives, locomotive engines, and secondary power sources on railroad rolling stock, shall be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety.

### "DOT REGULATIONS

"SEC. 236. The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 235 by the Administrator. Such Secretary shall insure that all necessary inspections are accomplished and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

### "PREEMPTION

"SEC. 237. After the effective date of any regulation under section 235 of this Act with respect to any air pollutant, no State or political subdivision thereof may adopt or enforce any standard respecting emissions of such air pollutant from any railroad locomotives, locomotive engines, or secondary power sources on railroad rolling stock, unless such standard is identical to a standard applicable to emissions prescribed by any regulation under this part.".

(b) Section 116 of the Clean Air Act is amended by striking out "and 233" and inserting in lieu thereof "233 and 237".

## TITLE III—AMENDMENTS PRIMARILY RELATING TO TITLE III OF THE CLEAN AIR ACT

### CONTINUOUS CONTROLS, STACK HEIGHTS, AND DISPERSION ENHANCEMENT

SEC. 301. Section 302 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(i)(1) The terms 'emission limitation' and 'emission standard', and 'standard of performance' mean a requirement established by the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including a detailed schedule and timetable of compliance.

"(2)(A) The degree of emission limitation required for control of any air pollutant under an applicable implementation plan under title I shall not be affected in any manner by (i) so much of the stock height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator) or (ii) any other dispersion technique. The preceding sentence shall not apply with respect to stack heights in existence before the date of enactment of the Clean Air Amendments of 1970 or dispersion techniques implemented before such date.

"(B) For the purpose of this paragraph, the term 'dispersion technique' includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions.

"(C) Not later than six months after the date of enactment of this subsection, the Administrator shall, after notice and opportunity for public hearing, promulgate regulations to carry out this paragraph. For purposes of this paragraph, good engineering practice means, with respect to stack heights, the height necessary to insure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies, and wakes which may be credited by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). For purposes of this paragraph, such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the Administrator, that a greater height is necessary as provided under the preceding sentence. In no event may the Administrator prohibit any increase in any stack height or restrict in any manner the stack height of any source.".

### DEFINITIONS OF SCHEDULES AND TIMETABLES AND MAJOR EMITTING FACILITIES

SEC. 302. (a) Section 302 of the Clean Air Act as amended by section 120 of this Act, is further amended by adding the following at the end thereof:

"(l) The term 'schedule and timetable of compliance' means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard.

"(m) The term 'major emitting facility' and 'major stationary source' mean, except for the purposes of subtitle C of title I of this Act, any stationary source or facility which emits, or has the potential to emit, 100 tons per year or more of any air pollutant."

(b) Section 302(d) of the Clean Air Act is amended—

(1) by striking out the word "and" immediately preceding "American Samoa";

(2) by striking the period immediately following "American Samoa" and inserting in lieu thereof ", and the Trust Territory of the Pacific Islands.".

### CITIZEN SUITS

SEC. 303. (a) Section 304(a) of the Clean Air Act is amended—

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ". or"; and

(2) by inserting immediately after paragraph (2) the following new paragraph:

"(3) against any person who proposes to construct or constructs any new major emitting facility without a permit required under subtitle C of title I of this Act or who is alleged to be in violation of any condition of such permit.".

(b) Section 304(f) of the Clean Air Act is amended by inserting "requirement," after "a" in paragraph (1).

### COSTS OF LITIGATION

SEC. 304. (a) Section 307 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(d) In any judicial proceeding under this section, the court may award costs of litigation (including reasonable attorney and expert witness fees) whenever it determines that such award is appropriate.".

(b) Section 113(b) of such Act, as amended by section 112 of this Act, is further amended by adding the following at the end thereof: "In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the party or parties against whom such action was brought in any case where the court finds that such action was unreasonable.".

(c) (1) The first sentence of section 307 (b) (1) of such Act is amended by inserting after "211," the following: "any nationally applicable regulations promulgated under the authority of amendments made by the Clean Air Act Amendments of 1976,".

(2) The second sentence of section 307 (b) (1) of such Act is amended by striking out "section 119(c) (2) (A), (B), or (C)," and substituting "regulations promulgated under the authority of amendments made by the Clean Air Act of 1976 which are locally or regionally applicable,".

### EMPLOYEE PROTECTION

SEC. 305. (a) The Clean Air Act, as amended by sections 120 and 123 of this Act, is amended by inserting the following new section at the end thereof:

### "EMPLOYEE PROTECTION

"SEC. 319. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discrimnated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act or under any applicable implementation plan, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act or of any applicable implementation plan.

"(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

"(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any requirement of an applicable implementation plan approved or promulgated under section 110 of this Act, a new source performance standard under section 111 of this Act, a standard for hazardous emissions under section 112 of this Act, any requirement relating to inspections under section 114 of this Act, or any other prohibition or limitation established under this Act.

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this Act and applicable implementation plans, including where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement. Any employee who is discharged, or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of alleged results of such administration or enforcement, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such administration or enforcement on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such administration or enforcement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator or any State to modify or withdraw any standard, limitation, or any other requirement of this Act or any applicable implementation plan.".

(b) Section 114 of such Act is amended as follows:

(1) Amend paragraph (iii) of subsection 114(a) to read as follows:

"(iii) carrying out section 119, 303, or 319.".

(2) Amend paragraph (2) of subsection 114(a) to strike the "and" at the end of section 114(a) (2) (A); to change the period at the end of section 114(a) (2) (B) to a comma; and to insert the following at the end thereof:

"and (C) may at reasonable times have access to and copy any employer's records relating to matters being investigated pursuant to section 319.".

### COST OF VAPOR RECOVERY SYSTEMS TO BE BORNE BY OWNER OF RETAIL OUTLET

SEC. 306. (a) Title III of the Clean Air Act, as amended by sections 120, 123, and 305 of this Act, is further amended by adding the following new section at the end thereof:

### "COST OF EMISSION CONTROL FOR CERTAIN VAPOR RECOVERY TO BE BORNE BY OWNER OF RETAIL OUTLET

"SEC. 320. The regulations under this Act applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide that the cost of procurement and installation of such vapor recovery shall be borne by the owner of such outlet (as determined under such regulations). Such regulations shall provide that no lease of a retail outlet by the owner thereof which is entered into or renewed after the date of enactment of the Clean Air Act Amendments of 1976 may provide for a payment by the lessee of the cost of procurement and installation of vapor recovery equipment.".

(b) Title III of such Act, as amended by sections 120, 123 and 305 of this Act, is further amended by adding the following new section at the end thereof:

### "VAPOR RECOVERY FOR SMALL BUSINESS MARKETERS OF PETROLEUM PRODUCTS

"SEC. 321. (a) Except as provided in subsection (b) the regulations under this Act applicable to vapor recovery from fueling of motor vehicles of retail outlets of gasoline shall provide, with respect to independent small business marketers of gasoline, for a 3-year phase-in period for the installation of such vapor recovery equipment under which such marketers shall have—

"(1) 33 percent of their outlets in compliance at the end of the first year during which such regulations apply to such marketers,

"(2) 66 percent at the end of such second year, and

"(3) 100 percent at the end of the third year.

"(b)(1) The regulations referred to in subsection (a) shall not apply to independent small business marketers of gasoline before the expiration of the period ending two years after the date of enactment of this section or the period ending six months after the date of submission of the report under paragraph (3), whichever is later.

"(2) The Federal Trade Commission shall study, and not later than one year after the date of enactment of this section report to the Administrator on, the effect the application to independent small business marketers of gasoline of the regulations referred to in subsection (a) will have on the ability of such marketers to compete in gasoline marketing. In the course of such study, the Commission shall provide opportunity for a public hearing and for submission of written views, data, and argument and shall request the participation in such hearing of other interested departments and agencies (including the Federal Energy Administration).

"(3) Not later than 18 months after the date of enactment of this section, the Administrator shal submit a report to the House Interstate and Foreign Commerce Committee and to the Senate Pubic Works Committee, which analyzes (A) the effect referred to in subsection (b)(2); (B) the need for such regulations to be applied to independent small business marketers of gasoline to assist in attaining or maintaining national ambient air quality standards or in preventing significant deterioration of air quality; and (C) the availability of means for eliminating or minimizing any effects referred to in subsection (b)(2) which are detrimental. The analysis required under clause (C) shall include a discussion of the measures referred to in subsection 202(a)(5) (pertaining to fill pipe standards) and 202(a)(6) (pertaining to onboard hydrocarbon technology). The Administrator's report under this paragraph shall include his conclusions as to whether, and to what extent, such regulations (or such other regulations relating to vapor recovery from fueling of motor vehicles at retail outlets of gasoline) should apply to independent small business marketers of gasoline.

"(4) The Administrator may, on the basis of the conclusions contained in the report under paragraph (3), promulgate regulations—

"(A) exempting independent small business marketers of gasoline, or any class thereof, from the duty to comply with the regulations referred to in subsection (a);

"(B) deferring or modifying the regulations referred to in subsection (a) in the case of independent small business marketers of gasoline, or any class thereof;

"(C) containing provisions to eliminate or minimize any effects referred to in subsection (b)(2) which are detrimental; or

"(D) taking any combination of the actions referred to in subparagraphs (A) through (C).

Regulations under this paragraph may be promulgated by the Administrator only upon a finding that such regulations are necessary in order to assure that application of the regulations referred to in subsection (a) to independent small business marketers of gasoline will not cause such independent marketers to be unable to compete in gasoline marketing.

"(5) The Administrator and the Federal Trade Commission shall keep confidential the commercial or financial information obtained under this section, except that such information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"(c) For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 320 of this Act or under regulations of the Administrator, unless such person (1) is a refiner, or (2) controls, is controlled by, or is under common control with, a refiner, or (3) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to in (3) is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person). For the purpose of this section, the term 'refiner' shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, 'control' of a corporation means ownership of greater than 50 per centum of its stock.".

### FINE PARTICULATE STUDY

SEC. 307. Title III of the Clean Air Act, as amended by sections 120, 123, 305, and 306 of this Act, is further amended by adding the following new section at the end thereof:

### "FINE PARTICULATE STUDY

"SEC. 322. Not later than eighteen months after the date of the enactment of the Clean Air Act Amendments of 1976, the Administrator, in cooperation with the National Academy of Sciences, shall study and report to Congress on (1) the relationship between the size, weight, and chemical composition of suspended particulate matter and the nature and degree of the hazards to public health or welfare presented by such particulate matter (especially with respect to fine particulate matter) and (2) the availability of technology for controlling such particulate matter.".

### FINANCIAL DISCLOSURE

SEC. 308. Title III of Clean Air Act, as amended by sections 120, 123, 305, 306 and 307 of this Act, is further amended by adding a new section to read as follows:

### "FINANCIAL DISCLOSURE

"SEC. 323. (a) Each officer or employee of the Administrator who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest (A) in any person subject to such Act, or (B) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act;

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within 90 days after the date of enactment of the Clean Air Act Amendments of 1976—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(2) Report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Administrator may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than 1 year, or both.".

### ECONOMIC IMPACT ASSESSMENT

SEC. 309. Title III of the Clean Air Act, as amended by sections 120, 123, 305, 306, 307, and 308 of this Act, is further amended by adding the following new section at the end thereof:

### "ECONOMIC IMPACT ASSESSMENT

"SEC. 324. (a) This section applies to action of the Administrator in promulgating or revising—

"(1) any new source standards of performance under section 111(b),

"(2) any regulation under section 111(d),

"(3) any regulation under subtitle B of title I (relating to stratosphere protection),

"(4) any regulation under subtitle C of title I (relating to prevention of significant deterioration of air quality),

"(6) any regulation establishing emission standards under section 202 and any other regulation promulgated under that section,

"(7) any regulation controlling or prohibiting any fuel or fuel additive under section 211(c),

"(8) any aircraft emission standard under section 231, and

"(9) any railroad emission standard under section 235.

Nothing in this section shall apply to any standard or

"(1) the costs of compliance with any such standard or regulation, including extent to which the costs of compliance will vary depending on (A) the effective date of the standard or regulation, and (B) the development of less expensive, more efficient means or methods of compliance with the standard or regulation;

"(2) the potential inflationary or recessionary effects of the standard or regulation;

"(3) the availability of capital to procure the necessary means of compliance with the standard or regulation;

"(4) the direct and indirect effects on employment of the standard or regulation;

"(5) the effects on competition of the standard or regulation, particularly the effects on small business;

"(6) the effects of the standard or regulation on consumer costs, including costs especially affecting economically vulnerable segments of the population;

"(7) the effects of the standard or regulation on energy use or availability;

"(8) the impact of the standard or regulation on the potential for long-term economic growth;

"(9) the impact of the standard or regulation on productivity;

"(10) the impact of the standard or regulation on the Nation's balance of payments;

"(11) the economic impact of postponing the standard or regulation or of not promulgating such standard or regulation;

"(12) alternative methods to such standard or regulation for achieving equal or greater degree of emission reduction (or health or environmental protection) at lesser economic costs;

(13) comparative expenditures required to achieve incremental levels of reduction of emissions (or enhancement of health or environmental protection); and

(14) any possible alternatives for minimizing or eliminating part or all of any adverse economic impacts of such standard or regulation.

(d) The assessment required under this section shall be as extensive as practicable, in the judgment of the Administrator taking into account the time and resources available to the Environmental Protection Agency and other duties and authorities which the Administrator is required to carry out under this Act.

(e) Nothing in this section shall be construed:

(1) to alter the basis on which a standard or regulation is promulgated under this Act;

(2) to preclude the Administrator from carrying out his responsibility under this Act to protect public health and welfare; or

(3) to authorize or require any judicial of any such standard or regulation on the basis cf failure to comply with this section.

### NATIONAL COMMISSION ON AIR QUALITY

SEC. 310. Title III of the Clean Air Act, as amended, is further amended by sections 120, 123, 305, 306, 307, 308, and 309 by adding the following new section at the end thereof:

### "NATIONAL COMMISSION ON AIR QUALITY

"SEC. 325. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

"(1) the effects of the implementation of requirements on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards;

"(2) the economic, technological, and environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

"(3) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population and to achieve the other purposes of the Act, including achievement and maintenance of national ambient air quality standards and, in accordance with subtitle C of title I of this Act, the prevention of significant deterioration of air quality;

"(4) the technological capability of achieving and the economic, energy, and environmental health impacts of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen (including the research objective of 0.4 gram per vehicle mile) in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

"(5) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

"(6) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

"(7) the ability (including financial resources, manpower, and statutory authority) of Federal, State, and local institutions to implement the purposes of the Act;

"(8) the extent to which the reduction of hydrocarbon emissions is an adequate or appropriate method to achieve primary standards for photochemical oxidants. Such study shall include—

"(A) a description and analysis of the various pollutants which are commonly referred to as 'photochemical oxidants' or chemical precursors to photochemical oxidants;

"(B) an analysis of any pollutants or combination of pollutants which need to be reduced to achieve any photochemical oxidant standard, and the amount of such reduction;

"(C) the relationship between the reductions of hydrocarbons, oxides of nitrogen, and any other pollutants and the achievement of applicable standards for photochemical oxidants;

"(D) the degree to which background or natural sources and long-range transportation of pollutants contribute to measured ambient levels of photochemical oxidants; and

"(E) any other oxidant-related issues which the Commission determines to be appropriate;

"(9) alternative strategies for permitting, without impeding the achievement of national ambient air quality standards as expenditiously as possible, the construction of new facilities in air quality control regions in which the national ambient air quality standard for any pollutant regulated under the Act is currently being exceeded;

"(10) those conditions where indirect source review programs (as defined in section 124(g)) contained in, or which could be contained in, State implementation plans are necessary to, and are likely to be effective to reduce, or prevent or minimize any projected increase in, emissions of any mobile source-related air pollutant or otherwise assist in attaining or maintaining any national primary ambient air quality for such pollutant;

"(11) the possible creation of a system of penalties on $NO_x$ emissions from new or existing major emitting facilities, to encourage the development of more effective control technologies;

"(12) (A) What economic measures for the control of air pollution could be used to—

"(i) strengthen the effectiveness of existing methods of controlling air pollution,

"(ii) provide incentives to abate air pollution to a greater degree than is required by existing provisions of this Act (and regulations thereunder), and

"(iii) serve as the primary incentive to controlling air pollution problems not addressed by any provision of this Act (or any regulation thereunder).

"(b) The study of measures referred to in paragraph (A)(i) shall concentrate on (1) identification of air pollution problems for which existing methods of control are not effective because of economic incentives to delay compliance and (2) formulation of economic measures which could be taken with respect to each such air pollution problem which would provide an incentive to comply without interfering with such existing methods of control.

"(c) The study of measures referred to in paragraph (A)(ii) shall concentrate on (1) identification of air pollution problems for which existing methods of control may not be sufficient to achieve all desired environmental goals and (2) formulation of economic measures for each such air pollution problem which would provide additional incentives to reduce air pollution without—

"(A) interfering with the effectiveness of existing methods of control, or

"(B) creating problems similar to those which prevent alternative regulatory methods from being used to reach such environmental goals.

"(d) The study of the measures referred to in paragraph (A)(iii) shall concentrate on (1) identification of air pollution problems for which no existing methods of control exist, (2) formulation of economic measures to reduce such pollution, and (3) comparison of the environmental and economic impacts of the economic measures with those of any alternative regulatory methods which can be identified.

"(e) In conducting this study a preliminary screening should be made of the problems referred to in subsections (b)(1), (c)(1), and (d)(1) and economic measures should be formulated under subsections (b)(2), (c)(2), and (d)(2) in the most promising cases, giving special attention to structural and administrative problems. In formulating any such measure which provides for a charge, the appropriate level of the charge should be determined, if possible, and the environmental and economic impacts should be identified.

"(b)(1) The Commission shall, in carrying out the study authorized under this section, give priority to a study of the implementation of the provisions of subtitle C of title I of this Act.

"(2) In carrying out the authority of this subsection the Commission shall study the following:

"(A) whether the provisions relating to the designation of, and protection of air quality in class I regions under this Act are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands;

"(B) whether the provisions of subtitle C of title I of this Act, including the three hour and twenty-four hour increments, (i) affect the location and size of major emitting facilities, and (ii) whether such effects are in conflict or consonance with other national policies regarding the development of such facilities;

"(C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subtitle C of title I of this Act, including an analysis of the costs associated with that technology;

"(D) whether the manner in which non-major emitting sources are covered under the regulatory framework of subtitle C of title I of this Act will affect the protection of air quality in class I and class II regions designated under this Act;

"(E) whether the increments of change of air quality under subtitle C of title I of this Act are appropriate to prevent significant deterioration of air quality in class I and class II regions designated under this Act; and

"(F) whether the choice of predictive air quality models and the assumptions of those models are appropriate to protect air quality in the class I and class II regions designated under this Act for the pollutants subject to regulation under subtitle C of title I of this Act.

"(c) Studies and investigations conducted pursuant to paragraphs (1) and (3) of subsection (a) shall include—

"(1) the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including State and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their social and environmental effects;

"(2) the effects of limiting deterioration of air quality in areas identified as having air quality better than that required by existing or proposed national ambient standards on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth, national defense and its other social and environmental effects.

"(d) The Commission shall as part of the studies conducted under this section, specifically identify any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural and water resources as well as land surface-use resources.

"(e) Such Commission shall be appointed within sixty days after enactment of this section and shall be composed of 15 members, in addition to the Chairman and the ranking minority Member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce (or their designees from such Committees), who shall serve on the Commission ex officio and without a vote. The Commission shall include eleven members of the public and the Governors of four states (who may designate the chief administrative officer of the State air pollution control agency), appointed by the President by and with the advice and consent of the Senate. The chairman shall be elected from among the appointed members of the Commission.

"(f) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(g) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning subsection (a) (4) of this section no later than March 1, 1977, in order that the Congress may have this information in a timely fashion if it deems further changes are needed in the requirements for control of emissions of oxides of nitrogen under this Act.

"(h) (1) Except as provided in paragraph (2) of this subsection, a report shall be submitted with regard to all other Commission studies and investigations, together with any appropriate recommendations, not later than three years after the date of enactment of this section. Upon submission of such report the Commission shall cease to exist.

"(2) A report on the results of the study and investigation of the Commission authorized under subsection (b) of this section, together with any appropriate recommendations, shall be submitted not later than two years after the date of enactment of this section.

"(3) A report on the results of the study and investigation of the Commission authorized under subsection (a) (8) of this section, together with any appropriate recommendations, shall be submitted not later than two years after the date of enactment of this section. During the preparation of this specific study and report, the Commission shall seek the participation and consultation of the Chairman of the Council on Environmental Quality; the Administrator of the National Oceanic and Atmospheric Administration; the Administrator of the Environmental Protection Agency; and Governors of those States having air quality control regions in which primary ambient air quality standards for photochemical oxidants are exceeded at the time of enactment of these amendments or are projected to be exceeded within the period of the study, or the chief administrative officers of their State air pollution control agencies designated by any State Governor. The Commission may contract with nonprofit technical and scientific organizations, including the National Academy of Sciences, for the purpose of developing necessary technical information for the study authorized by subsection (a) (8) of this section.

"(i) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expense, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

"(j) (1) There is authorized to be appropriated, for use in carrying out this section, not to exceed $18,000,000.

"(k) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.".

### CARBON MONOXIDE STANDARDS FOR SCHOOLBUS PASSENGER AREAS

SEC. 311. The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into buses and sustained-use motor vehicles. Such study shall characterize and quantify interior levels of carbon monoxide in such buses and vehicles and determine its effects upon the passengers. The study shall review monitoring procedures available and study the cost effectiveness of strategies for attaining and monitoring the standards promulgated under this section. Within one year the Administrator shall report to the Congress respecting the results of such study.

## TITLE IV—MISCELLANEOUS AMENDMENTS

### BASIS OF ADMINISTRATIVE STANDARDS

SEC. 401. (a) Section 108(a) (1) (A) of the Clean Air Act is amended to read as follows:

"(A) emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare:".

(b) The second sentence of section 111(b) (1) (A) of such Act is amended to read as follows: "He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.

(c) Paragraph (1) of section 112(a) of such Act is amended to read as follows:

"(1) The term 'hazardous air pollutant' means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.".

(d) (1) Section 202(a) (1) of such Act is amended by striking out "which in his judgment causes or contributes to, or is likely to cause or contribute to, air pollution which endangers the public health or welfare" and inserting in lieu thereof "which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.".

(2) Section 202(e) of such Act is amended by striking out "which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers" and substituting "which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger".

(e) Section 211(c) (1) (A) of such Act is amended to read as follows: "(A) if in the judgment of the Administrator any emission product of such fuel or fuel additive causes, or contributes, to air pollution which may reasonably be anticipated to endanger the public health or welfare, or".

(f) Section 231(a) (2) of such Act is amended to read as follows:

"(2) The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.".

### CERTAIN MINOR, TECHNICAL, AND CONFORMING AMENDMENTS

SEC. 402. (a) Section 203(a) (2) of the Clean Air Act is amended by inserting the following before the semicolon: "or for any person to fail or refuse to permit entry, testing, or inspection authorized under section 206(c)".

(b) The second sentence of section 205 of such Act is amended by striking out "(2)" and inserting in lieu thereof "(3)".

(c) Section 302(d) of such Act is amended by inserting before the period at the end thereof the following: "and includes the Commonwealth of the Northern Mariana Islands".

(d) Section 203(b) (3) is amended by striking out "subsection (a)" the second time it appears and inserting in lieu thereof "section 202" and by striking out "country of export" in each place it appears and inserting in lieu thereof "country which is to receive such vehicle or engine".

### RULE REVIEW

SEC. 403. (a) Any rule or regulation prescribed by the Administrator pursuant to the Clean Air Act may by concurrent resolution of both Houses of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 legislative days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Administrator and published in the Federal Register. The Administrator shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by both Houses of Congress within said 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

### SAVINGS PROVISION

SEC. 404. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Clean Air Act, as amended, as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendments made by this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Clean Air Act, as amended, as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Clean Air Act, as amended, as in effect immediately prior to the date of enactment of this Act, and not suspended by the Administrator or the courts, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

(c) Nothing in this Act nor any action taken pursuant to this Act shall in any way affect any requirement of an approved implementation plan in effect under section 110 of this Act or any other provision of the Act in effect under the Clean Air Act before the date of enactment of this section until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

### RESEARCH

SEC. 405. (a) No appropriation may be made to the Environmental Protection Agency for environmental research, development, or demonstration, for any period beginning after September 30, 1977, unless previously authorized by legislation hereafter enacted by the Congress.

(b) The Administrator of the Environmental Protection Agency shall transmit to the Congress a comprehensive five-year plan for environmental research, development, and demonstration. This plan shall be appropriately revised annually, and such revisions shall be transmitted to the Congress each year no later than two weeks after the President submits his annual budget to the Congress in such year.

(c) The Administrator of the Environmental Protection Agency shall coordinate environmental research, development, and demonstration programs of the Agency with the heads of other Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

And the House agree to the same.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
RICHARDSON PREYER,
J. W. SYMINGTON,
JAMES H. SCHEUER,
HENRY A. WAXMAN,
J. J. FLORIO,
CHARLES J. CARNEY,
ANDREW MAGUIRE,
H. JOHN HEINZ III,
EDWARD MADIGAN,
*Managers on the Part of the House.*

EDMUND S. MUSKIE,
JENNINGS RANDOLPH,
MIKE GRAVEL,
ROBERT MORGAN,
JOHN CULVER,
GARY HART,
HOWARD H. BAKER,
JAMES L. BUCKLEY,
ROBERT T. STAFFORD,
JAMES A. MCCLURE,
PETE V. DOMENICI,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3219) to amend the Clean Air Act, as amended, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and the Senate disagreed to the House amendments.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House with an amendment which is a substitute for both the text of the Senate bill and the House amendment to the text of the Senate bill.

The differences between the Senate bill, the House amendment thereto, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by reason of agreements reached by the conferees, and minor drafting and clarifying changes.

### SECTION 2

### AUTHORIZATIONS

*Senate bill*

Authorizes $300 million for FY 1976, $75 million for the transition period, and $200 million annually for FY 1977 and FY 1978.

An additional $75 million is authorized for transportation control planning to be available until expended.

*House amendment*

Authorizes $200 million annually for FY 1977, 1978 and 1979.

Authorizes $129,223,500 for FY 1977 for research, development and demonstration.

Authorizes $25 million annually for FY 1977, 1978 and 1979 to implement the low emission vehicle procurement provision of the Act.

*Conference agreement*

The Conferees accepted the House program authorizations for FY 1977 through FY 1979 and the House research and development authorization figure for FY 1977. The Conferees accepted the Senate planning authorization and deleted the authorization for low emission vehicle procurement.

### SECTION 101

### TRAINING

*Senate bill*

No comparable provision.

*House amendment*

Section 109 prohibits EPA from charging fees for training courses provided to personnel of State and local air pollution control agencies. Permits reasonable fees to be charged for persons other than employees of such public agencies.

*Conference agreement*

The Senate concurs in the House amendment.

### SECTION 102

### MAINTENANCE OF EFFORT

*Senate bill*

Provides that a State air pollution agency whose budget is reduced as part of an overall State budget reduction shall not lose its Federal grants as a result of the existing maintenance of effort requirement.

Also provides that no State air pollution agency shall receive less than .5% of the total Federal grant money available.

*House amendment*

Authorizes the Administrator to waive on a case-by-case basis the existing requirement that a State air pollution agency must maintain its level of program support the previous year in order to get Federal grants.

*Conference agreement*

The House concurs in the Senate provision with minor clarifying changes.

### SECTION 103

### AREA IDENTIFICATION

*Senate bill*

Requires each State to submit to the Administrator within 120 days after enactment, a list identifying air quality levels of its air quality control regions or portions thereof. The Administrator shall promulgate such list within sixty days with any necessary modification, after notifying and receiving any comment from the State.

*House amendment*

No comparable provision.

*Conference agreement*

The House concurs in the Senate provision with minor clarifying changes.

### SECTION 104

### COST OF TECHNOLOGY

*Senate bill*

Section 3 requires the inclusion of information on the cost of installation and operation, energy requirements, air quality benefits and environmental impact of emission control technology in air quality control techniques document now issued by the Administration under Section 108(b) of existing law.

*House amendment*

No provision.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 105

### TRANSPORTATION CONTROL INFORMATION DOCUMENTS

*Senate bill*

Section 4 requires the Administrator to publish within 180 days after enactment informational guidelines on the basic elements of a transportation control planning process.

The Administrator shall also publish within 180 days information on four basic transportation control measures. Within one year, he shall publish information on additional measures including but not limited to those enumerated in the statute. Such information documents shall include his assessment of such measures, and shall be made available to the States and to Federal agencies.

*House amendment*

No comparable provision.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 106

### REVIEW OF NATIONAL AMBIENT AIR QUALITY STANDARDS

*Senate bill*

No comparable provision.

*House amendment*

Section 110 amends Section 109 of the Clean Air Act to require a review of the air quality criteria for existing ambient air quality standards and a review of the standards themselves by the Administrator 18 months after enactment, and every two years thereafter.

An independent scientific review committee is also established to complete a review of air quality criteria and existing ambient air quality standards no later than one year after enactment and every two years thereafter. The Committee must recommend new ambient air quality standards to the Administrator, as well as revisions to the existing ambient standards.

*Conference agreement*

The Senate concurs in the House amendment with the following modification: (1) the first review of the existing ambient standards shall be completed by December 31, 1980; (2) Subsequent reviews of the standards are required every five years.

### SECTION 107

### LOSS OF PAY

*Senate bill*

No comparable provision.

*House amendment*

Section 317 prohibits the reduction of a worker's pay due to any curtailment of production or processing activity associated with the use of an intermittent, supplemental or other dispersion method by a stationary source of air pollution.

*Conference agreement*

The Senate concurs in the House amendment.

### SECTION 108

### NEW SOURCE STANDARDS OF PERFORMANCE

*Senate bill*

No comparable provision.

*House amendment*

Section 111 amends existing section 111 requiring the promulgation and revision of new source performance standards to further require that major new sources use the best technological continuous emission controls to meet standards and percentage reduction requirements.

The amendment makes numerous significant charges. First, it clarifies that intermittent or alternative control measures are not permissible means of compliance. Second, it indicates that the best adequately demonstrated technology is to be the basis of the standard, not merely reliance on use of untreated fuels. Third, it requires the Administrator to take into account energy requirements (in addition to costs) in determining which technologies have been adequately demonstrated. It also requires the Administrator to consider non-air quality health and environmental impacts in making that determination.

The section also makes clear that standards adopted for existing sources under section 111(d) of the Act are to be based on available means of emission control (not necessarily technological) and must, unless the State decides to be more stringent, take into account the remaining useful life of the existing sources.

This section also contains authority for the Governor of a State to petition the Administrator to compel the Administrator to issue new source performance standards for industries which have not yet been covered by such standards, to revise priorities for standard setting, to issue revised standards when better technology becomes adequately demonstrated, or to issue standards for unregulated hazardous pollutants, or sources thereof under Section 112. The House's intended purposes in adopting this amendment are: (1) to provide a greater role for the States in standard setting under the Act; (2) to assure that industries do not play off States with weak or no environmental controls against States with stronger controls in decisions to locate new sources; and (3) to provide a check on the Administrator's inaction or failure to control emissions adequately.

*Conference agreement*

The Senate concurs in the House amendment with a clarifying amendment to indicate that the use of cleaned or treated fuels is included in the definition of "technological system for continuous emission reduction" as provided in Section 111(a)(7)(B) of the Clean Air Act.

The conferees argue that for fossil fuel-fired boilers new source standards of performance should be substantially upgraded to require use of the best technological system of continuous emission reduction and to preclude use of untreated low sulfur coal alone as a means of compliance. The words "precombustion cleaning or treatment of fuels" were added as clarifying language to insure that in upgrading the standards and in defining the "best technological system of continuous emission reduction", the Administrator would not be limited to consideration of stack gas cleaning or clean combustion processes. The conferees expect this section to be implemented so as to maximize use of locally available fuels, among other purposes.

The conferees also agreed to 1) delete the regulations requiring that the Administrator act as expeditiously as practicable (rather than within four years) under Section 111(h)(1) specifying categories of major stationary sources not included on the list required under Section 111(b)(1)(A) of existing law; and to 2) delete the required listing of 25 percent of such specified categories of sources annually for four years, but require the listing as expeditiously as practicable.

### SECTION 108

### NEW SOURCE DESIGN STANDARDS

*Senate bill*

No provision.

*House amendment*

Section 111 of existing law is amended to mandate the use of design standards as an element of new source performance standards. Under this provision, a standard for a new source must include: (1) a standard of performance for continuous emission reduction, which reflects the degree of control achievable by the best technological system which has been adequately demonstrated; (2) an enforceable requirement for the use of the best technological system of continuous emission reduction, defined as a low-polluting process or a system applied before the pollution is emitted into the air, including use of cleaned fuels; and (3) a specified percentage emission reduction achievable when applying best technology to untreated fuels.

If a person establishes to the satisfaction of the Administrator that an alternative technological system other than the specified enforceable requirement for the use of the best technological system of continuous emission reduction will achieve the specified standard of performance and the specified percentage emission reduction, the Administrator shall permit the use of such system.

*Conference agreement*

The Senate concurs in the House amendment.

### SECTION 109

### WAIVER FOR TECHNOLOGY INNOVATION

*Senate bill*

No provision.

*House amendment*

Section 112 authorizes the Administrator to grant variances of up to 10 years from Federal new source performance standards to permit a source to use innovative continuous emission control technology. In order to grant the variance, the Administrator must find: (1) a substantial likelihood that the new technology will achieve greater emission reduction than that required under the new source performance standards or an equivalent reduction at lower economic, energy or environmental costs; (2) the new technology will not cause or contribute to an unreasonable risk to public health, welfare or safety; (3) the Governor of the State in which the source requesting the variance is located consents to the variance; (4) the variance will not prevent the attainment or maintenance of any National ambient air quality standards.

The number of variances authorized to be granted is limited to the number necessary to test the new technology.

*Conference agreement*

The Senate concurs in the House amendment, with modifications to limit the duration and condition under which waiver could be granted.

### SECTION 110

### HAZARDOUS DESIGN STANDARDS

*Senate bill*

Section 8 amends Section 112 of existing law to specify design, equipment or operational standards for the control of a source of hazardous emissions, where an emission limitation is not possible or feasible to measure hazardous emissions or to capture them through appropriate devices for control.

*House amendment*

No comparable provision.

*Conference agreement*

The House concurs in the Senate provision with minor clarifying modifications in the language.

### SECTION 111

### COMPLIANCE DATE EXTENSIONS

*Senate bill*

Section 9(a) amends Section 113 to authorize a State, and after 30 days notice, EPA, to issue enforcement orders to sources not in compliance with applicable emission limitations. Such orders shall require compliance as expeditiously as practicable, but in no event later than January 1, 1979.

If a non-complying source intends to comply with an applicable emission limitation by closing or replacing a facility, or changing its production process, the State or the Administrator may issue an order permitting such source to operate until January 1, 1979, upon the posting of a bond or other surety. If the source fails to close or replace the specified facility, or fails to change its production process, the bond shall be forfeited.

If a source intends to comply with an applicable emission limitation with an innovative control technique which will reduce emissions more than the applicable standard, or which has potential industrywide application at significantly lower costs than demonstrated control technology, such facility must be in compliance by January 1, 1981.

Any enforcement order in effect on the date of enactment of these amendments shall remain in effect to the extent that it is consistent with section 113(d) but shall adhere to the compliance date of January 1, 1979.

*House amendment*

This section authorizes the States and the Administrator to grant extensions of compliance deadlines for stationary sources under the State implementation plans. An extension may be granted for up to five years after notice and a formal hearing on the record. The governor of a State in which a source is located must consent to any extension granted by the Administrator.

No extension may be granted if it would permit emissions of an air pollutant which may cause or contribute to a significant risk to health after the primary standard attainment date for the pollutant in question, unless the continued operation of the source is essential to public health, welfare or well-being.

During the effective date of a compliance date extension, the source must use the best practicable system of emission reduction as determined by the Administrator. In addition, such source must commit reasonable resources, research and development of necessary means of emission limitation.

*Conference agreement*

The House concurs in the Senate position provision with minor clarifying changes.

### SECTION 111

### EXCESS EMISSION FEE/DELAYED COMPLIANCE

*Senate bill*

Adds a delayed compliance penalty provision under which any source which receives an enforcement order under Section 9(a) but does not comply with its regulation by January 1, 1979, shall be automatically subject to a delayed compliance penalty in the form of monthly payments equal to at least the cost of compliance, including capital costs, debt service costs, operation and maintenance costs, and the additional economic value gained by delay.

Any source which receives an enforcement order with a compliance date later than January 1, 1978, shall furnish to the State prior to January 1, 1977, detailed information on its proposed method of compliance, including all costs. After publication by the State of a proposed delayed compliance penalty and an opportunity for a public hearing, the State shall amend such source's enforcement order to include such penalty, to accrue after January 1, 1979.

If the Administrator objects to such penalty established by the State, he shall give written notice of his objection within 90 days after the proposal, and shall substitute his own penalty.

A source which fails to make a penalty payment shall be subject to a penalty of not more than $25,000 per day of violation, as provided in section 113(e). Judicial review of a penalty is available to a source in district court, but such review shall in no case delay the imposition of a delayed compliance penalty unless bond is posted. Financial relief shall be provided to a source which successfully challenges its established penalty after partial payment.

*House amendment*

Requires the payment of an excess emission fee during the term of the compliance date extension and thereafter where the source is at fault for not complying with the emission limitation. The amount of the fee is set to prevent any competitive advantage accruing to the source which has delayed compliance compared to sources which have complied on time. The fee is also to encourage compliance as rapidly as practicable. The amount of the fee is to be based on a schedule of rates to be determined by EPA based on these criteria. The rates are to be prescribed on a pollutant-by-pollutant basis. A $5,000 per day limitation is placed on the amount of the fee. The fee may only be applied to major stationary sources (those which emit over 100 tons of pollutant per year).

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 112

### CIVIL PENALTIES

*Senate bill*

Authorizes judicially-imposed civil penalties of up to $10,000 per day for violations of stationary source requirements. The scope of the existing criminal penalty of $25,000 per day is expanded to cover knowing violations where a source has not requested an enforcement order granting a compliance date extension.

The definition of "person" is revised to include any responsible corporate officer, for the purpose of liability for criminal penalties.

*House amendment*

Authorizes judicially-imposed civil penalties of up to $25,000 per day for violations of stationary source requirements. The amendment also narrows the forums where a civil action may be brought against a source to the jurisdiction in which the violation occurred or the source's principal place of business.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 113

### INTERNATIONAL POLLUTION

*Senate bill*

Provides a mechanism for the Administrator to trigger a revision of a State Implementation Plan under Section 110(a)(2)(H) where, upon the petition of a foreign country, he finds that emissions originating in a State endanger the health or welfare of persons in a foreign country or when the Secretary of State requests him to do so.

Representatives of the foreign country shall be invited to appear at the public hearing upon any such revision.

The section does not apply unless the foreign country has afforded the United States essentially the same rights.

The recommendations of any international abatement conference conducted before enactment remain in effect unless recinded on the grounds of obsolescence.

*House amendment*

No comparable provision.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 114

### PRESIDENT'S AIR QUALITY ADVISORY BOARD

*Senate bill*

Abolishes the President's Air Quality Advisory Board.

*House amendment*

No provision.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 115

### FEDERAL FACILITIES

*Senate bill*

Section 14 clarifies the intent of Section 118 of existing law that all Federal facilities must comply with all substantive and procedural requirements of applicable State implementation plans. Certain procedural requirements with which Federal facilities must comply are specified: construction and operating permits, reporting and monitoring; injunctive relief and sanction provisions and the payment of reasonable service charges. Personal liability is not extended to Federal employees, officers or agents.

*House amendment*

Section 113 clarifies the intent of the 1970 Clean Air Act that Federal facilities must comply with all substantive and procedural and pollution requirements of Federal, State, interstate, or local law to the same extent as any person subject to such requirements. Any Federal employee, officer or agent may be held civilly liable personally as well as in his official capacity for a violation of this provision.

*Conference agreement*

The Senate concurs in the House amendment, with the modification that Federal employees, officers and agents are not made personally liable for civil penalties. The conferees intend, by endorsing the House amendment, to require compliance with all procedural and substantive requirements, to authorize States to sue Federal facilities in State courts, and to subject such facilities to State sanctions.

### SECTION 116

### COAL CONVERSION

*Senate bill*

Section 15 repeals section 119 of the Clean Air Act, added by the Energy Supply and Environmental Coordination Act (ESECA).

Sources ordered to convert shall be subject to the compliance date extension procedures established for all sationary sources in the Senate amendments to section 113(d). The final deadline for a source ordered to convert under ESECA or which converts to coal because of actual curtailment of natural gas can be extended three years after the conversion order is issued. In no event may the compliance date extend beyond July 1, 1980.

The authority for certifications and notifications to FEA is removed from EPA and transferred to the States.

Sources converting to coal due to an FEA order or natural gas curtailments are exempted from new source performance standards as not being modifications.

Existing EPA authority for allocation of scrubbers is transferred to FEA.

*House amendment*

Section 106 extends by one year, until January 1, 1980, the deadline established in the Energy Supply and Environmental Coordination Act by which converting sources must be in compliance with applicable emission limits. Before a source may receive such extension, however, the Governor of the State in which the source is located must concur in that action.

Coal-burning sources which had planned to comply with emission limits by switching to oil or gas but which were prohibited by FEA are made eligible for compliance date extensions.

Converting sources must comply with emission limitations in effect for the date of final compliance, instead of those in effect when the compliance date extension is issued, as in existing law.

*Conference agreement*

The House concurs in the Senate provision with two modifications. The regional limitation is restored as a rebuttable presumption, as in the House amendment. Scrubber allocation authority would be eliminated.

### SUPPLEMENTAL CONTROLS FOR NONFERROUS SMELTERS

*Senate bill*

Authorizes the use of enforceable supplementary control strategies for existing nonferrous smelters. Supplemental controls are to be used only after the installation of continuous emission control technology, after the Administrator and the State are satisfied as to the reliability and enforceability of a particular system, and after the State or the Administrator has adequate resources to oversee the use of supplemental control strategies.

*House amendment*

Authorizes the Administrator to grant up to two compliance date extensions of 5 years each for any existing nonferrous smelter upon a showing applicable to that smelter that no means of emission limitation has been demonstrated to be reasonably available. Such extensions may be granted only if primary and secondary ambient air quality standards can still be attained and maintained. During the extension period supplemental or intermittent control measures can be used in lieu of continuous controls to achieve and maintain the ambient standards if the source agrees to comply with requirements set by the Administrator to maximize the reliability and enforceability of such systems, including a designated liability area.

During the extension period, each smelter must use the best practicable system of emission reduction as determined by the Administrator on a case-by-case basis.

### SMELTERS

*Conference substitute*

The conference substitute adopts the House amendment except that it authorizes State and Federal enforcement orders rather than compliance date extensions, requires that a smelter under such an order employ reasonably available continuous emission reduction measures, i.e. acid plants, with a supplementary control system except that where the smelter could show that the continuous emission reduction measures would necessitate permanent shut down, an intermittent control system alone would be allowed. In either case, the smelter would be held liable for any violation of a national ambient air quality standard within a predetermined area. The first enforcement order could not delay compliance with the applicable implementation plan beyond January 1, 1983, and a second order could be issued to permit delaying compliance to a date not later than January 1, 1988. No delayed compliance penalty would apply to any smelter under an order but requirements to do research and develop needed control technology would be applicable unless waived by the Administrator.

Excess stack height is appropriate for smelters on an interim basis during the period of any enforcement order where such stack height is part of a supplemental control strategy approved under this section. Excess stack height may not be allowed as a means of compliance with ultimate emission limitations, beyond the period of any enforcement order.

### UNREGULATED POLLUTANTS

*Senate bill*

No comparable provision.

*House amendment*

Section 101 requires the Administrator to promulgate an ambient air quality standard for one-hour concentrations of nitrogen dioxide ($NO_2$) within one year after enactment unless he finds no significant evidence that such a standard is required to protect public health. The Administrator must first revise and reissue air quality criteria for 1-hour $NO_2$ concentrations within six months after enactment.

For the pollutants vinyl chloride, cadmium, arsenic and polycyclic organic matter, the Administrator must include such substances in a list under Section 108 within one year, thus triggering the issuance of air quality criteria, or a list under Section 112 or Section 111 of existing law, unless he finds that a substance cannot be reasonably anticipated to endanger public health. He shall also conduct, with other appropriate agencies, a study of the health and welfare effects of sulfates, cadmium, vinyl chloride, arsenic and polycyclic organic matter, and methods for their abatement.

*Conference agreement*

The Senate concurs in the House amendment with the following change:

For the pollutants vinyl chloride, cadmium, arsenic and polycyclic organic matter, the Administrator shall make a positive finding that such substances can be reasonably anticipated to endanger public health before listing such pollutants under Section 108, Section 111, or Section 112.

### SECTION 119

### EXPANSION IN NONATTAINMENT AREAS

*Senate bill*

Adds a new subsection (g) to section 113 of existing law. The purpose of the new subsection is to establish an exception for facilities proposed for construction or modification at an existing site or plant owned or controlled by the owner or operator of the proposed facility in which any ambient air quality standard is exceeded if the proposed facility will emit air pollutants so as to prevent the attainment or maintenance of such standard. This exception may be granted by a State where the owner or operator demonstrates that:

(a) the proposed facility will utilize the best available control technology,

(b) all existing sources owned or controlled by the owner or operator of the proposed facility which are in the same air quality control region as the proposed facility are in compliance either with all applicable emission limitations or with an approved schedule and time table for compliance under the implementation plan or an enforcement order issues under new section 113(d).

(c) the total cumulative emissions from the proposed facilities and the existing facilities at the proposed new facility location will at no time increase, and

(d) the total allowable emissions from all existing and proposed sources at the facility location after construction of the proposed facility will be sufficiently less than the total allowable emissions under the original implementation plan so as to represent reasonable further progress toward attainment of the ambient air quality standard, taking into account progress already made toward attainment of that standard.

After January 1, 1979, the exception can be granted only where all existing sources in the region owned or controlled by the owner or operator of the proposed facility are actually in compliance with all emission limitations under the applicable implementation plan.

*House amendment*

No comparable provision.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 120

### INDIRECT SOURCE REVIEW

*Senate bill*

No provision.

*House amendment*

Adds to existing law a new section requiring the Administrator to conduct a study of indirect source review programs. The Administrator is required to obtain an independent study of the issue from the National Academy of Sciences and within one year to report to Congress, taking into account the work of the Academy and the advice of other Federal agencies.

The provision amends existing section 110(a) by (1) limiting the Administrator's authority to require indirect source review programs as part of a State Implementation Plan, and (2) authorizing States to suspend or revoke existing programs included in the State's plan.

The provision adds a new section 124 which prescribes limited conditions under which the Administrator may require indirect source review programs:

(1) He must determine as a result of the required study that such a program is necessary to assure attainment of primary standards by the required attainment date. In making this determination he must assume that the 1975 and 1976 auto emissions standards mandated in the Clean Air Act of 1970 have been achieved and that all feasible stationary source and transportation controls have been implemented;

(2) He must determine as a result of the study that such a program is likely to be effective in reducing or minimizing mobile source-related air pollution.

Within three months of completion of the study the Administrator is to propose regulations requiring adoption by specified States of indirect source review programs and within six months he is to promulgate final regulations. Affected States must submit plans to implement indirect source reviews within nine months after promulgation of final regulations, and within eight months after submission the Administrator must approve or disapprove the State's plan.

No indirect source may be constructed after the expiration of three months from the date required for approval or disapproval of a State plan unless construction complies with an approved plan. The Administrator may not disapprove a previously approved plan unless the State has failed to carry out its provisions in a substantial number of instances.

The Administrator may not revoke or withdraw any permit granted by a State or local government which has an approved plan so long as the holder of the permit has complied with its terms and conditions. No person commencing construction of an indirect source within six months of the date a review program is required to be in effect is required to get a permit.

The administrator is prohibited from promulgating regulations relating to indirect source reviews except with respect to federally assisted highways, airports or other indirect sources assisted, owned or operated by the federal government.

Regulations issued by the Administrator must allow a Governor to grant variances for projects which encourage transportation programs that over the long-run improve air quality and are energy efficient, or that prevent the indirect source review program from creating an economic imbalance among geographic areas. Variances must terminate by January 1, 1985, and may be granted only if the indirect source will not contribute to levels of mobile source-related pollutants in excess of the primary standard on or after expiration of the variance.

The Administrator is prohibited from withholding sewage treatment grants on the basis of any requirement under the Clean Air Act other than section 111 or 112 unless he determines that the effects of the proposed sewage treatment plant would (1) cause or contribute to air pollution exceeding any ambient air quality standards after the attainment date for that pollutant, as specified in the applicable implementation plan or (2) violate any requirement of an applicable implementation plan.

*Conference agreement*

The Senate concurs in the House amendment with the following changes: (1) the provision prohibiting the Administrator from withholding sewage treatment funds on the basis of any Clean Air Act requirement is deleted; (2) "sewage treatment works" are defined as an indirect source for the purposes of this section.

### SECTION 121

### INTERSTATE POLLUTION ABATEMENT

*Senate bill*

No comparable provision.

*House amendment*

Modifies Section 110(a)(2)(E) of the Act to provide specific requirements in State Implementation Plans prohibiting any stationary source within a State from emitting pollutants which will prevent attainment or maintenance of standards in another State or which will interfere with measures in another State designed to prevent significant deterioration.

Adds a new section 126 to the Act requiring State Implementation Plans to—

1. Require new (or modified) sources which may contribute to interstate pollution to obtain a permit to construct at least 90 days prior to commencement of construction;

2. Provide for notice to all nearbv States which may be affected by the proposed commencement of construction of such a source at least 60 days prior to commencement of construction;

3. Review and identify all major existing stationary sources which may have interstate impacts and to provide notice of such sources to any State potentially affected within 18 months after enactment.

Affected neighboring States may petition the Administrator for a finding of violation which must be granted or denied, after public hearing, within 60 days. If granted, the source must shut down, unless the Administrator permits continued operation on a compliance schedule designed to abate the violation as expeditiously as is practicable.

*Conference agreement*

The Senate concurs in the House amendment with a clarifying amendment to indicate that no separate permit is required under this provision in addition to a permit issued to a new or existing source under other provisions of the Clean Air Act.

### SECTION 122

### STRATOSPHERIC OZONE AMENDMENT

*Senate bill*

Section 16 provides for continuing study by EPA in cooperation with an inter-agency task force. Reports would be made October 1, 1976 and 1977, and then biannually. EPA would also contract with the National Academy of Sciences to issue reports July 1, 1976 and October 1, 1977.

EPA shall propose regulations for aerosol containers by January 1, 1978 and promulgate them 3 months later. Either House can disapprove them within 90 calendar days. EPA shall propose regulations for other sources of halocarbons by April 1, 1978 and promulgate them 90 days later, but no Congressional disapproval is available in this case. The regulations shall control aerosol containers and other sources of halocarbons if their emisisons "may reasonably be anticipated to cause or contribute to the endangerment of public health or welfare." Cost is to be considered for non-aerosol sources. There is a provision for expedited regulation. States retain authority to set more stringent requirements. Civil penalties of up to $10,000 per day are authorized for violations of this provision by parties other than consumers.

### *House amendment*

Section 107 provides for a two-year study by EPA in cooperation with an inter-agency task force. EPA would also contract with the National Academy of Sciences to issue reports, one year and 25 months after enactment.

EPA shall propose regulations two years after enactment and promulgate them within three months thereafter. Either House can disapprove the regulations within 60 legislative days. The regulations shall control any substances, practices, processes or activities (including aerosols) which may affect the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare. In developing regulations, EPA must take into consideration feasibility and cost of control. There is also a provision for earlier regulation. The States retain authority to regulate aerosol containers.

### *Conference agreement*

Combines the House and Senate study proposals, with EPA conducting a continuing study with an initial report to Congress July 1, 1978 and biennial reports thereafter. EPA will chair an inter-agency committee to coordinate research, including National Oceanic Atmospheric Administration, National Aeronautics and Space Administration, Federal Aviation Administration, Department of Agriculture, National Science Foundation, National Cancer Institute, and National Institute of Environmental Health Sciences. Recognizing that the National Academy of Sciences has already issued one report, in September, 1976, EPA shall contract with the National Academy of Sciences to continue their study and report April 1, 1978.

Not later than July 1, 1978, EPA is to make a definite finding, and, if appropriate, propose regulations to control substances, etc., which may change or affect the stratosphere in a way which may reasonably be anticipated to endanger public health or welfare. Cost is to be taken into account, mainly for non-aerosol spray regulations. The House provision for earlier regulation is retained. Regulations are to be promulgated within three months of proposal.

The Senate provision for Congressional review is retained which allows either House of Congress to disapprove aerosol spray regulations within 90 calendar days.

The grant of authority in the Conference substitute to the Environmental Protection Agency to regulate substances that may reasonably be anticipated to endanger the public health or welfare because of their effect on the stratosphere is not intended to supersede or preempt authority that other agencies may have under existing law to take regulatory action with respect to the same or similar hazards presented by products or activities subject to their jurisdiction.

## SECTION 123

## PREVENTION OF SIGNIFICANT DETERIORATION

### *Senate bill*

This section adds a new subsection (g) to section 110 of existing law. Each State which contains an area in which the levels of sulfur oxides or particulates are better than any secondary air quality standards (or primary standard, if that standard is more stringent) for that pollutant must adopt and enforce as part of its implementation plan provisions to prevent significant deterioration of air quality.

Such protection is defined by maximum numercial pollution increments for sulfur dioxide and particulates, which can be added to existing levels of those two pollutants in designated areas. A second test of protection is provided in specified Federal land areas (Class I areas), such as national parks and wilderness areas; these areas are also subjected to a review process based on the effect of pollution on the area's air quality related values.

The Environmental Protection Agency is required to study the establishment of such increments for other pollutants and to recommend within one year increments for stationary source emissions of nitrogen oxides and hydrocarbons.

All international parks regardless of size and each national park, wilderness area, and memorial park exceeding 5,000 acres which exist on the date of enactment are designated as Class I areas. Those national parks and wilderness areas established after enactment shall be initially designated as Class I but may be redesignated Class II with the concurrence of the State and the Federal Land Manager. All other lands, including other Federal lands, shall be designated Class II areas, but may be redesignated Class I by the State. The concurrence of the Federal Land Manager is required where Federal lands are involved.

Each new source with the potential to emit more than 100 tons of a pollutant per year and identified by category in the statute must apply to the State for a permit to construct in a Class II area. EPA is informed of the application and gives notice of it to Federal Land Managers and supervisors of potentially affected Class I areas.

Any Federal Land Manager or supervisor of an affected Class I area, or the Administrator of EPA, or a Governor of an adjacent State is authorized to notify the State of potential adverse impact on the air quality within the Class I area with a statement identifying potential impacts from the proposed facility. If no such notice is forthcoming, the applicant is required to meet best available control technology requirements as statutorily defined and show that the Class II increment will not be exceeded.

If there is such notice, the applicant would be required to demonstrate whether the Class I increments would be exceeded in the Class I areas, and—

If the permit applicant meets the Class I increments, but the Federal Land Manager (not the supervisor) demonstrates to the satisfaction of the State that the applicant's emissions would nevertheless have an adverse effect on the air quality-related values of the Federal lands, the State must deny the permit; or

If the permit applicant does not meet the Class I increments but demonstrates, to the satisfaction of the Federal Land Manager (not the supervisor), that there would be no adverse impact on the air quality-related values of the Federal lands, the State may issue the permit.

In the event a dispute occurs over any development or activity in an adjacent State, the Governor of the affected State may request the Administrator to enter into negotiations. If this is not successful, the Administrator shall then resolve the dispute.

In the event that the emissions from any new major emitting facility will cause or contribute to a pollutant increase greater than a Class II increment for such pollutant, the Administrator shall, and a Governor may, seek injunctive relief to prevent the issuance of a permit or construction of that facility.

### *House amendment*

The bill requires State implementation plans to be amended to include requirements that will prevent the significant deterioration of air quality where such air quality is presently cleaner than existing ambient air quality standards. Increments were established for all pollutants for which national ambient air quality standards exist. States were required to classify nondegradation areas under the following classification scheme:

Class I: 2% of the lowest national standard for all pollutants except 10% of the lowest national standard for particulate.

Class II: 25% of the lowest national standard for each pollutant.

Class II: 50% of lowest national standard for each pollutant.

The State may develop measures to prevent significant deterioration other than the classification and increment scheme for pollutants other than sulfur dioxide or particulate. The Administrator must approve a State's plan for such pollutant if he determines that it will carry out the purpose of this section at least as effectively as an area classification plan. The bill requires that in no case may the total concentration of pollutants exceed the national secondary ambient air quality standard or 90% of the national primary air standard whichever is lower.

Initially most areas which are cleaner than the national ambient air standards with respect to any pollutant would be classified as Class II with respect to that pollutant. Areas where air quality is worse than these minimal Federal standard would not be classified at all, and would not be affected by this section.

Existing national parks and national wilderness areas over 25,000 acres in size would be designated a mandatory Class I and would remain permanently as Class I. The following areas would begin as Class I but could be redesignated by the State as Class II: national parks and national wilderness areas between 1.000 and 25,000 acres, international parks over 1,000 acres, and national monuments, national recreation areas, national preserves, and national primitive areas all in excess of 10,000 acres.

To redesignate lands from Class I to Class II or from Class II to Class III, the State must conduct hearings and present extensive description and analysis of the effects of redesignation. The approval of affected local governments representing majority of the population is required.

The bill identifies 8 categories of Federal lands that cannot be redesignated as Class III: national wild and scenic rivers, national lakeshores or seashores, national wildlife refuges, national forests, and national monuments, national recreation areas, national preserves, national parks, national wilderness areas, and national primitive areas.

Major emitting facilities proposing to construct facilities must receive State permits. All sources with the design capacity to emit 100 tons per year or more of any pollutant must receive a permit. EPA may review and disapprove permits only on a limited basis. In the event that the State fails to submit an approvable plan, EPA shall substitute and implement a plan.

At the discretion of the Governor, a State may exempt certain sources of pollution from being counted against the increment. The States must adopt plans for the control of sulfur oxide, sulfur dioxide and particulates within 12 months of the date of enactment. For other pollutants the period is 24 months.

Sources in one area may not cause or contribute to increases in pollutants that exceed the applicable increments in any other area. The levels in such other areas may be exceeded no more than one time per year. The only exception to this rule is that a Governor may, in very limited cases, allow a variance for sulfur dioxide only which would allow in Class I areas the increment to be exceeded no more than 11 days per year, with a further limitation that in no case could the Class II increment ever be exceeded under such a variance.

If increments are exceeded, the State is required to revise the State implementation plan to ensure that the increment is not exceeded. Sources receiving new emission limitations would be eligible for compliance date extensions under the compliance date extension section of the bill.

### *Conference agreement*

Section 123 of the conference agreement adopts the statement of purpose from the House bill. Increments setting forth the maximum allowable increase in pollutants are stated in the statute for particulates and sulfur dioxide. Within two years EPA is to propose regulations for increments or other means for preventing significant deterioration which would result from nitrogen oxides, hydrocarbons, carbon monoxide and oxidant. These proposed regulations would not go into effect for one year. At the end of that year, revision of State Implementation Plans would begin unless Congressional action had occurred to prevent this.

If the Administrator finds that establishing and implementing significant deterioration regulations for HC, CO, $NO_x$, or Oxidants would present special difficulties or problems of practicality, he shall so report to Congress. This report shall not act to stay the Administrator's duty to proceed with these regulations.

The proposed regulations are to provide: (a) specific numerical measures against which permits may be tested; (b) a framework for stimulating improved control technology; (c) protection of air quality values; and (d) fulfill the goals set forth in the purposes provisions.

Regulations for new ambient air quality standards are to be accompanied by measures to prevent significant deterioration.

The specific increments are set forth in the statute as in the Senate bill, as follows: (a) Class I, Senate bill; (b) Class II, House bill except the 3 hour $SO_2$ increment, which becomes 512 micrograms per cubic meter; (c) Class III, House bill, except the 3 hour $(S)_2$, which becomes 700 micrograms per cubic meter. The House maximum allowable level of 100% of secondary or 90% of primary is used. Increments may not be exceeded more than once per year.

The listing of lands to be included in mandatory Class I areas is as in the Senate bill.

All other nondegradation areas are initially designated Class II by statute upon enactment.

The Federal Land Manager is required to review national monuments, primitive areas, and national preserves, and shall recommend any appropriate areas for Class I designation where air quality related values are an important attribute of the area. The recommendations must be made within one year, with recommendations going to the state involved and to Congress. The Federal Land manager shall consult with the states in determining these recommendations.

The procedural requirements for redesignating an area as Class III are accepted from the House bill. The following areas are not eligible for Class III designation if the area is over 10,000 acres: national monuments, national primitive areas, national preserves, national wild and scenic rivers, national wildlife refuges, national lakeshores and national seashores, new national parks, new national wilderness areas, and any other new areas in these categories created after enactment.

The State Plan must require permits for:

(a) All 28 source categories listed in the Senate bill if the source has the potential (design capacity) to emit over 100 tons per year; and (b) any other source with the design capacity to emit more than 250 tons per year of any air pollutant. The state may exempt non-profit health or educational institutions from the permit requirement.

The conditions of the permit are as in the Senate bill, with the following additions:

(a) A one year monitoring requirement may be waived by the state; (b) the language of the House prohibiting uniform or automatic buffer zones is accepted; (c) a completed permit application must be approved or denied not later than one year after filing an adequate application, and (d) for permits where the source proposes to exceed the Class II increment, EPA approval of the States' determination of best available technology is required for sources not covered by adequate New Source Performance Standards.

EPA is to establish within one year by regulation the models to be used in analyzing air quality impact.

All major emitting facilities must perform analysis of air quality impact in Class I areas. The air quality related values test including visibility, of the Senate bill is used for sources affecting Class I areas.

EPA may not promulgate the portion of a State Plan implementing nondegradation requirements. The Administrator shall issue orders and seek other action to prevent the issuance of an improper permit.

The conference adopted the air quality modeling conference in the House bill and expects that EPA will seek the full participation of representatives of private and public interests. The definitions of "baseline" and "commenced construction" of the Senate bill were accepted. The Senate bill definition of Indian tribes as Federal Land Managers is eliminated. The House provision for emission which the Governor may exempt from being counted against the increment is accepted for emissions from coal conversions, natural gas curtailments, and temporary construction.

The House provision requiring that the State Implementation Plan must contain measures to insure that significant deterioration, as defined, will be prevented was accepted.

## SECTION 124

## EXTENSIONS FOR TRANSPORTATION CONTROLS

### *Senate bill*

This section amends section 110 of existing law by adding a new subsection (h). Upon application of a Governor on or after June 1, 1976, the Administrator may grant an extension of up to 5 years for the attainment of primary ambient air quality standards in an area requiring transportation controls where their implementation without an extension would have serious adverse social and economic effects.

The Administrator may grant such an extension only if the State (1) has implemented or will have implemented by June 1, 1977, its plan requirements applicable to stationary sources of mobile source-related pollutants; (2) will have begun to implement by June 1, 1977, all reasonably available transportation control measures in its plan; and (3) will have completed by June 1, 1978, a detailed planning study of alternative control measures.

Any State which receives an extension must submit to the Administrator by June 1, 1978, a revised plan prepared where possible by an organization of local elected officials designated by the State. The plan must provide for the attainment of the primary ambient air quality standards as expeditiously as practicable but no later than May 31, 1982, unless such attainment is not possible through the implementation of all reasonable and available control measures.

In such a case, the Governor may apply on or after June 1, 1981, for a further extension, which shall run no later than May 31, 1987.

When the Administrator denies an extension because a State has not met the minimum requirements specified in this section or when a Governor has not applied for an extension, the Administrator shall promulgate an implementation plan after consultation with State and local elected officials. A State may apply to the appropriate U.S. Court of Appeals for a stay of any provision of such plan pending review.

Grants shall be available for 2 years to any local transportation or air quality planning organization, for 100 percent of the additional costs of developing a transportation control plan.

The Administrator shall not approve any projects or award any grants under any authority after June 1, 1977, to a State which requires an extension and has not applied for one.

In the event that a State does not implement a requirement of an approved plan, the Administrator shall cumulatively decrease by 15 percent annually the funds for any project authorized by him.

No agency of the Federal Government shall support in any way an activity not in conformance with a plan requirement. All Federal programs with an quality-related transportation effects shall give priority to the implementation of transportation control measures.

### *House amendment*

Extensions for implementation of particular transportation control measures would be permitted upon the request of a Governor (when the plan was developed by the State) or the chief executive of a local government or the Administrator (when the plan was promulgated by EPA), if the measure would (1) inhibit meeting the transportation needs of the area, (2) be infeasible, or (3) have serious adverse social or economic effects on the area.

No extension is permitted unless—

(1) the jurisdiction has implemented all mobile source-related provisions of the plan required to be in effect at the time of the extension request other than those provisions for which the extension is sought; and

(2) the applicant documents the factors justifying the request, assesses other measures which could be taken, and describes measures which will be taken during the extension to minimize health risks.

Transportation control measures deferred must be implemented under a schedule prescribing increments of progress no later than January 1, 1980, unless the implementation plan is revised to provide for comprehensive improvements in public transportation, in which case transportation controls may be deferred until January 1, 1985.

In order for the extension to continue in effect for more than one year, the State implementation plan must be revised before the end of the year to include—

(1) a commitment to use funds reasonably available to the State or local government, if needed, to implement the control measures deferred by the extension;

(2) where the extension is to continue beyond January 1, 1980, commitments to use funds available to the State or local government to establish, expand or improve public transportation.

The Administrator is given authority to approve elimination from transportation control plans of requirements for retrofits on noncommercial vehicles or for gas rationing. Within nine months after elimination of such measures, a revised State plan must be submitted to meet the requirements of section 110(a).

The Administrator is required to review all State Implementation Plans within one year to determine if they are adequate (or would have been adequate had no extensions, exemptions or variances been granted under this or certain other sections of the Act) to attain primary standards required for mobile source-related pollutants by 1977. If a plan is not adequate, the State must submit a revised plan which must—

(1) Provide for reduction of mobile source-related pollutants adequate to attain primary standards;

(2) Identify and provide for State and local resources needed to carry out measures; and

(3) Require reduction of emissions of mobile source-related pollutants from stationary sources to maximum extent technologically feasible.

If the Administrator determines the revised plan will not achieve the standard in the most expeditious manner practicable, he must notify the State and set a date for submission of modified plan within 120 days.

The section provides that the term "transportation control measure" does not include any regulation of parking nor any indirect source review program.

*Conference agreement*

The House concurs in the Senate provision except that the Administrator's authority to withhold sewage treatment and other grants for failure of a State to implement a requirement of an approved plan is deleted.

### SECTION 124

### CONSULTATION

*Senate bill*

Requires the States to provide satisfactory consultation with local governments in carrying out the requirements of Sections 110 and 113 of existing law. EPA must promulgate regulations to assure the adequacy of such consultation. Thereafter the Administrator may disapprove any plan not in compliance with such regulations. Such disapproval may be petitioned only by local governments.

*House amendment*

Requires each State to revise its implementation plan within one year to include a satisfactory process for consultation with general purpose local government units and with regional agencies.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 124

### LOCAL DELEGATION

*Senate bill*

Requires that for the purposes of transportation control planning an implementation plan shall be prepared by an organization of elected officials of local governments designated by agreement of the local governments in an affected area, and recognized by the State for that purpose. Where such an organization has not been designated by agreement within six months after enactment, the Governor, after consultation with elected officials of local governments, shall designate an organization of elected officials of local governments, in the affected area to prepare such plan.

*House amendment*

Authorizes the Administrator to delegate to general purpose units of local government responsibility for implementation and enforcement of all or portions of a Federally-promulgated State plan if (1) the chief executive officer of the local unit applies for such delegation, and (2) the Administrator finds the local government has adequate authority under State or local law to carry out responsibilities delegated. The Administrator would retain concurrent authority for enforcement and implementation.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 201

### AUTO EMISSION STANDARDS

*Senate bill*

Extends the existing 1977 auto emission standards of 1.5 HC, 15 CO and 2.0 $NO_x$ for one additional year, through model year 1978.

For model year 1979 and thereafter, the original statutory standards of .41 HC, 3.4 CO must be met on all cars. 90% of each manufacturer's cars sold in 1979 must meet the 2.0 $NO_x$ standard. The remaining 10% of cars sold must meet a 1.0 $NO_x$ standard, which replaces the current .4 $NO_x$ standard as the ultimate statutory level of reduction. The 10% requirement does not apply to any manufacturer who sells less than 3% of world unit sales in model year 1976.

In 1980, all cars would be required to meet the ultimate statutory standards of .41 HC, 3.4 CO, 1.0 $NO_x$.

The .4 $NO_x$ level remains as a research objective to which each auto manufacturer must build demonstration vehicles for annual submission to EPA starting in model year 1978.

*House amendment*

Extends the existing 1977 auto emission standards of 1.5 HC, 15 CO and 2.0 $NO_x$ for two additional years, through model years 1978 and 1979.

For model years 1980 and 1981, the standards are .9, 9, 2.0, the 1975 California standards.

For model year 1982 and thereafter, the original statutory standards of .41 HC, 3.4 CO become effective. The ultimate $NO_x$ standard for model year 1982 and thereafter is to be determined by the Administrator of EPA. Such standard shall reflect the maximum emission reduction technologically practicable, giving appropriate consideration to cost of compliance, public health needs and fuel consumption.

For any model year prior to 1985, EPA is authorized to grant a one year suspension if (1) a sulfate standard for autos has been promulgated for that model year; (2) effective control technology to meet the HC, CO, $NO_x$ and sulfate standards is not available or available technology meeting all four standards would carry a fuel penalty; (3) sulfate emissions endanger health or welfare more than the other pollutants regulated; (4) the annual NAS study does not disagree with EPA regarding technology availability and (5) neither House disapproves the suspension within 60 days.

*Conference substitute*

The House concurs in the Senate provision with the following amendments:

(1) The 1979 requirement that 10% of all cars meet the standards .41 hydrocarbons, 3.4 carbon monoxide, 1.0 nitrogen oxide is deleted;

(2) the emission standards for model year 1980 are .41 hydrocarbons, 3.4 carbon monoxide, 2.0 nitrogen oxide;

(3) the emission standards for model year 1981 are .41 hydrocarbons, 3.4 carbon monoxide, 1.0 nitrogen oxide.

(4) The auto manufacturers must submit a research plan to the Administrator for approval. If an unsatisfactory plan is submitted the Administrator must establish a reasonable, enforceable plan of research for the company to meet the research objective.

### SECTION 202

### ASSURANCE OF SAFETY

*Senate bill*

No comparable provision.

*House amendment*

Requires as a condition of certification of new motor vehicles or engines that the manufacturer establish to the satisfaction of the Administrator that the emission control system used will not cause or contribute to an unreasonable risk to public health, welfare or safety.

*Conference agreement*

The Senate concurs in the House amendment.

### SECTION 203

### EVAPORATIVE EMISSIONS

*Senate bill*

No comparable provision.

*House amendment*

Requires the Administrator of EPA to revise for model year 1978 the existing evaporative emissions test procedure to measure hydrocarbon emissions from the vehicle as a whole.

If such revision applicable to heavy duty engines and vehicles is infeasible by model year 1978, it may be delayed until it becomes feasible.

*Conference agreement*

The Senate concurs in the House amendment.

### SECTION 204

### HEAVY DUTY VEHICLES AND MOTORCYCLES

*Senate bill*

Requires the Administrator to promulgate interim HC, NO, particulate and $NO_x$ emission standards for heavy duty vehicles and motorcycles for model years 1979 and 1980 and possibly in 1978 if the Administrator finds such early application appropriate. Such standards shall reflect the application of the best available technology taking into account the cost of compliance.

For model year 1981 and thereafter, the Administrator shall promulgate emission standards which reflect the degree of reduction required for light duty vehicles in 1980 under Section 202(b).

Allows EPA to specify the useful life of motorcycles and other non-light duty vehicles or engines.

*House amendment*

Requires the Administrator to promulgate interim HC, CO, and $NO_x$ emission standards for heavy duty vehicles and motorcycles for model years 1978-84 which reflect the best available technology which has been adequately demonstrated, taking into account cost, noise, energy and safety factors. Ultimate standards in 1985 must reflect a reduction of 65% for $NO_x$ and 90% for CO and HC. EPA may defer the 1985 standards for 3 years in 1979, if requisite technology will not be available without undue cost of fuel penalty. Unlimited, successive 3-year deferrals are authorized thereafter.

Non-conforming vehicles which fail to meet the prescribed standards within a range of non-conformity set by the Administrator may be sold upon payment of a penalty.

The Administrator is required to conduct studies on the health and welfare effects of particulate emissions from heavy duty vehicles, with a report to Congress within 2 years.

*Conference agreement*

The Senate concurs with the House amendment with an amendment which provides that interim standards would be for model years 1979–1982, and would include particulates as well as gaseous emissions. Ultimate standards with a reduction of 75% for $NO_x$ and 90% for HC and CO would take effect in 1983 unless EPA revises them in 1978. Successive 3-year revisions are authorized thereafter with 4-year lead time. Revisions are to be based on unavailability of technology without undue cost of fuel penalty.

Authorization of sale of non-conforming vehicles, upon payment of a non-conforming technology penalty is permitted if EPA finds this to be the most effective means of regulation, but it is not required.

Follows the Senate bill on useful life, and the House bill on motorcycle emissions standards.

### SECTION 205

### TAMPERING

*Senate bill*

Broadens the existing prohibition against removal of or tampering with auto emission controls to cover independent repair and service businesses and selling, leasing, trading and fleet operations.

A civil penalty of up to $2500 is established for any violation of this amendment.

*House amendment*

Broadens the prohibition against removal of or tampering with auto emission controls to cover independent auto repair operations.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 206

### TESTING BY SMALL MANUFACTURERS

*Senate bill*

No provision.

*House amendment*

Exempts auto manufacturers with U.S. sales of 300 or less from the 50,000 mile part of certification testing and allows EPA to assign an appropriate durability factor instead.

*Conference agreement*

The Senate concurs in the House amendment with the modification that the exemption from the 50,000 mile certification testing applies only to domestic auto manufacturers with U.S. sales of 300 or less annually.

### SECTION 207

### HIGH ALTITUDE

*Senate bill*

No comparable provision.

*House amendment*

Exempts the adjustment of emission control systems of high altitude vehicles from the anti-tampering provision of existing law, if the adjustment does not adversely affect emission performance.

*Conference agreement*

The Senate concurs in the House amendment with an amendment. Section 216 of the House bill has been struck. Section 215 of the House bill is modified to require that test data be required to be the basis for the judgment of the Administrator, that the baseline in the equivalency test for existing vehicles be determined after proper maintenance has been performed, the provision apply to only pre-1977 model cars, and that the provision clearly be limited to high altitudes.

During its discussion of the high altitude provisions of this bill, the conferees also discussed the issue of Environmental Protection Agency's high altitude regulations for new 1977 model year cars. The conferees, despite their concern over difficulties in administration of the present regulations, concluded that no additional statutory changes were necessary since the problem is administrative in origin. The conferees determined that there is adequate flexibility under existing law to revise the high altitude program to focus on areas of major concern. Specifically, the conferees stated their view that the Administrator has adequate flexibility to provide corrective measures in the high altitude program.

### SECTION 208

### PRODUCTION LINE TEST

*Senate bill*

Requires the Administrator of EPA to establish within 6 months after enactment a test procedure to implement a production line test of new light duty motor vehicles. Such production line test shall be implemented not later than model year 1977.

*House amendment*

No comparable provision.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 209

### REPLACEMENT COSTS

*Senate bill*

Provides that a part or component designed solely or primarily for reducing vehicle emissions and which is scheduled for replacement during the useful life of the vehicle and which costs more than 2 percent of the suggested retail price of the vehicle shall be replaced at the cost of the manufacturer.

*House amendment*

No provision.

*Conference agreement*

The House recedes and concurs in the Senate amendment.

### SECTION 210

### AFTERMARKET

*House amendment*

Requires EPA to promulgate within 2 years regulations for the certification of aftermarket parts as the equivalent of original equipment. State certification would be preempted, except in California.

No performance warranty shall be invalidated through the use of any aftermarket part used in the maintenance or repair of a vehicle if such part has been certified in accordance with the EPA regulatory program.

The manufacturer must include in the vehicle maintenance instructions a boldface statement that maintenance may be performed at any service shop and that any certified part may be used without invalidation of the performance warranty.

The performance warranty is reduced to 18 months or 18,000 miles in duration. Under a mandated Federal Trade Commission study, if no anticompetitive effects are found the former 5 year/50,000 mile performance warranty would again become effective.

*Senate bill*

Requires EPA to promulgate within one year regulations for the certification of aftermarket parts as the equivalent of original equipment. Before the effective date of such regulations, all parts shall be deemed certified.

No performance warranty shall be invalidated through the use of any aftermarket part used in the maintenance or repair of a vehicle if such part has been certified under the EPA regulatory program; or by the addition of an air conditioner to a vehicle certified with an air conditioner allowance.

The manufacturer may not specify in vehicle maintenance instructions that manufacturer's parts and service must be used unless EPA grants a specific waiver of this requirement.

Scheduled replacement of any emission control devices during the first 50,000 miles the cost of which, including installation, is more than 2% of the vehicle, shall be at the manufacturer's expense.

The Federal Trade Commission shall study and report to Congress within 18 months on the impact on competition of any warranty under the Clean Air Act.

*Conference agreement*

The Senate concurs in the House provision with the following modifications: (1) After the third model year in which the Section 207(b) performance warranty has become effective, the warranty period reverts back to 5 years/50,000 miles unless Congress acts to the contrary; (2) the Federal Trade Commission study must be submitted to Congress no later than the end of the second model year during which the performance warranty is in effect; (3) EPA shall submit a report to Congress no later than the second model year during which the performance warranty is in effect on the effects of the warranty on public health and welfare and on the durability of emission control systems.

### SECTION 211

### OWNER MAINTENANCE

*Senate bill*

Unless a part is covered by a warranty not mandated by the Clean Air Act or fails prior to its design life, the owner must bear the expense of replacement of items related to emission control but not designed for that purpose, such as spark plugs.

*House bill*

No provision.

*Conference agreement*

House recedes and concurs in the Senate amendment.

### SECTION 212

### PARTS PREEMPTION

*Senate bill*

No comparable provision.

*House amendment*

Provides that whenever a parts certification program is promulgated by the Administrator, States and political subdivisions will be preempted from adopting or enforcing any parts testing or certification program. This provision does not apply to California if it has received a waiver under section 209(b).

*Conference amendment*

The Senate concurs in the House amendment with the understanding that the parts preemption does not apply in California so long as it adopts and enforces more stringent emission standards than the Federal requirements.

### SECTION 214

### SULFUR EMISSIONS STUDY

*Senate bill*

Requires the Administrator to conduct a one year study of the emissions of sulfur compounds from motor vehicles and aircraft. Health and welfare effects of such emissions are to be reviewed and alternative control strategies are to be analyzed. Such study shall be reported to Congress by July 1, 1977.

*House amendment*

No comparable provision.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 215

### INSPECTION AND MAINTENANCE

*House amendment*

Requires annual inspection of light-duty vehicles registered to persons who reside or have their principal place of business in an air quality control region where transportation controls were applicable as of June 30, 1975.

Emissions standards are set for most 1968 and later model in-use vehicles. The standards become progressively more stringent over the three and a half-year period after enactment.

Procedures and equipment to conduct the required idle test must be approved by the Administrator.

The provision prohibits registration or operation of vehicles which do not comply with emissions standards except (1) for a temporary period needed to permit repairs or adjustments or (2) for vehicles which, within three months prior to inspection or as a result of inspection, have had a major engine tune-up.

Grants may be made under section 210 of existing law to reimburse a State for funds spent on inspection facilities after the 1976 Clean Air Act Amendments are enacted.

States notified of the need to institute inspection and maintenance programs must submit plans within nine months of notification.

#### *Senate bill*

No comparable provision.

#### *Conference agreement*

The Senate concurs in the House amendment with the following amendments:

(1) the specified emission standards are deleted; (2) the Administrator shall promulgate inspection and maintenance regulations, effective two years after enactment, which require State programs which are at least as stringent as that presently in effect in New Jersey; (3) whenever a correlating short test is promulgated under section 207 (b), the Administrator shall revise his inspection and maintenance regulations to require the phase-in of such short emissions test as expeditiously as practicable and (4) grants may be made under section 210 of existing law to reimburse States for funds spent on inspection programs prior to the enactment of the Clean Air Act Amendments of 1976

### SECTION 216

### RAILROAD EMISSION STANDARDS

#### *Senate bill*

Directs the Administrator to investigate the air quality impacts of emissions from railroad locomotives and the technological feasibility of controlling such emissions. The Administrator shall promulgate national emission standards for locomotives which reflect the application of the best available technology, taking into account the cost of compliance. The regulations shall be effective when the Administrator determines in consultation with the Secretary of the Department of Transportation that the requisite technology is available.

#### *House amendment*

Directs the Administrator to promulgate national emission standards for new and existing locomotives within one year, to take effect when the Administrator, after consultation with DOT, determines the requisite technology to be available. Any pollutant which causes or contributes to air pollution which may reasonably be anticipated to endanger the public health or welfare is to be regulated.

#### *Conference agreement*

The House concurs in the Senate provision, as modified by the standard contained in the House provision that any pollutant which in the Administrator's judgment causes or contributes to air pollution which may reasonably be anticipated to endanger the public health or welfare shall be regulated.

### SECTION 301

### CONTINUOUS EMISSION CONTROLS

#### *Senate bill*

Section 33 defines "emission limitation" as a requirement for permanent controls which result in the continuous limit of emissions from a source including a detailed schedule and timetable for compliance. This clarification of existing law reaffirms the intent of existing law.

#### *House amendment*

Section 106(f) defines "emission limitation", "emission standard" and "standard of performance" as requirements of continuous emission reduction, to reaffirm and clarify the existing requirement that continuous emission control systems must be used to comply with emission requirements applicable to stationary sources.

#### *Conference agreement*

The House concurs in the Senate provision with the clarification that the continuous control requirement applies for the purposes of emission standards, standards of performance and design standards authorized under this Act.

### TALL STACKS

#### *Senate bill*

No comparable provision.

#### *House amendment*

The stack height of any stationary source which exceeds good engineering practice, defined as a 2½ times the height of the source, shall not be credited toward the amount of emission reduction required under the State implementation plan.

The Administrator may waive such restriction for a source which demonstrates that a stack height greater than 2½ times the source is necessary to insure against excessive air pollutant concentrations resulting from aerodynamic downwash.

This restriction on stack height affects only the degree of credit a source may receive for air pollution control purposes; it does not affect the height of a stack for any other purpose.

No stack height in existence prior to the enactment of the Clean Air Act of 1970 shall be affected by this provision.

#### *Conference agreement*

The Senate concurs in the House amendment.

Tall stacks are not a means of emission limitation under the Clean Air Act of 1970. That policy is continued in these 1976 amendments. Under section 117 of this bill, primary nonferrous smelters may receive enforcement orders providing a delayed compliance deadline, if the smelters are unable to meet applicable emission limitations. During this period of delay, the use of tall stacks may be permitted on an interim basis in order to assure that national ambient air quality standards will not be exceeded. During such interim period, continuous emission reduction equipment plus supplemental controls, must be used, unless there is a showing by the smelter that interim use of such continuous controls would be so costly as to necessitate permanent shutdown of the smelter. In no event, however, may increased stack heights above those allowable in this section be used to alter or relax the emission limitation with which the smelter must ultimately comply beyond the period of any enforcement order or be used as a means of compliance with such limitation.

### DEFINITIONS

#### *Senate bill*

Defines a major emitting facility as any stationary source with an annual potential to emit 100 tons of any pollutant, for the general purposes of the bill, such as the delayed compliance provision.

"Schedule and timetable for compliance" is defined as a schedule of enforceable actions in an implementation plan which lead to compliance with the specified emission limitation or other standard in the plan.

#### *House amendment*

Defines a major stationary source as any stationary source of air pollutants which directly emits or has the design capacity to emit 100 tons annually of any pollutant for which an ambient air quality standard is promulgated.

#### *Conference agreement*

The House concurs in the Senate provisions on "major emitting facility" with a requirement that, for the purpose of prevention of significant deterioration, a major emitting facility will also include facilities which have the capacity to emit 250 tons per year or more.

The House concurs in the Senate provision on "schedule and timetable for compliance."

### SECTION 303

### CITIZEN SUITS

#### *Senate bill*

Section 34 expands the existing citizen suit provision to allow a citizen to bring suit to prevent construction of a major emitting facility without a permit in compliance with the requirements of the Clean Air Act or to enforce against any violation of a condition of such permit.

#### *House amendment*

No provision.

#### *Conference agreement*

The House concurs in the Senate provision which enables citizens to bring suit to prevent construction of a major emitting facility which is being built without a construction permit required under the Act, or to enforce against violations of conditions of a permit to construct or other requirements of the Act. The conferees were concerned that the language of the 1970 Amendments would be construed to preclude citizen enforcement of important regulatory measures provided for by the 1970 Act and these amendments. At least one court decision has held citizen suits to be limited to emission standards, limitations, and compliance schedules. Through this amendment, the policy of the 1970 Amendments to authorize citizen access to the Federal courts coextensive with the Administrator's enforcement litigation authority can be fully realized. No administrative or procedural requirements other than the 60-day notice are imposed.

### SECTION 304

### ATTORNEYS FEES

#### *Senate bill*

Provides that in any suit brought under the Clean Air Act in which the United States is a party, any prevailing party other than the United States shall recover all reasonable costs of such litigation. Where such party prevails in part, the court may award reasonable costs.

#### *House amendment*

Provides that courts may award reasonable attorney fees to any party against whom EPA acts unreasonably in initiating an enforcement action. Attorneys fees and other costs may also be awarded in judicial review proceedings brought under Section 307 of the Clean Air Act whenever the court determines that such award is appropriate.

#### *Conference agreement*

The Senate concurs in the House amendment.

### SECTION 305

### EMPLOYEE PROTECTION

#### *Senate bill*

Adds a new section to existing law to protect employees who believe they have been fired or otherwise discriminated against as a result of having testified or brought suit under the Clean Air Act. The employee may apply to the Secretary of Labor for review of his case. If the Secretary finds that discrimination did occur, he or she can issue an order for the reinstatement of the employee to his former position, with back pay. The provision does not apply to an employee who acts outside of the direction of his employer.

Any employee may request an investigation by the Administrator of EPA of a threatened plant closure or reduction in employment allegedly resulting from any Clean Air Act requirement. This includes public hearings on the record, which shall be the basis for findings of fact and recommendations by the Administrator.

The Administrator shall also conduct an ongoing evaluation of the effects of this Act's requirements on employment.

#### *House amendment*

Adds a new section to existing law to protect employees who believe they have been fired or otherwise discriminated against as a result of having testified or brought suit under the Clean Air Act. The employee may apply to the Secretary of Labor for review of his case. If the Secretary finds that discrimination did occur, he or she can issue an order for the reinstatement of the employee to his former position, with back pay. The provision does not apply to an employee who acts outside of the direction of his employer.

Under a separate provision (Section 304), the House amendments authorize the Administrator to investigate threatened plant closures or reductions in employment allegedly due to requirements of the Act. Any employee may petition the Administrator to undertake such an investigation, including a public hearing on the record which shall be the basis for findings of fact and recommendations by the Administrator.

The Administrator is also mandated to conduct an ongoing evaluation of the effects of requirements under this Act on employment. This latter provision is similar to one contained in the Senate provision on employee protection.

*Conference agreement*

The House concurs in the Senate provision.

### SECTION 306

### COST OF VAPOR RECOVERY

*Senate bill*

No comparable provision.

*House amendment*

Requires that the cost of the purchase and installation of vapor recovery equipment for storage and refueling operations must be paid by the owner of the fuel storage tanks and pumps.

This provision also requires that vapor recovery regulations applicable to independent gasoline marketers provide for a three-year phase-in of the installation of vapor recovery equipment for the refueling of motor vehicles.

The effective date of such vapor recovery regulations shall be delayed by two years only for independent gasoline marketers.

In addition, the FTC must complete, within one year, an economic analysis of these vapor recovery regulations on independent marketers. EPA is then required to incorporate the FTC data in a report to the Congress containing recommendations within 6 additional months.

*Conference agreement*

The Senate concurs in the House amendment.

### SECTION 307

### FINE PARTICULATE STUDY

*Senate bill*

No comparable provision.

*House amendment*

Requires the Administrator to report to the Congress not later than 18 months after enactment on the adequacy of present particulate standards to protect the public health from fine particulates. Such study is to be conducted in cooperation with the National Academy of Sciences.

*Conference agreement*

The Senate concurs in the House amendment as adopted.

### SECTION 308

### FINANCIAL DISCLOSURE

*Senate bill*

No comparable provision.

*House amendment*

Requires any officer or employee of the Federal agencies in a regulatory or policy-making position related to the administration of the Clean Air Amendments to file annual statements of any known financial interest in persons who are subject to the Act or who receive financial assistance under the Act. The Administrator must establish within 90 days guidelines governing disclosure procedures, which are to be initiated in February, 1977.

*Conference agreement*

The Senate concurs in the House amendment.

### SECTION 309

### ECONOMIC IMPACT ASSESSMENT

*Senate bill*

No comparable provision.

*House amendment*

Requires the Administrator to prepare an economic impact statement on proposed regulations concerning new source performance standards, excess emissions fees, ozone, significant deterioration, auto emission standards, fuel or fuel additives, aircraft emission standards or railroad emission standards. A standard or regulation shall not be held to be invalid for failure to comply with the requirements of the section unless the Administrator's actions were arbitrary and capricious.

*Conference agreement*

The Senate concurs in the House amendment with the following modifications. The statement shall be called an economic impact assessment. The Administrator is directed rather than required to prepare the assessment. No legal challenge to a rule of the Administrator may be based in whole or in part of the adequacy of the assessment. The conferees do expect the Administrator to continue and expand his practice of assessing the economic impact of new regulations and making the assessments available to the public in a timely fashion.

### SECTION 310

### NATIONAL AIR QUALITY COMMISSION

*Senate bill*

Section 37 establishes a National Commission on Air Quality composed of Congressional and public members set up to study and report to Congress within three years on the adequacy of the clean air programs to protect the public health and welfare, and the implications of implementing such programs. A report and recommendation on the auto emissions standard for $NO_x$ is required by March 1977. A report on the implementation of the significant deterioration policy is required within two years after enactment.

*House amendment*

A new Section 325 establishes a National Commission on Air Quality composed of Congressional and public members set up to sutdy and report to Congress within three years on the adequacy of the clean air programs to protect the public health and welfare, and the implications of implementing such programs. A report and recommendation on the auto emissions standard for $NO_x$ is required by March 1978. A report on the effects of preventing significant deterioration in clean areas is required within two years after enactment.

*Conference agreement*

The conferees agreed to merge the House and Senate provisions to establish a National Commission on Air Quality to carry out the mandates of both Houses. The Commission shall be composed of eleven public members, four governors and the Chairmen and ranking minority members of the Senate Public Works Committee and the House Interstate and Foreign Commerce Committee.

The Commission shall submit all studies no later than three years after enactment except the following:

(1) a report on the auto emission standard for oxides of nitrogen, which shall be submitted by March 1, 1977;

(2) a study of the implementation of requirements for the prevention of significant deterioration, which shall be submitted no later than two years after enactment;

(3) a study on the reduction of hydrocarbon emissions as a method of achieving the primary standard for oxidant, which shall be submitted no later than two years after enactment.

The $NO_x$ emission penalty study mandated by the Senate bill and the study on economic approaches to pollution control mandated by the House bill shall be done by the Commission. A study of indirect source control is also mandated.

### SECTION 310

### $NO_x$ EMISSION PENALTY STUDY/ECONOMIC APPROACHES TO POLLUTION CONTROL STUDY

*Senate bill*

Requires EPA to submit to Congress in one year a report on the possibility of creating a system of penalties of $NO_x$ emissions from new and existing major emitting facilities. The purpose would be to encourage the development of more effective control technology.

*House amendment*

No comparable provision. However, the House amendments require CEQ to complete within 2 years a study of various economic measures to control presently unregulated or under-regulated pollutants.

*Conference agreement*

The conferees agreed to mandate both of the studies in a single provision.

### SECTION 311

### CO IN SCHOOL BUSES

*House bill*

Requires the Administrator of EPA to establish acceptable carbon monoxide levels for the interior of school buses and other sustained use vehicles.

*Senate bill*

No comparable provision.

*Conference agreement*

The conference substitute includes an EPA/DOT study of carbon monoxide levels in school buses. The conferees recommend, but do not mandate that this study extend to all buses.

### SECTION 401

### BASIS OF ADMINISTRATIVE STANDARDS

*Senate bill*

No comparable provision.

*House amendment*

Section 102 provides a uniform standard of proof for future EPA regulation of air pollutants which anplies to the setting of (1) criteria for national ambient air quality standards under Section 108; (2) new stationary source performance standards under Section 111; (3) hazardous stationary source emission standards; (4) new auto emission standards under Section 202; (5) regulation of fuels and fuel additives under Section 211; (6) aircraft emission standards under Section 231; (7) new ozone regulations under the House bill; (8) new railroad emission standards under the House bill.

In all future rulemaking in these areas, the Administrator could regulate any air pollutant from those sources, the emissions of which "in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger public health and welfare."

Section 102 also requires that unregulated pollutants vinyl chloride, cadmium, arsenic, polycyclic organic material be automatically listed under Section 108 thus requiring the issuance of air quality criteria for those pollutants.

*Conference agreement*

The Senate concurs in the House amendment with a change: to delete cross references between sec. 101 and sec. 102. of the House amendment.

### SECTION 402

### TECHNICAL AND CONFORMING AMENDMENTS

*Senate bill*

Includes the Mariana Islands under the coverage of the Act.

*House amendment*

Corrects oversight and errors in the 1970 amendments and, in addition, includes the Mariana Islands under the Act.

*Conference agreement*

The House amendment was adopted.

### SECTION 403

*Senate bill*

No comparable provision.

### CONGRESSIONAL REVIEW

*House amendment*

Provides that any rule or regulation prescribed by the Administrator under the Clean Air Act may be disapproved by either House of Congress by resolution within 60 calendar days after promulgation. If either House passes such a regulation, the rule shall cease to be in effect.

*Conference agreement*

The conferees modified the House provision to allow Congressional veto of a rule or regulation prescribed by the Administrator only through a concurrent resolution of disapproval by both Houses. The concurrent resolution must be adopted within 60 days after promulgation of the rule or regulation.

### SECTION 404

*Senate bill*

Provides that suits, proceedings, regulations, orders, and other items relating to implementation of the Clean Air Act not affected by provisions of this Act remain in effect.

### SAVINGS PROVISION

*House amendment*

No provision.

*Conference agreement*

The House concurs in the Senate provision with minor modifications.

The following items were contained in either the House or Senate bill but are not contained in the conference agreement.

### REDESIGNATION OF AIR QUALITY REGIONS

*Senate bill*

No comparable provision.

*House amendment*

Authorizes a Governor, with the approval of the Administrator, to redesignate the air quality control regions within his State.

In the case of an interstate AQCR, a regional redesignation must receive the concurrence of all Governors of affected States.

If a regional limitation is exceeded by a source operating under a section 119 extension solely because of the redesignation of an air quality control region, then the compliance date extension given to the source shall not cease to be effective.

*Conference agreement*

No comparable provision.

### AIR QUALITY INDEX

*Senate bill*

No comparable provision.

*House amendment*

Section 317 requires the Administrator to promulgate regulations establishing a standardized air pollution index within one year. State and local monitoring stations required under applicable implementation plans shall begin to use such index as soon as possible.

The Administrator shall also supplement State and local monitoring efforts insofar as necessary for proper administration of the Act.

*Conference agreement*

No comparable provision.

### AIRCRAFT

*Senate bill*

No comparable provision.

*House amendment*

Gives the Secretary of Transportation veto power over any aircraft emission standard promulgated since enactment of the 1970 Clean Air Act, if such standard would create an aircraft safety hazard.

Also requires the Administrator to promulgate emission standards for nonmilitary supersonic aircraft within one year after enactment.

*Conference agreement*

No comparable provision.

### CALIFORNIA WAIVER

*Senate bill*

No comparable provision.

*House amendment*

Allows the Administrator to deny a waiver of Federal standards applied for by California if he finds that the proposed State standards are not necessary, are arbitrary and capricious, or inconsistent with standards and enforcement procedures under section 202(a).

*Conference agreement*

No comparable provision.

### LOW EMISSION VEHICLES

*Senate bill*

No comparable provision.

*House amendment*

Amends Section 212, the low emission vehicle procurement provision, by stating that such vehicles may be considered suitable for Federal procurement even if a full range of potential uses is not achievable by each vehicle.

*Conference agreement*

No comparable provision.

### ONBOARD HYDROCARBON TECHNOLOGY

*Senate bill*

No comparable provision.

*House amendment*

Directs the Administrator to study the feasibility of requiring the installation of technology to reduce evaporative hydrocarbon emissions from the gas tanks of new motor vehicles If the Administrator finds that it would be technologically feasible and desirable, he shall promulgate design or performance standards which require the installation of such technology.

*Conference agreement*

No comparable provision.

### FILL PIPE STANDARDS

*Senate bill*

No comparable provision.

*House amendment*

Requires the Administrator to promulgate regulations establishing new motor vehicle fill pipe standards. Such standards shall specify either design or performance characteristics of the fill pipe of a motor vehicle to insure tight connection between the fill pipe and the vapor recovery system on the fuel pump.

*Conference agreement*

No comparable provision.

### AIR CONDITIONING/WARRANTY

*Senate bill*

Section 26(b) requires the Administrator to certify vehicles and engines under Section 206(a) with an allowance for the subsequent installation of air conditioning or similar equipment.

Such a vehicle shall be deemed to be covered by a certificate of conformity only if no equipment is added which is not within the allowance provided for in the certification testing.

No warranty shall be invalidated by the installation of an air conditioner which is not original equipment if a vehicle has been certified with an allowance for such equipment.

*House amendment*

No comparable provision.

*Conference agreement*

No comparable provision.

### NOTICE TO STATES

*Senate bill*

No comparable provision.

*House amendment*

Requires the Administrator to notify a State air pollution control agency in advance of an entry, inspection or monitoring related to the enforcement of a requirement of the State implementation plan. The Administrator must include in his notice the reasons for his action and must take into account any showing that such action would be detrimental to the State's enforcement program, in determining whether to proceed.

*Conference agreement*

No comparable provision.

### EMERGENCY POWERS

*House bill*

Broadens the authority of the Administrator to issue orders to any person whose action or inaction requires prompt regulation to protect public health, including, if necessary, State and local officials.

*Senate bill*

No comparable provision.

*Conference agreement*

No comparable provision.

### INTERAGENCY COOPERATION

*Senate bill*

No comparable provision.

*House amendment*

Establishes an Interagency Task Force on Environmental Cancer and Heart and Lung Disease to coordinate research and control strategies for the reduction of air pollution prevention of environmentally-related cancer and heart and lung diseases. The Task Force shall report to the Congress annually.

*Conference agreement*

No comparable provision.

### CIVIL LITIGATION

*Senate bill*

No comparable provision.

*House amendment*

Grants EPA exclusive authority to represent itself in civil litigation (except Supreme Court litigation). The Department of Justice retains the authority to decide whether EPA may appeal a case.

*Conference agreement*

No comparable provision.

### EMERGENCY REPORTING

*House bill*

Requires the Administrator to report to Congress when air pollution emergencies are declared, where they are declared and what actions are taken to alleviate the emergency situations.

*Senate bill*

No comparable provision.

*Conference agreement*

No comparable provision.

### ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

*Senate bill*

No comparable provision.

*House amendment*

Adds to section 307 new provisions which modify existing administrative procedures followed in EPA rulemaking, and changes the standard of judicial review.

(1) *The Record:* This provision specifies the documents that must be contained in the rulemaking docket of any proposed rule. These documents are:

A statement of the basis and purpose of the rule;

All written comments and documentary information received on the proposed rule during the comment period; and all documents received after the comment period which the Administrator deems to be of central relevance to the rulemaking;

The transcript of any public hearing held on the proposed rule;

The draft proposals and accompanying documents submitted by the Administrator to OMB, all interagency comments on the proposal and all EPA responses to those comments.

(2) *Hearings and Hearing Procedures:* The House bill would make available an opportunity for a public hearing on 12 additional categories of rulemaking not covered under existing law.

Any interested person would be given the right to make an oral presentation, and an opportunity to cross-examine any person making such an oral presentation. These requirements would transform the EPA rulemaking procedures into adjudicatory proceedings, instead of the informal, legislative-type rulemaking which is conducted now.

(3) *Standard of Review:* The House bill would change the standard under which courts review an EPA rulemaking from the existing "arbitrary and capricious" test to one of whether the rule conforms to the "substantial evidence" on the record.

(4) *Judicial Review:* The House bill would extend from thirty to sixty days the available time for petitioning for judicial review of an EPA promulgation.

*Conference Agreement*

No comparable provision.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
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J. W. SYMINGTON,
JAMES H. SCHEUER,
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EDMUND S. MUSKIE,
JENNINGS RANDOLPH,
MIKE GRAVEL,
ROBERT MORGAN,
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HOWARD H. BAKER,
JAMES L. BUCKLEY,
ROBERT T. STAFFORD,
JAMES A. MCCLURE,
PETE V. DOMENICI,
*Managers on the Part of the Senate.*

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## CONFERENCE REPORT ON S. 3131, TO AMEND RAIL PASSENGER SERVICE ACT

**Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 3131) to amend the Rail Passenger Service Act and to provide financing for the National Railroad Passenger Corporation, and for other purposes.**

CONFERENCE REPORT (H. REPT. No. 94–1743)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Rail Transportation Improvement Act".

TITLE I—AMTRAK IMPROVEMENT

Sec. 101. Short title.
Sec. 102. Authorization of appropriations.
Sec. 103. Board membership.
Sec. 104. Security guards.
Sec. 105. Waste disposal.
Sec. 106. Through routes and joint fares.
Sec. 107. Cost computation.
Sec. 108. Hours of food service.

TITLE II—RAIL AMENDMENTS

Sec. 201. Short title.
Sec. 202. Rail marine freight service; options.
Sec. 203. Loans for payment of obligations.
Sec. 204. Protection of employees' pension benefits.
Sec. 205. Evidentiary use of certain determinations; reimbursement for rail service.
Sec. 206. Authority of the Interstate Commerce Commission.
Sec. 207. Replacement operators.
Sec. 208. Collective bargaining and FELA claims.
Sec. 209. Employee displacement allowance.
Sec. 210. Noncontract employees.
Sec. 211. United States Railway Association Board membership.
Sec. 212. Financial assistance.
Sec. 213. Priority of redeemable preference shares.
Sec. 214. Redemption payments and interest rate.
Sec. 215. Obligation guarantees.
Sec. 216. Rehabilitation and financing amendments.
Sec. 217. Northeast Corridor acquisitions.
Sec. 218. Discontinuance and abandonment procedures.
Sec. 219. Preservation of historical rail facilities.
Sec. 220. Technical amendments.

TITLE III—GENERAL PROVISIONS

Sec. 301. Environmental study.
Sec. 302. Delmarva rail study.
Sec. 303. Effective date.

### TITLE I—AMTRAK IMPROVEMENT

#### SHORT TITLE

SEC. 101. This title may be cited as the "Amtrak Improvement Act of 1976".

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 102. (a) Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is amended by striking out the second and third sentences thereof and inserting in lieu thereof the following: "There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(1) for the payment of operating expenses for the basic system, except for the additional expenses that are to be paid from funds authorized by clause (3) of this sentence, and for operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act, not to exceed $350,000,000 for the fiscal year ending June 30, 1976, not to exceed $105,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $430,000,000 for the fiscal year ending September 30, 1977, and not to exceed $470,000,000 for the fiscal year ending September 30, 1978;

"(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed $110,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $130,000,000 for the fiscal year ending September 30, 1977, and not to exceed $130,000,000 for the fiscal year ending September 30, 1978;

"(3) for the payment of the additional operating expenses of the Corporation which result from the operation, maintenance, and ownership or control of the Northeast Corridor, pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.), not to exceed a total amount of $68,000,000 for the transitional fiscal period ending September 30, 1976, and the fiscal year ending September 30, 1977, and not to exceed $75,000,000 for the fiscal year ending September 30, 1978; and

"(4) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1978.

Not more than $25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than $7,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than $35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than $40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978, shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 403(b) of this Act.".

(b) Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is further amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Funds appropriated for capital grants pursuant to this section (other than subsection (a)(4)) shall be paid to the Corporation in each fiscal quarter, and such grants may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this Act.".

(c) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such $900,000,000 maximum shall be reduced by an amount equal to the total principal amount of such securities, obligations, or loans paid by the Corporation from funds made available pursuant to clause (4) of section 601(a) of this Act.".

#### BOARD MEMBERSHIP

SEC. 103. Section 303(a)(1) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)) is amended—

(1) by striking out the period at the end of subparagraph (A) thereof and inserting in lieu thereof ", and the President of the Corporation, ex officio."; and

(2) by striking out "Nine" in subparagraph (B) thereof and inserting in lieu thereof "Eight".

#### SECURITY GUARDS

SEC. 104. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(i) The Corporation is authorized to employ security guards for purposes of providing security and protection for rail passengers of the Corporation and for rail properties owned by the Corporation. Security guards employed by the Corporation who have complied with the provisions of any State law setting forth licensing residency, or related requirements applicable to security guards or persons employed in similar positions may be employed without regard to the provisions of any other State's laws setting forth such requirements.".

#### WASTE DISPOSAL

SEC. 105. Section 306(1) of the Rail Passenger Service Act (45 U.S.C. 546(1)) is amended by inserting "waste disposal from" immediately after "shall not apply to".

### THROUGH ROUTES AND JOINT FARES

SEC. 106. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following two new subsections:

"(j)(1) The establishment of through routes and joint fares, between the National Railroad Passenger Corporation and other intercity common carriers of passengers by rail and motor carriers of passengers, is consistent with the public interest and the national transportation policy. The Congress encourages the making of such arrangements.

"(2) The Corporation may establish through routes and joint fares with any motor carrier.

"(k) The Commission shall, by September 30, 1977, conduct and transmit to the Congress a study of through routes and joint fares between the Corporation and other intercity common carriers by rail and motor carriers of passengers. Such study shall include, but not be limited to—

"(1) a history of through route and joint fare arrangements between motor carriers of passengers and carriers of passengers by rail;

"(2) laws and regulations presently applicable or related to such through route and joint fare arrangements;

"(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

"(4) the extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and passenger convenience;

"(5) methods of formulating fares and divisions thereof;

"(6) views of the Corporation, other intercity common carriers by rail and of organizations representing intercity bus operators; and

"(7) recommendations relative to the establishment of through routes and joint fares between railroads and motor carriers of passengers, including any recommendations for legislation.".

### COST COMPUTATION

SEC. 107. Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended—

(1) in paragraph (1), by adding at the end thereof the following new sentence: "Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service.";

(2) in paragraph (1), by striking out "total operating losses" in the second sentence thereof and inserting in lieu thereof "solely related costs"; and

(3) in paragraph (3), by striking out "total" the first place it appears and inserting in lieu thereof "solely related costs and associated capital".

### HOURS OF FOOD SERVICE

SEC. 108. Section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "No regulation issued by the Commission under this section shall require the Corporation or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours.".

## TITLE II—RAIL AMENDMENTS

### SHORT TITLE

SEC. 201. This title may be cited as the "Rail Amendments of 1976".

### RAIL MARINE FREIGHT SERVICE; OPTIONS

SEC. 202. (a) The last sentence of section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by inserting immediately after "passenger service" the following: "or for purposes of providing rail marine freight floating service".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended by adding at the end thereof the following new paragraph:

"(6) Whenever the Corporation exercises an option to acquire, or acquires, interests in rail marine freight floating equipment pursuant to the recommendations of the final system plan, and the Corporation thereafter makes such floating equipment available to a profitable railroad operating in the region, a State, or a responsible person (including a government entity), the United States shall indemnify—

"(A) the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against it, with respect to such equipment, under paragraph (2) of this subsection; and

"(B) such profitable railroad, State, or responsible person against any costs or liabilities imposed thereon as the result of any judgment entered against such profitable railroad, State, or responsible person under paragraph (3) of this subsection,

plus interest on the amount of such judgment at such rate as is constitutionally required.".

(c) Section 206(d)(7) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(7)) is amended by inserting immediately after "acquisition" the following: "by the Corporation pursuant to the final system plan".

### LOANS FOR PAYMENT OF OBLIGATIONS

SEC. 203. (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended to read as follows:

"(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1)(A) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed, at any given time, $350,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary buisness relationships. Such obligations shall be limited to—

"(i) amounts claimed by suppliers (including private car lines) of materials or services utilized or purchased in current rail operations;

"(ii) claims by shippers arising from current rail services;

"(iii) payments to railroads for settlement of current interline accounts and all other current accounts and obligations;

"(iv) claims of employees arising under the collective-bargaining agreements of the railroads in reorganization in the region and subject to section 3 of the Railway Labor Act (including claims for accrued vacation and wages and similar claims arising in connection with labor and services performed);

"(v) claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Act (45 U.S.C. 51–60);

"(vi) amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefit plans described in section 505(a) of this Act;

"(vii) amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provides benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, and to which both a railroad in reorganization and employee members have made contributions;

"(viii) amounts required to provide adequate funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization prior to the date of conveyance pursuant to section 303(b)(1) of this Act and for individuals who retired, prior to such date of conveyance, from service with a railroad in reorganization;

"(ix) amounts required to discharge the obligations of each such railroad in reorganization to nonemployee claimants for personal injuries suffered during the period such railroad has been in reorganization; and

"(x) amounts required to discharge any obligation of a railroad in reorganization in the region to the National Railroad Passenger Corporation, arising out of a contract between such railroad in reorganization and such Corporation under which such railroad in reorganization is required to provide a suitable rail passenger station, in any case in which such railroad in reorganization sold a rail passenger station pursuant to a judicial order of condemnation prior to April 1, 1976.

"(B) The Association shall make a loan pursuant to subparagraph (A) of this paragraph if, notwithstanding any other requirement of this subsection, it finds that the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to section 303(b)(6), 504(e), or 504(g) of this Act, or if, with respect to an obligation referred to in subparagraph (A) of this paragraph, it finds that—

"(i) provision for the payment of such obligation was not included in the financial projections of the final system plan;

"(ii) such obligation arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act and is, under other applicable law, the responsibility of a railroad in reorganization in the region, and a claim is presented to a railroad in reorganization in the region or the Corporation within 2 years after the date of enactment of the Rail Amendments of 1976;

"(iii) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is for services or materials, the furnishing of which served to avoid disruptions in ordinary business relationships prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act, or is necessary to avoid postconveyance disruptions in ordinary business relationships;

"(iv) the transferor is unable to pay such obligation within a reasonable period of time; and

"(v) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from a railroad in reorganization in the region for an obligation paid on its behalf under this subsection, have been jointly agreed to by the Finance Committee and the Corporation, and the joint agreement—

"(I) provides for the Corporation to receive reimbursement from the Association for any expenses incurred in seeking reimbursement from any railroad in reorganization in the region for an obligation paid on its behalf under this subsection; and

"(II) includes a stipulation of the exact procedures the Corporation shall undertake to avoid the finding, referred to in paragraph (6)(A)(i) of this subsection, that it has not exercised due diligence.".

(b) Section 211(h)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(2)) is amended—

(1) by inserting immediately before the period at the end of the first sentence thereof the following: "and for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of this subsection"; and

(2) by adding at the end thereof the following new sentences: "Nothing in this subsection shall be construed as permitting any district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region to enjoin, restrain, or limit the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph, (B) cash or other current assets identified pursuant to paragraph (3) of this subsection, or (C) proceeds of loans pursuant to paragraph (1) of this subsection. Any agency agreement executed prior to the date of the enactment of the Rail Transportation Improvement Act shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph. Nothing in this paragraph shall be construed to affect any payment made prior to such date of enactment with respect to obligations other than those identified in paragraph (1) of this subsection.".

(c) Section 211(h)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(4)) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) Except as provided in clause (ii) of this subparagraph, any funds held in an escrow account by a railroad in reorganization on the date of enactment of the Rail Transportation Improvement Act which are thereafter determined to be cash and other current assets of the estate of such railroad in reorganization, for purposes of paragraph (3) of this subsection, shall be applied as follows—

"(I) first, to the reduction of any outstanding loans to the Corporation by the Association, pursuant to paragraph (1) of this subsection, the proceeds of which were used to discharge obligations of such railroad in reorganization;

"(II) second, to the Association to the extent of any such loans which have been forgiven pursuant to paragraph (5) of this subsection; and

"(III) third, to the payment of any remaining obligations of such railroad in reorganization, in accordance with the provision of the agency agreement entered into pursuant to paragraph (2) of this subsection.

"(ii) The manner of disposition set forth in clause (i) of this subparagraph shall not apply with respect to a railroad in reorganization if the Secretary (I) determines that a different disposition of assets is necessary to carry out a reorganization plan of such railroad in reorganization, and that such different disposition adequately protects the interests of the United States, and (II) transmits his determination to the court having jurisdiction over the reorganization of such railroad.".

(d) Section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(5)(B)) is amended by adding at the end thereof the following new sentences: "The Corporation, the National Rail Passenger Corporation, or a profitable railroad, as the case may be, shall, with respect to each direct claim for reimbursement pursuant to paragraph (4) of this subsection, file a proof of administrative expense claim with the trustees of the railroad in reorganization from whom reimbursement is sought. Each such proof of administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such pragraph (4).".

(e) The first sentence of section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended to read as follows: "The aggregate principal amount (exclusive of interest or additions to principal on account of accrual of interest) of obligations issued by the Association under this section which may be outstanding at any one time shall not exceed $395,000,000.".

### PROTECTION OF EMPLOYEE'S PENSION BENEFITS

SEC. 204. Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: ", except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974, the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.".

### EVIDENTIARY USE OF CERTAIN DETERMINATIONS; REIMBURSEMENT FOR RAIL SERVICE

SEC. 205. (a) Section 304(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(d)) is amended by adding at the end thereof the following new paragraph:

"(4) No determination of reasonable payment for the use of rail properties of a railroad in reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after the date of enactment of the Rail Transportation Improvement Act.

"(A) pursuant to this section; or

"(B) pursuant to section 402 of this Act or section 17 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613),

shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this Act.".

(b) Section 304(e)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended by redesignating subparagraph (C) thereof as subparagraph (D), and by inserting immediately after subparagraph (B) thereof the following new subparagraph:

"(C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies, and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and costs incurred incident thereto) shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)).".

### AUTHORITY OF THE INTERSTATE COMMERCE COMMISSION

SEC. 206. Section 304(j) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(j), is amended—

(1) by striking out paragraph (1) thereof and inserting in lieu thereof the following: "(1)(A) Except as provided in subparagraph (B) of this paragraph, no local public body which provides mass transportation services by rail, and which is otherwise subject to the Interstate Commerce Act shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or to rules, regulations, and orders promulgated under such Act, if the interstate fares, or the ability to apply to the Interstate Commerce Commission for changes thereto, of such local public body is subject to approval or disapproval by a Governor of any State in which it provides services.

"(B) Any local public body described in subparagraph (A) of this paragraph shall continue to be subject to applicable Federal laws pertaining to (i) safety, (ii) the representation of employees for purposes of collective bargaining, and (iii) employment retirement, annuity, and unemployment systems or any other provision pertaining to dealings between employees and employers."; and

(2) by striking out paragraph (2)(B) thereof and inserting in lieu thereof the following:

"(B) 'mass transportation services' means transportation services described in section 12(c)(5) of the Urban Mass Transportation Act (49 U.S.C. 1608(c)(5)) which are provided by rail.".

### REPLACEMENT OPERATORS

SEC. 207. (a) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) by striking out "and" at the end of paragraph (9) thereof;

(2) by striking out the period at the end of paragraph (10) thereof, and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) 'replacement operator' means—

"(A) a State which has acquired all or part of the rail properties of any railroad in reorganization in the region and which intends to replace any class I railroad as the operator of rail service over such rail properties; or

"(B) any class I railroad which is designated, by a State which has acquired such rail properties, to replace the State or any other class I railroad as the operator of rail service over such rail properties.".

(b) Section 504(f)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(b)(3)) is amended—

(1) in the first sentence thereof, by striking out "shall upon transfer" and all that follows through "status." and inserting in

lieu thereof the following: ", or as a result of the designation of a replacement operator, shall, upon transfer to the National Railroad Passenger Corporation, an acquiring railroad, or a replacement operator, carry with him his protected status."; and

(2) in the second sentence thereof by striking out "or an acquiring railroad," and inserting in lieu thereof ", and acquiring railroad, or a replacement operator."

(c) Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended—

(1) by inserting immediately after "the Association (where applicable)," each time it appears the following: "replacement operators,"; and

(2) in the third sentence thereof, by inserting immediately after "the Corporation nor" the following: "a replacement operator nor".

### COLLECTIVE BARGAINING AND FELA CLAIMS

Sec. 208. (a) Section 504(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(e)) is amended—

(1) by striking out the period at the end of the first sentence thereof, and inserting in lieu thereof the following: ", to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the region."; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

(b) Section 504(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(g)) is amended—

(1) by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: ", to the extent that such claims are determined by the Association to be the obligation of such railroad."; and

(2) by adding at the end thereof the following new sentences: "Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

### EMPLOYEE DISPLACEMENT ALLOWANCE

Sec. 209. (a) Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended—

(1) in paragraph (1) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975";

(2) in paragraph (3) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975"; and

(3) in paragraph (4) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975".

(b) Section 505(b)(1)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(1)(B)) is amended by inserting immediately after "(B)" the following: "with respect to a protected employee who has been deprived of his employment,".

### NONCONTRACT EMPLOYEES

Sec. 210. (a) Section 505(i)(2) of the Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(2)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such resolution procedure shall be the exclusive means available to the parties for resolving such dispute, and any arbitration decision rendered shall be final and binding on all parties.".

(b) Section 505(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.S. 775(i)) is amended by adding at the end thereof the following new paragraph:

"(3) Except as otherwise provided in this title, a protected employee whose employment is not governed by the terms of a collective bargaining agreement and who has been deprived of employment shall not, during the period in which he is entitled to protection, be placed in a worse position with respect to any voluntary relief plan benefits or preretirement benefits provided under any life or medical insurance plan, except that the level of benefits to which such an employee is entitled under this paragraph shall not exceed the level of benefits which is afforded to the Corporation's active noncontract employees of comparable age, position, and level of compensation.".

(c) Section 505(b)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(4)) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any noncontract employee whose noncontract position has been abolished.".

### UNITED STATES RAILWAY ASSOCIATION BOARD MEMBERSHIP

Sec. 211. (a) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended by striking out "the duly authorized representatives of either of them" and inserting in lieu thereof ", in his absence, the Deputy Secretary of Transportation".

(b) Section 201(d)(2) of such Act (45 U.S.C. 711) is amended by striking out "their duly authorized representatives" and inserting in lieu thereof "the Deputy Secretary of Transportation, the Vice Chairman of the Commission, or the Deputy Secretary of the Treasury, as the case may be".

(c) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended by striking out the second sentence thereof.

(d) Section 201(i) of such Act (45 U.S.C. 711(i)) is amended, in the first sentence thereof, by striking out "duly authorized representatives" and inserting in lieu thereof "Deputy Secretaries".

(e) Section 201(j)(4) of such Act (45 U.S.C. 711(j)(4)) is amended to read as follows: "Any reference in this Act to the Secretary of the Treasury is to the Secretary of the Treasury or the person who is at the time performing the duties of the Office of the Secretary of the Treasury in accordance with law or, in his absence, the Deputy Secretary of the Treasury. Any reference in this Act to the Chairman of the Commission is to the Chairman of the Commission or the person who is at the time performing the duties of the Chairman of the Commission in accordance with law.".

### FINANCIAL ASSISTANCE

Sec. 212. (a) Section 505(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(a)) is amended to read as follows:

"Sec. 505. (a) In General.—Any railroad may apply to the Secretary, following the date of enactment of this Act and in accordance with regulations promulgated by the Secretary, for financial assistance for facilities rehabilitation and improvement financing and for such other financial assistance as may be approved by the Secretary." Any regulations promulgated by the Secretary pursuant to this section shall include specific and detailed standards in accordance with which the Secretary shall conduct the evaluations and make the determinations required in subsection (b)(2) of this section.".

### PRIORITY OF REDEEMABLE PREFERENCE SHARES

Sec. 213. Section 506(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (4 U.S.C. 826(a)(2)) is amended—

(1) in clause (i) thereof, by inserting immediatley after "whenever issued," the following: "except that the Secretary may make any such redeemable preference share subordinate to any common stock which was issued as a result of an exchange for securities which were senior in right to common stock, if (I) such exchange took place pursuant to a court-approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C. 205), and (II) the railroad subject to such reorganization plan was in reorganization under such section 77 prior to the date of enactment of this Act,";

(2) in clause (iii) thereof, by inserting immediately after "other than common stock" the following: "(except in those cases in which the Secretary has provided for subordination pursuant to clause (i) of this paragraph) which is';

### REDEMPTION PAYMENTS AND INTEREST RATE

Sec. 214. (a) Section 506(a)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(4)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and, except to permit the railroad to prepay its redemption payments, the number of such annual redemption payments shall in no event be less than 15; and".

(b) Section 506(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)) is amended by adding at the end thereof the following new paragraph:

"(5) the proceeds from the issuance of which are to be expended solely to reduce the deferred maintenance on facilities, shall in no event yield (A) less than the minimum permissible yield determinable in accordance with paragraphs (3) and (4) of this subsection, nor (B) more than such railroad's rate of return on total capital (represented by the ratio which such carrier's net income, including interest on long-term debt, bore to the sum of the average shareholder's equity, long-term debt, and accumulated deferred income tax credits for the 3 fiscal years preceding the date of submission of the application) as determined in accordance with the uniform system of accounts promulgated by the Commission in those cases in which such rate of return exceeded such minimum permissible yield."

### OBLIGATION GUARANTEES

Sec. 215. (a) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (c) thereof and inserting in lieu thereof the following new subsection:

"(c) Full-Faith and Credit.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.".

(b) Section 511(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended—

(1) in paragraph (1) thereof, by inserting "(A)" immediately after "secured", and by inserting immediately before the semicolon the following ", or (B) in the case of the rehabilitation or improvement of leased equipment, by the lease"; and

(2) by amending paragraph (5) thereof to read as follows—

"(5) the prospective earning power of the applicant, or the value or prospective earning power of any equipment or facilities to be improved, rehabilitated, or acquired (or any combination of the foregoing), together with any other security offered by the applicant, is sufficient to provide the United States with reasonable security and protection, except that if the value or prospective earning power of such equipment or facilities is equal to or greater than the amount of the obligation to be guaranteed, the Secretary may not, on the basis of the lack of prospective earning power of the applicant, find that the United States will not be provided with the reasonable security and protection referred to in this paragraph; and".

(c) Section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(j)) is amended to read as follows:

"(j) CONDITIONS OF GUARANTEES.—(1) The Secretary shall, before making, approving, or extending any guarantee or commitment to guarantee any obligation under this section, require the obligor to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to assure that, as long as any principal or interest is due and payable on such obligation, such obligor—

"(A) will not make any discretionary dividend payments, except as provided in paragraph (2) of this subsection; and

"(B) will not use any funds or assets from railroad operations for nonrail purposes,

if such payments or use will impair the ability of such obligor to provide rail services in an efficient and economic manner or will adversely affect the ability of such obligor to perform any obligation guaranteed by the Secretary.

"(2) An obligor shall not be restricted with respect to making dividend payments from its net income for any fiscal year, if such payments do not exceed—

"(A) when compared to the net income of such obligor for such fiscal year, the ratio which aggregate dividends paid by such obligor, during the 5 fiscal years prior to the granting of the earliest loan guarantee then outstanding under this section, bore to aggregate net income of such obligor for such period; or

"(B) 50 per centum of the total additions to the retained income of such obligor (computed on a cumulative basis and giving cognizance to dividends paid) during the period commencing with the fiscal year prior to the granting of the earliest loan guarantee then outstanding under this section,

whichever is greater.

"(3) The restrictions set forth in paragraph (1) of this subsection shall not apply with respect to an obligation guaranteed under this section if, in the event of a default by the obligor, the Secretary would be subrogated to the rights of the lender under section 77(j) of the Bankruptcy Act.".

(d) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (g) thereof and redesignating subsections (h) through (n) thereof as subsections (g) through (m), respectively.

### REHABILITATION AND FINANCING AMENDMENTS

SEC. 216. (a) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting in the third sentence thereof, immediately after "shall" the following: "evaluate and";

(2) by inserting immediately after "financed" in clause (A) the following: "and the railroad's rate of return on total capital (represented by the ratio which such carriers net income, including interest on long-term debt, bore to the sum of average shareholder's equity, long-term debt, and accumulated deferred income tax for fiscal year 1975) as determined in accordance with the uniform system of accounts promulgated by the Commission"; and

(3) by inserting immediately after the third sentence thereof the following new sentence: "Except as provided in the last sentence of this paragraph, the Secretary, in determining the extent to which a project will provide public benefits, shall give the highest priority to projects which will enhance the ability of the applicant carrier or other carriers to provide essential freight services.".

(b) Section 503(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823(e)) is amended by striking out "60" and inserting in lieu thereof "150".

(c) Section 504(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(b)) is amended—

(1) by striking out "360" and inserting in lieu thereof "540"; and

(2) by inserting in paragraph (A) thereof, immediately after "needs," the following: "the projected gross national product, the potential demand for rail service and the types of service capable of meeting that potential demand, the potential revenues and costs (including capital costs associated with those revenues), the demand for rail services for which the railroads could compete on an economic basis, the probable sources of funding for the capital costs of providing those services, and which of those costs must be provided by public financing,".

(d) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking out "September 30, 1978" and inserting in lieu thereof "March 31, 1979".

(e) Section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654 note) is amended by striking out "540" and inserting in lieu thereof "720".

### NORTHEAST CORRIDOR ACQUISITIONS

SEC. 217. (a) Section 704(a)(3)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)(B)) is amended by striking out "$85,182,956" and inserting in lieu thereof "$120,000,000".

(b) Section 704(a)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)) is amended by adding at the end thereof the following:

"Amounts appropriated pursuant to subparagraphs (B) and (D) of this paragraph shall be used first for the repayment, with interest, of that portion of obligations issued by the National Railroad Passenger Corporation and guaranteed pursuant to section 602 of the Rail Passenger Service Act (45 U.S.C. 602), the proceeds of which have been used for the payment of expenses resulting from the acquisition of the properties referred to in such subparagraphs (B) and (D).".

(c) Section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854) is amended by adding at the end thereof the following new subsections:

"(e) NOTE AND MORTGAGE.—In order to protect and secure the expenditure of funds by the United States on account of the acquisition and improvement of properties designated under section 206(c)(1) (C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1) (C) and (D)), the Secretary is authorized to obtain a note of indebtedness from, and to enter into a mortgage agreement with, the National Railroad Passenger Corporation in order to establish a mortgage lien on such properties for the United States securing such expenditure. Such note and mortgage shall not infringe upon or supersede the authority conferred upon the National Railroad Passenger Corporation by section 701 of this Act.

"(f) EXEMPTION AND IMMUNITY.—Any agreement, security, or obligation obtained by the Secretary pursuant to subsection (e) of this section, and any transaction in connection with any such agreement, security, or obligation, shall be exempt from the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), and any other Federal, State, or local law or regulation which regulates securities or the issuance thereof. Any such agreement, security, obligation, or transaction shall enjoy all of the immunities from other laws which section 601 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791) accords to transactions which are in compliance with or implement the final system plan. The conveyance or transfer of rail properties resulting from any such agreement, security, obligation, or transaction shall enjoy the same exemptions, privileges, and immunities which the Regional Rail Reorganization Act of 1973 (including section 303(e) thereof) accords to conveyances ordered or approved by the special court under section 303(b) of such Act (45 U.S.C. 743(b)).

"(g) PROTECTION FROM LIABILITY.—The Corporation, its Board of Directors, and its individual directors shall not be liable to any party for any damages, or in any other manner, by reason of the fact that the Corporation has given or issued a security or obligation to the United States pursuant to the provisions of subsection (e) of this section. The immunity granted by this subsection shall also extend to any agreement entered into by the Corporation pursuant to such subsection (e) and to any transaction in connection therewith. The United States shall indemnify the Corporation, its Board of Directors, and its individual directors against all costs and expenses (including fees of accountants, experts, and attorneys) actually and reasonably incurred in defending any litigation testing the legal validity of any security, obligation, agreement, or transaction, given, issued, or entered into pursuant to such subsection (e).".

### DISCONTINUANCE AND ABANDONMENT PROCEDURES

SEC. 218. (a) Section 1a(1) of the Interstate Commerce Act (49 U.S.C. 1a(1)) is amended by adding at the end thereof the following new sentence: "The authority granted to the Commission under this section shall not apply to (a) abandonment or discontinuance with respect to spur, industrial, team, switching, or side tracks if such tracks are located entirely within one State, or (b) any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.".

(b) Section 1a(4) of the Interstate Commerce Act (49 U.S.C. 1a(4)) is amended—

(1) by adding immediately before the last sentence thereof the following new sentence: "If such certificate is issued without an investigation pursuant to paragraph (3) of this section, actual abandonment or discontinuance may take effect, in accordance with such certificate, 30 days after the date of issuance thereof."; and

(2) in the last sentence thereof, by inserting immediately after "issued" the following: "after an investigation pursuant to such paragraph (3)".

### PRESERVATION OF HISTORICAL RAIL FACILITIES

SEC. 219. (a) Section 4(i)(9) of the Department of Transportation Act (49 U.S.C. 1653) is amended by—

(1) striking out "$5,000,000" in clauses (ii) and (iii) of subparagraph (A) thereof and inserting in lieu thereof "$2,500,000";

(2) striking out subparagraph (B) thereof and redesignating subparagraph (C) thereof as subparagraph (B) thereof.

(b) Section 11(a)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by adding after subparagraph (B) thereof the following new subparagraph:

"(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

"(i) $2,500,000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1652(i)),

"(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such section 4(i); and

"(iii) $250,000 for administrative expenses. Sums appropriated for the purposes of this subparagraph shall remain available until expended.".

### TECHNICAL AMENDMENTS

SEC. 220. (a) Section 211(h)(6)(A)(i) of the Regional Rail Reorganization Act (45 U.S.C. 721(h)(6)(A)(i)) is amended by striking out "paragraph (1)(E)" and inserting in lieu thereof "paragraph (1)(B)(v)".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended—

(1) in paragraph (2)(A) thereof, by striking out "securities, certificates of value of the Corporation" and inserting in lieu thereof "securities and certificates of value";

(2) in paragraph (2)(A) thereof, by striking out "it has" and inserting in lieu thereof "they have";

(3) in paragraph (2)(B) thereof, by striking out "Corporation's securities, certificates of value" and inserting in lieu thereof "securities and certificates of value";

(4) in paragraph (2)(B) thereof, by striking out "other securities, certificates of value" and inserting in lieu thereof "other securities"; and

(5) in the fourth sentence of paragraph (3) thereof, by striking out "section 303(a)(2)" and inserting in lieu thereof "subsection (a)(2) of this section".

(c) Section 308(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (15 U.S.C. 80a–3 note) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(d) Section 504(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(a)) is amended by inserting "and equipment" immediately after "railroad's facilities".

(e) The first sentence of section 511(a) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately before the period at the end thereof the following: ", or to develop or establish new railroad facilities".

(f) Section 511(h) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended by striking out "PREQUISITES FOR GUARANTEES." and inserting in lieu thereof "PREREQUISITES FOR GUARANTEES.".

(g) Section 809(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 1a note) is amended by striking out "abandoned" and inserting "abandoned since 1970" immediately after "railroad rights-of-way".

(h) Section 901(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654(8)) is amended to read as follows:

"(8) a survey and analysis of the railroad industry in the United States to determine its financial condition and the physical condition of its facilities, rolling stock, and equipment.".

(i) The second sentence of section 5(16) of the Interstate Commerce Act (49 U.S.C. 5(16)) is amended by striking out "paragraph (16)" and inserting in lieu thereof "paragraph (17)".

(j) The first sentence of section 17(9)(e) of the Interstae Commerce Act (49 U.S.C. 17(9)(e)) is amended by striking out "section" and inserting in lieu thereof "paragraph".

(k) Section 5b(5)(a)(iii) of the Interstate Commerce Act (49 U.S.C. 5b(5)(a)(iii)) is amended by striking out "section 15(7)" and inserting in lieu thereof "section 15(8)"

(l) Section 13(5) of the Interstate Commerce Act (49 U.S.C. 13(5)) is amended by adding at the end thereof the following:

"Nothing in this paragraph shall affect the authority of the Commission to institute an investigation or to act in such investigation as provided in paragraphs (3) and (4) of this section.".

(m) The final sentence of section 15(19) of the Interstate Commerce Act (49 U.S.C. 15(19)) is amended by striking out "section 2" and inserting in lieu thereof "section 1, 2".

(n) Section 22(2) of the Interstate Commerce Act (49 U.S.C. 22(2)) is amended—

(1) by inserting immediately after "under section 5a" the following: "or section 5b"; and

(2) by striking out "said section 5a" and inserting in lieu thereof "such section 5a or paragraph (8) of such section 5b".

(o) Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by inserting immediately before section 28 the following center heading:

"DISCRIMINATORY STATE TAXATION".

## TITLE III—GENERAL PROVISIONS

### ENVIRONMENTAL STUDY

SEC. 301. The Secretary of Health, Education, and Welfare, in consultation with the Interstate Commerce Commission and the Secretary of Transportation, shall submit a report to the Congress within 18 months after the enactment of this Act concerning (1) the risk of outbreaks of disease or illnesses and any other adverse environmental effects resulting from the discharge of waste from railroad conveyances operated in intercity rail passenger service, in rail commuter service, and in rail freight service, and (2) the financial and operating hardships on railroads or public authorties which would result from a prohibition of waste disposal. Such report shall contain such recommendations as the Secretary of Health, Education, and Welfare, the Interstate Commerce Commission, or the Secretary of Transportation considers appropriate to balance possible dangers of disease or illness and environmental considerations with operating or financial considerations relevant to the railroad industry, including any distinction considered appropriate between new railroad rolling stock and existing railroad rolling stock, and shall consider any regulations pertaining to waste disposal from railroad conveyances operated in other Nations.

### DELMARVA RAIL STUDY

SEC. 302. The Interstate Commerce Commission shall, within 6 months after the date of enactment of this Act, submit a report to the Congress with respect to the problems of, and need for, rail transportation services on the Delaware-Maryland-Virginia peninsula. Such report shall include—

(1) an analysis of why the acquisitions proposed under the final system plan with respect to rail properties on such peninsula were not consummated; and

(2) recommendations with respect to the continuation or extension of viable rail transportation service on such peninsula.

### EFFECTIVE DATE

SEC. 303. The provisions of this Act and the amendments made by this Act shall take effect on October 1, 1976.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same.

HARLEY O. STAGGERS,
FRED B. ROONEY,
BROCK ADAMS,
RALPH H. METCALFE,
JIM SANTINI,
J. J. FLORIO,
MARTIN RUSSO,
J. SKUBITZ,
EDWARD MADIGAN,
SAMUEL L. DEVINE,
*Managers on the Part of the House.*

WARREN G. MAGNUSON,
JOHN O. PASTORE,
VANCE HARTKE,
ADLAI STEVENSON,
WENDELL H. FORD,
LOWELL WEICKER, Jr.,
J. GLENN BEALL, Jr.,
*Managers on the Part of the Senate.*

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying Conference Report.

The House amendment to the text of the Senate bill struck out all after the enacting clause and inserted a substitute text. The other House amendment amended the title of the Senate bill. The House insisted upon its amendments and requested a Conference with the Senate, and the Senate agreed to the Conference. The Committee of Conference recommends that the Senate recede from its disagreement to the amendment of the House to the text of the Senate bill, with an amendment which provides a substitute text for both the Senate bill and the House amendment; and that the Senate receded from its disagreement to the amendment of the House to the title of the Senate bill.

The differences between the text of the Senate bill, the House amendment, and the substitute agreed to in Conference are noted below, except for clerical corrections, conforming changes made necessary by reason of agreements reached by the Conferees, in minor drafting and clarifying changes.

### SHORT TITLE

#### *Senate bill*

The Senate bill provided that this legislation should be cited as the "Amtrak Improvement Act of 1976".

#### *House amendment*

The House amendment divided this legisation into three separate titles. It also provided separte short titles for this legislation as follows:

1. This legislation, in its entirety, may be cited as the "Rail Transportation Improvement Act".

2. Title I of this legislation may be cited as the "Amtrak Improvement Act of 1976".

3. Title III of this legislation may be cited as the "Rail Amendments of 1976".

#### *Conference substitute*

The Conference substitute is the same as House amendment.

### AMTRAK FUNDING

*Senate bill*

The Senate bill authorized appropriations for Amtrak as follows:

1. For the payment of operating expenses for the basic system (other than operating expenses for the Northeast Corridor) and for operating and capital expenses of rail passenger service requested by the States pursuant to section 403(b) of the Rail Passenger Service Act—$430 million for the fiscal year 1977 and $470 million for the fiscal year 1978.

2. For the cost of capital acquisitions or improvements of the basic system—$120 million for the fiscal year 1977 and $120 million for the fiscal year 1978.

3. For additional operating expenses for the Northeast Corridor—$68 million for the fiscal year 1977 and $75 million for the fiscal year 1978.

4. For the payment of outstanding obligations of Amtrak guaranteed by the Secretary (other than leases)—$25 million for the fiscal year 1978.

5. For the relocation of Amtrak rail passenger operations in Cleveland, Ohio—$10 million for the fiscal year 1977.

Of the amounts authorized for operating and capital expenses of the basic system, the Senate bill earmarked $35 million for fiscal year 1977, and $40 million for fiscal year 1978, for payment of operating and capital expenses of rail passenger service requested by the States pursuant to section 403(b) of the Rail Passenger Service Act.

The Senate bill also amended existing law to require that the Secretary pay to Amtrak the amounts appropriated for expenditure by Amtrak in accordance with "total funding levels" approved by Congress at the time of appropriation. Existing law provides for such payment in accordance with "spending plans" approved by Congress and general guidelines established annually by the Secretary.

The Senate bill also provided that Amtrak could use capital grants for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary, and required the Secretary to make appropriated funds available for this purpose.

*House amendment*

The House amendment authorized appropriations for Amtrak as follows:

1. For payment of operating expenses for the basic system (other than operating expenses for the Northeast Corridor) and for operating and capital expenses of rail passenger service requested by States pursuant to section 403(b) of the Rail Passenger Service Act—$430 million for the fiscal year 1977. No authorization for operating expenses for fiscal year 1978 was included in the House amendment.

2. For payment of costs of capital acquisitions or improvements of the basic system—$140 million for fiscal year 1977, and $140 million for fiscal year 1978.

3. For operating expenses of the Northeast Corridor—$68 million for fiscal year 1977 and $75 million for fiscal year 1978.

4. For payment of the principal amount of obligations of Amtrak guaranteed by the Secretary (other than leases)—$25 million for fiscal year 1978.

The House amendment also amended existing law to provide that the $900 million ceiling on the amount of loan guarantee authority available to Amtrak must be reduced by an amount equal to the total principal amount of Amtrak obligations paid from grant funds made available for that purpose under the House amendment.

The conference substitute omits the Senate provision on spending plans, but the conferees wished to emphasize that the requirement that Amtrak submit spending plans to the Congress at the time of appropriation should not be misinterpreted by the Department of Transportation in an attempt to frustrate congressional intent, as was the case with respect to DOT's attempt to block Amtrak's purchase of the Northeast Corridor properties. The Comptroller General's opinion (94–571) demonstrates the misuse of this provision, which the DOT should refrain from in the future.

*Conference substitute*

The Conference substitute follows the Senate bill with the following modifications:

1. The Conference substitute authorizes $130 million for fiscal year 1977 and $130 million for fiscal year 1978 for payment of costs of capital acquisitions or improvements of the basic system.

2. The Conference substitute omits the $10 million authorization for the relocation of Amtrak rail passenger operations in Cleveland, Ohio.

3. The Conference substitute includes the provision of the House amendment requiring that the $900 million ceiling on the amount of loan guarantee authority available to Amtrak must be reduced by an amount equal to the total principal amount of Amtrak obligations paid from grant funds made available for that purpose.

### BOARD MEMBERSHIP

*Senate bill (section 6)*

The Senate provision amended section 303 (a)(1) of the Rail Passenger Service Act. The President of the Corporation was designated an ex officio member of the Board of Directors. This provision reduced the number of members appointed by the President from nine to eight.

*House amendment*

The House amendment contained no comparable provision.

*Conference substitute (section 103)*

The conference substitute adopted the Senate provision.

### SECURITY GUARDS

*Senate bill*

No provision.

*House amendment*

The House amendment authorized Amtrak to employ security guards to provide security and protection for rail passengers and rail properties, without regard to any provision of State law relating to licensing, residency, or related requirements.

*Conference substitute*

The conference substitute incorporates the House provision with an amendment stating that a security guard employed by Amtrak must meet the licensing, residency, and related requirements of only one State.

### HEALTH REGULATIONS

*Senate bill (section 5)*

The Senate bill amended the modification made to section 306(i) of the Rail Passenger Service Act which eliminated the jurisdiction of the Food and Drug Administration over intercity passenger trains. The amendment had the effect of restoring FDA's jurisdiction to regulate dining car service while still prohibiting regulations designed to require toilets that do not flush on the right-of-way. It also prohibited application of such regulations to freight trains.

*House amendment (section 301)*

The House amendment required the Secretary of Health, Education, and Welfare to report to the Congress, within 12 months after the date of enactment of this legislation, with respect to the environmental effects of section 306(i) of the Rail Passenger Service Act and the financial effects on Amtrak and the railroad industry of any repeal or modification of such section. Section 306 (i) of the Rail Passenger Service Act provides that section 361 of the Public Health Service Act shall not apply to waste disposal from railroad conveyances operated in rail passenger service. The report required this section was to contain such recommendations as might be necessary or appropriate to balance environmental considerations with operating and financial considerations of the railroad industry, including recommendations with respect to equipping new railroad rolling stock and retrofitting existing railroad rolling stock.

*Conference substitute (section 301)*

The conference substitute incorporates a modification of the House and Senate provisions. It provides that the Secretary of the Department of Health, Education and Welfare shall commence a study with respect to health regulation of rail passenger services and ensures that rail passenger food services are not exempt from FDA health regulations.

### INCENTIVE PAYMENT CONTRACTS; AMTRAK ACQUISITIONS

*Senate bill*

No provision.

*House amendment*

The House amendment prohibited Amtrak from entering into any incentive payment contract for railroad passenger service which provided an incentive payment for a level of service equal to or less than the level of service provided before the contract was entered into. No such contract could provide an incentive payment on any basis other than a train-by-train basis or for any level of on-time performance for any train not operated within 5 minutes of its scheduled time for at least 90 percent of its scheduled operations. The Interstate Commerce Commission was authorized to initiate proceedings to determine whether the terms of any contract were in compliance with this requirement. Within 30 days after initiating any such proceeding, the Commission was required to issue necessary orders to implement this requirement.

The House amendment also provided that, for the purposes of entering into contracts with other railroads or with any State for providing commuter rail or rail freight services over facilities acquired by Amtrak, Amtrak would be deemed to have "acquired" facilities with respect to which it had obtained a present legal or equitable interest by any form of lease or purchase, including a long-term contract of sale or lease with option to purchase.

*Conference substitute*

The conference substitute omits the House provision.

### ENTERTAINMENT AND PROMOTIONAL EXPENSES

*Senate bill*

No provision.

*House amendment*

The House amendment required the Secretary of Transportation to establish guidelines governing the expenditure of funds by Amtrak for entertainment and promotional expenses of officers and employees of Amtrak. Such guidelines were required to be established within 90 days after enactment of this provision, and were required to include provisions prohibiting any expenditure by Amtrak to pay the cost of membership in any private social or athletic club or the cost of alcoholic beverages for entertainment purposes.

*Conference substitute*

This provision of the House amendment is omitted from the Conference substitute.

### THROUGH ROUTES AND JOINT FARES

*Senate bill (section 11)*

The Senate provision amended section 306 of the Rail Passenger Service Act by adding two new subsections. The provision required the Interstate Commerce Commission to conduct a study of through route and joint fare arrangements between Amtrak and other intercity rail carriers and the intercity bus industry. The study would have been transmitted to the Congress by September 30, 1977 and would have contained any recommendations for legislation that were necessary to facilitate this kind of intermodal transportation.

The Senate bill authorized Amtrak to establish through routes and joint fares with any motor carrier.

*House amendment*

The House amendment contained no comparable provision.

*Conference substitute (section 106)*

The conference substitute incorporates the Senate provisions.

### AMENDMENTS TO SECTION 403(b) OF THE RAIL PASSENGER SERVICE ACT

*Senate bill*

The Senate bill would have amended section 403(b) of the Rail Passenger Service Act in two ways. First, it promoted more cooperation between Amtrak and those States or regional transportation authorities that are paying for Amtrak services pursuant to the provisions of section 403(b). The need for this modification was suggested by several States who subsidize Amtrak services under section 403(b) and have had difficulty in getting cooperation from Amtrak with respect to changes in scheduling and other operational matters on those trains that they are helping pay for.

The section would also have amended the base upon which the costs of section 403(b) are calculated. Until the passage of Public Law 94-210, these costs were calculated on a "solely related" basis, and the States had to pay for two-thirds of the deficit. In February, Congress changed the State share for these State-requested services to 50 percent, but also required the Amtrak board to define the costs to be divided as "the total operating losses and associated capital costs". The board's work in redefining the cost base would have led to an increased cost for the States, even though the local portion was reduced to 50 percent from two-thirds. The amendment would redefine the cost base to assure that changing the State share to 50 percent reduces the amount States have to pay for additional Amtrak services.

*House amendment*

The House bill contained no similar provision.

*Conference substitute*

The conference substitute adopts that portion of the Senate provision which requires that any decisions which are likely to have a significant effect on the scheduling, marketing, operations of the service provided pursuant to this section shall be made by contract or other agreement between Amtrak and the State or agency which is obligated to reimburse Amtrak for all or part of the operating loss, and associated capital costs of such service. With respect to the base for calculating the losses for which a State funding rail services under section 403(b) would be obligated, the conference substitute adopts language which was in effect from the time of the original enactment of Rail Passenger Service Act until February 5, 1976.

### NORTHEAST CORRIDOR LOAN GUARANTEE AND LEVERAGED LEASING

*Senate bill (section 4)*

Section 4 of the Senate bill amended section 602(i) of the Rail Passenger Service Act. The Senate provision required the Secretary to guarantee any loan approved by the Board of Directors of Amtrak if the proceeds of the loan were needed to purchase properties designated by USRA for acquisition by Amtrak, in accordance with agreements entered into between Amtrak and Conrail. The Senate provision also required that the Secretary and the Secretary of the Treasury approve any request by Amtrak for a guarantee which is related to a lease transaction, including any leverage lease transaction, which has been determined by the Board of Directors of Amtrak to be in the economic interest of Amtrak.

*House amendment*

The House amendment contained no comparable provisions.

*Conference substitute*

The conference substitute adopted the House position, but the conferees wished to emphasize the need for the Department of Transportation to reexamine its position with respect to leveraged leasing for Amtrak, particularly in light of previous amendments to the Rail Passenger Service Act and the ruling of the Comptroller General of April 22, 1975 reaffirming the legality of Amtrak engaging in leveraged leasing:

". . . we believe that the loan guarantee provisions of section 602 may be used in leveraged leases and similar transactions to assist Amtrak in acquiring capital equipment necessary for the improvement of rail passenger service."

The Department's arguments against Amtrak's use of leverage leasing center on the public policy question of reserving the leverage lease tax incentives for capital acquisition by private enterprises because of a limited number of money sources in the leverage lease market. The conferees believe the Department should more adequately document the potential for any adverse impact should Amtrak purchase some, most or all of its equipment via leverage lease. Other factors for the Department to document include the long-range impact of leverage lease purchases by Amtrak in view of the oversight activities of Congress, GAO, ICC and DOT, and the statement of policy in the 1975 Amtrak Improvement Act which endorsed leveraged leasing. The conferees expect an evaluation by the Department before June 30, 1977. Such evaluation should take into account the numerous Congressional mandates to maximize the ability of Amtrak to provide rail passenger service, and should specifically document the degree to which the Government loses more money by permitting Amtrak to leverage lease rather than purchase equipment outright with Federal grants, paying particular attention to opportunity costs.

### AMTRAK GOALS

*Senate bill*

The Senate provision amended section 301 of the Rail Passenger Service Act, by requiring Amtrak to provide intercity rail passenger service in a manner that will maximize public benefits when compared to public costs.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The conference substitute does not include this provision.

### ADEQUACY OF SERVICE REGULATIONS

*Senate bill*

No provision.

*House amendment*

The House amendment required the Interstate Commerce Commission to include in its annual report to the Congress a detailed listing of Amtrak requests for exemptions from any adequacy of service regulation, together with any Commission action on such request.

The House amendment also provided that no regulation issued by the Interstate Commerce Commission relating to adequacy of service could require Amtrak or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours.

*Conference substitute*

The Conference substitute omits the provision of the House amendment requiring an annual report by the Commission on Amtrak requests for exemptions from regulations, together with Commission actions thereon, but retains the provision prohibiting any regulation requiring Amtrak or any railroad to provide food service other than during customary dining hours.

### FIRST CLASS STUDY

*Senate bill*

The Senate provision required the Federal Railroad Administrator to conduct a study concerning the relative costs of parlor, sleeping, slumber coach, and coach services provided by Amtrak and to report thereon to Congress within 270 days after the date of enactment of this bill.

*House amendment*

The House amendment contained no similar provision.

*Conference substitute*

The conference substitute does not include this Senate provision.

## TITLE II—RAIL AMENDMENTS

### ADEQUATE REPRESENTATION

*Senate bill*

No provision.

*House amendment*

The House amendment required the Rail Services Planning Office of the ICC to employ attorneys and other personnel to perform the functions and duties of the Office of Rail Public Counsel under section 27 of the Interstate Commerce Act until such time as the Director of the Office of Rail Public Counsel has been appointed and confirmed and taken office. The House amendment also provided that the funds authorized to be appropriated to the Office of Rail Public Counsel were authorized to be made available to carry out this amendment.

*Conference substitute*

The conference substitute does not include the House amendment.

### RAIL MARINE FREIGHT SERVICE; OPTIONS

*Senate bill*

No provision.

*House amendment*

This amendment attempted to clarify the intent of Congress with respect to harbor marine rail equipment. The amendment restated with specificity what was the original intent of the final system plan (FSP), namely, that the Brooklyn Terminal carriers were to provide the service formerly performed by the bankrupt line haul carriers. For that purpose, the floating equipment formerly owned by the railroads in reorganization and used by them to provide this service was to be made available to provide continued service.

The FSP specifically designated four tugs and nine car floats owned by the Penn Central for acquisition. This provision enabled ConRail to exercise the option granted it by the FSP by providing (1) immunity from liability for its officers and directors, and (2) deficiency judgment protection for the exercise of the option.

*Conference substitute*

The conference substitute follows the House provision.

### LOANS FOR PAYMENT OF OBLIGATIONS

*Senate bill (section 14)*

The Senate bill amended sections 210 and 211 of the Regional Rail Reorganization Act of 1973. Those sections were originally intended to provide procedures for effecting a smooth operating transition from the estates of the railroads in reorganization to ConRail and to avoid disruptions in ConRail's business because of the inability of the estates to currently pay certain preconveyance obligations. Because the original provisions did not work as intended, the provisions of the Senate bill authorized additional funding through section 211.

The amendment contained authorized the USRA to enter into loan agreements authorized under section 211 at any time. Thus, the section 211 funds could be used again after being repaid. The Senate bill increased the ceiling amount of guaranteed loan financing to $450,000,000. The Senate bill also clarified the responsibility of the estates of those railroads reorganized under the Act with respect to preconveyance obligations for employee compensation and other benefits; authorized the funding from section 211 sources of actuarial deficiencies in employee voluntary relief plans; and specified that the term "accrued pension benefits" included any increases in the amounts of such benefits that were attributable to increases in compensation prior to the normal age of retirement or to changes in the Railroad Retirement Act.

The Senate bill contained a conforming amendment to section 210(b) of such Act increasing the ceiling amount of guaranteed loan financing, and it amended section 211 (h)(2) of such Act to modify and clarify the agency relationships between ConRail and the various estates with respect to the administration of section 211 funds. The Senate bill also provided a uniform procedure for registering administration expense claims resulting from application of section 211 loan proceeds.

*House amendment*

The House amendment amended section 211(h)(1) of the Regional Rail Reorganization Act of 1973 relating to the authority of (USRA) the U.S. Railway Association to make loans to ConRail, Amtrak, and profitable railroads to meet existing or prospective obligations of the railroads in reorganization in order to avoid disruptions in ordinary business relationships. This subsection made several specific changes in existing law.

First, it increased from $230,000,000 to $300,000,000 the ceiling on the amount of loans which may be outstanding under this subsection at any one time.

Second, it permited the use of loan funds to make payments to railroads for settlement of all current accounts and obligations, in addition to current interline accounts.

Third, it permitted use of loan funds for payment of amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provided benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, into which both a railroad in reorganization and employee members have made contributions.

Fourth, it also permitted the use of loan funds to pay amounts required to provide adequate funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization before the date of conveyance of the property of such bankrupt railroad, and or individuals who retired (before such date of conveyance) from service with a bankrupt railroad.

Fifth, it requires USRA to make a loan if it had made certain findings and also adds to the alternative findings that the USRA must make before making a loan under this subsection findings that—

(1) a claim was presented to a railroad in reorganization or to ConRail within 2 years after the date of enactment of this legislation;

(2) the loan money is to be used to make payment for services or materials, the furnishing of which serve to avoid disruptions in ordinarily business relationships before the date of conveyance of rail properties, or the furnishing of which is necessary to avoid post conveyance disruptions in ordinary business relationships; and

(3) the joint agreement between the Finance Committee of the U.S. Railway Association and ConRail relating to procedures for seking reimbursement from railroads in reorganization provide that ConRail receive reimbursement from the USRA for any expenses incurred in seeking reimbursement from any railroad in reorganization for obligations paid by ConRail and also provide for a joint stipulation of exact procedures ConRail must undertake to avoid any finding that it has not exercised "due diligence".

The House amendment also amended section 211(h)(2) of the Regional Rail Reorganization Act of 1973 in two respects.

First, it required the trustees of each railroad in reorganization to negotiate agency agreements with ConRail, Amtrak, or a profitable railroad, for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of section 211(h).

Second, it prohibited any district court of the United States having jurisdiction over the recognization of a railroad in reorganization to limit ConRail, Amtrak, or a profitable railroad from applying any amounts collected as accounts receivable, cash or other current assets, or proceeds of loans made by USRA, toward payment of the obligations of the estates identified in paragraph (1) of section 211(h). It also provides that any such agreement executed before the date of enactment of this legislation would be deemed amended to the extent necessary to conform such agreement to the provisions of this amendment.

The House amendment also amended section 211(h)(4) of the Regional Rail Reorganization Act of 1973 by adding a new subparagraph (d). This new subparagraph provides that any funds held in escrowed accounts by a railroad in reorganization (on the date of enactment of this legislation) which are thereafter determined to be "cash and other current assets of the estate" were to be applied to obligations of the estate in the following order:

(1) First, to the reduction of any outstanding loan to ConRail by the USRA, the proceeds of which were used to discharge obligations of such railroad in reorganization.

(2) Second, to USRA to the extent any such loan has been forgiven by the USRA.

(3) Third, to the payment of any remaining obligation of such railroad in reorganization in accordance with the agency agreement entered into under paragraph (2) of this subsection.

The above priorities did not apply if the Secretary advised the reorganization court that an acceptable plan of reorganization required a different disposition.

Subsection (d) of this section amended section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 by adding a new sentence at the end thereof requiring that ConRail, Amtrak, or a profitable railroad, should, with respect to each claim for reimbursement under paragraph (4), file a proof of administrative expense claim with the trustees of the railroad in reorganization from which reimbursement is sought. Each such proof of claim was required to set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).

The House amendment also amends section 210(b) of the Regional Rail Reorganization Act of 1973 to increase from $275,000,000 to $345,000,000 the maximum principal amount of obligations issued by USRA which may be outstanding at any one time for the purpose of providing loans pursuant to subsections (g) and (h) of section 211. This amendment conforms section 210(b) to section 211(h)(1) by adding to the ceiling on USRA obligational authority the same amount ($70 million) as was added to the authority of the Association to make loans under section 211(h)(1).

*Conference substitute*

The conference substitute incorporates portions of the House and Senate provisions. The association is authorized, subject to limitations set forth to enter into loan guarantees at any time, in amounts not to exceed $350 million in the aggregate. In addition, it establishes what is in effect a revolving fund from which additional loans can be made as the initial total amount of loans is reduced by projected revenues or assets becoming available to the estates for this purpose.

It is the Conference Committee's judgment that, given the nature of the claims not yet ascertained as to amount and the somewhat extensive time period required for those claims to be ascertained, reasonable relief could be afforded to all claimants. In the actions taken last February, the Congress gave special status to certain employee-related claims. We reaffirm the judgment that such matters should have special status, due to the nature of those claimants.

The Conference Committee believes that the order issued in the Penn Central bankruptcy court, insofar as it seeks to pay off all claims of $20,000 and under, was sound and in conformance with legislative intent. The financial and administrative burdens placed on both ConRail as agent, and the court itself, by the multitude of such small claims made it essential that those claims be removed from the books as swiftly as possible by the method set forth by Judge Fullam.

After giving cognizance to claims cited above, and to claims of under $20,000, the committee of conference believes that the amounts provided here would be sufficient to realize an immediate partial or full payment of all claims which are now ascertained as to amount or fully matured. We are advised that some claims may require full payment by reason of court decision or other legal requirements while an initial partial payment could be made on all remaining claims. The balance due on such claims, together with payment of all claims as they become ascertained as to amount or fully matured, could then be retired as additional projected funds become available. It would appear from the revenues available compared to the total amount of claims outstanding, which have been ascertained as to amount at this time, that at least an initial partial payment of each individual claim could be made immediately. Final determination of the exact details of the nature and the amount of payment should be left to the reorganization courts. The management of ConRail has stated that it would go to court upon enactment of this legislation and seek an order that would result in such a payment system. Such a preliminary partial payment in a timely manner would be consistent with the original purposes of this legislation.

It is the Conference Committee's hope that the total funds authorized by this new bill, would be sufficient to retire all claims as they are finally ascertained as to amount. If this is not the case, we would immediately seek additional Congressional authorization to provide the funds necessary to ensure the full payment of all obligations in a timely manner.

One of the major reasons the Conference Committee believes that the funds provided here may be sufficient rests in the other amendments to the Act which we here provide. With regard to the inability to pay some of the claims at the present time with available funds, the Conference Committee is aware that some confusion exists regarding the Congressional intent as to the application of the assets of the estates to 211 claims. It was the Congressional intent that the loan funds were to be used in conjunction with the assets of the estates to meet 211 claims, and not in lieu of the assets of the estates.

Several of the reorganization courts, however, have made a different interpretation of the act. The courts have been reluctant to use assets of the estate, except current accounts receivable, to pay these claims. In addition, the court has been unclear as to what specific claims could be paid with 211 (h) funds. In some cases, unfortunately, the courts have held that available estate funds should be applied to the payment of obligations which are not eligible for 211(h) funding. The end result of these interpretations prevents USRA from releasing any funds to ConRail and the other acquiring carriers to pay these claims. We have, therefore, amended 211(h)(2) to make our original intent clear.

A problem also exists as to whether or not escrowed funds are "cash or other current assets" as provided in existing legislation. The matter is presently on appeal in several Circuit Courts. The Committee has no intention of interfering with this case. In the event, however, that these escrowed accounts are determined by the courts to be "cash and other current assets" of the estates, the Committee believes that they should be applied to: (1) Reduce outstanding loans to ConRail by USRA; (2) reimburse USRA with regard to any loans previously forgiven; and (3) further payment of any remaining obligation. If the application of these funds are not specified in this manner, thereby protecting the Government's interest, the funds could be diverted for payment of claims that are not eligible for section 211(h) loans. For example, the funds could be used to pay taxing authorities for past due taxes. Claims for past due taxes are not eligible for section 211(h) loans because their repayment was not necessary to avoid disruption of rail service immediately prior to conveyance.

In summary, the purpose of the amendments in the reported bill is to eliminate the uncertainties about the intent of Congress in creating the 211(h) loan program and to prevent adverse actions against ConRail and other acquiring carriers for unpaid claims. These amendments reaffirm the initial policies adopted by Congress in enacting 211(h) and would have the effect of correcting any misreading of the manner in which Congress intended section 211(h) to work. Further, after enactment of the amendments, processing these claims on behalf of the estates can begin so that those persons upon which ConRail and the other acquiring carriers depend for future and current service are able to remain viable.

### Reimbursement Agreement

The House amendment specified, and the conference substitute provided, that the provisions to be included in the reimbursement procedures agreement to be negotiated between ConRail and the Finance Committee. Pursuant to 211(h)(6), ConRail is ultimately to be forgiven any 211(h) loans which have not been reimbursed by the estates, absent an affirmative finding by the Finance Committee and concurred in by both Houses of Congress, that ConRail did not exercise due diligence in seeking such reimbursement. ConRail is required by Section 211(h) to administer the agency relationships and the loan program mandated by the subsection. But because Congress has mandated those tasks to ConRail, ConRail should not be exposed to the risk that its good faith efforts to discharge those responsibilities might subsequently be found to be inadequate, thereby precluding forgiveness of loans and shifting the ultimate financial burden of pre-conveyance obligations of the bankrupt railroads to ConRail itself.

"Due diligence" in the context of the forgiveness provisions of 211(h) must be properly defined in objective terms in whatever loan agreements it writes with USRA and the Finance Committee. The manner of borrowing 211(h) loan funds and applying those funds to 211(h)(1) obligations is the subject matter of such a loan agreement between ConRail and the Association. The procedures for perfecting the claims for reimbursement are the proper subject matter of the reimbursement procedures agreement between ConRail and the Finance Committee. The burdens and expense of enforcing reimbursement in the various bankruptcy courts once the claims are properly filed is to remain with the Government as the true party in interest concerning repayment of the loans by the bankrupt estates.

Accordingly, the conference substitute requires that the agreement between ConRail and the Finance Committee mandated by section 211(h)(1) specify by mutual agreement the exact procedures which ConRail must undertake to avoid a finding that it has not exercised due diligence. Additionally, the amendments clarify Congress' intent that ConRail be fully reimbursed for its expenses in performing its responsibilities in perfecting the claims for reimbursement, and provision for such compensation is to be included in the agreement between the ConRail and the Finance Committee.

### Vacation Pay

The Conference Report amends section 211 (h) to identify specifically claims by employees for vacation pay that were accrued, but not yet satisfied, on April 1, 1976. The employees earned their rights to vacation pay from the estates for 1976 and for the first three months of 1977 by having worked for the estates in 1975 and in the first three months of 1976. Thus, on April 1, 1976, ConRail assumed the burden of satisfying those vacation rights.

There are two distinct questions that have been raised with respect to ConRail's assumption of this burden. First, there is the question whether Congress intended that ConRail assume this burden, estimated at $106 million, without any right to reimbursement from the estates as in the cases of other estate obligations that ConRail was required to assume, such as wage claims and payroll taxes. Second, there is the question whether, as a matter of contract law, the estates are liable for these vacation rights in an ultimate sense.

The reorganization courts thus far have decided only the first issue. It was held that section 504(a) required ConRail to assume the accrued vacation liabilities, but that the Rail Act did not preserve to ConRail any right to cash reimbursement for its payment of those liabilities. An appeal on this issue is currently pending before the Third and Sixth Circuits. The reorganization courts reserved decision on the second issue, contemplating that it would be addressed in the valuation proceedings in terms of the identification and quantification of the "other benefits" inuring to the estates by reason of the reorganization.

In addition to the specific identification of accrued vacation liabilities as a category of claims eligible for section 211(h) funding, the proposed amendments modify section 504(e) of the Rail Act to make clear that Congress intended all along that ConRail's assumption of employee-related obligations, such as accrued wage and vacation liabilities and FELA claims, was not meant to relieve the estates of those obligations. Rather, the Rail Act merely prescribes the mechanism by which ConRail is to satisfy those obligations with section 211(h) loan funds which are later to be reimbursed with amounts collected from the estates in respect of those obligations.

### HEALTH AND LIFE INSURANCE BENEFITS

*Senate bill*

The Senate bill amended sections 303, 505, and 509 of the Regional Rail Reorganization Act of 1973 to provide that the level of benefits provided to noncontract employees with respect to health and life insurance should be the same as that provided to contract employees.

*House amendment*

The House amendment amended section 211(h) of the Regional Rail Reorganization Act of 1973 to permit ConRail to borrow amounts required to provide adequate funding for payment of medical, life, and health insurance benefits for all employees, whether or not their employment was governed by a collective bargaining agreement.

*Conference substitute*

The conference substitute follows the House amendment.

### STATION CLAIMS

*Senate bill*

No provision.

*House amendment*

Section 211(h) loan funds were made available to pay claims arising out of a contract between a railroad in reorganization and the National Railroad Passenger Corporation to provide a suitable railroad passenger station in any case in which such railroad in reorganization sold a railroad passenger station pursuant to condemnation and prior to April 1, 1976.

*Conference substitute*

The conference substitute follows the House amendment.

### PERSONAL INJURY CLAIMS

*Senate bill*

No provision.

*House amendment*

The House amendment amended section 213 of the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to pay the trustees of railroads in reorganization sums necessary to satisfy claims by non-employees for personal injuries suffered during the period between the date when the railroad became insolvent and the date when its rail properties were transferred to another carrier.

Section 213 of the 1973 Act was designated by Congress to keep the railroads running, providing funding necessary for the railroads to meet their operating expenses during the reorganization period. The claimants whom the House amendment is designed to assist have been judged to be due certain sums because of injuries suffered without any fault of their own. By paying these claims from section 213 funds they were in the nature of a grant and represented a cost to the government.

*Conference substitute*

The conference substitute is similar to the House amendment, except that it provides that the claims are to be paid by means of loan funds provided in section 211(h). The committee of conference is convinced that these claims should be at the cost of the estates, by means of section 211(h) loans, rather than at the cost of the government, by means of section 213 funds. Since these claims are the result of the personal injury claims entered against the former operations of the several railroads, there appears to be no justification for having such claims paid by the government.

### PROTECTION OF EMPLOYEES PENSION BENEFITS

*Senate bill*

No provision.

*House amendment*

This section amended section 303(b)(6) of the Regional Rail Reorganization Act of 1973 to require that ConRail must guarantee the payment of accrued pension benefits provided under any employee pension benefit plan terminated by ConRail (in whole or in part) on or after the date of transfer of such plan to ConRail if such benefits were not guaranteed under title IV of the Employee Retirement Income Security Act of 1974. The amendment further provided that ConRail would be entitled to a loan under section 211(h) of the 1973 Act in an amount required for the adequate funding of pension benefits under all plans transferred to ConRail, whether or not terminated by ConRail. For purposes of such section 211(h), amounts required for such adequate funding were, deemed to be expenses of administration of the respective estates of the railroads in reorganization.

#### *Conference substitute*

The conference substitute incorporates the House provision.

### EVIDENTIARY USE OF CERTAIN DETERMINATIONS

#### *Senate bill*

No provision.

#### *House amendment*

The House amendment added a new paragraph to section 304(d) of the Regional Rail Reorganization Act of 1973. The new paragraph provided that no determination of payment for the use of rail properties of a railroad in reorganization, and no determination of value of such rail properties made in connection with any lease agreement, sale agreement, or other agreement which is entered into after the date of enactment of this legislation which permits the continued operation of such properties to provide rail freight service or rail passenger service, shall be admitted as evidence or used for any other purpose in any action or proceeding for damages or compensation arising under the Regional Rail Reorganization Act of 1973.

#### *Conference substitute*

The conference substitute follows the House provision.

### QUALITY OF SERVICE

#### *Senate bill*

No provision.

#### *House amendment*

The House amendment clarifies the meaning of the term quality of service as it is used in the Railroad Revitalization and Regulatory Reform Act of 1976 as it is applied to commuter service. Presently, there is some confusion in determining the requirements of the Federal Share of Emergency Assistance Payments.

In many areas, prior to April 1, 1976, when the respective predecessor bankrupt railroads were operating the commuter services, the lack of normal maintenance procedures on track and equipment represented a state of substantial deferred maintenance and as a result the quality of service steadily deteriorated. Therefore, when ConRail assumed the responsibility for the operation of commuter services, it was unclear as to whether ConRail should maintain the same level of service or the same level of deterioration of service. For example, there are many instances where coach doors will not remain shut in winter, or won't remain open in summer, resulting from a lack of adequate preconveyance maintenance procedures. This, coupled with the old equipment built over a half century ago, has increased the frequency and acuteness of problems such as these. Unless the level of maintenance is upgraded to provide a catch-up for past deferred maintenance techniques, the rate of deterioration will simply continue.

Lacking specific guidelines in this area, ConRail cannot, without violating the no-cross subsidy edict, afford to risk funds for correcting these problems, unless it has some assurance that UMTA will construe work such as this, to fall within the realm of existing level of service, and therefore including them as compensable items for costs incurred.

Indicative of the uncertainty attached to the definition is the UMTA guideline which states ". . . changes in train quality or attractiveness of service, or significant changes in costs, may be considered to constitute changes in service level." This leaves ConRail in a position of not knowing whether it will be compensated for improving the quality and attractiveness of service until after the fact when the expenditures are audited.

As the intent of Congress to allow ConRail to be compensated for providing an attractive and quality commuter service as opposed to continuing the bankrupt railroad practices or deferred maintenance, the clarifying amendment allows ConRail to provide a quality service with assurance of retroactive compensation. It also enables the commuter authorities, as intended by Congress, to continue the same level of payments and to not experience further deterioration.

#### *Conference substitute*

The conference substitute adopts the House amendment.

### RAIL COMMUTER EXEMPTION

#### *Senate bill*

No provision.

#### *House amendment*

The House amendment made two changes in existing law relating to the authority of the Interstate Commerce Commission over interstate rates charged by local public bodies providing mass transportation services.

First, this section provided that the exemption from ICC regulation applied only to local bodies providing mass transportation services by rail. Any such services provided by bus would remain subject to ICC regulation.

Second, this section provided that rail mass transportation services would be exempt from ICC rate regulation only if any interstate fare (or the ability to apply for changes therein) of such local public body is subject to approval or disapproval by a Governor of any State in which such services are provided.

#### *Conference substitute*

The conference substitute is the same as the House amendment.

### REPLACEMENT OPERATORS

#### *Senate bill*

The Senate bill amended section 501(1) of the Regional Rail Reorganization Act of 1973 by adding to the definition of "acquiring railroad" a State which has acquired all or part of the rail properties of a railroad in reorganization and any class I railroad that is designated by such a State to operate such rail properties. Section 504(f)(3) of such Act was amended in order to provide continued protected employee status for employees transferred as a result of a State's designation of a class I railroad to replace the Corporation as the operator of rail properties acquired by the State.

#### *House amendment*

No provision.

#### *Conference substitute*

The conference substitute follows the substance of the Senate bill, except with respect to the provision for continued protected employee status in the event of a designation following initial operation of rail properties by the Corporation. Instead of expanding the definition of the term "acquiring railroad", the conference substitute adds a new defined term, "replacement operator," to section 501, and makes conforming changes (to sections 504 and 509), inserting the new term at appropriate places. A "replacement operator" is defined as (1) a State which has acquired such rail properties and which intends "to replace any class I railroad" as the operator of rail service over such rail properties, or (2) any class I railroad which a State (that acquires such properties) designates, as the operator of rail service over such rail properties, as the replacement for the State or any other class I railroad which operated such service previously. The Consolidated Rail Corporation is a class I railroad, as such term is applied by the Interstate Commerce Commission. The conference substitute permits a State to replace a class I railroad with any other class I railroad, as the operator of rail service over rail properties which the State acquired from a railroad in reorganization in the region, but employee protection benefits, pursuant to the Regional Rail Reorganization Act of 1973 are not available to the employees of any such replacement operator unless they were employees of the railroad in reorganization which originally conveyed or transferred such properties.

### COLLECTIVE BARGAINING AND FELA CLAIMS

#### *Senate bill*

No provision.

#### *House amendment*

The House amendment amended section 504(e) of the Regional Rail Reorganization Act of 1973 to provide that, with respect to employee claims against the estate of a railroad in reorganization arising under collective bargaining before the date of conveyance of the property of such railroad to ConRail, such claims shall remain the liability of the estate of such railroad. Whoever processes the claim on behalf of the railroad in reorganization would be entitled to a direct claim, as a current expense of administration against the estate of such railroad. The House amendment also amended section 504 (g) of the "3R" Act to provide that any liability of a railroad in reorganization for personal injury claims of its employees, arising before the date of conveyance of such property to ConRail or an acquiring railroad, shall remain the liability of the bankruptcy estate. Whoever processed the claim on behalf of the estate of such railroad would be entitled to a direct claim as a current expense of administration against such estate.

#### *Conference substitute*

The conference substitute follows the House provision. This amendment makes it clear that Congress had intended that ConRail's assumption of employee-related obligations, such as accrued wage and vacation liabilities and FELA claims, was not meant to relieve the estates of the railroads in reorganization of these obligations. Rather, the 3R Act was intended merely to prescribe the mechanisms by which ConRail was to satisfy those obligations with section 211(h) loan funds, to be reimbursed with amounts collected from the estates of such railroads with respect to those obligations. These provisions clarify that intent.

### EMPLOYEE DISPLACEMENT ALLOWANCE AND MOVING EXPENSE BENEFIT

#### *Senate bill*

No provision.

#### *House Amendment*

The House amendment amended section 505(b) of the Regional Rail Reorganization Act of 1973 to change the test period for determining the amount of any employee's displacement allowance from the 12 months preceding February 26, 1975, to the 12 months preceding January 1, 1975. This had the effect of including in the computation of such displacement allowance a 10 percent wage increase which went into effect for railroad employees throughout the Nation on January 1, 1975. The House amendment also amended section 505(b)(1)(B) of such Act to provide that the displacement allowance would apply with respect to any employee deprived of employment (i.e. both displaced and dismissed employees).

The House amendment also amended section 505(g) of such Act to provide that moving expense benefits would be available to employees displaced as a result of an acquisition by a profitable railroad under section 206(d)(4) consummated under section 508, if such employees accept employment offered by ConRail.

#### *Conference substitute*

The conference substitute includes the House amendment with respect to calculating an employee's displacement allowance. The provision with respect to moving expense benefits is not included in the conference substitute.

### NONCONTRACT EMPLOYEES

#### *Senate bill*

The Senate bill amended section 505(i)(2) of the Regional Rail Reorganization Act of 1973 in order to clarify that the dispute resolution procedures established are the exclusive means of resolving noncontract employee disputes and that arbitration decisions rendered under those procedures shall be final and binding on all parties. The Senate bill also equalized the treatment given to contract and noncontract employees with respect to fringe benefit protection provided by title V of such Act. The amendment provided that the maximum protection available could not exceed the level of benefits then being provided to active noncontract employees. The Senate bill also contained a conforming amendment to section 505(b)(4) of such Act.

#### *House amendment*

The House amendment amended section 505(i)(2) of the Regional Rail Reorganization Act of 1973 to make it clear that the resolution procedure provided for in such section 505(i)(2) is the exclusive procedure for resolving noncontract employee disputes over the interpretation or application of any provision of the employee protection benefits of title V of the 1973 Act and that an arbitration decision thereunder will be final and binding on all parties. The House amendment also amended section 505(i) of such Act by adding a new paragraph (3) providing that a noncontract employee entitled to protection shall not be placed in a worse position with respect to any voluntary relief plan benefits or pre-retirement benefits provided under any life or medical insurance plan, but that the level of his benefits must not exceed the level of benefits being afforded to the active noncontract employees of ConRail who are of comparable age, position, and level of compensation.

The House amendment also amended 505(b)(4) of such Act by adding a new sentence providing that the employee protection provisions shall not apply to any noncontract employee whose noncontract position has been abolished.

#### *Conference substitute*

House provision which amends section 505(i) of the Regional Rail Reorganization Act of 1973. Under the conference substitute, any non-agreement employee who is deprived of employment is assured continuation of his or her health and life insurance coverage up to the age of retirement. This provision will not reduce or otherwise affect the amount of anyone's readjustment allowance.

The conferees have considered this provision as it relates to adjustment by reason of subsequent "a general wage increases" pursuant to section 505(b)(i)(c). The conferees intend that a non-agreement emloyee's base period compensation shall be determined in a manner consistent with that of an agreement employee. For example, if ConRail increases salaries for all non-agreement employees across the board, irrespective of merit, at some specified percent or flat dollar amount, such an increase constitutes a "general increase" which must be included when adjusting the base period compensation of all protected non-agreement employees. In contrast, the conferees intend that selective salary increases, based on such factors as merit performance, promotion, or similar advancement, shall not be taken into account when computing any individual's base period compensation.

### MODIFICATION OF REORGANIZATION COURT POWERS

#### *Senate bill*

No provision.

#### *House amendment*

This section amended section 601(b)(4) of the Regional Rail Reorganization Act of 1973 to clarify the jurisdiction of the district courts of the United States having jurisdiction over the estate of a railroad in reorganization after the powers and duties of the Interstate Commerce Commission under section 77 of the Bankruptcy Act were transferred to such court upon conveyance of properties of the bankrupt estate pursuant to the final system plan. The district court having jurisdiction over any such estate is required to proceed to reorganize or liquidate such railroad pursuant to such section 77 in accordance with a fair and equitable plan which complies with the requirements of section 77, or it may convert the proceeding into a bankruptcy proceeding pursuant to any other applicable section or chapter of the Bankruptcy Act if it finds that such action would be in the best interest of such estate.

#### *Conference substitute*

The conference substitute contains no provision.

### USRA BOARD MEMBERSHIP

#### *Senate bill*

The Senate bill amended various portions of the Regional Rail Reorganization Act of 1973, substituting specific titles, such as Deputy Secretary, for the general language "duly authorized representative". The effect of the amendment is to prohibit delegation of USRA Board responsibilities by government agencies represented on the Board.

#### *House amendment*

No provision.

#### *Conference substitute*

The conference substitute is designed to prohibit the three government agencies represented on the USRA Board from delegating the responsibility for Board activities to personnel without decision making powers. At the moment, there is not any limit to how far down the organizational ladder the ICC, the DOT, or the Treasury could reach to place someone on the Board that has the responsibility for managing $2.1 billion in public funds along with the 211 program and the other responsibilities assigned to USRA. Particularly important is the Finance Committee of the Board. This Committee, comprised of the Chairman of USRA, the Secretary of Transportation and the Secretary of Treasury—or their designates—has the power to forgive public debt or to cut off federal investment in ConRail. It is important that the individuals making these kinds of important Board decisions are high enough in their respective Departments to assure that the government is properly represented. The situation with the Treasury Board seat provides a good example of the problem. Since last year, Treasury has been represented by several different people, not one of them sufficiently high in the Department to have responsibility for overall debt management, which was the very purpose for Treasury representation on the Board in the first place.

### OBLIGATION GUARANTEES

#### *Senate bill*

The Senate bill amends section 511(c) of the Railroad Revitalization and Regulatory Reform Act of 1976. By providing that the guarantees under section 511 extend the full faith and credit of the United States, the amendment assures the marketability of the obligations guaranteed and reduces the costs of borrowing to applicants under the program. The amendments also expanded the types of securities that the Secretary may consider in making the required finding that there is reasonable security to protect the interests of the United States.

Section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 was amended to provide the Secretary with discretion to establish the conditions of guarantees. The Secretary may agree to such terms, conditions and requirements which assure that the obligor will not make any unreasonable discretionary dividend payments and will not use the funds or revenues derived from railroad operations in nonrailroad enterprises or for non-railroad purposes. The Senate bill also amended section 511(g) of the Railroad Revitalization and Regulatory Reform Act to delete the requirements that notice of guarantee applications be published in the Federal Register and that interested parties be given the opportunity to comment on such applications.

#### *House amendment*

The House amendment amended section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 to provide that any guarantee entered into by the Secretary with respect to obligations issued to acquire or to rehabilitate and improve facilities or equipment shall constitute general obligations of the United States backed by the full faith and credit of the United States.

The House amendment also amended section 511(h) of such Act to provide that any obligation guaranteed by the Secretary for equipment acquisition, rehabilitation, or improvement of leased equipment may be secured by the lease; and to provide that the prospecting earning power of any equipment or facilities acquired, rehabilitated, or improved may be taken into consideration in determining whether the United States has afforded reasonable security and protection in event of a default by the obligor.

The House amendment also amended section 511(j) of such Act, relating to conditions or guarantees, to provide that the Secretary must require the obligor to agree to such terms and conditions as are sufficient to assure that, as long as any principal or interest is due and payable on any obligation guaranteed by the Secretary, such obligor will not make any discretionary dividend payments (except as provided in the new paragraph (2) described below) and will not use any funds or assets from railroad operations for nonrail purposes. The new paragraph (2) referred to above provides that the obligor will not be restricted with respect to making dividend payments from its net income for any fiscal year if the payments do not exceed (when compared to the net income of such obligor for such fiscal year) the ratio which aggregate dividends paid by such obligor during the 5 fiscal years before the granting of the earliest loan guarantee then outstanding bore to aggregate income of such obligor for such period, or 50 percent of the total additions to the retained income of such obligor (computed on a cumulative basis and giving cognizance to dividends paid) during the period commencing with the fiscal year prior to the granting of the earliest loan guarantee then outstanding, whichever is greater. These restrictions on the payment of dividends will not apply with respect to an obligation if, in the event of a default by the obligor, the Secretary would be subrogated to the rights of the lender under section 77(j) of the Bankruptcy Act.

#### *Conference substitute*

The conference substitute incorporates the House and Senate provisions.

### CAPITAL IMPROVEMENTS

#### *Senate bill*

No provision.

#### *House amendment*

The House amendment provides a technical amendment to remove any doubt as to whether the Secretary of the Department of Transportation's existing authority under section 511(a) to guarantee obligations in connection with rehabilitation and improvement of railroad facilities or equipment permits similar guaranteed financing for the development or establishment of new railroad facilities. Existing law is not clear whether the term "capital improvement" which is not defined in the Act, contemplates new construction. The Federal Railroad Administration's proposed implementing regulations, as published in the June 1, 1976 *Federal Register*, seem to imply that the development or establishment of new railroad facilities would be contemplated. However, the matter is not wholly clear. Moreover, given the financial condition of many railroads, there are insuperable barriers to further debt or equity financing of the type needed. Section 511, as it now exists, while helpful to the carriers, if confined to rehabilitation and improvement financing of existing rail plant and not construction of new facilities, would be effectively limited to improving only the status quo. The House amendment clarifies matters so that loan guarantees for new facilities, when justified pursuant to the other conditions of section 511, can be approved by the Secretary. This limited technical amendment thus supplements present section 511 and will serve to ensure that all aspects of "improvements" can be taken into account.

#### *Conference substitute*

The conference substitute adopts the House amendment.

### REDEEMABLE PREFERENCE SHARES

#### *Senate bill*

The Senate bill amended section 506(a) (2) (1) of the Railroad Revitalization and Regulatory Reform Act of 1976 to limit the total yield of redeemable preference shares to 150% of the value of the shares. This amendment was adopted to insure that the projects intended to be financed with these funds would not be arbitrarily denied funding by interest requirements not related to the public benefits to be derived from the project and the overall earning power of the applicant carrier.

It amended section 506(a) (4) to require the number of redemption payments to exceed 15.

The Senate bill amended section 505(a) (2) of the Railroad Revitalization and Regulatory Reform Act of 1976 to clarify congressional intent with respect to the disbursement of loan funds for rehabilitation and improvement financing. The purpose of the funds was to provide interim assistance during the two-year period during which the Secretary is to more fully assess the capital needs of the industry.

The Senate bill also modified section 506 (a) (2) (1) of the Railroad Revitalization and Regulatory Reform Act of 1976. The amendment allowed the Secretary of Transportation, as part of an exchange of trustee certificates for redeemable preference shares in the context of a court-approved reorganization, to subordinate redeemable preference shares to those securities which would have been senior except for the fact that they are being exchanged for securities of a lesser priority as part of the reorganization plan.

#### *House amendment*

The House amendment contained no similar provisions.

#### *Conference substitute*

The conference substitute incorporated the provisions of the Senate bill regarding the subordination of redeemable preference shares. It is designed to assist railroads in reorganization to reorganize on an income basis. Under title V of P.L. 94–210, the government can loan money to railroads when such loans would be in the public interest. The government gets a secured position in the railroad's debt structure. When it becomes apparent that the railroad will be able to reorganize, and begin paying its back taxes and functioning normally, the senior secured creditors may agree to take a lower form of security, such as preferred stock, in order to lighten the debt structure sufficiently to permit the reorganization. The amendment permits the Secretary in this kind of situation to also adjust the government's security so that the government will be in the same relative position as it was before. If this adjustment is not possible, the senior debt holders will be unlikely to agree to exchange their security for junior securities because this would place the government ahead of them in position. The effect of the amendment is to permit a reorganization to take place by giving the Secretary discretion to subordinate the government's position in order to keep it the same in relative terms with the other security holders of the carrier.

The substitute also permits the immediate expenditure of funds without regard to the completion of studies required under section 503 of the Act.

The substitute amends the Senate provisions requiring the number of redemption payments to exceed 15 to permit the carrier to prepay its redemption payments. It also amends those provisions intended to clarify and ensure the achievement of the redeemable preference share program goal of making rehabilitation financing available now to carriers at a cost they are able to sustain by limiting the Secretary's discretion to establish the maximum yield on preference shares where the proceeds of the shares are to be used solely to finance the reduction of deferred maintenance, which the conferees generally assume to be rehabilitation of rail facilities which will generally not significantly increase the ratio of the carrier's net income to the carrier's total capital. The Secretary must limit the maximum yield to the Government on redeemable preference shares issued to fund deferred maintenance reduction projects to the carrier's rate of return reflected in the ratio of the net income to total capital for the three fiscal years preceding the date of submission of the carrier's financing application. This test will assure that deferred maintenance projects for the weaker railroads are not deterred because of an artificially high interest rate, but are instead evaluated on the basis of the overall public costs and benefits likely to result from the project. The conferees recognize that after the Secretary evaluates a deferred maintenance reduction proposal, he may decide that the public benefits from such a project in light of the public costs and the availability of other funds do not justify the issuance of preference shares which would yield no more than the carrier's income/capital ratio. This decision may be more likely to occur in those instances where a financially sound carrier generally able to secure private sector financing at reasonable rates applies for deferred maintenance financing for its facilities. On the other hand, the conferees intend that this finding not be used as an arbitrary means of denying applications of merit. In those instances where the Secretary finds a portion of a rehabilitation project would make a significant contribution to the carrier's income/capital ratio, the Secretary may of course recategorize that portion of the project not solely intended to reduce deferred maintenance. Projects in this category may be required to return any yield the Secretary finds appropriate in light of all relevant factors listed in section 505.

To insure the Secretary exercises his discretion in accordance with congressional intent, the Secretary must promulgate standards governing his evaluation and determination of public costs and benefits. The conferees expect the Secretary to fully explain the rational for, and method of, defining and determining the elements of the public interest. Finally to facilitate the Secretary's development of a rational funding program for the present and future, the Department is given additional time to complete the study required in sections 503, 504, and 901 of the RRRR Act. Since the 504 study is particularly important to achievement of the goals of the title V funding program to establish guidelines for future railroad funding programs, additional criteria are established to insure the usefulness of the study.

### NORTHEAST CORRIDOR ACQUISITIONS

#### *Senate bill*

The Senate bill amended section 704(a) (3) (B) of the Railroad Revitalization and Regulatory Reform Act of 1976 by authorizing additional appropriations to acquire properties in the Northeast Corridor.

The Senate bill also contained provisions amending section 704 (a) (3) of such Act by requiring that an amount appropriated under that section shall be used first for the repayment with interest of the portion of the obligation issued by the National Railroad Passenger Corporation and guaranteed under section 602 of the Rail Passenger Service Act, the proceeds of which have been used for the payment of expenses resulting from the acquisition of the properties referred to in subparagraphs (B) and (D) of section 704 (a) (3).

The Senate bill also authorized the Secretary to enter into such agreements which are necessary to protect and secure an expenditure of funds by the United States with respect to the acquisition and improvement of properties in the Northeast Corridor or intercity routes as designated under section 206(c) (1) (C) and 206(c) (1) (D) of the Regional Rail Reorganization Act of 1973. The Senate bill also provided for the exemption of any such grant security, or obligation from Federal, State, or local laws which regulate securities or the issuance of securities.

The Senate provision also amended section 303 of the Rail Passenger Service Act by granting immunity to the Corporation, its Board of Directors, and its individual directors from liability for damages, or any other type of liability, because the Corporation gave or issued a security or obligation to the United States pursuant to the provisions of section 704(e) of the Railroad Revitalization and Regulatory Reform Act of 1976. The provision also required the United States to indemnify the Corporation, its Board of Directors, and its individual directors against all costs and expenses incurred in defending such litigation.

#### *House amendment*

The House amendment contained no comparable provision.

#### *Conference substitute*

The conference substitute follows the Senate bill, with two technical amendments designed to clarify the intent of the amendments. The provision is designed to facilitate the implementation of the Northeast Corridor project. The conferees agreed that, if the Secretary of Transportation does not take immediate steps to commence such implementation and if the Secretary does not pursue this project with the greatest reasonable speed, the Congress will have to reconsider its decision to vest responsibility in the Secretary. The delay in the implementation of the improved high speed rail transportation project in the Northeast Corridor, since the enactment of title VII of the Public Law 94-210, is resulting in unnecessary and inexcusable increases in the cost of the project, and it is, in the judgment of the conferees, contrary to the public interest.

DISCONTINUANCE AND ABANDONMENT PROCEDURES

*Senate bill*

No provision.

*House amendment (section 215)*

Subsection (a) of this section amends section 1a(1) of the Interstate Commerce Act, relating to discontinuance and abandonment procedures of the Interstate Commerce Commission. This amendment makes clear that the authority granted to the Interstate Commerce Commission with respect to discontinuance and abandonment does not apply with respect to spur, industrial, team, switching, or sidetracks located entirely within one State or with respect to any street, suburban, or interurban electric railway which is not operated as part of the general system of rail transportation.

Subsection (b) of this section amends section 1a(4) of the Interstate Commerce Act, to provide that if the Interstate Commerce Commission issues a certificate of discontinuance or abandonment without an investigation under paragraph 3 of this section, actual abandonment or discontinuance may take effect in accordance with the certificate rather than 120 days after the date such certificate is issued.

*Conference substitute (section 217)*

The conference substitute incorporates the House provision.

PRESERVATION OF HISTORICAL RAIL FACILITIES

*Senate bill (Section 12)*

Section 12 contains provisions amending both the Department of Transportation Act and the National Foundation on the Arts and Humanities Act. The amendment requires that appropriations authorized under those portions of the intermodal terminal program and the program to preserve and reuse railway stations of historical and architectural merit be made directly to the Endowment rather than to DOT.

*House amendment*

No provision.

*Conference substitute (section 218)*

The conference substitute incorporates the Senate provision.

COST ACCOUNTING PROCEDURES

*Senate bill*

The Senate bill amended section 20(3) of the Interstate Commerce Act to require the ICC to consult with the Secretary of Transportation and Amtrak with respect to the creation of new cost accounting procedures relating to rail passenger service. If the ICC's efforts were found unsatisfactory, the Secretary could report what he felt were deficiencies to the Congress, for appropriate action.

*House amendment*

The House amendment contained no similar provision.

*Conference substitute*

The conference substitute does not include the Senate provision.

TECHNICAL AMENDMENTS

*Senate bill*

The Senate bill contained a technical amendment to section 17(9)(e) of the Interstate Commerce Act (to correct an apparent inconsistency in the time limitations placed on the Interstate Commerce Commission pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976) and a technical amendment to section 901 of the Railroad Revitalization and Regulatory Reform Act.

*House amendment*

The House amendment contained a series of technical amendments to the Interstate Commerce Act, the Regional Rail Reorganization Act of 1973, and the Railroad Revitalization and Regulatory Reform Act of 1976.

*Conference substitute*

The conference substitute includes all of the technical amendments in both the Senate bill and the House amendment.

TRANSFER TAX EXEMPTION

*Senate bill*

The Senate bill amended section 303(d) of the Regional Rail Reorganization Act of 1973 to clarify provisions of that section which provide for exemptions from transfer and other local taxes in the context of the reorganization. The provision applies to all the properties transferred and all the transfers of those properties contemplated by the final system plan and the Regional Rail Reorganization Act.

*House amendment*

The House amendment contained a similar provision.

*Conference substitute*

The conference substitute does not include this provision of either the Senate bill or the House amendment since it was enacted by the Congress as part of H.R. 13325.

USRA AUTHORIZATION

*Senate bill*

The Senate bill increased the authorization of appropriations for the U.S. Railway Association for purposes of its administrative expenses. The Senate provision authorized $20,000,000 for the period beginning May 1, 1976, and ending September 30, 1976.

*House amendment*

No provision.

*Conference substitute*

This provision is not included in the conference substitute since it has already been enacted in H.R. 13325.

DEFICIENCY JUDGMENT PROTECTION

*Senate bill*

The Senate bill amended sections 303(c)(5) and 206(d)(5) of the Regional Rail Reorganization Act of 1973. The amendments made clear that the deficiency judgment protection afforded by that Act is to cover all the possible actions that the special court may take, with respect to the properties designated in the final system plan for "pass through" to the various commuter agencies in the region, and it also contained appropriate indemnification provisions. The Senate bill also contained provisions relating to ConRail's transfer, to the State of Rhode Island, of certain properties located in that State; it was intended to clarify any uncertainties regarding those transfers.

*House amendment*

No provision.

*Conference substitute*

The provision is not included in the conference substitute because a similar provision has already been enacted in H.R. 13325.

SUPPLEMENTAL TRANSACTIONS; DELMARVA RAIL TRANSPORTATION

*Senate bill*

The Senate bill amended section 508(a)(1) of the Regional Rail Reorganization Act of 1973 which relates to the duties of acquiring and selling railroads and which requires the offering of employment, the negotiation of rules and working conditions, and employment protection as a condition precedent to the execution of purchase agreements. The amendment was intended to ensure that the negotiation of these labor agreements would not unduly delay any necessary restructuring which is the subject matter of a supplemental transaction proposal. The amendment provided that if such agreements were not reached within 60 days after the ICC determination under section 305(c) of such Act, or after the expiration of the 90-day period referred to in such section 305(c), the transferor and the transferee railroads could carry out the supplemental transaction involved subject to the condition that all employees would be accorded employee protection (as provided by section 505) and the further condition that wages, hours, rules, and all other working conditions of such employees would be governed by the collective bargaining agreements covering such employees immediately prior to such transaction.

*House amendment*

The House amendment provided that the Interstate Commerce Commission should, within 6 months after the date of enactment of this Act, submit a report to Congress concerning the problems of and need for rail transportation on the Delaware-Maryland-Virginia peninsula. Such report would include—

(1) an analysis of why the acquisitions proposed under the final system plan with respect to rail properties on such peninsula were not consummated; and

(2) recommendations with respect to the continuation or extension of viable rail transportation service on such peninsula.

*Conference substitute (section 302)*

The conference substitute is the same as the House amendment.

EFFECTIVE DATE

*Senate bill*

No provision.

*House amendment*

The House amendment provides that the Rail Transportation Act shall take effect on October 1, 1976.

*Conference substitute*

The conference substitute follows the House amendment.

HARLEY O. STAGGERS,
FRED B. ROONEY,
BROCK ADAMS,
RALPH H. METCALFE,
JIM SANTINI,
J. J. FLORIO,
MARTY RUSSO,
J. SKUBITZ,
EDWARD MADIGAN,
SAMUEL L. DEVINE,
*Managers on the Part of the House.*

WARREN MAGNUSON
JOHN O. PASTORE,
VANCE HARTKE,
ADLAI STEVENSON,
WENDELL H. FORD,
LOWELL WEICKER, Jr.,
J. GLENN BEALL, Jr.,
*Managers on the Part of the Senate.*

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## CONFERENCE REPORT ON H.R. 7108, EPA RESEARCH AUTHORIZATION FOR APPROPRIATIONS FOR FISCAL YEAR 1976

Mr. TEAGUE. Mr. Speaker, I call up the conference report on the bill (H.R. 7108) to authorize appropriations for environmental research, development, and demonstration, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 22, 1976.)

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. TEAGUE) is recognized.

Mr. TEAGUE. Mr. Speaker, the conference report on H.R. 7108 authorizes appropriations to support the research and development program of the Environmental Protection Agency during the current fiscal year and transition period.

Funds to support the program have already been appropriated and expenditures have already been made. This bill was delayed, because of the fact that it was considered consecutively by three Senate committees. We hope and trust that future authorizations of this type can be handled more expeditiously in the other body.

Mr. Speaker, the conference with the Senate resulted in the resolution of differences between the two houses when the Senate receded from its earlier position and agreed to delete two amendments to the bill which were deemed inappropriate, and the House agreed to reduce the amount of the authorization by approximately $12.8 million for fiscal year 1976 and $3.2 million for the transition period.

I would now like to call upon the chairman of the subcommittee that handled this bill, the gentleman from California (Mr. BROWN) to say a few words about the conference report.

Mr. BROWN of California. Mr. Speaker, the conference report on H.R. 7108 is expected to be adopted by the Senate today. I urge its adoption by the House this afternoon.

This bill authorizes $328.8 million for fiscal year 1976, and $82.2 million for the transition period to support the research program of the Environmental Protection Agency.

Despite the fact that this bill has been overtaken by events for authorization purposes, it is nevertheless considered by the Committee on Science and Technology to be an important piece of legislation. The bill contains two substantive provisions which we believe should be enacted into law during this session of the Congress. To begin with, section 4 of the bill provides for annual authorization of the appropriations in support of the research program of the Environmental Protection Agency. Second, section 5 of the bill requires the Administrator of EPA to develop a comprehensive 5-year plan for environmental research and development, which plan must be revised annually. Both these provisions will become permanent law, and will be of great assistance to our committee in discharging its oversight responsibilities over the Environmental Protection Agency.

I would now like to request the gentleman from Kansas (Mr. WINN), a ranking member of our subcommittee which reported this bill, to comment on the conference report.

Mr. MYERS of Pennsylvania. Mr. Speaker, I support the adoption of the conference report accompanying H.R. 7108, the fiscal year 1976 authorization bill for the Environmental Protection Agency's R. & D. program.

Mr. Speaker, the conference bill authorizes $328.8 million for fiscal year 1976 and $82.2 million for the transition quarter. This represents a reduction from the House-passed bill of $12.8 million for fiscal year 1976 and $3.1 million for the transition quarter.

The conferees realize that it is now anticlimactic to pass these authorizations since the money has already been appropriated and the period of time covered by the bill ends today. However, the bill will enact the requirement for yearly authorizations for EPA's R. & D. program and a requirement for the EPA to submit a 5-year plan for improved environmental R. & D. Both of these features will permit the Congress to maintain closer oversight and control of the EPA R. & D. program than is currently possible.

Mr. Speaker, I urge adoption of the conference report.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## CONFERENCE REPORT ON S. 507, MANAGEMENT, PROTECTION, AND DEVELOPMENT OF NATIONAL RESOURCE LANDS

Mr. MELCHER. Mr. Speaker, I call up the conference report on the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 29, 1976.)

Mr. MELCHER (during the reading). Mr. Speaker, I ask unanimous consent that the statement of the managers be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. MELCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, most provisions of S. 507 and the House amendments were similar and some were identical. The conferees coordinated and harmonized these provisions, retaining the underlying objectives of both Houses. In addition, the conferees adopted most of the remaining House amendments, with some exceptions and adjustments. The more significant ones are as follows:

First. Oversight vetoes—the House amendments provided for veto by action of either House. The conferees recommend vetoes only by concurrent resolution of both Houses.

Second. Grazing fees—the House amendments provided for a statutory grazing fee formula. The conferees recommend instead a requirement for a study and report by Agriculture and Interior and a prohibition against a fee increase during grazing year 1977. The report and recommendations would be due in 1 year.

Third. Wild horses—the House amendments had provisions for disposition of excess animals and permission for the Secretaries to use aircraft and motor vehicles. The conferees recommend dropping the disposition provisions. They also recommend that permission be granted for the use of helicopters in roundups and the use of motor vehicles for transportation of captured animals.

Fourth. Grazing advisory boards—the conferees recommend limiting the House proposed boards to livestock representatives and to advice on distribution of range improvement funds and development of allotment management plans.

Fifth. Omitted lands—The conferees recommend adoption of the Senate provisions on omitted lands.

Sixth. Mineral Leasing Act revenues—The conferees recommend amendment of section 35 of the Mineral Lands Leasing Act relating to distribution of revenues to the States. The amendment tracks the language in the Coal Lands Lease Amendments Act and, therefore, contains an inconsistency with respect to law on the Naval Petroleum Reserves revenues. I intend to support S. 3848 to make this and other adjustments in section 35. The conferees also recommend adoption of the Senate provision for advances out of projected State share of revenues for countering adverse impacts of mineral development.

Seventh. Withdrawals—The conferees recommend liberalization of the time periods in the House amendments relating to segregative effect of withdrawal applications and duration of withdrawals.

Eighth. Hunting and fishing closures—The conferees recommend expanding authority for closures consistent with other existing law.

Ninth. Authorizations for appropriations—The conferees recommend changing the requirements of the House amendments for biennial authorizations for appropriations to quadrennial authorizations.

Tenth. Law enforcement officials—The conferees recommend specific mention of the right to carry firearms.

Eleventh. Allotment management plans—The conferees recommend deferral of requirement for intensive allotment management plans to 1988 but inclusion of needed terms and conditions in grazing leases and permits until superseded by more intensive plans.

The House amendments represent a well-balanced bill, but they do contain some controversial matters. The conferees thoroughly explored these issues and have made recommendations which make the bill, S. 507, more generally acceptable. This report represents the best balance at this time. Enactment will be a landmark in the history of public land management. I urge adoption of the conference report.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I would like to propose an inquiry to the gentleman from Montana (Mr. MELCHER), regarding the conference report on the Federal Land Policy and Management Act of 1976, S. 507.

It is my understanding that there is a provision in this conference report relating to the revenues that accrue from the Naval Petroleum Reserves. Existing law provides that these revenues will be deposited in a special account in the Treasury to finance the exploration and further development of the Naval Petroleum Reserves and also to finance the construction and operation of the strategic petroleum reserve that was created by the Energy Policy Conservation Act of 1975, Public Law 94-163.

The gentleman is well aware of this law, because the gentleman was one of the authors of this particular provision to which I refer. What is confusing to me is the fact that the gentleman is urging the adoption of a conference report which contains language similar to that contained in the recently enacted Federal Coal Leasing Act, Public Law 94-377, both of which would reverse existing law (the Naval Petroleum Reserves Production Act of 1976, Public Law 94-258) and would require that these revenues from the Naval Petroleum Reserves go into the general Treasury.

However, I understand that the gentleman from Montana (Mr. MELCHER) agrees that this provision relating to the Naval Petroleum Reserves ought to be corrected, but in the interest of expediting action on the conference report, the gentleman proposes to correct this problem when the House acts on the Senate bill, S. 3848. The Senate bill, S. 3848, provides an amendment to the Mineral Leasing Act of 1920.

I would like to ask the gentleman if I am correct in assuming that if the House acts favorably on this conference report that the gentleman will support an amendment to the Senate bill, S. 3848, which will insure that the revenues will be credited to the Naval Petroleum Reserve special account that I have just outlined?

Mr. MELCHER. Mr. Speaker, the gentleman is correct. S. 3848 will be considered by the House in a matter of moments, after we complete action on the conference report, and that provision will be taken care of.

Mr. STRATTON. Mr. Speaker, I thank the gentleman from Montana.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I also want to assure my friend, the gentleman from New York (Mr. STRATTON), that the Naval Petroleum Reserves Production Act of 1976, Public Law 94-258, established on the books of the Treasury a special account designated as the "Naval Petroleum Reserves Special Account." The money in this special account is to be used to finance the exploration and development of the Naval Petroleum Reserves, as well as to finance the construction and operation of the Strategic Petroleum Reserve that was created by the Energy Policy and Conservation Act of 1975, Public Law 94-163.

The purpose of this bill, S. 3848, and the perfecting amendment offered by the distinguished gentleman from Wyoming, in addition to making technical corrections, is to assure that the rental and royalty income received by the United States from the Naval Petroleum Reserves will actually be credited to the Naval Petroleum Reserve special account. It is quite obvious that the drafters of S. 3848, as well as the drafters of the Coal Leasing Act and the BLM Organic Act, overlooked the provisions of the Naval Petroleum Reserve Production Act. The perpetuation of these drafting oversights will be corrected by the proposed amendment.

Mr. Speaker, these corrections are needed and I endorse the amendment and urge my colleagues to vote for it.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I have a question concerning the language in the conference report.

The language concerning management of wildlife on BLM and Forest Service lands differed in the House and Senate versions of the Organic Act, and these differences were resolved in conference. Lands could be closed by the agencies to hunting or fishing for reasons of "public safety, administration, or compliance with provisions of applicable law."

However, in attempting to define the term "administration," the conference report language confuses the issues and appears to remove administration as a reason for closure to hunting and fishing as follows:

> The word administration authorizes exclusion of hunting and fishing from an area in order to maintain the ability of appropriate officials to maintain supervision. It does not authorize exclusions simply because hunting and fishing would interfere with resource management goals.

The second sentence quoted seems to negate the term "administration" and seems to be inherently inconsistent with the whole concept of administration, which among other things requires protection of threatened fish and game resources.

I would like to ask the gentleman from Montana what his understanding of the term "administration" was. It certainly would include the proprietary right of agencies as a landlord to manage wildlife habitat, would it not?

Mr. MELCHER. Yes. The intent of the bill and the intent of the conference report is to assure that wildlife habitat management, and wildlife itself, are included in the management on our Federal lands.

We do not, however, intend to interfere with the States' prerogatives in setting the seasons for hunting of wildlife and wildfowl. On that score the Federal agencies go back to what has been left as State prerogatives, but the general management of wildlife habitat is expected, and also is a Federal responsibility.

Mr. SEIBERLING. I would certainly concur with the gentleman on that. I would like to ask one further question: Would the gentleman agree that, consistent with the multiple-use policy of this legislation, management of wildlife habitat with that exception is a responsibility of the BLM and Forest Service on public lands.

Mr. MELCHER. Yes, we view wildlife as part of the resources on our Federal lands.

Mr. SEIBERLING. Therefore, I take it that the gentleman would agree that the BLM and the Forest Service could close lands under their jurisdiction to hunting and fishing for reasons related to the management of the wildlife habitat?

Mr. MELCHER. Yes, I would agree to that, but we do expect to cooperate in all instances possible with the State Fish and Game Commissions to allow those authorities to set hunting seasons and to set requirements for hunting and fishing.

Mr. SEIBERLING. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, I find myself in concurrence with the conference report explanation as presented by the gentleman from Montana (Mr. MELCHER). We believe that it is the best possible Federal Land Management Act that could be legislated here in the 94th Congress. The legislation is long overdue.

It provides needed congressional review of actions to stand as guidelines for land use planning of public lands, and provides the means to protect the desert lands of the California desert conservation area as sponsored by my California colleague (Mrs. PETTIS), and my own Kings Range conservation area.

It recognizes the crucial need for a balance between environmental protection and management of lands on the basis of multiple use and sustained yield.

I urge my colleagues to support the conference report.

Mr. MELCHER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## PRINTING AS HOUSE DOCUMENT A CONCISE AND SELECTED NATIONWIDE RECORD OF THE BICENTENNIAL CAPTIVE NATIONS WEEK PROCLAMATIONS, STATEMENTS, AND RELEVANT MATTERS

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1513 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1513

*Resolved,* That as a Bicentennial salute to the captive nations and based on the congressional Captive Nations Week resolution, signed in 1959 into Public Law 86–90 by President Dwight D. Eisenhower, there be printed as a House document a concise and selected nationwide record of the Bicentennial Captive Nations Week proclamations, statements, and relevant material emphasizing the common and natural essence of the American Revolution and the aspirations of all captive nations, to be bound in the style and design used in printing House Document Numbered 91–184 of the Ninety-first Congress, and that nine thousand nine hundred and thirty-five additional copies shall be printed, of which seven thousand four hundred and sixty-three shall be for the use of the House of Representatives. and two thousand four hundred and seventy-two shall be for the use of the Senate.

SEC. 2. Copies of such document shall be prorated to Members of the House of Representatives and Senate for a period of sixty days, after which the unused balance shall revert to the House and Senate document rooms.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

With the following committee amendment:

Page 1, line 11, after "that" strike out through "which" on page 2, line 1, and strike out lines 3 and 4 on page 2.

The committee amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR PRINTING OF THE TRANSCRIPT OF PROCEEDINGS IN THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION OF SEPTEMBER 21, 1976, INCIDENT TO PRESENTATION OF A PORTRAIT OF THE HONORABLE ROBERT E. JONES

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1561 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1561

*Resolved*, That the transcript of the proceedings in the Committee on Public Works and Transportation of September 21, 1976, incident to the presentation of a portrait of the Honorable Robert E. Jones to the Committee on Public Works and Transportation be printed as a House document with illustrations and suitable binding as directed by the Joint Committee on Printing.

SEC. 2. In addition to the usual number, there shall be printed five hundred copies of such document for the use of the Committee on Public Works and Transportation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## AUTHORIZING PRINTING OF PROCEEDINGS UNVEILING THE PORTRAIT OF THE HONORABLE HARLEY O. STAGGERS

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1571 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1571

*Resolved*, That the transcript of the proceedings in the Committee on Interstate and Foreign Commerce of April 6, 1976, incident to the presentation of a portrait of the Honorable Harley O. Staggers to the Committee on Interstate and Foreign Commerce be printed as a House document with illustrations and suitable binding.

SEC. 2. In addition to the usual number, there shall be printed one thousand five hundred copies of such document for the use of the Committee on Interstate and Foreign Commerce.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PRINTING AS HOUSE DOCUMENT "ART IN THE U.S. CAPITOL"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up House Concurrent Resolution 698, and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 698

*Resolved by the House of Representatives (the Senate concurring)*, That there be reprinted with black and white and color illustrations and with emendations as a House document "Art in the United States Capitol" as prepared under the direction of the Architect of the Capitol; and that there be printed thirty-six thousand four hundred additional copies of such document, of which ten thousand three hundred copies shall be for the use of the Senate, twenty-two thousand one hundred copies shall be for the use of the House of Representatives, and four thousand copies for the use of the Architect of the Capitol.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman is suggesting that we reprint the book "Art in the Capitol"?

Mr. BRADEMAS. The title of the subject of the resolution, if my colleague from Maryland will yield is "Art in the U.S. Capitol."

Mr. BAUMAN. Further reserving the right to object, this is the rather expensive bound volume that has been distributed for some time. How many copies have been printed previously?

Mr. BRADEMAS. If the gentleman will yield, sufficient copies to provide 50 copies for each Member of the House of Representatives.

Mr. BAUMAN. Further reserving the right to object, what was the total cost, up to this point, of these previous printings?

Mr. BRADEMAS. If the gentleman will yield, $19,507 is the usual cost for printing of 1,500 copies.

Mr. BAUMAN. Further reserving the right to object, what is the proposed cost of this additional number?

Mr. BRADEMAS. Thirty-six thousand four hundred additional copies would cost $162,598.

Mr. BAUMAN. And these are distributed to Members for their own distribution?

Mr. BRADEMAS. These are distributed to Members of the House and to Members of the Senate and to the Architect of the Capitol.

Mr. BAUMAN. Mr. Speaker, does the gentleman really feel that this trip is necessary?

Mr. BRADEMAS. Mr. Speaker, I would only say to the gentleman from Maryland that there was strong support for this resolution expressed to me from both sides of the aisle. Indeed a good deal of the impetus for the resolution came from the other side of the aisle, and the resolution was approved unanimously by the Committee on House Administration.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, let me ask the gentleman, is this not the second edition of "Art in the Capitol"? I recall that approximately 5 or 6 years ago there was a volume comparable to this one that was put out. I believe that was called "Art in the Capitol," and that was distributed.

Mr. BRADEMAS. Mr. Speaker, if the gentleman from Maryland will yield, I am not aware of there having been any such volume. There may have been, but I have no knowledge of any other edition of "Art in the Capitol."

Mr. YATES. I know that in my office I have a copy of "Art in the Capitol."

Mr. BRADEMAS. Mr. Speaker, if the gentleman from Maryland will yield further, there was such a volume published and distributed in the amount of 50 copies to each Member. That distribution was within, I believe, the last year or two, and copies went to all Members of the House, but I am not aware of an edition before that.

Mr. YATES. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, it is my belief that there was a volume of "Art in the Capitol" that was printed within the last 10 years, and that it was a predecessor volume to this one.

My own inclination, sitting as I do on the Committee on Appropriations of the legislative branch, would be to conclude that this does not represent a very good expenditure, in my estimation.

Mr. BRADEMAS. Mr. Speaker, if the gentleman from Maryland will yield further, I might say that the volume is a very attractive and a well edited one. It is an unusual volume. I believe most Members have seen it, and considering much of the material with which we sometimes find ourselves burdened, I would have to give it as my own judgment that this is a volume that will endure for many years.

I know from conversations with Members of the House on both sides of the aisle that many Members are using these volumes to send to school libraries and university libraries in their several congressional districts. I would have to give it my judgment, as the chairman of this subcommittee, that this is an attractive and a valuable volume, and should be reprinted.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, how many copies will each Member receive?

Mr. BRADEMAS. Fifty copies.

Mr. BAUMAN. Fifty additional copies?

Mr. BRADEMAS. The gentleman is correct.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, it is my understanding that we have not yet received 50 copies. If we did, I was shortchanged, because I only got one.

However, I agree that it is an excellent volume. I gave mine to the head of a university art department for use in his department, and he was elated with it. I think it is a very worthwhile text, and that we could make very good use of it for educational purposes.

Mr. BRADEMAS. Mr. Speaker, if the gentleman from Maryland will yield, I will only say to my friend, the gentleman from Ohio, that he ought to talk to the members of his staff about those additional copies.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## AUTHORIZING PRINTING AS A SENATE DOCUMENT OF REPORT BY A SPECIAL CONSULTANT TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES ON CERTAIN PROCEDURES OF THE INTERNAL REVENUE SERVICE

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up Senate Concurrent Resolution 85 and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 85

*Resolved by the Senate (the House of Representatives concurring)*, That a report by a special consultant to the Administrative Conference of the United States on some administrative procedures of the Internal Revenue Service be printed as a Senate document, and that there be printed five hundred additional copies of such document for the use of the Senate Committee on Appropriations.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

## AUTHORIZING PRINTING OF THE PRAYERS OF THE CHAPLAIN OF THE SENATE DURING THE 94TH CONGRESS AS A SENATE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up Senate Concurrent Resolution 201 and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 201

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed with an appropriate illustration as a Senate document, the prayers by the Reverend Edward L. R. Elson, S.T.D., the Chaplain of the Senate, at the opening of the daily sessions of the Senate during the Ninety-fourth Congress, together with any other prayers offered by him during that period in his official capacity as Chaplain of the Senate; and that there be printed and bound two thousand additional copies of such document, of which one thousand and thirty shall be for the use of the Senate and nine hundred and seventy shall be for the use of the Joint Committee on Printing.

SEC. 2. The copy for the document authorized in section 1 shall be prepared under the direction of the Joint Committee on Printing.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate concurrent resolution be dispensed with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

## PROVIDING PRINTING OF BOOKLET ENTITLED "WOMEN IN CONGRESS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Ad- House, but I am not aware of an edition ministration, I call up House Concurrent Resolution 664, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 664

*Resolved by the House of Representatives (the Senate concurring)*, That twenty-five thousand copies of a booklet entitled "Women in Congress" be printed for the use of the Joint Committee on Arrangements for the Commemoration of the Bicentenial. Such booklet shall present a history of women who have served as Members of the Congress.

SEC. 2. The Joint Committee on Arrangements for the Commemoration of the Bicentennial shall control the arrangement and style of the booklet authorized to be printed by the first section of this concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## AUTHORIZING PRINTING OF MATERIALS RELATING TO PRESIDENTIAL DEBATES BETWEEN JAMES E. CARTER AND GERALD R. FORD

Mr. BRADEMAS. Mr. Speaker, I call up House Concurrent Resolution 772, authorizing the printing of materials relating to the Presidential debates between James E. Carter and Gerald R. Ford, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 772

*Resolved by the House of Representatives (the Senate concurring)*, That there are authorized to be printed not more than twenty thousand copies of materials prepared in accordance with section 2 relating to the Presidential debates between James E. Carter and Gerald R. Ford (hereinafter in this concurrent resolution referred to as the "debates").

SEC. 2. (a) The Committee on House Administration of the House of Representatives (hereinafter in this concurrent resolution referred to as the "committee") shall compile and prepare materials relating to the debates. Such materials shall include—

(1) the transcript of each debate;

(2) to the extent practicable, the transcript of that portion of any public press conference conducted by James E. Carter or Gerald R. Ford which relates to any general topic which is the subject of any such debate;

(3) the text of that portion of any position paper or similar statement issued by James E. Carter or Gerald R. Ford which relates to any such general topic; and

(4) any other documents or other materials which are matters of public record and which the committee considers pertinent to any such general topic.

(b) The style and format of the document containing the materials described in subsection (a) shall be determined by the committee, except that materials relating to each debate shall be contained in a separate volume and the committee shall prepare an index with respect to each volume.

Sec. 3. (a) The committee shall control the manner in which the document containing the materials described in section 2(a) may be distributed.

(b) The number of copies authorized to be printed by the first section of this concurrent resolution shall be in lieu of the usual number of copies.

**Mr. BRADEMAS** (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the concurrent resolution be dispensed with and that it be printed in the Record.

The **SPEAKER**. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR PRINTING AND DISTRIBUTION OF PRECEDENTS OF HOUSE OF REPRESENTATIVES COMPILED AND PREPARED BY LEWIS DESCHLER

**Mr. BRADEMAS**. Mr. Speaker, I call up House Joint Resolution 1107, to provide for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler, as amended, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The **SPEAKER**. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 1107

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) there shall be printed and bound as a public document two thousand sets of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler (hereinafter in this joint resolution referred to as the "Precedents") in accordance with the provisions of the Legislative Branch Appropriation Act, 1966 (Public Law 89-90; 79 Stat. 265).

(b) The number of sets authorized to be printed and bound by or pursuant to this joint resolution shall be in lieu of the usual number of copies for binding and distribution required by section 701 of title 44, United States Code.

Sec. 2. (a) The Public Printer shall deliver one set of the Precedents to each Senator or Representative in, or Delegate or Resident Commissioner to, the Ninety-fourth Congress. The name of the Member to whom the set is delivered shall be legibly stamped on the front cover of each volume of the set.

(b) Each Senator or Representative in, or Delegate or Resident Commissioner to, each Congress following the Ninety-fourth Congress who has not theretofore received a set of the Precedents shall be entitled to receive one set of the Precedents, upon transmitting a written request for such set to the Superintendent of Documents.

(c) The Public Printer shall make the following distribution of sets of the Precedents:

(1) to the office of the Vice President, to the office of the Speaker of the House of Representatives, and to the office of the President pro tempore of the Senate, each, five sets;

(2) to the office of the majority leader of the House of Representatives and to the office of the minority leader of the House of Representatives, each, three sets;

(3) to the Parliamentarian of the House of Representatives, sixty sets;

(4) to the Parliamentarian of the Senate, five sets;

(5) to the Clerk of the House of Representatives, to the Sergeant at Arms of the House of Representatives, and to the Doorkeeper of the House of Representatives, each two sets;

(6) to the Secretary of the Senate and to the Sergeant at Arms of the Senate, each, two sets;

(7) to the superintendent of the House document room, two sets;

(8) to the superintendent of the Senate document room, two sets;

(9) to the Library of Congress, for international exchange and for official use in Washington, District of Columbia, one hundred and fifty sets;

(10) to the National Archives, three sets;

(11) to the government of the District of Columbia, twelve sets;

(12) to the Smithsonian Institute, two sets;

(13) to the library of each legislative branch of each State, territory, and possession of the United States, one set; and

(14) to the Superintendent of Documents, eight hundred and sixteen sets for distribution to the depository library system.

Sec. 3. (a) The Public Printer shall make the following distribution of sets of the Precedents:

(1) to each standing or joint committee of the Congress which is in existence on the date of the enactment of this joint resolution or which is established after such date of enactment, four sets;

(2) to the office of the Legislative Counsel of the House of Representatives, five sets;

(3) to the office of the Legislative Counsel of the Senate, five sets;

(4) to the library of the House of Representatives, four sets;

(5) to the library of the Senate, two sets;

(6) to the library of the Supreme Court of the United States, nine sets;

(7) to the office of the Official Reporter of Debates of the House of Representatives, three sets; and

(8) to the office of the Official Reporter of Debates of the Senate, thre sets.

(b) Each set of Precedents distributed by the Public Printer under subsection (a) of this section shall be for official use. Each such set shall be legibly stamped on the front cover "Property of the United States Government." Each such set, upon delivery, shall become and remain the property of the United States, and may not be removed from the building in which is located the designated library or office, as the case may be.

Sec. 4. (a) Any set of the Precedents printed and bound pursuant to subsection (a) of the first section of this joint resolution, not needed to carry out the distributions required by this joint resolution, shall be distributed under the direction of the Joint Committee on Printing.

(b) The Joint Committee on Printing may from time to time authorize and direct that additional sets of the Precedents, be printed, bound, and distributed in such manner as the Joint Committee determines will best carry out the purposes of this joint resolution.

With the following committee amendment:

Page 2, line 6, strike "Ninety-fourth" and insert in lieu thereof "Ninety-fifth".

The committee amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

**Mr. BRADEMAS**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various pieces of legislation just considered.

The **SPEAKER**. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## TO AMEND THE ACT OF FEBRUARY 25, 1920

**Mr. RONCALIO**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3848) to amend the act of February 25, 1920, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER**. Is there objection to the request of the gentleman from Wyoming?

**Mr. SKUBITZ**. Mr. Speaker, reserving the right to object, what we are doing here is deleting all of section 1 of S. 3848 and adding a new section.

I wonder whether the gentleman from Wyoming (Mr. Roncalio) would explain why this is necessary.

**Mr. RONCALIO**. Mr. Speaker, if the gentleman will yield, yes, I shall be delighted to do that.

My amendment to S. 3848 does four things. First, it corrects two technical errors in section 35 of the Mineral Leasing Act of 1920—errors which were inserted in section 35 when the Congress enacted S. 391, now Public Law 94-377, into law on August 4 of this year. These errors concern the dates upon which mineral royalty payments to the States will be made, and the present of revenues to be returned to Alaska. S. 391 inadvertently gave Alaska 102½ percent, instead of 90 percent, of the revenues derived from mineral leasing, and incorrectly scheduled payments to be made based on the old fiscal year. My amendment corrects both these oversights, and is identical to the Senate bill in this respect.

Second, my amendment contains language providing for the crediting of minerals leasing receipts from the naval petroleum reserves to a newly established "Naval Petroleum Reserve Special Account." This account was established by the so-called Elk Hills bill, H.R. 49, now Public Law 94–258. Unfortunately, S. 391, the coal leasing bill, in dealing with the naval petroleum reserves failed to take account of this provision of Public Law 94–258, and provided that mineral leasing receipts from the naval petroleum reserves be credited to the General Treasury of the United States rather than the naval petroleum reserve special account.

As the coal leasing bill (S. 391) was enacted after the Elk Hills bill (H.R. 49), the will of Congress that mineral leasing receipts from the naval petroleum reserves be credited to the naval petroleum reserve special account has been inadvertently thwarted. Additionally, the conference report on the BLM Organic Act contains language pertaining to the naval petroleum reserves which also inadvertently perpetuates this error. My amendment would override both the Coal Leasing and BLM Organic Acts to insure that the will of Congress, as expressed in H.R. 49, is honored. The language of my amendment was requested by the Navy, and is endorsed by the Committee on Armed Services and the Committee on Interior and Insular Affairs, as well as the other body.

Third, H.R. 3848, as passed by the other body deletes language in Public Law 94–377, the coal leasing bill, which would permit revenues returned to Colorado and Utah from the prototype oil shale tracts C–A, C–B, U–A, and U–B to be used for general public purposes rather than restricting them to use for construction and maintenance of schools and roads. H.R. 3848 deleted this provision because similar, but broader, language is contained in the Land and Water Conservation Fund Act bill which was signed by the President on Tuesday. This land and water conservation fund language is unacceptable. Public Law 94–377 was specifically limited to the four prototype leasing tracts because we had no intention of freeing all future oil shale revenues returned to the States from the requirement that a portion be used only for school and road construction. My own State of Wyoming has significant oil shale deposits which may be developed in the future, and I would object strenuously to exempting future Wyoming oil shale revenues from the school and road limitation.

Further, S. 3848, as presently drafted, rewrites section 35 of the Mineral Leasing Act in its entirety. If it is not amended by my language, it could effectively be construed as repealing the authorization to Colorado and Utah to use receipts from the prototype tracts for general public purposes.

Fourth, and most important, S. 3848, as passed by the other body, would make substantive, as opposed to purely technical, changes in section 35 of the Mineral Leasing Act and the coal leasing bill. Virtually identical language contained in the conference report on the so-called BLM Organic Act, which came out of conference on Tuesday, would permit a State to spend its 37½ percent share of receipts from mineral leasing for purposes other than school and road construction and maintenance. In so doing, S. 3848 and the BLM Organic Act if enacted in their present form would negate the will of both bodies of Congress to earmark these funds for school and road support. This will was expressed by passage of Public Law 94–377, the coal leasing bill, on August 4.

Mr. Speaker, it is essential to my State and others that a percentage of the revenues from mineral leasing be earmarked for schools and roads, and this is why both the House Interior Committee and the full House carefully debated and rejected amendment attempts to free these revenues up for general use. Thus, if my amendment does not pass, I will be compelled to urge defeat of S. 3848 and the conference report on the BLM Organic Act in spite of their other desirable features.

In conclusion, Mr. Speaker, I wish to stress that my amendment, if adopted, will insure that the changes in section 35 of the Mineral Leasing Act made by S. 3848 will be only technical in nature, except for a loan provision which has been already approved by both bodies. If my amendment is not adopted, S. 3848 and the BLM Organic Act would make substantive and totally unacceptable changes to a bill which became law only 6 weeks ago. I have conferred with the other body, and my amendment is acceptable to them. I urge its adoption, or, alternatively, defeat of S. 3848 and the conference report on the BLM Organic Act. Thank you.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield further?

Mr. RONCALIO. I would be delighted to yield further to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, I would inquire of the distinguished gentleman from Wyoming whether the gentleman from Kansas now speaking would be correct in saying then that the reason for us doing this is because unless we do pass this measure we will undo all we did in H.R. 49?

Mr. RONCALIO. That is correct.

Mr. SKUBITZ. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

Mr. STRATTON. Mr. Speaker, further reserving the right to object, I would like to ask the gentleman from Wyoming a question.

Am I correct that according to my understanding, the Naval Petroleum Reserves Production Act of 1976, Public Law 94–258, established on the books of the Treasury a special account designated as the "naval petroleum reserves special account." The money in this special account is to be used to finance the exploration and development of the naval petroleum reserve, as well as to finance the construction and operation of the strategic petroleum reserve that was created by the Energy Policy and Conservation Act of 1975, Public Law 94–163.

The purpose of this bill, S. 3848, and the perfecting amendment offered by the distinguished gentleman from Wyoming, in addition to making technical corrections, is to assure that the rental and royalty income received by the United States from the naval petroleum reserves will actually be credited to the naval petroleum reserve special account. It is quite obvious that the drafters of S. 3848, as well as the drafters of the Coal Leasing Act and the BLM Organic Act, overlooked the provisions of the Naval Petroleum Reserve Production Act. The perpetuation of these drafting oversights will be corrected by the proposed amendment.

Mr. RONCALIO. The gentleman from New York is correct.

Mr. STRATTON. Mr. Speaker, these corrections are needed and I endorse the amendments to be offered and urge my colleagues to vote for the measure.

I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3848

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 35 of the Act of February 25, 1920 (41 Stat. 437, 450), as amended, is further amended to read as follows: "All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this Act and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof, shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided,* That all moneys which may accrue to the United States under the provisions of this Act and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as 'miscellaneous receipts', as provided by the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252). All moneys received under the provisions of this Act and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts.".

SEC. 2. (a) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended. Such loans shall be confined to the uses specified for the 50 per centum of mineral revenues to be received by such States and subdivisions pursuant to section 35 of such Act. All loans shall bear interest at a rate not to exceed 3 per centum and shall be for such amounts and durations as the Secretary shall determine. The Secretary shall limit the amounts of such loans to all States except Alaska to the anticipated mineral revenues to be received by the recipients of said loans and to Alaska to 55 per centum of anticipated mineral revenues to be received by it pursuant to said section 35 for any prospective 10-year period. Such loans shall be repaid by the loan recipients from mineral revenues to be derived from said section 35 by such recipients, as the Secretary determines.

(b) The Secretary, after consultation with Governors of the effected States, shall allocate such loans among the States and their subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(c) Loans under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure that the purpose of this subsection will be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

### AMENDMENT OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RONCALIO: Delete section 1 of S. 3848 in its entirely, and add in lieu thereof the following new section 1:

"The provisions of the Federal Coal Leasing Amendments Act of 1975 (P.L. 94–377) and the Federal Land Policy and Management Act of 1976 notwithstanding, section 35 of the Act of February 25, 1920 (41 Stat. 437, 450), as amended, is further amended to read as follows: "All money received from sales, bonuses, royalities, and rentals of public lands under the provisions of this Act and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof, shall be paid into the Treasury of the United States; 37½ per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said moneys to be used by such State, or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct: and, excepting those from Alaska, 40 per centum thereof shall be paid into, reserved and appropriated, as a part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska 52½ per centum thereof shall be paid to the state of Alaska for disposition by the Legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this Act and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the 'Naval Petroleum Reserve Special Account' on the books of the Treasury Department, as provided by Public Law 94–258 (90 Stat. 303, 10 U.S.C. 7432). *Provided further*, That, excepting Alaska, an additional 12½ per centum of all moneys received from sales, bonuses, royalties, and rentals of public lands under the provisions of the Act and the Geothermal Steam Act of 1970 shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said addtional 12½ per centum of all moneys paid to any State on or after January 1, 1976, shall be used by such State and its subdivisions as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services: *Provided further*, That such funds now held or to be received, by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as 'C–A'; 'C–B'; 'U–A' and 'U–B' shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.". All moneys received under the provisions of this Act and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts.

Mr. RONCALIO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed and a motion to reconsider was laid on the table.

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## GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this legislation, and that I may be permitted to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

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## TO AMEND FEDERAL AVIATION ACT OF 1958 RELATING TO EMERGENCY LOCATOR TRANSMITTERS

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8228) an act to amend the Federal Aviation Act of 1958 relating to emergency locator transmitters, and for other purposes, with the Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Emergency Locator Transmitter Act of 1976".

SEC. 2. (a) Section 601(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1421), relating to emergency locator transmitters, is amended to read as follows:

"EMERGENCY LOCATOR TRANSMITTERS

"(d) The Administrator shall establish reasonable rules and regulations governing the installation and operation of emergency locator transmitters or other devices that serve the purpose of locating aircraft that terminate flight as a result of an accident.".

(b)(1) Section 601 of such Act is further amended by redesignating subsection (d), relating to aviation fuel standards, as subsection (e).

(2) Any reference to such redesignated subsection (e) shall be redesignated accordingly.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 601. General safety powers and duties."

is amended by striking out

"(d) Aviation fuel standards."

and inserting in lieu thereof the following:

"(d) Emergency locator transmiters.

"(e) Aviation fuel standards.".

Mr. ANDERSON of California (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. TAYLOR of Missouri. Mr. Speaker, reserving the right to object, and I will not object, I do so merely to request that the distinguished chairman of the subcommittee, the gentleman from California (Mr. ANDERSON) explain the amendment.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Missouri. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Speaker, this amendment incorporates several bills—all of which have been passed by either the House or the Senate.

As the time remaining in the session is so short, and to convene a conference on these measures is not necessary, we feel it is best to combine these into a single proposal, pass it to the Senate, and then to the White House.

The first provision is the emergency locator transmitter bill which has passed both Houses. The language in the amendment is the House language, which allows the Administrator to permit the operation of an aircraft if the ELT has been removed for repair, or inspection. This passed the House by a voice vote.

Second, we include the language relating to reduced fare transportation for the elderly and handicapped, and the provision relating to the interline agreements for tickets and baggage—both of which have passed both Houses.

Also, we include Senate-passed language which permits the Civil Aeronautics Board to authorize an air carrier to hold both supplemental and scheduled certificates. This provision is included in all of the regulatory reform measures.

In addition, language relating to

compensation for the carriage of mail which was reported by our committee, scheduled for action, and was passed by the Senate overwhelmingly.

Included is a provision which gives the public greater notification when air fares are changed—a provision supported by everyone. This passed the House by a voice vote.

The House-passed provision which requires the Civil Aeronautics Board to establish dead-lines on applications before the Board, is also included.

Finally, the House-passed provision which allows resident aliens to register aircraft in this country.

All of these provisions have passed either the House or the Senate overwhelmingly—all of these provisions have been reviewed by the Aviation Subcommittee. Since we have such a short time left, and since a conference committee is unnecessary, I urge the House to adopt this amendment, and send it to the Senate, and then to the White House.

**Mr. TAYLOR of Missouri.** Mr. Speaker, the minority has reviewed this amendment, and fully agrees with it.

**The SPEAKER.** Is there objection to the request of the gentleman from California?

**Mr. TAYLOR of Missouri.** Further reserving the right to object, Mr. Speaker, I support H.R. 8228. The Subcommittee on Aviation has had ample time to study all of these propositions. They had bipartisan support in the subcommittee, and I urge adoption of the amendment.

Mr. Speaker, I withdraw my reservation of objection.

**The SPEAKER.** Is there objection to the request of the gentleman from California?

There was no objection.

**The SPEAKER.** The Clerk will report the amendment to the Senate amendment.

The Clerk read as follows:

Strike out the matter proposed to be stricken by the Senate amendment and in lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That (a) section 601(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1421), relating to emergency locator transmitters, is amended as follows:

(1) In paragraph (1), immediately before ", minimum standards" insert the following: "and except as provided in paragraph (3) of this subsection".

(2) By adding at the end thereof the following new paragraph:

"(3) The Administrator shall issue regulations which permit, subject to such limitations and conditions as he prescribes in such regulations, the operation of any aircraft equipped with an emergency locator transmitter during any period for which such transmitter has been removed from such aircraft for inspection, repair, modification, or replacement.".

(b)(1) Section 601 of such Act is amended by relettering subsection (d), relating to aviation fuel standards, as subsection (e).

(2) Any reference to such relettered subsection (e) shall be relettered accordingly.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading—

"Sec. 601. General safety powers and duties."

is amended by striking out

"(d) Aviation fuel standards."

and by inserting in lieu thereof the following:

"(d) Emergency locator transmitters.

"(e) Aviation fuel standards.".

Sec. 2. (a) Section 403(b) (1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373 (b)(1)) is amended by striking out "to ministers of religion on a space available basis." and inserting in lieu thereof "on a space-available basis to any minister of religion, any person who is sixty years of age or older, and to any handicapped person and any attendant required by such handicapped person. For the purposes of this subsection, the term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physicially or mentally handicapped person as defined by the Board.".

(b) Within six months after the date of enactment of this Act, the Board shall study and report to Congress on the feasibility and economic impact of air carriers and foreign air carriers providing reduced-rate transportation on a space-available basis to persons twenty-one years of age or younger.

Sec. 3. Section 401 (d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371 (d)) is amended by adding at the end thereof the following new paragraph:

"(4) (A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within the State of California, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority granted by the Public Utilities Commission of such State is authorized—

"(i) to establish service for persons and property which includes transportation by such citizen over its routes in California and transportation by an air carrier or foreign air carrier in air transpotation; and

"(ii) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, and services for such through service.

"(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in California approved by such Public Utilities Commission and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fae or rate established and filed in accordance with section 403 of this Act; or

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.".

Sec. 4. (a) The first sentence of section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373) is amended to read as follows: "No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff—

"(1) of any air carrier, or foreign air carrier, directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after sixty days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section; and

"(2)(A) of any air carrier, or foreign air carrier, if such rate, fare, or charge is for the carriage of persons in air transportation, or (B) of any air carrier, or foreign air carrier, not directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after forty-five day's notice of the proposed charge filed, posted, and published in accordance with subsection (a) of this section.".

(b) The first sentence of section 1002(g) of such Act (49 U.S.C. 1482) is amended by inserting "at least fifteen days before the day on which such tariff would otherwise go into effect" immediately after "and delivering to the air carrier affected thereby".

(c) The amendment made by subsection (a) of this section shall apply to any tariff charge filed by any air carrier or foreign air carrier in accordance with section 403(c) of the Federal Aviation Act of 1958 after the thirtieth day after the date of enactment of this section.

(d) The amendment made by subsection (b) of this section shall apply to any tariff change filed by any air carrier for interstate or overseas air transportation in accordance with section 403(c) of the Fedeal Aviation Act of 1958 after the thirtieth day after the date of enactment of this section.

Sec. 5. Section 401(d)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended to read as follows:

"(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate, authorizing the whole or any part thereof, and for such periods, as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act, and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.".

Sec. 6. Section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376 (b)) is amended by adding at the end thereof the following new sentence: "In determining compensation for any local service air carrier for the year 1966 in accordance with the provisions of this subsection, the Board shall apply Local Service Class Subsidy Rate III-A as set forth in Board order E–23850 (44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954.".

(b) In the event that the Civil Aeronautics Board in determining the amount of compensation to be paid to any local service air carrier for the year 1966 in accordance with the provisions of section 406(b) of the Federal Aviation Act of 1958 took into account any decrease in the Federal income tax liability for such air carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954, the Board shall redetermine the compensation to be paid to such air carrier in accordance with such section 406(b) as amended by this Act, and shall make payment to such air carrier of any amount owed to such carrier as provided in such redetermination.

Sec. 7(a). Section 401(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1371 (a)) is amended by—

(1) striking out the center heading "NOTICE OF APPLICATION" and inserting in lieu thereof "APPLICATION PROCEDURE";

(2) inserting "(1)" immediately after "(c)";

(3) striking out the last sentence of such section and inserting in lieu thereof the following: "Unless the Board determines that the public interest requires that such application be dismissed within the time requirements set forth in he rules prescribed pursuant to paragraph (2)(A) of this subsection or the application requests authority to engage in foreign air transportation, the application shall be set for a public hearing and shall be decided by the Board within the time requirements for categories of cases and classes of applications set forth in such rules."; and

(4) adding at the end thereof the following new paragraph:

"(2)(A) Within 6 months after the date of enactment of this paragraph, the Board shall in accordance with chapter 5 of title 5, United States Code, prescribe rules which establish time periods within which the Board will (A) issue an order dismissing an application for a certificate on the basis that the public interest requires such dismissal, and (B) issue a final decision on such application if it has not been dismissed on the basis that the public interest requires such dismissal.

"(B) Any order of dismissal made pursuant to this section shall be deemed a final order subject to judicial review as prescribed in section 1006 of this Act.".

(b)(1) The amendments made by subsection (a) (1), (2), and (4) shall take effect upon the date of enactment of this section.

(2) The amendment made by subsection (a)(3) shall take effect six months after the date of enactment of this section.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading "Sec. 401. Certificate of public convenience and necessity." is amended by striking out

"(c) Notice of application."

and inserting in lieu thereof

"(c) Application procedure.".

Sec. 8. Section 501(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)) is amended to read as follows:

"(1) It is owned by a citizen of the United States or an individual citizen of a foreign country who has been lawfully admitted for permanent residence in the United States and such aircraft is not registered under the laws of any foreign country; or".

Mr. ANDERSON of California (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the Senate amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 8228 just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## CONFERENCE REPORT ON H.R. 12572, U.S. GRAIN STANDARDS ACT OF 1976

Mr. FOLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 12572) to amend the U.S. Grain Standards Act to improve the grain inspection and weighing system, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

### POINT OF ORDER

Mr. MOORE. Mr. Speaker, I make a point of order against consideration of this conference report.

The SPEAKER. The gentleman will state his point of order.

Mr. MOORE. Mr. Speaker, the conference report, in particular section 8, subparagraph (5), violates clause 3 of rule XXVIII of the rules of the House.

The SPEAKER. Will the gentleman withhold his point of order, because the gentleman is premature. We have to read the report before the point of order would lie.

Mr. MOORE. My rights will be protected to raise the point of order, Mr. Speaker?

The SPEAKER. The gentleman's rights will be protected.

Is there objection to the request of the gentleman from Washington?

Mr. KAZEN. Mr. Speaker, reserving the right to object, I take this time to ask the distinguished Chairman if the language in the House bill was stricken by the conference which would have allowed State officials to handle some of this grain program.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

I will answer the gentleman by saying that the conference report reflects substantial agreement with the House-passed bill.

There are some exceptions. The bill as it passed the House provided that all inspection at export ports would have to be conducted by officials of the U.S. Department of Agriculture except that the Secretary could at his discretion delegate to State agencies the authority to perform such inspection. The House bill provided at inland points that State or private inspection, if qualified, would have to be designated by the Department of Agriculture. The Secretary could consider Federal inspection only if no qualified State or private inspection were available.

Now the conference report adopts the House position at inland points, allowing State inspection and private inspection, indeed giving preference to inspection by State or private inspectors.

Mr. KAZEN. That is State inspectors?

Mr. FOLEY. The State inspectors or private inspectors must first be considered at inland points by the Secretary and he must find that there is no qualified State inspection or private inspection available before he can impose Federal inspection at inland points.

At export ports the House position was modified in the conference to say that the power to delegate to State agencies to perform export inspection is limited to those States validly providing such inspection on July 1, 1976.

Mr. KAZEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I ask to know what the program is for the rest of the evening. If the gentleman from Washington is going to call up this conference report, I think the Members ought to know its full contents because it has a rather sharp impact on ports on the gulf coast and New Orleans and Baltimore. In fact it wipes out State inspection and substitutes Federal inspection. I think the Members ought to know that.

So I think I ought to inquire as to the program, of whomever is in charge, if anyone can respond.

In the absence of that, I object to the request.

The SPEAKER. Objection is heard.

The Clerk will read the report.

The Clerk proceeded to read.

(For conference report and statement, see proceedings of the House of September 29, 1976.)

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the report be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk will read.

The Clerk continued to read the conference report.

## CALL OF THE HOUSE

Mr. MOORE. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER. Will the gentleman withhold his point of order?

Does the gentleman insist on his point of order?

Mr. MOORE Yes, Mr. Speaker.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 854]

Adams
Addabbo
Andrews, N.C.
Bafalis
Baldus
Beard, R.I.
Bingham
Broomfield
Brown, Mich.
Burke, Fla.
Burton, John
Burton, Phillip
Butler
Carney
Cederberg
Clancy
Clay
Conlan
Conyers
Cotter
Davis

Dent
Dickinson
Diggs
Dingell
Downey, N.Y.
Eckhardt
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flynt
Ford, Mich.
Frenzel
Frey
Giaimo
Green
Gude
Haley
Hall, Tex.
Harrington
Hawkins
Hébert
Heckler, Mass.
Heinz
Henderson
Hicks
Hinshaw
Holland
Howard
Howe
Jacobs
Jarman
Jeffords
Johnson, Colo.
Jones, Okla.
Karth
Kemp
Keys
Kindness
LaFalce
Landrum
Lent
McClory
McCollister
McEwen
McKinney
Mann
Mathis
Matsunaga
Meeds
Melcher
Meyner
Mikva
Mills
Mink
Morgan
Mosher
Moss
Myers, Ind.
Nix
Obey
O'Hara
Passman
Pepper
Peyser
Pike
Pressler
Pritchard
Quie
Railsback
Rees
Riegle
Risenhoover
Rose
Runnels
Ruppe
Russo
Ryan
St Germain
Sarasin
Scheuer
Schneebeli
Shuster
Sikes
Snyder
Stanton,
  J. William
Stanton,
  James V.
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Teague
Thompson
Tsongas
Udall
Vigorito
Waxman
Wiggins
Wilson, C. H.
Wilson, Tex.
Wright
Young, Alaska
Zeferetti

The SPEAKER. On this rollcall 301 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## CONFERENCE REPORT ON H.R. 12572, U.S. GRAIN STANDARDS ACT OF 1976

The SPEAKER. Is there objection to the request of the gentleman from Washington (Mr. FOLEY) that the statement of the managers be read in lieu of this report?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, it is my understanding that the gentleman from Washington (Mr. FOLEY) has agreed, and I have no objection to dispensing with the further reading of the statement if, under the agreement, the further consideration of this conference report will be made the first order of business tomorrow. I will ask the gentleman from Washington (Mr. FOLEY) if that is his understanding.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, I concur with the statement of the gentleman from Maryland and it is my understanding that when a similar request is made tomorrow, it will not be objected to.

Mr. BAUMAN. Mr. Speaker, that is the understanding.

Mr. FOLEY. The understanding is that there will not be a prolonged reading, and a similar request will not be objected to and we will proceed with the consideration of the conference report.

Mr. BAUMAN. Mr. Speaker, the gentleman is correct, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MOORE. Mr. Speaker, I reserve my point of order on the conference report.

The SPEAKER. The gentleman from Louisiana (Mr. MOORE) reserves a point of order on the conference report.

Does the gentleman from Washington (Mr. FOLEY) request that this matter be put over and be made the first order of business tomorrow?

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the further consideration of this conference report be postponed, and that it be made the first order of business tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

## LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I rise to announce the program for the remainder of the evening.

It is our intention to bring up the conference report on S. 22, copyright law revision, and we will follow that with consideration of the conference report on S. 309, the National Forest Management Act.

As I understand it, this is in agreement with the minority leader, and that would be the order of business tonight.

Mr. RHODES. Mr. Speaker, if the majority leader will yield, I will state that the majority leader is right on target.

Mr. O'NEILL. That is the order of business for the evening, first the conference report on S. 22 and then S. 309, the National Forest Management Act.

Mr. RHODES. Yes, that is my understanding.

Mr. O'NEILL. Then we would conclude the consideration of the bill and then ask unanimous consent to come in at 10 o'clock tomorrow.

Mr. RHODES. Mr. Speaker, that is our understanding.

## HOUR OF MEETING ON TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## CONFERENCE REPORT ON S. 22, COPYRIGHT LAW REVISION

Mr. KASTENMEIER. Mr. Speaker, I call up the conference on the Senate bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of September 29, 1976.)

Mr. KASTENMEIER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER) for 30 minutes.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to report that the Senate conferees have accepted, for the most part, the House passed substitute of S. 22, revising the copyright code. The few matters on which the House conferees found it necessary to recede are as follows:

Section 105 deals with Government copyright. The House substitute had provided an exception to the general rule against Government ownership of copyrights. This exception would have permitted the Department of Commerce's National Technical Information Service to copyright a limited number of publications. In view of the promise of the Senate conferees to reconsider the matter early next year, we receded. The conference substitute, therefore, retains the existing law prohibiting copyright of Government produced works.

Section 110(5) dealing with the exemption from copyright liability of transmissions of radio broadcasts by home-type receiving devices.

The Senate bill contained language limiting this exemption to situations other than where the "transmission is further transmitted to the public." The House bill modified this to read "further transmitted beyond the place where the receiving apparatus is located." The reason the House substitute added the new language was a disagreement with the interpretation of the Senate language in its committee report. The Senate report interpreted its version as requiring liability for royalties for use of loudspeaker devices for small business establishments such as luncheonettes. The House conferees receded to the language of the Senate bill but only after the Senate conferees agreed to interpret the language of the conference report in a manner consistent with the original House version of the bill.

Section 110(8). The Senate version of the bill provided for an exemption from copyright liability simply for "literary works" used in performances directed primarily to handicapped persons. The House substitute, in an attempt to clarify the Senate-passed measure, specifically restricted the exemption to nondramatic literary works as opposed to dramatic literary works. The conferees agreed upon a substitute which exempts from copyright liability performances of all nondramatic literary works and dramatic works for one performance only, where the works are over 10 years old

Section 115 dealing with the so-called mechanical royalty which is paid for the right to reproduce records. The Senate bill has provided a royalty rate of 2½ cents per record or 0.5 cents per minute, whichever is greater. The House substitute provided 2¾ cents per record, or 0.6 per minute, whichever is greater. The conferees compromised on the House per record rate of 2¾ cents and the Senate per minute rate of 0.5 per minute.

Section 601 dealing with the manufacturing requirement. The House substitute had provided for termination of the manufacturing requirement on January 1, 1981. The Senate bill contained no such provision. The conferees agreed to a termination date of July 1, 1982.

### CHAPTER 8—CREATING A COPYRIGHT ROYALTY TRIBUNAL

Mr. Speaker, the Senate bill had provided for the creation of a Copyright Royalty Tribunal within the Copyright Office for the purpose of resolving disputes over the disbursement of statutory royalties and for the purpose of reviewing, from time to time, certain royalty rates. The House substitute modified the Senate bill by establishing an independent commission within the legislative branch with members appointed by the President. The House changes were made on the advice of constitutional scholars who urged that the Senate version might contain constitutional infirmities.

I am pleased to report that the Senate conferees have agreed to the basic structure for the Tribunal provided in the House bill. The conferees have agreed to use the term "tribunal" as the name of the body rather than "commission." In addition, the joint conference agreed, at the request of the Senate conferees, to increase the number of commissioners from three to five, to provide 7-year terms for commissioners rather than 5-year terms and the require Senate confirmation of commissioners.

Mr. Speaker, the report of the conferees adopts, overwhelmingly, the House version bill. To the extent that changes have been made in the House version, these changes reflect, in part, the concerns of House Members expressed during the floor debate. Particularly, I would invite my colleagues' attention to the longer phaseout period for the manufacturing clause and the more liberal exemption for handicapped reading services to perform dramatic literary works.

I would, therefore, urge my colleagues to endorse the work of the conferees with a strong affirmative vote.

Mr. HUTCHINSON. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to my friend, the gentleman from Michigan (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, I rise in support of the conference report to accompany S. 22, the general revision of the copyright law. I am pleased to report that the other body, in general, adopted the House version of S. 22 with five or six exceptions. Two of those exceptions, the House did not recede from, but adopted compromises that will, in fact, please many Members of the House. One of those concern section 601, the so-called manufacturing clause. The gentleman from Illinois (Mr. ANDERSON) will be happy to learn that, in response to his concern which he made known on this floor last week, the phase-out of the prohibition on the importation of books not published in this country was extended to a year and a half, to July 1982. In addition, language was agreed to and is contained in the conference report which makes clear that "If for any reason the Canadian trade groups and the Canadian Government do not move promptly in reciprocation with U.S. trade groups and the U.S. Government to remove such tariff and other trade barriers, the Congress will reconsider the Canadian exemption. In addition, if (Mr. ANDERSON) wishes our Register of Copyrights to study the pros and cons of our action in section 601 and report back to the Congress prior to such phaseout, I understand that she would welcome such a request.

Another compromise concerns the exemption of the use of dramatic works by the blind. Although this idea was defeated by a narrow margin on this floor, the House conferees agreed to permit such use with three restrictions: That such a performance not be recorded, that it only be performed once, and that such dramatic work will have been published for at least 10 years.

On a different item of disagreement, because of lack of Senate hearings on the issue, the conferees recommend that the NTIS request for limited copyright in order to control foreign copying be considered at hearings early in the next session. In the interim, consideration should also be given to compensatory appropriations to NTIS in lieu of revenues lost as a result of unauthorized foreign copying.

All things considered, Mr. Speaker, the House did quite well in retaining its version in almost every case, and I urge my colleagues to support enactment of the conference report on S. 22.

Mr. KASTENMEIER. Mr. Speaker, the gentleman from Michigan has served on the subcommittee over 10 years and undoubtedly remembers and recalls many of the specifics of the legislation we are about to adopt in this bill.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from Michigan (Mr. HUTCHINSON).

I further wish to point out to my colleagues that this conference report was signed by all of the conference managers on the part of the House and of the Senate, in both parties, so it is a consensus and I hope that all Members will support it.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, the gentleman knows that I am interested in one part of the bill which pertains to the Spanish-speaking radio stations along the borders with Mexico and also Canada, were those provisions retained in the conference report?

Mr. KASTENMEIER. In every respect with regard to the interest of the gentleman from Texas in the Spanish-speaking radio and cable stations and other broadcast stations, the provisions were retained and the gentleman's interest is fully reflected in the conference report.

Mr. KAZEN. I thank the gentleman.

Mr. KASTENMEIER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## CONFERENCE REPORT ON S. 3091, AMENDING THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

Mr. FOLEY. Mr. Speaker, I call up the conference report on the Senate bill (S. 3091) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 29, 1976.)

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) is recognized.

Mr. FOLEY. Mr. Speaker, I am pleased to bring back to the House tonight the bill (S. 3091), the National Forest Management Act of 1976.

The Senate version of this legislation was passed on August 25, 1976, by a vote of 90 to 0. The House version was reported by the Committee on Agriculture by a vote of 37 to 1, and the full House approved it 2 weeks ago by a vote of 305 to 24. I am happy to report that the bill agreed to in conference preserves the substance of the House bill virtually intact, and includes, in addition, several provisions which materially strengthen the legislation. The Senate agreed to this conference report earlier today, and I would hope that the Members will see fit promptly to approve it so that this important and urgently needed legislation may speedily be enacted.

As I indicated, the bill agreed to in conference preserves, virtually intact the essential provisions of the bill (H.R. 15069) which the House passed and substituted as an amendment to S. 3091. In some instances, the provisions of the House amendment were identical to those of the Senate bill and the managers on the part of the House agreed to accept the Senate provisions.

The Senate bill adds to the Forest and Rangeland Renewable Resources Planning Act of 1974—popularly referred to as the RPA—a series of congressional findings not contained in the House bill, and also provisions for public participation in Forest Service land management planning which are more expansive than those of the House bill. The House conferees agreed to accept these provisions, as well as a provision in the Senate bill which requires that the Secretary develop, in a rulemaking proceeding, guidelines to control preparation of land management plans under the RPA.

This legislation received major impetus from recent decisions of Federal courts first, in the so-called Monongahela case in West Virginia, and subsequently in the States of Alaska and Texas, which have interpreted the 12th undesignated paragraph of the Forest Service Organic Act of 1897 to prohibit any sale of timber from national forest lands except for dead, physiologically mature, or large trees which have been individually marked. These decisions effectively prohibit use by the Forest Service of a number of silvicultural systems, including clear-cutting, commercial thinning, et cetera, which are essential to sound forest management. For nearly 80 years the U.S. Forest Service had relied upon this statutory provision for authority to sell timber from national forest lands. The national forest system encompasses 155 national forests in 44 States containing 187 million acres. About half of the softwood timber reserves in the United States are located on national forest lands. The strict application of the Organic Act adopted in recent Federal decisions will, if adopted nationwide, drastically reduce the possibility of sales of national forest timber. This could well result not only in stringent economic dislocation in areas of the country where those sales are important to the local economy, but could have an intense inflationary impact on the cost of building materials and lumber products to the disadvantage of the entire country.

This bill closely adheres to the bill which passed the House. It repeals the section of the Organic Act which has been so construed by the courts inflexibly and replaces it with up-to-date statutory provisions which will facilitate the application of scientific forestry principles in the management of the national forests. At the same time, this legislation contains important environmental safeguards to protect soil, watershed, wildlife habitat, streams, et cetera, and require that the Forest Service adhere to the principles of the Multiple-Use Sustained Yield Act of 1960.

There were two or three major areas of policy disagreement. One of those areas had to do with the so-called even flow non-declining yield principle. The Senate bill required strict adherence to this principle. The House bill did not. The conference substitute modifies the Senate language to allow the Secretary discretion to establish an allowable sale quantity for any decade which departs from the projected long-term average sale that would otherwise be established.

We had a difference of opinion with the Senate over the so-called marginal lands. The Senate had an economic test, difficult to administer under which timber harvesting would have been barred in great portions of the national forests. The House did not. This difference was resolved by requiring the Secretary to identify lands unsuitable for timber production and to prohibit timber harvesting on such lands for a period of 10 years. However, the Secretary would be required to reforest and otherwise treat such lands and to review his determination as to their suitability for timber production at least every 10 years.

The conferees included a provision for purchaser credit that allowed small timber operators the option of having the Forest Service build timber sale roads included in their contracts. Although the effective date of this amendment is October 1, 1976, it is our intent that the Forest Service timber sale program not be stopped or held in abeyance while this process is being developed. We know the Secretary must develop new procedures and promulgate regulations to implement this new direction. We do expect, however, that this process will be expediently developed and implemented.

The bill contains a number of other important provisions. However, the hour is late and I sense that the Members are prepared to vote on this vital legislation. In my opinion, this conference report reflects a good compromise which preserves access to an important reserve of timber but at the same time protects the national forests by establishing the strongest environmental and silvicultural controls ever imposed by any legislation dealing with the national forests. I commend it to my colleagues and urge its prompt approval.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding.

I commend the gentleman from Washington for his leadership in this matter. I agree with the chairman of the Committee on Agriculture.

Mr. Speaker, for many months now, both the House and the Senate have been faced with the opportunity to achieve two constructive purposes in a single piece of legislation to protect our national forests from misuse and harm, while concurrently assuring that this great natural resource will be used in the wisest and most productive manner possible. The importance of such legislation cannot be taken lightly. Our actions will affect millions of Americans today, and their children and grandchildren tomorrow. Congress has been entrusted with developing safeguards for our wildlife, water, recreation and timber supply. It is our great responsibility to see that this bountiful legacy with which we have been blessed continues.

We will soon be voting on a conference committee report that provides prudent and feasible policies which protect and extend all of these resources in our national forests. Under the joint leadership of Senator HERMAN TALMADGE, of Georgia, and Representative TOM FOLEY, of Washington, the conference committee has done a remarkable job in preparing legislation that is both environmentally and economically balanced.

The National Forest Management Act of 1976 is respectful of the multiple uses of the national forests. We cannot, for a moment, forget that the national forests supply 15 percent of all the timber consumed in this country annually and 27 percent of our timber supply used to make lumber, plywood, and other wood products. These Federal lands represent 18 percent of the total U.S. commercial timberlands and contain more than 50 percent of our total inventory of standing softwoods. Nearly 200,000 men and women owe their jobs directly to the availability of timber from the national forests. But, recognizing all of these direct material benefits to our people, neither can we for a moment forget the many hundreds of thousands of Americans who seek the beauty and recreational pleasures of our woodlands in all seasons of the year.

We must, and can continue to do under this legislation, everything possible to insure the esthetic and recreational qualities of our national forests. We must, and can assure under this same bill, that we have an adequate supply of timber to build housing, maintain jobs, and continue to produce wood and paper products that are affordable. We are now able to provide a legislative remedy to outdated laws, such as the Organic Act of 1897 which, when upheld in several recent court decisions, impacted timber harvesting on 11 national forests and have closed down timber sales in seven States with other cases pending.

I urge my colleagues to join me in approving the conference report on the National Forest Management Act of 1976 to provide the soundest, fullest and most beneficial management to our national forests attainable through scientific means.

Before I close I would like to comment on several important provisions of the bill as reported by the conference committee.

### SEALED BIDDING

A significant amount of interest has been generated by the provisions of S. 3091 which relate to sealed bidding. This subject was discussed at length by the conferees. The concern raised was that the Secretary have available to him adequate authority to take appropriate steps to counter suspected collusive bidding on national forest timber sales. Sealed bidding was viewed as one such measure which might be taken when collusion is expected. Other countermeasures might also be appropriate. The conferees intend that the Secretary will develop regulations as to how sealed bidding and other measures to counter collusive bidding will be implemented on the national forest. In developing such regulations it is intended that the Secretary provide for appropriate public input and participation.

Oral auction procedures are presently the main method of bidding on national forest timber sales in most areas of the West. This practice has a long history in this area because many mills are totally dependent on national forest timber. They have no alternative source of supply. Since every timber sale the Forest Service offers in many areas is often life or death to these plants and local dependent communities, it is important that they be aware of and be able to respond to bidding competition. Such an opportunity is not available when sealed bidding procedures are used. The opposite situation exists in the East and South where national forest timber makes up only 10 percent or less of the timber supply and sealed bidding is preferred.

It was a primary intent of the conferees that a major change from oral auction to sealed bidding procedures would be made in a particular area when collusive bidding is suspected. The conferees had no intent that provisions for sealed bidding will in any way undermine or jeopardize the stability of local dependent communities. Therefore, in areas where there are no alternate sources of timber supply, the Secretary should by regulation provide that, unless reasonable evidence indicates that collusion may be occurring, oral auction bidding or a mix of bidding methods will be the preferred and predominant method.

### NONDECLINING YIELD

The conferees had long and productive discussions focusing on national forest timber harvest scheduling policies. In the end, the conferees overwhelmingly rejected setting rigid and inflexible ceilings on the national forest timber harvest levels. It was the consensus of the conferees that the Secretary should have reasonable flexibility to establish timber harvest rates which deviate from strict nondeclining yield constraints in order to meet overall multiple use objectives—as long as this is consistent with the multiple use and sustained yield objectives of the relevant national forest land management plan. Several examples of instances in which flexibility might be reasonably exercised were discussed by the conferees. These include: Achieving desirable multiple use objectives by capturing actual or potential timber mortality, maintaining the stability of local dependent communities, and more rapidly bring a forest area under management by developing a desirable distribution of stand age classes.

The conferees purposefully refrained from developing an exhaustive list of all the instances in which flexibility might be warranted because they wanted the Secretary and the Chief of the Forest Service to be free to weigh the merits of each individual case. This is the objective of the language adopted by the conferees.

### MARGINAL LANDS

The conferees discussed at great length several provisions aimed at timber production being carried out only on those lands suited to this use. It was finally agreed that it would be unwise to impose rigid and inflexible economic or other constraints to be applied to all national forest lands in all parts of the country.

The conferees adopted a sound and comprehensive provision which requires that in developing land management plans, the Secretary shall identify lands within the management area which are not suited for timber production and shall assure that, except for salvage sales or sales necessitated to protect other multiple use values, no timber harvesting shall occur on such lands. However, this provision requires that lands so identified as being unsuitable for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of other multiple use values.

In his determination of the suitability of lands for timber production, the Secretary is expected to consider all relevant factors, including economics, physical problems, and environmental considerations. It was noted during the conference that the Forest Service and the Secretary will take into account the impact on local dependent economies in their implementation of the language adopted by the conferees in the final bill. It is intended that the identification of the lands which are unsuitable for timber production will be done as part of the interdisciplinary planning process mandated by this act as well as other laws, such as the National Environmental Policy Act. The status of lands classified as unsuitable for timber production will be reviewed by the Secretary periodically, but at least every 10 years. Such review is needed to reflect changes in the conditions under which the previous decision was made, including, but not limited to, environmental standards, the timber products values, and the advent of new harvest technologies which may effect the economics, operability, and/or environmental impact of timber management activities.

### CULMINATION OF MEAN ANNUAL INCREMENT

One provision of the House-passed bill that was adopted by the conferees would require the Secretary to establish standards to insure that, prior to harvest, stands of trees throughout the national forest system shall generally have reached the culmination of mean annual increment of growth—calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary.

I also understand that for the purpose of implementing this direction, the committee intends the Secretary to exercise some flexibility scheduling harvest within the general range at which the growth of stands achieves the culmination of mean annual increment.

It is my understanding that the Agriculture Committee intended that the culmination of mean annual increment objective should be a long-range objective of national forest management, but it recognized that some exceptions may be necessary during the period that forest areas are coming under management to achieve other desirable objectives of multiple use and sustained yield. For example, in the process of obtaining balanced stand age class distributions to achieve sustained yield on each national forest, it may be desirable to deviate from the long-term objective.

### SILVICULTURAL GUIDELINES

When they considered various standards for the application of silvicultural systems, the conferees recognized that silviculture can be utilized to achieve a variety of resource management objectives, in addition to that of timber production. Wildlife, watershed, aesthetics, recreation, grazing, protection of the forest from insects and disease, and other multiple-use objectives can be advanced through application of various silvicultural methods and cutting techniques. It is intended that all such uses and applications should be considered in the application of silvicultural prescriptions on the national forests.

One of the silvicultural guidelines adopted by the conferees had its origin in the House-passed bill. It states that a silvicultural system will not be selected "primarily because it will give the greatest dollar return or the greatest unit output of timber." However, there is no intent that economic considerations be ignored when calculating which silvicultural system will be the most appropriate to use in a particular situation—only that economics be just one of the relevant factors considered when making such a decision. In fact, it is my understanding that this subsection is not intended to preclude selecting a silvicultural system for appropriate portions of the forest because it is justified mainly on an economic basis—other factors being equal—as long as appropriate provision is made for the protection of multiple use and environmental values and it will be consistent with the appropriate land management plan developed pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by S. 3091.

### SPECIES DIVERSITY

The conferees considered provisions in both the House- and Senate-passed bills dealing with maintaining the diversity of animal and plant communities on the national forests. The conferees adopted language which recognized the desirability, where practicable, of preserving a diversity of plant and animal communities on national forest system lands consistent with the multiple use objectives set forth in the land management plan. At any point in time the land is undergoing change naturally from one cover type to another.

It was recognized that in certain areas of the country past land management practices have resulted in the existence of vegetational communities significantly different than that which had occurred there originally. Some of these changed cover types, particularly in the South, are the result of past land abuses which occurred before the lands were a part of the national forest system. It was not the intent of the conferees that this subsection should prevent the Forest Service from taking steps to correct these past mistakes. As I understand it, the subsection adopted by the conferees is not intended to prevent the conversion of land from one vegetative type to another vegetative type where such activities are needed to achieve the objectives of the appropriate land management plan and there are provisions for adequate protection of the environment.

It is recognized that the disturbance caused by timber harvesting operations often encourages the initial development of early successional plant communities. It is my understanding that there is no intent by the conferees that this subsection will cause the Forest Service to take measures to arrest or modify these natural plant successional processes. The primary intent of the conferees, as I understand it, is to insure that the existing species diversity is maintained within the general area covered by the land management plan.

### LAND MANAGEMENT PLANNING GUIDELINES

The bill reported by the conferees contains comprehensive guidelines to direct the national forest land management planning process, as well as direct the application of appropriate silvicultural systems. Detailed prescriptive language was specifically avoided, since it was recognized that it would be impossible to write into law detailed requirements which would fit the tremendously varied forest and rangeland conditions that exist on the national forests.

It was intended that the land management planning and silvicultural guidelines be aimed at assuring an adequate assessment of the impact of forest management activities on other resource values and that such activities will not take place where they will unavoidably result in permanent impairment of the productivity of the land or unacceptable and long-term impacts on other multiple use values. It was well recognized that any timber mangement activity unavoidably will produce some temporary impacts on some other resource values on the lands on which they are carried out. For instance, any disturbance of land will produce some increases in sedimentation over the undisturbed condition. The intent is to require careful condsideration of the implications of these activities—and their consistency with relevant land management plan—before they are carried out.

It was also recognized that the value of an area for a particular multiple use can and will change over time as a result of natural plant successional processes and other factors brought about by natural and manmade influences. This was recognized as being unavoidable and is desirable when such changes are planned for and encouraged in a manner which will allow utilization of all the renewable resources in the combination that will best meet the needs of the American people as provided by the Multiple Use-Sustained Yield Act of 1960.

### SUITABILITY OF LANDS FOR TIMBER PRODUCTION

S. 3091 as passed by the conference committee contains a requirement that allowable harvests be based only on lands suitable and available for timber production. Both the House- and Senate-passed bills had language requiring the identification of lands suitable for resource management.

During consideration of these provisions it was recognized that all lands are suitable for at least one, but most often, several resource uses. The type and intensity of management the land receives will determine the level of each resource use that can be realized. It is intended that during the national forest planning process there will be an identification of a reasonably broad range and intensity of the uses to which the land could be put to achieve the goals developed in the program prepared pursuant to the Resources Planning Act. This requirement is to assure that the land managers have available an estimate of the full potential of the land for an appropriate range of resource uses and an understanding of the magnitude of expected output levels given various resource mixes and assumed management intensities.

Mr. Speaker, in conclusion, I would like to thank many of my colleagues who like DON CLAUSEN and BIZ JOHNSON of California took such an active interest in this legislation and was a great deal of assistance in bringing it to passage.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Speaker, this conference report represents the most comprehensive legislation ever adopted for the management of the national forest system. It eliminates the archaic language of the 1897 Organic Act which has resulted in forests being managed by the courts instead of by foresters. But it lays down many objectives and guidelines for the U.S. Forest Service. It establishes, in other words, a framework of public policy for national forest management, and leaves on the ground forest management to the foresters.

A key provision in the bill will assure the timber-dependent economy of the Northwest that the public forests will not be liquidated before new trees are ready to replace the old growth that is there now. This issue is the key one to my part of Oregon. The language the conferees agreed on requires the Forest Service to sell only so much timber from each national forest as it can sell forever. This will assure that the inventory of old growth is stretched out so there will be no gap between its disappearance and the maturity of a second growth. We did, in the conference, permit the Forest Service to depart from that standard where it needs to meet multiple use objectives and puts such higher harvest level into the land use plan for the national forest. Such plans go through a long process of public consideration.

As the conferees were discussing this question, several alternatives were presented and the Chief of the Forest Service was asked to comment on them. Of the language we approved, Mr. McGuire said that it would prevent the rapid liquidation of the old growth. With that assurance, I joined in urging inclusion of the language we put into the conference report.

The bill has many other protections for the national forests. For one thing, it establishes the national forest system in statute for the first time.

It permits timber purchasers having 500 or fewer employees to elect to have the Forest Service build needed roads instead of the purchaser.

It includes in the calculation for returning 25 percent of timber receipts to counties the amounts allowed purchasers for road construction and reforestation.

It requires the Forest Service to develop guidelines for the protection of the timber and all the other resources of the forests. Separate guidelines for clearcut harvesting are required.

It authorizes expenditures up to $200 million a year for 8 years to do the necessary work to reforest unstocked land.

It broadens the purposes for which timber purchaser deposits under the Knutson-Vandenberg Act may be used.

It requires reports from the Forest Service on wood utilization and an evaluation of the impact of log exports and imports on the price and availability of timber.

It requires that stands not be cut until the trees generally shall have reached culmination of mean annual increment of growth.

This is good legislation. It does not prescribe forestry techniques. It fixes goals and guidelines. It should be enacted into law.

Mr. KREBS. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. KREBS. Mr. Speaker, I wonder if the gentleman will be kind enough to engage in a brief colloquy with me. I would be much obliged to him.

Mr. FOLEY. I will be happy to do that.

Mr. KREBS. The statement of managers indicates that the conference substitute requires the use of sealed bids for all advertised sales, except in those instances where the Secretary of Agriculture, pursuant to regulations which he shall prescribe, determines otherwise. The statement further indicates that this provision is designed to provide the Secretary with discretion to employ oral bidding, or a mix of bidding methods, when protection of the economic stability of dependent communities or other considerations indicate the advisability to do so. I am concerned that the phrase "or other considerations" might be interpreted to reflect an intention to give the Secretary blanket authority for the use of oral bids. I would appreciate it if the chairman could explain the intention of the conferees.

Mr. FOLEY. It is my understanding that the conferees did not intend to give the Secretary carte blanche authority to depart from the sealed bidding procedure. Certainly, this is clear from the language of the statement of managers which emphasizes that the Secretary must determine, pursuant to regulations which he shall prescribe, that the public interest justifies use of other methods.

Mr. KREBS. Would the gentleman be so kind as to define the term "public interest"?

Mr. FOLEY. There are two very significant points that will bear emphasis. First, the statement of managers clearly indicates that there will be public participation in developing these regulations. Thus, there is a means by which the Secretary can identify unique problems which may, in his opinion, justify departure from the sealed bid procedure. Second, and I believe that this goes directly to the gentleman's concern, the public interest is the determining factor here. There must be benefits accruing to the public generally. The bill agreed to in conference does not grant to the Secretary the discretion to vary from sealed bidding solely for the benefit of the timber purchaser.

I would like to point out to my colleague that there are considerations other than protection of dependent communities which may call for an oral bidding procedure. Take the case of a salvage sale where the public interest is best served by getting to the timber while it is still usable. The sooner damaged or down timber is removed, the sooner the land is protected and the multiple use values are enhanced. Clearly, it is in the best interests of the public to have this timber sale contract awarded promptly, and it is my opinion that the Secretary should have the discretion to go to oral bidding in this type of instance should he choose to do so.

There is the possibility, also, that the Secretary may find a pattern of collusive bidding develop in sealed bids. The Secretary could, then, determine that the public interest would be served by going to oral bids or a mix of bidding practices.

While these are only a few of the possibilities, they indicate that the Secretary should have this discretionary authority to employ other than sealed bidding procedures when it would be in the best interest of the American people.

Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report on this legislation which may well turn out to be one of the landmarks in forestry law.

The Conference Committee brings to both Houses a unanimous conference report which reflects serious give and take not only by the two bodies, but also by members of opposite parties and members with different geographical and philosophical perspective about our national forest system.

This bill has also involved a great amount of hard work on the part of the Agriculture and Interior Committees of both the House and Senate. Many individuals and groups have contributed. The Forest Service has been readily available throughout the process and has promptly and competently provided information whenever requested. I believe the result well represents the various interests and their contributions.

I believe, as the chairman has explained, this bill reflects a true compromise of views and will help the Forest Service discharge its responsibility to the American people more effectively.

This bill resolves a crisis in the management and use of our national forests. This crisis is presently existing in my home area and is a significant threat in the remainder of the Nation. The Monongahela decision based on a strict and literal interpretation of the 1897 Organic Act authority to sell timber from national forests, virtually eliminated timber sales in the States covered by the Fourth Circuit Court of Appeals; that is, Virginia, West Virginia, North and South Carolina thus triggering severe hardships on affected users. Ongoing and further expected litigation would have soon spread this situation to all major timber production regions of the Nation. This legislation effectively removes that threat and in a manner which strengthens the land management planning process and the statutory direction for the use of our national forests. Careful consideration of environmental implications along with numerous safeguards and broad public participation processes are required within the basic purposes as provided by the Multiple-Use Sustained Yield Act of 1960.

A great deal of care was taken in drafting the language of the statute. However, as often is the case where complex issues and situations are involved, questions of interpretation are raised. As the senior minority member of the conference and as a cosponsor of this legislation, I would like to address myself to several provisions which may be subject to various interpretations at a later time.

The first concerns limitations on timber removal (section 11): The bill provides that the Secretary shall limit the amount of timber to be harvested from each national forest to an amount which can be removed annually in perpetuity. It further provides that the Secretary may depart from this level to meet the overall multiple-use management objectives of the land management plan.

This provision is intended to assure that our national forests remain productive forever and that they provide timber and other resources indefinitely. The wide variety of biological, environmental, and economic conditions found among the 154 national forests make it impossible to set hard and fast rules for their management. Accordingly, the Secretary is afforded considerable latitude in this bill to establish national forest land management plans for all resource uses based on the specific conditions of each national forest within the purposes of the Multiple-Use Sustained Yield Act of 1960 and other relevant statutes. The Conference Committee recognizes that the specific level of each use may well vary over time in response to these various conditions. A number of illustrative examples were discussed while recognizing that it is not possible to list all the kinds of situations that would warrant variation in timber volume harvested from national forests from one decade to another. Examples include variations which occur as a result of differences in physical conditions of timber stands, the economic situation of the affected communities and regions, the situation of all forest resource ownerships, and other relevant considerations.

In addition to the various multiple use objectives which the Secretary may establish for various forests in response to various situations many aspects of allowable harvest determination obviously involve considerable judgment. The Secretary necessarily will be responsible for this determination.

Prospective management intensities, trends in utilization and other developments, land availability and other factors must all be based on the best judgment of the Secretary.

A second matter concerns the concept known as "Culmination of Mean Annual Increment" (section 6): The bill provides that stands shall generally have reached the culmination of mean annual increment of growth prior to harvest. However, precise measures for calculating such point are left to the discretion of the Secretary.

I believe it was clear that the conferees intended that stands of trees should generally not be harvested until they have attained their approximate maximum average annual growth. However, it is recognized that the growth rate of some stands of trees does not reach an absolute maximum average for many years after a high percentage of the maximum rate is attained. It was not comtemplated that harvest of these stands necessarily be postponed until the absolute culmination point is reached. The committee also recognized that exceptions to this general goal might also be necessary in managing some forest stands to achieve overall multiple-use objective.

Another item deals with allowable harvest based on intensified management—section 6: The bill provides that increases in allowable harvests based on intensified management practices be reduced if such practices have not and will not be continued as planned.

The committee recognizes that considerable judgment must necessarily be exercised by the Secretary in determining present and future harvest levels.

Estimates must be made concerning changes in utilization technology. Estimates must be made as to the kind and level of management practices to be applied. These judgments must be made by the Secretary based on research and experience to the extent possible. The given level of management planned will have implications for the harvests that can be maintained over time. This provision expects these implications to be projected into the future. The committee also intends that increases based on these planned management practices be reduced if such practices have not been applied or will not be continued as planned.

Finally, let me say that I concur in the observations of Chairman FOLEY in his remarks relative to small timber operators option to have the Forest Service build timber sale roads.

As the chairman pointed out the October 1 effective date is designed only to comply with the Budget Act. It is particularly important in Virginia and in the rest of the fourth district circuit for sensible timber harvesting to resume and for everybody to get back to work again. Thus I hope the Secretary will implement this provision in a sound and logical manner.

In conclusion, Mr. Speaker, let me say that this will probably be one of the last agriculture bills of the 94th Congress.

In closing then let me express to my friend the gentleman from Washington (Mr. FOLEY) my appreciation of and respect for his outstanding service to the house and to American agriculture.

Mr. BAUCUS. Mr. Speaker, I am pleased to support adoption of the conference report on S. 3091, The National Forest Management Act. This is a solid, well-balanced bill that preserves and encourages the multiple use of our national forests. It is backed by both our timber industry and our national environmental groups, even though neither got exactly the wording they wanted in the final conference bill.

This bill encourages timber production. It removes the prohibition on clear-cutting placed upon the industry by the recent Monongahela decision and it promotes intensive reforestation by providing additional authorization.

The bill also fully protects the environment by putting limits on clear-cutting, limits on the amount of timber that can be harvested if it will interfere with future harvests, and limits on the use of environmentally fragile or commercially unproductive land for timber.

In addition, the bill contains many technical revisions which greatly improve our timber management process. For example, it has new provisions making it easier for small timber operators to bid on Federal timber and to fulfill their contracts properly by lowering their "front end" roadbuilding costs.

Of course, the major controversy over this bill involved whether or not we would require the Forest Service to manage the national forests on a "sustained-yield" basis. I strongly supported this concept, both while the bill was in the Agriculture Committee and on the House floor. At present, Montana's timber sales are half the allowable cut, but not because of sustained-yield restrictions. Sales are off due to slackening of demand, inadequate access and insufficient forest management funding.

Because I feel that it is essential that we not mortgage tomorrow's forests for today's cutting, I am pleased that the conference committee decided to accept substantially intact the Senate's sustained-yield language. I think that this is the fundamental safeguard that was missing from an otherwise well-conceived House bill.

This bill is also a "sunshine" bill. My colleague in the Senate, Senator METCALF as well as Congressman MELCHER here in the House assured effective public participation through a system of advisory boards and scientists developing sensible regionally adapted regulations.

Mr. Speaker, it took a tremendous amount of work by many people to reach the stage where we have a solid, economically and environmentally sound forest management bill. I am glad to add my support to this final product of a constructive conference.

May I also include for the RECORD an exchange of letters which clarifies one provision of the bill relating to the use of our various forest resources:

WASHINGTON, D.C.,
*September 10, 1976.*

Mr. JOHN R. MCGUIRE,
*Chief, Forest Service, Department of Agriculture, Washington, D.C.*

DEAR CHIEF MCGUIRE: I am writing to seek your opinion on Section 7, Subsection H of the House Forest Management bill (H.R. 15069), which deals with the lengths, terms and extension of contracts for timber sales. Specifically, I refer to language beginning on line 11, page 25:

"Unless there is a finding by the Secretary of Agriculture that *better utilization of the various forest resources,* consistent with the provision of the Multiple-Use Sustained-Yield Act of 1960, will result from a contract of longer duration, no contract for the sale of timber shall extend for a period of more than ten years:" (emphasis added)

I would like to have the Forest Service's interpretation of "better utilization of the various forest resources" as it relates to contracts of more than ten years.

In the Intermountain area of Montana, the area I represent in the Congress, there are vast amounts of wastewood which has been damaged by fire, windthrow, insect and disease attack, or other natural catastrophe, which in its present form is unmerchantable. The volume of wastewood appears to be growing each year. However, it was recently called to my attention that this wastewood can be utilized in papermaking. Salvaging of these timber stands damaged by fire, windthrow, insect and disease attack, or other natural catastrophe would benefit the Forest Service with an additional management tool.

Thus, I would like to know whether you interpret the phrase "better utilization of various forest resources" to include contracts for longer than ten years for the salvage of timber substantially damaged by fire, windthrow, insect and disease attack, or other natural catastrophe?

I believe that it is important that this should be the intent in order to facilitate removal of salvage material and recovery of affected forestland.

It would be helpful to have an answer at your earliest convenience prior to House floor action on this bill.

With best personal regards, I am,

Sincerely,

MAX BAUCUS.

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WASHINGTON, D.C.,
*September 16, 1976.*

Hon. MAX BAUCUS,
*House of Representatives.*

DEAR MR. BAUCUS: Your letter of September 10, 1976, asks for our interpretation of the provision of H.R. 15069 relating to the length of timber sale contracts. The language in question provides:

"Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources, consistent with the provision of the Multiple Use-Sustained Yield Act of 1960, will result from a contract of longer duration, no contract for the sale of timber shall extend for a period of more than 10 years."

You ask specifically whether we would interpret the phrase "better utilization of various forest resources" to include contracts for longer than 10 years for the salvage of timber substantially damaged by fire, windthrow, insect and disease attack, or other natural catastrophe.

This provision, of course, provides a general limitation of 10 years on the length of a timber sale contract. The Committee discussions in both the House and Senate indicated a general reluctance to authorize longer term commitments of National Forest timber to individual firms. The Committee discussions indicate the members expected the average sale length to be less than 10 years.

The Committees did recognize, however, that there may be circumstances when longer term sales may be necessary in order to encourage the investments needed to achieve improved utilization. Such longer sales may be authorized if the Secretary finds that they will result in better utilization.

In your State of Montana and elsewhere in the Intermountain area, there are very substantial volumes of dead and down timber which have accumulated over the years as the result of insect attacks, disease and other natural disasters. Most of this material is not suitable for solid wood products, such as lumber or plywood, but it is suitable for the production of paper and other fiber products. The conversion of this material into useable products requires substantial investments in plants and equipment.

Under the circumstances outlined above, a sale of longer than 10 years duration may be needed in order to permit amortization of the substantial investments needed. We believe this is the type of situation which the Committees had in mind when they provided the exception to the general limit of 10 years on the length of sales.

Sincerely,

JOHN R. MCGUIRE, *Chief.*

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WASHINGTON, D.C.,
*September 10, 1976.*

Hon. THOMAS S. FOLEY,
*Chairman, House Agriculture Committee, Washington, D.C.*

DEAR TOM: H.R. 15069, which received many hours of study and deliberation by the Sub-Committee on Forestry and the Agriculture Committee, is a thoughtful attempt to resolve a critical problem facing our nation. Since the reporting of this bill by the House Agriculture Committee, my attention has been directed to section 7, subsection H, dealing with the length and term of contracts for timber sales. The specific language which I have reference to is found on line 11, page 25, as follows:

"Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources, consistent with the provision of the Multiple-Use Sustained-Yield Act of 1960, will result from a contract of longer duration, no contract for the sale of timber shall extend for a period of more than ten years:"

In this context, H.R. 15069 encourages greater utilization of our national forest resources by encouraging the Forest Service to salvage timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack. Better utilization of various forest resources would include the salvaging of this type of waste wood.

Was it the legislative intent of the committee, in providing for contracts for better utilization of various forest resources, to include contracts for longer than ten years for the salvage of timber stands substantially damaged by fire, windthrow, insect and disease attack, or other natural catastrophe?

I believe that it is important that this should be the intent in order to facilitate removal of salvage material and recovery of affected forestland.

Attached is a one page summary outlining the growing problem with regard to insect infestation and salvageable wood. By and large this information has been obtained from Forest Service research reports and papers. (The Intermountain area of western Montana, which I represent in the Congress, contains vast amounts of this waste wood.)

It would be helpful to have your response to this question in time for inserting in the Congressional Record at the time the bill is before the House for action.

With best personal regards, I am,

Sincerely,

MAX BAUCUS.

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WASHINGTON, D.C.,
*September 15, 1976.*

Hon. MAX BAUCUS,
*Washington, D.C.*

DEAR MAX: Thank you for writing to me seeking clarification of Committee intent regarding provisions of H.R. 15069 which generally limit timber sale contracts to a period of ten years.

As you know, the language of the bill does give the Secretary of Agriculture discretionary authority to enter into a contract for a longer period if he makes a finding that better utilization of the various forest resources, consistent with the provisions of the Multiple Use-Sustained Yield Act of 1960, will result from a contract of longer duration. As you may know, this provision was included in the bill during Subcommittee markup and was offered by our colleague from Oregon Jim Weaver.

I have discussed this matter with Jim and have concluded that it is his intention, which I believe is shared by the Committee, that the Secretary will make use of this discretionary authority only in the best interests of the forest resources and only when he makes a finding that better utilization will in fact occur consistent with the principles enunciated in the Multiple Use-Sustained Yield Act. Certainly, the Secretary could in fact make such a finding regarding a salvage sale; however, the Committee expects that the Secretary will use this authority carefully and only on a case by case basis.

Thus, it is clear that the Secretary may make such a finding regarding a salvage sale, but I do not feel that the Committee intends that all salvage sales will automatically be afforded such an extension.

I trust that this response wil be helpful to you.

With warmest personal regards.

Sincerely,

THOMAS S. FOLEY,
*Chairman.*

Mr. FOLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to, S. 3091.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Washington?

There was no objection.

## PERSONAL EXPLANATION

Mr. OBERSTAR. Mr. Speaker, on rollcall 851, H.R. 10210, the conference report on unemployment compensation, I was participating in the House-Senate conference on the Water Resources Development Act, was not notified that this vote was in progress and missed it. Had I been present, I would have voted "aye." Mr. Speaker, this is the only rollcall I have missed this session and the only rollcall I have missed in over a year.

## VIETNAM, THE IMF AND THE WORLD BANK

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, last July 27, when the House debated the Bretton Woods Agreement Act amendments, I offered an amendment that would have required the United States to oppose any International Monetary Fund assistance to Vietnam until and unless that country provides a full accounting for Americans missing in action.

In response to my amendment, one of my colleagues said:

> I do not think that the new governments of Laos, Cambodia and Vietnam even know what the International Monetary Fund is.

And my colleague also assured the House that even if those governments did know what the Fund is, they would not be interested in it.

But time has passed, and lo and behold, Vietnam not only knows what the IMF is, but has taken up membership. When that took place, I said that it seemed likely that Vietnam would next take up membership in the World Bank, which they have in fact done. And on September 23, just 2 days after Vietnam had its credentials accepted by the World Bank, the Asian Development Bank received their credentials.

In a technical sense, Vietnam has never ceased to be a member of any of these institutions; its Government merely collapsed. The only issue to be resolved, in the most narrow and technical sense, is whether the current Government is the legitimate one. But I do not view it this way. If the membership of Vietnam is resolved according to this logic, the Government of the Peoples Republic of China is equally eligible to become a member of the World Bank, by taking up the credentials now held by Taiwan. The only difference in the cases is that the Vietnamese Government was crushed in a revolution; the Taiwan Government never ceased to exist, but lost its country. My view is that in both instances the applicants should be treated de novo. We are dealing in effect, and in truth, with a new country in Vietnam, a country that does not resemble the old Government in even a geographic sense. But the IMF and World Bank prefers to look upon all this as less than a technicality.

Thus we have now proof that Vietnam knows indeed what these agencies are, and quite contrary to the views expressed so vehemently last July, knows what these agencies can do for them.

Congress has many times made clear that it does not intend to provide assistance to Vietnam. The question now, which is what I attempted to raise in July, is what the policy of Congress would be toward provision of aid to Vietnam through international agencies. It is a serious question, not to be laughed off, not to be ignored. We have to consider now what our policy toward Vietnam is, and what our policy toward multilateral institutions is, now that Vietnam is an active and eligible member for all the benefits and funds that can be provided by these institutions.

## THE HONORABLE THOMAS E. MORGAN

The SPEAKER per tempore, under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, it is with a great deal of pride, and almost a sense of grief that I stand before this House, to pay tribute today to the man I love the dearest, and my oldest friend in the House, Congressman THOMAS E. MORGAN of my home State of Pennsylvania.

Doc MORGAN and I were sworn into the House on the same day in 1945, and we have been the best of friends ever since. My wife, Catherine and I have enjoyed the closest of relationships with Doc MORGAN and his lovely and charming wife, Winifred, for over 30 years. It is a friendship which we hope will go on for many, many more years.

When I first came to this Hill, Mr. Speaker, my very first committee assignment was to the great Committee on Foreign Affairs. It was there for one term, under Chairman Saul Bloom of New York, that I came to know the great Doc MORGAN. He took my place on that Committee as I went on the Appropriations Committee. It was then that I realized what a genius we had among us. As a member of that committee, Doc MORGAN became an expert in hemispheric relations as he played a part in all of the legislative endeavors in foreign affairs from the era of the Marshall plan, through the Korean conflict, the Suez war, the strife which led to the erection of the Berlin wall, the Cuban missile crisis, the Vietnam war, and finally the spirit of détente. Through all of these great crises, and these great moments in American history, Chairman Doc Morgan provided the bipartisan leadership which was to become his hallmark as the chief of a committee where it would be so natural to evoke partisan posture time after time. It is no wonder therefore, that every President since Harry Truman, be he a Democrat or Republican, and all of the five Secretaries of State with whom he has worked have seen fit to pay glowing tribute to the distinguished chairman of the Committee on International Relations.

Undoubtedly the loss of Congressman Morgan to this House will have its greatest impact in the Commonwealth of Pennsylvania, where he has served as dean of the State's delegation for so many years. It was in that capacity, as dean, that I worked so well with him, as did the 23 other Members of this House who come from the Keystone State. As chairman, Congressman Morgan proved again that he was the master architect of legislative programs which were designed to benefit the people of Pennsylvania. Time after time, year after year, the members of our delegation have turned to the man we venerably call "Doc," and we found, as did the people of Pennsylvania, that they had a sympathetic ear and lending hand in the person of the dean of our delegation.

Mr. Speaker, on this evening, one of the last sessions of the 94th Congress, I stand in this well to salute my dear friend and colleague, and I thank him for his years of service, for the people of the free world whose interest he has protected, for the citizens of the United States to whom he has dedicated himself, and for the people of Pennsylvania, whose champion he has been through thick and thin.

Thank you, dear Mr. Chairman, for all of us.

So long Doc.

Mr. Speaker, I include the following communication from Senator Richard S. Schweiker of Pennsylvania, which contains a tribute to Dr. Morgan:

### THOMAS E. "DOC" MORGAN

Dear Dan: I am pleased to join you Congressman Flood and my colleagues on the House side in honoring the distinguished dean of the Pennsylvania House delegation, the honorable Thomas E. "Doc" Morgan, on the occasion of his retirement.

"Doc" Morgan has served the people of Fayette, Greene, Washington and Allegheny Counties with dedication and distinction since World War II. He has compiled a record of service to his constituents that will not be easily duplicated. Not only did he serve the people of southwestern Pennsylvania as a practicing physician until recent years, but he was famed for turning his doctor's office into a Congressional field office on Saturday afternoons and holding regular office hours for his constituents.

Some wags have suggested that "Doc" delivered enough babies and saved enough lives over the years to guarantee a majority vote in his elections. I don't know about that. But I do know he dedicated his life to the lives of the people of southwestern Pennsylvania.

"Doc," you've earned a little time off, and I hope it's filled with happiness and good health.

Mr. THORNTON. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Arkansas (Mr. Thornton).

Mr. THORNTON. I thank the gentleman for yielding.

Mr. Speaker, I would like to join in the expressions made by the gentleman in the well (Mr. Flood). I share his feelings of friendship and respect for our distinguished colleague, the gentleman from Pennsylvania (Mr. Morgan). I want to express those sentiments at this point in the Record.

Mr. RHODES. Mr. Speaker, when the 94th Congress completes its second session, it will make the end of 32 years of dedicated service by Thomas E. Morgan of Pennsylvania.

As the dean of one of the House's largest delegations, "Doc" Morgan has earned the respect and admiration of his colleagues on both sides of the aisle.

For the past 18 years he has served as chairman of the Committee on International Relations, where he has molded a bipartisan approach to foreign policy. He has served through the terms of five Presidents and five Secretaries of State. The past three decades have been a time of difficult decisions in our relationships with other nations of the world. "Doc" Morgan has been a steadying influence over the House's role in these complicated negotiations.

It has been my privilege to serve more than two decades with "Doc" Morgan. He has been a friend, and I respect highly his judgment and have sought his counsel.

All of us will miss "Doc" in the 95th Congress. I join my colleagues in expressing our appreciation for his diligent service to this Nation, to the 22d District of Pennsylvania and to the House. We wish him a long and happy retirement.

Mr. DENT. Mr. Speaker, Thomas E. "Doc" Morgan, my friend and colleague from Pennsylvania, after 31 years of outstanding service to his country, is retiring from this House he loves so well.

Doc Morgan, the chairman of the House Committee on International Relations, is a living institution, who, as much as any other Government official, shaped and guided this Nation's foreign policy. As chairman under five Presidents, Doc Morgan is credited with building the bipartisan congressional approach to the conduct of American policy which has served us well through turbulent and trying times. Doc Morgan, the humble and gracious gentleman from Pennsylvania, has always placed the welfare of his country before partisan politics and personal consideration.

This Nation, and indeed the entire free world, owes Doc Morgan a lasting and permanent debt of gratitude for his contributions to peace and freedom everywhere. The American people can consider themselves lucky that Doc Morgan saw fit to enter the Congress and serve for over three decades. This House and the Congress as a whole must applaud Doc Morgan for his gifted and able leadership. The free people of the world should praise this man whose dedication and compassion helped them in times of need.

As for me, I am thankful for the pleasure and honor of knowing and serving with this man from my home State. We have shared a common congressional district boundary and I know his people well. I know that since 1945 they have loved and revered this doctor of medicine, this able Congressman, this devoted public servant, this strong yet understanding chairman, and this learned and noble statesman.

Thomas E. Morgan, you have served your people and country well. I salute and honor you.

Mr. ZABLOCKI. Mr. Speaker, the Committee on International Relations has adopted the following resolution:

*Whereas* the Honorable Thomas E. Morgan has served as a Representative in Congress from Pennsylvania from the Seventh-Ninth Congress through the Ninety-Fourth Congress with distinction and an unswerving devotion to the national interest of the United States and the cause of world peace; and

*Whereas* during his three decades as a Member of the Committee on Foreign Affairs, and now the Committee on International Relations, he has demonstrated a deep understanding of the foreign policy of the United States and a humane appreciation for the well-being of mankind, both at home and around the world; and

*Whereas* during his eighteen years as Chairman of this Committee, a position he has held longer than any other Member in history, he has demonstrated firmness and fairness in leadership, and wisdom in dealing with the foreign policy problems of the Nation; and

*Whereas* his voluntary retirement from the House of Representatives is deeply regretted by his colleagues on the Committee, who appreciate his outstanding service in working for a bipartisan foreign policy during peace and war; *Therefore be it*

*Resolved* that the Committee on International Relations hereby extends an expression of esteem, commendation, and good wishes to the Honorable Thomas E. Morgan for his statesmanship, leadership and compassion, and expresses its thanks for a job well done.

Mr. Speaker, the deep regret by the International Relations Committee upon the retirement of Chairman Morgan—as expressed in this resolution—is offset by our pride in having worked with and under the leadership of one of the finest men ever to serve the Halls of Congress.

Doctor Morgan has always guided us in a fair and exemplary fashion. He is wise and honest, hard working and yet patient—some think too patient—with his colleagues.

These were among the many fine qualities which marked his service first as a Member, then for an unprecedented 18 years as chairman of our committee.

The three decades of Doc Morgan's service and active participation in foreign affairs spans the administrations of six Presidents, in a period of historic developments in U.S. foreign policy.

When the gentleman from Pennsylvania first came to Congress as a freshman Member, the United States was in the final months of World War II. The post-war period opened a new era in U.S. foreign policy, with our national outlook shifting from comparative isolationism toward the rest of the world to active participation and leadership in international affairs.

Congressman Morgan contributed significantly in many ways. He supported the Marshall Plan, which restored West Europe after the war, and the creation of the Atlantic Alliance system which has maintained Western security. He has been instrumental for many years in shaping our legislation providing for mutual security assistance, and for economic aid to poor countries to help them become self-supporting. He has been the principal sponsor of more international affairs measures enacted into law than I can recount.

Currently, in the 94th Congress, he has presided over some of the most far-reaching changes in the history of our 154-year-old committee including renaming the committee, reorganizing the subcommittee structure, and the drafting and passage of new legislation pursuant to the newly expanded jurisdiction of the committee.

Two fundamental tenets of Chairman Morgan's policy are particularly worth stressing:

First, he is a strong advocate of Presidential-congressional cooperation and of bipartisanship in foreign affairs. I have never heard it said that Morgan pushed a measure for narrow partisan purposes.

To the contrary, Chairman Morgan has always kept the national interest foremost in mind, whether the President be of the same or the different political persuasion, and he has over the years received deserved praise from Democratic and Republican Presidents alike.

Second, while he recognizes Presidential prerogatives in the conduct of foreign affairs, he has sought to maintain the proper role accorded to Congress in this field. He has been effective in helping the Congress to regain its foreign policy influence.

Under Chairman Morgan's leadership, it has been my privilege to be his right-hand man on many an occasion over the years. I state this as a literal fact—because as anyone familiar with our committee seating arrangements knows, I sit immediately to the chairman's right. If any further proof is needed, I can demonstrate the marks on my left leg where the chairman has kicked to let me know my time had come to "move the previous question."

The assignments from my chairman sometimes have involved a lot of hard work. But like others on the committee, I have been pleased to have this confidence that I could do the job.

I would like to conclude, Mr. Speaker, with a few words about the nonforeign affairs side of Doc's life.

As we all know, he was a practicing physician before he came to Congress and he continued to minister to patients at home until recently.

Indeed he sometimes gave medical assistance to colleagues in the House. The most memorable occasion was in 1954, when Puerto Rican extremists shot five Members on the floor, Doc Morgan was there and one of those wounded credited the physician from Pennsylvania with saving his life.

Doc has aptly said that he always felt his congressional service "went hand-in-hand with my work as a physician."

He said:

> I have found both careers to be tremendously rewarding, because both involved service to people of all ages and walks of life.

It is well known too, among his constituents of the 22d District of Pennsylvania, who returned him to Congress year after year, that Doctor Morgan is not one to be carried away by Potomac fever and forget the people back home.

As a regular matter, as soon as his week-day duties in Washington were completed, the gentleman from Pennsylvania has headed for his home district where he could be close to his own people and be of help to them firsthand.

We will be missing our chairman and his gracious and charming wife, Winifred. My wife Blanche joins me in wishing them a joyous future, and we hope that they will remain available for consultation to the Congress and for other national service in the years ahead.

Ms. ABZUG. Mr. Speaker, I am especially pleased to have this opportunity to join in paying tribute to my friend, "Doc" Morgan.

"Doc" has been the chairman of the International Relations Committee during the period of intense change in American foreign policy. We have disagreed at times over what changes to make in our foreign policy, but I have found "Doc" always willing to listen to and to respect people who differed with him.

One of the most important achievements of "Doc" Morgan is the strong American support for Israel which he has generated through the international security assistance and economic aid programs. I have been honored to work with him in this effort.

I hope that even from retirement, "Doc" Morgan will be accessible to Members of Congress concerned with international affairs. His experience, wise counsel, and keen understanding of the need for a strong congressional role in the conduct of our foreign policy will be a valuable national resource in the years to come.

I am proud to have been a colleague of "Doc" Morgan. I wish him a restful and fruitful retirement.

Mr. FUQUA. Mr. Speaker, the adjournment of the 94th Congress will mark the completion of service on the Hill for one of the most distinguished Members ever to serve the House, Thomas E. "Doc" Morgan.

"Doc's" distinguished career spans 32 eventful years and since 1959 he has served as chairman of the Committee on International Relations, and in that position has brought outstanding leadership and guidance to this Nation's role in foreign policy.

He presided as chairman of this important committee during the tenure of five Presidents and has led the way in some of the most critical areas in the history of foreign policy.

The void left by "Doc" Morgan's retirement will certainly not be easy to fill. He has served with distinction and as leader of the Pennsylvania delegation, he has served as leader of the third largest group of Representatives from any State in the Nation.

An unswerving dedication to the responsibilities of his office have marked "Doc's" years in the House. With his retirement at the end of this session, the Congress and the Nation will lose the devoted services of a strong and forthright legislator. His friends and colleagues in the House will especially miss him.

Mr. FASCELL. Mr. Speaker, I am glad to join with our colleagues in paying tribute to Thomas E. "Doc" Morgan on his retirement from Congress, where he has served 18 years as chairman of the Committee on International Relations.

Since his election to the 79th Congress in 1944, "Doc" Morgan has compiled one of the most illustrious records of any Member.

As a member of the committee, I am personally aware of how much "Doc" has done to achieve a sound and sensible foreign policy, and to achieve the international goals of the United States. He has fashioned a bipartisan approach so that the sensitive area of our relation with other countries has not been a subject of partisan controversy.

Under "Doc's" leadership the Committee on International Relations has taken an increasingly active role in overseeing our Nation's overseas activities. He has helped to assure that Congress maintains its status as a co-equal branch of the Government.

Thomas Morgan's life has been dedicated to the protection and service of our country. This has been the guiding motivation throughout his entire public career.

He has given devoted attention and time to all committee work. Tom is an eminently fair man and one of his great strengths and benefits to the committee is the equitable and judicious manner in which he carried out his duties as chairman.

Chairman Morgan is a fighter and a leader. Almost all of his initiatives were adopted in the committee. However, he maintains an open mind on any opposing point of view and bears no ill will for those who differ with him.

I have had the privilege and pleasure of serving with the Chairman Morgan for his entire tenure. He has always been fully cooperative and friendly. I could ask for no better working relationship.

Chairman Morgan's characteristics, however, extend far beyond his service on the committee. The same attributes which all of us see and respect in Tom Morgan, others also respect and admire. Presidents, Kings, high emissaries and diplomats of almost every foreign government, parliamentarians around the world, and all who came to know him found him to be a dedicated spokesman for his country, and a very able and warm human being with a broad perspective of the problems of peoples in other countries.

Doc gives strong leadership to the Canadian-American Parliamentary group. He and his gracious wife, Winnie, are respected and loved by all the Canadians who have been part of the parliamentary conferences throughout the years. At their last session Doc was given the highest honor that the parliamentary group can bestow. All of us on the parliamentary conference, both Canadians and Americans, want Doc to continue his leadership, counsel and advice with the group. All of us are expectantly looking to the next parliamentary conference with Doc and Winnie giving us the benefit of their leadership, counsel, and friendship.

Doc MORGAN's departure from the Committee on International Relations and the Halls of Congress will be a great loss to the country, the Congress, and to me.

I hope and wish for Chairman MORGAN, his wife and family, happiness and continued success.

Mr. McFALL. Mr. Speaker, an outstanding man of peace, who over a period of three decades has contributed so much to national security and international understanding, will be profoundly missed when he retires from the House at the end of this session.

I refer to Congressman THOMAS E. MORGAN, chairman of the House International Relations Committee for the last 18 years, the longest tenure as chairman of the 153-year-old committee in the history of the House.

Doc MORGAN joined the committee—then Foreign Affairs—in 1946, and from the beginning played a major role in the development of U.S. foreign policy.

He is a strong believer in bipartisanship in international policy, but he has never abandoned principles or conscience and has not been reluctant to oppose an administration—Democratic or Republican—when he felt its policies were not in our best interests.

And he has been a leader in recovering for the legislative branch its rightful role in the formulation of foreign policy. Because of the leadership of people like Chairman MORGAN we now have the War Powers Act, which assures that no President can send our troops to fight abroad, except for an emergency 60 days, without the concurrence of Congress.

Chairman MORGAN has been an official U.S. representative to numerous international conferences and policy meetings. I was privileged to travel with him as part of a special congressional delegation to the People's Republic of China in July 1973, and was able to view his diplomatic skills and his broad-ranging knowledge of Chinese and Asian affairs firsthand. As vice chairman of our delegation, he performed superbly, and brought back to the membership a better understanding and new insights into that nation, whose frontiers had been closed for so long to U.S. visitors.

Doc MORGAN's long career in the House has strengthened the cause of peace throughout the world

In the post-World War II era, he was a leader in American efforts to rebuild shattered Europe and forge the alliances which have maintained our security.

With Senator HUBERT H. HUMPHREY, he was the author of the Peace Corps bill and advised President John F. Kennedy on its implementation.

He was responsible for the military sales bill which limits the amount of military material the United States can sell to other countries. But as he would limit the sale of weapons, he has been a consistent champion of humanitarian assistance abroad. And it was his humanitarian impulses, he has said, which first drew him to the committee in the postwar years when so much of the Western World needed rebuilding.

Our colleague began as a country doctor. He became dean of the Pennsylvania delegation, one of the ablest and most respected Members of the House, and friend of diplomats and heads of state throughout the world.

The Nation will miss his leadership and his wise counsel.

Mr. BINGHAM. Mr. Speaker, neither the House of Representatives nor the International Relations Committee nor the House of Representatives is going to be the same without "Doc" MORGAN.

Here is a man who has had the respect and affection of all his colleagues, and who has served his country well. These facts should be some satisfaction to him as he retires from the House, but they do not diminish our sorrow that he is leaving.

I am one of the few Members of the House who had the privilege of appearing as a witness before the Foreign Affairs Committee when I was in the executive branch and the good doctor was a mere member of the committee. He was courteous and pleasant then, as he has always been with all witnesses. He never engaged in the sometimes-popular sport among Members of Congress of baiting witnesses from "downtown."

Although always fair and considerate toward the members of his committee, "Doc" has been a strong chairman. I hope he won't mind my saying that he sometimes handled things the way he thought the country's interests demanded without checking out the rules of the House or of the committee every other minute, but he was so well liked by his committee members, including myself, that he invariably got away with it.

For longer than any other Member he has been chairman of International Relations Committee—formerly the Foreign Affairs Committee—and under his leadership the committee has grown in stature and has become more and more of a factor in the development and conduct of the foreign policy of the United States.

Many Secretaries of State have had occasion to be grateful to Chairman MORGAN, especially with respect to the passage of foreign aid legislation. This kind of legislation is unpopular and misunderstood in most congressional districts and "Doc's" district was no exception. Yet he battled through bill after bill which were important in the national interest. Without his prestige and his leadership, some of the "narrow squeaks" suffered by such bills over the years would have been defeats instead of victories.

Our chairman is young in spirit and by no means old in years. We hope that the next President of the United States will have the good sense to make use of his talents in some important post. He would make a great Ambassador.

Meanwhile he has earned a little rest and recreation. My wife joins me in wishing to him and to Winnie all the best for many years of happy and productive life.

Mr. KETCHUM. Mr. Speaker, it can truly be said that THOMAS E. "Doc" MORGAN has offered the highest possible level of service and leadership to his constituency, his State, and this Nation. Throughout his terms in Congress, he has exemplified responsible representation—and responsive representation, which in my book is even more important—of the highest order. His retirement from this body will constitute a loss felt not only by the people of Pennsylvania, but for all Americans. I thank my colleague, Mr. FLOOD, for thoughtfully arranging this special order, permitting "Doc's" many respectful and admiring colleagues to pay a few words of tribute to him.

Doc MORGAN has left his mark on almost every conceivable area of endeavor. From his years of medical education to his civic contributions; from his distinguished congressional career to his knowledge of significant international policy, Doc MORGAN has made an impact, and a beneficial one, upon every citizen of our Nation.

When reminding us of this tribute to Doc MORGAN, our friend and colleague, DAN FLOOD, summed up Doc's most significant contribution to his Nation very aptly:

> He has brought dynamic leadership to the Congress' role in foreign policy—chiefly as the architect of a bipartisan majority approach which removed this crucial area from political considerations.

Presiding as chairman of the Committee on International Relations since 1959 has been no easy task. I believe we will all agree that Doc MORGAN has borne the heavy responsibility of steering his committee through a turbulent and changing period in international policy, and he has executed that responsibility in the best possible way.

Above and beyond his obvious contributions as a valued Member of the Congress, "Doc" MORGAN has been a friend and a sound counselor to all his colleagues. With the warmest regards, I wish the very best to Doc as he prepares to leave this Congress. He will be long remembered, and he will leave difficult shoes to fill.

Mr. FOUNTAIN. Mr. Speaker, for many years it has been my privilege to serve side-by-side with the Honorable THOMAS E. "Doc" MORGAN on the House International Relations Committee. And I shall miss him greatly when he leaves this House at the end of the 94th Congress.

In committee and on the floor I have had occasion time and time again to observe "Doc" MORGAN's sound judgment, his dedication to that which is right, his responsibility, his sense of fair play, and his inexhaustible supply of commonsense.

"Doc" MORGAN's departure from our midst will leave some mighty big shoes to fill. His wise counsel in every area of national concern and his sensible approach to national problem solving will be sorely missed.

His dynamic leadership as chairman of the Committee on International Relations since 1959 has enhanced the Congress role in foreign affairs, and at the same time has strengthened the bipartisan approach to this vital part of our Nation's business.

Chairman MORGAN has effectively and indefatigably worked to lead his committee with the utmost fairness, dignity, and integrity. His years as chairman have been marked by solid achievement. More important, I am proud to call him my friend.

I am indeed proud to have served in the House with "Doc" MORGAN and wish him and his very lovely wife, Winifred, every success and happiness in the future, wherever they go and in whatever they undertake together.

"Doc" and Winifred will be sorely missed by all of us who are fortunate enough to be here during the next Congress.

May God be with both of them to their many years together, hopefully for many years to come.

Mr. SKUBITZ. Mr. Speaker, I take great pleasure in joining with my colleagues to pay tribute to a truly great American, who has given over 30 years of service to his country, Congressman Thomas E. Morgan.

As chairman of the International Relations Committee, Doc's talents and abilities proved tremendously beneficial to us all in providing the guidance we needed to effectively formulate foreign policy for this Nation which will affect generations to come.

I never had the pleasure of serving with Doc on the International Relations Committee, but I have always attempted to be present when Doc spoke for his committee on the floor. Doc has the ability to convey his exceptional knowledge of foreign policy matters in a matter-of-fact way that even this country Congressman can understand.

Doc's floor statements were always well-thought-out explanations of highly logical positions. I think—to put it bluntly—the reason I enjoyed listening to Doc was because I got the distinct feeling he was speaking for the benefit of our country intead of his own. To say that Doc Morgan's voice will be missed is an understatement.

I cannot close without mentioning the fact that I consider it my good fortune to have been a friend of Doc Morgan.

I extend my sincere wishes to Doc and his loved ones.

Mr. BURLESON of Texas. Mr. Speaker, I want to take this opportunity to extend my congratulation and my warm good wishes to the Honorable Thomas E. "Doc" Morgan as he completes 32 years as a Member of Congress and prepares to retire at the end of this term.

Since 1959, Congressman Morgan has served as chairman of the Committee on International Relations, and in that capacity has brought dynamic leadership to the Congress role in foreign policy. Presiding during the tenure of five Presidents and five Secretaries of State, Congressman Morgan led his committee through some of the most controversial and critical areas in the history of American foreign policy.

Over the years, we have all observed his quiet and effective leadership and I am sure that I can be counted among many other Members of Congress who have valued his friendship. He will be remembered with fondness by those of use who have served with him for these many years and for his many contributions to our Nation and the people he represents.

I joint with my other colleagues in wishing for him the very best.

Mr. MAZZOLI. Mr. Speaker, upon the adjournment of the 94th Congress, the Honorable Thomas E. "Doc" Morgan will end his more than 30 years of service to the people of Pennsylvania and of the Nation.

Since 1959, Congressman Morgan has served ably and well as the chairman of the House Committee on International Relations. During his tenure as chairman, he has had to confront some of the most controversial and potentially explosive foreign affairs issues in our country's history.

Suffice it to say that, under his leadership, the committee has distinguished itself by its consistently high standards of performance.

While I do not serve on Doc's committee, we have become good friends over the years and I have had the benefit of his counsel on more than one occasion.

Doc's presence in the House will be sorely missed. But our loss is Pennsylvania's gain—Doc will be returning to his beloved Keystone State to live.

I join with all his many friends in wishing him all health, happiness, and satisfaction in the years ahead.

Mr. COUGHLIN. Mr. Speaker, the retirement of the Honorable Thomas E. "Doc" Morgan will be a loss that all of us will share with the constituents of this distinguished, devoted Congressman.

Doc Morgan's 31 years of service to the residents of Pennsylvania's 22d Congressional District have been exemplary. Beyond his outstanding representation of his constituents, moreover, Doc Morgan has personified dedication to furthering our Nation's best interests, both at home and abroad.

The nearly two decades of leadership Doc Morgan has exhibited as chairman of the House International Relations Committee have earned him the deserved bipartisan respect from his colleagues in both the House and the Senate. Chairman Morgan's fairness and diligence have brought unqualified admiration from five Presidents and Secretaries of State, as well as the media and our overseas neighbors. Chairing the International Relations Committee during one of our Nation's most tumultuous periods in history, Doc Morgan consistently demonstrated a sensitivity to the complexities of international issues and the courage to confront the hard questions.

While I never had the privilege to serve on Doc Morgan's committee, I personally can attest to his evenhandedness. As the dean of the Pennsylvania congressional delegation, Doc Morgan was always fair and cooperative with the minority Members. I was always impressed by his willingness to consider carefully all of the delegation Members' views. Doc Morgan's influence was always unifying. His superlative leadership will set a demanding example for future delegation deans.

Although Doc Morgan's retirement will bring him a well-earned rest from the congressional arena, his enviable legacy will continue his good works. The Peace Corps, the restoration of the Congress constitutional authority through the War Powers Act of 1973, the removal of the International Relations Committee's operations from the battleground of partisan politics signify Doc Morgan's contributions to the Nation. Doc Morgan's public service is a tribute that will long endure. I extend him my sincere gratitude and warmest wishes for the future.

Mr. MONTGOMERY. Mr. Speaker, for 18 years, we in the Congress and the American people have been most fortunate to have the leadership of Thomas E. Morgan as chairman of the Committee on International Relations. The hallmark of his distinguished career of public service has been the fact that he has approached America's foreign policy with a much needed spirit of bipartisan cooperation. He has always approached our relations with other nations on the basis of what is best for the American people now and in the future.

When Doc Morgan ends his 32 years of service in the House, he will do so knowing that he has contributed greatly to peaceful relations among the major powers of the world. In his own quiet and unassuming manner, he has helped to build an American foreign policy based on mutual respect and cooperation. I regret that he has never received the proper recognition for his role in foreign policy, but this is probably because Doc Morgan is not a man who seeks out the limelight preferring instead to simply perform each task assigned him to the best of his abilities.

Mr. Speaker, I shall miss Doc Morgan when the 95th Congress convenes, but I also know that I am a richer person from having had the opportunity of serving with him for 10 years and the privilege of knowing him as a dedicated colleague.

Mr. Speaker, I realize the hour is late, but I did want to join with my colleagues in paying tribute to our retiring colleague Ray Madden of Indiana. For 34 years, he has distinguished himself and this body as a dedicated public servant.

I feel sure the people of Chairman Madden's district will miss the devotion with which he worked to solve the problems of his constituents. One of the most important duties we have is constituent services and Ray Madden set an example in this area which we should all envy.

It has been a privilege to have served with Ray Madden and I join with others in wishing him the very best in the years to come and commending him for an outstanding life of public service.

Mr. Speaker, the close of the 94th Congress will mark the end of a half century of combined service of three members of the Georgia delegation in the Congress. All three of these distinguished colleagues—Phil Landrum, Bob Stephens, and Bill Stuckey—have made their own unique contributions to legislation to improve life for their fellow Americans.

For 24 years Phil Landrum has been a strong voice in the Congress for a prudent fiscal policy and the end of runaway Federal spending. I am most thankful that we have had the benefit of his services on the Ways and Means Committee and Budget Committee. We need more Members like Phil Landrum who are willing to stand up and be counted on the side of a balanced Federal budget. I will miss his leadership and most of all his willingness to freely give of his wise advice on legislation pending on the floor.

Mr. Speaker, as a representative from a largely rural area, I shall also miss the leadership Bob Stephens has provided for improved rural housing. He has helped shape many forward looking pieces of legislation that have provided great benefit to those thousands of Americans who still live in rural areas. He has known and understood the needs of rural areas and we shall miss his guiding hand.

Bill Stuckey and I entered Congress together in the 90th Congress. Since that time I have come to know him as a colleague vitally interested in the free enterprise system and one who has taken a personal interest in making the capital markets free and providing necessary protection for public investors. I would also commend him for his successful efforts on behalf of the people of Georgia to preserve Cumberland Island and the Okefenokee Swamp.

Mr. Speaker, I join with my colleagues in expressing appreciation to Phil Landrum, Bob Stephens, and Bill Stuckey for their dedication and for bringing honor to this body. It has been a privilege to serve with them and I wish them the very best in the years to come.

Mr. de la GARZA. Mr. Speaker, after 32 years of service in the House, the Honorable Thomas E. Morgan of Pennsylvania is retiring at the end of this session.

Since 1959—longer than most of us have been here—"Doc" Morgan has occupied the chairmanship of the Committee on International Relations. In that capacity he has led the committee through some of the most controversial and critical times in the history of our Nation. He has served our country well by creating and maintaining a bipartisan approach to matters affecting our foreign policy.

This man's distinguished record is an inspiration to all of us who have had the privilege of serving with him. "Doc" Morgan is a man we will miss. He has earned the retirement that awaits him and it is my hope that he enjoys every minute of it.

Mr. WHALEN. Mr. Speaker, the adjournment of the 94th Congress will mark the end of a lengthy and distinguished career, that of House International Relations Committee Chairman Thomas "Doc" Morgan.

Congressman Morgan has been a member of the Foreign Affairs and International Relations Committees since 1946, serving as chairman since 1959. Upon retirement, "Doc" Morgan will have served as chairman for 18 years, longer than any other man in the history of the 153-year-old committee.

I have had the pleasure to serve with Doc Morgan in committee for the past 5 years and I can testify to his strong advocacy of bipartisanship in foreign policy matters.

Doc Morgan has enlarged the committee's jurisdiction in congressional affairs, reorganized the structure of the committee, and has been instrumental as the primary sponsor of numerous international affairs measures which have been enacted into law.

The past few years have seen an assertion by Congress for a role in U.S. foreign policy. Chairman Morgan has played an important role in this process. His leadership will be missed by the 95th Congress, but his achievements here will long be remembered.

Mr. HÉBERT. Mr. Speaker, Doc Morgan and I have been around this Chamber for a long time. Now we have both decided to call it quits.

It has been a privilege for me to have served with such a dedicated public servant who has made a lasting mark as chairman of the Committee on International Relations, a position he has held since 1959.

What impressed me most about Doc Morgan was that he was always an American first and acted in what he thought was the best interests of his country. Party politics always took a back seat, and I admire that kind of courage. It is the same philosophy that I have always tried to follow.

He has steered the committee on a steady course through many storms in the history of American foreign policy. And he can look back with pride at the way he conducted himself and the accomplishments which resulted.

As we now depart and go our separate ways, it is my hope that our friendship will continue because I treasure the relationship I have had with him. Farewell, my fellow dean, and Godspeed.

Mr. HAMILTON. Mr. Speaker, I wish to join my colleagues in paying a special tribute to Doc Morgan who is retiring after serving his Nation and the people of Pennsylvania so well for over four decades. Doc Morgan also has served as a distinguished chairman of the Committee on International Relations, formerly the Committee on Foreign Affairs, for nearly two decades.

As a member of the Committee on International Relations, I will miss his wise counsel and his steadfast leadership. I will also miss his special encouragement and help to me in my years on the committee.

The last three Congress' have seen an important and successful growth in the activities and role of the Committee on International Relations. It has been a period of challenge but it has also been a time of critical debate on significant foreign policy issues. During this period Chairman Morgan provided crucial and essential leadership which kept our committee united in purpose and, more important, he encouraged and facilitated important advances in the committee's work and operations.

Of perhaps greatest significance during these recent years is the rewriting of large segments of the economic and military assistance legislation which was accomplished under his stewardship. There can be no doubt that this legislation contains fundamental new departures and represents a turning point in Congress increased role in the conduct and formulation of foreign policy.

Chairman Morgan's presence, fairness, and deep concern for and interest in helping all Members will be missed. He leaves the House and our committee with respect and affection of every Member and that is a high achievement.

Mr. MURPHY of New York. Mr. Speaker, a third of a century—31 years of the history of this body—rests in the memory of the man who represents Pennsylvania's 22d Congressional District. He is a most unusual individual, having chosen in his youth to be a medical doctor, and pursuing that to a successful end with a doctor of medicine degree and a medical internship.

But, as has been the case with many great men, he found that being of service to his fellow man need not stop at a one-to-one level in a medical practice, but could be expanded to helping the entire Nation by becoming one of the most effective and responsible legislators in recent years. And, going himself one better, he became chairman of the Committee on International Relations, which made him one of the most influential, yet still even-handed and responsible, legislators throughout the world. His leadership in the congressional committee which guided the Nation through the trials of major wars, conflicts with most nations of the "non-Democratic" world, and internal divisiveness of the many layers of distributed power in the executive branches throughout the years, has been one of the most significant stabilizing factors of our time.

This Nation has seen, since 1945, five Presidents, and five Secretaries of State, but only one Doc Morgan. There will be more Presidents and Secretaries of State. There will be no more Doc Morgans.

Mr. GREEN. Mr. Speaker, on October 1 of this year, the Honorable Thomas E. "Doc" Morgan of Pennsylvania will conclude his service in the U.S. Congress. I am so pleased to have this opportunity to pay tribute to one of the most distinguished Members ever to serve in the House. "Doc" has long been a dear friend of mine and it is with great pleasure that I share with my colleagues some of his numerous achievements.

The people of the 22d District of Pennsylvania elected "Doc" to represent them in the U.S. Congress in 1944 and to each succeeding Congress since. He has served as dean of the Pennsylvania delegation, the third largest group of Representatives from any State in the Nation. As leader of this group, "Doc" has used his position advantageously in an effort to provide for the continual betterment of the Commonwealth.

In January 1959, Congressman Morgan was appointed chairman of the Foreign Affairs Committee. He has served as chairman of this committee for 18 years, longer than any other man in history. In that capacity he has brought dynamic leadership to the Congress role in foreign policy. Over the years since World War II, Congressman Morgan has been a strong advocate of bipartisanship in foreign policy which has removed this crucial area from political considerations in the conduct of the committee's business and reasserted the proper constitutional role of Congress in the foreign affairs field.

Congressman Morgan was a member of the U.S. delegation to various NATO Parliamentarians Conferences from 1961 until 1976. His actions there exemplified his talents in promoting parliamentary relations throughout his international travels. His warm personality and innovative ideas continue to win him praise both here and abroad among foreign dignitaries, his congressional peers and the people he so conscientiously represents.

Since becoming chairman of the committee which handles foreign affairs legislation in the House, he has been the principal sponsor of numerous international affairs measures enacted into law. He has been instrumental in promoting legislation that would provide for mutual security assistance and for economic aid programs. In the 94th Congress, Congressman MORGAN led historic reforms which included a substantial enlargement of the committee's jurisdiction, a reorganization of the committee's structure, and its renaming from the "Committee on Foreign Affairs" to the "Committee on International Relations."

From all the members of the Pennsylvania delegation I would like to thank "Doc" for his prolonged efforts in the House over the years and extend my best wishes for continued success.

Mr. MURTHA. Mr. Speaker, it is hard to believe that after 31 years in the House of Representatives, Dr. THOMAS MORGAN has decided to retire. As chairman of the House International Relations Committee, his contribution to the progress of international peace, and interrelation of the world's people have possibly been unsurpassed in the history of the U.S. Congress.

His ability to work as chairman with five Presidents, five Secretaries of State, nine Congresses, three Senate Foreign Relations Committee chairmen, and an inestimable number of colleagues and international leaders spanning the philosophical, political, and ideological ranges is a tribute to his greatness.

Mr. MORGAN was born in Ellsworth, Pa., and graduated from local public schools before graduating from Waynesburg College and then going on to the Detroit College of Medicine and Surgery. He has practiced medicine and surgery in his home of Fredericktown, even after coming to Congress.

Dr. MORGAN came to the House at the end of WW II. He has seen some of the most difficult international situations the United States has ever faced, and he handled each occasion with expertise, dedication, farsightedness, and above all, optimistic enthusiasm. He believes in the interdependence of all the nations in the world. Yet, he is pragmatic enough to realize that we can only do so much in the United States in order to accomplish peace.

The reason that I as a new Member can see Dr. MORGAN being so effective is because of his empathy for the new Member, his patience, his willingness to listen to a new Member's suggestions, critcisms, and comments about the world situation, even though I am sure at times his new colleagues oversimplify the situation or repeat a theory Dr. MORGAN has heard 100 times before.

He worked continually toward what he felt was the good of the country and would integrate any Member's suggestion that was in the best interests of this country and the world. When he rose on the floor, his speeches came from a background of knowledge and detailed study. He met with world leaders and knew their opinions and problems. He delegated authority and responsibility. To even the youngest members of the International Relations Committee, he delegated authority, yet he accepted the responsibility for any mistakes that were made in presenting a case.

In all the years that he presided over the committee, he only ever lost one bill, and that was only a temporary defeat. Nowhere was Dr. MORGAN's integrity and ability better shown than in the yearly shepherding of foreign aid legislation through a hostile House. Dr. MORGAN did it because he believed in the correctness of the legislation, and knew its unpopularity had to be overcome to maintain the U.S. role in the world.

One final footnote: As chairman, Dr. MORGAN could have traveled throughout the world, but he seldom did. One reason was because of his love for southwestern Pennsylvania, and his desire to spend his moments away from Washington in that area, with his family, helping his constituents who he never forgot.

Throughout his long career on the committee as a member and as chairman, his accomplishments have been numerous. Certainly, Dr. MORGAN must go down in history as one of the most influential Members of Congress during our Nation's 200 years, and the most effective recent Member of Congress in relation to world peace and international relations.

Mr. BUCHANAN. Mr. Speaker, there are many politicians in the world, but few statesmen.

I am happy to join my colleague from Pennsylvania (Mr. FLOOD) in paying tribute to one of those statesmen, but regret that we will not have his daily guidance as we continue to seek to influence for the good the foreign policy of this great Nation.

It is reflective of his statesmanship and leadership that Doc MORGAN has helped to mold foreign policy regardless of the party in power. He has sought to act for the good of the country and has done so.

He is a man of compassion.

He is a man of understanding.

He is a man of leadership.

He is a man who can have the satisfaction of leaving this body knowing he has left a major imprint on the past and future of foreign policy in the United States.

Under his guidance, our committee has come to play a major role in the formulation of foreign policy and to have a greater influence toward peace in the world.

The daily flow of rhetoric in the field of foreign affairs is astounding and that is why the quiet voice of reason so often makes the greatest lasting impression.

The voice of rhetoric flares tempers. The voice of reason prevents wars.

The voice of rhetoric brings crises. The voice of reason solves such crises.

For 17 years, the International Relations Committee has been led by the voice of reason.

While U.S. foreign policy is often criticized in the media and in international bodies, I have found in my contacts with members of the international community, a deep respect and admiration for our Nation. This respect is, in no small part, due to the leadership of men like THOMAS MORGAN who have sought to do that which is right—right for our Nation and right for the peoples of the world.

It has been a great privilege for me to serve with Doc MORGAN for the last 10 years and to learn from his leadership.

I will miss Doc MORGAN, as I know my colleagues will miss this giant of a man who has led us so well and has influenced us so great.

Mr. DERWINSKI. Mr. Speaker, it is with great pride but also with some sadness, that I rise to pay tribute to my dear friend and distinguished colleague, THOMAS "Doc" MORGAN. It is also a special honor that I add my congratulations for his many accomplishments in the foreign relations field.

TOM MORGAN is certainly a man of honor, a man of his word, and a great American. His advice and wise counsel have been most helpful through the years. As chairman of the International Relations Committee, he has had some tough assignments that he has handled with true competency. He has been an able and forceful chairman.

I served with Chairman MORGAN on the International Relations Committee, and have found him to carry out his responsibilities of the committee with dignity, objectivity and fairness. TOM MORGAN has been a strong advocate of bipartisanship in foreign policy. He has served during the tenure of six Presidents in his 32-year career. He has supported foreign policy measures that he has believed are in the national interest, and has been instrumental in reasserting the proper constitutional role of Congress in the foreign affairs field.

Not only have I worked with TOM in connection with the International Relations Committee, but we have jointly served our country on special interparliamentary meetings.

Doc MORGAN has been responsible for the restructuring of the committee and broading its legislative jurisdiction. He also was responsible for the renaming of the committee from the "Committee on Foreign Affairs" to the "Committee on International Relations."

He has guided the committee through a very historic period in the Congress, and he has left an indelible stamp of legislative accomplishments, which reflect his sound judgment and objectivity.

He holds another distinction in that he has held the chairmanship of the committee for 18 years, longer than any other man in history.

With all his committee activities, he still devotes all his efforts to measures beneficial to his constituents. I think that he has felt that his work as a physician compares to his work as a Congressman, as in both careers he is involved in service to all people of all ages and occupations. As dean of the Pennsylvania congressional delegation, he is aware not only of the problems of his constituents but of the State of Pennsylvania.

In the Congress, he has been the principal sponsor of numerous international affairs measures that have been enacted into law. His expertise in the foreign relations field will certainly be missed. He has contributed greatly to improving our foreign economic situation and relations with other countries.

Pat and I wish Tom and his wife, Winifred, the very best in the years ahead.

Mr. WOLFF. Mr. Speaker, I am delighted and privileged to have this opportunity to give heartfelt praise and thanks to Chairman Thomas E. "Doc" Morgan.

Since 1944, Doc Morgan has earned and maintained the confidence and trust of his constituents and his colleagues. He has demonstrated a remarkable capacity to focus on the essential aspects of a problem, and to remain flexible in the face of quickly changing circumstances. His great ability to resolve difficult and sharply divisive issues in a bipartisan manner, achieving consensus without losing sight of the vital, underlying principles, is another of the extraordinary qualities which Doc Morgan possesses and for which the Congress and the Nation are deeply in his debt.

Yet these accolades do not nearly convey the sense of personal loss I feel at his departure from the House. As a member of the Committee on International Relations, I have often received the benefit of his wisdom, counsel, and insight. Doc Morgan is also a friend, whom I have long held in the greatest esteem.

His numerous accomplishments will not be forgotten, nor will his friendship, and his retirement creates a great void in this body that cannot easily be filled.

Mr. ROYBAL. Mr. Speaker, it is with real pleasure that I rise today to pay tribute to one of the most distinguished Members ever to serve in the House, Thomas E. "Doc" Morgan of Pennsylvania. Doc Morgan has served in the House for 32 years, is dean of the Pennsylvania delegation, and chairman of the Committee on International Relations. He has served in this last capacity during some of the most controversial and critical times in the history of American foreign policy.

Early in my legislative career, I had the privilege to serve on Doc Morgan's committee. I have only the highest admiration for this man and I greatly value the friendship which has developed over the years. His work on behalf of the people of Pennsylvania's 22d Congressional District and of the Nation, has been outstanding and he may retire knowing that he has served with able and responsible leadership—achieving a record in which he may take considerable pride.

From a surgeon to a politician, Doc insisted on combining his two careers. On weekends he would return home to Fredericktown, where he maintained a clinic so that he could continue to practice medicine. House Members were glad the good doctor was around that day in 1954 when pistol shots rang out in the House of Representatives and several Congressmen fell wounded at the hands of Puerto Rican fanatics. Doc Morgan quickly moved around the Chamber applying tourniquets and bandages as needed.

He is a skilled doctor and an equally skilled politician, one who is known for doing his homework and for understanding all the details of foreign aid legislation. He is the first to admit that politics is in his blood and we are all fortunate that this is the case, for he has come to Washington as a dedicated, responsive public servant. My very best wishes are now extended to Doc Morgan as he prepares to return to Pennsylvania for a well-deserved retirement.

Mr. FLYNT. Mr. Speaker, the adjournment of the 94th Congress will mark the end of the illustrious Congressional career of the dean of the Pennsylvania delegation, the Honorable Thomas E. "Doc" Morgan. I am pleased to have this opportunity today to express my congratulations to Tom Morgan for his distinguished record of public service and my best wishes for a well deserved retirement.

I believe I can speak for every Member of this House when I say that Tom Morgan is a great legislator in every sense of the word. For 18 years, Tom has served as chairman of the House Committee on International Relations, longer than any other man in history. The courage and dedication he has demonstrated in dealing with the foreign relations of this country will characterize his leadership and serve as a model to which we all must aspire. His voice as chairman has been a decisive influence in the enactment of numerous foreign relations measures and has served to strengthen the role of the Congress in international affairs.

Since 1944, Tom Morgan has devoted his untiring efforts to faithfully serving the 22d District of Western Pennsylvania. He has remained in close touch with all of his constituents and has established a worthy record of accomplishments for his beloved State. The retirement of "Doc" Morgan will leave a void in this Body that will not easily be replaced. We have all benefited greatly from his wisdom and foresight, and his State, his Nation, and this House owes Tom Morgan a debt of gratitude that can never be repaid.

Mr. LEHMAN. Mr. Speaker, at this time I would like to join with my colleagues in the House in paying tribute to one of our most distinguished and honored Members, Congressman Thomas E. "Doc" Morgan of Pennsylvania.

In the years since 1948, when "Doc" Morgan first came to the Congress he has played an important and significant role in the Congress role in foreign policy. As a member of the Committee on International Relations, and as the chairman of that committee since 1957, "Doc" Morgan has played a role in the formulation of American foreign policy in some of our Nation's most turbulent years.

Among Congressman Morgan's most important contributions in the area of foreign policy and in the reassertion of Congress role in this area has been his leadership in the enactment of such measures as the War Powers Act and the military sales bill. The War Powers Act in particular, has been instrumental in restoring the balance between the executive and legislative branches insofar as the formulation of foreign policy.

However, one of "Doc" Morgan's greatest accomplishments has been the authorship, along with Senator Hubert Humphrey, of the Peace Corps bill. Fewer pieces of legislation have done more to demonstrate America's commitment to goodwill and peace abroad.

In addition to working hard on behalf of the Nation in the area of foreign affairs, "Doc" Morgan has also worked hard on behalf of the people of his district and State. Their interests and needs have always been met; a primary responsibility of a Representative in Congress, which "Doc" Morgan realized from the day he first came to the House.

When asked "Why leave?" "Doc" replied: "It's time for me to do something else." I am sure that whatever "Doc" decides to do after he leaves the House, he will do with the same vigor and dedication that have marked his years of service in Congress.

Joan and I wish, along with "Doc's" many friends, our best wishes for good health, success and happiness in the years to come.

Mr. ROSTENKOWSKI. Mr. Speaker, he was for 18 years, my friend and colleague and I will continue to cherish our great friendship. I think the highest compliment one can pay a person is to say that he or she is your friend and that was and certainly is the relationship which I have with the distinguished chairman of the House Committee on International Relations.

In my early years in the Congress and even now, I never take his advice lightly. Chairman Morgan has been a great help to me in forming my legislative career. His judgment is impeccable and when he speaks he has something to say.

"Doc" as he is commonly called by all his friends has been an outstanding leader in the Congress and he will be sorely missed by all of us. During his tenure, he has accomplished much for the 22d District of Pennsylvania, much for his State and much for his country. He has been a most capable chairman, an outstanding legislator and a willing worker and participant.

Doc's lovely wife Win has been a diligent coworker with him in his service in the Congress and to them both, I wish many years of joyous and contented retirement.

Mr. NICHOLS. Mr. Speaker, I appreciate our colleague Daniel Flood's arranging for this Special Order so that the many friends of our colleague, "Doc" Morgan, may pay a special tribute to him on his retirement from Congress.

Soon after coming to the Congress in 1967 I had the privilege of meeting Thomas "Doc" Morgan one of our great leaders on the Democratic side of the aisle and certainly a friend of every Member of this body.

Over the ensuing years I have come to know this man better and have called on him in his capacity as chairman of the Patronage Committee for several favors and on each and every occasion he has gone the last mile to accommodate this Member of Congress.

"Doc" Morgan is not only a great legislator, but he is a most capable physician and is beloved by his many friends in Pennsylvania, who I understand continue to call on him for medical services when he goes home over the weekends.

Our most able Postmaster, Bob Rota, also a native of the great State of Pennsylvania, was brought into this world through the obstetrical services of Doc Morgan.

In his capacity as chairman of the

International Relations Committee this great American has always supported those propositions which he believed to be in the best interests of these United States and his services in the Congress spanning over the tenure of five American Presidents has been most helpful in steering the foreign affairs of this country through some of our most controversial times.

I take this occasion to wish for my friend, Doc Morgan, many happy and healthy years in retirement. He has more than earned the privilege of getting away from all of the hustle and bustle in the Nation's Capital to spend his retirement in more peaceful surroundings in his home State of Pennsylvania.

Mr. VAN DEERLIN. Mr. Speaker, our colleague, Doc Morgan, has helped the country hold a steady course during times of turbulent change.

Under his leadership, the Committee on International Affairs has achieved new stature, through demonstrating a keen awareness of the nuances of foreign affairs. At one time, the committee did little except pass on the annual foreign aid bill; Mr. Morgan has broadened its scope to a point where the committee is a partner in shaping foreign policy instead of merely reacting to it.

One of the last acts of the International Relations Committee under Chairman Morgan was preparation and passage of legislation for reauthorizing the Tia Juana River International Flood Control Project, that is of immense importance to my own congressional district.

Signed into law only this week, the legislation breaks a 5-year impasse over the nature of flood control works in San Diego County that will enable our Government to live up to a treaty obligation with Mexico.

The bill was signed less than 3 months after it was introduced, in testimony to the effectiveness and efficiency of the International Relations Committee.

We shall all miss Doc, although I can think of no one who has more richly earned the joys of retirement.

Mr. EVINS of Tennessee. Mr. Speaker, I welcome the opportunity to join with my colleagues in paying a tribute to the distinguished chairman of the Committee on International Relations, the Honorable Thomas E. Morgan of Pennsylvania.

"Doc" Morgan had just completed his freshman term when I was sworn in as a Member of the 80th Congress in 1947. He has been a good friend and respected colleague of mine ever since.

As I look back on the changes that have been thrust upon the world in the past 32 years I am grateful that we have had someone of Chairman Morgan's depth and capacity helping shape the foreign policy of this country.

I know it has always been his objective to rise above partisanship in shaping foreign policy. To an impressive degree he has succeeded in this effort.

These have been years of crisis, difficulty and turmoil. There have been wars, revolutions, coups, embargoes and international emergencies of all kinds.

As World War II ended new conflicts began. In the Middle East fighting between the Arabs and Jews led to a truce and creation of the State of Israel in 1947. In Southeast Asia there were the beginnings of a conflict that would ultimately involve the United States in a great war in Vietnam. In Korea the division of that nation into zones set the stage for a bloody conflict involving the United States.

The forces of Mao Tse-tung conquered China. The Soviet Union established hegemony throughout Eastern Europe. The Marshall plan helped rebuild Western Europe, and the North Atlantic Treaty Organization provided it with security against further Soviet advances.

Our enemies of World War II—Germany and Japan—have become among our most reliable friends, and their economies have become major new forces on the international scene.

The development of nuclear weapons and incredibly fast means of delivering them to their targets have altered drastically the world's military balance.

Through all these changes Chairman Morgan has provided a cool head and a firm hand on the deliberations of the Committee on International Relations, making sure that its contribution to foreing policy determination was always sound and constructive.

Doc Morgan is a genial, skilled and able legislator. He has been a star in the Congress and he is a statesman.

He has served his district, the State of Pennsylvania and the Nation well—and he will be greatly missed.

I wish for Doc Morgan good health, happiness and success in all his future endeavors.

Mr. FRASER. Mr. Speaker, it will indeed be strange to be a member of an International Relations Committee without Doc Morgan at the helm.

Perhaps one reason Doc is retiring is that too many of us on his committee clamored for a chance to be helmsman. But no matter what our disagreements, Doc always made an effort to respond to my plaints and for his tolerance alone he deserves high marks.

I wish him well and join with the other Members of this House who honor one of our most respected senior Members.

Mr. ROSENTHAL. Mr. Speaker, I am pleased to join today in paying tribute to our distinguished colleague from Pennsylvania, Thomas E. "Doc" Morgan, on his retirement from the House.

When a man has as long a career in public service as Congressman Morgan has, there are many accomplishments for him to look back on, and there are many achievements for others to praise. But, for Doc Morgan, his fine record during 32 years in the House tells only part of the story. His personality, his character, and his commonsense have distinguished him as much to me and others in the House as his record has.

Doc Morgan has worked long and hard to make realities out of ideas that he believed in. As he rose to become the chairman of what was then called the Committee on Foreign Affairs in 1959, he brought with him a dynamic approach to the Congress role in the foreign policy of our Nation—the incorporation of a bipartisan majority to remove this sensitive area from political considerations.

For the past 15 years, since I came to the House, I have been privileged to serve and work under his leadership. Spanning the tenure of five Secretaries of State and an equal number of Presidents, Chairman Morgan has led the committee through the most controversial and critical periods in the history of American involvement in the international arena. Recently, he has presided over the gradual return of the Congress, especially the House Committee on International Relations, to an activist role in the formulation of U.S. foreign policy. Yet through it all, Chairman Morgan has always used his position for what he believed to be the best interests of this Nation and the world.

The adjournment of the 94th Congress will bring an untimely end to Doc Morgan's leadership. It has been a privilege and a rewarding experience to have worked with the amiable gentlemen from Pennsylvaia, and I wish him a satisfying and productive retirement with his family.

Mr. STEED. Mr. Speaker, few if any chairmen in the long history of the Committee on International Relations—previously Foreign Affairs—have been called upon to meet so much change and turbulence as our colleague Thomas E. "Doc" Morgan.

In nearly 18 years as chairman of the committee he has served with five Presidents and as many Secretaries of State. Quietly, competently and fairly, he has always kept his view of the best interests of our country foremost and has sought a bipartisan approach.

Without fanfare, but with thorough deliberation and painstaking study, he has worked toward a responsible role for Congress in foreign policy in an era when institutions and circumstances change with a speed never before seen.

In addition "Doc" Morgan has been a responsible spokesman for the people of his district in southwestern Pennsylvania and has served as dean of his State delegation.

I am proud to have worked with him here and wish him all happiness for the future.

Mrs. SULLIVAN. Mr. Speaker, Doc Morgan's retirement from Congress removes from the House the last remaining Member here of a group of Western Pennsylvania Congressmen and a Congresswoman who were among the first "hunger-fighters" in Congress, in the depths of the recession of 1953–54 when this country was spending a million dollars a day to buy up and store surplus foods while hundreds of thousands of coal miners and their families went without food.

At the time I was beginning the effort to pass a food stamp law which would distribute some of that food to needy families through the regular grocery stores, Doc Morgan and Representatives Vera Buchanan, Augustine B. Kelley, James G. Fulton, Robert Corbett, and Herman P. Eberharter were knocking at the door of Secretary of Agriculture Ezra Taft Benson insisting that surplus food be shipped into the Western Pennsylvania mining areas to prevent serious malnutrition.

Their efforts were successful to the extent that surplus food was indeed shipped in and "dumped" on the localities for repackaging and distribution. It was not a very nutritious diet—flour, corn meal, lard, some cheese or butter, occasionally some peanut butter, as I recall—but it was a start of Federal recognition that surplus food paid for by all of the taxpayers should be utilized to help the needy.

As a doctor of medicine, Doc Morgan is well aware of the mental as well as physical consequences to children from prolonged malnutrition and he was therefore one of the early supporters of the food stamp idea as a replacement for the surplus food direct distribution program he helped to start.

Mr. DUNCAN of Oregon. Mr. Speaker, the retirement of "Doc" Morgan will be a tremendous loss to this House in general and to me personally.

We must literally deal with matters of life and death in our resolution of international problems in this House. I always knew I could depend on "Doc" Morgan for sound advice and counsel in a highly complex field. He always did his homework and had answers for the most complex issue.

It was always easier to vote on an issue knowing "Doc" had studied the problem in depth. I will miss him.

Mr. WAGGONNER. Mr. Speaker, I wish to add my voice to the many friends and colleagues of the distinguished dean of the Pennsylvania congressional delegation, Thomas E. Morgan, as we pay tribute to him here today.

His masterful influence over the foreign policy of the United States from the crucial vantage point as chairman of the Committee on International Relations has been significant. Five Presidents and five Secretaries of State have called on Doc Morgan for advice and assistance. His decisions may have at times been controversial but hard decisions were made and he stuck by his convictions. Doc has always been a man willing to listen. Under his leadership, minority and majority party members alike participated in the decisionmaking of the committee.

Doc Morgan is a powerful man in the House, in part because of his long years of service, but more fundamentally because of his great legislative ability. His leadership has often been referred to as dynamic. Undoubtedly, this characterizes Doc.

Fair, wise, understanding, a man of goodwill, Doc has long been an inspiration to other Members. He has been looked to for guidance and he has presented an example of integrity and dedication to doing his job.

Doc Morgan loves the people of his region of Pennsylvania and they have returned his affection. He rose to the height of international renown, but he never lost touch with the folks back home.

Doc Morgan will be missed. There will be a void when the new Congress arrives in January. You do not replace men of the greatness of Doc Morgan. You merely learn from their greatness and examples, and honor their works while in these Chambers.

Mr. YOUNG of Florida. Mr. Speaker, I am proud to join in paying this most well deserved tribute to a great American, and an outstanding Member of the House of Representatives, our colleague, Thomas E. "Doc" Morgan. With Doc's retirement at the end of this Congress, following 32 years of dedicated service to the people of Pennsylvania and of the United States, one of the most dedicated and able public servants in the highest sense of that term is lost to the Nation.

His achievements as a major figure on the American scene over the years will be long remembered, and chief among these accomplishments is the forceful leadership he has provided in his position as chairman of the important Committee on International Relations. During his 17 years as chairman, he has guided his committee through a period in our history fraught with controversial and critical areas in our foreign policy. And by removing partisanship as a consideration in the conduct of the committee's business, he has brought about a notable improvement in Congress role in foreign policy.

Known as a square shooter and for his fair play to his colleagues from both sides of the aisle, Doc Morgan is one of the most highly respected and best loved Members of the House. I have enjoyed the privilege of serving with him for 6 years, and I will greatly miss my good friend, upon whose wise counsel I place such high value.

The knowledge, skills, and understanding of Thomas "Doc" Morgan will echo through the corridors of the Capitol for many years to come and his presence among us will indeed be missed.

Mr. QUIE. Mr. Speaker, it is a pleasure to join with my colleagues on this occasion to spotlight the achievements of the distinguished gentleman from Pennsylvania, Congressman Thomas E. "Doc" Morgan.

For 18 years as chairman of the Committee on International Relations, "Doc" Morgan has exercised a strong but moderating influence in the House over American foreign policy. Not until the beginning of the 95th Congress will his worth be fully realized.

"Doc" Morgan rose to the chairmanship shortly after I came to the House, so I have come to identify the House's interest in international relations with him.

Presiding during the tenure of five Presidents and five Secretaries of State, "Doc" Morgan led his committee through some of the most controversial and critical areas in the history of American foreign policy.

But he confronted these issues head-on, not taking questioning or disagreement as a personal affront, but rather understanding that such questioning and disagreement are essential ingredients in executive-legislative relationships.

"Doc's" leadership served as a stabilizing influence in the House; his was a voice for moderation, compromise, and bipartisanship. He had the ability to absorb and digest all opinions, shape a compromise and then lead the largest number possible of his colleagues to agree and support our national interests.

"Doc" Morgan soon returns to his lovely southwestern Pennsylvania where I hope he will have time to reflect on the steady and quiet achievements in American foreign policy he helped shape.

Mr. McCLORY. Mr. Speaker, voluntary retirement is claiming a number of the leading figures in the House, but few of our losses will be felt more acutely than that of Congressman Thomas Morgan of Pennsylvania.

Congressman Morgan, the dean of the third largest State delegation, has served with distinction since his first election in 1944. For the last 18 years, he has ably chaired the important International Relations Committee.

Mr. Speaker, the years of Congressman Morgan's chairmanship have spanned some of the most difficult crises in the history of our foreign policy. In recent years, we have faced the strident emergence of the Third World, a tragic conflict in Southeast Asia, unprecedental global concern over food and energy, continuous tensions and three wars of the Middle East, and constant fluctuations resulting from independence and political realinements.

Clearly, we have been operating in a world in which there are no precedents, and innovation has often been treacherous. Under Congressman Morgan's wise leadership, the House Committee on International Relations has helped formulate a strong, bipartisan foreign policy. The Nation and the world have been well served by Thomas Morgan's leadership.

Mr. Speaker, it is a pleasure to pay tribute to Thomas Morgan in these final days of the 94th Congress and to extend to him every good wish for a rewarding retirement from public life.

Mr. WINN. Mr. Speaker, may I join the many colleagues of Congressman Thomas E. "Doc" Morgan in paying honor to him at the end of 32 years of service to the State of Pennsylvania and the Nation.

For me it has been a pleasure to serve on the Committee on International Relations and have the opportunity to work with a man of his caliber. His leadership in the field of foreign policy will be long remembered, and the fairness with which he treated his colleagues on both sides of the aisle and those who appeared before his committee have marked him as a gentleman of the first degree. The Pennsylvania delegation and the State of Pennsylvania will miss the kind of guidance and direction which he has provided over the years. I hope he will continue to enjoy good health, happiness and all the good things that life has to offer. Good luck, Mr. Chairman, in all your future endeavors.

Mr. UDALL. Mr. Speaker, Congress has its showhorses. It also has its workhorses, who master the legislative process, who quietly and effectively do the hard, detailed work which makes the legislative branch discharge its duties year in and year out. Doc Morgan was a workhorse—patient, diligent, reasonable.

He has two human traits which I found especially appealing. One is humility. While he headed a prestigious committee with Presidents and ambassadors and heads of state vying for his attention, it never went to his head or caused him to lose his objectivity. He dealt with grave and important international matters with good grace, commonsense, and unfailing courtesy.

Second, he is just a fine, decent, likeable human being. Most of us who serve around here have scars and a few enemies to show for our years on the firing line. If Doc MORGAN made an enemy or ever committed a mean act, I never heard of it. He is also married to an exceptional woman.

I wish both of them the leisurely pace, the satisfaction of a retirement well earned.

Mr. BENNETT. Mr. Speaker, I rise to commend our beloved colleague, Congressman MORGAN and to wish him every happiness in his coming retirement. "Doc" MORGAN is a close personal friend of each of us and we will each greatly miss him. As chairman of the Committee on International Relations, he has left a monument of well-structured legislation in the field of foreign affairs. All America is indebted to him for this.

Mr. BROOKS. Mr. Speaker, for the last 32 years the people of the 22d Congressional District of Pennsylvania have been represented by a distinguished and able gentleman, THOMAS E. MORGAN.

His dedication and outstanding service to his constituents and to the Nation have earned him the respect he so well deserves. As chairman of the Committee on International Relations, he has shown great leadership and strength of character.

His presence in this body will be a tremendous loss to us as I know it will be to his constituents in Pennsylvania. I am honored to join my colleagues in paying tribute to Doc MORGAN and I am proud to have been able to serve in Congress with him for 24 of his 32 years. While I wish him a much deserved rest, I hope he will continue to dedicate himself to the betterment of this great Nation.

Mr. KARTH. Mr. Speaker, for 32 years our highly respected colleague, Congressman THOMAS E. MORGAN has served the people of his district and the State of Pennsylvania with devotion and great competency.

"Doc" MORGAN has provided the House of Representatives with the most knowledgeable and forward-looking leadership possible in the delicate fields of foreign policy and international relations. Striving always to make congressional foreign policy decisions a bipartisan consensus, "Doc" MORGAN succeeded to a degree even his admirers thought hardly possible. As chairman of the House Committee on International Relations, he has lifted policymaking to new high levels of maturity and insight.

In a world growing constantly smaller and with American ties with the other democratic nations becoming increasingly important, Chairman MORGAN's accomplishments and his excellent guidance on international relations has helped shape more auspicious prospects for our country's future and perhaps for the future of the globe we all live on.

For his three decades of service to the achievement of peace, justice and humanity, "Doc" MORGAN has the deep gratitude of this Congress and its best wishes for a happy and fruitful retirement.

Mr. ANNUNZIO. Mr. Speaker, I rise to pay tribute to the Honorable THOMAS E. MORGAN, chairman of the House International Relations Committee, who is retiring at the end of the 94th Congress. I am privileged to have Doc MORGAN as a personal friend, and his friendship, wise counsel, and guidance here in the House of Representatives will certainly be missed.

Chairman MORGAN's record of devotion and courage speaks for itself and it serves as an inspiration to his friends and fellow citizens because it is symbolic of the greatness and strength of the people of our country who dedicate their best to the high responsibilities of public service.

Doc was first elected to the 79th Congress in 1944, and because of his dedication to the highest standards, he was reelected to every succeeding Congress until the present 94th Congress. As the distinguished chairman of the International Relations Committee, he led with determination and devotion to high principles, and during those years, he witnessed some of the greatest moments in the history of mankind and he experienced, in a very real sense, the triumphs and the tragedies of our Nation.

Doc MORGAN has not only ably represented the interests of his district during his three decades in the Congress, but those of this State and Nation as well. He has been a dedicated Government official and with wisdom and rare insight he has dealt with the major problems of our country's foreign policy. As Members of the Congress, we have good reason to commend so outstanding a performance by a fellow Member, and to regret his departure from our midst.

I was privileged to serve with Doc MORGAN during my 12 years in Congress, and I extend to him my best wishes for a healthy and happy retirement.

Mr. DON H. CLAUSEN. Mr. Speaker, it is my privilege to join my colleagues today in honoring Congressman THOMAS E. MORGAN of Pennsylvania, who is retiring from this body after 32 years of dedicated service to the people of the United States, the Commonwealth of Pennsylvania, and the 22d Congressional District.

As chairman of the Committee on International Relations he has dynamically spearheaded a drive for recognition of the proper congressional role in foreign affairs. He has demonstrated his commitment to attainment of America's foreign policy objectives, and has inspired his colleagues through his grasp of the intricacies and nuances of foreign policy decisions, his retention of vast amounts of information, and his hard work.

His wisdom and counsel in the legislative affairs of those areas with which he was entrusted as well as with every area of lawmaking in this Congress has shown him to be one of the most knowledgeable and effective leaders in this generation.

I join with my colleagues in wishing our highly respected colleague long life, good health, and much happiness in his retirement. It is richly deserved.

Mr. ADDABBO. Mr. Speaker, the end of the 94th Congress will mark the completion of the respected and admirable service in the House and chairmanship of the Committee on International Relations of Congressman THOMAS E. "Doc" MORGAN.

As chairman of this most important committee of the House he has brought dynamic leadership to the Congress role in foreign policy. As chairman of that committee he has brought a bipartisan approach in the conduct of the committee's business.

He has with distinction served during the tenure of five Presidents and five Secretaries of State.

He has led his committee through some of the most controversial and critical areas in the history of American foreign policy.

I shall miss his counsel and advice in the area of foreign policy, as will the Congress and the Nation.

Good luck and success in your retirement. May you and your lovely wife long enjoy good health for many years to come.

Mrs. MEYNER. Mr. Speaker, I take great pleasure in joining with my colleagues in honoring "Doc" MORGAN on the occasion of his retirement. I have only known Doc for 2 years, but I have had the pleasure and honor of serving with him on the International Relations Committee.

I have always found Doc to be friendly, fair, and accommodating. I had the usual fears of a new Member that I would be left out of the action until I had several terms under my belt. But I was pleasantly surprised to find that Doc was eager to have me involved in many aspects of the committee's business.

I had the pleasure to serve with him on the Oversight Subcommittee, an honor that I especially appreciated. It helped me to see many foreign policy issues from a very broad perspective.

Whenever I had amendments that I wished to offer or special concerns that I wanted to express, I always found Doc accessible and understanding. When he had misgivings about what I wanted to do, he always told it to me straight.

Doc is a very gentle man and a real statesman. I believe that we will miss his steady direction, his humor, and his good judgment. I am afraid that there will be times when we will be tempted to drag him back out of retirement, so, in closing, I would like to leave Doc with a little advisory couplet:

As you retire, Doc, I might suggest,  
For your own good, don't leave an address!

Mr. BROOMFIELD. Mr. Speaker, I have served on the Committee on International Relations for 15 years, and it has always been Doc MORGAN's Committee. During this session of Congress, I have been privileged to sit at Doc's left hand as ranking minority member. I am profoundly impressed by what I have seen. My admiration for Doc MORGAN's wisdom, his experience, his command of foreign policy issues, and his appreciation of the national interest has increased each time I have moved a chair closer to Doc's on the dais.

Chairman MORGAN has been a powerful force in American foreign policy for almost two decades and has helped shape some of the most significant international decisions of our time. In so doing, he has established new standards of dedication and service to the Nation. Doc

MORGAN, in my opinion, symbolizes what is finest in the concept of bipartisanship. He has never been a rubber stamp for any of the administrations he has counseled and advised. But neither has he injected the poison of partisan politics into foreign policy issues of vital national concern. In the field of foreign affairs, Doc has served his party by serving the Nation, and the Nation has prospered as a result.

Perhaps it is his physician's training as a diagnostician, or perhaps it is his well-deserved reputation for absolute fairness and integrity, but Chairman MORGAN has an undeniable genius for finding the way to consensus. He has an uncanny ability to strip away pretense, identify truly important issues, analyze options, and then to help shape a policy that is both effective and acceptable to the broad spectrum of American public opinion.

Doc has always stood for a powerful, confident, compassionate America capable of fulfilling its destiny at home and its commitments to friends and allies abroad.

I wish Doc a happy and productive retirement. His departure from Congress will be a personal loss for me. The Committee on International Relations will miss him; Congress will be poorer because of his absence; and the foreign policy of the United States will have lost a true friend and valued contributor.

Mr. FORD of Michigan. Mr. Speaker, it is an honor for me today to join in paying tribute to our beloved colleague, THOMAS "Doc" MORGAN, whose retirement this year brings to a close a most outstanding Congressional career.

"Doc" MORGAN, one of the few physicians to serve in the House in recent years, earned his medical degree at Wayne University in Detroit, where I also studied for one semester. I recently had the pleasure of attending a ceremony in Washington, where he was presented with the first honorary degree ever presented off campus by Wayne.

In his 32 years in the House, and in particular during his 18 years as chairman of the Committee on International Relations, "Doc" MORGAN has been a solid rock of complete dedication and integrity. He has been one of the major architects of our foreign policy during the turbulent years of Korea, Vietnam and other crises.

I have considered it a special privilege to serve in the past six Congresses with "Doc" MORGAN, and it is my pleasure today to publicly express my respect and admiration for him, and to wish him a fond—but sad—farewell.

Mr. SCHNEEBELI. Mr. Speaker, THOMAS E. "Doc" MORGAN has been the leader of the bipartisan Pennsylvania delegation for as long as I have been in Congress, since 1960. My principal contact and work with him has been as a member of the Pennsylvania Steering Committee, spearheaded by former Congressman Jimmy Van Zandt. Doc MORGAN has been chairman of the steering committee for 14 years, and has worked very diligently and effectively for the promotion of Federal activity directed to the benefit of Pennsylvania—whether the project was in a Democratic or Republican congressional district.

Doc MORGAN has been very evenhanded and effective in achieving an enthusiastic bipartisan approach in attempting to solve many of the problems of our State. Pennsylvania's delegation of 25 House Members has recognized this unselfish work and has responded in a complete and cooperative manner.

The House as a whole is well aware of the many other accomplishments that Doc MORGAN has achieved as chairman of the Committee on International Relations for the past 17 years. Very broad and permanently effective legislation in our international interest have developed as a result of his bipartisan approach in this highly critical area of ever-changing problems.

Doc MORGAN also is a very kind, gentle, and thoughtful person. Throughout his entire career he has earned the respect, confidence, and admiration of his colleagues.

Mr. YATRON. Mr. Speaker, during my service in Congress, I have attached a special sense of value to my friendship with our colleague Dr. THOMAS E. MORGAN.

It was my pleasure and privilege to have served with Congressman MORGAN on the House Committee on International Relations, of which he is chairman. This association brought me the good fortune of having the opportunity to work closely with him. It was through Chairman MORGAN's distinguished committee leadership that the House of Representatives initiated and passed foreign affairs legislation which bore his seal of fairness, temperance and moderation. The high caliber of his work, both as a physician and lawmaker, has earned Dr. MORGAN the commendation and praise of all that have had the pleasure to come in contact with him.

During his 32 years in the House, Congressman MORGAN served the 22d District in Pennsylvania and the Nation well. It is indeed, with great sadness that we now mark the retirement of this fine legislator, colleague, and friend, who worked hard to create a better life for all Americans.

Mr. Speaker, the nature of my friend and colleague, Congressman MORGAN, is the nature of a warm man, with a keen sense of humor, and of immense integrity. It goes without saying that his presence in this Chamber will be sorely missed, and the absence of his voice will leave a permanent void in this body.

However, looking back on his years of public service, Congressman MORGAN and his family can be proud of his accomplishments and devotion to service.

I extend to him and Mrs. MORGAN my most sincere good wishes for the future.

Mr. EILBERG. Mr. Speaker, for 32 years the House of Representatives has been graced with the presence of Congressman THOMAS E. MORGAN.

"Doc" MORGAN has always been one of the great gentlemen of the House. He has managed to do great things through quiet persuasion. As the chairman of the Committee on International Relations he was able to lead without being overbearing and he permitted his subcommittee chairman and other members the freedom to do what they thought was necessary.

As the dean of the Pennsylvania delegation "Doc" MORGAN was always available to give assistance or advice to other members from the State and I will always be particularly grateful for the help he gave to me from the time I entered the House 10 years ago.

"Doc" MORGAN has been an inspiration to us all and he will be sorely missed.

## GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the tribute to Dr. MORGAN.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## HON. RAY J. MADDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 60 minutes.

Mr. BRADEMAS. Mr. Speaker, I rise to pay tribute to one of our most distinguished colleagues in the House of Representatives, Congressman RAY MADDEN of Indiana.

RAY MADDEN, who leaves this Chamber on our adjournment, possibly holds the unique distinction of having been interested in politics at an age far younger than any of our pioneer Congressional retirees in recent years.

He was born on February 25, 1892, on a farm near Waseca, Minn., and at the age of 8 accompanied his father, who drove—horse and buggy—25 miles to an adjacent town to hear the Democratic Presidential candidate, William Jennings Bryan, speak in that bitterly fought McKinley-Bryan Presidential election in 1900.

After graduating from Creighton University Law School in 1913, he practiced law in Omaha. Congressman MADDEN likes to boast about being nominated and carrying out his successful campaign for Omaha City judge in the fall of 1916. He had the honor of winning on the same ticket with President Woodrow Wilson when he was reelected for his second term as President. After 1 year's service as city judge, RAY resigned and entered the military service during World War I.

Mr. Speaker, during the 1920's, as an Omaha lawyer, RAY MADDEN was more or less interested in politics having had the distinction of having successfully helped manage the campaign of Charles W. Bryan, brother of William Jennings, when Charles Bryan was elected Governor of Nebraska.

During the devastating depression of the early 1930's, Congressman MADDEN moved to Gary, Ind., which is the center of the Calumet industrial area in Indiana. It was not long after that that he once again became active in politics. In 1935, he became city comptroller of Gary and in 1936 was elected county treasurer of Lake County in which office he served two terms.

As county treasurer RAY MADDEN made

many progressive changes in the method of collecting taxes in this area, the most important of which was to institute the program of mailing out tax statements to all the taxpayers under the jurisdiction of the Lake County Treasurer.

Mr. Speaker, Ray Madden was elected to the 78th Congress in 1942 and is now serving his 17th term. When the 94th session terminates, he will have served longer in Congress than any Hoosier in history, exceeding by approximately 25 days the honor now held by our former colleague, Congressman Charles Halleck.

In January 1943, at the opening of the 78th Congress, there were many problems facing our Nation and the world. During these frightening dark days of World War II, of the 435 Members of that Congress, there were 82 World War I veterans. Congressman Madden was 1 of about 20 World War I members who met and helped organize all 82 of the World War I veterans. They held many meetings resulting in the legislation which eventually developed into the GI bill of rights.

These 82 World War I veterans conducted a nearly year-long fight in that legislative battle for they were determined that World War II veterans would not suffer the hardships, unemployment, and frustration of reestablishing themselves in civilian life which veterans of World War I had experienced in 1919 and 1920.

In addition to his having been active on all legislation pertaining to strengthen our economy, Congressman Madden can well be proud of his activities on several special committees affecting not only his congressional district but the State of Indiana and the Nation as well. Among the outstanding achievements of his legislative career was his appointment by the late distinguished Speaker, Sam Rayburn, as chairman of the special Congressional Committee investigating the notorious international crime committed by the Communists in the Katyn Forest Massacre where approximately 14,000 Polish leaders were murdered.

Mr. Speaker, in the 83d Congress, Congressman Madden was appointed a member of the special Committee to Investigate Communist Aggression which held hearing in this country and Europe. This committee carried on an active exposure of Communist methods and plans for aggression through the widespread publicity given to the hearings by the news media throughout the world.

Ray Madden was also, with former Senator Mike Monroney of Oklahoma, a cochairman of a Special Joint Committee on Government Reorganization in the 84th Congress. For many years he was a member and chairman of the Democratic steering committee in the House of Representatives and in his first term was a member of the Post Office and Post Roads Committee which brought about many reforms in our postal system and also gave the postal workers their first pay raise in 21 years.

Mr. Speaker, during his second term, he was a member of the Naval Affairs Committee and appointed by Chairman Carl Vinson of Georgia as one of the members of a special committee that held the construction of hundreds of homes for thousands of our servicemen, mechanics, and other civilians during World War II.

Speaker Rayburn appointed Congressman Madden a member of the Rules Committee at the beginning of the 81st Congress in 1949 and he has served on that committee for 26 years, the last 4 years as chairman.

Mr. Speaker, during Congressman Madden's long congressional service, he has been exceptionally active in supporting all legislation beneficial to our Nation's economy and particularly to the working men and women of America. His accomplishments in aiding his great industrial congressional district on housing, education, mass transit, welfare, pollution, and in many other areas, have been rewarded by his reelection 17 times to the House of Representatives.

Mr. Speaker, I would like to say one other word about Ray Madden. He has been unfailingly kind and gracious to me personally; and I am proud to call him my friend. All of us in the Indiana delegation in the House of Representatives are proud, too, of Ray Madden's long and constructive and extraordinary record of service in the Congress of the United States. He has been one of the greatest Congressmen in the history of our State, and as he retires from the House, we wish Ray every happiness.

Mr. O'NEILL. Mr. Speaker, while I am pleased to have this opportunity to pay tribute to one of the greatest independent and progressive Members of the House of Representatives, I am also saddened at the departure of a dear colleague and personal friend, Ray Madden.

Ray Madden and I served 18 years together on the Rules Committee, the Speaker's Committee, before I became majority leader and he became chairman of that prestigious arm of the speakership. I have a deep and warm affection for Ray. Our relationship has been very close. Ray Madden is a fine gentleman. Grace, dignity, decency, and honor are the qualities which he has manifested in abundance.

First as ranking member of the Rules Committee, and in the 94th Congress as its chairman, Ray Madden has been one of the leading advocates in the House of liberal reform on every front. For 34 years Ray Madden has been admired and supported by all progressive Members of the House and the Nation. He has been an able and dedicated legislator, a friend of labor, and has always put the interests of the "little guy" first. A patriotic American Ray Madden loves his country, he loves this House, his family, and friends. He has earned the respect and admiration of every Member and employee of this body, Democrats and Republicans alike, and the love and reverence of his friends.

Ray Madden has given 34 years of outstanding and dedicated honorable service to his constituents and the Nation. He retires as the dean of the House of Representatives. Indiana can be mighty proud of its native son.

Ray Madden has brought to the House of Representatives character, courage, and vision—what three greater qualities can anyone possess?

Under his aegis the Rules Committee has worked with, not against, the Democratic leadership. I have been greatly privileged to have served as majority leader with Ray Madden as chairman of the Rules Committee. Ray and I share the same views on the role of the Rules Committee as an arm of the speakership. With Ray Madden as chairman, the members of the Rules Committee were unafraid to ask penetrating and persistent questions of all committee chairmen who appeared as witnesses. Ray Madden would lead the foray of inquiries, with question after question until he and the members of his committee had all the facts and the entire story. Anyone who came before Ray Madden's committee knew he was going to be gleaned for every drop of information so it could be put into proper perspective.

Ray Madden has been fair in his dealings with other members of his committee, always insuring that their interests were protected and that everyone on his committee was given whatever time he desired during the committee meetings.

In Ray Madden's departure the people of Indiana are losing a representative who always put their interests first. Our country is losing the wisdom and guidance of a great leader, and I will be losing a dear and trusted friend. Ray, I want you to know that the door is always open. You are always welcome, come back and visit me.

I wish you every happiness in the years ahead, and from the bottom of a grateful heart, I personally want to thank you for 34 years of exceptional service.

Mr. RHODES. Mr. Speaker, when this Congress adjourns, it will mark the end of 34 years of dedicated service to this body and the people of the United States by our colleague Ray J. Madden.

Ray Madden is the dean of the Indiana congressional delegation, and has served in the House longer than any other Representative in the history of the State.

As chairman of the House Rules Committee, he has had the challenging job of channeling legislation to the floor for debate and decision. His fairness and diligence have won him a host of friends and a high degree of admiration from Members on both sides of the aisle.

He has served the First District of Indiana with distinction, and has given freely of his wise counsel. I have been privileged to serve more than two decades with Mr. Madden, and have valued his friendship and respect his judgment.

Ray Madden will be missed by all of us in the 95th Congress. I join my colleagues in expressing our appreciation for this outstanding record as a Member of the House, and to wish him a long and fulfilling retirement back in his home State of Indiana.

Mr. HAYES of Indiana. Mr. Speaker, it is my pleasure to join with my colleagues from Indiana in tribute to the dean of our delegation, the Honorable Ray J. Madden, who has served this country and the State of Indiana for 34 years.

Mr. Madden's record of service is too well known and too long to be adequately treated here. But I would like to share with the Members of this body an insight about Congressman Ray Madden, the man.

Without regard to the many high honors bestowed upon him, Ray Madden has throughout his public life consistently and forcefully stressed the importance of telling our youth about the strengths of our country. It might be said that he considered this one of the most important duties of any public servant. Throughout his congressional career, he has interrupted campaigning and busy legislative schedules in order to return time and again to high schools in his district and the State of Indiana to talk about the congressional process and the great issues that have faced this country for three decades.

There is today a very serious effort to engage the people of our country in "future thinking." RAY MADDEN's contribution was started many years ago to the principle that we must think and plan for our future well-being. And that was when he addressed that first group of high school students.

Mr. Speaker, it is my great privilege to join in this honor to RAY J. MADDEN, a dignified and conscientious public servant.

Mr. MAHON. Mr. Speaker, I rise in tribute to the distinguished Member from Indiana and the chairman of the Committee on Rules, RAY MADDEN.

During his tenure as chairman, the cooperation he has given the Committee on Appropriations has been outstanding. This has been extremely important in allowing the House to conduct its appropriations business in a timely and expeditious way. Without his cooperation and understanding, our business would have been much more difficult.

RAY MADDEN has been an outstanding Member and has served with great distinction both his Nation and his district.

We shall miss RAY MADDEN but we shall be wishing him a great abundance of health and happiness as he returns to his beloved Indiana.

Mr. MATSUNAGA. Mr. Speaker, I thank the gentleman from Indiana (Mr. BRADEMAS) for yielding to me.

Mr. Speaker, I would like to join my colleagues in paying tribute to Congressman RAY J. MADDEN, who is bringing to a close his long and distinguished career in the House of Representatives. RAY MADDEN can be justifiably proud of his 34 years of incomparable service to the people of the First Congressional District of Indiana and to the people of our Nation.

It has been my great honor to serve on the Rules Committee with RAY MADDEN for the past 9 years. From the time when we first served together as fellow Members to the present, as he serves as chairman, my respect and admiration for RAY MADDEN has deepened. His forthright honesty, his deep sense of fair play and his steadfast integrity have been an inspiration to all who have served with him on the Rules Committee. His example has given added dignity to the committee.

During his term as chairman, he has steered the committee through a time of great change characterized by a redefinition of the committee's role in the legislative process. Under his direction the committee has worked in close partnership with the Democratic leadership to enact the party's program of legislation. The revitalization of the committee has therefore led to an increased effectiveness of the Democratic leadership, and therefore, of the Congress as a whole.

This renewal of the Rules Committee has come at a crucial juncture in American history. After too many years of executive branch domination in both the domestic and foreign arenas, Congress has resumed its constitutional position as an equal branch of Government This move required bold legislative initiatives in areas that had for years been the domain of the executive branch.

RAY MADDEN's courage and wisdom led the Rules Committee through this critical time. Under his guidance the committee has come to be an integral part of Congress renewed leadership in such areas as unemployment, the economy, the environment and international relations.

I know that we are all deeply disturbed by the current crisis of confidence in our Government. I firmly believe that it is only through the kind of leadership that statesmen like RAY MADDEN can offer that trust and confidence in Government will be restored.

While I am saddened by the prospect of RAY MADDEN's leaving the House of Representatives, I am also grateful for the honor of having served with him both in Congress and on the Rules Committee. The committee, the Congress and the people of the First Congressional District of Indiana will sorely miss him.

I know that I speak not only for myself but also for the people of Hawaii in wishing RAY MADDEN good health and happiness in the future.

Mr. ROYBAL. Mr. Speaker, it is indeed an honor to rise today in tribute to RAY J. MADDEN who will be leaving Congress after 34 years of distinguished service in the House of Representatives. Member of Congress from Indiana's First Congressional District and dean of the Indiana delegation, RAY MADDEN has served the people of Indiana longer than any other individual in the State's history. During this time, he has achieved a position of importance, possible only through outstanding and dedicated service. He has upheld the faith and trust of his constituents and worked unceasingly for the betterment of all Americans.

At the beginning of the 93d Congress, RAY MADDEN took over as chairman of the House Rules Committee. This singularly important post carries great responsibility with it and his selection as chairman is certainly indicative of the high esteem in which he is held by his colleagues here in the House.

RAY MADDEN has had a long and illustrious congressional career, and will be remembered as a friend of the working man and a fighter for progressive legislation. To quote Speaker of the House CARL ALBERT at the unveiling of Chairman MADDEN's portrait in the House Rules chamber, "You are one of the great Congressmen of your generation and one of the great Americans of all times." It would be difficult to improve on this tribute, and the Speaker's words are certainly worth repeating as we again honor Chairman MADDEN for his outstanding work in Congress.

Mr. FLOOD. Mr. Speaker, I am sincerely sorry to see my long-time and good Hoosier friend end his congressional career.

RAY always struck me as a man with many of the characteristics of our early pioneers—as strong as an oak, full of optimism, gregarious and most friendly, a good sense of humor, highly industrious and completely responsible, and most importantly a good friend.

But as we all know 34 years of continuous service to his district, his State, his Nation, and his country is a very long time.

We can all remember RAY for his fine service on the highly important Committee on Rules and for the responsible way in which he carried out his duties as chairman of that committee. As we know, that job can be a most difficult one at times.

Whatever RAY decides to do in the future, I, as an old friend, wish him only the best. He will recall, I am sure, of the days we served together on the special committee to investigate the Katyn Forest massacre in Poland during World War II. At that time and ever since I have had only the greatest respect and admiration for his abilities as a legislator and his strong dedication to the fulfillment of a task to be well done.

RAY, I salute you!

Mr. BOLAND. Mr. Speaker, I would like to take this opportunity to join with my colleagues in paying tribute to one of our most distinguished Members, RAY MADDEN of Indiana.

RAY MADDEN has given the people of the First District 34 years of fine leadership in Congress. He has served with dedication and distinction on such committees as the Democratic Congressional Campaign Committee, the Democratic Steering Committee and the Rules Committee.

As chairman of the Rules Committee, he has kept a fair and even hand over the flow of legislation to the House floor. His knowledge of the rules and procedures of the House has been of great value to us all. He will be sorely missed in this important area of law-making.

For 34 years RAY MADDEN has devoted his life to the Congress and to the people of his district. His career as a legislator is one of honor and distinction. He has set a fine example for all future Members of Congress.

In closing, I would like to join my colleagues in wishing RAY MADDEN the best of luck and happiness in the future pursuits of his life.

Mr. DE LA GARZA. Mr. Speaker, the retirement at the end of this session of the Honorable RAY J. MADDEN of Indiana will bring to a close a distinguished congressional career that has extended over a period of 34 years. No other individual in the history of Indiana has served longer in Congress.

As chairman of the Rules Committee, Mr. MADDEN has played an important role in the legislative process. He is known by every Member of the House, and his sage counsel has helped many of us over rough spots.

We will miss him, I join my colleagues in wishing the best of everything for him in his retirement.

Mr. FITHIAN. Mr. Speaker, it is with great pleasure that I rise to pay tribute to my distinguished colleague, the honored dean of our Hoosier delegation, and a valued personal friend, Congressman RAY J. MADDEN.

For 34 years, Congressman MADDEN has provided the people of the First District of Indiana with incisive leadership. Mr. MADDEN learned the needs and concerns of the First District when he served as city comptroller of Gary, Ind., 1935–38 and then as treasurer of Lake County, Ind., 1938–42. In recognition of his superior work on their behalf, the people of Lake County elected Congressman MADDEN to represent them in the 78th Congress.

Congressman MADDEN started his distinguished congressional career as a member of the Post Office and Post Roads Committee. In the 79th Congress he served on the Naval Affairs Committee and moved to the Labor and Education Committee in the 80th Congress. The following session, Mr. MADDEN assumed a position on the Rules Committee he was to occupy for the next 26 years, ultimately serving as chairman of that very important committee. Every Member present has probably at one time or another had the opportunity to confer with Mr. MADDEN over the granting of a rule. And each of you, I am sure has received a fair and courteous hearing from the chairman. Mr. MADDEN's colleagues valued him so highly, that when the House reformed its process of selecting committee chairmen in the 93d Congress, Mr. MADDEN was elected as chairman of the Rules Committee. He continued to speak eloquently on behalf of the people and the programs that benefited them.

During his time, Congressman MADDEN chaired the important Select Committee to Conduct an Investigation and Study of the Facts, Evidence, and Circumstances of the Katyn Forest Massacre. Those of us who remember the shock and disillusionment surrounding the murder of these Polish officers, know the vital impact this investigation had. It set the tone of scholarly and unbiased appraisal that has become a hallmark for subsequent investigations. Chairman MADDEN served as a Member of the House Select Committee to Investigate Communist Aggression and the Forced Incorporation of the Baltic States in the U.S.S.R. Again, he served with distinction in the field of foreign relations, which was a prime interest of his Lake County constituents.

This Congress will be poorer at losing the finely honed talents of Chairman MADDEN, but we will be left with high standards to follow and, I hope, emulate.

RAY J. MADDEN will go down in history as a friend of the working and ordinary folks and as an implacable foe of special interest such as the multinational oil companies. It has been rightly said, and I repeat it, "the only special interest RAY MADDEN has ever had was people." I value my personal opportunity to walk a little way through history with an exceptional legislator, a statesman, and a friend.

Mr. WAGGONNER. Mr. Speaker, the long and distinguished career of our friend and colleague RAY J. MADDEN of Indiana will draw to a close as the final gavel is sounded on the 94th Congress this week.

I am proud to be among his many friends and admirers today as we pay tribute to him and his admirable career. Chairman MADDEN has carried out his responsibilities as chairman of the Rules Committee in a dignified and conscientious manner.

His career has been marked with long years of dedicated service to his district, his State, and his Nation. Always a worker, Chairman MADDEN has dedicated himself to translating his principles into legislative action.

I shall personally feel the loss of this great leader of the House. Whether we always agreed or not, we always knew where we stood with each other. A man of great integrity, Chairman MADDEN has always been a man of his word. He has always shown himself to be courageous, forthright, and more than that, as I have had ample opportunity to observe, he was always loyal to his principles and to his country.

This House will miss this great and good American.

Mr. MOAKLEY. Mr. Speaker, this week the Committee on Rules will hold its last regularly scheduled meeting of the 94th Congress.

Since this will represent the end of the tenure of the gentleman from Indiana as chairman of the committee—since he will not return to the 95th Congress—I rise to pay tribute to the chairman as he leaves Congress.

I have served on the Rules Committee for only one term. I consider myself fortunate to have gotten on the committee early enough to spend this one term working with the gentleman.

RAY MADDEN's terms as chairman of the Committee on Rules have been characterized by an opening of the committee's procedure. The requests of all members of the committee—and of the House—have been treated with uncompromising fairness and evenhandedness.

I do not think I overstated the case when I say that a chairman of the Rules Committee has the power to kill almost any legislation. Certainly ample evidence can be found in the record of prior chairmen. Yet I can think of no instance in which this has been done while I have served on the Rules Committee. The chairman has worked closely with the leadership, the minority, other committee chairmen, and the members of his own committee. He has attempted—and consistently succeeded—to run the committee in a manner that facilitates the greatest possible accommodation of the conflicting viewpoints and concerns represented in the U.S. House of Representatives.

Certainly he has his own viewpoint. And he has consistently offered the benefit of his judgment based on his vast experience over 33 years in Congress and a long lifetime of public service. But always he has attempted to win his case by argument and persuasion, never through recourse to the vast and arbitrary powers within the reach of a man who holds one of the highest and most important positions in Congress.

It must be noted that the greatest reforms in the history of Congress have been instituted during the 4 years that RAY MADDEN has presided over the committee which has jurisdiction for the structure and procedure of the House.

When the voters of Indiana first elected RAY J. MADDEN to the 78th Congress, I was a 15-year-old seaman first class. I cannot presume, therefore, to trace his contributions over the generation he has served in the House. My first term on the Rules Committee was his last and it is only to that brief time that I address myself.

I rise, Mr. Speaker, only to say that we will miss him and wish him well in the years ahead.

Mrs. SULLIVAN. Mr. Speaker, for better or for worse, the House will be a much different institution next year with so many changes bound to occur in the membership as the result of the retirement of so many of us now serving our last terms. I am sure we will be succeeded by able people who will work hard and do their best to represent their constituents, each establishing his or her own areas of expertise in the legislative process.

But RAY MADDEN's role in this House will not be filled, I am sure, just as H. R. Gross' role has not been. This has nothing to do with the individual who will succeed to the seat for the First District of Indiana or with RAY MADDEN's successor as chairman of the House Committee on Rules.

A big man with a voice to match, and with a passion for economic justice for every American, RAY MADDEN has often touched the conscience of the House when he spoke for legislation to help the poor and benefit the average family, or when he thundered—as he can do—against special interest proposals to "comfort the comfortable" and aid the well to do.

Many of us remember the depression of the thirties and the suffering which accompanied loss of jobs, of homes, of farms, and of hope. And we remember, too, the inspiring leadership of Franklin D. Roosevelt in lifting America out of despair through the New Deal programs which galvanized a sick enconomy into vibrant and dynamic change. But few Members of Congress have succeeded as well as RAY MADDEN in dramatizing those days as lessons we should never forget in learning how to cope with the succession of serious economic problems which continue to confront our country.

He has refused to concede or believe that a country and a political system which were able to overcome the Great Depression of the thirties cannot solve any economic problem to which the people and the Congress put our minds and determination. And he has, therefore, been a goad to Congress to do better, to move forthrightly, to try new ideas, to make Government work for the steelworker and the coal miner and the retail employee and the teacher and the student and the housewife and the children and all of the people of the United States.

I shall always be grateful to him for the solid support and enthusiasm he has given in the Rules Committee and on the House floor to every consumer and housing and social action bill with which I was associated over the years, particularly the food stamp bill to "outlaw hunger in the United States."

When Ray Madden has risen on the House floor to speak on such issues, not everyone has agreed with him, of course. But everyone has listened. They have all recognized that he speaks on these issues from a heart full of love for humanity and with a verve and spirit which are rooted, as I said, in a passion for economic justice.

Mr. KARTH. Mr. Speaker, one of the most distinguished Minnesotans ever to serve in the House of Representatives is not generally known as a Minnesotan but rather as a Member of Congress from his adopted state, Indiana.

Nevertheless, we Minnesotans claim Congressman Ray Madden as one of our own, because he was born in Waseca, Minn., and to a large extent was educated in Minnesota.

Thirty-four years, more than a third-of-a-century, is a long time to serve in the U.S. House of Representatives, especially when those 34 years have been a record of steady growth both in legislative stature and the esteem of his colleagues.

Ray Madden has always represented all of the people of his industrial district, indeed all of the people of our country, but always his overriding concern has been the little people, the working men and women, the poor, the disinherited of the earth, and the elderly. Ray served these people with all the great strength of his conscience and his convictions.

The legislation Ray Madden was personally responsible for, the legislation he inspired in others and in committees and the legislation he has supported down through the years have made life a bit easier for the Nation's wage earners and the men and women who most needed the protections and benefits it is in Congress' power to give.

We all know that many of the legislative successes of the New Deal, the Fair Deal, the New Frontier, and the Great Society were due in considerable part to the tenacious efforts and parliamentary skills of Ray Madden. In more years his superb work as Chairman of the Rules Committee has insured the smooth movement through Congress of important social welfare, labor, and consumer legislation.

Some may call Ray Madden a legislative statesman, which he is; I prefer to call him a legislative humanitarian. Because he has been both, our country and our people will be indebted to him for as long as the legislation he wrote and advanced continues to benefit and safeguard American citizens.

Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable Ray J. Madden, Chairman of the House Rules Committee, who is retiring at the close of the 94th Congress. It has been a truly rewarding personal experience for me to have known him as a colleague and I am honored to count him as a personal friend during the 12 years I have been in the House of Representatives.

Ray was first elected to the 78th Congress, and was relected to every succeeding Congress until the present 94th Congress, and he proved himself a capable legislator and fully worthy of the trust and confidence of his constituents of the First Indiana Congressional District.

This admiration for his leadership is not confined to the citizens of Indiana, for he is respected by every Member of Congress. As the Congressman with the longest record of service of anyone in Indiana history, Chairman Madden compiled a splendid record of excellence and achievement, and he will be missed here in the House.

Seldom does one find a man of Ray Madden's stature, a man so wholeheartedly dedicated and responsive to the needs of the people he served, and his contributions have made America a better country. I extend my warmest best wishes to Ray for a healthy and happy retirement.

Mr. WOLFF. Mr. Speaker, my distinguished and most honorable colleague, Ray Madden, has devoted the last 34 years to the House of Representatives and to the American people.

Throughout his years on the Hill he viewed the needs of his constituency and of the Nation with great insight.

As chairman of one of the most powerful and vital committees in Congress, he conducted his responsibilities with authority and effectiveness. His ability to discern the value of good legislation was deeply respected and admired by both Democrats and Republicans alike. And we all have looked upon his experience and expertise for enlightened counsel and strong leadership.

For his committed service to the Congress and the American people and for his personal character and integrity, I must pay tribute to this truly great Congressman.

Mr. HAMILTON. Mr. Speaker, the turnover in membership between the 94th and 95th Congress will be the greatest in American history.

All Members who have served in the 94th Congress and will have the privilege of serving in the 95th Congress are keenly aware that the Congress is losing many effective and dedicated Members.

For myself, no one Member will be missed more than the good gentleman from Gary, Ind., Ray J. Madden.

So, with grateful appreciation for his service but also with a touch of sadness, I join my colleagues in paying tribute to Ray. Ray retires after 34 years of serving his Nation and the people of Indiana with great distinction in the U.S. House of Representatives. He has served as a Member of Congress from Indiana longer than any other individual in our State's history. He stands tall, if not alone, in the political history of our State.

Ray has served as chairman of the Rules Committee for the past 4 years, and in that capacity has made the committee responsive to the Democratic leadership in Congress. Although a senior Member of the Congress, he has been in the forefront of the battle to make the Congress more open, accountable, and democratic. He has worked diligently and responsibly to insure that legislation has flowed from Congressional committees to the House floor in a timely manner so that all Members of the House could work their will on the legislation.

My guess is that few, if any, Members of Congress have played a more important role than he in assuring the consideration and enactment of the legislative program of the majority.

The interests and needs of working Americans have always been Ray's first priority, and he has consistently pushed and voted for legislation to meet those needs. Working people throughout America will lose one of their best friends when Ray retires.

Ray has been a bulwark of the House of Representatives for a long time, and his efforts have won the respect and admiration of all Members. Those of us from Indiana will especially miss his wise counsel, his ready wit, and his unfailing willingness to be helpful.

Ray J. Madden will be a hard act to follow.

Mr. SKUBITZ. Mr. Speaker, I take great pleasure in joining my colleagues in this special order to pay tribute to a good friend and outstanding Member of the House, Congressman Ray Madden.

For 34 years Ray has distinguished himself as a dedicated Representative of the people of Indiana and a conscientious servant of the people of this country.

Ray will be best remembered for his leadership in the House Rules Committee, as its Chariman. In that capacity Ray played a vital part in shaping every piece of legislation to pass this House during his tenure.

The respect and admiration that Ray Madden's colleagues and friends hold for him is of the deepest nature. Many of us have discovered that Ray is always available to give advice and support in matters of national urgency or personal importance. He is always willing to give that extra minute that each of us have such difficulty finding.

Even though Ray and I seldom see eye to eye on legislative solutions to our social and economic problems, our objectives are the same—to provide the health, the safety, and the best interests of all America.

May I close by saying, you will be missed, Ray. May the days ahead all be happy ones.

Mr. BROOKS. Mr. Speaker, Ray J. Madden has represented the citizens of the First District of Indiana for the last 34 years and it has been my privilege and pleasure to work with him for 24 of those years.

I have witnessed his dedication to his constituents and the Nation and I know that his absence in the House of Representatives will be a great loss.

As chairman of the Committee on Rules, he has been a hard-working public servant who has earned the respect of all of us. His contributions to the legislative process will long be remembered.

It is an honor that I join my colleagues in paying tribute to him today. With a deep sense of pride I call Ray Madden my friend and I want to take this time to wish him a rewarding retirement.

Mr. QUILLEN. Mr. Speaker, Congressman Ray J. Madden, the dean of the Indiana congressional delegation, and the Chairman of the Committee on Rules, is departing from the U.S. House of Representatives after 34 years of service to his constituents and to the Congress.

Congressman MADDEN was first elected to represent the people of the First Congressional District of Indiana in 1942, and has served in each successive Congress since that time.

Congressman MADDEN became a member of the Committee on Rules in 1949, at the beginning of the 81st Congress, and was elected committee chairman at the beginning of the 93d Congress in 1973. He was already a seasoned veteran member of the Rules Committee when I began my own service on the Committee as the lowest-ranking minority member in 1965, at the beginning of the 89th Congress.

Over the almost 12 years that we have worked together on the Rules Committee I have gotten to know RAY J. MADDEN well, and have enjoyed the association. I have especially appreciated Chairman MADDEN's frankness as I have sat immediately to his right as the ranking minority member during this 94th Congress.

I extend to RAY J. MADDEN my best wishes for the years that lie ahead.

Mr. ROSTENKOWSKI. Mr. Speaker, as the 94th Congress draws to a close, I am proud to say that I have served with a man as capable as RAY J. MADDEN. RAY MADDEN has capably chaired the Committee on Rules for the last 4 years. He has served with distinction during a period when the volume of legislation and responsibilities of his committee have expanded enormously. But beyond his achievements in the Committee on Rules, special attention must be paid to the consistently superior representation he has provided the people of Indiana's First District. Spanning the 34 years of his illustrious career, RAY MADDEN has labored long and hard in furthering the best interests of his constituents. RAY MADDEN has been a tireless worker in defending the rights of the laboring man.

I know he will be sorely missed by everyone on the Hill. I am certain that the people of northern Indiana will long remember the Congressman who served his constituents with such concern and compassion. To RAY I extend my heartiest wishes for many years of restful but interesting and challenging retirement.

Mr. WON PAT. Mr. Speaker, at the close of tomorrow's business, our esteemed colleague, Representative RAY J. MADDEN will mark an end to a congressional career which has spanned 34 years of outstanding service to his constituents and to the Nation.

I have had the pleasure of working with Congressman MADDEN for many of these years. In every instance, he showed himself to be a man of great character, integrity, and appreciation for the needs of his fellow Americans in the territories.

Perhaps the best example of his service to the people of Guam occurred in 1970 when Representative MADDEN stood firm in his support for legislation which authorized Guam and the Virgin Islands to elect their delegates to the U.S. House of Representatives. His strong endorsement helped carry the day and persuaded his fellow members of the House Rules Committee to permit our legislation to be considered on the floor.

Later, as chairman of the Rules Committee, Congressman MADDEN has continued his tradition of friendship for the territories by voting for a number of major bills to benefit the residents of these areas.

Congressman MADDEN is equally well known in the national labor circles where his work on behalf of the blue collar workers will long be remembered.

His loss to the Congress will be deeply felt in the years to come. But it is comforting to know that he leaves the work he so loves with a record of accomplishments seldom equaled in the proud history of this legislative body. On behalf of the people of Guam, I salute Congressman RAY J. MADDEN for his years of service and express our sincere appreciation for his labors on our behalf. May he find his retirement years as rewarding as were his years of service to the people of Indiana's First Congressional District.

Thank you.

Mr. ADDABBO. Mr. Speaker, I join my colleagues in paying respect and honor to Congressman RAY J. MADDEN on his departure at the end of this Congress.

Mr. MADDEN has served this body with distinction for 34 years. He has served with fairness and integrity as chairman of the Rules Committee of the House. He has served longer as a Member of Congress from Indiana than any other individual in the State's history.

I wish him happiness and long health in his retirement and shall miss his counsel and advice in my congressional duties.

During his many years of service in the House, he has earned the highest respect of his colleagues for his diligence in helping to bring to the floor many important and landmark pieces of legislation and stopping that which was frivolous.

Mr. DON H. CLAUSEN. Mr. Speaker, in the midst of World War II, RAY MADDEN came to the House of Representatives. He had just fought for his country in the war and was then dedicating himself to fighting in Congress for a better and stronger Nation. After the war, to our benefit, he continued his career in the Congress, fighting for his beliefs and for the programs and positions that would benefit his people in Indiana's First Congressional District.

He has served in this House through many troubled years filled with one crisis after another. During the 34 years that RAY has served in the Congress he has experienced both war and peace, hard times and good and his levelheaded approach to legislation and his untiring and unselfish efforts to do the right thing have always been most effective.

Every time we have presented our legislation to the Rules Committee he has demonstrated a willingness to listen and to understand our views and the interests of the people of the Second Congressional District of California.

RAY has been a true leader in bringing the Congress up to the 20th century. He always maintained that he was a representative of all his constituents, Republican, Democrat, and Independent alike. He has worked hard with all of us in the Congress and has taken great pains to be fair and equitable in his position of leadership in his party and in his committee assignments.

It goes without saying that RAY will truly be missed—by both his colleagues and his constituents. He was an effective and farsighted legislator at a time of trial and transition and he served his country well.

Mr. OTTINGER. Mr. Speaker, I am delighted to have this opportunity today to join with my colleagues in celebrating the outstanding service of the gentleman from Indiana, RAY J. MADDEN.

To have served in the House of Representatives for 34 years deserves recognition on its own merit. Today, however, I must speak about an issue or really an action which will always have a special meaning to me.

When Chairman MADDEN rose on September 23 to speak on the rule regarding synthetic fuel legislation he said:

> For the first time in approximately 25 years as a member of the Rules Committee, I am asking that the Members devote real commonsense analysis of this complex legislation and vote against this rule.

I know that for the next 25 years at least that I will carry those words with me and that I will be thankful that there was a chairman who himself had the commonsense and courage to utter those words.

I admire RAY J. MADDEN for his forthrightness, his innate wisdom, his sense of humor and his devotion to the service of our country. I wish him well and I hope that when he comes back for a visit to our Nation's Capital that he will pay a visit to those of his friends who are still fortunate enough to be carrying on his tradition.

Mr. EVANS of Colorado. Mr. Speaker, it is with great regret that we bid farewell to Congressman RAY MADDEN. Mr. MADDEN has served the First District of Indiana well over the past 32 years, and they will sorely miss his leadership and dedication.

He has been a pillar in the House Rules Committee where he served as chairman for the past 4 years. His leadership to freshmen Members of Congress is immeasurable, and he has long distinguished himself as a leader of men. He will truly be missed in the Halls of Congress—by his constituents, his colleagues, and his country.

Mr. STEED. Mr. Speaker, when RAY MADDEN leaves at the end of this term Congress will be losing one of its most dedicated Members.

I have been privileged to serve with him during my entire 28 years here, and his distinguished record here stretches back to the administration of President Roosevelt.

For more than 11 years, ever since the Rayburn Building was completed, we have been near office neighbors. This proximity has given me the opportunity to become well acquainted with this straight-forward and unassuming gentleman who has done such a fine job as chairman of the Committee on Rules.

He has compiled a formidable and constructive record of achievement for the people of his district at Gary, Ind., and our entire country as well.

Mr. EVINS of Tennessee. Mr. Speaker, I wish to join with colleague JOHN BRADEMAS from Indiana and others in paying a brief but sincere tribute to our distinguished colleague and friend, RAY J. MADDEN of Indiana.

Ray Madden, as chairman of the Committee on Rules, has served with distinction. He has served as a Member of Congress from Indiana longer than any other individual in Indiana State history.

Ray Madden has not only served long, but he has served ably, well and with distinction. He is able, genial, forceful, eloquent—a great Democrat and a great Congressman and a great American.

Ray Madden has served his district, State, and Nation well. He will be greatly missed in the Halls of Congress.

I wish for Ray Madden good luck, good health, long life, and much happiness in his retirement.

Mr. FORD of Michigan. Mr. Speaker, we all share a feeling of regret that this Congress marks the end of the distinguished 34-year congressional career of Ray Madden, a man whose name will be written in large letters by historians of the past one-third century.

Ray Madden has served in this House since the early days of World War II. He has played a role—and often a major role—in some of the most important moments of American history.

I have known Ray Madden during my 12 years in Congress as a man of the utmost fairness, dignity, and integrity. His years as chairman of the Rules Committee, one of the most important chairmanships in the House, have been marked with strong leadership and honest objectivity.

I am proud to have served in the House with Ray Madden and I join his many other friends today in wishing him success and happiness in the future.

Mr. BENNETT. Mr. Speaker, I rise in tribute to Congressman Ray Madden whose long and able career in Congress concludes with this Congress. He has finished a vigorous leadership for many of the most important pieces of legislation which have been enacted during his 34 years of service. These are a great monument to his ability and dedication. As he leaves us, our feelings are of regret that we will not be seeing him on a daily basis in the future but we wish for him every happiness in his well-earned retirement.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join my colleagues in paying a well deserved tribute to Ray J. Madden, who will be leaving the House after 34 years of service.

Ray Madden has distinguished himself as a man of integrity and great ability. He has been an outstanding leader and effective legislator, keenly aware of the needs of his constituents, the State of Indiana, and of his country.

Serving as chairman of the Rules Committee, he has been instrumental in regulating the rules of the House operation, and in directing investigations into matters of national interest.

Ray has also been deeply involved with the nonrecognition of the Communist aggression and the forced incorporation of the Baltic States into the U.S.S.R., an area in which I have a special interest.

Ray's district in northern Indiana is adjacent to mine. I have worked with Ray on a number of matters of mutual interest to both our States. I know him to be a most effective and dedicated Member, totally devoted to his constituents.

Ray will long be remembered by us, and I join in wishing him the very best.

Mr. LONG of Louisiana. Mr. Speaker, the distinguished career of our colleague, Ray J. Madden, will soon draw to a close and I join today in paying tribute to him for his many years of dedicated service.

Ray Madden came to this Congress in 1943 and has been reelected by the people of the First District of Indiana 15 times. His energy and drive throughout his 30-plus years in the Congress has been an inspiration to many of his colleagues. In my 4 years on the Rules Committee I have had the pleasure of having Ray Madden as my chairman. He has worked tirelessly and constantly in service to his district, his State, and his Nation.

Ray Madden's career began before many of us were even born. He had completed law school, been elected municipal judge, served in the U.S. Navy, and practiced law before he came to Congress in 1943.

Upon coming to the Congress he first served on the Post Office and Postal Roads Committee, then the Labor and Education Committee, then the Legislative Reorganization Committee in the 1960's. Since 1972 he has been the chairman of the Committee on Rules, a committee on which he has served since 1949.

Ray Madden has served this Congress and the American people well throughout the years. Few men have given as many years to the service of their country. No man has given more dedicated or selfless service. Ray Madden will be greatly missed by all of us.

Mr. STOKES. Mr. Speaker, I wish to commend my colleague from Indiana, Congressman John Brademas for taking out a special order so that we may pay due respect to our distinguished colleague, Ray J. Madden.

Elected to Congress in 1942, Ray has enjoyed a long and fruitful career dedicated to the ideals of liberalism. Prior to his election Ray practiced law for 29 years.

Soon after Ray's arrival on Capitol Hill, it became clear that his legal abilities would achieve great feats. As chairman of the House Rules Committee, Ray broke up the conservative coalition of southern Democrats and northern Republicans who bottlenecked liberal, labor, and civil rights legislation for years.

Mr. Speaker, I hold the greatest personal respect for Ray Madden and will certainly miss his warm presence and legislative expertise when he retires from the 94th Congress.

Mr. HELSTOSKI. Mr. Speaker, it is with a great deal of regret that we in Congress bid farewell to our esteemed colleague from the First District of Indiana, Ray Madden.

Mr. Madden's departure will be a great loss to the House, the Congress, and the Nation. He has spent a lifetime dedicated to the public, first as city comptroller of Gary, Ind., then as treasurer of Lake County, Ind., and, finally, as a Member of Congress, for 33 years.

Initially assigned to the Post Office Committee, and later to Labor and Education, he was named to the Committee on Rules for the 81st Congress. Ray Madden spent the next 28 years as a member of that committee, the last four as the most progressive chairman in the history of the committee, a chairman whose mark will be left on the legislative history of our country long after he has left this body.

I am proud to say that I have spent 12 years working with Ray Madden. It is an honor to have known him for he has always been a diligent, dedicated, and hard-working servant of the people as well as one of the finest gentlemen to sit in Congress.

Ray Madden once told a certain Missourian "Give 'em hell, Harry," a phrase now famous in political annals. I for one know that I will miss seeing Ray Madden "Give 'em hell" in Congress.

## GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of the life, character, and public service of the gentleman from Indiana, the Honorable Ray J. Madden.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## HON. JOSEPH E. KARTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Fraser) is recognized for 60 minutes.

Mr. FRASER. Mr. Speaker, at the close of each Congress, the pages of the Congressional Record are filled, not only with the legislative evidences of our rush toward adjournment but with tributes to colleagues leaving this House.

The quality of this prose, and I specifically include mine in this observation, is not always high, but the sentiments, however expressed, are genuine.

Nevertheless, it is unlikely that our effort will ever command much general readership. And given the very popular practice of attacking every congressional perquisite, one thinks twice about spreading yet another series of statements concerning a congressional retirement across these pages.

But I believe the subject of our special order—Representative Joe Karth of St. Paul—by his deeds of 18 years in this House—has earned this tribute to his service. His career here is all the justification needed for what follows.

Joe has chosen not to seek certain reelection to a 10th consecutive term. He has represented St. Paul and the Fourth Congressional District of Minnesota since 1959. Those who have served with Joe on the Ways and Means Committee or the old Science and Astronautics Committee know his keenness of mind and strength of character. Always open and direct, Joe Karth worked and voted out of conviction. He has been impatient with those who temporize out of political concerns. His determined courage sometimes led him to positions which were not popular, but that mattered little to him.

JOE's retirement may seem to some to be related to his recent illness—from which he has fully recovered—but this illness did not trigger his decision to leave public office. JOE is leaving because, as he put it:

> Since you can't have a private life when you serve in elected public office, there's only one way to have it and that's to not ask for any more public life.

I am certain that JOE's career here in the House will be thoroughly described and commended in the words that follow. But I, too, want to include a list of his legislative accomplishments. While many of the fruits of his presence here and his interaction with us will be preserved in fond memories of JOE, this legislative record is a lasting testimony to his dedication to the public weal:

### HONORABLE J. E. KARTH—CONGRESSIONAL ACHIEVEMENTS

### *House Committee on Science and Astronautics*

Member of original Committee, beginning in 1959.

He became Chairman of the subcommittee on Space Science and Applications and was instrumental in laying the foundation of the highly successful U.S. unmanned space program. The Earth Resources Technology satellite program particualrly benefitted from his attention.

As a Member of the NASA Oversight subcommittee he chaired a crucial investigation which led to a successful reorganization of the Centaur liquid hydrogen space engine program and participated actively in several other investigations of satellite programs.

### HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

A dedicated sportsman, Karth introduced and supported numerous bills to promote Wildlife conservation. These included numerous measures for wildlife protection, the prohibition of ocean dumping, restriction on pesticides which harm wildlife.

He was in the forefront of recent legislative efforts to increase habitat for waterfowl and wildlife.

### HOUSE COMMITTEE ON WAYS AND MEANS

On his unanimous election to the Committee in October 1971 Congressman Karth dedicated his efforts to effective tax reform which would maintain the basic progressive features of the Federal income tax system and prevent undue enrichment of special interests at the expense of general taxpayers through so-called loopholes.

He worked arduously on legislation which would improve and protect the retirement income of workers and the self-employed.

As a Member of the Social Security and Public Assistance subcommittees he helped to increase benefits and to make Social Security and Supplemental Security Income programs responsive to the acute needs of the old, the sick, the poor, the disabled, and the very young.

His membership on the Trade subcommittee involved him deeply in the deliberations on the Trade Reform Act of 1974. His many contributions to the law were profoundly important.

### OTHER LEGISLATIVE ACHIEVEMENTS

Supported Equal Rights Amendment.

Civil Rights Act.

Opposed U.S. involvement in Southeast Asia beginning in 1966.

Actively pushed in the House legislation establishing the St. Croix River Scenic Riverway.

Supported measures to extend St. Croix recreation area to confluence with Mississippi.

Initiated legislation to provide flood control works on Mississippi in St. Paul and South St. Paul. Savings in two major floods paid for construction.

Mr. O'NEILL. Mr. Speaker, I join my colleagues in paying tribute to an outstanding Member of the House of Representatives, JOSEPH KARTH.

We will all miss JOSEPH KARTH in the 95th Congress. Those of us who have served with him since he was first elected to Congress in 1958 are grateful for the wisdom, congeniality, and understanding that he showed to each and every Member of the House. I am privileged to call JOE KARTH my friend.

A former union representative, member of the Minnesota State Legislature and the 1958 "Outstanding Legislator" of the year, JOE KARTH brought substance and ability to the House of Representatives which easily earned him a seat on the powerful and prestigious Ways and Means Committee. In the area of tax, social security, health, and trade—issues that affect every aspect of American life—JOE KARTH demonstrated his superb capacity to grasp the most complex legislative issues that the Ways and Means Committee must resolve each Congress.

JOE KARTH has always put the whole of his energy and competence into every legislative task before him. He has served his constituents and the Nation with great distinction and purpose. He always gave his best, and that best was more than enough.

I wish JOE much happiness in the years ahead.

Mr. BERGLAND. Mr. Speaker, I rise to speak of the Honorable JOSEPH E. KARTH, the gentleman from Minnesota.

I know of no man who more deserves the titles of honorable and gentleman.

In the words of the young man who will very likely succeed him in this body: The man whose shoes can never really be filled.

JOE KARTH's tireless and selfless work in the U.S. House of Representatives, whether dealing with the American space program or the monumental revisions of our tax laws, will be remembered for generations to come.

His actions speak for themselves and need not be documented. With your permission, Mr. Speaker, I would rather limit my remarks to the personal debts I owe JOE KARTH.

His interest and assistance began long before I became a Member of Congress. His generous support was invaluable during each of my campaigns.

I wonder how often, late at night after an exhausting day on the campaign trail, I would say, somewhat resentfully: JOE says you cannot be elected to Congress without this pace, this travel, this impossible schedule. What does that city boy know about campaigning? Well, as usual, JOE KARTH was right. I would not be here today if I had failed to take his advice.

His interest and consideration did not end with my election.

JOE KARTH took me by the hand and guided me through the difficult and bewildering initiation to Congress.

He helped me find staff, even office space. He showed me where things were, including this Chamber. He educated me on all those incredibly complex and essential details necessary to begin functioning as a Member of Congress.

Nonetheless, his assistance and advice were invaluable.

He was instrumental in having me take his seat on the Science and Astronautics Committee. It was there that I learned, first hand, how impossible it is to fill those shoes. But with JOE's help, my experience on that committee was one of the most valuable and instructive of my life.

There are but a handful of men in this Congress who can truthfully say what the complexities of our tax laws mean to the average American taxpayers—who can say what all the words carefully constructed by lawyers really do and mean. JOE KARTH knows and, again, he came to the rescue of several of his colleagues, including myself.

JOE KARTH's brilliance and understanding will not soon be matched.

JOE KARTH's professional kindness and understanding are matched by his personal character. He cares what happens to his friends, his colleagues, and the American people.

I will miss him personally and professionally.

Goodbye JOE, best wishes for yet another successful career. But do not go too far away. I need you, we all need you.

Mr. DENT. Mr. Speaker, JOE KARTH came to the House of Representatives 18 years ago. We served together as freshmen Congressmen in the class of 1958–60. We came to be friends even though we differed occasionally on issues.

Now JOE KARTH is retiring from this House which he has loved and served so well. As an outspoken and independent member of the Ways and Means Committee his voice and work was highly respected by the chairman and by the House as a whole. JOE KARTH won many battles and has left his mark on the tax and trade laws of this country.

JOE KARTH will be missed. He will be missed as an outstanding and devoted public servant. He will be missed as an able legislator and congressional leader. He will be missed as a good and trustworthy friend and colleague.

As he leaves this House, the fine gentleman from Minnesota can take with him the memories of 18 years, the gratitude of his country, the best wishes of his friends, and the firm conviction that he has made a lasting contribution to the advancement and welfare of this Republic.

I will miss JOE KARTH as a personal friend. As he terminates his congressional career, I am confident that his future will be as bright as his past has been honorable.

JOE KARTH, of Minnesota, your friend—JOHN DENT, of Pennsylvania—salutes you and wishes you the best that life has to offer.

Mr. WAGGONNER. Mr. Speaker, I was as shocked as anyone in the House to learn that our well-respected colleague, JOSEPH E. KARTH, had decided to retire and not seek reelection. I am personally sorry to see JOE give up public life, but I can well understand his longing to spend more time with his wife, and his family.

It may seem unusual that I, as a southern country boy conservative would admit in public that I regret to see JOE KARTH, a northern, city-slicker liberal, retire. If you believe what the political pundits write, there are two different breeds of cat with little love lost between them. Well, as far as I am concerned—and JOE's actions prove he believes the same—labels do not make the man. JOE KARTH is one Congressman who refuses to be labeled, tagged, categorized, or pigeonholed as anything other than a hard-working, independent-minded Congressman who represents his people. That title can be worn by JOE with pride.

I have often referred to JOE as my "sittin' partner"—we used to serve together on the Space Sciences and Aeronautics Committee several years ago, we are seated next to each other on Ways and Means and often we sit together on the floor. I have to admit, that when we get up to vote, we often go our separate ways, each voting his conscience, his beliefs and his district's wishes. JOE is constantly his own man—refusing to be dictated to by anyone. He is always open-minded and willing to listen to the other side and when the arguments are reasonable to him, willing to work hard to achieve a viable solution to legislative problems. I admire this quality in JOE.

He is a brilliant legislator and a man of honor. His personal integrity is above reproach. He does his homework and approaches each legislative issue with a technical competence as great as any Member here. In my book, these are the qualities of a good Congressman and a great American. JOE KARTH fills the bill on both counts.

Yes, I will hate to see JOE leave Congress. He is a tough opponent, but he is also a good friend.

Mr. QUIE. Mr. Speaker, the rap of the gavel closing the 94th Congress also marks the end of the public career of one of Minnesota's most respected Members of Congress, the Honorable JOSEPH KARTH. Let me point out some of the reasons I admire him so much.

Ever since his election to the House of Representatives in 1958, JOE KARTH has won the respect and admiration of his colleagues because he does his homework, judges issues independently, and votes on the merits of legislation. I have no doubt that he will be remembered as one of Minnesota's most respected and effective Members of Congress.

The public spotlight on JOE KARTH has burned for 26 years. In his surprise announcement last April, he said it is time to turn it off and spend more time with his wife Charlotte, and their three sons. One cannot fault him for that reason, yet many of us regret the loss to Congress of such a valuable Member.

JOE KARTH served 8 years in the Minnesota House of Representatives. He was chairman of the Labor Committee and became ranking member of the tax, conservation, and compensation committees. His hard work and determined adherence to principle won praise from his colleagues, who voted him "Outstanding Legislator" in 1958.

This patient but tough legislator has spent the bulk of his time in Congress on the House Science and Astronautics Committee, where he won widespread acclaim for technical competence. He also served as a watchdog on Federal space program expenditures. Unanimous election to the powerful House Ways and Means Committee in 1973 enabled him to become a respected expert on U.S. tax law. Studious work on that committee and tenacious advocacy of tax changes led the Wall Street Journal to characterize him as "bright, hard-working, effective" in a 1975 article.

JOE KARTH's career of public service in the State legislature and the Congress has been exemplified by steadfast and effective service. I regret his departure. As long as I serve in this body I will feel a void with JOE KARTH's absence. I will always feel honored to have had the distinct privilege of serving with him.

JOE KARTH's reputation as a hard working Congressman has earned him respect and appreciation not only from his colleagues in the Congress, but from his constituents in the Fourth Congressional District in Minnesota. Time and again they have sent him back to Washington to represent Ramsey County and the capital city of St. Paul. He captured 72 percent of the vote in 1972, but 2 years ago, when public confidence in political leaders was on the decline, he won 76 percent of the vote. It was the Fourth District's way of saying, "We have a darned good Congressman, and we want to keep him."

JOE KARTH recognized the importance of public trust bestowed upon him during his 18 years in Congress and always took that responsibility seriously. In his retirement announcement he said:

> The responsibilities and legislative burdens have been huge, but it is always a source of abiding gratification when you, as a member of Congress, have reason to know that you have had an opportunity toward the setting of a course that will help insure our country's future, its security and progress and the expansion of its economic and political democracy.

KARTH's service to his State and Nation was the subject of an editorial in the April 15 St. Paul Dispatch, a portion of which I would like to share with my colleagues:

> If there is anyone in Congress with a guaranteed return ticket to Washington, it's Joseph Karth. That is one of the reasons Joe Karth's decision not to continue in the House of Representatives comes as such a surprise. That Karth would be the "next" Congressman from the 4th District had long since come to be taken for granted.
>
> Another reason for surprise is that Karth was just rounding into his most effective years in a body where enormous emphasis is placed on seniority. . . . He was honored by his colleagues by election, by acclamation, to the top committee of all, prestigious Ways and Means. Election to that Committee by acclamation is a rare occurrence and was a measure of the respect in which his colleagues held him.
>
> On Ways and Means, Karth quickly came to be known as a member who did his homework and who was independent-minded. The Wall Street Journal characterized him in a 1975 article as one of the four or five most influential Democrats on the Committee "bright, hard-working, effective."
>
> A former union international representative, and always backed staunchly by organized labor, Karth was not afraid to antagonize labor bosses if he thought their policies ran counter to the greater public interest. In fighting for touchy energy legislation, for example, he was highly critical of the United Auto Workers leadership for its attitude on the manufacture of big, gasoline-guzzling cars.
>
> Consistently liberal without being doctrinaire, Karth could speak out against "wild-eyed reform." At the same time, he used his position on Ways and Means in a diligent pursuit of meaningful and far-reaching tax reform.

Mr. FRENZEL. Mr. Speaker, I rise to join in this special tribute to a special legislator and a special friend, JOE KARTH, who, much to the regret of admirers like me, is retiring from Congress after 18 years of extraordinary service.

JOE KARTH was born in Minnesota's Fourth District and lived there all his life. He served 8 years in the Minnesota House of Representatives before he came to Congress. There he served concurrently with other distinguished Minnesotans, ALBERT QUIE, DON FRASER, Ancher Nelsen, and Odin Langen.

I knew JOE only by reputation when I came to Congress. I knew he had chaired the Space Subcommittee and played a vital role in the early space program, which ultimately put us on the Moon. He was a veteran Congressman who had nothing to gain by being especially nice and helpful to a minority freshman Member. But he went out of his way to help me to organize my staff, to meet people, and to learn the trade secrets of the House.

A few years ago, in a typical Karth action, he left the Science and Astronautics Committee, where his reputation was solidly established and his future bright and secure, to begin at the bottom of the seniority heap on the Ways and Means Committee. That was simply JOE's way of showing us that he was not willing to coast, or even to slow down. He had done the things he wanted to do in the space program. It was time to move on and thereby give new people and new ideas a chance.

Fortunately, he moved to the committee of broadest jurisdiction in the House where his painstaking, objective, but relentless, legislative style put a Karth signature on nearly every important committee bill.

When I later followed him to that committee, his reputation had again been established. But, as before, JOE spent much personal time helping me to understand the proceedings and encouraging me when things were not going so well. A new man on a difficult committee could not have had a better friend.

JOE's legislative craftsmanship is perhaps best illustrated by his brilliant leadership in designing and successfully passing the House position on DISC in this year's tax reform bill. He studied the issue, listened to everyone who wanted to talk about it, evaluated the existing program and then devised a Solomon-like compromise which was sustained both by the Congress and the President.

JOE is the kind of Representative who never forgot who sent him to Congress. He never forgot his friends either. But, on those infrequent, but important, occasions when he thought the country's interests came first, he was not afraid to put them first.

His retirement was another typical Karth action. When he thought he was losing his keen enthusiasm, he knew it was time to retire. Others might stay around and ease up, but for JOE there is only one speed, and that is top speed.

I mourn the retirement of JOE KARTH, because I believe the country and the Fourth District of Minnesota is losing one of the most effective Members of Congress. Nevertheless, I congratulate him on his decision and hope that he, his wife Char and his family now have the time, previously denied by his conscientious nature, to do the things together that they have always wanted to do.

The House will miss him, because we cannot easily give up congressmen like JOE KARTH—able, conscientious, fair, open and without sham. I will miss him for those reasons, too, but more so because good, reliable friends like JOE KARTH in this body are hard to find.

Mr. NOLAN. Mr. Speaker, in every State, every political party, and every Congress, there are exceptional individuals elected to serve, tremendously gifted people with the special ability to turn ideas into practical programs—and to solve human problems with human effort.

It does not take long for a visitor to Minnesota to realize how proud our citizens are of their representatives in Government. HUBERT HUMPHREY and WALTER MONDALE have built a strong and growing tradition of national leadership—a tradition based on hard work, effectiveness, and deep concern for the people of this conutry.

If one were to ask each of these men who best exemplifies Minnesota tradition, the reply would undoubtedly be "JOE KARTH."

For the working people of St. Paul, the wage earners and small businessmen, JOE KARTH is a friend, an advocate, and a defender.

For the common people of this country, those who have needed a voice for tax reform and a fighter for honesty and decency at every level of government, JOE KARTH has met the test.

For those of us who are relatively new to public life and its special demands, JOE KARTH has been a counselor, a friend and a source of inspiration. His career is a testimonial to all those who believe in the necessity for public officials to stand firm against the pressures of special interests wanting special treatment at public expense.

The poet Emerson once observed that one can best use life to work for causes and ideals which outlast life. Each of us, in our own way, is grateful to JOE KARTH. He sets a high standard for politics and a high standard as a man.

Mr. BRADEMAS. Mr. Speaker, I want to join my colleagues today in paying tribute to our friend and distinguished colleague, the Honorable JOSEPH KARTH of Minnesota, who is retiring from Congress this year after 18 years of service in the House of Representatives.

Mr. Speaker, JOE KARTH and I came to Congress together following the election of 1958, and I can therefore say from observation that he is without doubt one of the most hard-working, able, and effective legislators with whom I have had the privilege of serving in the House.

In his early years in the House, JOE KARTH served on the House Committee on Science and Astronautics, as second-ranking majority member of the committee, chairman of the Subcommittee on Space Science and Applications, and a member of the Subcommittee on NASA Oversight. Under his chairmanship, the Subcommittee on Space Science and Applications was credited with developing the Earth Resources Technology Satellite program and helping make it a reality.

Then, Mr. Speaker, in 1973, JOE KARTH was unanimously elected to serve on the House Ways and Means Committee where he quickly established himself as an expert in tax matters. He was to become one of the most influential members of the committee and a diligent advocate of tax reform.

JOE KARTH has also authored major legislation in the area of trade relations.

Mr. Speaker, JOE KARTH has set the highest standards of public service. It has been a privilege to know him and to serve with him. I salute him on his outstanding career and wish him continued success in whatever he now undertakes to do.

Mr. TEAGUE. Mr. Speaker, I want to join with my colleagues in paying tribute to an outstanding Member of Congress, the Honorable JOE KARTH from the Fourth District of Minnesota who has announced his retirement from the Congress and will not be with us next year.

I remember well when JOE was elected to the Congress in 1958 and since that time he has left his mark in this body. He has been an able legislator and on occasion a worthy opponent. He has been a good friend of mine over the years and served with distinction on the Science and Astronautics Committee as it was known several years ago. His input to that committee in the field of satellites was exceptional and all of us were sorry to see him leave to serve on the Committee on Ways and Means. here, once again, he served with distinction representing his section of the country on this prestigious committee.

I wish him well in his future endeavors and trust that he will be among us from time to time in the future.

Mr. PIKE. Mr. Speaker, lots of good things come from Minnesota and JOE KARTH is one of the best.

If every congressional district in this great land of ours judged character in the same way as JOE's Fourth Congressional District in Minnesota, this House might today well be the envy of the Nation rather than the political whipping boy it has tended to become. I congratulate his constituents on having had the wisdom to send him to the U.S. Congress in the first place and to keep him here for 18 years, I thank them for the pleasure and the inspiration of his company, and I commiserate with them on his decision to step down.

Minnesotans seem to have a knack of sending first-rate people to the Congress; why else would so many of them wind up as political household names? "KARTH" may not be so famous a brand as "HUMPHREY" or "MONDALE" but even those good men acknowledge him their peer in tackling—forgive the pun—those tough jobs that need doing around the House and to which JOE KARTH has so tirelessly and brilliantly devoted himself these past 18 years. Since they seem to have a superabundance of political and legislative talent out there, would it be too much to ask that they send us another JOE KARTH?

Mr. OBERSTAR. Mr. Speaker, I join my colleagues in paying very real and very earnest tribute to our retiring friend, JOSEPH E. KARTH of Minnesota. JOE has been a public servant and more, a true leader, for more than 25 years, sacrificing much of his personal life to serve the people of his St. Paul Legislative District and, since 1959, the Fourth Congressional District and Congress.

His retirement will mean a loss to the people and State he has so conscientiously represented, and, in a very real sense, a loss to Congress as well.

JOE has a rare combination of political sense and substance.

He is a superb legislative technician—yet he has resisted the temptation to use that skill frivolously, or for its own sake.

He is a man of passion—but of passion controlled, not wasted in rhetoric, but concentrated on the substance of issues, where his contributions make a real change for the better.

JOE is a true progressive, but a man who recognizes that progress is made not with statements and press releases but by hard choices between equally urgent priorities; and he has the courage—the strength of will, the reach of intellect—to make the hard choices, stick by them, and see them carried through.

JOE also has an almost unique sense of the House as an institution, rather than an aggregate of competing interests, or a loose constellation of stars fighting for the spotlight. He understands the committee structure, where each Member has a role to play, or a contribution to the whole.

JOE always played his role superbly.

For many years he was a strong voice in our science and technology policy, one of the most complex and difficult fields, with impact not only on the present but more importantly on the future allocation of resources, benefits, and to a larger extent than we recognize, the future direction of our society.

He gave up the Science and Technology Committee in the prime of his career, and only after much soul searching, because he felt he could make a more direct and beneficial contribution to this Nation and its individual citizens through reform of the Nation's tax structure.

A balanced, responsible expert in science and finance, JOE has been important to each of us as a friend whose judgment and carefully thought-out advice one could rely on.

The House of Representatives does not have enough reliable experts and specialists; nor enough people who see this body as a totality, in which each Member does his or her part to make the whole work.

This is Joe's contribution to Congress, his legacy to our form of government.

It will be sincerely missed in coming years.

Mr. GIAIMO. Mr. Speaker, I was saddened to learn in April of the decision of my colleague and good friend, Congressman Joe Karth of Minnesota, to retire from the House of Representatives. Although I am in complete sympathy with his motivation for doing so, nonetheless I realize what a blow his departure will be to this Chamber and to the Nation. Joe Karth has been one of our most valued, energetic, and responsible Members since he first came to the House in the 86th Congress. As a fellow freshman in 1959, I found Joe Karth a warm friend and a trusted, knowledgeable legislator, a man who did his homework and always gave his best for his constituents and his country. He stands as a model of what it means to be a "public servant."

As a "workhorse," Joe has maintained a distinguished record of legislative achievement, beginning with his days on the Committee on Science and Astronautics and continuing through his short but meaningful tenure on the Committee on Ways and Means. How often has this Chamber rewarded one of its own with an election to Ways and Means by acclamation, as it did Joe Karth? And how often has a newcomer to the Ways and Means Committee received such distinction in so short a time as did Joe Karth, when the Wall Street Journal in 1975 named his as one of the most particularly effective Democrats on the committee? Of course, we knew this all along—our admiration for Joe does not need reinforcement from without. Joe's constituents also have been aware of his devotion to service ever since they first sent him to Washington. Joe Karth is the kind of man one naturally relies upon, and he never lets us down.

I personally am glad to join my colleagues in honoring the senior Democratic Member from Minnesota as he leaves us to return to his home and family. I want to thank Joe for his advice and dependability, for a "job well done," and for his inspiration to all of us who have known him. He is a legislator's legislator. Congressman Joe Karth has earned a rest from his labors for the people. His performance on their behalf has been consistently outstanding.

Mr. MILLS. Mr. Speaker, there are those of us leaving the Congress this year after many years of service who are old enough to retire. Joe Karth is not old enough to retire, and I expect that in the future we will hear Joe speaking out on important national issues and will see his impact on significant legislation on many occasions.

Joe Karth came to the Congress in 1958 from the labor movement in Minnesota, a background he has never forgotten and which has been reflected in his legislative record of the past 16 years. Though we have differed on some occasions on the means of attaining solutions to our national problems, I will always respect the intelligence, diligence, and determined representation of his constituency which Joe has brought to the issues considered by the Committee on Ways and Means. When he came to the committee in 1971, he eschewed the chairmanship of another important committee of the Congress, setting aside the personal rewards of chairmanship to serve on a committe which he felt had a broader impact on his constituents, their needs, and their lives. This self-sacrifice has always characterized Joe Karth's service on the committee and in the House, and I feel certain will prevail as he leaves public life.

Joe Karth's contributions to the Committee on Ways and Means and to the House will be deeply missed by the membership and by his constituents, but I anticipate that in the years ahead, his experience and philosophy will be felt on the major issues of national concern.

Mr. CORMAN. Mr. Speaker, it is with a great deal of regret that I say goodbye to my friend and colleague, Joseph E. Karth, who will retire at the end of this Congress. I have worked closely with Joe on the Ways and Means Committee and I have the greatest respect for his legislative ability. Often Joe and I found ourselves in a minority supporting the sometimes unpopular cause of tax reform. On those occasions when we succeeded in getting committee concurrence with our position, our success, frequently, could be directly attributed to the hard work and the debating skills of Joe Karth.

Joe came to Congress 18 years ago from the ranks of labor. He never forgot the workers of America and his mastery of tax law made him an effective proponent of economic justice for the working man and woman.

He was always willing to take the time to familiarize himself with complicated tax issues. This thorough understanding of the subject matter combined with his considerable skill in the art of persuasion made him a great asset to our cause. When Joe Karth spoke out, he held the attention and respect of all. He will be sorely missed on the committee as a member of the original core of tax reformers. During his tenure on the committee, the number of reformers increased markedly, but an advocate of Joe Karth's stature cannot be replaced easily. He will be remembered as a friend as well as an inspiration as we continue to work for the reform he so expertly championed.

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## TAX MEASURE IS NOT A "BAD BILL"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. Waggonner) is recognized for 10 minutes.

Mr. WAGGONNER. Mr. Speaker, in an extension of remarks on September 16 (Record, page E5089), the gentleman from Ohio (Mr. Mosher) declaimed "in faint praise of cigar lobbyists." In that extension, he complained that "it is difficult to keep a bad bill down," referring to a tax measure introduced by Mr. Burke of Massachusetts and 16 other House Members, including me and four other associates on the Committee on Ways and Means—Mr. Conable, Mr. Cotter, Mr. Karth, and Mr. Schneebeli.

I cannot speak for those gentlemen, but I resent very much being accused of sponsoring a "bad bill."

The gentleman from Ohio offers only two slender reeds of evidence in support of his view. First, he claims that the legislation would provide a "gift" to the cigar manufacturing industry in the range of $7.5 to $11 million per year, second, he states that the House earlier rejected the proposal. The gentleman is, therefore, sorely disturbed that the provision was accepted last week as part of the major tax revision bill—which, incidentally, I voted against, in contrast to the gentleman from Ohio.

Let us set the record straight. First, our legislation—H.R. 8125, supported by the Treasury Department and the highly qualified staff of the Joint Committee on Internal Revenue Taxation—was reported without objection by the Ways and Means Committee on June 14, 1976.

Second, the House did not reject the legislation; instead, it failed to suspend the rules for its approval, which requires a two-thirds majority. The vote to suspend was 269 to 138, or only three short of the necessary majority. Clearly, therefore, if the Rules Committee had brought the bill to the floor as requested by the Ways and Means Committee, it would have passed by an overwhelming majority.

Why? Because it is a good bill. The estimated $7.5 million in revenue loss—which is the correct figure according to Treasury and joint committee staff, not up to $11 million as the gentleman from Ohio stated—is viewed as a small cost indeed to rid the tax system of an archaic and discriminatory "bracket approach" to cigar taxation, substituting instead a modern ad valorem system. The modest revenue loss was necessary to prevent unjustified increases on some producers of cigars priced in the lower ranges of the several brackets.

The gentleman from Ohio speaks of a "gift" to cigar manufacturers. I am not an economist, but those with whom I have consulted say that it is impossible to determine in advance how the reduction in taxes will be split among producers, distributors, and consumers. But they do agree, unanimously, that no analysis acceptable today would support the conclusion that the entire revenue impact would accrue to manufacturers alone.

Mr. Speaker, the other 16 sponsors of the legislation can speak for themselves. But for myself, I must express strong resentment at this type of "cheap shot"—not expressed here on the floor where supporters of the legislation have a chance to answer, but in an extension of remarks.

In my judgment, the House erred in refusing to suspend the rules and pass this meritorious legislation on June 22, 1976. The Senate has therefore done us and the cause of tax justice a favor in incorporating the legislation in H.R. 10612.

I thank the Senate and compliment members of the conference committee on their good judgment.

## MISSOURI DELEGATION TRIBUTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. Bolling) is recognized for 60 minutes.

Mr. BOLLING. Mr. Speaker, the Missouri delegation in Congress is proud to pay tribute to our retiring members—Leonor Sullivan, Bill Randall, Bill Hungate, and Jim Symington.

Each has left a special mark on this institution—in banking and consumer affairs, in special problems of the aging and Government efficiency, in legal expertise laced with wit, and in health and science.

More important these Members have distinguished themselves and the people they serve by their integrity, their fairness—above all their devotion to public service. Their collective years of service to the people of their districts, the State of Missouri, and our Nation spans more than half a century. We will miss the combined wisdom of their years and experience in the House of Representatives and most important, their friendship.

Others will join me in expressing our deep sense of loss upon their departure and our abiding good wishes for a future filled with hope and strength and precious moments of inner peace.

Mr. O'NEILL. Mr. Speaker, while I am deeply grateful for this opportunity to pay a tribute to one of the outstanding ladies in the Congress, I am saddened that I will not have the support and assistance of one of my closest colleagues in the House of Representatives, Leonor Sullivan.

Leonor Sullivan and I came to the House together in 1952. We served our first term together, side-by-side on the Merchant Marine and Fisheries Committee. She had seniority over me then, so I left that committee and took another position on the Rules Committee. Two decades later, Leonor Sullivan became the first woman to chair the Merchant Marine Committee, and I became the House Majority Leader. Now, she is leaving me.

I have been proud and honored to have served with Leonor Sullivan as part of the Democratic leadership team, and I am privileged to call her a friend. I will greatly miss her counsel in the 95th Congress.

Leonor Sullivan paid me the highest personal tribute 4 years ago, and again 2 years ago, when she seconded my nomination for the responsible position of leader of the Democratic Party in the House. I am forever grateful for her support and endorsement of my candidacy.

To those of use who have known and loved Leonor Sullivan she is a lady in the finest sense, who has graced this Chamber with dignity, poise, decency, honor and loveliness. Conscientious dedication to her duties, hard work and an administrative and business porfessionalism earned Leonor Sullivan the praise and gratitude of her colleagues, the respect and adoration of her friends. Leonor Sullivan has brought to her position as Congresswoman and chairman a creative and sharp mind, and a devotion to the traditions of public service that have increased the stature and honor of the House of Representatives. She has shown all of us what a fine public servant can be and has ably represented the needs and interests of her district and the Nation for more than two decades. It is because of the service of men and women like Leonor Sullivan that the Congress of the United States is the most respected legislative body in the world.

Leonor, will be greatly missed in the next Congress. The door is always open, there will always be a place for Leonor in this Chamber. I wish her much happiness in the years ahead.

Mr. McCLORY. Mr. Speaker, in the departure of our colleague, Congressman Bill Hungate, from the House of Representatives, the House Judiciary Committee and the Congress are losing a man of many talents. Extremely bright and well-educated, Congressman Bill Hungate has demonstrated an ability to analyze and distill large volumes of complicated legislative material and to inform and guide constructive decisions in behalf of his constituents and the citizens of the Nation.

In the midst of Bill Hungate's serious work, he has displayed an innate sense of humor perhaps unrivaled in this body. In addition, he possesses musical and entertainment talents which have been the delight of his colleagues in the House of Representatives and to many thousands of Americans before whom he has performed in person and on television.

Mr. Speaker, I have been grateful to enjoy a close personal tie with Congressman Bill Hungate and both he and his good wife, Dorothy, have become valued friends of my wife, Doris, and me.

We regret seeing the Hungates depart from the Nation's Capital and we hope that they will find rewarding experiences in their home State of Missouri and will enjoy good health and happiness in the years ahead.

Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in honoring James Symington of Missouri and recognizing his talented contribution over the last 8 years to the House of Representatives.

Warm, friendly, and devoted to the legislative process, Jim Symington quickly mastered the complexities of the House of Representatives and became one of the most knowledgeable Members concerning the procedural nuances and byzantine rules that govern the way in which the House operates.

Jim has been an outstanding Member of the House. As a member of the House Committee on Commerce, has played a major role in all the legislative initiatives in the important area of new health programs, communications, conservation of energy, and consumer protection.

Intelligent, competent, and resourceful, Jim Symington has been a sensitive, compassionate, and dedicated Member of the House.

Charming, bright, and extremely well informed on national issues that effect every American, Jim Symington has earned the respect and admiration of his colleagues for his competence and ability. His generally easy-going manner has helped him win many friends among his colleagues.

Jim, it has been a great pleasure to have your service in this House. You have been an outstanding servant and I wish you great success and happiness in the years ahead.

Mr. CONTE. Mr. Speaker, the news that Representative William L. Hungate, Democrat of Missouri, is retiring at the end of the 94th Congress is distressing on several counts. Bill Hungate has been a distinguished legislator and subcommittee chairman. His wit and perspective have facilitated and eased the work of Congress. And his good humor and piano-playing ability have made him one of our most welcome and popular colleagues.

Bill Hungate worked in Congress like he played a piano: He never failed to play in fine tune, and he was always in the right key. He was not afraid of playing a bold note, yet he was able to bring discordant notes, no matter the hour, together into a smooth harmony.

As a colleague of his on the Committee on Small Business, I know what a strong, outstanding job he has done there. Too often his contributions have gone unrecognized.

I say, without fear of contradiction, that no subcommittee chairman has worked harder to uncover the lesser-publicized, but very real, problems of small business. And few have been as willing to get involved on controversial issues that lesser souls saw fit to ignore. Let me cite a few examples that demonstrate that Bill Hungate has not been afraid to lead his subcommittees in tackling some of the tougher problems that have come to the attention of the Small Business Committee.

For 6 years running, while most of the people were shaking their heads, clucking their tongues, and wringing thier hands about the OSHA burden on small business, Bill Hungate took the bull by the horns and held hearings on the small business problems of OSHA. He held hearings here in Washington and in the field. He documented OSHA horror stories that had been cited time and again on the floor of the House. He came up with findings and recommendations that led to administrative reform of OSHA, and were it not for his work, I do not believe we ever would have gotten an OSHA onsite consultation bill on to the floor and through the House of Representatives.

There are many other examples. While everyone else was crying about the threat to small business posed by third party prepaid prescription programs, Bill Hungate held hearings on them and issued two reports. While others were crying about Postal Service competition with small business. Bill Hungate held hearings and put a stop to it. He tackled the EPA and its failure to abide by its own procedures in establishing rules for small firms engaged in the asphalt industry. He pointed out the pitfalls, the loopholes, and the wishful thinking involved in the Clean Air Act's imposition of a 5-year warranty on all auto emission equipment.

BILL HUNGATE has been a problemsolver, not a problemducker. He has been a real "pillar of strength" on the Small Business Committee. And he has earned the admiration and respect of all of us. I am sure everyone here wants to join me in wishing him the very best.

BILL HUNGATE'S sharp sense of humor is unique, and his ability to put issues into their proper perspective by applying a little Mark Twain analysis is renowned.

His best-known remark was made during the July 1974 Watergate hearings in the Judiciary Committee when the importance of certain evidence was at issue. HUNGATE said:

> I tell you, if a guy brought an elephant through that door and one of us said, "That's an elephant." Some of the doubters would say, "You know that's an inference. That could be a mouse with a glandular condition."

Another example of BILL HUNGATE'S wit arose in April 1976 during hearings of his Small Business Subcommittee on the Activities of Regulatory Agencies. When a witness complained that "The Federal Trade Commission is the second most powerful legislative body in the country," HUNGATE replied, "And the Senate is the first."

In a "leave 'em laughin' " vein, BILL HUNGATE recently addressed a letter to his colleagues in the House. Knowing how his humor is widely appreciated, this letter is reprinted at this point in the RECORD:

> HOUSE OF REPRESENTATIVES,
> *Washington, D.C., September 7, 1976.*
>
> DEAR SILVIO: As my term nears its end—and the days grow short as you reach November—I want to thank all of you, my colleagues, for your courtesy, kindness and most of all, for your understanding.
>
> The House is a fine school. In it we sometimes learn the most from those with whom we disagree.
>
> Let me ask one last favor. Please think of me whenever:
>
> i. A constituent at a statewide rally leans into your face and bets "You don't know my name, do you?" And, you don't!
>
> ii. A colleague speaks one way and votes the other (you might say "the S.O.B. Hungated").
>
> iii. You write a personal letter frankly expressing your views on some delicate issues such as gun control, abortion, busing and marijuana and you find it has been published in the paper.
>
> iv. The *Democratic** Leadership (*may it be ever thus) has told you that upon completion of a non-controversial bill you may expect to adjourn by 4:00 p.m. Thursday and its 7:00 p.m. Friday and 15 amendments are at the desk.
>
> v. The news media does a story on your campaign financing and gets all the facts right—you should live so long!
>
> May the future bring all the best for you, your family and friends. And may your mother never find out where you work. As for me, I must now play my piano in another house.
>
> With affectionate regards, I remain
> Sincerely your,
> WILLIAM L. HUNGATE.

Mr. O'NEILL. Mr. Speaker, I am delighted that we are pausing to pay tribute to a distinguished Member of the House, BILL RANDALL.

Public service is a demanding, and often thankless career, and BILL RANDALL has shown to the rest of us what a really fine public servant can be. BILL RANDALL has been a Member of this House for 17 years and his service has been a tremendous asset not only to the citizens of Missouri, but also to the Nation at large.

His dedication, his ability, and his pleasant and cheerful disposition have made BILL RANDALL a respected and effective Member of the House, whose compassion and willingness to help out any Member with a problem has been highly valued by so many of his colleagues and friends.

Perhaps his most important legacy has been the careful, diligent and nonpartisan hearings and investigations on behalf of the senior citizens of this country. For, as chairman of the new Select Committee on Aging, BILL RANDALL has been fair, statesmanlike and effective. He has given other members of the committee great flexibility in developing their own legislative skills and potential and has firmly believed in sharing the knowledge and professional staff which were at his disposal.

A kind and compassionate individual, BILL RANDALL is not a headline seeker, but he is hard working, competent and reliable. I am particularly proud to have had his splendid service as a member of the whip organization in the 94th Congress. He has been an important member of the leadership team and supportive of major Democratic policy and programs.

I will miss his counsel and advice in the 95th Congress, and I wish BILL RANDALL great happiness in the years ahead.

Mrs. HOLT. Mr. Speaker, it is a pleasure to pay tribute to LEONOR K. SULLIVAN of the Third District of Missouri as she retires after many years of effective service to this House. Mrs. SULLIVAN, the senior female Member of the House, also serves as chairman of the Merchant Marine and Fisheries Committee. As such, she is one of the most esteemed women ever to serve the United States.

Since early in 1951, LEONOR SULLIVAN has taken leadership positions in many areas within the House. Her leadership in the field of housing has marked her service on the House Committee on Banking and Currency.

I have worked closely with LEONOR SULLIVAN during my 4 years as a Member of this House. She has provided a model to me of the kind of impact that a woman of ability can have on this body. Her sound judgment and effectiveness have more than once led me to take strong stands in behalf of the positions in which I believe.

Mr. Speaker, I will miss LEONOR SULLIVAN, a credit to her State, and to the Nation.

Mr. TAYLOR of Missouri. Mr. Speaker, this body will soon lose some of its most dedicated and effective Members. And it is significant, I think, that four come from the great "show me" State of Missouri.

When reviewing the role that each has played in the deliberations of the House of Representatives it becomes readily apparent that they have all "shown" us that Members of Congress do care about the people they are elected to serve, will work to help their fellowman, and have, as our former great President from Missouri, Harry S. Truman, admonished, know where the buck is supposed to stop.

Vivacious and articulate LEONOR SULLIVAN, wise and witty BILL HUNGATE, conscientious BILL RANDALL, and capable JIMMY SYMINGTON, have much in common. They are all good legislators; they are all intelligent and hard working; and they have all been most helpful to me, the lone Republican representative from our State. In fact, they have made me a pet.

I would also again like to pay my respects to our departed colleague, Jerry Litton, who was also an outstanding member of our State delegation.

Words cannot begin to relate the high honor it has been for me to serve with them and I cannot begin to show my appreciation for the friendship they have given me.

Their presence will be missed when the first quorum is called in 1977.

Mr. O'NEILL. Mr. Speaker, I am delighted to take this opportunity to pay tribute to a distingushed colleague and friend who is retiring after 12 years of exemplary service in the House of Representatives, BILL HUNGATE.

BILL HUNGATE will long be remembered across the Nation as a member of the famous impeachment committee, the committee that brought our Nation through the gravest constitutional crisis since the Civil War.

More significantly, BILL HUNGATE will be remembered for his important contribution in the area of criminal justice. As chairman of the Subcommittee on Criminal Justice, BILL HUNGATE was responsible for the complete revision of the Federal Criminal Code.

BILL HUNGATE comes from Hannibal, Mo., the home of Mark Twain, and BILL HUNGATE expostulated many of the Mark Twain homilies that are so much appreciated by all of us.

It is highly fitting that BILL HUNGATE'S indelible imprint is attached to the committee that emphatically reaffirmed that this is a government of laws, and not of men. BILL HUNGATE, a noted American historian in his own right, has always believed firmly in the rule of law and has clearly understood the American canon that no man is above the law.

A graduate of Harvard Law School, BILL HUNGATE possesses a brilliant legal mind and has utilized his academic talents to become the foremost expert on criminal justice in the Congress. Charming, witty, bright, and incisive, BILL HUNGATE deserves high marks of excellence for his record in Washington.

BILL HUNGATE, we are all grateful for your exceptional contribution, and I want to personally wish you great happiness in the years ahead.

Mr. CLAY. When Congress adjourns this session exactly one-half of the Missouri delegation will not be returning. I welcome this opportunity to pay tribute to them.

The absence of so capable an entity

will impose upon us a deep and sorrowful sense of loss. For there is little which can adequately substitute for experience.

Setting aside my personal feelings, our great State of Missouri will lose the visibility she has gained on a number of important committees. Longevity is the most powerful element on Capitol Hill. The cumulative years of service of our heretofore absent colleagues will serve to deepen the void we shall find when we return without them.

It is my hope that the lines of communication will remain open between us so that those of us who remain will feel free to seek advice or understanding in the uncertain times ahead.

**Mr. McCLORY.** Mr. Speaker, among the retiring Members of the House of Representatives none is more distinguished or beloved than our colleague from Missouri, William J. Randall. Completing 18 years of outstanding public service in this body, Congressman Randall and his wife Margaret have become close friends of my wife Doris and me.

In addition, I have had the distinct honor of serving with Congressman Randall on the Committee on Government Operations where we performed pioneer service in behalf of the environment in 1963 and 1964—long before this subject became a popular political issue.

Mr. Speaker, Congressman Bill Randall's service both on that committee and on the Committee on Armed Services found him ever active in behalf of causes and programs which were in the best interests of his constituents and of the people of our Nation.

Friendly and warmhearted, Bill Randall's attachments crossed party lines more generously than most other Members. He and Margaret were and are personable, understanding, generous, and genuinely hospitable. The Randalls' generosity and friendliness was characterized recently by the entertainment of their Republican colleagues and spouses at their home in Independence, Mo., during the recent Republican National Convention in Kansas City.

Mr. Speaker, in noting the Randalls' residence in Independence, one cannot help but note the similarity in background and in service between the late President Harry S Truman and Congressman Bill Randall. Indeed, Congressman Randall served as judge of the same county court where Harry Truman was serving when he was called to become a U.S. Senator from Missouri.

Congressman Bill Randall continued to represent the Truman's home district throughout President Truman's lifetime and thereafter to serve the area where Mrs. Bess Truman continues to live.

Mr. Speaker, in paying tribute to our retiring Member, Congressman Bill Randall, my wife Doris and I wish also to take this occasion to extend to Bill and Margaret Randall our good wishes for many happy and healthy years together.

**Mrs. SULLIVAN.** Mr. Speaker, the Missouri delegation in the House of Representatives, under the distinguished leadership of Dick Bolling, has been a closely knit and effective unit in working for the best interests of our State on legislation coming before the Congress, and on matters before the executive branch, affecting Missouri. I have enjoyed my associations with the entire delegation over the years.

Those Missouri Members who will be returning to the 95th Congress next January will, I am sure, go to extra lengths to help the unusually large number of freshmen Representatives from our State next year to "learn the ropes" and thus be able to serve the people of Missouri to the best of their ability.

In addition to Senator Stuart Symington, our senior U.S. Senator who is retiring after 24 years of outstanding service in that body, 5 of the 10 House Members elected from Missouri in 1974 will not be on the ballot on November 2, so there will be new Members from each of those five districts—the Second, represented since January 3, 1969, by the Honorable James W. Symington; the Third, which I have been privileged to represent since January 3, 1953; the Fourth, represented since March 3, 1969, by Congressman William J. Randall; the Sixth, represented from January 3, 1973, until his tragic death on August 5 of this year by the late Honorable Jerry L. Litton; and the Ninth, represented since November 3, 1964, by Congressman William L. Hungate.

Bill Randall, who once held the same post as his good friend, the late President Harry S Truman, as judge of the Jackson County Court and who succeeded the colorful and courageous Congressman George H. Christopher following the death of that indefatigable battler for veterans and the farmers, has been a highly effective advocate of the rights of the elderly as chairman of the Select Committee on Aging, a resolute defender of American national security as a senior member of the Committee on Armed Services, and a foe of Government waste and inefficiency as a subcommittee chairman of the House Committee on Government Operations.

Mr. Randall is one of the hardest-working Democratic regional whips in the House and has not only kept us fully informed on matters of scheduling and the issues involved but has leavened his highly informative reports to us with wit. I am deeply grateful to him for the help he has given all of us in the delegation in keeping up with fast-moving changes in the legislative program—all done with a verve and enthusiasm which has been refreshing and delightful.

Bill Hungate, who succeeded the much-loved, longtime dean of our delegation and chairman of the House Appropriations Committee, the late Clarence Cannon, not only has represented "Mark Twain" Missouri with great skill and intelligence but is the closest thing to Mark Twain we have had in the House in the 24 years I have served here. As the entire Nation learned during the tense days of the Nixon impeachment hearings and deliberations of the House Judiciary Committee, Congressman Hungate has a remarkable knack, as Lincoln did, for using humor to illustrate complex issues and making his points the more effectively at tense and emotional moments when others might resort to shouting or sarcasm. A member of the American Society of Composers, Authors, and Publishers, he can make a memorable scholarly legal argument with the same flair with which he writes his catchy songs. He is one of the jewels of the House, and I regret his decision to retire next January, less than a month after his 54th birthday, from a position he has held with such great ability and effectiveness.

Jim Symington, who has a heritage of public service as the son of Senator Stuart Symington and the grandson of the late Senator and Congressman James W. Wadsworth, after whom he was named, has brought added distinction to an illustrious name by the fine work he has done in the House and, before that, in the White House, in the Justice Department, and in the State Department, where he had been Chief of Protocol. He has worked hard and with imagination to serve St. Louis County in the House, and the people of the United States in the Committees on Interstate and Foreign Commerce and on Science and Technology. A man of many talents, he inherited from his lovely mother, the late Evelyn Wadsworth Symington, some of the musical ability which made her a top professional singer. It has been a real pleasure for me to work with Jim Symington on many causes important to our adjoining congressional districts.

To all three of these good friends and respected Missouri colleagues who are joining me in voluntarily retiring from the House at the end of this session, I express my sincere appreciation for the many courtesies they have shown me and the many happy moments we have shared as Members, and I wish them the best of everything in whatever they undertake in the years ahead.

**Mr. ICHORD.** Mr. Speaker, on behalf of the great State of Missouri, I am deeply honored to join today in paying tribute to four distinguished members of our Missouri congressional delegation. As my colleagues know, Jim Symington of Missouri's Second District, Leonor Sullivan of Missouri's Third District, Bill Randall of Missouri's Fourth District, and Bill Hungate of Missouri's Ninth District are not seeking reelection to this House and will retire at the end of the 94th Congress.

Words cannot begin to express my own personal sense of regret that these outstanding Members will not be carrying forth their fine work in the 95th Congress. Between them they have served the State of Missouri and this Nation for a total of 61 years, compiling over the years individual records of distinguished achievement which few will ever be able to match.

Leonor Sullivan was first elected to Congress in 1952 carrying on a distinguished congressional career begun by her husband, the late Congressman John Berchman Sullivan, whose death occurred in 1951 during his fourth term in this body. Prior to her own election, Mrs. Sullivan served on her husband's staff without pay but performing her duties with such skill and dedication that she won her own election by a majority of some 50,000 votes over her Republican opponent. With her election to the 83d Congress, LEONOR SULLIVAN became the first—and to date only—woman to be elected to Congress from the State of Missouri.

Congresswoman SULLIVAN brought to Missouri and to this House an untiring, incisive mind which made her a master legislator. She also brought to this body a deep sense of compassion and a unique wisdom and foresight that will be sorely missed by her colleagues and her much beloved Third District. As chairwoman of the Committee on Merchant Marine and Fisheries since the 93d Congress, as a senior member of the Banking Committee, and as a member of the Joint Committee on Defense Production, Congresswoman SULLIVAN led a number of needed fights, won a number of needed victories, and brought reforms and legislative programs to important areas of American life that will long be remembered by the Nation. LEONOR SULLIVAN'S outstanding service to her country, her dedicated and strong voice on behalf of Missouri's Third District, and her lovely and gracious friendship will be sorely missed.

BILL RANDALL was first elected to Congress in 1959 as the choice of the Fourth Congressional District of Missouri to fill the unexpired term of the late George H. Christopher. For 17 years BILL RANDALL has been an untiring champion of his Missouri constituents and an active, forceful presence in the legislative proceedings of this House. It has been a great privilege for me to serve on the Armed Services Committee with BILL RANDALL and through these years, I have watched him bring wisdom and a keen sense of reason, foresight, and objectivity to bear not only on the complexities of America's national security but also on his work on the Government Operations Committee and his fine chairmanship and guidance of the new Select Committee on Aging. Above all, BILL RANDALL is a dedicated and devoted public servant, a doer and a workhorse, whose expertise in government and whose immense contributions to his State and his Nation will be missed by us all. I wish this good friend well in retirement and can only say that this body will feel the void in not having his leadership and guidance.

BILL HUNGATE was first elected to this House in 1964 by the fine people of Missouri's Ninth Congressional District. For the past 12 years BILL has brought a wit and wisdom to this body which made him one of the most admired and respected Members of Congress. BILL possessed a unique talent of leadership which enabled him to meet the challenges of a particularly difficult and turbulent time in America with a grace and perspective and fairness and objectivity that brought praise from all quarters and both sides of the aisle. His Nation will long remember his wise counsel during the House Judiciary Committee's impeachment hearings, and his guidance and sagacity during those weeks lifted the esteem of Congress in the minds of millions of frustrated, and at times cynical, Americans.

It will be difficult to imagine the House without BILL HUNGATE. His humble manner, his forceful command of legislation, his concern, his knowledge, his integrity, and sincerity were hallmarks of his service to Missouri and this Nation. His Ninth District constituents felt a love and respect for him rare in today's politics, and Missourians throughout the State did everything to try to persuade BILL to stay in public life. But BILL felt that it is now time to return to his roots, to spend more time with his family, and to do those personal things that public life has given him no time to pursue.

I have been honored to be appointed to serve on the House Small Business Committee in the seat that BILL is leaving. His shoes will be tough to fill but I look forward to carrying forth his fine work on behalf of this Nation's small businesses and will deeply miss his warm friendship and wise advice.

JIM SYMINGTON was first elected to Congress in 1968 with the strong support of the people of Missouri's Second Congressional District. JIM SYMINGTON has virtually grown up in public life and his dedication to Missouri and to this country, his masterful legislative skills, his reason, and his compassion amply show the similarities between JIM and his father, Senator STUART SYMINGTON. JIM SYMINGTON is an easy-going man always having time to listen to problems and to work through them to the end to bring a successful resolve. He is a master mediator, bringing a good will and reason to controversies that enabled both sides of an argument to come together and seek cooperation and compromise. JIM SYMINGTON is also an immensely talented and active legislator whose work on the Interstate and Foreign Commerce Committee and the Science and Technology Committee brought innovation and creative reforms to issues under the purview of these committees. JIM SYMINGTON is a fair man of deep perspective, a man of action, an untiring and forceful spokesman for Missouri, and an honest and fine Representative. He will be greatly missed by his friends, his colleagues, by the Second District and by his Nation. I hope he will continue in politics and once again serve our State in the dedicated and outstanding manner which characterized his past 8 years in this House.

Mr. Speaker, as a Member of Missouri's congressional delegation, I have been proud to have served with these outstanding Americans. And words of tribute are only a shadow of the reality of these men and this woman's service to their country.

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## HON. PHIL LANDRUM, HON. ROBERT G. STEPHENS, JR., AND HON. BILL STUCKEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BRINKLEY) is recognized for 60 minutes.

Mr. BRINKLEY. Mr. Speaker, when the 94th Congress adjourns, the career of the dean of the Georgia delegation, the Honorable PHIL M. LANDRUM, as well as those of the Honorable ROBERT G. STEPHENS, JR., and the Honorable W. S. "BILL" STUCKEY, JR., will draw to a close. All have served with great distinction and their leadership and counsel will be sorely missed.

PHIL LANDRUM was elected to the 83d Congress on November 4, 1952, and has been reelected to every succeeding Congress. Phil's first assignment was on the House Education and Labor Committee where he served until 1965. Since that time, he has served on the prestigious Ways and Means Committee and most recently on the Budget Committee. While a member of the Education and Labor Committee, he coauthored the Landrum-Griffin Act which was the first major piece of labor-management legislation to be passed since the Taft-Hartley Act became law in 1947. His voice on the Budget and Ways and Means Committees has benefited our State and Nation in helping to shape sound fiscal policies, and the void left by his retirement will be hard to fill.

BOB STEPHENS has represented the 10th District of Georgia since being elected to the 87th Congress on November 8, 1960, and has been reelected to each succeeding Congress. Bob serves on the Banking and Currency Committee and is Chairman of the Historic Preservation subcommittee. He has long been active in efforts to improve the lot of older Americans and has been in the forefront in shaping legislation to insure better housing for the elderly. He has also been an outspoken proponent on behalf of rural housing. Bob also serves on the Interior and Insular Affairs Committee.

BILL STUCKEY represents the Eighth Congressional District, having been elected to the 90th Congress on November 8, 1966, and each succeeding Congress. He serves with great effectiveness on the Interstate and Foreign Commerce Committee where he has been a leader in shaping legislation to revamp the securities industry to make the capital markets free, open, and protective of public investors. His leadership in these efforts will be greatly missed. Georgia's Cumberland Island and her Okefenokee Swamp will be preserved as natural gems, thanks to BILL'S legislative skills. BILL also serves on the District of Columbia Committee and is chairman of the Housing, Commerce and Transportation Subcommittee.

Today, the Honorable JACK FLYNT and I, along with our colleagues in the Georgia delegation, have taken this special order to honor these three outstanding public servants. Thank you for joining with us in paying tribute to them.

Mr. Speaker, before yielding to our colleagues who will be joining with me in these tributes, I ask unanimous consent that all members have 5 days to insert their remarks with reference to this distinguished trio.

Mr. O'NEILL. Mr. Speaker, I am delighted that we are pausing to pay tribute to a distinguished Member of the House of Representatives, PHIL LANDRUM.

His dedication, devotion to duty, ability, and friendly manner have made PHIL LANDRUM a respected and effective Member of the House whose willingness to help out another Member with a problem is gratefully recognized by all of us who have served with this fine gentleman.

As a ranking member of the powerful Ways and Means Committee, PHIL

Landrum has been a voice of reason and conservative restraint in the critical areas of tax, trade, health and social security legislation, and unemployment compensation.

Phil Landrum quickly mastered the complexities of the political and legislative processes and has demonstrated time and time again his ability to manipulate procedural nuances to the advantage and interests of his region and the State of Georgia. He has a great feel for the pulse of the South and can read the House of Representatives better than most Members.

Although we did not always agree on every issue, I have always admired Phil Landrum for the sincerity and strength of personal conviction that he reflected in his day-to-day duties. He was a man of his word; when it was given, he stood by it. Every vote he made and every issue he championed were, in his own judgment, in the best interests of his constituency and the Nation.

Phil was a real southern gentleman. He had a polite manner and a warm, outgoing disposition. Yet he could be as firm in his stand as a block of steel. But Phil always leveled with you, and you knew exactly where he stood on any question.

I am indeed grateful to have served with Phil Landrum and I wish him happiness in the years ahead.

Mr. FLYNT. Mr. Speaker, it is an honor and special privilege for me to join with my colleagues in expressing my sincere best wishes to three of my dearest friends and closest colleagues from the State of Georgia whose service in the U.S. House of Representatives will draw to a close when the 94th Congress adjourns.

Through the combined service of 50 years, the Honorable Phil Landrum, the Honorable Robert G. Stephens, Jr., and the Honorable W. S. "Bill" Stuckey, Jr., have represented the people of their respective districts, the State of Georgia and our Nation with the dedication and leadership which will serve as a fine example and true inspiration to those who will follow them, and I shall miss each of them greatly. The results of their individual efforts in behalf of our citizenry through their representation in the Congress can never be measured nor replaced.

As dean of the Georgia delegation, Phil Landrum has led the Georgia Members of the House of Representatives with courage and determination. Elected to the 83d Congress and every succeeding Congress, Phil has provided me with friendship and leadership for which I shall always be grateful. His voice in the powerful House Ways and Means Committee and more recently on the Budget Committee has always been along the lines of sound fiscal responsibility, helping to legislate the kind of fiscal policies which will keep our Nation strong while protecting the interests of the taxpayer. Phil is a true leader and great legislator and I shall always be most appreciative for having had the opportunity to serve with him.

Bob Stephens, representing the people of the 10th District of Georgia, has been serving in the House of Representatives since his election to the 87th Congress in 1960. As a member of the House Banking and Currency Committee and chairman of the Historic Preservation Subcommittee, Bob has provided untiring service to the people of his district and the Nation in his efforts to shape legislation to insure that all Americans in all walks of life are provided with their housing needs and to maintain a sound banking system. His belief in the principle of fiscal responsibility is firm and longstanding and his leadership in this area has provided his colleagues with a sense of direction and inspiration. I shall certainly miss the friendship and closeness which I have shared with Bob Stephens in our service together for eight terms in the Congress.

I have had the pleasure of working with Bill Stuckey for five terms in the House after his election to the 90th Congress in 1966 and each succeeding Congress. His accomplishments during his service on the House Interstate and Foreign Commerce Committee, and the District of Columbia Committee, and the Subcommittee on Housing, Commerce, and Transportation of which he is chairman have demonstrated his leadership capabilities to the people of the Eighth District of Georgia as well as to the State of Georgia and the Nation. We will certainly miss his sincere dedication and determination and I shall miss a true friend.

To each of these three friends and colleagues, I extend my sincere gratitude and best wishes in their future endeavors.

Mr. GINN. Mr. Speaker, our Georgia congressional delegation is about to suffer a great loss with the retirement this year of three of our most distinguished colleagues, the Honorable Phil M. Landrum, Robert G. Stephens, Jr., and W. S. "Bill" Stuckey. I can think of no other time in recent decades when our State has been confronted with the simultaneous loss of Members of such great distinction and leadership. My regret, Mr. Speaker, is tempered only by the fact that the good works of these gentlemen will stand for many years to come as a powerful testament to their legislative skills and public service.

The retirement of the dean of our delegation, Mr. Landrum, is going to be a great personal loss to me. He has been the man whose vast experience and guiding hand has largely made it possible for me to achieve whatever accomplishments I have attained in my 4 years as a Member of this great body.

It would be impossible to adequately chronicle the distinguished record of the dean. His public service dates back to his years of military duty in World War II, his work as assistant attorney general in Georgia, and later as executive secretary to the Governor of Georgia. He has authored and shaped some of the most far-reaching and significant legislative measures enacted during this century. Those achievements are part of the official record of the Congress, and so I would prefer today to speak of those things that are not to be found in documents of our Congress. I prefer to recall the greatness of Mr. Landrum as a dedicated man who loves this country and has fought for the average men and women who are our greatest strength.

I know that all of my colleagues can remember those painful first months of adjustment to the demands and requirements of our office. Some few of us were privileged to be able to turn to an individual of Phil Landrum's stature to put them on the right path.

The dean has been a tireless counselor, a source of vast wisdom, and a man of integrity who has never failed to have time to give me a helping hand. He can cut through the densest fog of parliamentary confusion and isolate the key issues with surgical precision.

In his decades of service he has achieved greatness and walked with the most powerful leaders of the world. But he has never lost the wisdom of the working men and women of his beloved north Georgia, and the fact that he has clung to that foundation has made his greatness shine all the brighter. I can wish for no greater tribute when the day comes that I leave this body than to be remembered as a man who had approached the effectiveness and greatness of Phil Landrum.

Mr. Speaker, the second retirement in our delegation which I would make note of is that of our friend and colleague Bob Stephens.

Here, too, is a man who has given generously of his wisdom and leadership to personally guide me through the tasks that I have faced in striving to be an effective representative for my district. And here, too, is a man whose record of public service goes beyond the cold facts of his legislative achievements.

Bob Stephens is a true "Renaissance Man," an individual who has led several careers and distinguished himself in all of them. He is a scholar, a historian, a former military leader, an attorney of great skill, a former State senator, and a Member of Congress who has brought honor to the record of the U.S. House of Representatives.

We all know of the polls which show the public has a low esteem for the Congress in general, but an affection and respect for their individual Representatives. A handful of Members have gone beyond winning the affection and respect of their constituents. Some few have become community leaders who are genuinely beloved by the great majority of their friends and neighbors. Such a man is Bob Stephens.

Bob has built his record as a skilled legislative craftsman by virtue of his ability to bring order and clarity to complex matters. Beyond that, he has shown that he is a man who can be trusted and a man whose word is as solid as his untarnished reputation.

Bob Stephens is, above all, a man of compassion who has never lost sight of the humanness of us all, and who can quickly put our feet back on the ground when we drift into some lofty cloud of rhetoric. He is a man of quick wit and humor who always remembers that we work for the people, and who always reminds us that we keep our commitment to the people by never forgetting that it is we who are their servants.

Finally, Mr. Speaker, we also come to a time of regret with the retirement of our distinguished colleague, Bill Stuckey. Bill is not only a fellow Member, he is my friend.

As a young man, Bill's retirement marks not the twilight of a career, but only the beginning of a new career. Though he leaves the ranks of Congress, I know that his is a life that is devoted to helping people, and I am sure that he will carry on that task wherever he may be.

I have had a unique personal opportunity to learn a great deal about Bill's achievements by virtue of the fact that a portion of my District was a part of Bill's district prior to 1970. He has left his mark on those counties, and it is a mark of which he can be proud.

We all know of the Bill Stuckey who has brought credit to himself and his Committee on Interstate and Foreign Commerce by virtue of his activity and skill in the many important issues relating to the committee's jurisdiction. But I wonder if my colleagues know that Bill is the author of legislation that has set landmarks in the field of conservation.

It was Bill's long and hard work which led to the creation of the Cumberland Island National Seashore, and it was my pleasure to follow his leadership in helping to declare as a wilderness area the Okefenokee National Wildlife Refuge.

Cumberland Island is today the Nation's newest island national park, and I believe it will come to be known throughout our country as one of the finest natural resources that we possess. Bill Stuckey is the man who made it possible for this primitive island to be protected and to be opened to the public.

It was also Bill Stuckey who carried the load in establishing the Okefenokee as a protected wilderness area. Through his leadership, the fine citizens of the counties that include the swamp joined together to support the concept that now permanently protects this mysterious and majestic natural area from environmental harm.

These achievements are ones that will stand for all time. I join with my colleagues in expressing our sorrow that we will lose Bill's leadership in the House, but I am also among those who wish to express appreciation for the good works he has done and the fact that these works will live on to do credit to Bill's name and to the Congress as a whole.

All three of these great men—Phil Landrum, Bob Stephens, and Bill Stuckey—are leaders who cannot be replaced. We will be the poorer for their departure, but we owe them a great debt for their achievements .

Mr. McDONALD. Mr. Speaker, the number of retirements and people leaving this House for various reasons this year is certainly staggering. But we of the Georgia delegation are particularly hard hit in this respect and sad over the departure of three of our esteemed colleagues. These are the deans of our delegation, Mr. Phil Landrum, Mr. Bob Stephens and Mr. Bill Stuckey. These three men have all served in this House with great distinction. The House can ill afford to lose their years and years of experience and sage counsel. They have all served the people of Georgia in the best traditions of public servants and will be sorely missed by their colleagues. I know that perhaps the three of them may be tiring a little over speeches on their behalf at each social function they attend, but the praise showered upon them is well deserved nonetheless. Georgia has traditionally produced outstanding Members of Congress and these three have been no exception to that rule. All three have played major roles on their committees, guided the destiny of major pieces of legislation, and been leaders here in the House. Those of us who remain in the Georgia delegation can only hope to follow the bright trail they have blazed. I wish them Godspeed and every success in their future endeavors.

Mr. MAHON. Mr. Speaker, it is with great pleasure that I join my colleagues in paying tribute to Phil Landrum of Georgia.

Throughout his career the distinguished Member from Georgia has been a stalwart supporter of fiscal stability and economy in Government.

It has been a pleasure to be associated with Phil over the years. He has served his Nation and his district with distinction. I value his friendship greatly and wish him and his charming wife Laura the greatest happiness as they return to their beloved State of Georgia.

Mr. WAGGONNER. Mr. Speaker, there is no adequate way that I can pay tribute to our dear friend and esteemed colleague, Phil M. Landrum of Georgia. His great wisdom, leadership ability, and personal warmth simply defies description.

I have worked as closely with Phil—day in and day out, on big legislative decisions and small—as I have with any Member in this Chamber. I have grown to respect and admire his forceful and persuasive actions on the floor during debate. I have also witnessed firsthand his wise counsel with those who have sought his invaluable advice.

His reasonable, thoughtful, and deliberate approach to legislation commands wide respect on both sides of the aisle and from all political persuasions. His personable manner and keen sense of humor have enabled Phil to make friends of Members who are miles from his conservative positions. Whether you agree with him or not, there is no way that you can help but respect and like Phil Landrum.

Well, I happen to agree with him, as well as to like him. I have seen him close up in Ways and Means, working to translate his firm convictions into legislation. His influence is not that of a headline hunter or glory seeker; rather his mission is to quietly accomplish the goals he establishes, not to gain publicity.

He is a true representative of his people, reflecting their views on legislation and providing them with a powerful national voice. In 1959, his Landrum-Griffin Act became widely recognized as the first major piece of labor-management legislation enacted since the Taft-Hartley Act was passed in 1947. This was the result of conscientious work by an effective legislator.

The qualities that make Phil Landrum a great legislator—courage, dedication, and genuine concern for the well-being of the country—are commodities this Congress can ill afford to lose. We need more men like Phil Landrum, not less.

I cannot say enough about this outstanding Congressman and wonderful human being. You cannot replace this kind of person. He is without question, in my mind, an unequalled and exceptional individual. It is my firm conviction that if the Congress were made up of a majority of Phil Landrum's, we would not have the problems that we are faced with today.

Personally, I want to thank you, Phil, for your untiring efforts in behalf of our beloved country. You certainly will be missed.

Mr. DERRICK. Mr. Speaker, it is with profound regret that I note the retirement from the U.S. Congress of three distinguished servants of this body, Phil Landrum, Bob Stephens, and Bill Stuckey. The State of Georgia has been blessed with the service of these gentlemen and their departure from the Congress will be severely felt, not only by the citizens of Georgia, but by their colleagues in the Congress and the Nation as a whole.

As a freshman Member of Congress, I have particularly benefited by the wise counsel and examples set by these men. As a member of the House Banking, Currency and Housing Committee, I have been privy to the expertise of Bob Stephens in the area of financial institution reform and a wide range of issues dealing with United States and foreign banking.

I have had the pleasure of serving with Phil Landrum on the House Budget Committee, during a historical period that produced for the first time, a solid, workable foundation for the imposition of congressional control over the Federal budget. It has been a rewarding experience for me to work with Phil Landrum in this capacity.

As the Representative of South Carolina's Third District, it has been my fortunate good luck to have Mr. Landrum and Mr. Stephens as next door neighbors with the Savannah River as a bond.

While I have not had an opportunity to share with Bill Stuckey a committee assignment, I have shared with him similar problems, concerns, and goals. This bond is the result of representing constituencies of the same temperament, and fabric and basic ideology.

Providing a better life and a happier life for the American people is basic among these men; it is a simple common thread that has never been abandoned in the work performed.

The people of Georgia and the Congress have been well served by three dedicated, hard-working individuals, who have consistently and faithfully executed the desires of their constituents.

In reviewing the numerous accomplishments and the years of service these men have rendered, I can only express my highest regards and esteem. The job of a Congressman is clearly one of the most demanding, exacting, and in many cases, thankless jobs in the country; however, I must quickly add, one of the most personally rewarding.

In my brief tenure, I have become acutely aware of the highs and lows of congressional life, and the stamina and perseverance of PHIL LANDRUM, BOB STEPHENS, and BILL STUCKEY is a model worthy of all new Congressmen.

My first regret is that I did not get here sooner and that my exposure will be limited to an all-too-brief 2 years. And, my second regret is that future Congressmen will not have been privileged to experience, to learn from, and to rely on the wisdom of my colleagues from Georgia.

It is an honor for me to join today in recognizing these fine public servants—and I say this in the truest definition of the word—it is with the best of wishes, the best of happiness, and with Godspeed.

Mr. ROYBAL. Mr. Speaker, it is with pleasure that I rise now to add my words of praise to those already spoken about PHILIP LANDRUM, Representative of Georgia's Ninth Congressional District. Clearly, PHIL LANDRUM has served in the House with distinction and with honor. And he will be remembered for his outstanding work in Congress, particularly in the area of labor relations. The Landrum-Griffin Act is a tribute in itself, passed as a result of the efforts of this hardworking Congressman who worked so effectively to provide real labor reform.

Following his outstanding work on the Education and Labor Committee, PHIL switched to the prestigious Ways and and Means Committee, and most recently, joined the newly established Budget Committee. His work on these committees has been significant in shaping responsible fiscal policy which has benefited each and every American.

PHIL LANDRUM is retiring now after 24 years of dedicated service. While his most notable contribution during this time is in the area of labor legislation, his ability and expertise have been demonstrated over a wide spectrum of legislative issues. We will certainly miss PHIL's wise counsel and leadership and it is a distinct pleasure to wish him a long and enjoyable retirement.

Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in paying tribute to BOB STEPHENS of Georgia and recognizing him upon the occasion of his retirement for his years of dedicated service in the House of Representatives.

In 1960, BOB STEPHENS came to the House of Representatives with an extraordinary educational background and a remarkable service record. He has distinguished himself among his colleagues and possesses one of the brightest academic minds in this House.

A compassionate and warm person who always had a good word to say about everyone is how BOB will be remembered by his colleagues who have had the pleasure of working with him for the past 16 years. His work as a member of the Banking, Currency and Housing Committee serves as a tribute to his notable legislative achievements.

BOB STEPHENS' dedication, his charming wit and friendly disposition, and his conscientious service to the needs and interests of his constituents served to make him an outstanding Member of this House.

I wish BOB STEPHENS the best of health and happiness in the years ahead.

Mr. ROYBAL. Mr. Speaker, it is with pleasure that I rise to pay tribute to ROBERT STEPHENS, JR., who will be leaving Congress after 16 years of outstanding service to the people of Georgia and of the Nation.

BOB has worked with dedication on the Banking, Currency and Housing Committee, where he serves as chairman of the Subcommittee on Historic Preservation and Coinage. He has also been an extremely effective legislator in the area of Interior and Insular Affairs. And his special interest in the elderly should be mentioned, as he has been influential in shaping legislation to insure better housing for the elderly.

Prior to his years in Congress, BOB served as city attorney of Athens, Ga., as well as professor at the University of Georgia and the University of Georgia Law School. It is interesting to note that just before his discharge from the Army after World War II, BOB was assigned to the legal staff of Mr. Justice Jackson at the Nuremberg trials of major Nazi war criminals.

Over the years BOB has served the people of the Nation, as well as the people of his district with outstanding ability and dedication. And it is with great pleasure that I join with my colleagues today to wish him the very best in the years ahead. BOB may, indeed, take pride in his accomplishments in the House and we will certainly miss his wise counsel and leadership.

Mr. ROYBAL. Mr. Speaker, I would like to join with my colleagues in paying a well-deserved tribute to BILL STUCKEY who will be leaving the halls of Congress at the close of the 94th Congress. We have been fortunate to have BILL as a colleague and to benefit from his extraordinary business sense and legislative skill.

During his 10 years in Congress, BILL has been a friend of the taxpayer—taking personal pride in his work to kill bad legislation. He has been particularly active in efforts to straighten out the food stamp program and has fought relentlessly against legislative initiatives which would add cost but not efficiency to our Government system.

While I was surprised to learn of BILL's desire to retire, I can certainly respect his wish to return to private life in order to devote more time to his family and business. All of us who have worked here in Congress are well aware of how time consuming legislative duties are.

BILL has served the people of Georgia's Eighth Congressional District with dedication and distinction and may step down from his duties here in Congress knowing that he has served well and contributed significantly to the legislative process. It has been a true pleasure to know and work with BILL and I want to take this opportunity to wish him continued success in the future.

Mr. ROUSSELOT. Mr. Speaker, it is an honor to pay tribute to my distinguished colleague from Georgia, BOB STEPHENS, on the occasion of his retirement from Congress. BOB has served with great distinction since he came to Congress in 1961, and for 8 of these years it has been my privilege to serve with him on the House Banking Committee.

I am sure that I speak for all of my colleagues on the committee in saying that BOB STEPHENS has a reputation for statesmanship and fairness which is unexcelled. There have been countless times, when battle lines were being drawn on a controversial bill, when it was of great comfort to both sides to know that they could always communicate with BOB STEPHENS and that he would be willing to lend his wise counsel to an effort to reach agreement.

In all the years that we have served together, I have never known BOB STEPHENS to be partisan or to lose his sense of perspective. One of the most valuable services which BOB performed was to relieve tension when debate threatened to get a little too hot by telling a funny story. BOB always seemed to have an appropriate story, and he never, at least in my memory, told the same one twice.

I remember one story that BOB told during hearings of the Subcommittee on Historic Preservation and Coinage, which he chaired, on a bill providing for presentation of a commemorative medal to an outstanding flyer.

BOB STEPHENS remarked that the pilot's exploit reminded him of another historic "flight." During one of the most ferocious battles of the Civil War, a young soldier gathered his weapon and all of his gear and had started running as fast as he could away from the battlefield, when he encountered a war correspondent.

The correspondent shouted to the soldier, "Young man, why are you running?"

Huffing and puffing, the soldier replied, "I'm running because I cannot fly."

BOB STEPHENS has served the State of Georgia and the Nation ably and honorably for 16 years, and he has certainly earned the right to say goodby to the legislative battles of Capitol Hill. He will be missed, but I am confident that he will not soon be forgotten and that his example will serve as an inspiration to the younger Members who must fill the void that he leaves.

I am proud to join my colleagues in conveying our heartfelt congratulations and best wishes to BOB STEPHENS and to his family.

Mr. DERWINSKI. Mr. Speaker, three outstanding members of the Georgia delegation will complete their services at the adjournment of the 94th Congress. All have given their very best to the service of the State of Georgia and the entire United States.

PHIL LANDRUM was elected to the 83d Congress in 1952. His first committee assignment was on the House Education and Labor Committee where he was instrumental in developing the Library Services Act. One of his most important contributions was the Landrum-Griffin Act, which has been called one of the major pieces of labor-management legislation. This bill provided the necessary adjustments to correct abuses and unfair practices by labor leaders. Other legislative accomplishments have been the Vocational Educational Act and the Economic Opportunity Act. Since the beginning of the 89th Congress, Phil has served on the Ways and Means Committee and the Budget Committee, where he has equally benefited the State of Georgia and the Nation in fighting to reduce the Federal budget deficit.

Bob Stephens has been a key member of the Banking and Currency Committee and is chairman of the Historic Preservation Subcommittee. Bob will have served 16 years at the end of this year, and has an outstanding record of popularity among his constituency. He has long been active in supporting the efforts of older Americans and worked for better housing facilities for the elderly. His other accomplishments include improved rural housing and advanced military construction program. He also serves on the Interior and Insular Affairs Committee.

Bill Stuckey serves with great effectiveness on the Interstate and Foreign Commerce Committee, where he has fought to make the free enterprise system work by easing the yoke of Government regulation and restoring competition to the marketplace. He has been a leader in shaping legislation to revamp the securities industry to protect the public investors. Bill was instrumental in preserving the Okefenokee Swamp and the Cumberland Island of Georgia. He is also chairman of the Commerce, Housing and Transportation Subcommittee of the District of Columbia Committee.

I am pleased to have Phil Landrum, Bob Stephens, and Bill Stuckey as good friends over the many years that we have served together in the Congress. The State of Georgia and the United States are losing the service of three outstanding legislators.

These three Members will all be missed, and I add my sincerest wishes to them and the members of their families for long and happy years in retirement.

Mr. LEVITAS. Mr. Speaker, I join my colleagues today in paying tribute to three outstanding Georgians whose combined service in the Congress totals half a century, and who, regretfully, have chosen not to seek reelection.

Phil M. Landrum, Robert G. Stephens, and William S. "Bill" Stuckey have represented their State and their Nation with dignity, honor, and tireless dedication. They will be missed in the years ahead.

Phil Landrum, born and reared in the mountains of North Georgia, has been a tower of strength. As dean of the Georgia delegation, he has led us in endeavors beneficial to our State. The Landrum-Griffin Act, which bears his name, is known throughout our Nation. Since I have been in Congress, I have watched him use his skills and his expertise both on the Ways and Means Committee and the newly formed Budget Committee. A fiscal conservative, Phil Landrum has fought for the concept of a balanced budget and has contributed significantly to the implementation of the Budget and Impoundment Control Act. In the words of Job:

> In his neck abideth strength. His heart is as firm as a stone, Yea as firm as the nether millstone.

Bob Stephens, whose dynamic sense of humor permeates every room he enters, will be especially remembered as a champion of rural housing. Long ago, he recognized the need and through his service on the Housing Subcommittee of the Banking and Currency Committee, he has written legislation to afford rural Americans the opportunity to own their own homes. Bob Stephens has a great sense of history. As chairman of the Subcommittee on Historic Preservation and Coinage, he has made significant contributions to this Nation's Bicentennial effort. As a member of the Subcommittee on Indian Affairs, National Parks and Recreation, and Territorial and Insular Affairs, he has worked to enhance the natural and human resources of our great Nation. On a more personal note, I shall miss his wisdom, his humorous stories, and his friendly manner. In the words of the New Testament, Bob Stephens has not "hidden his light under a bushel but has let it shine for all to see."

Bill Stuckey will probably be best remembered by Georgians for his untiring, successful efforts to preserve Cumberland Island as a national seashore and the Okefenokee Swamp as a national wilderness area. Bill Stuckey's energetic vibrancy shows forth whether he is investigating the securities industry, fighting for the consumer, overseeing the operation of our Nation's Capital City, or speaking out against poor regulations or ill-conceived laws. Now, after 10 years in the House, Bill will devote his time and talents to his family and his business. In the words of Emerson:

> The world belongs to the energetic.

I wish Bill Stuckey well as he conquers new worlds.

And so, Mr. Speaker, on this occasion I pay tribute to three exceptional Congressmen—three exceptional men—and wish them Godspeed in the days ahead.

They will be missed but their deeds and accomplishments shall be testimony to their service.

Mr. DON H. CLAUSEN. Mr. Chairman, this year we will see the departure of three members of the Georgia delegation who have made great contributions to their constituency, the Congress, and their country. Each in their own capacity has had a positive impact on the programs of minority rights, on our Nation's fiscal policies, and on the preservation of our natural resources and our national heritage.

Phil Landrum, Bill Stuckey, and Bob Stephens have each seen our country go through hard times and good times, through war and peace and each one has made a contribution to a better way of life for all Americans. It has been a privilege to serve with these fine men and I count it as a great loss when we will no longer be able to enjoy their counsel and companionship in the next Congress.

Phil has left his mark on the country's fiscal policies. There is no doubt that since 1965 when he joined the Ways and Means Committee, and just recently when he joined the Budget Committee, that our economy has been in a turmoil. These have been rough times to be a member of these committees and he has certainly demonstrated a dedication to solving our economic problems.

Bill Stuckey and I have had parallel interests in the field of transportation for a long time and his commitment to his constituents for the preservation of Georgia's Cumberland Island and the Okefenokee Swamp brought us in close contact in our successful efforts to protect the natural resource value of these beautiful areas.

Bob Stephens and I have had a long friendship sharing mutual interests in the Interior and Insular Affairs Committee. We have shared three subcommittee assignments and I have always been impressed with Bob's interest in the progress of our Indians and those who live in our trust territories. Bob and I have shared many of the same goals and it will be a real "loss to the cause" when he leaves.

Mr. BEVILL. Mr. Speaker, I wish to pay tribute today to the distinguished dean of the Georgia delegation, the Honorable Phil M. Landrum.

I consider Phil one of the ablest men serving in Congress. He has faithfully served the people of Georgia as their public servant since his first election on November 4, 1952. Phil has been reelected to every session of Congress since that time. Initially, Phil was assigned to the House Education and Labor Committee. He made his mark in history with his outstanding service on that committee, where he coauthored the Landrum-Griffin Act. This act was the first major piece of labor-management legislation to be passed since the Taft-Hartley Act in 1947.

Since 1965, Phil has served on the prestigious Ways and Means Committee and most recently, on the Budget Committee. I consider the latter the most important committee created in this century.

The hard work and creative mind of the distinguished gentleman from Georgia will be difficult to replace and greatly missed in the future. I wish Phil and his lovely wife, Laura, the very best during his well-earned retirement.

Mr. FUQUA. Mr. Speaker, when the Congress adjourns, the career of the dean of the Georgia delegation, Phil M. Landrum, will draw to a close.

Phil, who represents the Ninth District of his State, was elected to the 83d Congress and has been reelected to every succeeding Congress.

During his 24 years of dedicated service, he has made many invaluable contributions to the people of this Nation who are greatly indebted to this diligent and devoted Member of the House.

Phil's first assignment was on the House Education and Labor Committee where he served until 1965. During this time he coauthored the Landrum-Griffin Act which was the first major piece of labor-management legislation to be passed since the Taft-Hartley Act.

His wisdom and expertise on the prestigious Ways and Means Committee benefited the entire Nation in helping to shape sound fiscal policies.

His voice and guidance will be greatly missed, but as he plans to return to his native Georgia, he can leave with the satisfaction of knowing he has done his job well.

Mr. HÉBERT. Mr. Speaker, I want to say goodby to three colleagues with whom I have had the privilege of serving in the House—PHIL LANDRUM, BOB STEPHENS, and BILL STUCKEY.

Their departure will certainly leave a void in the Georgia delegation, because I know them to be capable, dedicated public servants who are concerned about America.

I, of course, exit with them and can understand the mixed feelings they have upon leaving the Congress.

I want to wish them well on the road ahead.

Mr. SLACK. Mr. Speaker, I feel privileged to join the many Members who pay tribute to our colleague, PHIL LANDRUM of Georgia. Throughout 24 years in Congress he has set an example of what can be accomplished by a public official who never turns away from a responsibility simply because hard decisions must be made.

He has accepted and has discharged with great skill the obligations involved in service on the Ways and Means Committee and the Budget Committee. In these trying days of economic uncertainty, when we must walk the narrow line between inflation on the one hand and efforts to stimulate employment on the other, his counsel has been invaluable.

Those of us who first offered the resolution which finally resulted in creation of the Budget Committee were well aware that this new body could only be a successful tool for use in controlling deficits and working toward a balanced budget if the membership of the committee consisted of members with a wide-ranging experience with the costs of programs during recent years. In PHIL LANDRUM we were fortunate to have such a man and I feel that much of our future success in this area will be the result of his sincere determination to get the budget control program started on a sound basis.

There will perhaps never be enough dollars to service all the programs we would like to adopt to meet the peoples needs, but PHIL LANDRUM has helped us understand something about priorities in spending, and for this he will not soon be forgotten.

It has been a privilege to have worked with him, and to have this opportunity to express my admiration and respect for his accomplishments and stature in the Congress. My best wishes go with him for enjoyment of good health and happiness in a well-earned period of rest and relaxation.

Mr. MURPHY of New York. Mr. Speaker, we are about to witness a most unfortunate event: the decimation of the delegation from the State of Georgia to this House of Representatives. Three of the most prominent leaders in the Congress have chosen to return to Georgia at the close of this session, leaving the citizens of that State to embark upon a task which they have been unable to do for many years—find replacements for PHIL LANDRUM, BOB STEPHENS, and BILL STUCKEY.

Jointly, they represent almost a third of the entire delegation of the State, and individually, they represent a devotion to their constituencies which is hard to match anywhere else on Capitol Hill.

PHIL LANDRUM has been in the House for almost 24 years, and has been intimately involved with, and a part of, most of the major pieces of legislation to come out of the Education and Labor Committee, Ways and Means Committee, and more recently, the Budget Committee. In Education and Labor, the landmark labor-management legislation which bears his name was formed with his authorship and guidance. Two and a half decades of experience, wisdom, and legislative insight will be extremely difficult to replace.

BOB STEPHENS has been an effective leader in Congress for 15 years, and has made many significant contributions to important legislation eminating from his Banking and Currency Committee, and he has chaired the Historic Preservation Subcommittee in its efforts leading up to our Nation's Bicentennial to preserve the roots of our history for generations to come. In addition, he has been singularly identified with the legislative efforts to improve the lot of the elderly in America, as well as a proponent on behalf of increased and improved rural housing. These are areas which have benefited greatly from his presence and commitment to their fulfillment, and they are issues which will suffer greatly from his absence.

BILL STUCKEY's Eighth Congressional District has had that outstanding gentleman representing them for 10 years, and I have had the pleasure of working with BILL in the Interstate and Foreign Commerce Committee, on which we both serve, as well as on the Consumer Protection Subcommittee which I recently took over as chairman. As the ranking majority member, he has been a leader in shaping new legislation for the securities industry, making it more accessible and desirable for the small, individual investors rather than a haven for the corporate and institutional giants. But in serving the entire American public, he has not forgotten the people of Georgia, who had him on their side in the successful battle to preserve the Okefenokee Swamp and Cumberland Island.

It is always difficult to say goodby to a valued friend and colleague. It is trebly difficult to say goodby to three men of the stature of these.

Mr. EVINS of Tennessee. Mr. Speaker, I should like to join with my colleagues and others in paying a brief but sincere tribute to our colleague ROBERT G. STEPHENS of Georgia, who is retiring from the Congress.

BOB STEPHENS has represented the 10th District of Georgia since 1960—16 years. He has served on the Banking and Currency Committee and was a leader in shaping legislation to insure better housing for the needy for this Nation.

He is a genial, able, and skilled legislator.

BOB STEPHENS has served his district, State, and Nation well and I am sure that we all wish him good luck, success, and happiness in his retirement.

Mr. JONES of North Carolina. Mr. Speaker, we will always remember BILL STUCKEY for his warm personality and his generous gift to many of us of candies from time to time, but most important, his contribution to the Congress since becoming a Member in 1966.

He has made a great contribution in the field of the securities industry to the benefit of the American public.

I join with others in wishing him success in whatever profession he chooses to pursue.

Mr. BURLESON of Texas. Mr. Speaker, we shall miss BILL STUCKEY in this House. We shall miss his outstanding qualities of leadership, honesty, and integrity that have so effectively served his constituency and dignified this body over the years he has been in Congress. He serves with great effectiveness on the Interstate and Foreign Commerce Committee.

I want to take this opportunity to extend my best wishes to Congressman STUCKEY for many more years of success and health.

Mr. WAGGONNER. Mr. Speaker, it is with a great deal of honor, and much sadness that I offer my own words of fond farewell to our longtime colleague, ROBERT G. STEVENS.

BOB and I came to Congress in the 87th, two southern freshmen representing similar, predominately rural constituencies. Our commonly held beliefs in the role government should play in the lives of people attracted us legislatively and we became friends. I have enjoyed our close association over the years and I hate to see Congress lose a man of BOB's immense talents and diverse interests.

BOB knows the political process throughout, having studied and taught political science at the University of Georgia. But he also knows and has practiced the practical side of the political science during his 8 years of public service in the Georgia State Legislature and 16 years in the House. During that time he has always stood out as a legislator of exceptional talent and energy. His efforts in behalf of elderly Americans and his work for better rural housing have become well known and widely recognized.

BOB comes from proud southern stock that places personal honor and integrity high on the list of priorities. He accepted the challenge of public life in the interest of serving his country and his State and his district.

Perhaps the greatest tribute that can be paid to any Member of Congress is to recognize that he truly represented the people of his district with dedication and integrity. This can certainly be said in all honesty of our good colleague BOB STEPHENS.

I am going to miss BOB STEPHENS. I think this House will miss him, too.

Mr. ADDABBO. Mr. Speaker, I join

my colleagues of the House and the Georgia delegation to honor the departure of the three statesmen of the State of Georgia: Congressman Phil M. Landrum, Congressman Robert G. Stephens, Jr., and Congressman W. S. "Bill" Stuckey, Jr.

The State of Georgia can be proud of the honorable and distinctive service of these three fine gentlemen. Their counsel and advice, and expertise, will be missed by the Members of the House of Representatives on their retirement at the end of the 94th Congress.

I therefore wish to join in honoring these three outstanding public servants and pay tribute to them for each in his own way and committee activities has served the Congress, the Nation, and their constituency to the highest degree.

Mr. WOLFF. Mr. Speaker, after 24 years of faithful service in the House, the dean of the Georgia delegation, Phil M. Landrum, will bring his successful career to a close.

As a member of the Ways and Means Committee and more recently the Budget Committee, Mr. Landrum has made important contributions in the shaping of sound fiscal policies for the country.

It will be a great loss to our Congress and our Nation when Mr. Landrum retires at the end of the 94th Congress. His leadership and experience will be missed by all who were involved with him.

Mr. O'NEILL. Mr. Speaker, I welcome the opportunity to join my colleagues in paying tribute to Congressman Bill Stuckey, of Georgia, on the occasion of his retirement.

Bill Stuckey came to the House of Representatives in 1966 and for the last decade has served his constituents with distinction and great devotion to duty.

He has been an active and vocal ranking member of the District of Columbia Committee where he has served as chairman of the Commerce, Housing, and Transportation Subcommittee. Bill Stuckey has played a key role in the major legislative initiatives by the Congress in the important area of new health programs, communications, conservation of energy, and consumer protection.

Bill Stuckey will be remembered by his colleagues for his conscientiousness, diligence, and for always placing the interests of his district and beloved State of Georgia first.

I wish Bill Stuckey well in his retirement.

Mr. KETCHUM. Mr. Speaker, while I wish him all the best as he prepares to leave this Congress for the last time, it is with profound regret that I say goodby to my friend and colleague, Phil Landrum. Throughout his 11-year tenure in this House, Phil has more than proven his remarkable legislative abilities. It can truly be said of him that he has served this Nation in a most exemplary manner.

I have been privileged to serve with Phil on the Ways and Means Committee. His responsible and capable actions have been great assets to that Committee, and he has been instrumental in the formation of some very crucial fiscal policies, affecting all Americans. I believe that in every instance his sound judgment and honest concern for the needs of our citizens has been evident. Those of us on the other side of the aisle may not always agree with his position, but I sincerely doubt that any one of us has ever questioned Phil Landrum's integrity, his conviction, or his dedication to those whom he is privileged to represent.

Phil Landrum has stood out as a shining example of true representative government, his actions reflecting the needs of those who sent him here to Washington, his accessibility proving to his constituency that they had certainly made the right choice. Moreover, not only Phil's district, or the State of Georgia, but every citizen in our Nation has benefited from Mr. Landrum's able leadership.

Georgia's delegation is losing several fine men at the close of this session, and the void left behind by the retirement of that delegation's dean will be difficult to fill. With the warmest personal regards, I wish Phil Landrum many years of peace, prosperity, and happiness.

Mr. de la GARZA. Mr. Speaker, three distinguished members of the Georgia delegation will conclude their congressional careers at the end of the 94th session. It is with deep regret that we prepare to say goodby to Phil Landrum, dean of the delegation, Robert Stephens, Jr., and Bill Stuckey, Jr. These men have made contributions of great value to the work of this House.

Phil Landrum's service here extends back to 1952. Among his outstanding achievements was his coauthorship of the Landrum-Griffin Act, the first major labor-management legislation to be passed since the Taft-Hartley Act became law in 1947. He is known for his advocacy of sound fiscal policies in Government.

Bob Stephens is concluding 16 years of service in the House. He is a member of the Banking, Currency and Housing Committee and is chairman of the Historic Preservation Subcommittee. He has made an outstanding record in his efforts to make life better for the elderly.

During his five terms in the House, Bill Stuckey has become well known for his successful efforts to preserve Georgia's Cumberland Island and her Okefenokee Swamp. As a member of the Interstate and Foreign Commerce Committee, he has taken the lead in advancing legislation to protect public investors in the securities market.

These three men have rendered great service to their districts, their State, and the Naton. We will miss them in this Chamber. They stand for the best in representative government.

Mr. BURLESON of Texas. Mr. Speaker, it is well that we should take time out to express our feelings of esteem and admiration for one who has served so long and so well as our colleague, the Honorable Phil M. Landrum.

His announced retirement plans cause mixed emotions, both a feeling of great loss in service to his country, his State, and the people of his congressional district, and at the same time, wishing him a most pleasant and well-deserved retirement.

Phil Landrum has furnished great leadership to the Congress during the years in Congress. While a member of the Education and Labor Committee, he coauthored the Landrum-Griffin Act which was the first major piece of labor-management legislation to be passed since the Taft-Hartley Act became law in 1947. His voice on the Budget and Ways and Means Committees has benefited our State and Nation in helping to shape sound fiscal policies, and the void left by his retirement will be hard to fill.

I join with the many other friends and colleagues of Phil Landrum to pay tribute to him upon his retirement and to wish him Godspeed.

Mrs. LLOYD of Tennessee. Mr Speaker, it is with great pride and considerable gratitude that I rise to pay tribute to the distinguished chairman of the Historic Preservation Subcommittee Robert G. Stephens.

As a freshman Member of Congress, I shall always appreciate the willingness of Bob Stephens to lend his assistance or offer his advice whenever called upon to do so. His expertise in banking legislation has served me in good stead over the past 2 years and I shall always be grateful that he was so ready to share his wisdom and experience.

Bob Stephens has served in this body with distinction and pride and he deserves the respect and admiration of all of us for the fine job he has done for his constituency over the years he has served and the contributions he has made in aiding the Congress in producing effective legislation. His ability and dedication to high performance will remain as an example for all of us to follow.

The people whom Bob Stephens has represented should wholeheartedly thank him for his accomplishments and I would sincerely add my thanks to him for providing strong leadership throughout his distinguished career and for being a fine friend.

Our best wishes go with you on your return to your beautiful State of Georgia.

Mr. MILLS. Mr. Speaker, in 1952, the State of Georgia gained another strong voice in the House of Representatives by electing Phil Landrum to the 83d and succeeding Congresses. Like myself, he will retire from public service at the close of the 94th Congress, and while Georgia will lose one strong voice in public life, I suspect that they will continue to benefit from the knowledge and experience which Phil will continue to bring to the public affairs of that State in private life.

During Phil Landrum's service on the Committee on Ways and Means, he has been a continuing source of advice and counsel, both as a close personal friend and as a colleague. And throughout this service his leadership on issues of fiscal responsibility and economic restraint have brought reason and stability to the often emotional and conflicting views among the membership of the committee on matters of deep national concern. In his 11 terms in the Congress he has gained the respect of his colleagues in the House which has made him a strong leader, a leader whose talent and strength will be profoundly missed. I have had occasion to visit with Phil in his district, to meet his constituents, and to share with them our mutual respect for his talents. I feel certain that while they will long wish for his continued representation in Washington, they will welcome his friendship and counsel at home particularly because he will be accompanied by his wife Laura.

Mr. REUSS. Mr. Speaker, today we honor our friend and colleague from the 10th District of Georgia who has ably served this body for the last 16 years.

Robert Stephens comes from a long line of public servants. Members of his family have served his home State and this Nation throughout our 200-year history. Thus his leadership in historic preservation comes as no accident.

As chairman of the Subcommittee of Historic Preservation and Coinage, Robert Stephens conducted the most extensive study of urban conservation programs in the history of the Congress. He has chartered a course for us to follow in preserving America's urban architectural monuments.

We have been most fortunate to have a man like Bob Stephens to help commemorate our national birthday. He has enabled us to appreciate our past, so we can look forward to the future. He leaves with our warm thanks and best wishes.

Mr. BENNETT. Mr. Speaker, three great Georgians will be retiring from Congress this year and we will greatly miss them each.

Congressman Phil Landrum, a powerful and senior member of the House Ways and Means Committee is a man of wisdom and strength, an able debater who marshals well his facts and arguments and he has left his imprint on legislation in the fields of labor, education, and taxation. I greatly treasure his friendship.

Congressman Bob Stephens who serves ably on both the Banking and Currency Committee and the Interior and Insular Affairs Committee is an able legislator and a man unmatched in wisdom and humor. We will all certainly miss him.

Congressman Bill Stuckey represents an area in Georgia which is adjacent to the area I represent in Florida. His achievements on the Interstate and Foreign Commerce Committee are a tribute to him. His work in creating the Cumberland Island National Park and the protection of the Okefenokee Swamp indicate the support he was able to enlist in Congress, for not only the best interests of his district but for the good of all Americans. He will be going back to a very responsible business challenge; and, although his interest in so doing is understandable, we will certainly miss him greatly here.

Mr. JONES of North Carolina. Mr. Speaker I would like to express the high regard which I hold for Phil Landrum. I am especially grateful for his part in the Landrum-Griffin Act which has meant so much to the labor-management problems of this Nation.

For the last 9 years he has been virtually a next door neighbor, living in the same apartment house and on the same floor. Certainly I will miss his good morning greetings, and join with others in wishing he and his family many years of health and happiness.

Mr. NICHOLS. Mr. Speaker, I appreciate our colleagues, Jack Brinkley and Jack Flynt, taking this special order to honor our friend, Phil Landrum, who will be retiring at the close of this session of Congress.

Phil has always been one of my favorite people in Congress and we find comradeship "behind the rail" in our mutual interest in Southeastern Conference football. He is an avid supporter of the Georgia Bulldogs, his alma mater, who each fall tangle with my Auburn Tigers, who my friend, Phil, jokingly refers to as that "Junior College."

Phil Landrum is one of the outstanding leaders among our southern delegations in the Congress having served in this body now for 24 years and his service on the Ways and Means Committee has reflected greatly on this great legislator from my adjoining State.

As coauthor of the Landrum-Griffin Act, his name will be respected for years to come as the first meaningful piece of labor management legislation enacted since the Taft-Hartley Act became law in 1947.

I shall miss Phil Landrum in many ways on the floor of this House, however, my sorrow in his leaving is compensated by the fact that I know he is going home to those red hills which he loves and where he will have the time to spend in fishing in the spring and hunting quail each fall and I take this occasion to wish for my friend, Phil Landrum, all of the joys which retirement should bring.

Mr. DUNCAN of Oregon. Mr. Speaker, Phil Landrum is one of those special people that are an amalgam of the North, the West, and the South.

Born in the North, he also lived in the West and contributed much to our Nation as a Representative from Georgia. I need not recount the numerous pieces of legislation that will bear his imprint forever. His contributions are well known.

I will remember him most as a person who surmounted the obstacles that separated our Nation in the past. He and I came together through the unusual catalyst of chewing tobacco—Copenhagen to be precise.

He once asked what I had in the little tin. I was surprised to hear such a question from a man who came from a tobacco State. Anyway, I prevailed upon him to take a big pinch. He survived 10 seconds and then disposed of it.

After that we were friends forever and he had won another friend for the South. I like to think I won one for the North—or more particularly the West.

Mrs. LLOYD of Tennessee. Mr. Speaker, it is with considerable pride and deep gratitude that I rise to pay tribute to the distinguished dean of the Georgia delegation, Phil M. Landrum.

Phil Landrum has served as an extremely competent and well-liked leader throughout his long and illustrious career in the House of Representatives. As a freshman Member of the 94th Congress, I have benefited greatly from the wisdom and advice which he has always been all too ready to give.

Phil Landrum has represented his constituency throughout his career with distinction and has served with honor both his district and his colleagues in this body. When the gavel falls to signal the end of the 94th Congress, the career of a man who deserves the great respect of us all will end. We will all gain in the years ahead from the counsel and the experience of this remarkable man.

I offer my admiration for his dedication to his work and my thanks for his friendship. Our best wishes go with you on your return to your beautiful State of Georgia.

Mr. SCHNEEBELI. Mr. Speaker, Phil Landrum and I have served together on the Ways and Means Committee for 12 years. During this period of time I have come to appreciate his great capacity and leadership. Quite often, Phil has been the effective and dominant "swing" vote in our committee decisions; his position always was on the thoughtful side directed toward the national interest.

We both also have served on the newly created Budget Committee. Phil's concern about excessive Federal spending has resulted in his many decisions and votes to reduce many of the Congress excesses.

The Congress will sorely miss Phil Landrum's fine leadership. He probably will be remembered best as coauthor of the Landrum-Griffin Act, one of the major pieces of labor-management legislation passed in the last 25 years.

With his retirement Phil has earned the right to a more relaxed style of living as he returns to his native Jasper, Ga.

Over the period of years, Phil and Laura Landrum have become good friends of my wife and myself. They are a delightful couple and we have enjoyed all our associations with them, both here in Washington and at the infrequent conferences elsewhere.

We all wish Phil and Laura a happy future of fishing and relaxation.

Mr. Speaker, Bob Stephens lost a good friend and fellow storyteller 2 years ago when Tom Gettys left the Congress, but Bob has continued to be one of the blythe spirits in the House. He has a widespread and well-earned reputation for being a charming and witty companion which sometimes belies the tremendous energy and concentration he brought to his congressional work.

Bob Stephens has long been active in efforts to improve conditions for older Americans. He has initiated and effectuated better housing for the elderly; his work included legislation for improving rural housing as well.

Bob will be sorely missed as a warm and congenial person as well as being an effective legislator who has served our Nation well.

Mr. WOLFF. Mr. Speaker, the House of Representatives will feel the loss, when, at the adjournment of the 94th Congress, Robert G. Stephens Jr. will retire after 16 years of faithful service.

His activities in areas concerning our senior citizens have been instrumental in the shaping of legislation that would assist them. The Banking and Currency Committee, as well as the Historical Preservation Subcommittee and the Interior and Insular Affairs Committee will miss his leadership and counsel.

Bob Stephens will be remembered as an important asset to the 94th Congress and his contributions to this country will remain in the minds of all those with whom he was involved.

Mr. ICHORD. Mr. Speaker, when this 94th Congress adjourns, the Georgia delegation will feel its effects profoundly as three of its distinguished Members retire. Phil M. Landrum, Robert G. Stephens, Jr., and W. S. Stuckey, Jr., will leave vacancies that will not be easily filled.

But they will also leave an array of impressive accomplishments and examples that will continue to serve us all for a long time to come. Phil Landrum's work on the Budget and Ways and Means Committee has been an illustration of wisdom and dedication. His part in the Landrum-Griffin Act, the first major labor-management legislation since the Taft-Hartley Act of 1947, will remain as only one example of the leadership and foresight we have seen him exhibit for 24 years in this House.

Neither will Bob Stephens be easily matched. Since 1960, we have seen Bob involved in some of our most timely issues: housing, the problems of the elderly, historic preservation. As a member of the Banking and Currency Committee, chairman of the Subcommittee on Historic Preservation, and as a member of the Interior and Insular Affairs Committee, he has shown compassion and concern for these problems, but most importantly, he has acted with decision and integrity to help bring about the changes these issues demand.

Bill Stuckey has served on the District of Columbia Committee, as chairman of the Housing, Commerce and Transportation Committee, and on the Interstate and Foreign Commerce Committee. Noted for his effectiveness in shaping legislation to revamp the securities industry, he may also claim the preservation of Georgia's Cumberland Island and her Okefenokee Swamp as testimonials of his wholehearted concern and legislative skills, qualities that will be sorely missed by those of us he leaves behind.

These men have been great servants and great leaders, and it is not only Georgia that will miss them, but the entire Nation as well. I join with my colleagues in paying tribute to three jobs well done and to three friends who will continue to mean much to us all.

Mr. EVINS of Tennessee. Mr. Speaker, permit me to join with my colleagues from Georgia and others in paying a brief but sincere tribute to Phil M. Landrum of Georgia as he seeks retirement from the Congress.

Phil Landrum has elected not to be reelected after serving many years in the House of Representatives.

He is a member of the great Committee on Ways and Means and helped write and draft much landmark legislation. He has served as a member of the Committee on Education and Labor and was the co-author of the Landrum-Griffin bill that bears his name.

Mr. NICHOLS. Mr. Speaker, I appreciate our friends, Jack Brinkley and Jack Flynt, arranging this special order so that we might have the opportunity to join with other Members of Congress in paying tribute to our friend, Bob Stephens, who has so ably represented the 10th District of Georgia for some 16 years.

Bob Stephens is a great American and he is a great Georgian and he has served with much distinction on the Banking and Currency Committee.

Time after time I have listened to his most convincing arguments in behalf of rural housing and on companion legislation which would serve the lives of older Americans. In these fields he has no equal.

Bob Stephens wears another hat though, Mr. Speaker, in his chairmanship of the Historic Preservation Subcommittee of the Banking and Currency Committee and in this role he has much expertise. Bob has a longtime interest in American history and Georgia history in particular and he of course comes from the Stephens family who were so prominent in Georgia affairs during those difficult times in the War Between the States.

I shall miss Bob Stephens and his friendly smile, his pleasing personality and his winning ways among his many friends in this body. I take this occasion to wish for him all of the pleasures which retirement should bring.

Mr. Speaker, I appreciate our friends, Jack Brinkley and Jack Flynt, arranging this special order in order that we might have the opportunity to join with other Members of Congress in paying tribute to our friend, Bill Stuckey.

Mr. Speaker, 10 years ago on a cold January day I followed my friend, Bill Stuckey, in the well of this House to be sworn in as a U.S. Congressman in the 90th Congress. Over the years I have been privileged to serve with this most able Representative from our sister State of Georgia who has served with great effectiveness on the Interstate and Foreign Commerce Committee.

The leadership role in preserving the great Okefenokee Swamp will be lacking in the next Congress because of his absence. It is our understanding that our friend wishes to return to his native State to assist in the operation of the family business and in this I find no quarrel. Certainly because of his tremendous popularity and his ability in service as a Georgia public servant he would have had no problem in being reelected for a sixth term.

I take this means to wish Bill well in whatever his endeavors might be in the years ahead and certainly our loss here in the Congress because of his absence will be more than compensated in his native State of Georgia where no doubt he will continue his outstanding record in business and civic endeavors.

Mr. BEVILL. Mr. Speaker, I wish to pay tribute today to the Honorable Robert G. Stephens, Jr., who is retiring and will not be with us in the 95th session of Congress.

I am delighted to have had the opportunity to serve with my good friend and colleague, Bob. He is a scholar and a gentleman. Bob has represented the 10th District of Georgia since being elected to the 87th Congress on November 8, 1960.

While I was serving on the House Banking and Currency Committee, I had the opportunity to work very closely with Bob. He is one of the outstanding leaders of this very fine committee. In working closely with him I found him to be one of the most dedicated men I have ever known. In some of the difficult decisions Bob was prepared to make, he obviously voted his conscience and what he felt was in the best interest of our Nation.

Bob also serves on the Interior and Insular Affairs Committee, and chairs the Historic Preservation Subcommittee. His leadership will be greatly missed in the Congress.

I wish him and his lovely wife Grace a very happy retirement.

Mr. FUQUA. Mr. Speaker, the distinguished career of one of the finest Members Congress has ever seen will soon draw to a close.

When the Speaker raps the gavel on sine die adjournment for the 94th Congress this week, my long-time friend and respected colleague, Robert G. Stephens, Jr., will end 16 years of dedicated service to the people of Georgia and the Nation.

During his years in the House, Bob has served with distinction on the important Banking, Currency and Housing, and the Interior and Insular Affairs Committees.

A tremendously effective Member of the House whose wisdom and counsel have been highly valued by so many of us through the years, Bob's voice will be sorely missed. His expertise in the field of housing will be difficult to replace, and I am certain small businesses of this country will miss the probing concern, wisdom, and fairness he gave during his years as chairman of the Small Business Subcommittee.

His contributions to the improvement of the Nation's natural resources and its internal development will long stand as a monument to his selfless and dedicated services.

Bob's fairness and objectivity have been recognized and admired on both sides of the aisle and he has earned additional respect for his solid reputation as an energetic, intensely serious financial guardian of the interests of the American taxpayer. His dedication and great ability have made him a tremendous asset to whatever task he has set his hand in the House.

But this serious and reserved Southern gentleman's nature belies an easy-going, gregarious friend with an uncanny sense of humor and quick wit, always alive with an affable story or appropriate anecdote.

I join with those who wish Bob and his wife, Grace, years of good health and happiness.

Mr. KARTH. Mr. Speaker, with the conclusion of this historic 94th Congress, the House of Representatives loses three of its most able and highly esteemed Members from the State of Georgia.

To lose one such outstanding Member leaves Congress deprived, but the loss of three such gentlemen, with a total of nearly a half-century in the House of

Representatives and brilliant records of committee accomplishment, is a severe blow.

I count the departing dean of the Georgia delegation as a personal friend and mentor. Congressman PHIL LANDRUM's 23-year record of legislative leadership in the House only half tells the story of his accomplishments. By his example, by the exercise of his wisdom and knowledge, by the advice and counsel we have solicited from him, PHIL LANDRUM has helped shape the careers of many in the present and previous Congresses.

Having served with PHIL LANDRUM for 5 years on the Ways and Means Committee I have come to share the admiration of my committee colleagues for PHIL's sharp and comprehensive understanding of complex revenue-raising legislation. We have learned to rely on his talents for cutting directly to the core of an issue, summing up, with great lucidity, the pros and cons of almost any tax question, and reaching a balanced conclusion. If our Federal tax laws have improved down through the years, PHIL LANDRUM must receive much of the credit.

Similarly, Mr. Speaker, our good friends Congressman BOB STEPHENS and Congressman BILL STUCKEY, both veterans of many important legislative campaigns in the House, will leave a large void when they depart this Chamber at session's end.

BOB's 15 years in Congress have been a sustained record of conscientious service to the people of his district and the State of Georgia, particularly his successful efforts on behalf of his State's and the Nation's elderly men and women and adequate housing for our senior citizens, both urban and rural. BOB's untiring work on the Banking and Currency Committee has made him one of the most valued experts in this abstruse but important field. And he has earned the gratitude of many Americans who are increasingly concerned with our country's priceless heritage for his effective chairmanship of the House Historic Preservation Committee.

Our third major loss in the Georgia delegation, Mr. Speaker, is Congressman BILL STUCKEY who has labored hard and long to protect public investors and in the Interstate and Foreign Commerce Committee to modernize legislation governing the securities industry. His work as chairman of the Housing, Commerce, and Transportation Subcommittee has been directed toward the building of a sound and healthier economy and an end to the current recession and the national housing shortage. BILL's work in these fields will make easier the achievement of future congressional goals in these vital areas.

The retirement of these three valued Members, Mr. Speaker, reminds me of the three words that comprise the motto of the State of Georgia: "Wisdom, justice, moderation." Our three retiring colleagues have well represented these three ideals.

Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to Hon. ROBERT G. STEPHENS, JR., who is retiring at the end of a long and distinguished career not only in the House of Representatives, but as a teacher, a lawyer, a city attorney, a Georgia State representative, and a Georgia State senator. Congressman STEPHENS also served in the Army for 4½ years during World War II and was on the legal staff of Supreme Court Justice Robert Jackson at the Nuremberg trials of Nazi war criminals.

During the 12 years that I have served in the Congress, I had the opportunity to get to know BOB well as a fellow member of the House Banking,, Currency and Housing Committee. He is a dedicated and devoted American, and a Congressman of outstanding ability, deep compassion, and courage. These qualities not only earned the respect of his colleagues but endeared him to his constituents of the 10th Georgia District as well.

He was first elected to the 87th Congress, and was reelected to every succeeding Congress until the present 94th Congress. During those years, he has witnessed some of the greatest moments in the history of mankind and he has experienced, in a very real sense, the triumphs and the tragedies of our Nation.

BOB STEPHENS can retire with the assurance that through his efforts mankind has benefited, and there is no tribute higher than this. I extend to BOB my best wishes for a healthy and happy retirement.

Mr. FUQUA. Mr. Speaker, our good friend and colleague, BILL STUCKEY, is retiring from Congress after 10 years of dedicated and devoted service.

BILL, who represents the Eighth Congressional District of Georgia, has served with great effectiveness on the Interstate and Foreign Commerce Committee where he has been a leader in shaping legislation to revamp the securities industry.

His leadership and efforts to assure a free market, open and protective of public investors, will be greatly missed.

In addition, Georgia's Cumberland Island and its Okefenokee Swamp, an asset to the entire Nation, will be preserved thanks to BILL's legislative abilities.

The Nation is indebted to him for his outstanding and valuable guidance as chairman of the Housing, Commerce, and Transportation Subcommittee. His dedication and great ability have made him a tremendous asset to whatever task he has set his hand in the House.

I join with BILL's many friends in wishing him many years of happiness and good health.

Mr. BEVILL. Mr. Speaker, I wish to pay tribute today to my good friend and colleague, the Honorable BILL STUCKEY, who is retiring after serving the people of the Eighth Congressional District of Georgia since 1966.

BILL and I came to Congress and were sworn in on the same day at the beginning of the 90th Congress. He is one of the most personable and able men in the Congress. His vast experience in business has made him very effective on the very important Interstate and Foreign Commerce Committee. BILL has been a leader in shaping legislation to revamp the securities industry to make the capital markets free, open, and protective of public investors.

My colleague from Georgia also serves on the District of Columbia Committee and chairs the Housing, Commerce and Transportation Subcommittee.

I wish BILL the very best in his well-deserved retirement, and know that his expertise will be greatly missed in the House of Representatives.

Mr. JONES of North Carolina. Mr. Speaker, certainly we will all miss BOB STEPHENS as he returns to his home in Georgia after some 16 years in the Congress.

His fine sense of humor has been a welcomed relief to many of us from time to time. His contribution to the Banking and Currency Committee as well as his contributions to improving the lot of our older citizens shall long be remembered.

For 9 years I have had the pleasure of living in the same apartment building with him, and frequently we have come to work together which was always a pleasant and enjoyable event.

I join with others in wishing him and his family many years of health and happiness.

Mr. WOLFF. Mr. Speaker, at the adjournment of the 94th Congress, the 10-year career of BILL STUCKEY will close.

He has been a vital member of the Interstate and Foreign Commerce Committee and his leadership and initiative has furthered legislation in restructuring the securities industry. In addition, his contributions in the area of preservation of natural resources will be greatly appreciated by the residents of the State of Georgia.

BILL STUCKEY has been a responsive, active Representative and his absence will be felt greatly by those who worked with him.

Mr. DUNCAN of Oregon. Mr. Speaker, bearer of a proud ante bellum name—BOB STEPHENS departure from this Chamber is a distressing event.

I have observed his work both on and off the floor. He has brought credit to his constituents but, what is more important to me, he has brought credit to this House. We can all take pride in his stewardship.

His years in the House have also contributed mightily to the needs and aspirations of the people of Georgia and all of the South. Of him, it can be truly said, "he has helped 'the South to rise again.'"

I know his colleagues from Georgia will miss him. But, they should know that this is one "tough Yankee trader" who will miss him too.

Mr. BURLESON of Texas. Mr. Speaker, we always come to a time like this with mixed emotions. In this instance, I am glad that our colleague, BOB STEPHENS, has made his decision to retire from Congress in order that he may devote his time to personal matters and seek satisfaction and happiness in other pursuits. The other side of the coin is that I regret exceedingly to see a man of his ability, dedication, and integrity leave this body where he has contributed so much to our Nation and to the people he represents.

BOB STEPHENS serves on the Banking and Currency Committee and is chairman of the Historic Preservation Subcommittee. He has long been active in efforts to improve the lot of older Americans and has been in the forefront in shaping legislation to insure better housing for the elderly.

My good wishes go with our esteemed colleague as he leaves this body, and I hope that he will find deep satisfaction in his decision.

## GENERAL LEAVE

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to extend their remarks on the subject of this tribute to this distinguished trio of the Georgia delegation, the three gentlemen from Georgia, Mr. LANDRUM, Mr. STEPHENS, and Mr. STUCKEY.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Georgia?

There was no objection.

## REQUEST TO REMOVE NAME FROM COSPONSORS OF MEDICAL FREEDOM OF CHOICE ACT

Tht SPEAKER pro tempore (Mr. MURTHA). Under a previous order of the House, the gentlewoman from New Jersey (Mrs. FENWICK), is recognized for 5 minutes.

Mrs. FENWICK. Mr. Speaker, I would like to have my name removed from the list of cosponsors to the Medical Freedom of Choice Act (H.R. 15179).

Before I can cosponsor a bill that would repeal the 1962 amendment to the Food, Drug and Cosmetic Act, which requires a new drug to be proven not only safe but effective before it may be marketed, I would require that the new drug include on their labels, that they have not been proven by the Food and Drug Administration to be effective. Until this is provided for in the bill, I cannot be a cosponsor.

## A TRIBUTE TO BELLA ABZUG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 60 minutes.

Mr. ADDABBO. Mr. Speaker, at the end of this session, the gentlewoman from New York (Ms. ABZUG), will end 6 years of service in the House of Representatives. To greatly understate the facts, Mr. Speaker, life without BELLA in the next Congress is going to be a lot more dull and greatly less colorful.

BELLA has not gone unnoticed during her time in Washington. She has not been uncontroversial, and she has not been timid about expressing her views on matters coming before the House. She has left her mark on all of us, one way or the other, and generally for the better. I can say that few of us have escaped her attention, and when we have been disagreed with, well—we have known that we have been disagreed with.

It is true, it must be admitted, that BELLA has been known to lose her temper. She has been known to say an unfavorable word. She has an ability to state her views, especially when in disagreement, that will get a colleague's attention promptly.

But let it also be said that all of us who have served with BELLA ABZUG know that she works at her job unrelentingly. She cares about people rather than things. Her constituency—and it is not only in New York—consists of those who are helpless and unable to help themselves. As far as I can tell, I have never known BELLA to deviate from the truth as she sees it. She does not equivocate, nor will she compromise principle. When she gives her word, you know that promise will be kept.

She has led the way for many causes, most of which were generally unpopular when she lent her support. Much of what she has advocated throughout her professional life, going all the way back to when she was an unknown New York lawyer working on civil rights cases, has come to be an accepted part of American life today.

By simple force of personality, dedication to the cause and through plain old fashioned hard work, BELLA has moved forward the cause for women in this Nation. She has worked to eradicate poverty, to end senseless warfare, to end wasteful Federal spending and a host of other issues so dear to her heart.

BELLA will not leave here the most popular Member ever to serve in this body. It is hard to be popular when conscience forces you to tell it as you see it. But she will leave here with the respect of every Member who has served with her, because when you get in a fight with BELLA, you had better have some good arguments on your side or you are likely to end up strung up and skinned.

BELLA has served her district, her city, and her State with distinction, and her belief in the basic goodness of the people of this Nation has never been shaken, no matter how hotly any particular issue has been debated.

She is my good friend, and I am going to miss BELLA next year. Only BELLA can belt you in the chin one minute and kiss you on the cheek the next. It is going to be a lot duller around here come January.

I ask unanimous consent that all Members have 5 days within which to revise and extend their remarks.

Mr. O'NEILL. I am delighted to take this opportunity to honor a great legislator, a distinguished national leader, and a good friend, BELLA ABZUG.

Bright, conscientious, dedicated to progressive and reform causes, BELLA is one of the most prodigious legislators in the Congress. She is not only one of the more knowledgeable legislators in the House, but she is also without a doubt, the hardest working Member. How many times each week do I leave the Capitol, late at night, after a difficult and long legislative day, and see BELLA walking back to her office to spend more time studying the legislative program for the next day.

BELLA ABZUG has certainly been a vocal and controversial Member of the House. Those of us who have served with her learned rather early that no one was more persistent and steadfast than BELLA ABZUG in her determination to get the job done well and to become an important spokesperson for liberal causes.

BELLA ABZUG has been a breath of fresh air in the House. While 3 years ago she probably held the title for maverick of this Chamber, she has now become an effective, hard-working, and productive Member of the "establishment" whip organization. Her talents were recognized by the Democratic leadership. Consequently, I appointed her to the whip organization because BELLA ABZUG represented a view which needed to be voiced, and because I respected her abilities, talents, and real legislative acumen. And, BELLA, you have not disappointed me, for you have kept all of us right on our toes every Thursday morning at the "whip coffee."

To enumerate all of BELLA ABZUG's legislative accomplishments still would not pay her the commendation she deserves. She has been outstanding in the areas of public works, job bills, urban mass transportation, and was almost singularly responsible for the Freedom of Information Act amendments. How can anyone of us ever forget the page one stories of Chairperson BELLA and the hearings she held on the covert domestic intelligence activities of the CIA and FBI.

BELLA ABZUG posseses a toughness of spirit that never dies. I know that we have not heard from the last of BELLA, and that her departure from the House of Representatives is only temporary. Her personal courage, strength of conviction, and forthrightness are qualities which have made an indelible imprint on the legislative process. BELLA ABZUG has been a leader in bringing issues before the American people long before they received notoriety in the press or became popular with the electorate.

Outstanding men and women are seldom passive in their outlook on approach. And so, it has been with BELLA, an activist in the struggle to bring greater human and civil rights for all Americans.

BELLA, do not give us the struggle. Although I will miss your support and assistance in the 95th Congress, I wish you every success and happiness in all your future endeavors.

Mr. DELANEY. Mr. Speaker—

Our romance won't end on a sorrowful note,
Though by tomorrow you're gone;
The song is ended, but as the song writer wrote,
"The melody lingers on . . ."

They may take you from me,
I'll miss your fond caress,
But though they take you from me,
I'll still possess:

The way you wear your hat,
The way you sip your tea
The memory of all that—
No, No! They can't take that away from me . . .

The way your smile just beams,
The way you sing off key,
The way you haunt my dreams—
No, No! They can't take that away from me!

We may never, never meet again
On the bumpy road of laws
The way you deal with strife,
The magic of your gait,

Still I'll always, always keep the mem'ry of
The way you've changed my life—
No, No! They can't take that away from me!

No, they can't take that away from me . . .
(With apologies to George Gershwin, "Shall We Dance," 1937)

Mr. Speaker, hers is a name that has become a household word for millions of Americans. The wide-brimmed floppy hat, the harangue, the outstanding devotion to her duties as a Congresswoman over the past 6 years, serving the people of her district, of New York, and of the Nation. She is a force to be reckoned with among women and in Democratic Party circles. She is leaving us now. But I know she will never just settle back in Greenwich Village to bake bread and watch the hippies.

She has been a leader in the foreign policy arena and in her key position as head of the House Government Operations Subcommittee on Information and Individual Rights. Every member of the women's movement is aware of how she has championed their cause.

A New Yorker all the way—born in the Bronx, helping her father at the Live-and-Let-Live meat market on Ninth Avenue, going through the city's public schools, Hunter College, and Columbia—she has always enlivened our New York delegation meetings with her commitment, her zest for life, and her dynamic legislative leadership.

Mr. Speaker, a fond farewell to Congresswoman BELLA ABZUG of New York's 20th Congressional District. We will—I will—miss her.

Mrs. BURKE of California. Mr. Speaker, there are few Members who have served in the House of Representatives who have had the impact of Congresswoman BELLA ABZUG. Those of us who have watched her marvel at her ability to tackle issue after issue with confidence and competence.

BELLA has shaken the Capitol as chairperson of the Subcommittee on Government Information and Individual Rights, forcing people to recognize the critical importance of the right to privacy. She has fought long and hard on public works to promote full recognition of the Federal responsibility for public transit and the subsidy of our subway and transit systems. Countercyclical assistance would still be an obscure concept if BELLA had not pushed for it.

If we have Government in the sunshine, thank BELLA. If we have flexible hours employment in the civil service, thank BELLA. Thank BELLA, too, for furthering acceptance of women's concerns. Thank BELLA for greater public sensitivity to the need for control and safeguarding of nuclear weaponry.

I cannot really imagine the House of Representatives without BELLA, her hat parked on a seat in the Chamber, but I know that she will be the same wonderful BELLA in private life, fighting for the same causes of human rights, decency and dignity. We will still have her counsel as she challenges this country and this planet to become the best of all possible worlds for all of us.

Mr. BROOKS. Mr. Speaker, few Members have had as much impact on the House in so short a period of time as the gentlewoman from New York.

Her willingness to do battle for the causes she believes in may have ruffled a few feathers around here at times, but I think we have all come to appreciate the hard work and enthusiasm she has demonstrated over the past 6 years.

I know that we on the Committee on Government Operations are well acquainted with her tireless efforts on behalf of individual rights and liberties, and her valuable assistance in enacting the Government in the Sunshine Act. We hope and expect she will continue these efforts in the coming years.

Mrs. HOLT. Mr. Speaker, this body will not be the same without our colleague from New York, BELLA S. ABZUG. No one serving in this House can fail to miss her unique presence among us.

Mrs. ABZUG and I share the privilege of being women Members of Congress. Although more and more females are being elected to the House, BELLA ABZUG has been one of the pioneers of our number. Her outspoken style and dedication to her position on the issues have made many realize that women in Congress need not be ineffective nor do they deserve to be ignored.

In that same vein, Mrs. ABZUG sought a Senate seat from her State. While I feel that New York is well and ably served by the incumbent junior Senator (Mr. BUCKLEY), I personally took an interest in the primary election as BELLA ABZUG sought to become the Senatorial nominee of her party. I would hope that her seeking of that office will continue to encourage other females to become U.S. Senators.

BELLA ABZUG and I often have been far apart on the issues. However, her departure will leave this House a little less colorful, a little more predictable, and a lot of Members will join me in missing her unique approach.

Ms. JORDAN. Mr. Speaker, it seems as though everyone has an opinion about BELLA ABZUG. I take this time to express my opinion. Her list of legislative accomplishments exceed that of most Members of the House of Representatives. Her work leading to the enactment of the sunshine bill alone, will have a profound impact upon the way our Government operates for years to come. I am proud to have served with her in the Congress. And although she may deny it today, I fully expect she will be back as a Member in a future Congress.

There has never been a more forceful proponent of women's rights. She has been a zealous advocate for women. Her advocacy made all, both men and women, aware of the unequal status of women. It is that heightened awareness that made possible progress toward the equality of women. BELLA ABZUG should be given a full measure of the credit for that progress.

One of the tasks of the Congress is the oversight of the executive branch. When BELLA ABZUG was heading the investigation, that job was well done. When it is the Congress asking for information BELLA ABZUG knows that the only proper answer is "yes." No answers are rejected summarily. Partial answers are not accepted. Recalcitrant answers are not waited upon.

I shall miss BELLA ABZUG—as a colleague, as a fighter, as a friend.

Mr. UDALL. Mr. Speaker, I want to join with my colleagues in bidding a brief, and we hope temporary, adieu to one of those who has brightened this House and given it character. I am speaking, of course, of the Member known as BELLA; the Member who has cheered and jeered and cajoled, and sometimes cussed us into doing generally what was right. Perhaps her greatest legacy is that she was a major force that changed us from Congressmen to Congresspersons, from gentlemen to gentlepersons, from a men's club to a place where a woman could walk without fear of having a mop flung at her.

For her courage, for her honesty, for her aggressive and even boisterous advocacy of the causes in which she believes, we will miss her, and we will be a little less without her. Hurry back, BELLA. The public awaits your service once again.

Mrs. SULLIVAN. Mr. Speaker, BELLA ABZUG has enlivened this House since her arrival here and has forced us all to rethink a lot of things we used to take for granted.

I am grateful to her for the work she has done in pioneering legislation to remove illogical and nonsensical discriminations against women, particularly married women, in the use of credit.

When we first started looking into this issue in the National Commission on Consumer Finance, created by the Consumer Credit Protection Act to investigate all aspects of consumer credit in the United States, BELLA was one of our witnesses and provided excellent testimony on the scope of the problem. After she testified before the Commission on this subject, she introduced the first bill in Congress to prohibit discrimination in credit by reason of sex or marital status.

Later, she appeared before my Subcommittee on Consumer Affairs and helped us shape what eventually became, this year, an effective Equal Credit Opportunity Act which, as of next March, will apply to discrimination based not only on sex or marital status but also on race, color, religion, national origin, or age.

When she is on your side, BELLA is a valuable ally. When she is not—look out.

Mr. McHUGH. Mr. Speaker, I am pleased to join my colleagues in paying tribute to Congresswoman BELLA ABZUG, who will be leaving Congress at the end of this session. As a fellow member of the New York delegation, I have come to know and respect BELLA as a talented legislator and a remarkable person. She has been tireless in championing the causes of minorities and all people who have suffered from overzealous Government restrictions and intrusions. As a woman who has successfully fought for acceptance in many male-dominated areas, she has always been willing to take time to encourage other women to follow her example. Her leadership in opposition to the conduct of the war in Vietnam, both before and since her election to Congress, demonstrated her courage and determination to stand up for her principles. I am sure that her return to private life will not diminish her activities in behalf of those principles.

Nevertheless, we will all miss her presence in Congress and have every hope of welcoming her back at some future date.

Mrs. SCHROEDER. Mr. Speaker, it is hard to know what to say about BELLA. I thought "she" was really three people for the longest time. I was sure no one human being could have all that energy so I figured it had to be three people running on 8-hour shifts.

I always experienced a personal energy crisis just observing her. But she cares so much. She cares for ants, atoms, zebras and zoos and every creature in between. In a time of such apathy her role model of caring is a great example. If we all cared and gave as much to the world and others as BELLA does then the world sure would be in better shape.

BELLA will sure be missed. She and Martin are such close personal friends—whoever will Jim and I double with to all the fancy hops around here. But professionally she will be missed also for her vigor and vitality keep us moving.

Come back BELLA—we miss you already.

Mr. RICHMOND. Mr. Speaker, as one of the new Members of the House of Representatives, I rise with a deep sense of regret at the prospective loss of the leadership and dynamism of our outstanding colleague, Congresswoman BELLA ABZUG.

Ms. ABZUG has been an inspiration to dozens of new Members. She has been a forceful, meaningful, constructive voice for decency, sensitivity to the needs of others, not only among the poor and underprivileged in the United States, but throughout the world.

A small ancedote will illustrate the impact of BELLA:

Last fall I addressed a group of 1,000 delegates of rural electric cooperatives from throughout the United States in Omaha, Neb.

After I completed my formal presentation and discussed at length my interest in building a dialogue between urban and rural Members of Congress and their constituents, we had a question and answer period. After a few questions, the chairman of the meeting asked me:

> Now Congressman, tell us what does Bella think of all this?

To illustrate the importance and unusual presence of this great woman, I can only say that not a single person in the room failed to identify BELLA.

To this great outstanding colleague, I send my best wishes and high hopes that she will continue in public life and continue to be the source of meaningful leadership for every worthwhile cause.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is an honor to join with my colleagues in a farewell tribute to one of the most dedicated Members of Congress I have known, BELLA ABZUG.

It has been my privilege to serve on the House Government Operations Committee with BELLA ABZUG, and to observe her dynamic and capable legislative ability firsthand. No Member of Congress could be more dedicated or committed to an ideal than Congresswoman ABZUG. She has worked incessantly to promote the rights of minorities and to bring about the legal recognition of equal rights for women.

In the span of a few years in the Congress, this legislator has made a tremendous impact which was possible through her remarkable dedication to purpose and dynamic activity.

She will be missed by her colleagues and her constituents.

Mr. BINGHAM. Mr. Speaker, I feel somewhat ambivalent about joining in this special order tribute to BELLA ABZUG. It is not that I have mixed feelings about her. She is a valued colleague and a valued friend, a warm person for whom I have great admiration and affection. I campaigned for her in her Senate primary campaign and I would do it again. My ambivalence about this "hail and farewell" stems from my belief that I will be working with BELLA in the future. Her public career is not ending. She is not hanging up her famous hat. My pain at BELLA's departure from the House of Representatives is assuaged, to some extent, by the certain knowledge that BELLA will be back—perhaps in Congress, certainly in some major public service capacity. Public life has not seen the last of the gentlewoman from New York.

BELLA ABZUG has left her mark on the House of Representatives. She has been an exceptionally able legislator. In the 6 years she has served here, she has demonstrated an ability to develop good working relationships with fellow legislators of many different backgrounds and philosophies. She knows how and when to adapt to the realities of a given legislative situation. As a subcommittee chairman she has shown a remarkable capacity to cut through the bureaucratic underbrush and get to the heart of what Federal agencies are doing or not doing. She has compiled an outstanding record of legislative achievements for New York City, New York State, and for the United States. It is no wonder that U.S. News & World Report reported last year that her colleagues considered BELLA to be one of the five most influential Members of this body. She is influential not because of any gimmickry but because she works like hell and she cares.

The people of my city and State know that BELLA cares about them. I have seen people grab her on the streets of New York to tell her of some problem they face. They expected that "BELLA" would help them out, that she would cut through the bureaucracy for them, that she would fight for them—and of course they were right.

BELLA ABZUG has been a unique and valuable Member of this House. My wife June and I wish her and her husband Martin all the best and hope that they enjoy, what we trust will be, a short but well-earned sabbatical.

Mr. FRASER. Mr. Speaker, this will not be the same House absent BELLA ABZUG. But more to the point, this House will never be the same because BELLA has been here.

It would tax credulity to contend that BELLA was only a breath of fresh air in this historic Chamber. I hesitate to say that it is closer to truth to call her a typhoon because I know in my bones that our practice of naming typhoons and hurricanes after women is sexist and perhaps the reverse is sexist, too.

Nevertheless, one has to resort to terms descriptive of major meteorological manifestations if one is to draw an apt analogy adequately describing BELLA's impact on this House.

For her impact has been immense and it has been salutary.

There are many good things one could say about our colleague from New York.

She gets things done.

She works hard and she is fearless.

I suppose some may think it frivolous that BELLA has become identified by her hats. I find it perfect. The word panache meaning a grand or flamboyant manner; verve; style; flair; literally describes an ornamental plume of feathers or tassels worn on a helmet or cap. BELLA has worn her plume well, has worn it into battle for good causes, and, I am sure will continue to wear it and use it in behalf of causes both of us consider crucial to our Nation's future.

I am proud to have been able to call BELLA "dear colleague." I know we will continue to collaborate.

Mr. BADILLO. Mr. Speaker, My participation in this tribute to BELLA ABZUG is a bittersweet experience for me. Although I am deeply pleased to have an opportunity to publicly acknowledge the deep impact that our exceptional colleague has had, not only on the Congress, but on the lives of all Americans, I feel a great sadness that she will not be with us next session.

It has been very special to work in the Congress with BELLA. She has assumed leadership in the broadest range of issues—from highways to Government secrecy, from foreign policy to the New York City police. And she had led. She has mastered the arcane rules of this body and molded them into brilliant, effective—and winning—strategies for advancing the most humane legislation. She has worked out amendments, developed our fallback positions, and very often managed to second-guess our distinguished opponents. And she has shared all this knowledge with those working with her. She knows what strength there is in working in coalitions, in bringing as many people together as possible in order to succeed. We have all marveled at her vital flamboyance, but we have also experienced her as a thoughtful, judicious and conciliatory person. We have watched her righteous anger flare as just legislation was gutted or killed, but we have also seen what effect her charm and sparkling wit have had on garnering support for her cause.

But that is the legislative, the Congressional, BELLA. My very personal relationship with her has allowed me to see many other BELLAS as well. We have worked here together for 6 years, but we go back together a long time. We both ran—and won—as McCarthy delegates to the Democratic Convention in Chicago in 1968. And out of that terrible—and terrifying—time came the New Democratic Coalition, which we both helped found—and cochaired—and which still exists today as a voice for justice and reform within the Democratic Party. I have watched Bella meet every challenge with a response. And I have seen her selflessly travelling all over this country campaigning for others who needed her support. She has done her share in New York as well, fighting against the indifference and mismanagement of a city administration that does not care about its citizens.

And because we are friends, I have been lucky enough to know Martin, a caring, urbane and genuinely funny person. I have seen them shame everyone else on the dance floor with their skill, I have heard Bella sing—and watched her play her mandolin. Terrific.

The Congress may be losing Bella, but America is not. The New Democratic Coalition, Women Strike for Peace, the National Women's Political Caucus—they continue. And Bella continues. Wherever injustice exists, whatever local, national or international problem develops, we can be sure she will be right there goading us, exhorting us, making us care—and making the world a much better place. And, fortunately, I will have the opportunity to be there to help.

Mr. CORMAN. Mr. Speaker, I am very pleased to take part in this tribute to a Member who represents more than a Manhattan district, more than an urban electorate. Bella Abzug stands for a national constituency as a leader and fighter for the underprivileged, the powerless, and those discriminated against during our history. She has been an impressive participant and leader in the Congress for the last 6 years and her departure will surely create a void.

Bella came to this Chamber in 1971 and made her place by working hard. She learned and used the House rules to help maneuver important progessive legislation. She was determined to help end the Vietnam war, open up the political structure to women and minorities, equalize credit, and provide dignity to the lives of our senior citizens. She came to the Congress as a national personality because of her passionate rhetoric and unusual style, and leaves us a national leader who has made a tremendously substantive contribution to our country which can be measured by a number of sliderules.

In her Committees, Public Works and Government Operations, Bella was always well prepared and conscientious. She worked tirelessly to clean up our waterways and increase our national commitment to public transportation. As chairwoman of the Government Operations Subcommittee on Government Information and Individual Rights she exhibited skills as a tenacious prosecutor for truth in Government who extended courtesy to her colleagues on the subcommittee.

On the floor, she was always briefed on the measures under consideration and led the charge against the social cuts proposed by the Ford-Nixon administration. Bella has not only been an effective legislator, she has been the social conscience of this House.

Beyond her enormous responsibilities as an elected representative, Bella continued her outside role as a maverick reformer and organizer. She virtually created and organized the national women's political caucus which has been the impetus for more women to seek public office. She urged women to dedicate themselves to full involvement in the political structure. She fought for reform in the Democratic Party so women could be represented as delegates to the National Convention in proportion to their numbers in the electorate. And she championed the cause of amnesty for draft evaders long before that became popular.

As a former labor lawyer and civil rights activist, Bella has been sensitive to people issues throughout her life. She has never ducked a difficult question, or abandoned an uphill battle. A colorful character who came to the Congress as a "personality" she leaves this Chamber as a respected legislative leader.

Mr. Speaker, Congresswoman Abzug may be temporarily leaving this House but I am sure she will be joining our ranks again to fight the good battle for honest, truthful, and responsible Government. She leaves with a fine legislative record and I am confident that she will continue to fight for equality and social justice outside the Congress with the same vigor that characterized her tenure here.

I wish her every happiness and success in her future endeavors.

Ms. HECKLER of Massachusetts. More than 10,000 people have served as Members of the House of Representatives since the first Congress. Bella Savitsky Abzug has been among the most dynamic and hard-working individuals to have achieved that distinction.

To know her is to understand that she fears no one and will carry on a fight in which she believes whatever personal sacrifices are required of her. Bella has made the House of Representatives more responsive. She has truly earned the sobriquet "the voice of the voiceless." Her flamboyant style, her effectiveness as an advocate, and her irrepressible spirit will truly be missed.

There are many good people who have sat here much longer than my good friend from Manhattan. Few of them have had the impact Bella has had in the past half dozen years.

It was my privilege to serve with Congresswoman Abzug on the National Commission on the Observance of International Women's Year. She remains committed to the goals of women's equality, and though she will no longer be speaking from the floor of the House of Representatives, her voice will certainly continue to be heard on behalf of the women of this country.

Although our opinions on particular issues were ofttimes different, Bella Abzug's spirit, wit, and dedication will be sorely missed in the House of Representatives.

Mr. HÉBERT. Mr. Speaker, Bella Abzug brought a distinctive approach to the House of Representatives. She always stood up and was counted no matter how controversial the issue might have been. She was never found wanting in defending her position. That takes courage, Mr. Speaker, and there are too few in this House who have it.

Bella is a smart and intelligent woman and represented her constituents well. I have been a Congressman for 36 years and a newsman for 23 years before that, but I want to frankly say that Bella Abzug is one of the most interesting people I have ever met.

I wish her all the best in whatever future endeavors she may desire to undertake.

Mr. HAWKINS. Mr. Speaker, much has and more will be said and written about my distinguished colleague from New York's 20th Congressional District, the Honorable Bella S. Abzug. For she is a person whose very presence demands our attention, and whose character and accomplishments deserve our attention.

A career advocate for social change, the mercurial Congresswoman from New York has, and I am sure she will continue to be one of the Nation's foremost leaders in the struggle for women's rights and civil liberties.

Bella will be missed in this Chamber not only by the Members of this House, but the people of this Nation; gone will be the flamboyant, tireless voice for liberty, peace, and constructive social change.

Our loss, though, is bound to be temporary. For there is nothing in this world short of true freedom and justice that can keep the irrepressible Ms. Abzug down.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise to pay tribute to a distinguished lady who will be leaving the Congress at the close of this session. We will all very greatly miss Congresswoman Bella Abzug of New York. In the short time she has served in Congress she has been an asset to this body and an inspiration to American women.

Congresswoman Abzug's public life has been one clearly dedicated to principled causes. She has been active in labor activities, civil rights, the women's movement and peace action causes; and has participated energetically in the American Civil Liberties Union, the National Urban League and the United Nations Association of the United States. Congresswoman Abzug is a member of the New York bar and prior to coming to the Congress in 1970 she had an active law practice in New York City. She is a graduate of Columbia University School of Law and has studied at the Jewish Theological Seminary.

Most of us will remember that in this session of the Congress one of Bella's special efforts, the government in the sunshine bill, finally became enacted into law. Congresswoman Abzug has in the successful passage of that bill a fitting tribute both to her life's principles and her work in the Congress. Her work will be remembered by all of us who are interested in opening the doors of Government to greater public participation.

And finally, the Congresswoman will be missed by each woman and man who serves in this body. She will be missed particularly by me because I have immensely enjoyed the special privilege of having served with her.

Mr. EILBERG. Mr. Speaker, BELLA ABZUG will not be in the House of Representatives next year and the loss will be felt deeply by all of us.

BELLA was a partisan in all of the issues in which she was interested. She was always on the side of the people and her opinions were always strongly stated. There was never any doubt where she stood. For this reason she made every Member of Congress consider his or her opinion more deeply. She was a catalyst for debate and, in the end, helped us to produce better legislation.

Without BELLA ABZUG the House will be a less colorful institution and we will be poorer for the loss.

Mr. ROSENTHAL. Mr. Speaker, I am pleased to join today in paying tribute to our outstanding colleague from New York, BELLA S. ABZUG, on her departure from the House.

Few other legislators have made such profound or lasting impressions on the Congress in so short a time. In 6 years, BELLA has championed the cause of vast segments of the American public who too often have not received the representation they deserve. She has worked tirelessly to insure all Americans the right to live in dignity and with freedom of individual expression. Her style is dynamic, uncompromising and totally her own.

She has been in the forefront of the battle to protect the rights of women and insure for them the chance to decide their own destiny. She has provided necessary leadership on controversial issues such as abortion and day care. She is the original sponsor of legislation creating the National Women's Conference which will be held next year for the formulation of practical and constructive measures for the advancement of women. BELLA has worked hard to end sex discrimination and insure equal opportunities for all.

In 1974, BELLA ABZUG acceded to the chairmanship of the House Government Operations Subcommittee on Government Information and Individual Rights on which she has done much to protect the privacy of individuals from Government interference. With the passage in 1976 of the Government in the Sunshine Act she helped open to the public the doors of Federal regulatory agencies. Her investigations have shed light on the activities of Government surveillance operations and she has helped limit the use of intrusive techniques and devices.

The adjournment of the 94th Congress will bring an untimely end to BELLA's work in the House. It has been an enlightening and useful experience for me to have worked with her and I wish her much luck on her future endeavors.

Mr. ZEFERETTI. Mr. Speaker, this House will lose tomorrow the services of one of its most prodigiously effective and nationally prominent Members. My colleague from New York, the gentlewoman—and I use that term advisedly—Ms. ABZUG is leaving us.

She has served this body and her constituency with the extraordinary ardor that combined with her intellectual talents has made her an exceptionally effective Member. Mrs. ABZUG came to this body in 1970, and I am sure she will agree, was greeted with considerable skepticism due to her outspokenness and pursuit of seemingly unobtainable goals. But she has made her mark as a Member of the House and has made her mark in her own right for the sole reason of her individual talents and flamboyant manner.

BELLA ABZUG is a tough American citizen who understands rights and understands freedom and we will miss her.

Mr. CLAY. Mr. Speaker, the House of Representatives will be losing one helluva Congressperson at the end of this legislative session.

The floppy hats, the raucous New York accent, the rapid delivery—these are the traits by which the public knows BELLA ABZUG.

Yes, BELLA is flamboyant; yes, BELLA has chutzpah. But as her colleague, I see her an intelligent, hard-working Congressperson, who is a concerned, committed fighter for humane, just legislation. Her background as a labor lawyer, as a leader of the civil liberties movement, of the civil rights movement, of the feminist movement, has translated itself into legislative endeavors throughout her 6 years in Congress. Her earthiness has forced many of her peers to reduce their stodginess. BELLA became an institution the day she walked into the House Office Building.

BELLA's place is in the House. She will be sorely missed.

Mr. REUSS. Mr. Speaker, today we honor a colleague whose energy and tenacity have added vitality to this Chamber. She arrived in Washington with the determination to put Government to work for the people—all the people.

The persistence of BELLA ABZUG has been channeled into legislative results. She has emerged as a forceful and dynamic leader for peace in the world and jobs at home. She has helped open Government to its citizens and has reduced Government prying.

BELLA has fought for the cities, the consumer, and the senior citizen. She has championed causes regardless of their popularity. She has not only responded to public need but molded public opinion.

We do not say goodby to BELLA ABZUG, for her style and spirit will remain with this House. Whatever her future pursuits, the citizens of this country will be the beneficiaries.

Mr. STOKES. Mr. Speaker, I would like to commend my colleague from New York, JOSEPH P. ADDABBO for taking out a special order to honor our distinguished retiring colleague BELLA S. ABZUG. BELLA is not only one of the finest people I know but she is a superb legislator. Widely acclaimed for her tenacious and hard-hitting style, BELLA is truly an advocate of the people. It is with particular fondness that I recall my twin terms as chairman of the Congressional Black Caucus. For it was at this time that BELLA was especially supportive. Time and time again she supported the efforts of the Black Caucus to obtain justice, dignity and equal rights for all persons. BELLA's support can be attributed, in part, to her background of 23 years as a practicing attorney and advocate of civil rights and peace groups. Also, BELLA's support can be credited to her deep personal integrity and moral conviction.

I recall an amusing yet revealing anecdote about BELLA which I will share with you. When once requested by the House Doorkeeper Fishbait Miller to remove her hat, BELLA cutely suggested that Mr. Miller perform an impossible act. This was classic BELLA.

She did not come to Congress to have Congress change her, she came to Congress to change Congress.

Mr. Speaker, I commend Congresswoman BELLA S. ABZUG for her past achievements and I am certain that she will go on to bigger and better things. Hopefully, she will return to the Congress in the near future for her legislative skills will be sorely missed.

Mr. DE LA GARZA. Mr. Speaker, I have frequently been in a quandary but I doubt that I have ever found myself in a more perplexing one than this. My problem is this: What can I say about a Member of this body about whom almost everything conceivable has already been said at one time or another?

BELLA ABZUG has made her mark on the U.S. House of Representatives. During her 6 years of service here she has become an institution in herself. She is a notable leader for women's rights and the whole civil rights movement. She is a forceful speaker and no one ever need have any doubt about where she stands on issues of public interest.

Not for a moment do I believe her retirement as a Member of the House means her retirement from public life. I am not given to making predictions about things to come, but I do not hesitate to say we have not heard the last of BELLA ABZUG. And my personal good wishes are with her.

Mr. NOWAK. Mr. Speaker, it is a pleasure today to join my colleagues in paying tribute to Representative BELLA ABZUG, a distinguished colleague from my home State of New York.

I have had the opportunity to work with her in a wide variety of forums. Whether it was in the deliberations of the House Committee on Public Works and Transportation, State delegation meetings, debates on the House floor or joint appearances in our home State, she displayed an intellectual curiosity, tenacity, energy and plain hardwork that are the envy of her friends and foes alike.

An eloquent and well prepared debater, she can be a formidable opponent. She can also be a staunch ally.

Representative ABZUG has been a tireless fighter for the interests of the Empire State and a principled, vocal advocate of many causes—equal rights for women and minorities, the elderly, the handicapped, the environment, mass transit and job creating programs. She has represented her varied constituencies well.

I sincerely join her many friends in this chamber today in wishing her success in her future endeavors. Her style, her flair, her zest for improving this Nation will be missed.

Mr. HELSTOSKI. Mr. Speaker, it is with mixed feelings that I pay this tribute to Representative ABZUG today—on the one hand I am glad to have the opportunity to applaud her many achievements in the House of Representatives—on the other, I am disturbed that she will no longer be able to exert her influence in this body. There will be one less vote for measures which are designed for the well-being of the people of this country, and for which the votes are too few in the present Congress.

Representative ABZUG and I share a common philosophy in terms of Government spending priorities and the problems to which the Congress needs to direct its attention. The same themes are espoused time and time again on this floor—less military hardware and unnecessary defense spending and more money for programs which fulfill human needs.

My name and Representative ABZUG's appear together on a number of legislative proposals year after year—proposals which not only lack votes for passage but which have great difficulty emerging from committee. These include proposals to reform the funding of public assistance programs so that States like New York and New Jersey are not bankrupted by increasingly prohibitive welfare costs. We are both well aware that the present financing formula is inadequate and discriminates against her State and mine.

But Congresswoman ABZUG has been in the forefront of too many worthy measures for me to enumerate here. However, in the years she has served in Congress, she has been a national figure in calling for peace, full employment, public works jobs, federalization of welfare, honesty in government, consumer and environmental protection, aid to cities, programs for senior citizens, and equal rights for all people.

I share Representative ABZUG's keen interest in regard to respecting personal liberties. This is an area that often receives more lipservice than anything else. Representative ABZUG, in her position as chairwoman of the Subcommittee on Government Information and Individual Rights, has exposed more violations of people's rights and infringements of privacy than I could ever begin to mention. These revelations, regarding illegal domestic surveillance activities during subcommittee hearings, are largely responsible for the current scrutiny of the U.S. intelligence networks. It is an abomination that citizens are spied upon by their own Government for less than "national security" reasons. It is through the work and diligence exercised by people like BELLA ABZUG that we have any constitutional rights at all left in this country. Representative ABZUG's persistence and dedication to the preservation of civil liberties have led to the enactment of the Freedom of Information Act and the Privacy Act. Even now the CIA remains virtually exempt from the provisions of the Privacy Act although Representative ABZUG has introduced legislation which I cosponsored to amend the Privacy Act to inform individuals who are being investigated and give them the right to obtain, correct, or destroy the files.

Representative ABZUG has stood up for what she believes and has seen plenty of results from her actions. There have been disappointments too, such as the House's refusal to release the Pike Intelligence Committee's report, the investigation of Daniel Schorr, the SST decision, the nuclear fuel assistance private uranium subsidy, and others. But the victories of the 94th Congress have been plentiful.

Finally, I would especially like to commend Representative ABZUG for her activism in the area of women's rights. I believe that she has been largely responsible for the increasing attention of this body on women's issues—as a result of her bringing the views and reforms that women all over this country are concerned with to the House floor. In the last few years, the Congress has made progress in terms of eliminating some of the inequities which women in America still face today. Representative ABZUG sparked the organization of the Capitol Hill Women's Political Caucus which has done considerable work in the area of employment discrimination on Capitol Hill. Representative ABZUG authored the first Equal Credit Opportunity Act and has vigorously opposed attempts to dilute the intent of title IX. She has also called for social security for homemakers and education and training programs for displaced homemakers. She was present at the International Women's Year Conference in Mexico and promoted legislation to establish a National Commission on Women. Hopefully there will be more women elected to the 95th Congress who will continue to speak out on women's issues. Representative ABZUG is to be commended for her leadership in this regard and for her overall legislative record. I urge my colleagues to build upon this impressive legislative record in the House of Representatives.

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## REAL TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, the 94th Congress is going out of session, and although it has passed a tax revision measure, the fundamental job remains undone.

The so-called reform bill passed by the 94th Congress contains both good and bad elements, but I do not want to discuss tax policy in this way. What concerns me is the concept—or the lack of one—which guided the tax reform deliberations.

The Congress has learned that monetary and fiscal policy should be considered in terms of their effects on the economy—their effects on employment, inflation, economic growth, and capital formation. The Congress has also got to learn that tax measures also impact on the economy. We must learn to think of tax revision primarily in terms of its impact on output and employment, and we must learn to think of raising tax revenues, not by raising tax rates, but by increasing the tax base. We must rediscover what President Kennedy and WILBUR MILLS knew in the early 1960's, and that is that lower tax rates mean a larger tax base and, thus, higher tax revenues. High tax rates choke off economic activity and thus reduce tax revenues by shrinking the tax base.

The main tax issue is not so-called tax "loopholes," but high tax rates. Tax "loopholes" always arise when the tax rates are too high. The "loopholes" are put in to reduce the asphyxiation of certain kinds of economic activities, which catch public and congressional attention, caused by high tax rates. The presence of "loopholes" is evidence that the tax rates are too high. The best way to dispose of "loopholes" is to reduce the tax rates.

Tax policy, then, must be considered from the standpoint of its effects on the incentives of people to work and produce, to save and invest, to build and employ. When tax rates go up and investment and employment opportunities in the private sector go down, it is not the rich who have been soaked, but the workers who are unemployed.

Rather than trying to benefit the less able and the less fortunate by trying to redistribute income through the Tax Code, it is better to expand their opportunities for productive employment by reducing the tax barriers to investment and employment.

Rather than trying to raise additional revenues by increasing tax rates, and thus being frustrated by the negative impact of higher tax rates on incentives, the Congress should adopt a better approach. The way to raise additional revenues to pay for the social programs that many in the Congress want, and to reduce the budget deficit, is to expand the tax base by cutting the tax rates. Lower tax rates encourage productive activities and expand the tax base. Lower tax rates on a bigger tax base can produce more revenue than higher tax rates on a smaller tax base. Lower rates also produce more output and employment.

On the other hand, higher tax rates produce more unemployment at the same time that they shrink the revenues of the Government. In this way higher tax rates produce greater deficits and less revenue for social programs.

Today the high rates of taxation in the United States hold down productive effort, investment, and the economic growth of our economy. They reduce jobs and the incentive to work, and make people dependent on welfare by denying them work. The United States has fallen short of its employment and output potentials because it heavily taxes work and subsidizes nonwork. The tax barrier to productive work is a primary cause of growing Government spending programs and growing deficits.

The greatest property right that the American people have is the ownership of their own labor. When a working person cannot sell his labor—his property—for a fair wage in the market because

Government taxation of investment capital has destroyed the ability of private enterprise to hire, that worker has been dispossessed of his property by Government. The true cost of high tax rates is unemployment.

Lower tax rates would expand the private sector of our economy and increase employment and investment opportunities. The results would be an increase in the rate of economic growth, a reduction in the number of people dependent upon Government spending programs, and, also, an increase in the tax revenues of the Government. Lower tax rates mean a larger tax base. Tax rate reductions eliminate deficits by enlarging the amount of economic activity that is subject to taxation.

This fact of life was once understood. In the 1920's the New York Times editorialized in favor of cutting taxes in order to encourage industry and to provide funds for capital investment. The Times said a tax cut "would lighten the demands upon millions of purses hard to fill. It would not only do away with oppressive taxes. It would lower the cost of living. It would release capital for productive industry and enterprise of all kinds. This would result in fuller employment of labor, multiplication of goods in common consumption, and probably bring about a period of great and legitimate expansion of industry and commerce never surpassed in the United States."

The Times was exactly right. Within 4 years of the tax cuts, the enormous expansion of the economy produced enough revenue gains to pay off a third of the national debt.

The principle was proved again with the tax cuts initiated by President Kennedy in the 1960's. Although the U.S. Treasury predicted cumulative revenue losses from the tax cuts totaling $89 billion, instead there were revenue gains of $54 billion.

Today we must restore the productivity of the American economy and eliminate Federal budget deficits by increasing the rewards to work and investment. It is clear to me that the tax barrier against full employment and economic growth must be removed.

The tax barrier exists in many specific forms, and the Jobs Creation Act which I have introduced, and which has 132 cosponsors, is directed toward reducing or removing some of the existing tax barriers. Among other provisions, the act would exclude from gross income the dividends received from domestic corporations, reduce the corporate normal tax from 22 to 20 percent and the surtax from 26 to 22 percent, increase the investment tax credit to 15 percent and the asset depreciation range from 20 to 40, and provide a 1-year writeoff of mandated pollution control equipment. All of these provisions would add to the rate of capital formation and, thereby, to the rate of productivity increase and economic growth.

The existing high tax rates, which reduce investment and work, are impacting negatively on employment and growth more than ever before. The unprecedented rate of inflation during the 1970's, the unprecedented proporation of women who are now entering the job market, and the unprecedented amount of capital spending that is mandated into pollution control equipment are all contributors to the fact that capital investment per worker is not rising at its usual rate.

Inflation always has the effect of raising the tax rates, and the inflation during the 1970's has raised them a lot. U.S. Department of Commerce figures show that in 1974, for example, the corporate sector paid taxes on profits at an effective tax rate of 58 percent as a result of inflation over valuing inventories and understating depreciation. Although inflation must be brought under control, we cannot reduce the labor force participation rate to its former level or abandon efforts to clean up the environment. Therefore, we must make more capital available to the economy by reducing tax rates.

The existing tax biases make many investments unprofitable which would otherwise be undertaken and provide new jobs. They also hold wages lower than they would otherwise be. Holding down investment holds down capital formation and the productivity of labor. It means people produce less in the same amount of working time and, thus, earn less. The high rates of taxation which result in low after-tax earnings also reduce the pensions of the retired working men and women whose pension funds are a major shareholder of American business.

Just as inflation has raised the effective tax rates on business profits, it has raised the effective tax rates on the personal incomes of all Americans. Inflation forces people to pay not just more in taxes when there is inflation, but to pay at higher rates of taxation on a money income that is shrinking in purchasing power. Thus, at the same time people's purchasing power shrinks as a result of higher prices, they are forced to pay a larger proportion of their income in taxes. This is inequitable, and it discourages work. People seek more leisure rather than more money income, and we see this today when unions ask for more paid vacation rather than higher wage rates.

We should correct this inequity and remove this disincentive to work by raising the thresholds on the personal income tax by the amount of inflation since, say, January 1, 1973. This will lower tax brackets across the board without altering the progressivity of the tax rates. It treats everybody equally and brings the tax brackets in line with the shrunken buying power of everyone's income. It compensates for the tax increase of the last several years that was not legislated, and it restores the incentive to work that the high tax rates have undermined.

Reducing the tax rate on work and investment will reduce the barrier to full employment, to lower prices, to higher wages, to larger pensions, and to a more efficient and more rapidly growing economy. That is a goal that all Americans can join in to achieve.

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## THE PLIGHT OF THE VUDKA FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 5 minutes.

Mr. QUIE. Mr. Speaker, several of my colleagues have already joined the vigil on the House floor on behalf of the families which have been forcibly separated by Soviet emigration policies. These policies are contrary to the pledge of all nations which signed the Helsinki Final Act, including the Soviet Union, to do everything possible to reunite families separated by political boundaries.

At this time I would like to join the vigil and bring to the Members' attention the situation of the Vudka family. Yuri Vudka recently completed a 7-year prison term after being accused of anti-Soviet propaganda for possessing and distributing such "dangerous" literature as Leon Uris' "Exodus," Randolph Church's "The Six Day War," and Dubnov's "History of the Jews."

Because of his demonstration in prison of his commitment as a Jew by wearing a yarmulke on Shabbat and Jewish holidays, and because of his insistence on kosher food, Vudka was transferred to Vladimir prison, where 3 years of his term were served.

Since his release, Vudka has tried to apply for an exit visa to Israel, where his wife, Hana Gurevitch-Vudka, now lives. He has been refused even the chance to apply, and was told to start working and to forget about Israel. Usually, freed prisoners of Zion have no trouble in reapplying for permission to go to Israel and get their exit permit quite speedily. Yet the officials in Vudka's hometown of Pavlograd have bluntly told him that no one has yet succeeded in obtaining an exit permit from them.

This treatment is not given only to former prisoners; Dr. Veniamin Levich, a prominent Soviet Jewish scientists, has been seeking to emigrate to Israel for a number of years. His two sons, also scientists, were allowed to leave the U.S.S.R. for Israel with their families in mid-1975, but Dr. and Mrs. Levich's emigration applications have been rejected.

In 1972, the University of Minnesota invited Dr. Levich to join its faculty and has pursued this matter with Soviet authorities since that time. However, the chances of Dr. Levich's receiving permission to join the faculty are slight.

Situations such as Yuri Vudka's and Dr. Levich's deserve our attention not only because they exemplify the Soviet Union's disregard for the Helsinki agreement, but because of the human suffering being endured as families are unable to reunite. It is my hope that our vigil here will not go unnoticed by officials throughout the Soviet Union, and that the Soviet Union will fulfill the pledge made in Helsinki.

## A NEW PRIVACY PROTECTION PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Goldwater) is recognized for 5 minutes.

Mr. GOLDWATER. Mr. Speaker, on September 21, I joined my colleague from New York, Representative Edward Koch in introducing H.R. 15657, the "Right to Private Records Act."

This legislation, which is modeled to some degree on H.R. 214, places restrictions on State and local government access to the personal records kept by financial institutions, and telephone and credit card companies. It also defines the conditions under which individuals from the general public may have access to these records.

It is well known that the financial community of the United States is not covered by the privileged relationship doctrine of confidentiality, a doctrine that applies to the relationship between husband and wife, priest and confessor, lawyer and client, physician and patient, and the journalistic profession. The recent Supreme Court decision, Miller against California, greatly expanded the grossly misnamed Bank Secrecy Act and undermined the ability of the financial community to maintain even a gentleman's agreement of confidentiality on personal records. In fact, a rough tabulation indicates that 100 kinds of subpenas can be presented to a bank officer. The confusion and inherent coercive nature of the situation can lead to abuses by both the financial institution and the party seeking the information.

I am deeply concerned that the legal principle enunciated by the Court might be applied to telephone and credit card companies, thus, the reason for their inclusion within the application of our legislative proposal. This bill requires that:

First, an individual's written consent be obtained to allow dissemination of his or her records;

Second, the individual be able to change and administer subpena for records;

Third, application in cases where a criminal or civil investigation would be jeopardized, and a showing has been made, the access must be based on a judicial subpena with notice to the individual;

Fourth, a court-authorized search warant with no notification to the individual must be used.

An accounting of record disclosures is required. An individual can sue for actual and punitive damages. Violations are punishable by imprisonment for not more than 1 year or fined not more than $1,000 for each instance. In addition, the legislation provides for limits on subpena-monitoring of customer's conversations by telephone companies.

I wish to make it very clear that it is not the intent of this legislation to hamper or frustrate any legitimate criminal justice investigation. Individual fishing expeditions will, in my opinion, be properly curtailed.

A private citizen currently confronts a situation in which no legal checks and balances exist to protect his personal information privacy. At present, institutions and businesses covered by this act have no legal grounds on which they can rely to protect the confidentiality of the individual they serve. It is my intent and commitment to see that this situation is reasonably and effectively corrected.

The vitality of the American political and economic system is, in major part, due to our reliance on candor and openness and the free flow of information. We have, however, both in our Anglo-Saxon common law tradition and in our constitutional concepts—that recognizing and striving to protect individual personal integrity and sanity is vital. It is often a narrow dividing line between our societal interest in freedom of information and the protection of personal privacy. The line is fuzzy and this situation must be corrected.

## HOW OUR LAWS ARE MADE—A COMPENDIUM OF HELPFUL RULES GOVERNING THE LEGISLATIVE PROCESS NOT TO BE FOUND IN JEFFERSON'S MANUAL OF RULES AND PRACTICES OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. du Pont) is recognized for 15 minutes.

Mr. du PONT. A freshman Congressman trying to do his job properly is similar to a quarterback trying to throw a 60-yard pass with a deflated football. The only difference is the quarterback knows there is no air in the ball—the freshman Congressman does not even know what game he is playing.

It occurred to be that perhaps I could perform a valuable service for the incoming class of Congressfolk by leaving behind a few observations on the "givens" of Congress. If taken in proper doses I believe that what follows may provide at least partial immunization against congressional freshman flu.

[Ed. Note.—For historical purposes they may be referred to as "du Pont's laws"—despite the fact that they never had Committee hearings, executive agency comments, or approval by the Democratic Study Group.]

Law No. 1—Vote as an individual; Lemmings end up falling off cliffs. Camaraderie is no substitute for common sense and being your own man will make you sleep better.

Law No. 2—The speed at which the legislative process seems to work is in inverse proportion to your enthusiasm for the bill. If you want a bill to move quickly, committee hearings, the Rules Committee, and legislative procedures appear to be roadblocks to democracy. If you do not want the bill to pass, such procedures are essential to furthering representative government, etc. etc.

Law No. 3—The titles of bills—like those of Marx Brothers movies—often have little to do with the substance of the legislation. Particularly deceptive are bills containing title buzz words such as emergency, reform, service, relief, or special. Often the emergency is of the writer's imagination; the reform, a protection of vested interests; the service, self-serving; the relief, an additional burden on the taxpayer; and the special, something that otherwise shouldn't be passed.

Law No. 4—Sometimes the best law of all is no law at all. Not all the world's ills are susceptible to legislative correction and ill-conceived laws only substitute one problem for another or make the situation worse.

Law No. 5—When voting on appropriations bills, more is not necessarily better. It is as wasteful to have a B–1 bomber in every garage as it is to have a welfare program for every conceivable form of deprivation.

Law No. 6—The Crusades ended several centuries ago after killing thousands of people. The most important issues arouse intense passions. Earmuffs to block the shouting are inappropriate, but filter the feedback. Joining a cause and leading a constituency are not mutually exclusive, but neither are they necessarily synonymous. Neither welfare nor profits are "obscene".

Law No. 7—"Beware the [lobbyist], my son, the jaws that bite, the claws that snatch" (with thanks to Lewis Carroll). No matter how noble the cause or well meaning its professional advocates, lobbists are still paid to get results. They're subject to errors in judgment, shortcomings in motives, and most of them don't even vote in your district.

Law No. 8—Mirror, mirror on the wall who's the fairest one of all? The press is hopelessly biased or genuinely fair, depending upon whose views are being misquoted, misrepresented, or misunderstood.

Law No. 9—If you are concerned about being criticized—you're in the wrong job. However you vote, and whatever you do, somebody will be out there telling you that you are: (a) wrong, (b) insensitive, (c) a bleeding heart, (d) a pawn of somebody else, (e) too wishy-washy, (f) too unwilling to compromise, (g) all of the above—consistency is not required of critics.

Perhaps these thoughts can best be summed up in one brief anecdote, related by NBC's John Chancellor. A veteran British diplomat had a favorite way to put down a pushy or egotistical junior. The diplomat would call the younger man in for a heart-to-heart talk and quite often at the end of the talk would say, "Young man, you have broken the Fifth Rule: You have taken yourself too seriously." That would end the meeting—except that invariably, as the younger man got to the door, he would turn and ask, "What are the other rules?"

And the old diplomat would smile serenely and answer, "There are no other rules."

## STATEMENT ON NATIONAL HEALTH INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Martin) is recognized for 10 minutes.

Mr. MARTIN. Mr. Speaker, the Republican Task Force on Health Policy has undertaken an analysis of major legislative proposals relating to national health insurance and related matters.

I am taking this special order to review for interested Members some of the findings and conclusions developed in this study. Not all of the task force are in agreement on priorities, so the conclusions drawn reflect my own thinking—as well as that of anyone else who concurs.

Between now and next year there will certainly be some public discussion of health policy, and we all hope that the result will be a very careful dissection of the problem, proposed solutions, and the costs of those solutions.

The analysis follows:

## STATEMENT ON NATIONAL HEALTH INSURANCE

### I. PHILOSOPHY AND INTRODUCTION

Throughout the years America has led the nations of the world in offering to its people the highest standard of health care available. A first observation would have to be that America is a very healthy nation. Fundamental to our nation's success has been the private free enterprise system in which individual initiative and diversity of ideas have enabled the development of the highest quality health care.

As we strive to maintain this high standard of care, we must seek efforts which not only will preserve our free enterprise system but also will expand access to adequate health care protection for all Americans. There are proposals before Congress that would allow the federal government to expand its role through creation of a nationalized health insurance system. The U.S. Treasury would pay "all your bills for all your ills!" We oppose such a mandatory national health insurance program which would heavily tax the already overburdened American people. The problems of soaring health care costs cannot be solved by adding another mammoth bureaucracy to administer and control health care to our citizens and pay all the costs. Such a nationalized program would only reduce the incentives needed to contain costs and ultimately lower the quality of health care being offered to the American people. Improvements in our health care system must come not by abandoning our present free choice system for an unwieldy monolithic bureaucracy, but by building upon the strong diversified foundation of our free enterprise system.

As health care costs continue to rise, more people are finding it difficult to afford the costs of health care. In addition, many people cannot obtain insurance protection because of preexisting medical reasons. The barriers which prevent the poor and the medically uninsurable from acquiring adequate protection need to be removed through adoption of initiatives which reflect America's principle of free enterprise.

### II. BACKGROUND

In 1975, Americans spent a total of $118.5 billion on health care—an average of $547 for every American—or three times the amount spent on health care just ten years ago. These health care costs are growing substantially faster than the consumer price index. In 1975, all services other than medical care rose 7.7%, while prices for medical care services jumped at an average rate of 10.3%. Partly this is because a prolonged freeze on hospital charges had just been lifted. Among these medical care services, the largest proportion (39.3%) is spent on hospital service charges, which increased at an annual rate of 13.0% last year—almost double the growth rate found in other sectors of the economy. This means that the hospital stay which in 1965 cost each of us $311 is now running on the average $1,017 each year.

These rising health care costs, which just 10 years ago comprised 5.9% of our Gross National Product, currently (FY 1975) account for an unprecedented 8.3% of our GNP, and, according to HEW estimates, by 1990 are expected to reach 10% to 12% of our GNP. Among the causes attributed to these cost increases are inflationary price rises within the health care industry, improvements in the quality and intensity of medical care such as improved but complex and expensive therapeutic and diagnostic techniques, and greater utilization of health services, as evidenced by a 33% increase in per capita use of hospital services since 1950.

Most Americans do have insurance to cover these health care costs. According to HEW figures, three out of four people have substantial economic protection through private health insurance against the costs of hospital and surgical care. Although most Americans already have protection, there are a small percentage of people unable to obtain protection from private or public funds.

#### *Manpower distribution*

Moreover, for some Americans there are also problems in securing adequate health care because of the distribution of physicians, both geographically and by specialty. The number of active physicians in the U.S. has been growing faster than the population as a whole and, if the present trend continues, the number of physicians per 100,000 population by 1990 will be 50% greater than today. The critical problem is not in the absolute numbers of health professionals, but in the distribution of these resources. Statistics indicate that physicians are located disproportionately in the Northeast and the West. While the average number of active physicians in the U.S. is 130 physicians per 100,000 population, in New York, for example, there are 195 physicians per 100,000 population. On the other hand, states in the South and North Central regions of the country are substantially below the national average. Mississippi, for example, has only 77 physicians per 100,000 population. We need to find solutions to ease these shortages of physicians, both geographically and by specialty, if we are to improve access to adequate health care for all Americans.

#### *Medicare and medicaid*

Problems also exist for some citizens presently covered under Medicare and Medicaid. We need to correct inequities in Medicaid eligibility requirements and benefits for these people, as well as to simplify administrative regulations. We need to modify the Medicare program by reintroducing cost saving incentives in hospital reimbursement mechanisms and to streamline the paperwork required of participants. This can be done while providing stiffer penalties for fraud.

### III. RELATED ISSUES

There are a number of areas in which action can be taken to improve health protection. These include:

#### *Catastrophic insurance*

There is only a small percentage of Americans that incur "catastrophic" expenses as a result of accident or major illness. But for these people the financial effect can be devastating. While an increasing number of insurance policies are providing unlimited catastrophic coverage to their beneficiaries, we should encourage others to provide such protection. This might be done through tax breaks for the additional premiums or by providing for all insurers to share in pooled risks. Alternatively, insurers could be mandated to provide catastrophic coverage that could not be waived. Another approach would be to provide governmental assistance via a refundable tax credit for expenses above a relatively high level.

#### *Preventive health care*

Every American should have the opportunity to sustain his own health through proper health maintenance and disease prevention. Because the individual ultimately can make the greatest contribution to preventive health care, we must encourage efforts which educate consumers in self care and disease prevention. By increasing the individual's knowledge of preventive health methods, we can improve the overall health of our nation and contain the costs associated with preventable illness.

#### *Medical malpractice*

Soaring malpractice insurance costs facing doctors today adds ultimately to each American's health care bill. By supporting solutions which will resolve this crisis, preferably at the State level where legal jurisdiction properly exists, we can significantly enhance efforts to contain soaring health care costs.

#### *P.S.R.O. programs*

Professional Standards Review Organizations and other such federal programs have increased greatly the extent of bureaucratic regulation of and intervention into, the life and death decisions of doctors who are best qualified to decide proper patient care. This is hazardous to the Nation's health! Such government involvement threatens the quality of health care Americans receive, increases the risk of malpractice suits, and jeopardizes the confidentiality of patient-doctor relations. Only by eliminating the "Big Brother" role of the Federal government and its bureaucrats can we protect the quality of care our people receive.

### IV. SPECIFIC PROPOSALS

Among the specific legislative measures currently before Congress, the following proposals seek solutions to the health care problems facing us today:

#### ADMINISTRATION PROPOSALS

#### *Medicare*

President Ford has proposed that Medicare beneficiaries be protected against catastrophic health care costs by limiting the amounts an individual must pay annually to $500 for covered hospital care and $250 for covered physician's services. This plan seeks to define catastrophic expenses as any amount greater than $750.

Under this proposal, Medicare patients would be required to pay a deductible for the first day of a hospital stay, as under existing law, and 10% of additional charges up to an annual maximum of $500.

The current annual deductible of $60 for physicians' services would be raised to $77, while the existing copayment of 20% for such services would be maintained. There would be an annual maximum of $250, and the deductible would increase with Social Security benefit increases.

Medicare reimbursement increases would be limited to 7% for hospital costs and 4% for physicians' services in FY 1977 and FY 1978.

#### *Medicaid*

President Ford has asked Congress to consolidate Medicaid and 15 categorical Federal health programs into a $10 billion block grant to the states. In this block grant, no state will receive less in FY 1977 than its share of program funds in FY 1976.

#### OTHER REPUBLICAN INITIATIVES

#### *Medical Expense Tax Credit Act (H.R. 3328)*

This bill would provide protection against expenses from catastrophic illness by means of tax credits on regular income tax returns for excessive medical expenses, that is, anything over 15% of one's modified adjusted gross income. Below this relative threshold, medical costs would be paid from private insurance or personal funds. In claiming credit for expenses above this amount, a person would be allowed to claim up to 85% of his additional medical expenses. For low income people, the federal role would be nearly comprehensive; the tax credit would be "refundable" even if no tax were owed. For higher income people, there would be less governmental involvement as income rises.

*Comprehensive Health Insurance Act (H.R. 4747)*

This bill would require employers to offer approved private insurance to their employees and to pay 75% of the premium if the employee elects to participate in the program. The non-employed and the disabled would be provided protection under a federally approved state plan by private insurance carriers. Under this bill, total expenses would be limited to $1,500 per family each year. Also included in this proposal is a preventive services package, in which preventive care would be available without any cost sharing required of beneficiaries.

*Comprehensive Health Care Insurance Act (H.R. 6222)*

This bill would provide coverage by requiring employers to make available specified health insurance coverage for their employees and to share at least 65% of the premium cost. The self-employed and the non-employed would be eligible under the Medicredit provision of the bill to receive government contributions to private health insurance plans through a federal income tax credit or a certificate of entitlement issued by the government and acceptable by private insurers for payment of premiums.

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## THE LATE JUDGE ALEXANDER J. McMAHON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DON H. CLAUSEN) is recognized for 15 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, Sonoma County, Calif., recently lost one of its most distinguished and respected citizens, Judge Alexander J. McMahon.

The judge was a close personal friend whose company I enjoyed immensely. All who knew him admired and liked him and share a great loss in their lives at his death.

It would be hard to properly characterize his unique personality. He was a warm, genial, compassionate, concerned, and loving human being.

Professionally, I would characterize him as the finest judge in northern California. The respect he earned as an individual followed him in his judicial responsibilities.

He was fair, firm, and impartial on the bench and served his office in the highest traditions of jurisprudence.

His loss leaves a great void in the county, but each of us who worked with him will strive to carry on the ideas and ideals he believed in.

I was privileged to attend his funeral along with the leadership of Sonoma County and his multitude of friends. The funeral ceremony was an extraordinary tribute to an extraordinary man.

His brother, the Reverend Father Thomas J. McMahon served in the officiating capacity.

His beautiful family, wife Bobbie, daughter Jeanne-Marie and sons Alexander, Christopher and Thomas are very genuine and dedicated Christians and will carry forth the legacy and heritage of the distinguished McMahon family.

The memorial program contained a very special prayer that describes my friend, Al McMahon better than any words I can think of.

I want to record them, along with the news stories of his passing, permanently in the RECORD:

### The Prayer of St. Francis

Lord, make me an instrument of Thy Peace
Where there is hatred, may I bring love

Where there is wrong, may I bring the Spirit for Forgiveness
Where there is discord, may I bring Harmony

Where there is error, may I bring Truth
Where there is doubt, may I bring Faith
Where there is despair, may I bring Hope
Where there is darkness, may I bring Light

Where there is sadness may I bring Joy
Lord grant that I may seek rather to comfort,

Than to be comforted.
To understand, rather than be understood.

To love, rather than to be loved.

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[From the Argus-Courier (Petaluma, Calif.), Sept. 24, 1976]

### A Respected Judge Is Gone

This community has lost one of its leading citizens with the untimely death of Judge Alexander J. McMahon, who died in his sleep Wednesday night.

The likeable municipal court judge had earned a well-deserved reputation for fairness on the bench. Those appearing before him were assured of receiving careful consideration of their case. He was always cognizant of the rights of the accused.

Judge McMahon had a sharp sense of humor. Both were evidenced in his conversations and the stories he liked to tell. He was a convivial companion and made many friends.

The jurist also was a civic-minded individual and involved in local clubs and activities.

Judge McMahon, known to his friends as "Al," always had time for the news media. He was sympathetic with newsmen's problems, having at one time considered entering this field.

His death came just before he was to begin a new six-year term as municipal court judge serving both Petaluma and Sonoma Valley. As a mark of his ability and the esteem in which he was held, he was unopposed for the post.

The death of Judge McMahon leaves a void in the community. He was an interesting, likeable individual. He will be missed.

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### Judge McMahon Dies in Sleep

SONOMA.—Alexander J. McMahon, 53, the southern Municipal Court Judge for Sonoma County, died suddenly at his home in Sonoma today.

Police said he apparently died in his sleep. His wife, Barbara, summoned help at 8:30 a.m. when she was unable to wake him.

Coroner's officials will investigate the cause of death. Police said it was apparently natural causes.

In June, McMahon, a popular man with a reputation as a "down-to-earth" judge was re-elected without opposition to a new six-year term for the Municipal Court serving Petaluma and the Sonoma Valley.

"The community's lost one helluva guy," said a friend, Sonoma Index-Tribune publisher Robert Lynch.

McMahon had returned Wednesday from a meeting of the California State Bar Association and the California Council of Judges in Fresno.

The judge, known to friends as "Al," was especially popular among police and sheriff's deputies.

He was often at the scene of fires, accidents or other law enforcement investigations. He had a sheriff's radio in his car, and his own call numbers, "244–J."

"I think he maybe had a little newspaperman in him, and a little policeman, too," Lynch said.

"He was a very popular, and a very, very, fair judge," said Sonoma Police Chief Bill Rettle. "No matter what your difficulty was when you came to court, he took each case like it was the most important."

"He had a very down-to-earth way of handling people who came before him, particularly juveniles," Lynch said. "He did it in a fatherly way, rather than being stern."

Although they didn't always agree with him, defense attorneys today also remembered McMahon as a "nice guy" and a "fair man."

In addition to his wife, "Bobbie," McMahon is survived by four children, Alexander, Jeanne Marie, Christopher and Thomas, all of Sonoma.

McMahon became the first southern Municipal Court Judge in 1968 when the Petaluma and Sonoma justice courts were consolidated.

"He was Sonoma Justice Court judge from 1966 to 1968, following appointment by the Sonoma County Board of Supervisors.

He was Sonoma city attorney from 1958 to 1966.

A University of San Francisco law school graduate, he began practicing law in Sonoma in 1952.

In 1975, McMahon won the endorsement of the Sonoma County Bar Association when Gov. Edmund Brown, Jr. was considering a Superior Court judge appointment.

He was a member of the Sonoma Valley Rotary Club, and the Sierra Club, and graduate of the University of Santa Clara. He was an unsuccessful candidate for district attorney in 1962.

At community festivals on the Sonoma Plaza, it was almost a tradition for Judge McMahon in frock coat to step forth and say a few words about the occasion.

He would have been there this weekend for the annual Sonoma Vintage Festival celebration.

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### Judges Death Mourned

SONOMA—Flags flew at half staff over county buildings today in memory of southern Municipal Court Judge Alexander John McMahon, 52.

The popular judge died in his sleep early Thursday at his Sonoma home. Coroner's investigators said he suffered a heart attack.

A Vigil Service will be held at 8 o'clock tonight at St. Francis Solano Church in Sonoma. Mass will be offered at 10 a.m. Saturday at the church.

Officials and friends were shocked Thursday to learn of McMahon's death.

When it was announced during session of the Sonoma County Board of Supervisors, Superviosr George DeLong, a close friend, broke down.

McMahon was elected without opposition in June to a new six-year term on the Municipal Court serving Petaluma and the Sonoma Valley.

McMahon was appointed first judge of the southern Municipal Court when the Petaluma and Sonoma justice courts were consolidated in 1968.

He was the Sonoma Justice Court judge from 1966 to 1968.

He came to Sonoma to practice law in 1952. He was the city's attorney from 1958 to 1966.

McMahon was a graduate of the University of Santa Clara and the University of San Francisco Law School, and a member of the California League of Judges, Sonoma County Bar Association, Serra Club, Native Sons of the Golden West, the Elks Club of Petaluma, Loyal Order of the Moose, St. Francis Solano Church, and the Sonoma Valley Rotary Club.

He is survived by his wife, Barbara Hardin McMahon, Sonoma; his children: Alexander, John McMahon, Jr., Jeanne McMahon, Christopher McMahon and Thomas McMahon, all of Sonoma; his mother, Mary Bresnahan McMahon, Oakland; his sister, Sister Mary Thomasine McMahon, Holy Names Sisters; and his brothers, James I. McMahon, Pleasanton, and the Rev. Thomas S. McMahon, San Jose.

The judge was a native of San Francisco.

Burial will be at St. Francis Solano Cemetery.

Friends may call at the Chapel of Bates, Evans and Fehrensen until 6 p.m. today.

Contributions may be made to St. Anthony's Farm, 11205 Valley Rd., Petaluma.

Sonoma County supervisors Thursday adjourned their meeting in Judge McMahon's memory.

## STUDENT FREEDOM-OF-CHOICE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 10 minutes.

Mr. CRANE. Mr. Speaker, of all the constitutionally guaranteed rights and privileges that Americans take for granted, none are so sacred as those enumerated in the first amendment. That amendment states that "Congress shall make no law" prohibiting the free exercise of freedom of religion, of speech, of the press, to peaceably assemble, or to petition the Government for a redress of grievances. Yet time after time, the Congress has enacted legislation that directly or indirectly abridges these rights.

From the freedoms spelled out in the first amendment we derive freedom of association—the right to join, or to refrain from joining, organizations or groups, whether they be formal or informal. No one here would deny the right of any individual to membership in any church, private club, or political party of his choice. Many have spoken of individual freedom in terms of opposition to compulsory military service or racial, sexual, or ethnic discrimination. Yet there is a strange lack of assent when one speaks of individual freedom in the context of having to join a labor union in order to keep a job.

To the extent that compulsory union membership requires a worker to decide between joining a union or losing a job, that worker's freedom of association is limited. If freedom of association gives one the right to join, then by implication it gives one the right not to join. Freedom depends on choice, and where there is no free choice, freedom does not fully exist. The Supreme Court has maintained that freedom of speech carries with it the freedom to choose to remain silent, as stated in its decision in *Board of Education* v. *Barnette,* 319 U.S. 624 (1943), upheld the right of a religious sect to refrain from pledging allegiance to the flag:

> The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and establish them as legal principles to be applied by the courts. One's right to life, liberty and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to a vote; they depend on the outcome of no elections.

Should the Democrats prevail in the elections, there is no requirement that the Republicans join the Democrat party. Having lost, the minority must obey the laws enacted by the majority. But the majority does not have the right to abrogate the minority's constitutionally guaranteed rights, no matter how large the margin of victory at the polls.

By compelling a worker to join a union in order to hold a job, one's right to freedom of association and due process of law is effectively denied. Such a worker must pay the dues and initiation fees, attend union meetings, or go on strike if the union leaders command him to, or face stiff penalties. Yet he has no control over how his dues are spent, especially when it comes to indirect political donations. As individuals, we can contribute our time, money and effort to the candidates of our choice. Yet, a union worker frequently sees part of his dues go to help candidates chosen by the union leaders whether or not he would choose to support them, if given the opportunity.

Though the abridgement of the freedom of choice in labor relations is abhorrent no matter whose rights are infringed upon, no group is hurt more or benefits less than student workers. Frequently, in order to obtain employment, students are required to join a union, even though they may be working only part-time or hold a full-time position for about 12 weeks in the summer. As a consequence, they are required to pay full initiation fees plus monthly dues and attend union meetings. However, they do not work long enough to qualify for the benefits of union membership, such as health insurance, sick pay, wage increases, and pensions. Though union membership is customarily required within 30 days of employment, it usually takes 90 days to qualify for most of these benefits and as long as 10 years for pension benefits. Obviously, few student workers would meet these requirements.

Clearly, the students are being "ripped off" by the unions and are powerless to resist their demands—they either must join the union or look for a nonunion job. The cost of union membership often comprises a large share of the student's take-home pay, making things especially difficult when the student is counting on his earnings to pay for the cost of his education. Students are hardly the "free riders" scorned by union members, who claim that nonunion workers get all the benefits of membership without having to pay the costs. Rather, they are unwilling passengers whose hard-earned dollars enrich union coffers while they enjoy none of the privileges.

As public opposition to compulsory unionism has risen in recent years, even among union members, support for the right to work has increased among the youth. Within the last 14 months, three national youth organizations have passed resolutions in favor of passage of student right-to-work legislation: The Young Republicans, the Young Americans for Freedom, and Boys' Nation/Girls' Nation.

Just this month a group of student workers in Australia has threatened action of their own if forced to join a union against their will. Over 800 student employees of McDonald's restaurants in Sydney have petitioned the state parliament to prevent their employer from compelling them to join the Australian Workers Union—AWU. The union has threatened to cut off the chain's supply of hamburger buns unless it urges the workers to join. The student workers, in turn, have said they will form their own union and go on strike if necessary to protect their freedom of choice.

Though their American counterparts have yet to organize their opposition to particular cases of compulsory unionism, the numbers of individual protests have demonstrated that they are willing to fight for their rights even against impossible odds. To insure that these student workers should not have to sacrifice their freedom of association in order to hold a job any longer, I have introduced H.R. 15608, to amend the National Labor Relations Act to provide for a freedom of choice in labor relations for full-time and part-time secondary and college students by exempting them from compulsory union membership.

Freedom of choice should not be abridged by any act of Congress. But when necessary, we must enact legislation specifically prohibiting such an abridgement. I urge my colleagues to join me in correcting this injustice against a minority group—the students of our country.

## REV. S. HOWARD WOODSON TO BE PRESIDENT OF NEW JERSEY STATE CIVIL SERVICE COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 10 minutes.

Mr. THOMPSON. Mr. Speaker, it gives me great pleasure to note the appointment of the Reverend S. Howard Woodson of Trenton as president of the New Jersey State Civil Service Commission. Reverend Woodson has been a personal and political friend of mine for 25 years. He was honored by his peers in the New Jersey House of Assembly by being elected its Speaker, the first black Speaker in the State's history. His eloquence in addressing the needs of our people is legendary in our State. I am certain he will bring the great compassion that he demonstrated for legislative affairs to the duties of his new office.

Mr. Speaker, I am pleased to place before the House an editorial on Reverend

Woodson which appeared in the September 29 issue of the Trentonian:

### MR. WOODSON MOVES ON

One of the foremost black political leaders in this state's history bade adieu to his fellow Assemblymen this week and was heaped with the praise his service has earned during his 11 years in that body. Assemblyman S. Howard Woodson retired from the Assembly to accept an appointment as president of the State Civil Service Commission where he will continue his career in public life.

Elected to the lower house in 1964, Mr. Woodson thus concluded an outstanding legislative career that was highlighted when he was accorded the honor of being named the first black speaker in the state's history.

Such salutes to departing fellow lawmakers are a legislative custom and sometimes are less than sincere, or for that matter deserved. But in its farewell to Mr. Woodson, the Assembly was indeed paying a fitting tribute to a talented and respected leader. It was also noteworthy that the praise came from both sides of the aisle, and Republican Assembly Minority Leader Thomas Kean summed it up as well as anyone when he said that Mr. Woodson was "tough and knowledgeable," and that as speaker he was "fair, just, compassionate and always decent."

Like many Republican Assemblymen, and some Democrats from time to time, we have not always agreed entirely with Mr. Woodson's political positions, or felt that his approach to every situation was necessarily the best one. But that's what makes the world go 'round, and, on balance, both his stands on the issues and his approach to human problems have been exemplary from almost any point of view.

We therefore join with the Assembly, and indeed with the entire state, in voicing gratitude for his civic contributions in the past and in wishing him the very best both in his new career and in his personal endeavors.

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## FATHER MARQUETTE TERCENTENARY COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 10 minutes.

Mr. ZABLOCKI. Mr. Speaker, As you know pursuant to Public Law 89–187, which created the Father Marquette Tercentenary Commission, I forwarded to you on September 28 the report to Congress on the activities and accomplishments of the Commission.

In light of the many activities of the Father Marquette Tercentenary Commission which honored and commemorated this famous French Jesuit and Explorer who played an integral part in American history, I would like to share with my colleagues the report:

### FATHER MARQUETTE TERCENTENARY COMMISSION REPORT TO CONGRESS

### I. PURPOSE OF THE COMMISSION

#### *The Commission*

Upon the 300th anniversary of the coming of the French Jesuit to America, Members of Congress and concerned citizens deemed it appropriate and fitting that the missionary-explorer be honored for his contributions to our country. Congress by law in 1965 created the Father Marquette Tercentenary Commission to commemorate his life and investigate the possibility of erecting a permanent memorial to him. Official commemoration years were 1668–1673.

The Commission, comprised of Senators, Representatives and private citizens, developed projects nationwide in scope in honor of the life and works of the man over the five year period, culminating in the recommendation and ultimate approval of a permanent memorial at St. Ignace, Michigan. In cooperation with the Commission, State Committees were organized in Iowa, Michigan, Missouri, Arkansas, Tennessee and Wisconsin.

#### *The man*

Father Jacques Marquette, the French Jesuit missionary and explorer, plays an integral part in American history and, in particular, the Great Lakes region. The man, whose life is the focal point of the Father Marquette Tercentenary Commission, was a member of a prominent French family who left home to become a priest. He dedicated his life to teaching and spreading the word of Christianity in the new world. Showing an incredible comprehension of natural beauty, and a never-ending interest in furthering religion and learning, he endured almost unbearable physical hardships in his selfless dedication.

As a student, Father Marquette displayed unusual talent in foreign languages and became proficient in six Indian dialects. During his twelve years in the Jesuit seminary, he became interested in the Jesuit missionaries in New France (Canada) and upon completion of his preparations for priesthood, was sent to the New World.

In 1668 he established a mission at Sault Ste. Marie, Michigan where he taught and preached among the Chippewa. A year later, he utilized his knowledge of the Huron language and went to the nearby La Pointe Mission to work among the Hurons.

#### *The exploration*

During 1669 and 1670, Father Marquette became interested in the body of water known by the tribes as the "Great River"—the unexplored Mississippi. He heard tales of the mightiness of the River and its great length by tribesmen.

As a result of a quarrel with the Sioux, the Hurons fled from La Pointe to Lake Michigan and Marguette accompanied them. In the summer of 1671 he founded the mission of St. Ignace on the north shore of the Straits of Mackinac.

While he was at St. Ignace, Marquette was visited by the young Canadian explorer, Louis Joliet, whom he had met earlier at Sault Ste. Marie. Joliet informed him that the governor had commissioned him to explore the "Great River" and that Marquette was to accompany him on the journey.

Throughout the winter of 1673, Marquette and Joliet studied and planned, and gathered the personnel for the expedition and prepared their supplies. In mid-May, when the straits were free of ice, the explorers embarked upon their historic journey of exploration.

On May 15, 1673, Marquette and Joliet, accompanied by five guides, set out in birch canoes. They left Sault Ste. Marie, traveled through the straits of Mackinac, across the northern shore of Lake Michigan to Green Bay, Wisconsin, and into the Fox River, stopping briefly at the Mission of St. Francis Xavier near De Pere, Wisconsin.

After working their way west and reaching the 2½ mile long portage (Portage, Wis.) the explorers reached the Mississippi, (Great River). On June 17, 1673, the two explorers shot out into the Mississippi and turning their canoes southward set out to explore its waterway.

Eight days later, they came across an Illinois Indian village where Father Marquette was presented with the calumet of peace—a symbolic feathered pipe which he carried with him throughout his journey.

They soon realized that the Great River did not lead to the Pacific Ocean as was thought at the onset of the journey, but rather to the Gulf of Mexico. It was further ascertained that the Spanish controlled the mouth of the river.

Near the mouth of the Arkansas River they decided to turn back. Instead of retracing their path, they ascended the Illinois and Chicago Rivers to Lake Michigan, becoming the first white men to stand on the site of the city of Chicago. They then returned to the mission of St. Francis Xavier at De Pere, Wisconsin, to complete the 3,000 mile journey.

During Joliet's return trip to Canada, his canoe capsized destroying his maps and records. Thus, Father Marquette's journal and records became the only firsthand account of the expedition.

#### *His death*

Father Marquette had long dreamed of starting a mission and working among the Illinois Indians. Despite the fact that his health was seriously impaired as a result of the long journey down the Mississippi, in the fall of 1674 Marquette set forth to accomplish his cherished dream.

The weather was stormy, the lake was rough, and Marquette and his two companions suffered incredible hardships. By the time they reached the mouth of the Chicago River, Marquette was seriously ill. The journey could not be completed until the end of March. However, he spent only a few days teaching at the Illinois village when he realized that his days were limited. After a short stay he set out on the three hundred mile trip to the Mission at St. Ignace at Mackinac, hoping to return before he died.

On May 18, 1675, near Ludington, Michigan, Father Marquette died in the wilderness among his Indian friends as he wished. He was thirty-eight years old and spent only nine years in his work as a missionary. Two years later his remains were carried to the Mission of St. Ignace by his Indian friends and were placed in the small chapel. Two hundred years later (1877) vestiges of what were thought to be Marquette's bones were unearthed at St. Ignace, where they were reburied except for some fragments which were carried to Milwaukee and given to Marquette University.

Throughout the states of the Upper Great Lakes and the entire country, there exists a great respect and deep admiration for Fr. Marquette's courage and determination which he demonstrated so admirably in his short-lived career during the early days of America.

### II. CREATION OF THE COMMISSION

#### *Legislative history*

Members of Congress in deference to the landing of Father Marquette in North America introduced legislation in 1965 to establish an honorary commission. Representative Clement J. Zablocki (D.-Wis.) introduced House Joint Resolution 435 on April 28, 1965. On the Senate side, Senate Joint Resolution 53 was introduced by Senator Philip A. Hart (D.-Mich.) on February 24, 1965.

The resolutions called for the creation of a Father Marquette Tercentenary Commission to develop and carry out plans for the following year's 300th anniversary of the missionary's arrival in North America and to investigate, in cooperation with the Secretary of the Interior, the possibility of establishing a permanent memorial to Father Marquette to commemorate the events of the Jesuit's life and explorations. The period the Commission was to emphasize were the years 68–73.

The resolution called for twelve members: Four members of the House, four from the Senate, and four appointed by the President. The Commission was authorized to accept donations of money, property, or personal services; to cooperate with agencies of State and local governments; with patriotic and historical societies and with institutions of learning; and to call upon other Federal departments or agencies for their advice and assistance in carrying out the purposes of the resolution. An authorization not to exceed the sum of $10,000 to carry out the purposes of the joint resolution was provided for.

The resolutions were referred to the appropriate Judiciary Committees for consideration. Favorable reports were received by the Committee from the Secretary of the Interior, Stewart Udall, and the Bureau of the Budget of the Executive Office of the President.

Secretary Udall's report emphasized the important contribution of Father Marquette in pushing back the frontiers of the country and aiding the eventual settlement of the American heartland.

Speaking in behalf of the resolution during debate on the Floor of the House, Representative Clement J. Zablocki said: "The importance of the arrival of Pere Marquette to my own state of Wisconsin, to the Midwest, and indeed to the entire nation, scarcely can be overemphasized. This courageous man has left his mark upon our land and upon our lives."

The resolution, (S.J. 53) passed the Senate on June 14, 1965, and the House of Representatives on August 16, 1965. On Sept. 15, 1965, President Lyndon B. Johnson signed the measure which became Public Law 89-187.

*Appointment of Commission Members*

In accordance with Section (1) (a) of Public Law 89-187, the following Members were appointed to the Father Marquette Tercentenary Commission:

*Appointed by the President of the United States:*

Chairman—James Windham of Milwaukee, Wis.

Elizabeth Kane, of Minneapolis, Minn.

Kenneth Shouldice, of Sault Ste. Marie, Mich.

Father William F. Kelley, S.J. of Washington, D.C.

*Appointed by the President of the Senate:*

Philip A. Hart, Senator from Michigan.

Paul H. Douglas, Senator from Illinois, after '66 election replaced by Senator Gaylor Nelson, of Wisconsin.

Karl E. Mundt, Senator from South Dakota.

Jack Miller, Senator from Iowa.

*Appointed by the Speaker of the House of Representatives:*

Clement J. Zablccki, Representative from Wisconsin.

Kenneth J. Gray, Representative from Illinois.

John W. Byrnes, Representative from Wisconsin, (replaced by Harold Froehlich of Wisconsin).

Edward Hutchinson, Representative from Michigan (replaced after '66 election by Rep. Philip Ruppe of Mich.).

*Finances*

On February 7, 1966 the Pabst Brewing Company of Milwaukee, Wisconsin donated $10,000 to the Father Marquette Tercentenary Commission to finance appropriate commemorative activities.

III. ACTIVITIES

*1st meeting of Commission*

On January 13, 1966, the plenary meeting of the Father Marquette Tercentenary Commission was held in Washington, D.C. to begin organizatioanl duties and submit proposals on the appropriate measures to be considered in commemorating Father Marquette. In attendance were Mr. James Windham, President, Pabst Brewing Company, Chairman; Congressmen Clement J. Zablocki, Vice-Chairman, John W. Byrnes, and Edward Hutchinson; Senator Karl E. Mundt; Mr. J. Robert Hard, representing Senator Jack Miller; Mr. Jerry Kabel representing Senator Philip Hart; Dr. Kenneth Souldice, Houghton, Michigan; Father William E. Kelley, S.J., Milwaukee, Wisconsin; Mr. George Berdes, (representing Congressman Zablocki after the Congressman left); Messrs. Ted Rosenak and Jack Reifenrath of the Pabst Brewing Company; and Mr. Cornelius Heinze of the National Park Service.

Since that time, members of the Commission have been polled by mail and telephone on decision affecting the celebration by Chairman Windham.

The meeting was called to order by Chairman Windham at 10:15 am. Ten motions were introduced and passed, ranging from the methods of distributing funds to proposed ideas in commemoration of Father Marquette's accomplishments.

Initially, Chairman Windham obtained ratification by the Commission of his action in obtaining a ruling from the Treasury Department and the Internal Revenue Service that contributions to the Commission be deductible for income tax purposes.

Recommendations by the Commission members included discussion of the following:

Dr. Schouldice favored tracing the route of Fr. Marquette's explorative journey;

Congressman Hutchinson suggested that the Commission consider having a biographical sketch written of Father Marquette and his work in the New World; he also favored the consideration of St. Joseph, Michigan as a possible site for a memorial.

Mr. Kabel suggested that an educational kit for the public and parochial schools be prepared and on behalf of Senator Hart endorsed the suggestion of a biography.

Mr. Hard favored the proposal of a memorial at the confluence of the Wisconsin and Mississippi Rivers.

Congressman Zablocki proposed a Father Marquette Memorial Symphony, sponsorship of a Conference on "The Commitment of Religion to the Advancement of Man" at Marquette University, and utilization of a portrait of Father Marquette done by a Milwaukee artist;

Father Kelly favored tracing the steps of Father Marquette, working with Canada, and settling the controversy of differences of dates;

Congressman Byrnes and Senator Mundt favored tracing the route of Father Marquette;

Chairman Windham through Mr. Ted Rosenak, Executive vice-president of Pabst Brewing Company, presented a series of proposed memorials to Father Marquette and a proposed park design, as well as medals honoring Father Marquette and his journey.

Nine additional motions were introduced, seconded and passed. They were:

1. A motion for the Chairman to act on proposals after Commission members have submitted opinions on each proposal assuming there is no "strong dissent".

2. A motion authorizing the Chairman to follow the same procedure in approving any contract or commital of the Commission and in disbursing funds.

3. A motion authorizing Congressman Zablocki as Vice Chairman and delegating the authority to sign checks to the Chairman and Vice-Chairman.

4. A motion allowing the Pabst Brewing Company to deposit $10,000 to the account of the Commission in the Marine National Exchange Bank (Milwaukee) and authorizing either the Chairman or Vice-Chairman to disburse funds.

5. A motion to have one of the Pabst Company's attorneys contact the governors of the states involved in Fr. Marquette's expeditions to set up commissions with tax-exempt status.

6. A motion authorizing the Chairman to explore the possibility of approaching an outstanding composer to write a Fr. Marquette symphony.

7. A motion giving the Chairman the authority to open negotiations with composers obtained by Mr. George Berdes from the Library of Congress.

8. A motion for the Chairman to investigate the possibility of having a commemorative stamp issued in honor of Fr. Marquette.

9. A motion to contact the National Geographic Society regarding the route that Fr. Marquette took.

Finally, Mr. Cornelius Heine of the National Park Service stated the interest of the Director and the Department of the Interior in working with the Commission and in investigating the desirability and feasibility of erecting a national monument to Fr. Marquette.

*Commemorative symphony*

In compliance with suggestions of members of the Commission at the plenary meeting, the feasibility of honoring the life of Father Marquette in the form of a symphony was investigated.

As a result of investigative inquiries the Commission commissioned Dr. Roy Harris, the noted symphonic composer to write the "Pere Marquette Symphony". The symphony was a two-part chronicle of Marquette's life—the first part in the "Old World" the second part in the "New World".

It traced Marquette's childhood, his life as an initiate, his missionary work with the Indians in the midwest, and his death in the wilderness.

Harris said, "The completed first part starts, traditionally with a cradle song to denote the infancy of the future priest; then it becomes playful and boisterous, indicative of youth, and goes into a long prelude descriptive of Marquette's struggle for identity, his plans for a missionary's career of adventure and sacrifice. This first part ends on a high threshold of ecstatic expectancy."

The first two movements of the symphony premiered at the Pabst Theater in Milwaukee by the Milwaukee Symphony Orchestra under the baton of Dr. Harris on February 24-25, 1968. The full symphony was performed in Milwaukee on November 8-9, 1969 at the new Performing Arts Center.

Present at the World Premier were the French Ambassador, Charles Lucet, of Washington, the Canadian Consul General and Mrs. S. V. Allen of Chicago, and French Consul General Jean-Louis Mandereau and Mrs. Mandereau, Chicago. Officials from Marquette University, State of Wisconsin, members of the Church, and representatives of Fr. Marquette Tercentenary Commission were also in attendance.

A reception followed the performance at the Pfister Hotel with about 350 people attending. Chairman Windham introduced Mayor Henry Maier, Mayor of the City of Milwaukee, who presented a plaque from the City to Allen, Lucet and Harris. In the presentation to Harris, the Mayor thanked the composer "in memory of the wonderful evening he has made possible for us."

The Father Marquette Tercentenary Commission expended $3,000 on the symphony which included composer fees and orchestral materials.

*Biographies*

In fulfillment of the discussion of Marquette's life at the plenary meeting, two books were written by noted scholars.

At the request of Chairman Windham, Father Joseph P. Donnelly, S.J., renowned historian of Marquette University, wrote an authoritative and scholarly biography of Father Marquette. The book, published by Loyola University Press in September, 1968, is titled *Jacques Marquette*.

In compliance with the Commission's goal to establish a factual guide to Marquette's explorations, Father Raphael Hamilton, S.J., archivist of Marquette University, authored a book entitled *Marquette's Explorations*. The book was published by the University of Wisconsin Press in the fall of 1970.

### *Commemorative symposium*

In his remarks at the plenary meeting, Congressman Zablocki proposed a conference on the relevance of religion to man as an appropriate way to commemorate the actions and contributions of the explorer-missionary, Jacques Marquette.

In his remarks before the Commission, Congressman Zablocki said: "One of the guiding motivations in the life of Fr. Jacques Marquette in his exploration of the North American continent was his understanding of the commitment of religion to the advancement of man. It was, in fact, this realization that motivated not only his physical exploration but his exploration in the ways of truth as well."

In a joint effort of the Father Marquette Tercentenary Commission, Marquette University and the Johnson Foundation of Racine, a three-day symposium entitled "The contribution of Religion to the Life of Man in Society" was held April 19, 20, and 21, in 1968. The program was coordinated by Father Bernard J. Cooke, S.J., Chairman of Marquette's Theology Department, and Father William J. Sullivan, S.J. Assistant Professor of Theology.

Over sixty scholars and theologians of widely different backgrounds gathered in a discussion of the relevance of religion to major disciplines of the times—psychology, technology, politics. The opening address, "Religious Eschatology and the Evolution of Society" was delivered at Marquette on April 19 by Joseph Sittler, Professor of Theology at the University of Chicago Divinity School.

Other presentations and workshops took place on April 20 and 21 at Wingspread, a conference center in Racine, Wis., owned by the Johnson Foundation.

### *Commemorative stamp*

The United States Post Office offered its cooperation in issuing a commerorative postage stamp in conjunction with the tercentenary observances. The stamp represents the active interest of more than 50 Senators and Congressmen from Midwestern States, who wrote the Postmaster General petitioning for a Father Marquette commemorative stamp. Their actions obtained approval by the Stamp Advisory Committee.

The design for the six-cent stamp was prepared by Stanley W. Galli, of Kentfield, Cal., and depicts the Mississippi river voyage. The stamp was modeled by Robert J. Jones and engraved by Edward P. Archer (vignette) and William R. Burnell (lettering).

The brown, green and black on white stamp depicts Father Marquette and fellow-explorer Louis Joliet and the two guides traversing the waters of the Mississippi. It was one of 35 commemorative stamps issued each year.

The design of the stamp was revealed on April 19, 1968, in an unveiling ceremony at Marquette University in conjunction with the opening of the Pere Marquette Tercentenary Symposium.

Among the speakers at the stamp unveiling were Mr. Lawrence S. Lewin, administrative assistant to Postmaster General Lawrence F. O'Brien, the Very Reverend John P. Raynor, S.J., and Mr. James C. Windham.

In his remarks, Mr. Lewin said, "The Father Jacques Marquette commemorative postage stamp is being issued on the 300th anniversary of his arrival in what is now the United States. I want to congratulate the Marquette Tercentenary Commission for the elaborate observance it has planned over the next several years . . . This attractive postage stamp was designed by Stanley W. Galli, a California artist. One hundred and twenty million stamps will be printed by the Bureau of Engraving and Printing, of the Treasury Department. It will be issued September 20 at Sault Ste. Marie, Michigan, where 300 years ago Father Marquette founded the oldest permanent settlement in that State. I hope that issuance of this stamp will serve to remind the Nation of the good works of this noble man."

Appropriately, the official first day issue of the stamp took place on September 20, 1968 in Sault Ste. Marie, Michigan where Marquette established the oldest permanent mission in 1668. Other events in conjunction with the stamp ceremony included the grand opening of the Shrine of the Missionaries in Sault Ste. Marie, and the Dedication of Marquette Hall at Lake Superior State College. Deputy Postmaster General Frederick C. Belan, Senator Philip A. Hart, Congressman Clement J. Zablocki and Congressman Philip E. Ruppe were in attendance.

Doctor Kenneth Shouldice, Chancellor of Lake Superior State College and a member of the National Father Marquette Tercentenary Commission asked that the National Commission cover the cost of preparing the program that was used for the first day of issue stamp ceremonies. Upon receiving majority approval by Commission members, a check for $325 was forwarded to Doctor Shouldice.

### *Commemorative medals*

On January 10, 1967, Congressman Zablocki introduced a bill, H.R. 1499, to authorize the Secretary of the Treasury to strike and furnish to the Commission national medals in commemoration of the 300th anniversary of the explorations of Father Marquette in what is now the United States of America. The legislation received favorable approval of the Banking and Currency Committees and passed both Houses of Congress. Upon receiving approval by the President, the bill became Public Law 90–125 on November 4, 1967.

The medal measures 1 and 15/16'' in diameter and was designed by Barney Brienza of Milwaukee, Wisconsin. One side is a representation of the missionary in a canoe, with the dates of his explorations. The other side shows a map of his travels and the date of the Tercentenary.

Four thousand bronze medals were struck by the United States Mint. Each of the National Commission members received 30 bronze medals; 500 coins were distributed to the Committees in the States of Illinois, Iowa, Michigan, Missouri and Wisconsin; 250 to the State of Arkansas and 500 medals to Marquete University.

At Mr. Windham's personal expense, 200 silver medals and 5 gold medals were preented to President Lyndon Johnson, Vice-President Hubert Humphrey, Congressman Clement J. Zablocki and Father John P. Raynor, S.J., President of Marquette University.

Five silver medals were presented to each member of the National Commission. In addition, a silver medal was sent to the Chairman of each State Committee, the Governors of the States participating in the Tercentenary and other individuals who assisted in furthering the celebrations.

Total cost to the Commission for the striking of the medals was $3,050. The sale of bronze medals to collectors brought in $167.50.

### *Apollo astronauts honored*

On November 8, 1969 the Apollo II crew responsible for placing the American Flag on the moon was honored in Milwaukee. Marquette University presented Astronauts Michael Collins, Neil Armstrong and Edwin Aldrin, Jr., the first "Pere Marquette Discovery Award Medals", named after the famed explorer-missionary.

The presentations were made at a dinner sponsored by the State of Wisconsin, the Milwaukee community, Marquette University and the National Father Marquette Tercentenary Commission. Following the dinner, the astronauts were the guests of the Tercentenary Commission at the world premiere of the "Pere Marquette Symphony" in which Dr. Harris' symphony introduced earlier, was performed in full.

During the intermission the astronauts were each presented with a silver Pere Marquette medal by Mr. James Windham.

In his remarks at the dinner, Fr. John Raynor, president of Marquette University, said,

"Like the astronauts, Father Marquette faced the challenge of the unknown in his explorations and discoveries in the Great Lakes and Upper Mississippi River regions. He was a man of vision, a pioneer—a discoverer in 1669, just as the astronauts are men of vision—pioneers and discovers in a much more complex and changing world of 1969."

"Like the astronauts and like Marquette, whose name we bear, this university too, through excellence in thought and scholarship, also probes the unknown and seeks to satisfy its destiny to make men free through the personal possession of trust about God's creation—about man's relation to man and about man's relation to God."

### *Commemorative ceremony in the Capitol*

In honor of Fr. Marquette's accomplishments, a commemorative ceremony was held in Statuary Hall of the Capitol before the statue of Fr. Marquette on June 18, 1973.

Two Wisconsin grade school students, Melanie Tallmadge, a sixth grader, and Mark Luelkehoelter, a fifth grader, winners of the Wisconsin State Father Marquette drawing and essay contests, were the guests of honor of the Tercentenary Commission. Miss Tallmadge, of Indian heritage won first prize with her painting of Father Marquette. Luelkehoelter wrote the prize-winning essay, "My Journey With Fathers Marquette and Joliet."

Also participating in the ceremony were Speaker Carl Albert, Minority Leader Gerald R. Ford, Hon. Clement J. Zablocki, Hon. Harold V. Froehlich, Hon. Vernon W. Thompson, Hon. Les Aspin, Hon. William A. Steiger, Hon. David R. Abey, Hon. Glenn R. Davis, Hon. Henry S. Reuss, Hon. Robert W. Kastenmeier, Hon. Melvin Price, and Kenneth H. Gray of Illinois.

Mr. Arnold J. Winograd extended greetings on behalf of James C. Windham, chairman of the National Father Marquette Tercentenary Commission and Mr. John M. Fedders, attorney with the Washington law firm of Arnold & Porter, represented Marquette University.

### *Donation to sculpture committee*

In the Fall of 1673, Father Marquette journeyed up the Milwaukee River and stopped along its shoreline. The Tercentenary Commission donated in 1973 $1,000 to the Milwaukee Sculpture Committee to commission Mr. Richard Lippold, a Milwaukeean and a sculptor of international renown, to design a permanent monument in his honor of his landing.

### *Activities of State Commissions*

A memorial canoe trip sponsored by the individual State Committees (Iowa, Michigan, Missouri, Arkansas, Tennessee and Wisconsin) in cooperation with a group of volunteers took place in the Spring/Summer of 1973.

The Missouri State Commission placed a historic marker in the "Trail of Tears" Park near Cape Girardeau, Missouri in memory of Fr. Jacques Marquette on September 15, 1968 in a formal ceremony.

The Missouri State Commission in a special dedication ceremony on Saturday, August 12, 1967, renamed a city park in St. Genevieve the "Pere Marquette Park."

The State of Michigan began work on a $660,000 Shrine of the Missionaries Tower. It will be 210 feet high with seven areas of viewing space at the top. A statue of Fr. Marquette will be erected on the top.

On Friday, March 10, 1967 the University of Detroit held a conference commemorating the Marquette Tercentenary.

The State of Wisconsin dedicated the "Apostle Islands National Park" and in cooperation with the state of Iowa dedicated a new bridge across the Mississippi as the "Marquette-Joliet Memorial Bridge". The Wisconsin State Commission also sponsored art and essay contests and held the Marquette/Joliet Tercentenial Day at Pere Marquette Park.

### IV. CULMINATION OF THE PURPOSE OF THE COMMISSION

#### *National Monument at St. Ignace*

The National Father Marquette Tercentenary Commission created by Congress under PL 89–187 authorized the Commission to investigate in cooperation with the Secretary of the Interior, the desirability and suitability of establishing a permanent national monument or memorial to commemorate the historical events associated with the life of Father Jacques Marquette in the New World. In fulfillment of that original intent, members of the Commission, State Commissions and voluntary citizens joined efforts in investigating the feasibility of achieving that goal.

The Commission determined in 1973 that St. Ignace, Michigan was the most fitting location for a memorial to the explorer-missionary. The decision found St. Ignace to be a fitting location for several reasons:

St. Ignace was the site of the mission founded by Fr. Marquette in 1671;

Marquette and Joliet departed for their historic exploration of the Mississippi River at St. Ignace;

In 1678, Marquette was buried at the site;

Consequently, on November 7, 1973 a proposal for a memorial park at St. Ignace prepared by the State of Michigan and the Marquette National Monument Committee of St. Ignace, was submitted on November 7, 1973 through the Father Marquette Tercentenary Commission to the Secretary of the Interior, Rogers C. B. Morton in the appropriate fashion as stipulated in PL 89–187.

The plan called for a Father Marquette National Memorial to be funded jointly by the State of Michigan and the Federal Government and to be developed and administered by the State as a State Park.

The Commission respectfully requested the Secretary 1) to designate the park a National Memorial in nonfederal ownership, and 2) requested Federal monies to be appropriated to assist the State of Michigan in its endeavors.

An appropriate reply was received from the Secretary of the Interior after receiving approval from the Office of Management and Budget which endorsed legislation providing for the creation of a national memorial to Father Marquette at St. Ignace, Michigan.

#### *Passage of H.R. 2724*

After consideration of legislation in the 93rd Congress to provide for the national memorial and fulfill the purposes of PL 89–187, unfortunately the Congress adjourned before acting upon the bill.

On February 4, 1975, H.R. 2724 was introduced by Congressman Philip E. Ruppe of Michigan and co-sponsored by Rep. Clement Zablocki of Wisconsin. The bill provides for the establishment of a Father Marquette National Memorial near St. Ignace, Michigan and authorizes a Federal appropriation of $1 million.

Testimony was heard by the House and Senate Interior and Insular Affairs Committee. On November 4, 1975, the House of Representatives passed H.R. 2724; on December 11, 1975 it passed the Senate. President Ford signed the legislation into law on December 20 and it became P.L. 94–160.

### V. FINANCIAL STATEMENT

In compliance with the original intent of the law and after stipulated expenditures on commemorative activites, a balance of $2,787.50 of the original $10,000 budget was donated to the following: $1,000 to the Milwaukee County Historical Society; $1,787.50 to the Wisconsin State Historical Society.

FINANCIAL STATEMENT OF THE FATHER MARQUETTE TERCENTENARY COMMISSION

| Expenditures | Paid | Received | Balance |
|---|---|---|---|
| Deposit Feb. 7, 1966 | | | $10,000.00 |
| Dr. Roy Harris, composer | $3,000.00 | | 7,000.00 |
| Treasury Department, U.S. Mint (medals) | 3,050.00 | | 3,950.00 |
| K. Shouldice (stamp program printing) | 325.00 | | 3,625.00 |
| Sale of bronze medals | | $162.50 | 3,787.50 |
| Contribution to Wisconsin Father Marquette Sculpture Committee | 1,000.00 | | 2,787.50 |
| Donation to Milwaukee County Historical Society | 1,000.00 | | 1,787.50 |
| Donation to Wisconsin State Historical Society | 1,787.50 | | 0 |

## AGENCY APATHY TOWARD CONSUMER COMPLAINTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, consumers who complain to the financial regulatory agencies are receiving little or no help despite the fact that hundreds and thousands of dollars are spent on consumer affairs offices and staffs each year.

It is clear that the agencies must take meaningful steps to improve their ability to resolve consumer complaints if that money is going to be justified.

A staff report by the Subcommittee on Consumer Affairs which I am releasing today, indicates why some 70 percent of those consumers who complain to either the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve System, the National Credit Union Administration, or the Federal Home Loan Bank Board last year were left "frustrated and unhappy."

The findings of this study indicate that rather than concentrating on their public image alone, the agencies must take meaningful steps to improve the quality of their handling of consumer complaints. As it is now, if the bureaucratic shuffling and lack of established policy does not stop your complaint, general apathy and inability to find information will. Even the simple task of notifying a consumer that a complaint letter has been received and is being investigated is often ignored or delayed.

Interestingly enough, the Federal Reserve Board has just published a set of "procedures for handling complaints by consumers alleging unfair or deceptive practices by banks." In this new regulation—just out—the Board has set up an easier way to file a bank complaint by establishing the Federal Reserve System as a clearinghouse for all complaints. As far as I am concerned however, the Board has promised nothing more substantive in the new regulation than to give consumers written acknowledgement within 15 days after their complaints are filed. Whether the new regulations are strong enough to reverse the effects of consumer complaint apathy in the financial regulatory agencies, rather than merely "formalizing" the existing malappropriation of priorities, time, and effort, remains to be seen. The Consumer Affairs Subcommittee report lists the following as major areas of neglect in the agencies' handling of consumer complaints:

1. None of the agency consumer affairs offices become involved in the actual investigations of the consumer complaints they receive. The complaints are routinely shuttled to regional or legal offices for investigation.

2. Consumers are rarely contacted for additional details and examiners are rarely sent out to conduct on-site investigations of consumer complaints. Instead, the method most frequently used is to request details from the financial institution about which the consumer complained.

3. No agency routinely checks records of financial institutions to determine the accuracy of the information provided to the agency by the financial institution.

4. No efforts have been made by the agencies to publicize the consumer affairs offices' ability to handle and resolve consumer complaints.

5. None of the agencies publish consumer education materials with the exception of the Federal Reserve Board which has issued only a limited number of consumer-oriented materials.

We need agencies that can solve problems, not agencies that are vying for press agency awards. The goal of the study was to determine whether or not these agencies merely ask the agency to "look into a complaint," or whether an objective and aggressive investigation is conducted. Not only does this study show that much too little is done to solve complaints, it is revealing evidence why so many Americans have less and less trust in all institutions of government.

The agencies included in this study have substantial involvement with consumer credit protection laws. Most actually have consumer affairs offices which have been in operation for more than 1 year and are specifically designated to take action on consumer complaints. But it does no good for these agencies to write glowing commendations of their consumer affairs effectiveness in their annual reports if basic consumer complaints are going unanswered.

The study was conducted by the subcommittee staff during the summer by examining the complaint-handling process from within the agency, and also through a survey of consumers who had complained during the year.

While 23 percent of those questioned rated the handling of their complaint as "excellent," 64 percent rated their experience with agency complaint handling as "fair" or "poor." A remaining 15 percent fell somewhere in between. Typical of the responses received were these:

The matter has still not been resolved and I have no information on what has happened other than it is under investigation, and that was last January.

As far as I am concerned, my complaints were a waste of time since they resulted in absolutely no results.

. . . in my opinion, the agency just skimmed over the top and was brainwashed by the offices of the bank.

The Consumer Affairs Subcommittee has made several recommendations for improving the complaint handling services of those five agencies which include increasing the responsibility of the consumer affairs offices to act as a central clearinghouse for investigating and validating information received; better communication between regional agency offices and the office in Washington; periodic evaluation of the complaint handling operation; increased contact with consumer groups; and increased interagency communication among the various consumer affairs offices.

The subcommittee staff anticipated that the cost of implementing these recommendations would be minimal since they primarily involve only the introduction of new procedures. Additional staff in many cases will not be required, only a more efficient use of the positions already in existence and in some cases, filling positions already authorized but currently vacant.

## IMPROPER USE OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Stokes) is recognized for 10 minutes.

Mr. STOKES. Mr. Speaker, I would like to bring to the attention of my colleagues testimony given before the House Committee on Banking, Currency and Housing by a distinguished officer of the Buckeye-Woodland Community Congress, Mrs. Margaret Foster.

Mrs. Foster's September 29, 1976, testimony very accurately chronicles the misuse of community development block grant funds. This is particularly unfortunate, yet characteristic of the mayor of Cleveland's use of these funds. For example, in August of 1976, it was brought to my attention that the mayor used $20,000 of summer youth employment program funds for T-shirts, inscribed with his name. In addition, the city administration let a contract for $170,000 to a Columbus, Ohio, consulting firm out of CETA funds for the purpose of evaluating this very same summer youth employment program.

With youth unemployment at an all-time high, these expenditures are disgraceful and in direct violation of a congressional mandate.

I commend Mrs. Foster for her testimony and I encourage citizens throughout this Nation to be as concerned and dedicated as Mrs. Foster in ferreting out improprieties in the allocation and use of community development block grant funds.

### Testimony by Mrs. Margaret Foster

Good afternoon Congressmen, ladies and gentlemen. I am Mrs. Margaret Foster. I am a resident of Cleveland, Ohio and an officer of the Buckeye-Woodland Community Congress, a community organization in the southeastern part of the City of Cleveland. The Congress is composed of more than 150 neighborhood organizations—fraternal, religious and street clubs. The area the congress covers is 8½ square miles. In the past, the neighborhood was predominantly Hungarian—with the largest Hungarian population outside of Hungary. Today, the 39,000 residents come from various ethnic and racial backgrounds: 18,000 are black, 3,000 are assimulated Americans, and the remaining 18,000 are of Hungarian, Slovak and Italian ancestry. More than one half of all residents live in poverty, although some residential areas are quite affluent with high income levels. The community has a high concentration of senior citizens.

My concern today is priorities in the allocation of federal funds to aid the cities. A community such as Buckeye-Woodland has seen federal money coming into Cleveland in various ways. Over the last several years we saw Park Center, a downtown apartment-shopping complex, erected as part of an urban renewal project. The apartments in Park Center rent for $200 a month and up. There is less than full occupancy of both the residential and commercial space. As part of a renewal project, Park Center was to bring new life to downtown Cleveland. It's been far from successful. Park Center, financed with an FHA-insured mortgage, was threatened with foreclosure—now it belongs to FHA.

Over the years federal housing policy has concentrated almost exclusively on urban renewal programs and as in many cities destroyed more housing units than were built, failing to conserve the key to the city's survival—neighborhoods. Existing neighborhoods are a resource and their ability to survive and prosper should be our main concern. The outpouring of support for anti-redlining legislation proved that people love the old neighborhoods and these communities and neighborhoods are not obsolete. The housing stock is sound, but old and thus in need of repair work.

Following urban renewal, we saw federal projects such as Model Cities come into Cleveland. Aside from providing an employment service, very little resulted from these programs.

Because federal programs for urban areas semed to meet with little success, the 1974 Community Development Act established the Community Development Block Grant program. The federal government was no longer saying, "Here is our program for you," but rather the community development block grant was a means whereby cities could establish their own priorities and plans for federal money, based upon their own individual needs.

The community development block grant program has virtues. However, HUD's inept administration and "hands-off" policy has let city officials use the funds for political projects which by-pass the people. For example, the City of Cleveland receives about $16,000,000 annually in community development block grant money. Looking at the magnitude of the problems facing the city, it soon becomes apparent that $16 million is but a drop in the bucket.

This money was meant for neighborhoods and revitalization of the city. However, in examining the first-year report on community development block grant performance, we find much of the money went for services which had formerly been supported out of the General Fund of Cleveland's municipal budget. For example, when there was a deficit in the City's budget, the Mayor of Cleveland asked that $1,050,000 in community development block grant money be used to pay the salaries of 115 policemen. The regional and national HUD offices rejected Cleveland's proposal. However, the Mayor succeeded in accomplishing his goal by appealing to the President of the United States. Over $1 million of the community development block grant money was used to pay police salaries. In Cleveland, $2,000,000 of community development money is for the rehabilitation loan program, whereby homeowners can apply for low-interest loans.

The program raises serious questions about the capability of the city to use community development block grant money. The low-interest loan program shows a real lack of creativity on the part of Cleveland in devising a rehabilitation program. The program offers city homeowners direct rehab loans at 3% interest for 20 years with a maximum loan of $17,400 per dwelling unit. First of all, many homes in our community wouldn't even be appraised at $17,000 and it would be foolish to pour that much money into rehab. Second, although there is a lower income level criteria for the program, i.e., a homeowner must be able to repay the loan—there is no upper income level criteria. In other words, a homeowner could be earning $20,000–$30,000 a year or more and still be eligible for a 3% loan from the city.

The way the low-interest loan program is devised makes the city a lender of first resort. The private lending institutions are not given any incentive to make loans in a community. We have all heard of redlining where banks will not give loans because of the neighborhood. The City administration of Cleveland seems to be admitting that redlining is a fact of life and even encourages it.

We should encourage the private sector to reinvest in neighborhoods. We need to assist and support local efforts toward neighborhood revitalization and designed explicitly with neighborhoods in mind. The first priority should be the preservation of what exists.

Not only is the low-interest loan program poorly conceived, but the city has made a total mess of administering it. One family applied for a loan early in 1976. The Department of Community Development claims they cannot find the application, thus the family must reapply. The house may be down around their ears before the city even finds the family's application.

So far 1,200 homeowners have applied for a low-interest loan; 500 applications have been approved; and 60 have finished the work of rehabing their homes. Mind you, this in a two-year period. The Community Development Department of Cleveland has 55 people administering $2,000,000 in rehab money—and this top-heavy staff can't even do the job. How many loans does one person administer and carry-through for a lending institution? A bank could not make ends meet if they practiced lending policies like the City of Cleveland does.

One homeowner in Cleveland made application in August, 1975 for a low-interest loan. After countless interviews, inspections, measurings, credit checks, losing or inaccurate specs and other hassles; the family was finally given the okay to begin work in September, 1976! On further examination, this particular family had an income of $20,000; easily bankable at a local lending institution. They applied for a $17,400 loan for "finishing touches" and it took over a year of constant pressure to get to the point of actual rehab. And this experience is not the exception, but seems to be the rule. Because the city has an unworkable loan program, at $17,400 maximum loan, with a limit of $2,000,000 in the total fund, it stands to reason that the city could only make approximately 110 loans.

Besides the poor administration of the program, another aspect of the low-interest loan program which deserves some attention is the political football game with which City Council has played in the designation of target areas. Political decisions were the sole basis for determining eligibility for the low-interest loan program.

In the 1975 performance report of Community Development Block Grant Year-One, the Community development budgeted over $17,000,000 of community development block grant money, a little over $11,000,000 was obligated; by January 15, 1976, only $3,000,000 had actually been spent and most of that for salaries and administrative costs.

Some of the community development money is being used to pay city housing and building inspectors, and many new employees are carry-overs from Model Cities' programs. People who are still working on Cleveland's Urban Renewal Program will soon be out of jobs unless they are reabsorbed by community development dollars.

The latest plan for use of community development money in Cleveland involved the purchase of an antiquated, dilapidated sports arena. (See attached copies of newspaper clippings.) Communities such as Buckeye-Woodland, had been excluded from the city's low-interest loan program and were being told there was not enough money to go around. Suddenly, in June the city found bushels of community development money and proposed to buy the Cleveland Sports Arena which is located downtown. The idea was to remodel it into a recreation center for the city's youth—for such events as the Wizard of Oz, Disney on Parade, etc. Most parents in our community said the lack of transportation, lack of safety and prohibitive cost would prevent their children from being able to use such a facility—they would rather see recreational facilities and opportunities made available in the neighborhoods.

Let me point out that according to community development regulations, community development money cannot be used to buy or build such things as sports arenas. To counter that argument, the city administration said they weren't going to buy the arena; they were going to buy the land the arena was on. Community groups voiced their opposition, but their protests fell on deaf ears. The Director of the Community Development Department said that a public hearing regarding the purchase of the arena land was to be for informational purposes only (See attached newspaper article.) and that citizen opposition would not change the city's plans.

At a public meeting concerning use of community development funds to buy the arena, over 200 people voiced strong opposition to the city's plans. Other residents suggested that about $100 of community development money be used to purchase the mayor a hearing aid so that he and his city administration might hear what the citizens were saying.

At a follow-up meeting with the City Planning Commission, 20 people testified against the city's proposal. Nevertheless, the arena issue was approved by a 2 to 1 vote of the Commission.

As time went on it was learned that the city proposed to buy the arena land for $1,005,000 or triple the county's tax appraisal of the land. There was also speculation that some concerns were possibly interested in turning the arena into a gambling casino. Legislation legalizing jai alai and dog racing is currently pending before the Ohio Legislature.

The arena purchase was finally defeated by Cleveland City Council. However, it serves as an illustration of what is happening to community development funds in Cleveland. It's a prime example of the city trying to "rip-off" federal money meant for neighborhood preservation for private schemes; namely, to take a white elephant off the hands of a local wealthy sports promoter. The city was using federal money rather than allowing private investors to step into the picture. The city's attitude toward community participation in the decision-making process was one of disgust and dismissal. Community people have innovative ideas and deep concerns about their neighborhoods. They want to cooperate to see programs work that will benefit the equality of life. The city ignores citizen input, comes up with hair-brained ideas, and then wonders why they don't work.

In Cleveland we have found the city using community development money in ways which discourage rather than encourage, private investment. Whether in the form of low-interest loans, or a plan to buy the arena, the city seems to think private investment is not interested in a possible involvement. Cleveland doesn't use its community development money for leverage with the private sector; rather they proceed to spread the money as far as it goes and that's it!

Cleveland seems to see community development block grant money as a means of balancing the city's General Fund rather than seeing the money as a means of helping communities and neighborhoods as it was originally intended.

Community/citizen participation is seen as a detriment rather than a positive ingredient. At present, the Cleveland Department of Community Development has said they will not accept proposals or ideas from communities; rather they will "unveil" projects later down the road.

There are problems with the community development block grant program, whether they are inherent in the design of the program remains to be seen. Congress passes laws, but unless they are implemented effectively and fairly, they do no good.

Real citizen participation needs to be implemented in the community development block grant program and not just given lip service. It's time that we, the people who live and have a vital concern in our cities have a chance to offer our priorities. We want to see our homes, our commercial areas and our cities remain viable, good places in which to live.

The current Community Development Act should be reformed and restructured so that its allocations, monitoring and citizen participation features between address the needs of local communities, major cities and under-developed rural areas.

We were frustrated when in mid-June the Buckeye-Woodland Community Congress, along with other neighborhood groups of the National People's Action met in Washington, D.C. to bring to the attention of government officials our neighborhood issues. We not only expressed our frustrations, but brought constructive suggestions for alleviating these conditions. For example, combining federal job training and community development in rehabilitating deteriorating, low-income housing; for example, the Comprehensive Employment Training Act (CETA), and the 1974 Community Development Act. Such ingenuity produces effective programs. Hiring of unemployed construction workers with CETA funds to rehab these low-income units. Community development money could be used to purchase materials for rehab work.

We sought and received from David Meeker of HUD, written agreement that there would be an investigation of community development expenditures in 20 cities. After returning to our respective cities, Mr. Meeker informed National People's Action that HUD does not have the manpower to send Washington staff (including himself) into each city. He had thus instructed each area office to investigate our complaints. We feel Mr. Meeker has reneged on an agreement we felt was made in good faith.

A re-examination of the formula approach to community development block grant money must be made. Do more affluent suburbs need the same kind of attention as the cities of our country?

And finally, we need to examine the common belief that unless it "pays off in monetary terms, it's not worth trying." Private investment is usually seen in terms of profit and government investment is often used in the same way. Maybe it's time we start looking at our cities in terms of people, their dignity and their right to be able to live—not just survive!

## LEGISLATION TO REFORM AND REFINE THE SYSTEM OF MILITARY COMPENSATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, for years I, and many of my colleagues in this Chamber, have spoken out about waste and inefficiency in military weapons programs. These programs consume about a third of the defense budget. We have not, however, devoted such close attention to pay, pensions, and perquisites which consume more than half the defense dollar.

I am today introducing a package of bills designed to reform and refine the whole system of military compensation. I introduce this package today to give Members a chance to review and comment on the proposals before they are introduced at the start of the new Congress.

We really do not have a compensation "system" at all now, but rather a hodgepodge of outdated notions and unequal benefits.

The crazy-quilt of a compensation system is so confused that most of the people who benefit by it do not know what they are paid. A recent survey by the Army discovered that almost two-thirds of the servicemen surveyed underestimated the value of their pay and benefits and had no idea how much they were actually making. A compensation system is supposed to attract and retain labor in sufficient numbers and of adequate quality. When service personnel do not perceive the value of their compensation package, society is not getting a dollar's worth of allure for every dollar spent.

Poormouthing has, of course, a long and honored tradition in our country. For most of our history, our servicemen have had good reason to complain. But in the last decade we have substantially boosted military pay to bring it in line with the civilian sector. From 1964 to 1975 military pay rose 134.5 percent which is almost double the rate of inflation.

It is important for our servicemen to realize how much they are getting. The Army survey showed that those enlisted men who underestimated their pay were the ones least likely to reenlist. The needs of the all-volunteer force make it more important than ever that we make a serviceman's pay visible to him.

### SALARY REFORM

The first of the bills I am introducing would put our servicemen on a salary system. It would replace the current combination of basic pay, plus allowances for food and housing plus a tax advantage.

Why?

Most sergeants comprehend that they are being paid $6,500 a year in basic pay. Many understand that the $2,700 in food and housing allowances ought to be counted as part of their wages. But hardly anyone, in or out of uniform, comprehends that the sergeant is actually earning yet another $600 a year, because those two allowances are tax-free. Under my bill the sergeant would be paid $9,800 a year. He would get a straight salary like everyone else in the Government. He would pay taxes on the full amount. If he lived in Government-furnished housing he would be charged the fair market value for it. Now he simply does not receive his housing allowance of $153.60 a month, and it does not matter if the house he is assigned to is worth half that amount or double it.

This hodge-podge originated in the 19th century partly because the Nation considered its soldiers to be a motley lot of illiterate riffraff who could not be trusted to spend their money wisely. So instead of paying cash, the series of allowances geared to particular needs was created. We have a different class of servicemen these days and I think we can treat them as adults and trust them with salaries.

There are some pitfalls and problems that must be confronted in changing over to a salary system. For example, pensions are now geared to basic pay. After 20 years in uniform, a serviceman gets a pension equal to 50 percent of his basic pay. How many enlisted men realize that this system actually gives them proportionately less and officers more than under a salary system? Let me be more explicit. If you add up the basic pay, allowances, and tax advantage of a serviceman, you get what is called his "regular military compensation" or RMC. RMC is what we civilians would call a salary.

Every man retiring at the 20-year mark gets a pension equal to 50 percent of his basic pay. But if we state that pension as a proportion of RMC, we find the system is skewed to give officers a better deal by 9 percent, because basic pay comprises a larger proportion of his RMC. A lieutenant colonel would get a pension of 40.4 percent of his RMC; an Army platoon sergeant would get only 37.1 percent. In changing to a salary system, Congress can eliminate this 19th century class distinction.

Another problem we have when we switch to a salary system is budgetary. My bill would not cost a penny in one sense, because it essentially just shifts the way we pay people. In another sense it will cost some money. For example, if we supply World War II temporary buildings disguised as housing for our military people, the rent they will be charged will be modest. That means the Government will get less than it does from the surrendered housing allowances under the current system.

But the biggest worry to some is the mythical billions that will have to be added to the defense budget. Now I am not normally known for my desire to increase defense spending. But to put a salary system into effect in fiscal year 1976 would have meant boosting the defense budget by $1,285 million. However, that is just a paper transaction. That is the amount of the tax advantage that results from the tax-free status of the housing and food allowances. Under my bill a share of that amount will appear in the gross pay box of each serviceman's pay stub, be deducted in the withholding tax and not appear in the paycheck itself.

Back in 1967 Congress decided to boost military pay to civilian levels. I believe that was a wise decision. At that time, however, we failed to review this great clutter of legislation that purports to be a compensation system.

Over the years we conferred on servicemen a great many little benefits in lieu of decent pay. When we provided the decent pay, some of those benefits should have been dropped.

Why are we still paying a special clothing allowance to servicemen to use for cleaning their uniforms and paying for replacements? Each year we give them a raise in basic pay that reflects, in part, the increased cost of clothing and laundering.

Why do we pay a special allowance to three- and four-star generals and admirals? Once our pay scales stopped at the two-star level. So we instituted a special "personal money allowance" for three- and four-star officers. Quite sensible. Then in 1958 we added pay scales for three- and four-star generals. But we failed to cut out the personal money allowances. Two decades later, it is about time we cleared up that outdated benefit.

I am sure there are many more anomalies that we have not uncovered yet. In recent years Congress found officers who were not flying were getting flight pay. And we reformed that. We also found that men who did not jump were getting jump pay. That was corrected. And we discovered that piccolo players were getting special bonuses, because they allegedly possessed a rare skill essential to the functioning of the Armed Forces. And that has been corrected.

I will not regale you with a long list of glaring inequities. The anomalies we have discovered in recent years should be evidence enough that the 19th century hodge-podge of pay, pension, and perquisite legislation demands a long overdue reshaping for the 20th century with pay and benefits increased in some areas and decreased in others.

I do not suggest that the bills I am introducing today are the end-all and be-all. I do suggest that they can serve as the beginning.

### PENSION REFORM

The second bill that I am introducing involves pension reform. The administration has already sent a proposal Retirement Modernization Act to Congress. One of the key elements of the Pentagon's plan provides for vesting after 10 years instead of the current 20 years. Vesting is the number of years of service required before an employee becomes eligible for a pension at some point in life. I agree wholeheartedly that earlier vesting is our duty and responsibility to our servicemen. And my bill provides vesting after 5 years.

A key goal of the Pentagon plan is to encourage more men to remain in uniform for 30 years and to end the wholesale flight into mufti that now occurs at the 20-year mark. The Pentagon would do that by substantially reducing the annuity payable after 20 years and slightly raising the annuity payable after 30 years.

I concur fully with the Defense Department's intent. But I do not believe the administration's bill will accomplish that goal. Under the Pentagon's proposal a lieutenant colonel could retire after 20 years and get an immediate pension of more than $8,000 a year. Does anyone seriously believe that such a munificent sum is not substantial encouragement to leave the service and start a second career—not to mention a second paycheck with the expectation of a second pension later in life?

Incidentally, the large pensions were voted partly to offset the low pay of many decades ago. It was a form of deferred income. But the income is no longer deferred. We are paying substantial wages now. When we raised the pay, we should have reviewed the pensions. Once again, we are years late in catching up.

If we really want to encourage more 30-year careers, then we ought not to grant an immediate pension to those with less than 30 years of service. My legislation would pay a deferred annuity at age 62 to members who leave the service with 5 to 19 years of service, at age 60 to those who retire voluntarily with 20 to 29 years of service and at age 55 for members who retire voluntarily with 30 or more years.

The Armed Forces, of course, cannot use every man for a full 30 years. So we must make adequate provision for those who will not fit into the upper part of the pyramid. That does not mean we have to send a huge retirement check to a 38-year-old healthy man or woman who is not really retired, but simply going on to a second career.

Under my legislation, anyone squeezed out of the pyramid would receive a monthly payment of the same amount the voluntary retiree would receive at age 62. This payment, however, would be reduced by an amount equal to 50 percent of his outside income.

In other words, the legislation provides that no one who has performed his 20 years can be cast out into the streets and penury. The serviceman forced into retirement by the pyramid will have a floor under his income. At the same time we will not be blithely mailing huge "pension" checks to relatively young men who have gone on to well-paying jobs. For every $2 earned, the pension would be reduced by $1.

My pension reform bill would not affect current military retirees. There is a transition schedule for those currently in uniform which says essentially that the old pension scheme applies to the years already served and the new system to future years. We would be removing the ability to earn a huge pension benefit in future years, but we would not be removing that benefit already earned for past years of service. Those who are new to the service would be put on a benefit scale patterend after the civil service. As a result under my legislation the pensions of all the retirees leaving after 20 years would equal 36¼ percent of the average monthly salary over the last 3 years in uniform. By comparison the current pension gives a wide variety of rates ranging from 37 to 43 percent for enlisted men depending on rank and timing of retirement and 42 to 45 percent for officers, based on the last 3 years in uniform.

A few other points about this pension legislation should be highlighted.

Somewhere in the country today a serviceman has just completed 20 years and 6 months in uniform. And he has just submitted his retirement papers because he knows he will get credit for 21 years in uniform. The current legislation says that service of more than 6 months counts as a full year for purposes of calculating retirement, while anything less than 6 months is ignored. A 1973 Navy study showed 3 percent of its retirements falling in the fifth month and 12 percent in the sixth month. This partial year credit made some sense in the days when banks of clerks slaving over ledger books were required to make these calculations. It makes no sense in the age of the computer. For every day in uniform, my bill would give the serviceman 1 day's credit toward retirement—no more, no less.

This legislation would base pension's on the average monthly salary in the serviceman's 3 highest paid years. At present the pension is based on the final paycheck which is an invitation to men to retire in droves just after a pay increase.

My bill does not currently include a provision for a fund for military pensions, but I anticipate adding such a provision next year. There has never been such a fund. As a result the American taxpayer now faces an unfunded liability, sort of a secret national debt, of almost $200 billion on top of the well-publicized $600 billion regular national debt. Under one formula I am considering, the Government and the serviceman would each contribute 1 percent of the serviceman's salary to a pension fund in the first year of the plan. An additional 1-percent contribution would be added each year until both the Government's and the serviceman's contributions equaled 7 percent of salary.

A great deal has been said lately alleging that there is an "implied deduction" of 7 percent from military pay scales. It follows logically, therefore, that if a contributory fund is established, military salaries should be raised by the same amount as any deduction for the fund.

I have searched the record but find no evidence to support the "implied deduction" concept. In 1963 the Defense Department proposed pay scales designed specifically to bring military pay in line with civil service salaries. But nowhere in the Senate or House hearings did the Department suggest that its scales had been depressed by 7 percent to make allowance for the percentage that civil servants pay into their retirement fund.

In 1967 the Pentagon's quadrennial review of military compensation proposed that a retirement fund be set up and a 6.5-percent contribution collected from each serviceman. Again there was no assertion of an implied deduction.

Then, out of the clear blue sky, the Pentagon testified in 1971 that over "a period of years" military pay had been depressed by 7 percent, a fact which apparently had been so highly classified that nobody in the Defense Department had ever before been aware of it.

It should be pointed out that this rewriting of history did not go unnoticed. The Senate Armed Services Committee report of that year flatly rejected the "implied deduction" theory.

Since 1971 military pay raises have moved in lock step with civil service increases. If there was not any "implied deduction" as of 1971, there cannot be any now.

### OTHER LEGISLATION

Included in the package I am introducing today are a number of other bills touching on pay, pensions, and perquisites.

One would mandate the Bureau of Labor Statistics to make a special survey of military pay comparability with the civilian sector. At present military pay raises are derived from Civil Service pay raises which are derived from a survey of private sector jobs comparable to civil service jobs. We ought to try to match as many military jobs as possible directly with private sector jobs to see if the pay and benefits are really competitive.

A separate bill deals with the Reserves and would end the special benefits now available to civil servants in the Reserves. Take a man who spends 4 years in uniform and then enters the civil service and the Reserves for the next 20 years. On retiring he can count that 4 years in uniform toward both his civil service and his Reserve pensions. In effect, he gets 8 years credit for 4 years of work. My bill would authorize future retirees to apply their service time to one pension or the other, but not both. A civil servant also receives his full Government pay as well as his Reserve pay while on his 2 weeks summer duty. This is virtually unheard of in the private sector. More commonly private employers pay Reservists the difference between their reserve pay and normal wage—in other words, the Reservist gains no extra money for that summer duty, but he loses nothing either. My bill would grant the civil servant Reservist his full salary plus one-quarter of the Reserve salary.

My final bill would eliminate taxpayer subsidies for commissaries, post exchanges and other nonappropriated fund activities in the United States. The commissaries and exchanges will continue to operate and will continue to sell food and goods at a discount. There is a quite legitimate discount that results, because the stores operate on low overhead without the high advertising budgets, for example, of commercial retail stores. But there is no reason why the taxpayer should continue in this day and age to increase the discount by direct subsidies to these stores.

### CONCLUSION

These bills set the outlines for a reform of our military pay and pension system. I am not wedded to each and every individual point. I trust that public attention to the issue and hearings will produce a number of refinements and improvements.

For example, one issue we must look at is what form of compensation we should give servicemen whose lives are endangered in combat or who face long assignments away from their families. One alternative used in a number of foreign armies is to give extra credit toward retirement. In other words, 1 year in a combat zone would count as 1¼ or 1½ years in terms of retirement eligibility.

Another area we must look at is the whole realm of special and incentive pays. Do we really still need special pay for parachute jumping in the age of the helicopter mobile force? We ought to review military pay from a zero base and write into the law only those extra payments which are warranted by the needs of the forces of the 1970's.

The Defense Manpower Commission, a creation of Congress, recently submitted its report and a series of recommendations covering military compensation and retirement. The legislation I am now introducing was in preparation before the final Commission report. My legislation differs in details from the recommendations of the Commission, but I think it is worthy of note that two separate and independent analyses of the problems of the military pay system have come up with similar conclusions.

For example, the commission found that the current pay system "lacks visibility—a system which lacks visibility to present members surely lacks visibility in the perception of potential members." It recommends conversion to a salary system.

The Commission also compared military and civilian pension systems and found that the military system is "more generous." Among its recommendations for reform, the Commission suggested that the basic military career should be 30 years.

Many in the military have already said they view any tampering with pay, pensions, and perquisites as a breach of faith, as a violation of a solemn contract made when the serviceman entered the military. I would have considerable sympathy for that view if wages had remained stable for years and now we were proposing to lower them. But as I mentioned earlier, in the last decade military pay has increased at roughly double the rate of inflation; this substantial jump in earning power was promised no one on entering the military.

It is true that discussions of trimming or altering benefits harms morale. I do not think there is any doubt about that. That is all the more reason why Congress should grapple with this issue immediately, in the coming year, and resolve it quickly. Once the argument is over, the laws have been rewritten and the dust has settled, our service families will see that they have not been reduced to penury, that they still lead a very, very good life. Then morale will quickly be restored. But if we haggle and dilly-dally, if we delay, linger and wait, the damage to morale will only grow. These issues are not about to go away. They have been building for years. They must be addressed sometime. If we really have the morale of our men at heart, we owe it to them and to their loved ones to get on with it, to rewrite the laws on pay, pensions, and perquisites, to do it fairly and compassionately. And then we should sit down and leave the pay issue alone.

## THE NIXON PARDON—STILL UNANSWERED QUESTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 30 minutes.

Ms. HOLTZMAN. Mr. Speaker, the second anniversary of President Ford's appearance before the House Criminal Justice Subcommittee on the subject of the Nixon pardon is drawing near. At the end of that hearing a number of questions about the circumstances under which the pardon was issued remained unanswered. I detailed these open questions in the CONGRESSIONAL RECORD at the end of the 93d Congress—see CONGRESSIONAL RECORD, January 10, 1975, at page 42203.

Since that time, additional questions about the pardon were raised as a result of an interview given by Charles Colson to a Boston newspaper and by a Washington Post article.

Almost 2 years have passed without answers to the original questions or to the new questions raised. Despite the passage of time, many Americans are still deeply disturbed about the pardon, and the manner in which it was granted. They are still entitled to a full accounting of the circumstances under which President Ford pardoned Richard Nixon. Even at this late date, President Ford should provide that accounting and answer the serious questions still open.

The memorandum listing the open questions and the two newspaper articles follow:

### MEMORANDUM ANALYZING THE TESTIMONY OF PRESIDENT FORD BEFORE THE SUBCOMMITTEE ON CRIMINAL JUSTICE OF THE HOUSE JUDICIARY COMMITTEE

### I. PRESIDENT FORD'S FAILURE TO ANSWER QUESTIONS CONTAINED IN RESOLUTIONS OF INQUIRY: H. RES. 1367 AND H. RES. 1370

A. Question 2 (H. Res. 1367) calls for information regarding whether Alexander Haig discussed a pardon with Richard Nixon or his representatives during the week of August 4, and, if so, the nature of any promises or conditions made, and further to provide any tapes or transcripts of such conversations. President Ford answered the question only in terms of his personal knowledge. The Resolution, however, calls for him to provide information respecting conversations of Mr. Haig, whether or not President Ford was present at any such conversations. The question is thus unanswered.

B. Question 4 (H. Res. 1367) calls in essence for a list of all subsequent discussions or negotiations with Richard Nixon or his representatives respecting a pardon and the times and locations of such conversations. No such complete catalogue was supplied to the Committee. The question remains unanswered.

C. Question 7 (H. Res. 1367) calls on the President to supply the facts or legal authorities given to President Ford by attorneys before making his decision to pardon Richard Nixon. Although President Ford admitted having consulted with Phillip Buchen, Benton Becker and Jonathan Marsh, President Ford failed to provide the Committee with the facts or legal authorities (if any) that they gave to him.

D. Question 8 (H. Res. 1367) calls on the President to provide the suggested language of any statement requested from Mr. Nixon in exchange for the pardon. Although President Ford admitted that a statement was received from Mr. Nixon and that Phillip Buchen had requested a statement of contrition, President Ford failed to provide "the suggested or requested language" called for in the question.

E. Question 2 (H. Res. 1370) calls for information or facts given to President Ford respecting the mental or physical health of Richard Nixon. Although acknowledging that he had received information or facts respecting the mental or physical health of Richard Nixon, President Ford failed to describe the nature of the information or facts given to him. This question is thus unanswered.

### II. THE QUESTIONS POSED TO PRESIDENT FORD BY REPRESENTATIVE HOLTZMAN DURING THE COURSE OF HIS EXAMINATION WHICH REMAIN UNANSWERED

A. How can you explain having pardoned Richard Nixon without specifying any of the crimes for which he was pardoned?*

B. How can you explain pardoning Richard Nixon without obtaining any acknowledgement of guilt from him?

C. How do you explain the failure to consult the Attorney General of the United States with respect to the issuance of the pardon even though in your confirmation hearings you had indicated that the Attorney General's opinion would be critical in any decision to pardon the former President?

D. How can this extraordinary haste in which the pardon was decided on and the secrecy with which it was carried out be explained?

E. How can you explain the fact that the pardon of Richard Nixon was accompanied by an agreement with respect to the tapes which in essence, in the public mind, hampered the Special Prosecutor's access to these materials and was done, also in the public's mind, in disregard of the public's right to know the full story about Richard Nixon's misconduct in office?

F. Why was Benton Becker used to represent the interests of the United States in negotiating a tapes agreement when at that very time he was under investigation by the United States for possible criminal charges?

G. How can you explain not having consulted Leon Jaworski, the Special Prosecutor, before approving the tapes agreement?

H. To alleviate the suspicions that the reason for the pardon and the simultaneous tapes agreement was to insure that the tape recordings between yourself and Richard Nixon never came out in public, would you be willing to turn over to this Subcommittee all tape recordings of conversations between yourself and Richard Nixon?

### III. QUESTIONS ARISING FROM PRESIDENT FORD'S TESTIMONY

A. You testified that on August 1 "you had a meeting in the afternoon with General Alexander Haig which include[d] references to a possible pardon for Mr. Nixon." Please state everything that Alexander Haig said to you with respect to any pardon for Mr. Nixon and state everything that you said to Alexander Haig respecting that pardon.

B. Did you tell Alexander Haig at that meeting that you could make no commitment to pardon Richard Nixon? Did you tell Alexander Haig at that meeting that you thought it was inadvisable for Richard Nixon to pardon himself or others associated with the Watergate matter?

C. At that meeting did you ask Alexander Haig what kind of pardon was contemplated by option No. 6—was it to be a pardon issued before indictment? Was it to be a full, free and absolute pardon? Within what time period was it contemplated that that pardon would be issued? What was General Haig's response?

D. You testifed that you met with Mr. St. Clair on August 2, 1974, and "pointed out to him the various options mentioned" by General Haig on the preceding day. What did you say about these options and what did he say about these options? What did you say and what did he say about the likelihood or desirability of Mr. Nixon's resigning? What did you say and what did he say about the likelihood or desirability of your pardoning Mr. Nixon if he resigned?

E. Did you state in words or substance to Mr. St. Clair that you could make no commitment to giving Richard Nixon a pardon if he were to resign? Did Mr. St. Clair discuss with you any legal questions concerning the validity of a pardon for Richard Nixon, including the validity of a pardon issued before indictment and the validity of a blanket pardon? If so, what did he say?

F. In discussing the options with Mr. St. Clair, what advice did he give you and what recommendations did he make to you with respect to pardoning Richard Nixon after he resigned? What recommendations and advice did Mr. St. Clair give to you respecting the disposition of Presidential tapes or papers in this conversation on August 2?

G. What did you tell Mr. St. Clair your intentions were with respect to issuing the pardon for Richard Nixon? Did you state to Mr. St. Clair that you thought it would not be in the national interest if Mr. Nixon pardoned himself or any of the Watergate defendants before resigning?

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*Shortly after the hearing, President Ford advised the press that he would be willing to make public any tape recordings of conversations he had with Richard Nixon. To date, he has not done so.

H. What was said about the possibility that Mr. Nixon would resign in the absence of any pardon? What was said about the likelihood or desirability of Mr. Nixon's pardoning himself and/or any of the Watergate defendants?

I. What did Mr. St. Clair say about the need for a pardon for Richard Nixon? What did Mr. St. Clair say about the likelihood that Mr. Nixon would be prosecuted or convicted? What did Mr. St. Clair say about the nature of any criminal acts that Mr. Nixon might be prosecuted for? Did Mr. St. Clair express a view as to the criminal guilt of Mr. Nixon and, if so, what did he say and what did you say?

J. What what said about the disposition of tape recordings and the documents and papers of the Nixon presidency, transition financing and legal representation for Mr. Nixon after his resignation?

K. Between the time of your meeting with Alexander Haig on the afternoon of August 1, 1974, and your telephone conversation with him the next day, did you have conversations with any persons about the pardon other than those about which you testified (those with your wife and Mr. St. Clair)? If so, with whom? When? What was the substance of each conversation?

L. What did you mean when you told General Haig in an August 2nd telephone conversation that "nothing we had talked about the previous afternoon should be given any consideration in whatever decision the President might make?" What had you said the previous afternoon that could have been given consideration in any decision that President Nixon might make?

M. You testified that in that same telephone conversation with General Haig, you told him you "had no intention of recommending what President Nixon should do about resigning or not resigning." Did you give him your views on the desirability or lack of desirability of any of the six options? Did you tell General Haig in words or substance that if President Nixon exercised option No. 6, he could not count on your issuing a pardon?

N. Set forth everything else that was said in your August 2nd telephone conversation with Alexander Haig.

O. Aside from the conversations you testified to with Alexander Haig on the 1st and 2nd of August, did you or any member of your staff have any other conversations with Alexander Haig or at which Alexander Haig was present respecting a pardon for Richard Nixon, at any time before September 8, 1974? If so, please state the dates, persons present and the substance of each conversation.

P. Did you at any time prior to Mr. Nixon's resignation have any conversation with him respecting any pardons for himself or any of the Watergate defendants?

Q. From your testimony it is apparent that you had been advised, as early as August 1, 1974, that a pardon could legally be granted before indictment. Mr. Buchen, however, in his press conference of September 10, explained your August 28th statement—that you would not take any action "until legal process has been undertaken"—as stemming from your lack of awareness that a pardon could be granted before indictment. Since Mr. Buchen's explanation was wrong, what were the reasons for your August 28th statement? Why did you furnish this Subcommittee with copies of Mr. Buchen's incorrect explanation as "additional background information"? Why did you wait until after August 28th to ask your lawyers to explore the legalities further?

R. You testified that you received no reports "by people qualified to evaluate medically" Mr. Nixon's health. What, then, is the factual basis for your opinion that the prosecution and trial of Mr. Nixon would have "proved a serious threat to his health?"

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[From the Washington Post, Dec. 18, 1975]

### FORD DISPUTED ON EVENTS PRECEDING NIXON PARDON

(By Bob Woodward and Carl Bernstein)

President Ford, in apparent contradiction of his public statements, granted a pardon to Richard M. Nixon after hearing urgent pleas from the former President's top aides that he be spared the threat of criminal prosecution, according to reliable sources.

Although Mr. Ford said yesterday through his counsel, Philip W. Buchen, that the plea did not figure in his decision, there are several facts which he has not disclosed in his statements about the pardon.

One, according to the sources, is a private assurance that President Ford gave Gen. Alexander M. Haig, Jr., Nixon's chief of staff, that a pardon would be granted.

This was given to Mr. Haig on Aug 28, 1974—the day of Mr. Ford's first press conference as President and 10 days before the pardon was announced.

A second fact is an impassioned three-page memo written by former Nixon counsel Leonard Garment that same day, urging that Mr. Ford grant a pardon to his predecessor. The memo, according to sources, indicated that Nixon's mental and physical condition could not withstand the continued threat of criminal prosecution. It implied that, unless he was pardoned, Nixon might take his own life, the sources said.

The sources said they were unsure if President Ford saw the memo, but they said Haig used its arguments in making the case for the pardon to Mr. Ford.

In addition, former Nixon speechwriter Raymond K. Price, Jr. drafted a 2½-page statement the same day for President Ford to read announcing the pardon at his first press conference. It was not used, however.

This information about the events leading up to the pardon appears to contradict President Ford's public statements, including his testimony to a House Judiciary subcommittee on Oct. 17, 1974, when he said:

"At no time after I became President on Aug. 9, 1974, was the subject of a pardon for Richard M. Nixon raised by the former President or by anyone representing him."

During that same appearance, President Ford also said, "Nobody made any recommendation to me for the pardon of the former President."

Buchen acknowledged yesterday that the President now "recalls that he talked with Haig about the pardon from time to time"—possibly on the day of his first press conference as President.

Haig acknowledged yesterday that he had discussions with Mr. Ford about the matter, but refused to discuss exactly what was said. "I don't think I should talk about these things or conversations with a President, especially an incumbent one, and I won't," he said in response to a reporter's questions.

Previously, both the President and Haig implied there were no such conversations.

According to several sources familiar with events leading up to the pardon, President Ford's interest in the matter began seriously on Wednesday, Aug. 28.

Garment drafted his memo in longhand the evening before at home. Using some of the same arguments that Mr. Ford was to cite in announcing the pardon. Garment wrote that an immediate pardon would spare the country the turmoil of possible indictment, trial and conviction of a former President.

There was a need for immediate action, Garment wrote, because granting a pardon would become politically more difficult as Nixon increasingly became the target of federal investigators.

On the same evening that he drafted the memo, Garment discussed the matter with Price, who like Garment was still a member of the White House staff.

Price, the sources said, agreed with the points in the memo. Arriving at the White House at 6 a.m. the next day, Wednesday, he drafted a pardon announcement intended for Mr. Ford's use.

Copies of the Garment memo were placed in two separate brown envelopes. Garment gave one to Haig and the other to Buchen immediately after a meeting of the White House senior staff on Aug. 28.

Buchen did not present the memo to Mr. Ford, but later that day returned it to Garment because he thought it was premature to consider a pardon, sources said.

According to one reliable source, Haig met with Mr. Ford after the staff meeting and made the case for the pardon.

About 10 a.m. that day Haig told Garment that he personally agreed with the pardon recommendation, the source said. Haig also said that Mr. Ford had agreed and was planning to go ahead and make the pardon announcement at his 2:30 p.m. press conference. Accordingly, Haig instructed Garment to stand by for a meeting with other White House staff members to go over the details.

Later, according to the same source, Haig called Garment back to say the pardon was going to be delayed because of legal questions.

Other sources place this Ford-Haig meeting after the 2:30 p.m. press conference and maintain that Mr. Ford had no intention of announcing the pardon that day. However, they do not dispute that Mr. Ford made a commitment to Haig that a pardon would be forthcoming.

A day or two after his meeting with Mr. Ford, Haig also told another Nixon speechwriter, Patrick J. Buchanan, that the President had agreed to a pardon for Nixon, sources said.

Buchanan confirmed yesterday that he too, had urged Haig to bring up the matter of a pardon with Mr. Ford and that afterward Haig indicated that a pardon was assured. Haig "implied strongly" that it was his personal intervention with the President that had secured the pardon, Buchanan said yesterday.

Buchen acknowledged this week that he received a copy of Garment's memo on the day of President Ford's press conference. He said yesterday that he had discusesd the events leading up to the pardon with President Ford in the past several days and that Mr. Ford was certain he did not see the Garment memo.

Buchen quoted Mr. Ford as telling him: "I don't remember . . . I don't think it happened. Maybe you had better check my files . . . I don't remember seeing the memo."

Buchen said that he personally checked his own files, and had others check the President's files and those of Haig. "We have no copy of the memo," he said.

Buchen indicated that the President probably discussed the pardon with Haig after President Ford's Wednesday, Aug. 28, press conference.

According to Buchen, this discussion occurred because "Haig could have been upset at the answers at the press conference."

At the press conference, President Ford gave what Buchen yesterday called "inconsistent" answers to questions about a pardon.

On one hand, the President said "until any legal process has been undertaken, I think it is unwise and untimely for me to make any commitment" that a pardon be granted.

In response to another question, Mr. Ford said, "I make no commitment one way or another . . . I am not ruling it out. It is an option and a proper option for any President."

Two days after the press conference at a meeting with Haig, Buchen, and two other top Ford aides—Robert T. Hartmann and John O. Marsh—the President said he had decided to grant Mr. Nixon a pardon.

In an interview last week, Buchen recalled that Aug. 30 meeting: "The President said if he could do it, he was going to do it . . . if there were no legal obstacles. I was really quite surprised when he called me in. He had already decided."

After the Aug. 30 meeting, Buchen said that Haig "told me that he was dealing himself out of the question. He felt it was on track, going to happen, and I suspect he would have only had to jump back in if it got off track."

On Oct. 17, 1974, President Ford appeared before a House Judiciary subcommittee after two congressional resolutions were passed requesting that he answer specific questions about the pardon.

One of the questions specified in the resolution was: "Did Alexander Haig refer to or discuss a pardon for Richard M. Nixon at any time during the week of Aug. 4, 1974 (the week of Nixon's resignation) or at any subsequent time."

. In answering the question, however, Mr. Ford read from a prepared statement in which a word in the question had been changed altering its meaning.

He restated the question this way:

"Did Alexander Haig refer to or discuss a pardon with Richard M. Nixon at any time during the week . . .," etc.

Apparently referring to possible discussions between Haig and Nixon rather than himself and Haig, Mr. Ford answered, "Not to my knowledge."

Later, during questioning by subcommittee members, the following exchange occurred:

Rep. Robert W. Kastenmeier (D-Wis.) asked: "Which other persons, to you personally, made recommendations that the former President be pardoned from that time in early August to the day of Sept. 6, when you made your decision." (Mr. Ford had indicated previously his final decision to pardon Nixon was made Sept. 6.)

Mr. Ford: "No other person to my knowledge made any recommendation to me from that time until the time that I made a decision about Sept. 6. Nobody made any recommendation to me for the pardon of the former President."

In two press conferences after the pardon was granted on Sept. 8, 1974, Buchen was repeatedly asked what triggered the pardon.

These were some of the questions and Buchen's answers:

Question. "Was there something that happened just prior to his coming to you (on Aug. 30) that got his interest working in doing this thing just now?"

BUCHEN. "If there was, I don't know what it was."

Question. "And you can't suggest what precipitated the President's interest?"

BUCHEN. "I do not know."

At his Sept. 10 press conference, Buchen again was questioned about Mr. Ford's decision.

Question. "With whom was he in touch with at that point? Can you tell us who he consulted between Wednesday (Aug. 28) and Friday (Aug. 30), when he asked you to begin your research into (the legal) precedents?"

BUCHEN. "I have no notion; I really don't."

Until yesterday, Haig had never specifically said publicly whether he and President Ford discussed the question of a pardon for Nixon.

In an interview last September, Haig denied published suggestions that he might have played a key role in the President's decision, however. He said at the time:

". . . It's a terrible disservice to President Ford to suppose that he could be manipulated by something like this. . . . It wasn't my doing. . . . No one was more sensitive than I to the reasons for not becoming involved in this. I couldn't have been a creditable advocate for a pardon anyway."

Haig is now stationed in Brussels as the commander of NATO forces.

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[From the Boston Herald American, Mar. 23, 1976]

### COLSON CLAIMS NIXON PARDON "UNDERSTANDING"

(By Daniel F. McLaughlin)

There was an understanding between President Nixon and Gerald Ford that Nixon would be pardoned when Ford became President, Charles W. "Chuck" Colson, the ex-White House counsel speculated yesterday.

"I always felt there was implicit understanding Mr. Nixon would not step down unless he was assured his successor was going to pardon him," Colson said in an exclusive interview with the Herald American.

"I accept Gerry Ford's word that he did not discuss it, but that doesn't mean it wasn't pretty well understood," he said.

"One of Mr. Nixon's aides told me the day before Mr. Nixon resigned, that the details, including pardons were being worked out. There's no question President Ford intended to pardon everyone, but because of the storm that blew up, he stopped with Nixon."

Colson said he held no bitterness because he wasn't pardoned, and added.

"Nixon told me in December of 1973 he would never leave office without wiping the slate clear for everybody involved in Watergate. He was referring to pardons."

When asked how he felt about the whole Watergate affair now, Colson said: "I discovered what I believe really is meaningful in life. If it took Watergate to come to the realization, I can be personally glad.

"From the country's standpoint, I don't believe we have really learned the lesson of Watergate. In a sense it's politics as usual in Washington now.

"But more important," he continued, "we're living with the delusion that by simply changing the cast of characters you can change the morality and effectiveness of government.

"I think I have more faith in our system than any other in the world, but I see weakness and limits on government. A nation which puts its trust in men is going to be betrayed because man is fallible."

Colson said he visited Nixon in California last summer and noticed little change in the man.

"I was surprised he hadn't changed more," he said. "He was very up-beat. He wasn't bitter, or wringing his hands. There was no self pity. He had a good outlook on life.

"He was working on his book. He was up to his eyeballs trying to get the book released. He's under contract, and I think he'll have trouble making the deadline at the end of this year."

Colson said he is working full time now with the Christian Fellowship in Washington, working mainly in prisons.

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## LABOR, INDUSTRY CHARGE UNFAIR TRADE PRACTICES BY FOREIGN COLOR-TV PRODUCERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LUNDINE) is recognized for 5 minutes.

Mr. LUNDINE. Mr. Speaker, I wish to speak out on a very urgent issue, an issue that concerns the jobs of thousands of our citizens. Color television sets manufactured abroad are flooding the U.S. market and endangering the jobs and job opportunities of many Americans.

Ten years ago we imported only about 240,000 color TV sets a year, or less than one-twentieth of the domestic color TV market. This year color TV imports are expected to rise to over 2 million sets, almost one-third of that same market. Unless we take steps to halt this tide, there is good reason to fear that our color TV industry will disappear in the same way that our black and white television industry has.

Open and vigorous trade with the rest of the world is vital to our peace and prosperity, but the current threat to our domestic color TV industry is not the result of free market forces. If the rules of fair trade were observed internationally—if there were no foreign government subsidies of manufactures or manipulation of currencies—American producers would remain viably competitive.

Several major U.S. manufacturers and unions have petitioned the U.S. International Trade Commission for relief. Since free market forces in this instance are not being allowed to work, action by our Government is both appropriate and necessary.

A delegation from labor and industry recently visited my office to inform me of the dangerous situation in the color television industry. Among this delegation were Willard J. Pease, president, and Philip E. Page, executive board member of Local Union No. 1833 of the International Brotherhood of Electrical Workers. They presented me with a valuable statement of the facts of the case. So that my colleagues may better understand the plight of the color television industry and the threat to American jobs, I include the statement in the RECORD at this point:

### UNFAIR TRADE PRACTICES BY FOREIGN COLOR TV PRODUCERS

American color television manufacturers and the workers who operate our plants are faced with a fundamental issue—survival. Foreign television producers are presently flooding our country with artificially cheapened merchandise made in plants built with the aid of government subsidies and sustained by government financing, currency manipulation and predatory pricing. As a result the domestic color television industry is threatened with extinction. The collapse of our television industry would result in the direct loss of no less than 65,000 American jobs. It would also greatly weaken our nation's technological leadership and undermine our national defense posture.

A coalition of American labor and industry has been formed in order to prevent such a catastrophe. It is known as COMPACT—the Committee to Preserve American Color Television. COMPACT's objectives are modest. It does not seek to eliminate foreign competition from our shores, It seeks only to preserve American manufacturers as a viable competitive force in our own market and to preserve the jobs of American workers, many of them possessing skills which the nation vitally needs and has already used in our space and defense programs. COMPACT hopes to accomplish this by requiring foreign producers to follow the same rules that we follow—rules of fair play enacted by Congress which were designed to promote free, fair and open competition.

### THE PROBLEM

During the first seven months of 1976, Japanese exports of color television receivers to the United States (1.5 million units), were up 204% in comparison with the same period last year. In the months of July alone, United States imports of color television receivers were almost triple those of July, 1975. Appendix I displays in graph form the flow of color television receivers entering our country in the last two years.

Not only have CTV receiver imports increased on an absolute basis, but their market share has also risen dramatically. The ratio of imports to domestic consumption was 15.6% during the first seven months of 1975 and soared to 29.3% for the same period of 1976.

This sudden increase represents a full-scale effort by Japanese producers to capture the last and most important product in America's consumer electronics market—a market which includes color and monochrome television receivers, radios, phonographs, high fidelity equipment and related components for these products. It is perhaps significant that color television is the largest single consumer electronic product by dollar sales volume (an estimated $2.12 billion in 1975).

During the decade 1963–74, shipments of U.S.-produced consumer electronic products grew at an average annual rate of 4.6% while imports increased at a rate of 26.5%. From a modest level in 1963, imports reached an estimated $2.3 billion in 1974 in a total consumer electronics market of $3.6 billion.

These figures show clearly that as of 1973 foreign products had grown to a position of nearly total dominance in all important product markets except color television. At the beginning of 1976, imports of color television receivers held the same market position that imports of monochrome (black and white) receivers held a decade earlier. The current surge in color television imports is reminiscent of the start of the black and white market takeover of the late 1960's. The implications of this comparison are ominous. If the future of color television follows the same pattern as black and white television, a $2 billion industry will be lost.

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## OCEAN DIVERS EXPAND OIL-GAS SEARCH ROLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, I would like to share with my colleagues an article that appeared recently in the Wall Street Journal regarding the role of divers in our search for new oil and gas sources. As a diving enthusiast and one who recognizes the need to develop the vast potential of our oceans, I commend this article for my colleagues' consideration.

### DEEPER INTO WORK—OCEAN DIVERS EXPAND OIL-GAS SEARCH ROLE, GO LOWER AND LOWER

(By Douglas Martin)

Walter Thompson, a craggy-faced, 48-year-old commercial diver, recalls diving to a depth of 525 feet off the coast of Libya in 1964. His descent, which set a depth record, took five minutes, and his undersea work another 25 minutes. "I then spent over nine hours dangling from a hose decompressing," he adds, referring to the process by which divers rise gradually to keep deadly gas bubbles from forming in their blood vessels.

This year, Mr. Thompson dived to 905 feet under ice-covered water about 50 miles from the magnetic North Pole. He descended in 15 minutes, worked six hours on the seafloor and then took 15 minutes to return to the surface.

Aided by new technology, Mr. Thompson and other professional divers are getting deeper into their work. So is the increasingly important offshore oil industry, which hires them.

"Annual production of oil and gas from most land areas may have passed its peak," writes K.O. Emery, senior scientist at the prestigious Woods Hole (Mass.) Oceanographic Institution, "but production from the ocean floor is expanding and will surpass that from the land within a decade." Even conservative estimates predict that worldwide offshore oil production will account for 30% of total output in the 1980s, up from about 19% now.

### NEW DEVELOPMENTS

The need for offshore oil and the need for divers to help get that oil have spawned a number of developments: a startling array of space-age gadgetry designed to help divers go deeper; more concern about safety on the part of federal officials, medical researchers and divers themselves; and, predictably, the development of robot-like technology that eventually may obviate divers altogether for many deep-sea tasks.

Currently, however, "You've just got to have divers for all offshore operations" says George McCourt, staff director of international affairs for Phillips Petroleum Co., a pioneer in exploring the North Sea. As a result, oil and gas companies in the past five years have quadrupled their spending on ocean diving operations to $200 million a year.

In drilling operations, divers replace broken guide wires used to guide into place various subsea equipment—such as pipes, valves and other apparatus—and they help install equipment like 50-ton blowout preventers—the heavy-duty valves that prevent oil and gas from erupting as a well is being drilled. In pipeline construction, divers fasten sections together and inspect coatings for corrosion. And in installation of massive production platforms, divers help attach subsea equipment to the platform. In addition, they perform many other tasks, ranging from cleaning barnacles from platform legs with high-pressure water guns to inspecting older pipelines with handheld television cameras.

### PROBLEMS ON THE JOB

Making the jobs more difficult, notes 28-year-old diver Bob Suggs, is the fact that "half the time you work in water you can't see in." Much of the work must be done under artificial light and through sense of touch, and because of the darkness divers sometimes lose all orientation. Strong currents can be troublesome. Divers often work in intensely cold water—in the Arctic, 28 degrees Fahrenheit. "Your brain freezes up, in a way," one diver says. Another, lesser problem: Small "trigger fish" like to nibble divers' hands and, if the men aren't wearing a hooded suit, their earlobes. And sometimes the marauders are bigger: A giant octopus once ensnared Mr. Thompson, and a shark rammed another diver and broke several bones.

The problems are likely to increase as oil companies explore in deeper water and ask divers to enter what is practically unknown territory. Exxon Corp., for example, is installing a production platform in 850 feet of water off California, and Shell Oil Co. has ordered a platform for 1,000 feet of water in the Gulf of Mexico. (Currently, 400-foot production in the North Sea is the world's deepest.) Present wildcatting trends promise even greater depths: Exxon is drilling in 3,040 feet of water off Thailand.

So far, the diving industry is keeping pace. French divers last year made a working dive to 1,100 feet, and medical researchers at the University of Pennsylvania have shown that divers can work effectively at 1,600 feet. One diving-company executive says that "2,000-foot diving is merely an extension of present equipment." And others think that in the future, dives to 5,000 feet are possible.

### BIG DIVING SUIT

Such depths have spurred devlopment of new technology. Among the most interesting new devices is an armored, glass-fiber diving suit developed by DHB Construction Ltd. and marketed by Oceaneering International Inc. Named "Jim," the suit stands 6½ feet tall and weighs about 1,100 pounds on land and 60 pounds in water. The suit, in which Mr. Thompson made his 905-foot Arctic dive, is usable down to 1,500 feet; a second-generation suit, to be called "Sam," will be operable to 3,000 feet, Oceaneering says. Oceaneering is offering "Jim" only on a lease basis in conjunction with its divers.

"Jim" so far isn't applicable to many oil-field tasks, however. It is slower-moving than normal diving suits because it is much bigger and heavier; often divers simply use rubber wet suits and, for summer diving in the Gulf of Mexico, ordinary Levis or coveralls. In addition, "Jim" can be used only on a flat platform or surface; it has limited vertical movement and can't function adequately dangling in the water.

Nevertheless, "Jim" seems to have a bright future, because the body of a diver using the suit is maintained at atmospheric pressure. Thus the diver doesn't have to go through time-consuming decompression, which would have taken at least eight days following Mr. Thompson's 905-foot dive.

(Decompression sickness occurs when gas tension in the diver's tissues exceeds the surrounding pressure sufficiently to cause formation of bubbles in tissues and blood. Decompression itself is the process of eliminating nitrogen or helium from the body after a dive and before bubbles are formed; the diver is held at a precalculated series of diminishing depths. If a diver doesn't adhere strictly to these "decompression stops," inert gas—either helium or nitrogen—comes out of solution in the diver's tissues and forms bubbles. The result can be various dsorders ranging from muscle and joint pains (the bends) to central-nervous-system disturbances and, in extreme cases, spinal paralysis.)

For the time being, however, most divers will continue to use "full-saturation diving," so called because divers' boodstreams completely absorb the helium-oxygen mix required at greater depths. (At depths below 150 feet, nitrogen, which accounts for 78% of the atmosphere, becomes a narcotic and causes "rapture of the deep"—a peculiar malady that makes divers giddy and sometimes fatally incautious. Accordingly, helium, rather than nitrogen, is mixed with the oxygen.)

In saturation diving, divers are kept at the pressure of a given depth as long as they are needed to do a particular job. They spend nonworking hours in a pressurized cylindrical chamber, about six feet in diameter and 11 feet to 22 feet in length. In the chamber, divers pass time by writing reports, reading and playing cards. "You can hold 'em at that pressure and reuse 'em," says Robert G. Martin, Phillips staff director for drilling and deep-sea projects.

Divers "commute" from chamber to seafloor via "diving bells,"—ball-shaped capsules about six feet in diameter and connected by cable to the surface. Like the chamber, bells are kept at the same pressure as the job on the ocean floor.

### STAYING IN THE BELL

For still deeper work, however, future divers may not leave the bell at all. Instead, they will operate mechanical arms from inside the chamber, which will be maintained at surface pressure. One device, being built by General Electric Co. and Oceaneering for a Norwegian drillship, reportedly will have an electronic sense of "feel" earlier developed for handling nuclear fuel in reactors and other industrial work.

Similarly, diver lock-out submarines are becoming more common. Using the 30-foot submarines, teams of four or five men can cruise along a pipeline without entering the water. If they spot something amiss beneath their searchlights, two or three divers enter a special chamber, lock it behind them and compress to the level of the surrounding water. Then they get out and repair the flaw while the pilot and an observer watch for potential problems. Perry Oceanographics, a Florida-based developer of this type of submarine, says six of them now are operating, mainly in the North Sea, and three more are under construction.

With greater depth comes greater danger, and divers are being paid accordingly. Some earn more than $80,000 a year for exceptionally difficult foreign assignments. "Divers aren't just workmen," says Rene T. Nuytten, vice president of Oceaneering. "We ask them to risk their lives."

And, indeed, many of them lose their lives. In the North Sea, it's estimated that 24 divers have perished in the past five years; the British Medical Association says the fatality rate there is 10 divers per 1,000 employed—220 times the rate for factory workers.

### SERIOUS INJURIES

Moreover, says Paul Woodhall, president of Professional Divers Local 1012 in New Orleans, "It's inaccurate to emphasize the fatalities. The devastating thing is the serious injuries." Among them are partial paralysis and bone deterioration from faulty decompression and a painful ear and sinus ailment from failure to equalize pressure between the middle ear and external surroundings. Mr. Woodhall estimates that serious injuries exceed deaths by threefold.

"With the advent of deep manned diving," says Mr. Nuytten, who himself suffers from bone deterioration in his right shoulder, "we're seeing physiological problems we never dreamed existed." The reason, he adds, is "the frequency of diving. We're going deeper for long periods of time."

As a result, the Occupational Safety and Health Administration this summer issued an emergency set of standards for diving operations. The standards mandated use of a bell beyond 220 feet, set standards for decompression and ordered systematic record keeping of accidents, among other things.

Industry reaction was sharp. "It's blown out of all proportion by a few bureaucrats," says Thomas M. Angel, manager of diving for Santa Fe International Corp. That company and others last month persuaded a federal appeals court in New Orleans to delay implementation of the emergency order. The court will weigh the merits of the case this fall, but a permanent standard will go into effect in December anyway, and the industry is cooperating in drafting it. The diving concerns maintain they have ample interest in safety: "An oil company won't hire a company that's had lots of accidents," Mr. Angel says.

### THE ROBOTS ARE COMING

In the future, of course, oil companies may be hiring fewer divers anyway. "At extreme depths, more and more mechanical or robot-type equipment will be used," says Robert McArdle, senior vice president of Taylor Diving & Salvage, a unit of Halliburton Cos. The reason: development of undersea unmanned vehicles, which already are used for observation and soon will be used to make repairs. The eyes will be television cameras, the hands will be mechanical arms, and the brains will be trained observers topside.

Moreover, systems to install pipelines without divers are already on sale, more deep-water drillships are operating without divers, and diverless seafloor production systems are considered a likely replacement for platforms in many areas. Some are functioning already. "I prefer unmanned systems," Phillips' Mr. Martin says. "Eventually they'll be more cost-effective, even in diver-depth water."

That view is gaining adherents. "If you can perform these (subsea) tasks by remote control, you can save yourself a bundle," R. L. Geer, a Shell Oil official, says. Concurs Mr. Angel, the diving executive: "The engineering people are engineering around the diver."

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## CIVIL DEFENSE: WHAT IT CAN DO AND WHAT IT CANNOT DO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 10 minutes.

Mr. LEGGETT. Mr. Speaker, over the past year or so, the question of civil defense has been more and more in the news; in some senses functioning as the successor to the "missile gap" of 1960, and to the more recent "throwweight gap."

On the one hand, there are those who see the Soviet civil defense program as enabling the Soviet Union to survive a nuclear war, and even as giving them what is rather luridly described as a "war-winning" capability. On the other hand, there are those who see interest in civil defense as a rather diabolical attempt by the U.S. Government to build support for inflated defense budgets by giving the American people a distorted, rosy picture of the survivability of nuclear war. A recent publication by the Center for Defense Information is an example of the latter school of thought.

As chairman of the civil defense panel of the Investigations Subcommittee of the House Armed Services Committee, I participated in the only official congressional investigation of civil defense matters in many years. The primary function of the panel was to investigate the effectiveness of the "dual-use" function—that is, the combination of wartime defense with peacetime disaster relief. Although the strategic warfare implications were peripheral, it is they which have received the greatest attention in the press. Since I have found the panel's report to have been used by both sides of the argument and quoted somewhat out of context, I believe I should take this opportunity to set forth my personal views on civil defense—its capabilities and its limitations.

### I. SOVIET CIVIL DEFENSE

Before considering our own program, I will begin by examining Soviet civil defense program.

One point of view, which appears to be concentrated at a "surrender chic" center at the University of Miami, is advanced by such analysts as Dr. Leon Goure, former Ambassador Foy Kohler, and former Defense Intelligence Agency Director Daniel Graham, holds that the Soviet civil defense program has destroyed our nuclear deterrent. Consider, for example, these quotes from Mr. Kohler's foreword to Dr. Goure's new book, "War Survival in Soviet Strategy:"

> Studies conducted indicate that with ongoing measures, Soviet population losses in a nuclear war could be held to the range of 6 to 8 percent and that the Soviet "political and economic machine" could essentially survive and be kept going. We are not speculating here. We have found through our own tests and calculations that what the Soviets are relying upon would actually work. A decisive turn came with the SALT agreement on ABMs . . . (The Soviets') most important aim was to get rid of the U.S. Safeguard system. They had every reason to believe that the Safeguard system was viable and that in time it could enable superior U.S. technology to provide assured U.S. survival in case of a Soviet attack. We should hold in reserve—and let it be known that we are doing so—the possibility of denouncing the ABM treaty, in accordance with its own terms.

Mr. Kohler makes two points here. The first is that it is possible to defend U.S. cities from a heavy sophisticated missile attack by using the Safeguard ABM or an outgrowth thereof. Safeguard has been debated at great length in previous years and I will not take time to rehash this debate here, other than to suggest that anyone who thinks you can defend cities with Safeguard is making a rather pointed commentary upon his own understanding of weapons technology.

The second point relates to the efficacy of Soviet civil defense, and particularly to Mr. Kohler's claim that he is "not speculating."

Almost everything we know about Soviet civil defense is based on their civil defense bureaucracy's own publications. To draw any conclusions from these publications is a dubious process at best, involving rather arbitrary assumptions about factors of which we know next to nothing.

The first unknown is the credibility of the Soviets. It is clear that they have a great many people working in civil defense, but it is anyone's guess as to whether they have achieved anything. Numbers of people do not guarantee results; the Soviets have many times the number of people working in agriculture than we have, for example, but their production is many times smaller than ours.

If we believe the Soviet civil defense manuals, their capability is formidable indeed. But can we believe them? Any bureaucracy tends to exaggerate its capabilities, and Soviet military bureaucracies have carried this art to Heifetz-like peaks of virtuosity. I recall, for example, that back in the early 1960's Soviet nuclear strength was so primitive that we probably could have conducted a first strike against them without suffering unacceptable retaliation; that is, they lacked second-strike capability. Yet.

even at this time, Marshal Malinovsky was proclaiming that—

> If war should come, we will decisively defeat the aggressor.

We have also the example of our own civil defense manuals, which could be quoted selectively to demonstrate that we have a most formidable civil defense capability—which, in fact, we obviously do not.

So there is a reason for skepticism, reason for suspicion that the Soviet civil defense program is more hot air than substance. Note, I do not say there is reason to conclude this is so. But neither is there reason to conclude that it is not so.

The second unknown is the ability of the Soviet civil defense system to perform as the Soviet government privately—as opposed to publicly—believes it will. This, of course, is an unknown to the Soviets as well as to ourselves.

There are uncertainties in evacuating or sheltering a population which has not rehearsed the process.

There are uncertainties involving the nature of U.S. targeting.

There are uncertainties involving the unprecedented and unimaginable effect of a nationwide nuclear attack; it is one thing to deal with a confined disaster such as a flood by bringing in help from the rest of the nation, but it is quite another to have an entire nation a disaster area with help available from nowhere.

Most importantly, there are uncertainties involving the unexpected effects of a large nuclear attack. What about soil and water poisoning? What about mutative effects of radiation upon disease micro-organisms?

Imagine, if you will, the unintentional but nevertheless real biological warfare stemming from new strains of plague, meningitis, or other epidemic diseases, caused by radiation and immune to all known forms of treatment. We saw how helpless we were in our attempts to bring our full national resources to bear on a scant 20 cases of so-called Legion Fever. What would we do if several dozen different new diseases were to spring up around the country, each as fatal as legion fever but, unlike legion fever, spreading in unlimited epidemic fashion? Imagine the task of a government, its industries and transportation crippled if not destroyed by nuclear attack, attempting to research, develop, produce, distribute, and administer inoculations or cures to an entire nation; and to do it before the rampaging diseases had destroyed the nation. The prospects of pulling this off are not encouraging.

There is also what you might describe as a "semi-known". For reasons of nuclear response alert as well as civil defense, it is unlikely that a nation planning a first strike will give warning of it if at all avoidable; a Mafia-style brief period of stand-down followed by a bolt out of the blue is a real possibility, and would negate most shelter and all evacuation programs.

But, for the sake of discussion, let us assume the Soviet civil defense system will work as advertised, and that there will be no unpleasant surprises. Is this good enough to protect the populace from a full nuclear attack? I doubt it, and it appears the Soviets are doubting it, too.

Until the mid-1960's, the Soviets relied on shelters to protect their urban populations. They then decided this would not work, since shelters can be destroyed, are vulnerable to fire storms, and so forth. So they went to evacuation instead. Now the latest report, received after our panel had concluded its hearings, is that they are shifting back to shelters because they realize evacuation will not work.

I find it disappointing that some commentators have viewed the shift as a diabolical and effective move which clearly constitutes still further progress in Soviet war-winning capabilities. When a nation rejects strategy A and shifts to strategy B, and then rejects this as inadequate and shifts back to strategy A, this does not indicate progress; it indicates uncertainty and low effectiveness. In my view, those who cite this shift as proof of Soviet war-winning potency are demonstrating nothing more than their own determination to construe every conceivable development as proof the Soviets are 10 feet tall.

So my best estimate—which, like everything else, involves a generous amount of conjecture—is that the probability of Soviet civil defense doing an effective job of protecting population from a full retaliatory strike is small.

But, for the sake of further discussion, let us assume the converse to be true. Let us assume Soviet civil defense could, given several days' warning, reduce fatalities to about 10 percent of the population. Let us stretch probability even further, and assume we would, in fact, give them several days' warning of a nuclear attack. Let us then ask this question: Would such a move decrease the effectiveness of our retaliation, or our ability to deter Soviet attack upon us?

I think not. It really is not necessary to attack people on a large scale, and I myself regard it as undesirable. Counter-population attacks make counter-population retaliation inevitable; in addition, it makes little moral sense—if I may be so absurd as to discuss morality and nuclear war in the same sentence—to kill people for policies they did not create and probably did not even understand.

We have other options.

The most obvious is to destroy Soviet economic and industrial and agricultural power, emphasizing those targets which are most critical to long-term economic recovery. This last point is critical. It is not necessary to strike every industrial target if you can carefully select and destroy the key targets. To use a very simplistic example, if you can obliterate steel, rubber, or transportation—certainly, if you can obliterate all three—there is no need to target a truck factory. There is no question that we could reduce the Soviet Union to the status of India for many decades, perhaps permanently.

Another strategy, the very thought of which will send chills down the spine of Soviet leaders, would be to annihilate or cripple the Soviet divisions on the southern border, thus clearing a path for a Chinese invasion.

Still another strategy would be to threaten the Soviet leadership directly. As an empirical fact, one can say that almost all governments, and the Soviet government more than most, exist primarily for their own benefit and only secondarily to serve their people. Threaten to destroy 1 million random Soviet citizens, and we cause great concern. Threaten to destroy the 1,000 top Soviet government officials, and you have an absolute iron-clad deterrent—assuming, of course, that the threat can be implemented, but the implementation is withheld.

There should be no doubt that we can destroy Soviet leadership if we choose to do so. The prospect of "four huge hardened shelters" for Soviet leadership in the Moscow area does not impress me. For one thing, the larger a structure is, the more difficult it is to harden. For another, no target is so hard it cannot be destroyed if we are determined to do so.

I will illustrate with specifics. Since, once the decision to attack Soviet leadership is made, it must be executed with very high confidence, let us set 99 percent kill probability as the requirement. Let us assume our missiles are 90 percent reliable. And, let us assume Soviet leadership shelters are hardened to 1,000 pounds per square inch overpressure, which would be a remarkable achievement for a structure designed to hold any substantial number of people. What would be needed to destroy four such shelters with 99 percent confidence?

Assuming Minuteman III has three RV's of 170kt and 0.2 mile inaccuracy, it would require only 20 of our 550 missiles of this type to do the job on the Soviet leadership. Alternatively, we could use 31 of our 450 older Minuteman II missiles, assuming these have 1.5 MT and 0.3 nm. inaccuracy. Or we could use some combination of the two.

Looking to the future, the prospects for survival of Soviet leadership in hard shelters will become progressively poorer, as the effects of increased accuracy greatly outstrip the effects of increased hardness. For example, let us really be fanciful and assume they can harden themselves to 2,000 pounds per square inch. Before the end of the decade, we will have improved Minuteman III's with 350kt. per RV and 0.1 nm. inaccuracy. A mere eight of these missiles will give Soviet leadership only 1 percent probability of survival. Or we could use 24 Trident I missiles—one ship's load—or, eventually half that number of Trident II missiles. Alternatively, eight homing cruise missiles with 200 kt. and 0.02 nm. inaccuracy would be sufficient, with the limiting factor being reliability rather than performance.

So if the Soviet leadership plans to survive by digging in, its prospects are not good. If, on the other hand, Soviet leaders were to disperse and hide themselves in the most barren, lowest value areas of their country, with no two of them in the same place, and if they were to maintain radio silence to avoid betraying their locations, their prospects would be much better. But under these conditions, they would not be able to exercise their powers of government, so they would probably not regard this solution as acceptable.

In any case, I believe the point is made: Even if we could not kill a single random Soviet citizen, we would still have an effective deterrent. Even if the Soviet civil defense system can, in fact, protect the populace, it does not affect the nuclear balance in strictly military terms. It may, however, have some psychological impact. I will return to this shortly.

Population defense is only one-half of the Soviet civil defense effort. The other half involves industrial dispersion and hardening to protect the means of economic recovery. Here, too, there are many unknowns; we do not know how extensive their hardening really is, how quickly it can be activated, or how well it works. Basically, all we know is what they tell us.

In a nutshell, I think we can say industrial dispersion and hardening complicates our task and makes it more difficult, but it does not make it impossible.

Let us assume, for example, that key Soviet industry is hardened to 100 pounds per square inch dynamic pressure. This is a rather generous assumption. It forces us to consider some industries as point targets rather than area targets.

The arm of our triad with the least point target capability at present is the missile submarine. With 40-kiloton and 0.3-nautical mile inaccuracy, each Poseidon RV has a 34 percent probability of destroying such a target. Of our 4,960 Poseidon RV's, we can assume 53 percent, or 2,628, to be available and reliable. Thus, Poseidon could be expected to destroy 894 Soviet industrial targets. In addition, we have 160 Polaris A-3 missiles with 3X 200-kiloton MRV and 0.5 nautical mile inaccuracy, which would have 71 percent probability of destroying their targets, although they could attack only 1 target each, rather than 10 like Poseidon. Assuming 55 percent availability and reliability, the Polaris A-3 system would account for an additional 62 targets. Thus, our submarine-launched system could account for 956 top Soviet industrial targets. While this is considerably less than we could achieve in the absence of hardening, it is nevertheless no mean capability.

Whether it is sufficient to knock Soviet society back to the stone age is a question which should be explored further. We should also consider that the other two arms of our deterrent contain somewhat greater hard target capability, and these arms will remain viable, assuming the next administration succeeds in achieving a no-MaRV agreement at SALT.

### II. U.S. CIVIL DEFENSE AT PRESENT

If you read our own civil defense manuals, you might be highly impressed by the immense capabilities described therein. It may be that, at this very minute, the Soviet equivalents of Paul Nitze and Daniel Graham are telling the Politburo, "We have confirmed evidence that the 1974 report of the U.S. Defense Civil Preparedness Agency lists identified shelter capacity for 227 million persons, and community shelter plan spaces for 182.7 million people, thus leaving only about 10 percent of the populace vulnerable to our retaliation. When we consider also that U.S. countersilo hard target first-strike capability is several times that of ours, and when we consider that, unlike the United States, our retaliatory capability is very heavily concentrated in our ICBM's, it is plain that our second-strike capability is seriously threatened, and that the U.S. imperialists have already deployed the capability to conduct a disabling first strike against us. The knife is at our throats, comrades, and we must respond by matching the American effort."

In point of fact, while this statement would contain considerable truth as regards weapons capabilities, it would be entirely false as regards our civil defense capabilities. If Soviet missiles were to appear over the North Pole tomorrow, our ability to shelter our people would be small, and our dispersal and industrial hardening would be negligible.

### III. U.S. CIVIL DEFENSE FOR THE FUTURE

What should we do now? Can we or should we dismiss the civil defense efforts on both sides as meaningless?

I think not. On the one hand, there is a difference between military effectiveness and psychological effectiveness. Maybe nuclear deterrence does not require a counterpopulation attack, and maybe civil defense would not help the population all that much if there were such an attack. But this is not to say that some day one or both superpowers might have leaders who would think civil defense made a difference.

Suppose, for example, that Soviet leaders today were to decide that the defeatist sentiments of Lord Chalfont and Thomas Reed really do represent the dominant thinking among decisionmakers of the West. Suppose they come to believe that, if pressed, we intend to surrender, even though there is no objective reason to do so. As a result of their civil defense system being unmatched by ours—at least in the eyes of our own observers—they might feel, rightly or wrongly, that they had an advantage they should try to exploit.

So there is that reason for having a U.S. civil defense system, although certainly not one which attempted to match the Soviets' in terms of size of bureaucracy.

But perhaps more importantly, there is the civil disaster function these same agencies can perform. We have floods, hurricanes, and forest fires. Someday, my State of California may have a cataclysmic earthquake. With the increasing number of nuclear reactors being used for power generation, we must face the possibility that someday we may have a nuclear accident requiring prompt evacuation of large numbers of people.

Therefore, it seems to me that the best course for us is the following:

All emergency preparedness functions, both civil and military, should be combined under a single agency.

The emphasis should be on Federal rather than State activity, so that the resources of the entire Nation can most easily be brought to bear on a local disaster.

Both small and large disasters should be handled by the same agency. For example, we should look forward to the day when the same helicopters and medical crews used in the aftermath of a hurricane would also be in daily use as ambulances for the victims of highway accidents.

Funding should be on the order of $100 million per year as presently organized, with increases as the dual use applications are broadened.

Finally, of course, the highest standards of training and performance of personnel should be maintained, with strong incentives for outstanding performance and disincentives for substandard performance.

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## BARTRAM NATIONAL SCENIC TRAIL IS ASSET FOR NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, this week in the closing days of this Congress, the Bartram Trail, which runs through four great Southern States, was established by law as a national scenic trail. This is indeed an asset to the people of our Nation.

Over 200 years ago in the years immediately preceding the Declaration of Independence, a father and son, John and William Bartram, explored what is now Florida, Georgia, Alabama, the gulf coast, and the Carolinas. They kept remarkably detailed journals and drawings describing the land, plants, and animals they found as well as the Indians native to the area. The Bartrams were assuredly two of America's first and finest natural scientists.

In 1965–66, these two 18th century environmentalists explored the South, starting in Mobile, Ala., continuing through the Montgomery area and proceeding due east to the Georgia border and on to the Savannah area; then south to Florida with the journey terminating in the area of Manatee Springs, Fla., after passing through the area of Jacksonville south along the St. Johns River to Lake George and through the Alachua Savannah to the Suwannee River. Through William Bartram's talents as an artist and John Bartram's journal of events, people today can accompany the pair on their travels.

Much of what we know today of the ecology of this area had its beginnings with the two Bartrams. Their impressions, both written and drawn during their travels, gradually filtered into scientific knowledge—yet it remains for them to be accorded a major place in our country's history. John, the father, has been described as the greatest natural botanist in the world. Thomas Jefferson, as President in 1803, asked William to become the chief botanist for the Lewis and Clark expedition up the Red River and westward, but the young Bartram declined. Alexander Wilson, "father of American ornithology," is probably William's best known student.

Perhaps the Bartrams can best be appreciated by viewing them as part of the conservation story of the United States. George Catlin, Ralph Waldo Emerson, Henry David Thoreau, Theodore Roosevelt, and William Cullen Bryant—all were inspired by the study of John and William Bartram. And, it is through the leadership of these men that springs the American conservation tradition which espouses the nobility and morality of primitive, unspoiled nature. This movement, thriving today, is necessary for the defense of our natural environment.

I am very pleased that this Congress has seen fit to continue that heritage.

## RESPONSE TO PENTAGON ATTACK ON HOUSE ARMED SERVICES COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois, (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE. Mr. Speaker, yesterday, Mr. Rumsfeld, the Secretary of Defense, issued a press release highly critical of the House Armed Services Committee's refusal to approve an 11th-hour controversial increase in the naval shipbuilding program for fiscal year 1977.

The action taken by the committee on Tuesday, September 28, 1976, 3 days before the scheduled adjournment of the 94th Congress, recognized the legislative impossibility of completing action on this executive branch request in this session of the Congress. It clearly was not a decision on the merits or demerits of the executive branch recommendation.

Every Pentagon official, including Mr. Rumsfeld, the Secretary of the Navy Mr. Middendorf, and all of their responsible subordinates, were apprised of this fact. Yet, the Pentagon launched an unprecedented lobbying effort to attempt to force the committee to send this legislative recommendation to the floor of the House. Obviously, this was a transparent effort to attempt to create a political issue on defense.

I am saddened by this kind of political skulduggery since heretofore defense had always been a nonpartisan issue. Apparently, that is no longer true.

My indignation is shared by the majority of the members of the Committee on Armed Services. For example, EDDIE HÉBERT, my ranking member, who is certainly among the most ardent advocates of a strong national defense and absolutely nonpartisan, has authorized me to make the following statement on his behalf:

> Yesterday marked one of the darkest days in the history of our Defense Establishment. For the first time in 34 years crass political considerations have been injected into defense policy decisions.
>
> I have always been proud of the fact that there were no Democrats or Republicans on the Committee on Armed Services—only Americans. And this condition prevailed not only under our illustrious Democratic Chairmen, such as Carl Vinson, Mendel Rivers and Mel Price, but also under our equally illustrious Republican Chairmen, Ham Andrews and Dewey Short.
>
> Pentagon officials were warned by me and other Members of Congress of the pitfalls they would encounter if they persisted in their efforts—yet they insisted in falling into the abyss of political chicanery.

I share the sentiments expressed by Mr. HÉBERT. In my view, the credibility of the Secretary of Defense has been seriously diminished. I fear therefore for the future of the relationship between the Congress and the Pentagon—and its ultimate impact on our Defense Establishment.

This Congress has both authorized and appropriated the largest peacetime budget for defense purposes in the history of our Nation. It has appropriated $108.8 billion for defense purposes for fiscal year 1977—a figure which is more than $13 billion higher than that appropriated for defense purposes for fiscal year 1976. For example, the President's January budget submission had reflected a request for $6.28 billion for shipbuilding. The Congress provided $6.19 billion—virtually everything the President had asked for. This hardly represents a lack of congressional support for a strong national defense.

Patriotism and support of a strong national defense has never been a monopoly of either the Democrats or the Republicans—it is shared by all Americans. I trust that in the future Mr. Rumsfeld will remember that very elementary fact of life.

### STATEMENT OF SECRETARY OF DEFENSE DONALD H. RUMSFELD

> The House Armed Services Committee yesterday (September 28) killed the President's $1.6 billion shipbuilding request, virtually eliminating the possibility of action on this urgently needed program this year.
>
> The American people have been poorly served by this damaging and short-sighted action.
>
> Last January in submitting the national defense budget, President Ford requested $6.3 billion for shipbuilding in FY 77. That request provided for 16 new ships. He included a cautionary statement that an increase might be requested when a review—then underway in the National Security Council—of the nation's maritime strategy and naval requirements was complete. In May, with significant results of the study in hand, the President requested an additional $1.2 billion for five additional ships and long lead funding for a sixth ship. These six ships would have added systems and capabilities clearly needed to maintain freedom of the seas in the decades immediately ahead.
>
> That supplemental request was, in effect, rejected yesterday. Although the Seapower Subcommittee of the House Armed Services Committee strongly supported the building of the Strike Cruiser, the Aegis destroyer and four additional frigates, the House Committee rejected it on a close, split vote. Under the budget ceiling imposed by the Second Concurrent Resolution, there was room for an expanded shipbuilding program.
>
> The real loss as a result of the dilatory handling of a vital national security budget request will be in America's confidence in the capability of our Navy to maintain freedom of the seas . . . freedom upon which the nation's economy and security have always depended, and will continue to depend.

## BILL INTRODUCED

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, today I am introducing a bill to require the Special Prosecutor to submit to Congress a report documenting in appropriate detail the nature and findings of the investigation conducted by his office of Richard M. Nixon.

Although the main Watergate trials were concluded almost 2 years ago, many questions still persist in the public's mind about criminal conduct that took place in the highest circles of our Government. New questions continue to crop up.

The problem is particularly acute with respect to former President Nixon. The report issued by the Special Prosecutor last October failed to describe the nature of Nixon's involvement in criminal activity or the extent to which the office investigated such activity. Now we are faced with the imminent publication of Nixon's memoirs in which he apparently claims total innocence.

The American people have a legitimate interest in knowing the facts about criminal activity in which their President may have engaged. They are surely entitled to know how competently and thoroughly such activity was investigated.

In fact, when the Office of Watergate Special Prosecutor was created, a commitment was made to the American people and the Congress that if no prosecutions were brought, a complete report would be made and thus the full story would be told. Specifically, former Special Prosecutor Archibald Cox told the Senate at Elliot Richardson's confirmation hearings that the final report of the Special Prosecutor would include the "* * * reasons for not bringing other prosecutions or * * *not indicting other figures." On a later occasion, Special Prosecutor Jaworski replied affirmatively, when asked by Senator KENNEDY if he would give "the American people a report on all these decisions being made." These promises to the American people have not been kept.

Precisely because Mr. Nixon was not prosecuted, the Special Prosecutor's failure to describe the nature of his investigation and the nature of Mr. Nixon's conduct has left us with many open questions. Did Mr. Nixon specifically order the Watergate break-in? If so, what was he looking for? Did he specifically order the Ellsberg break-in? What did the

Special Prosecutor find about possible criminal liability for Mr. Nixon arising out of such matters as the wiretaps on newsmen and White House staff; other "plumbers" activities; the concealment from prosecuting authorities of these activities; abuse of the IRS and FBI; the sale of ambassadorships and other campaign financing abuses; the acceptance of foreign gifts by members of the Nixon family; and the Hughes-Rebozo affair?

We do not know whether these questions remain unanswered because there was not enough evidence or because no thorough investigation was made. In this connection, Presidential tape recordings are central to the understanding of Nixon's role in criminal conduct. But, we do not know the extent to which the Special Prosecutor attempted to obtain all relevant tapes.

The argument that no analysis of the weight of the evidence against Nixon should properly be made is not persuasive. Former Special Prosecutor Jaworski has published his memoirs which include a chapter entitled "The Case Against the President". In this chapter, Mr. Jaworski says that the available evidence was sufficient to make out at least a prima facie case that the President participated in four phases of the cover up conspiracy and that he was also part of a second conspiracy to conceal the cover up. He then details this evidence. If such information can be included in a commercial book, I certainly think a full accounting of all investigations of Nixon undertaken by the Special Prosecutor should be included in an official report.

My bill would require the Special Prosecutor to inform the Congress of the following, with respect to the investigation of Richard Nixon:

First, the nature of each allegation investigated;

Second, the credible and reliable factual information, with respect to each such allegation, that tends either to incriminate or exonerate Mr. Nixon;

Third, the dates of the tapes requested and received;

Fourth, the number of witnesses interviewed and called before the grand jury with respect to each allegation and a statement of why any relevant witness was not called;

Fifth, the date and description of all White House documents sought and received;

Sixth, the text of tape recordings introduced into evidence at any criminal trial; and

Seventh, statements of Richard Nixon taken under oath before the grand jury.

Before forwarding the required report, the bill requires the Special Prosecutor to provide a copy to persons mentioned and allows them 60 days to submit corrective or explanatory materials to be appended to the report before it is forwarded to the Congress.

If we are to learn from the Watergate experience, we should know the details of crimes that may have been committed by the President of the United States and certainly should be assured that allegations against him were thoroughly and fairly investigated.

H.R.—

A bill to require the Watergate Special Prosecution Force to report to the Congress and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress finds and declares that—

(1) the Office of the Watergate Special Prosecution Force was given by lawful regulation the responsibility and jurisdiction to investigate "allegations involving the President,"; and

(2) it is important for the public and the Congress to be able to reach an informed conclusion about whether the Office of the Watergate Special Prosecution Force effectively, thoroughly, and fairly discharged this responsibility.

SEC. 2. (a) The Office of the Watergate Special Prosecution Force shall submit to Congress a full and complete report (which, notwithstanding any provision of the Federal Rules of Evidence, Federal Rules of Criminal Procedure or any other provision of law to the contrary, shall contain all the material called for in this section, including material pertaining to matters occurring before any Federal grand jury), describing in detail the following respecting its responsibility and jurisdiction to investigate offenses committed by Richard M. Nixon:

(1) The nature of each allegation investigated and, for each such allegation, whether in the opinion of the Office of Watergate Special Prosecution Force the investigation was thorough and was, in fact, completed.

(2) The credible and reliable factual information with respect to each such allegation that tends to exonerate Richard Nixon.

(3) The credible and reliable factual information with respect to each such allegation that tends to incriminate Richard Nixon.

(4) The dates of all tape recordings which the Office of the Watergate Special Prosecution Force requested from the General Services Administration, the White House or Richard M. Nixon; the dates of all such recordings which the Special Prosecutor listened to; the dates of any such recordings of which the Special Prosecutor received only a transcript; and an explanation of why any such recordings so requested were not received.

(5) With respect to each such allegation, the number of witnesses who might have information relevant to such allegation; whether all such witnesses were interviewed and, if not, the reasons therefor; whether all such witnesses were called before the grand jury; and if a witness was not called before the grand jury, the reasons therefor.

(6) The date and description of all documents in the White House files which the Special Prosecutor requested; the dates and description of all documents in the White House files which the Special Prosecutor received; and an explanation of why any documents requested were not received.

(b) The Special Prosecutor shall publish as an appendix to the report required under subsection (a) transcripts of all—

(1) tape recordings introduced into evidence at any criminal trial; and

(2) statements of Richard M. Nixon taken under oath before members of the grand jury impaneled by the United States District Court for the District of Columbia in January 1974 and dismissed on July 3, 1975.

SEC. 3. (a) The Special Prosecutor shall cause the report to be served upon any persons named in the report (exclusive of any appendix) by delivering a copy personally, or by leaving it at the dwelling house or usual place of abode with some person of suitable age and discretion then residing therein and by mailing it to the named person's last known address.

(b) Each person served under subsection (a) shall have sixty days from the date of service to submit any comments or factual information relevant to any statement appearing in the report about such person.

(c) After the Special Prosecutor determines that the requirements of subsections (a) and (b) have been met, the Special Prosecutor shall submit the report to the Congress together with any comments and factual material submitted under subsection (b) set forth as a special appendix. The report shall indicate with page references any portions of the appendix relevant to each portion of the report.

SEC. 4. For the purposes of this Act—

(1) the term "Office of the Watergate Special Prosecution Force" means the office established under subpart G–1, part O, of chapter 1, of title 28, Code of Federal Regulations;

(2) the term "Special Prosecutor" means the director of the Office of the Watergate Special Prosecution Force; and

(3) the term "tape recordings" means tape recordings of conversations which were recorded or caused to be recorded by any officer or employee of the Federal Government and which—

(A) involve former President Richard M. Nixon or other individuals who, at the time of the conversation, were employed by the Federal Government;

(B) were recorded in the White House or in the office of the President in the Executive Office Buildings located in Washington, District of Columbia; Camp David, Maryland; Key Biscayne, Florida; or San Clemente, California; and

(C) were recorded during the period beginning January 20, 1969, and ending August 9, 1974.

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## CONSUMER COOPERATIVE BANK BILL KEEPS FARMER/CONSUMER COALITION ALIVE

(Mr. RICHMOND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RICHMOND. Mr. Speaker, as the only inner-city member of the Agriculture Committee, I have been attempting to bridge the gap between farmers and consumers these past 2 years by pointing out that we need to work together to insure a healthy farm economy along with high-quality, reasonably priced foods for consumers.

An excellent example of legislation which will further the consumers' understanding of farmer cooperatives is the Consumer Cooperative Bank bill, H.R. 14829 and S. 2631. This bill would provide startup money for a federally supervised bank for financing consumer cooperatives. Nonfarm cooperatives could then secure adequate financing as farmer cooperatives under the Farm Credit Administration have done.

As examples of the diverse support this bill has received, I am inserting several statements into the RECORD from farm, labor, and consumer groups. I hope my colleagues will read these statements with interest.

[From Today's Farmer, September 1976]

## Bank for Non-Farm Cooperatives?

(By David E. Bryant)

Pending action in both houses of the U.S. Congress are bills to create a consumer cooperative financing program patterned after the Farm Credit System. Passage in this session is possible.

Under the proposal, the U.S. government would provide $1.25-billion in "seed money" for a National Consumer Cooperative Bank. The money could be loaned to grocery, health, auto service and other types of consumer cooperatives. The program would be supervised by a Cooperative Bank and Assistance Administration—similar to the Farm Credit Administration which supervises Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives, all farmer-oriented. It would also provide technical assistance to developing consumer cooperatives.

From this point of view, the proposal has merit.

Soundness of the approach has been demonstrated by the Farm Credit Administration and Farm Credit Banks. By supplying financing on reasonable terms, they are enabling farmers and their cooperatives to maintain independent and competitive positions in the economy. And government funds used to get those banks started have long ago been repaid.

Non-farm consumer cooperatives, however, have been hampered in their formation and growth by lack of access to cooperative financing and lack of technical assistance.

A National Bank for Consumer Cooperatives could enable non-farm cooperatives to secure adequate financing for operations and expansion. It could lead to more efficient delivery of products and services to consumers and narrow the spread between production costs and consumer prices—benefitting both consumers and producers.

By involving more non-farmers in cooperatives, it could also broaden the base of cooperative understanding—which could be helpful to farmers and their cooperatives.

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Midcontinent Farmers Association,
*Columbia, Mo., March 10, 1976.*

Hon. William Proxmire,
*Chairman, Committee on Banking, Housing and Urban Affairs, Senate Office Building, Washington, D.C.*

Dear Senator: We wish to file a statement in behalf of the National Consumer Cooperative Bank bill (S. 2631).

It is my understanding that only two days of sub-committee hearings are contemplated; therefore, the request of privilege of submitting this statement for the record. Mr. Chairman, we support this legislation, and we quote below a section of our Resolutions Committee Report unanimously adopted at our August 4, 1975, convention.

"We favor establishment by Congress of a National Consumer Cooperative Bank patterned after the Farm Credit Banks.

"By supplying essential financing on reasonable terms, the Farm Credit Administration and the Farm Credit Banks have enabled farmers and their cooperatives to maintain independent and competitive positions in the economy. Likewise, the Rural Electrification Administration has been the key factor in the development and growth of rural electric cooperatives, which now are establishing their own sources of credit.

"Non-farm consumer cooperatives, however, have been hampered in their formation and growth by lack of access to cooperative financing and lack of technical assistance.

"A National Bank for Consumer Cooperatives could enable consumer cooperatives to secure adequate financing for operations and expansion. Such a system could lead to more efficient delivery of products and services to consumers and narrow the spread between production costs and consumer prices—benefitting both consumers and farmers."

Thank you very much for the privilege of submitting this statement, and hopefully, your committee will take favorable action on this worthwhile legislation.

Your very truly,
L. C. "Clell" Carpenter.

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National Farmers Organization,
*Washington, D.C. July 28, 1976.*

Hon. Henry S. Reuss,
*Chairman, Committee on Banking, Currency and Housing, U.S. House of Representatives, Washington, D.C.*

Re: National Consumer Cooperative Bank Bill

Dear Mr. Chairman:

It is in keeping with the spirit and the practice of our organization to support this bill. Our members recently conducted impromptu, direct sales of cheese, ground meat and some other farm products to consumers in 55 cities in order to demonstrate that good quality food could be made available at reasonable price.

The public reaction was overwhelming. Numerous small consumer groups and individuals encouraged us to continue the operation; a request we had to decline since it was not our intention to get into permanent retailing in any way. Many asked for our help in establishing consumer outlets that would reintroduce reasonable competition in retail food pricing.

We reiterate our experience because it so clearly indicates that there is not only a need for financing and technical assistance as contemplated in H.R. 14829—there is also a clear public purpose to be served. In the absence of action along these lines, the smaller consumer-oriented cooperatives cannot really cope with the giant corporations that dominate food processing and distribution today.

We urge your committee to bring out the bill in substantially the same form contemplated by its principal authors. Crippling amendments should be avoided in order that the new effort may have a reasonable chance for success.

Thank you for any consideration that may be given to our views.

Sincerely,
Charles L. Frazier,
*Director, Washington Staff.*

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## Statement of Secretary-Treasurer, Industrial Union Department, AFL–CIO before the Subcommittee on Financial Institutions of the Senate Committee on Banking, Housing and Urban Affairs on S. 2631, National Consumer Cooperative Bank Bill

Many years ago during a portion of the Great Depression I worked for the Farm Credit Administration and one of its subsidiaries, the Federal Land Bank. I was able to see at close range the money, the hope, the encouragement which the Farm Credit Administration was able to pump into the lives of farmers by saving their farms from foreclosure, by making it possible for a marvelous network of farm cooperatives to come into being. And these farm cooperatives by developing collective buying and selling practices, upgrading of farm techniques, as well as a system of mutual help ushered in a new day, a better life for farmers.

What was and has been so right for farmers and their farm cooperatives can be equally effective for other forms of cooperatives. It was this understanding which induced the Allied Industrial Workers of America, at their convention last fall, to support the creation of a national consumer cooperative bank, as proposed in S.2631. In its resolution, the AIW cited the very positive experience of farmer cooperatives in using the Farm Credit System, through their investment in the system, to finance facilities and other enterprises to serve farm families' needs. We believe, that it is generally recognized, that the development of cooperatives has been one of the key factors in reducing the cost of farming and living for farm families. We envisage the same type of result for consumers in the creation of the national consumer cooperative bank. We are certain that, with a dependable source of capital, consumers will be able, on a much broader scale than in the past, to stand on their own feet as entrepreneurs and to reduce the need for government intervention in the market place.

This effort to put muscle into economic ventures by consumers has won support from the United Auto Workers. The UAW considers the creation of "sound financing otherwise not available ... for consumer activities ... to be 'of significant value' to the growth of consumer cooperatives in this country."

Likewise, the National Council of Senior Citizens, representing perhaps the single most disadvantaged group, of consumers, supports the bank proposal. In a resolution, the Council's executive board notes "self-help cooperatives in a variety of fields have proved that they do provide decent housing, quality health care and other goods and services to members at reasonable cost ... The organization and sound development of cooperatives ... has been hampered by the lack of technical assistance and the existence of lenders sympathetic to the formation of such self-help cooperatives." The Council leaders describe the bank proposal as "practical in its conception and sound in its fiscal requirements."

Labor and consumer groups have been particularly pleased that the task force of the Cooperative League of the USA on the bank bill, which initiated this bank concept, has broad representation and leadership from farmer cooperatives. Also, we were encouraged to see that individual farmer cooperatives such as Mid-Continent Farmers Association and most recently Land O' Lakes, are in support of this measure.

Frankly, labor and its members are extremely worried about the course of economic events in America—not only in short-term trends of unemployment, recession, and inflation, critical as these are. We are equally disturbed about the growth of giant conglomerates and monopolization of large sectors of our economy by giant firms over which ordinary investors, including consumers have essentially no control. And to add to this arsenal of industrial giantism are the new breed of American multinational corporations whose export of American technology, capital and jobs pose an immediate and grave danger to our economy.

We have sufficient evidence from the experience of consumer-owned enterprises to date in which unions have had a part, that such enterprises are valid and viable economic ventures. We believe that they need to grow and to expand on a much broader scale to protect the economic rights of plain people in America. But we are equally certain that to do so they will need a far greater degree of technical assistance and initial funding from government than has so far been available.

We believe that consumers need to be able to run their own businesses, to control at least a part of their economic destiny. We believe they don't want a handout to do so but a chance to buy back through their own investment, whatever capital is made available to them. We are confident that, when the consumer cooperative bank is created, custodians of our unions' funds will look upon the securities of the bank as sound and reasonable investments, just as the investors of America have considered the securities of the Farm Credit System.

Therefore we strongly urge your committee, as we have urged individual lawmakers, to vote its support for this legislation and encourage its colleagues to do likewise.

[From Consumer Reports, June 1976]

### A Needed Boost For Consumer Co-Ops

Cooperatives, or co-ops, are nonprofit organizations owned and controlled by their members. Producer cooperatives, mostly in rural areas, provide electric and telephone service, deliver crops to market, and sell supplies to farmers. Consumer co-ops, mostly in urban areas, include credit unions, prepaid health-care programs, housing projects, and food-distribution organizations.

But consumer co-ops, unlike rural producer co-ops, have never become a significant economic force. Sixty years ago the Federal Government established a banking system. The Cooperative Farm Credit System, to provide loans to rural co-ops. The participating co-ops replaced all the Government's seed money and own that bank now. Nearly $30-billion is lent each year to member co-ops.

But the Government left consumer co-ops to go it alone. Chronically underfinanced, the consumer co-op movement has remained small. Legislation pending in Congress could change all that. The bill would establish a National Consumer Cooperative Bank on the same principle as the Cooperative Farm Credit System. The Government would make $250-million available in each of four years for loans to consumer co-ops. Participating co-ops would retire the loans and, over time, own the bank.

The idea is a good one. Given a chance, consumer co-ops could reduce middleman markups in the sale of food and other products, introduce needed competition for traditional retail outlets, and provide alternate sources for services such as auto and appliance repairs, legal aid, and health care. Consumers would be given an opportunity to control areas of economic life in which power now resides with commercial interests.

To support the co-op bank legislation (S. 2631 in the Senate and H.R. 10873 and 10881 in the House), address Representatives at the House Office Building, Washington, D.C. 20515; address Senators at the Senate Office Building, Washington, D.C. 20510.

## "NATIONAL SECURITY": A PRINCIPLE STILL IN SEARCH OF A DEFINITION

(Mr. HAYES of Indiana asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HAYES of Indiana. Mr. Speaker, Henry Steele Commager, professor of history at Amherst College, has long ago established his personal eminence as historian, author, teacher, and constitutional scholar. His appreciation and reverence of constitutional democracy and America's revolutionary heritage may be said to differ from that of other Americans only in that he has dedicated a long life to the detailed study of our history and institutions, with intellectual faculties undiminished with age and with a superb gift of reporting by either the written or spoken word what he has found. Last year, he was the subject of a much celebrated and highly praised interview by Bill Moyers on Public Broadcasting.

This year, a month short of his 74th birthday, Professor Commager has delivered himself of a masterful essay in the pages of the New York Review of Books on the subject of the constitutional aspects of intelligence-gathering activities as practiced by the Federal Government. Speaking as one who has had to focus a lot of personal attention on these same matters in recent months, I found myself nodding agreement with most of what Professor Commager has to say and marveling at the clarity and force with which he has said it.

His voice may still be one crying in the wilderness, but it is no mere voice to be dismissed as coming from another ivory tower. I believe that what he has to say is of such overwhelming importance that I herewith insert his article in the Record and commend it to the attention of all my colleagues:

### "Intelligence": The Constitution Betrayed

(By Henry Steele Commager)

I

From the voluminous reports on the criminal activities of what is somewhat quaintly called the intelligence community, it is difficult for us to know whether to be more astonished at the arrogance of a succession of presidents who presided over it, or at the pusillanimity of successive Congresses which acquiesced in it—and financed it. More depressing than astonishing is the realization that neither the current president nor the current Congress appears to have learned very much from this somber chapter of our history.

Over the past two decades presidents and congressmen alike have consistently and, apparently, with clear conscience betrayed the Constitution they swore to sustain. Presidential betrayal was a product, however distorted, of the office, which has boasted a long history of aggrandizement; betrayal by the Congress, passive rather than active, was precisely in its inactivity a repudiation of its historic—and its constitutional—role, and therefore doubly culpable. The constitutional injunction to take care that the laws are faithfully executed is, to be sure, laid on the president, but it is the Congress which, by virtue of its control of the purse, its power of investigation, and its power to impeach, should be the special guardian of the Constitution. It is a duty which has long been neglected and there is little reason to believe that the Congress is about to repair that neglect.

Unfortunately the exposure of the lawlessness of the CIA and the FBI and of other intelligence activities (the use of secret data by the Internal Revenue Service for purposes of harassment, for example) was neither dramatic nor conclusive. Each day brought its quota of revelations which, with the connivance of the president, spokesmen for the intelligence community minimized, or explained away as aberrations, or as the price which had to be paid for achievements never specified. Each new disclosure was dismissed as incidental, or fortuitous, to the otherwise beneficent work of the agency involved. Only rarely was there any hint that more was at stake than the unfortunate behavior of some nameless agent whose errors could be shrugged off as products of an excess of zeal. The question of legality simply never arose, not even at the highest level: another example of the banality of evil.

Some newspapers—*The New York Times, The Washington Post* most conspicuously—some journals—*The New York Review of Books, The Nation, The Progressive*—did their best to focus public interest on issues of principle, but in vain, for they appealed chiefly to those already committed to constitutionalism, and did not reach those who thought that consideration irrelevant. As for television, it was committed almost by its nature to reporting the transient and the episodic rather than interpreting the permanent and the substantial: there was no repetition of the coverage of the McCarthy hearings or the Watergate hearings.

The Rockefeller report, which concealed as much as it revealed, was something less than bold, and President Ford's gesture toward more effective control of intelligence agencies proved merely an endorsement of existing practices and malpractices, rather than a reform. Thus where the Nixon conspiracy to brush aside Watergate and the tapes as mere peccadilloes failed, the Ford-CIA conspiracy to confound and silence criticism, or to link it with softness toward communism, succeeded. It succeeded, however, only with the connivance of the Congress.

The emergence of intelligence over the past quarter-century as an almost independent branch of the executive, largely immune from either political limitations or legal controls, poses constitutional questions graver than any since the Civil War and Reconstruction. The challenges of that era threatened the survival and the integrity of the Union; the challenges of the present crisis threaten the integrity of the Constitution. If what we may call the Nixon-Ford theory of the executive power and of the Constitution (perhaps we should not add this, for there is little evidence that either entertained any constitutional theory at all) should prevail, the Constitution will be reflected from its original character, and a revolution as far-reaching as that of 1860–1868 (but not as beneficient) will have been effected without either public debate or legal sanction, but by deception, subterfuge, lassitude, and default.

This is the larger issue, overshadowing all the particular problems and crises that have engaged and distracted our attention for the past two years: the survival of our constitutional system and of the rule of law.

Our inquiry begins with the metamorphosis of two old and familiar concepts into political institutions with a life of their own: the concept of "national security" and the concept of "secrecy." Few things are more omnibus than the audacity with which the claim of "national security" as a cover for almost anything the executive wishes to do has been advanced, except the casualness with which it has been accepted. The phrase itself is unknown to the Constitution; it is not therefore a substantive power but a principle in search of a definition. The Constitution does require the president to "take care that the laws are faithfully executed"—an admonition which scarcely authorizes him to nullify them. Yet it is precisely the assumption—unilaterally to be sure—that the concept is a blank check, that provided the basis for the Bay of Pigs, justified Johnson's invasion of Santo Domingo, presided over the fraud of the Tonkin Gulf operation (one which the Congress was tricked into approving), dictated the invasion of Cambodia, authorized the gross intervention in the internal affairs of Chile, excited hysterical approval for the illegal Mayagüez operation, and was invoked to justify systematic lying to the Congress and the American people about all these enterprises.

The second concept is equally familiar, for secrecy is as old as politics, and in America as old as the Revolution and the Federal Convention. But only in our time has it come to be not so much a means as an end in itself, and to permeate the whole of public life. That there must be secrecy in planning—secrecy in board meetings, in faculty meetings, in committee meetings, in cabinet meetings, in conducting the operations of war and so forth—is obvious; that is very different from secrecy in major commitments or major policies.

The fact is that the primary function of governmental secrecy in our time has not been to protect the nation against external enemies, but to deny to the American people information essential to the functioning of democracy, to the Congress information essential to the functioning of the legislative branch, and—at times—to the president himself information which he should have to conduct his office. From time immemorial a familiar tool of despotic governments, secrecy is, in all but emergency situations, not only alien to but subversive of democracy. The reason why investigation of the CIA and the FBI is of such importance is not merely to detect and expose particular outrages which they have committed, but to make clear that the very principle of secrecy, unregulated and unrestrained, is odious to our kind of government and may destroy it.

During most of the past decade the president and the intelligence community have regarded themselves as above the law and the Constitution, or have assumed that the Constitution was what they chose to make it: it is this indifference to constitutional restraints that is perhaps the most threatening of all the evidence that emerges from the findings of the Church committee. Presidents Johnson and Nixon both thought themselves above the law, and in this they were for the most part sustained by their attorneys general; it is no less alarming that a large segment of the Congress acquiesced in this assumption of executive immunity from Constitutional restraints. But is this not the very definition of tyranny?

## II

Turn then to a consideration of those issues implicit in the executive invocation of "national security" and of secrecy, and explicit in the findings of the Rockefeller, the Church, and the Pike committees, but not adequately clarified or resolved by them.

First is the integrity of democracy and of representative government. It should be (but alas is not) too elementary to say that when, as in our system, government is made by and belongs to the people, they not only have a *right* to know what their government is about but must do so if democracy is to function. That was one of the persistent themes of the Revolutionary era—that only where government was open, the press free, and the people educated, could self-government flourish. To deny the people knowledge of what their government does is to deny them the ability to pass judgment on its conduct, and thus to make a mockery of the democratic process. If recent administrations had respected this elementary principle we might have avoided the Bay of Pigs, war in Laos, Vietnam, and Cambodia, and alienation of much of world opinion by our ill-considered interventions in the internal affairs of Greece, Portugal, Chile, and many other countries.

Second is the integrity of the Constitution. Unilateral interpretation of national security and resort to secrecy, especially in foreign affairs, violate not only specific provisions of the Constitution but its fundamental character. For there is nothing more fundamental than the principle that in their separate spheres—that is, in the exercise of powers duly authorized—the executive and the legislative departments are equal and independent: the principle implicit in the Federal Constitution is explicit in a number of the state constitutions. To the Congress was assigned specific and extensive legislative powers, and in addition a share in some that were executive in nature. Clearly to fulfill its constitutional obligations, the Congress must have access to all information relevant to legislation. To withhold or to conceal information essential to law-making—as the executive has been doing for more than a decade, on a vast scale—is to undermine the foundations of the Constitution. The executive has no more right to deny to the Congress information it needs for law-making than it has to deny to the courts information essential to arriving at sound judgments in cases before them.

Third is the vindication of the great principle, written into the Constitution, that the power of the purse belongs to the Congress. All the Founding Fathers knew the long history of the struggle between the Parliament and the Crown for control of the purse in the Tudor and Stuart period, and knew, too, that it was the victory of the Parliament on this issue that forever ended the threat of royal tyranny in Britain itself. That struggle was part of American history, too, and the control of the purse by colonial legislatures was one of the instruments for independence.

So vital was this principal that the Fathers wrote it into both their state and their national constitutions. In doing this they were animated by the fear of just such reckless misuse of money for military adventures as we have witnessed again and again in our own time. Thus George Mason—who drafted the first Bill of Rights—observed that "the purse and the sword must not be in the same hands," and thus, too, James Madison considered it "highly dangerous to give the keys to the Treasury and the command of the army into the same hands." In his memorable *Commentaries on the Constitution*, Justice Joseph Story restated the basic principle:

"In arbitrary governments, the prince levies what money he pleases from his subjects, disposes of it as he thinks proper, and is beyond responsibility or reproof. It is wise to interpose, in a republic, every restraint by which the public treasure, the common fund of all, should be applied with unshrinking honesty to such subjects as legitimately belong to the common defense and general welfare. Congress is made the guardian of this treasure; and to make their responsibility complete and perfect, a regular account of receipts and expenditures is required to be published that the people may know what money is expended and for what purpose and by what authority."

Time has but strengthened the validity of that principle—though not, alas, executive respect for it. Thus Justice Robert Jackson, in the *Youngstown* v. *Sawyer* case, reminded the president that "Congress alone controls the raising of revenue and their appropriations and may determine in what manner and by what means they shall be spent for military and naval procurement. . . . While Congress cannot deprive the president of command of the army or navy, only Congress can give him an army and navy to command."

Where presidential war-making and the paramilitary activities of the CIA are involved, Congress has been doubly culpable, for it has connived with the executive branch to flout two clear provisions of the Constitution, both laid down in Article I, section 9. First, "No money shall be drawn from the Treasury but in consequence of appropriations made by law." But the president has for a long time now juggled appropriations made for one purpose to cover expenditures for intelligence and paramilitary operations, without reporting this to the Congress: these are clearly expenditures not authorized by Congress and therefore invalid. The second violation is even more ostentatious. Section 9 further requires that "a regular statement and account of receipts and expenditures of all public money shall be published from time to time." The precise meaning of such terms as "regular" or "from time to time" may not be clear, but that is irrelevant. No "statement" of CIA expenditures, regular or otherwise, has ever been published.

What is sobering here, as elsewhere, is that Congress has chosen to ignore this provision of the Constitution. There is precedent, to be sure, for "general operations" appropritions to be expended at the discretion of an executive officer, but in the past it was always Congress that laid down the guidelines for such expenditures, and that could and did have knowledge of them. There is no precedent for flouting the requirement for a publication of receipts and expenditures. Yet the power of the Congress to force compliance with this provision of the Constitution by the president or the director of the budget is clear. It could publish its own statement; it could withhold appropriations; it could invoke the power of impeachment. There has been no hint of resort to any of these measures from the Congress in the last quarter-century. Quite the contrary. The Pike committee report estimated that total expenditures for intelligence amounted to over $10 billion, but supinely acquiesced, as did the Church committee, in the refusal of the CIA or the Bureau of the Budget to provide it with reliable figures or to permit the committees to publish their own findings!

Fourth, the Constitution assigns to the Congress a substantial share in the conduct of foreign relations. The power to declare war is specifically granted to Congress and so too the exercise of those powers essential to the conduct of war. To the Senate was assigned authority to advise on as well as to consent to treaties, and the authority to confirm ministers and ambassadors appointed by the president.

Congress has allowed the first of these powers to be eroded, through recent war powers legislation has recovered some of the powers lost by default in the Johnson and Nixon administrations. It has failed egregiously to exercise the second of these powers; indeed it has itself ignored the historic meaning and the constitutional implications of the requirement of "consent" for treaties by permitting the executive to substitute "executive agreements" for treaties, thus permitting presidents to bypass the constitutional requirement of ratification and to conceal from the Congress and the people the substance of some international agreements of far-reaching importance. It is reassuring that Senator Eagleton has introduced legislation which should put an end to this abuse.

The conduct of foreign policy is constitutionally lodged in the executive and Congress; there is no reason to dispute the conclusion of that most learned student of our constitutional system, Arthur Bestor, that "a system of checks and balances is prescribed as explicitly for the conduct of foreign relations as for the handling of domestic matters, even though the precise allocations of power are different in detail." Thus while the power to declare and to sustain war is assigned to Congress, to the president was given, in the words of Hamilton, "the direction of war," but only when "authorized or begun" by legislative decision.

While the day-by-day conduct of foreign affairs and diplomacy must inevitably be controlled by the president, to the Senate is assigned a share in the formulation of foreign policy and in the making of treaties. That is explicit in the "advise and consent" clause; it is implicit in the general power of lawmaking, for we must not forget that treaties are laws and must be enacted by Congress in terms laid down in the Constitution (ratification by the Senate, appropriations and other enabling legislation by both houses). This was the understanding of the most perspicacious of the Constitution makers. Thus Madison's interesting observation that "the Senate represents the States alone and for this as well as other obvious reasons *it was proper that the President should be an agent in the Treaties.*" So, too, that advocate of high prerogatives, Alexander Hamilton, wrote in no. 75 of the Federalist Papers that treaty-making was more properly legislative than executive in character, and that "though it does not seem strictly to fall within the definition of either," and though the president was no doubt "the most fit *agent* in negotiations with foreign countries, the vast importance of the trust, and the operation of treaties as laws, plead strongly for the participation of the whole or a portion of the legislative body in the office of making them." And he added, prophetically, that:

"It would be utterly unsafe and improper to entrust that great power [treaty making] to the President alone, for the history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate created and circumstanced as would be the President of the United States."

Elsewhere Hamilton indicated clearly his expectation that the Senate would play a role in the actual making of treaties. "The Senate," he wrote, "might with propriety *have meditated the punishment of the executive for a deviation of the instructions of the Senate* (my italics)." And James Wilson, after Madison the ablest man in the Convention, asserted roundly that "making peace and war are generally determined by writers on the laws of Nations, to be legislative powers."

III

Consideration of control over foreign policy is far from irrelevant to a discussion of the role of the intelligence community, for President Nixon and Professor Eugene Rostow of the Yale Law School, in his statement to the Church committee, have claimed that the executive has a right to conduct covert operations, and even paramilitary operations, against nations with whom we are not legally at war, as part of his conduct of diplomacy and foreign relations, and of his duty to protect the security of the nation.[1]

Clearly such operations not only affect the conduct of foreign affairs. They are, in large degree, foreign affairs. This was true when we intervened in Iran to overthrow Mossadegh in 1953, in Guatemala to depose Arbenz in 1954, in Cuba at the Bay of Pigs, and in Santo Domingo in 1965. In the eyes of the law and the Constitution none of these was an enemy. Certainly had Castro attacked Florida with troops and planes, had Bosch landed twenty thousand Dominican troops on American soil, we would have regarded these as acts of war, not as "covert operations," to be justified on some claim of the protection of national security. I say nothing of "covert operations" in Laos which ended up as part of the longest war in our history.

President Nixon's defense of these and analogous operations, recent as it is, has already achieved historic importance. To the question, "Please state whether you believe that actions otherwise illegal, may be legally undertaken pursuant to Presidential authorization, following a determination by the President, or some other senior governmental official, that the actions are necessary to protect the 'national security' of the United States," Mr. Nixon replied:

"I assume that the reference to 'actions otherwise illegal' means actions which, if undertaken by private persons, would violate criminal law. It is quite obvious that there are certain inherently governmental actions which, if undertaken by the sovereign in protection of the interest of the nation's security are lawful, but which if undertaken by private persons are not."

To support this constitutionally novel theory Mr. Nixon cited the removal of West Coast Japanese to "relocation camps," Lincoln's proclamation of a naval blockade of the South, and an *obiter dicta* by Justice White in the *Katz* decision on warrantless wiretapping in 1969. Two of these precedents are erroneous, the third irrelevant. The Japanese relocation order came in time of war proclaimed by Congress; whatever we may think of its wisdom or even of its morality, its legality was duly sustained by the Supreme Court in two decisions. Lincoln's blockade proclamation came likewise in time of war; its legality, too, was sustained by the highest court in the famous Prize cases. As for the *Katz* decision, which unanimously rejected the claim of an executive right to warrantless wiretapping, Justice White alone suggested—in an *obiter dicta*—that in some cases there might be special dispensation for the assertion of presidential prerogative, but the court swept this aside as irrelevant to the case. So much for Mr. Nixon's legal argument.

But quite aside from the question of "precedents" that might be found in marginal judicial observations, the principle of executive sovereignty, or of executive supremacy to the law, is one unknown to our constitutional system. The president, like everyone else, is bound by the law; the Constitution does not recognize "presidential prerogative."

Professor Rostow, however, in his statement to the Church committee, has endorsed presidential claims to an inherent right to "direct foreign covert operations in the absence of statutory authority," because he is president, because he is "the sole organ of the nation in the conduct of foreign relations," and because he is commander in chief of our armed forces. We can dismiss the constitutionally bankrupt argument of Mr. Nixon but we cannot ignore the arguments of so distinguished a student of our constitutional system as Professor Rostow. Rostow's statement, moreover, offers a compendium of the constitutional claims that have been and no doubt will be made for the legitimacy of foreign covert operations, and therefore deserves scrutiny.

What strikes us at the threshold here is that broad and ambiguous authority is justified by reference to authority even broader and more ambiguous: the argument is circular. Consider the claim of authority drawn from the special position of commander in chief of the army and the navy. But the CIA is neither army nor navy. It is unknown to the Constitution. It is the creation of Congress, it can be regulated or abolished by Congress. Nor would the vague powers that might be ascribed to the office of president authorize him to engage in activities contrary to international law—as surely the Bay of Pigs was, to take but one example—any more than whatever "sovereign" powers Hitler had in Germany authorized his invasions of other nations of violations of international law. Surely the Nuremberg court made that clear.

As for diplomacy, or the conduct of foreign relations, the president does indeed have the right to receive foreign ministers, but his power to appoint ministers is shared by the Senate. If we look away from this rather specialized authority to the larger problem of "diplomacy," it is appropriate to remember that authority in this realm, too, is shared by the Senate; that the Department of State is a statutory not a constitutional creation, and Congress can regulate it, restrict it, or even dismantle it through ordinary legislation.

The claim that the president derives some special authority, independent of the Congress—or the Constitution—because he is, as Rostow puts it, "the sole organ in the conduct of foreign relations" deserves brief consideration. This phrase, hackneyed now by repetition, is neither historically relevant nor logically accurate. It comes from John Marshall, who said—the phrasing is important—that "the President is the sole organ of the nation in its external relations and its sole representative with foreign nations." It is relevant, too, that it was not Chief Justice Marshall who said this, but Representative Marshall; that he was arguing executive authority not against the Congress but against the judiciary; and that what he was referring to was the highly technical question of *communication*, not of conduct. As E.S. Corwin, whom Professor Rostow cites with approval elsewhere, pointed out, "What Marshall had in mind was quite simply the Presidential role as an instrument of communication with other nations"—a far cry, this, from an independent power to circumvent the Constitution by covert operations against nations with whom we were otherwise at peace.

In his statement, Professor Rostow justifies presidential authority to launch covert operations on other grounds as well. He cites, for example, the inherent right of self-defense. Sound enough, no doubt—there was really no need for a declaration of war after Pearl Harbor! But neither Cuba nor Santo Domingo, Vietnam nor Cambodia nor Chile had attacked the United States, or had any remote intention of doing so. He submits presidential responsibility for policy-making, and cites the Monroe Doctrine as an example of presidential policy becoming "national policy." But "national policy" is not law; the Monroe Doctrine did not even become national policy when Monroe announced it—not as a special statement but as part of his annual message to Congress—and it was not seriously invoked for almost a quarter-century; clearly it is no longer "national policy." Presidents can proclaim policies but they cannot give them the force of law or impose them upon Congress, and it is doubtful that any court would recognize a presidential "policy" unless it was somehow rooted in law or endorsed by legislative action.

Professor Rostow invokes, too, the "clumsy" provisions of Article 51 of the Charter of the United Nations to vindicate a "right of coercion" against those who violate international law. But the UN charter did not make the United States the special guardian of international law—there are other institutions for that—nor does international law recognize the right of one nation to take it upon itself to punish what it may consider violations of international law. It is not irrelevant to recall here that though Johnson and Nixon invoked the SEATO agreement as justification for military intervention in Southeast Asia, none of the other major signatories endorsed this argument; neither Britain, France, nor India. The president of the United States cannot singlehandedly create international law.

Congress, Professor Rostow concludes, "has no more authority to regulate the independent powers of the President, than the President has to regulate the independent powers of Congress." That would be a plausible argument were it based on—or, to use a favorite judicial phrase, did it not radiate—a false analogy. The independent powers of the Congress are spelled out in the Constitution in great detail—no fewer than twenty-eight of them in Article I, section 8, and perhaps a dozen others scattered through other parts of the document. But the independent powers of the president are few and ambiguous. He is "vested" with the "executive power." That was left purposely vague, but to call it an "independent power" in any meaningful sense gets us nowhere: we cannot simply assign any power we please to the "executive power" and then claim constitutional authority!

The president is commander in chief of the army and navy—a power, as Hamilton pointed out, equivalent to the command in the field of a general or an admiral. He may require the opinion of his principal officers; he has the power to grant pardons and reprieves; with the advice and consent of the Senate he may make treaties and appoint ministers; he can receive these on his own. He is to give Congress information on the state of the union and recommend measures to it, and he may call the Congress into special session. Not least important, not least vague, he is to take care that the laws are faithfully executed—the laws, mind you, not some private notions he may have of the requirements of national security; executed, mind you, not originated.

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[1] Professor Rostow's letter to the committee is reprinted in the *Yale Law Report*, Spring 1976.

In any event the power to engage in covert operations in time of peace, or to engage in quasi-war on his own, is not an "independent" power nor is it "inherent" in the office. Certainly the power to send troops into Cuba or Vietnam or Cambodia without congressional authority or to spend money on enterprises not authorized by Congress is neither independent nor inherent.

IV

Exercise of unauthorized war powers by the president dramatizes a fifth major constitutional issue implicit in the attempt to control presidential misuse of the intelligence apparatus: the threat to the principle of "the exact subordination" of the military to the civil authority. Nothing more alarmed the Founding Fathers than the specter of military dictatorship. They were familiar with the concentration of civil and military authority in most of the Old World monarchs, and they were determined that in the new United States the military should forever be subordinate to the civil power. It was a principle written into half the state constitutions, and somewhat more than implicit in the federal, with its provision that the commander in chief of the armed forces should always be a civilian, and that the power to declare war and to finance it should be lodged in the legislature. So sensitive was public opinion to even the appearance of a privileged military class that it looked upon the otherwise innocuous Order of the Cincinnati as darkly dangerous to the liberties of Americans and, despite Washington's sponsorship, forced modifications upon its charter before it was allowed to survive.

As Garry Wills has observed in these pages,[2] the CIA is what the Revolutionary generation of Americans feared the Cincinnati might be. The CIA is analogous to what they saw when they looked at the Old World political-military scene: an army which was almost the king's private army, his weapon and his instrument, above the law, except in Britain exempt from civilian control, its activities secret, its officers constituting a privileged class and recruited from an elite, its power and ambitions directed not only to national enemies but often to supposed enemies at home.

The analogy is not far-fetched. The CIA is subject only to the president—and sometimes ignores his will; it is lavishly financed, not according to constitutional requirements, but by secret funds; far from being an instrument of the nation or of the whole government, it is an instrument of the executive, and it plays favorites among branches and departments, and even frustrates other governmental activities. Its contempt for the representatives of the people was displayed again and again in the course of the Church and the Pike committee hearings, nowhere more arrogantly than in its refusal to testify except on its own terms or to provide the committees with information to which they had a constitutional right. Much of all this is as applicable to the FBI as to the CIA.

At stake, finally, in these inquiries into the intelligence community is the integrity of the Bill of Rights. There is no evidence in the voluminous Church reports (we are not allowed to see the full text of the Pike report) that either the CIA or the FBI ever gave serious consideration to the guarantees of the Bill of Rights. Thus William Sullivan, one-time assistant director of the FBI, who helped draft the odious Huston Plan for setting up a police state, confessed to the Church committee that in all his experience with intelligence he never heard any question of legality raised. "We never gave a thought to this line of reasoning" he said, "because we were just naturally pragmatists"—a definition of pragmatism that would doubtless have edified William James.

Elsewhere Sullivan testified that he "never heard anyone question the legality or constitutionality" of the campaign to discredit Dr. King, and Richard Helms—still defiant and unrepentant, and still, apparently, immune from charges of perjury—confessed that he, too, never gave a thought to the legality of the mail opening project carried out for twenty years by the New York City Post Office. The evidence of high-handed violations of the rights of Americans by the intelligence community is by now mountainous, and almost every day we have new revelations of lawlessness and violence. When, if ever, the whole record is put together, it will make A. Mitchell Palmer's "reign of terror" and Senator McCarthy's vendettas against the "disloyal" look casual and effectively by comparison.

We should not, however, be too critical of the CIA and the FBI. After all, they acted if not with the full knowledge, at least with the beign tolerance, of successive presidents; after all, no attorneys general, unless perhaps Ramsey Clark, were so uncooperative as to intervene; after all, Congress, whose business it was to know what was going on, turned a blind eye.

That is the heart of the problem—the problem to which, understandably enough, neither the Church nor the Pike committee addresses itself. How explain the acquiescence, the apathy, the failure of nerve of the Congress?

Congress failed for two decades to exercise its constitutional obligation to oversee the activities of the intelligence agencies.

When forced by revelations of agency lawlessness to undertake investigations it acquiesced in the refusal of the agencies to cooperate except on their own terms, or on terms set by the president, thus undermining the future effectiveness of what has long been a major instrument for performing its constitutional duties of oversight and legislation.

It failed to insist upon or to exercise its power over the purse, and connived with the executive in its constitutional obligations under Article I, section 9.

It failed to explore the potentialities of the power to advise on treaties and participate in the formation of foreign policy, and permitted the gross abuse of the instrument of executive treaties to undermine the constitutional provisions for treaty-making.

It acquiesced in imperial claims of executive privilege, and has so far failed to repudiate the unprecedented extension of that privilege to officials of private corporations.

For years it connived with presidential violations of domestic and international law by covert paramilitary and overt military operations against governments with whom we were not at war. The War Powers Act finally put an end to the worst excesses of executive power in this area, but covert operations go on apparently unchecked.

It is not too difficult to understand the failure of Congress to curb the excesses of Presidents Kennedy and Johnson in the use of the intelligence and military agencies. During these years it shared presidential obsessions about a worldwide communist conspiracy and the danger of internal subversion as well as presidential euphoria about world power and the responsibility of the United States to set the world aright. But how has it happened that at a time when the executive branch is in disgrace, and the office itself held by a man with no popular mandate, and when revelations of official lawlessness and violence fill the air and darken the skies, the Congress still surrenders to the executive on issue after issue and principle after principle, with the result that the elaborate investigation into the misconduct of the intelligence agencies ends not as a victory for the congressional version of constitutionalism but for the presidential version of power?

To be sure the final verdict is not yet in. A new Congress may do what its predecessors have conspicuously failed to do. It may yet make clear—not just by rhetoric but by the reassertion of its own prerogatives—the nature of the threat to our constitutional system and our freedoms by the consistent disregard of constitutional limits and commands, the resort to secrecy to conceal from the American people what its government does, the steady aggrandizement of executive claims and executive powers, and the erosion of legislative authority in domestic affairs and the abdication of congressional authority in foreign affairs.

## TESTIMONY OF THE COALITION TO END GRAND JURY ABUSE

(Mr. BADILLO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BADILLO. Mr. Speaker, since June 10, the House Judiciary Subcommittee on Immigration, Citizenship and International Law, chaired by my esteemed colleague, Mr. EILBERG, has been holding hearing on the sorry state of the Federal Grand Jury system.

Many Americans, including myself, are deeply concerned about the grand jury's role in our criminal justice process. I was pleased to note that on Thursday, August 26, the subcommittee heard detailed testimony on reform legislation, including the bill I have cosponsored, H.R. 11660, from the coalition to end grand jury abuse. This national citizens' group is leading the fight for fundamental grand jury reform and has been mounting an energetic public education and lobbying effort to alert us all to the present grand jury system's attack on our constitutional rights.

The coalition's testimony, delivered by its codirector, Judith Avner, and its president, David Rein, was a powerful indictment of current grand jury procedures and exposed clearly the hollow rationalizations Justice Department officials have put forward to justify their opposition to grand jury reform. This testimony is a document that deserves wide readership, and I include it in the RECORD at this point:

Many historical forces and trends and thousands of contributions, both negative and positive, have created the modern grand jury and brought all of us here together for what represents the first comprehensive Congressional examination of the grand jury in the history of this republic. Many may differ in their views of the remedies required to cure the ills of the grand jury, and even over what those ills are. But no reasonable observer could help but agree that the distinguished chair of this Subcommittee has already made an historic contribution, both by introducing the first legislation against grand jury abuse and by initiating these hearings. He deserves the gratitude of those who understand that liberty and the current functioning of the grand jury cannot coexist.

My name is Judith Avner. I am the co-director of the Coalition to End Grand Jury Abuse, a broad national grouping of 20 national bar, civil liberties, women's, religious and labor organizations. United in an effort to educate the American people about the grand jury's democratic potential and frightening perversion, our member organizations have distinctive perspectives, insights and suggestions to share with this Subcommittee, and representatives of many of these organizations will be appearing during the course of these hearings. The testimony we are offering today is based on the Coalition staff's three years of work, study, research and writing, as well as countless discussions with people concerned about the grand jury quagmire: jurors, prosecutors, judges, victims, attorneys and average citizens.

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[2] *NYR*, January 22, 1976.

We are mindful that this committee must sift through an extensive amount of material, that may witnesses will be heard from and that the staff of the committee has been diligent in amassing documentation and evaluative material on grand jury problems and reform proposals. Therefore, we will try to limit our testimony to a few essential points and ask that a number of supportive documents and articles be included in the record.

While we will avoid an extended historical sketch of the grand jury, we would like to begin our discussion by stressing one simple but critical point. The grand jury became part of the Fifth Amendment to the United States Constitution for only one reason: to protect our rights from the zeal of tyrannical authority. The institution was included in the Bill of Rights, as one judge has put it, "by its shield, not by its sword." [1]

The reason the generation of 1776 considered the grand jury so essential has often been misunderstood, most recently by the Department of Justice on June 10. Writing about the proposals advanced by Chairman Eilberg and others for a permanent mechanism by which grand juries could enlist special prosecutors, the Department's Office of Policy and Planning, in a memorandum submitted to this panel declared that "self-policing should be demanded of government, not mistakenly dismissed as an unattainable goal." Placing policing in hands other than the government's own, it was warned, would promote "the very loss of confidence in the institutions of government it is proposed to prevent."

Yet the very point of the grand jury as an element in our system of checks and balances is the precise *opposite*. By putting the policing power over the accusatory function in the hands of an independent body—the grand jury—the framers of our Bill of Rights displayed the understanding that the only true way to build confidence in government was to insure accountability by having such independent checks.

The grand jury check, for all practical purposes, no longer exists. Robert H. Jackson, former local prosecutor, U.S. Attorney General, Nuremberg prosecutor and Supreme Court Justice, noted years ago that "the prosecutor has more control over life, liberty and reputation than any person in America." [2] A New York State Assembly Codes Committee report starkly updated Justice Jackson's point last may: [3]

"Peculiarly, there exists only one subgovernment anywhere in this nation . . . which has no controls, no accountability, which is free to do as it sees fit, when it sees fit, and how it sees fit. It lives in its own historical entity and totally defines Thomas Jefferson's immortal dictum that 'everyone in public life shall be answerable to someone.' That subgovernment is *the prosecutorial arm of the Executive*."

Far from checking overreaching prosecutorial conduct, the grand jury, with its unique power and secrecy, facilitates it. Prof. Charles Ruff, the Watergate Special Prosecutor, told the Judicial Conference of the District of Columbia last year "that virtually the only restraints imposed on the prosecutor's use of the grand jury are those which he [sic] imposes on himself as a matter of his personal and professional morality or which are imposed on him as a matter of policy by his superiors." [4]

Putting it more graphically Baltimore Judge Charles E. Moylan, a former prosecutor himself, suggests that "the prosecutor can violate or burn the Bill of Rights seven days out of seven and bring the fruits of unconstitutional activity to a grand jury. No court in the country has the power to look behind what the grand jury considers or why it acts as it does." [5]

In theory, of course, the courts *do* have the power, but they have been loathe to exercise it, escaping instead behind the legal theory of grand jury independence. This see-no-evil posture opened the door to the Nixon Administration's 1970–73 grand jury war on dissent and plays a similar role today amidst continuing grand jury abuse. Its underlying mythological assumption—that the grand jury still functions as a buffer—has even been abandoned, at least for a time, by the Department of Justice.

Said then Assistant Attorney General Vincent Rakestraw in September 1974 in a letter to Judiciary Committee Chairman Peter Rodino: ". . . the grand jury does not operate to protect the individual to any substantial degree." [6] Rakestraw put the Department on record as agreeing with the proven proposition that the grand jury has become nothing more than a prosecutor's tool: "The sole substantial reason for having a grand jury today is to help the attorney for the government when the need arises." (ibid.)

The "need" apparently arose in Ft. Worth four years ago, and the members of this Subcommittee are well aware of the frightening consequences of the "help" federal prosecutors obtained from the grand jury in that case. That same "need", we now know, arose again and again during the Nixon Administration as the political inquisitors of the Justice Department's Internal Security Division targeted over 100 overlapping grand juries against politically active citizens. Thousands of subpoenas were issued, lives disrupted and dossiers filled. Of the indictments these grand juries handed down, only ten percent, a shockingly low figure, resulted in convictions, and some of these were for picayune offenses. It all added up to a hard act to follow.

But the act *has* been followed, and this is one of the most important points we can leave with the Subcommittee today. While the brazenness and overt coordination that make the Nixonian grand jury inquisitions so conspicuous are gone, political abuse of the grand jury has, if anything, intensified and expanded in the post-Watergate years. The victims vary widely: radicals or activists, aggressive counsel representing controversial clients, public officials from a rival party, newspaper reporters or just plain citizens a prosecutor is determined to "get".

Even more widespread is the simple reality that prosecutors, like the police, will tend to use all those tools and powers they are allowed. To speak in terms of good and bad or scrupulous and unscrupulous prosecutors is to miss this basic element of American political life. There have been and will continue to be differences among prosecutors. Some trample liberties and other try to respect them. But as long as the ability to "burn the Bill of Rights" in the grand jury chamber remains, it will be burned. Even in situations not involving violations of individual rights, it will be impossible to insure an increasingly distrustful and concerned public that foul play is not at hand.

In such a context, relying on either self policing or vague guidelines against misconduct that lack teeth to prevent prosecutorial abuse is, to make a charitable appraisal, foolish. Concluded the New York State Assembly study noted earlier: [7]

"In two separate and distinct reports, studies were made covering a period of the past 25 years throughout the nation of hundreds and hundreds of cases of prosecutorial abuse. Those studies reveal not one prosecutor has ever been punished, or any form of sanction imposed, no matter how severe the abuse and no matter how vicious the tactics."

A generation ago, the most common solution advanced to end grand jury abuse was the abolition of the grand jury. Today, most observors see reform as a potentially more productive approach, and no measure has been proposed to abolish the grand jury entirely, though many, including the distinguished Chair of this Subcommittee, have proposed terminating the grand jury's indicting function.

Any differentiation between the grand jury's indicting and investigative functions does, however, trouble us. We see these two functions as necessarily interrelated, and separating out an indicting from an investigative function and then leaving only the latter intact would, it seems to us, ignore the Constitutional justification for the grand jury's investigative function. To indict is to investigate. How else can a grand jury determine the merits of an accusation? With the federal grand jury, there has never been an investigative rationale independent of the indictment function.

The grand jury's indicting role, to be sure, is today more form than substance. But while the fact that grand juries regularly rubber-stamp prosecutorial decisions is irrefutable, we are convinced that the enactment of reforms could revitalize the shield function. We agree with the Individual Rights Section of the American Bar Association: "While a lay body such as the grand jury is in need of competent legal advice, we see nothing to persuade us that the grand jury cannot serve important legal and civic functions as an independent citizen's body." [8]

We also agree with at least one portion of the testimony Attorney General Levi gave before this committee: the grand jury should afford our citizenry an important opportunity to participate in the criminal justice system. For this reason, too, we oppose abolishing the indicting function of the grand jury, though its current form, naturally, hardly constitutes effective participation. Merely being part of what one attorney has called "an oil painting" in the background of a prosecutorial operation is not what *we* mean by citizen participation, certainly not what the framers of the Bill of Rights had in mind when they included the grand jury in the Fifth Amendment.

Since the grand jury is part of our Bill of Rights, abolishing its indicting function creates still another problem in our eyes. Do we dare tamper with the Bill of Rights? We have already seen many of its guarantees eroded without formal amendment or repeal. For all intents and purposes, for instance, the Fifth Amendment right to silence no longer applies in the grand jury chamber, nor do other Constitutional protections. Still, formal alteration of any Bill of Rights provision means that the provision cannot be revitalized. It remains within the power of panels such as this one to begin breathing new life back into the provisions of the Bill of Rights, as long as they are enshrined in law. It would be a most serious error, with potentially dangerous consequences, for the Bill of Rights to be altered in *any* fashion.

Whatever serious consideration may be given to abolishing the indicting function of the grand jury, as a practical matter the amendment process would take years. And while the status of the grand jury's non-protective shield function is an important issue, the use of the grand jury to trample on the very liberties it was meant to protect is perhaps a more pressing one—one with implications that go to the heart of the

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survival of liberty in America. In our view, there is no process or institution in America today more potentially destructive than the unregulated, unchecked, unbalanced grand jury inquisition. With it prosecutors and often police agencies have the power to compel the appearance of any person anywhere at any time, to introduce illegal evidence, to grill witnesses about *anything* in the absence of Constitutional restraints and to jail without trial.

It must be a top priority for this Subcommittee to insure that the Congress, in a time of pervasive CIA and FBI spying, break-ins, mail covers, forgeries, Operation Chaos, COINTELPRO and God knows what else, remove the political grand jury inquisition from American life. Such inquisitions are often launched without indictments in mind. They leave defenseless citizens battered and the Constitution in shambles.

As we try to share with you our thoughts on the most pressing grand jury reforms, we start with the basic assumption that strong measures are needed to curb a very sick institution. In urging these measures, we are mindful of the need to balance considerations of individual rights and the need to prosecute criminal activity. But in "balancing" we cannot let ourselves be satisfied with procedural safeguards that can be swept aside at will. We cannot settle for prohibitions that can be easily circumvented or violated without even a proverbial slap on the prosecutorial wrist.

Despite alarmist warnings from the Department of Justice, serious grand jury reform will not unduly hamper legitimate grand jury investigations. We ask the Subcommittee to keep in mind the apt analogy Mr. Eilberg has already drawn between the Judiciary Committee's impeachment inquiry and a reformed grand jury system. The impeachment inquiry showed that the investigative/accusatory process can proceed fairly—even with rules of evidence, procedural rights, active lawyers for witnesses—and still get the job done.

### IMMUNITY

The question of immunity and the Fifth Amendment is both the most important and most widely misunderstood issue in the entire nexus of grand jury operations. While it is often maintained that immunity laws are indispensable, a permanent feature in American law and perfectly consistent with the strictures of the Fifth Amendment,[8] there is no scholarly nor practical consensus on any of these issues.

First of all, there is a long philosophical tradition that holds that the Fifth Amendment is not just a *privilege* against self-incrimination, but a *right* to silence. We agree with the four Supreme Court justices who dissented in the 1894 *Brown* decision, which upheld a federal immunity statute for the first time. They sided with the District Court, which had warned, prophetically, that if the government were given the power to coerce testimony through immunization, it—

> ". . . could probe the secrets of every conversation, or society, by extending compulsory pardon to one of its participants, and thus turn him (sic) into an involuntary informer. Did the Framers contemplate that this (Fifth Amendment) privilege of silence was exchangeable always, at the will of the government, for a remission of the participant's own penalties, upon a condition of disclosure, that would bring those to whom he had plighted his faith and loyalty within the grasp of the prosecutor? I cannot think so. . . ."[9]

This same note was struck in modern times by Justice William Douglas in his brilliant 1955 *Ullmann* dissent: "My view is that the Framers put it beyond the power of Congress to *compel* anyone to confess his (sic) crimes."[10]

We do not think that the Fifth Amendment can be balanced away, watered down or replaced with something else, whether that something be deemed coextensive or not. When we allow the state to forcibly strip witnesses of their Fifth Amendment rights, we do so at the cost of continuing peril to our freedoms.

The claim that immunity is an integral fixture of our criminal justice system can be dismissed by a single historical fact. Until 1954, there were essentially no immunity statutes in the Federal criminal code.[11] The 1954 statute, promulgated to deal with so-called "Fifth Amendment Communists," was intended, as Senator McCarran put it in the frenzied terms of the day, "to go a long way . . to help expose the Communist conspiracy in this country." The nation had survived without such federal immunity statutes before 1954, and the 1954 statute was aimed at political targets, rather than at crime, per se. This should surprise no observer of the use of immunity in the 1970's.

If forced immunity is philosophically suspect and a product of knee-jerk Cold War anti-communism, is it at least, as the Justice Department maintains, absolutely necessary? Mr. Levi certainly thinks so. Said he June 10 before this Subcommittee:[12]

> "One might wish that our society were so structured that the investigation of crime could rely solely upon the wholly voluntary cooperation of citizens. But it is not and has never been. If the grand jury is to perform its historic function of investigating crime and returning only well founded indictments, it must have available to it compulsory process and the testimony of witnesses who sometimes are themselves involved in the matters under inquiry."

No reform proposal before this Subcommittee has suggested abolishing compulsory process—subpoena power, though subpoena regulation is definitely needed. So what Mr. Levi is left with is the assertion that in order to obtain the testimony of people who may themselves be implicated in a crime, forced immunity—the power of the government to demand testimony on pain of incarceration—is necessary.

But the government already has a tremendous coercive power, the threat of indictment, and the Department of Justice has never been able to document the claim that the threat of jailing for contempt is any more potent than the threat of jailing for a crime. Moreover, in his testimony, the Attorney General continually based his arguments against reform on organized crime-related concerns. Yet he and the Department duck the most important application of the organized crime argument. If the underworld code of silence is such that the threat of conviction will not make an underling cooperate out of fear, then obviously the relatively minor coercion of contempt will add nothing. What forced immunity does is give the prosecutor a way to jail targets without bothering with due process. That is all it does, and it is wrong.

Any legitimate grand jury investigation—that is, a probe based on evidence, not a fishing expedition—can be well served by the "consensual immunity" provided for by H.R.s 11660 (an updated version of 2986) and 11870. This concept would allow the immunity exchange, non-prosecution for testimony, to be made, but *only with the consent of the witness*. In reality, consensual immunity is already used. Witnesses like John Dean in the Watergate scandal have not had to be forcibly immunized in order to get them to talk. They welcomed immunity.

The abolition of forced immunity, more than any other single reform, would reduce the fear of the grand jury process that many freedom loving Americans share, without hurting law enforcement.

If we might borrow an image from Hollywood's treatment of organized crime in *The Godfather*: though the government says it is fighting organized crime, it is the prosecutor who, using immunity, often acts like a Mafia don, making offers that people cannot refuse.

Forced vs. consensual immunity is far from the only immunity issue effective grand jury reform should address. Several other related issues emerged from the hasty passage of the Organized Crime Control Act of 1970, the enabling legislation for the Nixon grand jury war on dissent. The most notorious provision of the 1970 Act has been derivative use immunity. While we applaud criticism of use immunity and certainly support the return to transactional immunity as proposed by H.R. 1277 and other legislation now under consideration, use immunity in itself has not turned out to be the most destructive and dangerous aspect of the 1970 Act. As the Department of Justice pointed out in its memorandum, the Department has rarely attempted to prosecute witnesses given use immunity. And David Austern, representing the American Bar Association before this Subcommittee, has subsequently asserted that such efforts to prosecute have been largely unsuccessful. While the opportunity should be denied in the future, other aspects of the 1970 Act need more attention.

Mr. Fish, the distinguished ranking minority member of this panel, addressed one of the problems in his immunity legislation introduced in the last Congress. His legislation sought to return discretion to District Court judges in the signing of immunity orders, a power that was quietly removed by the 1970 Act. Even if immunity were made both consensual and transactional, further checks on the granting of immunity, to prevent the utilization of unreliable testimony and "immunity baths", are needed, especially since the frequency of immunization has ballooned since 1970. We feel that either the court or the grand jury involved should be able to halt the granting of immunity. Whether a witness should be trusted, let off the hook or, if forced immunity is to be continued, compelled to face imprisonment for noncooperation is much too important for only an unaccountable Justice Department to decide.

Prior to 1970, the number of offenses where immunity was applicable was at least somewhat limited and tied to 18 U.S.C. Ch. 119. In those serious crimes where wiretaps were deemed permissible, so were immunity grants. We urge a return to this pre-1970 situation, particularly if Congress should not enact consensual immunity. If immunity is not to be voluntary, it must be limited to serious crimes.

### CONTEMPT

Four legislative proposals before this Subcommittee, including the most recent grand jury reform bill, H.R. 14146, introduced by Subcommittee Member Ms. Holtzman of New York, would limit jailings for contempt to six months and ban reiterative contempt. These reforms, like so many others, are long overdue. The power to confine recalcitrant witnesses virtually forever encourages witch-hunting and vindictive reprisals and makes a mockery of Supreme Court stipulations that anyone facing more than six months of incarceration is entitled to a jury trial.

As written in H.R.s 1277, 6006, 2986 and 6207, however, the ban on reiterative contempt contains a serious loophole. By not specifically including criminal contempt, the language of these bills would allow prosecutors to sidestep the intent of contempt confinement reform by switching from civil to criminal contempt or vice versa. The more specific language of H.R. 14146 and H.R. 11660 would plug this inadvertent loophole.

If we are indeed serious about giving grand jurors an active role to play, then no request for a contempt hearing should be allowed unless a grand jury majority feels that a

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witness' refusal to testify was unjustified. A provision of H.R. 11660 speaks to this point.

### RIGHT TO COUNSEL

Giving witnesses the right to representation by counsel in the grand jury chamber is so necessary and just and supported so widely as to make opposition to it seem a last ditch and desperate stand. It has led the Department of Justice to offer the spurious and disingenuous argument that it opposes having counsel in the room in order to *protect* the witness from other clients of his or her attorney "who might wish that the investigation be thwarted."

As the ABA has pointed out, having counsel in the room will not increase, but rather diminish delays and certainly increase the quality of legal advice the witness gets.

Moreover, the presence of counsel can prevent the badgering of witnesses by prosecutors and spur greater grand juror independence. It has not been uncommon for prosecutors to harass witnesses when they have sought to leave the grand jury room for consultation with their counsel or to attempt to portray witnesses who want to see their attorneys as having "something to hide."

Opponents of this reform always seem to trot out the nostrum that a grand jury hearing is not an adversary proceeding. The presence of witnesses' counsel in the grand jury room would threaten procedural chaos, or so we are told. Who would decide the merits of a defense attorney's objection? Interestingly, the absence of a judge in the grand jury chamber has never been a source of worry for such skeptics as long as prosecutors have been free to manipulate and twist proceedings as they wished. Nor have clashes between witnesses and prosecutors necessitated the presence of a judge. It would be no different if counsel were present and actively participating. Then as now, unresolved conflicts over contemptuous behavior or legality of questions would be taken before the court. The difference is that the grand jury would get to hear other input—a valve in itself—and prosecutors would be more inhibited from engaging in bullying and other unethical, unconstitutional conduct.

### RECORDING GRAND JURY PROCEEDINGS

It is absolutely necessary, in order to curb prosecutorial abuses and insure fairness, that a complete record of *everything* said in the grand jury room, with the exceptions of the jury's own secret deliberations and attorney-client consultations, be kept. While simply recording the question-and-answer sessions with witnesses is a step in the right direction, if the record is to be a meaningful reflection of what actually went on inside the grand jury chamber, all interaction between the prosecutor and the jury (and the court in its original charge) must be recorded, whether a witness is present or not. There is no other way for a court effectively to oversee the operation of the grand jury and arbitrate disagreements.

The *complete* transcript will also minimize undue prosecutorial influence on the grand jury and flagrant extra-legal presentations. Perhaps more than any other measure, such a recording requirement will insure that prosecutors keep to the stated business at hand, letting the grand jury hear evidence and make its own determinations.

Making a complete record of grand jury proceedings, of course, is only one part of the transcript reform needed. Witnesses should have the right to inspect and copy their own testimony quickly and also be able to file clarifying statements for the record. Indigent witnesses should have the right to a free copy of their testimony.

We cannot leave this subject without noting the arguments against reform that the Justice Department has raised in this area. The Department suggests in its Memorandum that the keeping of a complete transcript will increase litigation. The fact is that such a measure will *decrease the need* for such litigation since prosecutorial abuse will surely diminish when prosecutors know their conduct can easily be subject to later scrutiny.

In what can only be described as sheer sophistry, the Attorney General, speaking before this Subcommittee, argued against giving a witness the right to a transcript in order, again, to *protect* witnesses. He warned that "witnesses could be pressured into obtaining transcripts so that those being investigated could see whether they can been implicated in the witness' testimony."

Once *again* the Department of Justice has resorted to the spectre of fear and set up an organized crime strawman. Any witness can keep his or her appearance before a grand jury secret and can choose any lawyer or no lawyer. Sooner or later, if the witness is to testify at trial, his or her identity will become known, and the government will have to deal with protecting him or her from reprisals. The Department of Justice would not be taken seriously if it argued that public trials should be abolished to "protect" witnesses. Its argument against the grand jury witness' right to a transcript deserves the same treatment.

In any case, we are growing increasingly weary of these Justice Department attempts to obfuscate serious grand jury problems with far-fatched organized crime scenarios. Our liberties cannot survive the constant onslaught being perpetrated against them in the name of fighting crime. It is clear to us that the Organized Crime Control Act of 1970 did more to organize crime in the White House than it ever did to fight the mob.

### PROCEDURAL PROTECTIONS, EVIDENTIARY AND RELEVANCY RULES

Opposition to the guaranteeing of procedural, evidentiary and relevancy rules in the grand jury process all rests on the same basic premise: that insuring fair play will hamper effective and efficient prosecution. In a sense such arguments by the Department of Justice and others are irrefutable. Enforcing the law while respecting fundamental human rights is simply not as efficient as, let's say, the good old rack and screw. The Spanish Inquisition would never have gotten off the ground if Torquemada had been forced to respect human dignity. Certainly, in this sense, the First, Fourth, Fifth and Sixth Amendments to the Constitution are "inefficient". All they contribute to the criminal justice system is justice.

The Attorney General, in his June 10 testimony, also struck another alarming note that has become familiar to us—namely that rights are perfectly okay as long as they are not exercised. Arguing against warning grand jury witnesses of their Fifth Amendment rights, Levi reasoned that such warnings would encourage more witnesses to refuse to give self-incriminating testimony and thus discourage the production of evidence. Mr. Levi does not directly challenge the Fifth Amendment right of grand jury witnesses, only their right to know about it. For the Attorney General, a little knowledge is a very dangerous thing. After all, if people understand their rights, they might take the grossly inefficient step of actually exercising them!

Grand jury procedural safeguards are also opposed on the grounds that since the grand jury is not a "critical stage" in the criminal justice process, rights and procedures are not important. But the Framers saw the grand jury as critical, in a *protective* sense, and the abuses that have come to light in recent years should make it clear that witnesses in the grand jury face dangers as potentially debilitating as any in the criminal justice process. Ironically, the very safeguards the courts have injected in other stages of the criminal justice process have led to increased activity and abuse in the unregulated realm of the grand jury, which has, thanks to judicial blindness, remained a prosecutorial enclave from extensions of due process.

One justification for this judicial neglect that some have advanced is the doctrine that the grand jury has the right to every person's evidence. This proposition has been elevated into an inalterable rule, with scant understanding of its origins. This right-to-every-person's-evidence bromide was never meant to exist in a void. It presupposes an independent grand jury, working to serve the community at large, not the government. Equally important, the "evidence" referred to is evidence for legitimate criminal inquiries. It was assumed that the grand jury would only seek such evidence as it served its protective function. But today the grand jury is not independent, and the prosecutor who dominates it is not bound by any evidentiary restraints. In such a setting, mechanical assertions of the right-to-every-person's-evidence doctrine invite prosecutorial overreaching. We cannot allow the government to transmogrify the grand jury's right to every person's evidence into the prosecutor's right to invade every person's privacy.

One final point before we enumerate some of the key procedural and evidentiary reforms we feel are necessary: if the Congress is to feed certain rules, procedures and rights into the grand jury process, then *teeth* must be provided to insure that these rights are swallowed. To require that a subpoena inform witnesses of their various rights and whether they are targets of an investigation is all well and good. But unless failure to do so carries with it a provision that any testimony subsequently obtained cannot be used, the subpoena notification reform is virtually meaningless.

ABA standards for prosecutorial conduct already contain, we should remember, many of the procedural changes envisioned in the reform legislation. The standards hold that prosecutors should present all exculpatory evidence in their possession, not call witnesses who have announced their intention to claim the Fifth Amendment unless an immunity order is contemplated, inform witnesses of their Fifth Amendment rights and have their "communications and presentations to the grand jury" recorded. While we are sure that many prosecutors attempt to follow these guidelines, they are nonetheless violated with impunity. Just writing such safeguards into law, without appropriate accompanying sanctions for failure to comply, will not alter the basic grand jury equation.

### SUBPENAS AND THE SCOPE OF QUESTIONING

The grand jury subpoena power is awesome and unique. The Congress has never granted similar pre-trial compulsory process authority to prosecutors or to the national police, the FBI. But it is clear that federal prosecutors today, because of the grand jury, enjoy a virtually unabridged power to subpoena anyone or any materials, to anywhere, with no notice and for any reason they deem appropriate. In fact, cases have been reported where subpoenas were issued in the absence of a sitting grand jury and made returnable directly to the prosecutor.

Even more disturbing has been the FBI manipulation of the grand jury subpoena power. Americans still enjoy the essential right not to answer questions put to them by federal agents, but those individuals who exercise this right often find themselves called to grand juries, sometimes with subpoenas filled in on the spot by the FBI agent. Out of this access to grand jury's subpoena authority comes the dangerous power to probe into any matter, any association and, increasingly, behind any privilege. We have noted an incredible proliferation of subpoenas challenging the attorney-client privilege, for instance, over the last two years.

Many reforms are necessary to regulate these subpoena abuses and the improper questioning they encourage. First, no subpoena should be issued unless upon an affirmative majority vote of a grand jury, and every subpoena must be returnable to this same grand jury, not the prosecutor's office. Every witness forced to appear before a grand jury should be granted adequate time to obtain counsel, review materials and arrange his or her life to minimize any disruptions the appearance might cause.

Every subpoena must notify prospective witnesses of their right to counsel and the Fifth Amendment, as well as state the subject matter of the investigation, the criminal statutes involved and whether the witness is a target. Motions to quash subpoenas should be permissible in a district where the subpoena is served, where it is returnable or where the witness lives. A witness should not be required to testify if the court finds that the subpoena is aimed at getting information for trial against a person already indicted, the purpose of the subpoena is punitive or the appearance would impose an unreasonable burden on the witness. These determinations should be made in an evidentiary hearing.

Once inside the grand jury chamber, no witness should be threatened with a contempt confinement for refusing to answer improper questions, not only questions derived from illegal electronic surveillance, but also those based on any unlawful act or in violation of any of a witness' Constitutional or statutory rights. Such a provision would neutralize the 1974 *Calandra* decision, which allowed the fruits of illegal search and seizures to be admitted into evidence before the grand jury, and prevent the sweeping and chilling intrusions into a witness' personal and political life exemplified by this notorious 1970 question put to a witness before a Tucson, Arizona, federal grand jury: [13]

"I want you to tell the Grand Jury what period of time during the years 1969 and 1970 you resided at 2201 Ocean Front Walk, Venice (Los Angeles), who resided there at the time you lived at that address, and tell the Grand Jury all of the conversations that were held by you or others in your presence during the time you were at that address."

Establishing such standards for subpoena and questioning relevancy would help shield citizens from prosecutorial misconduct in the grand jury chamber. Combining these standards with a requirement that indictments be dismissed if the prosecutor has withheld exculpatory evidence or built a case on legally insufficient evidence would not make for endless delays, but rather for closer judicial oversight and legitimate Constitutional constraints. Judges will retain both the responsibility and the power to weed out frivolous complaints.

### GRAND JUROR INDEPENDENCE

The institution of the grand jury is supposed to be, in its essence, a procedural safeguard for an accused. The grand jury the Framers wrote into the Bill of Rights was intended to *watchdog* prosecutors. Unfortunately, grand jurors now seldom do more than silently *watch* prosecutors. They will not be able to fulfill their Constitutional role until we take positive steps to decrease prosecutorial domination of the grand jury process.

As an initial step, every grand jury needs a *strong* written charge from the court, detailing the grand jury's various powers and historical responsibilities. Indictments returned from a grand jury not so charged should be dismissed, since the grand jury had not been told how to do its job, and the defendant was thus denied the right to a grand jury buffer.

Another serious limitation on grand juror independence is the prosecutorial ability to sidestep grand juries that begin to assert their institutional integrity—perhaps by asking questions or calling witnesses a prosecutor would rather not present—by switching grand juries or ignoring a no-bill and taking the case to another grand jury. No one will be able to speak confidently about the grand jury shield until the passage of a provision banning subsequent grand jury inquiries once an initial grand jury has failed to return an indictment (pending, of course, a showing by the government that additional relevant evidence has been discovered).

No institution can retain its integrity if its prerogatives are routinely exercised without its consent. If we are to restore grand jury independence, grand juries should vote on each and every subpoena issued, each and every immunity order and each and every request for a contempt hearing. After all, we are dealing with *grand jury* subpoenas, immunity from a *grand jury* indictment and contempt of the *grand jury*.

Connected, naturally, to the issue of grand jury independence from prosecutorial domination is the concept of independent grand jury inquiry, the power of the grand jury to utilize court-appointed counsel and engage in investigations independently of the Department of Justice. Several observations immediately come to mind on this subject.

1. No mechanism for independent grand jury inquiry should be implemented until many other procedural and Constitutional rights are guaranteed throughout the grand jury system. The runaway grand jury indictments of civil rights workers in the South over a decade ago illustrate that it is not only prosecutors who can abuse the grand jury process and violate individual rights.

2. The right of independent inquiry should be limited to situations in which criminal activity by government officials is to be investigated, a limitation that corresponds to the historical heritage of the grand jury as the people's shield against government. Protecting citizens from the government may sometimes mean protecting them from official attempts to conceal government corruption and misconduct. If there is any realm where we can expect the greatest laxity in investigation and prosecution, it is where we rely on the government to police itself.

3. Still, the existing prosecutorial apparatus should first be given the opportunity to function. Before a grand jury is allowed to enlist court-appointed counsel, the grand jury should first attempt to work with the U.S. Attorney with normal jurisdiction. Only if she or he refuses to assist or hinders an inquiry should the procurement of other counsel be permitted.

4. A grand jury cannot inquire independently until it has a matter warranting inquiry. It is not likely, except in situations where a prosecutor has fumbled an attempt to cover up corruption or in matters of tremendous notoriety, that grand jurors themselves will discover government criminal activity that needs investigating. Average citizens, then, with charges of official malfeasance to make, should not be blocked from the grand jury chamber. For the sake of efficiency, we have no objections to allowing U.S. Attorney's offices to screen such requests to appear before the grand jury, provided adequate records of the screening process are kept. Grand jurors are entitled to explanations when would-be witnesses are turned away.

### CONCLUSION

Certainly none of the bills currently under consideration by this Subcommittee solve all the problems of the grand jury system, nor could they. Such matters as transcripts for defendants, permitting counsel for an already arrested defendant to participate in the grand jury, democratizing jury selection, job security for grand jurors (two lost their jobs during the Watergate case) and grand juror fees all will require additional attention, even with the passage of an historic "comprehensive" grand jury reform bill.

What sort of reform package deserves the description "comprehensive"? That is an important question. We know that the chairman and members of this panel are sincere in their opposition to grand jury inquisitions. We know also that not every change we have proposed today will be adopted by this Subcommittee or by the Congress. We understand that Congresspeople do not live in an ideal world, but rather in a world of practicality, of competing pressures and of compromise.

Though we appreciate all of this, we would like to leave you with what we feel is a telling little story. Last November 10 the *New Leader* magazine devoted an entire issue to an article by Federal Judge Marvin E. Frankel and a young former prosecutor named Gary P. Naftalis. The article, "The Grand Jury: an Institution on Trial", was thoughtful and not insensitive to the problems of grand jury abuse.

In the final pages of the piece, the authors suggested a dozen reforms from the right to counsel in the grand jury chamber to informing subpoenaed witnesses whether they are the targets of the investigation. The laundry list of reforms was impressive, but deeply flawed, as a colleague of mine from the Coalition noted in a subsequent letter to the *New Leader*. Nothing that Judge Frankel and Mr. Naftalis proposed would actually prevent any new additions to the modern string of political grand jury inquisitions that began with Nixon's Internal Security Division grand jury witchhunts in 1970 and have continued, with time out for Watergate, until the present day.

What then is "comprehensive" reform? Reform that makes no compromise with the use of the grand jury to mutilate American liberties. The mark-up and passage of anything less than a legislative package that makes the grand jury star chamber inquisition no more than a bad memory may in the short run create the illusion of progress, but the deeper cancer will continue to spread. Those of us who cherish "the people's panel", yet fear its perverted presence in our midst, will not rest until that cancer is compeletly excised.

### FOOTNOTES

[1] *U.S.* v. *Cox*, 342 F2d 167 at 186 (5th Cir. 1965).

[2] *Abuse of Power*, Report of the New York State Assembly Codes Committee: Albany, N.Y., 1976. p. 76.

[3] *Ibid.*, p. 2.

[4] Prof. Charles Ruff, "Remarks at the Judicial Conference of the District of Columbia Circuit," Washington, D.C., June 2, 1975.

[5] "How to Get Your Man," *Newsweek*, December 1, 1975.

[6] W. Vincent Rakestraw, Letter to Hon. Peter W. Rodino, Jr., September 10, 1974.

[7] *Abuse of Power*, op. cit., p. 43.

[8] Report of the American Bar Association House of Delegates from the Section of Individual Rights and Responsibilities, August 1975, p. 6.

[9] *U.S.* v. *James*, 60F.257 at 264

[10] *Ullman* v. *U.S.*, 350 U.S. 422 at 445 (1955).

[11] Before 1954 immunity was a regulatory phenomenon. There was a general immunity act applicable to judicial proceedings passed in 1868, but this was practically never invoked and later made meaningless by the Supreme Court's 1892 decision in *Counselman* v. *Hitchcock*, 142 U.S. 565. On immunity history, see especially Comment, "The Federal Witness Immunity Acts in Theory and

Practice: Treading the Constitutional Tightrope," 72 *Yale Law Journal* 1568 (1963).

[12] Statement of Hon. Edward H. Levi, Attorney General of the United States, before the House Judiciary Committee Subcommittee on Immigration, Citizenship and International Law on Grand Jury Reform, June 10, 1976, p. 12.

[13] Question asked by Guy Goodwin of the Internal Security Division of the U.S. Department of Justice, quoted by the Hon. John Conyers in *Congressioonal Record*, February 6, 1975.

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## QUESTIONING THE GROWTH OF THE ENERGY CONGLOMERATES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, one of the more controversial issues now before this Congress is the proposed breakup of this country's major oil companies. Particularly controversial is Senate bill 2387, which if enacted into law would split the integrated oil companies into separate producing, transporting, refining, and marketing segments.

The oil conglomerates have grown large in two directions, only one of which this bill addresses: S. 2387 would break up the "vertical integration" of oil companies, which is to say the control by a given company of all the stages of production and marketing from drilling for crude oil to retailing the final products, but it would do nothing to thwart the increasing "horizontal integration" of oil companies, which is the entry by these companies into other nonpetroleum areas of energy production, thereby potentially foreclosing other companies from these rival energy sources.

### HORIZONTAL DIVESTITURE

There is no doubt that this country's oil companies have accumulated a great deal of economic and political power, but the question of vertical divestiture is complex, and the argument that they must be reorganized in the manner called for by S. 2387 is an involved one. The case for horizontal divestiture, on the other hand, is much simpler and, I believe, more urgent. The growing dominance of the oil companies in the energy industry may have more serious implications for the consumers of this country than does the vertical growth of the oil companies within their own industry. Regardless of one's views on the concentration of the oil and gas industry, one should agree that the concentration of the energy industry as a whole must be avoided; otherwise Americans may one day be at the mercy of a few all-encompassing energy monoliths, like something out of Orwell's "1984." With the new search for energy alternatives to our rapidly diminishing oil reserves, big energy is replacing big oil as the problem to be reckoned with by the American public and the Congress.

Some of the facts in this area are disturbing to me, and I think also to others. For the last 10 years there has been a trend toward concentration of ownership in our energy industry, which includes not only oil and natural gas companies, but also coal, nuclear power, and solar energy companies. All told, the oil industry produces over 20 percent of our country's coal, owns 55 percent of our total uranium reserves—uranium is crucial to nuclear energy—and holds the leases for nearly all the oil shale and geothermal land that has been put up for bid. If this sort of horizontal integration is not limited, it will be the consumers of this country who will have to pay the price for the resulting inefficiencies and monopolistic distortions.

Testimony given last year during the hearings on the Interfuel Competition Act of 1975 pointed out that when an oil company owns a competing source of energy, such as a coal company, it is less likely to foster the use of coal as a competing source of energy than an independently owned coal company would. This is because the development of cheap, alternate sources of energy would reduce the market demand for oil and gas, lower the price, and thereby threaten the profits of the industry.

Even though the oil companies are now engaged in the research and development of solar, nuclear, and geothermal power as well as coal, there is no guarantee that the oil companies have a genuine incentive to market the fruits of their inventiveness. If an oil company discovers a new method of harnessing solar power, it may patent the invention, but it has less incentive to develop and market the new process than does an independent company, because the oil company has a tremendous stake and investment in oil production, refining, and marketing.

The following is a portion of the testimony given before the Senate Subcommittee on Antitrust and Monopoly by Peter Max, vice president of the National Economic Research Associates, Inc.:

> In short, the oil companies, themselves, portraying their activities as efforts at diversification, are, in fact, systematically acquiring their competition: As an economist, these developments are a matter of serious concern to me. How can the public be sure, for example, that the emergence of the synthetic fuels industries will occur at the pace which economic circumstances would, under free market forces, dictate?
>
> It could well be that the self-interest of certain companies with dominant positions, if not of the industry as a whole, would call for delaying the inauguration of a synthetic fuels industry in order to protect existing investments in crude and natural gas.

The oil companies say they have the capital to invest in new energy processes and should be allowed to continue. However, when it comes to programs like converting oil shale to gasoline, the oil companies ask the Government to provide the necessary capital or to guarantee their investment. Furthermore, one might ask why the Nation should emphasize changing coal into gasoline instead of developing environmentally clean processes to burn coal instead of fuel oil in powerplants, thus freeing our available oil for refining into gasoline and other products with no cheap substitute.

A balanced policy of energy development requires that many companies with competing interests work on the problem of new energy resources. If we continue to allow oil companies to expand into other energy fields, I believe they should be limited in the number of competing energy fields they may enter, being asked to choose coal, nuclear, geothermal, or solar development as an adjunct to their oil business. As can be seen from the chart I am attaching, the 25 largest oil companies already have extensive interests in these competing fields.

### VERTICAL DIVESTITURE

I have placed a greater emphasis today on the danger posed by horizontal integration, but this certainly does not mean that the problem of vertical integration is unworthy of our attention. I have not yet been convinced by either side in this controversy, but I will listen to the arguments, if this proposal reaches the floor, and decide then how I should vote. In the meantime, there are two points that I feel should be mentioned.

First, the big oil companies claim that control of all the stages of production and marketing allow them to produce fuel more efficiently and, therefore, to sell it at a lower cost to consumers, but there are serious charges that the vertically integrated companies are using their huge size and their control over production and distribution to manipulate and even eliminate independent competition with "Big Oil's" own retail outlets, all of which results in higher costs to the consumer. In a recent letter to Federal Energy Administrator Frank Zarb, the Greater Washington/Maryland Service Station Association, representing independent gasoline retailers, complained of the crushing price war currently being waged by the major oil companies:

> As you are well aware, producers, refiners, and distributors all use their advantageous wholesale prices to compete directly in the retail market against the retail dealers they also supply. The result can be seen in Hagerstown, Maryland where a Shell distributor was selling at retail for 51.9¢ while selling to dealers at 53.25¢ plus 2¢ per gallon rent. . . .
>
> As of now we have no prospects of relief as our dealers fall into bankruptcy. The oil companies have used discriminatory pricing in company-stations and to distributors (who have their own retail outlets) to force dealers to give up their legitimate profits and then have raised their wholesale price to grab off this profit.

A further complaint the association has voiced is that the major oil companies have circumvented price controls on gasoline in their relentless pursuit of greater profits by raising the rents charged independent dealers. In one way or another, this added burden eventually falls on consumers.

It is particularly disturbing to note that the big oil companies are perfectly frank among themselves about their policies to manipulate the market. The energy industry's own newspaper, the Oil Daily on September 17 reported the following remarks from a talk given by M. B. "Tiny" Holdgraf, a former Shell Oil marketing vice president, for the National Association of Texaco Consignees in Chicago:

> In addition to reasserting control over the domestic crude supply and and associated investment opportunities, he [Holdgraf] said the 'bigs' will make basic changes in market-

> ing strategy. Among other things, he said they must:
>
> Continue reducing the number of branded outlets through strict decontrol evaluation of unit profitability.
>
> Force increased throughput per unit.
>
> Eliminate branded jobber operations in metropolitan areas.
>
> Expand vigorous unbranded subsidiaries, 'thus gaining a capability to discipline the marketplace in an unprecedented fashion.'
>
> Reduce the supply of gasoline to unbranded or independent marketers, either directly or indirectly, to reduce the number of their outlets.
>
> Eliminate commission operations in smaller cities and rural areas in favor of conventional jobber-type operation, thus affecting drastic cuts in cost and freeing capital dollars.

Despite the unabashed discussion of market manipulation evident in this talk, the major oil companies continue to respond to divestiture proponents with pious proclamations about the small share of the gasoline market enjoyed by any one company. I have attached a letter to the editor of the Washington Post from Mr. T. J. Oden, general counsel of the Independent Gasoline Marketers Council, which I think effectively impeaches these proclamations.

The second point that I think should be made is that automobile users want more than just a low price for gasoline; they want and need all the services traditionally associated with the "corner gas station." Regrettably, in their search for increased profit margins, the "bigs" have decided that the concept of "service" is outmoded, or more likely unprofitable. To further quote from the Oil Daily's report of Mr. Holdgraf's talk,

> Three major changes in the behavior of consumers stand in the way [of a return to 'normalcy' in the marketplace]. They no longer have any confidence in brand identification, they've made price their dominant consideration in buying, and they finally have become convinced that the 'service' in most service stations is illusory or nonexistent.

I believe we must pay attention to those who argue that by breaking the grip of the major oil companies on the retail market we can promote competition among independent, privately owned service stations that will result in a revived atmosphere of serving the needs and wishes of the consumer. This is the goal that the energy conglomerates appear to have deserted.

### ATTACKING THE ENERGY PROBLEM IN AMERICA

Although many people have been lulled into thinking that the energy crisis is over, it is, in fact, getting more serious, and America may suddenly find itself in a very exposed position. Two years have passed since the Arab oil embargo, yet we are now more dependent than ever on OPEC. In 1970, oil imports were valued at $3 billion. In 1975, after a 500 percent increase in the price of oil, the cost had soared to $27 billion. The OPEC cartel, which provided 48 percent of all oil imports in 1973, accounted for 59 percent in 1975; and that figure is rising. With this increasing American reliance on Arab oil in mind, I was very distressed, as I am sure many Members were, to read in Monday morning's paper of the threatened renewal of the oil embargo, if the Congress passes legislation to prohibit American participation in the unconscionable Arab boycott of Israel.

Never in its history has the United States allowed itself to fall into a position where it is vulnerable to this kind of blackmail. As a country we must learn to conserve our energy and to promote the development of more efficient ways of producing energy domestically; yet at the same time, the consumers of this Nation have a right to expect that their legitimate energy requirements will be satisfied as inexpensively and as conveniently as possible. I believe that neither of these pressing goals will be served by allowing our energy policy to be dictated by "big oil" or the Arab nations.

I am appending a chart showing the range of energy interests held by the major oil companies, as well as a letter that recently appeared in the Washington Post which I mentioned in my statement:

> OIL DIVESTITURE: QUESTIONABLE OPPOSITION
>
> To the Editor:
>
> W. T. Slick Jr., a senior vice president of the Exxon Corporation, in his Aug. 27 Op-Ed article, argues forcibly that the facts do not warrant or support present Congressional efforts at divestiture of the oil industry.
>
> In support of his position, Mr. Slick states that critics of the industry "profess to see something sinister in the existence of integration" and then proceeds to support his arguments by using industry statistics indicating the large number of competitors at each functional level (i.e., production, refining, transportation and marketing).
>
> After stating the obviously vested interest position of Exxon as objective reasons for opposition to oil industry restructuring, Mr. Slick attempts to support his case by stating that "more than 300,000 retail outlets offer motor gasoline—over 90 percent of them operated by individual proprietors who are independent, self-employed businessmen." He further states in support of opposition of divestiture that "retail gasoline sales by the smaller or private brand chains have risen from around 20 percent of total U.S. sales in 1968 to almost 30 percent today." Mr. Slick is a high-ranking employee of the world's largest oil company, and it troubles me to find him so misinformed—further indication, I believe, of why a large number of citizens find it difficult to believe big oil.
>
> By law the Federal Energy Administration is required to report monthly to Congress on the market share of various parts of our domestic oil industry. The most recent monthly report, for May 1975, prepared by the F.E.A. shows that rather than 300,000 retail outlets there are fewer than 200,000 (199,800, to be exact) and that rather than an absurd 30 percent of total U.S. sales, private-brand marketers have less than 10 percent of total U.S. gallonage (9.9 to be exact).
>
> I would suggest to Mr. Slick that errors such as those contained in his article prompt critics of the industry to develop the "sinister" attitude he referred to in his article.
>
> T. J. ODEN,
> *General Counsel, Independent*
> *Gasoline Marketers Council.*
>
> Washington, Aug. 27, 1976.

THE 25 LARGEST PETROLEUM COMPANIES, RANKED BY ASSETS—1974

| Petroleum company | 1974 assets (millions) (1) | Rank in assets (2) | Energy industry<br>Gas (3) | Oil shale (4) | Coal (5) | Uranium (6) | Tar sands (7) | Geothermal (8) | Solar (9) |
|---|---|---|---|---|---|---|---|---|---|
| Exxon | $31, 332. 4 | 1 | × | × | × | × | × | × | × |
| Texaco | 17, 176. 1 | 2 | × | × | × | × | -------- | × | × |
| Mobil Oil | 14, 074. 3 | 3 | × | × | -------- | × | -------- | × | × |
| Gulf Oil | 12, 503. 0 | 4 | × | × | × | × | × | -------- | × |
| Standard Oil of California | 11, 640. 0 | 5 | × | × | × | × | × | × | |
| Standard Oil (Indiana) | 8, 915. 2 | 6 | × | × | × | × | × | -------- | |
| Tenneco | 6, 401. 6 | 7 | × | -------- | -------- | × | -------- | × | |
| Atlantic Richfield | 6, 151. 6 | 8 | × | × | × | × | × | × | |
| Shell Oil | 6, 128. 9 | 9 | × | × | × | × | × | × | × |
| Continental Oil | 4, 673. 4 | 10 | × | × | × | × | -------- | × | |
| Sun Oil | 4, 043. 3 | 11 | × | × | × | × | × | × | |
| Phillips Petroleum | 4, 028. 1 | 12 | × | × | × | × | × | × | |
| Union Oil of California | 3, 458. 6 | 13 | × | × | -------- | × | -------- | × | |
| Occidental Petroleum | 3, 325. 5 | 14 | × | × | × | × | -------- | × | |
| Getty Oil | 3, 003. 6 | 15 | × | × | -------- | × | -------- | × | |
| Cities Service | 2, 897. 9 | 16 | × | × | -------- | × | × | -------- | |
| Standard Oil (Ohio) | 2, 621. 5 | 17 | × | × | × | × | -------- | -------- | |
| Amerada Hess | 2, 255. 3 | 18 | × | -------- | -------- | × | -------- | -------- | |
| Marathon Oil | 1, 799. 9 | 19 | × | × | -------- | × | -------- | -------- | |
| Pennzoil | 1, 797. 9 | 20 | × | -------- | -------- | × | -------- | -------- | |
| Ashland Oil | 1, 715. 8 | 21 | × | × | × | × | -------- | -------- | |
| Coastal States Gas | 1, 696. 9 | 22 | × | -------- | × | -------- | -------- | -------- | |
| Signal Companies | 1, 532. 9 | 23 | × | -------- | -------- | -------- | -------- | -------- | |
| Kerr-McGee | 1, 164. 4 | 24 | × | × | × | × | -------- | -------- | |
| Murphy Oil | 1, 041. 6 | 25 | × | -------- | -------- | -------- | -------- | -------- | |

Source: Senate Subcommittee on Antitrust and Monopoly hearings on interfuel competition; McGraw Hill, Inc., "1974 Keystone Coal Industry Manual; Geothermal World Dictionary, 1975–76;" Federal Trade Commission; and Center for Science in the Public Interest.

Note: Data on solar energy are incomplete.

## MORE ON THE MICROWAVE RADIATION DIRECTED AT THE U.S. EMBASSY IN MOSCOW

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to call the Members' attention to my RECORD statement of August 2 (page 25087) which discussed the microwave situation affecting our Embassy in Moscow. It is my position that for the Russians to bombard our Embassy employees with microwaves is unacceptable and must be stopped.

I circulated my statement and that of the U.S. Department of State to three experts in the field of microwave radiation and, regrettably, I have to date received only one response, which was from Mr. Russell Carpenter, research biologist for HEW's Bureau of Radiological Health. Mr. Carpenter said in his response that he had not been provided with sufficient evidence to form an "intelligent" opinion. However, in reference to the State Department's response, he said that he had heard, without scientific confirmation, that the power level of microwave radiation inside the American Embassy had been measured at 2 microwatts per centimeter. In light of present knowledge, he considered this amount, if corroborated, "to be too little to warrant concern." In further reference to a paragraph in the State Department's letter stating that the "radiation levels are currently a mere fraction of a microwatt," Mr. Carpenter wrote:

> If these levels are valid, I cannot become excited about a radiation energy level so far below our safety standard.

The accepted occupational safety standard for exposure to radiation in the United States is 10 microwatts per square centimeter.

HEW's letter does support the State Department assertions that the microwave radiation in the American Embassy in Moscow is not deleterious to the health of U.S. employees, and in all fairness I want to bring it to the attention of those following this issue. As for myself, I would prefer not to be the subject of microwave radiation, I do not think it is necessarily healthy, and I hope that the U.S. State Department will continue its efforts to get the U.S.S.R. to end its microwave transmissions directed against the U.S. Embassy in Moscow.

My correspondence follows:

HOUSE OF REPRESENTATIVES,
*Washington, D.C., September 9, 1976.*
Dr. RUSSELL L. CARPENTER,
*Bureau of Radiological Health, Northeastern Radiological Health Laboratory, Winchester, Mass.*

DEAR DR. CARPENTER: Enclosed is a recent statement which I made in the House of Representatives concerning microwave radiation at the American Embassy in Moscow and a copy of the State Department's reaction.

The Library of Congress' Congressional Research Service has indicated to my office that you are a noted expert in the field of microwave radiation and its effects.

I plan to respond to the State Department in the near future and would appreciate any assistance you can offer. I would be particularly interested in any information that you may have concerning effects from exposure to continuous low level exposure to microwave transmissions.

Please direct your response to my New York office.

All the best.
Sincerely,
EDWARD I. KOCH.

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DEPARTMENT OF STATE,
*Washington, D.C., September 3, 1976.*
Hon. EDWARD I. KOCH,
*House of Representatives.*

DEAR MR. KOCH: The Secretary has asked me to reply to your letter of August 3 concerning the microwave radiation at the American Embassy in Moscow and to respond in his behalf.

We noted your August 2 statement on the floor of the House and I can assure you that in discussing this issue at the highest levels with the Soviets, the Department of State has considered all appropriate options. There are, however, a series of points raised in your statement which I believe should be corrected for the record.

You have said that "the State Department does not care enough about its staff, about the health of its employees, to call for an immediate halt of such radiation." That is totally unjustified and raises questions about many of the other points you made. The Department has, indeed, called for "an immediate halt of such radiation" and on July 7 the Department's spokesman clearly stated that in our discussion with the Soviets our primary objective has been and continues to be the termination of these transmissions.

You have also referred to legislation which you have introduced dealing with excessive x-ray exposure. In light of your familiarity with this subject, I am sure you realize that the microwave transmissions over which we have been concerned are forms of non-ionizing radiation. X-rays, on the other hand, are ionizing radiation; the potentially damaging effects of which are well known and have been documented in the scientific and medical literature. I believe an implicit comparison between these two markedly different forms of radiation is extremely misleading.

In addition, you quoted from a March 22 article in Time magazine which in referring to the deaths of Ambassadors Thompson and Bohlen and other illnesses reportedly experienced by employees in Moscow, states quite clearly that "no medical authorities attribute these deaths or illness to radiation." I do not believe that your subsequent statement to the effect that "the sickness may not have been due to exposure to radiation, but they may have also", can be deduced from the article itself or from any evidence known to the Department. You have also referred to the case of two dependent children who were returned to the U. S. for medical examination. As the Department has said publicly, we have been conducting blood tests on employees and dependents in Moscow since February of this year and the results of these tests have naturally been provided to the employees concerned. In the course of these tests, we discovered abnormal characteristics in two cases which our medical authorities determined should be examined more closely by specialists in the United States. In neither case were the symptoms detected related to the Soviet microwave transmissions. One of the children has subsequently returned to Moscow and the other has remained in the United States for further tests and observations.

I also find extremely disturbing an implication which runs throughout the text of your August 2 statement to the effect that the Department of State has made no effort to inform affected employees of the nature of the transmissions to which some of them are exposed or of what is known regarding the potential effects, if any, of such exposure. In that context I would remind you that the entire Embassy staff was briefed on February 6 of this year on the history and technical characteristics of the signals. This briefing was conducted on the basis of a highly detailed, classified fact sheet which employees and their adult dependents in Moscow read and then posed any questions they might have. In addition, the Department of State has briefed employees with prior or anticipated Moscow service at more than 100 Foreign Service posts abroad.

The Department also established a series of bimonthly briefings attended by representatives of the Bureau of Personnel, the Office of the Director of Medical Services and the Office of Soviet Affairs for employees now serving in Washington with prior or anticipated Moscow service. As a result of this process the Department has thoroughly briefed almost 500 employees. You will also be interested to know that to date approximately 400 interested employees have been supplied with an updated, revised, administratively controlled fact sheet which discusses in detail the history and technical characteristics of these transmissions.

Employees are, however, reminded that this document is "administratively controlled" and is not to be shown to or discussed with non-official Americans, third country nationals or other unaffected personnel. It is designed exclusively for their personal use with private family physicians or in related medical consultations. You should also know that the Department is supplying interested employees with detailed estimates regarding levels to which individual employees and/or their dependents may have been exposed, if at all, in the course of their Moscow tours. I would also advise you that the Department is in the process of contacting retired employees who have served at one time or another in Moscow to inform them of the contract the Department of State has signed with Johns Hopkins University for a thorough biostatistical survey and evaluation of the medical records and case histories of all U.S. Government employees who have served in Moscow in the past or who are serving there now. Naturally, the results of this survey/evaluation will be made available to all U.S. Government employees with current or prior Moscow service.

I would also like to advise you that since 1962/1963 the signals have never been more than a mere fraction of the U.S. occupational safety standard. In mid-1975, however, the characteristics of the signals changed and in response the Department of State sent teams to Moscow to reexamine the signal characteristics and the areas of the Embassy possibly exposed to the transmissions. It was shortly after that analysis was completed that the Department decided to brief the entire staff and initiate the briefing procedures described above.

As we have indicated to the Congress, the press and affected employees, the experts with whom the Department has consulted have concluded that there is no cause for concern regarding health hazards from current radiation levels at our Embassy in Moscow. These levels, as we have stated, are currently a mere fraction of a microwatt. Furthermore, they have determined there is no evidence of any causal relationship between these microwave transmissions and any health problem experienced by those at the embassy now or those who served there in the past. The health and well being of our employees is an issue of paramount concern: a concern I think is reflected in the contract signed with Johns Hopkins. This effort represents an attempt on the part of the Department of State to put to another test the findings and conclusions of our expert medical consultants by examining in detail and as comprehensively as possible questions which employees have raised regarding the possible biomedical effects of the Soviet transmissions.

I would only add that the Department of State has briefed the Senate Foreign Relations Committee in Executive Session twice on this issue and has supplied the House Committee on Government Operations with a full description of the way in which the Department has handled and continues to handle this issue with affected employees in response to their concerns.

Lastly, our discussions with the Soviets will continue and the Department of State remains committed to the goal of effecting the termination of these transmissions.

Sincerely,

ROBERT J. MCCLOSKEY,
*Assistant Secretary for Congressional Relations.*

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DEPARTMENT OF HEALTH,
EDUCATION AND WELFARE,
*September 27, 1976.*

Hon. EDWARD I. KOCH,
*Representative, U.S. Congress, Room 2139,*
*26 Federal Plaza, New York, N.Y.*

DEAR CONGRESSMAN KOCH: I have read with great interest the material accompanying your letter of September 9; namely, your remarks on the floor of the House concern-microwave radiation at the U.S. Embassy in Moscow and comments made in a letter to you from Mr. McCloskey of the Department of State. I gather that you would like from me any scientific information I may have that is pertinent to the subject and would appreciate comments of a frank and honest nature.

My first reaction to both documents, undoubtedly reflecting my training and inclinations as a research scientist, is that they contain much sound and little substance. A scientist does not feel capable of coming to grips with a subject without adequate facts and quantitative data on which to base a judgment. In the present instance, I find insufficient evidence for forming an intelligent opinion. I had heard, but without scientific confirmation, that the power level of microwave radiation inside the American Embassy had been measured as 2 microwatts per square centimeter. In the light of our present knowledge, I considered this, if corroborated, to be too little to warrant concern.

It seems to me that in any consideration of microwave radiation as a possible health hazard, certain facts must be kept in mind. They are:

1. A biological effect can occur only when microwaves penetrate tissue and are absorbed.

2. Depth of penetration into tissues depends largely on the frequency. As frequency increases, the wavelength decreases and so does the depth of penetration, so that at 20,000 to 30,000 Megahertz (Megahertz equals one million cycles per second), the energy is absorbed largely by the skin. Between 1000 and 3000 MHz, absorption may occur in both superficial and deeper tissues. Below 1000 MHz, the radiation penetrates to the deep tissues and is absorbed by them. The human body seems to be transparent to frequencies below 150 MHz.

3. The frequency and photon energy of an electromagnetic wave are inversely proportional to its wavelength. Microwaves possess relatively low photon energies, much less than required to produce ion pairs. They are therefore classified in the electromagnetic spectrum as a type of non-ionizing radiation, along with ultra-violet, visible light, infrared, ultrasonic, and radio waves.

4. Whether or not a particular frequency may constitute a health hazard or a benefit depends in large part upon the energy level of the radiation, the duration of the individual's exposure to it, and how often such exposures occur.

On the basis of evidence accumulated from experimental studies and taking into account the heat dissipating ability of the human body, Subcommittee C95 of the American National Standards Institute recommended the following Radiation Protection Guide for microwaves:

"For normal environmental conditions and for incident electromagnetic energy of frequencies from 10 MHz to 100 GHz, the continuous wave radiation protection guide is 10 $mW/cm^2$ (milliwatt per square centimeter. For modulated fields, the power density is averaged over any 0.1 hour period. This means the following:

Power density: 10 $mW/cm^2$ for periods of 0.1 hour or more.

"Energy density: 1 $mWh/cm^2$ (milliwatt-hour per square centimeter) during any 0.1 hour period."

This guide applies whether the radiation is continuous or intermittent. It has been adopted by U.S. industry and by the Department of Defense; it has also been generally accepted by most of the Western World as a maximal safe exposure level.

In the Soviet Union and Eastern Europe, the recommended maximal permissible power levels, which appear to be more restrictive, are averaged over a specified period of time. In the USSR and in Poland, the maximal permissible Power Flux Density (PFD) levels in the microwave range are as follows:

1. Work is permitted through the day at PFD levels not exceeding 0.01 $mW/cm^2$.

2. Exposure to PFD Levels of 0.01 to 0.1 $mW/cm^2$ is limited to 2 h per day.

3. Exposure to PFD levels of 0.1 to 1 $mW/cm^2$ is limited to 15–20 min and wearing of protective goggles is mandatory.

Similar standards are followed in Czechoslovakia, but pulsed wave radiation is considered more hazardous than continuous wave. Accordingly, for occupational exposure, a level of 0.01 $ml/cm^2$ averaged over an 8-h workday is the maximal permissible dose for pulsed wave radiation, but for continuous wave radiation the figure is 0.025 $mW/cm^2$. For the general public, these levels are reduced by a factor of 10 and are averaged over 24 hours.

The fact that the permissible levels in the Soviet Union and Eastern Europe are averaged over a specified length of time means that for periods less than those specified, higher exposure levels are acceptable.

With the above considerations in mind, what is the evidence in the American Embassy case from which logical conclusions can be drawn? I find nothing, in either your statement or the State Department letter, that reveals whether the radiation is in a frequency band that could be harmful. There is no statement as to whether the radiation is continuous or pulsed wave.

As to incident power density of the radiation—the energy level to which personnel would be subjected—I note only two references, both of which are on page 3 of Mr. McCloskey's letter. One (second paragraph) states that "the signals have never been more than a mere fraction of the U.S. occupational safety standard". "Mere fraction" can mean anything, so the only information given is that the radiation was less than 10 $mW/cm^2$ in the embassy building. The second reference (third paragraph) states that "radiation levels . . . are currently a mere fraction of a microwatt".

If these figures are valid, I cannot become excited about a radiation energy level so far below our safety standard and even well below the Soviet permissible Power Flux Density standard. I know of nothing in the literature suggesting harmful biological effects at such a low level. Indeed, surveys of the Washington area indicate that the ambient microwave radiation level is around 1 microwatt per square centimeter and at some sites may approach 10 microwatts. Can it be that in this instance familiarity does indeed breed contempt?

I do not know whether my comments will be helpful to you but I must state that they are derived from my knowledge of the subject and are not conjectural. If you or your staff can supply me with more information on the subject, I might be able to comment more fully and intelligently. I would, of course, consider any such information strictly confidential.

Sincerely,

RUSSELL L. CARPENTER,
*Research Biologist.*

## CORRESPONDENCE WITH LILLIAN HELLMAN ON "SCOUNDREL TIME"

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have been fascinated by the brouhaha which continues among Little Brown & Co., Diana Trilling, and Lillian Hellman. The publishing company which recently published "Scoundrel Time," Ms. Hellman's recent memoirs of the McCarthy period, has refused to publish a book of essays by Diana Trilling, a well-known critic, that contains passages critical of Ms. Hellman.

I understand Ms. Trilling has released one of the four controversial passages, and reference was made to that in today's New York Times in an article by Deirdre Carmody. Regrettably the passage, while referred to in the article, was apparently unintentionally eliminated through a printer's error in the early edition. I look forward to reading that passage as well as the three others referred to. While a duel between writers does not draw blood, there is nothing more lethal.

Not long ago after reading "Scoundrel Time," I had some observations concerning it which I incorporated in a letter sent to Ms. Hellman. I have not yet received a response and await it. But in view of the current interest in the matter, I thought our colleagues might find my correspondence with Ms. Hellman of interest. The exchange of correspondence that I had with Chairman RICHARD H. ICHORD of the then Internal Security Committee, mentioned in my letter to Ms. Hellman, can be found on page 4190 of the CONGRESSIONAL RECORD of February 25, 1975.

The material follows:

SEPTEMBER 15, 1976.

LILLIAN HELLMAN,
*Little Brown & Co.,*
*Waltham, Mass.*

DEAR MISS HELLMAN: I read *Scoundrel Time,* and I thought it was brilliant. Indeed, I read it in one sitting because it was so engrossing. One footnote on page 39 caught my attention; however, because I wasn't certain whether you were accurate in your statement, I wonder if you would comment on the correspondence, a copy of which I am enclosing, that I had with the Library of Congress with respect to that footnote.

Also, because of my high regard for you, I would like to state a point of objection with you. I was somewhat disappointed that you did not comment in any way on what, in retrospect, could be termed blindness on the part of your colleagues and your life-long friend, Dashiell Hammett, in their unquestioning support of the Stalinist regime in the Soviet Union. Might I suggest that your comments on that aspect of the period would be more understood had you acknowledged that blindness or indifference while defending their intentions as honorable.

Would you not agree with me that your friends committed an egregious error in supporting a repressive regime responsible for the deaths of an estimated 50 million people who were destroyed in the U.S.S.R. because of their opposition to Stalin and their dissent from communism?

Obviously, I don't mean to defend the terrible harassment they were subjected to. Quite to the contrary, I want you to know that from the time I came to Congress in 1969, I voted against every H.U.A.C. appropriation bill and saw with pride the ultimate disbandment of that committee, with its legitimate functions transferred to the House Judiciary Committee. You may be interested in my statement on the Floor of the House at the time—hence the enclosed.

All the best.

Sincerely,

EDWARD I. KOCH.

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AUGUST 31, 1976.

Hon. EDWARD H. LEVI,
*U.S. Attorney General,*
*U.S. Department of Justice,*
*Washington, D.C.*

DEAR MR. ATTORNEY GENERAL: In the book *Scoundrel Time*, a footnote appears on page 39—a copy of which I am enclosing—the substance of which states . . . "In 1975 the secret pumpkin papers were found to contain nothing secret, nothing confidential. They were, in fact, nonclassified, which is Washington's way of saying anybody who says please can have them."

I would appreciate knowing whether that statement is factually correct and if not, in what respect is it in error.

All the best.

Sincerely,

EDWARD I. KOCH.

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DEPARTMENT OF JUSTICE,
*Washington, D.C., September 10, 1976.*

Hon. EDWARD I. KOCH,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN KOCH: The Attorney General has asked me to acknowledge and thank you for your letter of August 31, 1976, regarding a footnote in the *Scoundrel Time*.

As soon as I have gathered the necessary information, I will be back in touch with you.

Sincerely,

MICHAEL M. UHLMANN,
*Assistant Attorney General.*

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AUGUST 23, 1976.

LIBRARY OF CONGRESS,
*Congressional Research Service,*
*Washington, D.C.*

GENTLEMEN: In the book *Scoundrel Time*, a footnote appears on page 39—a copy of which I am enclosing—the substance of which states . . . "In 1975 the secret pumpkin papers were found to contain nothing secret, nothing confidential. They were, in fact, nonclassified, which is Washington's way of saying anybody who says please can have them."

Are you in a position to advise as to whether that statement is factually correct and if not in what respect it is in error?

I would appreciate this information as soon as it is convenient.

Sincerely,

EDWARD I. KOCH.

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SCOUNDREL TIME

In August 1948 Whittaker Chambers appeared before the House Un-American Activities Committee. Chambers, a senior editor of Time magazine, told the Committee that he had once been a Communist and an underground courier. He named ten men as his former associates, the best known being Alger Hiss, formerly a high official of the State Department. Chambers accused Hiss of giving him secret government material, which Chambers preserved by placing it in a pumpkin at his farm in Maryland. Hiss was indicted, tried twice, and sent to jail for almost four years. In 1975 the secret pumpkin papers were found to contain nothing secret, nothing confidential. They were, in fact, nonclassified, which is Washington's way of saying anybody who says please can have them.

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THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
*Washington, D.C., September 8, 1976.*

To: The Honorable Edward I. Koch.

From: Paul Downing, Analyst, Government Division.

Subject: Security classification of so-called "pumpkin papers" in the Alger Hiss case.

This is in response to your request that we verify the accuracy of the following statement in the footnote on page 39 of *Scoundrel Time* (this title is not entered in the Library of Congress catalog, in *Books in Print 1975*, or in *Cumulative Book Index* 1975–July 1976):

". . . In 1975 the secret pumpkin papers were found to contain nothing secret, nothing confidential. They were, in fact, nonclassified, which is Washington's way of saying anybody who says please can have them."

I am returning herewith the printouts sent to you in the first response to your inquiry together with an additional article by Orr Kelly, "Hiss Receiving 'Pumpkin Papers,'" *Washington Star*, 7/31/75.

The footnote statement is inaccurate.

On July 31, 1975, Alger Hiss was permitted to see the "pumpkin papers," which consist of five rolls of microfilm. One roll, as Mr. Kelly reports, was "completely light-fogged." Two other rolls were pages from apparently unclassified Navy technical manuals.

The other two rolls, however, contained Government documents "relating to U.S.-German relations before World War II and cables from U.S. observers in China." Documents in these two rolls were marked highly confidential. Of the five rolls of microfilm, only these latter two had been used as evidence against Hiss in the trial which led to his conviction for perjury in 1950.

It is not clear whether the statement in the footnote that none of the documents were classified refers to their status in 1975 or to their status when they were written. If to the latter, the statement is clearly incorrect.

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## THE YMCA AND INTERNATIONAL DEVELOPMENT

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to take this opportunity to commend the YMCA and the Agency for International Development for collaborating on a program to aid the Third World. The International Division of the Y has received $1,200,000 to augment its assistance programs in less developed countries—LDC's.

When we look today at the developed and less developed countries we see interactions that all too often are based on manipulative considerations rather than on real human concern. Governmental aid programs usually emphasize military or security arrangements. The multinational corporations pursue economic interest. But there are few efforts to promote human dignity and development for their own sake.

There are not enough programs of international aid based on old-fashioned love of neighbor.

The YMCA's efforts in this area have had that quality of unselfish concern for humankind that we call love. They demonstrate the possibility, indeed the necessity, of private organizations without ulterior motives lending their knowledge and organization to the tremendous problems of global poverty, malnutrition, illiteracy, and disease.

The YMCA believes people are the most valuable resource available for solving problems.

They carry out the kinds of developmental programs that larger organizations do not do well. They emphasize small-scale projects that directly benefit small farmers and the urban and rural unemployed. They get involved in projects outside the mainstream of the target economy that are too risky for larger development organizations. Because of the focus on direct involvement in local areas they can take these risks. The money is important, but only as a way to bring together the people who need help and the people who can help.

This grant will finance only a part of the total effort of the World Alliance of YMCA's in the field of development. With a membership of over 25 million in 87 countries, this private organization can be a major force in the race against famine, disease, and illiteracy. I hope that the World Alliance will be successful in raising funds in the other industrial countries in order to increase their capabilities to do this work. It is crucially important work.

After all, where would this country be if the only institutions we had were the political and economic ones? What if there were not clubs and voluntary organizations binding together people whose economic and political interests conflict? Our social world would be a paler, bleaker version of the present one. So it is with the international community.

Pragmatic relations must be tempered and humanized by people-to-people connections. The YMCA's international development program is a perfect example of such humanity for humanity's sake. I commend them.

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## HOPE FOR PEACEFUL CHANGE IN SOUTHERN AFRICA

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, today's Washington Post ran an editorial on the Rhodesian situation that includes some important reminders. With all the recent publicity of the problems that Mr. Kissinger has confronted, a very important advance in southern African affairs has been given short shrift.

The breakthrough that overshadows the problems is that the various governments of southern Africa have agreed on an important principle. These regimes, of differing racial and ideological composition, have agreed that an interim government and a constitutional convention can bring real majority rule to Rhodesia in 2 years time, and do it peacefully.

So in spite of the current difficulties that the Department of State faces, I would like to join with the Post in sounding a hopeful note. It is indeed time that the United States moved to help bring about a more just society in Rhodesia, and I hope that the same approach will be pursued in Namibia and South Africa.

I commend the Post editorial to my colleagues:

### THE OPPORTUNITY IN RHODESIA

> The fuss over the United States' Rhodesian settlement formula represents not the collapse of the plan's fundamentals but the onset of negotiation on its details. The plan may, of course, finally fail. For what Henry Kissinger achieved in Africa was not a settlement but an opportunity. The parties themselves will have to work out a mutually satisfactory settlement, if they can and will. But the plan has not yet failed. There is even a reasonably good chance that it will succeed. So it is inaccurate to talk about it in a way that suggests it has collapsed, or that it is suddenly and unexpectedly in need of some sort of repair. And it serves no useful purpose to talk about it that way, as well. Those who support stability and human rights in that part of the world should be pointing out to the parties the considerable common ground they have already attained, and the substantial mutual costs they will incur if they do not negotiate.
>
> Ian Smith, the white Rhodesian leader, accepted (1) an interim or transitional black-white government under nominal British sovereignty, and (2) majority rule in a fully independent government in two years. These are the fundamentals; They are also two separate but related things. And they are embraced by the five "front-line" African presidents and by the black nationalists. Mr. Smith went on, however, to announce some of the details of how the fundamentals would be put into effect. In particular, he said that the conference called to draw a constitution for independence would have to be held inside Rhodesia. Neither the presidents nor the nationalists had accepted this detail, or some others Mr. Smith announced.
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> What now needs to be understood is that Mr. Smith was in effect stating his pre-conference bargaining position, notwithstanding his subsequent pained assertion, contested in Washington, that he had prior American approval for all he said. It needs further to be understood that the presidents were only responding in kind when they said in a statement Sunday, referring specifically to establishments of a transitional government, "any details . . . should be left to the conference." The British have already begun the excruciatingly difficult task of arranging the conference at which this will be done.
>
> The five presidents' statement on Sunday was, in fact, generally positive and moderate. They advised the still-divided nationalists to recognize that they have already won on the principle of majority rule and to set up a transitional government "immediately." Tanzania's President Nyerere was merely sharpening the point when he said on Tuesday that black majority rule would be installed "in four to six weeks"—his context made clear that he was referring to the interim government, not to the final independent government contemplated by the settlement formula within two years. Ian Smith has already agreed that the council of ministers in that interim government will have a black majority.
>
> With Ian Smith's escape hatches all blocked, the great danger now is that one or another front-line state, perhaps under Kremlin stimulus, will adopt as its protege a nationalist faction ready to fight the faction supported by the other front-line states. That is a prescription for racial conflict, for wasting civil war on the Angolan model, and possibly for foreign intervention. The sooner the nationalists move to the table, then, the sooner an interim government can be established and recognized, and the smaller the chance that the five will split and that the nationalists will fight on, either against the whites or among themselves.

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## THE NIXON-FORD NEGLECT OF AMERICA'S OLDER CITIZENS

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, in 1965 Congress passed the Older Americans Act, a landmark measure the principal focus of which was the support of community programs to provide a variety of services to help older adults lead more meaningful and more independent lives. This legislation, which was most recently amended last year, represents a significant national effort to obtain access to adequate income, medical care, housing, and community services for the elderly. Equally important, the measure embodies a commitment to the belief in the inherent dignity of the individual in our democratic society. As we gain new knowledge about the aging process and the ways in which older Americans cope in this complex society, the plight of many senior citizens has become a matter of increasing national concern.

As a people, we have generously invested our resources to support research which seeks to extend the human lifespan and to alleviate those chronic ailments which have historically plagued the elderly. We have not, I regret to say, made a parallel commitment to the study of the personal and social implications of growing older.

As a member of the Committee on Education and Labor, and as chairman of the Subcommittee on Select Education, I count it a privilege to have been part of the national effort to provide services aimed at enabling our older citizens to live in good health and with dignity.

Mr. Speaker, I am sure that all those who share a commitment to the physical, emotional, and mental well-being of our older citizens share my deep concern over the record in this area of the administrations of Richard M. Nixon and Gerald R. Ford.

During the past decade, Congress has strongly supported programs to provide this important segment of our population the opportunities they so richly deserve to lead independent lives. But the Nixon-Ford administrations have strenuously challenged, resisted, and at times killed these congressional initiatives. Richard Nixon was no friend of the older American. Neither is Gerald Ford.

### THE DEEP DIVISION BETWEEN THE PRESIDENT AND CONGRESS

Mr. Speaker, allow me to offer some specific examples of the deep division which has existed, and which continues to exist, between the President and Congress on legislation to deal with the many challenges which confront older persons. This division can be readily demonstrated by contrasting the intent of Congress in approving or extending legislation to benefit the elderly with the Nixon-Ford efforts to frustrate the achievement of these objectives.

Mr. Speaker, you will recall that the bill known as the 1972 Amendments to the Older Americans Act was vetoed by Richard Nixon and that it was only when a jobs training program was eliminated that he agreed, in May of 1973, to sign the amendments.

And I need not add that when, also in 1972, the House and Senate voted by huge bipartisan margins to approve a temporary increase of 20 percent in railroad retirement annuities, this effort was also blocked by a Nixon veto on October 4, 1972. Congress, however, demonstrated the profound extent to which it disagreed with the President by overriding Mr. Nixon's veto with another overwhelmingly bipartisan vote of 353 to 29 in the House and 76 to 5 in the Senate.

Undaunted, in late October of 1972, Mr. Nixon pocket vetoed a bill to create a National Institute of Aging. Congress once again signaled its dissent from the President's callous disregard of the need for research on issues related to the aged and established the Institute by passage of enabling legislation in 1974.

But, Mr. Speaker, the older American has fared no better with Richard Nixon's successor, Gerald Ford. The record, I am sorry to say, is replete with examples of reasons why the man who seeks a full term as President in his own right is not to be trusted by the elderly—or by anyone else interested in legislation on behalf of the elderly.

Allow me to offer a few concrete examples, for I realize, that this is a strong charge.

### SOCIAL SECURITY

Mr. Speaker, approximately 3⅓ million—or one-sixth—of our older population live in households with incomes below the official poverty threshold. For most of these individuals, social security benefits are critically important because they represent the mainstay of their incomes. Yet when in July of 1975 Gerald Ford threatened an arbitrary 5 percent ceiling on a lawfully mandated increase in social security payments, Congress insisted that social security beneficiaries receive the full 8 percent by law.

Had the President's obstructive actions prevailed, many of the nearly 32 million social security beneficiaries would have been deeply, and adversely, affected. In addition, 4 million aged, blind and disabled supplemental security income, SSI, recipients—among the poorest of this Nation's vulnerables—would have lost $85 million in fiscal 1976 alone. Had Gerald Ford succeeded in his threat to impose the arbitrary ceiling, more than 1.7 million veterans and survivors would have suffered a $100 million reduction in pension benefits and military and civilian retirees would have lost an estimated $800 million. And this loss would have occurred during an accelerated inflationary period.

### UNEMPLOYMENT

Mr. Speaker, one must conclude that Gerald Ford is also insensitive to the fact that the dignity and self-esteem of the older American—indeed, of most of us—are deeply affected by the ability to find meaningful work. Yet the President has repeatedly requested no funding for title IX of the Older Americans Act, the Older American Community Service Employment Act. When Mr. Ford failed to request any fiscal 1976 funding for title IX, Congress responded by appropriating $55.9 million for this worthwhile program to employ low-income persons 55 or older.

When President Ford again attempted to jettison title IX by failing to request funding for fiscal 1977, Congress responded with a resounding vote of confidence for the objectives of title IX by appropriating $90.6 million. If this action had been accepted, it would have enabled 23,000 older poor persons to work their way out of poverty by helping others in their communities, yet on only Wednesday of this week President Ford again illustrated his continued hostility to programs for older Americans with his veto of the fiscal 1977 Labor-HEW appropriations bill, a bill which contained funding for the Older Americans Act.

Indeed, Mr. Speaker, not only has Gerald Ford sought to destroy programs to employ the elderly poor but he has underfunded and frustrated the enforcement of the Age Discrimination in Employment Act of 1967. Hence, while Congress has increased authorizations for the measure, the Ford administration has failed to increase the number of enforcement positions accordingly.

And President Ford did not limit his attack to the 1967 antidiscrimination legislation. When he very reluctantly signed into law the Older Americans Amendments of 1975—after backing down from a threatened veto—he voiced his objection to the Age Discrimination Act which, with certain exceptions, bars discrimination on the basis of age in any program or activity receiving Federal assistance.

### HEALTH

Mr. Speaker, few Members of this body will forget the so-called catastrophic health plan which Gerald Ford attempted to foist on Congress this past February. The President's scheme would have:

Required the elderly to pay 10 percent of all hospital charges above their $104 deductible payment;

Increased the deductible for physician's services from $60 to $77 while providing for additional increases based on cost-of-living adjustments; and,

Imposed a new 10 percent charge for hospital-based doctor and home health services.

While the administration sought to make palatable the additional $1.3 billion in out-of-pocket expenses which the Ford plan would have cost the elderly by placing a $500 limit per benefit period on hospital charges and $250 limit per calendar year on physicians' services, congressional studies have shown that the Ford scheme would benefit less than 3 percent of medicare users.

Mr. Speaker, I would subscribe to the assessment of the President's proposal which was offered by Nelson H. Cruikshank, president of the National Council of Senior Citizens. When the "catastrophic health plan" was announced, Mr. Cruikshank warned that—

> President Ford, like his predecessor, Mr. Nixon, is trying to repeal an essential part of medicare. He wants to cut back on the already limited protection we have gained through medicare. We must never let' this happen.

The Ford administration's objectives regarding medical care for the elderly were made clear in late February of this year when the President proposed to abolish medicaid and 15 other health service programs, including community mental health centers and services to the developmentally disabled. In their stead, Gerald Ford proposed $10 billion in block grants to the States to pay for direct health services. Since the program required no matching funds from States for health programs, the result would clearly have been a drastic reduction in service to beneficiaries.

### HOME HEALTH SERVICES

Mr. Speaker, medicare has not been Gerald Ford's only target for neglect in the health services field. While the administration generated much rhetoric about the necessity of avoiding premature institutionalization by providing adequate home health care, very little has been done by the administration to achieve this objective. In fact, when in 1975 Congress passed the Health Revenue Sharing Act, authorizing $10 million for the establishment or expansion of home health services, President Ford vetoed the measure.

And this year Gerald Ford requested no funding for home health services. When Congress responded by appropriating $3 million to create home health agencies, the President requested a rescission of the full amount.

With that rescission rejected, Mr. Ford sought to circumvent the program by delaying for 15 months the publication of the regulations governing the program. The final regulations have only just been published.

### NUTRITION

Mr. Speaker, even when one considers Gerald Ford's record concerning one of the most basic needs of the elderly, food, his record is found sadly wanting. I am particularly pleased to be a coauthor in the House, along with my distinguished friends from Florida, the Honorable CLAUDE PEPPER, of the nutrition program for the elderly. I recall that on November 30, 1971, after the Senate had passed this proposal by a unanimous, bipartisan vote of 89 to 0, it was killed in the House by the then minority leader, Congressman Gerald Ford, who objected to House consideration at that time. Four months later, Congress put aside Mr. Ford's objections and passed the legislation which for many of our senior citizens provides their only hot nutritious meal of the day.

But Mr. Ford does not give up easily. For in 1975, he proposed a $25.4 million cutback in funding the nutrition for the elderly program. Had he succeeded, nearly 35,000 older persons would today be deprived of these meals. But fortunately Congress once again rejected Mr. Ford's callous attempt and now 300,000 of our elderly participate daily in this program.

It is important to note, Mr. Speaker, that although Congress rejected the Ford proposed $25.4 million cutback for this program with passage of the Labor-HEW appropriations for fiscal 1976, the President vetoed the bill. Had his action been successful, funds would have been slashed not only from programs to feed and provide other basic services for the elderly, but also from such vital education efforts as education for the handicapped, vocational education, higher education and a number of other programs.

Congress, however, demonstrated its profound disagreement with the President by overriding the veto with an overwhelmingly bipartisan vote of 279 to 41 in the House and 88 to 12 in the Senate.

In the fiscal 1977 budget, Gerald Ford has once again proposed a drastic reduction in the nutrition program, this time advocating a cut of $37.5 million. The Food Research and Action Center in New York has responded by accusing the Ford administration of illegally impounding funds for such nutrition programs by deliberately withholding resources which have been made available by Congress for nutrition programs. As a result of the Center's threatened suit, the administration has announced that it will spend the full appropriated amount of $187.5 million for fiscal 1976.

Not only has Gerald Ford sought to jettison the nutrition program but he has also attempted to increase food stamp charges to the elderly. On December 6, 1974, the Ford administration proposed regulations which would have required all households utilizing food stamps to expend 30 percent of their income for the purchase of food stamps. This action was blocked by Congress when it passed legislation prohibiting an increase in 1975 food stamp charges.

### HOUSING

Mr. Speaker, the Nixon-Ford record on programs which would benefit the elderly is clearly scandalous, and I could continue at some length with still further examples to support this contention. Allow me, however, to conclude with mention of one additional area where there has been gross neglect of the needs of our senior citizens. I refer to housing. In January of 1973 Richard Nixon imposed a moratorium on all federally subsidized housing programs. This moratorium, which lasted for a year and a half, of course included housing for the elderly. When in 1974 Congress passed the Housing and Community Development Act, which sought to revive efforts to build housing for the elderly by providing low interest, direct loans to nonprofit community groups for the purpose of constructing housing for the elderly, the administration first sought to destroy the plan and, when unsuccessful, attempted to defeat the purposes of the program by failing to publish regulations until May of 1975. Worse still, when those regulations were revealed, they were almost universally regarded by senior citizens' organizations as disastrous. Specifically, the administration distorted the intent of the legislation by providing for only short-term construction loans rather than the long-term loans which Congress had authorized. Separate legislation, passed in the fall of 1975, was necessary to guarantee that long-term housing financing would be available, legislation which need not have been passed had the administration respected the intent of the Housing and Community Development Act of 1974.

While it is obvious that the Ford administration has not supported construction programs for the elderly, it has, with great fanfare, advocated a rent subsidy program for low-income persons, including low-income elderly. At first the Ford administration announced that this program would assist 400,000 households in fiscal 1976, but later this estimate was revised downward to 200,000 households, and it now appears likely that only 140,000, or approximately one-third of the original figure, would receive assistance this year.

### CONCLUSION

Mr. Speaker, I believe that an examination of the Nixon-Ford record on programs for the older American justifies the charge that these Republican administrations have been grossly negligent of the older people of our country. As in so many areas, the priorities of the Nixon-Ford administrations have been sadly misplaced, for they represent deliberate attempts to weaken or destroy such programs as health care delivery, nutrition, housing, employment and social security. The policies of the Nixon-Ford administrations can be accurately described, on their records as a conscious, irresponsible refusal to address the needs of the elderly in a nation which prides itself on its compassion for those most vulnerable.

Mr. Speaker, during the past 8 years, we have seen how a responsible congressional majority, composed of both Democrats and Republicans, had acted to improve the lives of the elderly while two Republican administrations have sought, successfully at times, to thwart those efforts.

Mr. Speaker, the United States can no longer accept a President who is so callously indifferent to the obvious needs of those who have given this Nation so much. I hope that the White House will soon be the residence of a President who shares a commitment to the support of those services crucial to the lives of older Americans. For if we respect and attend to the concerns of these people, our entire society will be enriched.

Mr. Speaker, allow me to conclude with a plea that the divisiveness which now exists between the executive branch and Congress on policy for the elderly will soon come to an end. I look forward to the time when we have a President of the United States who will join Congress to work in constructive concert to lift the quality of life of the older people of our country.

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## "THE NEXT STEP: LIFELONG LEARNING," AN ARTLCLE BY SENATOR WALTER MONDALE

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, the Education Amendments of 1976, now on the President's desk, contains a modest but potentially revolutionary program of support for "lifelong learning" in the United States.

The Lifelong Learning Act was first sponsored by the distinguished junior Senator from Minnesota (Mr. Mondale), now the Democratic Party's nominee for Vice President of the United States. Under its provisions Federal support will be available for planning and development of educational programs designed to meet the needs of Americans who have left the traditional school system but whose desire to learn remains very much alive.

Mr. Speaker, the current issue of Change magazine contains an article by Senator Mondale in which he explains the origins and main features of the Lifelong Learning Act. I include at this point in the Record the text of Senator Mondale's article describing this most important congressional initiative:

### The Next Step: Lifelong Learning

(By Walter F. Mondale)

*"If a nation expects to be ignorant and free . . . it expects what never was and never will be."*—Thomas Jefferson.

Part of America's strength as a democratic society has historically rested on an enlightened citizenry. The accomplishments of our system of higher education in opening learning opportunity to ever larger segments of society have been and should be a source of national pride. But times have changed, and we must now return to the job of providing greater access to learning for all Americans, regardless of age or social and economic position.

We have obviously not finished this task when, according to a recent study, one in five persons cannot read well enough to understand a help-wanted ad, one in three cannot figure out how to read a newspaper grocery ad, and one in six cannot perform the most basic of writing skills. And there remain untold millions, often in mid-career, nearing retirement, or past retirement age, for whom learning is as crucial a need as for those of traditional college age.

It is thus a unique time for the advancement of lifelong learning. We have now the vision, the dedication, the need, the facilities. We have also the force of history. And finally, we have sufficient numbers of interested parties who can make things happen.

I became one of those interested parties over a period of many years. As chairman of the Senate Select Committee on Education and as a member of the Senate Subcommittee on Education, I have had the opportunity to participate in the development of most of the major education legislation of the last decade. But my specific interest in lifelong learning was stimulated by a creative program in my own state of Minnesota, the Minnesota Learning Society. In a formal sense, the Minnesota Learning Society is a consortium of education organizations working together to provide the broadest possible scope of educational opportunity to all Minnesotans. But in fact, the Learning Society offers a vision of a time when a great variety of community resources—everything from department stores to airports—will dedicate some part of their resources and energy to the education of the people as a whole.

The movement flourishing in Minnesota is only one of many signs of the tremendous national interest in lifelong learning. The New England Center for Continuing Education has developed a regional approach for coordinating programs in the area's six land-grant universities; the State University of New York, like many other state institutions, now offers courses free to all students over 60; and on campuses around the country it is becoming more and more common for the elderly actually to move into dormitories with younger students. Inspiration for the movement in this country has come from Europe as well, where several countries are experimenting with on-the-job education, paid educational leave, and similar mixes of living/learning experience.

What these programs and the people involved in them have in common is that they all believe that education is something that can take place outside of school, and in the minds of those older than 21; that the process continues throughout one's life; and that as we increasingly encounter changing career and social demands, we must shape education to help us meet them.

I see the concept of lifelong learning as inclusive of many separate programs and concepts that have developed in recent years. These include adult basic education, occupational training, independent study, parent education, education for personal development, remedial education, continuing education, and education for groups with special needs. Schools, factories, shops, homes, churches, and just about anywhere people gather or live can and should be the sites of such activities.

Lifelong learning is a concept that demands the very best thinking of our most creative educators and social philosophers. It is a concept that, if implemented, offers a hope that all of us will be able to participate fully in and contribute to our society throughout our lives. And it offers a hope that each one of us can continue to grow—to achieve his or her full potential—and to avoid getting stuck in occupational and educational ruts that can lead to alienation and downright boredom.

The recent report of the UNESCO International Commission on the Development of Education provides a useful historical perspective on what we are really talking about when we discuss lifelong education.

"At the outset, lifelong education was scarcely more than a new term applied to a relatively old practice: adult education. Now, finally, the concept of lifelong education covers the entire educational process from the point of view of the individual and of society. It first concerns the education of children and, while helping the child to live his own life as he deserves to do its essential mission is to prepare the future adult for various forms of autonomy and self-learning. Education from now on can no longer be defined in relation to a fixed content which has to be assimilated, but must be conceived as a process in the human being, who thereby learns to express himself, to communicate and to question the world, through his various experiences, and increasingly—all the time—to fulfill himself."

Many observers have noted the positive effect this new approach could have on the elderly. One retired citizen who testified at a Senate hearing last year summed up his experience studying economics with the statement that returning to school "is a means of keeping up with the modern viewpoint. It is also an opportunity to learn from [the young] . . . and hopefully in some small way to help them." The stimulation and creativity that arise from contact between generations are a priceless commodity we cannot afford to squander, as individuals or as a society. I can think of no better way to encourage such contact than to enhance the opportunities for an active interchange through education.

But lifelong learning has ramifications for all of us. It will help us, for example, to find solutions to the deep and pervasive problems of work roles. Both the labor movement and a number of corporations have tried to humanize working conditions in America, and one of the most promising aspects of this effort is the increase in educational opportunity. Significantly, it appears that these programs will pay off both in human and economic terms.

Increased linkages between the worlds of education and of work will also benefit education. Greater interaction will make it possible for younger students bored with the classroom to seek work, knowing they will have the option to return to school if they so desire. It will offer the option of using factories as classrooms and workers as teachers. And it will generally help us to make better use of community resources.

These new arrangements may also encourage institutions of higher learning to respond more fully to the growing numbers of part-time learners. According to an American Council on Education report, part-time postsecondary students increased by 20.4 percent between 1969 and 1972, while the increase in full-time students was only 8.8 percent. The National Advisory Council on Extension and Continuing Education reported last year that, since 1971, the number of part-time students in higher education institutions has exceeded the number of full-time students. But although most part-time students are working adults, classroom techniques and materials are often geared only to younger students. Similarly, course selections for part-time students who attend night classes are limited. And federal student assistance programs remain strongly biased in favor of full-time enrollees.

The lifelong learning movement is also responding to the technological revolution. Our society and culture experience continual change now, change beyond our ability to project. But one thing is clear: We cannot expect an education concluded at age 18 or 21 to be still adequate at age 50. This fact, coupled with the entrance of women to the work force in greater numbers, underscores the need for extensive retraining and conversion of facilities to make them adequate of the needs of adult Americans.

As these social trends propel us toward a national policy of lifelong learning, so too do pragmatic considerations. Between 1970 and 2000 the number of persons over 20 will have increased from 127 million to 190 million. With the declining birth rates and the extension of life expectancy there will be more adult Americans who want and need to live productive lives for longer periods of time than ever before. And for the first time in many years, we seem to have educational resources—teachers, laboratories, dormitories—that are not being fully used. According to a recent National Institute of Education report, "Community colleges have resources and are looking, for both financial and philosophical reasons, to serve new groups." Many other academic institutions are in a similar position.

Perhaps most important of all, lifelong learning offers hope to those who are mired in stagnant or disadvantaged circumstances—the unemployed, the isolated elderly, women, minorities, youth, workers whose jobs are becoming obsolete. All of them can and should be brought into the mainstream of American life. Of course the lifelong learning movement will not by itself achieve this important goal. But it is a necessary step toward making the lives of all Americans more rewarding and productive.

There is yet another quality of lifelong learning deserving of mention, generally less noticed but particularly intriguing. This is the prospect of integrating two outstanding and sometimes opposing trends of American education in the twentieth century. The first of these is the general expansion of schooling. We now have an incredible 92,000 elementary and secondary schools and approximately 3,200 institutions of higher learning. This expansion holds out to us the promise of a literate and educated people. It has been called by many observers one of the great wonders of the contemporary world, and it is surely unique to this country.

The second trend is the spectacular increase in opportunities outside of school. We own 121 million television sets and more than 400 million radios. Newspapers circulate to some 61 million people, and there are 9,000 periodicals. These facts remind us that schools do not exist in a vacuum, and that the nation's learning system also comprises media, industry, churches, and perhaps most importantly, families. Education is no longer the theory of schooling; rather it is the interactions of educational institutions with each other and with the world at large. In a modern industrial nation, we dare not fail to provide our citizens with maximum opportunity for moral, intellectual, and psychological development.

As one modest attempt to further a national commitment to these ideas, I introduced the "Lifelong Learning Act" in the Senate last year. The legislation aims to build on existing programs for "persons who have left the traditionally sequenced school system"; to attempt to monitor and assess them; and to make recommendations that could assist Congress in developing future legislation for implementation of a coherent lifelong learning policy. The legislation would also provide support for states to evaluate their own lifelong learning resources and needs; and for demonstration projects designed to enhance our understanding of the special characteristics and needs of a lifelong learning system.

I have been particularly encouraged by the great interest and major contributions of a number of individuals and organizations to this legislative effort. A coalition of most of the major national education organizations, as well as of representatives of labor, organizations for the elderly and for women, and representatives of particular institutions and state education departments, played an important role in shaping the legislation and broadening congressional support for it.

In the efforts to achieve the diverse objectives of our widely diverse segments of society, there is of course bound to be tension and debate over means and ends. Aristotle once said that education was the search for the good life. Where we have more than one definition of that life—as we do in America—we are bound to find tension. But in this country we have always found strength in diversity. In his famous Rockfish Gap report to the University of Virginia, Thomas Jefferson called for an educational system that would help Americans learn their civic duties, attend to their personal needs, teach them their rights and responsibilities, and help them to be happy within themselves.

Horace Mann took us a step toward these goals by advocating education for the "common man." Dewey moved us even further by uniting this with "education for leadership" by expanding the concept of schooling to include the arts, trades, and experiences in the community. In short, he looked beyond the schools.

Now we are looking beyond the children, to a new interpretation of Jefferson's dreams. But as we approach the tweny-first century, we are faced with a civilization more complex than he could have imagined. We must continue to cultivate our heritage as a great democracy and preserver of freedom. One important way we can do that is by revitalizing the educational enterprise to make it relevant to all citizens throughout their lives. It is a noble aspiration, and one that is finally within our reach. Let's make the most of it.

## JIMMY CARTER HITS REPUBLICAN ECONOMIC POLICIES FOR CAUSING RISING INFLATION AND UNEMPLOYMENT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to insert in the Record the text of a most perceptive statement delivered by Gov. Jimmy Carter yesterday, September 29, 1976, in Houston, Tex., in which the Democratic Presidential nominee makes clear how Republican economic policy has given the Nation both rising unemployment rates and rising inflation.

The text of the statement follows:

### Republican Economic Policy: Rising Inflation and Unemployment

(By Gov. Jimmy Carter)

One of the biggest issues in this campaign is the Republican mismanagement of the economy. The Republicans have managed for the past eight years to give us both rising unemployment rates and rising inflation—something the economists had always said was impossible.

Economics is a very complicated business. Not many people understand it. But we'd better all try to understand it, because Republican economic policies are robbing us all, every day, and have been for almost eight years.

Let's look at one statistic and what it means. A few days ago, the Bureau of Labor Statistics announced that consumer prices rose by 0.5% in August—last month. That may not sound like much, but on an annual basis that's 6% inflation for a year.

The White House press secretary said the administration was "encouraged" by the 0.5% figure. I suppose he meant he was happy it wasn't 10% or 20%—there isn't anything else to be "encouraged" about.

Let's compare that 6% figure with some past inflation figures.

We had serious inflation during the Korean War—5.8% in 1950 and 5.9% in 1951—but even that was less than today. Once that war was over the inflation rate settled down, and for the next 14 years, from 1952 through 1965, the annual rate of increase for consumer prices averaged only 1.3%—less than one-fourth of the rate that the White House now finds so encouraging.

Inflation went up during the last three

years of the Johnson administration, largely because of the war in Vietnam, but even then it averaged only 3.7%.

Then we come to the Nixon years. Inflation was 8.8%, in 1973 and 12.2% in 1974. Since then it has been up and down, but the overall average has been 6%. Last year, Mr. Ford's first full year in office, it was 7%. This year it is headed toward being 6%. Next year's projection is—once again—6%.

The Republicans have become six-percenters on inflation. They ask us to accept that rate, to think of 6% as normal, to be glad it isn't worse. But the fact is that it is a terrible, unacceptable rate, and that their own mismanagement has caused it. The Republicans have tried to halt inflation by slowing down the economy—by putting people out of work—and that policy has been a dismal failure.

What does this 6% inflation mean to the average American?

It means that if you put your money in the bank and collect 5% interest, you are losing money instead of making money on your savings.

It means that if you live on a fixed income, as many elderly Americans do, your money is worth less and less each day, just as surely as if someone was robbing you.

And for the average worker, it means that wage increases don't mean anything unless the increase is greater than the inflation rate. And that hasn't been the case during the Ford Administration.

Let's translate the percentages into actual wages.

During the Kennedy-Johnson years, the average weekly earnings of an American worker with a wife and two children increased from $90.95 to $103.39, and those are adjusted figures that take inflation into account. In other words, in terms of real purchasing power, the average worker was making more than $12 a week more at the end of the Democratic era, an increase of more than $600 over the full eight years, or an average annual increase of more than $75.

Now let's look at what happened under the Republicans. In 1969, the Republicans' first year, the average weekly income rose to $104.38. Five years later, in 1974, the year Mr. Ford took office, the average had actually gone down a penny, to $104.37. And now, today, after two years of the Ford Administration, the average wage in real purchasing power has dropped to $102.88. In the last two years, in other words, weekly income has gone down about $1.50, which is a $78 loss for his two years or a loss of $39 per year.

In short, Gerald Ford, with the economic policies he takes such pride in, has managed in two years to set the American worker back more than eight years, back to a lower average wage than he had in 1968, the last Democratic year. Under the Republicans the worker and his family have been on a treadmill, and under Ford the treadmill has accelerated, so that no matter how fast he runs or how hard he works, the average worker keeps losing ground.

This isn't fair. It isn't right. It reflects economic policies that are inept at best and indifferent at worst. Democratic prosperity has been replaced by Republican stagnation—and yet they ask us to be encouraged by their record and to vote for four more years of the same.

Here are some things we should do to lower inflation:

1. Decrease federal budget deficits through increased revenues;

2. Increase productivity;

3. Increase competition through strict anti-trust enforcement and by reform of government regulations which have an inflationary impact (for example, regulation of airline fares and the backhaul rule);

4. Increase employment—since only 73% of our industrial capacity is being utilized we can reduce unemployment through selective programs without increasing inflation;

5. Ensure a more adequate supply of basic commodities on a more predictable basis;

6. Voluntary wage and price guidelines worked out in close cooperation with labor and industry, with prior notice being afforded of any increases above those voluntary guidelines;

7. Through public leadership—jawboning—by the President, such as John Kennedy exercised during the 1962 steel price increases;

8. Strengthen the Council on Wage and Price Stability so that it more adequately exercises its subpoena power, with public hearings to focus attention on excessive price and wage increases.

9. Reorganization and zero-based budgeting together with sunset laws.

I've been talking about inflation today, but the Republican mismanagement has caused high unemployment as well.

Every Republican administration since Hoover has left office with an unemployment rate at least double what it was when they took office. The Nixon-Ford duo has continued this tradition. When Nixon became President in January of 1969, the unemployment rate was 3.4%. When Ford leaves office next January, he will leave us at least a 7% unemployment rate, and probably worse.

The Republicans have proved they can give us high unemployment and high inflation at the same time. We Democrats have shown that we can provide low inflation and low unemployment. That's one of the differences between us.

I think America can do better. I think it's time for Democratic leadership that can enact economic policies that put people ahead of the special interests, and return us to the prosperity of the Democratic years. I ask every American who agrees with me to vote for the Carter-Mondale ticket on November 2.

## STATEMENT BY GOV. JIMMY CARTER TO THE NATIONAL ASSEMBLY OF STATE ARTS AGENCIES, ATLANTA, GA., SEPTEMBER 18, 1976

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I am pleased to insert in the Record a statement made by Gov. Jimmy Carter on September 18, 1976, to the National Assembly of State Arts Agencies during its annual meeting in Atlanta, Ga.

The text of the statement follows:

### Statement of Gov. Jimmy Carter

I am happy to welcome the NASAA to my home state of Georgia. I'm sorry I cannot be with you personally, but I would like to take a little time to share my feelings on the arts with you, the state chairmen and chairwomen who are helping establish the arts in our nation's schools and communities.

I am vividly aware of the importance of the arts to our communities. I still remember the impact of a visiting symphony orchestra made in the county I come from in south Georgia. It was the first time a symphony orchestra had ever played in that area. Everybody, from country merchants to farmers went, listened and enjoyed. The orchestra's visit was the main topic of conversation for weeks afterwards. People felt that something beautiful had touched their lives.

A recent poll has confirmed what I saw then—there is an almost unanimous perception among the American people that the arts are not a luxury, but a vital part of American life.

Over 90 percent of those surveyed felt that the arts were important to the quality of life in the community. Over 90 percent considered it important for their children to be exposed to a wide range of arts and cultural events. Yet more than half said they had never had the chance to attend a major cultural event themselves.

What is sorely needed on the federal level and what should be encouraged on all levels is a well-defined policy of support programs designed to bring arts programs and cultural events to more Americans.

The National Endowment and the State Arts Agencies have made an excellent beginning in this direction, but much more needs to be done. It can be done by a true partnership between the state agencies and the federal government. That is what I believe in.

If we can respond to the desire of the American people to participate in the arts, if we can educate our young people in an atmosphere in which the arts are an integral part of the everyday world, then we will have built a strong and secure base for the future of the arts in America—a base on which individual artists and professional organizations can build; a base on which folk arts and ethnic dances, symphony halls and great museums will thrive.

I commend the job the National Endowment and the State Arts Agencies have done in the past. I am committed to strengthen their support so that we can realize the goals I have outlined above.

During the next few weeks I hope to be in touch with some of you personally, and many of you through my issues staff. Please feel free to volunteer your suggestions for future arts policies in America.

## KEYNOTE ADDRESS OF CONGRESSMAN LOUIS STOKES, OHIO DEMOCRATIC CONVENTION

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I insert in the Record the excellent keynote address delivered by our distinguished colleague, Congressman Louis Stokes, to the Ohio Democratic State Convention in Columbus on September 18, 1976.

The text of Congressman Stokes' address follows:

### Keynote Address by Congressman Louis Stokes

I want to thank Chairman Paul Tipps and you—my fellow Democrats for affording me this honor of addressing you on this occasion. It is an honor which I not only appreciate—but shall always cherish. I come to you today as a Democrat who has served in the United States Congress for eight years with two Republican Presidents. This period of time has not been a period of progress for the American people. For the first time in eight years I sense a feeling of great hope and optimism for both the Democratic party and the Nation. The American people are looking for new national leadership. For the first time in eight years the polls are predicting a Democratic presidential victory.

Our national party unity is stronger today than perhaps at any time since 1960 when we elected John F. Kennedy to the presidency.

Yes, 1976 looks like a great Democratic year. We have the candidates. We have the issues. And on November second, we will have the people.

We can't afford to let the euphoria of the polls lull us into a false sense of security. We can't take the elections for granted. We can't assume that the voters, disenchanted and disturbed though they are after eight years of Republican mismanagement, will automatically vote Democratic.

The Republicans are resourceful. And we Democrats have a lot of hard work ahead. But if we do that work well, if we maintain our cohesiveness and our unity, if we carry our message to the people, we can achieve sweeping victories this fall.

This means that we can elect Jimmy Carter, President, and Walter Mondale, Vice President. And we can make Ohio and the Nation proud by returning Howard Metzenbaum to the United States Senate. And you can also send us this highly qualified and beautiful lady, Fran Ryan. And we will elect other outstanding Democratic candidates to Congress, the Ohio State Legislature and to other important offices all across Ohio.

### NEW LEADERSHIP AND A FRESH START

What our State and this Nation desperately need is new leadership and a fresh start. And that's exactly what we will have if we Democrats get the job done in the campaign.

Beginning in January of next year with a Democratic President and strong Democratic majorities in both Houses of Congress, we will have an almost unparalelled opportunity to chart new directions for this Nation and to really meet the needs of the American people.

For the first time in eight years we will have unified leadership and government with a purpose. Unity and purpose after unprecedented abuse of power in the executive branch of our National Government. Unity and purpose after eight years of Republican economic mismanagement. Unity and purpose after eight years of Government by veto. Unity and purpose after eight years of Republican negativism and benign neglect.

In 1932 with this Nation gripped by depression, the people elected Franklin Roosevelt President. The New Deal he launched brought new hope, dignity, and economic opportunity to millions of Americans.

The parallels are clear: Today we find ourselves in the worst economic slump since the depression of the thirties. We find the critical needs of the people—from jobs, to health care, to decent housing—neglected or ignored by a Republican administration that puts the demands of private, special interests above the public good.

Governor Carter put it this way:

"We have suffered enough at the hands of a tired and worn-out administration, without new ideas, without vitality, without vision, and without the confidence of the American people."

### ELECT CARTER, MONDALE AND METZENBAUM

The election of Jimmy Carter and Walter Mondale, Howard Metzenbaum, and other good Democrats in Ohio and across the Nation can restore our vitality, vision, confidence and purpose.

Democratic victories will permit us to move vigorously ahead, at long last, in the Nation's unfinished agenda and to complete the job of economic recovery.

Don't let the Republican campaign rhetoric this fall fool you. There is really only one central issue in this election, and it is this:

Do we continue to stand still in this Nation for four more years? Do we continue to drift and do nothing while our cities disintegrate, while millions of our people are denied adequate health care, while the bitter byproducts of Republican economic policy—unemployment, welfare dependency, crime, delinquency and despair—continue to fester and worsen?

Or do we face up to the challenges and opportunities of an imperfect society? Do we as a Nation resolve to right the wrongs and close the gaps that divide our people and threaten our 200-year-old experiment in democracy?

### WE MUST MOVE AHEAD

For us Democrats, the choice is clear. We must resolve to move boldly and dramatically and purposefully ahead.

Moving ahead means jobs for all of our people, not as a privilege, but as a basic American right.

Moving ahead means rebuilding and revitalizing our decaying cities.

Moving ahead means a comprehensive system of National health care protection, not just for the privileged few, but for every American.

Moving ahead means overhauling our welfare system, which today cheats both the taxpayer and the recipient.

Moving ahead means building transportation systems to serve people. It means replacing at least 8 million units of substandard housing occupied by some 27 million Americans in this affluent society in which we live.

Moving ahead means renewing the war on poverty, which the Republicans scoffed at, but which *worked*; the Great Society programs of Johnson slashed poverty by more than 40 percent until the Republicans callously halted his programs and created unemployment to fight inflation.

Moving ahead means a committed effort to protect our environment, to improve our systems of criminal justice and corrections, to develop needed energy resources, and much more.

What moving ahead means most of all is a renewed commitment in this Nation to people. But the Republicans don't see it that way. The present occupant of the White House is continuing the long tradition of Republican Presidents—from Hoover to Harding, to Coolidge, to Nixon—of saying "No" to the American people.

### A LOOK AT FORD'S RECORD

Let's take a good look at Mr. Ford: When he took office in August, 1974 the unemployment rate was 5.4%. It was 7.8% in August, 1976 and it is 7.9% today. In the 2 years he has been president more than two million people have become jobless.

With close to eight million Americans classified as unemployed it means that a greater number of people have been unemployed for a longer time during the Ford Administration than for any commensurate period in the past 30 years—since World War II!!

Mr. Ford has taken pride in saying: "Fifty five times I vetoed extravagant and unwise legislation. Forty five times I made those vetoes stick."

What this represents is: 55 vetoes in 24 months. That's 2½ vetoes a month or one every 12 days.

Now let's take a look at how Mr. Ford stacks up in history. During the first 20 years of our being a nation, through the administrations of Washington, Adams and Jefferson—there were only two vetoes in all. Ford has vetoed more bills in only two years than the first 15 American presidents vetoed throughout the first 70 years of our history.

And Mr. Ford has outdone all of his Republican predecessors. In just over two years in office, he has become the vetoingest Republican president of the 20th century.

You name it, and if it's a bill to help people, he's vetoed it—jobs, tax cuts, housing, health services, fuel price controls, school lunch programs, child day care, environmental protection, education, jobs-producing public works, and on and on and on. Fifty-six times, in all, he has struck down with a stroke of his pen legislation passed by a democratically controlled congress.

In the face of that stubborn opposition, the Democratic Congress has refused to throw in the sponge.

### FORD: THE MOST OVERRIDDEN PRESIDENT IN 100 YEARS

We have overridden ten Ford vetoes, making him the most overridden president in the past 100 years back to and including Ulysses Grant. And when we haven't overridden, we've come back with modified legislation which the President reluctantly signed.

This Democratic Congress has taken the initiative from a wornout administration that is bankrupt of new ideas and has forfeited the confidence of the American people.

### DEMOCRATIC CONGRESS LAUNCHED ECONOMIC REBOUND

Make no mistake about it. It was the Democratic Congress, not the Republican Administration, which launched our present economic rebound, a rebound that is incomplete and too slow, but which is beginning to jolt the nation out of the most devastating recession since the 1930's.

And it was the Republican Administration, not the Democratic Congress, which has unnecessarily slowed the momentum of recovery with its barrage of vetoes and pushed unemployment up again to almost eight percent.

The Democratic Congress enacted a $22.8 billion tax cut—the largest in the history of the nation. And it has been the single most important action behind our economic turnaround.

And what was the President's policy? Only months before our action, he was advocating a tax *increase*.

We enacted emergency jobs and housing legislation to put the growing number of unemployed back to work.

And what was the president's answer? He vetoed the bills.

But we persevered. We passed "second effort" legislation that became law.

We passed a major local public works bill to provide jobs and help communities across the Nation move ahead on urgently needed projects.

The President's answer? You guessed it. Another veto.

But again we came back with modified legislation.

### PRESIDENTIAL VETOES COST 500,000 JOBS

Those Presidential vetoes cost the Nation at least a half million urgently needed jobs. And they pushed unemployment upward again in each of the last three months after a steady decline in previous months.

When President Johnson left office, the national unemployment rate was less than four percent. When Harry Truman's term ended it was under three percent. Today it stands at 7.9 percent, the highest rate since the Hoover depression. And for some segments of our population the jobless rate is even higher. Half of the unemployed are under 25 years of age. The rate for teenagers is 18 percent, and the rate for black teenagers an intolerable 40 percent.

It is as simple as this: We've got to get on with the job of economic recovery. We've got to open the doors of opportunity again! The Republicans aren't going to do it. This is our fight, the Democratic Party's fight, because it is the people's fight.

### HARRY TRUMAN SAID IT THIS WAY

Harry Truman, in his typically blunt language, put it this way:

"The Republicans believe that the power of government should be used, first of all, to help the rich and privileged people in the country. With them property comes first.

"The Democrats believe that the powers of government should be used to give the common man more protection and a chance to make a decent living. With us, people come first."

Harry Truman said it well!

What do they offer the unemployed construction worker, the parents who can't afford to send their child to college, the senior citizen budgeting down to nickels and dimes to make the social security check stretch to cover the bills?

The Republicans want to turn back the clock to those distant times they regard as the good old days. But they were good old days only for them.

We Democrats look to a future of challenges and change where jobs and decency and dignity are the birthright of all our people and all are permitted to contribute and to share in the American experience.

That's our vision of the American future. So let's get to work—to elect Grits, Fritz and Metz and the rest of the Democratic ticket. Let's get to work, to return Democrats to the White House, Congress and State and local offices and in doing so you and I will make a great nation even greater because you and I cared a little bit more.

## AN EXAMINATION OF THE CAPABILITY OF THE ARMY'S NEW XM-1 TANK WITH THE HYBRID TURRET DIRECTED BY SECRETARY RUMSFELD

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

**Mr. STRATTON.** Mr. Speaker, the Defense Department continues to issue various documents attempting to discredit the report of the Armed Services Committee XM-1 panel, which I had the honor of chairing. So far I am aware of some 28 pages of alleged rebuttal documents plus a new press release by the Department of Defense and another statement by Deputy Secretary of Defense Clements before a subcommittee in the Senate. As Shakespeare's phrase has it, "Methinks he doth protest too much."

In a press release on September 27, the Department of Defense accused the XM-1 panel of misunderstanding the actions taken and "the potential effect of the actions" and the process by which decisions were made.

The panel report drew the conclusion that the change in the program will result in an initial degradation of combat capability if the tank is fielded with a hybrid turret and the 105-mm gun. The hybrid turret is required by the addendum to the memorandum of understanding signed with the Germans. Initially it is expected to have the 105-mm gun in the XM-1 tank because it has been generally conceded that the 120-mm gun will not be ready for some time. In attempting to dispute the panel's findings on degradation of combat capability, the Defense Department press release of September 27 contains the following paragraph:

> Before one can assess the combat effectiveness of the tank we must await the technical analysis of the proposals. Despite testimony prompted by leading questions, we do not believe that a perceptible degradation will occur in any event. In fact, as the threat increases in accord with projections, a 120mm gun appears to offer an increase in effectiveness. A 120mm gun should have approximately twice the penetration capability against NATO standard targets for any given range compared to a 105mm gun. Further, we believe it will be difficult to substantiate a measurable decrease in effectiveness of the XM-1 tank, even with the 105mm gun installed, as indicated in the Panel report.

A very similar paragraph appears in the statement that Mr. Clements made to a Senate subcommittee on September 29.

Mr. Speaker, if you read these words closely, what it is expressing is nothing more than the hope of the civilian leadership of the Department of Defense that there will be no degradation in capability. I sincerely trust that turns out to be the case. But in making its statement the panel did not at all "misunderstand" what the civilian leadership was "hoping." The panel was drawing conclusions based on the sworn testimony of tank experts, including the project manager himself.

I might say that all of the testimony in our hearings was taken under oath.

So that Members of Congress can judge for themselves, let me quote at this point an excerpt from General Baer, the project manager of the XM-1, who has been with the program all during the validation phase. General Baer is being questioned by Mr. Ford, of the committee staff:

> Mr. FORD. * * * You acknowledged yesterday that you had sent a memorandum to the Chief of Staff in March or April in which you had said that some of the new componentry in the proposed standardization was in the conceptual stage, and you conceded that it was in the conceptual stage, particularly the 120 gun, because of the ammunition involved.
>
> Now if I understand what you said yesterday about what validation is, it's proving the hardware pieces technically through an extended period of testing which you've done on the gun, and full scale engineering development normally begins after the validation phase is finished, isn't that correct?
>
> General BAER. Yes, sir.
>
> Mr. FORD. So that there's no way that you can say that you can begin in November to do full scale engineering development on a proven piece of hardware with the 120-millimeter gun because you haven't got it yet.
>
> General BAER. I'm not suggesting that, Mr. Ford, and certainly, as I believe we've made clear throughout, we see the 120-millimeter gun application being somewhere down the line perhaps as much as 4 to 5 years if we depend on the U.S. production capability.
>
> The design work and the further testing that would be required to prove that system would have to be a parallel program to the engineering development. In other words, you go with the hybrid turret and 105 gun now, but you still would have to go through exactly what you're saying, the proving of the application of the 120-millimeter system within that turret. That would be an addition to your development effort, no question about it.
>
> Mr. FORD. In other words, you're not going to have the gun for 4 or 5 years, so you're going to be producing XM-1's with the 105 millimeter in that time frame?
>
> General BAER. That's 4 or 5 years from now. There would actually be about 2 years of XM-1 production with the 105-millimeter gun.
>
> Mr. FORD. You did testify yesterday that you are going to put the hybrid turret in right away.
>
> General BAER. This is subject to the review of the proposals that we get, but if the 120-millimeter gun is to be applied somewhere down the line, then the hybrid turret would be logical to put on at this time.
>
> Mr. FORD. So we would therefore mount a gun whose performance has been degraded below what it is with the current XM-1 configuration until such time as the 120 gun is proven?
>
> General BAER. That is right.
>
> Mr. FORD. That's what you did testify yesterday?
>
> General BAER. I testified that there would be some degradation in the performance of the 105 placed in the hybrid turret.
>
> Mr. STRATTON. Let me just say that that is a point that I was going to make. That last 10 percent could be very damaging. We're arguing as to whether we have to have a 120 gun to handle the Soviet threat or whether we can do it with the 105, and there is every indication that the 105 can do the job. But if you are going to degrade the performance of the 105 by 10 percent for a period of 4 to 5 years with this hybrid dual capable turret, that might just be the 10 percent that would sink us. That might just be the 10 percent margin that we've got over the enemy that we would be combating. I would think that would be a very dangerous way to proceed.
>
> Have you thought of that?
>
> General BAER. Yes, sir. As I said yesterday, in my judgment—and this is my judgment—I would hasten to put out that caution, because I'm sure there are some people who would disagree—but I think there will be some degradation. I did say that I thought 10 percent was probably the worst case. That probably through some engineering work it can be reduced below that. But I still stand by my statement that there will be some degradation.

Subsequently when General DePuy, the head of the Training and Doctrine Command of the Army, was testifying, he was asked if he agreed with General Baer's statement that the dual turret with the 105mm gun degrades the capability of the tank. General DePuy answered as follows:

> General DEPUY. Well, it is hard to answer that, because I don't know what that turret looks like.
>
> You see, the new turret, the hybrid turret is still in the paper form, to the best of my knowledge. The two contractors are coming in with specifications for such a turret. We know it is going to have to be a little bit bigger. It is going to have a bigger hole in the front of the tank to put the gun in.
>
> Bob Baer, who lives with that thing, apparently can, and evidently already has done an evaluation.

Another witness was Maj. Gen. Chester McKeen, commanding general of the Tank Automotive Command and the head of the Source Selection Evaluation Group. The following is an excerpt from General McKeen's testimony on this point:

> Mr. FORD. General Baer testified that the tank with a dual turret and the 105-millimeter gun will have an 8-. or 10-percent degradation in combat capability, not in

firepower, but in combat capability. Do you disagree with that?

General **McKeen**. That will show up when the proposals come in.

Mr. **Ford**. Do you disagree with the estimate that he made?

General **McKeen**. I think there will be some degradation simply because it is going to be heavier. I think there will be some degradation in your automotive characteristics. I don't know how much.

Mr. **Ford**. Do you think his estimate of 8 to 10 percent is correct?

General **McKeen**. I don't have any basis for agreeing with it or disagreeing with it, because I have not seen what they are going to do.

Mr. **Stratton**. Is this tank going to be a better thank than the XM–1?

General **McKeen**. I don't know. But in my view, since the XM–1 was designed with integrity in mind, and the whole system was designed to work together, I would question whether the new one would be any better than the old one.

Finally, the Under Secretary of the Army, Mr. Augustine, testified on September 16 and here is an excerpt from his testimony:

Mr. **Ford**. What was the degradation in combat capability in putting the dual turret in and leaving the 105mm gun on the tank?

Mr. **Augustine**. It increases the frontal area of the tank by, I think it is 50 square inches, or thereabouts. It increases the height of the turret by about 2 inches.

Mr. **Ford**. General Baer testified there would be an 8- to 10-percent degradation in combat capability. Do you agree with that?

Mr. **Augustine**. Against the T–62 threat, I think that is probably right.

In summary, the panel did not misunderstand in the least the potential effect of the action to delay the tank program. We all hope the tank turns out to be better than expected; but after reading these excerpts, I think it is clear that the panel had a sound basis for concluding that there would be a degradation of combat capability with the 105mm gun on a dual turret.

I doubt whether any fair-minded individual who bothers to study the sworn testimony presented to our panel could conclude otherwise.

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## CONGRESSMAN STRATTON RELEASES RESULTS OF HIS ANNUAL CONGRESSIONAL QUESTIONNAIRE IN THE 28TH DISTRICT OF NEW YORK

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, last August I sent out my annual congressional questionnaire to all 181,000 homes in my district. This is a postcard type of questionnaire. Up to the present time we have received 10,446 cards in reply, which included 16,932 separate opinions, since each card has room for two separate opinions.

In announcing the results of my questionnaire I will acknowledge very frankly that there has been some confusion over several of the questions. As often happens with questionnaires, space limitations prevent a complete listing of all alternatives or full background details, and this does sometimes create confusion. None of the questions was deliberately biased; and, moreover, the fact that a particular question was asked did not of course mean that it reflected my own view.

To the extent that some of these questions created confusion, the results may or may not have been influenced one way or another. I make no claim that these results are in any way scientific, but I believe they are of interest and do help to project the views of the people of my district on a number of significant issues.

For the information of my colleagues I am including herewith the tabulated results:

### RESULTS OF QUESTIONNAIRE

1. What do you feel should be our top priorities? (a) end inflation, 26 percent; (b) putting people back to work, 22 percent; (c) restoring confidence in government and government officials, 17 percent; (d) cutting government spending, 16 percent; (e) achieve energy independence, 9 percent; (f) providing an adequate defense, 7 percent; (g) reasserting U.S. leadership in shaping a peaceful and stable world, 3 percent.

2. Do you favor building more nuclear power plants to reduce our dependence on oil? Yes: 68 percent; No: 26 percent; Undecided: 6 percent.

3. Would you favor "welfare reform" if it costs more than the present system and puts more people on public assistance rolls than at present? Yes: 10 percent; No: 84 percent; Undecided: 6 percent.

4. Would you favor some relaxation of environmental standards to promote more jobs? Yes: 52 percent; No: 41 percent; Undecided: 7 percent.

5. Should the Federal Government provide jobs for those who want to work and can't find employment? Yes: 56 percent; No: 36 percent; Undecided: 8 percent.

6. Should the U.S. retain control over the defense of the Panama Canal? Yes: 78 percent; No: 13 percent; Undecided: 9 percent.

7. Which form ' national health insurance would you favor:

(a) cover all illnesses—56 percent

(b) cover catastrophic illnesses only—44 percent

(c) operated through Social Security—42 percent

(d) operated through private insurance carriers—58 percent

8. Do you favor allowing British-French Concorde SST flights into Washington and New York for a 16-month trial period? Yes: 53 percent; No: 39 percent; Undecided: 8 percent.

9. Do you favor breaking up major U.S. oil companies to provide more oil at cheaper prices? Yes: 59 percent; No: 32 percent; Undecided: 9 percent.

10. In exercising oversight over U.S. intelligence activities should Congress establish procedures to prevent leaks of vital secrets? Yes: 84 percent; No: 9 percent; Undecided: 7 percent.

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## VOCATIONAL REHABILITATION: THE NEW LAW AND ITS IMPLICATIONS FOR THE FUTURE BY MARTIN L. LAVOR AND JACK G. DUNCAN

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, for over 50 years, the Vocational Rehabilitation Act has meant vital Federal support for projects across the country which rehabilitate handicapped persons and train them for productive, self-sufficient lives.

The story of this important program has been one of careful expansion in response to a growing awareness on the part of Congress of the needs of handicapped persons.

In recent years, notably in 1973 and 1976, important changes were instituted by Congress in the Vocational Rehabilitation Act. These modifications have been analyzed thoughtfully in an article published in the July-August issue of the Journal of Rehabilitation.

The article, "Vocational Rehabilitation—The New Law and Its Implications for the Future," was written by Dr. Martin L. LaVor, Senior Legislative Associate, Committee on Education and Labor, and Mr. Jack G. Duncan, Counsel to the Select Education Subcommittee.

Both Jack Duncan and Martin LaVor, I should add, have made outstanding contributions to the shaping of this vital legislation.

Mr. Speaker, because this is an excellent and useful description of the Rehabilitation Act, its background and impact, I insert it at this point in the Record:

### VOCATIONAL REHABILITATION—THE NEW LAW AND ITS IMPLICATIONS FOR THE FUTURE

(By Martin L. LaVor and Jack G. Duncan)

On March 15, 1976, the "Rehabilitation Extension Act of 1976" became P.L. 94–230. The new law extended the existing Act for two years without making any changes other than those changes regarding the amounts authorized to be appropriated by the Congress.

What was significant about this legislation was not what Congress did, but what it did not do. It can be said that a conscious decision was made by both Houses of Congress not to change existing law by adding any additional amendments, either minimal or substantial. The "Act of 1976" was designed solely to extend only the programs' authorizations for two years. This decision was made primarily to assure the continuation of various programs authorized under the Rehabilitation Act and to enable states to plan their future budgets. Also, it would allow additional time to evaluate the numerous changes that had been made to the Act in 1973. More importantly, however, the simple extension would enable each House (if it determined that changes or modifications of the existing law were necessary) to go to the floor of their respective bodies and consider "specific" issues, and not be in the position of being asked, "How much does this bill cost?" or "How much is the bill over the President's budget?"

With P.L. 94–230 now law, and the money authorizations extended for two years, if either House determines it necessary or desirable to make changes in the present law, then members will be able to engage in debate based upon the merits and substance (or lack thereof) of the specific changes proposed. The issues would not become confused or complicated by concentration or budgetary or fiscal questions which normally happens when any legislation is considered.

The new law provides the following authorizations for Fiscal Years 1977 and 1978:

VOCATIONAL REHABILITATION

[Funding factsheet in millions of dollars]

| Function of act | Section | Fiscal year— 1975 Authorization | 1975 Appropriation | 1976 Authorization | 1976 Appropriation | 1977 authorization | 1978 authorization |
|---|---|---|---|---|---|---|---|
| Basic State services | 100(b)(1) | 680.0 | 680.0 | 720.0 | 720.0 | 740.0 | 760.0 |
| Innovation and expansion | 100(b)(2) | 39.0 | 23.0 | 42.0 | 18.0 | 25.0 | 25.0 |
| Research | 201(a)(1) | 25.0 | 20.0 | 32.0 | 24.0 | 30.0 | 30.0 |
| Training | 201(a)(2) | 27.7 | 22.2 | 32.0 | 22.2 | 26.0 | 30.0 |
| Facilities construction | 301(a) | (1) | 1.8 | (1) | 0 | (1) | (1) |
| Vocational training | 302(a) | (1) | 7.87 | (1) | 8.0 | (1) | (1) |
| Mortgage insurance | 303 | (1) | 0 | (1) | 0 | (1) | (1) |
| Special projects | 304(a)(1) | 17.0 | 16.92 | 20.0 | 4.9 | (1) | (1) |
| National Center for Deaf/Blind Youth and Adults | 305(a) | (1) | 2.0 | (1) | 2.1 | (1) | (1) |
| Administration and evaluation | 403 | (1) | 1.0 | (1) | 1.0 | (1) | (1) |
| Secretarial responsibility | 405(d) | .5 | .2 | .6 | .2 | .6 | .6 |
| Architectural and Transportation Barriers Compliance Board | 502(h) | 1.0 | .3 | 1.5 | .3 | 1.5 | 1.5 |
| Total |  | 790.2 | 775.2 | 848.1 | 800.7 | 823.1 | 847.1 |

[1] Such sums as may be necessary.

As can be noted from the table, there is an increase of $20 million in the authorization in each fiscal year for the basic Title I program for Fiscal Year '77 and Fiscal Year '78.

The Congress determined that in spite of the tight budgetary conditions affecting the country, program growth should be continued; and although these increases represent only a 2.8 percent growth the first year and 2.6 percent the second, it is important that the concept of growth be maintained. The forward movement has been considered especially important in light of the Administration's no program growth policy.

### QUESTIONS, PROBLEMS AND ISSUES FACING THE VOCATIONAL REHABILITATION PROGRAM

There are a number of significant questions that have been raised regarding the Rehabilitation Act which demand hard answers. The answers will, indeed, be difficult to find.

### SEVERELY HANDICAPPED*

One of the major problem areas being identified by State VR agencies throughout the country is the question of what the term "severely handicapped" means. Another part of this question concerns how they determine these individuals with "the most severe handicaps" who must receive priority service as required by law.

There is no doubt that confusion exists. This, unfortunately, is due primarily to the fact that the term "severely handicapped" was not adequately defined in the 1973 Act, P.L. 93–112.

State agencies in trying to carry out the mandate are finding the problem compounded by the fact that, in spite of the Congressional directive for a priority service, there are also to be no quotas set in the vocational rehabilitation program by Rehabilitation Services Administration (RSA) or state agencies or counselors. However, RSA has set "formal objectives" and "goals" regarding the number of severely handicapped people to be rehabilitated each year. Therefore, as the states are trying to determine how to carry out the law, their agencies are being forced to match unrealistic quotas. This is happening despite clear Congressional intent that each state move to serve severely handicapped people within its own capabilities. RSA, in response to an inquiry from a Congressional Committee regarding this matter, explained their position in the following way:

"Starting from a base in FY 1973 when an estimated 30% of all rehabilitations were of the severely handicapped, RSA has set increasingly higher goals. Moreover, steady progress in achieving these goals has been and is being accomplished."

Considering that the term "severely handicapped" is so misunderstood, it is therefore difficult to understand what population is being counted.

In addition to the confusion regarding the definition and RSA's goal setting, the picture is further complicated by charges being made to the Congress by some "consumer" organizations who claim that "the mandate that the most severly handicapped individuals receive priority services is not being implemented." Congressman Albert H. Quie (R-Minn.) summed up what appears to be the general attitude of Members of Congress regarding these charges in a response to a recent letter when he said:

I have heard this charge made over the last two years, but I have not seen any documented evidence to substantiate it. While I am sure there are instances where receiving handicapped individuals are not receiving services. I have seen no hard evidence to indicate whether it is widespread, whether it exists within every state or whether there are deliberate attempts by Vocational Rehabilitation agencies to not follow the mandate in the law. . . . All we have heard are unspecified charges and categorical denials."

### SUMMARY

1. The "severly handicapped" population has not been clearly identified.

2. The law does not appear to be definitive regarding what is required for "severely handicapped" people.

3. RSA's targets or quotas are putting great pressure on states to produce new numbers in order to comply with a confusing directive created by the 1973 Act.

4. It is being alleged that little is being done to implement the requirements of the law regarding this population.

So that a better understanding and perspective of the problem can be gained, a review of how the language regarding severely handicapped people became law in the first place is necessary.

### HOUSE—1972

In 1972 when the House was considering its version of the '72 extension of the Vocational Rehabilitation Act, it considered the problem of the universe of persons eligible to receive rehabilitation services. The House became aware over a period of years (especially since the transfer of the Rehabilitation Services Administration into the Social Rehabilitation Service) that a heavy emphasis was being placed upon serving those with "behavioral disorders." It also became apparent that rehabilitation services were to be the vehicle or instrument for reform of the welfare system.

The House recognized that millions of physically and mentally handicapped persons under the more "traditional" definition were not being served while those with other disabilities which could best be described as "behavioral" were being served in increasing numbers. In order to remedy what was considered a corruption of the purpose of the Act, the House amended the definition of "handicapped individuals" and made an effort to require that the more "traditional" definition of the term handicapped be given a priority of service. While trying to arrive at a clear definition of those who were in fact considered in the "traditional" categories, references began to be made to the "'most severe" of the "severely handicapped."

This attempt to redirect the program from the "behavioral disorder" category in order to encourage service to those with physical and mental handicaps in the more traditional vein, led to the mandate that a first priority of service must be given to those "severely handicapped." But, the House had a problem of clearly stating in law what this meant. It was obvious that the Members wanted a redirection and a more balanced program. The House, recognizing that the suggestion of a "priority" might be interpreted as excluding some condition not considered as severe as another, mandated that anyone receiving services at the time of enactment of the new legislation continue to be served.

The House added a new Title III to its bill. That title established a new grant program which would have provided comprehensive services to "severely handicapped people." It was designed to serve individuals who did not have the potential to return to work but might benefit from rehabilitation services in order to "live independently."

"Severely handicapped" (in that bill) was defined as "an individual under a disability so serious as to limit substantially his ability to function . . . and who with the aid of comprehensive rehabilitation services can reasonably be expected to improve substantially his ability to live independently and function normally in his family and community."

The new program was to receive funds from a new and separate authorization and would not have been taken from existing basic program (which required a vocational potential) appropriations.

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* There are differences in the interpretation and use of the words disability and handicap. It happens that in most federal legislation the term "handicapped" has been used in place of or interchangeably with the term "disabled."

### SENATE—1972

The Senate when it considered its version of the Rehabilitation Act that year, took a totally different approach. Rather than establish a separate program with its own authorization for severely handicapped people (without a vocational potential) as a requirement for service (as the House did), the Senate earmarked 15 percent of the authorization under the basic vocational rehabilitation program to be used to provide vocational or comprehensive rehabilitation services for severely handicapped individuals for whom a vocational goal was not indicated.

The Senate set-aside funds were to be used only after the State Vocational Rehabilitation agency exceeded (because of the severity of the individual's handicap) twice the average cost in providing services to an individual. This provision was included to insure that agencies would have to use specific funds needed to provide full services to severely handicapped individuals, thereby providing an incentive to these agencies to undertake to serve them. At the same time, the bill required that the basic costs for services—vocational or comprehensive rehabilitation for the severely handicapped—was to be paid from the basic program funds in order that there be no incentive to spend only the set-aside funds for those individuals who were severely handicapped.

The Senate bill defined "severely handicapped" individual to mean "any handicapped individual whose ability to engage in gainful employment, or whose ability to function normally and independently in his family or community, is so limited by the severity of his disability that vocational or comprehensive rehabilitation services appreciably more costly and of appreciably greater duration than those vocational or comprehensive rehabilitation services normally required for the rehabilitation of a handicapped individual are required to improve significantly either his ability to engage in gainful employment or his ability to function normally and independently in his family or community."

In 1972, the House and Senate conferees met to resolve the differences in the two bills and reached the following compromise: the original Title III of the House bill was retained and became Title II of the House-Senate conference bill. The conference compromise for the term "severely handicapped" was "the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure and any other disability, specified by the Commissioner in regulations he shall prescribe."

As part of the compromise, the conferees agreed to amend the state plan to require that—

"The State plan and its administration and supervision include a description of the method to be used to expand and improve services to handicapped individuals with the most severe handicaps; and, in the event that vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, show (i) the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided, and show the order to be followed in selecting individuals to whom comprehensive rehabilitation services will be provided, and (ii) the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe handicaps and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving handicapped individuals established in regulations prescribed by the Commissioner, and

"(B) provide satisfactory assurances to the Commissioner that the State has studied and considered a broad variety of means for providing services to individuals with the most severe handicaps; . . ."

The conference report explained the change as follows:

"It required the State plan to show how it proposes to expand and improve services to severely handicapped individuals. It further provided that if vocational and comprehensive rehabilitation services could not be provided to all eligible persons, the plan must show the order to be followed in selecting those to whom such services will be provided and the outcome and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals. The order of selection was required to place special emphasis on severely handicapped individuals, and could not be inconsistent with priorities for these matters established by regulations of the Secretary. The House bill contained no comparable provision. The conference substitute follows the Senate amendment, but with the following modifications: First, here and elsewhere in the report references to "severely handicapped individuals" is changed to "individuals with the most severe handicaps," thus conforming to the change in definition provided for in the definition section. Second, the requirement that an order of selection be shown is made to apply only to the provisions of vocational rehabilitation services. Third, the requirement with respect to what must be included in the order of selection is modified to require that the order of selection be determined on the basis of serving first those individuals with the most severe handicaps and that such order must be consistent with priorities in such order of selection (which shall require serving first those with the most severe handicaps) established in regulations of the Commissioner. By providing that those with the most severe handicaps be first served, the conferees do not intend that handicapped individuals whose handicaps are not the most severe be excluded from receiving services."

The compromise appeared to be workable because the basic Title I program was retained, and a new program which would serve individuals who did not show vocational potential was established. Since the vocational rehabilitation program was 53 years old at the time, and had passed both Houses of Congress unanimously, the final Conference version of the bill was presumed to be a routine extension that would become law. Nobody remotely imagined the possibility that there would or could ever be a Presidential veto, but history notes that on October 27, 1972 (less than one week before the 1972 Presidential election), President Nixon vetoed the compromise bill. In doing so, he specifically criticized the new Title II when he said that—

"This measure would seriously jeopardize the goals of the vocational rehabilitation program and is another example of Congressional fiscal irresponsibility. Its provisions would divert this program from its basic vocational objectives into activities that have no vocational element whatsoever or are essentially medical in character. In addition, it would proliferate a host of narrow categorical programs which duplicate and overlap existing authorities and programs. Such provisions serve only to dilute the resources of the vocational rehabilitation program and impair its continued valuable achievements in restoring deserving American citizens to meaningful employment."

In 1973 the 93rd Congress considered the VR legislation once again, and one of the first bills sent to President Nixon was S. 7. It was essentially the same bill that had been vetoed five months earlier. That bill was considered the first "test of strength" between Congress and the White House, and it contained, as the earlier bill had, the new Title II which authorized "comprehensive rehabilitation services for handicapped individuals for whom a vocational goal was not possible or feasible." On March 27, 1973, the President vetoed the bill once again. On April 3rd, the Senate sustained the veto.

Later that year, the Congress passed a compromise bill. It deleted the new Title II, and in its place said that—

"The Secretary will conduct a comprehensive study, including research and demonstration projects of the feasibility of methods designed (1) to prepare individuals with the most severe handicaps for entry into programs under this Act who would not otherwise be eligible to enter such programs due to the severity of their handicap, and (2) to assist individuals with the most severe handicaps who, due to the severity of their handicaps or other factors such as their age, cannot reasonably be expected to be rehabilitated for employment but for whom a program of rehabilitation could improve their ability to live independently or function normally with their family and community."

Although the Congress deleted Title II, it retained the priority of services and State plan requirements under the basic Title I program for the "most severely handicapped," as in the earlier versions.

On September 26, 1973, the new priority finally became law when the President signed P.L. 93–112.

### THE FORMULA

In 1954, the formula through which federal vocational rehabilitation funds are allocated was changed to reflect the "Hill-Burton Formula." The Hill-Burton Formula places extra value on state per capita income relative to national per capita income. The change was the result of a strong Congressional desire to expand the VR program in poorer states. Through the years, many of the larger more populous states have argued that the formula is not equitable because of the so-called "squaring" mechanism in the Hill-Burton Formula which they claim denies the funds they believe they are entitled to and would receive with a different formula. The following is the formula language in the existing law that some want changed:

"Sec. 8(a) (1) The allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum."

The Statement of Managers in the House-Senate Conference Report which accompanied the Rehabilitation Act Extension of 1976 said that—

"One of the primary concerns of the Senate managers in extending the authorizations of appropriations for the Rehabilitation Act of 1973 for a period longer than one year is that such action might result in an unnecessary delay in the reassessment of the State allocation formula for the basic grant program of section 110 of the Act. The managers on the part of the House and the Senate note that the study of the State allocation formula, mandated in the Rehabilitation Act of 1973, has been completed and pledge to make their best efforts to reassess the equities of the formula and the adequacy of authorization levels, in hearings before the appropriate Committees of their respective bodies at the earliest practicable time."

In 1973 as part of P.L. 93–112, the Congress required that the Secretary of HEW ". . . conduct a thorough study of the allotment of funds among the States for grants for basic vocational rehabilitation services authorized under part B of title 1 of this Act, including a consideration of—

"(1) the needs of individuals requiring vocational rehabilitation services;

"(2) the financial capability of the States to furnish vocational rehabilitation assistance including, on a State-by-State basis, per capita income, per capita costs of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services;

"(3) the continuing demand upon the States to furnish vocational rehabilitation services, together with a consideration of the factor that no State would receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilitation Act in the fiscal year immediately prior to the enactment of this Act."

In June of 1974, the SRS completed the study and developed some alternative formulas based on what it called a "measure of equity." In developing these formulas, the report summed up some of the problems involved in determining "equity." SRS explained that—

"The principal difficulties in the development of an equitable formula are (1) determining the extent to which the various equity issues should be represented in the formula, and (2) obtaining available and reliable data that accurately reflect the intended concept. The problem is further compounded by the fact that two or more of the various equity considerations may suggest opposing strategies in the funds allocations; and mathematical representations for each of them, when combined in a formula, may 'interact', thus preventing the formula from distributing funds in accordance with all of the equity considerations simultaneously.

"Finally, if it were possible to combine all of the equity issues into one generalized 'measure of equity,' it is clear that the best allocation formula would be that which, with the use of readily available and reliable data, allocated the funds in the closest proportion to the relative size of the state's 'measure of equity.' There does not exist, however, unequivocal agreement about the extent to which the various equity issues should be included in the distribution of Federal VR funds. Further, there are many issues for which, even though they have been generally accepted as pertaining to the equity of VR funds distribution, there exists no easy way to represent them in quantifiable terms."

As part of the study, an analysis was made on four alternative allocation formulas. They were as follows:

1. The current (Hill-Burton) formula.

2. The Hill-Burton formula, with the square removed from the ability-to-pay factor, and with minimum provisions removed.

3. Standard Formula 1: The formula that allocates funds to states in direct proportion to their estimated target population.

4. Standard Formula 2: The formula that allocates funds to states in direct proportion to their estimated target: population, modified by a moderate ability-to-pay factor.

The following table from the report illustrates what would happen if any one of these formulas were to be adopted. The table dramatically illustrates the *political* problems in changing from the existing formula to any other, because a majority of the states will lose money if any of these approaches are adopted.

The questions facing the Congress are as follows:

1. Should the formula be changed?

2. If it should, how will states be protected from going below the amount of dollars they presently receive?

3. If so many states would lose money if the formula is changed, why should Members of Congress vote for change?

TABLE I.—COMPARISON OF ALTERNATIVE ALLOCATIONS FORMULA ALLOTMENTS

| State | Population (thousands) | Per capita income | Hill-Burton Federal allotment (millions) | Hill-Burton minimum Federal allotment (millions) | Hill-Burton no minimum no squaring Federal allotment (millions) | Alternative form No. 1 Federal allotment (millions) | Alternative form No. 2 Federal allotment (millions) |
|---|---|---|---|---|---|---|---|
| Alabama | 3,539 | $2,876 | $17.26 | $17.36 | $14.17 | $12.88 | $13.68 |
| Alaska | 330 | 4,561 | 2.00 | .71 | .87 | .95 | .91 |
| Arizona | 2,058 | 3,617 | 7.23 | 7.32 | 7.01 | 6.48 | 6.52 |
| Arkansas | 2,037 | 2,853 | 10.03 | 10.08 | 8.19 | 7.53 | 8.02 |
| California | 20,601 | 4,433 | 47.54 | 47.81 | 56.73 | 64.19 | 64.19 |
| Colorado | 2,437 | 3,834 | 7.76 | 7.80 | 7.88 | 7.63 | 7.58 |
| Connecticut | 3,076 | 4,806 | 5.64 | 5.67 | 7.55 | 9.10 | 8.67 |
| Delaware | 576 | 4,410 | 2.00 | 1.35 | 1.60 | 1.78 | 1.73 |
| District of Columbia | 746 | 1,966 | 5.09 | 5.12 | 3.53 | 3.17 | 3.76 |
| Florida | 7,678 | 3,663 | 26.56 | 26.71 | 25.89 | 24.39 | 24.49 |
| Georgia | 4,786 | 3,369 | 18.96 | 19.06 | 17.27 | 16.59 | 16.96 |
| Hawaii | 8,320 | 4,464 | 2.00 | 1.90 | 2.27 | 2.37 | 2.29 |
| Idaho | 770 | 3,237 | 3.23 | 3.25 | 2.86 | 2.39 | 2.46 |
| Illinois | 11,236 | 4,513 | 24.73 | 24.87 | 30.22 | 34.28 | 33.04 |
| Indiana | 5,316 | 3,843 | 16.85 | 16.94 | 17.16 | 16.04 | 15.94 |
| Iowa | 2,904 | 3,720 | 9.78 | 9.83 | 9.66 | 8.81 | 8.82 |
| Kansas | 2,279 | 3,916 | 6.96 | 7.00 | 7.22 | 7.04 | 6.97 |
| Kentucky | 3,342 | 3,095 | 14.90 | 14.98 | 12.79 | 11.78 | 12.29 |
| Louisiana | 3,764 | 3,057 | 17.05 | 17.15 | 14.52 | 13.70 | 14.33 |
| Maine | 1,028 | 3,209 | 4.37 | 4.39 | 3.84 | 3.17 | 3.28 |
| Maryland | 4,070 | 4,267 | 10.32 | 10.38 | 11.75 | 12.48 | 12.15 |
| Massachusetts | 5,818 | 4,321 | 14.32 | 14.40 | 16.54 | 17.38 | 16.88 |
| Michigan | 9,044 | 4,213 | 23.65 | 23.77 | 26.50 | 27.24 | 26.59 |
| Minnesota | 3,897 | 3,827 | 12.45 | 12.52 | 12.63 | 11.69 | 11.63 |
| Mississippi | 2,281 | 2,585 | 12.46 | 12.53 | 9.66 | 8.99 | 9.82 |
| Missouri | 4,757 | 3,710 | 16.09 | 16.18 | 15.86 | 15.12 | 15.14 |
| Montana | 721 | 3,414 | 2.80 | 2.81 | 2.58 | 2.26 | 2.30 |
| Nebraska | 1,542 | 3,805 | 4.98 | 5.01 | 5.02 | 4.74 | 4.72 |
| Nevada | 548 | 4,546 | 2.00 | 1.19 | 1.46 | 1.67 | 1.61 |
| New Hampshire | 791 | 3,611 | 2.80 | 2.82 | 2.70 | 2.33 | 2.35 |
| New Jersey | 7,361 | 4,559 | 15.76 | 15.85 | 19.53 | 22.04 | 21.20 |
| New Mexico | 1,106 | 3,101 | 4.92 | 4.95 | 4.23 | 3.84 | 4.00 |
| New York | 18,265 | 4,734 | 35.08 | 35.28 | 45.88 | 57.23 | 54.71 |
| North Carolina | 5,273 | 3,210 | 22.39 | 22.52 | 19.70 | 18.33 | 18.95 |
| North Dakota | 640 | 3,204 | 2.72 | 2.74 | 2.39 | 2.00 | 2.07 |
| Ohio | 10,731 | 3,993 | 31.52 | 31.70 | 33.34 | 32.73 | 32.28 |
| Oklahoma | 2,663 | 3,312 | 10.82 | 10.88 | 9.73 | 8.95 | 9.19 |
| Oregon | 2,225 | 3,735 | 7.44 | 7.48 | 7.37 | 6.98 | 6.98 |
| Pennsylvania | 11,902 | 3,926 | 36.18 | 36.39 | 37.62 | 37.01 | 36.62 |
| Rhode Island | 973 | 3,916 | 2.97 | 2.99 | 3.08 | 2.93 | 2.90 |
| South Carolina | 2,726 | 2,931 | 13.00 | 13.08 | 10.79 | 9.71 | 10.26 |
| South Dakota | 685 | 3,197 | 2.92 | 2.94 | 2.57 | 2.24 | 2.32 |
| Tennessee | 4,126 | 3,086 | 18.46 | 18.57 | 15.82 | 14.70 | 15.34 |
| Texas | 11,794 | 3,540 | 43.22 | 43.47 | 40.93 | 39.57 | 40.02 |
| Utah | 1,157 | 3,213 | 4.91 | 4.93 | 4.32 | 3.47 | 3.58 |
| Vermont | 464 | 3,449 | 2.00 | 1.78 | 1.64 | 1.43 | 1.45 |
| Virginia | 4,811 | 3,633 | 16.88 | 16.98 | 16.34 | 15.61 | 15.69 |
| Washington | 3,429 | 4,013 | 9.97 | 10.03 | 10.60 | 10.40 | 10.25 |
| West Virginia | 1,794 | 3,016 | 8.26 | 8.31 | 6.98 | 6.40 | 6.72 |
| Wisconsin | 4,569 | 3,706 | 15.48 | 15.57 | 15.25 | 13.61 | 13.63 |
| Wyoming | 353 | 3,661 | 2.00 | 1.23 | 1.19 | 1.09 | 1.10 |
| American Samoa | 30 | 1,966 | .20 | .21 | .14 | .10 | .12 |
| Guam | 93 | 1,966 | .63 | .64 | .44 | .28 | .33 |
| Puerto Rico | 2,829 | 1,966 | 19.29 | 19.40 | 13.39 | 10.57 | 12.55 |
| Trust Territory | 96 | 1,966 | .65 | .66 | .45 | .32 | .38 |
| Virgin Islands | 73 | 1,966 | .50 | .50 | .35 | .29 | .35 |

July-August, 1976.

### STATE AGENCY

Over the past few years, several states (Florida most recently) have attempted to reorganize the departments within their states into comprehensive or "umbrella" type units which become single human services agencies. States claim this is being done because "it will streamline the delivery of rehabilitation as well as other services to residents" of the respective states. In doing so, however, the states are finding that their actions are inconsistent and do not comply with federal law, regulations, or the intent of Congress as set down in Section 101(a) (2).

The Act requires that for each fiscal year in which a state desires to participate in the program authorized under Title I of the Act, that state shall submit an annual plan for vocational rehabilitation services which shall proceed as follows:

"101(a) (1) (A) designate a State agency as the sole State agency to administer the plan or to supervise its administration by a local agency

"101(a) (2) (A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work; and

"(B) (i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in clause (1) (B) (ii), either that such unit shall be so located and have such status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to clause (1) of this subsection, such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of such agency, and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this clause applying separately to each of such units; . . ."

Although Florida had been advised that its proposed state law would be inconsistent with federal law and regulations, the state persisted in its view that it had a right to organize its own delivery system. Federal officials pointed out that this was not simply a state program—that, in fact, the state only contributed 20 cents of every dollar which was provided for the rehabilitation program. Florida, in order to leave itself some flexibility, provided, in its new reorganization of law, that the state law could be reconciled with federal law whenever it was necessary.

Florida, immediately upon passage of its new law, recognized that it was not in compliance and, therefore, requested a waiver of the requirements of the Rehabilitation Act. Congressman Brademas, speaking on behalf of the subcommittee, became aware of this request for a waiver of federal law and wrote to outgoing Secretary Weinberger on June 24, 1975, and again to the new Secretary of HEW, Secretary Mathews, on October 7, 1975, that—

"The Act permits extensive flexibility for program cooperation between vocational rehabilitation and other service programs, but it calls for preserving the integrity of the vocational rehabilitation unit and does not permit it to be fragmented and placed under the program and administrative control of other organizations.

"It is the Committee's belief that the program at both the state and Federal level, must be responsible for its own program development, for its own budget, for its own staffing, including ability to hire and fire, as well as maintaining a viable, visible and high advocacy position at the state level. While we could argue the merits and demerits of such plans as that submitted and while we may debate various delivery mechanisms, it is my firm belief that if we have learned anything from the Watergate period, it is that the law and the intent of Congress must be complied with.

"The fact that persons may disagree with the law is no excuse for ignoring or disobeying it. The proper forum is through the legislative process at which time honorable and differing views may be heard and considered. At the end of the process, the democratic system will give us the majority opinion and the law."

The Administration apparently agreed that the waiver could not be granted and requested new authority from the Congress to waive the requirements of the Rehabilitation Act. On February 26, 1976, Senator Robert Stafford (R-Vt) introduced "at the request of the Administration," S. 3034 which would provide to the Secretary of HEW the authority to waive those sections of the law which mandate the state agency make-up. He introduced the bill "so that there would be discussion on this issue."

On March 15, 1976, the RSA Commissioner notified the Governor of Florida of the HEW intention to disapprove of the proposed Florida state plan for rehabilitation services for FY 76, "on the basis that it does not fulfill the conditions specified in Section 101(a) (2) (A) of the Rehabilitation Act of 1973, as amended."

Questions before Congress are

1. Should the waiver authority be accepted?

2. Does the existing state structure not work?

3. Is there any information or justification available which documents that a change in the state structure will in fact improve the delivery services to handicapped individuals throughout the country?

### RESEARCH—TRAINING

The priority for serving severely disabled people under the 1973 Act has produced increased demands on research. As discussed above, the priority on serving the severely handicapped is meaningless if they are defined as a class of individuals for whom a vocational goal is not possible. Thus, the relevance of focusing on severely disabled people depends upon the capacity of the rehabilitation system to restore cases, many of which might formerly have been considered unlikely to become restored to the point of employment. It is felt that this capacity must be expanded, and it is through research activity, related demonstrations, and training of professionals in the newest of effective procedures and services that such expansion can take place.

Research monies, however, have been at a low ebb, and only recently was the appropriation increased to $24 million. This figure however is $8 million less than was appropriated four years ago.

Many of the problems and questions in the area of rehabilitation research of concern to the Congress were expressed in Senate testimony given by the American Congress of Rehabilitation Medicine and the American Academy of Physical Medicine and Rehabilitation on February 23, 1976. Some excerpts are as follows:

"1. We believe that there is not a coherent research and evaluation strategy being followed by HEW.

"2. We have sensed a failure of commitment to a research strategy with the result that differing signals go out from differing parts of HEW with regard to priorities, methods of research, and the management of the research program.

"3. While peer review is required by rehabilitation regulations for research and training programs, no peer review system has yet been established to review research proposals. Nor has there been maximum use of experts from the field in the development of a research strategy. The result, in many cases, is that the priorities do not relate to merit and feasibility.

"4. One of the worst things which happened in the research program in the past few years has been the constant shifting of priorities. These priorities have seemed to depend on whim much more than need and scientific merit. In addition, mainly because of the lack of manpower in the research program, the review of applications tends to focus on the number of proposals that a Research and Training Center, for example, may submit, rather than the quality of the proposal.

"5. For many years there has been a serious problem within HEW as to where rehabilitation research was done . . . [The problem is] the failure to focus these efforts and have them coordinated. The National Institutes of Health generally refuses to support medical rehabilitation research because it is basically applied and service related research while RSA continues to refuse to support *basic* research. As a result, many important rehabilitation research proposals which essentially relate to applied research and improved treatment and services for the disabled but also include substantial basic research elements are never supported by RSA or NIH.

"6. The staff resources in RSA are substantially less than the staff resources were in 1967. Yet, the program has many more elements and many more requirements than it did then.

"7. One of the greatest shortcomings of the existing research program is its failure to utilize what has been achieved . . . There is not sufficient funding to do pilot demonstrations of these projects or to do any pilot commercial productions of these products. In addition, there are absolutely no funds to support the subsidy that may be needed to get these products made on a commercial basis and distributed, given the fact that they are new and may present some risk to industry.

"8. The system for transmitting information regarding research is now counterproductive. That system includes voluminous reports which have as their focus audit requirements. The reports require information mainly to show that expenditures have been for items that are approved items. The reports are not used to transmit results of research . . . In addition, it seems that these reports are never read and there is constantly a flow of requests for further information, most of which has already been provided in one form or another."

Hard choices must be faced in terms of making the RSA program meet the demands placed on it in view of limited resources. In addition to addressing the concerns just listed, some questions which must be addressed are:

1. Whether funding of center programs such as Research & Training at Bioengineering are more effective than research targeted on particular objectives

2. Whether the federal government should exclusively target research and to what extent the research community should have more influence over these decisions

3. Whether a peer review system can give the government greater capacity to select productive projects

4. Whether a more effective relationship can be developed between state agencies who

ultimately use research findings and the research community who is carrying it out

5. Whether a process can be developed to establish reasonable targets for research to meet the demands for rehabilitation of severely disabled people—targets in areas of possible breakthrough with substantial impact.

The issues in the area of training directly relate to the questions regarding the capacity to deliver effective care and services to severely disabled people as presented in the research discussion. Pertinent questions being asked about training in vocational rehabilitation are as follows:

1. What service personnel are most necessary to care for severly disabled people—medical personnel, other health personnel, social workers, rehabilitation counselors, vocational specialists?
2. How many such trained personnel are there available today?
3. Where are they located?
4. Are they geographically distributed to meet all the needs?
5. How many more are needed?
6. How can shortages of personnel, if they exist, be remedied?

### RIGHTS OF DISABLED PEOPLE

The 1973 Amendments in many respects can best be characterized as a bill of rights for the disabled: affirmative action, nondiscrimination, architectural barriers, written program plans and participation in their development. As of May, 1976, no regulations have been issued regarding the non-discrimination provisions, and affirmative action programs have not been enforced by HEW. The real issue involved in all of these provisions is the capacity of the Federal government to enforce its own laws. Unlike grants-in-aid, a civil rights law not only provides a right or benefit to someone, it imposes a responsibility on someone else and enforcing that duty is not easy. If voluntary action could achieve this goal, the law would not have been required in the first place. Enforcement is necessary when voluntary compliance is not achieved. In this area tough issues must be faced. Some of the major questions facing the Congress are the following:

1. What is a handicap?
2. Who are the handicapped?
3. What is discrimination?
4. Is financial hardship a basis for discriminating against someone?
5. What is the overall strategy for implementation of the law and when will it be put into effect?

### CONCLUSION

The questions being raised about the 56-year-old vocational rehabilitation program are significant and difficult. They will not be easily answered because they represent varying political and philosophical pressures which are compounded by pushes and pulls and diverse interests which are often in conflict.

No prediction can be made at this time as to how, if, or when the Congress will address them.

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### GENERAL LEAVE

Mr. FITHIAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today of the gentleman from Minnesota (Mr. Fraser).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

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### GENERAL LEAVE

Mr. FITHIAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today of the gentleman from Missouri (Mr. Bolling).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

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### GENERAL LEAVE

Mr. FITHIAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today of the gentleman from New York (Mr. Addabbo).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

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### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Charles H. Wilson of California (at the request of Mr. O'Neill), for the balance of the week, on account of official business.

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### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of Alaska) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 10 minutes, today.

Mr. Railsback, for 5 minutes, today.

Mr. Quie, for 5 minutes, today.

Mr. McKinney, for 5 minutes, today.

Mr. Goldwater, for 5 minutes, today.

Mr. du Pont, for 15 minutes, today.

Mr. Heinz, for 5 minutes, today.

Mr. Martin, for 10 minutes, today.

Mr. Bob Wilson, for 5 minutes, today.

Mr. Don H. Clausen, for 15 minutes, today.

Mr. Crane, for 5 minutes, today.

Mr. McDade, for 30 minutes, October 1.

Mr. Coughlin, for 30 minutes, October 1.

Mr. Schulze, for 50 minutes, October 1.

Mrs. Heckler of Massachusetts, for 5 minutes, today.

(The following Members (at the request of Mr. Fithian) to revise and extend their remarks and include extraneous matter:)

Mr. Thompson, for 10 minutes, today.

Mr. Zablocki, for 10 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. McHugh, for 5 minutes, today.

Mr. Diggs, for 5 minutes, today.

Mr. Stokes, for 10 minutes, today.

Mr. Aspin, for 10 minutes, today.

Mr. Rostenkowski, for 10 minutes, today.

Ms. Holtzman, for 30 minutes, today.

Mr. Lundine, for 5 minutes, today.

Mr. Alexander, for 30 minutes, today.

Mr. O'Neill, for 10 minutes, today.

Mr. Leggett, for 10 minutes, today.

Mr. Rogers, for 30 minutes, today.

Mr. Fuqua, for 5 minutes, today.

Mr. Ford of Tennessee, for 5 minutes, today.

Mr. Price, for 5 minutes, today.

Mr. Satterfield, for 60 minutes, on October 1.

Mr. Diggs, for 60 minutes, on October 1.

Mr. Smith of Iowa, for 30 minutes, on October 1.

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### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Badillo, to extend his remarks in the body of the Record and to include extraneous material, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $1,359.

Mr. Brademas, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $1,287.

Mr. Hayes of Indiana and to include extraneous material notwithstanding the fact it exceeds two pages of the Record at an estimated cost of $1,144.

Mr. Lundine and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $3,861.

Mr. Murtha to revise and extend remarks and include extraneous material during general debate on Alaskan pipeline bill.

Mr. Brademas to revise and extend his remarks on House Concurrent Resolution 761.

Mr. Thornton, immediately following the vote on H.R. 14232, Labor-HEW appropriations veto override.

(The following Members (at the request of Mr. Young of Alaska) and to include extraneous material:)

Mr. Kemp in four instances.

Mr. Crane.

Mr. Fish.

Mr. Mosher.

Mr. Wiggins.

Mr. Treen in two instances.

Mr. Duncan of Tennessee.

Mr. Heinz in three instances.

Mr. Martin.

Mr. Schulze.

Mr. Esch in two instances.

Mr. Conable.

Mr. Mitchell of New York in two instances.

Mr. Derwinski in two instances.

Mr. Rousselot in six instances.

Mr. Young of Florida.

Mr. Horton in two instances.

Mr. Michel.

Mr. Bob Wilson.

Mr. McClory in two instances.

Mr. HANSEN.

Mr. LOTT.

Mrs. HOLT.

(The following Members (at the request of Mr. FITHIAN) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. ZABLOCKI in two instances.

Mr. STEPHENS.

Mr. LEGGETT in 10 instances.

Mrs. BURKE of California in two instances.

Mr. DERRICK in two instances.

Mr. LUNDINE in five instances.

Mr. YATRON.

Mr. HAWKINS in two instances.

Mr. ROSE.

Mr. BENNETT.

Mr. MCDONALD in five instances.

Mr. LEVITAS.

Mr. EDWARDS of California.

Mr. BRINKLEY.

Mrs. SCHROEDER.

Mr. WAXMAN in 10 instances.

Mr. HELSTOSKI.

Mrs. MEYNER.

Mr. VAN DEERLIN in two instances.

Mr. ROGERS in five instances.

Mr. O'NEILL.

Mr. RYAN.

Mr. RUSSO in two instances.

Mr. ROSENTHAL.

Mr. HUNGATE.

Mr. YOUNG of Georgia.

Mr. ROONEY in four instances.

Mr. BAUCUS.

Mr. LONG of Maryland.

Mr. HANNAFORD.

Mr. JENRETTE.

Mrs. KEYS.

Mr. PATTERSON of California.

Mr. FORD of Michigan.

Mr. BRECKINRIDGE in two instances.

Mr. AMBRO in two instances.

Mr. BADILLO in two instances.

Mr. JACOBS.

Mr. STARK in two instances.

Mr. HARRINGTON in three instances.

Ms. ABZUG.

Mr. EARLY.

Mr. ROE in six instances.

Mr. FORD of Tennessee.

Mr. FRASER.

Mr. MAGUIRE.

Mr. SYMINGTON.

Mr. EDGAR in two instances.

Mr. SMITH of Iowa in 10 instances.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3954. An act to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of medical personnel of the armed forces, the Defense Department, the Central Intelligence Agency, and the National Aeronautics and Space Administration, and for other purposes;

H.R. 11199. An act for the relief of Hollis Anthony Millet.

H.R. 12566. An act authorizing appropriations to the National Science Foundation for fiscal year 1977;

H.R. 13367. An act to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes; and

H.J. Res. 1096. Joint resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes.

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## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2981. An act to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes.

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## ADJOURNMENT

Mr. BRINKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 36 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, October 1, 1976, at 10 o'clock a.m.

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## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4106. A letter from the President of the United States, transmitting notice of his intent to exercise his authority under section 614(a) of the Foreign Assistance Act of 1961, as amended, in order to furnish security supporting assistance to Spain during the period July 1, 1976–September 30, 1977, pursuant to section 652 of the act (H. Doc. No. 94–648); to the Committee on International Relations and ordered to be printed.

4107. A letter from the President of the United States, transmitting notice of his intent to allocate compensation adjustments for members of the uniformed services, pursuant to section 303(b) of Public Law 94–361 (37 U.S.C. 1009(e)) (H. Doc. No. 94–649); to the Committee on Armed Services and ordered to be printed.

4108. A letter from the Chairman and Vice Chairman, Federal Election Commission, transmitting a report on the status of the Commission's proposed regulations transmitted to the Congress on August 3, 1976; to the Committee on House Administration.

4109. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of June, 1976, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

4110. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Virginia Heating and Refrigeration Plant in Arlington, Va., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4111. A letter from the Chairman and members, Council on Environmental Quality, Executive Office of the President, transmitting the Council's report on environment and conservation in energy research and development, covering activity through March 1976, pursuant to section 11 of the Nonnuclear Energy Research and Development Act; to the Committee on Science and Technology.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee of Conference. Conference Report on S. 3091 (Rept. No. 94–1735). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. Report on the progress and problems in collecting delinquent international debts owed to the United States (Rept. No. 94–1736). Referred to the Committee of the Whole House on the state of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 11436. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of amounts paid from an estate as an allowance or award for the support of the decedent's surviving spouse or children; with amendment (Rept. No. 94–1737). Referred to the Committee of the Whole House on the state of the Union.

Mr. STEED: Committee on Small Business. Report on recent efforts to amend or repeal the Robinson-Patman Act (Rept. No. 94–1738). Referred to the Committee of the Whole House on the state of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. Report on allocation of budget totals to subcommittees (Rept. No. 94–1739). Referred to the Committee of the Whole House on the state of the Union.

Mr. ADAMS: Committee on the Budget. Report on Off-Budget Activities of the Federal Government (Rept. No. 94–1740). Referred to the Committee of the Whole House on the state of the Union.

Mr. BOLLING: Committee on Rules, House Resolution 1591. A resolution providing for consideration of S. 2278. A bill: The Civil Rights Attorney's Fees Awards Act of 1976 (Rept. No. 94–1741). Referred to the House Calendar.

Mr. STAGGERS: Committee of Conference. Conference report on S. 3219 (Rept. No. 94–1742). Ordered to be printed.

Mr. STAGGERS: Committee of Conference. Conference Report on S. 3131 (Rept. No. 94–1743). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. S. 2081. An act to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes; with amendments (Rept. No. 94–1744). Referred to the Committee of the Whole House on the State of the Union.

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## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Carolina (for himself and Mr. DRINAN):

H.R. 15769. A bill to grant a Federal charter to the National Humanities Center; to the Committee on the Judiciary.

By Mr. ASPIN:

H.R. 15770. A bill to amend title 37 of the United States Code in order to abolish the personal money allowances payable under such title to certain officers; to the Committee on Armed Services.

H.R. 15771. A bill to amend section 1336 of title 10 of the United States Code in order to establish limitations on the crediting of years of service in the Armed Forces for retirement benefits; to the Committee on Armed Services.

H.R. 15772. A bill to amend title 37 of the United States Code in order to convert the existing basic pay and allowance system for the uniformed services to a salary system, and for other purposes; to the Committee on Armed Services.

H.R. 15773. A bill to require the Secretary of Labor to conduct a survey comparing military pay and non-Federal sector pay for similar occupations and skill levels; to the Committee on Education and Labor.

H.R. 15774. A bill to prohibit appropriated funds from being used to pay for certain morale, welfare, and recreation programs of the Armed Forces; to the Committee on Government Operations.

H.R. 15775. A bill to reform the retired pay system of the uniformed services, and for other purposes; jointly to the Committees on Armed Services, Merchant Marine and Fisheries, and Interstate and Foreign Commerce.

By Mr. CRANE (for himself, Mr. Spence, Mr. Duncan of Tennessee, Mr. Milford, Mr. Talcott, and Mr. Sebelius):

H.R. 15776. A bill to guarantee the right of all Americans to quality medical care, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, Ways and Means, and Rules.

By Mr. DERRICK:

H.R. 15777. A bill to prohibit the appropriation and expenditure of unvouchered funds (except in the case of intelligence agencies) unless specifically authorized by law, and to provide for reports on and audits of authorized expenditures of unvouchered funds; jointly to the Committees on Government Operations and Rules.

By Mr. DUNCAN of Tennessee:

H.R. 15778. A bill to amend the Civil Rights Act of 1964 to provide that, except in certain limited circumstances, it shall be an unlawful employment practice for an employer to request that an employee or applicant for employment provide military discharge papers or other service-connected records; to the Committee on Education and Labor.

H.R. 15779. A bill to provide a special program for financial assistance to Opportunities Industrialization Centers in order to provide new skills training opportunities, and to other national community based organizations to provide comprehensive employment services to create 1 million new training and job opportunities; to the Committee on Education and Labor.

HR. 15780. A bill to require the Federal Communications Commission to increase the channels available for use in the citizens radio service, to prohibit the Commission from preventing the alteration of existing equipment used in the citizens radio serivce to accommodate such increased channel capacity, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 15781. A bill to provide benefits to the survivors of any rescue squad worker who has died as a result of injury sustained in the performance of duty; to the Committee on the Judiciary.

By Mr. DRINAN (for himself and Mr. Studds):

H.R. 15782. A bill to provide for certain research and demonstration respecting the disposal of sludge, the reclamation of waters damaged by sludge and sewage, the regulation of hazardous sludge, assistance to State and local governments for the removal of sludge and other solid waste from waters and shoreline areas, and to provide that grants for waste treatment works shall be made only if such works provide for environmentally sound sludge management; to the Committee on Public Works and Transportation.

By Mr. DRINAN (for himself, Mrs. Fenwick, Mr. Harkin, Mr. Long of Maryland, Mr. Patten, Mr. Pritchard, Mr. Roybal, Mr. Charles H. Wilson of California, and Mr. Won Pat):

H.R. 15783. A bill to amend the Solid Waste Disposal Act to encourage research, development, and implementation of energy and resource recovery from solid waste, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce and Science and Technology.

By Mr. FISHER (for himself and Mr. Harris):

H.R. 15784. A bill to complement the Vienna Convention on Diplomatic Relations; to the Committee on International Relations.

By Mr. JEFFORDS:

H.R. 15785. A bill to provide for reimbursement of consumers of electricity generated by nuclear power for certain costs associated with the premature design and premature approval, and for other unanticipated costs, of nuclear powerplants; to the Joint Committee on Atomic Eenergy.

By Mr. LEGGETT (for himself, Ms. Abzug, Mr. Badillo, Mr. Bedell, Mr. Bonker, Mr. Corman, Mr. Harkin, Ms. Holtzman, Mr. Long of Maryland, Mr. Mitchell of Maryland, Mr. Oberstar, and Mr. Seiberling):

H.R. 15786. A bill to amend the Arms Export Control Act to provide for analyses by the General Accounting Office of governmental and commercial sales of defense articles and services to foreign countries; to the Committee on International Relations.

By Mrs. SMITH of Nebraska:

H.R. 15787. A bill to amend medicare and medicaid provisions as they relate to rural health care facilities; to the Committee on Ways and Means.

By Mr. UDALL (for himself, Ms. Abzug, Mr. Bedell, Mr. Bingham, Mr. Blouin, Ms. Burke of California, Mr. Carr, Ms. Chisholm, Mr. de Lugo, Mr. Fish, Mr. Fraser, Mr. Gude, Mr. Harrington, Mr. Jeffords, Ms. Keys, Mr. Long of Maryland, Mr. Long of Louisiana, Mr. Miller of California, Mr. Neal, Mr. Oberstar, Mr. Seiberling, Mr. Simon, Mr. Stark, Mr. Van Deerlin, and Mr. Weaver):

H.R. 15788. A bill to amend the Atomic Energy Act of 1954 to provide that no applications for construction licenses under the act for production or utilization facilities shall be acted upon by the Commission unless the proposed facility has been approved by affected States; to the Joint Committee on Atomic Energy.

H.R. 15789. A bill to amend the Atomic Energy Act of 1954 to provide that construction licenses under the act shall be subject to State disapproval during a 90-day period following the issuance thereof; to the Joint Committee on Atomic Energy.

By Mr. UDALL (for himself, Mr. Jacobs, Mr. Koch, Mr. Krebs, Mr. Ryan, and Mr. Wirth):

H.R. 15790. A bill to amend the Atomic Energy Act of 1954 to provide that construction licenses under the act shall be subject to State disapproval during a 90-day period following the issuance thereof; to the Joint Committee on Atomic Energy.

H.R. 15791. A bill to amend the Atomic Energy Act of 1954 to provide that no applications for construction licenses under the act for production or utilization facilities shall be acted upon by the Commission unless the proposed facility has been approved by affected States; to the Joint Committee on Atomic Energy.

By Mr. BAUCUS (for himself, Mr. Forsythe, and Mr. Jeffords):

H.R. 15792. A bill to authorize Federal assistance under the Consolidated Farm and Rural Development Act with respect to using solar energy in residential structures on family farms; to the Committee on Agriculture.

H.R. 15793. A bill to provide more Federal assistance under certain housing programs for dwelling units which utilize solar energy; to the Committee on Banking, Currency and Housing.

H.R. 15794. A bill to amend title 38, United States Code, to provide Federal loans and loan guarantees to veterans for the purchase and installation of heating and cooling systems which utilize solar energy; to the Committee on Veterans' Affairs.

By Mr. BLOUIN (for himself and Mr. Oberstar):

H.R. 15795. A bill to establish a program for repairing and replacing unsafe highway bridges; jointly to the Committees on Public Works and Transportation, and Ways and Means.

By Mrs. COLLINS of Illinois:

H.R. 15796. A bill to provide that certain services under the Older Americans Act of 1965 be delivered by personnel trained in the field of aging and to encourage the development of training programs in the field of aging under the Higher Education Act of 1965; to the Committee on Education and Labor.

H.R. 15797. A bill to amend title 5, United States Code, to require certain Federal agencies to provide to certain employees notice of procedures through which such employees may challenge actions taken against them by such agencies; to the Committee on Post Office and Civil Service.

By Mr. CORMAN (for himself, Mrs. Collins of Illinois, Mr. Shriver, and Mr. Young of Alaska):

H.R. 15798. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. Duncan of Tennessee, Mr. Moffett, and Mr. Santini):

H.R. 15799. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; to the Committee on Ways and Means.

By Mr. FISHER:

H.R. 15800. A bill to provide that individuals who retired on disability before October 1, 1976, shall be entitled to the exclusion for disability payments under section 105(d) of the Internal Revenue Code of 1954 without regard to the income limitation in such section, and for other purposes; to the Committee on Ways and Means.

By Mr. FITHIAN:

H.R. 15801. A bill to amend the General Education Provisions Act to remove from the category of protected education records certain records of law enforcement units; to the Committee on Education and Labor.

By Mr. GREEN (for himself, Mr. Drinan, Mr. Hawkins, and Mr. Roe):

H.R. 15802. A bill to provide a special program for financial assistance to Opportunities Industrialization Centers in order to provide new skills training opportunities, and to other national community based organizations to provide comprehensive employment services to create one million new training and job opportunities; to the Committee on Education and Labor.

By Mr. HANSEN (for himself, Mr. Abdnor, Mr. Bedell, Mr. Bell, Mr. Broyhill, Mr. Collins of Texas, Mr. Conable, Mr. Frenzel, Mr. Frey, Mr. Grassley, Mr. Gude, Mr. Hillis, Mr. Hyde, Mr. Ichord, Mr. Johnson of Pennsylvania, Mr. Ketchum, Mr. Lagomarsino, Mr. Lujan, Mr. Quillen, Mr. Rhodes, Mr. Shriver, Mr. Snyder, Mr. J.

William Stanton, Mr. Symms, and Mr. Thone):

H.R. 15803. A bill to establish a Commission and Task Force to review all Federal Government programs, determine what economies and efficiencies can be achieved through program consolidation, review the functions carried out by each level of government, and make recommendations for more clearly defining the respective responsibilities of such levels, and for other purposes; to the Committee on Government Operations.

By Mr. HEINZ (for himself, Mr. Badillo, Mr. Baucus, Mr. Beard of Rhode Island, Mrs. Chisholm, Mr. Cohen, Mr. Delaney, Mr. Gilman, Mr. Hamilton, Mr. Harkin, Mr. Jeffords, Mr. Johnson of Pennsylvania, Mr. Lundine, Mr. McDade, Mr. Neal, Mr. Rodino, Mr. Schneebeli, Mr. Shuster, Mr. Simon, and Mr. Vander Jagt):

H.R. 15804. A bill to establish a program for repairing and replacing unsafe highway bridges; jointly, to the Committee on Public Works and Transportation, and Ways and Means.

By Mr. JEFFORDS:

H.R. 15805. A bill to suspend the granting of construction licenses of nuclear power fission powerplants in the United States pending action by the Congress following a report to the Congress of a National Nuclear Review Commission on the problems associated with the nuclear fuel cycle, with recommended solutions to those problems, and for other purposes; jointly, to the Joint Committees on Atomic Energy, and the Committee on Rules.

By Mr. KARTH:

H.R. 15806. A bill to provide for the temporary suspension of duty on the importation of Color Couplers and Coupler Intermediates used in the manufacture of Photographic Sensitized Material (provided for in Items 405.20 and 403.60 respectively); to the Committee on Ways and Means.

By Mr. KEMP:

H.R. 15807. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for property improvements designed to prevent shoreline erosion caused by high water levels in the Great Lakes; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. Harrington and Mr. Nolan):

H.R. 15808. A bill to amend the Civil Rights Act of 1964 to provide that, except in certain limited circumstances, it shall be an unlawful employment practice for an employer to request that an employee or applicant for employment provide military discharge papers or other service-connected records; to the Committee on Education and Labor.

By Mr. NOLAN:

H.R. 15809. A bill to amend title XVI of the Social Security Act to provide for the exclusion from income, for purposes of determining eligibility and amount of benefits under the supplemental security income program, of certain earned income received by reason of employment in a sheltered work setting; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself and Mr. Rogers):

H.R. 15810. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 15811. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the gain from certain involuntary conversions of the principal residences of individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. WYDLER (for himself, Mrs. Heckler of Massachusetts, and Mr. Patten):

H.R. 15812. A bill to provide for grants and technical assistance for the construction or acquisition by certain State and local authorities of facilities for the use or disposal of sewage sludge; to the Committee on Public Works and Transportation.

By Mr. FASCELL (for himself, Mr. Buchanan, Mr. Morgan, and Mr. Broomfield):

H.R. 15813. A bill to amend the act of June 3, 1976, relating to the Commission on Security and Cooperation in Europe; considered and passed.

By Ms. HOLTZMAN:

H.R. 15814. A bill to require the Watergate Special Prosecution Force to report to the Congress and for other purposes; to the Committee on the Judiciary.

By Mr. STOKES (for himself, Mr. Patterson of California, Mr. Symington, and Mr. Carr):

H.R. 15815. A bill to provide a special program for financial assistance to Opportunities Industrialization Centers and other nonprofit community-based organizations of demonstrated effectiveness, in order to provide one million new jobs and job training opportunities, and for other purposes; jointly to the Committees on Education and Labor, and Ways and Means.

By Mr. DINGELL (by request):

H.J. Res. 1116. Joint resolution relating to the regulation by the States of certain Indian hunting and fishing rights; to the Committee on Interior and Insular Affairs.

By Mr. DODD:

H.J. Res. 1117. Joint resolution authorizing the President to proclaim the third week in June of each year as "National Veterans' Hospital Week"; to the Committee on Post Office and Civil Service.

By Mr. GUDE (for himself, Mr. Rangel, Mr. Pepper, Ms. Abzug, Mr. Clay, Mr. Fauntroy, Mr. Fraser, Mr. Harrington, Mr. Koch, Mr. McKinney, Mrs. Meyner, Mr. Ottinger, Mrs. Schroeder, and Mr. Wolff):

H. Res. 1588. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on Urban and District of Columbia Affairs; to the Committee on Rules.

By Mr. HAWKINS:

H. Res. 1589. Resolution to establish a Select Committee on Mexico-United States Relations; to the Committee on Rules.

By Mr. ROE:

H. Res. 1590. Resolution relative to the freedom of the citizens of Romania, and for other purposes; jointly to the Committees on International Relations, Ways and Means, and House Administration.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. EILBERG:

H.R. 15816. A bill for the relief of Carmen Prudence Hernandez; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 15817. A bill for the relief of Alexa W. Crevier; to the Committee on the Judiciary.

By Mrs. HECKLER of Massachusetts:

H.R. 15818. A bill for the relief of Dr. Mary L. Warren; to the Committee on the Judiciary.

By Mr. MICHEL:

H.R. 15819. A bill for the relief of Jonathon Juco and Jonard Juco; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 15820. A bill for the relief of William H. Whiting; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 15821. A bill for the relief of Hildegard G. Blakeley; to the Committee on the Judiciary.

## FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of September 29, 1976, page 33762:

### HOUSE BILLS

H.R. 15416. September 2, 1976. Education and Labor. Amends the Higher Education Act of 1965 to direct the Commissioner of Education to make annual grants to schools of medicine, dentistry, and osteopathy for the purpose of offering regional medical academic summer enrichment programs for undergraduate students from deprived educational or economic backgrounds.

H.R. 15417. September 2, 1976. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make annual grants to schools of medicine, osteopathy, and dentistry for the support of education programs of such schools relating to the special needs of students from disadvantaged backgrounds enrolled in such schools.

H.R. 15418. September 2, 1976. Armed Services. Establishes a six-year military obligation for females who become members of the armed forces.

H.R. 15419. September 2, 1976. Atomic Energy. Sets forth United States policy with respect to nonproliferation of nuclear explosive devices. Specifies procedures for (1) implementation of international agreements for nuclear material transfer and safeguards, (2) initiation of safeguards training programs, (3) participation in international cooperation programs, (4) export and production of special nuclear material, and (5) Congressional oversight of such nonproliferation activities.

Authorizes additional, and revises present, nuclear safeguard functions of the Nuclear Commission.

H.R. 15420. September 2, 1976. Banking, Currency and Housing. Directs the Secretary of the Treasury to strike medals in commemoration of the two hundredth anniversary of the encampment of the American Army at Valley Forge.

H.R. 15421. September 2, 1976. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred more than one year prior to the date of the petition on which such certification was granted.

H.R. 15422. September 2, 1976. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to designate segments of specified rivers as components of the National Wild and Scenic Rivers System

Repeals provisions in the Wild and Scenic Rivers Act prohibiting the addition of a river or a portion of a river to the National Wild and Scenic Rivers System until the close of the first full session of the appropriate State legislature that begins following the submission of any recommendation to the President with respect to such addition.

Redefines the boundaries of the portion of the Feather River, California, which is a component of the National Wild and Scenic Rivers System.

H.R. 15423. September 2, 1976. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to designate segments of specified rivers as components of the National Wild and Scenic Rivers System.

Repeals provisions in the Wild and Scenic Rivers Act prohibiting the addition of a river or a portion of a river to the National Wild and Scenic River System until the close of the first full session of the appropriate State legislature that begins following the submission of any recommendation to the President with respect to such addition.

Redefines the boundaries of the portion of the Feather River, California, which is a component of the National Wild and Scenic Rivers System.

H.R. 15424. September 2, 1976. Banking, Currency and Housing. Amends the United States Housing Act of 1937 to allow public housing agencies to enter into agreements for the purpose of providing services designed to secure the safety and well-being of residents of public housing units.

H.R. 15425. September 2, 1976. District of Columbia. Directs the administrator of the Environmental Protection Agency to establish research and demonstration programs for the control of sludge. Authorizes financial assistance for sludge removal programs. Establishes a permit program to control hazardous sludge.

H.R. 15426. September 2, 1976. Government Operations. Requires, under the Office of Federal Procurement Policy Act, that Federal agencies pay interest at an annual rate of at least 12 percent on any payment which is overdue by more than two weeks on a contract with a small business concern.

H.R. 15427. September 2, 1976. Ways and Means. Amends the Internal Revenue Code to increase the amount of the personal exemption from $750 to $1,000. Provides for automatic annual cost-of-living increases in individual income tax rates. Allows a tax credit for educational expenses paid to an institution of higher education for the taxpayer, his spouse, and any of his dependents.

H.R. 15428. September 2, 1976. Interstate and Foreign Commerce. Directs the Federal Communications Commission to take steps as may be necessary to increase the channels available for use in the citizens radio service to 46 channels.

H.R. 15429. September 2, 1976. Judiciary. Amends the Civil Rights Attorney's Fees Awards Act of 1976 to permit a court to award to the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs in any action or proceeding to enforce equal rights under law, property rights of citizens, liability for deprivation of rights under color of law, liability for conspiracy to interfere with civil rights, liability for neglect to prevent conspiracy to interfere with civil rights, prohibitions against education discrimination based on sex or blindness, and prohibitions against discrimination in federally assisted programs.

H.R. 15430. September 2, 1976. Public Works and Transportation. Directs the administrator of the Environmental Protection Agency to establish research and demonstration programs for the control of sludge. Authorizes financial assistance for sludge removal programs. Establishes a permit program to control hazardous sludge.

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# EXTENSIONS OF REMARKS

## PLENTY

## HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. SYMMS. Mr. Speaker, recently, I came across excerpts from remarks made by the Secretary of Agriculture Earl Butz, before the Annual Conference of Lieutenant Governors held in Newport, R.I., on July 30, 1976.

The remarks concern food policy—national and international. Mr. Butz commends the American agricultural producer. He emphasizes the importance of a market system based on a philosophy of free enterprise and profit.

I commend the following article to Members from a good representative of a well-informed, effective executive, Earl Butz, who outlines in this article the importance of agriculture, our most precious industry, carried out by the farmers of America:

[From the Packer, Aug. 14, 1976]

### PLENTY

Some people say the United States has no national food policy.

The truth is the United States today has one of the most positive food policies we've had in decades. Our dynamic food policy can be summed up in a single word: Plenty.

There is only one sure base on which to build an effective food security policy. That base is abundant production. If you don't produce the food in the first place, there is no distribution system in the world that will make it available. A dependable supply provides food for the American people. A dependable supply makes it possible to meet our long-standing humanitarian commitments around the world. A dependable supply provides reasonably priced food for consumers both here and abroad. Production is the one absolutely essential element of any food security system.

U.S. agricultural production policies and programs are geared to a free market philosophy, allowing individual farmers to determine for themselves the investments of land, capital, labor and other resources which offer the greatest opportunity to make a profit.

Farm policies built on landmark farm legislation enacted in 1970 and 1973 have completely turned around agricultural production programs. Farmers have moved away from the long-time philosophy of quotas and allotments, of curtailment and cutback, of low farm income.

Today, farmers enjoy the economic fruits of full production.

Food consumption in the United States continues to rise. Americans are able to improve their diets and satisfy their appetites with a wide variety of high quality meats, vegetables, fruits and dairy products—not only because of the growing affluence of our people, but primarly because efficient farm operation keeps the farm prices of food reasonable in relation to family income. All-out production also makes it possible to develop reliable export markets which contribute substantially to the significantly higher net farm income farmers earn today—and from sales in the marketplace, not from government checks written at the taxpayers expense.

Our food policy of Plenty makes it possible to expand federal assistance to low income persons throughout the United States. For example, our assistance under the Food Stamp program has moved from $381,000 in 1961 to $4.3 billion in 1975. The average monthly participation has moved from 49,640 in 1961 to 17.1 million in 1975.

The cost of child nutrition programs, including the National School Lunch and School Breakfast programs, now runs more than $2 billion each year. Over 25 million youngsters receive subsidized meals or milk under USDA child nutrition programs.

Shipments of food overseas under concessional terms continue at a lofty level. On top of this, our agricultural exports have risen from $5.7 billion in the late 1960's to $21.6 billion last year. This year, we'll have agricultural exports of more than $22 billion.

The point is that none of these achievements would have been possible under a system of curtailment.

Some politicians don't like market-oriented farm programs. Some farmers, too, apparently prefer the economic security blanket of supply management programs, with Washington bureaucrats determining what each farmer will grow and how much he can earn.

But most farmers have overwhelmingly demonstrated their enthusiasm for market-oriented programs. They have voted in favor of current programs with their plows and cultivators. They've traded a low-income security for unlimited opportunity and risk-related profit. In the past three years net farm income under the Agricultural Acts of 1970 and 1973 has averaged more than $25 billion a year. The 1976 net farm income is forecast above $26 billion.

In the past two or three years, the market has signaled farmers to bring more idle acres back into production. The market has signaled farmers to invest more in irrigation—in drainage—in fertilizers—in pesticides—and in equipment. The market has signaled farmers to produce more and more for the growing demand of consumers around the world, as well as at home.

Fortunately, there has been minimal governmental interferences with those signals. The government does not own large stocks of wheat, or corn, or soybeans, or cotton. In earlier years, government-owned stocks of these commodities constituted a visible supply which owned stocks. They created an effective price ceiling and sent a strong signal back to farmers encouraging less production rather than more production.

There is a great deal of agitation these days to get the government back into the "strategic reserve" position. Some people just have short memories. We were in that position for 40 years except for war time intervals. But, in those days we didn't call them reserves. We called them surpluses. Regardless of what we call them, government-owned commodities have the same negative impact on farm prices—and on incentives to increase production.

Once we quit trying to have "Big Daddy" run American agriculture from Washington, farmers moved quickly to demonstrate their superior managerial capacity and initiative. Compare the production records for 1973 1974, and 1975 with the last three production years of the previous Administration and you'll see what I mean.

In 1966, 1967 and 1968 farmers harvested an average annual wheat crop of 1.45 billion bushels. The three-year average for corn was 4.49 billion bushels. For cotton, the average annual production was 9.3 million bales.

For the three-year period 1973, 1974 and 1975, the average annual production of wheat was 1.87 billion bushels, for corn 5.35 billion bushels and for cotton 14.2 million bales. And bear in mind that this includes the drought year of 1974.

This policy of abundant production means reasonably-priced food for American consumers. Any production plant, whether it is a farm, or a factory, or a foundry has a higher unit cost of production when operated at only a fractional part of capacity. The American farm is no exception. The farm's lowest unit cost comes when the farm is producing fully. This opportunity is available under current farm policy.

All-out American agricultural production requires export markets to help utilize the abundance. Otherwise, U.S. production would have to be cut back, which would lead to higher production costs and higher food prices. The average American family today gets food for 17 percent of take-home pay. This compares with 22 percent 25 years ago—a time when take-home pay was at a much lower level than now. Our positive food policy allows Americans to eat better than any other people in the world.

Now, let's take a hard look, head on at this erroneous notion that the United States has a weak reserve system. We have the strongest reserve system we've ever had. Our reserves are in the hands of farmers—they're owned by country elevators—they're controlled by the trade—they're not piled up in government owned steel bins somewhere in the Midwest.

Let's put to rest once and for all, the mistaken idea that consumers are threatened because farmers won't sell their commodities. Farmers didn't produce wheat and corn and soybeans just to store and look at them. They're for sale.

As for international reserves, it's quite true that the world does need a better system of international grain reserves. For decades, nations of the world let the United States and Canada carry most of the grain reserves. However, these two countries didn't carry these reserves as the result of any carefully thought out plan or agreement. We did it as the embarrassing result of an ill-conceived farm policy. We did our dead level best not to hold farm commodities as a reserve. We used every device in the book to get rid of them, including export subsidies, give-away programs—even destruction in some cases.

A year ago, at the World Wheat Council in London, the United States proposed international guidelines on food reserves, whereby each country would predetermine its own method of reserve accumulation and management.

Other nations have been slow to adopt these recommendations. Many still expect the United States and Canada will continue to bear the lion's share of accumulating, storing and providing international reserves.

Such an attitude is unrealistic and completely behind the times. It's high time that major food purchasing nations assume some responsibility for their own needs, including reserves. The best and most efficient way to do this is through the market system. But, of course, as long as other nations believe American taxpayers will provide the reserves they need, there is no incentive for them to assume the responsibility for themselves.

The market system is based on a philosophy of free enterprise and profit. Only as farmers see a chance for profit will they continue to produce the abundance which has made American agriculture the envy of the world. This lesson has not yet been learned by agriculture in some social and economic and political systems.

Too many people seem to believe that World Food Conference's produce food. Or that the U.S. Department of Agriculture produces food. Or even that political platforms, or conferences of Agriculture Lieutenant Governors, produce food.

The plain truth is that only farmers produce food—and they do it only when they have the incentive and the managerial freedom to achieve their individual economic goals. It's that simple.

Our present dynamic food policy in the United States is helping us achieve producer security, consumer food security, and world food security. It also provides a minimum of governmental intervention. In short, the United States today has the most positive food policy in decades—a policy summarized in a single word: PLENTY.

## TRIBUTE TO WALTER BREMOND

### Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mrs. BURKE of California, Mr. Speaker, I direct my colleagues attention to a singular event honoring a very distinguished resident of Los Angeles, Mr. Walter Bremond. This Saturday, October 2, a recognition dinner will be held at the Ambassador Hotel to salute a man who has dedicated his lifetime to helping people. Mr. Bremond has worked to create a pluralistic society and to better the life of his fellow blacks by tireless years of organizing, administering, and directing, he has built organizations that foster self-sustaining community service.

Mr. Bremond has a rich and varied background. After serving his required years in the U.S. Army, Mr. Bremond began working with the media in the areas of TV and radio related to human relations, juvenile delinquency, black power, self-help programs, community development, and so forth. At the same time he worked as a consultant to the Southern California Commission on Church and Race, California State Employment Service, Citizens for Creative Welfare, and numerous other community and church related projects in various cities across the country. As he acquired more experience, the opportunity arose for him to tackle civil rights responsibilities related to OEO programs in Texas, New Mexico, Louisiana, Okland, and Arkansas. He then moved to social action—training and directing young activists from the Mexican American and Negro community in techniques, methods, and philosophy of social action as an alternative to violence for positive growth and development in the ghettos and barro communities.

In the 1960's Walt Bremond was the organizer and chairman of the Los Angeles Black Congress which consisted of 70 black organizations that covered a wide range in the community. Out of the Black Congress grew the concept of the L.A. Brotherhood Crusade which he founded in 1968 creating the "self-help, self-sustaining" institution in the black community. As years passed his expertise as a program officer for Cummins Engine Foundation assisted in the creation of selling the concept to CEF of a project. The project was the National Black United Fund where he is presently serving as the executive director.

The N–BUF is the ultimate of Walter Bremonds dreams. A vehicle of reality for black people to get their fair share by independent fundraising. The role of N–BUF was designed to increase the effectiveness of affiliate organizations so additional dollars can be available to groups which serve the black community.

There are presently 14 affiliates which have been created over the past 8 years with requests for new ones to be developed all the time.

In honor of his many achievements and many long hours of dedicated service, I ask my colleagues to join me in saluting Walter Bremond on this notable occasion and in recognizing his extraordinary contributions to the well-being of his fellow men and women.

## END OF LONG CAREER

### HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 27, 1976*

Mr. BEVILL. Mr. Speaker, I want to take this opportunity to join my colleagues in saluting the Dean of the Louisiana delegation, F. Edward Hébert.

When Eddie retires at the close of this Congress it will mark the end of a 36-year career on Capitol Hill—the longest congressional tenure in the history of the State of Louisiana.

Eddie Hébert will undoubtedly be remembered for his strong stand on national defense. That stand has been predicated by his position on the House Armed Services Committee.

This year marks the 35th consecutive year Eddie has served on this important committee. From 1971 through 1974, he chaired the committee.

In his more than three decades in office, Eddie Hébert has always stressed the need for a strong national defense. Because I share his views in this area, his work, especially on the Armed Services Committee, has been extremely gratifying to me. I can think of no greater ally for a strong national defense than Eddie Hébert. His legislative initiatives in the defense field have been of paramount importance in our country's successful military operations.

Before his election to the 77th Congress in 1940, Eddie Hébert was making a name for himself as an outstanding newspaper reporter in his native New Orleans.

His newspaper work included time spent on the staffs of the New Orleans Times-Picayune and the New Orleans States, where he served as city editor.

The lessons he learned in objectivity from his newspaper days did not end when he came to Congress. For Eddie Hébert has always been known and admired for his objectivity in his legislative work. He has always been a public servant who would listen to both sides of the story, no matter what his personal convictions.

This objectivity is but one of the many things Eddie Hébert will be remembered for by his colleagues and many friends.

Aside from his work on the Armed Services Committee, Eddie has also served on the House District Committee, the Naval Affairs Committee, the House Un-American Activities Committee and the Committee on Standards of Official Conduct.

So it is with great pleasure that I join in saluting Eddie Hébert at the close of one of the most effective and illustrious congressional careers in our Nation's history.

I know I join my colleagues in expressing appreciation for a job well done.

## AVOIDING TUNNEL VISION ON THE RIGHT TO LIFE

### HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. OBEY. Mr. Speaker, on September 16 an editorial column in the Times-Review, the newspaper for the LaCrosse Catholic Diocese, contained an editorial column by Pat Whelan which I think struck a good balance in the right to life debate. I would commend its reasoned and balanced approach to everyone.

The article follows:

#### ON AVOIDING "TUNNEL VISION"

With the coming elections for president and for congressional seats, the question of the Human Life Amendment is taking a front seat among many groups.

In the culture of violence that prevails in our land and in much of the world today, I believe we have a serious responsibility to promote our belief in the sacredness of all human life from conception to the grave.

I believe also that we should do all in our power to persuade candidates to support legislation and other action designed to protect human life in all its stages and conditions.

However, from some sources, I hear militant voices calling those who do not support a federal human life amendment "murderers" or "death peddlers" and other unflattering names.

In this case I can't help thinking that name calling is great for inflaming passions or for creating vigilante groups, but not much help for persuading anyone to support our position.

The issue foremost for many of us is an amendment to the U.S. Constitution to protect human life at all stages.

We find that some candidates say they are "personally against abortion" but cannot bring themselves to support a human life amendment. An article on this page written by two Milwaukee attorneys addresses this problem. Many pro-life people accept their argument that candidates not supporting a human life amendment believe that abortion should be legal.

But the issue is more complex than that. Some candidates abhor abortion, but they feel uneasy about a human life amendment. They are not convinced that an amendment would really solve the whole problem. They might prefer one or more several alternatives, for example, (1) to give the right to legislate on abortion back to the states, (2) to initiate programs that would minimize the "felt need" for abortion.

These candidates are not really pro-abortion, but they believe that political realism forces them to balk on the human life amendment. This realism tells them that the amendment will not go to the root causes of abortion and therefore will not solve the problem. They may even suspect that abortions would go underground again and would be practiced in some hospitals (or clinics) as in the past under a number of ruses.

We may disagree with them, but I believe we must accept their honesty until they prove otherwise by their actions.

I believe if a person is pro-abortion, we must seriously question his moral stance on the sacredness of human life, and I would not vote for him. But if the candidate says he or she is anti-abortion and yet has reservations about the right political action, then we should examine his or her position "on the full range of issues as well as the person's integrity, philosophy and performance." That quotation is from the statement on political responsibility, published by the administrative board of the U.S. Catholic Conference.—Pat Whelan.

## FLETC STUDENTS RESCUE YOUTH FROM PIER FALL

### HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. GINN. Mr. Speaker, the Federal Law Enforcement Training Center, the facility which provides professional training for the majority of our Federal law enforcement officers, is located in Glynn County, Ga. It is an object of personal pride to me that I have the honor of representing this area in the Congress.

The people of Glynn County share my enthusiasm for the center, not only for the economic benefits that come with the operation, but also because it brings so many outstanding Federal employees to our community. We learned again very recently that these fine men and women are individuals of great skill, courage and dedication. By way of explanation, I ask that a recent news report which appeared in the September 15 edition of the Brunswick News be reprinted in the RECORD at this point:

#### FLETC STUDENTS RESCUE YOUTH FROM PIER FALL

A somewhat dramatic accident and rescue took place at the St. Simons Island pier last Saturday when 11 year old Lee Gregory Glasscock lost his footing and fell off the pier into the water. In the descent, the boy collided with the pier supports and was knocked unconscious.

Fortunately seven students from the Federal Law Enforcement Training Center were fishing off the pier at the time and were alerted to the occurrence when a woman who witnessed the accident screamed.

Richard M. Price, an agent of the Alcohol, Tobacco and Firearms Division, dove into the water to assist the boy and was able to bring him to the surface and keep him there despite the swiftly outgoing tide. Barry F. Lory, another ATF agent in training at the Center, dove into the water to assist Price, and together, they supported the unconscious boy while a third agent, Gerald R. Gallo, ran to a nearby store and called for the Glynn County Rescue Squad.

Meanwhile, the two agents in the water with Glasscock had considerable trouble keeping him afloat because of the strong undertow, but eventually managed to move him back to the base of the pier.

The four remaining FLETC students, Donald W. Jarrett (Federal Protective Service), Richard L. LaFountain (Bureau of Indian Affairs), William G. Frangis and Kenneth W. Vicchio (ATF) then formed a human chain from the top of the pier down to the water and lifted and passed the boy back to the safety of the pier.

By that time the Rescue Squad had arrived on the scene, and Glasscock was immediately removed to the hospital in Brunswick. There he received emergency treatment and was placed in the Intensive Care Unit. Agents Price and Lory were treated for superficial cuts caused by barnacles at the base of the pier and were released.

Bill Allen, FLETC spokesman, today announced that young Glasscock has since been removed from ICU and is described by his father as being "his old self again."

The ironic circumstance of the incident, said Allen, is that young Glasscock is the son of Mr. Neil Glasscock, an instructor at the FLETC.

Bystanders' reports indicate that the quick action on the part of the FLETC students, all of which are receiving training in the Center's Criminal Investigator Training Division, saved the boy's life.

## THE POLITICAL ECONOMY OF AGRIBUSINESS IN CALIFORNIA

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. DELLUMS. Mr. Speaker, the following study of agribusiness in California made by Don Villarejo of the California Public Policy Center describes the impact of big business and agriculture in our Nation's largest farm output State. The study uncovers important links between growers and other major interests, and should be of interest to many Members, and for that reason, I now submit it for inclusion in the RECORD:

#### THE POLITICAL ECONOMY OF AGRIBUSINESS IN CALIFORNIA

(By Don Villarejo)

In early 1966 Ronald Reagan decided to publicly announce his candidacy for Governor of California. Reporters summoned to the press conference were startled to learn that the meeting would be held in a private residence in El Macero, a small farm community in the central valley of California. It seemed strange that a media wise personality like Reagan would forsake the major metropolitan areas of the state and hold a press meeting in a remote agricultural town. Yet by holding this crucial press meeting at the home of John B. Anderson, the world's largest tomato grower with 40,000 acres harvested each year, Reagan sent a signal to agricultural interests throughout the state: he recognized and accepted the primacy of big agribusiness in California.

The symbolic character of Reagan's action showed that he understood that California is the nation's leader in agricultural production. No other state comes close in terms of gross farm receipts. California produces 80% of the nation's lettuce, 60% of all peaches and strawberries consumed in the U.S., and 90% of all grapes. Less well known is the fact that California ranks first among all 50 states in the production of chicken eggs, in tomato production, in sugar production, in lemon production, in cotton production and in the production of field vegetable crops. And California's share in many of the above mentioned products has been growing rapidly in recent years. Just five years ago California ranked third in cotton production among the fifty states, in 1974 our state became the leading producer. Five years ago California ranked fourth in milk and cream production. It now ranks second and soon will become the "dairy state". In food products as diverse as green peas, cucumbers, oats and hay, California has been moving up in the ranking of states according to volume of production. California agriculture has simply outstripped the entire nation in total production.

##### CHANGING AGRICULTURE

Accompanying the rapid emergence of California as the nation's leading agricultural producer has been a marked change in the structure of the basic production unit. Back in 1930 there were 136,000 farms in the state, now there are a little less than 75,000. This disappearance of nearly half of all farms in the state has led to a rapid growth in average farm size. This is summarized in Table I below.

TABLE I: *Acres per farm in California*

| Year: | *Acres per farm* |
|---|---|
| 1930 | 224 |
| 1950 | 260 |
| 1959 | 348 |
| 1969 | 617 |

Source: 1930 figure/California Statistic Abstract, 1970, p. 182. Other years/*Central Valley Report*, prepared by the Economic Research Division of the Security Pacific National Bank, 1973, p. 29.

As is clear from the table, average farm size has grown most rapidly in the recent period. We have all heard of the disappearing family farm, but the figures above suggest that the pressures of growth in farm size have accentuated greatly in the most recent decade. What is the pressure forcing family farms out of business?

In order to understand the pressure forcing changes in the basic production unit of agriculture, the farm, it is necessary to study the farm economy. Farming is viable so long as farm income, mainly cash receipts for products, exceeds production expenses by an amount sufficient to provide a livelihood to those who work the farm. For many years (roughly the first 50 years of this century) farmers' net income amounted to about 40% of gross receipts. But, beginning around 1950, the profitability of farming began to slip. Net income as a percent of gross income declined sharply for the twenty year period 1950–1970. The basic reason this occurred is that production expenses rose more rapidly that did prices received by farmers for their production. This "cost-price" squeeze means that production units (farms) with limited resources will be unable to provide a livelihood to those who work it. On the other hand, the only way to increase profits is to increase the size of the production unit (farm). In the words of Security Pacific National Bank, the nation's largest bank in volume of agricultural loans:

"The narrowing profit margin of the farmer . . . has necessitated the increased farm size to enable him to meet the rising costs. There is cost-price squeeze and farmers have been encouraged to increase investment for modernization and expansion to help raise productivity and offset the cost-price pressures. . . . The farm as a way of life is rapidly changing to a highly complex corporate operation demanding large investments of machinery, supplies, labor, credit and other agricultural services needed to compete successfully on a commercial scale."

This can be most clearly seen by comparing the results of the 260 acre average California farm in 1950 with the results of the same size farm in 1969, as well as with the larger 617 acre average farm of 1969. This comparison is shown in Table II.

TABLE II.—FARM INCOME AND EXPENSE IN CALIFORNIA

| Year | Acres | Gross income | Expenses | Net income |
|---|---|---|---|---|
| 1950 | 260 | $16,965 | $11,088 | $5,877 |
| 1969 | 260 | 32,793 | 25,438 | 7,355 |
| | 617 | 77,822 | 60,367 | 17,455 |

Thus, by keeping farm size fixed the net income would grow from $5,877 in 1950 to only $7,355 in 1969 (an actual decrease in terms of constant dollars after taking inflation into account). On the other hand, by increasing average farm size, as actually did occur, the farmer's net income is a comfortable $17,455 in 1969. The conclusion is inescapable: only by increasing farm size can the farmer counteract the cost-price squeeze. In fact, net income per acre rose in this period from $23 per acre in 1950 to $28 per acre in 1969 as a direct result of the efficiencies arising from increasing the size of the production unit (farm).

CALIFORNIA AGRICULTURE IN THE SEVENTIES

As indicated previously, the position of California agriculture as compared with other states has been greatly enhanced in the period of the seventies. In part this is due to the impact of the changes in the structure of farming just discussed. But it is also due to the rapid growth in world-wide demand for food products. Both factors have led to an enormous boom in gross farm receipts obtained by California farms. This is shown in Table III.

TABLE III.—FARM CASH RECEIPTS IN CALIFORNIA

[In millions]

| Year | Farm cash receipts | Net income |
|---|---|---|
| 1970 | $4,633.9 | $993.3 |
| 1971 | 5,119.8 | 1,185.8 |
| 1972 | 5,636.4 | 1,473.2 |
| 1973 | 7,278.0 | 2,453.2 |
| 1974 | 8,669.2 | 2,688.8 |
| 1975 | 8,597.9 | 2,241.7 |

Source: California Statistical Abstract: 1973–75. New York Times, Jan. 3, 1976, p. 27. Farm Income Statistics Statistical Bulletin No. 547, July 1975, Economic Research Service, USDA. California Farm Income; Aug. 11, 1976: California Livestock and Crop, Reporting Service, USDA.

The lion's share of both receipts and income go to a relatively small number of farms. In 1964 the U.S. Department of Agriculture found that California farms with receipts of $100,000 per year or more accounted for 68.8% of sales in that state. This compares with an average of 24% of sales for farms of this size for the entire nation. By the seventies this concentration of size had increased even further in California. Farms with sales of $100,000 or more now account for roughly 79% of all sales. These giant farms also hold most of the acreage in the state. Farms of 2,000 acres or more own 70% of all California farm land. The average size of such farms is 8,518 acres or roughly 13 square miles in area. One of these, the Kern County Land Company (a division of Tennaco, Inc.) owns land that in total area is larger than the entire state of Rhode Island. Clearly, California farming is now entirely dominated by the 4% of the farms with acreage in excess of 2,000 acres. Farm labor is just another purchased service for these giant farms.

RELATED INDUSTRIES: AGRIBUSINESS

There are two basic types of industries that are vitally related to giant agriculture. On the one hand there are the industries that sell services or products used by agriculture. On the other hand are the industries that purchase farm products. Taken together with the giant farms these industries are collectively referred to as agribusiness. In order to more clearly examine the role of farm labor it is necessary to examine both types of industries enumerated above.

The role of the service industries is best understood by rerefence to the farm production expense record of agriculture. This is outlined in Table IV below.

TABLE IV.—1969 CALIFORNIA FARM PRODUCTION EXPENSES

[Dollar amounts in millions]

| Type | Amount | Percent |
|---|---|---|
| Livestock and poultry | $570 | 16.3 |
| Feeds for above | 601 | 17.2 |
| Commercially mixed feeds | 331 | 9.4 |
| Hay, grain, others | 270 | 7.7 |
| Fertilizer and agricultural chemicals | 229 | 6.5 |
| Gasoline and fuel | 81 | 2.3 |
| Hired farm labor | 627 | 17.9 |
| Contract labor | 153 | 4.4 |
| Machine hire | 90 | 2.6 |
| Other[1] | 1,152 | 32.9 |
| Total | 3,504 | 100.0 |

[1] The "other" category includes interest expense on crop production loans and payments for capital equipment items (tractors, etc.).

Source: 1969 Census of Agriculture, California Bureau of the Census, U.S. Department of Commerce.

As should be evident from the above table, there are very few items that are under the direct price control of individual farms. Some, like fertilizers and agricultural chemicals, are directly sold by giant corporations. For example, two of the largest selling lines of these products in California are the Ortho brand produced by the Standard Oil Co. of California and the Oxychem brand produced by Occidental Petroleum Corp. These two are the largest and fifth largest industrial corporations based in California.

Another example of the principal expenses faced by farmers is feed; both locally grown and commercially produced. The world's largest supplier of feed is the Ralston Purina Co., the company that also owns Jack-In-The-Box drive-in food outlets. Profits of this major agribusiness supplier have grown by an average of 15% per year over the past decade, and a record 36% in the six months ended last March 31. Once again, the price of feed products to the farmer is beyond local control.

Another possible direction for improving productivity is the utilization of technological advances through machinery and intricate equipment. Though this expense is not separately broken down in the Census of Agriculture figures shown in Table IV, it is known that this expense is rising rapidly as well. A measure of rise of this expense to farmers can be obtained by examining the financial record of Deere and Co., the world's largest manufacturer of a full line of farm equipment. Net income (profit after taxes) of Deere and Co. rose from $46 million in 1970 to $179 million in 1975, an annual average rate of increase of 58% per year.

To finance these rapidly rising costs of services and products used in farm production the farmer faces a difficult problem in terms of cash flow. That is, most cash costs must be paid well before the crop is harvested or products sold. To meet this problem the farmer must obtain credit loans. In this arena the major agribusiness bankers are anxious to provide help. The two banks providing the largest volume of agricultural loans in the United States are California banks: Bank of America and Security Pacific National Bank. Together they provide 65% of all California agricultural loans (by dollar volume). As the prices of services and commodities needed by farmers has grown the need for loans has grown apace. Crop production loans made by the Bank of America grew from $488.5 million in 1972 to $601 million in 1974. With high interest rates still prevailing the bank's 1975 annual report states that overall interest income (less interest expense) grew from $810.9 million to $1,173.7 million in the same period. In other words, the bank experienced a 50% growth in income from interest paying loans in just two years. While agricultural loans from just one component of the total loan portfolio the rate of increase is expected to be similar for all components, including crop production loans.

Faced with rising costs in all of these components of production expense, each of which is enriching one or another giant corporation, farmers look to their expenses for the one component that they can control or at least influence to some extent. With reference to the enumeration of Table IV there is one expense that is possibly of this kind: the cost of hired farm labor or contract labor. Representing about 22% of the total production expense this is the only major expense whose price is set by the farmer.* And so the pressure to keep the lid on the price of farm labor is a natural outgrowth of the rising profits of giant corporations providing products and services to agriculture. As the profits of these giants continue to grow the pressure on farm labor will increase.

### THE BANKS AND THEIR FRIENDS

California business, including farming, utilizes billions of dollars of credit each year. Providing these funds are financial institutions, primarily banks. There are five banks that dominate this business. The banks, ranking 1-5 in dollar volume of agricultural loans nationally, are listed below.

Bank of America.
Security Pacific National Bank.
Wells Fargo Bank.
United California Bank.
Crocker National Bank.

Together, these five banks provide 91.6% of all dollars furnished as credit to California farms. When farmers deal with suppliers, the transportation industry (shipper of farm goods), or with the food processing and distribution industry they find that they are dealing with many of the people who serve as directors of these large banks. Among the directors of the Bank of America are:

Harry S. Baker, President of Producers Cotton Oil (Fresno), Owner, South Lake Farms.

Robert DiGiorgio, Chairman, DiGiorgio Corp., Processor, Director, Newhall Land and Farming (which owns 152,000 acres).

F. A. Ferroggiaro, Former Chairman of Lucky Stores.

W. A. Haas, Jr., President of Levi Strauss and Co., Cotton purchaser.

David S. Lewis, Jr., Chairman of General Dynamics, Director of Ralston Purina Co., feed supplier.

Franklin Murphy, Chairman, Times-Mirror Corp., Director, Norton Simon, Inc. (Hunt-Wesson division is major processor).

Rudolph Peterson, Chairman of the Executive Committee Bank of America, Director of Consolidated Foods, Trustee of James Irvine Foundation (major owner of Irvine Ranch), Director of Standard Oil of California (Ortho division is major agri-chem supplier).

Louis A. Petri, Chairman, United Vintners, Inc., Director, Foremost-McKesson, wholesaler, Partner, Napaco Vineyards, Owner, Bullard Ranch.

Samuel B. Stewart, Chairman, Trust Committee Bank of America, Director of American Potato Co.

Theodore Von der Ahe, Chairman, Von's Grocery Co.

E. Hornsby Wasson, Vice-Chairman, Stanford Research Institute, Director of American Potato Co., Director of Standard Oil of California.

Arthur M. Wood, Chairman of Sears, Roebuck and Co., Director, Quaker Oats Co., food processor.

Similar listings for the other banks provides as broad a representation of related industries as the above does for the Bank of America. For example, J. G. Boswell, II is President of the giant cotton producer J. G. Boswell Co. and is a director of Security Pacific National Bank. Richard G. Landis, President of Del Monte Corp., the largest food processor in California, is a director of Crocker National Bank. And Felix Larkin, executive with Security Pacific National Bank serves as a director of another food giant, Carnation Co. Ed Littlefield, chairman of Utah International serves as a director for transportation giant Southern Pacific Co., and also as a director of Wells Fargo Bank. Listings of these interlocking relations among the giant banks and the related industries occupy hundreds of pages in federal government reports.

Another way in which relations among the industrial companies and the banks are solidified consists in the bank trust department stockholdings of corporate stock. Under trustee or safe-keeping arrangements, the five large banks listed on page 8 hold blocks of stock for wealthy customers, usually through several generations. As examples, we list the holdings of bank trust departments of the big California banks in a number of agribusiness suppliers and related industries:

| *Del Monte Corp.* | *Shares* |
|---|---|
| Crocker National Bank | 1, 100, 318 |
| Bank of California | 455, 808 |
| Wells Fargo Bank | 281, 171 |
| Bank of America | 95, 499 |
| *Lucky Stores, Inc.* | |
| Wells Fargo Bank | 1, 088, 921 |
| Bank of America | 373, 445 |
| Crocker National Bank | 223, 632 |
| Security Pacific National Bank | 110, 871 |
| Bank of California | 93, 315 |
| *Safeway Stores, Inc.* | |
| Bank of America | 325, 253 |
| Crocker National Bank | 312, 859 |
| Bank of California | 308, 547 |
| Wells Fargo Bank | 211, 764 |
| Security Pacific National Bank | 105, 735 |
| *Southern Pacific Co.* | |
| Wells Fargo Bank | 1, 470, 604 |
| Bank of California | 249, 072 |
| Bank of America | 224, 664 |
| *Standard Oil of California* | |
| Crocker National Bank | 15, 587, 610 |
| Wells Fargo Bank | 1, 468, 207 |
| Security Pacific National Bank | 1, 030, 257 |
| Bank of America | 833, 894 |
| Bank of California | 625, 977 |

Altogether, the stock holdings listed above have a market value of $770,000,000. The complete listing of holdings of these big banks in publicly held corporations numbers 560 pages.

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*It is very important to realize that the figure of 22% of total production expense as representing farm labor expense is an average for all farms of all types and sizes. In a study of the nation's largest farms the U.S. Department of Agriculture found that this expense varies significantly as a function of farm size. In particular, for farms with very large sales volume ($1,000,000 or more per farm) the labor expense is a significantly smaller proportion of total expense than for moderately large farms (sales between $200,000 and $999,999 per farm). Thus the farm labor cost to farms with 2,000 or more acres in production is probably below 20% of total expenses. See: "Our 31,000 Largest Farms", Agricultural Economic Report #175, ERS/USDA.

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## STATE DEPARTMENT OPPOSES EXPORT SUBSIDY PROVISION OF PEANUT BILL

## HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. FINDLEY. Mr. Speaker, provisions of H.R. 12808, the Peanut Act of 1976, mandate the subsidization of surplus peanuts into export markets. This section is contrary to basic U.S. trade policy objectives. It would adversely affect our effort in the multilateral trade negotiations and it would hinder U.S. action under section 301 of the Trade Act of 1974 against foreign subsidy practices. This section mandates by law that the United States make raw peanuts available to foreign consumers at prices cheaper than to U.S. consumers.

On balance, H.R. 12808 is a step in the right direction with respect to the peanut program. H.R. 12808 as presently drafted, however, is a step backward with respect to U.S. trade policy. Section 108(c)(4) and committee amendment No. 3 must be deleted from H.R. 12808. The existing law already gives the administration the authority to dispose of peanuts produced in excess of domestic edible use. Section 108(c)(4) is a new expression by the Congress in favor of mandatory export sudsidies. It is a sleeper provision, piled under needed reform. It would be ill-advised and ill-timed for Congress to accept such provisions. The sections as now written would cause grave difficulty in our trade negotiations.

The clear policy of the Congress, most recently expressed in the Trade Act of 1974, has been to achieve conditions of free and fair trade in agricultural and manufactured products. The United States has made it clear to our trading partners that they cannot expect to export the burden of surpluses by subsidizing the export of those surpluses into world markets. We should not then violate this understanding by mandating export subsidies on peanuts.

Section 108(c)(4) of H.R. 12808 and committee amendment No. 3 would have serious adverse effects on the multilateral trade negotiations currently underway in Geneva, Switzerland. The provisions would undercut our efforts to protect American agricultural producers and manufacturers from unfair competition from subsidized imports.

The United States has opposed subsidies on imports into the United States. We have threatened to levy countervailing duties on products exported with a subsidy. By mandating an export subsidy, we would be doing exactly what we have asked others not to do.

Section 108(c)(4) and committee amendment No. 3 have the effect of mandating by law that the U.S. taxpayer and consumer subsidize the European and Canadian consumer's purchase of peanuts.

In the past the U.S. Government has sold raw peanuts cheaper—by 10 cents a pound—to the foreign purchaser than the U.S. purchaser. It is irresponsible for Congress to mandate cheaper food prices abroad and higher food prices at home.

Chairman ULLMAN, House Ways and Means Committee; Ambassador Clayton K. Yeutter, deputy special representative for trade negotiations; Secretary of Agriculture Earl L. Butz; Secretary of the Treasury William E. Simon; the chairman of the House Agriculture Committee, THOMAS S. FOLEY; and the ranking minority member of the House Agriculture Committee, WILLIAM C. WAMPLER, are on record in opposition to these restrictive trade provisions.

Any new use of export subsidies at this time would be inconsistent with congressional policy.

The Department of State has joined key members of the administration in opposition to the ill-conceived and ill-timed export subsidy.

The following State Department letter indicates why mandated export subsidies for peanuts are not in America's interest.

DEPARTMENT OF STATE,
*Washington, D.C.*

Hon. WILLIAM WAMPLER,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. WAMPLER: I understand that the House will begin consideration on HR 12808 on September 27, and I would like to call to your attention the strong objections which the Department of State has to the provisions of the bill which would require the Secretary of Agriculture to release government-owned peanut oil for sale and export at market prices.

As you know, the peanuts from which the oil is derived were purchased at prices far above world prices. If the oil is now sold and exported at prevailing world prices, the exporter will benefit from an indirect subsidy equal to the difference between the high price paid by the United States Department of Agriculture for the peanuts (or their oil equivalent) and the low price at which the exporter bought the oil from USDA stocks.

Over the past several years and currently in the Tokyo Round of Multilateral Trade Negotiations, a paramount objective of our agricultural trade policy has been to restrict or eliminate the use of export subsidies used by the European Community and other countries to dispose of surpluses generated by their price support programs for farm products. American agriculture has lost important markets overseas on account of these subsidies, and our agricultural community has been very forceful in its call for their termination. If we adopt a program of export subsidies for peanut oil now, our chances of negotiating restrictions on other countries' use of such subsidies will be severely compromised.

We are presently considering complaints by American exporters under Section 301 of the Trade Act of 1974 against the European Community on account of the Community's subsidies on exports of wheat flour and barley malt. We have called for consultations with the Community under Article XXII of the General Agreement on Tariffs and Trade as a result of these complaints. The favorable outcome we seek in these cases will also be jeopardized if we begin subsidizing our own exports.

A particularly disturbing feature of the proposal to subsidize peanut exports stems from the fact that the international market for peanut oil is supplied largely by less developed countries which depend on the sale of oil for the bulk of their foreign exchange. Two of these countries, Senegal and Gambia, are among the poorest countries in the world. Their plight will be made worse if peanut oil prices decline further, as they would if new American stocks entered world trade.

The U.S. Government has recently convinced the Brazilian Government to dismantle its program for subsidized exports of soybeans and soybean oil (which can be substituted for peanut oil in many products). The Brazilian decision, which is of major benefit to American soybean growers and processors, may well be reversed if we begin to export peanut oil under subsidy.

The long-term interests of American agriculture, Mr. Chairman, require us to maintain firm opposition to the use of agricultural subsidies in world trade; as a very efficient, low-cost producer of most farm products, the United States can compete effectively with other supplier countries in most markets, provided those markets are not distorted by subsidization. The Department of State hopes, therefore, that the Congress will delete the export subsidy provision of HR 12808.

Sincerely,

KEMPTON B. JENKINS,
*Acting Assistant Secretary for Congressional Relations.*

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## PERSECUTION OF SOVIET JEWS

### HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. PHILLIP BURTON. Mr. Speaker, I have received reports from Russia that the Soviet Secret Police is trying to stop a Jewish memorial service at the site of the Babi Yar massacre where over 100,000 Russian Jews were murdered by the Nazis 35 years ago tomorrow, September 29.

The following letter is addressed to friends of religious freedom in the world by leaders of Soviet Jewry.

DEAR FRIENDS: The 29th of September 1976 is the 35th anniversary of the tragedy at Babi Yar. Babi Yar is the most outstanding and the most tragic place of the catastrophe of Soviet Jewry where more than 100,000 of our brothers and sisters lie in death. The Fascists tried to destroy all the Jews physically and contemporary anti-Semites try to wipe out every memory of the sarcifice and suffering of our people. For many years now Babi Yar has been the only place of the Holocaust where Jews are not permitted to pay their respects to the memory of their slaughtered brethren. Only under pressure of public opinion did the Soviet authorities finally agree to put a monument at Babi Yar — pressure of world public opinion in the free world—but the aim of this monument is the same, to wipe out the memory of the fact that the people who were buried here were Jews. Even the burial ground is now a prohibited place. The KGB of Kiev has already started a campaign of harassment against those Jews who would like, on this tragic date, to commemorate the tragedy of Babi Yar. Babi Yar has become the symbol of the extreme suffering of our people. Dear brothers and sisters: We are calling on you to commemorate and pay homage to the memory of the more than 100,000 Jews savagely butchered at Babi Yar and we urge you to attempt to send representatives on this day to take part in the solemn rites at this spot in accordance with our time-honored Jewish tradition.

I have sent the following telegram to Leonid Brezhnev and I hope that other members will express similar sentiments:

Leonid Brezhnev, First Secretary, Moscow, Kremlin, U.S.S.R.

September 29, 1976 will be the 35th Anniversary of the massacre of 100,000 Russian Jews by the Nazis at Babi Yar near Kiev.

In the name of all humanity and in the spirit of Helsinki, I urge you to intervene to allow Soviet Jews to hold memorial services at Babi Yar on September 29, 1976.

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## TRIBUTE TO RABBI JACOB M. OTT

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. WAXMAN. Mr. Speaker: I am sure the Members of the Congress wish to join me in honoring an extraordinary man, Rabbi Jacob M. Ott. Now in his 16th year as the spiritual head of the Sephardic Temple Tifereth Israel in Los Angeles, he holds many other posts of importance to his community, country, and to the State of Israel. Rabbi Ott is president of the American Zionist Federation of Greater Los Angeles, and a vice president of the national body. He holds official positions with the Jewish National Fund, California Friends of the Alliance Israelite Universelle, American Jewish Committee, and the American Sephardic Federation—and a recipient of its Heritage Award in 1971.

Rabbi Ott received his MA degree from the University of Chicago, majoring in international law and relations, and his rabbinical ordination from the Hebrew Theological College of Chicago. He served with distinction as a combat chaplain with the 83rd "Thunderbolt" Infantry Division in the European sector. Recipient of five battle stars and the Bronze Star Medal with Oak Leaf Clusters, he was honorably discharged with the rank of major.

Rabbi Ott was awarded a special citation by the World Jewish Congress for his humanitarian efforts on behalf of concentration camp survivors upon their liberation, and is now honorary chaplain of the Jewish Concentration Survivors of Los Angeles. Rabbi Ott has been appointed cochairperson for UNICEF Day in Los Angeles for 1976.

The Shield of Zion Award of the American Zionist Federation, to be presented to Rabbi Ott at the Federation's Annual Dinner on October 26, 1976, is evidence of our community's continued recognition of his life of dedication.

## TRIBUTE TO F. EDWARD HÉBERT

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 27, 1976*

Mr. BIAGGI. Mr. Speaker, it is with deep regret that I join with my colleagues to recognize the fact that the House of Representatives will not, for the first time in 36 years, have F. Edward Hébert as a Member when we convene in January. His retirement marks the close of an outstanding career in the House spanning 36 years, the longest anyone has served in Congress from the great State of Louisiana.

Eddie was truly a leader among men in this Congress. His years of experience in this body made him one of the most respected and knowledgeable Members of the House. In his years of service, Eddie has lent his considerable legislative talents to a number of committees including the District Committee, the Naval Affairs Committee, and the House Un-American Activities Committee. His greatest achievement was his chairmanship of the House Armed Services Committee from 1971 to 1974. As chairman, he demonstrated his support for a strong national defense by making sound budget recommendations for Defense Department and military construction spending.

Just as he was a strong advocate of prudent defense spending, Eddie was also an ardent foe of wasteful military expenditures. He gave any and all budget requests his close consideration. The taxpayers of this Nation owe a great deal of thanks to Eddie Hébert for his diligence in spending their hard earned money wisely.

Many of us in the House questioned the logic of those who were responsible for removing Eddie from the chairmanship of the House Armed Services Committee. The misguided advocates of reform in the House chose a most unfortunate victim in Eddie Hébert, whose contributions as chairman could not be challenged.

Eddie remained chairman of the Armed Services Subcommittee on Investigations. I had the pleasure of testifying before Chairman Hébert's subcommittee during their consideration of House Joint Resolution 519 which I introduced to bestow the rank of General of the Armies of the United States posthumously upon George Washington. His expeditious consideration of this resolution allowed it to pass the full House by an overwhelming margin.

The House of Representatives will be a different place without Eddie Hébert. He is a friendly man, always ready to be of assistance. He is a man who has never abandoned the principles of fairness and objectivity in his work. He was a dedicated representative of the people in the First Congressional District of Louisiana. We, his friends and colleagues will miss him. I sincerely wish Eddie the best of health and happiness in the coming years.

## U.S. MARSHALS—187 YEARS OF SERVICE

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. LEHMAN. Mr. Speaker, the weekend just past marked the 187th anniversary of the U.S. Marshals Service. On September 24, 1789, the Judicial Act of 1789 became law, and, on September 26, President Washington nominated and the Senate confirmed the first 13 U.S. marshals. Since its founding, the Marshals Service has grown to over 2,000 highly trained and motivated professionals, the 94 U.S. marshals and their deputies. From the very beginning, these dedicated men and women have served this Nation with exceptional diligence and distinction.

Now, as in 1789, the service has two primary functions: the support and protection of the Federal judiciary, and law enforcement. The first is possibly the lesser known of the two, but it is vital to the working of our court system. Marshals and their deputies provide for the physical safety of judges, attorneys, and juries—it was, you will recall, a deputy U.S. marshal whose quick action was credited with saving Judge John J. Sirica's life when he suffered a sudden heart attack—as well as for the security of court facilities. They serve summonses and subpenas and carry out other duties related to court processes, and they transport prisoners between jail and the court and between places of confinement.

The marshals' law enforcement activities did not, as some may believe, end with the closing of the frontier. Television and films have made all of us familiar with the steely-eyed, gun-slinging marshals of the Old West, the men in the white hats who often provided the only law enforcement in their territories. The hazards were great, and, as an attorney general stated in the 100th year of the service, "in certain localities, no occupation is so dangerous as a faithful performance of duty by U.S. marshals." Nevertheless, despite hardships and sacrifices, marshals brought law and order to the expanding population of the West and contributed significantly to the development of the Nation.

Today, long after the West was settled and civilized, marshals continue to be a major part of the Federal law enforcement effort, especially in controlling civil disturbances and riots. Over the last two decades, the service has spearheaded the Federal response to disorders in many areas of the Nation. In 1971, the service created a special operations group, to provide a new Federal capability of responding to civil disorders without the necessity of military intervention. This group, used on numerous occasions since it was established, has proven itself a most effective force in maintaining civil order.

Mr. Speaker, I am pleased to have an opportunity to observe this anniversary of the U.S. Marshals Service, and to recognize its achievements throughout our history. The service has played a vital part in assuring the establishment and the maintenance of the rule of law in this country, and has rightfully achieved an honored place in our annals. The competence, courage, and dedication of the men and women comprising the Marshals Service have earned them the gratitude and respect of all of us. The marshals have truly been guided by their motto, "justice, integrity, and service," and the service has for 187 years exemplified these goals.

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## INTRODUCTION OF H.R. 15736

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. TEAGUE. Mr. Speaker, today Congressman Don Fuqua and I are introducing proposed legislation which would establish a global resources information system based on NASA's Landsat satellites.

The remote sensing of the Earth's resources and the use of that data would be promoted from a research stage to a permanent, operational stage. Thus, the bill would seek the creation of a new regulated industry in the domestic handling and processing of the satellite data, and the availability of an uninterrupted flow of data would be assured by the Government.

The private sector involvement in receiving, processing, and disseminating the data is seen as a means of expanding and marketing new uses of the data. The goal is some degree of economic self-sufficiency of the system so that Government funding will be minimized.

Simultaneously, Government involvement is retained to provide safeguards for the integrity of the system for it is recognized that foreign countries understandably might be adverse to commercialization of worldwide satellite imagery.

In summary Mr. Speaker, the bill attempts to have private industry supplant some of the current Federal role. The U.S. Government is responsible for continuing the space segment of this bill which constitutes the satellites and their associated command and control facilities. NASA is charged to cooperate with the private sector in this regard and to provide service on a reimbursable basis.

Both my colleagues on the Committee on Science and Technology which I have the privilege to chair, plus my colleagues in the Senate, Mr. Moss of Utah and Mr. Ford of Kentucky, feel the time has come for such a system and Mr. Moss and Mr. Ford have introduced a bill, S. 3759, from which this companion bill is introduced in the House. I commend these gentlemen for their foresight and share their enthusiasm for this emerging new and dynamic industry. We look forward to working with the Senate on this important legislation.

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## WILSON PRAISES RESPONSIBLE CHARITIES' SUPPORT FOR FINANCIAL DISCLOSURE BILL

## HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. CHARLES H. WILSON of California. Mr. Speaker, I am proud to report that this Congress has seen very significant progress for legislation which would require that organizations soliciting charitable contributions from the public provide basic financial information about their operations such as what percentage of funds received will actually go to the charitable purpose.

This kind of disclosure is desperately needed, of course, to protect potential contributors against the charity rip-off artists who each year fleece well-meaning Americans out of millions of dollars.

Specifically, a bill which I have sponsored, H.R. 10922, was favorably reported by the House Post Office and Civil Service Committeee this year by voice vote. This legislation would insure the people's right to know some very basic facts about the charitable organizations they contribute to. Although no further action is possible this year, it is clear that the future for this bill is bright and I intend to reintroduce it on the first day of the new Congress.

My primary interest in the 94th Congress has been to work with any organization or individual who offered positive recommendations with respect to the bill. Fortunately a number of progressive charitable organizations cooperated with me, and various improvements to the bill resulted.

I would like to take this opportunity to publicly commend all of the organizations which were involved in perfecting H.R. 10922. Most notably I would like to single out several organizations for their leadership in endorsing the bill after amendments were agreed to.

These organizations, which along with their fine philanthropic work obviously place a very high priority on keeping the public trust, are the American Heart Association, the American Lung Association, the National Kidney Foundation, the Epilepsy Foundation of America, and the Arthritis Foundation.

At this time I would reiterate my intent to consider any reasonable recommendations concerning the charity disclosure legislation. All interested parties can be assured that their input on this important matter will be seriously considered.

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## IN TRIBUTE TO PAUL DOUGLAS

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. RANGEL. Mr. Speaker, last Friday former Senator Paul Douglas died at the age of 84 years old. He had served in the other body for 18 years, during which time he won widespread acclaim for his work in championing the causes of those people who were without a spokesman. Of particular note was his work in the field of civil rights at a time when in his home State of Illinois most politicians were skirting the issue as if it were a communicable disease.

I never had the privilege of serving with Senator Douglas here in Washington. However I have listened to many of his colleagues speak very highly of his work and character. From the legislation that he helped guide through the Congress, I would concur that when he left Washington, the country was indeed the greatest loser. Now that he has passed from this earth, I would like to insert an editorial that appeared in the Washington Star of today, in which the editors pay homage to this great American.

The editorial follows:

### Paul H. Douglas

National leaders often talked about Paul H. Douglas in superlatives. President John F. Kennedy once called him "one of the most gifted figures in the Senate in this century." The NAACP's Roy Wilkins called him "rare among our senators." Hubert Humphrey called him a "giant of a man and a giant of a senator."

Paul Douglas stood out all right. At 6 feet, 2½ inches, he towered over most people. He had a national reputation as an economist and as a teacher. As a Senator, he stood tall for "people" programs long before most of his colleagues in the Congress caught up with them.

He crusaded for equal treatment and opportunity for minorities when that was an unpopular cause. During 18 years in the Senate, he fought for truth-in-lending, public housing, higher minimum wages, Medicare, federal aid to elementary and secondary education, conservation of natural resources, the vote for 18-year-olds. the concept of one-man-one-vote.

He was an independent man who followed his conscience. When opposition to the war in Vietnam became a yardstick of liberalism, Senator Douglas refused to soften his support of the policy pursued by President Johnson.

"I do not intend to shift or change (my views) as public opinion or polls shift and change," he declared in a foreign policy address during his 1966 campaign for re-election.

Mr. Douglas was not a member of the Senate's inner "club." He was too independent. He thought members of Congress ought to disclose their financial interests, a notion that did not endear him to his colleagues in the pre-Watergate era. He not only published annual accountings of his income and expenditures but refused to accept any gift worth more than $2.50.

Paul Douglas came a long way from the Maine backwoods where he grew up. He became a Phi Beta Kappa scholar, a college football player, a professor, a Chicago alderman, A Marine recruit at the age of 50 (he pulled some strings to get the Marines to take him, and was wounded twice in Pacific battles), a senator in 1948 at the age of 56.

During the 1966 campaign, Senator Douglas sat down one day in a Chicago tavern to share with several reporters the dark German beer he liked and to discuss the issues. Though his frame had become bent with age—he was 74 then—his mind still churned with the agility that helped him fashion some of the most significant legislation of the century. "My own fate is relatively insignificant in history," he said. "But what happens to civil rights and resistance to aggression is important."

That was his last campaign. In an election that turned on age as much as anything else, Illinois voters selected Republican Charles Percy, then 47, who had been one of Senator Douglas's students at the University of Chicago. After defeat, he returned to the academic world.

Mr. Douglas died last Friday at 84. His contribution to his country and his fellow man was far from insignificant.

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## A WELL-DESERVED RETIREMENT

## HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 27, 1976*

Mr. O'NEILL. Mr. Speaker, we are here today to honor one man who has made his mark on the history of the United States, the gentleman from Louisiana, Mr. Hébert.

Our country is strong and secure today because of his lifetime of dedication and hard work. This has not been an easy task, but Mr. Hébert has been equal to it and we all owe him a debt of gratitude for his vigilance and fervor.

Mr. Hébert's role in behalf of national security is what he will be best remembered for, but I want to mention two of his other achievements that come to my mind when I think of F. Edward Hébert.

First, Mr. Hébert contributed to the freedom of this Nation by his enterprising and diligent pursuit of corruption as a newspaper reporter and editor in his native State of Louisiana. Books have been written about the part he played in the uncovering of the Louisiana scandals. He believed then that a public office is a public trust and he proved his sincerity in this belief by moving from the journalistic side to the public side without missing a step in principle or zeal.

We should also recall Mr. Hébert's tenacious and inspiring leadership in the cause of the Armed Services Medical Institute. Long a dream of his, he used all the power at his command in enacting into law, and then bringing to reality, the medical school that will train doctors for our armed services. When I remember Eddie Hébert, I will remember the thousands of service men and women receiving medical care because of his vision and his determination.

We will all miss Eddie Hébert and our best wishes go with him for a well-deserved retirement.

## TRIBUTE TO MRS. PHOEBE HEARST

### HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. ICHORD. Mr. Speaker, I would like to take this opportunity to share with my colleagues in the House of Representatives a recent editorial praising Mrs. Phoebe Hearst. Mrs. Hearst was a native of Missouri whose accomplishments in Missouri, California, and Washington, D.C. still contribute much to Americans today.

The former Phoebe Apperson married George Hearst, a neighbor, in Steelville, Mo. After their marriage, he was elected U.S. Senator from California and purchased the San Francisco newspaper now managed by their grandson, William Randolph Hearst. Independent of her husband's political and civic activities, Mrs. Hearst herself went on to become a founder of PTA, the General Federation of Women's Clubs, Travelers' Aid, training schools for teachers, and the National Cathedral School for Girls. The Camp Fire Girls and the restoration of Mount Vernon also belong on the long list of those organizations that received her enthusiastic support.

It is fitting that Mrs. Hearst be memorialized here for her creative and generous contributions to us all. The editorial written by Dorothy O. Moore, the editor and publisher of the St. Clair Chronicle and a director of the Phoebe Apperson Hearst Historical Society, follows:

MANY REASONS WHY PHOEBE HEARST IS MEMORIALIZED HERE

[From the St. Clair Chronicle, Sept. 1, 1976]

By Dorothy O. Moore

From a poverty stricken home on the Meramec came a young woman, born here, growing up here, who became one of America's wealthiest women in her day, and who diverted her wealth to help those who were less fortunate. She was born Phoebe Apperson, went barefoot from May 1 to October 1 each year because it saved shoes, had to cross Meramec River by boat or fording and sometimes by having her horse swim, to reach the nearest school called Salem, located south of the present Anaconda, Mo. and southwest of St. Clair. She started school in 1849.

She became co-founder of PTA, which she also financed when it was fledging organization.

She founded and financed Travelers' Aid; furnished funds to erect the National Cathedral School for Girls; helped to pay for the restoration of Mount Vernon; established and maintained at her expense kindergartens and a training school for teachers of preschool children; created the climate in Washington, D.C. that made it possible to pass the Copyright Law; in New York and Washington, D.C. was a hearty assistant in founding the General Federation of Women's Clubs; though she had no daughter, supported the Camp Fire Girls and served on its board of electors until six years before her death in 1918 at age 76.

Phoebe Apperson had married a former neighbor, George Hearst, at Steelville, Mo. in a simple ceremony in the Ozark foothills. George Hearst had not panned gold out West to make his fortune. He had studied metallurgy here in Franklin County in his day. When he went prospecting in Nevada he knew what he was doing, and his wealth was matched by few Americans. When George Hearst died in 1891, Phoebe reportedly more than doubled the millions which her husband left her. She apparently was also a Whiz Kid at finance. After their marriage at Steelville, they lived in California where George Hearst was elected to the U.S. Senate and bought the San Francisco newspaper managed by their son William Randolph Hearst. The newspaper fought for needed laws relevant to the mining of ore.

With all these things to Mrs. Hearst's credit, the Phoebe Apperson Hearst Historical Society was formed at St. Clair 13 years ago because she was a local girl who not only made good, but did good deeds by the dozens. She died in 1918, and the helpful organizations she founded were so well knit for public good that they survive today.

Strangely, she was refused this year as an honoree to the Hall of Fame of the General Federation of Women's Clubs on their statement that she "belonged" to California.

We submit that she "belonged" also to Missouri, to this Meramec River Basin, and that we here, as elsewhere in the United States, share in the benefit that Phoebe Hearst was a generous, intelligent leader though born to Ozarks poverty.

If Phoebe Apperson Hearst does not qualify for the Hall of Fame, then what woman could do so?

## TRIBUTE TO MAX ZIMMER

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. WAXMAN. Mr. Speaker, the onset of the Jewish New Year is a particularly auspicious time to honor those whose longtime dedication to Jewish causes has earned our gratitude and admiration. Mr. Max Zimmer of Los Angeles exemplifies a man whose quality fits this description. For more than 50 years his activities on behalf of the whole spectrum of Jewish activities in his community, his country, and the State of Israel have characterized Max Zimmer's life and earned for him all the honors his community can bestow.

Max and Pauline Zimmer founded and were charter members of the Jewish Centers Association, Brandeis Camp Institute, Mt. Sinai Hospital, Guardians of the Jewish Home for the Aged, American Friends of Hebrew University, and Rassco Israel Corp., a group promoting investments in the then new State of Israel. Mr. and Mrs. Zimmer also helped to launch the first Hebrew school for children in Los Angeles, and have recently endowed a 300-acre conference facility under auspices of the University of Judaism which is named for them. Max Zimmer is on the board of directors of Temple Israel and the Technion Society, treasurer of the University of Judaism, president of the West Coast Region of the Zionist Organization of America and vice president of the Jewish National Fund's Pacific Coast Division. Through the years he has played a major role in the development of United Jewish Welfare Fund activities.

The third annual dinner of the Shaare Zedek Hospital in Jerusalem will be held on October 24 in Los Angeles, and Mr. Zimmer will be honored on that night for his long service. I ask the Members to join me in extending warm good wishes to Max Zimmer on that occasion.

## FREEDOM WORKS

### HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. SYMMS. Mr. Speaker, the Idaho Association for Commerce and Industry sponsored an energy conference in Boise, Idaho, on September 24, 1976, to assess Idaho's energy requirements. One of the participants was Dr. Barry Asmus, associate professor of economics at Boise State University. Dr. Asmus discussed the economics of energy production and distribution. He advocates market solutions to the energy question—something that this Congress needs to consider. I would like to commend Dr. Asmus' remarks to my colleagues at this time, and only say that more power to Dr. Asmus. It is college professors like him that will help to allow freedom to work in America, and my colleagues—freedom works.

ECONOMICS OF ENERGY PRODUCTION AND DISTRIBUTION

(By Dr. Barry Asmus)

A. INTRODUCTION

Energy is the key fuel of any production system and most future productivity depends on it. Developed as well as less developed countries are going to look more toward energy resources to solve their food problems and to solve the problems of standards of living. The failure of our economic system or any economic system to provide the resources that less developed countries need will most certainly invite international tensions which could be a far greater threat to us than any kind of nuclear reactor failure than we can imagine.

To feed the world probably is going to involve an energy intensive production system. And even when the most basic requirements like food are met, developing peoples are going to want more and want to improve their standard of living. We can and we must seriously consider every imaginable, every reasonable, and every viable alternative for producing energy, and in doing so choose those alternatives and strategies which are the most compatible with environmental goals.

B. THE ENERGY PICTURE

(1) The pessimistic view.

(2) The historical view.

Lets look at our present energy picture first, from a pessimistic view, and second, from an historical view.

First, the pessimistic view.

Doomsdayers would have us believe that time is running out and we are in an almost hopeless position. We read newspaper articles every day, we take bad news and blow them into articles that sound like we have a crisis on our hands. It seems obvious that the work of doomsdayers is nothing but extrapolation, they take a trend and they extend it. By their analysis, late 1800's predictions would have been that by 1976 American cities would have been buried in a pile of horse manure. Pessimistic predictors have not appreciated man's ability to invent, man's ability to be creative, man's ability to adjust to new situations.

Few had the vision to see reapers, combines, and tractors. Few could see the emergence of chemicals for fertilizers.

U.S. History is full of examples of where experts could not see the advent of atomic energy, jet propulsion, antibiotics, transistors. They couldn't even see the advent of pollution nor could they see the possibility of energy shortages.

Pessimists, doomsdayers, and modern day Malthusian prophets all make the crucial error of assuming technology constant. Mankind has continually found substitutes for dwindling materials for example, even when 90% of our sources of natural rubber were denied us in World War II, we were able to create a substitute, in this case synthetic rubber which is now more widely used. Coal was not even thought of as a resource before the steam age, nor was uranium given a second thought before the atomic age. Since the industrial revolution, resources have grown exponentially, and these experiences of yesterday are very relevant today.

What would history teach us about today's energy picture?

First, I would like to remind you that applied forecasts have in the past been notoriously misleading. Again, doomsday prophets have looked at U.S. proven reserves of crude oil and have pronounced an early death sentence on this form of energy. But what they overlook is that proven reserves are the result of investments, exploration and that it does not pay producers to invest in exploration and the establishment of proven resources beyond some level. We do not really know the extent of the unproven oil reserves of the U.S. Either on private land, on Federal land, in Alaska, or even offshore. The ultimate capability of the world to produce oil is completely unknown. The ultimate capability of the world to produce any kind of energy is probably also unknown. (Reserves that can be brought out of the ground with existing technology at a feasible cost, you can make a profit.)

Researchers such as the U.S. Geological Survey said that we have 10 years of proven oil reserves left; 11 years of proven natural gas reserves left; 13 years of proven uranium reserves left; 35–120 years of proven shale oil left; and 500 years of proven coal reserves left.

But what they or we don't know is what our country and the world for that matter have in unproven reserves, and that only in oil, natural gas, uranium, shale oil, and coal, but energy reserves that we are not even presently aware.

C. Conservation and increased supply are the steps toward a brighter energy picture. But now? Will conservation be of much help? Not if we link it to patriotic duties—it just doesn't work. Conservation in the name of patriotism is a meaningless exercise in futility. Mr. and Mrs. Patriot get quite angry when they try hard to observe voluntary energy conservation measures and their neighbors do not. When they set their thermostat at 68° in the winter time, when they drive 55 miles per hour and see that none of their fellow citizens are locking step. In fact, those most patriotic pay the most. Mr. and Mrs. Citizen in the United States find our energy picture to be terribly confusing. They hear continuing exortations to conserve energy, they see that dwindling reserves of crude oil and threats of gasoline and heating oil shortages are reported everywhere. They are informed that unless they conserve, they are going to run out of oil, or the Nation will run out of oil. Yet, even though prices are rising, oil can be purchased anywhere and as much as is desired. The one main weakness of patriotic appeals is that those most patriotic incur the highest costs, and this hardly seems fair.

Well if conservation measures tied to patriotism won't work, what will? Perhaps we should give the socio-economic man a closer look, and see whether or not some behavioral principles tied to economic incentives would not induce conservation measures. If there were some way to relate the act to the result, would conservation be likely to follow?

Consider, for example, the case of smoking, we all know that smoking can cause lung tissue damage, cancer, and shorten a life of the individual who smokes. Yet, there are those who enjoy smoking, otherwise you wouldn't smoke. It seems obvious that the present consequences of smoking, the taste and smell or whatever and the unpleasant consequences, that is death were known to occur in a way that there wouldn't be such a long lapse of time between enjoyment and death, it might be a safe assumption that few cigarettes would be smoked. We could consider some principles of human behavior that might be applicable to determining ways of conserving energy. Given that much of human behavior is significantly affected if there is feedback and the quicker the feedback, the more the response. It would seem that having fuel gauges that would indicate the cost in dollars and cents on a gauge in the car would quickly inform us of how we are doing.

Since fuel is scarce and expensive the concern is to know how much it is costing us. It would be great if there would be a feedback system which could give us this dollar and cents type of consumption feedback, and at today's prices of gasoline it would seem that this would significantly affect our driving behavior. How many people speeding along at 70 miles might slow down if they observed a moment-to-moment decrease in driving costs. Given that 50% of all auto trips are for distances less than 5 miles, it would seem that knowledge gained from a feedback system that gave us instant cost of such trips could be expected to result in many of us walking more, riding bicycles, etc. Such a practice would have a two-fold purpose, we would conserve fuel and we would all have better health. The general rationale of the motivating affect of dollars and cents feedback could also be applied to other energy consuming appetites. Most of us have no idea of what it is costing us to use electricity or gas or oil to heat our homes or air-condition it.

Probably the meter readers are the only ones who attend to these devices. But if these meters could be connected to a feedback system installed in convenient locations in our homes and provide us with moment-to-moment cost. then perhaps unnecessary use of lightbulbs, turning off the television when absent, etc., would become a habit. Another behavioral principal would be that when we buy fuel, most of us don't suffer the negative feedback because we pay with credit cards and sign our names. The unfavorable consequences of paying the bill is delayed for a considerable time period and in no way can we sense what we are doing really. What could be suggested is that fuel consumption be reduced by eliminating credit cards purchases of gasoline. By doing so, the negative feedback which occurs each time an individual purchases gas at today's high prices could be expected to reduce fuel consumption. The neat thing about this approach is that there is no limitation on an individual's right to purchase fuel. If he wants to buy $50 or $150 a month of fuel, he can do so but he must pay in cash. It does force the individual to take a closer and more frequent look at the amount of money he is expending for fuel. A positive side effect of such an action is that this budgeting practice would generalize to other areas of economic life.

Any education effort to persuade people to take a long term interest in conservation could result in a significant savings in energy. This buys time and hence I feel to be positive. Technological possibilities exist which can begin to use the approximate 50% of energy production that goes into waste heat. This is good, it is efficient, it is conservation of a very serious kind. Technology is going to move in the direction of increasing efficiency of electrical generating plants. We are going to see enormous savings here as we move from 35% efficiency to perhaps an access of 55 or 60% efficiencies.

We would all agree that there are many ways to encourage energy conservation. Some of these ways were listed above. But if we are serious about energy conservation then we must become dead serious about the fact that energy is costly to produce. That means that energy is valuable, and given that it has value it seems the only successful means our society has developed to measure that value is its real price. Simply stated, if we allow the price to affect the economic fact that it is scarce, then consumers, industry and government will begin to conserve it and use it efficiently.

If prices are allowed to rise to reflect the true value of energy, improved home insulation will result.

If prices are allowed to rise to reflect the true value of energy, freight will be shifted from trucks to railroads.

If prices are allowed to rise to reflect the true value of energy, we will see a demand and supply of more efficient automobiles.

If prices are allowed to rise to reflect the true value of energy, we will see waste heat recycled, in fact, resources of all kinds used over and over again.

If prices are allowed to rise to reflect the true value of energy, purchasers will consider operating costs as well as purchasing costs, and in fact we will see a rapid movement away from inefficient industrial processes to more efficient ones.

What I am saying is that the most effective conservation tool we have is free market prices.

An example that many of you are aware of might help make the point.

It was a long while ago, in fact before the Civil War, that our major source of artificial lighting was the whale-oil lamp. It seemed obvious that there was no way that the supply of whale oil could keep up forever with the growing demand in our Nation. The tragedy of the Civil War distributed whale production and its price went up to maybe $2.50 a gallon, almost double what it had been a number of years before. Naturally, there were cries of profiteering and demands to Congress to do something about it. The government however made no move to ration whale oil or to freeze its price, or to put a new tax on the excess profits of the whalers who are benefiting from the increase in prices. Instead, prices were permitted to rise, the results then and now were predictable.

Consumers began to use less whale oil, whalers invested more money and new ways to increase their productivity. Meanwhile, men with vision and capital began to develop kerosene and other petroleum products. If we allow the price to rise the market will respond the same way in every situation. That is, (1) higher prices will mean less demand, (2) higher prices will mean increase in supply, and (3) substitutes will in fact be found. The Petroleum Age was born. This cycle repeats itself thousands and thousands of times. To which the rulers of the Persian Arabian Gulf area might well bear in mind. This history of our first energy crisis demonstrates there is no reason to believe that we face long-term doom.

Technology is not frozen, it is instead progressing at a rate unprecedented in history. The petroleum age will pass as did the stone age, as did the whale oil era. The real danger is that we may foolishly restrict the exploitations of current energy sources and allow them to become valueless. Only if we eliminate the market incentives for innovation and investment will we face a real long term energy crisis.

### OBJECTIONS TO THE FREE MARKET PRICE

Some would say that the free market price solution is not a solution at all, first it enables oil companies to make large windfall profits, second it discriminates against the poor, and third it contributes to inflation. Perhaps all of these are correct conclusions but are they valid arguments against the free market solution? With regard to windfall profit, several observations can be made. In the first place, profits associated with the removal of price controls in the Arab embargo should not be used in isolation.

The level of profits—1974 was the first time in 15 years that oil company profits reached or exceeded the average return on investment for all industrials. In other words, until that year the oil companies return on investment was lower than the average industrial company.

When oil company profits of 1974 are averaged in with profits for the other years since 1970, they are certainly less than spectacularly large. In the second place, do we not understand that it is precisely profit possibilities that encourage exploration and discovery in a very risky industry. Dry up these profit possibilities and smaller supplies will become a certainty. Addressing the question that the free market price discrimination against the poor, it must be remembered that poverty problems result from low incomes not from relatively high prices of specific products. Have rationing schemes as we have known in the past ordinarily operated in ways to favor the poor? What the poor need is money and there are more direct means of doing this than prohibiting the free working of the market. And thirdly, as far as higher energy prices contributing to inflation this is confusing; the cause and effect. The primary and continuing cause of inflation are contained in the fiscal and monetary policies of the Federal Goverment.

Energy prices are components of the general price level. In an economy without inflation, the prices of some products rise and the prices of other products fall over time as conditions of supply and demand change. Inflation is a phenomenon of aggregate demand changes or aggregate supply changes and its causes are forces that change aggregate demand or aggregate supply. The impact of those changes on prices of specific items and on the general price level is an affect rather than a cause.

In conclusion there is no way any of us can make our feelings known if there is not some kind of a price, a real value put on energy. It would seem to me that this is the only course that society can take and still remain free. The other alternative is to increase government control. Instead of putting a price tag on something, we will let a bureaucracy put a price tag on it. We will then need bureaucracies to tell us that energy is getting scarce rather than letting the price tell us that energy is scarce. We will then let bureaucracies tell us to lower our thermostat instead of letting prices tell us to lower our thermostat. We will then have bureaucracies telling managers to buy particular items rather than allowing prices to tell managers what kind of items to buy.

In short, our economic system can be changed from one of prices generating information to that of the bureacrat's memo becoming the key command. This certainly alters the foundation of our economic system and it would seem to me that this kind of effort would only sink us deeper into energy dependancy. We are now in an era when energy must be used more sparingly but at the same time, we do need to expand the alternatives to our present sources of supply. The market mechanism can do them both. And you and I can remain free.

### MEAT IMPORTS

## HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. NOLAN. Mr. Speaker, I am today introducing a bill to make some sense out of our present beef import law. For too long, we have been basing our meat imports on an outmoded formula which only serves to exaggerate the boom and bust of our domestic cattle cycles to the detriment of both farmers and consumers.

Under the present system, imports are permitted to increase as domestic production increases. This formula was instituted when consumer demand was increasing rapidly and domestic production seemed an adequate reflection of that demand. However, as demand has leveled off over the last several years and has begun to rise and fall at normal intervals, production has become less and less accurate an indicator of that demand. In fact, the formula based upon production has permitted additional imports to enter the country just when domestic prices were at their lowest.

The bill I am introducing would base the quota on "fed cattle slaughter." The number of fed cattle slaughtered in relation to the total number of cattle slaughtered is the best indicator we have of the health of our domestic cattle industry. Whenever there is an oversupply of cattle and prices are dropping a shift occurs from "fed" cattle slaughtered to "nonfed" slaughter. Fewer cattle are held in feedlots and more grass fed and cull cows are sent to slaughter. This drives prices down even further.

Under the present formula, imports are allowed to increase at the point when the supply is greatest and prices are lowest. This does not make sense for producers or consumers. By forcing prices below the cost of production, farmers are encouraged to sell off more of their herds. This leads to shorter supplies and significantly higher consumer prices is the future.

The formula I am recommending would restrict imports when there is a large supply of "nonfed" cattle and permit imports to increase as the market recovers. This would have the effect of evening out the cycle rather than reinforcing it.

An adjustment in the quota would be made annually based upon the fed cattle slaughter in the last 2 years and the projection for the upcoming year. The base period is 1969–72 during which there was a ratio of fed slaughter to total slaughter of 73 percent. If annual fed slaughter varied from this percentage, the base figure of 750 million pounds would be increased or decreased accordingly. Prepared and preserved meat as well as fresh, chilled, and frozen would be included in the quota.

If my proposal had been in effect during the most recent cattle cycle, imports would have fluctuated in the following manner:

1964–65: Deceleration Stage—imports at base level of 750 million lbs.

1966–70: Turn Around Stage—imports increasing slightly each year until hit peak in 1970.

1971–73: Growth Stage—imports are still above base, but are beginning to be restricted slightly each year until 1974 when they reach base level.

1974 (last half)–1976: Deceleration Stage—imports would be at base level for 1974 and would be increasingly restricted in 1975 and 1976.

Mr. Speaker, this bill presents a rational means of adjusting meat import levels for the benefits of farmers and consumers alike, and I strongly urge my colleagues to lend their support to the measure.

### TRIBUTE TO CONGRESSMAN HÉBERT

## HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 27, 1976*

Mr. ROYBAL. Mr. Speaker, I want to join my colleagues today in wishing F. EDWARD HÉBERT a long and enjoyable retirement, and to pay a most deserved tribute to this man who has served 36 years in the House of Representatives. Congressman HÉBERT may retire with a sense of personal satisfaction and pride, knowing that he has served his country and his home State of Louisiana with great distinction.

A newspaperman from New Orleans, EDWARD HÉBERT was elected to Congress in 1940, following a career as a reporter and city editor during which he won fame for his investigation of political scandals. He has been reelected every term since 1940 and has achieved considerable importance and power during his stay in Congress.

Congressman HÉBERT became Chairman of the House Armed Services Committee in 1970, following the death of Mendel Rivers. During his 4 years as chairman of this powerful committee—charged with developing the military procurement and research budget, as well as the military construction budget, Congressman HÉBERT has been a stalwart supporter of the military.

In 1972, the Congressman was instrumental in the passage of H.R. 2, establishing a special medical school for the military. As a junior member of the Armed Services Committee, he wondered aloud at a hearing one day in 1947 why it was that military men had "spent billions of dollars to train men to kill, have spent nothing to train men to save lives." Congressman HÉBERT must, indeed, be proud now that the school has begun operation—admitting its first class of students this year.

It has been a real pleasure to serve in Congress with Edward Hébert during my 14 years in Congress and I want to take this opportunity to wish Edward and his wife Gladys much health and happiness in the years ahead.

## FORMER CONGRESSMAN FRANK E. SMITH PAYS TRIBUTE TO CHAIRMAN BOB JONES

### HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. WRIGHT. Mr. Speaker, our respected former colleague, the Hon. Frank E. Smith of Mississippi, took note this week of the forthcoming retirement of the distinguished chairman of the House Committee on Public Works and Transportation, the Honorable Bob Jones of Alabama.

Mr. Smith will be remembered for his dedicated service as a member of the committee and also as a former member of the Tennessee Valley Authority Board of Directors.

From these vantage points Frank Smith was able to witness at first-hand the outstanding contributions Bob Jones has made to his State, his region and his country. At the request of Mr. Smith, I am inserting into the Record the following tribute he composed to our friend and colleague, Mr. Jones.

#### Tribute to Bob Jones

Bob Jones' service in the Congress has been in the great tradition of Jacksonian Democracy—the hallmark of the great Congressmen from the Tennessee Valley since the time of Andrew Jackson. He has been a representative from Alabama, and he has also been the representative for the Tennessee Valley.

Bob Jones' congressional career spans the 30 years since World War II. During this period there have been vast improvements in economic and social conditions in the South. Bob Jones has been one of the architects of the region's economic progress. Through the years he has stoutly resisted the waves of reaction which might have halted the American advance to better economic status for all of our people.

In the midst of a great social revolution in our country, Bob Jones actively sought solutions to the problems of racial strife. He has always spoken with a voice of moderation. Stable leadership such as he has displayed through the years has been a major factor in the achievement of continuing improvement in race relations in the South.

When the history of the Tennessee Valley region is written, the name of Bob Jones will stand out as the most influential legislative champion of the Tennessee Valley Authority during the past two decades.

As a young lawyer in his home town of Scottsboro, Bob Jones helped organize public support for TVA when the Authority was first beginning its work on the Tennessee River. He is the principal author of the historic TVA Self-financing Act. In more recent years Bob Jones has been the great legislative champion for TVA, at a time when some more timid souls have been reluctant to support its programs. Without his strength, TVA might have been virtually dismantled.

The name of Bob Jones stands with that of George Norris and Lister Hill as a great champion of TVA, and in that work, as a great benefactor of the people of the Tennessee Valley and all of our country.

## LABOR, INDUSTRY ASK QUOTAS ON IMPORTS OF COLOR TV SETS

### HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. LATTA. Mr. Speaker, I would like to advise my colleagues of a critical problem facing thousands of working people and dozens of industries—the rising threat of uncontrolled imports from abroad. Several million jobs are threatened or have already been eliminated by imports, and the situation is growing worse month by month.

One of the latest victims of the import invasion is the color TV industry. At least 17,000 job opportunities have been lost to Japanese and other color TV imports this year. Recently several of my constituents representing both labor and industry visited my office to apprise me of the latest developments in this situation, and I would like to share some facts with you.

For this reason, I include in the Record at this point the following article from the Press Relations Wire of September 22:

#### Labor, Industry Ask Quotas on Imports of Color TV Sets

Washington, September 22.—Eleven labor organizations and five corporations today petitioned the U.S. International Trade Commission for relief from the rising tide of color television imports currently flooding the American market.

The petition, which requests import quotas on color TV sets, is one of the largest petitions yet filed under the escape clause provisions of the new trade act signed last year by President Ford. All but one of the 16 petitioners—GTE Sylvania Incorporated—are banded together in a new organization known as COMPACT—the committee to preserve American color television.

Jacob Clayman, secretary-treasurer of the AFL–CIO industrial union department, and Allen W. Dawson, executive vice president of Corning Glass Works, are co-chairmen of COMPACT. At a press conference in the AFL–CIO Building here at 11:00 a.m. today, Clayman and Dawson detailed the impact of the color TV invasion on the domestic industry.

"The color television industry in the United States has already been seriously injured by imports and is threatened with extinction," Dawson said. He pointed out that "imports from abroad have already captured two-thirds of the U.S. market for black-and-white TV sets and they are now moving aggressively to capture the domestic market for color television receivers."

Dawson chargd that "the foreign assault on the American color television market has expanded tremendously in recent months."

Color TV imports, mostly from Japan, have shot up from a 16-percent share of the U.S. market a year ago to more than 29 percent in the first seven months of this year. In fact Business Week magazine reports "the Japanese now claim 31 percent of the U.S. color set market." In 1966 imports from all countries represented less than 5 percent of the market.

Clayman estimated that "many thousands more workers" are affected by the "fallout that the loss of these jobs has had on the communities where plants have already closed or are threatened with closings in the near future."

He added that more than a score of petitions showing evidence of injury to American workers and industry have been filed with the ITC. "In all," Clayman said, "I believe several million workers have either already lost their jobs to imports or are in imminent danger of losing them.

"The repercussions from this have obviously serious consequences for this country and for the entire world," Clayman concluded.

Imports of color TV sets have risen more than 400 percent from 1966 through 1975. At the present accelerated level of imports, Clayman said, "The rate of annual increase since 1966 could be as high as 1,000 percent by the end of December."

In 1966 an estimated 240,000 imported color sets were sold in the U.S. By 1975 imports have risen to 1,214,000 sets and at the current rate they are expected to soar well over 2,000,000 this year.

Dawson emphasized that compact "seeks to promote international trade, not restrain it. However, we insist that international trade, if it is to benefit all the peoples of the world, must be fair as well as free."

Clayman said that "as is the case with other industries, we know that the color television industry is forced to compete with foreign industries whose governments have granted them subsidies, low-interest loans, and generous tax incentives so they can sell their products in the U.S. market at prices that are often far below the prices charged for color TV sets in their own countries." He charged these practices "enable foreign countries to export their unemployment to the United States."

The number of American companies manufacturing television receivers has declined from more than 25 companies to 12 since 1960. Three of the 12 have less than 0.5 percent of the market.

Dawson said the implications of the import threat outlined in the petition filed today with the ITC "extend far beyond the fate of the companies and the workers who manufacture color television receivers and their component parts."

"For many years," he stated, "color TV sets have been a bread-and-butter product of some of the most important companies in the electronics industry." He pointed out that electronics "has made possible many of America's technological advances that have sustained the economic growth of this Nation and of other countries throughout the world."

"A substantial share of the funds for advanced research in electronics has come from the sales of television receivers and their components," Dawson said.

Clayman also stressed that "the loss of the color television industry to imports would have severe impact upon the whole electronics industry and upon the national economy."

"It should also be emphasized that many other industries are similarly threatened by the invasion of imports often subsidized by governments abroad," Clayman said.

The companies filing the petition with the ITC include Corning Glass Works, GTE Sylvania Incorporated, Owens-Illinois, Inc., Sprague Electric Company and Wells-Gardner Electronics Corp. In addition to the AFL–CIO industrial union department, the labor organizations are: Allied Industrial Workers of America, American Flint Glass Workers, Communication Workers of America, Glass Bottle Blowers' Association, Independent

Radionic Workers, International Association of Machinists, International Brotherhood of Electrical Workers, International Union of Electrical, Radio, and Machine Workers, United Furniture Workers, and United Steelworkers of America.

## TRIBUTE TO MARK AND ELLIE LAINER

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. WAXMAN. Mr. Speaker, in these days when we must deal with so many problems confronting our country, it is a rare and special pleasure to be able to perform a welcome duty—to bring to your attention two exceptional friends, Mark and Ellie Lainer of Los Angeles. Their combined services to their community would tax the capacities of many others. They are consistently devoted to improving the education and living conditions of those around them.

Mark Lainer, born in Venezuela in 1939, lived in Mexico City until he was 12 and then came to Los Angeles with his family. After graduation from Harvard Law School, he passed the California Bar in 1964, clerked for the Appellate Department of Los Angeles County Superior Court and became a deputy in the State attorney general's office for 4 years. In 1968 he entered private law practice. Eleanor Lainer, a native Angeleno, graduated from UCLA with a teaching degree.

Space scarcely permits a full listing of Mark and Ellie's community involvements. They are each founders of the Abraham Joshua Heschel Day School, and Mark was its first president. He was on the Executive Committee of the B'nai B'rith Antidefamation League, Pacific Southwest region, and also of the bureau of Jewish Education of Jewish Federation Council of Greater Los Angeles.

A brief listing of Mark's further offices includes the vice presidency of Temple Valley Beth Shalom, board member of Los Angeles Hebrew High School, Los Angeles Hillel Council, and the University of Judaism, member of the Valley Interfaith Council, the San Fernando Valley Fair Housing Council, the West Valley Police Department Advisory Committee, and of the San Fernando Valley Industrial Association.

Eleanor Lainer is the first chairperson of the Parents' Association of the Abraham Day School as well as registration chairperson. She is an officer of the B'nai B'rith Women's Division in Encino, and a member of the board of the Sisterhood of Temple Valley Beth Shalom.

The three children of Mark and Ellie, Iisa, Jeffrey, and Steven will, as they grow, be the beneficiaries of the wide range of their parents' community involvements. They in their turn, if they follow their monther's and father's example, will bring gifts of the spirit to those around them.

I feel privileged to be able to commend Mark and Eleanor Lainer to your attention on the occasion of their being honored at the annual dinner of Abraham Joshua Heschel Day School on October 14, 1976.

## CRITICISM OVER THREE NSF GRANTS

### HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. ESCH. Mr. Speaker, the following letter was sent to me by Mr. Charles Overberger, vice president for research at the University of Michigan. It concerns congressional criticism over three NSF grants. Mr. Overberger has very succinctly outlined the nature of two of those grants, both of which appear to be worthwhile undertakings and worthy of funding. Certainly with the present political situation in Italy, that particular grant to study regional political institutions in Italy would provide valuable information:

THE UNIVERSITY OF MICHIGAN,
*Ann Arbor, Mich., August 23, 1976.*

Hon. MARVIN L. ESCH,
*House of Representatives,*
*Congress of the United States,*
*Rayburn House Office Building,*
*Washington, D.C.*

DEAR MARVIN: According to the *Congressional Record* for June 22, 1976, Congressman Ashbrook sought to reduce NSF's budget for basic research by some $42.3 million. In doing so, he cited eight "questionable grants" that NSF had recently made to various universities. Michigan was awarded two of these grants, and I thought you might like to know a little more about them than can be gleaned from their titles.

The first grant, in the amount of $777,200, is the largest of the eight awards which were of concern to Mr. Ashbrook. Its title is, "The Study of the American Electorate in 1976." One of its objectives is to learn more about voter behavior in the context of the 1976 general election. This is the thirteenth such study in a biennial series which began in 1952. The anonymous information which is collected and stored in the course of these studies is a widely-used national resource. It is tapped for teaching and research by many institutions throughout the country. In fact, it has proved to be useful to legislators, as well as state and national political organizations, over the years. Another objective of this project is to complete an investigation of the impact of the mass media on voter behavior which has been underway since 1974.

The other grant, for $172,700, is entitled, "The Birth and Development of Representative Political Institutions: The Case of Regional Government in Italy." This project will measure the extent to which regional governments in five different parts of Italy have become institutionalized (in the technical sense of the term.) These governments, which were created in 1970, are potentially powerful. The effectiveness of each regional government will be assessed by such measures as stability, budgetary performance, and legislative output. The purpose of this research is to gain a better understanding of the relationship between the effectiveness of a political body and the degree to which it is institutionalized.

Given the tenor of the times, it is interesting, perhaps even amusing, that a politician has proclaimed these projects "questionable" and "low priority" when one is concerned with learning more about why Americans vote the way they do and the other with studying the effectiveness of political institutions.

Before these grants were awarded, the proposed projects were, of course, carefully reviewed by highly-qualified individuals. I should probably also point out that the director of one of these projects is a person of international stature in his field.

Sincerely,

CHARLES G. OVERBERGER.

## ESTATE TAX REFORM

### HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. GRASSLEY. Mr. Speaker, because I believe estate tax reform is so important to millions of Americans, including the residents of the Third District of Iowa, I have written President Ford urging him to sign the tax reform bill into law.

In my letter to the President I included a portion of a letter from one of my constituents, a widow in Charles City, Iowa, who explained far better than any Member of Congress can why estate tax reform is needed, and needed now.

I would like to insert her statement in the RECORD in hopes it will encourage my colleagues to also press the President for signing of the bill.

At her request, I have omitted the name of the woman and her husband. Her letter reads in part:

Let me tell you my story. On March 20, 1976, my husband had a heart attack and died March 29. He had had no warning or previous heart trouble. He and I had been married over 46 years. We started out in 1930 with only $3,000. $1,500 I had saved from teaching school at $75 a month. We worked hard. I worked as a hired man, besides raising poultry. By working hard and going without, we survived the depression and the droughts of 1934 and 1936. Little by little we got ahead and bought our home place at $125 per acre. Times and prices got better and we bought sixty more acres at $100 per acre. Later we bought another hundred acres at $231 an acre. Sixteen years ago we bought 160 acres at $400 an acre for our son to live on, as he got married. All in all we own 500 acres. We have this land all paid for. Our estate isn't settled yet; we were finally enjoying life and not working so hard. My husband was 67, I am 68.

My husband had $60,000 on interest in the bank at 6½%. On March 10, he bought a new John Deere tractor and plow for $25,000. We were going to do some more tiling and add an addition on the house and replace a worn out machine shed.

They valued our machinery at $48,000. The lawyer says they'll probably value the land at $1200 an acre.

My husband left a will and left half of his estate to me and the other half to the children, but I get the use of it until I die.

Now the way I understand it, a widow only gets $60,000 exemption. the same as when the land was $230 or $400 an acre. This isn't fair. The exemption should go up with the price of land. Can't anything be done about this? As it is now, all my ready cash will have to go. I can't do any tiling or remodeling. In other words, I'll be hard up again, as in the beginning. I hope I don't have to sell any of the land. My husband and I earned every penny of this together. I think the law should collect no inheritance tax until both husband and wife are gone, as I need the money now more than when my husband was alive, as now I have to rent the land and only get half the income that we got together.

## OFF-TRACK BETTING

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. DERWINSKI. Mr. Speaker, in efforts to find painless means of extracting funds from the taxpayers, many States are looking toward off-track betting, and, in turn, they wish to take advantage of interstate sporting events in which to induce patrons to contribute to State coffers.

The Chicago Daily News, in a very frank and solid editorial commentary on Friday, September 17, directed its comments to the situation that may develop in Chicago, but the editorial truly has practical national significance:

#### OTB: DON'T BET ON IT

Mayor Daley says he is so "impressed" with the results of off-track betting in New York City he is seriously considering opening city-run parlors for betting on horse races in Chicago. Maybe the mayor is referring to a different New York City from the one in New York state, but *that* New York's experience with off-track betting (OTB) is something less than encouraging.

New York's OTB has turned into a haven for patronage workers—some 2,500 in all—and has been characterized by monumental start-up and operating expenses, disasters and other sundry headaches. In return, last year the city treasury received $63.2 million (the state and other municipalities also received a share of the total take from a 5-per cent surcharge on bets), a lot of money, but still a rather meager return for the troubles involved.

Mayor Daley figures the take from betting in Chicago parlors would come to $27.2 million, or about 2 per cent of the Chicago budget. Given the problems associated with an OTB operation, a 2 per cent boost is less than meager. It's parsimonious.

But there are other costs that don't show up in the financial ledgers. A recent report by the New York Police Department shows that the promotion of the city-run OTB parlors had stimulated interest on all kinds of illegal betting, including bets on horse races, and illegal bookmakers tallied a 61-per cent increase in their business compared with pre-OTB days. Predictably enough, organized crime's influence in the lucrative illegal-betting market has also flourished, according to New York's finest.

While OTB has proved a bonanza for the mob and unemployed party hacks, it has done little for the citizens. It has, in fact, expanded the ranks of the losers, making it possible for people who have never been to a race track in their lives to lose their money like veteran touts. And the roster of losers is riddled with the names of those who can least afford to lose: welfare recipients, the elderly on fixed incomes, young families searching for a pot of gold.

Not all enterprises can be justified by taxing them in the name of "more revenue." We urge Mayor Daley to take a closer look at New York's OTB operation. If he does, he'll find something to be avoided, not copied.

## JEWISH VOCATIONAL SERVICES

### HON. WILLIAM LEHMAN

OF ELORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. LEHMAN. Mr. Speaker, as a member of the Manpower Subcommittee of the Education and Labor Committee, I have had the opportunity to participate in vital oversight hearings on the Comprehensive Employment and Training Act. During these hearings last week, it was my pleasure to be present when the representatives of the National Association of Jewish Vocational Services—NAJVS—testified before the subcommittee.

The NAJVS representatives demonstrated their expertise in the manpower training field not only in their written statement presented to the committee, but also in the colloquy which ensued and which was most enlightening for the committee members.

This expertise is consistently demonstrated on the local as well as the national level. The Jewish Vocational Service in Miami, for example, has provided constituents in my own district with a wide variety of high quality manpower-related services including sheltered workshop services for the elderly, and vocational evaluation, rehabilitation, job training, and job placement for the general community.

The testimony presented to the subcommittee by NAJVS will be of immeasurable assistance in the performance of our oversight duties on the CETA program. It is my hope that every Member of the House will take the opportunity to read this thoughtful critique of Federal manpower training programs. The testimony of NAJVS follows:

#### TESTIMONY OF THE NATIONAL ASSOCIATION OF JEWISH VOCATIONAL SERVICES BEFORE THE SUBCOMMITTEE ON MANPOWER, COMPENSATION, HEALTH AND SAFETY OVERSIGHT HEARINGS ON THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973

On behalf of the 28 member agencies of the National Association of Jewish Vocational Services we would like to thank the Members of the Committee for their invitation to appear before them today.

Jewish Vocational Services and their earlier counterparts have been providing a wide variety of manpower-related services to both Jewish and non-Jewish populations for over 100 years. During this period, over ten million individuals have participated in Jewish Vocational Service programs; this year, some 200,000 men and women are involved in these programs, which deal with the following array of services: outreach; vocational assessment, including psychological testing, work sample evaluation, and assessment of language ability, educational background, and vocational skills; vocational skills training in all occupational areas; labor market surveys; job solicitation and worker placement; post-employment skills upgrading; career counseling; vocational rehabilitation of the physically and mentally handicapped and of socially maladjusted youths and adults; training of the elderly; referral programs for those needing ancillary social services; employer education programs; job hunting skills training; vocational library services for communities and universities; internship opportunities for new professionals and paraprofessionals; vocational education research; and vocational training program evaluation. Jewish Vocational Services also provide professional consultation for numerous advisory committees in the public and private sectors.

Over the past century, the Jewish Vocational Services movement has broadened its manpower training efforts from training and providing jobs for new immigrants and refugees to the United States, to providing services dealing with the vocational needs of older workers, disabled persons, the socially disadvantaged, and workers displaced because of automation and technological dislocation. By the middle of the 1950's, many of the Jewish Vocational Services were developing experimental programs and demonstrating new techniques utilizing research and demonstration projects, and designing pilot programs to cope with both local and national manpower needs.

Although the Jewish Vocational Services vary in size from very small organizations to agencies employing over 350 staff professionals and serving thousands of people yearly, the common denominator is their ability to deliver successful educational and vocational counseling and psychological services as a requisite to career planning, job placement and vocational training and rehabilitation. Despite variations in service patterns, all 28 Jewish Vocational Service Agencies are committed to meeting manpower needs as they are perceived to exist in their respective communities. Most Jewish Vocational Services, although sponsored partially by privately-funded, nonprofit Jewish Federations, are the recipients of funding from a variety of sources. Because of the pluralistic nature of the programs and the long history of their existence, most Jewish Vocational Services have a history of serving a variety of ethnic and religious groups.

The Jewish Vocational Services are involved with agencies in the community that are either directly or indirectly charged with serving manpower needs. For example, many of the Jewish Vocational Services are affiliated with, or have linkages with, State and County employment services, mental health and mental retardation clinics, social and health planning agencies and manpower advisory councils. There is also a long tradition and binding commitment to serving as a linkage in the network of social and health services under recognized Jewish auspices. The Council of Jewish Federations and Welfare Funds, to which 250 Jewish Federations throughout the U.S. and Canada belong, recognizes the importance of the Jewish Vocational Services in the network of programming in Jewish life, and the Jewish Vocational Services cooperate closely with the many Federation agencies, including family care agencies, child care agencies, hospitals, homes for the elderly, and community centers.

Because of the extensive experience of the Jewish Vocational Services, it was natural that when the Comprehensive Employment Training Act of 1973 became law, many of the prime sponsors approached the Jewish

Vocational Service agencies for guidance in establishing programs and providing staff experts to participate in local manpower advisory councils, and to provide services directly through program subcontracts.

The underlying thesis of the Comprehensive Employment and Training Act is valid: a decentralized manpower delivery system is important in enabling local communities to determine for themselves what their greatest manpower needs are and what their priorities should be in meeting these needs with the federal funds allotted to them. But while these local communities should be allowed flexibility in their use of federal funds to alleviate manpower problems, it is important that the decision-making process on the local level follow firm, federally established guidelines. The federal government must set national procedures and evaluation standards, and must monitor local, federally funded, manpower programs to make certain that the funding accomplishes the purpose for which Congress has created CETA.

While it is true that local governments on the city and county levels may be the best judges of what their manpower needs are, it is equally true that they are the most susceptible to political pressures; therefore, an equitable decision-making process might be hampered unless funding criteria and accountability standards are clearly stated and used as a basis for the refunding of existing CETA programs or the establishment of new programs.

When new federal funds are made available for new programs or for the expansion of existing programs, it is natural that many new agencies are quickly created for the purpose of taking advantage of the influx of federal monies. Yet established agencies with proven service records in employment training often exist which can integrate new manpower programs into their existing constellation of services much more effectively, efficiently and inexpensively than an organization new to the field of employment training. Obviously, in many situations, other legitimate community considerations might lead to the funding of a relatively inexperienced community organization. We would consider this a legitimate decision so long as the application is evaluated according to pre-established criteria. Similarly, agency manpower training programs should be refunded only if they have done their job well, and in accordance with recognized guidelines.

It is also our strong feeling that the primary criteria for the different types of services that should be offered under a CETA program—such as classroom training, adult work adjustment, programs for youth, etc.—should be the ability of the services to ultimately lead to job placement for the programs' clients. Ideally, the manpower agency should be able to offer post-placement services such as advanced skills training in classes conducted in the evening for those who are currently working at an entry level job, so that clients will become eligible for higher level jobs. This kind of programming, which is currently being done at many Jewish Vocational Services, not only helps to move the individual up the ladder to his highest level of eventual achievement (which generally is not his first job placement) but also maximizes the use of agency facilities and equipment during off-hours. This full utilization of existing manpower agency programs (both skills-training and job-related counseling) and facilities is one way in which we can increase the benefits of CETA-funded programs even when it is not possible to increase the dollar appropriation.

Several JVS's are now successfully utilizing CETA legislation, including JVS's in Philadelphia, New York, and St. Paul. Other JVS's are in the process of attempting to secure CETA funding for programs which they feel are of extreme importance for the well-being of their local communities.

On the other hand, some JVS agencies indicate that the CETA programming is not reaching target populations for which the CETA legislation and regulations were designed. We are speaking here primarily of vocational services for the elderly.

We should note that we have generally worked well with the current system of prime sponsors. If, of course, the application procedures should be changed so that non-profit, voluntary agencies could apply directly for CETA funds, we would expect that all non-profit manpower training agencies would be given an equal chance to become project sponsors under competitive application procedures. The effectiveness of the local manpower advisory councils to the prime sponsor, which are mandated by the legislation, should be improved. This can be accomplished by federal guidelines, which strengthen the role of the councils.

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## LEFT ATTACKS NUCLEAR POWER—FOR PEACE OR FOR DEFENSE

## HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. McDONALD. Mr. Speaker, 25 years ago, the Soviet-sponsored antinuclear bomb and disarmament campaigns which grew out of the anti-Korean war effort provided a training ground and leadership core for the anti-Vietnam, antidraft and so-called civil rights movements of the 1960's. Now a new generation of extreme left activists, more skilled and sophisticated in organizing techniques, preparation of propaganda, and media manipulation, and still with the guidance and support of the Old Left veterans, are moving to build a national movement against the peaceful use of nuclear energy.

Typical of the local groups building for national recognition is the Clamshell Alliance—CA, P.O. Box 162, Seabrook, N.H. (603/964–6514), a New England-wide organization "dedicated to stopping the Seabrook nuclear plant"—to be constructed by public service of New Hampshire—by "direct nonviolent action."

Within its membership, the Clamshell Alliance includes some 15 antinuclear power and ecology groups such as Concerned Citizens of Seabrook, the Granite State Alliance, the Alternative Energy Coalition of the North Shore, Brattleboro Political Action, the Portsmouth People's Energy Commission, and Nuclear Objectors for a Pure Environment—(NOPE, of Montague, Maine).

A leadership role in the CA has been taken by the Alternative Energy Coalition—AEC, 31 Federal Street, Greenfield, N.H. (603/777–5580) and two individuals, Guy Chichester of the Clamshell Alliance and Sam Lovejoy of NOPE.

It will be recalled that NOPE leader Lovejoy surrendered himself to police on February 22, 1974, after loosening the bracing cables of a preliminary weather tower at the Montague nuclear powerplant site. The $50,000 tower collapsed. In a prepared statement to the press, Lovejoy admitted "full responsibility for sabotaging that outrageous symbol of a future nuclear powerplant."

After a trial in which Lovejoy defended himself as having acted in the public interest, the judge directed acquittal on grounds of a faulty indictment which charged him with destruction of personal rather than real property. Lovejoy then told the press:

> The publicity * * * was a great victory, and we've entered the issue of civil disobedience into the environmental movement.

As its first major action, the Clamshell Alliance held a "rally and occupation" demonstration on August 22, 1976, at the Seabrook plant site, a demonstration which the organizers advertised as the "first nonviolent mass action occupation of a nuclear power site in U.S. history."

The alliance activists determined in advance that they would need about 100 volunteers to attempt to occupy the powerplant site and be arrested to generate the amount of controversy and media coverage desired. Two people from the Boston offices of the American Friends Service Committee—AFSC, Elizabeth Boardman and Suki Rice, were selected to give "nonviolent civil disobedience" training to the sit-in group. A "legal brigade" was arranged to be on hand, as well as an "emergency" medical team headed by Dr. Donald Boardman of Acton, Mass.

An ad hoc group of "nonviolent marshals"—in other words, "don't let them see anyone throw a punch, just link arms and push"—directed from a demonstrators' communications center at 566 Washington Road, Rye Center, was set up to handle, "the possibility of disruptive incidents instigated by outsiders."

The antinuclear power demonstration commenced with a rally at Hampton Common attended by some 1,500 people. Speakers included Kathy Foote-Silver, Jo Thienen, and Guy Chichester of the Alliance; Sam Lovejoy; Harvey Wasserman; Bob Gustafson and Terry Winkel of the American Indian Moverment; Vita Dombrowski of the Gloucester Fishermans Wives Association; Donna Warnock of the National Organization for Women; and a Jarry Healey.

About 1,000 demonstrators marched to the Seabrook powerplant site. There, 200 people evaded barriers, ignored a court injunction against trespass, and held a sit-in. Some 140 demonstrators refused to leave when so requested by officials of the New Hampshire State police and were arrested and charged with criminal trespass.

The sophisticated and detailed planning demonstrated by the Clamshell Alliance underscores the potential of the antinuclear power movement, now combined with the experienced nuclear disarmament lobby and anti-Vietnam organizers, and brings into sharp focus the potential that exists for public disorder and further threats to internal security.

The antinuclear power groups claim

that programs for the peaceful use of nuclear energy for electrical power are unacceptable for the following five reasons:

Unscheduled discharges of radiation to the environment, in amounts exceeding the low levels prescribed in normal operation.

Catastrophic releases of fuel or waste materials, following a "melt-down" of the fuel after an accident.

Deliberate release, or the threat of it, of radioactive materials, as a measure of terrorism or criminal extortion—"nuclear malevolence."

Environmental damage arising from nuclear wastes—whose disposal remains an unsolved problem.

Undesirable political and social measures adopted to cope with these hazards.

The campaigns against the peaceful use of nuclear power, and indeed most others involving environmental issues, have generally been treated with suspicion by the organized Marxist-Leninist parties who have regarded them as trendy middle-class phenomena unrelated to the organizing of a working class revolution.

Indeed, groups with a pro-Moscow ideology like the Communist Party, U.S.A.—CPUSA—hail the opening of Soviet nuclear powerplants as great advances—despite the shocked comments by a group of U.S. nuclear engineers who toured U.S.S.R nuclear powerplant facilities and were aghast at the minimum number of safeguards far below U.S. standards; and endorse the concept of State controlled nuclear plants in Soviet-bloc countries.

These groups generally oppose U.S. privately owned nuclear powerplants and the Communist Party press reports much of the antinuclear allegations of the "consumer" and environmntal organizations. In this context it is interesting to note that Women Strike for Peace—WSP—which has long acted in close cooperation with the Communist Party, U.S.A. and with the Soviet-controlled World Peace Council, has joined the drive for both disarmament and banning nuclear powerplants.

However, during the past 2 years, somewhat grudgingly, the Marxists have realized the potential revolutionary significance of the "ecological rebellion" and "uncontrollable riots" forecast by Hans-Magnus Enzenberger—"A Critique of Political Ecology," New Left Review, 84, March–April 1974.

According to Marxist theoreticians:

> The historical import of the nuclear power programme derives from the current plight of modern capitalism; based firmly on consumerist values and concessions, it sees the development of that consumerism heading inexorably towards the destruction of the environment. The coming exhaustion of oil reserves is one harbinger of the crisis, and has promoted a reckless acceleration of the nuclear programmes, in an attempt to ensure, at whatever cost, that consumerist capitalism will have available the centralized sources of power it needs.
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> The struggle over nuclear power thus poses questions about the very shape of society itself—as any intervention in this struggle quickly reveals. For it is impossible to adopt a purely negative stance, attacking nuclear power but proposing no alternative energy policy. Many of the reformist critics understand this well, and offer programmes which envisage the attainment of social energy goals without the use of nuclear power, but which usually involve sizable reductions in energy consumption by various methods of conservation.
>
> But such a conservation policy would represent an extraordinary historical 'turn' by a consumerist capitalist society, wedded as it is to continual expansion; a society, moreover in which the relative weight of the 'Energy Company' grows day by day. Can such a society significantly restrict its energy consumption over a whole business cycle—for example, in a time of recession, will it throttle down on vitally needed expansion plans, simply because they are energy-expensive? And what would be the social and political reverberations of such energy-conserving policies as were adopted?

In June 1975, the World Peace Council—WPC—launched the "New Stockholm Appeal" in response to the Communist Party of the Soviet Union's "peace program" which the WPC states "has had a vital effect on all our work." The document calls for developing "a New International Economic order," for "ending the arms race, for making détente irreversible and for general and complete disarmament."

The World Peace Council, founded in 1948 and with headquarters in Helsinki, Finland, is the principal Soviet-controlled propaganda apparatus for directing and coordinating "world public opinion" in accordance with Soviet foreign policy goals. The World Peace Council has been particularly active during the past decade in supporting Soviet-backed terrorist "national liberation movements" such as the Palestine Liberation Organization, the Vietcong, FRELIMO in Mozambique, the MPLA in Angola, and SWAPO, ZAPU, and ANC in Southern Africa.

Organized on a national basis with "peace committees" in some 90 countries, the WPC has a 600-member council, a council-elected 50-member Presidential Committee, and a PC-elected Secretariat of 15 members. The WPC is headed by Romesh Chandra, a member of the Central Committee of the Communist Party of India. Three U.S. citizens are members of the Presidential Committee: Rev. Ralph D. Abernathy of the Southern Christian Leadership Conference; Prof. Harold Parsons, a veteran supporter of CPUSA fronts; and identified CPUSA member Dr. Carlton Goodlett, publisher of the Sun newspapers in the San Francisco Bay area and head of the National Negro Publishers Association. The editorial board of the WPC journal New Perspectives includes Karen Talbot, a Communist Party, U.S.A. activist in the leadership of the People's Coalition for Peace and Justice—PCPJ—and its predecessors.

The campaign for "peaceful coexistence," détente, disarmament, and stopping the arms race has moved into high gear with groups such as the CPUSA, Women Strike for Peace—WSP, the Women's International League for Peace and Freedom—WILPF, the Public Interest Economics Foundation—PIE–F, the Coalition for a New Foreign and Military Policy—CNFMP, and the Fund for Peace—FFP—each working in parallel with the Moscow directives.

At the same time a "mutuality of interest" has been discovered with those who are opposed to the use of nuclear power for peaceful uses in the United States. Indeed, often the rhetoric of the two groups attacking "nuclear proliferation" is indistinguishable in their denunciations of the sale of nuclear powerplant fuel and technology to other countries.

Both groups can be expected to become highly vocal during the next 11 weeks with groups such as the Clamshell Alliance serving as shock troops for the antinuclear movement as a whole. However, while the Soviet organizations and their allies denounce actions like the French sale of nuclear powerplant fuel to South Africa, it is not expected that these groups will object to the atomic power reactor being built in Cuba by the Soviet Union which will provide Cuba with an atomic weapon capability.

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## TRIBUTE TO CONGRESSMAN

## HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 27, 1976*

Mr. YOUNG of Florida. Mr. Speaker, it is a pleasure to join my colleagues in this special order to pay tribute to a great American, the Honorable F. Edward Hébert of Louisiana.

As a member of the House Armed Services Committee, while Eddie was its chairman, I was able to work with him directly and value his friendship and courage as a leader. During a period of time when there was much discussion about decreasing our defense posture, Edward Hébert was one of the few who perceived the dangers of such a policy. We can all be thankful that Eddie was in a position of responsibility during this critical period. The wisdom of his stand on behalf of the defense of this Nation can be seen in light of current events. The Soviet Union's ever increasing military power coupled with its policy of confrontation has moved Congress back in the direction of keeping America militarily prepared. If it were not for F. Edward Hébert's strong leadership, the United States would be paying a much higher price to keep that preparedness today.

For over three decades Eddie has served as a Member of Congress with dedication and has given the full measure of his abilities in service to our great Nation.

I join my colleagues in wishing Eddie a lifetime of happiness in his retirement.

## CRIMINAL CODE REVISION

## HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. HUNGATE. Mr. Speaker, Mr. Ford recently criticized the Congress for failure to act upon his Federal criminal law reform proposal, S. 1. I know that most, if not all, of my colleagues are familiar with this legislation. It has been the subject of numerous letters sent to me and to the Subcommittee on Criminal Justice.

In light of Mr. Ford's comments, I thought my colleagues might be interested in a letter written to Chairman Rodino. Mr. Rodino forwarded the letter to the Subcommittee on Criminal Justice because we have legislative jurisdiction over Federal criminal law reform proposals.

The letter forwards a report adopted by the Judicial Conference of the United States indicating its opposition to S. 1. Also forwards a resolution in opposition to S. 1. adopted by the chief Federal district judges of the 23 largest Federal judicial districts.

I am inserting in the Record a copy of the letter and the resolution adopted by the chief judges. The Judicial Conference report is too lengthy to insert but is on file with the Subcommittee on Criminal Justice.

The articles follow:

Supreme Court of the United States,
*Washington, D.C., May 12, 1976.*

Hon. Peter W. Rodino, Jr.,
*Chairman, Committee on the Judiciary,*
*U.S. House of Representatives,*
*Washington, D.C.*

Dear Mr. Chairman: By direction of the Judicial Conference of the United States I transmit to you herewith a report unanimously approved by the Judicial Conference at its session on April 7, 1976, concerning H.R. 10850 and related bills pertaining to the proposed new Federal Criminal Code. This report deserves careful study by your committee.

Permit me to call attention again to the searching discussion at the earlier Conference meeting in which the essence of the Conference view was that the enactment of this Code, as distinguished from a less complex recodification of existing laws, will impose an enormous burden on all federal courts for a long period in the future. Just how long, no one can safely predict. This will arise from the need to restructure jury instructions for every new definition of criminal acts, in order to comport with the new Code, and from the appellate review of elements of those instructions by each of the Courts of Appeals and ultimately by this Court.

I feel obliged also to call attention again to the unanimous resolution of the Conference of Metropolitan Chief Judges opposing the enactment of the proposed new Code. Its members are the 23 Chief Judges of the larger federal districts which together are responsible for more than one-half of all cases in the federal courts.

Cordially,

Warren E. Burger.

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Conference of Metropolitan Chief Judges: Resolution

*Resolved:* We, the Conference of Metropolitan Chief Judges handling in excess of 75 percent of all federal criminal cases throughout the United States, express grave concern as to the proposed revision of the criminal code now pending before Congress, by reason of the many changes in existing laws and procedures as well as the approaches to the language of the specific crimes. We recommend that S. 1 not be approved by the Congress.

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## McCLURE ON ENERGY

## HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. SYMMS. Mr. Speaker, my good friend Senator James McClure addressed the energy conference of the Idaho Association of Commerce and Industry on September 24, 1976. Senator McClure provided an excellent intellectual analysis of the energy challenge facing America. As he has said before there are many of us in Government who know that the basic energy needs of the American people could be better met with less Government interference. Or, more simply stated, the less Government, the more energy. Senator McClure's statement is as follows:

### The Energy Challenge

(By Senator James A. McClure)

Whenever the subject of "energy" arises these days, one of the first questions I hear is: "isn't the energy crisis over?" The second question is usually: "Wasn't it just a phony crisis?"

The answer to both questions is a definite "No." The energy situation facing this Nation today is more serious than it was three years ago, and it is unfortunately real. If there is anyone who seriously doubts that, the evidence is abundantly available.

To summarize, we can look at oil imports. In 1970, we imported less than 1½ million barrels a day of crude oil.

Today, we import over 5 million. In 1970, our domestic production exceeded 9½ million barrels per day. Today, our production is nearing the 8 million mark. Total oil imports—crude and refined—average about 7 million barrels a day. And, for one week in March of this year, our total import figure exceeded domestic production. We were over 50 percent dependent on imported oil for our basic fuel needs.

But, even these disturbing figures do not reveal the total seriousness of our situation. For that, we need to look at the source of these imports. The latest reports on oil imports show that the major source for foreign crude in January 1976, was Saudi Arabia, which provided 23 percent of the total. In addition, Libya supplied another 9 percent.

So, these two Arab countries together provided us with over 30% of the 5 million barrels per day of crude oil imports during that month. And, what about the future?

The latest projections are for oil imports to reach 8 million barrels a day by early 1977. Looking at a comparison between 1975 and 1974, we can see where the increase will come from. For example, our imports from the United Arab Emirates increased 96% and from Kuwait, 270%. During the same time, imports from Canada, Venezuela, and Iran dropped. There can be little doubt that future increased demand for foreign oil will have to be met by the Arab nations, including several who presently consider themselves to be technically at war with Israel.

In other words, almost three years after the Arab oil embargo resulting from the 1973 Middle East War, the United States is even more dependent on imported oil, particularly Arab oil.

This, then, represents what I consider to be our energy challenge: to find that combination of energy conservation and increased domestic production which will enable us to reduce our foreign oil dependency while, simultaneously, establishing policies designed to increase the reliability of foreign oil supplies during the unavoidable lead times required. The degree of success of this three-sided approach to energy supply and demand will determine the quality of life in the United States during at least the remainder of this century.

Energy conservation has to be a basic cornerstone of energy policy. To be an effective cornerstone, however, requires that one basic reality be considered: energy conservation cannot reduce our overall demand for energy. It can reduce the rate of growth of energy demand, which is essential, but far too much public comment leaves the impression that we can use less energy next year than we used this year through conserving. This leads many, I believe, to the conclusion that, "If conservation can do that, then why build more powerplants or mine more coal?"

I believe that it is essential to get the facts about conservation before the people. We are already demanding quite a lot from conservation—we should not demand the impossible. The potential benefits from conservation are constrained by the pressure of increased employment and demands for a higher standard of living. There is no question that there are direct tradeoffs between these different national goals. But, I believe that this balancing can be achieved—If—we establish reasonable requirements for energy conservation. Such requirements would most likely result in an energy growth rate between 2.5% and 3.5% per year. I am confident that we can achieve the 3.5% limit, with minimal economic disruption. The 2.5% figure causes me more concern, but I believe that it is a reasonable target. To attempt a growth rate less than 2.5% would, in my opinion, be asking too much from energy conservation and would be risking unemployment rates of 10% or higher.

In addition, I believe that we should distinguish between "conservation" and "rationing". If the general public buys smaller automobiles and drives less, then that is certainly "conservation". But, if the Federal government establishes limitations on private travel, then that is "rationing". I can support the former wholeheartedly. The latter, though, concerns me and would, in my opinion, produce a negative reaction which would actually hinder our efforts to promote conservation.

The electric vehicle is one example of an energy conservation measure which illustrates this point. EV's are available today and can perform certain roles quite well. I foresee an increased usage of this 60-year old concept, and I can see a definite Federal role. For example, the Postal Service is already testing electric vehicles for delivering the mail and, when I look around Washington, I see many government officials being transported from the White House—and other Executive buildings—to Capitol Hill in 4,000 pound automobiles. Possibly, a few electric vehicles would make a good demonstration project for this purpose.

An initial target of 100,000 EV's in major urban areas would not be unreasonable, particularly when we consider that this mode of propulsion allows us to use uranium and coal for transportation, an essential requirement for future generations.

To promote energy conservation will require that the public understands the seriousness of our energy situation. As long as they believe that either the energy crisis is over or that it is a phony crisis, the goal of reduced energy consumption through conservation will remain just theoretical. Energy conservation offers us the opportunity to expand our economy and provide more jobs and services, without resuming the historical energy growth rates of 4 to 5%. But, public understanding and acceptance of the facts concerning energy supply and demand is essential. This same public realization is necessary for the second cornerstone of a national energy policy—increased domestic production.

The need for increased domestic production of fuels and energy sources should be examined in relation to the goals for energy conservation. If we can achieve an annual energy demand growth rate of between 2.5 and 3.5%, then this would translate to increases in actual energy output of between 85% and 135%, over a 25 year period. In dealing with energy, 25 years is not an unusually long-range or futuristic time span, particularly when we recall that it required about this long between the first successful controlled nuclear fission reaction, in Chicago in 1942, and the commercialization of light water reactor power plants. Our experience to date with breeder reactors and fusion reactors also makes 25 years look relatively short.

Over that 25 year period, if we can achieve a growth rate of 2.5%, we will have to increase energy output 85%. At 3.5%, the increase would have to be 135%. Either way there is a considerable incentive to go to work, especially when you add the necessity to replace a portion of the present oil imports with domestic sources.

This leads me to the inevitable conclusion that we cannot afford to debate *which* energy source should be expanded. I believe that we are going to need them all.

Nuclear power plants are unquestionably one of our major hopes for meeting future energy needs. I have heard some who say that they are the best population control device since the bubonic plague, but I believe that the factual evidence supports just the opposite conclusion. Nuclear energy offers mankind—throughout the world—the means of coping with an ever-increasing need for electricity combined with an ever-decreasing supply of fossil fuels. Until such time that fusion and solar energy can assume a major share of the electrical load, nuclear fission will provide the increased need. In fact, the success of fusion and solar development will be determined by the economic strength and resources dependent on nuclear fission. The basic energy required for their R & D will come from an electrical grid dependent on commercial light water reactors. This does not mean, of course, that nuclear reactors will provide the total load. But, the capacity required will not exist without nuclear energy. If the public understood the necessity of these reactors, then I believe that they would be more inclined to look beyond the front-page scare stories and baseless charges, and examine the evidence.

Many organizations are now conducting such examinations. One such group, the Atlantic Council of the United States, came to the conclusion that "the utilization of nuclear power is desirable and mandatory in the context of a balanced energy policy leading to increased energy independence by the United States." The Council went on to say that "nuclear power has been demonstrated to be safe, environmentally acceptable, and economic."

The Industrial Union Department of the AFL–CIO recently brought together scientists scholars, and trade unionists to discuss energy and the nuclear role. At the conclusion of this conference, a statement was issued stating that nuclear energy is "a safe method of energy creation". The statement concluded with one of the more direct and realistic statements that has been made on this issue: "We are convinced that we dare not limit the existing use of nuclear energy nor frustrate its future expansion."

One way that that future expansion could definitely be halted would be to fail to build facilities for providing enriched uranium. I hope that new technology for separating U-235—whether it be centrifuge or laser or some other—will move ahead quickly. But, I do not believe that we should rely completely on these new approaches.

We should be moving ahead with new gaseous diffusion capacity, both for ourselves and our allies. And, six new gaseous diffusion plants would require six new power plants. each about 2500 megawatts. The most logical fuel for these power plants would be coal.

Direct combustion remains as the most logical process for coal utilization. Environmental impact, however, remains as the major obstacle to direct combustion. Progress has been made—and continues to be made—in designing and building coal-fired boiler systems which reduce the environmental impact. Fly ash, for example, can be 99.5% controlled with even more reduction possible during the next five years. Sulphur dioxide control is presently limited to a predicted 90% for new plants, but here again progress is being made. Nitrogen oxides remain a serious question mark, and greater progress will be necessary in order to improve the present 32.5% control capability from new boilers, even though this figure meets the New Source Performance Standards established by EPA.

In addition to direct combustion, meeting our energy challenge will require using coal for producing liquid and gaseous fuels. The recent GAO report on commercialization of coal liquefaction and gasification was, unfortunately, not optimistic, but I believe that it did indicate the degree and seriousness of effort underway. In addition to the six high-BTU projects presently being funded by ERDA, there are eight proposals either before the FPC or under consideration.

In reviewing this report, it is interesting to note that during the 1920's there were thousands of commercially-available coal gasifiers operating in the United States, producing medium- and low-BTU gas. One such process began operation in 1896, and there are still six of the units operating today.

Another "new" technology receiving active interest is oil shale. Almost everyone, I imagine, is familiar with the story of Mike Callahan, who in 1882 accidentally discovered oil shale in Rio Blanco County, Colorado, when he built his fireplace out of it. His housewarming turned into a real housewarming.

But, the extent of these deposits—ranging from estimates of 72 billion recoverable barrels up to 1.8 trillion barrels known deposits—should merit our serious attention. This source of oil definitely will not be cheap, with an estimated $500 million capital investment required in order to produce 100,000 barrels per day. But, I believe that such an approach would be preferable to the Soviet Union direct method whereby they crush the oil shale and just throw it into the boiler. It works, but I've heard that you need a new boiler every few years.

In discussing new technology, there are two fields that I am particularly interested in: geothermal and solar. Idaho has been using geothermal energy for decades, for space heating and hot water, and the possibility of electrical generation is now being explored. The low temperature of our hot water—about 170° F.—is a problem, but I believe that new turbine and generator designs are going to help us overcome this. The industrial and agricultural space heating applications will remain primary for some time, but I look forward to someday seeing 10 megawatt generators dotted here and there in Idaho.

Solar probably more than any other energy source excites the public interest. It is the idea of getting all that energy free. Of course, major advances in storage systems will have to be made, plus better designs for collectors. Conversion efficiencies of 15% are still too low, particularly when you are starting with about 350 Btu's per square foot. I was impressed, though, with the extensive use of solar hot water heaters in Israel and with the research underway on steam generation. Solar is unquestionably one area where increased R & D can pay worthwhile dividends, both in the short-term and the far future.

I could talk about alternative energy source for some time, but instead I think that a brief summary is applicable: we should not rule out any potential source, whether it be windmills, ocean thermal gradients, or methane from garbage. Who could have foreseen ten years ago that we would today be drilling gas wells in landfills, and pumping the recoverable methane into natural gas pipelines? It is happening and it is working. Frankly, I am not too sure just how far we should be willing to go in our search for new sources of energy, but I do know that we had better keep at it, regardless of the "respectability" impact.

The final area which I want to touch on, with regard to our second cornerstone of increased domestic production, is conventional oil and natural gas. This is one area which I am afraid that many of us in politics would rather forget about. But, a few simple facts illustrate just how important conventional petroleum production is.

Let's consider an offshore production platform, probably operating in the Gulf of Mexico. If this platform is servicing 24 wells, and producing 12,000 barrels per day, then its energy output is equivalent to the following:

1. About 80% of the output of Hoover Dam; or
2. 6,000 to 10,000 windmills, each about 100 feet in diameter; or
3. 36 square miles of solar panels—about two-thirds of the area of Washington, D.C.; or
4. One 1,000 megawatt nuclear power plant.

Increasing domestic production will have to include increasing oil production. But, reports on domestic drilling point the other way. At the end of December, 1975, there were about 1800 rotary drill rigs operating in the United States. Then, there was a steady decline, with fewer than 1500 operating by the beginning of May. Fortunately, activity has picked up some since May, with the August rig count slightly exceeding 1700—but, still below the 1975 operations.

Domestic petroleum production will continue to decline unless government policies recognize the need to act in three specific areas. The first is encouragement of continued stripper well operation. These wells, pumping under 10 barrels a day, are an essential ingredient in our drive to reduce imports. There are over 300,000 of these wells, producing over 1 million barrels per day. If any or all these were to be shut-down, their output would have to be replaced barrel-for-barrel with foreign oil.

The second area, presently being overlooked by the Federal government, is enhanced recovery from existing oil fields. Using secondary and tertiary recovery technology, there is possibly as much as 60 billion barrels of crude oil that could be recovered. This is almost double our presently known reserves. But, unfortunately, this oil lies in what are classified as "old oil" fields, thereby subject to Federal price controls which limit the price that a barrel can be sold for to less than what it costs to produce it. This is definitely not an incentive to produce more domestic oil. On the positive side, however, advances are being made in technology that will enable a greater portion of this trapped oil to be recovered. It will probably be 1980 before significant new tertiary reserve additions are made, but by 1990 we may well see 1½ million barrels per day additional production. Government policies, however, will have to keep pace with technological advances and increased need for this source of oil.

The third major area of activity should be exploration and development of major new fields. Some of this could be accomplished in Alaska, but a major share will have to be directed offshore, particularly the Pacific Coast and the Gulf of Mexico. The Atlantic Coast shows promise, but does not offer the short-term potential of the other two already explored regions. In addition, we will have to be looking more at the expensive, deeper water depths. Exceeding 1,000 meter depths will have to become more and more standard procedure. But, here again, the government will have to keep up. Obsolete, overdrawn leasing programs, with persistent threats of Federal exploration and development programs, will only hinder our drive toward decreased dependence. The investment and resources required for this search will be enormous, but there is no doubt that they will be made and used. The question is "will they be made and used offshore U.S. or offshore OPEC?"

It is sometimes difficult to believe that maintaining an annual energy growth rate of 3% could require so much effort. But, the facts show that it is so, no matter how much we may wish it otherwise.

In examining these first two cornerstones of a rational energy policy—conservation and increased domestic production—we can see that they have one major point in common: lead time. Whether we are talking of improved building insulation, new automobile engines, or gas from coal, we are definitely facing a period of years during which we will have to import excessive quanitities of foreign oil. The duration of this period can be debated, but I feel that it is at least ten years. And, that is ten years from the point where we begin. Some actions will show results faster than others—possibly in 2 or 3 years—while others, such as the breeder reactor, are much longer than ten years. I think it fair to say that we will have a serious imported oil problem for at least five years, and possibly as long as fifteen. But, the actual figure is not as important as the realization that, first, we cannot significantly reduce oil imports during the next few years and, second, increasingly our imports will flow from Arab oil wells. This, then, brings me to the third cornerstone: increasing the reliability of these oil supplies during those years when we cannot avoid them.

Reliability is not just limited to ensuring physical delivery. There is, of course, the financial question. A source of oil certainly cannot be considered reliable if you are not sure that you can pay for it.

The past year, though, has shown that the financial situation is not as critical as originally assumed. The high price of oil is still a serious matter, particularly for the developing nations, but the United States is proving that it can be managed. Some brief figures from the U.S./Arab balance of trade for 1975 will illustrate this more clearly.

For example, during 1975 we imported $126 million worth of goods from Kuwait—primarily oil. During that same year, we sold Kuwait $366 million worth of goods and services: Definitely in our favor. Iraq is a more dramatic example. We spent $23 million there, and they spent $310 million here. Even in Saudi Arabia, where we paid almost $3 billion for oil, the Saudis in return paid us $1.5 billion back. In looking at U.S.-Arab trade for 1975, we find that they imported $5.5 billion, total, from us, while we in turn imported $6.8 billion from them. And, while our purchases are destined to rise, the potential for matching increases definitely exist. Algeria and Iraq are two countries which could usefully absorb a great deal more U.S. goods and services.

So, it is possible to manage the financial problem. It won't be painless, but we can't blame anyone but ourselves.

The warnings have been flying for years that imported oil would increase dramatically in price, if we allowed ourselves to become addicted to it. I can still remember our former Ambassador to Saudi Arabia, Jim Akins, warning about $5 a barrel oil. I can also remember the polite—and sometimes not so polite—ridicule with which his prediction was greeted. Even as late as August, 1973, I can recall a group of Senators—concerned about stripper well production—asking the Administration to approve a 25¢ increase per barrel for this overlooked domestic source. The answer was, "No—that would be inflationary." Sometimes 1973 seems awfully far away, but at other times, it seems that our government is still there.

Assuming, then, that we can guarantee the necessary trade balance to provide for oil imports, how do we ensure against physical disruption—embargo? This leads us directly into the field of foreign affairs and begins an even more controversial discussion. I will simply say that ensuring the reliability of foreign oil supplies has to be a vital part of our foreign policy considerations. We all know what impact the 1973 embargo had on our economy. An embargo today or next year would have a far more serious impact. It would so weaken our domestic economy and industrial capacity so as to bring into question our capability to act effectively overseas. Our ability to prevent any aggressive behavior—by the Soviet Union in the Middle East or elsewhere—would be jeopardized. Our allies in the Middle East, particularly Israel, should seriously consider the effect that any future embargo would have on our ability to assist them. It disturbs me that we have allowed ourselves to reach this stage of dependency, but I believe that our best course is to face the reality and work from here.

We can, I believe, decrease the possibility of another embargo. Furthermore, we can do this while keeping our commitments to our allies. A true peace in the Middle East would provide that third vital cornerstone to a rational energy policy. Such a peace is possible with security for Israel and recognition by her Arab neighbors, combined with a return of Arab lands captured in 1967 and a homeland for the Palestinian Arabs.

This then, is the energy challenge which faces America today: To make energy conservation a reality, to rebuild and strengthen our domestic energy capability, and to ensure a free international flow of oil and trade. This would be a rational energy policy—and we have none now.

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## TWO HUNDRED YEARS AGO TODAY

## HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on September 28, 1776, Congress approved letters of credence for the newly appointed commissioners to the French Court. These letters gave the commissioners, "full power to communicate, treat, agree and conclude with his most Christian majesty, the king of France, or with such person or persons as shall by him be for that purpose authorized, of and upon a true and sincere friendship, and a firm, inviolable, and universal peace, for the defense, protection and safety of the navigation and mutual commerce of the subjects of his most Christian majesty and the people of the United States; and to do all other things, which may conduce to those desirable ends," and promised that Congress would ratify whatever the commissioners negotiated.

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## WOMEN'S CLUB 19TH ANNIVERSARY

## HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. RUSSO. Mr. Speaker, this month marks the 19th anniversary of the chartering of the Oak Lawn Business and Professional Women's Club, which I am proud to say is in my congressional district. It is appropriate on this occasion to review the valuable services this club has provided in the community and the contributions it has made as part of the National Federation of Business and Professional Women's Clubs, Inc.

This business and professional women's club is dedicated to elevating the standards for women in the business and professional world. The club continually strives to promote both an interest and a spirit of cooperation within business and professional women. The club also extends numerous opportunities to women through education in the area of industrial, scientific, and vocational activities. Its efforts are successful as a result of the committed membership and expert leadership of its past presidents, including Betty Randall, the current president.

Throughout its existence, the Oak Lawn Club has been instrumental in helping women realize their potential. It is through the efforts of a club such as Oak Lawn that women have been able to contribute immeasurably to the business and professional world. It is for these very reasons, and many more, that we owe a debt of gratitude to such an organization.

Mr. Speaker, Oak Lawn Business and Professional Women's Club is celebrating a significant event and I would like to take this opportunity to extend to them my sincere congratulations for their fine work. I know my colleagues join with me in wishing them continued success.

## THE POSTAL SERVICE VERSUS THE POST OFFICE

### HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. EMERY. Mr. Speaker, many of us in Congress are amazed and dismayed at the vigor with which the barons of the U.S. Postal Service, in their palatial L'Enfant Plaza digs, are resisting attempts to bring the unruly Postal Service back to congressional heel and to a state of at least semiaccountability. They react by ordering more closures of small and rural post offices, offering this as an efficiency sop to those of us who are fed up with a Postal Service that does not know the meaning of the word "service."

Mr. William Clark is a writer of taste and ability, which will become immediately apparent in the following article. Clark's writing appears regularly on the op-ed pages of the newspapers of the Guy Gannett Publishing Co. in Maine: The Portland, Maine, Press Herald; the Portland, Maine, Evening Express; the Maine Sunday Telegram; the Central Maine Morning Sentinel; and the Daily Kennebec Journal. Bill's ability to put complicated situations down on paper in a very simple and direct way and particularly Bill's ability to make us easily comprehend the absurdity of the issue of closing small local post offices, make his columns some of the most widely read features of these newspapers.

I commend to you the wisdom of this recent column from the Central Maine Morning Sentinel of September 23, 1976, entitled, "Bigger Isn't Always Better," by William Clark:

[From the Central Maine Morning Sentinel, Sept. 23, 1976]

(By William Clark)

BIGGER ISN'T ALWAYS BETTER

Ben Carson was our RFD postman when we were growing up in Niskayuna. Ben was supposed to work a set route and do specific tasks. He was scheduled to put in about 8 hours a day, six days a week. Short days were theoretically averaged with long days. I don't think Ben ever had any short days.

Ben drove a Model T Ford about 7 months of the year. In the winter and spring, he drove a horse. He took his mail through. He honored the slogan about rain and fog and sleet. He probably averaged closer to 10 hours than 8.

Ben would leave his car and walk the 200 yards from our box to the kitchen door when the weather was bad and there was a package too big for the box or even when my folks had a letter from some relative who hadn't written for a long time. He would say, "Thought I'd better bring this up."

He was only one of the many dedicated postal workers I have known. I have never known any who were not. I think that is because they all worked in small towns or on rural routes. They knew their customers. They were interested.

Clint Reynolds, in the town I call Cedar River, would open the post office at 9 o'clock Saturday night to give a letter to a man who had worked in the woods until 6 and then walked to town.

The postal workers in Kennebunkport always performed extra services without any thought of added compensation. They didn't think of "duty." They thought of help and cooperation.

Pauline Carroll, in Bolton Landing, wouldn't have thought of holding a letter that you dropped in the box without enough postage. She bought a stamp herself and told you about it later and you gave her the 4 cents which was the charge then for the extra ounce.

Howard Mitchell, at Caratunk, holds mail for trail hikers and worries about their having had an accident if they do not show up in a reasonable time to claim parcels or letters. He gives these wanderers boxes and string and paper so they can ship home unneeded clothing or gear.

It is the postal workers in the rural areas who have been the only good public relations people the service has had in the past few years. So they are the ones the postal service intends to eliminate to save to pay for the inefficiency of the top brass and the plush offices these administrators have built for themselves.

Bigness has proved to be so inefficient in the postal service that the boss bureaucrats are going to try to make everything bigger. This is the same philosophy of course as some educators display when, having proved that some system doesn't work, they demand more money so they can try it in more places.

It is in the big offices that mail bags pile up in discouraging heaps, that letters are misrouted and lost and in some cases eaten by machines. It is the working staff in the big post offices that is constantly fighting over seniority and pay and benefits and declared "rights." But it is the small post offices that have been chosen for closing or "reform."

Supposedly, this is the decade of bigness being suspect. We look at the efficient bigness of utilities and oil companies and we demand that bigness be denounced for being dangerous. The attack, however, seems rarely aimed at the inefficient bigness of government and bureaucracy.

Do the crusaders feel that inefficient bigness poses no threat, that its inability to do any good proves that it is also incapable of doing any harm?

## TRIBUTE TO JANET SALTER

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. WAXMAN. Mr. Speaker, at this session of the Jewish New Year, when we recommit ourselves to renewed efforts on behalf of humanitarian goals it is perticularly fitting to honor Mrs. Janet Salter of Beverly Hills. Janet has led the Los Angeles Women's Division for Israel Bonds and will receive the first Golda Meir Award of the State of Israel at the annual Bond-Between-Us luncheon on October 6, 1976.

Janet Salter has contributed her many talents to numerous causes: The University of Judaism, Camp Ramah and Temple Beth Am, where she was production designer for the impressive Expo West. With her husband Maxwell, who is president of Temple Beth Am, she is a longtime supporter of the City of Hope, Technion, and Vista del Mar.

The devotion of Janet Salter to her community and to Jewish causes will be a shining example for others to follow. It is a pleasure to join in honoring her on this occasion.

## CHRISTOPHER COLUMBUS LANDS AGAIN ON AMERICA'S 200TH ANNIVERSARY—IN VALLEJO, CALIF.

### HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. LEGGETT. Mr. Speaker, Columbus Day, which as we all know marks the discovery of America, will be celebrated in a truly unique and memorable way this year in my hometown of Vallejo, Calif. The Vallejo Lodges of the Order of the Sons of Italy in America are going to reenact the landing of Columbus in America on Sunday, October 10, at the Georgia wharf in Vallejo.

This ceremony, which is being sponsored by the Virgil Lodge No. 1586 and the Beatrice Portinari Lodge No. 1626, is the Sons of Italy's Bicentennial tribute to the city of Vallejo. This, and another landing in San Francisco, will be the only such observances held between that city and the Oregon border.

The landing in Vallejo will, in reality, be a dual one. The first will represent Columbus' discovery of the new world, and the second his return to Spain and acclamation as a national hero.

Three members of the Vallejo Yacht Club will donate their boats for use in the pageant. Dr. Robert L. Frank's "Ya-me-Anda" will portray Columbus' flagship, the *Santa Maria*; Paul Streichan's "Wiphen" will represent the *Nina*; and Ed Wartburg's "Tanqueray" will serve as the *Pinta*.

The ceremony will include not only Queen Isabella and her court, but also Christopher Columbus and the captains of the *Nina* and the *Pinta*. At the conclusion of the second landing, a mass will be held at the site under the direction of Reverend Daniel Looney of St. Vincent's Catholic Church.

Mr. Speaker, the vantage point of our Bicentennial Year is an appropriate time for reflecting on the achievements of Christopher Columbus and their meaning for us at the current time. Surely, that is an equally appropriate way of commemorating our Italian-American heritage and 200 years of association between the United States of America and Italy.

Columbus left on the first of four transatlantic voyages, in his three small ships, on August 3, 1492, with the support of the Crown of Spain. His intention was the discovery of a western route to Cathay and Cipangu—as Marco Polo had called China and Japan—which Columbus mistakenly thought to be a distance of around 3,000 nautical miles. He first landed on October 12, on the island we now know as San Salvador, a cay of the Bahamas, which he thought was an outlying island of the archipelago of which Japan was considered to form a part.

The next step was exploration further westward in search of Cathay itself. Regrettably, the flagship *Santa Maria* was wrecked by grounding on the island

Hispaniola, and it was necessary to suspend the search for Cathay. Columbus made the return voyage in the *Nina*.

Columbus made three more voyages to the new world, leaving for the second in September 1493, and returning to Spain for the last time in November 1504. That second trip concentrated on exploration of the coast of Cuba, which he thought to be a peninsula of Asia, and the discovery of Jamaica.

On his third voyage, Columbus steered a more southerly route, discovering the island of Trinidad and exploring the mouth of the Orinoco River and the coast of Venezuela. It was during this voyage that Columbus ran into difficulties in the administration of the Spanish colony on Hispaniola, where he was superseded as governor.

Columbus was still able to enlist the aid of the Crown in his explorations, however, and in May of 1502, set off on the fourth—the high voyage, as he called it. In this, the best-equipped of his expeditions, Columbus passed south of Jamaica and landed on the coast of Honduras. From there, he proceeded south, along the coasts of Nicaragua and Costa Rica, apparently searching for what he thought was the Malay Peninsula and India. After many tribulations and the loss of his ships, Columbus returned to Spain in late 1504. With the support of the Crown for exploration having waned, his efforts to organize additional expeditions were frustrated.

Columbus was not the first European to land in the Americas, with the Northern voyages of the Norsemen having preceded his. Yet his voyages were distinguished, not only for having been made over the longer ocean passages of the temperate latitudes, but also for their momentous consequences for the development of the Americas. For while the earlier voyages brought no important results, Columbus' discoveries in the West Indies were followed by widespread and permanent settlements.

Thus, Columbus can be said to have discovered America in the sense that the entire exploration and settlement of the Americas proceeded from his discoveries.

He also discovered the best way to make use of the North Atlantic wind system for transatlantic sailing. He began the European settlement of the West Indies, discovered the continental coast of South America, and explored the Western Caribbean and revealed its landlocked outline. He first noted the equatorial current and made the first known observations of westerly compass variation.

As for Columbus, the man, there has been much historical speculation over the centuries about his nationality and origins. Attempts have been made to establish that he was variously a Spaniard, a Catalan, Jew of Spanish or Catalan descent, or even a Greek.

Yet the final verdict of history leaves little doubt about the matter. Columbus was a Ligurian, from near Genoa. While he sailed as an explorer under the Spanish flag, he remained a loyal citizen of Genoa all his life.

In many respects, Columbus fit the mold of the American pioneer who explored the land of the new world long after he had crossed the sea to discover it. He was a self-taught, but perceptive, geographer, a bold and perseverant explorer, and a capable commander at sea. He was also a careful and accurate navigator of the oceans, with a sense for deadreckoning of uncanny accuracy, and appeared to carry a compass in his head.

What could be a more appropriate time than our Bicentennial Year to commemorate a man of such breadth and pioneering spirit? It is an honor for Vallejo to serve as the site for this memorable event.

At this point, I would like to include in the RECORD the press release describing this event from the Beatrice Portinari Lodge No. 1626 of the Order of Sons of Italy:

LANDING OF COLUMBUS TO BE SPONSORED BY VALLEJO LODGES OF THE ORDER OF SONS OF ITALY IN AMERICA

The Virgil Lodge No. 1586 and the Beatrice Portinari Lodge No. 1626 of the Order of Sons of Italy in America are sponsoring the Landing of Columbus on Sunday, October 10, 1976, at 10:00 A.M. at the Georgia Street Wharf in Vallejo in front of the Wharf Restaurant next to the Mare Island Ferry Company. This will be a dual Landing—one landing will be when Columbus Discovers the New World (America), and the other will be when he returns to Spain and is acknowledged as a National Hero. Upon the finalization of the second Landing—an outside Mass at the site will be held under the direction of Rev. Daniel Looney of St. Vincent's Catholic Church. Janet Capello is Chairman of the event and Dennis Lazzarotto is Co-Chairman.

This Landing Ceremony is the Sons Of Italy's Bicentennial Tribute to the City of Vallejo and will be the only landing with the exception of the one in San Francisco from here to the Oregon Border. Columbus Day is a legal National Holiday and this will be the First Columbus Landing ever held in the City of Vallejo. A very nice ceremony is planned with Queen Isabella and her court, as well as, Christopher Columbus and the other two Captains on the two other ships. The Significance of the Discovery of America by Columbus made him the first free citizen of the New World as we know it today and led the way for all of us to worship the way we so desire and to vote for whom we wish in a free election. He was truly a man of vision, courage and wisdom that led us all in making America what it is today. The Landing Ceremony will be free to the public and no admission will be charged to anyone. This will be a milestone in the history of the Order Sons of Italy in America in Vallejo and to all the Citizens of the City of Vallejo who have always supported the organization.

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## TRIBUTE TO CONGRESSMAN HÉBERT

## HON. JAMES A. HALEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 27, 1976*

Mr. HALEY. Mr. Speaker, it is with pleasure that I join my colleagues today in paying tribute to my friend EDDIE HÉBERT who is retiring at the end of this Congress.

The record will show that F. EDWARD HÉBERT had a long and distinguished career in the House of Representatives as Representative of Louisiana's First Congressional District. He served his constituents and the Nation well as a member and from 1971 through 1974 as chairman of the House Armed Services Committee. We can all rest a little safer as a result of Congressman HÉBERT's long and diligent effort to maintain a strong national defense and insure that our Nation is militarily prepared.

When I first came to the Congress in 1953, Mr. HÉBERT already had a record of outstanding service and was most helpful to me as a freshman. He has proved to be a valued friend over the years I have had the privilege and opportunity to serve with him.

He is certainly deserving of a rest from his congressional work and I wish him a happy and enjoyable retirement.

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## MAIN BATTLE TANK

## HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. FINDLEY. Mr. Speaker, I have requested time today to introduce the following House concurrent resolution. I have taken this action as a long-time supporter of NATO and European unity to encourage the Department of Defense in its efforts to respond to the strong sentiment among our NATO allies that our best defense against Warsaw Pact solidarity is to accelerate the standardization and interoperability of the principal weapons in the alliance. As my resolution reflects, I think Secretary Rumsfeld took a major step forward when he moved on July 20 to delay the Army's program for the main battle tank of the 1980's and 1990's until the contractors competing for the award priced out options for alternate configurations of the tank which could be used in common with our NATO allies especially the West Germans. I believe that this was right decision. I believe it was the only decision which could have been made if we are to retain our credibility with our NATO partners who are anxious that standardization becomes a two-way street between American and European industry:

CONCURRENT RESOLUTION

*Resolved by the House of Representatives (the Senate concurring)* that the Congress approves the decision by the Department of Defense on July 20, 1976 to withhold the source selection of the contract to build the XM-1 tank pending the submission of proposals which will provide bid options on a competitive basis leading to greater standardization of components for the tank with our NATO allies. The Congress approves this concrete step toward commonality and interoperability with our NATO allies in the introduction of the Army's main battle tank of the 1980's and 1990's. This Department of Defense decision reflects the sense of the Congress expressed in Section 814(a) of Public Law 94-106.

## TRIBUTE TO THE HAZELTINE CORP., A MAJOR LONG ISLAND RESOURCE

### HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. AMBRO. Mr. Speaker, since 1924, Hazeltine Corp. has been an integral part of the congressional district that I am proud to represent. Starting as a small laboratory, it has expanded dynamically into a highly respected contributor to national defense research and development efforts while also marketing its complex commercial systems worldwide. This has been accomplished without sacrificing a strong sense of "family" within the corporate structure.

Most recent of Hazeltine's awards is the coveted Navy E, an honor earned by its role in the Navy's AEGIS program. The year 1968 saw Hazeltine joining with RCA to produce the antenna feed system for AEGIS. Since then, the firm has produced 300 power dividers which are a key element of the AEGIS phased array antenna. These components have proved unbeatable in shipboard tests.

This is only one example of Hazeltine's enormous output. In Hazeltine, one finds a diversity rare in a single company. It played an important role in such areas as antisubmarine warfare, communications and identification, air traffic control, and navigation systems. On the commercial side, Hazeltine has developed communication systems which have played an important role in the lives of people. In fact, the company stresses this as a major aim. Early years saw it playing a central part in developing AM radio and furthering black and white television technology, and it is acknowledged as participating in the process that made color television practical. Today, Hazeltine manufacturers academy award winning color film equipment used by virtually all major film studios in North America.

Mention must be made of Hazeltine's computer peripherals. Not only are these highly sophisticated electronic components, but they represent a marketing effort that is most important to the Long Island community. The Hazeltine "1000," "2000," and "3000" are being sold, installed, and serviced in subsidiary companies in Great Britain, Germany, and France as well as by 22 distributors in other countries. This activity has succeeded in strengthening our economic relations worldwide as well as securing a strong financial base in the United States. In very real terms, this enhances the economic environment of the entire Island.

I have only begun to touch on some of the significant contributions this fine organization has made to its community. "Community" in this sense is meant in the general sense—the sense that Hazeltine recognizes it to be: the worldwide scene we all are obligated to contribute to and improve.

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## REVOLUTIONARIES IN THE PROFESSIONS: THE MEDICAL COMMITTEE FOR HUMAN RIGHTS

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. McDONALD. Mr. Speaker, little notice has been given to the various radical left groups organized in the professions and the potential threat they pose to America's internal security. Many of these Marxist groups grew out of radical caucuses of computer programers, political scientists, criminologists, scientists and technicians, social workers, and so forth, which were involved in anti-Vietnam agitation. A number of those groups and caucuses were given impetus by the Medical Committee for Human Rights—MCHR.

The Medical Committee for Human Rights was founded in 1964, in its words, "to provide a medical presence for civil rights demonstrators in the South." In its initial stages, the MCHR was principally under the direction of Old Left physicians close to the Communist Party, U.S.A. Originally a radical "service" organization composed almost entirely of white male physicians, MCHR cadre would fly south for major demonstrations and quickly return to Philadelphia, Chicago, Boston, and New York where the main MCHR chapters were located.

By 1967, when the attention of the U.S. left had moved from "civil rights" issues to the urgent need of the North Vietnamese and Vietcong Communists for agitation against U.S. support of the non-Communist governments of Southeast Asia, MCHR followed suit and provided first aid cadres for anti-Vietnam demonstrations. During this period, MCHR membership was expanded to include nurses, social workers, medical technicians, and other health workers. MCHR's Old Left and Castroite sections worked during this period on several related spinoff projects such as the United States-Cuba Health Exchange and Bach Mai—North Vietnam—Hospital Fund.

MCHR's third phase dated from its 1971 convention. Membership was opened to paraprofessionals and medical "consumers"; women commenced to play a dominant role in policymaking; and a strong Marxist political line emerged. Of the 26 members of the national coordinating body, 16 were women and only 6 were physicians.

As the membership expanded—a claimed 20,000 operating in 74 chapters—the rhetoric veered leftward, linking "international imperialism" with "domestic repression." MCHR activities then included: Operating community free clinics, such as the Carl B. Hampton Free Clinic in Houston, Tex.; supporting special women's health centers; operating in conjunction with the Black Panther Party and the Young Lords Party sickle cell anemia and lead poisoning screening programs; in association with Ralph Nader occupational health projects; working with the National Lawyers Guild on "the filing of suits against prisons which do not meet adequate health requirements"; projects to open medical and health science schools to large numbers of minority group applicants regardless of scholastic standing; and conducting military draft physicals for "any young man subject to the draft who believes he is ineligible for medical reasons but who lack the means to obtain medical testimony to that effect."

As could be expected, MCHR maintained a long-standing conflict with the American Medical Association—AMA—pushing five demands for an MCHR approved national health care scheme:

> (1) an end to profit-making in health care; (2) pay for all services with a progressive tax on total wealth; (3) complete and preventive health care with no charge; (4) administration of medical centers by representatives of patients and health workers; (5) creation of a federal non-profit corporation to produce; and distribute drugs and medical supplies.

As the United States withdrew assistance to the non-Communist Indochinese, and the Communist conquest of South Vietnam grew more certain, the Medical Committee for Human Rights lost impetus as a national organization. Local MCHR groups worked at a lower level helping to effect "social change" by strike action—such as at Cook County Hospital in Chicago where MCHR founder and national executive board member Dr. Quentin Young was chief administrator, and by walkouts and other disruptions of medical services, Jacoby Hospital in New York being an example.

From the founding of MCHR through its first decade, perhaps the principal figure in the organization has been Quentin David Young, 53, a specialist in internal medicine. In an appearance before the House Committee on Un-American Activities in 1968, Dr. Young invoked the first amendment—freedom of association—when told by the committee's counsel that it had information he was a member of the Bethune Club of the Communist Party, U.S.A. The Bethune Club was a CPUSA doctors' cell named after a Canadian surgeon and Communist, Dr. Norman Bethune, who died while serving with a Chinese Communist Army in 1939. Dr. Young was being questioned about $1,000 he provided to the National Mobilization Committee, the principal organizers of the 1968 riots at the Democratic National Convention from a special account he administers.

It is interesting to note that FBI memoranda published by the Senate Select Committee To Study Governmental Operations with Respect to Intelligence Activities—Church committee—dated March 8, 1968, and March 11, 1968, confirm that the Communist Party, U.S.A. had assigned a member of its National—now Central—Committee to help set up the National Mobilization Committee "office to be financed in part by the party," and "to recruit full-time personnel to man it." The Church committee material provides a strong indication that Quentin Young's "trustee account" in fact contains funds he holds for the Communist Party.

Young was joined on the MCHR national executive by younger Stalinists such as Peter Orris, M.D., an identified member of the Communist Party. Orris had been a leader of the Harvard SDS chapter in 1965 and was one of the organizers of Vietnam Week, first proposed by CPUSA National Committee member Bettina Aptheker. Moving to Chicago to complete his professional education, Peter and Maxine Orris participated in the founding convention of the CPUSA's National Alliance Against Racist and Political Repression in 1973. Maxine Orris is a former member of the National Executive Committee of the W. E. B. Dubois Clubs of America, the CPUSA youth group which preceded the present Young Workers Liberation League. The Orrises are now active in New York City where Peter Orris practices and Maxine Orris serves as a correspondent for the CPUSA newspaper, Daily World.

As with the National Lawyers Guild, the Union for Radical Political Economics—URPE—Scientists and Engineers for Social and Political Action—SESPA—and other Old and New Left professional groups, MCHR always contained a young, aggressive Maoist cadre which was willing to work with the older, more constrained Soviet-oriented leadership on projects supported by most of the Communist factions.

However, with the increasing covert growth of both the Revolutionary Communist Party—formerly the Revolutionary Union—and the October League, the Maoist professionals moved to gain control of the special interest fronts. The Maoists have staged successful takeovers of the Southern Conference Educational Fund—SCEF—the African Liberation Support Committee—ALSC—and Vietnam Veterans Against the War—VVAW—in recent years.

Now operating from 2533 Valley View Court, Cincinnati, Ohio 45219, the Medical Committee for Human Rights appears to have been reactivated as a national organization under the influence, if not control, of the Revolutionary Communist Party—RCP.

The current issue of MCHR News, the organization's national newspaper—September 1976, volume 1, No. 1—states:

> Again, as in the past, a national MCHR presence is vitally needed. Accordingly, the recent annual convention of national MCHR * * * reversed a trend of several years duration—the convention overwhelmingly agreed to revitalize national MCHR.

A letter from MCHR's new national officers states:

> We've just begun to rebuild MCHR into a strong, vital organization that joins the fight for better health care and unites our efforts with others who are fighting in the interests of people's needs. Therefore, we need your support, experience, and ideas to build a broad-based, active, powerful MCHR which addresses the major questions confronting us in health care and takes part in forging the many changes that we badly need * * *.

The "new" MCHR states its purpose as:

> We are building a movement of health professionals allied with the majority of Americans against a common enemy, the few rich and powerful people who run health care and the rest of society for their own gain.

MCHR is now concentrating its initial revitalization activities on organizing "alternative orientation programs" at medical, dental, and nursing schools. A leaflet distributed for this purpose outlined MCHR's immediate program:

> Currently, local chapters are working to oppose hospital and clinic closings, tuition hikes and medicaid cuts. We are analyzing the swine flu vaccination program, helping organize effective housestaff and nurses unions, actively supporting health workers' strikes, and working with consumer groups demanding humane health care.

The "new" MCHR will make its first postconvention public appearance to a larger audience at the annual meeting of the American Public Health Association which will be held October 17–21, 1976, in Miami Beach, Fla.

MCHR is expected to attempt to dominate three sessions sponsored by the APHA's new Socialist Conference whose meetings will be entitled "Prevention in a Capitalist Economy," "Health and Medical Care in the Economic Crisis," and "Political Struggles Around Health in the U.S."

MCHR's present national officers are: chair: Bruce Price, medical resident from Cincinnati; vice chair: Sandy Birbaum, nurse from Boston; secretary of literature: Rafael Moure, occupational health consultant from Denver; recording secretary: Walter Lear, public health official from Philadelphia; treasurer: Bob Jacobson, social worker from Baltimore.

MCHR News is published by the organization through Mike Steinberg, 2417 Lambert Street, Philadelphia, Pa. 19145 (215/271-1079).

MCHR chapters and contacts include:

Steven Seifert, Univ. of Arizona Medical Center, Family Medicine Dept., Tucson, AZ.

Steve Foung, 1950 Powell St., San Francisco, CA 94133.

Gordon LaBedz, 11957 Heritage Circle, Downey, CA 90242.

Rafael Houre, 362 Monroe Street, Denver, CO 80207.

Bernie Arons, 2827 28th St., NW, #20, Washington, DC.

Geoff Modest, 2150 N. Kedzie, #2, Chicago, IL 60647.

Sue Budd, 928 N. 62nd Street, Kansas City, KS 66102.

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Terry Fitzgerald, 407 N. 40th St., Omaha, Nebr. 68131.

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Peter Moyer, 4040 Bronx Blvd.. #6C, Bronx, NY 10466.

Ed Cousino, 1500 Duke University Road, #D-2-B, Durham, NC 27701.

Stan Eller, 207 E. University Avenue, Cincinnati, OH 45219.

Becky Warner, 10822 Carnegie, No. 1, Cleveland, OH.

Maria Mahan, 344 E. 13th Ave., Columbus, OH 43201.

Mike Steinberg, 2417 S. Lambert St., Philadelphia, PA 19145.

Judith Clinker, 777 Academy Ave., Providence, RI 02908.

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Travis Morales, 4911 Milan St., #4, Houston, TX 77006.

Betsy Smith, 4414 College Ave., Norfolk, VA 23508.

Susan Stickels, 505 W. Mifflin St., Madison, WI 53703.

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## IN HONOR OF DR. JOSE A. NESSIM

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. WAXMAN. Mr. Speaker, to remind us of the gifts we receive from so many who come to our country from other shores and repay our hospitality a thousandfold with their devotion and gifts, I commend to your attention Dr. Jose A. Nessim of Beverly Hills, Calif. Dr. Nessim is vice president of the American Sephardic Federation, and will be honored on November 7, 1976, by the Sephardic Hebrew Academy of Los Angeles for the many contributions of his time and effort in Jewish communal affairs.

Dr. Nessim, whose father's family lived in the old city of Jerusalem for more than three centuries and whose great grandfather was the Holy City's chief judge, was born in Paraguay, and came to the United States at the age of 17 to study medicine. His parents and five brothers and sisters all live in Latin America. On completion of his studies, Dr. Nessim moved to Lake Tahoe and devoted much time during his 5 years there to the establishment of the Truckee Community Hospital, commuting to Los Angeles for the observance of the High Holy Days. Dr. Nessim, his wife Freda and their three sons, Ron, Steven, and Bryan, now make their permanent home in Los Angeles.

Dr. Nessim is a member of Sephardic Temple Tifereth Israel and of Temple Magen David. He headed the Sephardic Division Campaign of the United Jewish Welfare Fund in 1972 and 1973. In 1967, immediately after the Six Day War, he was one of two physicians to join the first all-doctor's mission to Israel. Dr. Nessim organized both the Persian Jewish community of Los Angeles, and the Hebraica Organization of Latin Jews in the United States. He is known equally for his erudition in the field of Sephardic history and his wish to perpetuate it in the minds of young Sephardic Jews, as for his contributions in the medical field.

I take great pride in asking the Members to join me in extending warm good wishes to Dr. Jose A. Nessim.

## TRIBUTE TO THE CONTRIBUTION OF THE FEDERATION OF EUROPEAN AMERICAN ORGANIZATIONS TO THE U.S. BICENTENNIAL

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## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. BIAGGI. Mr. Speaker, during the Bicentennial Year, our Nation has witnessed many outstanding events associated with this historic occasion. I wish to review for my colleagues, a very special event, international in scope which was sponsored by the Federation of European American Organizations and called the "Freedom Run."

The actual happening took place between April 20 and April 24 of this year. Preparation for the event began as early as 1950 when the Federation of European American Organizations was formed. The federation, in its own words, is "a union of voluntary associations in Europe whose main objective is the promotion of understanding, friendship and good relations between the people of their countries and the people of the United States." The federation has been working over the years on an appropriate gift for the American Bicentennial.

Their decision was made a great deal easier thanks to the efforts of the 300 member, 30th Infantry Division Association of New York and New Jersey which last year, staged a memorable "peaceful invasion" of Maastricht, Holland to commemorate the 30th anniversary of its liberation by American soldiers. As part of that celebration, the A.V. '34 Athletic Club of Maastricht, sponsored a 600-mile relay race, retracing the old battle route. The spectacular success and good will generated by this event gave the FEAO the idea to stage a similar event in the United States in the form of a "Run For Freedom" which would start from New York and climax with the presentation of the "Torch 200" freedom flame on the steps of the Capitol.

In the words of the FEAO, the purpose of the run was to express deep felt friendship and congratulations to and for America. The torch was chosen as a symbol of liberty, fraternity, and peace.

On the American side, the chairman of the Federation of European American Organizations to the United States of America, as well as the president of the 30th Infantry Division Association, Philip Capotorto, assumed the difficult task of coordinating all activities from the beginning through the end of the relay. Mr. Capotorto's leadership and tireless dedication to the "Torch 200" project was an inspiration to all the participants and resulted in the ultimate success of the mission. I am most proud to add that Mr. Capotorto is a resident of my congressional district.

From their send-off through the streets of New York City, on to the States of New Jersey, Pennsylvania, Delaware, Maryland, and ultimately Washington, D.C.—the "Torch 200" relay race was viewed by thousands of enthusiastic Americans. Special ceremonies were held in several key cities along the route, including Fort Lee and Trenton, N.J.; Wilmington, Del.; and Annapolis, Md. The cooperation of local officials and law enforcement personnel helped insure the safety of the runners and the success of the mission.

The events which took place in Washington deserve special attention. It was decided that for the last 2 miles of the run, the torch would be carried by the eldest of the Netherland runners, 56-year-old J. "Oolie" Overhof. They arrived in Washington late Saturday afternoon on April 24. The "Torch 200" procession was met by a delegation from the Netherlands Embassy as well as other representatives of the European diplomatic corps and a representative of the Ford administration, who officially received the torch from the Netherland runners. It was a moving ceremony, one which will be remembered by all participants and viewers.

The athletes remained in Washington for the next 3 days and visited many of our historic sites. I and many other Members of Congress had the pleasurable opportunity to meet these fine athletes and extend to them our sincere thanks for their efforts.

The "Torch 200" celebration was really what the Bicentennial was all about—people from all over the world sharing our Nation's most important birthday and at the same time, thanking the United States for our efforts to keep them free.

A tribute to this outstanding event would not be complete without my noting the members of the "Torch 200" USA committee who worked hand in hand with the Government of the Netherlands to make this project happen. They include: From San Rafael, Calif., Mr. Frank Keaton, businessman; Mr. and Mrs. John Carbin (col. ret.) of Del Ray Beach, Fla.; businesswoman Pat Carbon of Roosevelt, N.J.; Mr. Morgan Watson, Government worker retired, of Riverdale, Md.; Mr. Frank Winchigel, our treasurer from New Jersey; Mr. and Mrs. Morris Pinter from New York City; Mr. and Mrs. Collie Kirkland from Columbia, S.C.; Mr. and Mrs. Hubert Michiels, Central Islip, N.Y.; Mr. Ken Thayer, president of New York State AFA; Theodore K. Robinson, Washington, D.C.; Mrs. Natalie Wales Hamilton, New York City; and Mr. Francis S. Currey, CMH, from Selkirk, N.Y.

Also, a special word of thanks should go to the Ambassador of the Netherlands, Age R. Tammenoms Bakker and his wife, for the outstanding hospitality which they extended to the athletes and the American members associated with "Torch 200" during their stay in Washington.

The 43-man delegation from the Netherlands which included 30 athletes, participated in the event and provided this Nation with one of its most unique and meaningful Bicentennial gifts. Special recognition should be given to those men who ran in the relay race. I submit a complete list of the runners for the RECORD:

L. M. Beckers, E. M. Beekum, N. Bonfrere, L. Borren, J. Bouwens, L. Daemen, L. Debats, S. Koch, M. Korpershoek, L. J. Kramer, J. P. Nobellen, J. Overhof, M. Proosten, J. Rikers, P. J. Rikers, R. J. Rikers, A. Sproncken, M. Webers, J. J. der Weduwe, and especially the two group leaders, M. Moermans and E. Walraven.

The "Torch 200" USA committee also deserves high praise, especially their leader, Philip Capotorto. This outstanding American worked many long and hard hours preparing for the event, seeking and obtaining Federal recognition for it and allowing Americans and athletes from the Netherlands to work in a spirit of cooperation and warm comradery.

Mr. Speaker, the respect for the American Nation past and present, runs deep throughout the world. Nowhere is this respect more evident than in those nations where we played active roles to insure that they remain free. The people of Maastricht, Holland were effusive in their demonstration of respect for America with the "Torch 200" relay race. It was my personal pleasure to have assisted the "Torch 200" committee with this endeavor, and feel we as a Nation benefited from the event.

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## IRISH GARDA CHOIR CELEBRATES AMERICA'S BICENTENNIAL

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## HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. AMBRO. Mr. Speaker, I would like to bring to the attention of my colleagues the fact that on October 1, the world-famous Irish Police Choir will come to this country to display its talents in song and music as part of the Irish contribution to our Bicentennial.

Comprised of 70 members of the Irish Garda, or police force, the group counts among its members four officers who are Scott Medalists, recipients of the Irish Police Department's highest award for bravery.

It is indeed a tribute to New York, the "capitol of Ireland in America," that the police choir has decided to make its first appearance in America on Long Island.

It is my privilege to commend not only the Irish people for their contributions to our history, but also the Irish Government and the Garda Choir for coming to our country in this fitting Bicentennial tribute.

Throughout the history of this great country, no nation has been a better friend than Ireland; no people have contributed more to this Republic than the Irish people.

From the thousands of Irish who came here seeking the freedom which this Nation offered and who remained to build our great cities have come some of our most illustrious citizens and patriots. From John Barry, founder of the American Navy, to John F. Kennedy, our great and distinguished President, Irish achievement in this country has been impressive, indeed.

It is entirely fitting that in this our Bicentennial Year, the Irish Government is still sending its finest to our shores, the Irish Garda Choir. It is my privilege to welcome them to Long Island.

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## DEFENDING OUR FREEDOM

### HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. ABDNOR. Mr. Speaker, in this year of our Bicentennial we should be reminded that had it not been for the wisdom of our Founding Fathers in writing into our Constitution a guarantee of a free press, we would not have 200 years of freedom and opportunity to celebrate.

A free press paved the way to our independence 200 years ago. A free press has continued to assure that freedom as the United States has risen in world leadership.

Maintaining a free press, despite constitutional guarantees, remains a constant challenge. Wm. J. McDermott, manager of the South Dakota Press Association and national chairman of National Newspaper Week observance, October 10 to 16, discussed the challenges to the free press during the annual convention of the organization he manages. I would like to share his comments with my colleagues.

### DEFEND THE FIRST AMENDMENT

(By Wm. J. McDermott)

I'm sure you will agree this is an early hour to be giving a talk, and even too early in the morning to have to listen to one. So . . . if you want to go back to sleep, please feel free to do so, and I will not feel slighted. However, this was the time allotted to me as National Chairman of our Bicentennial Year Newspaper Week Program to "kick-off" this important campaign.

We are supervising the preparation of material to be used hopefully in about 7800 daily and weekly newspapers, not only during National Newspaper Week, Oct. 10 through the 16th, but long before that time. Our contributors have much expertise. They include such names as: Bill Branen, NNA President; Kathryn Graham, Washington Post Publisher; Columnist Jack Anderson; Albert Blank of the Philadelphia Bulletin; Walter Cronkite of CBS; U.S. Cong. Pike of New York and many others.

Because of the observance of our Bicentennial Year, which emphasizes our many freedoms, this year's program will be more important than ever before.

So, this morning may I take about 15 or 18 minutes to speak to you about the theme of our Bicentennial Newspaper Week that I chose . . . "Defend the First Amendment . . . Freedom of the Press . . . A Mandate From History!" I hope you will pardon me if I speak to you in a serious vein.

It is not an exaggeration to suggest that the American Press and the concept of press freedom, are today under more serious attack than at any time in this century. I'm sure we do not have to catalogue all our troubles for an audience of professional newspaper people . . . but . . . maybe we do! As too many in our profession are not defending the free press as it must be defended!

The attacks on the press were ignited by the then PURE V.P. Spiro Agnew. His criticism was followed by an avalanche of attacks by those on the right, on the left and too many from the middle. Despite what should have been a victory for our media in uncovering Watergate, our problems continue to multiply. Today, secrecy is sought in too many levels of government, increasing court gap orders, non-accessibility of criminal records . . . and the list is endless. Nevertheless, in this Bicentennial Year, the time has come for us to evaluate our position before it is a day too late!

The press is unpopular because it has to report the happenings of a turbulent world. We are living in a complex age of confusion, dissent, and a time of drastic social changes. Let's face it! The days of simplicity and normalcy are gone forever. Recently, the Census Bureau clock ticked off 220 million people. That's a lot of us rubbing against each other, and sometimes rubbing each other the wrong way. Just think, in our nation, the melting pot of the world, 200 million people of all creeds, nationalities, colors and ideologies! No wonder we have so many problems to solve.

So the news media, in trying to report the happenings of human events are assailed. And those who should care, the silent majority of millions, sit back, complacent and quiet, failing to recognize that the Freedom of the press exists in our country . . . not for the benefit of the press . . . but for the benefit of the people! Now it is time to make them realize that press freedom means people's freedom!

Today, we are a misguided society . . . as we have become too reluctant to make proper moral judgments and impose restraints upon those who would wreck our society. We have become too permissive . . . in government, in our courts, our schools . . . and yes . . . in our homes! And this is the difference between civilization and barbarianism!

Our profession has the difficult task of helping to straighten things out. It means truthful and accurate reporting. Unfortunately, there are some in the news media who have asked for criticism. Those who slant the news, over-emphasize the bad, reap a harvest from lurid, pornographic material, etc. They are not true journalists. And too, we are not infallible, we do make mistakes. But . . . unlike other professions, ours are in print, for everyone to see.

The fact remains, that the men who conceived and wrote our form of government, those same men insisted on the rights of free speech and free press, because they did not trust their own power and authority!

We will not enumerate all of the hundreds of statements made by famed patriots in defense of a free press. Let us recall two or three: Abraham Lincoln said, "Let the people know the facts, and the country will be safe." Sir Winston Churchill: "A free press is the unsleeping guardian of every other right that free men prize." But one of the strongest endorsements for press freedom was this recent statement made by famed Harold R. Medina, senior judge of U.S. Court of Appeals and a Watergate Judge. He said and I quote: "I have a little unsolicited advice for the news media: I would stand squarely on the First Amendment itself. 2. I would make no concessions or compromises of any kind, and 3. I say fight like tigers every inch of the way."

Certainly, we can "fight every inch of the way," but, we need the help of all Americans to defend our right which is their right. Bill Branen, NNA President put it so aptly in his NNW Editorial sent to me. "Give us the right to practice your right." What I am attempting to emphasize so strongly is that the most challenging task before the news media is to explain convincingly to an often indifferent audience the significance of a constitutional privilege.

Frankly, the public's reaction reflects one of the deep problems of our time and society: Citizen complacency. It is indicative of our insecurity and lack of maturity to accept and deal with the realities of this problemed period in our history.

We must convince the general public that without a free flow of information, the ability of the press to meet its responsibilities will be so weakened that the free press as we know it today, will no longer exist. But, we can only convince them if we upgrade our image and give them truth and facts! The job will not be easy.

Two recent Gallup polls are indicative of our problem. One poll showed that more than 60% do not know that press freedom is guaranteed by the First Amendment. A second poll of high school students showed 63% of students favor a government agency checking all news stories for accuracy and an incredible 30% plus believed papers should be silenced for printing biased news.

For 200 years it has been the openness in government that has kept most agencies and bureaucracies honest and responsive. It is the factor that differentiates between the American system and the non-public systems which prevail in so many other nations . . . where the Government rules the people rather than serves the people!

There is prevalent today in the country an attitude that the news media should be the partners of government in achieving whatever goals or purposes those who govern wish to reach. To the contrary, the Constitution insured the freedom of press in America so that human failings of those in government could be exposed and corrected. It was as if our forefathers had a premonition of the Sol Estes's, the Teapot Dome scandals, the Bobbie Bakers, and most recently the Watergate and CIA incidents.

This is not to say that the news media should not or cannot support and help develop the forces of public opinion to help achieve those goals of all governments which are worthy. They should and must! BUT, in no sense is the press obligated to say what any government official . . . no matter how high his office, happens to think it should say. If we followed this philosophy, we would be contributing to the perpetuation of misunderstanding among people whose only contact is through the media of mass communications.

We all know that the first move of a dictator is, in taking over a country . . . the seizing of the press, and that is happening right today! The last count showed we have 28 countries with a slave press, 81 countries with a censored press . . . and, only 26 countries with a free press.

Well . . . how about America on our 200th birthday this year? We have more censorship than we like to admit. Approximately 5,000 Federal agencies and bureaucracies living off our taxpaying dollars who do not, and will not, make their records available to the public or the press. Ninety-eight percent of the censorship of this country does not involve security of this Nation! So . . . the continued stifling of the people's right to know! We are undermining the very nature of good government . . . and most important . . . are weakening the confidence of those who support our governmental institutions, and are losing one of the great and valuable privileges . . . a free press for a free people . . . a people who obviously really don't realize what a priceless heritage they have!

Most of us here are aware of what is going on in our society, and in our government, to threaten the basic freedoms so necessary for our type of free government. As national chairman this year, it is my obligation to remind those in our profession of the increasing threat we all face together . . . press and public!

We should accept the challenge to use our newspapers to reeducate all Americans of the priceless privilege that is theirs to sustain a free nation for another 200 years.

In our profession, it is well to remember there is still work to be done. There are still challenges to be met. There are still hopes of complete freedom to be realized. There are still journalistic goals to be attained. But . . . they will not be attained by those newspaper people who do not have the guts to fight for their own heritage, as they see not the danger. All of us, in a small way, can help solve our problems!

When I hear some newspaper man or woman say there is nothing he or she can do to change things, or better them, I am always reminded of the famous words, we have all heard, of old Confucius who said: "It is better to have lighted one small candle, than to have forever cursed the darkness." Lighting the way with good journalism practices will always be the work of those who cherish press freedom, and cursing the secrecy and darkness will be the motivation that spurs them on!

So . . . in this 200th year of our Nation's birth, let all of us, bound by heritage . . . be aware of our responsibilities, be willing to do our share as newspaper people to protect and preserve what we have . . . never assuming that this mandate from history "press freedom" . . . is permanent or irrevocable!

## TRIBUTE TO RABBI JACOB M. OTT

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. WAXMAN. Mr. Speaker, I am sure the Members of the Congress will wish to join me in honoring an extraordinary man, Rabbi Jacob M. Ott. Now in his 16th year as the spiritual head of the Sephardic Temple Tifereth Israel in Los Angeles, he holds many other posts of importance to our country, the State of Israel, and the Jewish community of Los Angeles. Rabbi Ott is president of the American Zionist Federation of Greater Los Angeles, and a vice president of the national body. He holds official positions with the Jewish National Fund, California Friends of the Alliance Israelite Universelle, American Jewish Committee, and the American Sephardic Federation—and a recipient of its Heritage Award in 1971.

Rabbi Ott received his M.A. degree from the University of Chicago, majoring in international law and relations, and his rabbinical ordination from the Hebrew Theological College of Chicago. He served with distinction as a combat chaplain with the 83d "Thunderbolt" Infantry Division in the European sector. Recipient of five battle stars and the Bronze Star Medal with Oak Leaf Cluster, he was honorably discharged with the rank of major.

Rabbi Ott was awarded a special citation by the World Jewish Congress for his humanitarian efforts on behalf of concentration camp survivors upon their liberation, and is now honorary chaplain of the Jewish Concentration Survivors of Los Angeles. Rabbi Ott has been appointed cochairperson for UNICEF Day in Los Angeles for 1976.

The Shield of Zion Award of the American Zionist Federation, to be presented to Rabbi Ott at the federation's annual dinner on October 26, 1976, is evidence of our community's continued recognition of his life of dedication.

## DEFAMATION OF LOCKHEED WITH TAINTED TESTIMONY

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. McDONALD. Mr. Speaker, one might well wonder whether the charges and allegations laid against the Lockheed Aircraft Corp. during the past year have been "political" all along, in view of the fantastic political mileage which has been obtained from them. The effects have been worldwide, as we know.

Today, on the eve of elections in West Germany, we see again how a rather orchestrated and highly selective use has been made of rather tainted testimony. The German weekly Bayernkurier of Munich, on September 18, 1976, published a lengthy description of involved manipulations of public opinion by means of the German mass media—and let us not forget that government control over radio and television broadcasting is very tight by American standards. It dealt with the "political defamation campaign" intended to use unproven allegations relating to the so-called Lockheed scandal.

The political mileage being obtained by the incumbent government of Germany from this type of manipulation is evident in the following summarized account of the Bayernkurier. Dr. Wilhelm Knittle, chief of the Office of the Chairman of the Christian-Social Union—CSU—took serious issue with the former Lockheed employee, Ernst S. Hauser, who has been the source of charges against Franz Josef Strauss, Air Force Gen. Gunther Rall, and many others.

On December 4, 1975, immediately after publication of Hauser's charges in the Wall Street Journal, the CSU issued the following denial, which it has stood by ever since:

> Neither the CSU nor its leading personalities have ever received a single penny from the Lockheed Company, either directly or indirectly. There is no evidence of any attempt by Lockheed to that effect, nor has Lockheed ever made any insinuations or offers of that kind.

When the charges were disseminated by the newsmagazine Der Stern, in its December 10 issue, the CSU obtained an injunction against further propagation of the charges by Der Stern. Nevertheless, the charges became a featured topic on West German radio and television. The CSU was able to obtain an injunction against an hour-long television program, but the injunction was violated, leading to a fine of 500,000 marks under a judgment entered against the TV station last June.

The court decision forbade the defendants from propagating, or causing anyone else to propagate, the following:

First. That the Lockheed Co. paid money to the CSU; and

Second. That Franz Josef Strauss concluded an agreement involving kickbacks to the CSU on the Lockheed Starfighter plane.

As evidence in court, the CSU presented statutory declarations from Party Chairman Franz Josef Strauss himself, as well as from Dr. Fritz Zimmerman, and Dr. Gunther Frank-Fahle, both of whom had been accused of involvement in the kickback deals. A detailed affidavit from Dr. Karlheinz Herreiner, legal adviser of the bank Merck, Finck & Co. which was allegedly involved, that neither the CSU nor any of the persons mentioned had an account there, even going back to 1960 with his examination of records.

An attempt by the CSU to get an opportunity to air its rebuttal ran into stubborn opposition from those responsible for the original presentation of the charges. It was claimed that a rebuttal would impugn their research involved.

In response to parlimentary questions on January 21, 1976, a parliamentary state secretary from the Ministry of Defense had to admit, according to Bayernkurier, that Hauser had told a public prosecutor back in September of 1966 that charges of Lockheed payments to Franz Josef Strauss in connection with the Starfighter sale "had to be pure fabrication." The same state secretary, in a letter to Member of Pariament Walter Becher on January 28, says:

> In September 1961, former Defense Minister Strauss ordered a detailed investigation to find out whether bribes had occurred in connection with the selection of the F-104 aircraft . . . The investigations, which were continued under Defense Ministers von Hassel and Dr. Schroder, did not result in any suspicion of misdeeds which would have justified investigative proceedings on the part of the public prosecutor's office.

When the Church Committee questioned Lockheed officials and employees late in January, and could find no corroboration of Hauser's charges, it was decided to cancel his appearance at public hearing. And in March, Senator CHURCH wrote to assure Air Force General Gunther Rall, who had originally been asked to testify that Hauser had raised no charges against Rall before the committee.

The Bayernkurier article reveals that committee employees Jerome Levinson and Jack Blum had visited Germany three times between July 1975 and January 1976, to hear witnesses and examine files. Blum, according to the report, was offered repeated opportunities to discuss the matter with CSU leader Frans Josef Strauss, but refused them.

The public hearings of February 4 and 6 involved mainly Japan and Holland. The disappointment of the leftist press was great when the only evidence presented in relation to Germany led in other than the expected directions. The author of the Bayernkurier report states that German journalists were offered "incriminating material" by committee staff, for use against the CSU and Strauss only. A heavily criticized Washington Post article of February 8 was uncritically reproduced, not only in the United States, but in Germany, which started the pot boiling all over again.

Strong attacks in the Suddeutsche Zeitung brought forth a strong CSU counterattack; everything went into the courts once more. The entire campaign against Strauss could only be effective if he had personally promoted the procurement of the Starfighter, but Strauss is on record as having preferred the French Mirage or the Grumman Super Tiger but, according to Strauss, the Air Force wanted the Starfighter.

As interest in the issue subsided in Germany, it was again whipped up by a special hour-long television program. Most journalists continued to ignore the fact that Hauser, Strauss' accuser, had received a 1-year prison sentence in 1972 for forgery, suppression of documents, and disloyalty, but that he disappeared without ever serving the sentence. Finally, after spending 120,000 marks to check Hauser's story, Der Stern conceded last June that he was untrustworthy.

The matter seemed at rest once more, until the Donner Commission in the Netherlands presented a report incriminating to Prince Bernhard. Dutch adoption of the Starfighter was then presented to the German public as something other than a move toward NATO standardization. By September 9, the Frankfurter Rundschau employed the term "unusual" commission in reference to certain payments which had already been scrutinized by the German Federal Audit Office.

In all of this, it is significant that the Free Democratic Party's officials have remained aloof; only the SPD—Socialist Party—government officials seem to be responsible for clouding the air with suggestions that it would be amazing if there were not corruption in the Lockheed deals, while German Government officials in Washington seem to be in no hurry to obtain available documents from the United States.

## AN OUTSTANDING EFFORT BY A NATIONAL GUARD UNIT

## HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. MURTHA. Mr. Speaker, I have the pleasure to bring to the attention of my colleagues a recent award given to a dedicated group of men.

At the recent ceremonies of the 98th General Conference of the National Guard Association of the United States, Lt. Col. Joseph Latch was awarded the Milton A. Reckord Trophy. Lieutenant Colonel Latch is the commander of the 1st Battalion, 103d Armor, 28th Infantry Division. The Headquarters Company, Support Company, and the Company B for the 1st Battalion, 103d Armor are all based in Johnstown, Pa., with Company A located in Ligonier, and Company C based in Somerset, Pa.

The trophy is given in recognition of the most outstanding Army National Guard battalion in Army Readiness Region 2. This is the second consecutive year that this unit has been awarded the trophy.

I have always felt the efforts of the National Guard have been worthy of such recognition. These men have worked long and hard to prepare a system of national defense for other Americans. I support these men and the work they do. I congratulate them on receiving the award, and I hope they will continue the outstanding performance.

## "$1 MILLION PAYOFF?"

## HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD a most thoughtful and powerful editorial from the September 15, 1976 issue of the South Bend (Indiana) Tribune:

### $1 MILLION PAYOFF?

Perhaps our sense of shock has been numbed by the accumulated scandals of the Nixon administration. The testimony given to a Senate subcommittee by a former chairman of Grumman International Inc. seems to have raised relatively little alarm.

Thomas B. Cheatham testified under oath that a White House aide of President Nixon in 1972 told him a $1 million campaign contribution from Grumman to Nixon's reelection campaign would help Grumman sell military airplanes to Japan.

When the suggestion was made by the aide, Richard Allen, according to Cheatham's testimony, the Grumman company was seeking U.S. government assistance for its sales campaign in Japan.

The implications of such a charge are grave: that government assistance to American corporations doing business overseas was for sale, in return for campaign contributions.

Outside the hearing, and thus not under oath, Allen denied that he made such a request. The current president of Grumman Corp., of which Grumman International Inc. is a part, denied that the company made a contribution to Nixon's campaign.

Corporate contributions to presidential campaigns are illegal, a fact that did not prevent many companies from making them and subsequently being caught.

With the United States engaged in the greatest overseas arms sales campaign in history, murky depths remain to be explored. The relationships among the arms builders, our government and the foreign governments to whom they are peddling their costly hardware with official blessing are clouded. They need further exposure. The Senate Foreign Relations Subcommittee on Multinational Corporations, before which Cheatham testified, is investigating some aspects of the situation; its work has a long way to go.

Cheatham said that he hoped Nixon would use his influence with then-Premier Kakuei Tanaka of Japan to purchase Grumman E-2C planes. Tanaka recently was arrested in Japan on charges of accepting a bribe of $1.7 from Lockheed Aircraft Corp.

The allegation by Cheatham about what looks like a shakedown effort by the Nixon administration against Grumman should not be allowed to rest where it is. Allen should be summoned to testify under oath about what happened.

Reaching beyond this episode, Congress needs to examine what controls it should place on overseas arms sales, the immensity of which opens glittering possibilities for unscrupulous men in pinstriped suits who play for stakes far beyond the comprehension of most of the taxpayers who unwittingly underwrite them.

## HARRY B. VAN BELLEHEM

## HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. ANDERSON of California. Mr. Speaker, the city of Torrance is known for the excellence of its parks and many recreation programs. On September 24, the man who is largely responsible for this outstanding performance—director of parks and recreation, Harry B. Van Bellehem—retired after a long and satisfying career in public service.

Harry, as he is known to his many friends, is a native of St. Louis, Mo., born in that city on December 23, 1915. He graduated from Long Beach Polytechnic High School in 1934. During World War II, he was a member of the U.S. Navy Hospital Corps, after graduating as an honor student from the U.S. Navy Hospital Corps School in Farragut, Idaho in 1945, and serving 1 year as a pharmacist's mate.

Van Bellehem earned an associate of arts degree from Long Beach City College in 1949 before transferring to the University of Southern California, graduating from that institution cum laude with a bachelor of science degree in public administration in 1956. In addition, Harry has attended the Red Cross Aquatic School on Catalina Island; the Institute on Administration of Park and Recreation Services at Stanford University, and the study program in park and recreation administration from 1966 to 1971, receiving a certificate for course completion from the University of California at Davis in 1971.

When Harry Van Bellehem became the director of recreation for the city of Torrance in 1953, he brought with him not only a sound education but also solid, practical experience in the education field. From 1939 to 1941, Harry was the recreation leader for Long Beach in the WPA program. A recreation director for the county of Los Angeles from 1947 to 1949, he became senior recreation director for the county in 1949 before beginning his career with the city of Torrance. Since 1960, he has had several articles published in the California Park and Recreation Quarterly.

For many years, Harry has been active in community and service organizations. Still a Red Cross water safety instructor, Van Bellehem is a member of the board of directors, Torrance-Lomita American Red Cross. In addition, he has been active in the Boy Scouts as a merit badge counselor coordinator, and a member of the Bellflower Junior Chamber of Commerce, the Bellflower Optimist Club, and the North Torrance Lions Club. Harry is a life member of the USC General Alumni Association, a charter member of SCAPA PRAETORS, and a member of the Trojan Club.

Ever since 1953, Harry Van Bellehem's leadership and experience have been vital assets to parks and recreation development in the city of Torrance. His hard work and years of quality service are well respected in the community, and he will undoubtedly be missed as he closes this aspect of his career for a well-deserved rest.

My wife, Lee, joins me in congratulating Harry B. Van Bellehem on an outstanding career in the Torrance Department of Parks and Recreation. I am sure that his lovely wife, Marjorie; their two daughters, Linda and Judy; and their five grandchildren are quite proud of Harry B. Van Bellehem's fine public career.

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## UKRAINIAN SALUTE TO THE BICENTENNIAL

## HON. QUENTIN N. BURDICK

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

*Wednesday, September 29, 1976*

Mr. BURDICK. Mr. President, Dr. Anthony Zukowsky, chairman and director of public information for the Ukrainian National Council and a former North Dakotan, is one who has been in the forefront of the quest for recognition of the independence of the Ukraine. In the attached letter, he points out that as we Americans celebrate our Bicentennial anniversary, "we should stop and solemnly think that freedom is universal and indivisible."

It has been our good fortune in North Dakota that many Ukrainians came to our State to make their homes. They have contributed greatly to the prosperity and well-being of our communities and have exhibited a true devotion and loyalty to our country. Together with the Norwegians, Germans, Swedes, Irish, English and others, they have become part of a strong citizenry in a strong and productive State.

Mr. President, it is altogether fitting that the Ukrainian Americans be heard on the occasion of the Bicentennial. I ask unanimous consent that the letter from Dr. Zukowsky and a memorandum issued by the Ukrainian National Council Executive Committee, American branch, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UKRAINIAN NATIONAL COUNCIL,
*September 27, 1976.*

Hon. QUENTIN N. BURDICK,
*U.S. Senator, Russell Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR BURDICK: When the very fortunate Americans celebrate the Bicentennial Anniversary of its freedom, every one of us must stop and solemnly think that freedom is universal and indivisible, the biggest gift from God to all the peoples. As long as hundreds of millions of our brothers and sisters, even on distant continents, even of different races and creeds, are forced by inhuman totalitarian system to make the biggest sacrifices in their plight for liberty, our own freedom, our liberties are illusory.

The plight of the oppressed Ukrainians in the USSR continues to be the subject of our great concern, impelling enough to bring this distressing situation to your attention.

For this reason we take the liberty to enclose with this letter our Memorandum as a documentary brief on the present situation of the Ukrainian people in Ukraine and in the USSR.

Therefore, on behalf of all Ukrainians we appeal to you for the following considerations:

To initiate the establishment of a special Committee under the auspices of the United Nations to investigate the situation of the captive nations in the USSR and in the first place the colonial enslavement of Ukraine, with all its features of national and cultural genocide, destruction of religion and human rights, including violation of all civic liberties.

Futhermore we request you to support the aspirations to freedom of all peoples, not only the colonial peoples of Africa and Asia, but also the captive non-Russian peoples of the USSR, including Ukraine, since they are entitled to freedom and national independence in the same degree and measures as are the peoples of Africa and Asia.

Thank you in advance for your help; we are looking forward of hearing from you.

Respectfully yours,
DR. ANTHONY ZUKOWSKY,
*Executive Co-chairman and*
*Director of Public Information.*

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### MEMORANDUM

### INTRODUCTION

This year of 1976 which marks the glorious Bicentennial of the United States prompts us, on behalf of the Ukrainians living in the entire world, including those in captive Ukraine, to salute the Bicentennial of American Independence. We, who comprise the Ukrainian American Community, are particularly happy to join our fellow American citizens in observing this great historical event and in expressing our sincerest hope that in the coming third century Americans will continue to enjoy the blessings of liberty, justice and equality while America continues to remain a citadel of democracy.

A feeling of gratitude, blended with a feeling of joy, is evoked by the very thought of this Bicentennial because it reminds us so vividly that freedom has reigned in this great land for the past two centuries. Yet a feeling of sadness also creeps into our hearts when we are reminded that the same freedom is being denied to millions throughout the world, including the Ukrainians in Soviet Ukraine, to whom we, as well as all Ukrainians living in the Free World are bound by ties of blood and a common heritage. The plight of the oppressed Ukrianians therefore continuues to be the subject of our grave concern, impelling us to bring this distressing situation to the attention of our own American government leaders, as well as the entire American public.

### FACTS ABOUT UKRAINE

As you know, Ukraine's history dates back to pre-Christian days but its national statehood emerged in the 9th century at which time Ukraine was known as Kievan Ru's and flourished as a powerful nation, maintaining its independence through the 14th century. The second period of independence known as the Kozak Era, extended from the middle of the 16th century to the end of the 18th century. The third period began with the fall of the Russian empire and the establishment of the Ukrainian National Republic in 1917, following a revolution, not unlike the American Revolution, during which the Ukrainians aspired and achieved complete independence.

A freely elected Parliament set up a government with the seat in Kiev, the capital. This sovereign state was accorded recognition by Soviet Russia in a note dated December 17, 1917, and signed by the Soviet of Peoples Commissars. But it was not long before the typical Russian treachery, experienced by many other nations, before and since, became apparent as the Russians launched a campaign of military aggression without and a campaign of subversion within the borders of the newly born Ukrainian Republic.

In February 1918, Ukraine concluded a Peace Treaty with the Central Powers in Brest Litovsk, attaining thereby full recognition from Germany, Austrio-Hungarian empire, Turkey and Bulgaria. France and Great Britain acknowledged Ukraine as a de facto government. But the necessary assistance from these Western powers was not forthcoming. The young republic, beset and surrounded by its "Red" and "White" enemies, was forced to rely upon its own meager resources and on its own defenseless but dedicated people. It held its gallant stand for over three years finally submitting to the superior power of the Bolsheviks. Crying over spilled milk can't change the course of past events, but many Western leaders later regretted their failure to come to the aid of Ukraine. France's George Clemenceau publicly admitted to this grave error (1924) when he realized that Moscow's aggression would not stop in Eastern Europe for its was intended to encompass the entire world.

In 1923, Ukraine, totally occupied by the Russian forces, was coerced into the Soviet Union, becoming a puppet state, clutched firmly in the iron grip of the Kremlin tyrants. But the Soviet propaganda mills promulgated the myth that Ukraine was and is a free and independent republic. As proof positive they point to the fact that Ukraine is a member of the United Nations. But no longer can they disguise the truth that this membership was contrived by the Soviets only to provide themselves with an additional vote at the international forum and to exploit Ukraine as a scapegoat for their nefarious deeds when it suits their purpose to secrete their role of culprits.

The freedom loving people of Ukraine never really accepted Soviet-Russian domination as evidenced by their continual resistance, in one form or another, during the more than a half century of Russian tyranny and terror. The Soviet regime always reacted brutally to such resistance but Russian inhumanity was never more patently revealed than when Stalin planned and perpetrated the genocidal famine in Ukraine in 1932–33. Seven million Ukrainians perished from hunger, only because they dared to oppose collectivization. During the following years, the Ukrainians were subjected to other barbaric means to decimate them by the power-obssessed Soviets. Mass executions, torture, false arrests, secret trials, illegal and extended detention in prisons, labor camps and exile to Siberia were some of the better known methods used to repress Ukrainians. But the latest and most effective way devised by the Soviets to immobilize and emasculate the current Ukrainian dissidents is commitment to psychiatric clinics and the use of drugs.

A mass of evidence throughout the history of the Communist occupation of Ukraine supports the allegation that the Russians are less interested in converting Ukrainians into Soviet robots than they are in annihilating them completely. Khrushchev openly stated at the XXth Congress of the Communist Party that "Stalin wanted to deport all Ukrainians, but there were too many of them and there was no place to which they could be deported."

Indeed there were "too many of them." And there are still many of them, as they constitute the largest non-Russian republic in the Soviet Union. The 1970 Soviet census gives the population of Ukraine as 47 million people. If you add to that the Ukrainian ethnic population which lives in the USSR, outside of the boundaries of Ukraine, estimated at about 10 million, and further add the 2 and a half million living in Canada. United States and other parts of the Free World, you have a total of about 60 million Ukrainians, based on citizenship and ethnic origin. Since the world's total population is about three and a half billion, then it is obvious that one person out of every 60 living on this earth today is Ukrainian. Yet this large Ukrainian nation, whose civilization is centuries old, whose country is blessed with natural beauty and a wealth of resources and whose people seek nothing more than to live in freedom and peace, in this modern age is reduced to complete enslavement in full view of a world which professes to be concerned with liberty, equality, justice and human dignity, human well-being.

To document our declarations in these few pages is not possible. But ample documentation is readily available to those who desire to confirm that oppression with its endless cruel manifestations is the order of the day in captive Ukraine. The average Soviet citizen is controlled and regimented, but the Ukrainian citizen, is in addition, persecuted and terrorized in every phase of his life.

Economic exploitation is not a new policy of the Russian Communist government as it was also the policy of the former Czarist government. Consequently, now as then, the natural riches and fertile land of Ukraine are shamefully exploited and ravaged for the benefit of Mother Russia. The producer-worker is the last to benefit, if at all, from his sweat-inducing toil, for consumer products, mostly inferior, infrequently trickle down to his level.

Political suppression is another course of action that the Russian rulers did not relinquish in their conversion from the Czarist to the Communist regimes. Only one political party is allowed, the Ukrainian Communist Party. It is rigidly controlled by Moscow because it is dominated and operated by imported communists, usually Russians. The voice of any Ukrainian, who dares to call upon the Soviet Constitution or the Ukrainian Republic's Constitution in support of his rights, is stilled almost instantly, and he or she, is secretly spirited away or incarcerated on groundless charges of "anti-Soviet activity."

Religious persecution, although vigorously denied by the Soviets is very much in evidence. A facade of religious tolerance is effected by the state appointment of a Russian Orthodox Patriarch, who is not even a collaborator but truly a henchman, who performs as directed by his Kremlin superiors. The few genuine churchmen of various denominations, who have not been exterminated, live a precarious existence while trying to save and preserve their flocks of believers. For in the 1930's the Soviets destroyed the Ukrainian Orthodox Church by executing over 30 archbishops and bishops as well as several thousand priests and monks. In 1945–1946 the Kremlin destroyed the Ukrainian Catholic Church in Western Ukraine by murdering 12 Ukrainian bishops and executing or exiling several thousand priests. The purpose was to "sanctify" the Russian Orthodox Church, which is nothing more than another tool of the State for its expedient use while the harassment and persecution of the real religious leaders continues.

Cultural genocide is another integral part of the Russification Policy of the Russian Communists, because a freely flourishing culture nurtures a national consciousness, underscores the national identity and breeds the courage and fervor necessary to the fight for freedom. This poses the greatest threat to tyrants who rule by force and violence. So it is not surprising that the Ukrainian language, while not prohibited, is placed in a secondary and inferior category and its use, discouraged in many direct as well as subtle ways. The Russian language is official in most of the Ukrainian scientific and research institutes as well as the colleges and universities. Ukrainian literature and art are permitted to develop on a limited scale but only to serve the communist ideology and the Soviet State and not to reflect the soul or the aspirations of the Ukrainian nation. The performing arts are encouraged as the least harmless, but primarily for the purpose of exporting and exhibiting it to the Free World as a medium of cultural exchange.

A Pogram of the Intellectuals was conducted in 1959–1966 and renewed with intense vigor in the 70's. Beginning with 1972 the Soviets have arrested more than 600 Ukrainian writers, literary critics, journalists, professors, artists, scientists and students, ostensibly for their "anti-Soviet agitation and propaganda" but actually for their defense of the use of the Ukrainian language and for the preservation of Ukrainian culture. In her book, "The Voices of the Silent," a German author by the name of Cornelia Gestenmaier, stated that the scope of repression in Ukraine in 1972 assumed the dimensions of a veritable pogrom of Ukrainian cultural life.

Violation of human rights, which are supposedly guaranteed by such international documents as the Charter of the United Nations, the Declaration of Human Rights and the more recent Helsinki Pact, to which the Soviets were signatories, prevails unbridled in the Soviet Union. The Kremlin leaders commit this international crime against Ukrainian as well as other dissidents with complete impunity while they condemn it as a capitalistic villainy in non-Communist countries.

The Ukrainian dissidents, whom we think of as our present-day freedom fighters, are the especial victims of this particular brand of Communist lawlessness. They are too numerous to be identified but the name of Valentyn Moroz, a Ukrainian historian, immediately springs to mind, although he is still incarcerated despite the efforts of some world notables including American and Canadian officials to secure his release. Valentyn Moroz is acknowledged by the Ukrainians to be not only symbolic but truly representative of the unusual fearlessness, the persisitence and the moral stamina of the Ukrainian dissidents who have endured more than the average mortal can stand and who faced their oppressors with a rare courage not excelled by the relatively few Russian dissidents, although the latter acquired more world renown.

Moroz and his contemporaries are only a part of the persuasive proof of the undeniable truth that the captive Ukrainians have abandoned neither their hope nor their determination to win their freedom. Their struggle, of necessity, is impeded by the watchful eye and the punitive fist of the Kremlin tyrants. But we, Ukrainian Americans, most of whom have known what it is like to live without freedom and who now enjoy it in all of its facets, cannot remain indifferent to the tragedy which befell our Ukrainian kinsmen. We are morally obligated even if there were no kinship, to speak on behalf of those whose voices are muted to a whisper that cannot carry beyond the Iron Curtain.

It is in their name and for their survival therefore that we beseech all good American men and women in this country, who believe in the principles that our American forefathers proclaimed and lived by, to recognize the reality of the Soviet colonial empire and the enslavement of all the non-Russian nations in the Soviet Union, including captive Ukraine. But it is also in our own American interest that we implore all good American men and women to make known to other Americans within their reach, the incredible but real state of affairs that exists in the Soviet Union, which is close to becoming the super-power of the world and perhaps near to attaining its goal of world domination, thereby endangering every free nation, including our United States.

We importune all good American men and women for the sake of our own American security and future, not to tolerate any private or public American act, deed, project or aid, which might help to strengthen the power or enhance the prestige of the Soviet empire. We call upon all good American men and women to use the power of their informed opinion to persuade those in the high offices of both our government and the United Nations to initiate a thorough investigation of (at least) the violation of human rights rampant in the Soviet Paradise. And finally we challenge all good American men and women to reveal the Soviet leaders as international perpetrators of aggressive and heinous offenses within and without their realm, to expose them as the subjugators and not the liberators of other nations and to halt the advancement and hopefully, some day, to eradicate the scourge of Russian imperialism, which has cloaked itself in the mantle of Communism while striving to extinguish the flame of freedom for all nations and undermine peace in the world.

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## HEINZ SUPPORTS TOXIC SUBSTANCES LEGISLATION

## HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. HEINZ. Mr. Speaker, I am both pleased and relieved that the House and Senate have finally reached agreement on the Toxic Substances Control Act, S. 3149. Since 1971, when the Council on Environmental Quality issued a warning on the growing dangers of unregulated toxic chemicals, the House and Senate have been unable to reach a compromise on toxic substances legislation. Hopefully, now that the Toxic Substances Control Act has been approved by such wide margins in both the House, where the vote was 360 to 35, and in the Senate, where the vote was 73 to 6, the President will quickly sign this important bill into law.

The Toxic Substances Control Act, developed in the Interstate and Foreign Commerce Committee on which I serve, would tighten Federal regulation of industrial and commercial chemicals and, for the first time, require premarket testing of potentially harmful substances.

Exposure of humans, animals, and the environment to chemical substances is increasing at an alarming pace. During the last 20 years, production of chemicals has grown at an annual rate of 10 to 15 percent. In 1973 alone, the production of the 50 chemicals with the highest volume of production totaled 410 billion pounds. In the absence of effective legislation requiring the testing of potentially harmful substances, the American public is being exposed to health hazards on a massive scale.

In the past several years, newspapers have been replete with stories of carcinogenic chemicals being dumped into our lakes and rivers, entering our food supply, and directly endangering the lives of men and women who are exposed to these chemicals in the workplace.

In my own State of Pennsylvania, the uncontrolled use of the chemical BCME has been directly linked to the lung cancer deaths of between 30 and 60 chemical workers. The dumping of PCB's into the Great Lakes has caused the dissemination of this highly toxic carcinogen into our food supply, and into the breast milk of nursing mothers in at least six States. Here in the Nation's Capital, it was recently revealed that the soil surrounding a chemical plant situated on the Potomac River contained arsenic at least 6 feet deep, so highly concentrated that 1 pound of the soil could kill over 100 people.

Mr. Speaker, these are just a few examples of the need for the Toxic Substances Control Act. Now that the House and Senate have finally approved this essential health and environmental legislation, I call upon the President to sign it into law.

## JOSEPH BERNFELD—OUTSTANDING CITIZEN

## HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. DANIELSON. Mr. Speaker, on October 24, 1976, Joseph Bernfeld, an esteemed friend and outstanding citizen, will be honored at the State of Israel dinner at the Beverly Hilton Hotel in Beverly Hills, Calif.

Joe Bernfeld is a human being to whom the words integrity, conscience, compassion, community spirit and responsibility can be appropriately applied. He is, in addition, a modest person, one who has many worthy pastimes and pursuits apart from the field of law, his chosen profession.

He is an outstanding lawyer and student of the law, and a member of several professional organizations of the bar. For 30 years he has been an esteemed colleague of the California jewelry industry. During World War II, Joe Bernfeld enlisted in the Army, later earned a commission, and served in the European Theater. For a time he served as liaison officer with the Belgian and French underground resistance. Still later he was attached to the 82d Airborne Division and took part in the Ardennes and Rohr Dams operations. Following the German surrender, he was a denazification officer and appeals judge in Mannheim, Germany. When honorably discharged he held the rank of captain, Coast Artillery Corps, and had earned four battle stars.

He has participated significantly in numerous professional, business, educational and civic groups and associations, which are testimony to his knowledge, wisdom and public spirit. It will be my great privilege and pleasure, on October 24, to introduce Joseph Bernfeld as the honoree of the evening. From the State of Israel, he will receive the Sword of Haganah Award for his concerned involvement on behalf of the land, the faith, and the people. It is my privilege to bring this great American to the attention of the House and I ask my colleagues to join me in extending to him, to his wife Melba and his family, our heartiest congratulations and warmest good wishes on this occasion.

## HOUSE IS LOSING DEDICATED AND EFFECTIVE PUBLIC SERVANT WITH RETIREMENT OF CONGRESSMAN JOE L. EVINS

## HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. McFALL. Mr. Speaker, the House is losing one of its most dedicated, effective and beloved Members with the retirement of the deal of the Tennessee delegation, Congressman JOE L. EVINS.

I am proud to have served on the Appropriations Committee and in the House with this able and talented man.

As chairman of the Appropriations Public Works Subcommittee he has been the legislative leader behind countless public projects benefiting millions of people throughout this Nation.

I shall never forget his personal help to me when I first came to the House in the 85th Congress and sought him out on a major project for my district.

In 1955, a major flooding of the Calaveras River had devastated the city of Stockton, Calif., making 14,000 homeless and causing widespread damage.

The city needed a new dam to protect against future floods. JOE EVINS was a seasoned veteran of the House, and I a freshman Congressman, but he listened carefully as I outlined the need for the project. He then helped me secure the appropriation that resulted in the construction of the new Hogan Dam, which has effectively prevented serious flooding in the area ever since.

JOE has lent his legislative talents to bigger public works projects, but none with such personal meaning to me or the people of my district.

They have called him the "Tennessee Powerhouse." A biographer, Susan B. Graves, has written that power is the name of the game in the Nation's Capitol, "yet few are the men who wear the mantle of power with grace. A conspicuous exception is JOE L. EVINS, Congressman from Tennessee's Fourth District."

I know my colleagues concur in that assessment.

Chairman of the Small Business Committee, chairman from 1964 to 1970 of the Appropriations Subcommittee on Independent Offices, chairman of the Public Works Subcommittee of Appropriations, Congressman EVINS has had enormous influence and power. But he has exercised it wisely, effectively and fairly. He has fought hard for the development of the Nation's rural areas. And he has been a friend of the Nation's cities, battling tenaciously for adequate funding for vital and essential urban programs.

As Ms. Graves put it—

> Congressmen Evins knows how to get things done, but he also knows, when circumstances dictate, when to exercise restraint.

More than most of us privileged to serve in the House, he can take immense satisfaction in the tangible results of his legislative efforts—major hydroelectric power developments and other public works of many descriptions for the benefit of the American people.

As President Lyndon B. Johnson said of JOE EVINS:

> He is a man of ability, a man of determination, a man of integrity, a man of loyalty. Out of his subcommittee has come some of the most creative legislation ever enacted. Generations of Americans yet unborn will benefit from the labors of this man.

We will profoundly miss Congressman JOE EVINS, a great Congressman, a great friend.

## ALTOONA WAR GOVERNOR'S CONFERENCE OF 1862 HELPED LINCOLN HOLD UNION TOGETHER

## HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. SHUSTER. Mr. Speaker, on Saturday, September 25, 1976, I had the distinct pleasure to attend the Commemorative Ball of the Loyal War Governor's Conference of 1862 at the Penn Alto Hotel in Altoona, Pa.

Because this event commemorates a very significant, although oftentimes overlooked event, I am submitting the remarks of Louis H. Murray, the master of ceremonies for the ball, to my colleagues in the Congress for their information in hopes that they will take a few moments to refresh their memories of a very important part of our national heritage:

### THE ALTOONA WAR GOVERNOR'S CONFERENCE OF '62

The year was 1860. The North and South were sharply divided over the slavery issue. That year, Abraham Lincoln of Illinois, was elected President. That same November, Andrew Curtin of Bellefonte was elected Governor of Pennsylvania. Both men were destined to play principle roles in the preservation of our troubled union of States.

Abraham Lincoln had hardly been elected a month and had yet to assume office when the First Southern state, South Carolina, seceded from the Federal Union. By March 4, 1861, Lincoln's Inauguration Day, seven Southern states had seceded, forming the Confederate States of America, under the leadership of Jefferson Davis. One month later, on April 4, 1861, the first shot of the War Between the States was fired on Fort Sumter.

On April 15, President Lincoln issued the first call for volunteers. He requested 75,000 men. Pennsylvania's quota was fourteen regiments. The Keystone State demonstrated its loyalty to the Union, when, overnight, enough men responded to fill twenty-five regiments.

This initial enthusiasm soon dampened in Pennsylvania and throughout the North, when Union forces met with reverse after reverse during the first year of the War. At Bull Run, the Battle for Richmond and at Manassas, the South proved superior on the field of battle. The bloody clash at Antietam, in Maryland, halted the invasion of the North by the Army of the Confederacy, but the momentary victory for the North was turned to the advantage of the South when the overly cautious Union Commander, General George McClellan, hesitated in pressing his advantage and the Rebs retreated to recoup.

During that difficult summer of 1862, when the people of the North lost most of their desire for the struggle, enlistments dropped off to a trickle. President Lincoln's popularity dropped dangerously low. Something was needed to rally the Union defenders. Conditions were so unfavorable that President Lincoln was forced to delay a call for more volunteers, until he had some assurance he would be supported by the Northern States. There was no uniform draft in effect at that time, and the Army was in desperate need of additional men to fill its depleted ranks.

Lincoln had prepared his Proclamation of Emancipation early that summer, which he hoped would solidify the Northern war effort, but he withheld announcing it all that long summer, waiting for a decisive military victory to announce it. Lee's withdrawal into Virginia following the Battle of Antietam, gave him all the victory he realized he would get, and one day after Antietam was fought, he anonunced the Emancipation Proclamation. The following day, the Altoona War Conference took place, giving him the support he needed on the home front.

One man who sensed the terrible danger threatening the North during that fateful summer of '62 was Andrew Curtin, Governor of the Commonwealth of Pennsylvania. It was Governor Curtin who conceived the idea of a summit meeting of all the loyal governors to demonstrate their unqualified support for the Union Cause and the beleaguered Mr. Lincoln. No other single action by an individual other than President Lincoln contributed as much to the eventual preservation of the Union as that act of Governor Andrew Curtin in calling the War Governors together in Altoona.

President Lincoln, when informed of Governor Curtin's plan, immediately recognized the importance such a meeting would have for the Northern war effort and quickly gave his approval.

Altoona was selected by Governor Curtin for the Conference site, because of its easy rail accessibility and its nationally ranked hotel, the Logan House. The invitation was issued to the loyal Governors on September 14. The conference date was set for the 25th of that same month.

The Northern Governors began arriving at Altoona's Logan House as early as September 20th. The presence of the visiting Governors raised some speculation with local residents, but little else, and it would be several weeks before Altoonans would learn that a vital War Conference took place here. The safety of the Governors and the delicacy of the talks necessitated the secrecy.

Thirteen loyal Northern Governors assembled here in response to Governor Curtin's call. The result of the two-day meeting was a statement from the loyal States, speaking through their elected Governors, uniting the Union behind the President and his Emancipation Proclamation Policy. As Governor Curtin had assumed, the War Governor's Conference provided the morale boost the North needed on the home front for the ultimate victory. It gave renewed strength to the soldiers in the field that their cause would prevail.

There remains one question. How could a summit conference that has been described by serious students of the Civil War as the event next to the issuance of the Emancipation Proclamation by President Lincoln, as the second most decisive event of the War, be so ignored by history?

The answer is secrecy. If the Altoona Conference had failed to support the Lincoln War policies, the knowledge would have been fatal to the Union cause. For this reason, there was no secretary present during the Conference, and no minutes kept of the proceedings. The personal safety of the Governors demanded the tightest of security measures, for the North was riddled with Southern operatives.

As a result, Altoona never received proper credit for the vital role it played in the War Between the States.

Our honoring this event during this, our Bicentennial Year, should help to rectify that omission, at least for present day residents of the City that helped to save the Union.

## HON. WILBUR D. MILLS

## HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. RHODES. Mr. Speaker, the end of the 94th Congress marks the end of the service of Wilbur Mills as a Member of this body. He has been a Congressman from the State of Arkansas for 38 years. During that time he has compiled a record of achievement which is truly remarkable.

No man has been more identified with the laws of Federal taxation in the last 30 years than has Wilbur Mills. His high intelligence, his integrity, his will to work hard and accomplish much have left their stamp upon our tax system.

Tax systems are cussed and discussed more than almost any facet of our Government. While no one, including Wilbur Mills, would indicate that our tax system is anywhere near perfect, I think we all can take notice of the fact that it is efficient and has produced more revenue than any comparable system in the history of the world. There are those who would say that this should be a source of shame rather than pride. However, in an era of ever-expanding Federal activity, it is obvious that the income from taxes had to increase to at least partially finance the Federal Government's increased involvement in all of our lives.

Mr. Mills is a good friend when he gives his friendship. His judgment and fairness have earned him respect from both sides of the political aisle. I have always valued the friendship and counsel of the gentleman from Arkansas and will truly miss him, not only because he has been one of our great legislative craftsman, but because he has been and is a warm personal friend.

Betty and I wish Polly and Wilbur the very best in life in the years to come. Whether they take their well-deserved rest, or whether they enter in to other fields of activity, they will always know they have many friends from their days of service in the Congress. The United States, the State of Arkansas and the district which Wilbur Mills has served for so long will miss him, as will all his friends and colleagues in the House. We all wish them well.

## PLUTONIUM RECYCLE

## HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. RICHMOND. Mr. Speaker, for the past year the Congress, the Nuclear Regulatory Commission, and the American public, have been grappling with the difficult problems of plutonium recycle.

I call to the attention of my colleagues the provocative comments of Dr. Thomas Cochran and J. Gustave Speth of the Natural Resources Defense Council concerning the pitfalls of plutonium recycle and the proliferation of nuclear technology:

### AGAINST PLUTONIUM FUEL

(By Thomas B. Cochran and J. Gustave Speth)

WASHINGTON.—The United States Nuclear Regulatory Commission has before it the most important nuclear-arms-control decision since the inauguration of the Atoms for Peace program two decades ago. In an action that will have far-reaching implications for the proliferation of nuclear weapons, the commission must decide whether to allow the use of plutonium, which is produced as a byproduct in nuclear reactors, as a separate fuel in the United States nuclear industry.

A cornerstone of Atoms for Peace was the theory that a workable distinction could be made between peaceful and military uses of nuclear energy. The theory held that nonnuclear nations could be enticed to forgo the development of nuclear weapons if they were assured of assistance in the development of peaceful nuclear programs.

The 1974 explosion of a nuclear device by India shattered this theory. India's atom bomb, and those now reported to be in Israel's possession, were made from plutonium extracted from the used fuel of "peaceful" nuclear reactors.

India and Israel force upon us the harsh reality that essentially any nation with a nuclear reactor can develop nuclear weapons. Now about 18 such nations, in addition to the five established nuclear-weapons states, have plutonium for at least three to six weapons. About five additional nations will have accumulated this amount of plutonium by 1980.

The proliferation problem these existing reactors pose is grave but perhaps not impossible. Controlling nuclear proliferation will certainly become impossible, however, if the nuclear industry here and abroad launches the next phase of nuclear-power development involving plutonium use.

Already about 12 nonnuclear weapons states—among them Brazil, Argentina, India, Pakistan, Taiwan and Iran—have plans for developing nuclear-fuel reprocessing facilities for the large-scale separation of plutonium from used fuel.

These facilities would enable these nations to recover and stockpile plutonium, seemingly for peaceful purposes. Without violating existing international agreements, they could move to a point of being as little as hours away from having nuclear weapons, perhaps needing only to cast the plutonium and place it in the bombs.

It is noteworthy that most of these countries have not signed the Nonproliferation Treaty and that most are in areas of intense regional rivalries.

Multinational ownership of fuel reprocessing facilities has been suggested as a means of curbing their proliferation potential. This concept offers little, and may not in any case be workable.

Multinational facilities would legitimize the argument of nonparticipating countries that their national plutonium facilities and stockpiles are peaceful. They would supply participating nonweapons states with large amounts of usable plutonium in the form of fresh fuel. And they would provide opportunities for the clandestine diversion of plutonium, targets for expropriation, and the means of spreading reprocessing technology.

We believe the evidence is now in. For two decades the United States has promoted atomic power around the globe. Now our policy must be one of containing and reversing the harm that has been done.

We should seek to establish international control of the plutonium that has been produced in the reactors that are already operating. We should commit ourselves to help other nations develop nonfission means of meeting their energy needs. And we should unequivocally reject the idea that plutonium should ever be reprocessed and thereby removed from the protection of the intensely radioactive wastes with which it is mixed in used reactor fuel.

A United States decision authorizing plutonium use would obviously be inconsistent with these policies. We cannot expect other nations to forgo plutonium if we do not.

An argument advanced by the nuclear industry is that regardless of our decision other nations will export nuclear technology. This argument fails for several reasons. First, it implies that the United States should not exercise its moral leadership if there is a chance other countries will not follow us. Second, it implies that other countries will not recognize and seek the benefits inherent in the United States policy. Third, it overlooks the political and economic leverage the United States could use to influence the nonproliferation policies of other countries—for example, trade and economic-assistance policies and measures to enhance regional stability. And finally, it neglects the fact that nuclear power is questioned as vigorously abroad as here.

Substantial opposition to nuclear power exists in all countries of Western Europe, in Japan and Australia. If the United States turns its back on plutonium, that action will have a catalytic effect on world opinion.

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## THOMAS J. McGUIRE III RECEIVES HONOR

## HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. FORD of Tennessee. Mr. Speaker, I rise today to pay tribute to a selfless and dedicated Memphian, Mr. Thomas J. McGuire III, of 3658 Highland Park Place, Memphis, Tenn. Mr. McGuire will shortly be the recipient of the Silver Antelope Award from the Boy Scouts of America, the highest award given to a volunteer adult for service rendered on a regional level. The award will be presented on October 1, 1976, in Louisville, Ky., when the annual meeting of the southeastern region of the Boy Scouts of America is convened. The southeastern region contains 13 States, stretching from Maryland to Louisiana and Kentucky to Florida.

Tom McGuire has been a volunteer adult leader with the Boy Scouts for over 30 years. He is widely known and highly respected by scouts throughout the Midsouth region. He has held numerous positions within the Boy Scouts organization on both a local and regional level and currently serves as regional adviser to the Order of the Arrow. For those of you who are unfamiliar with the Boy Scouts, the Order of the Arrow could be referred to as the Phi Beta Kappa of Scouting. It is a group of scouts who are selected by their peers as outstanding Boy Scouts.

Mr. Speaker, only three other members of the Chickasaw Council of the Boy Scouts of America have received this coveted award—William N. Morris, Alvin Tate, and F. T. Thayer. On behalf of the people of Memphis, I am proud to have this opportunity to express my heartiest congratulations to Mr. McGuire on the receipt of this great distinction, a distinction he so richly deserves.

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## STEGER: THE TOWN NOTHING CAN LICK

## HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. O'BRIEN. Mr. Speaker, I would like to share with my colleagues a stirring little poem written by one of my constituents, Mrs. Lilliam Gruberman of Steger, Ill.

This poem is Mrs. Gruberman's tribute to her spunky hometown, a town almost wiped out by a fire a few years back. As the poem tells us, Fire Chief Harold Hecht fought courageously to control the fire and lost his life in the struggle.

Steger is making a comeback now. I guess you could call it the "Town Nothing Can Lick." The stores and businesses are rebuilding, and a new village hall has been constructed. People, like Mrs. Gruberman, who have faith in their town are what is bringing Steger back to life. I wish them the very best of luck.

The poem follows:

### STEGER SPIRIT OF 1976

(By Lillian Gruberman)

Steger was a little Village
The nicest place to live
You could always find in stores
A gift you wished to give.

The people all were friendly
Each family owned a home
They always kept it nice and neat
Had no desire to roam.

They made the well known pianos
And furniture galore
And what about spaghetti
Who could ask for more.

The Legion on West 34th
Was always neat and clean
A Landmark like the corner churches
Were the best you've ever seen.

One fateful day a great inferno
Gutted the Legion Hall
What a sad disaster it was
It affected one and all.

The smoke and torrid flames
That reached up to the sky
Brave firemen in Steger's Snorkel
Fought the flames from way up high.

This fire, however, did not compare
With the fire on Chicago Road
The one that caused the Fire Chief
To carry all the load.

Three days and nights he fought the fire
'Til exhaustion took its toll
Poor Harold Hecht gave up his life
He earned his Heavenly goal.

Steger lost all factories and stores
But President Sherman kept his faith
Together with the Village Board
Proved that Steger still was great.

On what was once an eyesore
Stands our Village Hall Supreme
Just wait 'til all the stores return
Steger once more will beam.

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## MORE ON THE TETON DAM

## HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. HANSEN. Mr. Speaker, a dam collapses, and 80 billion gallons of water lashes at good farm land and good people. An estimated 4,000 families were in the way of the flood waters of the Teton Dam when its right side washed away on June 5.

There are still the nightmares of long-range recovery and rehabilitation. But there was a miraculous immediate recovery in the days following the failure of the Teton Dam.

The Church of Jesus Christ of Latter-day Saints, the largest religious congregation in eastern Idaho, compiled the following report on how the people helped themselves following the worst man-made civil disaster in our history:

### TETON DISASTER VICTIMS SEE "MIRACULOUS" RECOVERY

When the earthen Teton Dam collapsed Saturday, June 5, it unleashed 80 billion gallons of water into the Upper Snake River Valley in southeastern Idaho.

L. Keith Walker lost all of his possessions. The ravaging, 20-foot high deluge demolished his home, mutilated the swathers, bailers and harvesters he used for farming, drowned 450 head of his cattle, and dropped 6 inches of sludge on his farmland.

But Walker, his wife and 10 children were safe. They and thousands of other flood victims in the valley view the circumstances surrounding the flood as miraculous.

Only six deaths were attributed to drowning. Within one hour of the dam collapse 15,000 people were evacuated without panic or hysteria. Although 8,000 were left homeless by the holocaust, every flood victim received a meal and shelter that very night.

In the past three months more than a million hours of donated labor from across the country have cleared the debris, mudded out the homes, repaved the roads, and begun pulling the community back together.

No one has been without food, clothing and shelter.

The Walkers are now self-sufficient and anxious to begin rebuilding.

"If you can take care of yourself, that's the way it should be," says Walker, who has been so busy as Chairman of the County Commission that he has been unable to farm since the flood. He and his family are living off the less than $300 a month salary he earns as a county commissioner.

"My wife does a lot to help make ends meet," says Walker. "We have been able to take care of the important needs of the family."

The 43-year-old father of 10 is also serving as a bishop in the Church of Jesus Christ of Latter-day Saints (the Mormons), a position he has held without pay for the past nine years. As such he is responsible for the spiritual and temporal welfare of over 400 members of his congregation, most of whom lost everything they had.

The Walkers are just one of more than 2150 families in the Rexburg area who were displaced by the flood. The government estimates damages from the dam collapse at $1.17 billion.

Ninety-five per cent of Rexburg's residents are Mormons who traditionlly have been wary of government doles, preferring to take care of themselves. In fact, Walker considers any money he has received from the government or his church as "a loan." "I want to repay what I have been given," he says.

One week after the disaster, Mormon President Spencer W. Kimball visited the area to survey the damages. "Let us make no distinction between brother and non-brother," he said to a large group of flood refugees gathered in Rexburg's Ricks College fieldhouse. "Pace yourselves, delegate (responsibility), share, rest, and plan," President Kimball urged.

"As we rebuild, we have to protect our dignity and self-respect," admonished the 81-year-old leader of the 3.6 million member Church. "There are some proper sources of help and some that are questionable."

He advised the members to consult their bishops for more specific advice about what forms of aid are proper.

A week later, Mark G. Ricks, president of LDS Rexburg Stake (roughly equivalent to a diocese), and welfare director of the flood area, said Church members shouldn't have to rely on government aid to recover from the Teton Dam disaster.

The government is in the community to help victims of the flood and that is good, President Ricks indicated, "but we just don't want our members to depend on the dole system of getting something for nothing."

Helping each other, rather than seeking help from the government, has been one of the strengths of the Mormon faith.

"I have nothing but praise for the attitude and spirit of the flood victims and volunteers," says Commissioner Walker. "We have had complete cooperation. By next fall and early winter we will see the community back together.

"We will build it back better than it was before," he said enthusiastically. "This will be a model comunity. There are a lot of good points to look forward to."

## HON. WILBUR MILLS

## HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. HUNGATE. Mr. Speaker, today it is my privilege to join with his many friends on both sides of the aisle in paying tribute to our distinguished colleague from Arkansas, WILBUR D. MILLS, upon his retirement.

WILBUR'S tenure in office has spanned that of eight Presidents and in his 38 years in Congress he has served not only his district well, but also his State and his Nation. During his chairmanship of the Ways and Means Committee he was instrumental in shaping vital and important legislation in the fields of social security and health, taxes, and foreign trade. Many know that without his guidance much of this legislation would not have become law.

It is the loss of those who will come to serve in this august body that WILBUR MILLS is retiring for he has provided able leadership in complex fields of law. Members will also lose the opportunity to learn from one of the finest Members of the House of Representatives, and perhaps the greatest lesson is to be able to teach others how to deal with adversity in a responsible manner and to meet society's slings and arrows openly with candor and courage. We wish him good luck, good health, and Godspeed.

## HEW MAY NOT BE FOOT DRAGGING AFTER ALL

## HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. KOCH. Mr. Speaker, I am placing in the RECORD today one more letter that I have received concerning HEW's claim to need an additional 2 years to conduct a comparative study of the quality of care provided by the various nursing home and home health modalities. On August 16, I sent letters to numerous individuals and organizations knowledgeable in the area of nursing and home health care seeking their opinions about HEW's timetable. Earlier responses to my inquiry can be found in the August 30 and September 2 RECORDS.

In evaluating the responses I have received over the past 1½ months, I find some opinions that are supportive of the time frame in which HEW is working and some that are critical of HEW for claiming to need this additional 2-year period. The letter I am placing in the RECORD today indicates that while certain demographic statistics concerning nursing homes and home health agencies are available, gathering information that will provide a real gauge of quality of care is a time consuming and complex task.

Not being a statistician or demographic expert, I must rely on the opinions and advice I have received from professionals in the health field. And in view of the various responses I have received, it is still unclear whether HEW is dragging its feet in this matter or whether its timetable for completing this study is legitimate.

The most recent letter I have received follows:

NEW YORK STATE OFFICE FOR THE AGING,
*Albany, N.Y., September 17, 1976.*

Hon. EDWARD I. KOCH,
*U.S. House of Representatives,*
*New York, N.Y.*

DEAR CONGRESSMAN KOCH: This is in reply to your letter of August 16, asking for our views on HEW's inability to provide until 1978 information on the comparative quality of care provided by the various sponsors of nursing home and home health agencies.

Our immediate reaction was to concur with your assessment that this time frame was indeed excessive, but we became less sure after conversations with knowledgeable representatives of the State Health Department. Although detailed reports are required of sponsors of nursing homes and home health agencies to satisfy the conditions for participation in Medicare and Medicaid, for licensure and certification, at both the State and federal levels, it is doubtful that this information alone would be adequate for assessing "quality of care" actually provided by these institutions or agencies. Thus, while data on demographics and conformance with structural standards are available, comparisons of quality of care primarily based on these measures by type of sponsorship, i.e., proprietary, voluntary, or public, are not likely to be very telling. A host of other variables must be considered in constructing a true gauge of quality of care, and that will necessarily be a time-consuming task.

The Moreland Act Commission, after their long and thorough investigations, expressed the concern that "present techniques for measuring quality of care are seriously inadequate for these tasks." Their *Summary Report, Long Term Care Regulation: Past Lapses, Future Prospects,* includes the following commentary on the State's current ability to measure quality of care:

"Ideally, measures of the quality of care should take into account the "outcomes" of care—that is, the effect that care has on patients and residents. But in a long-term care context this approach is fraught with difficulties. What long-term care is supposed to do for patients and residents is an open question in many essential respects. Further techniques useful in measuring whether a patient's condition has improved as a result of care—or, often a more realistic goal, whether it has been stabilized—are still in the rudimentary stages of development.

"Nursing home regulators have fallen back on another approach to measurement of the quality of care, relying *almost exclusively* on the insistence that a variety of *"structural" standards* be met by nursing home facilities. Thus, the quality of care is assessed in accordance with whether facilities comply with standards concerning staff qualifications, staffing ratios, the structure and layout of physical facilities and a host of other detailed matters. In theory, regulators following this approach are supposed to be measuring—and enforcing—whether facilities have the *"capacity" to render* acceptable care.

"Yet it has long been apparent to objective observers, and to regulators themselves, that this structural, standard-setting approach is based on the assumption that homes which meet standards are in a position to render good care and would, therefore, actually do so. Results of the Commission's statistical research, comparing Department of Health reports on compliance of facilities with federal and state standards and reports of the Health Department's staff on evaluation of quality of care rendered in these facilities, casts considerable doubt on that assumption. However, although it is not surprising that, for example, the mere presence of written patient care plans or nursing care notes does not give sufficient assurance that high quality nursing care is being provided, nevertheless, emphasis on completed paper work has been central to prior regulatory efforts."

These shortcomings that exist in nursing home and extended care facility regulation would also seem to apply to regulation of home health care and services.

The Commission made a number of recommendations that would enhance the regulatory agency's, and ultimately the public's, ability to define and measure the quality of nursing home and related care. In addition to the traditional approaches of establishing and enforcing "structural" standards, the Commission recommended that attention be given to the following neglected areas in measuring quality of care:

(1) assessment of whether patients and relatives are satisfied with care and services, and

(2) the establishment of and combination of "outcomes" oriented and "process" oriented reviews to determine the quality of major elements of care.

Conceivably, HEW is pondering these or similar elements for assessing quality of care beyond existing resources, and is concerned about methodological soundness. Thus, the seemingly excessive time frame.

Issues such as you raise are being considered at the State level, largely as a result of the Moreland Act Commission's legacy and the critical need to maximize the use of limited public funds in the various categorical programs to meet the needs of the elderly and infirm. The Health Committees of the State Senate and Assembly and Aging Committee of the Assembly will be holding hearings this Fall that will relate to the issue of sponsorship of home-health care programs. You may want to contact the staff of these Legislative Committees to obtain whatever analysis they have completed or have planned. Unfortunately, we know of no specific in-depth studies, planned or underway, by State government to do the comparative analysis you desire for both home-health care and nursing home care.

We would be pleased to entertain and discuss any suggestions you might have on overhaul or reform.

Sincerely,

Warren G. Billings,
*Deputy Director.*

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## HON. OTTO PASSMAN

## HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. RHODES. Mr. Speaker, Otto Passman has been a friend for 18 of the 24 years I have served in the Congress. Prior to that time he was just an acquaintance, but when I first began to serve on the Appropriations Committee I was assigned to his subcommittee. Since that time we have shared a warm personal friendship which will continue, even though Otto is leaving the Halls of the Congress.

Otto Passman's chief accomplishments in his years in Congress consist of the areas of foreign aid and public works. Since his district in Louisiana is in the Mississippi Delta area and therefore is subject to the types of flooding which are common to areas such as this, Otto has been very active and supportive of public works projects. His knowledge of these matters have made him an extremely valuable Member of Congress.

Mr. Passman has never pretended to be a lover of the foreign-aid program. I think our country has been well-served by the fact that a man who is so skeptical about the entire program was the chairman of the subcommittee which appropriated sums for it.

Otto Passman was always keenly aware that his feelings toward foreign aid probably were in the minority as far as the Congress is concerned. Therefore he always made sure that foreign aid was financed, but not too lavishly. In fact I can imagine that his meticulous bookkeeping on the total expenditures from foreign aid of "all spigots," as he put it, had as much to do with holding down the total American outlay for foreign aid as anything possibly could.

There were periods in our history in which many Members of the Congress and the administration would have spent every dime we had to "help" foreign nations. This eleemosynary instinct happily has been mitigated, and we now have a more sane viewpoint toward our obligations to our fellow men. Otto Passman was a tower of strength in resisting the surge of giving everything we owned to others, and has had a lot to do with bringing us into the safer waters in which we now sail, insofar as seeking a proper level of foreign aid is concerned.

I could detail many personal experiences that Otto Passman and I have shared both in this country and abroad. I will not do so because he remembers them as well as I do. Suffice it to say I have great respect for him, his personal integrity, his sense of morals and his personal beliefs. I will miss his presence, but he will always be my friend and I will always remember him as such and look forward to whatever personal contact we may have in the future.

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## CONGRESSMAN HEINZ SPEAKS OUT ON ARMS SALE TO SAUDI ARABIA

## HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. HEINZ. Mr. Speaker, I am disappointed that the Congress, for various reasons, has failed to act on the resolution disapproving the proposed sale of an additional $700 million of arms to Saudi Arabia.

Earlier this month, the administration officially informed Congress of its intentions to sell Saudi Arabia 650 Maverick air-to-surface missiles, 850 Sidewinder AIM 9-J air-to-air missiles, and 1,000 TOW antitank missiles.

Because the Congress has failed to act, we will be selling highly sophisticated offensive weapons to Saudi Arabia which may help to fuel the spiraling arms race among the oil rich Persian Gulf nations as well as create a destabilizing situation endangering the fragile peace in the Mideast.

Saudi Arabia has already purchased over $6.8 billion in weapons during the current year from the United States and possesses an enormous stockpile of advanced offensive weapons like the highly sophisticated television-guided Maverick missile. Although there is a prohibition on arms transfers to third countries, we have no guarantee that they will not fall into the hands of other hostile and aggressive nations in that area of the world.

In addition, recent reports have indicated that the Saudi Government has tried to blackmail the United States by threatening an oil price increase if its demands regarding arms sales and antiboycott legislation are not met. I believe that we cannot allow such heavy-handed intrusions into our internal affairs by any foreign government.

With a resolution disapproving the proposed arms sale the Congress would have proven that they were willing to utilize their power to control arms sales to other nations. And more importantly, they could have prevented further offensive weapons from endangering the peace in the Mideast.

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## JAMES HAROLD SIMMONS

## HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. ANDERSON of California. Mr. Speaker, on October 6, 1976, the Los Angeles and Long Beach Harbor area community will gather in San Pedro's Yugoslav American Club to pay tribute to a very special man. James Harold Simmons, after serving as the harbor area business representative for the Los Angeles County Federation of Labor since 1959, has become director of Labor Relations for Associated In-Group Donors. His outstanding work on behalf of working men and women for so many years will be honored that evening.

Jim has been an effective union man for many years, but his contributions to our community go well beyond the scope of his duties for organized labor. That is why his testimonial dinner will not be limited to the labor community: Jim has many friends well outside union circles, and I am sure they will be looking forward to this opportunity to congratulate him for his many activities.

Born in Fort Worth, Tex., on February 12, 1922, Jim has been a resident of the Los Angeles area since 1937. He enlisted in the U.S. Navy Reserve in 1942, and saw 31 months of combat duty in the South Pacific. He received an honorable discharge in 1945 as an electricians mate, second class.

After working with the Civilian Conservation Corps in King City and Bass Lake in California, Jim Simmons in February of 1945 became an electrician with a construction crew while still in the Naval Reserves. He stayed with that job until 1958, when he became an organizer for the International Brotherhood of Electrical Workers. The following year, 1959, he assumed his duties as a business representative for the Los Angeles County Federation of Labor until his recent resignation on September 30, 1976.

A family man, Jim and his lovely wife Arlene have four children; sons Drew and Derek, and daughters Corrine and Jeanette. They are also grandparents of two children, Denise and Kimberly.

Jim Simmons has been active in labor and political activities for many years. At various times, he has served as a deputy registrar of voters, as a member of the Los Angeles Harbor College General Advisory Committee, and as a member of the Long Beach Commission on Economic Opportunities' Board of Directors. In addition, he has served as a delegate to the San Pedro-Wilmington Central Labor Council, the Maritime Trades Department Coordinating Committee, and was appointed to the Democratic State Central Committee for 7 years by the late Congressman Cecil King.

Currently, Jim is active on the Los Angeles AID Corporate Board of Directors, the Business Administration Advisory Committee of California State University at Long Beach, and the Long Beach Area Vocational Education Advisory Council of the Long Beach Unified School District. He is the coordinator for Labor participation in the Los Angeles Harbor Committee on Political Education—COPE—and has been active in all area political campaigns since 1958.

Jim Simmons has been active in education in our area for many years, resulting in many benefits to the community. In addition, he currently serves on the Red Cross Harbor Area Blood Committee, and on the board of directors for the Alcoholism Council of Greater Long Beach.

Mr. Speaker, when a grateful harbor area community gathers together on the evening of October 6 to honor Jim Simmons, it will do so for reasons far beyond his role in organized labor—although certainly his career on behalf of the working man would be more than sufficient reason. His contributions to our area in community services and education will also be honored, for they are an important part of the leadership Jim has offered our area for so many years.

My wife, Lee, joins me in congratulating Jim on his many accomplishments, and in wishing him the best of luck in his new career. Jim's family must be understandably proud of the warm feelings and high respect he has earned through the years.

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## HON. JOE L. EVINS

## HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. BENNETT. Mr. Speaker, I rise to pay tribute to my longtime friend and colleague, Joe Evins of Tennessee. His longtime dedication to public service has resulted in untold benefits for his constituency and the Nation as a whole. He has displayed a great service in the U.S. Congress. As chairman of the Appropriations Subcommittee on Public Works, he has demonstrated great knowledge and expertise and has always presided with fairness and equanimity. He is a man that has watched out for the needs of the Nation in the critical area of public works and his dedication and leadership will most assuredly be missed greatly. I wish him the very best in all future undertakings.

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## A TRIBUTE TO THE HONORABLE JOE L. EVINS ON THE OCCASION OF HIS RETIREMENT

## HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. CORMAN. Mr. Speaker, I would take this occasion to express my regret over the announced retirement of the Honorable Joe L. Evins of the Tennessee Fourth District, a gentleman of profound abilities, the greatest strength of character, and a breadth of knowledge that has rendered him, on so many occasions, of the greatest value in congressional deliberations of every kind.

A veteran of 30 years' service in the Congress and a chairman of significance, he has won the respect not only of his constituents but that of his colleagues in this Chamber, on both sides of the aisle.

Having served under his leadership, as a member of the Committee on Small Business, I can personally attest to his firm grasp of the commercial problems confronting the American business community and his extraordinary ability in the matter of seeking and effecting their solution. As a problem solver, Chairman Evins is clearly one of the very best around.

Joe Evins will be leaving at the close of the session to return to his home in central Tennessee, in the knowledge that his services have won the blessings and acclaim of everyone concerned.

As chairman of the Small Business Committee and the Appropriations Committee on Public Works, he has attained a position of the greatest influence, and by his steadfast devotion to duty in these capacities has set an example worthy of emulation on every hand.

Joe Evins entered politics in 1946, following military service in World War II, in which he rose to the rank of major. A lawyer by profession, he had served before the war with the Federal Trade Commission, and in 1945 was offered the Democratic nomination for a seat in the Tennessee State Senate. Overseas and still in uniform at the time, he declined the honor, but upon his return to these shores in 1946, sought and secured the Democratic congressional nomination for the Tennessee Fourth District. He was subsequently elected and 14 times reelected—often in the absence of serious opposition of any kind.

The great popularity of Joe Evins in the eyes of his friends and neighbors is unquestioned and wholly comprehensible. He is invariably determined to accomplish his designs and invariably to be accepted at his word.

During several years' service together with this good man on the Committee on Small Business, I have seen him at the peak of his capacities, operating always on the basis of truth and always in a spirit of compromise and mutual understanding.

A strong supporter of President Lyndon B. Johnson, in the 1960's, Joe Evins played a major part in funding many of the Johnson housing programs, as well as medicare, aid to education, and the antipoverty program. He was equally active in supporting creation of the Department of Housing and Urban Development. In 1964 Joe Evins was accorded the honor and responsibility of directing the Democratic Presidential campaign in Tennessee where the party had failed of success, on the national level, in every contest since 1948. On this occasion, as on so many others, his work was detailed, intense, and well executed, with the result that Tennessee voted Democratic.

A product of the American agricultural heartland, Joe Evins has been throughout his career a strong proponent of rural development. He is the author of legislation designed to stem the mass migration from the country to the city, though a system of tax incentives offered to industries locating in rural areas.

Vitally concerned for the interests of everyone deserving the protection of Federal authority, and equally concerned for the preservation of the laws and longstanding customs of the land, Congressman Joe L. Evins has established himself, in 30 years' service on this floor, as a formidable and worthy legislator, in the grand tradition of his district, his State, and country—all of which he has served with distinction.

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## JOE EVINS—TRIBUTE

## HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. SLACK. Mr. Speaker, during my years of service on the Public Works Appropriations Subcommittee I have developed a deep appreciation for the many abilities of Chairman Joe Evins of Tennessee.

Long before it became fashionable to proclaim a public interest in protecting the environment, he was already hard at work in that field. Long before there was an outcry for water pollution control programs, he had turned his attention to the greatest single pollutant of our water systems—the runoff of top soil through flooding.

In this Bicentennial Year of 1976 there are few among us who remember the conditions which faced our people prior to passage of the Flood Control Act of 1936. Total disaster was an annual event for thousands of American families. Each year the streams rose out of their banks to claim hundreds of lives, destroy thousands of homes and businesses, and wipe out the means of livelihood in large parts of the country.

Chairman Joe Evins formed the conviction that this situation could not only be corrected, but that a capital investment along carefully planned lines could turn the power of nature from destruction to productive use. Working in that direction he has encouraged through the actions of his subcommittee a program which has greatly reduced the flooding danger to lives and property, returned thousands of flood-prone acres to productive use, and stabilized soil conditions in dozens of river valleys.

Those of us who can recall earlier conditions and contrast them with those of today, must agree that he deserves credit for a remarkable achievement, because all water quality and soil improvement programs, no matter what you call them, must first require some control over the annual ravages of nature.

JOE EVINS will go into retirement leaving as a final legacy the public works appropriations bill for fiscal 1977 which will fund projects bringing to our people over $7 billion in annual benefits, and hundreds of friends among our membership who know just what those benefits mean to the people back home.

I wish him well in every respect, and feel certain that his work will be recognized for many years into the future as projects are completed for which his foresight recognized the need.

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## TRIBUTE TO LUCILLE GOULDING OF THE FARMINGDALE BOARD OF EDUCATION

### HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. AMBRO. Mr. Speaker, from time to time, Members of this body have the pleasure of commending the public service of one or another great American to the remainder of this body. Such is my great privilege on this occasion.

On Long Island, as in much of this Nation, our school boards are comprised of individuals who, at their own expense, run for office and then serve the community without any personal gain or recompense. They spend many hours each week in setting policy, establishing budgets, and overseeing the general business of education in their districts.

While it is not uncommon for a school board member to serve more than one term, it is a mark of the respect and admiration in which the people of Farmingdale hold for Mrs. Lucille Goulding that she has spent 12 years as a member of the school board and for 6 of those years, she has been elected by the other members of the Farmingdale School Board as their president.

Prior to her membership on the board, Mrs. Goulding had for several years been active in school organizations and since her first term on the board has maintained a very close contact with students, parents, faculty, and administration. It is due in great part to her singular effort that today the people of Farmingdale possess one of the finest educational systems on Long Island and perhaps even in New York State.

However, Mrs. Goulding has not only been a success in her educational endeavors but also has found time to raise a fine family which is a credit to her are graduates of Vassar and Yale respectively and her second son is now attending Hampshire College while her youngest child still benefits from her and her husband. Her oldest children mother's tireless dedication to the public school system of which she is a student.

Mr. Speaker, the people of Farmingdale owe a debt of gratitude to all those people who have served them as members of this board of education, but especially to Lucille Goulding who has labored so long and tirelessly to insure that the young people of the district receive the education which will prepare them for the role they will assume in building our nation as it enters our third century.

Therefore, it is entirely fitting that the citizens of Farmingdale are saluting Lucille Goulding at a testimonial dinner on October 8, 1976, at which time she will be saluted for her service to the community. It is indeed my great privilege and pleasure to commend to this body the tireless dedication of Mrs. Goulding and to join with her family, friends, and neighbors to pay tribute to this great American who has in her own quiet way given to the young people of Farmingdale their greatest gift, an excellent education.

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## REPRESENTATIVE WILBUR MILLS

### HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. ECKHARDT. Mr. Speaker, the close of the 94th Congress marks the end of a very distinguished career in this House—that of our colleague, WILBUR D. MILLS of Arkanas. In his nearly 40 years of service in the U.S. Congress, WILBUR MILLS compiled a record of accomplishment in shaping and directing the course of the United States that few national leaders of my generation can match. Applied to many of us, that description might ring as an overstatement of large—even Texan—proportion. In its application to WILBUR MILLS, it has the pure ring of accuracy.

When I came to the House 10 years ago, no Member of this body had a greater command of House procedures or the subject matter within the jurisdiction of his committee than Chairman MILLS of Ways and Means. He had mastered the vast and often baffling complexities of trade and tariff legislation, social security and Federal health care services, revenue sharing and the structure of the Federal tax code. In a body of legislators, Chairman MILLS stood out as the premier legislative craftsman.

At a time when grave concerns are expressed over the unresponsiveness of our system of government and the immobility of Congress, WILBUR MILLS is living proof that such charges are absolutely untrue. He has demonstrated time and again that a legislator, armed with expertise in his field and a skill for the political and procedural ways of the House, can move Congress to action on behalf of his constituents and the national interest.

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## SCIENTISTS BACK NEW AEROSOL CURBS TO PROTECT OZONE IN ATMOSPHERE

### HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Ms. HOLTZMAN. Mr. Speaker, I have introduced legislation to ban aerosol sprays containing fluorocarbons because of the danger they pose to the atmospheric ozone layer, and consequently to human health. I would like to call to the attention of my colleagues an article and an editorial which appeared in recent editions of the New York Times on this matter:

[From the New York Times, Sept. 14, 1976]

SCIENTISTS BACK NEW AEROSOL CURBS TO PROTECT OZONE IN ATMOSPHERE

(By Harold M. Schmeck, Jr.)

WASHINGTON, September 13.—Some uses of fluorocarbon gases—the propellants commonly used in aerosol spray cans—will almost certainly have to be curtailed because the gases weaken the atmosphere's protective ozone layer, a committee of the National Academy of Sciences reported today.

The committee recommended a waiting period of no more than two years before regulatory action is taken so that some of the many uncertainties concerning the gases' effects can be resolved.

"Selective regulation of fluorocarbon uses and releases is almost certain to be necessary at some time and to some degree of completeness," the committee concluded. "Neither the needed timing nor the needed severity can be reasonably specified today."

The committee said research programs now under way promise to reduce the uncertainties considerably in the near future.

TWO PRINCIPAL WORRIES

The results of the expected ozone depletion are expected to be slow, however, because of the slow pace at which the gases find their way to the ozone level, which begins roughly seven to 12 miles above the earth's surface and extends up to about 30 miles. Some molecules of the gases reach that altitude rapidly, some take a century, according to current estimates. They tend to rise to that level because the molecules are light and earth's atmosphere, both locally and globally, is constantly in motion moving and mixing its constituents.

There are two principal worries concerning the fluorocarbons. The first is that their weakening effect on the high-altitude ozone layer will allow more biologically active ultraviolet light to penetrate to earth's surface. This could be expected to increase the incidence of human skin cancer and could harm plants and animals.

The other concern is that the gases may contribute to a trend toward warming of the Earth's atmosphere with as yet unknown effects on climate.

Answering a question at a news conference today, Dr. John W. Tukey, chairman of the academy's Committee on Impacts on Stratospheric Change, said the potential effects on climate might be the greatest problem. He added, however, that this is impossible to judge now.

The committee said use of fluorocarbons both in the United States and throughout the world increased steadily from the 1950's through 1974, but has since been declining.

Dr. Tukey said about three-quarters of fluorocarbon use is for propellant purposes in aerosol spray cans. The gases are also used, in much smaller amounts, in refrigeration and air conditioning machinery.

The committee said the various uses of the gases "are of very different magnitude and of very different importance to human life, including human health."

REFRIGERATION AND SPRAY CANS

At one extreme, the panel said, is home refrigeration of food, something important for human health. At the other extreme is the use of aerosol spray cans, the committee said. These uses are mainly replaceable at some loss of convenience, efficiency and safety, said the committee's report.

One of the few suggestions for immediate action made in the committee's report was the recommendation that aerosol cans containing fluorocarbons be labeled as such so that consumers could make their own decisions on whether or not to use the products.

The committee said a large degree of uncertainty remains concerning the amount of effect the fluorocarbons have on the ozone layer. Continued release at the 1973 level, they said, is calculated to give an ultimate reduction in ozone of about 7 percent. The likely range of possibilities is between 2 percent and 20 percent, they said. It would take many decades for this degree of depletion to occur.

Ultimately, this could be expected to increase the skin cancer rate, particularly among whites living in middle-latitude countries such as the United States.

Speakers at the news conference said, however, that such effects to date are believed to be extremely small and that even the ultimate effect would be only a fraction of the added amount of skin cancer in the United States since World War II that has accompanied changes in lifestyle. Dr. Thomas B. Fitzpatrick, a skin specialist of Harvard Medical School, said the evidence is strong that excessive exposure to sunlight can cause skin cancer in susceptible persons and that America's postwar tendency to spend more time in the sun covered by less and less clothing is a factor in the increase.

While skin cancer is common it is also usually curable. Of more concern, according to speakers today, is a form of cancer called melanoma. The relationship of melanoma skin cancer to sunlight is less clear, although a relationship is believed to exist.

The committee concluded that an increase in melanoma deaths is likely, but not certain, to occur as a consequence of increased ultraviolet light from the sun caused by ozone depletion. A 7 percent ultimate reduction in ozone—which would take more than 80 years to achieve at the 1973 rate of fluorocarbon release—would add a few hundred deaths a year from melanoma.

The report said two important scientific discoveries concerning the effects of fluorocarbons were made last year. The first is the observation that the chemicals are sufficiently effective absorbers of ultraviolet light so that they might have an appreciable effect on the earth's heat balance.

The other was a discovery concerning the decomposition of a compound called chlorine nitrate by ultraviolet light that suggested a slower process of ozone depletion.

The committee concluded that a delay of two years in beginning regulatory action would be acceptable, but that longer delays should not be permitted even if scientific uncertainties still existed.

Industry spokesmen expressed satisfaction at the recommendation of a two-year waiting period by the committee. Industry generally takes the view that the ozone-depletion theory is still unproved and that the uncertainties need to be resolved before action is taken against the chemicals, which represent a market of several billion dollars a year.

Natural Resources Defense Council Inc., on the other hand, urged Federal agencies to taken immediate steps against fluorocarbon compounds in spray cans. The council, an environmentalist group, said evidence in the long-awaited report from the academy warrants immediate action.

Two reports were made public today by the Academy. One was from the full committee, the other from its panel on atmospheric chemistry. They will be available from the academy in about a month.

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[From the New York Times, Sept. 26, 1976]

DANGER TO THE OZONE

When scientists a few years ago put forward the theory that gases from aerosol spray cans might increase skin cancers and seriously affect the earth's climate, they triggered an expected degree of ridicule and the usual cries of "hysteria." Now a panel of the National Academy of Sciences find that these fluorocarbon gases are in fact weakening the planet's ozone layer, threatening precisely the consequences predicted.

The experts, who have been studying the problem at the request of perplexed Federal agencies, recommend regulatory action within two years. The delay is not urged out of uncertainty as to whether a curb is needed, but only to establish, if possible, the exact extent of the danger to the earth's ozone shield and the degree to which use of these gases should be curtailed. At the end of that time, the panel's chairman says, "even if we're still uncertain" on these points, "we'll recommend regulation."

The principle involved here has been well summarized by Dr. Russell W. Peterson, retiring chairman of the President's Council on Environmental Quality: "Chemicals are not innocent until proven guilty." Even the cost-benefit ratio so often invoked by skeptics on environmental protection makes clear the case for reducing the upward flow of fluorocarbons.

The cost, for the most part, is the inconvenience of finding safe and efficient substitutes for deodorant and hair sprays, whose propellants account for more than half the worldwide use of the gases. The benefit is a reduction in the very real danger that ultraviolet radiation will get through the ozone layer, weakened by components of the gas, in such increased volume as to heighten the incidence of skin cancer and to warm the earth's atmosphere with unpredictable effect.

This special committee of the academy called for regulatory action within a limited time; it did not recommend against some kinds of action now. It urged immediate legislation, for example, to enable Government to regulate fluorocarbon uses "selectively" at the appropriate moment and to require the labeling of aerosol cans so that consumers can stop sending the gases into the atmosphere right now if they wish.

We would urge, in addition, that Congress take quick action to concentrate control over fluorocarbons in one agency, preferably the E.P.A., and that the Government move as quickly as possible toward an international convention on the subject. Production of these propellants is no more confined to a single country than the effects are confined to those that use them.

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## TRIBUTE TO WILBUR MILLS

## HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. ABDNOR. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to the gentleman from Arkansas (Mr. MILLS) who is retiring after nearly four decades of service in the Congress. His particular accomplishments in the field of taxation will long be known. And I am confident that history will accord him the great honor of being known as one of the foremost congressional experts in fiscal policy. I know that as he looks back over a splendid career of accomplishment, he will be able to do so on the basis of his legislative achievements and with a fond recollection of the warm friendships he has made over the years. I consider myself fortunate in coming to Congress while WILBUR MILLS was a Member of this body. I will happily remember him for his friendship to me as well as the guidance he provided as an able, astute, and understanding legislator.

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## DÉTENTE ADIEU

## HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. McDONALD. Mr. Speaker, retired Gen. Daniel O. Graham has been performing a yoeman job in attempting to alert the Nation to the weakened state of our military position in the world. In a recent article for National Review of September 3, 1976, he very neatly dissects the whole case the State Department, and in particular the view Secretary Kissinger attempts to present—to-wit that we either go along with their version of détente or suffer a nuclear holocaust. There is an alternative, he points out, that of putting our defenses in No. 1 position again and at the same time exploiting the weaknesses of the Soviet regime—their technological weakness, their internal weaknesses, both psychological and moral, plus the basic economic weakness of the system itself. Above all, we have to stop trading away strategic advantages in order to merely gain signatures on SALT agreements and the giving away of our technological secrets merely in order to give the appearance of an ever-expanding East-West trade, he notes. The article follows:

DÉTENTE ADIEU

(By Daniel O. Graham)

As dissatisfaction with détente rises, its defenders speak more and more in the tones of defeatism. Pro-détente arguments have begun to run like this: "The Soviets are emerging as *the* dynamic global power, with dominant military power. We *could* offset this trend by strong military, economic, and political actions, but the American people won't support such policies. So our only hope is to decelerate our decline, i.e., make the best deal we can with the Soviets." If this argument is correct, then everything I say from this point on is shouting into the wind. But I don't think it is correct.

Underlying the current approach to the Soviet Union—the approach that has come to be known as détente—are some fallacious assumptions, which doomed it to defeat from its inception:

1. Nineteenth century balance-of-power politics are applicable in today's world.

2. The Soviet Union has attained equal status with the United States as a superpower.

3. The only alternative to cooperation with the USSR is nuclear holocaust.

4. The American people have lost their will to contain the expansion of Soviet power.

Careful review of these assumptions reveals that they are at best ill-founded and at worst defeatist. Further, it appears that foreign policy based on such assumptions is not "highly sophisticated," as is often assumed, but shortsighted and simplistic.

What is wrong with balance-of-power politics? Essentially, the problem is that there are only two powers to "balance." The United States and the Soviet Union are so powerful that the balance-of-power games played by Metternich in the first half of the nineteenth century cannot be played today. For such policies to work, there had to be several truly sovereign states in the world, each able to stand alone against the power of any one of the others. Metternich's world had such sovereign states, e.g., Austria, France, Prussia, Russia, England. It was thus possible to maintain the peace by changing combinations of cooperating states to prevent any one power from making excessive mischief within the general world order.

But Metternich's world no longer exists. Today only the USSR can stand alone against the power of the United States, and only the United States can stand alone against the power of the USSR. The USSR-U.S. balance of power remains the central, separate, and dominant factor in world politics today.

One of the reasons the U.S. came to embrace balance-of-power theories was the overstatement in the past several years of the trend to the "multipolar" world. In the late Sixties and early Seventies analysts in and out of government (the author included) emphasized the rise of power centers outside the U.S.-USSR axis. We focused too hard on the growing economic power of West Germany and Japan and on the challenge to the Soviets from Peking. As a result, we failed to remind ourselves that the main powers of the old "bipolar" world—the U.S. and the USSR—were still by far the dominant powers on the scene.

China was a special case. China was no more a "balancer" in the balance-of-power sense than other countries, but the Sino-Soviet split did provide the basis for new approaches to U.S. dealings with the USSR. The split involved territorial claims, military threats, and even race hatreds. It caused the U.S. and China to share a rather narrow but important range of interests vis-a-vis Moscow; neither country could countenance Soviet aggrandizement at China's expense. Washington's recognition that Peking could play an important role as checkrein on some of Moscow's global ambitions was the cornerstone of a new U.S. policy toward the Soviet Union. The policy involved de facto recognition of the People's Republic of China and tacit cooperation in countering Soviet ambitions.

This new U.S. foreign policy was a tricky course, but it promised considerable advantage to the United States, provided certain facts were kept in mind. The first was that the U.S. would have to retain its military strength and its will vis-a-vis the USSR: should the U.S. become a "paper tiger," the tacit agreement with Peking would dissolve. China's relatively small strategic power could never substitute for U.S. power. Unfortunately, the notion that the U.S. could and should ignore adverse trends in the military balance of power because the Soviets were positioning a sizable portion of their forces against China became a powerful weapon for the military budget cutters in Washington.

Chinese enthusiasm for the thaw waned as the image of U.S. power and will was tarnished by Watergate, the fall of Indochina, military budget cuts, and Angola. Peking's rulers sent Washington some subtle hints that U.S.-Chinese cooperation was not their only option. They suddenly released some Soviet helicopter crewmen whose retention in China had long been a bone of contention with Moscow; they surprised Western analysts by failing to give the premiership to Chou En-lai's chosen successor, Teng Hsiao-ping, allowing him to be branded "capitalist roader."

The second fact we could not ignore and still benefit from the Sino-Soviet split was that the Chinese Communist system is no more compatible with Western free society than the Soviet system. The big difference, making it possible to deal safely with the Chinese, is that they do not pose a direct military threat to the United States.

When we lost sight of the realities in the U.S.-USSR-China triangle, we also lost the limited benefits to the West inherent in the Sino-Soviet split. When we began to treat Peking as we have treated our NATO allies, Taiwan, and Japan, i.e., as if it had no real choice except to follow our lead, we endangered the prospects for continued Chinese cooperation.

A second assumption underlying detente was that the USSR had indeed achieved superpower status. This assumption is partly, but only partly, true. Superpower status can be measured against only one standard—the power of the United States, the acknowledged superpower of the free world—and the Soviets fail the test in some areas.

In comparisons of the power of nations, four factors must be considered: military capability, economic strength, political will and leadership, and moral strength (popular morale, if you like). While it threatens to match or overtake the United States in all four categories, Moscow has in fact achieved superpower status in only two. The USSR is undoubtedly a superpower in terms of military strength and political will, but not in economic strength and moral force. Furthermore, Moscow's two long suits are basically dependent on the two areas in which it is weak. Military power depends on a strong economic and technical base; political effectiveness depends on popular morale.

1. The Soviet attainment of military superpower status has occurred incrementally over the past ten years. The Soviets have come from far behind and forged ahead of the United States in strategic weaponry. In number of ICBMs they have moved from 600 behind to about 600 ahead; in Polaris-type submarines, from 16 behind to 13 ahead; in heavy bombers they have cut our lead from about 400 to about 300. In conventional-theater forces they have overcome a U.S. lead of about 2,500 tactical aircraft and now lead us by 350; in ground forces they have increased their previous lead by an additional 21 divisions. In surface ships, they have moved from 150 behind to 20 ahead of the U.S. The USSR has been purposefully devoting 20 per cent of its gross national product to arms for years, while the U.S. devotes 6 per cent—grudgingly.

These figures add up to overall military superiority for the Soviet Union. U.S. technical superiority in some areas reduces the awesomeness of the bare figures, but in terms of sheer military weight, the Soviets have taken the lead.

Administration spokesmen, including those in Defense, maintain that we have not slipped into second place, and, in the terms of the Soviets' being able to attack the United States directly today and survive the presumed retaliation, they are right. But in terms of capabilities to apply raw power to protect or promote interests in most scenarios not involving strategic nuclear exchange or direct invasion of the United States, they are wrong. They will soon be wrong about a usable superiority in strategic systems as well if the trends are not reversed.

The Soviets are headed for a combination of offensive nuclear power and civil defense which can make this frightful scenario a reality: The Soviets execute their civil defense plans and evacuate their cities. They then launch or threaten to launch strikes against all locatable U.S. nuclear strategic forces, and state their demands. In an exchange against population centers the U.S., having neither effective civil defense nor acitve ABM defense, is faced with suffering seventy to eighty million casualties (the Soviets would suffer no more than seven or eight million). The U.S. thus capitulates to the demands. Far-fetched? Not really, given that the USSR sustained 12 million casualties in World War II, having already killed six or seven million people deliberately in order to collectivize agriculture.

The Soviets did not achieve military superiority simply by pouring resources into military capabilities. They have poured inordinate sums into military forces ever since the end of World War II, with a cruel disregard for the welfare of their citizenry. But these efforts still left them behind the United States. Only in the past seven or eight years has the USSR has been able to reach its long-sought goal of overtaking us militarily. How? The U.S. chose to let the Soviets achieve "parity," and thus paved the way for Soviet superiority.

During Robert McNamara's tenure as Secretary of Defense a rather curious strategic rationale for letting the Societs catch up was in vogue: It is fear of the U.S. strategic capabilities, it was argued, that might provoke a Soviet attempt at a pre-emptive strike; when the Soviets also achieve an "assured second strike" capability, they will hold enough of our population hostage that the urge to strike first will subside. This doctrine had the fatal flaw of putting into the Soviet mind the U.S. view that deterrence and only deterrence is the function of strategic nuclear arms. It never belonged there. As Deputy Secretary of Defense Malcolm Currie pointed out recently, the Soviets build all weaponry, including strategic systems, with war-fighting as the prime function—deterrence is a derivative function.

This deadly piece of mirror-imaging also affected U.S. reasoning on our vastly superior antiballistic missile system. It should not be deployed, one argument went, because it would "upset the strategic balance"; i.e., it would threaten the usefulness of the Soviet offensive system by removing much of the U.S. population and industry from their status as hostage.

This strange doctrine that all but halted U.S. efforts to stay ahead of the USSR might have died from exposure to the Soviet military build-up during the last half of the Sixties, but it was reinforced by two powerful factors: (1) the uproar over the Vietnam War that brought to the fore a substantial number of anti-military spokesmen; (2) the Left's demand for vast increases in federal outlays for social welfare programs. In the face of these pressures, military spokesmen who worried aloud about the trends in the relative balance of power could expect to be hooted down with howls of derision.

2. The Soviet Union, it is very clear, is no match for the United States in the second qualification for superpower status, economic power. Despite its abundant raw materials, the Soviet Union lags behind the United States in production of almost everything except armaments. Further, Soviet technology lags behind U.S. technology in most important industrial areas. The inflexibility of the Soviet bureaucracy makes the application of new technology to industries a ponderous and inefficient process. Soviet products are shoddy and services totally in-

adequate. Raw materials are the only true money-makers for the USSR in the world economy.

The Soviets compete with the West economically through destructive practices—not so much for the economic gain of the USSR as for the economic damage to the West. For instance, they carry freight on their merchant ships or even on the Trans-Siberian Railway for half the actual costs. This gains the Kremlin some hard currency with which to purchase Western technology, but more importantly, it drives "capitalist" ships off the seas because they cannot meet the unnaturally low Soviet tariffs. Meanwhile, the Soviet citizen bears the costs of these deficit operations in his dismal standard of living.

The Soviets are well aware of their technological shortcomings, but they have an answer for this too—imports of Western technology, the method that has prevailed since the Bolshevik Revolution. They prefer Westerners to build new plants complete with all the pertinent new technology, and then turn the keys over to the Soviets and go home. Further, they prefer the West to finance these enterprises with long-term credits. Who knows? If the revolution spreads far enough fast enough these loans may never need to be repaid!

Compared with the United States, the Soviet Union does not have superpower status in economic-technical terms. When the whole Soviet Bloc is compared to the West, the Communist side looks even worse. But modern military power springs from the economic base. How then can military superiority rise from economic inferiority? Two ways: 1) deprivation of the civil sector in favor of the military and 2) the lack of will to compete in military capability on the part of the economically superior power.

3. In the matter of purposeful leadership, the USSR definitely has the edge. The men in the Kremlin are not better, smarter, or more efficient than American leaders, but they are hard-nosed products of a dog-eat-dog political system who have risen to the top through the Party apparatus. Their main advantage is a shared set of well-defined goals for their nation and their system. These are embodied in the principles of Marxism-Leninism.

It has been fashionable among the Western intelligentsia, in and out of government, to assume that ideology is dead, along with God. With ideology dead, it was widely assumed that the USSR was no longer interested in the global aspirations of the Communist credo. This view of Soviet intentions was and is fundamentally wrong. Communist ideology is the only basis for the legitimacy of the Soviet regime. The repression and deprivation of the people for almost sixty years can be rationalized *only* on the basis of the universal goals of Marxism-Leninism. The leadership in the Kremlin consists of convinced Communists, not nationalists paying lip service to the state "religion." They are true believers.

4. While we must grant the USSR superpower status today in terms of political leadership and will, a close examination reveals that this attribute rests on feet of clay. As with all other tyrannies, the Soviet tyranny bears the seeds of its own destruction. Absolutism and dogmatism generate demands for change. A Stalinist regime willing to kill six or seven million peasants and put twenty million of its best citizens in concentration camps can keep the lid on. But when an oppressive regime softens even slightly its rule by sheer terror, the seeds of opposition begin to sprout.

More important than a handful of dissidents is the widespread and rapidly growing cynicism toward the system among Russians in all strata of society, including the power elites. Soviet men of science and the arts, Soviet technicians and engineers, managers and university students, can no longer be totally cut off from Western ideas and from plain facts. The combination of gross bureaucratic inefficiencies and the time-consuming demands of ideological indoctrination and Party ritual turn large and growing numbers of them into cynics.

Recently a Russian-speaking U.S. visitor to Moscow overheard a conversation between some young Russians at an adjoining table in a restaurant:

"What ever happened to Alyosha?"

"Oh, that one. You know he could never succeed at *anything*. He tried to be an engineer, then a teacher, then a factory sub-foreman. He failed miserably at all those jobs."

"Yes, everyone knows that. But what is he doing now?"

"What else? He's in Party work, of course."

The cynicism, the questioning, and the dissent within the Soviet Union are reducing the numbers and absolute power of the ruling elite. The true believers in the Kremlin still rule, but with decreasing arbitrariness. They are slowly becoming isolated from the masses.

Compared to the U.S., therefore, the Soviet Union falls far short of superpower status in terms of popular morale and moral force. This can be easily overlooked in America as we emerge from a decade of irresponsible, nihilistic assaults on our own institutions. But the fact remains that the moral force of the United States abroad and the popular morale at home far exceed the USSR's. It is the Soviet Union that needs barbed wire and troops to keep its citizens from leaving and radio jammers to protect them from foreign ideas.

In sum then, the USSR's status as superpower is not proved. In military power and political will the Soviet Union qualifies; in economic power and moral force it does not. Of paramount importance to U.S. strategy is the realization that the first two factors of power are based on the last two.

The third fallacious assumption of the defenders of detente—that the only alternative to detente is nuclear war—has taken on th character of a slogan. This either-or formula is demonstrably false. We dealt successfully with the USSR for a quarter of a century without detente and without nuclear holocaust. We were too humane and too careful of our international image to initiate the use of nuclear weapons, and, because of U.S. superiority, the Soviets were afraid to initiate their use. Even today, we could break off all SALT, MBFR, and trade negotiations with the Soviets and abrogate the ABM and Nuclear Test Ban treaties and it would not bring on the nuclear holocaust. The Soviets, although stronger in strategic weaponry, still would be reluctant to risk starting a nuclear war. It is the nuclear power of the U.S. not detente, that has thus far ruled out the alternative of nuclear holocaust.

What about the future? Must we pursue detente or face nuclear holocaust in the future? Not at all. If the United States and its allies remain too strong for the Soviets to attack or threaten, there will be no nuclear holocaust.

In general, detente so far has inhibited the development of the U.S. military deterrent, while allowing the Soviet Union to forge ahead. This is due in part to the actual agreements with the Soviets, but more to the atmosphere created in the West. In order to pursue detente, Western statesmen must assure the citizenry that the Soviets are benign and pose no real threat. When, in the process of detente, our spokesmen bargain away important military advantages such as the ABM and the cruise missile, it is impossible for them to turn to Congress and insist on keeping up our military strength to meet a Soviet threat. In this situation, pressures to slash U.S. military budgets become irresistible. This was dramatized when President Ford had to fire either the strong advocate of detente or the strong advocate of defense. Secretary James Schlesinger's dismissal resulted.

If our defense concerns continue to be muted in favor of detente and the Soviets continue to pour 20 per cent of their gross national product into military power, we will one day face the impossible choice of surrender or nuclear holocaust. Our deterrent, the real protection against this situation, will have become too weak to work. It is true that even with detente we will retain Samson's choice—we can threaten to pull the temple down on our own heads. (And given our assault on intelligence capabilities, the U.S. might by then be just as blind as poor old Samson.) But just how credible would a suicidal deterrent be? How outrageous would a Soviet ultimatum have to be before we would use it? Because Soviet leaders may be asking themselves these questions in a few more years if the current trends in the military balance continue, the chances of nuclear holocaust will go up, not down.

The fourth assumption underlying detente is that the American people will support no approach to U.S.-Soviet relations more demanding than detente. The proponents of detente are wrong on this count too.

If Americans are willing to compromise with tyranny rather than resist it, they have certainly discarded their most cherished traditions. More likely, the architects of detente—both in Washington and in Moscow—misinterpret as a failure of will Americans' negative reactions to many years of fruitless international do-goodism and the inept, expensive application of force in Southeast Asia. Such a view indicates a poor understanding of Americans. They have never long tolerated a policy of compromise with a tyrannous hostile power. * * *

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## TITLE IX—FUNDING PROGRAM BENEFITING ELDERLY

### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. BONKER. Mr. Speaker, this afternoon the House Select Committee on Aging approved a report "Funding of Federal Programs Benefiting the Elderly Relating to Employment." One of the report's major recommendations is to fund title IX of the Older Americans Act, the Community Service Employment for Older Americans, at the authorized rate of $200 million for fiscal year 1978.

The title IX program is one of the most, if not the most successful, of all the Federal manpower programs for senior citizens. Low income workers, 55 and over, are hired for 4 hours a day, 5 days a week and at the minimum wage and work at projects in the area of community service. The Department of Labor administers the program through nonprofit national sponsors. Participants also receive yearly physical examinations, personal and job counseling. Emphasis is placed on placement into nonsubsidized jobs.

In fiscal year 1977, $90.6 million will be spent to provide 22,000 jobs. If the House appropriates the entire $200 million authorized for fiscal year 1978, then 45,000 to 50,000 job slots will be available.

Expert witnesses testifying before the House Select Committee on Aging estimate that only one-half of 1 percent of all those eligible for and seeking employment provided by title IX receive it.

I am committing myself to insure that the House does appropriate the entire authorization for title IX. If necessary, I will seek cosponsors of a resolution calling for full funding. Hopefully by the second full week in March, which is National Employ the Older Workers Week, I will have 218 cosponsors.

I urge all of you who have ever faced a group of senior citizens, and said "I know you do not want charity, you just want a chance at a job," to join me in this endeavor. We owe it to today's senior citizens.

## RESULTS OF QUESTIONNAIRE

### HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. WYLIE. Mr. Speaker, recently, I sent a questionnaire to my constituency in the 15th District, Ohio. Since this area is frequently used as a national test market, I thought the results of this questionnaire might prove informative to my colleagues in the House of Representatives.

The results are as follows:

QUESTIONNAIRE

1. There are many ethical, moral and religious issues being debated on the question of whether abortion should be permissible and legal. Which one of the following most closely parallels your belief?

a. Abortion is a personal decision that should not be regulated by the government.—Yes, 29%.

b. Abortion should be permissible within certain carefully specified time limits.—Yes, 20%.

c. Each state, rather than the federal government, should have the right to decide whether, and under what conditions, abortions should be permitted or restricted.—Yes, 14%.

d. Abortion should be permitted only in a case of rape, incest, or if the pregnancy endangers the life of the mother.—Yes, 25%.

e. The federal government through a Constitutional amendment should prohibit abortion.—Yes, 12%.

2. Should Congress increase the present federal estate tax exemption as a means to preserve the family ownership of the small farm and small business?—Yes, 86%; no, 8%; undecided, 6%.

3. Would you favor the broadcasting of floor proceedings of the House and Senate on television and radio?—Yes, 58%; no, 33%; undecided, 9%.

4. Secretary of the Treasury William Simon has suggested that because the present income tax system has become too complicated, all special deductions should be eliminated, thus lowering the tax rates for most Americans and simplifying tax forms. Would you favor such a tax revision?—Yes, 64%; no, 23%; undecided, 13%.

5. Should the federal government offer financial support to parochial and other private schools?—Yes, 27%; no, 66%; undecided, 7%.

6. Congress is now considering efforts to "deregulate" gas prices. Supporters of deregulation believe that unless the price of natural gas is allowed to climb, gas companies will be unable to finance further exploration and subsequently the nation will be confronted with shortages of increasing severity. Opponents believe that if deregulation occurs consumer prices will increase and that the companies will reap large profits. Do you favor deregulation?—Yes, 37%; no, 48%; undecided, 15%.

7. Public utility rates are now regulated by state and local governments. Should the federal government take a more active role in regulating these rates?—Yes, 26%; no, 68%; undecided, 6%.

8. Should the federal government regulate the strip mining of coal?—Yes, 48%, no, 44%; undecided, 8%.

9. Do you believe that antitrust laws which apply to corporations should also be applied to labor unions?—Yes, 88%; no, 6%; undecided, 6%.

10. Which of the following actions with regard to the U.S. Postal Service would you prefer?

a. Make no major changes.—Yes, 10%.

b. Return control of the Post Office and postal rate structure to the Congress.—Yes, 26%.

c. Provide permanent subsidies to the Postal Service to offset the cost of unprofitable services like Saturday delivery and small rural Post Offices.—Yes, 18%.

d. Eliminate unprofitable services to make the Postal Service pay for itself.—Yes, 33%.

e. Raise postal rates to cover costs.—Yes, 13%.

11. Most federal agencies were created with the purpose of protecting the individual. Do you feel that some of the decision-making authority in this regard should be returned to the state and local governments?—Yes, 77%; no, 15%; undecided, 8%.

12. Should Social Security benefits and taxes be increased at the same rate as the level of inflation?—Yes, 59%; no, 29%; undecided, 12%.

13. At present the U.S. is assessed 25% of the U.N. regular budget. Should the U.S. unilaterally reduce its financial contribution to the U.N.?—Yes, 79%; no, 14%; undecided, 7%.

14. Do you believe that Congress should pass a national "no-fault" automobile insurance plan?—Yes, 45%; no, 37%; undecided, 18%.

A total of 22,795 answered the questionnaire.

## THE RETIREMENT OF REPRESENTATIVE WILBUR MILLS

### HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mrs. BOGGS. Mr. Speaker, it is an honor to rise today to express my admiration, respect, and affection for Representative Wilbur Mills, who will be leaving this House after 38 years of service to the people of Arkansas and the entire Nation.

Hale served with Wilbur on the Ways and Means Committee for many years, and I know that he personally held in the highest regard the chairman's incredibly detailed knowledge of our tax structure, of foreign trade, of social security, and of health legislation.

I have always had the greatest respect for Wilbur Mills as a Representative and a friend, and my admiration for him personally was deepened during the past couple years when he fought to regain his health and continued to serve his constituents and the Nation. In the long run, I believe his personal victory over these difficult circumstances may be the greatest contribution he will have made to humanity.

I will miss my close association with Wilbur and Polly Mills, and wish to express my fondest best wishes to them for the coming years.

## A NATIONAL SALUTE TO MRS. ROSA PARKS

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. CONYERS. Mr. Speaker, 20 years ago last December the civil rights movement was launched. Mrs. Rosa Parks had boarded a bus in downtown Montgomery and taken a seat in the so-called no man's land, an area in the center of the bus which both whites and blacks could occupy, but which blacks had to relinquish to whites who had no other seats. Not long afterward the bus operator ordered her to move back to accommodate another passenger, and Mrs. Parks refused. She explained years afterward:

> I felt I was being treated wrong, and I didn't have any other means of letting it be known that I objected to being treated as I was.

Rosa Parks was arrested, and word of it spread quickly through the city. A few days later, stirred by her quiet courage, Edgar Nixon, leader of the Montgomery NAACP chapter, succeeded in organizing a bus boycott and gaining the assistance of a young Baptist minister, Rev. Martin Luther King, Jr.

By refusing to endure the degradation of second-class citizenship, Rosa Parks became the mother of the modern civil rights movement. Blacks walked all winter, spring, and summer in Montgomery. "If Rosa Parks had the courage to do this," it was said, "we can too." Rosa was born on February 4, 1913, not far from Montgomery, in Tuskegee, Ala. Despite adversities, she grew up with a strong sense of self-pride and compassion, and came to judge people not on the basis of race, but of character and action. In a recent interview she recalled a childhood incident. A young white boy pushed her; Rosa pushed him back. "Why did you put your hands on my child," the mother of the boy asked." "Because he pushed me, and I don't want to be pushed by your son or anyone else."

Rosa Parks, as a member of the local NAACP branch, was highly respected and admired in her community. Many times after working all day she would meet with teenagers and help them learn about community problems. She was a member of the Montgomery Voters League, and visited the homes of blacks, teaching them so they could pass voter tests then in force in Alabama. Mrs. Parks as well was a leader in the boycott that followed her arrest, and helped the Montgomery Improvement Association organize car pools for those in need of transportation, even in the face of threats by the Ku Klux Klan.

Today Rosa Parks resides in Detroit, Mich. A group of citizens from around the Nation have joined together to raise funds to build her a permanent home, as a way to show the gratitude of millions of Americans toward her example of courage, commitment to justice, and faith in the power of people to overcome the prejudice of race. The National Committee for the Rosa L. Parks Shrine has begun fundraising to construct her home. Their goal is to raise $250,000 within a year.

Rosa Parks' action is a testament to the power of the single individual who takes a determined stand against injustice. She helped awaken America to its declared principles of equality and justice. I want my colleagues to know of this great effort in her behalf to repay the debt so many people owe this marvelous woman.

## MORE ON THE TETON DAM

### HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. HANSEN. Mr. Speaker, on Saturday morning, June 5, the right side of the 300-foot high Teton Dam caved in, loosening a tidal wave of water that stripped soil from rich farmland and forced some 4,000 families to become sudden refugees.

The President immediately declared the five counties in the path of the flood waters a disaster area, and we passed legislation to allow full compensation to the victims.

However, what we did in the way of compensation—authorizing an open-ended appropriations that could reach a billion dollars—in no way compares to what the victims did for themselves, and what others did voluntarily to help the victims of the Teton Dam disaster.

Several religious groups pitched in to perform miracles and I submit for the Record today an account of the volunteer work as written by the Church of Jesus Christ of Latter-day Saints, the Mormons:

#### More Than 1 Million Hours Volunteered to Aid Teton Dam Disaster Victims

More than a million hours of volunteer time have been contributed by religious and civic groups to help the victims of the June 5 Teton Dam flood in southeastern Idaho.

The American Red Cross, the Salvation Army, the Mennonite Disaster Service, members of The Church of Jesus Christ of Latter-day Saints (the Mormons), and many government groups have assisted in the cleanup operations.

"Those who came to Rexburg three months ago and saw the devastation caused by the flood, then left, would be surprised at the transformation of the area in this brief period of time," exclaimed Harold G. Hillam, Idaho Falls regional welfare leader for the Mormon Church.

The cleanup operation "has been nothing less than a miracle," he added. Dozens of people phoned following the disaster to offer assistance. Within days volunteers were arriving by the busload.

Church, county and federal government officials met at 7 a.m. each morning to determine how the enormous work of organizing volunteers, cleaning up, offering government assistance and the many other responsibilities would be handled.

Since Mormons comprise 95 per cent of the population of Rexburg, the leaders decided to work through the existing organization of the Church. Each area is divided into stakes (roughly equivalent to a diocese), which in turn is broken down into several wards (similar to a parish), presided over by a bishop.

Volunteers were directed to the stake presidents, who gave them specific assignments within the different wards.

Even government leaders appraising damages or offering assistance worked through the bishops who introduced them to Mormons and non-Mormans in their ward areas.

"This correlation worked out beautifully," said Mark G. Ricks, president of the Rexburg Idaho Stake. "We had tremendous cooperation from all areas."

In a six week period from June 14 to July 31, 30,681 people assisted as volunteers in the cleanup, according to President Ricks. The majority of the volunteers were Mormons, who came from Utah, Idaho, Wyoming and Montana "to take care of their own."

They contributed some 610,000 hours of work time and another 272,000 hours of travel time. In addition, there were some 25,000 hours of use of heavy equipment donated by Church members and others. The equipment has included dozens of front-end loaders and dump trucks.

"These volunteers were the salvation of the people's morale," said President Ricks. "It didn't matter if they were 20 years old or 70 years old, they just got right in there and worked hard."

Hillam calls the volunteer effort "one of the greatest stories ever told of brotherly love. I wonder if there has ever been a greater example of compassion and selfless service in the history of our country."

Some volunteers came from as far away as Florida, Oklahoma and Canada. An explorer troop traveled from Fresno, California.

The Church's Ricks College, which escaped the wrath of the flood waters, was for many weeks the base of not only LDS flood relief operations, but those of the state and federal government as well.

"The Church has, from the day of the flood, provided tons of food and other needed supplies to the victims," Hillam said. Up to August 18, 386,690 meals had been served on the college campus to flood victims, all without any cost to the people. Many of the homeless were housed in the college dormitories.

## TRIBUTE TO REPRESENTATIVE WILBUR D. MILLS

### HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. VANIK. Mr. Speaker, I rise to pay tribute to my distinguished colleague from Arkansas, Wilbur D. Mills.

During his tenure as chairman of the House Ways and Means Committee, Mr. Mills has earned the respect and admiration of his colleagues by his expert knowledge of the Internal Revenue Code, a complex body of law which is probably the most difficult area of the law to master. Indeed, more than any other single individual, Representative Mills has been the prime architect of the changes made in our tax laws in the past 20 years.

Under his chairmanship, the Ways and Means Committee has handled legislation which profoundly affects every American citizen, ranging from income tax rates, to medicare and social security. Mr. Mills' vast knowledge of the intricacies of the tax law expedited the passage of these very important laws, and his expertise will be sorely missed.

Chairman Mills is truly a lawmaker whose record of achievement will endure for many years to come.

## A VISIT WITH JASON

### HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. OTTINGER. Mr. Speaker, in Chappaqua, N.Y., a program has begun in which a mother with a mentally retarded child—in this case, Jason—visits an eighth grade health class at the Robert E. Bell School with hopes of dispelling many of the stereotypes often associated with mental retardation. I would like to take this time to share with my colleagues Emily Perl Kingsley's account of her visit with Jason:

#### A Visit With Jason

I always jump at the chance to talk to groups of people about Jason and it seemed to me that junior high school students would be an ideal audience. Eighth grade, 12 or 13 years old—you are just beginning to grapple with the problems of identity and conformity. Being the same as everybody else, wearing the approved dress, enjoying the approved music, etc., is becoming a daily pressure. How do you react to people who are different, who don't fit into the mold? Are they weird or strange? Are they to be ridiculed or ignored?

"I felt that if we could show a bunch of eighth graders that these two little boys, both about two years old, both with Down's Syndrome, were cute and fun, and really, not so different from all the little "regular" kids they babysit for every weekend, well then we'd done quite a service. So Ellen Genauen and I went in February and talked to two classes of about 40 kids each. Then, in May, we went again and met with two more classes.

We begin by explaining some of the technical terms—we define retardation and Down's Syndrome and explain how it happens and what the implications are in terms of physical and mental development. Before long we are talking about our feelings—the feelings we had at the time the babies were born, the shock, the disappointment, and then the process of adjustment. Then we talk about the commitment to work with our kids, the classes, the exercises, the homework, the stimulation programs and parents' groups. And we talk about the enormous joys and rewards we've had.

The students are penetrating in their questions. How do siblings react? What about having more children? What about the future? Will they work? Will they marry? We talk about amniocentesis. We talk about financial burdens. We talk about expectations and about the fact that we really don't know what to expect.

By this time, the students have had an opportunity to play with the kids. I prompt one student, "Hold out your hand and tell Jason to give you five." The kid looks skeptical but says, "Hey Jason, give me five!" Jason grins, toddles over and slaps the outstretched palm like a pro. "ALL RIGHT!" the boy ex-claims. Now everybody in the room wants to "slap me five" with Jason. Jason, a born ham, marches down the row, slapping palm after palm. The students are enchanted and impressed. "Gee, my little brother's almost three and he doesn't know how to do that!"

At the end of the class, the babies wave bye, blow kisses and Jason plants a big wet sloppy kiss on the cheek of anybody who comes within two feet of him. The students cluster around, reluctant to leave, and many of them ask if they can stay and sit in on the second session.

I am so gratified to think that perhaps the 160 or so young people we have talked to in Chappaqua may go into their adulthood with a more accurate, more open and more compassionate understanding of what mental retardation is all about; that the archaic stereotypes still present in our society may not take hold in these boys and girls just starting out, and that they may go on to influence other people whom they come in contact with.

One boy in the class brought tears to my eyes when he summed it up. He said, "I'm so glad you came today. Up until today I always thought retarded people had to be ugly. But your two children are so beautiful and sweet . . . well, I'm just glad you came."

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## A SALUTE TO CONGRESSMAN JOHN JARMAN

## HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. McCLORY. Mr. Speaker, no one can approach the final days of the 94th Congress without noting the large number of our colleagues who are electing to retire from this body. Their decisions are clearly understandable—particularly when we take note of the arduous duties which our work in the House of Representatives imposes—and the pressures which accompany the demanding schedules which include committee work, floor debates, extensive research, constituent services, and many other activities which occupy us as Representatives in Congress.

Mr. Speaker, what seems most important to recall at this time is the personal attachments which I have developed with many of my colleagues who are retiring. The ties of friendship between my colleague, Congressman John Jarman of Oklahoma, and me have included our joint participation in official activities as well as personal and social functions in which both Representative John Jarman and his wife, Marylin, and my wife, Doris, and I have been involved.

As chairman of our U.S. delegation to the Interparliamentary Union during the past 2 years, Congressman Jarman has been an outstanding representative and spokesman for our Nation. His eloquence and warm personality in contacts with such foreign leaders as Prime Minister Rabin of Israel and President Anwar Sadat of the United Arab Republic as well as with other heads of state and parliamentary and governmental leaders have advanced our Nation's good relations and have impressed all with whom he came in contact, including, may I say, his American colleagues who have been present on such occasions.

Mr. Speaker, I know that you and Congressman Jarman are both Oklahomans. It cannot be denied that the typical winning personalities which are represented by you and Congressman John Jarman are examples of which all Oklahomans should be proud.

Mr. Speaker, I should add that Congressman Jarman's wife, Marylin, and my wife, Doris, have also developed a close friendship and our two families have enjoyed many social events together.

Mr. Speaker, I know that Congressman Jarman will have other career opportunities following his retirement from this body and I am certain that he and Marylin will find rewarding and active lives either here in the Nation's Capital or in their beloved Oklahoma.

Mr. Speaker, let me add that the citizens of the Fifth District of Oklahoma have been well-served during Congressman Jarman's 26 years in the House, and that Oklahoma and all Americans will continue to benefit from his able and constructive service.

As he closes his legislative career, my wife, Doris, and I join in extending to Congressman John Jarman and his wife, Marylin, our affection and good wishes for many happy and rewarding years together.

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## PROPOSED AMENDMENT TO PRESERVE STATES' WILDLIFE PROGRAMS

## HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. MIKVA. Mr. Speaker, this week I will offer an amendment to H.R. 9067, the Component Parts of Ammunition Tax, to insure that States continue to have the option to spend a major portion of the funds they now receive under the Pittman-Robinson Act for wildlife restoration.

My amendment would delete an earmarking provision in H.R. 9067 so that States can continue to set their own priorities and not lose millions of dollars for wildlife restoration.

At this time, I would like to share with my colleagues several letters I have received, including copies of letters originally sent to Senator Magnuson, in support of my amendment:

The Wilderness Society,
*Washington, D.C., September 17, 1976.*

Hon. Abner J. Mikva,
*U.S. House of Representatives,*
*Washington, D.C.*

Dear Mr. Mikva: In response to your invitation to comment on H.R. 9067, we strongly approve the allocation of certain new excise taxes to widlife restoration programs of the various states at the discretion of the states. We just as strongly oppose the allocation of such tax moneys to subsidized gun training and target ranges. It is the wildlife which needs help. Personal safety and self-preservation ought to be more than adequate motivation for those who wish to hunt. There are other hazardous sports whose proponents ought also be subsidized from public funds. The money is urgently needed for the land and for wildlife habitat but for no other purpose.

Sincerely,

A. T. Wright,
*Staff Consultant.*

Animal Protection Institute,
*Washington, D.C., September 21, 1976.*

Hon. Abner J. Mikva,
*U.S. House of Representatives,*
*Washington, D.C.*

Dear Congressman Mikva: Thank you for requesting our views on H.R. 9067, a bill to fund wildlife programs in the states. I am sorry that my earlier letter on this topic failed to reach you.

The 78,000 members of the Animal Protection Institute oppose the "earmarking" provision of the bill and think that such use of public funds would be entirely inappropriate.

We appreciate the opportunity to express our views on this measure.

Sincerely,

Jane Risk,
*Director, Eastern Region.*

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Defenders of Wildlife,
*August 12, 1976.*

Hon. Warren G. Magnuson,
*Dirksen Building,*
*Washington, D.C.*

Dear Senator Magnuson: Defenders of Wildlife appreciates the opportunity and invitation to submit comments on S. 1294 (a proposed amendment to the Pittman-Robertson Act of 1937) called the Component Parts Bill, which would provide additional federal aid to the states for wildlife restoration projects.

In its present form, the Pittman-Robertson Act places excise taxes of 10% on pistols and revolvers and 11% on other firearms, shells and cartridges, and bows and arrows. The revenues collected from these taxes are distributed to the states for wildlife purposes, including habitat acquisition and wildlife stocking programs.

Under the new Component Parts bill, S. 1294, the component parts of ammunition, such as powder and shot, would be added to the list of items taxable at a rate of 11%. In addition, S. 1294 would earmark portions of all Pittman-Robertson revenues, and half of the funds collected from the component parts tax, for hunter safety education and target range programs.

We are strongly opposed to S. 1294 in its present form. Primarily, we find the guarantee of a 50% or more share of Pittman-Robertson funds for hunter safety and target range programs to be an inappropriate use of scarce dollars for wildlife conservation.

Hunter safety and target range programs may be useful. However, the Pittman-Robertson Act was conceived in, and should continue to serve, the public interest in wildlife and wildlife restoration. For this vital program to be even partially diverted to serve the special interests of gun enthusiasts, who may or may not have any interest in wildlife conservation, is absurd.

Likewise, safe conduct by the hunter is the responsibility of the individual, certainly with proper assistance from state and federal agencies. However, hunter safety should not be required and promoted through programs otherwise designed to assist the exploited wildlife. These functions must be kept separate and distinct if wildlife restoration is to be successful.

Our opposition to S. 1294 would be reduced, if not ended, if the bill were amended so as to eliminate the requirement of 50% earmarked funds for hunter safety and target range programs.

Again, we thank you for this opportunity to comment, and we look forward to the needed changes in this legislation.

Sincerly,

John W. Grandy,
*Executive Vice President.*

## EDITOR MARGARET WOOLFOLK'S CAREER PARALLELS GROWTH OF NEWSPAPER

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## HON. BILL ALEXANDER

### OF ARKANSAS

### IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. ALEXANDER. Mr. Chairman, on September 3, Miss Margaret Elizabeth Woolfolk, editor of the West Memphis Evening Times in my district, celebrated her 59th birthday and retired as editor of that daily newspaper.

It has been my pleasure to be associated for a number of years with this fine journalist and human being. She is truly a credit to the newspaper profession. I am proud to call her my friend. The Arkansas Gazette recently carried an article about Margaret's career which I would like to share with my colleagues:

### EDITOR'S CAREER PARALLELS GROWTH OF NEWSPAPER

(By Leroy Donald)

WEST MEMPHIS.—Today, Miss Margaret Elizabeth Woolfolk will observe her 59th birthday and bid farewell as editor of the West Memphis Evening Times.

It was more than 40 years ago that she first became associated with the paper, then the weekly Crittenden County Times, for which she wrote "socials" as a student at Marion High School.

At that time, West Memphis was a highway strip town across the Mississippi River from Memphis and seemingly made up mostly of liquor stores and filling stations.

C. H. Brown had put out the first edition of the Times January 9, 1931. When his young stringer was graduated from Marion High in 1935, he offered her a job on the paper.

"I wasn't anxious to take it," Miss Woolfolk recalls, "but I did when Mamma said 'Either work or make your plans to go to Arkansas State'."

Miss Woolfolk had her heart on the University of Arkansas, not nearby Arkansas State, which she considered a "cow college" at the time. But the U of A would be too expensive.

"In those days money was a little tight Also, in those days when your parents told you to do something, you did it" she said.

So she went to work for the paper a four-to-six page weekly. A reporter from one of the Memphis papers would come over one day a week and fill it up. Soon, however, the young woman was writing copy and filling it up herself.

And one day, about two months after she had been there, Brown took off for a Florida vacation and Margaret Woolfolk found herself in command of a paper. She was 19.

Then came World War II and she wanted to go into the service.

"But my brother told me that nice girls don't go into the service, so they discouraged that."

Her fascination with the military can be traced to her father and brother. Her dad, Robert Lee Woolfolk, Jr. who came from farming parents in the Dermott area, was a captain in the 153rd Infantry in World War I and was stationed at Little Rock when she was born.

Her brother, Robert Lee Woolfolk II, chased Rommel across North Africa in World War II, took the Second Battalion into Korea and was among the first "advisors" sent into Vietnam. He was head of the Texas National Guard when he died at age 49.

Her mother was Claudine Jammience Marrion, the daughter of a doctor. Miss Woolfolk began school at Jerome, in Southeast Arkansas, where her father managed the company store for a big lumber firm and her mother was postmaster. They returned to the Memphis area after Dr. Jammience died, the elder Woolfolk as an executive in a trucking firm.

Discouraged at joining the service, Miss Woolfolk went to work with the Chicago and Southern Airlines in 1942, doing radio telegraphy and handling the manifest for Army cargo ships. She was stationed at New Orleans.

Meanwhile, back at West Memphis, her former boss was having problems finding help so "feeling sorry" for him, Miss Woolfolk would write editorials from New Orleans and send them to him for the Times.

She later was transferred to Memphis and helped put out the Crittenden County Times on her off hours.

She left the airline business in 1948 and went back to the paper, working there for five years until she "got into a money argument" and quit to go to work for the West Memphis News, a rival weekly owned by Monroe G. Randol.

But a year later, a group of more than a dozen political, business and civic leaders in West Memphis area bought the Crittenden County Times and named Miss Woolfolk, also a stockholder, as editor and general manager.

This group included such personalities as James C. Hale, a lawyer, P. M. Dacus of the lumber firm, state Senator Bill Ingram, state Representative Lloyd McCuistion, Sheriff Cecil Goodwin, John Fogleman, who later became a state Supreme Court justice, and Mrs. Mary Bessell, now circuit clerk.

The paper had a circulation of about 500. The purchase price was $33,000.

It was because of the very persons who bought the paper that Miss Woolfolk has had a policy of not taking an editorial stand for or against political candidates.

It was one agreement that she insisted on. The stockholders and the Board of the Crittenden Publishing Company, the corporate name, never attempted to violate this agreement, she said. The only problem she had with it was in later years when a powerful state senator wanted her to endorse Governor Orval E. Faubus.

The rest is history out of "A Chronicle of Arkansas Newspapers,"

In 1954 the Times became a semiweekly, the first issue of the Evening Times came out in June 1957, about a month after the rival West Memphis Daily Sun folded. The Crittenden County Times was reverted to a weekly until January 1960, when it was eliminated and combined with the daily paper.

The town has changed remarkably. Miss Woolfolk can remember being able to walk all the populated parts of West Memphis to gather news. There were two cotton gins on Broadway, West Memphis' main street, which at the time was nothing more than part of the highway between Memphis and Little Rock and Memphis and St. Louis.

Because of its location on five major highways, its proximity to Memphis, and efforts by area businessmen, the West Memphis-Marion area now has 32,000 persons set amidst a network of highway interchanges.

Two years ago, the Crittenden Publishing Company sold the Evening Times to J. Tom Rickerson of Lakeland, Fla., for $1 million. Its circulation had grown to about 14,000.

Part of the contract was that she would remain as editor for two years, then retire, and continue as a consultant. She decided to retire and do some of the things she has longed to do.

She has numerous state and national honors and recognitions to take off her office walls, including two National Federation of Press Women's awards for being the best daily editor.

Oh, yes, she did finally get into the military. In 1950 she volunteered for the Air Force Reserve, becoming a technical sergeant.

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## NATIONAL PARKS

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## HON. LEE H. HAMILTON

### OF INDIANA

### IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. HAMILTON. Mr. Speaker, the reports from the national parks are not good.

The complaints are about overcrowding and overuse, and they include too many instances of crime, vandalism, pollution, deteriorating buildings, unmaintained trails, closed facilities, and hard-to-get reservations.

These complaints should not surprise the U.S. Congress. The warning signals about exploding use and deteriorating facilities have been apparent for some time. The National Park System is now 103 years old. From one park in 1872—Yellowstone—the system has grown to include over 31 million acres in 285 separate areas, of which 37 are important enough to be designated national parks. Visitation to the parks has increased from 71 million visitor days in 1960 to 239 million visitor days in 1975. The parks are now used year round, not just during the summer months, and back-country use has increased rapidly.

The facilities in the parks, which were made possible by large sums of money that were poured into the parks in the past, are now disintegrating steadily. Some parks do not have enough employees even to supervise qualified volunteers. An insufficient number of rangers on patrol duty has resulted in a sharp increase in crime in the parks. Poor road maintenance has caused traffic accidents to rise. Rare plants are stolen and animals molested and poached. These problems of overdevelopment and overuse are greatest in the national parks that are closest to the population center.

The basic cause for the deterioration has been inadequate funds and an insufficient number of employees to carry out the task which the National Park Service is mandated to perform. Severe restrictions on budgets and on the number of personnel have been placed on the Park Service by the Office of Management and Budget. Both the budgets and the number of personnel allotted to the National Park Service have risen, but only slightly, and the impact of insufficient funds and employees is obvious. The budgets have not kept pace with rising costs and great increases in public use. Although 32 new parks have been authorized since 1972, the Park Service has only been allowed to add 200 new employees. When new units have been added to the system, the President and the Congress usually have not approved additional personnel and funds to operate the new parks.

The value of these parks simply cannot be overstated. Americans travel many miles to experience an indescribably blue lake, the gleam of a glacier in a mountain, the thunder of a waterfall, the roar of the surf, or a glimpse of strange plants and animals living in their natural surroundings. These experiences simply must be preserved and left unimpaired for future generations.

So, the dilemma of the parks is use versus preservation: To what extent can people be allowed to enjoy the parks without sacrificing permanently the natural values which the parks were established to preserve.

All kinds of solutions are under consideration to prevent the parks from becoming another Disneyland: Restrictions on trailer camping and road building; a ban on private vehicles in some areas and the use of buses to cut down automobile congestion; cancellation of many concessions; limitations on services; a permit system for campers; deposits on cans and bottles to prevent litter, a reduction of commercial development, like souvenir shops and swimming pools, and the use of the parks as convention centers; prohibitions on some activities altogether, like snowmobiling; and the conversions of many roads into hiking paths. The Park Service has also begun a controversial program of "people management" to monitor and restrict the activities of hikers and climbers in some of the parks.

Having neglected the park system in recent years, the Congress and the President must begin to provide sufficient funds and employees to enable the National Park Service to maintain and operate the areas of the system according to the standards set by the Congress. A long-term expansion of our national park system should also be considered.

My own impression is that the taxpayer gets his money's worth from the national park system. Few Federal programs enjoy the kind of broad public support that has been received by the National Park Service. It is a dedicated agency, performing a valuable public service in maintaining and protecting our national parks. These parks represent the finest natural, cultural, and recreational resources of this country, and it would be folly to continue to allow their majestic splendor to deteriorate.

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## A TRIBUTE TO CASIMIR PULASKI

## HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. CARNEY. Mr. Speaker, October 11 commemorates the death of the great Polish general Casimir Pulaski, a remarkable man whose love of country was exceeded only by his love of democratic principles.

Preceding his appearance in America, Casimir Pulaski had served the democratic cause in Poland against the ravages of the Russian Army, attracting the attention of the world by his magnificent victory at Czestichowa, in the year 1770. Overcome at last by the weight of Russian arms and the duplicity of the Polish nobility, he fled to Turkey, then to France and, upon receiving word of the American Revolution, made his way to these shores, declaring opposition to tyranny in any form whatsoever.

Serving under Washington at Brandywine, Germantown, Trenton, and Valley Forge, Casimir Pulaski was ever brilliant, yet usually on the losing side—excepting only the American victory at Trenton. Impressed by his prowess, Congress bestowed upon him the command of a full cavalry corps which was stationed for a time at Baltimore, utilized sporadically in New Jersey, and finally dispatched south, to assist in defending the imperiled American position in the Carolinas.

British victories at Augusta, Stone Ferry, Portsmouth, and Norfolk, in the spring of 1779, had discouraged the Continental forces and compelled the American commander of the Southern Department, General Lincoln, to attempt the seizure of Charleston, in the hope of bolstering the morale of both his army and the public. A French fleet arrived, to blockade the port, and Lincoln pressed forward—but the British held fast and there was no dislodging them.

On August 19, Pulaski dispatched a letter to Congress, in which he detailed the disappointments he had encountered and expressed the hope that he still might find the opportunity of proving his devotion to the American cause. Two days later he was called upon to lead a vital cavalry charge against enemy forces defending a major outpost. To this endeavor Pulaski responded with the bravery for which he was so well known, only to be deserted by the luck that had preserved him so often in the past. Suddenly, in the midst of the assault, he fell wounded and was removed to an American warship stationed in the harbor. He died on board, exactly 197 years ago this October 11.

Pulaski's was the cause of freedom, as it is ours and that of all mankind. Shortly following his death, that same cause was miraculously revived by American resurgence in the Carolinas, the retreat of Cornwallis to Virginia, the joint attack of General Washington and Admiral De Grasse, and the British surrender at Yorktown. It has been noted that the heroism of Pulaski altered the course of the southern campaign of 1779, and from that point forward the American forces could not be stopped.

His was a gallant death in the cause of his adopted country, and worthy of remembrance on this day by all Americans, whatever their descent may be. Polish-Americans should take special pride in the fact that at the time of the birth of the American Republic, a Pole was at the head of an heroic cavalry charge against the enemy of this new country dedicated to human liberty.

Since those days. Polish-Americans, in their many contributions to the struggles of the United States against her enemies, have followed the example set for them and for all Americans by the brave Casimir Pulaski.

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## CONGRESSMAN STOKES ISSUES NEWSLETTER ON EDUCATION

## HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. STOKES. Mr. Speaker, as a service to my constituents in Cleveland, Ohio, I recently prepared a newsletter on higher education. As a legislator, I find that so many young people become frustrated in their quest for higher education, because of a lack of knowledge of available financial resources.

To assist these students and their parents, I have outlined some local, State, and Federal grant and loan programs for both graduate and undergraduate study. I have also provided pertinent information on the military academies of the Army, Navy, Air Force, Merchant Marines, and Coast Guard.

Mr. Speaker, at this time I submit to you the newsletter entitled "Congressman Stokes Reports on Education." I hope that you and my colleagues in the House will find it an interesting and informative publication:

### CONGRESSMAN LOUIS STOKES REPORTS ON EDUCATION

As your Congressman, I am writing you today on a subject that is of great significance to all the residents of the Twenty-first district . . . the importance of education. Just as a building cannot stand without strong beams, our society and our city cannot stand without educated minds.

The cost of education, especially higher education is growing by leaps and bounds. And with the rising cost of everything from food to fuel, our pocketbooks are shrinking accordingly.

It has recently been reported in the news media that college costs will increase by 5-9% this school year. Parents are finding that a four-year college education including tuition, room and board, and extra costs can run as high as $25,000 in a private, four year college. Public and community college costs, while considerably less, can still present financial difficulties for even middle-income families. For lower income families, the costs would be impossible to meet without heavy loans and/or scholarship assistance.

While education costs are steadily mounting, there has unfortunately been an erosion of federal support for higher education in recent years. It is crucial that post high school education opportunities expand, especially at a time when our youth 18-24 are experiencing twice the unemployment rates of the rest of the work force and Black youth suffer from a staggering unemployment rate of 40.3%. As a member of Congress and the House Appropriations Committee, I have attempted to keep funding levels from dipping too low. Recently, I was a primary sponsor for an amendment to the Second Supplemental Appropriations Bill for Fiscal Year 1976 which provided $315 million for the Basic Educational Opportunity Grant, which you will read more about later on in the newsletter. Without the Stokes Amendment, disadvantaged college students in Cleveland and across the nation would have suffered a 23% cut in the average size of their assistance grants this September. To deny disadvantaged students the opportunity to contribute their talents and intellect to the future of this country would be a national tragedy.

While I am sure that all of you agree on the importance of higher education to our young people, I would also like to urge those adults who are dissatisfied with their educational backgrounds to seek out new educational alternatives. The Cleveland Public School System has effective continuing education and vocational programs. Also, the Cleveland area colleges and universities have both day and night classes for adults who wish to further their growth. Let me stress that in education, it is never too late for improvements.

To assist you in your educational plans, I have listed some local and national resources which should be beneficial to you in identifying scholarships, grants, loans, and programs. I have also included a special section on the Military Academies. I am able to recommend interested young men and women to these schools each year.

Let me close with this message: No one will hand you an education. You must seek it and work hard for it. Students of all ages must strive for academic excellence and parents must become closely involved with the educational goals of their children.

Historically, poor people and Blacks and other disadvantaged minorities have had enormous obstacles in the path to a higher education. But today, through persistence and careful planning, we can overcome many of these obstacles. I urge you and all the residents of my district to join me in this challenge.

Louis Stokes,
*Member of Congress.*

### MILITARY ACADEMIES

As your Congressman, I am always eager to nominate young men and women from my Congressional District to the United States Military Academies. Each year, Members of Congress are given the opportunity to nominate those interested in attending one of the five academies.

We suggest that you apply for admission toward the end of your junior year in high school. This will enable you to take some of the courses in your senior year that you have not taken, and that are required by the academy. If you know before your junior year that you would like to attend one of the academies, I would also suggest that you see your high school counselor, or write to the academy of your choice for information pertaining to the requirements for entrance. Should your academic standing not meet the requirements of the academy, or you would like to improve in the areas of math or English, and prepare yourself in all aspects of academy training, you can check with the academy about attending their preparatory school for one year prior to admission to the academy.

Each academy provides for your tuition, room and board, and takes care of your medical costs. Upon entering, you will also receive a regular salary to meet expenses, not to mention the excellent education afforded you at the academy. To assist you, I have staff in both my Cleveland and in my Washington office who are available to answer your questions and help you in making application to any of the five academies. I have included some facts on each of the academies below, and I hope you will feel free to contact my office should you desire further information.

### *U.S. Naval Academy*

Located in Annapolis, Maryland, the Naval Academy selects approximately 1,358 candidates for admission to the freshman class each year. Recently, the number of minority applicants has risen sharply.

To obtain a nomination, an applicant must qualify medically and physically, be unmarried, and be at least 17 years of age and not past his or her 22nd birthday on July 1 of the year of entrance. The admissions board examines each candidate's school records, SAT or ACT scores, extracurricular activities, and other evidence of character, and leadership potential.

You do not have to know your congressman to get a nomination. Each Member of Congress may have five of his appointees attending the academy at any one time. Each Member may nominate up to ten candidates for each of the five vacancies.

The Academy selects a number of most promising and highly motivated, who have indicated that they are interested in attending the Preparatory School in the event they are not successful in being selected for admission to the Naval Academy. For further information, write to: Director of Candidate Guidance, U.S. Naval Academy, Annapolis, Maryland 21402.

### *U.S. Military Academy*

Since its founding in 1802, the U.S. Military Academy, better known as West Point, has long enjoyed a reputation for excellence in undergraduate education, leadership development and physical training.

Preparation for the academy requires a sound secondary school program. Graduates receive a Bachelor of Science degree and a commission in the regular Army. Active participation in sports is the best preparation for the West Point physical aptitude requirement.

The West Point Class of 1980, which entered in July, contains approximately 100 women cadets. Approximately 10% of those women are Black females. As of July 1, the total West Point enrollment was 3996 cadets of which 200 are black males.

West Point also has a Preparatory School. For information write the Commandant, U.S. Military Academy Preparatory School, Fort Belvoir, Virginia 22060.

### *U.S. Air Force Academy*

Who can become a United States Air Force cadet? Admission is open to those with good moral character, without regard to race, creed, or national origin. Candidates must be citizens of the United States, unmarried, at least 17 years of age and not past his or her 22nd birthday on July 1 of the year of admission.

The academy emphasizes the development of well-rounded, broadly educated, professional officers. Cadets must maintain a regulated schedule and conform to strict discipline codes. A new cadet is sworn into the Air Force soon after arrival.

The best time to apply to the U.S. Air Force Academy is during the Spring of your Junior year of high school. I am asked to submit all nominations no later than January 31st of the year the class enters. Should you fail to receive a nomination, the U.S. Academy Preparatory School is conducted to prepare students for the academic, military and physical training programs of the Academy, providing intensive instruction in English and Mathematics to assist students in preparing for Academy entrance exams. For information on the Preparatory Academy, please write to:

Candidates Advisory Service, United States Air Force Academy, Colorado 80840.

### *U.S. Merchant Marine Academy*

Successful completion of the Academy's four-year program leads to a Bachelor of Science degree, a license as an officer in the Merchant Marines and a commission as an Ensign in the U.S. Naval Reserve.

The Merchant Marine Academy offers programs in three major areas: Nautical Science for the preparation of deck officers, Marine Engineering for students interested in becoming engineering officers, and a combination of the two, a Dual License curriculum, which leads to a license in each specialty.

Candidates are required to qualify on both the Verbal and the Mathematical Scholastic Aptitude Tests of the College Entrance Examination Board. A midshipman at the U.S. Merchant Marine Academy receives a salary for uniforms, equipment and personal needs.

Located at Kings Point, N.Y., on the north Shore of Long Island Sound, 20 miles from N.Y. City, the U.S. Merchant Marine Academy is operated by the Maritime Administration of the Department of Commerce.

### *U.S. Coast Guard Academy*

Appointments to the U.S. Coast Guard Academy are determined on the basis of an annual nationwide competition. Applications for appointment must be submitted to the Director of Admissions, U.S. Coast Guard Academy, New London, Connecticut 06320, prior to December 15th of the year of admission.

Appointments are based on high school rank, performance on either the SAT or ACT, and leadership potential as demonstrated in high school extra-curricular activities, community affairs and/or part-time employment. Applicants must have completed three units in English, and three in mathematics including algebra and plane or coordinate geometry or their equivalents, and must fulfill basic moral and physical requirements.

Graduates are awarded a Bachelor of Science degree and are commissioned as Ensigns in the U.S. Coast Guard.

### HOW TO APPLY

For information concerning the military academies, please contact:

Mrs. Green, Office of Cong. Louis Stokes, 303 Cannon House Office Building, Washington, D.C. 20515, Telephone: 202–225–7032, or Mr. Matt, Office of Cong. Louis Stokes, Room 2947, New Federal Office Building, 1240 East 9th Street, Cleveland, Ohio 44119, Telephone: 216–522–4900.

Mr. Matt will also handle inquiries on Veterans Educational Benefits.

### SCHOLARSHIP AND LOAN OPPORTUNITIES

### *Cleveland Scholarship Programs, Inc.*

The Cleveland Scholarship Programs, Inc. provides services and scholarship assistance to graduates of the Cleveland public high schools and eight suburban school systems (Bedford, Cleveland Hts., East Cleveland, Garfield Hts., Lakewood, Maple Hts., Shaker Hts., and Warrensville Hts.).

Cleveland Scholarship Programs also serve as a clearinghouse for post-secondary educational institutions; provides information about education opportunities; assists students in the completion of all forms, applications and documents and deadlines; provides fee payments for students from low-income families when fees cannot be waived; advises students about available supportive services at institutions; provides peer counselors; provides summer and permanent job referrals, and provides financial assistance in the form of grants, grants and loans, or just loans.

Dr. Clarence Mixon, director of the program, says that it is usually the application process that frustrates youngsters and bogs them down in their search for a good school.

For more information on the Cleveland Scholarship Programs, Inc. please contact your high school guidance counselor or write or call:

Cleveland Scholarship Programs, Inc., 1380 East Sixth Street, Cleveland, Ohio 44114, telephone: 216—241–5587.

### *Basic education opportunity grant*

The BEOG is a Federal Air program designed to provide financial assistance to those who need it, to attend post-high school educational institutions. Basic Grants are intended to be the floor of a financial aid package and may be combined with other forms of aid to meet the full cost of an education. The amount of the BEOG is determined on the basis of your own and your family's financial resources. The awards will range between $50 and $1,000. Besides financial need, one must be enrolled in an undergraduate course of study and have not previously received a Bachelor's degree from any institution and be a U.S. citizen. The student is given a voucher for a certain sum which is presented to the college.

For applications for the BEOG, ask your high school counselor or college or vocational institution loan officer or write:

Basic Grant, P.O. Box 84, Washington, D.C. 20044.

For information on the BEOG and other federal grant programs call this toll free number: 800—553–6350.

### *The supplemental educational opportunity grant*

This grant is similar to the BEOG but is directed towards students of exceptional need. Students must make application through the loan office at the institution they plan to attend. The Grants range from $200 to $1,500 according to need. It is possible to combine both a BEOG and an SEOG.

For information, contact the financial aid officer at your high school or the education institution you plan to attend.

### *Ohio instructional grants program*

This program is available to Ohio residents to attend any Ohio public or private college, university, junior college or technical school. The grants are restricted to tuition and student must be a full time undergraduate. There are no academic requirements.

Applications for the Ohio Instruction Grants Program are available from a wide variety of sources including High School Guidance Counselors, College Financial Officers, Community Centers, Libraries. Drug Stores, etc.

This is an entitlement program. The student is awarded a certificate for a designated amount which is then presented to the college or school. For applications or further information write:

Ohio Instructional Grants Program, 30 E. Broad Street, State Office Tower, 36th Floor, Columbus, Ohio 43215, or call: 614–466–7420.

### *Ohio Student Loan Commission*

In order to be eligible for an Ohio Student Loan, one must be an Ohio resident, registered in an eligible institution (anywhere in the country) and be academically satisfactory.

You can apply for an Ohio Student Loan through eligible Savings and Loan Institutions, Banks or Credit Unions. The maximum loan is $2500 and must be repaid beginning nine months after graduation or termination of study. It is suggested that students apply through their hometown or neighborhood banks.

For a fact sheet on the Ohio Student Loan program write:

Ohio Student Loan Commission, 34 North High Street, 6th Floor, Columbus, Ohio 43215, or call: 216—466–3091.

### *National direct student loan*

This loan is available to students who are enrolled at least half-time in any post-secondary school. A student can borrow up to $2500 for vocational education programs, $5000 if he or she has completed at least two years towards a bachelors degree and $10,000 for graduate programs. Repayment of the loan begins nine months after graduation or termination of study. For further information contact your college loan officer or write to Basic Grants.

Basic Grant, P.O. Box 84, Washington, D.C. 20044.

### *College work study*

Most Colleges and Universities have work-study programs which enable students to offset their college costs. Please see your loan officer for more information.

### BLACK CAUCUS BEGINS SPECIAL ADMISSIONS PROGRAM WITH OBERLIN

Oberlin College has established an admissions program in conjunction with the Congressional Black Caucus in an effort to attract students from various ethnic, cultural, social, religious and economic backgrounds.

Congressman Stokes was a prime mover in the inception of this program in 1972 when he was Chairman of the Congressional Black Caucus.

In order to be considered for this program, the student must be of a minority group background which is substantially educationally disadvantaged and racially or culturally removed from the mainstream of American Society (e.g. Blacks, Puerto Ricans, Mexican Americans, Native Americans, Appalachian Whites, etc.) Because the Congressional Black Caucus is comprised of seventeen representatives from this nation's major urban areas, they are an especially effective clearing house for this type of academic outreach program.

Recently, Congressman Stokes referred the following Cleveland Students to Oberlin College:

Ms. Debra Russell of East Technical High, Ms. Tanya Thomas of East Technical High, and Ms. Patricia Johnson of Glenville High. For more information on this program, please contact Ms. Gloria Spratt of Congressman Stokes District Office: 216—522–4900.

### GRADUATE AND INDEPENDENT STUDY RESOURCES

For my constituents who are interested in graduate, post graduate, and individual study, there are many scholarship and grant programs available. While these programs are far too numerous to list in this newsletter, I would like to list some recent guides which should be helpful to you in identifying sources and programs. Some undergraduate resources are also listed.

These guides are available in the Cleveland Public Library, 325 Superior, in the Main Building on the second floor in the Education Department. Mr. Sedlack, the department, or one of his assistants, will be happy to assist you.

The list of recent guides to Scholarships, Fellowships, and Research Grants for individuals are as follows:

*Annual Register of Grant Support, 1975–76, 9th Edition.* Chicago, Marquis Academic Media, 1975. x, 646p.

*Barron's Handbook of American College Financial Aid*, by Nicholas C. Proia. New York, Barron's Educational Series, Inc., 1974. 720p.

*Barron's Handbook of Junior and Community College Financial Aid*, by Nicholas C. Proia and Vincent DiGaspari. New York, Barron's Educational Series, Inc., 1974. 393p.

*Directory of Research Grants 1975.* Compiled by William K. Wilson & Betty L. Wilson. Scottsdale, Arizona, The Oryx Press, 1975. xiv, 390p.

*Directory of Special Programs for Minority Group Members: Career Information Services, Employment Skills Banks, Financial Aid Sources*, 2nd Edition. Edited by Willis L. Johnson. Garrett Park, Maryland, Garrett Park Press, 1975. 400p.

*Graduate & Professional School Opportunities for Minority Students 1975–1977.* 6th Edition. Princeton, New Jersey, Educational Testing Service, 1975. 246p.

*Grants and Awards Available to American Writers*, 7th Edition 1975. New York, P.E.N. American Center, 1975. 102p.

*The Grants Register, 1975–1977.* Edited by Roland Turner. London, St. James Press, 1975. lxvi, 801p.

*Need A Lift?* Indianapolis, American Legion Education and Scholarship Program, 1975. 133p.

*Scholarships, Fellowships and Loans, Volume V.* by S. Norman Feingold. Arlington, Massachusetts, Bellman Publishing Company, 1972, vii, 280p.

*Scholarships, Fellowships and Loans News Service.* Published four times yearly. Arlington, Massachusetts, Bellman Publishing Company.

*Student Aid Annual 1975–1977.* Moravia, New York, Chronicle Guidance Publications, Inc. 1975. 240p.

*Student Aid Bulletin: Scholarships, Loans and Awards offered by the 50 States, D.C. and P.R. 1975–76.* Moravia, New York, Chronicle Guidance Publications, Inc. 1975. 54p.

### LOCAL ADULT CONTINUING EDUCATION OPPORTUNITIES

Public School Systems generally offer the following Adult Education Programs:

(1) Adult Basic Education—Classes for adults with no formal education up through the eighth grade. This program is free of charge.

(2) Adult High School Continuation Program—Classes towards a high school diploma. Usually a small fee.

(3) General Education Development Test—Preparation classes towards a statement of high school equivalency. Small Fee.

(4) Vocational Education—Within the city of Cleveland there are a number of vocational schools which provide courses specifically designed for adults who wish to further their education. Small fee.

(5) Non-Credit Courses—These courses are available in most school districts. Small fee.

In the twenty-first district, my constituents should contact the following places for information on Adult Continuing Education:

Cleveland: Directing Supervisor of Continuing Adult Education, Cleveland Board of Education, 699–2929.

East Cleveland: Adult Education Department of East Cleveland, 451–1750, Extension 210.

For Vocational information, call or visit: The Woodland Job Center, 4966 Woodland Avenue, Cleveland, Ohio, 391–0036.

Warrensville Hts.: For educational and vocational education information call or visit: Recreation Department, 4285 Warrensville Ct. Rd., Warrensville Hts., Ohio 44128, 752–8585, Extension 222/224.

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## CONTINUING AN AMERICAN TRADITION IN THE SANTA CLARA VALLEY

## HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. MINETA. Mr. Speaker, it gives me great pleasure to bring to the attention of the Members of Congress the 25th anniversary of the Santa Clara Valley Square Dancers Association. It is fitting that this group, representing one of America's most time-honored traditions, should celebrate its anniversary during our Nation's Bicentennial Year.

From the time of the landing of the first immigrants upon the New World's shores, square dancing has been an important aspect of community life. Although American square dancing is a descendant of European folk dances, it has long since developed a lively and free style that is all-American. In this process of development, square dancing has grown from a primarily rural recreation to one that encompasses all segments of our great American society.

Square dancing today is important for many reasons beyond that of social recreation, however. It is a lively and enjoyable segment of our illustrious American heritage in which individuals of all ages can enjoy and participate. As such, it is a link between generations as well as a reminder of the great progress made by the American people.

Square dancing in the Santa Clara Valley has grown and prospered during the 25 years' existence of the Santa Clara Valley Square Dancers Association, just as the valley itself has matured. The first annual jubilee convention, held at the Santa Clara County Fairgrounds in 1957, was attended by approximately 1,000 dancers. Today, at the time of the 20th annual jubilee, the attendance is anticipated to be well over double that of the first jubilee. The Santa Clara Valley Square Dancers Association now contains 48 clubs with a composite membership of over 2,800 dancers.

I am sure all of my colleagues in the House of Representatives will wish to join me in offering our best wishes for the success of the 20th annual jubilee convention, and in expressing thanks for their service to our country in promoting this great American tradition.

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## JOHN ASHBROOK WRITES A LIBERAL

### HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 1976*

Mr. SYMMS. Mr. Speaker, we are constantly confronted with the double standard and the phony concerns of those Americans who call themselves liberal. I am a conservative as most Americans are. Liberals tend to be conservative at election time but rarely come close to our philosophy at any other time.

My colleague, John Ashbrook, seemed to sum up many of the concerns we conservatives have in confronting our liberal adversaries in the marketplace of public opinion. They promise, profess concern but then use the power of Government to force upon the people their radical ideas. They attack our law enforcement agencies, downgrade our military, and suffer from myopic vision when it comes to the threat of world communism.

John Ashbrook recently answered one of his liberal critics in the Mount Vernon, Ohio, News. Incidentally it was a paid ad and, as John noted, the liberal used the letters to the editor column to take his jabs at my colleague free of charge while John, in the true free enterprise tradition, paid for his letter to a liberal. I think Americans everywhere will appreciate this letter, because it lays the cards right out on the table. Here is the letter:

Dear George: I normally do not respond to letters to the editor but in George Breithaupt's case, I'll make an exception. I find you a vocal adversary on virtually every issue, George, your letters to the editor fill a full file. You have personally attacked me many times before but not with the viciousness of your two recent letters. I haven't responded over the years to even your worst letters but since it is now obvious you are willingly participating in the big lie campaign which is being conducted against me, I will take issue with what you have said. I'll openly address this letter to you and those you would mislead.

George and I see virtually everything differently so I do not expect his support. I am a hawk and believe in American military superiority. George is a dove, whatever that is, and I can't help but wonder what our dove friends will do if and when the Russian bear is at our door. Talk to them and offer them some honey, I suppose. Yes, I'll build the B–1 bomber. You libs wanted to fight World War II with World War I equipment and now you're at it again, theorizing that World War II aircraft is adequate for World War III if we ever have it. Perish the thought—and that's no pun.

Both George and my opponent detest the fact that I agree with the American Legion and VFW on virtually every basic issue. I am against detente, I am against amnesty, I am for building the B–1 bomber, I am against our disarmament, I am for the Internal Security Committee and I am against any new treaty on the Panama Canal. George and my opponent disagree with the VFW, Legion and me on each of these issues. I'll take the patriotic Vets every time over the bunch which leads the anti-America crusade. It is sad to see George and John even tacitly support the disaster lobby in America, Sweden or Canada.

George, we see the United Nations in a totally different light, too. To you it is the best hope for peace and you would give it power over our lives. I think the United States is the true hope for peace and would yield not one ounce of our sovereignty to that disastrous organization. I find it strange that people like you who see everything wrong with the United States look at the UN with rose colored glasses. Unlike you, George, I'll trust my government over that group of communistic nations and beggar states who want nothing but to take what we have. Any comparison between the U.S. and the UN makes us look great.

I plead guilty to seeing those who fought their nation's war in Vietnam as the true heroes, not the draftdodgers and deserters in Sweden and Canada. I certainly would not have made the mistakes George's liberal Democrat President made in expanding the war nor would I have advocated fighting a war in the first place without specific goals, in particular the goal of victory. I just couldn't see things George's way on that issue. He hated Barry Goldwater, though, and wouldn't listen when he was told the truth. He deserved LBJ's Administration.

When the so-called civil rights advocates were rioting in our big cities, I know I lost George's support when I came down on the side of the policemen and law and order, rather than those who were fire bombing and looting. To George, law and order is a code word for repression. Sorry, George, we'll never agree on that one either.

Somehow or other when the young punks were trying to take over campuses and resorted to radical, criminal activity, I just couldn't be on the side of the kids. Even at Kent State where a tragedy occurred, I could not buy your argument that they were unfortunate, helpless and sincere. The record clearly shows that for the most part, the Kent State rioters were engaged in illegal activity, were agitators looking for a confrontation and demonstrated in an obscene and violent strategy which failed. They were anything but wholesome American youth. I'll take the National Guard there, too, George.

Sorry, George, but I just can't agree that Daniel Ellsberg is a hero. When somebody steals our defense secrets and turns them over to the New York Times I believe he should be prosecuted and put in jail not given standing ovations on campuses.

Never was much for this permissive trend that you liberals advocate. I'm an old-fashioned advocate of discipline, hard work and restraint and I know that really turns you off. Funny thing about you liberals, though, you're permissive in everything except when it comes to the average law-abiding American owning a firearm or exercising his personal right of choice. The idea of personal freedom really runs you up the wall, especially when parents think they should have some control over their local education and object to a misguided liberal court which tells them they must experience the wonders of forced busing or with atheistic teaching, or with invasion of parental rights. Permissiveness stops where you liberals think you know best. I'm really sorry that in almost every difference with you I come down on the side of putting patriotic American interests first, law and order, the police rather than the criminal, the CIA and the FBI rather than the radical or Communistic groups in our country, free enterprise rather than socialism, the private sector rather than the public sector, the veteran rather than the draftdodger, and the producers rather than the parasites. I know there is no way I can have your support with that kind of philosophy.

Somehow or other, George, I never cottoned up to those who thought Daniel Ellsberg, Jerry Rubin, Mao or Ho Chi Minh are the real statesmen in the world while J. Edgar Hoover is a tyrant. For my part, I'll take J. Edgar Hoover every time. Oh yes, we'll never agree on the CIA either. Of course, I never could understand liberals who want to make all of our defense secrets public while making secret all the public work of the NAACP, Ralph Nader, Common Cause, or other liberal organizations. No, George, I know I lost the opportunity to have your support a long time ago.

I don't have any trouble at all understanding why George thinks my opponent is reasonable and I am unreasonable. Somehow or other, spending $500 billion more than we have just doesn't sound like good economics to me. George thrives on it as does my opponent. I don't believe in all the government red tape and regulations you people have set up whether under the guise of civil rights or consumer protection or environmentalism. Fortunately, more working men are coming to realize this, too, and one of these days maybe the producers will be on one political side and the parasites on the other. I'll choose the producers every time. I know where you will be.

My opponent believes in bigger and better government. I am positive that bigger government cannot be better government. He has already advocated $100 billion in new government programs and I am sure, like you, George, it is of little concern where that money comes from. You never really liked the free enterprise system anyway and I'm a diehard free enterprise advocate. You say I am on the side of business. Well, I'm on the side of everybody who works or has been productive in our society. Somehow I don't want food stamps to go to the hippies out there in their communes or subsidize a dozen illegitimate kids and I know that makes me hard and cruel in your eyes. I'll give you liberals credit for gall, however. You say you are on the side of the worker and then under the guise of civil rights you tell him he can't get a job until X number of minority applicants are hired, you tell him he can't sell his home to whomever he wants, you let him move to a better home and then force bus his kids to a school he just left, you attack his seniority as discriminatory, give away his job to imported foreign competition on the claim of phony free trade and tell him he shouldn't have a gun. On top of these kindnesses, you send him the bill for your expensive and wasteful big government programs. With friends like you and his union leaders, he really doesn't need any enemies.

You just keep on believing that government regulations and controls will solve our energy crisis. For me, I know they won't produce one barrel of oil or one kilowatt of electricity. The Arabs will give you a medal one of these days for services to the OPEC nations. I admit to favoring American oil and gas to foreign oil and gas. I favor deregulation so Americans will buy American oil rather than foreign oil. What did the bumper sticker say, George, "Let them freeze in the dark."

I know it's been a tragedy to you, George, that I've been representing you in Congress for all these years. On second thought, you're right—I haven't been representing you in Congress all these years. I've been representing those good Americans who are sick and tired of all the phony baloney you liberals advocate and want someone to say no a thousand times—even hell no once in a while to your disastrous, socialistic schemes.

For me, I'll take those average Americans, small businessmen, veterans, workers and the boys out on Route 5 every time over you sophisticated liberals who unfortunately have had your way so much that this country is well on the way to bankruptcy unless we turn it around. Thanks for the compliments, George, and while I don't necessarily like everybody on my side, I find my company a lot better than that which you keep. One thing about me, I know my side and I stay there. Average conservative Americans have made this country, not torn it down. They work rather than theorize. They are the true descendents of our forefathers we honored on our 200th birthday. You liberals would have left Jamestown or Plymouth colony unless there were government guarantees or subsidies. Conservative patriots built the country and we'll save it, George, no matter how detestful you find it.

Yes, George, some of us still see many things in black and white. You liberals think everything is gray. You elevate vacillation to the level of political principle. I'm still willing to say "yes" or "no" in unequivocal terms and see my country only one way, the best in the world, and as long as I'm around I'll be fighting you liberals who would put it on the skids. Thanks for your kind words, George. The big lie campaign won't work in the 17th District—maybe in New York City or Cleveland but not in Mt. Vernon. I know I'm on the right track as long as people like you are on my back.

Thoughtfully,

JOHN M. ASHBROOK,
*Your Congressman.*

P.S. You're a true liberal, George. You take your pot shots at me free of charge. We have paid $190.28 in good American money to a private business in the true enterprise spirit to send this letter in answer to your pack of you know whats.

## GUN CONTROL DOES NOTHING TO STOP CRIME

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. PAUL. Mr. Speaker, yesterday I read a story which disturbed me very much. It was about a young woman named Angela Winslow who fired a gun at a man who had just raped her friend and thrown her out of a 15th-story window. Fortunately, the friend survived the fall, but Angela was not so lucky. She soon found herself under arrest for violation of the Chicago gun control laws. She is now free on $1,000 bail and awaiting trial. Meanwhile, the rapist managed to escape and remains free.

Mr. Speaker, I think this is an absolute travesty of justice. It is a gross perversion of the law when someone like Angela Winslow is arrested for shooting at a rapist and attempted murderer. Then we wonder why people fear to involve themselves when they see a crime taking place.

Frankly, I think that the incidence of rape would go down very quickly if every potential rapist thought that his intended victim might be carrying a gun. In fact, I do not think it would be incorrect to say that gun control laws discriminate against women, since they are smaller and weaker than men and less able to defend themselves.

Sooner or later we must face the fact that gun control does nothing to stop crime. Its only effect is to make it impossible for people to defend themselves and place them at the mercy of those who will always have guns: The criminal class and the state.

I believe that the second amendment means what it says and that the Founding Fathers understood very well the connection between an armed citizenry and the maintenance of liberty. If the case of Angela Winslow is any indication, we are a lot further along the road to 1984 than I thought.

## DENNIS WILLIAMS

### HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. PREYER. Mr. Speaker, the news these days is too frequently filled with reports of the tragedies human beings imposed on each other. Recently such an event occurred in my district when a man ambushed a schoolbus, apparently intent on killing the driver and the 49 schoolchildren aboard.

Fortunately, the ambush was not successful and the credit must go to the driver, Dennis Williams.

Dennis, an 18 year old, was wounded when the first shot passed through the windshield of the bus and into his chest near the right shoulder. However, he kept control of the bus, drove 200 yards from the place where the shot was fired and brought his riders to a safe stop.

This young man will always be a hero to those 49 students and to their parents and to all who have read of his courage and poise in a very difficult situation.

There are many young men and women like Dennis who are charged with the safety of the hundreds of thousands of children who ride schoolbuses in North Carolina.

They deserve our thanks and in the case of Dennis Williams that gratitude is very great indeed.

## F. EDWARD HÉBERT

### HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 27, 1976*

Mr. COLLINS of Texas. Mr. Speaker, I join my colleagues from Louisiana in paying respect to the great statesman from Louisiana, F. EDWARD HÉBERT. He has served 36 eventful and outstanding years in representing his district so well. EDDIE HÉBERT gained the Nation's respect as chairman of the Armed Services Committee.

I admired him most for his stand for America with his determination to see that our country would not be second best in the defense program. I admired EDDIE who withstood pressure while losing his chairmanship but never lost his principles. Some Congressmen come and some Congressmen go, but EDDIE HÉBERT came to Congress with a set of principles that were strong and powerful. And when HÉBERT of Louisiana leaves Congress, he has his same principles and his same devotion and dedication to the United States. It was an honor to serve as a colleague of EDDIE HÉBERT whose principles and advocacy of defense will prove even more essential in the future than they have during his period of advocacy.

## EXPORT OF NUCLEAR MATERIAL AND MACHINERY

### HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. GAYDOS. Mr. Speaker, when H.R. 15377 passed the House, I voted to recommit the bill to committee. My vote did not indicate opposition to the major portions of the legislation, but reflected my concern only with sections 17 and 18, which placed additional restrictions on the export of nuclear material and machinery.

The 20th District of Pennsylvania, which I represent, contains an active and vigorous nuclear industry which stands to be greatly handicapped in the international marketplace by these restrictions. I had many calls and letters from people in my district who are concerned with the possible adverse effect this bill could have on their industry and consequently on their jobs. Their arguments raised doubt in my mind that the matter of nuclear exports was handled properly in this bill.

It was my hope that the bill could be recommitted for additional study of the two sections dealing with nuclear exports and that this complicated and sensitive matter could be given full hearings by the Joint Committee on Atomic Energy before action was taken by Congress.

## TRIBUTE TO MR. AND MRS. SOL DUNKELMAN OF LOS ANGELES

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 1976*

Mr. WAXMAN. Mr. Speaker, I ask the Members to join me in honoring Mr. and Mrs. Sol Dunkelman. We are fortunate to have acquired the Dunkelmans as citizens of Los Angeles, since they brought with them from New York their unceasing devotion to Jewish activities. While in New York, Mr. Dunkelman was president of the Ohev Tzedek Congregation, and in Los Angeles, he served in many leading capacities at Shaarei Tzedek Congregation and Emek Hebrew Day School. He now is a member of the executive board of directors of the West Coast Talmudical Seminary and is vice president of Shaarei T'filah Congregation.

Mr. and Mrs. Dunkelman have also involved themselves in many Israel institutions, and were recently honored by the Great Ponevez Yeshiva of B'nai Brak in Israel.

The dedication of Mr. and Mrs. Dunkelman to Jewish causes will be memorialized at the 24th annual banquet of the West Coast Talmudical Seminary, Yeshiva Ohr Elchonon on November 28, 1976.

The tradition of service exemplified by Mr. and Mrs. Dunkelman sets an example for all of their fellow citizens.